Anishinabe Legal Services Newsletter

Serving the Leech Lake, Red Lake, & White Earth Reservations

Cass Lake, Minnesota • May 2019

P.O. Box 157, Cass Lake, MN 56633 • Phone 218-335-2223 or 1-800-422-1335

From the Director:

By: Cody Nelson
Executive Director

Boozhoo friends! We hope you enjoy our annual Spring newsletter, devoted to topics of interest for our client community.

ALS is pleased to welcome new staff member Allene Harrison! Ally came to ALS through a partnership with the Leech Lake Band of Ojibwe job training program. She was formerly a Clerk for the Leech Lake Tribal Court for numerous years; we are thrilled to have her join our team.

ALS is happy to announce that through the generous support of the Minnesota Justice Foundation, ALS will once again be hosting a summer law school student clerk for 2019. ALS selected University of St. Thomas School of Law 1L student Monica Wittner to help us expand our services for community members throughout the summer.

We would like to further extend our gratitude to Fredrikson & Byron, the Federal Bar-Minnesota Chapter, and the Minnesota Department of Human Services for generous grant awards received in 2019. This funding will help us to provide additional advocacy and legal education for our community.

Finally, ALS would

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New office building needed for Leech Lake location

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From the Director

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like to thank Becky Schuller for sharing her time and talents in guiding ALS through the strategic planning process. ALS staff and board worked together with Becky over the past six months to create a new strategic plan, to update and improve our mission statement, and to create vision and value statements. ALS is excited to implement this strategic plan throughout 2019 and beyond.

If you are in need of legal advice or court representation in a civil legal matter, we may be able to help. Please give us a call at (218) 335-2223 (or toll free at 1-800-422-1335). You can also apply online at https://www.justice4mn.org/a2j/

Miigwech!

New Building for Main Office Location in Leech Lake

Accessible, Safe, and Accommodating for Clients & Staff!

By: Chari LaDuke-Clark
Administrative Director

Board of directors and staff have worked together to identify program's needs for new officing. After years of discussion, it has been decided to move forward with a brand new, built to suit, factory built unit on one level with specifications for accessibility and client privacy. We are beginning our capital campaign with the goal of **100% funding** for the new building!

Why not remodel the existing structure? Well, we recently discovered that part of this building dates to the 1890s! That means we are in a facility that is over 125 years old! As you can imagine the foundation is in poor and crumbling state, and upon recommendation of two different experts it would be more cost effective to start new on a fresh foundation.

We have diligently worked to identify the most cost effective option and are selecting a local vendor that is highly recommended. Once we are in our new building, it will be our forever home (or at least another 50 years!).

The Overall Budget:

Presently, the budget is as follows, which

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EXPENSES	Re-Use Current Lot + New Building 3,300 ft² Building	Purchase Land + New Building 3,300 ft² Building
Building Construction/Facility Costs		
1. New Factory Built Unit, incl. Transport to site, hookup HVAC/plumbing, install siding, and modifications for privacy & handicap access, etc.	$350,000	$350,000
2. New Foundation	$50,000	$50,000
Land Purchase		
3. Land Purchase	$0	$30,000
Permits/Fees/Utility Connections		
4. City Permits, Plan review fees, etc.	$4,500	$4,500
5. WAC-N-SAC Fees	$6,500	$6,500
6. New Phone/Internet hook-ups	$3,000	$3,000
Existing Facility Mitigation Costs		
7. Tear down/removal of existing office building & fill	$25,000	$0
8. Asbestos Mitigation of existing building	$4,500	$4,500
Office Equipment		
9. New Technology	$10,000	$10,000
Furnishings/Relocation costs		
10. Office furniture - Main & satellite offices	$20,000	$20,000
11. Relocation/ Storage costs	$3,000	$3,000
12. Relocation fees/temp satellite office (secure file storage, cell phone fees, internet fees, server remote access)	$4,000	$4,000
13.Rebranding, Building Signage & Org. Literature	$8,000	$8,000
14. Other Misc. Costs	$5,000	$5,000
GRAND TOTAL	**$493,500**	**$498,500**

Disability benefits: SSDI and SSI? What's the difference?

By: Rita Holler
Staff Paralegal

While working in the community, I often find that people are confused about the difference between SSI and SSDI.

The Supplemental Security Income (SSI) program pays benefits to disabled adults and children who have limited income and resources. SSI benefits also are payable to people 65 and older without disabilities who meet the financial limits.

SSI is a federally funded program that is distributed by Social Security Administration. This program is designed to cover living expenses such as shelter, food, and clothing costs. This program gets confused with the Social Security Disability Insurance or SSDI which is a program through Social Security paid from the wages one works during their lifetime. SSI is based on your income and your assets that you have available to you. You must meet specific income and asset guidelines in order to qualify.

SSDI is insurance that was paid by workers and their employers from payroll withholdings. This program is totally funded by you and the employer. What this program insures is that if you get hurt and you are no longer able to work Retirement Social Security Disability Insurance (RSDI) will pay you a monthly payment which is figured out by an average of your last 10 years' wages. You must have enough work credits from the time you quit working going back at least 5 years. Social Security will let you know at the time of your application if you qualify for this program. Under RSDI there are no asset rules that would apply, and you are able to make a certain amount of income if you collect RSDI.

People who have worked long enough may also be able to receive Social Security disability or retirement benefits as well as SSI.

You can schedule an appointment with a local Social Security office to file an application for benefits, in Bemidji their number is 1-866-258-6345; the National SSA office can be reached at **1-800-772-1213** (TTY **1-800-325-0778**); or you can contact Anishinabe Legal Services at **218-335-2223** to see if you qualify for our services to help file for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI). Our staff can also help you determine if you or a minor child is eligible for survivors' benefits.



A quick overview of Minnesota's new hands-free law

By: Jerome Song
Staff Attorney

In a few short months, Minnesota residents will be required to make big changes to how they use and operate their mobile devices while driving in Minnesota. On Friday, April 12, 2019, Governor Tim Walz signed into law a hands-free bill which will be effective starting August 1, 2019.[1] Minnesota joins 17 states and the District of Columbia in passing a law that requires drivers to use their cell phone in a hands-free manner.[2] This article will help explain what is legal, illegal, and the penalties associated with this new law.

Prior to this bill being passed into law, it was already illegal to read or send electronic messages while the vehicle was in motion or part of traffic.[3] A first violation of the law carried with it a fine that was typically $50.00 as set by the judicial council while a second or subsequent violation carried along with it a penalty of $275.00.[4] A violation of this law was also a petty misdemeanor.[5] This old law allowed an exception to use your "hands" to make cellular phone calls.[6] This, in essence, is **the main difference between the old law and the new law is the ability to have your mobile phone in your hand while operating a vehicle is now illegal.** A law enforcement official can now stop or pull you over if they see you with a device in your hand while driving a car(with an exception of obtaining assistance during an emergency). The fines under the new law carry with it the same penalties, and it has been reported that a violation and conviction is classified as a gross misdemeanor.[7]

So what is illegal now under this new law? I feel that the best way to think about it is any use of the phone that requires it to be in your hand is now banned. You can make phone calls if this can be accomplished through voice activation, one touch, or affixed or physically integrated into the vehicle (i.e. Apple Car Play, Android Auto).[8] You may use GPS as long as you do not type while the vehicle is in motion or a part of traffic, and you may not use one or both hands to hold the device.[9]

1. Biershbach, Briana; The hands-free cellphone bill is now law, so how does it work? Retrieved from https://blogs.mprnews.org/capitol-view/2019/04/hands-free-cell-phone-is-now-law-so-how-does-it-work/ on April 14, 2019.
2. Id.
3. See Minn. Stat. § 169.475 Retrieved from https://www.revisor.mn.gov/statutes/cite/169.475 on April 14. 2019.
4. Johnson, Ben; Distracted Driving: Texting and Sending or receiving other Electronic Messages Retreved from https://www.house.leg.state.mn.us/hrd/pubs/ss/ssdistdrvg.pdf on April 14, 2019.
5. Id.
6. Id.
7. Biershbach, B.; The hands-free cellphone bill is now law, so how does it work? Retrieved from https://blogs.mprnews.org/capitol-view/2019/04/hands-free-cell-phone-is-now-law-so-how-does-it-work/ on April 14, 2019.
8. Id.
9 Journal of the Senate Ninety First Legislature Retrieved from https://www.senate.mn/journals/2019-2020/20190411037.pdf#page=9 on Page 9 on April 14, 2019.

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Hands-free law

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You may also use your device to listen to music or podcasts as long as the searching for and typing of the podcast does happen while the car is in motion or part of traffic.[10] You also can't pick up your phone while at a stoplight as this is considered to be part of traffic.[11]

On its website, the department of public safety lists different ways in which a person can go hands-free.[12] These include getting a single earphone with a mic, using an auxiliary cable to use the phone to your car's audio system, pairing your phone with your car; using a car mount or clip, or using a Bluetooth device to pair with your phone.[13] All of these along with some others will allow you to comply with new law.



Minnesota's new hands-free law. It is important to remember that anything that requires the use of your hands with the exception of a single touch is considered to be in violation of the

Finally, some points to consider with the new law. First, due to this law being newly signed as well as the enactment of the law not taking place until August 1, 2019, it has not yet been codified into Minnesota Statutes. For those who are so inclined to do so text of the final version of the law out of conference committee can be found at subsequent footnote beginning at page 7 of the document.[14] In it the legislature has the following definition "a motor vehicle is not in motion if the vehicle is lawfully stopped, is in a location that is not designed or ordinarily used for vehicular travel, and is not obstructing traffic."[15] Also while it has been reported that a violation of the new law would be classified as a gross misdemeanor, which is an elevated conviction from the previous law as of my reading of the conference committee bill, I saw no explicit mention of this being the case. The bottom line is starting in August many Minnesotans will have to change their driving and mobile use habits.

10 Id.

11 Biershbach, B.; The hands-free cellphone bill is now law, so how does it work? Retrieved from https://blogs.mprnews.org/capitol-view/2019/04/hands-free-cell-phone-is-now-law-so-how-does-it-work/ on April 14, 2019.

12 See https://dps.mn.gov/DIVISIONS/OTS/HANDS-FREE/Pages/default.aspx Retrieved on April 14, 2019.

13 Id.

14 Journal of the Senate Ninety First Legislature Retrieved from https://www.senate.mn/journals/2019-2020/20190411037.pdf#page=9 on April 14, 2019.

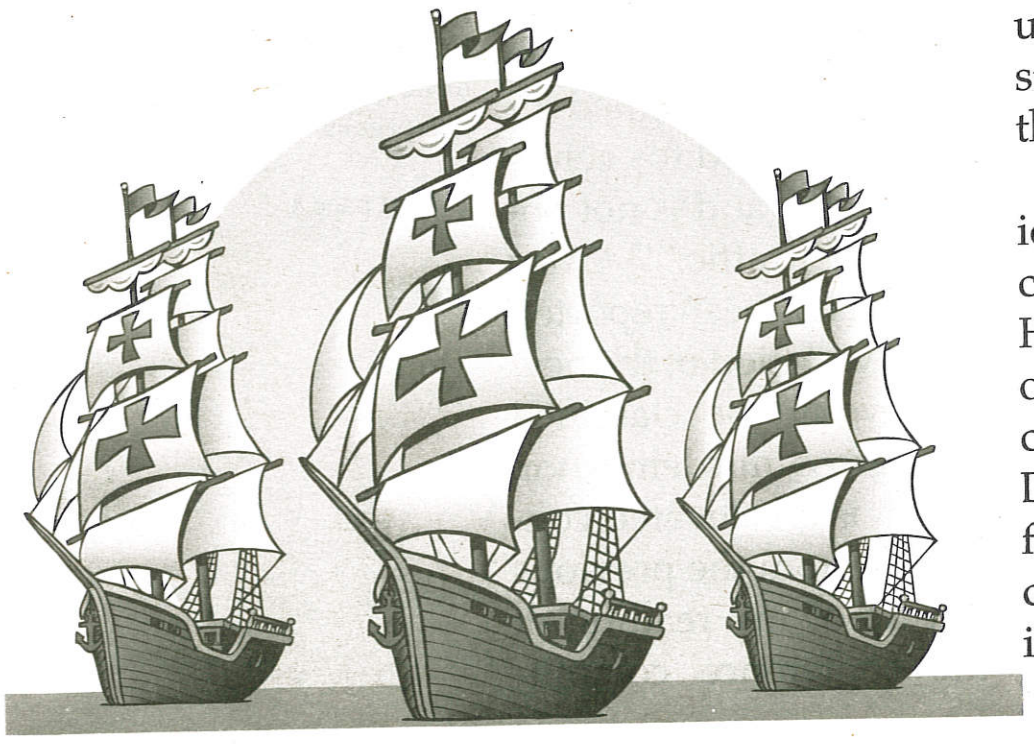
15 Id at page 8.

Columbus, Abated.

By: Taylor L. R. Burnick
Staff Attorney

Over the last few years, there has been a growing grassroots movement to do away with Columbus Day. The movement is a reflection of the Country's increasing awareness of issues surrounding paying tribute to pre-revolutionary figureheads. Indian Country has always known Columbus to be who he was. But it has not been until recently that this awareness has expanded to the general public.

Maine and Vermont have recently joined the growing number of states, cities, and institutions to have distanced themselves from the federal holiday. Both states currently have bills headed to their respective governor's desks for approval that would replace Columbus Day with Indigenous Peoples Day. Though it is worth noting that Maine has been observing Indigenous Peoples Day in place of Columbus Day for some time, via a gubernatorial proclamation. Once enacted, the states will join New Mexico, Oregon, Alaska, and Minnesota in the replacement. Notably, cities such as Seattle, Los Angeles, San Francisco, and Denver have also kicked Columbus to the curb in favor of a recognition of this continent's original inhabitants. There are also many universities and other institutions that have made the move.



There are many policy reasons behind the change. The Monday Holidays Senate Report of 1968 indicates that the creation of Columbus Day was "an annual reaffirmation by the American people of their faith in the future, a declaration of willingness to face with confidence the imponderables of unknown tomorrows." However, modern historical narratives recognize that Columbus was a slave-owner who brought genocide and disease to this continent. Historians also agree that he was not even the first European to arrive in the Americas, as our grade school public education had told us. It therefore stands to reason that since the holiday does not match up to the no-longer-agreed-upon narrative picture of Columbus, it is time to do away with the misinformed holiday.

The move to recognize Indigenous Peoples Day and do away with Columbus Day within the states begs the question though: how can states, cities, and schools usurp

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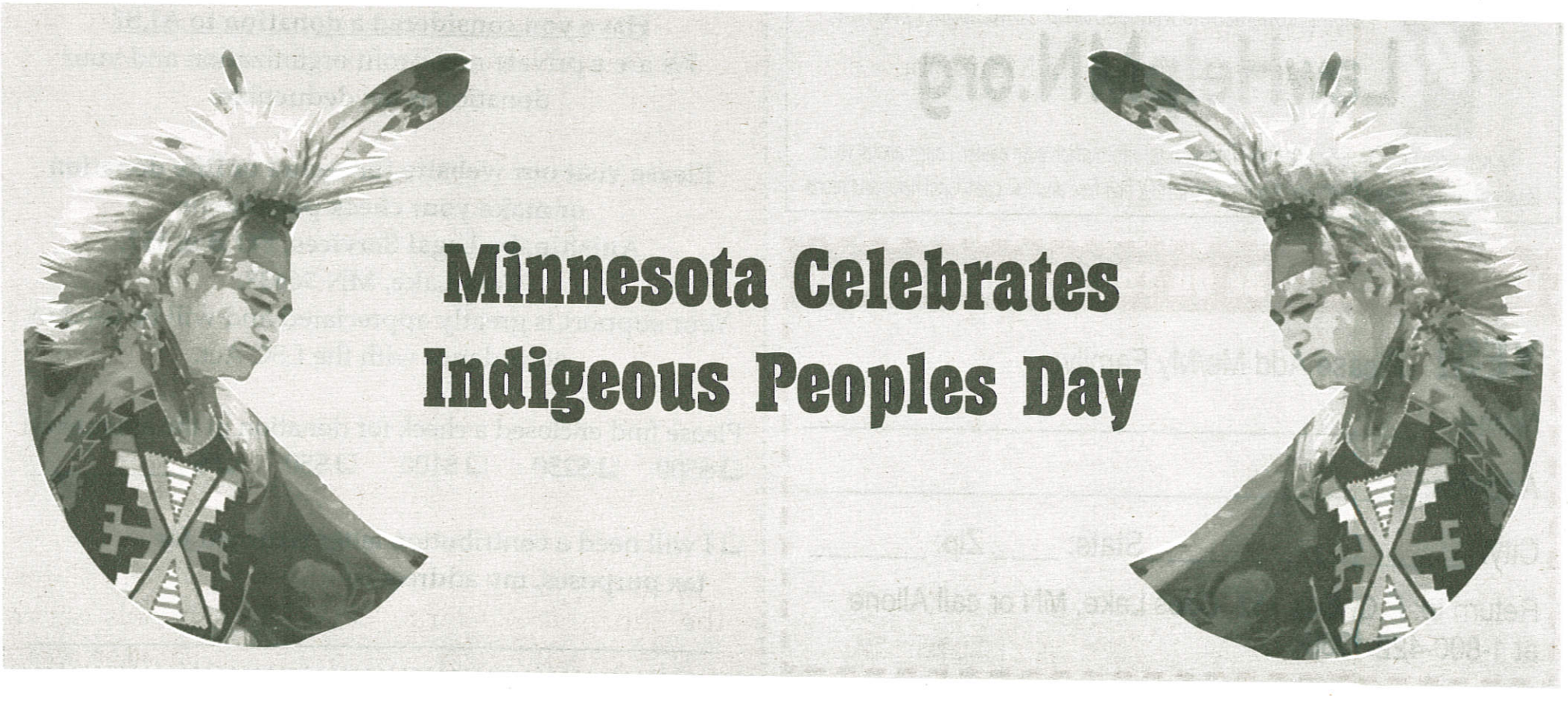
Columbus, Abated.

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federal holidays? Interestingly enough, as a matter of limited government and states' rights, Congress nor the President has authority to impose a holiday on the individual states. The impact of federally recognized holidays may be felt via the closure of post offices, banks, and other federal agencies. But the authority for the closures is only because those are federal employees. Ultimately, states are free to choose their own holiday schedule. In 1968 a group of bankers and businessmen successfully lobbied Congress to enact the Monday Holiday Law. The Act moved President's Day (then Washington's Birthday), Memorial Day, and Veteran's Day to Mondays. It also created Columbus Day. The purpose of the Act, according to Senate reports, was in part to spur the Nation's economic activities. The commercials we all see on television for the "Columbus Day Blowout Sales" was actually a desired effect of the creation of the holiday.

5 U.S.C. § 6103 is the list of federal holidays. There are currently ten recognized holidays on that list. The addition in 1968 of Columbus Day was a result of a push by many states to enact the holiday at a state level. At the time, thirty-eight states had already passed laws creating the holiday, and seven more had used gubernatorial action. This is a common way for Congress to add holidays to the list.

While six states and a handful of cities may not seem like much, if current trends in social awareness are any indication, we could see Congress act on this issue within the next decade. Until then, it appears that more states, cities, and institutions will be joining the ever-growing list of those who recognize Indigenous Peoples Day.



New Building

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shows an option that has not yet been ruled out to sell the current structure / land as salvage and purchase a new lot. In addition to the new building, the budget encompasses the program's needs for relocation costs while this is going on, permitting and other fees, as well as new office furniture.

Your help is greatly appreciated!

We invite you to review the budget above and select a category that you wish to support.

Donations are tax deductible and greatly appreciated! We are fundraising so we can continue to use our existing grants for direct client services, rather than future mortgage payments. ALS provides critical services to over 500 low-income clients each year!

Questions:

You may visit with any of ALS's staff or board of directors for further information. To schedule a meeting with management please call: 218-335-2223 x 102 or email: info@alslegal.org. ALS has also started an online gofundme campaign which raised over $1000 in its first few days! Your donations can also be sent by check to avoid any processing fees to: PO Box 167, Cass Lake, MN 56633. Please let us know if you need a tax-deductible contribution letter at the time of your donation.

Miigwech!
(thank you!)

www.alslegal.org

www.facebook.com/anishinabelegalservices
www.alslegal.blogspot.com

Find us on

LSC

Helping Low-Income Minnesotans Solve Legal Problems

LawHelpMN.org

The new website is designed to make finding legal information even easier. Learn about your legal rights and responsibilities; fill out court forms; find free and low-cost legal help; and more!

Do You Want To Be On The ALS Mailing List?

YES! Please Add Me/My Family:

Name: _____

Address: _____

City: _____ State: ____ Zip: _____

Return to: P.O. Box 157, Cass Lake, MN or call Allene at 1-800-422-1335

On average, 2/3 of eligible individuals are turned away from legal services statewide due to resource limitations:

Have you considered a donation to ALS?

We are a private non-profit organization and your donation is tax deductible.

Please visit our website for secure online donation or make your check payable to:
Anishinabe Legal Services, PO Box 157, Cass Lake, MN 56633.

Your support is greatly appreciated and will be used in accordance with the LSC Act.

Please find enclosed a check for donation in the amount of:
❑ $500 ❑ $250 ❑ $100 ❑ $50 ❑ $ _____

❑ I will need a contribution letter returned for tax purposes, my address is:

_____