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PROPONENT

**TESTIMONY BEFORE HOUSE COMMITTEE ON CHILD WELFARE AND FOSTER CARE
HB 2772**

Dear Chairperson Concannon and Members of the Committee:

Thank you for the opportunity to appear before the Committee. In my practice, I have had the privilege of advising federally recognized Indian tribes in connection with state court “child in need of care” proceedings. I have also conducted continuing legal education training for Kansas attorneys on the federal Indian Child Welfare Act. Because this legislation will further strengthen protection of the best interests of Indian children and promote the stability and security of Indian tribes and families, I strongly support passage of HB 2772.

This legislation is consistent with the federal Indian Child Welfare Act. Importantly, however, HB 2772 will be *Kansas* law if passed. The protections and processes set forth in HB 2772 will reflect the public policy of the State of Kansas as clearly expressed by the legislature. Courts and the Department of Children and Families will be following Kansas statutes, not just federal direction. Also, in my experience, in state court proceedings court personnel, attorneys, guardians ad litem, court appointed special advocates, and other interested actors are most comfortable applying state law.

Further, the proposed legislation is not novel. If HB 2772 passes, Kansas will join seventeen other states with their own state level Indian child welfare legislation.¹ This includes three border states – Nebraska, Colorado, and Oklahoma. In fact, this bill is modeled on Nebraska statutes.

This legislation will apply to specified state child custody proceedings involving an Indian child who is a member of, or eligible for membership in, a federally recognized Indian tribe. To be clear, the legislation applies based on the child’s tribal citizenship status or eligibility, not race.

Finally, the public policy underlying this legislation supports and strengthens government to government relations between the State of Kansas and sovereign federally recognized Indian tribes. As we all know, those relationships are so important that the legislature maintains a Joint Committee on State – Tribal Relations.

In conclusion, I fully support HB 2772. Please feel free to contact me (913.205.7513) with any additional questions.

Respectfully submitted,

BRIEN LAW, LLC

/s/ Russell A. Brien

¹ National Conference of State Legislatures Report on Native American Children and Child Welfare Laws, <https://www.ncsl.org/human-services/native-american-children-and-child-welfare-laws>, last accessed February 16, 2024.