

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Authorizing the Attorney General to Add the Tohono O'odham Nation to the Native American Rights Fund's Amicus Brief Regarding In Re Dependency as to M.K. in Division Two of the Arizona Court of Appeals)**

**RESOLUTION NO. 26-038**

1   **WHEREAS,**   the Constitution of the Tohono O'odham vests the Tohono O'odham Legislative  
2                    Council with the authority to provide resolutions "to promote, protect and  
3                    provide for public health, peace, morals, education and general welfare of the  
4                    Tohono O'odham Nation and its members" (Constitution of the Tohono O'odham  
5                    Nation, Article VI, Section 1(c)(1)); and

6   **WHEREAS,**   the Tohono O'odham Legislative Council is vested with the authority to retain  
7                    legal counsel (Tohono O'odham Const. Art VI, § 2(a)); and

8   **WHEREAS,**   Congress enacted the Indian Child Welfare Act of 1978 ("ICWA") in response to a  
9                    century of state and federal policies that resulted in the large-scale removal of  
10                  Indian children from their homes and their placement with non-Indian families;  
11                  and

12   **WHEREAS,**   ICWA's placement preferences—which create a legal presumption that it is in an  
13                  Indian child's best interests to be raised by family, *see* 25 U.S.C. §§1902, 1905—are  
14                  intended to protect Indian children from even well-meaning separation from  
15                  their extended families and cultures; and

16   **WHEREAS,**   the Arizona Superior Court In Re Dependency as to M.K. denied a motion for  
17                  change of placement of an Indian child to his extended family, a preferential  
18                  ICWA placement, based on general principals of bonding and attachment which  
19                  do not constitute good cause to deviate from the ICWA placement preferences;  
20                  and

21   **WHEREAS,**   the Native American Rights Fund, Michigan State University, and Rothstein  
22                  Donatelli LLP are filing an *amicus curiae* brief ("Amicus Brief") to support the  
23                  appeal of the Superior Court's decision and have invited the Tohono O'odham  
24                  Nation to join the Amicus Brief that will be filed with Division Two of the Arizona  
25                  Court of Appeals; and

26   **WHEREAS,**   the Amicus Brief in furtherance of ICWA serves to protect the Nation's interests in  
27                  ICWA cases where the Nation has intervened as a party; and

28   **WHEREAS,**   the Domestic Affairs Committee has reviewed this Resolution and recommends  
29                  its approval.  
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1 **NOW, THEREFORE, RE IT RESOLVED by the Tohono O'odham Legislative Council that it approves**  
2 **and authorizes the Attorney General to add the Tohono O'odham Nation to the**  
3 **Amicus Brief that will be filed by the Native American Rights Fund, Michigan State**  
4 **University, and Rothstein Donatelli LLP with Division Two of the Arizona Court of**  
5 **Appeals regarding In Re Dependency of M.K.**

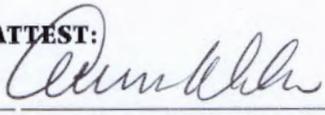
6 **BE IT FINALLY RESOLVED by the Tohono O'odham Legislative Council that it authorizes the**  
7 **Chairman or his designee to execute any documents necessary to add the Nation**  
8 **to the Amicus Brief.**

9 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 10<sup>TH</sup>**  
10 **day of FEBRUARY 2026 at a meeting at which a quorum was present with a vote of 3,321.1 FOR;**  
11 **-0- AGAINST; [01] NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council by**  
12 **Article VI, Section 2(a) and 1(c)(1) of the Constitution of the Tohono O'odham Nation, adopted by**  
13 **the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**  
14 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**  
15 **18, 1934 (48 Stat.984).**

16  
17 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

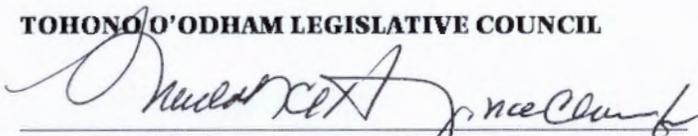
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21 **Wavalene M. Saunders, Legislative Chairwoman**  
22  
23 17<sup>TH</sup> day of February, 2026

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25  
26 **ATTEST:**

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28  
29 **Evonne Wilson, Legislative Secretary**  
30  
31 13 day of February, 2026

32  
33 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono**  
34 **O'odham Nation on the 17<sup>TH</sup> day of February, 2026 at 4:46 o'clock, p .m.,**  
35 **pursuant to the provisions of Section 5 of Article VII of the Constitution and will become**  
36 **effective upon his approval or upon his failure to either approve or disapprove it within 48**  
37 **hours of submittal.**

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39 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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43 **Wavalene M. Saunders, Legislative Chairwoman**  
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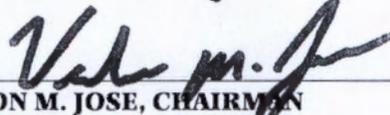
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APPROVED

on the 17 day of February, 2026

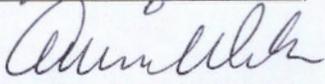
DISAPPROVED

at 5:00 o'clock, P.m.

  
\_\_\_\_\_  
VERLON M. JOSE, CHAIRMAN  
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 18 day of

February, 2026, at 8:50 o'clock, A.m.

  
\_\_\_\_\_  
Evonne Wilson, Legislative Secretary

**ACTION: AUTHORIZING THE ATTORNEY GENERAL TO ADD THE TOHONO O'ODHAM NATION TO THE NATIVE AMERICAN RIGHTS FUND'S AMICUS BRIEF REGARDING IN RE DEPENDENCY AS TO M.K. IN DIVISION TWO OF THE ARIZONA COURT OF APPEALS**

**MOVED: COUNCILWOMAN EVELYN JUAN MANUEL**

**SECOND: VICE CHAIRWOMAN MARLAKAY HENRY**

**DATE: FEBRUARY 10, 2026**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 251.2	1. WAVALENE M. SAUNDERS (Mary Lopez) 2. FRANCIS HOMEWYTEWA ( )	125.6 125.6	X X			X
SELLS 565.7	1. JANET B. ELEANDO ( ) 2. EVELYN JUAN MANUEL (Juan Buendia)	282.85 282.85	X X			
SCHUK TOAK 195.3	1. THEORIA CAMPILLO (Rebecca Ann Valentine) 2. DELISA M. RAMON (Quintin C. Lopez)	97.65 97.65		X	X	
SAN XAVIER 249.8	1. DANIEL L.A. PRESTON III ( ) 2. JANICE FELIX ( )	124.9 124.9	X X			
SAN LUCY 266.3	1. GLORIA M. RAMIREZ (Lorraine M. Eiler) 2. ROGER MANUEL ( <i>Absent</i> ) (Christina Andrews) ( <i>Present</i> )	133.15 133.15	X X			
PISINEMO 240.3	1. PAMELA J. BENAVIDEZ (Nora J. Ruclas) 2. NAOMI MONTE (Edward D. Manuel)	120.15 120.15	X X			
HICKIWAN 222.9	1. LOUIS R. LOPEZ (Loretta A. Ortega) 2. DELMA M. GARCIA ( )	111.45 111.45	X X			
GU VO 279.6	1. LESLIE LUNA ( ) 2. BENNETT CHEWING ( )	139.8 139.8	X X			X
GU ACHI 289.2	1. JEROME F. JOAQUIN (Gloria Johnson) 2. LUCIUS E. LOPEZ (Victoria A. Hobbs)	144.6 144.6	X X			
CHUKUT KUK 361.9	1. MARLAKAY HENRY ( ) 2. VIVIAN JUAN-SAUNDERS ( <i>Absent</i> ) (Cornelius Antone) ( <i>Present</i> )	180.95 180.95	X X			
BABOQUIVARI 398.9	1. JESSE NAVARRO ( ) 2. NED NORRIS, JR. ( <i>Absent</i> ) (Leander Mase) ( <i>Present</i> )	199.45 199.45	X X			X
	<b>TOTAL</b>	<b>3,321.1</b>	<b>3,321.1</b>	<b>-0-</b>	<b>[01]</b>	<b>[03]</b>