

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Requesting Congressional Appropriations and Regulation Waivers to Address
Unfunded Mandate to Provide Adult Protective Services)

RESOLUTION NO. 02-543

1 **WHEREAS, the Legislative Council is vested with the authority “[t]o exercise the inherent powers**
2 **of the Tohono O’odham Nation by providing laws, ordinances, and resolutions . . . (2)**
3 **to promote, protect, and provide for public health, peace, morals, education and**
4 **general welfare of the Tohono O’odham Nation and its members” (Article VI, Section**
5 **1(c)(2), of the Constitution of the Tohono O’odham Nation); and**

6 **WHEREAS, although abuse, neglect and financial exploitation are contrary to the traditions and**
7 **values of the Tohono O’odham, the Nation’s Department of Human Services has**
8 **reported that the Nation’s elders and incapacitated adults are experiencing these**
9 **crimes; and**

10 **WHEREAS, in order to protect the Nation’s elders and incapacitated adults, the Legislative**
11 **Council established a task force that is developing an Adult Protection Ordinance to**
12 **protect elders or incapacitated adults from abuse, neglect and financial exploitation;**
13 **and**

14 **WHEREAS, the Nation also provides social services to elders and incapacitated adults as part of**
15 **its P.L. 93-638 contract with the federal government; this funding is, however, wholly**
16 **inadequate and results in a substantial unmet need for these services; and**

17 **WHEREAS, despite this lack of funding, the Bureau of Indian Affairs has promulgated**
18 **regulations at 25 CFR Part 20 (“Final Rule”) that have required the Nation and other**
19 **Indian tribes to expand their contracted scopes of work to satisfy the new regulations;**
20 **and**

21 **WHEREAS, the Final Rule creates an unfunded mandate requiring substantial additional**
22 **services, including but not limited to referrals, investigations, case management,**
23 **enforcement, coordination, and financial management for Individual Indian Money**
24 **account holders; and**

25 **WHEREAS, the Bureau of Indian Affairs has not been funded in FY 2001 or FY 2002 to develop or**
26 **to implement the adult protective services programs mandated under the Final Rule;**
27 **and**

28 **WHEREAS, the full implementation of adult protective services required under the Final Rule is**
29 **at risk due to lack of financial resources for start-up and continuous services; and**

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1 **WHEREAS, the waivers of the Final Rule previously granted at the request of the Nation and the**
2 **National Congress of American Indians (NCAI Resolution #MSH-01-049) have expired;**
3 **and**

4 **WHEREAS, the Bureau of Indian Affairs has declined to suspend 25 CFR Part 20 for a three-year**
5 **period as requested by the National Congress of American Indians (NCAI Resolution**
6 **#SPO-01-007).**

7 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council hereby**
8 **requests that the United States Congress make appropriations to the Bureau of**
9 **Indian Affairs in FY 2003 and future fiscal years to fully fund the adult protection-**
10 **related requirements of the 25 CFR Part 20 Final Rule.**

11 **BE IT FURTHER RESOLVED that the Tohono O'odham Legislative Council hereby requests**
12 **that, pending such appropriations to the Bureau of Indian Affairs, the Secretary of the**
13 **Interior grant waivers to the implementation of adult protection programs or, in the**
14 **alternative, suspend the Final Rule through the end of fiscal year 2004 to allow tribes**
15 **sufficient time to address the requirements of the Final Rule.**

16 **BE IT FINALLY RESOLVED that the Legislative Council urges the National Congress of American**
17 **Indians to work with the Bureau of Indian Affairs to obtain waivers or a suspension**
18 **of the Final Rule and to work with the Congress to obtain sufficient appropriations**
19 **to fully fund the adult protection mandates of the Final Rule.**


20 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 07TH. Day**
21 **of NOVEMBER, 2002 at a meeting at which a quorum was present with a vote of 2,417.5 FOR; -0-**
22 **AGAINST; -0- NOT VOTING; and [06] ABSENT, pursuant to the powers vested in the Council by**
23 **Section 1(c)(2) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the**
24 **Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
25 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**
26 **18, 1934 (48 Stat. 984).**

27 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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30 **Rita A. Martinez, Legislative Chairwoman**

31
32 8th day of November, 20 02

33 **ATTEST:**

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36 **Julianna Saraficio, Acting Legislative Secretary**

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38 07th day of November, 20 02

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1 Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham
2 Nation on the 8th day of November, 20 02 at 4:30 o'clock, P.M.,
3 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective
4 upon his approval or upon his failure to either approve or disapprove it within 48 hours of
5 submittal.

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7 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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10 Rita A. Martinez, Legislative Chairwoman

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15 APPROVED

on the 8th day of November, 20 02

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17 DISAPPROVED

at 4:42 o'clock, P.M.

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21 EDWARD D. MANUEL, Chairman

22 TOHONO O'ODHAM NATION

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27 Returned to the Legislative Secretary on the 8 day of

28 November, 20 02, at 4:55 o'clock, P.M.

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33 Julianna Saraficio, Acting Legislative Secretary

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ACTION: REQUESTING CONGRESSIONAL APPROPRIATIONS AND REGULATION WAIVERS TO ADDRESS UNFUNDED MANDATE TO PROVIDE ADULT PROTECTIVE SERVICES

MOVED: COUNCILMAN DAVID GARCIA

SECOND: COUNCILWOMAN FERN SALCIDO

DATE: NOVEMBER 07, 2002

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 317.7	1. FRANCES MIGUEL ()	158.85	X			
	2. FRANCES G. ANTONE (Lucilda Norris-Valenzuela)	158.85	X			
CHUKUT KUK 248.1	1. KENNETH WILLIAMS (Juanita Homer)	124.05	X			X
	2. DAVID GARCIA (Mary Audrey Juan)	124.05	X			
GU ACHI 230.7	1. CAMILLUS LOPEZ ()	115.35	X			
	2. JEROME JOAQUIN ()	115.35	X			
GU VO 188.3	1. FERN SALCIDO ()	94.15	X			X
	2. EMILIO LEWIS (Michael Flores)	94.15	X			
HICKIWAN 167.3	1. SHIRLEY MOLINA ()	83.65	X			X
	2. SANDRA ORTEGA ()	83.65	X			
PISINEMO 174.7	1. BARBARA SALVICIO (Alex Antone)	87.35	X			X
	2. PATRICIA CRUZ (Johnson Jose)	87.35	X			
SAN LUCY 160.7	1. ALBERT MANUEL, JR. (John W. Lawson, Sr.)	80.35	X			
	2. GLORIA RAMIREZ ()	80.35	X			X
SAN XAVIER 184.7	1. FELICIA NUÑEZ ()	92.35	X			
	2. DENNIS RAMON ()	92.35	X			
SCHUK TOAK 144.5	1. MARY FLORES ()	72.25	X			X
	2. AMBROSE ENCINAS (Frances B. Conde(Francisco))	72.25	X			
SELLS 416.1	1. DENNIS E. JOSE ()	208.05	X			
	2. EVELYN JUAN ()	208.05	X			
SIF OIDAK 184.7	1. ISIDRO LOPEZ ()	92.35	X			
	2. RITA MARTINEZ (Nicholas Jose)	92.35	X			
TOTAL		2,417.5	2,417.5	-0-	-0-	[06]

****PASSED VOTES**