



Ninety-Seventh Legislature - First Session - 2001
Introducer's Statement of Intent
LR 17

Chairperson: Senator Kermit A. Brashear
Committee: Judiciary
Date of Hearing: February 28, 2001

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

This Resolution is designed to give the Santee Sioux Tribe limited civil and criminal jurisdiction on the Reservation.

Public Law 280 granted the State criminal and civil jurisdiction over the Santee Sioux Reservation. The act also authorizes the United States to accept a retrocession or "give-back" of any portion or all of the jurisdiction acquired by the State.

In 1986, retrocession was granted to the Winnebago Tribe.

The Santee Sioux Tribe has petitioned the State to retrocede to the United States, criminal and civil jurisdiction over the Reservation. The Tribe has demonstrated the capability to assume its responsibilities pursuant to retrocession.

Under retrocession, non-Indians cannot be prosecuted in tribal courts. Offenses by non-Indians against Indians are handled in federal courts.

Crimes committed by one non-Indian against another non-Indian are prosecuted in State courts which have exclusive jurisdiction in such cases.

The same principle holds true in traffic enforcement. Tribal courts will handle traffic offenses committed by Indians on the Reservation, while non-Indians will continue to be prosecuted by the state.

Due to federal preemption in the area of criminal jurisdiction, tribal courts deal largely with minor offenses between tribal members. Felonies by Indians are prosecuted in federal courts.

The Indian Civil Rights Act of 1968 limits maximum sentences imposed by tribal court to \$500 fine or 6 months in jail, or both.

On the civil side, State courts will retain exclusive jurisdiction over actions on the Reservation when both parties are non-Indian, and the interests of tribal government are not implicated.

The tribe will have exclusive jurisdiction over civil causes on the Reservation affecting the health, safety and welfare of its members.

Federal statutory and caselaw have established very clear rules, procedures and limits governing the entire area of law implicated in retrocession.

Arrangements will be made to work out cooperative agreements between the Tribe, the Bureau of Indian Affairs or the Department of the Interior, as well as the State and political subdivisions "to effectuate this resolution."

Principal Introducer:

Senator Ernie Chambers