

CHAPTER 346
FORMERLY
HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 434

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE TO RATIFY, DESIGNATE, AND FORMALLY RECOGNIZE THE NANTICOKE INDIAN TRIBE AS AN AMERICAN INDIAN TRIBE IN THE STATE OF DELAWARE.

WHEREAS, the Nanticoke Indian Tribe (“the Tribe”) is a sovereign American Indian Nation made up of the Nanticoke people; and

WHEREAS, the Tribe’s ancestors lived in what is now the County of Sussex, and many descendants of the Tribe continue to live in the County of Sussex and elsewhere in Delaware; and

WHEREAS, the Tribe has been recognized by the State of Delaware, dating to at least 1881; and

WHEREAS, the members of the Nanticoke Indian Tribe living in Sussex County were first recognized by Act of the General Assembly in 1881, 16 Del. Laws, ch. 359, and said Act granted to the Nanticoke Indian Tribe a corporate charter with the power to establish and manage its own school district for members of the corporation, and to admit new members to the corporation; and

WHEREAS, since 1903 the General Assembly has permitted members of the Nanticoke Indian Tribe to “appear before any justice of the peace or notary public of this State and, on the evidence and proof that such person belongs to or is a descendant of the Nanticoke Indians, may procure from such justice or notary a certificate reciting such facts,” 22 Del. Laws ch. 470, codified at 29 Del. Code §105; and

WHEREAS, the Nanticoke Indian Association was incorporated as a nonprofit organization on February 23, 1922; and

WHEREAS, § 105(b) of Title 29 of the Delaware Code further provides that “descendants of the Nanticoke Indians . . . shall be recognized as such within this State”; and

WHEREAS, §§ 5404 and 5406 of Title 7 of the Delaware Code establish a committee to oversee the “treatment and disposition” of Native American remains discovered within the state of Delaware, and that said committee shall consist of, among others, “the Chief of the Nanticoke Indian Tribe [and] two members appointed by the Chief”; and

WHEREAS, in 1937 the General Assembly declared that any child entitled to membership in the Nanticoke Indian Tribe, or who has a parent or parents who are entitled to membership in the Nanticoke Indian Tribe, may attend school established for Indians, 41 Del. Laws ch. 174; and

WHEREAS, § 3131(a) of Title 16 of the Delaware Code permits an “American Indian” to, upon providing “substantiating documentary proof” that includes, “but is not limited to, an affidavit satisfactory to the State Registrar or any local registrar and signed by the Chief of the tribe that according to tribal records the person whose certificate is to be amended is a member of the tribe of the Chief whose signature appears on the affidavit,” amend his or her birth certificate to reflect his or her status as an American Indian; and

WHEREAS, the Delaware Department of Justice has repeatedly represented to the Indian Arts and Crafts Board of the United States Department of the Interior that the Nanticoke Indian Tribe is the “only Indian Tribe Recognized by the State of Delaware”; and

WHEREAS, the United States Census Bureau designated the Tribe as a “state designated tribal statistical area” for the 2010 Census; and

WHEREAS, the Nanticoke Indian Tribe maintains a museum in the Town of Millsboro to celebrate its heritage and educate the public about its history and culture; and

WHEREAS, the General Assembly finds that longstanding legislative and cultural history of the Nanticoke Indian Tribe in the state of Delaware entitles the Tribe to ratification of their status as an Indian Tribe by this State; and

WHEREAS, Chapter 1, Title 29 of the Delaware Code should be amended to acknowledge, ratify, and strengthen the Tribe's historical recognition;

NOW, THEREFORE,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 1, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 106. Nanticoke Indian Tribe of Delaware; recognition.

(a) The Nanticoke Indian Tribe of Delaware is designated and recognized as an American Indian Tribe with a tribal governing body carrying out and exercising substantial governmental powers and duties. The Tribe is recognized as eligible for all programs, services, and other benefits provided to Indian tribes by the United States or any state thereof because of their status as American Indians.

(b) The Nanticoke Indian Tribe of Delaware is designated and recognized as the first state-recognized tribe in Delaware, and has been so recognized since March 10, 1881.

Approved August 02, 2016