ADOPTED

RESOLUTION

RESOLVED, That the American Bar Association recognizes the constitutionality of the Indian Child Welfare Act, 25 U.S.C. §§1901-63 ("ICWA") and its accompanying regulations, specifically that:

1. ICWA establishes a political, not racial, classification that serves a compelling governmental interest.
2. ICWA does not violate the non-delegation doctrine, because tribes retain their authority to regulate child welfare.
3. ICWA does not commandeer the states, because it is permissible to impose obligations on state courts to enforce federal prescriptions; and

FURTHER RESOLVED, That the American Bar Association recognizes both the unique government-to-government relationship between the United States and tribes and the trust responsibility owed by the United States to tribes.