

The Tribal Law and Order Act and Minnesota

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The Tribal Law and Order Act of 2010 allows reservations in [Public Law 280](#) states, where criminal jurisdiction is handled by the state and county prosecutors, to apply for concurrent federal jurisdiction. The purpose of the law is to increase the resources available to Tribes to investigate and prosecute crimes in Indian country.

How does the Tribal Law and Order Act (TLOA) work?

The TLOA allows Tribes to request concurrent federal jurisdiction over crimes on reservations. Once the request is approved, federal prosecutors can investigate and prosecute those crimes in the same manner as crimes on reservations where Public Law 280 does not apply. Public Law 280 allows the state to have jurisdiction over criminal law on certain reservations. (See more about Public Law 280 below.) The federal law was passed to give Tribes additional resources to meet public safety challenges including increasing the number of available law enforcement professionals and law enforcement information-sharing systems.

Once a Tribe is granted concurrent federal jurisdiction, the state's criminal jurisdiction remains unchanged. However, the federal government also gains jurisdiction over the crimes covered by the Major Crimes Act and the General Crimes Act. It is important to recognize that the federal government retains jurisdiction over certain crimes, including those committed in Indian country and under federal laws of general applicability such as the Controlled Substances Act.

How does TLOA affect Minnesota?

The U.S. Department of Justice has accepted requests from two Minnesota Tribes to provide concurrent federal jurisdiction over crimes on those reservations.

- The White Earth Band was granted concurrent jurisdiction, as of June 1, 2013.
- The Mille Lacs Band of Ojibwe was granted concurrent jurisdiction, as of January 1, 2017.

On the White Earth Reservation and the Mille Lacs Band Reservation, the federal Major Crimes Act and the General Crimes Act will apply. The Major Crimes Act allows for federal prosecution of the following crimes: murder, manslaughter, rape, assault with intent to kill, arson, burglary, larceny, kidnapping, incest, assault with a dangerous weapon, assault resulting in serious bodily injury, assault with intent to commit rape, robbery, and felonious sexual molestation of a minor ([18 U.S.C. § 1153](#)). The General Crimes Act includes the general federal criminal laws, including many of the same crimes included in the Major Crimes Act ([18 U.S.C. § 1152](#)).

Does the TLOA change the state's criminal jurisdiction?

In 1953, Congress passed a law known as [Public Law 280](#), which allowed some states to have criminal jurisdiction over reservations located in the state. In Minnesota, this included all reservations, except for the Red Lake Reservation, and since 1973, the Bois Forte Reservation in northeastern Minnesota. Other

than the Red Lake and Bois Forte (Nett Lake) Reservations, all other federally recognized Tribes in Minnesota¹ are subject to state criminal jurisdiction under [18 United States Code, section 1162](#).

TLOA does not change the state's criminal jurisdiction. Tribal members are still subject to state and Tribal criminal laws. The difference is that on both the White Earth Reservation and the Mille Lacs Reservation, members of federally recognized Tribes may be subject to federal prosecution for certain crimes.

Does the TLOA change the Tribe's criminal jurisdiction?

The TLOA does not alter the Tribe's criminal jurisdiction over members of federally recognized American Indian Tribes. Those Tribes can still arrest and prosecute individuals to the extent allowed by the Indian Civil Rights Act of 1968, which allows Tribes to impose a fine up to \$5,000 and up to one year in jail. However, the TLOA has created an opportunity for Tribes to implement enhanced sentencing powers.

The TLOA created the potential to enhance criminal sentencing for Tribal courts when the courts have met certain requirements found under 25 United States Code, section 1302(b). Under TLOA, a Tribal court must:

- guarantee the right to defense counsel for indigent clients;
- provide a judge who is licensed to practice law;
- be a court of record;
- make the Tribal criminal code be publicly available; and
- have rules of evidence and rules of criminal procedure ([25 U.S.C. § 1302](#)).

Currently, no Minnesota Tribes have the enhanced criminal sentencing authority provided for under the TLOA. The National Congress of American Indians has a list of Tribes that have begun using enhanced sentencing or who are close to implementing programs in other states (<https://www.ncai.org/section/vawa/about-vawa-and-stcj/tribal-law-and-order-act>).

The TLOA does not change the Tribe's criminal jurisdiction over non-Indians. Tribes have very limited jurisdiction over non-Indians, however the Violence Against Women's Act (VAWA) provides some exceptions.

How is the TLOA funded?

The TLOA provides increased federal funding for multiple programs administered by the Department of Justice and other federal agencies. Additionally, TLOA can receive funding by grants for criminal justice related programs for American Indian Tribes.

For more information: See the House Research publication [American Indians, Indian Tribes, and State Government](#), February 2023.



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¹ The Tribes where the state has concurrent criminal jurisdiction are the Fond du Lac Band, the Grand Portage Band, the Mille Lacs Band, the White Earth Band, the Leech Lake Band, the Upper Sioux Community, the Lower Sioux Community, the Shakopee-Mdewankanton Sioux Community, and the Prairie Island Indian Community.