



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #ECWS-07-003

### Title: Urging Congress to Amend Section 127 of the Adam Walsh Act

#### EXECUTIVE COMMITTEE

PRESIDENT  
**Joe A. Garcia**  
*Ohkay Owingeh*  
*(Pueblo of San Juan)*

FIRST VICE-PRESIDENT  
**Jefferson Keel**  
*Chickasaw Nation*

RECORDING SECRETARY  
**Juana Majel**  
*Pauma-Yuima Band of Mission*  
*Indians*

TREASURER  
**W. Ron Allen**  
*Jamestown S'Klallam Tribe*

#### REGIONAL VICE-PRESIDENTS

ALASKA  
**Mike Williams**  
*Yupiaq*

EASTERN OKLAHOMA  
**Joe Grayson, Jr.**  
*Cherokee Nation*

GREAT PLAINS  
**Mark Allen**  
*Flandreau Santee Sioux*

MIDWEST  
**Robert Chicks**  
*Stockbridge-Munsee*

NORTHEAST  
**Randy Noka**  
*Narragansett*

NORTHWEST  
**Ernie Stensgar**  
*Coeur d'Alene Tribe*

PACIFIC  
**Cheryl Seidner**  
*Wiyot*

ROCKY MOUNTAIN  
**Carl Venne**  
*Crow Tribe*

SOUTHEAST  
**Leon Jacobs**  
*Lumbee Tribe*

SOUTHERN PLAINS  
**Steve Johnson**  
*Absentee Shawnee*

SOUTHWEST  
**Manuel Heart**  
*Ute Mountain Ute Tribe*

WESTERN  
**Kathleen Kitcheyan**  
*San Carlos Apache*

EXECUTIVE DIRECTOR  
**Jacqueline Johnson**  
*Tlingit*

**NCAI HEADQUARTERS**  
1301 Connecticut Avenue, NW  
Suite 200  
Washington, DC 20036  
202.466.7767  
202.466.7797 fax  
www.ncai.org

**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, according to Department of Justice statistics, 1 in 3 Native women will be sexually assaulted in her lifetime; and

**WHEREAS**, tribal governments are committed to fulfilling their responsibility to protect and promote public safety on tribal lands and a number of tribes have developed innovative strategies for tracking sex offenders on tribal lands; and

**WHEREAS**, on July 27, 2006 Congress passed the Adam Walsh Act, which created a National Sex Offender Registry and Notification System; and

**WHEREAS**, Section 127 of the Adam Walsh Act addresses Indian tribes and was included without any hearings, consultation or consideration of the views of tribal governments and current tribal practices; and

**WHEREAS**, Section 127 forces tribal governments to affirmatively elect to comply with the mandates of the Act by July 27, 2007 or *the state in which the tribe is located will be given jurisdiction to enforce the Act and would then have the right to enter tribal lands to carry out and enforce the requirements of the Act*; and

**WHEREAS**, tribal governments in the mandatory P.L. 280 states would be forced to relinquish civil jurisdiction to the states for limited purposes under the Act; and

**WHEREAS**, the Act requires tribes who elect to comply with the Act, to maintain a sex offender registry that includes a physical description, current photograph, criminal history, fingerprints, palm prints, and a DNA sample of the sex offender; and

**WHEREAS**, the tribal provisions of the Adam Walsh Act make no reference to the National Tribal Sex Offender Registry authorized in Title IX of the reauthorization of the Violence Against Women Act passed in 2005 that was developed in consultation with Tribal governments and is more consistent with principles of tribal sovereignty; and

**WHEREAS**, Congress has failed to appropriate any money to develop the National Tribal Sex Offender Registry, nor to assist tribes into developing the systems necessary to comply with the mandates of the Adam Walsh Act and is unlikely to do so prior to the July 27, 2007 deadline for tribes to opt-in; and

**WHEREAS**, the Department of Justice has not yet issued any regulations or guidance for implementation of the Act and it seems increasingly unlikely that any such guidance will be promulgated prior to the July 27, 2007 deadline; and

**WHEREAS**, the provision in the Adam Walsh Act that gives states enforcement authority essentially delegates federal law enforcement authority on many reservations where no such delegation has occurred for any other area of law and states are not currently exercising criminal jurisdiction; and

**WHEREAS**, requiring tribes to take affirmative action to avoid an expansion of state jurisdiction on tribal lands represents an unprecedented diminishment of tribal sovereignty and will likely result in an expansion of state jurisdiction that will unnecessarily complicate the already confusing system of criminal jurisdiction on tribal lands and diminish cooperation between states and tribes on law enforcement; and

**WHEREAS**, the existing scheme of criminal jurisdiction on tribal lands is sufficient to fully enforce the registration requirements of the Adam Walsh Act without the provision delegating federal enforcement authority to the state in places where states do not currently have this authority; and

**NOW THEREFORE BE IT RESOLVED**, that the NCAI does hereby call upon the Congress to amend the Adam Walsh Act to remove the existing tribal provisions and engage in a process of consultation with tribal governments to determine how best to include tribal nations in the national sex offender registry; and

**BE IT FURTHER RESOLVED**, that the NCAI does hereby call upon the Congress to remove the arbitrary July 27, 2007 deadline for tribes to elect to participate; and

**BE IT FURTHER RESOLVED**, that NCAI calls upon Congress to strike the portion of the Adam Walsh Act that delegates federal enforcement authority under the statute to the states; and


**BE IT FINALLY RESOLVED**, that NCAI calls upon Congress to appropriate sufficient funds for tribes to develop registration systems that will comply with the mandates of the Adam Walsh Act and for the development of the National Tribal Sex Offender Registry, and calls upon the Department of Justice to authorize tribal registration numbers.

**CERTIFICATION**

The foregoing resolution was adopted by the Executive Council at the 2007 Executive Council Winter Session of the National Congress of American Indians, held at the Wyndham Washington and Convention Center on February 26-28, 2007 with a quorum present.

  
\_\_\_\_\_  
President

**ATTEST:**

  
\_\_\_\_\_  
Recording Secretary