



SPONSOR: Rep. Briggs King & Sen. Hocker ;
Reps. Collins, Gray, Outten, Paradee, Carson, Kowalko,
B. Short, M. Smith; Sens. Hall-Long, Henry, Lawson,
Peterson

HOUSE OF REPRESENTATIVES
148th GENERAL ASSEMBLY

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.

1 WHEREAS, the Nanticoke Indian Tribe ("the Tribe") is a sovereign American Indian Nation made up of the
2 Nanticoke people; and

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

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

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

10 WHEREAS, since 1903 the General Assembly has permitted members of the Nanticoke Indian Tribe to "appear
11 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
12 a descendant of the Nanticoke Indians, may procure from such justice or notary a certificate reciting such facts," 22 Del.
13 Laws ch. 470, codified at 29 Del. Code §105; and

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

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

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

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

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

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

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

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

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

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

40 NOW, THEREFORE, BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

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

43 § 106. Nanticoke Indian Tribe of Delaware; recognition.

44 (a) Legislative Findings. The General Assembly finds all of the following:

45 (1) The Nanticoke Indian Tribe of Delaware has an unbroken history of centuries of settlement
46 and continued residency in Sussex County, and elsewhere in Delaware.

47 (2) Members of the Nanticoke Indian Tribe have preserved, displayed, and manifested close
48 cultural ties with one another by conducting themselves in such a social and economic manner as to
49 identify themselves as being culturally and ethnically distinct.

50 (3) The Nanticoke Indian Tribe can trace their ancestral ties to the early seventeenth century.

51
52 (4) The General Assembly of Delaware has granted the Nanticoke Indian Tribe formal legal
53 recognition as early as 1881, including, but not limited to the following Acts and Resolutions:

54 (a) Chapter 359, of volume 16 of the Delaware Laws, enacted on March 10, 1881,
55 which granted to members of the Nanticoke Indian Tribe a corporate charter with the power to
56 establish and manage its own school district for members of the corporation, and to admit new
57 members to the corporation;

58 (b) § 105 of Title 29 of the Delaware Code, enacted in 1903, which has permitted
59 members of the Nanticoke Indian Tribe to “appear before any justice of the peace or notary
60 public of this State and, on the evidence and proof that such person belongs to or is a descendant
61 of the Nanticoke Indians, may procure from such justice or notary a certificate reciting such
62 facts,” and which further provides that “descendants of the Nanticoke Indians . . . shall be
63 recognized as such within this State”;

64 (c) The Nanticoke Indian Association was incorporated as a nonprofit organization in
65 Delaware on February 23, 1922; and

66 (d) § § 5404 and 5406 of Title 7 of the Delaware Code, enacted in 1987, which
67 establish a committee to oversee the “treatment and disposition” of Native American remains
68 discovered within the state of Delaware, and which provide that said committee shall consist of,
69 among others, “the Chief of the Nanticoke Indian Tribe [and] two members appointed by the
70 Chief”;

71 (e) Chapter 174 of Volume 41 of the Delaware Laws, enacted in 1937, which permitted
72 any child entitled to membership in the Nanticoke Indian Tribe, or whose parent or parents who
73 are entitled to membership in the Nanticoke Indian Tribe, to attend school established
74 specifically for Indians.

75 (f) Concurrent resolutions enacted by the General Assembly each year since 2011
76 acknowledging the cultural heritage of the Nanticoke Indian Tribe and designating the month of
77 November as “Native American Heritage Month.”

78 (5) Delaware Department of Justice has repeatedly represented to the Indian Arts and Crafts
79 Board of the United States Department of the Interior that the Nanticoke Indian Tribe is the “only Indian
80 Tribe Recognized by the State of Delaware”.

81
82 (6) The United States Census Bureau designated the Tribe as a “state designated tribal statistical
83 area” for the 2010 Census.

84 (7) The Nanticoke Indian Tribe has a tribal government that strives to preserve its culture,
85 heritage, and legacy.

86 (8) The Nanticoke Indian Tribe has held an annual powwow continuously since 1977.

87 (b) Recognition.

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

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

SYNOPSIS

This bill designates and formally recognizes the Nanticoke Indian Tribe as an American Indian Tribe in the State of Delaware.