

tribe by an Interim Tribal Council until ratification of a final tribal constitution, was omitted from the Code as being of special and not general application.

§ 1300n-6. Omitted

CODIFICATION

Section, Pub. L. 106-568, title XIV, §1408, Dec. 27, 2000, 114 Stat. 2941, which related to ratification of a final constitution for the tribe and election of tribal officials, was omitted from the Code as being of special and not general application.

CHAPTER 15—CONSTITUTIONAL RIGHTS OF INDIANS

SUBCHAPTER I—GENERALLY

Sec.

- 1301. Definitions.
- 1302. Constitutional rights.
- 1303. Habeas corpus.
- 1304. Tribal jurisdiction over crimes of domestic violence.

SUBCHAPTER II—MODEL CODE GOVERNING COURTS OF INDIAN OFFENSES

- 1311. Model code.
- 1312. Authorization of appropriations.

SUBCHAPTER III—JURISDICTION OVER CRIMINAL AND CIVIL ACTIONS

- 1321. Assumption by State of criminal jurisdiction.
- 1322. Assumption by State of civil jurisdiction.
- 1323. Retrocession of jurisdiction by State.
- 1324. Amendment of State constitutions or statutes to remove legal impediment; effective date.
- 1325. Abatement of actions.
- 1326. Special election.

SUBCHAPTER IV—EMPLOYMENT OF LEGAL COUNSEL

- 1331. Approval.

SUBCHAPTER V—MATERIALS AND PUBLICATIONS

- 1341. Authorization of Secretary.

SUBCHAPTER I—GENERALLY

§ 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

Pub. L. 101-511, title VIII, §8077(d), Nov. 5, 1990, 104 Stat. 1893, 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”.

§ 1302. Constitutional rights

(a) In general

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 (except as provided in subsection (b));

(7)(A) require excessive bail, impose excessive fines, or inflict cruel and unusual punishments;

(B) except as provided in subparagraph (C), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 1 year or a fine of \$5,000, or both;

(C) subject to subsection (b), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 3 years or a fine of \$15,000, or both; or

(D) impose on a person in a criminal proceeding a total penalty or punishment greater than imprisonment for a term of 9 years;