



UPDATE ON PUBLIC LAW 280 AND THE FLATHEAD RESERVATION

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WHAT IS PL 280?

- A TERMINATION ERA LAW PASSED IN 1953 THAT GAVE JURISDICTION ON RESERVATIONS TO STATES
- PROVIDED FOR 5 MANDATORY PL 280 STATES (6TH ADDED LATER)
- PROVIDED THAT OTHER STATES COULD CHOOSE TO ASSUME JURISDICTION (LATER AMENDED TO REQUIRE TRIBAL CONSENT)

1960s: Adoption of PL 280

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- In 1963, Montana passed a law to assume “criminal jurisdiction over Indians and Indian territory of the Flathead Indian reservation and country within the state” *if* CSKT and every county on the Reservation agreed.
 - In 1964, CSKT passed an ordinance opting in to PL 280.
 - The counties also consented.
 - In 1965, PL 280 went into effect.

1990s: CSKT Reassumption of Misdemeanors

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- In 1993, the Montana Legislature adopted a statute allowing CSKT to withdraw its consent to the exercise of State criminal misdemeanor jurisdiction and civil jurisdiction.
 - In 1994, CSKT withdrew from the State concurrent jurisdiction over misdemeanors.

CURRENT FLATHEAD RESERVATION JURISDICTION

- Today, the Tribes have exclusive misdemeanor jurisdiction over CSKT tribal members and members from other tribes.
- The Tribes have concurrent jurisdiction with the State over felonies committed by CSKT tribal members and members from other tribes – prosecuted by the appropriate county.
- For the past 31 years, CSKT has been the only government to prosecute misdemeanors.
- Over the past two years, CSKT has increasingly been exercising felony jurisdiction. That is, CSKT has increasingly been the government prosecuting felonies instead of the counties/State.

RECENT HISTORY

- **2017:** In 2017, the Montana Legislature passed a law that allows the Tribes to “withdraw consent to be subject to the criminal jurisdiction of the state of Montana.” Mont. Code Ann. § 2-1-306(1).
- **2021:** In 2021, the Montana Legislature passed a law that allows Lake County, “after consulting with tribal government officials,” to “withdraw consent to enforce criminal jurisdiction on behalf of the state of Montana over the Confederated Salish and Kootenai tribes.” Mont. Code Ann. § 2-1-306(3). The bill also appropriated a \$1 per year reimbursement to the county for enforcing criminal jurisdiction.
- **2022 and 2023:** In 2022, Lake County filed a lawsuit against the state seeking reimbursement from the State for the County’s past and present PL 280 costs. In November 2023, the 11th District Court (Flathead County) denied Lake County’s request for reimbursement and ruled in favor of the State. In December 2024, the Supreme Court affirmed the District Court’s opinion.

SB 393

- In 2025, the Montana Legislature enacted SB 393.
- SB 393 appropriates \$3 million each to CSKT and Lake County, \$1.5 million each per year over the next two years, for “expenditures resulting from the enforcement of felony criminal jurisdiction on the Flathead Indian reservation.”
- Before the funds are distributed, CSKT, Lake County, and the State must “enter into an agreement ... addressing the sharing of costs between Lake County and the Confederated Salish and Kootenai [T]ribes associated with the implementation of Public Law 280 within Lake County, including provisions relating to the expenditure of the amount allocated under [section 1] for the fiscal year beginning July 1, 2025, and for the fiscal year beginning July 1, 2026.”