



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #PDX-20-033

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### NCAI HEADQUARTERS

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## **TITLE: Supporting Repeal of the Federal Legislation Granting Criminal Jurisdiction to States over Indians in Indian Country**

**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, in 1940, the U.S. Congress granted the State of Kansas criminal jurisdiction over the Indian lands located within the state. *See* Act of June 8, 1940, 54 Stat. 249 (codified at 18 U.S.C. §3243) (the “Kansas Act”); and

**WHEREAS**, the Kansas Act affected the four Federally-recognized tribal nations located in Kansas – the Iowa Tribe of Kansas and Nebraska, the Kickapoo Tribe in Kansas, the Prairie Band Potawatomi Nation, and the Sac and Fox Nation of Missouri in Kansas and Nebraska; and

**WHEREAS**, at the time of the Kansas Act, Congress was pursuing an Indian “termination” policy to end Federal government recognition of tribal sovereignty and treaty rights to promote assimilation of Indian people into American society; and

**WHEREAS**, consistent with its Indian Termination Policy, Congress enacted several statutes in the 1940s (North Dakota Devils Lake, Iowa, New York) that promoted this policy which eventually led to the general authorization for other states to assume criminal jurisdiction over Indians known as Public Law 280; and

**WHEREAS**, President Nixon declared the Indian Termination Policy a failure in 1970 and adopted the current policy that supports Indian Self-Determination and Self-Governance; and

**WHEREAS**, consistent with current policy, the Congress has begun to repeal statutes granting criminal jurisdiction to states over Indians in Indian Country (e.g. Iowa Act, 2018); and

**WHEREAS**, the four tribal nations in Kansas have developed their own criminal justice systems, have no need for State criminal jurisdiction over Indians within their territories, and seek the repeal of the Kansas Act.

**NOW THEREFORE BE IT RESOLVED**, that the National Congress of American Indians (NCAI) supports the repeal of the Federal legislation granting criminal jurisdiction to States over offenses committed by Indians within Indian Country located within such States; and

**BE IT FURTHER RESOLVED**, that NCAI fully supports the efforts of Tribal Nations seeking full and complete retrocession of criminal jurisdiction in Public Law 280 states; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

#### CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2020 Annual Session of the National Congress of American Indians, held Nov 8, 2020 - Nov 13, 2020, with a quorum present.



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Fawn Sharp, President

**ATTEST:**



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Juana Majel Dixon, Recording Secretary