Wabanaki Legal News

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Is the Indian Child Welfare Act in Danger? The Brackeen Case and the Possible Upcoming Supreme Court Case

By Ryan Lolar, NAU Staff Advocate at Pine Tree Legal Assistance, Inc.

The Indian Child Welfare Act of 1978 (ICWA) was made law to respond to the crisis of Indigenous children being taken from their homes and placed outside of their tribal communities by state child welfare agencies. Nationally, 25% to 35% of all Indigenous children were removed from their homes. Of these taken children, 85% were placed outside of their communities before ICWA. In Maine, the removal rate of Wabanaki children in the 1970s was between 19 and 25.8 times higher than non-Indian children. The numbers were far worse in Aroostook County, where the rate of removal for Wabanaki children was 62.4 times higher than for non-Indian children. At this time, Maine had the second highest rate of removal for Indigenous children of any state in the country.

ICWA addressed the crisis by setting federal requirements for state child custody proceedings that involve an "Indian child." ICWA requires states determine whether a child is an "Indian child." Under ICWA, an "Indian child" is a child who is a tribal member of a federally-recognized tribe or eligible to become a member of a federally-recognized tribe. If the state determines that a child is an "Indian child" under ICWA, then they must commit to certain procedural steps. If a child is an Indian child and is located on a reservation, then the Tribe whose reservation the child lives on shall have exclusive jurisdiction, unless jurisdiction is by Federal law embedded within the state. The Passamaquoddy Tribe at Motahkomikuk, the Passamaquoddy Tribe at Sipayik, and the Penobscot Nation have exclusive jurisdiction over child welfare proceedings on reservation. For the Mi'kmaq Nation (Aroostook Band of Micmacs) and the Houlton Band of Maliseet Indians, jurisdiction is in state court, but the Houlton Band of Maliseets may request jurisdiction be transferred to a tribal court.

Next, ICWA sets standards for state court proceedings. State's must notify the Tribal Nation of an identified Indian child during the court case and that Tribal Nation has the right to intervene at any point in the court case. Some of the most important provisions of ICWA are related to the steps that state child welfare agencies must go through in removing or placing Indian

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The Emergency Rental Assistance Program and You

By Maddie Thomson Crossman, Attorney at Pine Tree Legal Assistance, Inc.

Many renters have struggled to pay their rent and utility bills during the COVID-19 pandemic. One response from the federal government has been to create and fund an Emergency Rental Assistance (ERA) program. This program gives money to states and tribes to pay housing expenses for certain eligible people. The goal is preventing homelessness. Maine's federally recognized tribes received a total of over 5.5 million dollars for ERA. This means that if tribal members are able to use this money to pay their rent and other housing costs, there could be up to 5.5 million dollars in their pockets to spend on other needs.

You may have applied for ERA when the program started. But the rules changed in August 2021. Even if you were denied before, or if you think you have been given all the ERA you could get, read on! You may be eligible now, even if you weren't before. You may be eligible for more assistance even if you had already reached the limit before.

To qualify for ERA, a person or household must meet three basic requirements:

1. Is your income below 80% of your area's median income?

Area median income is different in different parts of the state. It varies by county and in some places by city. For example, each county has a different median income, and the area around Bangor has a different median income from Penobscot County as a whole. For example, if you live in Bangor, you might qualify for ERA with a higher household income than a person living in Aroostook County. The Maine State Housing Authority website () has a calculator you can use to look up the median income for your area.

2. Have you experienced financial hardship during the COVID-19 pandemic?

Many people lost their jobs during the pandemic, and this caused financial hardship. But there are other kinds of financial hardship the pandemic caused to families. For example, if you had to pay for home internet so your children could attend school remotely. If this was a new expense for you, this could count as financial hardship during the pandemic. The financial

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A Renewed Look at the Violence Against Women Act

By Dov Korff-Korn, NAU/FWU Pine Tree Legal Intern (Summer 2021)

TW: This article deals with difficult discussions of domestic violence, sexual assault, stalking, and dating violence, particularly against Indigenous people. If you or someone you know is experiencing these, please find resources for state and Tribal DV/SA agencies within the resource pages at the back of this newsletter.

Congress passed the Violence Against Women Act (VAWA) in 1994. VAWA was a landmark piece of legislation, the first comprehensive federal law focused on ending violence against women. VAWA supports holistic criminal justice system and community-based responses to domestic violence, sexual assault, stalking, and dating violence. Since 1994, VAWA initiatives administered and funded through the U.S. Department of Justice (DOJ) and Department of Health and Human Services (HHS) have significantly improved federal, state, tribal, and local handling of domestic and sexual violence crimes. These programs have included funds for Tribal Courts to exercise Special Domestic Violence Criminal Jurisdiction, funds for survivor-focused Tribal DV/SA agencies, and more.

Many of the programs and provisions of VAWA require consistent renewal to stay in effect. In 2000, 2005, and 2013, bipartisan majorities in Congress reauthorized VAWA. Notably, the 2005 VAWA reauthorization broadened access to services for Indigenous women and communities, as well as for other communities of color and immigrant women. The 2013 reauthorization similarly expanded protections for tribal members, as well as for same-sex couples and undocumented immigrants. Attempts to renew VAWA in 2018 failed amidst political gridlock and the federal government shutdown. In April 2019, the House of Representatives passed a new VAWA reauthorization bill - but it never received the Senate's required approval. In March 2021, a bipartisan bill to update VAWA was introduced in Congress. The 2021 VAWA reauthorization bill, H.R. 1620, picks up where the 2019 short-term bill left off. It was passed by the House of Representatives on March 17th, but the Senate has yet to vote on the bill.

The 2021 VAWA congressional reauthorization coincided with President Biden's appointment of Deb Haaland to Secretary of the U.S. Department of the Interior. Secretary Haaland, an enrolled member of Laguna Pueblo, is the first Indigenous person to head the Department of the Interior. Her historic appointment is particularly meaningful because the Department of the Interior oversees the Bureau of Indian Affairs and public lands – entities that directly involve and implicate tribal sovereignty. The 2021 VAWA reauthorization bill explicitly addresses the epidemic of Missing and Murdered Indigenous Women (MMIW) by requiring the federal government to account for and enhance reporting on MMIW cases.

Indigenous communities in the U.S. (and Canada) face an epidemic known as Missing and Murdered Indigenous Women, Girls, and Two Spirit Individuals (MMIWG2S). In the U.S. today, at least 84% of Native women and 82% of Native men have experienced violence in their lifetime. Upwards of 90% of Native women have experienced violence committed by a non-

Native perpetrator. Fifty-six percent of Native women have experienced sexual violence in their lifetime. Non-native men, particularly white men, are responsible for the overwhelming majority of violence against Native

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Information for Veterans Receiving Emergency Care Outside the VA System

By Ryan Lolar, NAU Staff Advocate at Pine Tree Legal Assistance, Inc.

Definitions of Terms in this Article

Prudent Layperson: An individual possessing an average knowledge of medicine and health. This definition focuses on the patient's presenting symptoms rather than the final diagnosis when determining whether to authorize medical claims for payment.

VA Feasibly Available: VA's capability to provide the necessary emergency services at the time a Veteran is in need of such services. Travel time to the nearest VA medical facility capable of servicing those emergency care needs, the severity of the symptoms, and the mode of arrival are all evaluated in assessing whether VA services were feasibly available.

Service-Connected Condition: A condition that has been adjudicated and granted a disability rating by the Veterans Benefits Administration (VBA).

Adjunct Condition: A condition that is not directly service-connected, but is medically considered to be aggravating a service-connected condition.

Are you a Veteran who receives medical treatment or services through Veterans Affairs (VA)? If you do, you might wonder what happens when you have to receive emergency medical care outside of the VA system. If you are having a medical emergency or otherwise need to access treatment or services outside of the VA system, then the VA has a specific process that you need to follow to get your treatment or service covered.

First, you must inform the emergency health care provider that they need to report your emergency treatment to the VA through the VA's Emergency Care Reporting (ECR) portal at or by calling 844-724-7842.

The emergency health care provider must also contact the local VA medical center (VAMC) to coordinate any necessary follow-on care and transfer activities. Local phone numbers and email addresses for VAMC's can be located here: https://www.va.gov/COMMUNITYCARE/docs/providers/Care-Coordination_Facility-Contacts.pdf

Below, the eligible types of emergency treatment are covered.

There are 3 Types of Emergency Treatment that can be Paid for:

1. Authorized Emergency Treatment
2. Unauthorized Emergency Treatment (Service-Connected)
3. Unauthorized Emergency Treatment (Nonservice-connected)

If you seek VA coverage for any of the above types of treatment, there are four qualifications that must be met to have your emergency treatment covered:

1. You must be enrolled in the VA health care system or have a qualifying exemption from enrollment.

2. A VA health care facility or other federal facility with the capability to provide the necessary emergency services must not be feasibly available to provide the emergency treatment.

3. The medical situation is of such a nature that a prudent layperson would expect that a delay in seeking immediate medical attention would be hazardous to life or health.

4. You timely file your claim related to the emergency treatment.

Emergency treatment will only be covered until you can be transferred to a VA or other federal facility. If you refuse to be transferred after your emergency condition is stabilized, then you may be liable for the cost of care beyond the point of stabilization. If the VA is contacted and cannot accept the transfer, then you will not be held liable for receiving further care at the non-VA facility. Additional requirements for each treatment type are covered below.

Treatment Type One: If the treatment is authorized, then there are two more requirements:

1. The treatment must be provided at a community emergency facility that is in the VA's Community Care Network (CCN) or Patient-Centered Community Care (PC3) network.

2. You must notify the VA of the treatment within 72 hours (about 3 days) of your arrival at the emergency treatment facility. If VA is not notified within 72 hours, the treatment cannot be authorized under this section. However, the treatment may still be covered under a different payment authority.

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We Want to Hear From You!
If you have comments, articles or ideas on how the newsletter can be helpful to you, please let us know.

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How To Reach Us

Pine Tree Legal Assistance, Inc., including its Native American Unit, has currently closed it's walk-in hours out of precaution due to the Covid-19 pandemic. We are available to be reached on our toll free line at 1-877-213-5630; V/TTY 711, or through the expanded call center hours at Pine Tree Legal Assistance, Inc. by calling:

Presque Isle	207-764-4349
Machias	207-255-8656
Bangor	207-942-8241
Augusta	207-622-4731
Lewiston	207-784-1558
Portland	207-774-8211

HOURS:

Monday	12:00 - 2:30 pm
Tues, Thurs, Fri.	9:00 – 11:30 am

We apologize for any inconvenience this may cause, but we hold the health and safety of our clients and staff in very high regard, and look forward to reopening to walk-in service and in-person outreach when it is deemed safe to do so.

Native American Voting Rights Act Proposed in Congress

By Ryan Lolar, NAU Staff Advocate at Pine Tree Legal Assistance, Inc.

Proposed legislation would change state and federal voting for Tribal Nations and Tribal members. The bill is the bipartisan Native American Voting Rights Act of 2021 (NAVRA), which would put into law several protections for Indigenous' voters. The legislation is supported by a number of Indigenous focused non-profits and Tribal organizations, including the Native American Rights Fund (NARF), the National Congress of American Indians (NCAI), the United South and Eastern Tribes (USET) Sovereignty Protection Funds, and Illuminative.

There have been similar efforts to overhaul Native voting rights in recent years, but these efforts have not passed. This year's effort is informed in part by several high-profile cases arising in Montana and Arizona around state policies that restricted Native voting rights. Firmer protections for Indigenous voters have long been the goal of Tribal leaders and Native-focused non-profit organizations.

The provisions of the NAVRA are covered below:

Native American Voting Rights Act of 2021

NARF notes, "[d]espite the Indian Citizenship Act in 1924 and the Nationality Act in 1940, Native American voters continue to face unique challenges when exercising their right to vote, including, but not limited to the adverse effects of voter suppression, partisan gerrymandering, disparate treatment, and discriminatory tactics." The barriers that Indigenous voters face range from problems facing reservation communities to problems facing the Urban Indian community as well. Many of these barriers are detailed in a 2020 study done by NARF titled 'Obstacles at Every Turn' https://vote.narf.org/wp-content/uploads/2020/06/obstacles_at_every_turn.pdf

NAVRA proposes to increase protections for Indigenous voters with the following provisions:

- Establishing Native American voting task forces in states.
- States must designate a polling place and a voter registration site in each precinct where tribal voters reside on tribal lands for state and federal elections.
- Sets factors for adding polling places on tribal lands.
- States must provide pre-paid ballots and voting materials to voters in states with absentee or mail-in ballots and in states where early in-person voting is allowed must require that one early voting location be on tribal lands. This section also sets standards for early in-person voting.
- Makes it illegal to prohibit tribal IDs or IDs provided by the Bureau of Indian Affairs or Indian Health Service.
- Must provide language access, including requiring oral language assistance if written translation of the language is not culturally permitted
- Tribes may designate tribal buildings as the address that voters use to register, pick up a ballot, and drop off a ballot
- States must provide a reason for rejecting a provisional ballot
- Expands who can deliver voter registration, absentee ballots, absentee ballot applications, and sealed ballots on tribal lands to a designated location, so long as no compensation is received
- Empowers the U.S. Attorney General to enforce the law and grants Tribes and individuals a right to bring an action to enforce the law.
- States must receive Tribal consent, approval from the U.S. Attorney General, or an order from the D.C. federal district court to reduce any of the accessibility provisions provided for in the bill.
- Allows Tribes to request the U.S. Attorney General assign federal observers to elections and requires the U.S. Department of Justice to consult with Tribes annually on voting rights.

An Update from the Maine Indian Tribal-State Commission

By Rachel Bell, Projects Coordinator at MITSC

As the seasons shift, the Maine Indian Tribal-State Commission is undergoing its own transitions with the addition of a new Projects Coordinator, the retirement of its longest-serving Commissioner, and updates to its Work Plan.

For those who aren't familiar with the Maine Indian Tribal-State Commission, MITSC was created in 1980 as part of the Maine Indian Claims Settlement, an agreement reached between the Houlton Band of Maliseet Indians, Passamaquoddy Tribe, Penobscot Nation, State of Maine, and the United States. MITSC is an independent inter-governmental entity with thirteen members. Six members are appointed by the State, two by the Houlton Band of Maliseet Indians, two by the Passamaquoddy Tribe, and two by the Penobscot Indian Nation. The thirteenth member, who is the Chairperson, is selected by the other twelve members. MITSC's principal responsibility is to continually review the effectiveness of the Settlement and the social, economic, and legal relationship between the Houlton Band of Maliseet Indians, Passamaquoddy Tribe, Penobscot Nation and the State.

The current Commissioners are:

- Sandra Yarmal, Passamaquoddy Tribe
- Sarah Medina, State of Maine
- Joey Barnes, Passamaquoddy Tribe
- John Cashwell, State of Maine
- Ezekiel Crofton-MacDonald, Houlton Band of Maliseets
- Robert Checkoway, State of Maine
- Robert Polchies, Penobscot Nation
- James Cote, State of Maine
- Samuel St. John, Houlton Band of Maliseets
- Kevin Hancock, State of Maine
- Richard Rosen, State of Maine

MITSC's Chairperson recently took new employment out of state, so the Commission is currently engaged in the process of determining the next Chairperson.

The Commission is also anticipating a new appointment from the Penobscot Nation to replace John Banks, who served on the Commission for more than thirty years and whose long-standing commitment to MITSC's work has left a potent legacy that is deeply appreciated.

MITSC currently has two full-time staff members. Its managing director, Paul Thibeault, spent much of his career in Indian Legal Services, primarily in Maine and Minnesota, before joining MITSC in 2018. Thanks to additional funding from the State, MITSC was recently able to hire a second staff member, Rachel Bell, of the Cobscook Bay region, as Projects Coordinator. Rachel began work in September and is particularly excited about helping to strengthen MITSC's role as a research, education, and resource entity.

Earlier this year, MITSC completed a Research Report on the 1876 Removal of Article X, Section 5 from Printed Copies of the Maine Constitution which is now available on the website. As part of its Work Plan MITSC is currently conducting a Sustenance Fishing Study which examines the impact of non-Indian policies and activities on the quality and quantity of traditional fish stocks and tribal sustenance practices. The goal is to produce a report and recommendations by the end of 2021.

Some of the other projects on MITSC's Work Plan are to monitor the developments of L.D. 1626 – Regarding Jurisdictional Changes to the Settlement Act, to offer education on the United Nations Declaration on the Rights of Indigenous Peoples (otherwise known as UNDRIP), to promote Wabanaki Studies in Maine's schools, to collaborate with other entities in Maine to protect tribal families and tribes against the ongoing attacks on the rights and protections provided by the Indian Child Welfare Act, and supporting solutions to the water quality problems at Sipayik.

MITSC will be reviewing and updating its Work Plan at its next meeting, scheduled for November 17th. All MITSC meetings are open to the public. Due to the pandemic, they are happening remotely and are therefore being livestreamed on YouTube.

If you would like more information about MITSC, you can visit our website at . To stay abreast of current happenings, please consider filling out the form on the website to sign up for our email newsletter.

I bought a used car but something's wrong with it! What can I do now?

By Ashley Smith, Paralegal at Pine Tree Legal Assistance, Inc.

We need reliable cars when we travel long distances to visit relatives, go to important places, events, or ceremonies, and get to work. But what happens when you buy a used car and then find out it has problems? You may have rights under Maine law, but you need to act quickly.

The Right to Reject:

If you buy a used car from a dealer and notice within a few days that something is wrong with it, you may be able to "reject" the car and get your money back. You need to follow certain rules:

If you reject the car, you cannot drive it unless the issue is resolved.

Write a letter to the dealer explaining in detail why you are rejecting the car. Mail the letter to the dealer as registered or certified mail and keep copies for yourself.

If the problem is minor, they may have the right to attempt to repair the issue at no cost. If the problem is major, you can request to return it for a full refund. It's important not to return the car until the dealer has said in writing that they will refund the full amount you paid.

What about the "Lemon Law"?

Maine's "Lemon Law" only applies if your car has a significant defect within the first 18,000 miles or 3 years, whichever is first. The problem must be caused by the manufacturer and not because of misuse. If you get a used vehicle that you think might be a "lemon," you can reach out directly to the Maine Attorney General's Lemon Law Arbitration Office to find out if you're eligible for a free Lemon Law Arbitration hearing.

The Used Car Window Sticker and Warranties:

You might also be protected by warranties. There are several types of warranties including:

- Manufacturer's warranty,
- Dealer's express warranty,
- Implied warranty, and
- Inspection warranty

To find out which warranties you might have, look at the "Used Car Buyer's Guide," also known as the "Window Sticker." This must be posted on the car at the dealer's lot and must be given to you when you buy the car. It is important to keep a copy of the window sticker. If the car is pretty new, the original manufacturer's warranty may still be active, so repairs may be covered under that warranty. If the dealer has their own warranty, it should be marked on the window sticker under "express warranty."

If the problems with the car are impacting your ability to drive it, you can check the Buyer's Guide to see if the car still has the implied warranty of merchantability. This warranty says that the car should work as cars normally do, so it may cover problems that impact its ability to drive, like engine or transmission issues. Usually, used car dealers do not offer this warranty, but they must check the NO box to show that the car is exempt from the implied warranty. If the car has an express warranty, or if you purchased a "service contract" (an extended warranty), the implied warranty may still apply. If the car still has an implied warranty, it may cover repairs.

Requirement to Pass State Inspection:

Maine law requires that used cars sold by a dealer must be able to pass state inspection. Used cars sold by a dealer must have a valid inspection sticker issued no more than 60 days before the car was sold.

When you buy a used car from a dealer, it is a good idea to take it to a mechanic that you trust as soon as possible and have them go over the state inspection items. If any item cannot pass inspection, the dealer is responsible for the repairs. This is called the "warranty of inspectability." It is illegal in Maine for a dealer to try to restrict or change this warranty, like requiring the buyer to pay 50% of costs on inspection item repairs.

Follow these steps to get inspection items fixed: 1) Get a report from a mechanic about what failed inspection and why, with a cost estimate for repairs. 2) Take this to the dealer, ask them to make the needed repairs. 3) If needed, write a letter explaining the problems and that the dealer is responsible for repairs – send it by registered or certified mail and keep copies for yourself.

Hopefully the dealer will agree to the repairs. Try to work any conflict out with the dealer. If they refuse to do the repairs, it may be possible to get help in court.

Engine Troubles?

Unfortunately, the State Inspection law does not cover most engine issues. If you buy a used car and it passes inspection, but something is wrong with the engine and there are no active warranties, you may have no legal remedy unless you quickly realize the problem and reject it.

If the dealer promised that the engine works great, but it does not, then you may have some legal remedies because the dealer misrepresented the condition of the car.

Getting help in court:

If a dealer refuses to make required repairs, or if they seriously misrepresented something about the car, you may have rights that can be enforced in court. There are steps that a buyer must follow to sue for damages in court, so it is helpful to speak with a lawyer. Pine Tree may be able to help! You also can take your dispute to Small Claims Court and sue the dealer for up to $6,000 in damages and you don't need a lawyer to represent you. The Clerk in Maine District Court will tell you how to get a hearing in Small Claims Court.

If you bought your car from a private person:

People often sell their used car directly to someone else, advertising it on their front lawn, in Uncle Henry's, or even on Facebook. Unfortunately, there are few protections for buyers when the seller is not a dealer. We call this scenario "Buyer Beware," because if something goes wrong with the car, there often is not much that we can do. Under some limited circumstances, like if the seller lied about the car and the lies caused damages, it may be possible to file a lawsuit. You can consult a lawyer to find out more about what the options might be.

If you find yourself in one of these situations, Pine Tree Legal Assistance may be able to help you figure out what options you have and what you need to do to protect your rights.

Violence Against Women

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women. Eighty percent of perpetrators of sexual violence against Indigenous women are non-native. On some reservations, that portion is as high as 96%. A U.S. Department of Justice report found that Native women are murdered at a rate more than 10 times the national average. Community resources, as well as statewide and Tribal crisis service resources are available at the back of this newsletter.

A standout provision of the 2021 VAWA reauthorization bill is that it safeguards the jurisdiction of tribal nations over domestic and sexual violence offenses committed in Indian Country by non-Indians. The bill ensures that tribal nations can arrest, prosecute, and sentence non-Indians responsible for stalking, trafficking, and sexual assault in Indian Country. In addition to expanding tribal jurisdiction over sexual and domestic violence crimes the bill also recognizes tribal jurisdiction over crimes against children and tribal police officers.

One element of the 2021 VAWA reauthorization bill is particularly significant for the Wabanaki Nations and their members. The federally recognized Wabanaki Nations—the Penobscot Indian Nation, Mi'kmaq Nation (Aroostook Band of Micmacs) Houlton Band of Maliseet Indians, and the Passamaquoddy Tribe at Motahkomikuk (Indian Township) and Sipayik (Pleasant Point)—have been excluded from VAWA participation. But the 2021 VAWA bill adds nine words: "including any participating Tribes in the State of Maine," that would expressly extend VAWA jurisdiction to the Wabanaki Nations.

The inclusion of the Wabanaki Nations in the 2021 proposed VAWA reauthorization reflects a Maine law, passed in March 2020, that enables the Penobscot Nation and the Passamaquoddy Tribe to prosecute non-tribal members accused of committing acts of domestic and sexual violence against tribal members. The legislation amended the Maine Implementing Act to allow for the transfer of jurisdiction over non-tribal members from the state to the Penobscot and Passamaquoddy Tribal Court systems. Up until then, interpretations of the Maine Indian Claims Settlement Act and State Implementing Acts barred the Wabanaki Nations from VAWA enforcement.

HISTORY OF THE MAINE INDIAN SETTLEMENT ACTS, PART 1

By Paul Thibeault, Esq.

Paul Thibeault is an attorney who worked for many years in Indian Legal Services. Although he currently serves as the Managing Director of the Maine Indian Tribal-State Commission, the opinions expressed in this article are his personal opinions and do not reflect positions taken by the Commission or its individual Members.

A following article in the Spring Edition of WLN will cover the provisions included in the proposed legislation L.D. 1626 to update the 1980 Maine Indian Claims Settlement Act and the Maine Implementing Act.

Prior to a string of victories by the Wabanaki Tribes in Federal and State courts in the 1970s, the historic relationship between the federal government, the Wabanaki Tribes, and the State of Maine was fundamentally different than the relationship between Tribes in the West, the federal government, and the states in which they were located. When they formed the U.S. Constitution the Framers made it clear that relations with Indian Tribes were a federal responsibility, and that the individual states had no role to play in Indian Affairs and no jurisdiction over Tribes. Under the U.S. Constitution, the United States government has a responsibility to protect Tribal resources and act in the best interest of Indian Tribes and their members. Further, one of the first acts of Congress upon its creation was the Non-Intercourse Act, which made the federal government the only entity that could purchase or negotiate for "aboriginal title" to lands. The U.S. Constitution, the Non-Intercourse Act, and inherent tribal sovereignty set the relationship for most Tribes and the United States as foundational elements of Federal Indian Law.

However, until a federal court decision in 1975 the Federal Government did not treat the Wabanaki Tribes in Maine as sovereign Indian Tribes under the basic principles of Federal Indian Law. For more than 150 years the Federal government failed to meet its trust responsibility to the Wabanaki Tribes in Maine. In the meantime--during that period from the formation of Maine in 1820 up until the 1970s--the State asserted that it had pervasive authority over the Tribes and Indians in Maine. The Tribes and their members were marginalized and treated as incompetent wards of the State. The State created a Maine Department of Indian Affairs and enacted many laws that controlled the details of Indian life on their historic reservations in ways that a state could not lawfully do under the Federal Indian Law structure. The Maine Supreme Judicial Court supported this relationship through decisions like Murch v. Tomer in 1842, where Maine cemented its position that it was a guardian and the Wabanaki Tribes and people were wards.

As a result, when the Tribes first asserted their land claims in the '70s alleging that their Tribal lands had been acquired by the State in violation of the Non-Intercourse Act, they first had to overcome the State's dismissive attitude that they were not really Indian Tribes at all within the meaning of Federal Indian law. In 1972 the Passamaquoddy Tribe v. Morton case was initiated by the Passamaquoddy Tribe. The final decision by the Court of Appeals was in 1975. That case found that the Federal Government had always had a trust responsibility to the Tribe.

Following the line of logic from Morton, two other particularly important decisions, one in State Court and one in Federal Court, were made in 1979, prior to the 1980 Settlement Act. In State v. Dana, the Maine Supreme Judicial Court held that the State of Maine lacked criminal jurisdiction over crimes committed by Tribal members on Tribal reservations. They held that the Passamaquoddy Reservation was "Indian Country" as understood in Federal Indian law.

Earlier in 1979, in Bottomly v. Passamaquoddy, the U.S. First Circuit Cour of Appeals held that the Wabanaki Tribes retained the full attributes of tribal sovereignty as defined by Federal Indian law. That meant that they had all the same rights and powers as other Federal Indian Tribes. These cases collectively affirmed that federal Indian law applied and always had applied in Maine. The court decisions revealed that the structure of control that the State of Maine had imposed on the Wabanaki Tribes was built on a defective foundation. Under the U.S. Constitution and the Non-Intercourse Act, Massachusetts and then Maine unlawfully obtained tribal lands and imposed control over the Wabanaki Tribes. Federal Indian Law and inherent tribal sovereignty were the proper foundations that should have controlled in what is now Maine.

Questions about jurisdiction were a late entry into the negotiations about land claims. As a result of the court decisions affirming tribal jurisdiction and tribal sovereignty on the existing reservations, the Governor of Maine and other state officials became extremely concerned about the scope of tribal jurisdiction and limitations on state jurisdiction. They began to insist that any settlement of land claims must include an expansion of state jurisdiction over the tribes and tribal members that would to a large extent effectively reverse the impact of the recent court decisions affirming tribal jurisdiction. Previously the State's priority had been on defeating or minimizing the claims for land and or compensation and making sure that the federal government, rather than the State, absorbed the entire financial cost of any settlement. Meanwhile, the Tribes had been focused on restoring a land base, receiving monetary compensation, and preserving their status as federally recognized tribes. The new emphasis from the State on obtaining jurisdictional control over the Tribes set the stage for the creation of the very restrictive and unusual jurisdictional provisions that the Tribes were obligated to accept as a price they had to pay for a settlement of their land claims. That regime of state control over the Wabanaki Tribes is what is now being fundamentally questioned by the Tribes in the current legislative proposals they support to restore tribal jurisdiction and sovereignty.

VETERANS

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Treatment Type Two: If the treatment is not authorized, but is service-connected, one of the following criteria must also be met:

1. You receive emergency treatment of a service-connected or adjunct condition in a community emergency department; or

2. If you are permanently and totally disabled (P&T) as the result of a service-connected condition, you are eligible for emergency treatment of ANY condition; or

3. If you are participating in a VA Vocational Rehabilitation Program and you require emergency treatment to expedite your return to the program.

Treatment Type Three: If the treatment is not authorized and is nonservice-connected, all the following criteria must also be met:

1. Care was provided in a hospital emergency department (or similar public facility held to provide emergency treatment to the public); and

2. You received care from a VA facility (or via other community care authorities approved by VA) during the 24 months (about 2 years) before the emergency care; and

3. You are financially liable to the emergency treatment provider; and

4. The treatment was due to an injury or accident; you have exhausted all liability claims and remedies reasonably available to you or your provider against a third party for payment, and you have no contractual or legal recourse for extinguishing your whole liability to the provider; and

5. You are not eligible for imbursement under the other Treatment Type categories.

If you need more information or assistance with filing claims for Emergency Treatment with the VA, please call (207) 400-3229 or email veterans@ptla.org.

ICWA

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children. As a starting point, the state is required to identify whether a child is an "Indian child" and if they are, they must notify the Tribe that the child is an "Indian child" of. Second, before removal can take place the state must make "active efforts" to keep children with their family household, unless the child's living conditions require emergency removal. Third, if the state must place the child outside of their household, they must do so under ICWA's placement preferences that rank family members and people within the child's Tribal community before allowing a child to be placed outside of their community.

ICWA is imperfect. Wabanaki-REACH and the Truth and Reconciliation Commission found that between 2002 and 2013, Wabanaki children continued to be removed from their homes at a rate 5 times higher than non-Indian children. Still, ICWA remains the most important policy in helping to stop the long, genocidal practice of child removal. Today, ICWA is being challenged by several adoptive parents and states in a case called Brackeen v. Haaland. At the same time, many Tribal Nations, states, and advocates are pushing back against this challenge to preserve ICWA.

The Brackeen plaintiffs, who are challenging ICWA, made several arguments. First, that ICWA was unconstitutional because it discriminates against non-Indian adoptive parents. Second, that ICWA is unconstitutional because it is the federal government "commandeering" state governments. Commandeering is when the federal government requires a state to adopt a federal law or requires a state official to enforce federal law. Third, they argue that the federal government should not be involved in child welfare at all.

Child welfare advocates and Tribal Law scholars reject all the above arguments. First, the parties defending ICWA argue that it is non-discriminatory because a child's status as a Tribal member or as being eligible to be a Tribal member is a citizenship decision made by Tribal Nations, not a racial or ethnic determination. This argument was backed up by a U.S. Supreme Court decision in Morton v. Mancari, where the Supreme Court held that it was appropriate for the U.S. Bureau of Indian Affairs to have a hiring preference for Tribal members because it was reasonable and rationally designed to promote Tribal self-government. The parties defending ICWA disagree with the second and third arguments of commandeering and states' rights because Congress has exclusive authority to legislate and negotiate the relationship between the United States and Indian Tribes under the U.S. Constitution.

Currently, the decisions of the U.S. North District of Texas and the U.S. Fifth Circuit Court of Appeals only impact the states of Louisiana, Mississippi, and Texas because of the structure of the United States federal court system. But both parties in the Fifth Circuit case filed petitions for certiorari to the Supreme Court of the United States. This means that they are asking the Supreme Court to hear the case and make its own determination on the decisions of the courts below. A Supreme Court decision would apply across the country, either with ICWA intact as is or with parts of ICWA struck down.

Rental Assistance

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hardship does not have to have been caused by the pandemic; it just needs to have started between March 2020 and the present.

3. Are you having difficulty meeting your housing needs?

The purpose of ERA is to keep people safely housed. Having difficulty meeting your housing needs doesn't have to mean that you are about to be evicted. If you have fallen behind on your rent and utilities, or you are living in an unsafe or crowded home because you can't afford to move, you may be having enough difficulty meeting your housing needs that you could be eligible for ERA.

If you or your family could answer "yes" to these three questions, you might qualify for ERA, and you could have up to 18 months of your rent and utility bills paid by the program. If you are an enrolled member in one of the Wabanaki Tribes, you may qualify for your Tribe's ERA program even if you do not live on reservation.

More information about each Tribal communities Emergency Rental Assistance Program can be found below:

Penobscot Nation:

https://penobscotnation.org/

https://penobscotnation.org/images/covid_docs/21/ERA_Housing_definitions.pdf(eligibility guidelines)

Passamaquoddy Tribe at Motahkomikuk (Indian Township):

https://www.passamaquoddy.com/?p=1666

Passamaquoddy Tribe at Sipayik (Pleasant Point):

http://www.wabanaki.com/wabanaki_new/Social_Services.html

Houlton Band of Maliseet Indians:

https://maliseets.net/housing-authority/

Mi'kmaq Nation (Aroostook Band of Micmacs):

http://micmac-nsn.gov/housing/

Many people seek out ERA when they realize they are being evicted, but you don't have to wait! You can apply as soon as you are having difficulty paying for your housing needs. If your landlord does take any action to evict you, Pine Tree Legal Assistance is available to offer help. (). We also give up-to-date presentations on the eviction process every Tuesday at 9 am. You can watch the presentations, and ask an attorney questions about the process, at this website: https://www.ptla.org/fed .

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 Tax Credit denials
Exams and audits
Innocent spouse relief
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

IMPORTANT NOTICE

If you receive TANF and live on an Indian Reservation, your TANF benefits cannot be terminated because of the five year time limit if over half of the adults on the reservation are not employed.

Call Pine Tree Legal Assistance at**:**
1-877-213-5630 if you get a letter from DHHS telling you that you have reached the 60 month (5 year) lifetime limit.

You may be exempt from termination.

TRIBAL COMMUNITY RESOURCES

AROOSTOOK BAND OF MICMACS:
www.micmac-nsn.gov

Administration, Housing, Child/Family Services	764-1972
Micmac Head Start Program	768-3217
Health Department	764-1792

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
Maliseet Health Clinic	532-4229
Maliseet Housing Authority	532-7637
Indian Child Welfare	532-7260 or 866-3103
Social Services and LEAD	532-7260 or 1-800-532-7280
Domestic and Sexual Violence Advocacy Center	532-3000 or 532-6401(24/7 helpline)

PENOBSCOT INDIAN NATION:
www.penobscotnation.org

Administration, Clerk's Office	817-7351
Indian Health Services	817-7400
Penobscot Housing Dept.	817-7372
Penobscot Human Services	817-7492
Public Safety	817-7358
Domestic Violence and Sexual Assault Crisis Hotline	631-4886 (24/7 helpline)
Main Office	817-7349

Penobscot Nation Tribal Court System

Main Line	827-3415
Clerk of Courts, Rhonda Decontie	817-7327

PASSAMAQUODDY TRIBE:

SIPAYIK (Pleasant Point) www.wabanaki.com

Administration	853-2600
Pleasant Point Health Center	853-0644
Housing Authority	853-6021
Domestic Violence-Peaceful Relations	853-2600 ext. 266 or 291
	1-877-853-2613 (24/7 helpline)
Police (Emergency)	911
Police (non-Emergency)	853-6100
Social Services	853-2600 ext. 258 or 853-9618

Tribal Court System (www.wabanaki.com/tribal_court.htm)

Clerk of Courts	853-2600 ext. 251
	(Clerk, Rachael Nicholas)
	or ext. 248 (Adminstrator/Probation)

MOTAHKOMIKUK (Indian Township) (www.passamaquoddy.com)

Administration	796-2301
Indian Township Clinic	796-2321
Indian Township Housing	796-8004
Police Department	796-5296

Tribal Court System
Clerk of Courts 853-2600 ext. 251
(when court is in session call: 796-2301 ext. 205)

STATEWIDE AND TRIBAL 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 (4357)
Aroostook Band of Micmac, Domestic and Sexual Violence Advocacy Center	750-0570 or 551-3939 (hotline)
Houlton Band of Maliseets, Domestic and Sexual Violence Advocacy Center	532-6401 (24/7) or 532-3000
Penobscot Nation, Domestic and Sexual Violence Advocacy Center	631-4886 (24/7) or 817-3165 ext. 4
Passamaquoddy Peaceful Relations	853-2600 ext. 266

Penobscot County

Partners for Peace	1-800-863-9909 (24/7) or
	1-800-437-1220 (24/7) (TTY)

Washington County

The Next Step	1-800-315-5579 or 255-4934

Aroostook County

Hope and Justice Project	1-800-439-2323 (24/7) or 764-2977

SEXUAL ASSAULT

Maine Coalition Against Sexual Assault	1-800-871-7741 (24/7)

www.mecasa.org

OTHER SERVICES

Maine Crisis Line	1-888-568-1112
Statewide Suicide Referral Line	1-800-568-1112
Poison Control Center	1-800-222-1222

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 andresources. 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:	207-774-8211
Augusta:	207-622-4731
Machias:	207-255-8656
Lewiston:	207-784-1558
Presque Isle:	207-764-4349
Bangor:	207-942-8241
Farm worker Unit:	1-800-879-7463
Native American Unit:	1-877-213-5630

VOLUNTEER LAWYERS PROJECT
www.vlp.org
1-800-442-4293 or 942-9348

Civil Legal Cases: If you are low income, the VLP may be able to find a free lawyer to take your case. No criminal cases and no family law. Intake by phone.

Family Law: If you are low income and have a family law case, you can consult with a free lawyer for up to half an hour at the following courthouse clinics:

LEGAL SERVICES FOR THE ELDERLY
www.mainelse.org
1 (800) 750-5353

If you are 60 or older, LSE can give you free legal advice or limited representation.
The helpline is open Monday to Friday, 9 AM to 4 PM.

PENQUIS LAW PROJECT

1-800-215-4942 or 973-3671

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 MAINE
www.drme.org
1-800-452-1948 or 626-2774

Advice and legal representation to people with disabilities.

BANGOR COURT ASSISTANCE PROGRAM

561-2300 TTY: 941-3000

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 561-2300.

OTHER COMMUNITY RESOURCES

WABANAKI PUBLIC HEALTH AND WELLNESS
www.wabanaki.org 207-992-0411

Wabanaki Public Health & Wellness' (WPHW) mission is to provide community-driven, culturally centered public health and social services to all Wabanaki communities and people while honoring Wabanaki cultural knowledge, cultivating innovation, and fostering collaboration. Our values include: inclusivity, balance, and cultural centeredness. Wabanaki traditions, language, and culture guide our approach and describe the ways we live in harmony with each other and the land we collectively share.

MAINE INDIAN TRIBAL STATE COMMISSION
www.mitsc.org 207-944-8376

SOCIAL SECURITY ADMINISTRATION
www.ssa.gov/reach.htm

Statewide	1-800-772-1213
Bangor Area	877-405-1448 - 207-941-8698
Presque Isle Area	1-866-837-2719 - 207-764-2925

MAINE HUMAN RIGHTS COMMISSION
maine.gov/mhrc 624-6290 or Maine Relay 771 (TTY)

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: (mainecareercenter.com)

Bangor: 561-4050	Calais: 454-7551
Machias: 255-1900	Presque Isle: 760-6300