

TESTIMONY
OF
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U.S. DEPARTMENT OF THE INTERIOR
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
HEARING ON
S. 1899, THE “INDIAN CHILD PROTECTION
AND
FAMILY VIOLENCE PREVENTION ACT AMENDMENTS OF 2005”

March 15, 2006

Good morning, Mr. Chairman, Mr. Vice Chairman and Members of the Committee. My name is Patrick Ragsdale and I am the Director of the Bureau of Indian Affairs at the Department of the Interior. I am pleased to be here today to provide the Department’s testimony on S. 1899, a bill to amend the Indian Child Protection and Family Violence Prevention Act to identify and remove barriers to reducing child abuse, to provide for examinations of certain children and for other purposes.

The Department appreciates the Committee’s efforts to prevent violence to children and families in Indian Country. As Chairman McCain stated when introducing the bill, the benefits of the existing Act have not been fully realized. We do not have a firm grip on the extent of violence to families and children in Indian Country and that information is crucial for any planning effort to reduce such violence. Therefore, the data collection provisions proposed in section 4 of the bill are critical.

The Department supports the bill’s efforts to identify and remove impediments to reducing child abuse. The majority of governmental efforts regarding child abuse have focused on treatment or law enforcement options after the abuse has occurred. While these are important aspects of a comprehensive child protection program, of course, it is equally essential that we develop ways to assist Tribes in their ability to prevent the abuse before it occurs. Therefore, the Department supports the study to identify impediments to reducing child abuse, but believes the study should not only include descriptions of reporting, prosecuting, and treating child abuse, as proposed in the bill,

but should include an assessment of impediments to preventing child abuse as well. We believe that there may be other provisions that could be added to the bill that would bolster our efforts to develop culturally appropriate prevention techniques, and we would be happy to discuss these ideas with the Committee.

With regard to the implementation of the law, we agree there may be circumstances in which a pardon, set aside, or reversal should be considered, but we recommend the definition of “conviction” at section 3202(5) require a judicial finding regarding the guilt of the individual to avoid inclusion of expungements, pardons, reversals, and set asides for “employment purposes” or that are limited and intended only to “restore certain civil rights”. Limiting the exclusion to pardons, set asides, or reversals based on innocence gives clarity to the application of the minimum standards of character at section 3207 and is consistent with Merit Systems Protection Board decisions regarding suitability for Federal service and eligibility for access to classified information. See also *Delong v. Department of Health and Human Services*, 264 F.3d 1334 (Fed. Cir. 2001), *cert denied*, 536 U.S. 958 (2002) and *Bear Robe v. Parker*, 270 F.3d 1192 (8th Cir. 2001).

Under the Indian Law Enforcement Reform Act, the Bureau of Indian Affairs is responsible for, or for assisting in the provision of, providing law enforcement services within Indian Country. Our Office of Law Enforcement Services meets that function by enforcing federal criminal laws. In our efforts to protect children we have become all too aware of a hole in the law that should be addressed. Under the Major Crimes Act, 18 U.S.C. 1153, child neglect within Indian Country is not a federal felony. For example, if an intoxicated driver runs over a toddler, and the child dies, Federal felony manslaughter, may be charged. If the child survives but is disabled for life, no Federal charges can be filed. The Department supports fixing the omission by adding the words "felony child neglect" to the list of federal offenses.

The BIA, other Federal agencies, and Indian tribal governments are ready to work together to develop and implement a comprehensive child protection program that addresses abuse prevention, law enforcement, and treatment efforts in those unfortunate cases where abuse does occur.

This concludes my prepared statement. I want to thank you for introducing this legislation and for your support for the protection of Indian children. I will be happy to answer any questions you may have.