

ual shall be placed on the membership roll if such individual is living, is not an enrolled member of another federally recognized Indian tribe, is of Nomlaki Indian ancestry, and if—

(A) such individual's name was listed on the Paskenta Indian Rancheria distribution roll compiled on February 26, 1959, by the Bureau of Indian Affairs and approved by the Secretary of the Interior on July 7, 1959, pursuant to Public Law 85-671;

(B) such individual was not listed on the Paskenta Indian Rancheria distribution list, but met the requirements that had to be met to be listed on the Paskenta Indian Rancheria list;

(C) such individual is identified as an Indian from Paskenta in any of the official or unofficial rolls of Indians prepared by the Bureau of Indian Affairs; or

(D) such individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A), (B), or (C).

(2) After adoption of a tribal constitution pursuant to section 1300m-6 of this title, such tribal constitution shall govern membership in the Tribe.

(c) Conclusive proof of Paskenta Indian ancestry

For the purpose of subsection (b) of this section, the Secretary shall accept any available evidence establishing Paskenta Indian ancestry. The Secretary shall accept as conclusive evidence of Paskenta Indian ancestry, information contained in the census of the Indians in and near Paskenta, prepared by Special Indian Agent John J. Terrell, in any other roll or census of Paskenta Indians prepared by the Bureau of Indian Affairs, and in the Paskenta Indian Rancheria distribution list, compiled by the Bureau of Indian Affairs on February 26, 1959.

(Pub. L. 103-454, title III, §306, Nov. 2, 1994, 108 Stat. 4794.)

REFERENCES IN TEXT

Public Law 85-671, referred to in subsec. (b)(1)(A), is Pub. L. 85-671, Aug. 18, 1958, 72 Stat. 619, which is not classified to the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1300m, 1300m-5, 1300m-6 of this title.

§ 1300m-5. Interim government

Until a new tribal constitution and bylaws are adopted and become effective under section 1300m-6 of this title, the Tribe's governing body shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Tribal Council of the Tribe on November 2, 1994, and the Interim Council shall continue to operate in the manner prescribed for the Tribal Council under the tribal constitution adopted December 18, 1993. Any new members filling vacancies on the Interim Council shall meet the membership criteria set forth in section 1300m-4(b) of this title and be elected in the same manner as are Tribal Council members under the tribal constitution adopted December 18, 1993.

(Pub. L. 103-454, title III, §307, Nov. 2, 1994, 108 Stat. 4795.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1300m of this title.

§ 1300m-6. Tribal constitution

(a) Election; time and procedure

Upon the completion of the tribal membership roll under section 1300m-4(a) of this title and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held according to section 476 of this title, except that absentee balloting shall be permitted regardless of voter residence.

(b) Election of tribal officials; procedures

Not later than 120 days after the Tribe adopts a constitution and bylaws under subsection (a) of this section, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted according to the procedures specified in subsection (a) of this section except to the extent that such procedures conflict with the tribal constitution.

(Pub. L. 103-454, title III, §308, Nov. 2, 1994, 108 Stat. 4795.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1300m-2, 1300m-4, 1300m-5 of this title.

§ 1300m-7. General provision

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 103-454, title III, §309, Nov. 2, 1994, 108 Stat. 4796.)

CHAPTER 15—CONSTITUTIONAL RIGHTS OF INDIANS

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SUBCHAPTER I—GENERALLY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 4501 of this title; title 42 section 5307.

§ 1301. Definitions

For purposes of this subchapter, the term—

- (1) “Indian tribe” means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government;
- (2) “powers of self-government” means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and means the inherent power of Indian tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all Indians;
- (3) “Indian court” means any Indian tribal court or court of Indian offense; and
- (4) “Indian” means any person who would be subject to the jurisdiction of the United States as an Indian under section 1153, title 18, if that person were to commit an offense listed in that section in Indian country to which that section applies.

(Pub. L. 90-284, title II, §201, Apr. 11, 1968, 82 Stat. 77; Pub. L. 101-511, title VIII, §8077(b), (c), Nov. 5, 1990, 104 Stat. 1892.)

AMENDMENTS

1990—Par. (2). Pub. L. 101-511, §8077(b), inserted at end “means the inherent power of Indian tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all Indians;”.

Par. (4). Pub. L. 101-511, §8077(c), added par. (4).

SHORT TITLE

Title II of Pub. L. 90-284, which is classified generally to this subchapter, is popularly known as the “Indian Civil Rights Act of 1968”.

TIME LIMITATION ON CRIMINAL MISDEMEANOR JURISDICTION OF TRIBAL COURTS OVER NON-MEMBER INDIANS

Section 8077(d) of Pub. L. 101-511, as amended by Pub. L. 102-124, §1, Oct. 9, 1991, 105 Stat. 616, which provided that the effects of subsecs. (b) and (c), which amended

this section, as those subsections affect the criminal misdemeanor jurisdiction of tribal courts over non-member Indians have no effect after Oct. 18, 1991, was repealed by Pub. L. 102-137, Oct. 28, 1991, 105 Stat. 646. Subsequent to repeal, Pub. L. 102-172, title VIII, §8112A(b), Nov. 26, 1991, 105 Stat. 1202, purported to amend section 8077(d) of Pub. L. 101-511 by substituting “1993” for “1991”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2801 of this title; title 5 section 8331; title 22 section 4044.

§ 1302. Constitutional rights

No Indian tribe in exercising powers of self-government shall—

- (1) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

- (2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

- (3) subject any person for the same offense to be twice put in jeopardy;

- (4) compel any person in any criminal case to be a witness against himself;

- (5) take any private property for a public use without just compensation;

- (6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;

- (7) require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one year and¹ a fine of \$5,000, or both;

- (8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

- (9) pass any bill of attainder or ex post facto law; or

- (10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

(Pub. L. 90-284, title II, §202, Apr. 11, 1968, 82 Stat. 77; Pub. L. 99-570, title IV, §4217, Oct. 27, 1986, 100 Stat. 3207-146.)

AMENDMENTS

1986—Par. (7). Pub. L. 99-570, which directed that “for a term of one year and a fine of \$5,000, or both” be substituted for “for a term of six months and a fine of \$500, or both”, was executed by making the substitution for “for a term of six months or a fine of \$500, or both” as the probable intent of Congress.

¹ So in original. Probably should be “or”.