



# Public Law 280

June 2016

## Background

Public Law 280 is a federal law that mandates certain states take jurisdiction from the federal government for criminal offenses against or by Indians on specifically defined land. The law includes transfer of jurisdiction for civil actions to which Indians are parties. The law also gives nonmandatory states the option to assume full or partial jurisdiction. Idaho adopted partial jurisdiction in 1963 without the consent of affected tribes. The adoption—Idaho Code § 67-5101—outlines seven areas of jurisdiction that are unlike adoptions in other states.

In 1968 Congress amended Public Law 280 to allow states to initiate the return of jurisdiction to the federal government. This process is known as retrocession. The Secretary of the Interior, in consultation with the US Attorney General, decides whether to grant states' requests for retrocession. At least three bills have been introduced in the Idaho Legislature that would have retroceded all or part of the state's jurisdiction. Four of Idaho's neighboring states—Montana, Nevada, Oregon, and Washington—have retroceded jurisdiction affecting at least one tribe. Most recently, Washington retroceded jurisdiction in April 2016 on behalf of the Yakama Nation.

Idaho is home to six federally recognized tribes with four reservations entirely within its boundaries and another that overlaps the Nevada border. Five tribes are represented on the Idaho Council on Indian Affairs, which also includes four legislators and a representative from the Office of the Governor. The four legislators on the council requested a study of Idaho's implementation of Public Law 280.

## Scope

We will provide an understanding of what jurisdiction the state assumed, describe the process of retrocession, and identify how jurisdiction and obligations would be affected by retrocession. We will answer the following questions:

1. In the adoption of Idaho Code § 67-5101, which duties and services did Idaho obligate itself to provide for Indians on specifically defined land? How does the state fulfill these obligations?
2. What federal funding, if any, does Idaho receive to implement Idaho Code § 67-5101, and how does it use those funds?
3. How would the state's jurisdiction and obligations change if Idaho retroceded all or part of its authority under Idaho Code § 67-5101?
4. How have other states retroceded Public Law 280 jurisdiction?

**Projected completion date: February 2017**