

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 505 Session of  
2023

INTRODUCED BY SANTARSIERO, HAYWOOD, TARTAGLIONE, FONTANA,  
BREWSTER, CAPPELLETTI, SAVAL, KEARNEY, COMMITTA AND STREET,  
MARCH 28, 2023

REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,  
MARCH 28, 2023

AN ACT

1 Providing for formal recognition by the Governor of Native  
2 American bands or clans, nations and tribes indigenous to  
3 Pennsylvania; providing for certification of Native American  
4 organizations; establishing the Commission on Native American  
5 Affairs; conferring powers and imposing duties on the  
6 Department of Community and Economic Development; and  
7 imposing a penalty.

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9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. Short title.

12 This act shall be known and may be cited as the Native  
13 American Recognition Act.

14 Section 2. Legislative intent.

15 The General Assembly finds and declares as follows:

16 (1) This Commonwealth has been historically the homeland  
17 of diverse groups.

18 (2) The Commonwealth has a duty and responsibility to  
19 foster awareness, understanding and appreciation of the many  
20 and varied contributions to the quality of life made by its  
21 diverse ethnic communities, including Native Americans.

22 (3) It is in the public interest for the Commonwealth  
23 and its residents to identify, conserve and perpetuate the  
24 diverse cultural and ethnic heritage of this Commonwealth and  
25 to promote greater awareness and understanding for the  
26 education, inspiration and the general public welfare of all  
27 people, including future generations.

28 (4) It is in the shared interest of the Commonwealth and  
29 groups in Pennsylvania to avoid misrepresentation of Native  
30 American identity, culture and heritage.

1           (5) It is in the shared interest of the Commonwealth and  
2 groups in this Commonwealth to establish a formal procedure  
3 to recognize groups indigenous to Pennsylvania and to certify  
4 Native American organizations.

5           (6) Recognition and certification will enable the  
6 Commonwealth to provide access to Federal programs to  
7 eligible groups.

8 Section 3. Definitions.

9       The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12       "Band." A sociopolitical division of a tribe, separated from  
13 the tribe by historical events or geographical, political or  
14 similar causes.

15       "Certification." The process by which the Indian status of a  
16 Native American organization is approved by the commission for a  
17 period of two years subject to biennial recertification.

18       "Clan." A number of Native Americans related by bloodline  
19 descent.

20       "Commission." The Commission on Native American Affairs  
21 established in section 4.

22       "Committee." A recognition advisory committee established in  
23 section 11.

24       "Delegate." An individual who serves on a committee.

25       "Department." The Department of Community and Economic  
26 Development of the Commonwealth.

27       "Group." A band, clan, tribe or nation.

28       "Indigenous to Pennsylvania." Having ancestors who inhabited  
29 one or more specific areas within this Commonwealth before 1790.

30       "Members." Those individuals who have been determined by a

1 group to be its members according to criteria established by the  
2 group.

3 "Nation." A distinct group of Native Americans, separated  
4 from other groups by having its own language, history, sacred  
5 places and rituals, and rooted in and part of the land out of  
6 which it grew.

7 "Native American." Any individual or group that is, or has  
8 its members descended from, a group which inhabited North  
9 America before European contact in 1492.

10 "Recognition." The process by which the Pennsylvania Indian  
11 status of a Native American band, clan or tribe is granted by  
12 the Governor.

13 "Tribe." A separate and distinct community of Native  
14 Americans generally related by blood, marriage or adoption, with  
15 common cultural ties and interests which differentiate members  
16 from nonmembers.

17 Section 4. Commission.

18 (a) Establishment.--The Commission on Native American  
19 Affairs is established in the department.

20 (b) Commissioners.--

21 (1) The commission shall consist of seven commissioners,  
22 appointed by the Governor, with the consent of a majority of  
23 the members elected to the Senate.

24 (2) Four commissioners must be Native Americans.

25 (3) If a commissioner is sentenced for an offense graded  
26 above a summary offense, the commissioner shall forfeit  
27 office.

28 (4) A commissioner shall serve a term of six years or  
29 until a successor takes office. A commissioner may serve  
30 unlimited terms.

1           (5) If a commissioner leaves office, a replacement shall  
2       be appointed and approved under paragraphs (1) and (2) for  
3       the remainder of the term.

4       (c) Quorum.--Four commissioners constitute a quorum.

5       (d) Officers.--The commission shall elect a chairperson from  
6       among the commissioners.

7       (e) Compensation.--Commissioners shall serve without  
8       compensation but shall be reimbursed for actual and necessary  
9       expenses.

10       (f) Support.--The department shall provide staff and support  
11       services for the commission.

12       (g) Powers and duties.--The commission shall have the  
13       following powers and duties:

14           (1) Administer this act.

15           (2) Promulgate regulations and guidelines to implement  
16       this act.

17       Section 5. Eligibility to petition.

18       (a) Recognition.--A group may apply to the commission for  
19       recognition if the group believes itself to be:

20           (1) a Native American band, clan, tribe or nation; and

21           (2) indigenous to Pennsylvania.

22       (b) Certification.--A group may apply to the commission for  
23       certification.

24       Section 6. Recognition criteria guidelines.

25       The commission shall promulgate guidelines specifying the  
26       recognition criteria for a petitioning group. The guidelines  
27       shall be based on whether the petitioning group meets the  
28       following criteria:

29           (1) The petitioning group demonstrates a direct  
30       genealogical connection to a Native American band, clan,

1 tribe or nation that has been documented historically with  
2 reasonable certainty as having inhabited lands within the  
3 present boundaries of this Commonwealth.

4 (2) The petitioning group possesses formal membership  
5 rolls and written standards for membership that are based on  
6 an unbroken genealogical descent from a Native American band,  
7 clan, tribe or nation that has been documented historically  
8 with reasonable certainty as having inhabited lands within  
9 the present boundaries of this Commonwealth.

10 (3) The petitioning group demonstrates that the  
11 petitioning group is a distinct cultural entity capable of  
12 self-regulation by documenting the existence and function of  
13 the petitioning group's governmental and social institutions  
14 and traditions.

15 (4) A substantial portion of the members of the  
16 petitioning group presently inhabit a defined area and the  
17 petitioning group's tribal headquarters are located within  
18 this Commonwealth.

19 (5) The members of the petitioning group are a community  
20 that is generally viewed as Native American and culturally  
21 distinct from all other communities surrounding the  
22 petitioning group.

23 Section 7. Application process for recognition.

24 (a) Compliance with regulations.--A petition for recognition  
25 must comply with regulations promulgated by the commission.

26 (b) Documentation.--The commission shall create a list of  
27 documentation for a petitioning group to submit in order to  
28 document that the petitioning group meets the criteria specified  
29 in section 6.

30 (c) Personal information confidential.--To protect the

confidential nature of this documentation, the commission shall deny inspection or copying of any part of the documentation that contains personal information relating to an individual.

#### Section 8. Certification criteria.

The commission shall make a positive recommendation for certification of an organization as a Pennsylvania Native American organization if the applicant demonstrates that it adequately meets the criteria specified in section 6.

#### Section 9. Application process for certification.

(a) Compliance with regulations.--A petition for certification must comply with regulations promulgated by the commission.

(b) Documentation.--The commission shall create a list of documentation for the petitioning group to submit in order to document that the petitioning group meets the criteria specified in section 6.

(c) Duration of certification.--Certification of Native American organization status shall be in effect for a period of five years. Organizations may reapply to renew their certification.

#### Section 10. Notice of filing.

Upon receipt of a complete application for recognition or certification, including payment of any required fees, the commission shall transmit notice of filing of the petition to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin. Persons or groups wishing to support or challenge a petition must provide written comments within 30 days of the filing of the notice in the Pennsylvania Bulletin.

#### Section 11. Recognition advisory committee.

1 (a) Convening of committee.--The commission shall convene a  
2 separate recognition advisory committee for each petition  
3 requesting recognition.

4 (b) Role and responsibilities of committee.--The committee  
5 has the following powers and duties:

6 (1) Review the petition for recognition to determine if  
7 any additional information is needed from the applicant  
8 before determination of the petition can be finalized.

9 (2) Make recommendations for or against recognition.

10 (c) Role of Native American commissioner.--A Native American  
11 commissioner on the commission has the following duties with  
12 respect to the committee:

13 (1) To serve as the chairperson of the committee.

14 (2) To call all meetings for petition reviews to order.

15 (3) To be a nonvoting delegate of the committee.

16 (4) To transmit all recommendations of the committee to  
17 the commission.

18 (d) Composition of committee.--The committee shall consist  
19 of five voting delegates appointed by the commission in  
20 accordance with the following:

21 (1) Two Native Americans from different Federal or State  
22 recognized groups, other than the petitioning group.

23 (2) One individual with demonstrated expertise in  
24 genealogy and, if possible, in Native American genealogy. If  
25 possible, this delegate must be a Native American.

26 (3) Two individuals qualified in anthropology,  
27 ethnohistory or related fields. If possible, these delegates  
28 must be Native Americans.

29 (e) Conflict of interest.--A delegate under subsection (d)  
30 or the Native American Commissioner may not participate in any



1 deliberations with respect to a petition made by a petitioning  
2 group of which the delegate or the commissioner is a member.

3 (f) Compensation.--Delegates shall serve without salary or  
4 compensation but shall be reimbursed for actual and necessary  
5 expenses incurred while performing official functions required  
6 by this act.

7 Section 12. Processing petitions.

8 (a) Acceptance by commission.--The commission shall accept  
9 for review all complete petitions. A petition may not be  
10 considered complete until the commission has received payment of  
11 required fees and all information requested in the petition form  
12 or required by this act.

13 (b) Notice to group.--After a petition is received, the  
14 commission shall notify the petitioning group in writing:

15 (1) that the petition is complete; or

16 (2) that the petition is incomplete and the additional  
17 information required to complete the petition.

18 (c) Failure to complete petition.--If the petitioning group  
19 fails to complete the petition within one year after notice  
20 under subsection (b) is mailed to the petitioning group that the  
21 petition is not complete, the petition shall be deemed withdrawn  
22 and the commission shall notify the petitioning group.

23 (d) Additional period to complete petition.--If the  
24 petitioning group during the one-year period under subsection  
25 (c) requires additional time to complete the petition and  
26 provides reasonable justification, the commission may grant one  
27 additional period of up to one year for the petitioning group to  
28 complete the petition.

29 (e) Referral of petition to committee.--After the commission  
30 determines the petition is complete, the commission shall refer

1 the petition to the committee.

2 (f) Preliminary review.--Within 25 days after referral under  
3 subsection (e), the committee shall review the documentation  
4 submitted for the petition and may, through the commission,  
5 request the petitioning group submit any specific additional  
6 documentation necessary to determine whether a petitioning group  
7 meets the recognition criteria specified in section 6.

8 (g) Completion of review.--After the commission notifies the  
9 petitioning group that all requested documentation has been  
10 received, the committee shall complete review of the petition  
11 and advise the commission whether the petitioning group meets  
12 the recognition criteria specified in section 6. In advising the  
13 commission whether a petition meets the recognition criteria  
14 specified in section 6, the committee shall do all of the  
15 following:

16 (1) Consider the petition, all factual or legal  
17 submissions in support of or in opposition to the petition  
18 and the petitioning group's written response.

19 (2) Use to the maximum extent practicable the  
20 information and sources available to it, including  
21 individuals not on the committee who have knowledge or  
22 expertise with Federal or other state Indian tribe  
23 recognition procedures or an understanding of the history of  
24 Native Americans in this Commonwealth.

25 Section 13. Determination by commission.

26 (a) Review of committee recommendation.--The commission  
27 shall review the committee's recommendation and determine  
28 whether the petition meets the criteria specified in section 6.

29 (b) Recognition criteria established.--If the commission  
30 determines that the petitioning group meets the criteria

1 specified in section 6, the commission shall submit to the  
2 Governor a determination of findings and request that the  
3 petitioning group be recognized.

4 (c) Inadequate information or documentation.--If the  
5 commission determines that the information or documentation  
6 submitted in support of the petition is not adequate to  
7 establish that the petitioning group meets the criteria  
8 specified in section 6, the commission shall notify the  
9 petitioning group of its determination. The petitioning group  
10 may request a reconsideration under section 14.

11 Section 14. Reconsideration of commission determination.

12 (a) Procedure for taking appeal.--Upon receipt of a  
13 determination that the criteria for recognition have not been  
14 met, the petitioning group may appeal for a reconsideration by  
15 the commission. The petitioning group must file a letter of  
16 intent within 30 days of receipt of the commission's  
17 determination and must submit additional documentation within 90  
18 days.

19 (b) Appointment of review panel.--After receiving a request  
20 for review, the commission shall appoint a three-individual  
21 panel to review the commission's determinations and all the  
22 evidence submitted in support of or in opposition to the  
23 petition. The panel shall include at least one commissioner and  
24 one delegate, who together shall nominate the third individual  
25 to the commission for appointment to the panel.

26 (c) Report of panel.--The panel shall report its findings  
27 and recommendations to the commission within 60 days after  
28 expiration of the 90-day appeal period. If the review panel  
29 concludes that the commission failed to adequately consider any  
30 evidence submitted and that the evidence, if adequately

1 considered, may reverse the commission's determination, the  
2 appeal panel shall notify the commission to reconsider its  
3 determination. Failure to act within the time specified in this  
4 subsection shall be deemed a notification to reconsider.

5 (d) Action by commission.--The commission may either:

6 (1) affirm its original determination and promptly  
7 notify the petitioning group; or

8 (2) submit to the Governor its reconsidered  
9 determination and recommendation for recognition.

10 (e) Notice to petitioning group.--The commission shall  
11 promptly notify the petitioning group of the commission's  
12 recommendation and final determination. The commission's  
13 determination under subsection (d) is subject to 2 Pa.C.S. Ch. 7  
14 Subch. A (relating to judicial review of Commonwealth agency  
15 action).

16 Section 15. Governor's action on recognition recommendation.

17 (a) Concurrence with request for recognition.--If the  
18 Governor concurs with a request for recognition by the  
19 commission, the Governor may issue an executive order to  
20 recognize the Pennsylvania Indian status of the petitioning  
21 group. The commission shall promptly notify appropriate  
22 governmental agencies and national and State Native American  
23 organizations of the executive order.

24 (b) Nonconcurrence with request for recognition.--If the  
25 Governor does not concur with a request for formal recognition  
26 by the commission, the Governor shall notify the commission of  
27 the reasons and the commission shall promptly notify the  
28 petitioning group.

29 Section 16. Effects of recognition.

30 An executive order issued by the Governor under section 15

1 shall not do any of the following:

2 (1) Create rights to land.

3 (2) Create rights or entitlements.

4 (3) Impair valid or existing rights, benefits or  
5 entitlements of any Native Americans residing in this  
6 Commonwealth.

7 (4) Impair existing judicial rulings of the Commonwealth  
8 regarding Native Americans indigenous to Pennsylvania.

9 Section 17. Fees.

10 (a) Establishment.--Fees required under this act shall be  
11 set by the commission and the commission shall transmit notice  
12 of the fees to the Legislative Reference Bureau for publication  
13 in the next available issue of the Pennsylvania Bulletin. Fees  
14 shall be set by the commission in order to offset costs  
15 necessary to administer the provisions of this act and shall be  
16 nonrefundable.

17 (b) Time for payment.--Payment of fees as set by the  
18 commission must be received at the time of filing the petition  
19 for recognition, certification or recertification.

20 (c) Waiver of fee.--The commission may upon request of a  
21 petitioning group waive the petition fee, in full or in part, if  
22 the commission determines that payment of the fee will create  
23 financial hardship for the petitioning group.

24 Section 18. Penalty.

25 In any matter relating to a petition under this act, a person  
26 commits a misdemeanor of the third degree if the person:

27 (1) Knowingly and intentionally falsifies or conceals a  
28 material fact.

29 (2) Makes a false, fictitious or fraudulent statement or  
30 representation.

1           (3) Makes or uses a writing or document with knowledge  
2       that the writing or document contains false, fictitious or  
3       fraudulent statements or entries.

4 Section 19. Effective date.

5       This act shall take effect in 60 days.