

Table 36. Tribal Courts

	Number of Federally Recognized Tribes ¹	Number of Tribal Justice Forums ²	Number of CFR Courts ³	State Jurisdiction Under Public Law 280 ⁴	Treatment "as if" Under Public Law 280 ⁶
Alabama	1	1	~	~	~
Alaska	223	232	~	Mandatory ⁷	~
Arizona	20	24	~	Optional ⁸	~ ⁹
California	103	3	1	Mandatory	~
Colorado	2	2	1	~	Parts of the Southern Ute Reservation ¹⁰
Connecticut	2	5	~	~	Mashentucket Pequot Tribe ¹¹
Florida	2	2	~	Optional ¹²	~
Idaho	4	6	~	Optional ¹³	~
Iowa	1	1	~	Optional ¹⁴	~
Kansas	4	4	~	~	Statewide ¹⁵
Louisiana	4	3	~	~	~
Maine	4	4	~	~	Passamaquoddy, Penobscot, and Houlton Tribes ¹⁶
Massachusetts	1	0	~	~	Gay Head Wampanoag Tribe ¹⁷
Michigan	12	11	~	~	~
Minnesota	6	13	~	Mandatory ⁵ (except Red Lake)	~
Mississippi	1	1	~	~	~
Montana	7	7	~	Optional ¹⁸	~
Nebraska	4	3	~	Mandatory ⁵	~
Nevada	17	16	2	Optional ¹⁹	~
New Mexico	21	21	~	~	~
New York	7	3	~	~	Statewide ²⁰
North Carolina	1	2	1	~	~
North Dakota	4	5	~	Optional ²¹	~
Oklahoma	37	35	17	~	~
Oregon	9	8	~	Mandatory ⁵ (except Warm Springs Reservation)	Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians; ²² Confederated Tribes of the Grand Ronde Community of Oregon; ²³ Klamath Tribe; ²⁴ Coquille Tribe ²⁵
Rhode Island	1	1	~	~	Narragansett Tribe ²⁶
South Carolina	1	1	~	~	~
South Dakota	8	8	~	Optional ²⁷	~
Texas	3	3	~	~	Ysleta Del Sur Pueblo; ²⁸ Alabama and Coushatta Tribe; ²⁹ Texas Band of Kickapoo Indians ³⁰
Utah	5	3	1	Optional ³¹	~
Washington	28	28	~	Optional ³²	~
Wisconsin	11	11	~	Mandatory (except Menominee)	~
Wyoming	2	1	~	~	~
Totals	556	468	23		

Table 36. Tribal Courts

Note: Only States with Federally recognized tribes are listed.

FOOTNOTES:

¹The number of Federally Recognized Tribes was obtained from the Federal Register (65 F.R. 13298), March 13, 2000. Transtate tribes are counted in the State where the tribal office or capital is located.

²The number of tribal justice forums was compiled from the National American Indian Court Judges Association (NAICJA) database of all known tribal justice forums operating in the United States. These may include "...traditional forums for dispute resolution, trial courts, appellate courts, alternative dispute resolution systems, and inter-tribal systems established by inherent tribal authority whether or not they constitute a court or record." In some cases a court serves more than one tribe; in other cases a tribal justice system contains more than one type of justice forum. Appellate courts are not consistently listed separately in the database.

³CFR Courts or Court of Indian Offenses are "Federally recognized" and were established by the Department of the Interior in 1884. These courts are held to be instrumentalities of the Federal government.

⁴For most of Indian Country, in terms of area and population, the Department of Justice provides general felony law enforcement concerning crimes by or against Indians. Tribal law enforcement agencies act as first responders to felony and misdemeanor crime. Further, tribal courts are vested with jurisdiction over crimes by Indians and have authority to stop, detain, and transport non-Indian offenders to Federal or State law enforcement agencies.

Other areas of Indian Country are under Public Law 280, which delegated general law enforcement authority over crimes by and against Indians to the States. In these areas, Indian tribes retain their original, inherent jurisdiction over misdemeanor crimes by Indians and may stop, detain, and transport other offenders to the relevant Federal or State authorities.

Public Law 280, enacted in 1953, was the first comprehensive Federal legislation to introduce State criminal jurisdiction into Indian Country. Public Law 280 identified six *mandatory* States where State criminal jurisdiction over offenses by Indians would immediately supplant Federal Indian Country criminal jurisdiction. It also identified *optional* States that were permitted to assume complete or partial jurisdiction over crimes committed by Indians within Indian Country. For more detailed information about the application of Public Law 280, see Carole Goldberg-Ambrose, *Planting Tail Feathers: Tribal Survival and Public Law 280* (UCLA American Studies Center: 1997)(with Tim Seward).

⁵Within these mandatory states, jurisdiction over the following reservations has been retroceded: Nett Lake (Minnesota), Umatilla (Oregon), Omaha and Winnebago (Nebraska).

⁶Since Public Law 280 was enacted, several land settlement, restoration, and recognition acts have provided for State jurisdiction "in accordance with" Public law 280 (in mandatory States) or "as if" it had been properly assumed under Public Law 280 (in optional States). In some post-1953 Federal statutes delegating jurisdiction to States, there is no reference to Public Law 280. Prior to Public Law 280 the following States were delegated similar jurisdiction: New York (civil and criminal Statewide), Kansas (criminal).

Alaska

⁷Concurrent jurisdiction is authorized over the Annette Islands Reservation by the Metlakatla Indian Community.

Arizona

⁸Arizona accepted jurisdiction over air and water pollution only. The State subsequently repealed the provision concerning water pollution because this jurisdiction is almost entirely regulatory in nature.

⁹Jurisdiction was conferred upon Arizona over Pascua Yaqui Tribe, later retroceded (25 U.S.C. §1300f(c)).

Colorado

¹⁰Pub.L.98-290, May 21, 1984, 98 Stat.201 Sec. 5

Connecticut

¹¹25 U.S.C. §1755

Florida

¹²Florida assumed full Public Law 280 jurisdiction, except for the Miccosukee Reserve Area Act of 1999 (16 U.S.C. § 410).

Idaho

¹³Idaho accepted jurisdiction over seven subject areas and full Public Law 280 jurisdiction with tribal consent. Idaho Code §§67-5101 to 67-5103 (1963).

Iowa

¹⁴Iowa assumed civil jurisdiction over the Sac and Fox Reservation, Tama County. Partial criminal jurisdiction has been delegated to Iowa in an earlier and separate Federal statute.

Kansas

¹⁵Includes Iowa Tribe of Kansas and Nebraska, Kickapoo of Kansas, Prairie Band of Potawatomi Indians, and Sac and Fox of Missouri.

Maine

¹⁶25 U.S.C. §1725

Massachusetts

¹⁷25 U.S.C. §1771e

Montana

¹⁸In Montana, the governor was empowered to proclaim State criminal or civil jurisdiction at the request of any tribe and with the consent of affected counties. Tribal consent was revocable within two years of the governor's proclamation. Mont. Stat. Ann. §§2-1-301 through 2-1-306 (1963). The confederated Salish and Kootenai Tribes consented to jurisdiction under this provision, some of which was subsequently retroceded by the State.

Nevada

¹⁹Nevada originally accepted full Public Law 280 jurisdiction, but permitted individual counties to exclude themselves from acceptance of jurisdiction. This provision was amended in 1971 to require tribal consent. A 1975 amendment provided for retrocession except for those tribes already subject to the Act who consented to continue. Nev. Rev. Stat. §41.430 (1968). Jurisdiction now has been retroceded for most reservations.

New York

²⁰Includes Cayuga Nation, Oneida Nation, Onondaga Nation, Seneca Nation, Tonawanda Band of Seneca Indians, Tuscarora Nation, and St. Regis Band of Mohawk Indians.

North Dakota

²¹North Dakota accepted civil jurisdiction only, subject to tribal or individual consent. N.D. Cent. Code §§27-19-01 to 27-10-13 (1963). Both the condition of individual acceptance and the condition of tribal acceptance (§§27-19-05, 27-19-06) have been declared invalid under Federal law. Criminal jurisdiction over Devils Lake Reservation was delegated to North Dakota prior to Public Law 280 in a separate Federal statute.

Oregon

²²25 U.S.C. §714e(c)

²³25 U.S.C. §713f(c)(6)

²⁴25 U.S.C. §566e

²⁵25 U.S.C. §715(d)

Rhode Island

²⁶25 U.S.C. §1708

South Dakota

²⁷South Dakota assumed jurisdiction over criminal offenses and civil causes of action arising on highways, and conditioned acceptance of full Public Law 280 jurisdiction on Federal government reimbursement of the State for the cost of the additional jurisdiction assumed. S.D. Compiled Laws Ann. §§1-1-12 to 1-1-21 (1957). This acceptance was ruled invalid in *Rosebud Sioux Tribe v. South Dakota*, 900 F.2d 1164 (8th Cir. 1990).

Texas

²⁸25 U.S.C. § 105(f)

²⁹25 U.S.C. §206(f)

³⁰25 U.S.C. § 1300b-15

Utah

³¹In 1971, Utah passed legislation accepting jurisdiction subject to subsequent tribal consent. No tribe has consented.

Washington

³²Washington assumed full Public Law 280 jurisdiction over non-Indians and over Indians on trust land. Jurisdiction over Indians on trust land was limited to eight subject areas unless a tribe consents to full Public Law 280 jurisdiction. Wash. Rev. Code Ann. §§37.12.010, 37.12.21, 37.12.30, 37.12.40 (1963) – 37.12.050 and 37.12.070 (1957) (§37.12.020 repealed by Laws 1963, ch.36, §6). Washington has retroceded jurisdiction for a number of tribes, including the Port Madison Reservation, the Quinault Reservation, the Confederated Tribes of the Chehalis Reservation, Quileute Reservation and the Swinomish Tribal Community, and the Colville Tribe.