

Wabanaki Legal News

A Newsletter of Pine Tree Legal Assistance

Volume 14 Issue 1

www.ptla.org/wabanaki

Summer 2011

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New Legal Help for Passamaquoddy Juveniles and Young Adults

Pine Tree Legal's Native American Unit has received a federal grant to provide legal help to Indians under the age of 25. This work will cover criminal and delinquency cases in the Passamaquoddy Tribal Court at Indian Township and Pleasant Point. We can also help with other legal problems related to criminal charges. Examples could be:

- Loss of housing
- Loss of employment
- Loss of education, and
- Other problems caused by criminal convictions or court appearances
- Race discrimination
- Misconduct by police or jails
- Problems in juvenile detention facilities

Pine Tree does not charge any fees for its services. Whether you can get our help depends upon your income. Anyone who qualifies for a court-appointed lawyer will probably qualify for these services. Also, we can provide legal help in criminal cases where the court will not appoint a lawyer because the tribal prosecutor is not requesting a jail sentence.

We encourage anyone in the Passamaquoddy communities to refer young people with these types of problems to:

Native American Unit
1-877-213-5630 (toll free)
255-8656 (local)

Two New Rules For Direct Deposit Of Social Security And SSI Benefits

Starting May 1, 2011 new applicants for Social Security and SSI (and some other federal programs) are required to have their benefits deposited directly to a bank account or Direct Express card account. The option of paper checks will no longer be available unless a special hardship waiver is granted. It will be very difficult to prove hardship under

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US Acts on UN Rights of Indigenous Peoples Declaration

In September 2007 the United Nations passed the Declaration on the Rights of Indigenous Peoples (UNDRIP). It covers 46 issues important to Native people, including:

- Self-determination, or the right of a people to decide their political status and government
- Culture and language
- Education and health
- Housing, land, resources and environment
- Indigenous law

143 nations voted for the Declaration. Only Canada, New Zealand, Australia, and the United States voted against it. Later on New Zealand, Australia and Canada changed their positions. That left only the U.S. opposing it.

In December 2010 President Obama announced that the United States would lend its support to UNDRIP. However, the official US statement of support for the Declaration is qualified. The State Department released the official US position statement. It makes clear that the US regards UNDRIP's concept of "self-determination" to be limited by existing laws and policies. That is, federally recognized tribes have inherent but limited powers of self-governance.

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OUTREACH SCHEDULE

Passamaquoddy Tribe

Indian Township-Clinic at Peter Dana Point:

1st and 3rd Tuesdays 1pm - 3pm

Sipayik Tribal Courtroom:

2nd and 4th Tuesdays 1pm - 3pm

To make an appointment call: 1-877-213-5630 or 255-8656

Penobscot Nation

Penobscot Tribal Courtroom

Last Tuesday of each month from 10am-12pm
(changes to schedule announced in Tribal Newsletter)

To make an appointment call: 1-877-213-5630 or 1-800-879-7463

Houlton Band of Maliseets

Housing Authority

Currently by appointment only, call 1-877-213-5630, local 764-4349
regular outreach dates to be set up soon.

Aroostook Band of Micmacs

The Clinic

Last Wednesday of the month 9am-12pm
To make an appointment call: 1-877-213-5630, local 764-4349

Indian Child Welfare Act

What is the Indian Child Welfare Act?

The Indian Child Welfare Act (ICWA) is a federal law that regulates state court placement proceedings involving Indian children. ICWA applies to any child protective case, adoption, guardianship, termination of parental rights action, or voluntary placement of Indian children.

When & Why was ICWA passed by Congress?

Congress created the ICWA in 1978 to restore tribal authority over the placement of Indian children. The goal was to strengthen and preserve Native American families and culture.

Before the ICWA, a very high percentage of Indian families were broken up because non-tribal agencies removed children from their homes. One reason for the high removal rate was because state officials did not understand or accept Indian culture. Today, ICWA sets standards for the removal of Indian children from their homes.

What children does ICWA apply to? Those who are:

- Unmarried
- Under age 18
- Either (A) a member of a federally recognized Indian tribe or (B) eligible for membership in a federally recognized Indian tribe and the biological child of a tribal member.

What does ICWA require state agencies and courts to do? ICWA requires that placement cases involving Indian children be heard in tribal courts (if possible), and permits a child's tribe to be involved in state court proceedings. (ICWA does not control tribal court proceedings unless adopted by the individual tribe).

In state court, ICWA requires testimony from expert witnesses familiar with Indian culture before a child can be removed from his/her home. If a child is removed (for either foster care or adoption), the law requires that he/she be placed with extended family members, other tribal members, or other Indian families.

What tribes does the law apply to? Federally recognized tribes anywhere in the United States. In Maine, these tribes are: Penobscot Nation, Passamaquoddy Tribe, Houlton Band of Maliseet Indians, and the Aroostook Band of Micmacs.

Who decides tribal membership? ICWA does not determine membership. Individual tribes decide who is a member or eligible for membership.

When does ICWA NOT apply?

- Divorce cases or other custody cases between parents (if custody is awarded to one of the parents)
- Cases of minors charged with delinquent acts that would be considered criminal if done by an adult. However, ICWA may apply to a criminal or delinquency case if an out-of-home placement continues for a long time due to problems in the child's home.

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UN

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The US State Department does not regard the Declaration as binding law, but recognizes it as having both moral and political force. Some international treaties become US law. However, UNDRIP is only a resolution. It has not been ratified by the Senate and, therefore, is not binding on the United States. While it is not law, the US aspires to fulfill the spirit of the resolution. The official statement gives examples of how the US is already working towards the goals of UNDRIP through consultation and collaboration with US Tribes. These ongoing efforts are addressing, for example: environmental protection, health care, economic development and cultural protection.

Some commentators, including many in Indian Country, say that the US doesn't really support the Declaration. One example involves the concepts of "consultation" and "consent." The US government already follows a policy of tribal "consultation." But UNDRIP appears to require actual consent by tribes, which is much more than just consultation. Critics of the US position point to Article 19, which states that governments shall get indigenous people's "free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them." However, the US State Department statement defines consent only as a "process of meaningful consultation with tribal leaders, but not necessarily the agreement of those leaders." As a result, it seems likely that as time goes on US Tribes and the US government will have different ideas about what changes in US law and policy UNDRIP actually requires. Although the US recognition of the UN Declaration seems like a step forward, it remains to be seen how this will actually affect US policymaking.

Social Security

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the new rules. People who have been getting their Social Security and SSI benefits by check will need to switch to electronic payments by March 1, 2013 unless they obtain a waiver.

Although Social Security and SSI benefits are supposed to be exempt from debt collection, many creditors are still able to get banks to freeze bank accounts containing the federal benefits. Starting May 1, 2011, there will be new protection against debt collectors who are trying to collect debts from electronically deposited benefits. The new rule will require banks that receive a garnishment order to leave unfrozen the last two months of the protected federal benefits, or the full balance in the account if it is less than two months of benefits. The purpose of the new rule is to make sure that people who receive federal benefits will have unrestricted access to funds they need for their living expenses.

SOCIAL SECURITY OVERPAYMENTS

Pine Tree Legal has been able to help several tribal members who received Notices of Overpayments from Social Security. There are several things you can do about overpayments, but it is very important to take action quickly when you receive a Notice. It becomes harder for us to help if you wait. If you ignore the notice, SSA will start taking money out of your payments. Contacting SSA promptly can stop the collection of the overpayment until a decision is made by SSA.

If Social Security finds that you have gotten too much money in your disability or SSI check, they will send you a Notice of Overpayment. Sometimes an overpayment happens because you did not report a change in your income or household to SSA. Maybe you did not know that you were supposed to report the change. Or maybe you did tell SSA and they didn't record it. In some cases, you may have reported the change, but SSA delayed in decreasing your monthly check.

The first thing to do is read the Overpayment Notice carefully. Is the information on it correct? Notices from Social Security are often confusing. If you can't understand the Notice, contact us. After you have figured out what the Notice says, you have several choices:

1. Ask for Reconsideration if you think the amount of the amount of overpayment is wrong or the reason SSA gives for the overpayment is wrong.

2. Ask for a Waiver if you think Social Security is right about the overpayment but it was not your fault and you can't afford to pay the money back. Some of the reasons it might not have been your fault are:

- You have trouble reading. You did not know what you had to report to SSA.
- You have trouble remembering or understanding directions.
- You believed you reported every change that might have caused an overpayment.
- You were not told about the reporting requirement.
- You applied for SSI a long time ago and do not remember the reporting rules.

3. Ask for a Payment Arrangement if you think that the overpayment was your fault or you can afford to pay it back.

Automatic Waivers for Small Overpayments

SSA can automatically waive your overpayment if:

- The amount is \$1000 or less.
- You did not cause the overpayment by making a false statement to SSA, and
- You request waiver

Making a Payment Arrangement

If you have lost all of your appeals or have decided not to appeal any further, you must pay the money back. Tell SSA that you want to repay it in small amounts each month that you can afford. Otherwise, SSA may automatically take your whole Social Security disability check or 10% of your SSI check. Usually you will have to pay back at least \$10.00 a month. SSA tries to get the money back within 3 years. However, they cannot take more than 10% of your SSI check, even if it takes more than 3 years.

For more detailed information about dealing with overpayments, you can go to our website www.ptla.org

The Native American Unit at Pine Tree Legal

Assistance gives free legal help to low-income Native Americans. The unit's priorities are cases involving an individual's status as a Native American, including:

- ◆ *Race discrimination in employment, housing, public accommodations, education and credit*
- ◆ *Jay Treaty / cross border rights*
- ◆ *Tribal housing*
- ◆ *Indian Child Welfare Act (ICWA) issues*
- ◆ *Civil rights violations*

Call us at 1-877-213-5630(Machias) or 1-800-879-7463(Bangor). Contact information for Pine Tree's statewide offices can be found on page 8.

The **Wabanaki Legal News** is published by Pine Tree Legal Assistance, Inc. The views expressed by individual authors are not necessarily shared by Pine Tree Legal Assistance or its staff.

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Wabanaki Legal News is online @:

www.ptla.org/wabanaki

Problems With the IRS???

WE MAY BE ABLE TO HELP! Pine Tree Legal Assistance's Low-Income Taxpayer Clinic (LITC) offers *free* representation to qualifying taxpayers facing the following tax problems:

- *Outstanding tax debt*
- *Levies and liens*
- *Earned Income Credit denials*
- *Exams and audits*
- *Innocent/Injured spouse relief*
- *Tax Court representation*

Call 942-8241 to speak to one of our LITC advocates today.

**www.ptla.org/low-income-taxpayer-clinic
FREE TAX WORKSHOPS - CALL US TO ARRANGE
FOR A TRAINING ON TAX ISSUES IN YOUR AREA.**

News from the Maine Indian Tribal State Commission

In recent months, the Maine Indian Tribal State Commission (MITSC) has been active on a number of issues. Our Native American Unit attorney Paul Thibeault is a member of the Commission.

The Indian nickname and mascot controversy: MITSC has played a key role in educating the public in Maine about the issue of offensive “Indian” nicknames and mascots. Last August, after consulting with the leaders of the Wabanaki tribes, MITSC wrote to the Wiscasset School Board requesting that the high school stop using the “Redskins” nickname for its sports teams. Members of MITSC made a presentation at a school board meeting and efforts were made to establish a positive dialog between the tribal communities and Wiscasset. Through many community meetings and much reporting by media, residents of Wiscasset as well as people around the state learned a lot about the history of the “Redskins” issue in Maine. It turns out that Wiscasset had played a central role in tragic historic events. Back in the 1750's a colonial garrison at Wiscasset was the actual site where “scalp hunters” would register to get cash payments (bounties) from the colonial government of Massachusetts for killing and capturing Wabanaki people, including women and children. In the end, the Wiscasset school board voted to terminate the use of the Redskins nickname at the end of the current school year. A school mascot committee eventually voted to adopt “Wolverines” as the new nickname for the Wiscasset High School sports teams. As a result, there is now only one high school in Maine that has not given up the Redskins nickname, Sanford High School. A community process has begun that hopefully will lead to the adoption of a new nickname in Sanford.

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP): In December 2010 the United States government announced its support for the U.N. Declaration on the Rights of Indigenous Peoples. (See related front page article on UNDRIP). At the present time, all over Indian Country in the United States, questions are being asked about what impact the adoption of UNDRIP by the U.S. may have on Indian tribes, especially in the areas of tribal self-determination, protection of natural resources, and the relationships of the tribes with the Federal and State governments. In Maine, the Tribal-State Commission has decided to study UNDRIP and issue a report concerning the potential impact of UNDRIP on the Maine Indian Claims Settlement Act and the Maine Implementing Act.

Federal Laws Passed Since the Settlement in 1980: The Maine Indian Claims Settlement Act (MICSA) says that any federal laws passed after the date of the Maine Settlement that affect the application of State laws to Indians do not apply in Maine unless Congress specifically says so. As a result, many laws passed since 1980 by Congress for the benefit of Indians do not apply in Maine. The Indian Gaming Regulatory Act is just one example. The result of this part of MICSA is that since 1980 the Tribes in Maine have been on a different track from other Indian Tribes around the country in terms of new federal laws that are intended to benefit Indians. Tribal leaders in Maine have stated that their tribal communities have been seriously and unfairly harmed by this part of MICSA. The

Tribal-State Commission has decided to review the federal laws passed by Congress for the benefit of Indians since 1980. MITSC will try to determine the impact that these laws could have if they applied in Maine, including possible benefits for the State of Maine as well as for Indians.

Maine Legislation Concerning the “Wesget Sipu:”- There is a group in Aroostook County that is seeking legal recognition as an Indian tribe, separate from the four tribes in Maine currently recognized as Indian tribes by the federal and state governments. They refer to themselves as the Wesget Sipu, or the Fish River Tribe. They have a website that says: “Wesget Sipu is a Native American Tribe of Mi'qmaq and Maliseet from the St. Johns Valley in Northern Maine.” According to the website, to become a member of Wesget Sipu one apparently needs to provide “verifiable genealogy” that reflects “Native American Ancestry with ties to the St. John River Valley.” These membership requirements appear to be unclear, as pointed out by MITSC Chairperson Jamie Bissonnette in recent testimony. Three bills concerning the Wesget Sipu were considered in the Maine Legislature this year. One would have included the “Wesget Sipu - Fish River Tribe” in Native American tuition waivers in the University of Maine system, the Maine Community College System, and the Maine Maritime Academy. That bill did not pass. Another bill would have reserved 25 State of Maine moose hunting permits for the “Wesget Sipu Tribe.” That bill also did not pass. The third bill, submitted by Passamaquoddy Representative Madonna Soctomah, would remove the Wesget Sipu from an existing law concerning free lifetime hunting, fishing and trapping licenses. It would clarify that only members of the four recognized Tribes are eligible for free licenses as Native Americans. That bill was passed and Governor LePage signed it.

A spokesperson for the Wesget Sipu has recently claimed that the Wesget Sipu have already been recognized by the State of Maine as an Indian Tribe. He also announced that the Wesget Sipu are seeking federal recognition as an Indian tribe. MITSC was asked by the Maine Governor's Office and members of the legislature to comment on the legislation concerning the Wesget Sipu. After conducting research and conferring with tribal leaders, MITSC decided to oppose the proposed laws concerning tuition waivers and moose permits. MITSC has recommended that any references to the Wesget Sipu be removed from existing Maine statutes. MITSC has said that the mention of the Wesget Sipu in the free license law is in conflict with the Maine Implementing Act.

Border Crossing Update

In June of 2009, the Western Hemisphere Travel Initiative (WHTI) was put into place. This law imposes stricter document requirements on Native Americans who cross the land borders between the United States and Canada.

Under WHTI, most people who enter the United States from Canada by land must present a passport. However, the Department of Homeland Security is working with interested Native American tribes in the United States to

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Pine Tree Launches Statesidelegal.org

For Service Members, Veterans, And Their Families

Pine Tree Legal Assistance has launched a new website to address your legal needs. The web address is www.statesidelegal.org. The site includes over 300 pieces of information about federal laws and protections for service members and veterans, plus links to answer your legal questions. Topics include:

- Step-by-step guide to VA Disability Claims
- Jim's mailbag - Q and A forum on veterans' issues
- How to challenge your discharge status
- Rights under the Servicemembers Civil Relief Act (lower interest rates on loans, special rules in home foreclosures, right not to be sued while on active duty)
- Health and Educational benefits
- Special benefits for family members

If you are a service member or veteran, you know that the rules around claiming and securing military-related benefits can be complex and difficult to understand. Stateside Legal answers your questions in Plain English. Pine Tree does not yet have the resources to handle new claims related to veteran or military benefits. Contact Pine Tree's Bangor office at 942-8241 for help identifying the best resources for those problems.

VA Announces New Office to Help Native Veterans

Twenty percent of Maine's Native Americans have served in our armed forces. Native Americans serve at a higher rate than any other group. The Department of Veterans Affairs (VA) announced the creation of the Office of Tribal Government Relations. The office will serve over 200,000 Native Veterans nationwide. While not actually located in Maine, the office will improve service to the over 1,500 Native Veterans in Maine. From the VA Press release:

"There is a long, distinguished tradition of military service among tribal peoples," said Secretary of Veterans Affairs Eric K. Shinseki. "VA is committed to providing these Veterans with the full range of VA programs, as befits their service to our nation."

Although VA has long provided benefits to Veterans in tribal lands, the new office will further strengthen and expand that relationship.

Stephanie Elaine Birdwell, an enrolled member of the Cherokee Nation from Oklahoma, has been selected as the office's first director. A former social worker, she has spent nearly 15 years working on tribal issues with the Bureau of Indian Affairs and, most recently, the Bureau of Indian Education.

She will oversee a six-person office responsible for "establishing, maintaining and coordinating a nation-to-nation, federal-tribal relationship," according to a VA briefing.

Border Crossing

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come up with special tribal identification cards that follow the rules of the U.S. Department of Homeland Security (DHS). To be approved, the new "Enhanced Tribal Cards" (ETC) would need to electronically verify the person's identity, tribal membership, and citizenship. With such cards, tribal members would not be required to get passports. As of this time, however, none of the tribes in Maine have developed approved cards. In Canada the issue is being handled centrally by the Canadian government. For Canadian tribes, Indian and Northern Affairs Canada (INAC) has begun issuing more advanced Secure Certificate of Indian Status (SCIS) cards to replace the old INAC cards.

At some point the old ID cards will no longer be accepted for Native American and First Nation citizens entering the United States from Canada by land. However, as of June 27, 2011, neither DHS nor INAC has set a definite deadline. The U.S. Customs website, at www.cbp.gov, states that, "Until further notice, Native American United States and Canadian citizens may continue to present their current tribal documents, including the current Indian and Northern Affairs Canada (INAC) card, as proof of identity and citizenship when entering by land or sea, provided the document is affixed with a photo." When this will change, however, is entirely up to U.S. officials.

Remember that these official comments are about land crossings of the US/Canada border and not about air travel. Under the WHTI, air travelers need different forms of ID - generally passports.

Free Family Law Assistance

Low income members of the Penobscot and Passamaquoddy Tribes can get assistance in filling out court forms and limited legal advice on divorce, custody, child support, will and probate issues, etc.

INDIAN ISLAND TRIBAL COURT COURTHOUSE ASSISTANCE PROJECT

Indian Island CHAP

Last Thursday of every month 10am - Noon

PASSAMAQUODDY COURTHOUSE ASSISTANCE PROJECT

Pleasant Point CHAP

Second Tuesday of even numbered months
from 1-3pm - Pleasant Point Tribal Court
Indian Township CHAP

Third Tuesday of odd numbered months
from 1-3pm - Indian Township Health Clinic

For an appointment call Jim Mitchell at
942-9348 or email jmitchell@vlp.org

Sponsored by:

Maine Volunteer Lawyers Project

CASE NOTES

Natives Allege Housing Discrimination

Three Native American families have filed fair housing complaints. The Maine Human Rights Commission will hear their cases.

A Penobscot and Passamaquoddy woman from Bangor was threatened with eviction from public housing. Her apartment had failed inspection. She had stored some old mattresses in her basement while waiting for help with moving them. The housing authority accused her of putting up guests in her basement. The inspector who failed her said, without prompting, that he was not evicting her because of her culture. She appealed the eviction. The hearing officer forgot about her hearing and then was rude to her at the hearing. She complains that she was treated differently and unfairly because she is Native. The inspector, who had worked there for many years, recently left.

A Penobscot woman from Bangor faced eviction based on a criminal traffic conviction that was more than a year old. She appealed the decision. She brought evaluation and treatment records to her hearing. These records were from her Native American evaluator and Wabanaki Mental Health. The housing authority rejected her records. They told her that the records were not adequate. However, they would accept records from Acadia.

The Maine Human Rights Commission has investigated these cases. HUD has opened a Civil Rights investigation. They will look into claims that the housing authority illegally discriminates against Native Americans.

In a third case, a Penobscot couple from Milford tried to move out of their mobile home park. An agent of the mobile home park harassed the man several times while he was preparing the mobile home for transport. The couple reports that the park agent said things like, "The only good Indian is a dead Indian" and "All Indians are a waste of my space." He also threatened to kill the man before he would let him move the mobile home. This case has settled.

Pine Tree Legal represents the families under a grant from HUD (U.S. Dept of Housing and Urban Development).

Notes From the Presque Isle Office

In order to better serve members at both of Aroostook's Native communities, the Native Unit is improving outreach to both bands. Starting a few months ago, Presque Isle managing attorney, Jeff Ashby, has been going to the Micmac Health Center every month, on the last Wednesday of the month from 9:00am until noon, to meet with potential Micmac clients. Come by to visit Jeff! At Maliseet, Jeff will soon take over from Native Unit member Paul Thibeault to meet with folks there at regular outreach. Dates and times of Jeff's regular visits to Maliseet will be announced soon.

Fair Employment Practices

The Legal Aid Society of Mid-New York, Inc. and Pine Tree Legal Assistance in Maine work with the United States Department of Justice's Office of Special Counsel (OSC) for Immigration-Related Unfair Employment Discrimination to protect immigrant and citizen workers from being discriminated against by employers.

The Immigrant and Nationality Act's anti-discrimination provisions protect immigrant workers from the following types of employment discrimination:

- Discrimination on the basis of national origin (including not hiring or firing a worker based on his/her appearance, accent or place of birth)
- Discrimination on the basis of citizenship status (for example, having a "citizen-only" hiring practice)
- Discrimination on the basis of documentation of work authorization on the I-9 form (this is called "document abuse" and includes demanding more or different documentation than what is required by the I-9 legal process)
- Discrimination by act or threat of retaliation (including firing or discriminating against workers who assert their rights as legal workers)

For more information, please contact Legal Aid Society of Mid-New York, Inc. at (845)256-9096 or (800) 804-8575, or contact the Office of Special Counsel directly via their worker or employer hotline. The OSC attempts to intervene in employer-worker disputes and resolve them informally.

Worker Hotline: 1-800-255-7688
1-800-237-2515 (TDD)

Employer Hotline: 1-800-255-8155
1-800-362-2735 (TDD)

Also, see the Office of Special Counsel website for more information. This includes information for employers on how to avoid unfair practices. For more information about improper national origin discrimination, visit the Office of Civil Rights at:
www.justice.gov/crt/about/osc/htm/CRTNatorigin.htm

What is an I-9 Form? An I-9 form is a document that every employer in the United States must complete when hiring a new employee. As part of the process of completing the I-9, the employee must present certain documents that prove the employee's identity and that the employee has the right to work in the United States.

What does this mean for you? There are many ways that you may experience illegal discrimination when you try to find a job. A prejudiced employer might discriminate against you simply because you are Native American. If you are a Canadian-born Native, an employer may discriminate against you because you are not a U.S. Citizen. It is against the law for an employer to refuse to accept an identification card issued by a tribe in the United States.

Note: for Canadian-born Natives - an INAC card is not acceptable as documentation when filling out the I-9 form.

ICWA

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What rights does the child's tribe have under ICWA? If a state court is asked to remove a child from the care of an Indian parent and has reason to believe the child is Indian, the court must notify the child's tribe of the proceedings.

The notice must be in writing and indicate the tribe's right to become a party to the case.

- The child's tribe may either take control of the case or continue as a party in the state court case.
- If the case stays in state court, the tribe's opinion must be considered.
- The court must consider only the Indian community standards of a suitable home, not the standards of the non-Indian community.

Get Legal Help To Enforce ICWA You should seek legal help immediately if faced with state action that may result in the removal of Indian children. It is critical for Indian parents to tell their lawyers, the judge, and social workers that their child is a member of (or eligible for membership in) an Indian tribe. If you do not already have an attorney, seek help from one as soon as possible. Make sure your attorney knows about the ICWA.

The Native American Unit at Pine Tree Legal gives high priority to ICWA violation cases. NAU may not need to accept a case for direct representation when tribes, parents, and Indian custodians are given proper notice, and court-appointed counsel is available and familiar with ICWA. However, the NAU can provide advice and brief service. This includes contacting the tribe, the client's attorney and/or the court to ensure proper application of the ICWA.

Potential violations of ICWA to watch for:

1. Failure to identify the child as an Indian child. Only tribes can determine membership and eligibility for membership, not attorneys, social workers or judges.
2. Placements with grandparents or other relatives can be child custody proceedings covered by the ICWA. The key is removal from the parent or Indian custodian.
3. Placements resulting from "status offenses" (i.e. truancy, curfew, runaway or minor consumption) are ICWA proceedings. Old juvenile delinquency placements may become ICWA cases when the delinquent acts become remote in time, and when other factors (such as inadequate parenting) are the real cause of continued placement.
4. Hearing notice to parents, Indian custodians and tribes must be by registered mail at least 10 days before the hearing date. This is determined by the time of receipt of notice, not the mailing date. 20 days continuance must be granted on timely request.
5. Proceedings must be transferred to tribal court upon timely request by parent or tribe, unless a parent objects, the tribe declines, or the state judge finds "good cause."
6. The tribe, child and Indian custodian have a right to intervene at any time.
7. Before placement, there needs to be clear and convincing evidence of likelihood of serious emotional or physical damage to the child. Poverty, inadequate housing, and alcohol abuse are not clear and convincing evidence on their own.

8. State must prove active efforts to meet child's needs without a placement.

9. Placement preferences (starting with extended family) must be followed, unless tribe establishes by resolution (not case by case) a different preference or state judge finds "good cause."

10. Voluntary consent to termination of parental rights is not valid unless done in writing and recorded before a judge.

COMMUNITY RESOURCES

TRIBAL GOVERNMENT AND AGENCIES

AROOSTOOK BAND OF MICMACS:

www.micmac-nsn.gov

Administration, Housing, Child/Family Services	764-1972 or 1-800-355-1435
Micmac Head Start Program	768-3217
Health Department	764-7219 or 1-800-750-1972

HOULTON BAND OF MALISEET INDIANS:

www.maliseets.com

Administration	532-4273 1-800-564-8524(in state) 1-800-545-8524(out of state)
Maliseet Health Department	532-2240 or 1-800-640-2266
Maliseet Health Clinic	532-4229
Maliseet Housing Authority	532-7637 or 532-9140
Indian Child Welfare	532-7260 or 866-3103
Social Services and LEAD	532-7260 or 1-800-532-7280
Domestic Violence and Sexual Assault Program	532-6401 (24/7)
Advocacy Program	532-3000

MALISEET TRIBAL COURT SYSTEM

www.maliseets.com/tribal_courts.htm

Court Administrator 532-4273 x 217
e-mail: tribal.courts@maliseets.com

PENOBSCOT INDIAN NATION:

www.penobscotnation.org

Administration	827-7776 or 1-877-736-6272
Indian Health Services	817-7400
Penobscot Housing Dept.	817-7370
Penobscot Human Services	817-7492
Indian Island Police Dept	817-7358 (dispatcher) 827-7188/911 (emergency) 827-6336 (business)
Domestic Violence and Sexual Assault Crisis Hotline	631-4886 (24/7)
Office - Ruth Jewell	817-7469
<u>PENOBSCOT TRIBAL COURT SYSTEM</u>	
Director of Tribal Court	817-7342
Clerk of Courts	817-7329

PASSAMAQUODDY TRIBE:

PLEASANT POINT www.wabanaki.com

Administration	853-2600
Pleasant Point Health Center	853-0644
Pleasant Point Housing	853-6021
Domestic Violence-Peaceful Relations	853-0644 ext. 555 or 274
Emergency:	853-2613
Police Department	853-2551
Social Services	853-2600 ext. 264 or 261

TRIBAL COURT SYSTEM

www.wabanaki.com/tribal_court.htm

Clerk of Courts 853-2600 ext. 278

INDIAN TOWNSHIP www.passamaquoddy.com

Administration 796-2301
Indian Township Clinic 796-2321
Indian Township Housing 796-8004
Police Department 796-2704

TRIBAL COURT SYSTEM

www.wabanaki.com/tribal_court.htm

Clerk of Courts 853-2600 ext. 278
(when court is in session call: 796-2301 ext. 205)

STATEWIDE CRISIS SERVICES

HEALTH & HUMAN SERVICES

DHHS Child Abuse 1-800-452-1999(24 hour)
1-800-963-9490(TTY)
DHHS Adult Abuse and Neglect 1-800 624-8404

DOMESTIC VIOLENCE

Maine Coalition to End DV 1-866-834-HELP(24 hour)
Houlton Band of Maliseets Domestic Violence and Sexual Assault Program 532-6401(24/7) or 532-3000
Penobscot Indian Nation Domestic Violence and Sexual Assault Program 631-4886 (24/7) or 817-7469
Passamaquoddy Peaceful Relations 853-2613 or 853-0644 ext. 555 or 274
Spruce Run 1-800-863-9909
Penobscot County
Battered Women's Project 1-800-439-2323
Penobscot County
The Next Step 1-800-604-8692 or 255-4785
Washington County
Hope and Justice Project 1-800-439-2323 (24/7) or 764-2977
Aroostook County

RAPE CRISIS SERVICES

Rape Response Services 1-800-310-0000
Penobscot County
Aroostook Mental Health Center 1-800-550-3304
Crisis Line Aroostook County 1-888-568-1112
Downeast Sexual Assault Svcs. 1-800-228-2470
Washington County

OTHER SERVICES

Youth Crisis Stabilization 1-800-499-9130
Statewide Suicide Referral Line 1-800-568-1112
Poison Control Center 1-800-222-1212

2-1-1 MAINE & COMMUNITY ACTION PROGRAMS

2-1-1 MAINE www.211maine.org
2-1-1 Maine is part of a national movement to centralize and streamline access to health and human service information and resources. The state of Maine has thousands of programs offering all types of health and human services.
COMMUNITY ACTION PROGRAMS bring community resources together such as heating assistance and other utility issues, subsidized housing, child care, and transportation services for disabled people. Call 2-1-1 for your local program.

LEGAL SERVICES

PINE TREE LEGAL ASSISTANCE www.ptla.org
Pine Tree Legal represents low-income people with legal problems.
Portland: 774-8211 Lewiston: 784-1558
Augusta: 622-4731 Bangor: 942-8241
Machias: 255-8656 Presque Isle: 764-4349
Farm worker Unit: 1-800-879-7463
NATIVE AMERICAN UNIT #: 1-877-213-5630

VOLUNTEER LAWYERS PROJECT

www.vlp.org 1-800-442-4293

If you meet its eligibility requirements, the VLP can give you legal advice or informational materials for free. In some cases the VLP may provide a referral to a private attorney for free representation.

Intake hours are:

Monday and Tuesday - 9am to 12pm and 1pm to 4pm
Wednesday and Friday - 9am to 12pm
Thursday - 1pm to 4pm

LEGAL SERVICES FOR THE ELDERLY

www.mainelse.org 1-800-750-5353

If you are age 60 or older, LSE can give you free legal advice or limited representation.

PENQUIS LAW PROJECT

www.penquiscap.org 1-800-215-4942

This group gives legal representation to low income residents of Penobscot and Piscataquis Counties in cases involving domestic relations. Priority is given to people who have experienced or are experiencing domestic violence, sexual assault or stalking.

DISABILITY RIGHTS CENTER

www.drcme.org 1-800-452-1948

Advice and legal representation to people with disabilities.

BANGOR COURT ASSISTANCE PROGRAM

www.ptla.org/bangor-court-assistance-program 941-3040

Volunteers are available at the Bangor District Court once a month to help you fill out family law and small claims court forms. For upcoming dates call Holly Jarvis at 941-3040.

OTHER COMMUNITY RESOURCES

WABANAKI MENTAL HEALTH ASSOC.

www.wabanaki.org 990-0605 or 1-800-434-3000

Wabanaki provides culturally-sensitive psychological and social services to the Native American populations of Hancock, Penobscot, Piscataquis and parts of Washington Counties.

MAINE INDIAN TRIBAL STATE COMMISSION

www.mitsc.org 817-3799

SOCIAL SECURITY ADMINISTRATION

www.ssa.gov/reach.htm

Statewide 1-800-772-1213
Bangor Area 1-877-405-1448
941-8698 (TTY)
Presque Isle Area 1-866-837-2719
764-2925 (TTY)

MAINE HUMAN RIGHTS COMMISSION

www.maine.gov/mhrc 624-6290
TTY 1-888-577-6690

EMPLOYMENT INFORMATION

MAINE DEPARTMENT OF LABOR

To file unemployment claims online:
www.maine.gov/labor/unemployment
To file unemployment claims by telephone:
1-800-593-7660

Or go to your nearest Career Center:

www.mainecareercenter.com

Bangor 561-4050
Calais 454-7551
Houlton 532-5300
Machias 255-1900
Presque Isle 760-6300