



BARBARA DITTRICH

STATE REPRESENTATIVE • 38th ASSEMBLY DISTRICT

July 9, 2019

Dear Friends,

Thank you for taking the time to review the materials submitted at the recent Speaker's Task Force on Adoption public hearing at the University of Wisconsin, Green Bay.

While there were many individuals that came to the hearing to speak and share their stories, printed materials were scarce. We have included the copy of testimony that was submitted and are awaiting several other accounts from various groups that spoke at the hearing. Materials will be posted as they become available.

Again, thank you for your interest.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Dittrich".

Barbara Dittrich

Chair, Speaker's Task Force on Adoption

State Representative

38th Assembly District

Dear Representative Barbara Ditrich,

My career started 17 years ago as an ongoing Child Protective Services social worker for the Bureau of Milwaukee Child Welfare. I had just graduated with my Bachelor's in Social Work and was offered a job providing services to children and families in Milwaukee. I started in June 2002 in a cohort of 18 fresh out of college workers and, by the time I left in January 2004, I was one of only four social workers from my original cohort.

I loved Child Welfare from day one. After leaving Milwaukee, I moved to Northeast Wisconsin and very quickly found myself back in ongoing Child Protective Services in a small, rural county. I spent the next three years performing the incredibly challenging task of protecting children and, at the same time, watching my co-workers leave one-by-one because of the stress of the job.

Since then, I have continued my work in Child Welfare in various roles including Youth Justice social worker, Child Protective Services Supervisor and Youth Justice Supervisor and Manager. I have watched countless social workers come and go. Dedicated, passionate and enthusiastic social workers who enter the field for all the right reasons and leave much too quickly because the demands of the job are simply too much. Every time a social worker leaves, the length of time to permanence for a child increases exponentially.

Caseloads continue to be too high and the demands of the job (paperwork requirements and service standards) are nearly impossible to meet. Not to mention the ever-increasing intensity of case situations. The opioid and methamphetamine crises have created a need to remove children at increasing rates. These children have experienced incredible trauma and have significant behaviors as a result. Skilled service providers are scarce, and waitlists are long. Foster parents are struggling, children are suffering, and workers feel helpless. When workers finally do request a TPR, paperwork often sits with prosecuting attorneys for months due to workloads and staffing shortages in the District Attorney's office. It is heartbreaking, incredibly stressful and workers are leaving as a result.

Wisconsin needs to address the issue of staff retention if we hope to improve the TPR/ Adoption process for children. In order to address this issue:

- Child Welfare agencies need adequate funding to hire enough staff (social workers and supervisors) to keep caseloads and worker to supervisor ratios within the recommended standards.
- Child Welfare agencies need additional training opportunities for social workers and supervisors as well as additional supportive services to assist in managing secondary traumatic stress.
- Wisconsin needs more resources for children and families. Specifically, Substance Use Disorder (SUD) treatment providers, children's mental health providers, psychiatric services and placement resources for children.
- Additional funding for TPR prosecutors to ensure enough prosecutor time is dedicated to reviewing, filing and prosecuting these challenging and complex cases.

I am excited the Speaker's Task Force on Adoption is exploring this issue and I look forward to following the work of the Task Force. Thank you for your time and consideration.

Sincerely,
Heather Lawrence, MSW, APSW



MENOMINEE INDIAN TRIBE OF WISCONSIN MENOMINEE TRIBAL LEGISLATURE

P.O. Box 910
Keshena, WI 54135-0910

To: Representative Barbara Dittrich, Chair
Members of the Speaker's Task Force on Adoption
From: Joan Delabreau, Vice Chairwoman, Menominee Tribal Legislature
Date: Tuesday, July 2, 2019
Re: Wisconsin State Assembly
Public Hearing - Speaker's Task Force on Adoption
University of Wisconsin-Green Bay
Testimony of Joan Delabreau, Vice Chairwoman, Menominee Tribal Legislature

Madam Chair and members of the Speaker's Task Force on Adoption, thank you for the invitation to appear before the Task Force and provide information regarding the Menominee Indian Tribe and its views on the important assignment given to this Task Force to investigate how to make adoption more accessible. Here with me today is Mary Kramer, Assistant Director of Menominee Tribal Social Services, and Connie Peters, Lead Tribal Social Worker. The Menominee Tribal Social Services employs four (4) ICWA specific social workers. These social workers provide services related to Menominee children under involuntary custody proceedings throughout the State of Wisconsin, and the entire country.

Tribal Social Services is involved in these cases throughout the State and country because Menominee children reside throughout the State and country. Menominee has over 9,200 members, approximately half of which live outside the Reservation. Menominee have always resided throughout what is now the State of Wisconsin, and parts of Illinois, Minnesota and Michigan. Menominee originated at the mouth of the Menominee River less than 60 miles from where we sit today, and have been here for thousands of years. Over the course of the 19th Century the United States took from Menominee over 10,000,000 acres of land. By the time of the last treaty in 1856 Menominee was left with approximately 240,000 acres of our ancestral lands.

In 1954, the federal government passed the Menominee Termination Act. The purpose of termination was to eliminate Menominee as a Tribe and assimilate Menominee Tribal members into the greater society. We were no longer Indian. Termination was a disaster for the Menominee people, and through great effort of dedicated Menominee and their allies, the Menominee Termination Act was repealed, and Menominee regained their status as a federally recognized Tribe in 1973. However, the damage was done. 41% of our members between the ages of 19-45, were forced to relocate in order to support their families. Those that remained were primarily the young and the old. Currently, we have members residing in all 50 states.

Efforts to destroy Tribal governments and assimilate Tribal members into mainstream society were not limited to federal acts terminating Tribes. Tribes have also been threatened with destruction through the separation of their members from the Tribe through the process of termination of parental rights and adoption of Tribal children by non-members of the Tribe. In the 1970s, the adoption rate of Indian children nationwide was 8 times higher than that of non-Indian children. Ninety percent of those Indian



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children were adopted by non-native parents. In Wisconsin, an Indian child was 1600% more likely to be separated from their family than a non-Indian child. Eighty-Five percent of Indian children placed out of the home were placed with non-native families. In Minnesota in 1971 and 1972 a quarter of all Indian children in the State under one year of age were adopted.

In the 50s, 60s, and 70s Child Welfare Agencies and Courts often failed to recognize the cultural norms and social standards that prevailed in Indian communities and families. An overwhelming majority of Tribal children were removed for reasons such as "social deprivation" or "neglect". Social Workers tended to apply external social standards that ignored the realities of Indian societies and cultures, such as the extended family and its role in raising children. As a result, workers often removed or threatened to remove children because the children were placed in the care of relatives, citing determinations of neglect or abandonment where they did not exist.

Additionally, the term "best interests of the child" was referenced to demonstrate that families with financial means would be better able to care for and raise an Indian Child. Workers all but ignored the fact that there is always someone with greater or fewer financial assets, and that there is no evidence that having less money leads to a less robust life for a child.

In 1978, Congress passed the Indian Child Welfare Act to address the problems stated above regarding removal of Indian children from their homes and their Tribes. In passing ICWA, Congress found that:

- "there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children" and,
- "an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions".

The Indian Child Welfare Act ensures many things, including requiring that Native American children be placed in foster or adoptive homes that reflect Native American culture and that Indian family environments receive preference in adoptive or foster care placement.

ICWA requires that tribes be notified of child custody proceedings involving their children, that Tribes be solicited for their ongoing input throughout the life of a case, authorizes Tribes to make the transfer of an Indian Child Custody proceeding from State to Tribal Court and authorizes a Tribe's intervention in State Court Indian Child Custody proceedings. One of the most important provisions of the Act states:

"Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that **active efforts** have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful."



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This requirement of **active efforts** is meant to avoid the unwarranted removal of Indian children from their homes and their Tribes.

We urge this Committee to keep in mind this **active efforts** standard, and all the other provisions of the Indian Child Welfare Act. I think we can all agree that can and should be improvements to the adoption process. However, a worthy goal like identifying ways to "shorten the timeline for adoptions" can, without due scrutiny, result in minimizing the rights of Tribes, Tribal parents and custodians, and Tribal children provided for in the Indian Child Welfare Act.

An example of how a law passed with the best of intentions can undermine the ICWA rights of Tribes and its members is Wisconsin's Safe Haven Law. The purpose of the Safe Haven Law is to reduce the abandonment of infants by allowing a parent to anonymously relinquish a child without any fear of prosecution. Unfortunately, such a law also essentially strips Tribes of their rights under the Indian Child Welfare Act as the Indian Child Welfare Act only applies to Indian children, and the Safe Haven law makes it impossible to determine whether an abandoned child is an Indian child.

It is our belief that if this Committee keeps in mind the provisions of ICWA and ensures that the voice of Tribes are heard throughout this process, we can avoid any changes in procedures or laws related to termination of parental rights or adoption that will negatively impact Indian children, parents, and Tribes and their rights under ICWA. There is a good basis for this belief. I just mentioned Menominee's concerns regarding the State's Safe Haven Law, but I would be remiss if I did not also mention some of the areas where the State has been a good partner with the Tribes in regard to these issues including:

- The State Legislature and Governor in 2009 passing the Wisconsin Indian Child Welfare Act which imported the federal Indian Child Welfare Act into state law for the purpose of ensuring ICWA protections would be applied to Indian children;
- The decision by the State to file an amicus brief in the *Brackeen* case in the 5th Circuit Court of Appeals in support of Tribes and the constitutionality of the Indian Child Welfare Act;
- The efforts of the State Department of Children and Families to maintain a close relationship to the Tribes and consult with the Tribes;
- The work of the State – Tribal Relations Committee chaired by Representative Mursau which provides an ongoing mechanism for the State and the Tribes to work through issues of mutual concern; and finally
- Your invitation to Menominee and other Tribes to share our views with the Committee, for which I again thank you.

The Menominee Indian Tribe recognizes that the cost of adoption is high, and that fostering a child is a potential route to an adoption. However, the Tribe also wishes to note that the primary purpose of placing children in a foster home is to provide families a safe way to work on developing and/or rebuilding a healthy family structure so that the child (ren) and parents can be re-united. Too often, prospective foster care/adoptive parents are told that by fostering a child, they may find a quicker and less expensive route to adoption. This mindset develops an adversarial position between the foster



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parents and the biological parents working to be reunited with their children and should not be promoted as a convenient, low-cost alternative to private adoptions.

The Tribe does not presume to direct private adoption agencies on how to conduct their business and fees for adoption. We do recommend specific consideration be given to reducing costs and improving the adoption process in the following ways:

- Current practice set by ASFA (Adoption Safe Families Act) is that a county is to seek termination of parental rights for a child who has been placed in out of home care for 15 of 22 most recent months. We suggest that counties and tribes continue to assess TPR (Termination of Parental Rights) readiness on a case-by-case basis and consider moving to TPR at an earlier date only if deemed appropriate.
- Allocate additional fiscal dollars to specifically address the shortage of staff that can file and process cases in a timely manner.
- Similar to Tribal practice, when extended family adopts a relative child, the requirement and/or fee for a home study could be waived.
- Personal and/or Paper Service is costly. While notification of court proceedings is critical, the responsibility of the parent to be available and/or provide current residence also needs to be considered. Define the number of service attempts required in a more concise way and inform the courts of the decision.
- Consider capping the fees attorneys can charge per adoption.
- Place Indian children in ICWA compliant homes as their initial placement so that if/when a child become available for adoption, tribes can support the current placement as the adoptive home.
- Be more proactive in soliciting and licensing Indian Foster and Adoptive Homes.
- Review the costs of public versus private adoptions and seek to equalize the cost of services associated with each.

Mary, Connie, and I are happy to answer any questions you may have today.