

Aloha and Good Morning,

My name is Jill Kehaulani Esch. I am Native Hawaiian. Since 2013, I have been the Ombudsperson for AMERICAN INDIAN Families. In 2021, this Legislative Body created the Office of Ombudsperson for AMERICAN INDIAN Families, the only independent state agency of its kind in the United States. This is pursuant to Minn. Statute 3.9215.

I am here today in my official capacity to speak in support of HF 1071/SF 667 to strengthen the Minnesota Indian Family Preservation Act. By this Legislature codifying ICWA into MIFPA, it will allow MIFPA to be a stand-alone statute because we do not know what the United States Supreme Court will do in the *Brackeen* case and what will happen to ICWA. It is important to pass this legislation as soon as possible because the US Supreme Court opinion can come down any day now.

In my role as the Ombudsperson, I have traveled the state to observe court proceedings, especially when a County has filed a petition to terminate a parent's rights. While I am a licensed Minnesota attorney, I am not the attorney for anyone who contacts me, however, I can provide information and resources.

There have been court proceedings that I attended when Judges have called me up to the Bench to ask me about ICWA and MIFPA. A number of judges and attorneys have asked me why aren't all the laws/statutes in one statute instead of having to look at ICWA and then having to look at MIFPA. By this Legislative Body codifying ICWA into MIFPA, this will put all the laws in one statute. Of course, the Judge should still refer to the Bureau of Indian Affairs Regulations which provides additional information, but by ICWA being codified into MIFPA, it will not only strengthen MIFPA but have all the statutes in one place.

As I have shared when explaining ICWA and MIFPA, ICWA is the minimum standards that the state needs to be doing and MIFPA is the ceiling which provides stronger protection. By codification of ICWA into MIFPA, MIFPA will be stronger and be a stand-alone statute.

In my remaining thirty seconds of my testimony, I would like to direct everyone to the written testimony of Grandmother Claudia Herrera. Unfortunately, she was not able to attend in person to testify because she had to work.

This grandmother contacted me at 7:00 pm on a Monday. She shared that she was looking for information and resources because she was just told by the County that the judge was signing an Order on Wednesday morning (less than 40 hours from when she called me). She said that it was an Order transferring custody of her American Indian grandson to a family who was not related to him and who were not Native. Because of ICWA and MIFPA, I had one day to get in touch with the tribe and the county so that the Order was not signed because there were numerous ICWA and MIFPA violations.

Please take the time to read Grandma Claudia Herrera’s testimony which is in your packets. She titled her testimony, **If Not for ICWA and MIFPA, I Would Have Lost My Grandson**

Thank you for listening to me.

Jill Kehaulani Esch, Esq.
Ombudsperson

Office of Ombudsperson for AMERICAN INDIAN Families
23 Empire Drive, #102
St. Paul, MN 55103
Office: 651-643-2523
Mobile: 651-592-1953

“Preserving the Indian Family” | mn.gov/oaif

m MINNESOTA
OFFICE OF OMBUDSPERSON
FOR AMERICAN INDIAN FAMILIES

