

US Code

(Unofficial compilation from the Legal Information Institute)

TITLE 25 - INDIANS

CHAPTER 38A—INDIAN TRIBAL JUSTICE TECHNICAL AND LEGAL ASSISTANCE

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TITLE 25 INDIANS

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§ 3651. Findings

The Congress finds and declares that—

- (1) there is a government-to-government relationship between the United States and Indian tribes;
- (2) Indian tribes are sovereign entities and are responsible for exercising governmental authority over Indian lands;
- (3) the rate of violent crime committed in Indian country is approximately twice the rate of violent crime committed in the United States as a whole;
- (4) in any community, a high rate of violent crime is a major obstacle to investment, job creation and economic growth;
- (5) tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring the health and safety and the political integrity of tribal governments;
- (6) Congress and the Federal courts have repeatedly recognized tribal justice systems as the most appropriate forums for the adjudication of disputes affecting personal and property rights on Native lands;
- (7) enhancing tribal court systems and improving access to those systems serves the dual Federal goals of tribal political self-determination and economic self-sufficiency;
- (8) there is both inadequate funding and an inadequate coordinating mechanism to meet the technical and legal assistance needs of tribal justice systems and this lack of adequate technical and legal assistance funding impairs their operation;
- (9) tribal court membership organizations have served a critical role in providing training and technical assistance for development and enhancement of tribal justice systems;
- (10) Indian legal services programs, as funded partially through the Legal Services Corporation, have an established record of providing cost effective legal assistance to Indian people in tribal court forums, and also contribute significantly to the development of tribal courts and tribal jurisprudence; and
- (11) the provision of adequate technical assistance to tribal courts and legal assistance to both individuals and tribal courts is an essential element in the development of strong tribal court systems.

(Pub. L. 106–559, § 2, Dec. 21, 2000, 114 Stat. 2778.)

Short Title

Pub. L. 106–559, § 1, Dec. 21, 2000, 114 Stat. 2778, provided that: “This Act [enacting this chapter and amending section 3621 of this title and sections 1629e and 1629g of Title 43, Public Lands] may be cited as the ‘Indian Tribal Justice Technical and Legal Assistance Act of 2000’.”

Availability of Funds for Courts or Law Enforcement Officers of Certain Tribes or Villages

Pub. L. 108–199, div. B, title I, § 112(a)(1), Jan. 23, 2004, 118 Stat. 62, provided that: “None of the funds provided in this Act [div. B of Pub. L. 108–199, see Tables for classification] or hereafter may be used for courts or law enforcement officers for a tribe or village—

“(A) in which fewer than 25 Native members live in the village year round; or

“(B) that is located within the boundaries of the Fairbanks North Star Borough, the Matanuska Susitna Borough, the Municipality of Anchorage, the Kenai Peninsula Borough, the City and Borough of Juneau, the Sitka Borough, or the Ketchikan Borough.”

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§ 3652. Purposes

The purposes of this chapter are as follows:

- (1) to carry out the responsibility of the United States to Indian tribes and members of Indian tribes by ensuring access to quality technical and legal assistance.
- (2) To strengthen and improve the capacity of tribal court systems that address civil and criminal causes of action under the jurisdiction of Indian tribes.
- (3) To strengthen tribal governments and the economies of Indian tribes through the enhancement and, where appropriate, development of tribal court systems for the administration of justice in Indian country by providing technical and legal assistance services.
- (4) To encourage collaborative efforts between national or regional membership organizations and associations whose membership consists of judicial system personnel within tribal justice systems; non-profit entities which provide legal assistance services for Indian tribes, members of Indian tribes, and/or tribal justice systems.
- (5) To assist in the development of tribal judicial systems by supplementing prior congressional efforts such as the Indian Tribal Justice Act [25 U.S.C. 3601 et seq.] (Public Law 103–176).

(Pub. L. 106–559, § 3, Dec. 21, 2000, 114 Stat. 2779.)

References in Text

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 106–559, Dec. 21, 2000, 114 Stat. 2778, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3651 of this title and Tables.

The Indian Tribal Justice Act, referred to in par. (5), is Pub. L. 103–176, Dec. 3, 1993, 107 Stat. 2004, as amended, which is classified generally to chapter 38 (§ 3601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

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§ 3653. Definitions

For purposes of this chapter:

(1) Attorney General

The term “Attorney General” means the Attorney General of the United States.

(2) Indian lands

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The term “Indian lands” shall include lands within the definition of “Indian country”, as defined in section 1151 of title 18; or “Indian reservations”, as defined in section 1452 (d) of this title, or section 1903 (10) of this title. For purposes of the preceding sentence, such section 1452 (d) of this title shall be applied by treating the term “former Indian reservations in Oklahoma” as including only lands which are within the jurisdictional area of an Oklahoma Indian Tribe (as determined by the Secretary of the Interior) and are recognized by such Secretary as eligible for trust land status under part 151 of title 25, Code of Federal Regulations (as in effect on December 21, 2000).

(3) Indian tribe

The term “Indian tribe” means any Indian tribe, band, nation, pueblo, or other organized group or community which administers justice or plans to administer justice under its inherent authority or the authority of the United States and which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

(4) Judicial personnel

The term “judicial personnel” means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, officer of the court, dispute resolution facilitator, or other official, employee, or volunteer within the tribal judicial system.

(5) Non-profit entities

The term “non-profit entity” or “non-profit entities” has the meaning given that term in section 501 (c)(3) of title 26.

(6) Office of Tribal Justice

The term “Office of Tribal Justice” means the Office of Tribal Justice in the United States Department of Justice.

(7) Tribal justice system

The term “tribal court”, “tribal court system”, or “tribal justice system” means the entire judicial branch, and employees thereof, of an Indian tribe, including, but not limited to, traditional methods and fora for dispute resolution, trial courts, appellate courts, including inter-tribal appellate courts, alternative dispute resolution systems, and circuit rider systems, established by inherent tribunal authority whether or not they constitute a court of record.

(Pub. L. 106–559, § 4, Dec. 21, 2000, 114 Stat. 2779.)

SUBCHAPTER I—TRAINING AND TECHNICAL ASSISTANCE, CIVIL AND CRIMINAL LEGAL ASSISTANCE GRANTS

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§ 3661. Tribal justice training and technical assistance grants

Subject to the availability of appropriations, the Attorney General, in consultation with the Office of Tribal Justice, shall award grants to national or regional membership organizations and associations whose membership consists of judicial system personnel within tribal justice systems which submit an application to the Attorney General in such form and manner as the Attorney General may prescribe to provide training and technical assistance for the development, enrichment, enhancement of tribal justice systems, or other purposes consistent with this chapter.

(Pub. L. 106–559, title I, § 101, Dec. 21, 2000, 114 Stat. 2780.)

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§ 3662. Tribal civil legal assistance grants

Subject to the availability of appropriations, the Attorney General, in consultation with the Office of Tribal Justice, shall award grants to non-profit entities, as defined under section 501 (c)(3) of title 26, which provide legal assistance services for Indian tribes, members of Indian tribes, or tribal justice systems pursuant to Federal poverty guidelines that submit an application to the Attorney General in such form and manner as the Attorney General may prescribe for the provision of civil legal assistance to members of Indian tribes and tribal justice systems, and/or other purposes consistent with this chapter.

(Pub. L. 106–559, title I, § 102, Dec. 21, 2000, 114 Stat. 2780.)

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§ 3663. Tribal criminal assistance grants

Subject to the availability of appropriations, the Attorney General, in consultation with the Office of Tribal Justice, shall award grants to non-profit entities, as defined by section 501 (c)(3) of title 26, which provide legal assistance services for Indian tribes, members of Indian tribes, or tribal justice systems pursuant to Federal poverty guidelines that submit an application to the Attorney General in such form and manner as the Attorney General may prescribe for the provision of criminal legal assistance to members of Indian tribes and tribal justice systems, and/or other purposes consistent with this chapter. Funding under this subchapter may apply to programs, procedures, or proceedings involving adult criminal actions, juvenile delinquency actions, and/or guardian-ad-litem appointments arising out of criminal or delinquency acts.

(Pub. L. 106–559, title I, § 103, Dec. 21, 2000, 114 Stat. 2780.)

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§ 3664. No offset

No Federal agency shall offset funds made available pursuant to this chapter for Indian tribal court membership organizations or Indian legal services organizations against other funds otherwise available for use in connection with technical or legal assistance to tribal justice systems or members of Indian tribes.

(Pub. L. 106–559, title I, § 104, Dec. 21, 2000, 114 Stat. 2781.)

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§ 3665. Tribal authority

Nothing in this chapter shall be construed to—

- (1) encroach upon or diminish in any way the inherent sovereign authority of each tribal government to determine the role of the tribal justice system within the tribal government or to enact and enforce tribal laws;
- (2) diminish in any way the authority of tribal governments to appoint personnel;
- (3) impair the rights of each tribal government to determine the nature of its own legal system or the appointment of authority within the tribal government;
- (4) alter in any way any tribal traditional dispute resolution fora;
- (5) imply that any tribal justice system is an instrumentality of the United States; or
- (6) diminish the trust responsibility of the United States to Indian tribal governments and tribal justice systems of such governments.

(Pub. L. 106–559, title I, § 105, Dec. 21, 2000, 114 Stat. 2781.)

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§ 3666. Authorization of appropriations

For purposes of carrying out the activities under this subchapter, there are authorized to be appropriated such sums as are necessary for fiscal years 2000 through 2004.

(Pub. L. 106–559, title I, § 106, Dec. 21, 2000, 114 Stat. 2781.)

SUBCHAPTER II—INDIAN TRIBAL COURTS

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§ 3681. Grants

(a) In general

The Attorney General may award grants and provide technical assistance to Indian tribes to enable such tribes to carry out programs to support—

- (1) the development, enhancement, and continuing operation of tribal justice systems; and
- (2) the development and implementation of—
 - (A) tribal codes and sentencing guidelines;
 - (B) inter-tribal courts and appellate systems;
 - (C) tribal probation services, diversion programs, and alternative sentencing provisions;
 - (D) tribal juvenile services and multi-disciplinary protocols for child physical and sexual abuse; and
 - (E) traditional tribal judicial practices, traditional tribal justice systems, and traditional methods of dispute resolution.

(b) Consultation

In carrying out this section, the Attorney General may consult with the Office of Tribal Justice and any other appropriate tribal or Federal officials.

(c) Regulations

The Attorney General may promulgate such regulations and guidelines as may be necessary to carry out this subchapter.

(d) Authorization of appropriations

For purposes of carrying out the activities under this section, there are authorized to be appropriated such sums as are necessary for fiscal years 2000 through 2004.

(Pub. L. 106–559, title II, § 201, Dec. 21, 2000, 114 Stat. 2781.)