



SPIRIT LAKE TRIBE

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**Prepared Statement of
Leander Russell McDonald, PhD, Tribal Chairman, Spirit Lake Tribe
Before the Senate Committee on Indian Affairs
Subject: S. ___ Native American Child Safety Act
April 2, 2014**

I would like to begin by first thanking Chairman Jon Tester and distinguished members of the Senate Committee on Indian Affairs for the opportunity to present testimony on tribal concerns and issues relevant to children's safety, and more specifically, to the proposed Native American Child Safety Act.

My name is Leander "Russ" McDonald, Chairman of the Spirit Lake Tribe, located in northeastern North Dakota. The Spirit Lake Reservation was established by the Treaty of 1867 and currently consists of more than 250,000 acres of land. We have just over 7,200 enrolled members. Our reservation population is approximately 6,200 people, consisting of enrolled members, non-enrolled members, and non-Indians. Most of the enrolled members of the Spirit Lake Dakota Nation reside either on the Spirit Lake Reservation or within the immediate region.

Child protection services continue to be a priority for our Nation. In Dakota, children are called *Wakanheza*, which translates to sacred being. They are considered sacred as they are recognized as newly coming from the Creator. This perspective guides us as individuals, tribal leaders, and elected officials to do everything within our power to develop legislation that fosters their protection and welfare. The Spirit Lake Tribe has been highlighted in the media over the past two years as a result of the child protection issues experienced by our community.

On October 1, 2012, the Spirit Lake Tribe retroceded a Public Law 93-638 Child Protection Services (CPS) program back to the Bureau of Indian Affairs (BIA) due to the inability of the Tribe to address serious deficiencies identified in a detailed corrective action plan issued by the BIA in April 2012. Limited budgets, difficulties retaining qualified professionals, and lack of

placement options, for children in crisis are among the factors that have contributed to the issues that we continue to face within our community. The Tribe continues to administer the Title IV-E Foster Care, the Indian Child Welfare Act (ICWA), and Family Preservation programs, under the Spirit Lake Tribe Social Services Program. All four of these programs are recognized as critical and interrelated to the protection of American Indian children for many of the reservations throughout the Nation.

In 2011 and 2012, the Spirit Lake Tribe lost three very young children to homicides. These homicides devastated our community and exposed system-wide flaws and inconsistencies. I have come to believe that these inconsistencies are not specific to the Spirit Lake Tribe, but are rather the norm across many reservations within our region. Unfortunately, Spirit Lake Tribe had to lose one of our grandchildren to learn that background checks for all adult members of the household must be mandatory to ensure the safety of all children placed in relative and foster care homes. We do not wish to remove children from one dangerous environment only to place them in another, and equally important, we have come to understand that we must hold professionals accountable when they are not following existing law.

This brings me to the proposed Native American Child Safety Act that is currently being introduced by Senator Hoeven, Senator Tester, and co-sponsored by Senator Barrasso and Senator Heitkamp. The proposed legislation would, among other things, expand background check requirements for all adults residing in prospective foster care homes when Native American foster care children are to be placed by Tribes or the Bureau of Indian Affairs. This legislation would bridge an existing gap that has been identified within our community and provide a necessary step to ensuring that all adults residing with children in a foster care setting are properly screened. The legislation also promotes consistency by creating minimum safety standards for children in foster care by also requiring new adults joining the household to also have background checks.

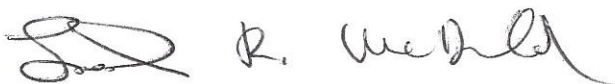
We respectfully request that the procedures used to implement the legislation not be duplicative, costly, nor a source of frustration, to possible foster parents or caregivers. Potentially, up to three jurisdictions may be involved in the care and placement of Native Children. Relatives and other caregivers may be required to undergo tribal, state, and federal background checks, dependent upon where the placement is located. Furthermore, requiring independent background checks for

the same individuals based upon "care type" (i.e. foster care, relative care, guardianship, or kinship care) seems unnecessarily duplicative and needs to be addressed. A comprehensive background check that could be applied regardless of "care type" would suffice to safeguard the children being placed while not being a burden on the individuals seeking to provide care.

Equally true is the fact that not all tribes have child abuse and neglect registries and accessing confidential information on existing registries will need to be addressed to ensure that the purpose of this legislation can be realized. I expect that an obstacle to this end may be that tribal convictions are not consistently included in the National Crime Information Center database. The process for completing criminal backgrounds is likely to be cumbersome and in some instances unreliable as long as data relevant to criminal histories is housed in separate places. This fact will need to be addressed in order to have a truly comprehensive criminal background check completed.

In closing, I would like to add that while background checks for adults in the homes is a necessary part of the effort to safeguard our children this cannot be the only effort. Federal support for tribal programs and service agencies that are adequately staffed and trained is also imperative. Ongoing federal support to enhance tribal courts, develop culturally appropriate services for children and families, and improve collaboration across tribal, state and federal jurisdictions is necessary. Strong and stable tribal justice systems and services are an important part of enforcing our tribal laws in a culturally appropriate way and are also important to making sure that the service providers working in our community are following our tribal laws. I would like to thank you for the invitation to speak to you today. I trust this testimony will be taken under advisement as you continue to develop legislation that will help to safeguard the children within our Tribal communities.

Mitakuye Owasin (All My Relatives)

A handwritten signature in dark ink, appearing to read "R. Wehler". The signature is fluid and cursive, with a large initial "R" and a stylized "W".