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HOUSE RESOLUTION

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WHEREAS, The Indian Child Welfare Act of 1978 (25 U.S.C. § 1901) "recognizes the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people"; the intent of the Act is to "protect the best interest of Indian children and to promote stability and security of Indian tribes and families by establishing minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs". (25 U.S.C. § 1902); and

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WHEREAS, The Bureau of Indian Affairs (BIA) promulgated a regulation "to govern the funding for, and the administration of Indian child and family service programs as authorized by the Indian Child Welfare Act of 1978" (25 C.F.R. § 23.1) to ensure consistency, efficacy, and to avoid any delay in child welfare proceedings involving Native American families; and

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WHEREAS, Together the Indian Child Welfare Act (ICWA) and the BIA ICWA Rule promote the identity of Native American children and their connection with their tribe and afford extra protections to Native American children involved in the

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1 child welfare system by requiring the child welfare system to
2 make active efforts, follow placement preference with the
3 tribe, and other additional heightened legal standards
4 required throughout the life of the case; and

5 WHEREAS, "Active efforts" means affirmative, active,
6 thorough, and timely efforts intended primarily to maintain or
7 reunite an Indian child with his or her family, which, to the
8 maximum extent possible, should be provided in a manner
9 consistent with the prevailing social and cultural conditions
10 and way of life of the Indian child's Tribe and should be
11 conducted in partnership with the Indian child and the Indian
12 child's parents, extended family members, Indian custodians,
13 and Tribe (25 CFR § 23.2.); and

14 WHEREAS, The BIA ICWA Rule mandates that when a Native
15 American child is placed in foster care, placement preference
16 must be given in descending order to placement of the child
17 with: (1) A member of the Indian child's extended family, (2)
18 Other members of the Indian child's Tribe, or (3) Other Indian
19 families (25 CFR § 23.130); and

20 WHEREAS, The Department of Children and Family Services
21 (DCFS) Procedure 307, Indian Child Welfare Services, "outlines
22 how the Department shall, in conjunction with Indian
23 communities, organizations and agencies, provide a method of

1 early identification of Indian children and their families in
2 order to provide child welfare services that assure all the
3 additional protections afforded by the Indian Child Welfare
4 Act"; and

5 WHEREAS, DCFS Procedure 307 created an "Indian Child
6 Welfare Specialist (ICWA Specialist)" that defines the role as
7 "an enrolled member of a Native American Indian Tribe" who is
8 "familiar with the Native American community, participates in
9 community outreach, and is a primary contact person for an
10 ICWA case who assists and supports permanency staff regarding
11 ICWA compliance in child custody proceedings"; and

12 WHEREAS, Until 2018, DCFS employed two Indian Child
13 Welfare Specialists to manage the various ICWA cases
14 identified throughout the State of Illinois, both of whom were
15 enrolled members of Native American Indian Tribes; and

16 WHEREAS, Since 2018, the DCFS Indian Child Welfare
17 Specialist positions have been vacant, and when DCFS recently
18 posted positions to hire two ICWA Specialists, the requirement
19 that the Specialists be a member of a Native America Indian
20 Tribe was changed to a mere preference; and

21 WHEREAS, The Indian Child Welfare Specialists are
22 responsible for: (1) developing procedural guidelines to

1 determine DCFS compliance with ICWA, (2) determining
2 children's eligibility under ICWA, (3) facilitating
3 communication throughout the life of the case between
4 representatives from the child's tribe, DCFS, and the courts,
5 (4) identifying community support, organizations, programs,
6 and activities to maintain the American Indian child's
7 culture, language, and traditions, which are required under
8 ICWA, (5) maintaining and developing connections with the
9 Native America community, (6) recruiting and supporting Native
10 American foster homes, (7) providing ICWA trainings, and (8)
11 facilitation of the Illinois Child Welfare Advisory Council;
12 and

13 WHEREAS, These responsibilities have been ignored since
14 2018, and the ICWA youth in care and their families have not
15 had the advocacy, services, or support needed to protect their
16 interests and rights and, as a result, have suffered; and

17 WHEREAS, There has been almost no public information
18 offered about DCFS compliance with the ICWA and BIA ICWA Rule
19 or implementation of Procedure 307 or whether there is any
20 oversight process to ensure accountability and compliance so
21 that the needs of Native American youth in care are being
22 addressed by DCFS; and

23 WHEREAS, The General Assembly requires reliable

1 information to guide funding decisions, perform its oversight,
2 and make sound legislative and administrative recommendations;
3 therefore, be it

4 RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE ONE
5 HUNDRED SECOND GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that
6 the Auditor General is directed to conduct a performance audit
7 of the Department of Children and Family Services compliance
8 with its obligations to protect the Indian Children in care
9 and their families; and be it further

10 RESOLVED, That the audit shall include, but not be limited
11 to, examining the operations and management of the Department
12 of Children and Family Services and its contractors to perform
13 its duties in accordance with ICWA, the BIA Regulations, and
14 DCFS procedure 307 "Indian Child Welfare Services" as follows:

15 (1) The Department of Children and Family Services'
16 implementation of and adherence to The Indian Child
17 Welfare Act of 1978;

18 (2) The Department of Children and Family Services'
19 implementation of and adherence to the Bureau of Indian
20 Affairs Rule;

21 (3) The Department of Children and Family Services'
22 implementation of and adherence to Procedure 307;

23 (4) The Department of Children and Family Services'
24 contractors' implementation of adherence to Procedure 307;

1 (5) How and with what frequency the Department of
2 Children and Family Services and its contractors'
3 employees are trained on the Indian Child Welfare Act, the
4 Bureau of Indian Affairs regulations, and the requirements
5 of Procedure 307, and whether the training is sufficient
6 to demonstrate appropriate application to field work;

7 (6) How employee and contract oversight ensure
8 accountability and corrective actions;

9 (7) The method by which the Department of Children and
10 Family Services assesses, monitors, and acts to make
11 certain its contracted providers have adopted Procedure
12 307 policies;

13 (8) The methods by which information about Indian
14 Child eligibility is sought, the format and locations in
15 which this information is maintained, and the practices
16 utilized for privacy protections;

17 (9) Actions taken by the Department of Children and
18 Family Services and its contractors in licensing to
19 recruit and support Native American foster homes;

20 (10) The process by which the Department of Children
21 and Family Services ensures that Indian children or youth
22 are placed in homes that comply with placement preference
23 as outlined in ICWA and the BIA regulations;

24 (11) The current gap in placement and service capacity
25 to meet the needs and efforts made to recruit Native
26 American foster homes; and

1 (12) Amounts appropriated or allocated from any
2 source, including grants, for the purposes of compliance
3 with ICWA, the BIA Regulations and DCFS Procedures 307,
4 the amounts actually spent, and the purpose of each
5 expenditure during fiscal years 2018 through 2021; and be
6 it further

7 RESOLVED, That the audit include, but not be limited to,
8 the following determinations as they pertain to children (up
9 to the age of 21) in the care of the Department of Children and
10 Family Services in calendar years 2019 and 2020:

11 (1) The number of youth in care identified as an
12 Indian Child or eligible for membership in an Indian
13 tribe;

14 (2) For each youth in subsection (1), the length of
15 stay in out-of-home care, case permanency goals, frequency
16 of sibling visitation, as applicable;

17 (3) For each youth in subsection (1), the number,
18 type, and duration of each placement designated relative
19 foster home, tribal foster home, group home, residential
20 treatment center, detention or correctional setting,
21 psychiatric hospital, transitional living program, or
22 shelter home, whether and how the youth in care and the
23 tribe participate in placement planning and determination,
24 whether and how tribal placement preference was considered
25 for placement selection, and reasons for placement

1 disruptions, if applicable;

2 (4) For each youth in subsection (1), the number of
3 each incident categorized as running away, contact with
4 police or the justice system, crisis hospitalization,
5 hospitalization beyond medical necessity, reported victim
6 of assault, school-related disciplinary infractions,
7 school-related disciplinary infractions, school-related
8 bullying or harassment, removal from a placement at the
9 request of a provider or caregiver, removal from a
10 placement at the request of the youth, subject of abuse or
11 neglect allegations while in out-of-home care, and
12 detained in a correctional setting beyond release due to
13 lack of identified placement;

14 (5) For each youth in subsection (1), were
15 opportunities provided to engage in normalcy activities
16 (e.g., participation in activities typical of their peer
17 and age group) consistent with the child's tribal culture,
18 language, and traditions;

19 (6) Whether the data findings in (2), (3), (4), and
20 (5) differ from that of the general population of youth in
21 care or whether the data differs based on the geographic
22 placement of the youth in care; and

23 (7) The number of providers designated as clinically
24 appropriate to provide housing or services to youth
25 identified as members or eligible for membership in a
26 Native American tribe and the number of youth utilizing

1 those providers for services or supports; and be it
2 further

3 RESOLVED, That the Department of Children and Family
4 Services shall cooperate fully and promptly with the Auditor
5 General's Office in conducting this audit; and be it further

6 RESOLVED, That the Auditor General commence this audit as
7 soon as possible to distribute the report upon completion in
8 accordance with Section 3-14 of the Illinois State Auditing
9 Act.