

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

—
H.P. 1287 - L.D. 2007

**An Act Regarding the Criminal Jurisdiction of Tribal Courts and to Extend
the Time for the Penobscot Nation to Certify Its Agreement to Public Law
2023, Chapter 369**

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 30 MRSA §6209-A, sub-§1, as amended by PL 2023, c. 359, §10 and affected by §13 and amended by c. 369, Pt. B, §2 and affected by §4, is further amended to read:

1. Exclusive jurisdiction over certain matters. Except as provided in subsections 3 and 4, the Passamaquoddy Tribe has the right to exercise exclusive jurisdiction, separate and distinct from the State, over:

A. ~~Criminal~~ The following criminal offenses for which the maximum potential term of imprisonment is less than one year and the maximum potential fine does not exceed \$5,000 and that are committed within Passamaquoddy Indian territory by a an adult member of any federally recognized Indian tribe, nation, band or other group, ~~except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group;~~

(1) Class C, D and E crimes in Titles 15, 17, 17-A, 19-A and 29-A that are not committed against a person or the property of a person; and

(2) Class C, D and E crimes committed against a person who is a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is a member of any federally recognized Indian tribe, nation, band or other group.

The Passamaquoddy Tribe may not deny to any criminal defendant prosecuted for a Class C crime the rights and protections enumerated in 25 United States Code, Section 1302(c);

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Passamaquoddy Tribe under paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B and C, committed by a juvenile member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation within Passamaquoddy Indian territory;

C. Civil actions between members of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation arising within Passamaquoddy Indian territory and cognizable as small claims under the laws of the State and civil actions against a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation under Title 22, section 2383 involving conduct within Passamaquoddy Indian territory by a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation;

D. Indian child custody proceedings to the extent authorized by applicable state and federal law;

E. Other domestic relations matters, including marriage, divorce and support, between members of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation, both of whom reside within the Passamaquoddy Indian territory; and

F. Notwithstanding any other provision of this subsection, civil and criminal actions regarding the enforcement of ordinances enacted pursuant to section 6207, subsection 10, except that the Passamaquoddy Tribe may not exercise jurisdiction over a nonprofit public municipal corporation, including, but not limited to, the water district established by Private and Special Law 1983, chapter 25.

The governing body of the Passamaquoddy Tribe shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this subsection. If the Passamaquoddy Tribe chooses not to exercise, or chooses to terminate its exercise of, jurisdiction over the criminal, juvenile, civil and domestic matters described in this subsection, the State has exclusive jurisdiction over those matters. ~~Except as provided in paragraphs A and B, all laws of the State relating to criminal offenses and juvenile crimes apply within Passamaquoddy Indian territory and the State has exclusive jurisdiction over those offenses and crimes~~ In exercising its exclusive jurisdiction under paragraphs A and B, the Passamaquoddy Tribe is enforcing Passamaquoddy tribal law.

Sec. A-2. 30 MRSA §6209-A, sub-§1-A, as enacted by PL 2019, c. 621, Pt. D, §2 and affected by §5, is amended to read:

1-A. Concurrent jurisdiction over certain criminal offenses. The Passamaquoddy Tribe has the right to exercise jurisdiction, concurrently with the State, over the following ~~Class D crimes committed by a person on the Passamaquoddy Indian Reservation or on lands taken into trust by the secretary for the benefit of the Passamaquoddy Tribe, now or in the future, for which the potential maximum term of imprisonment does not exceed one year and the potential fine does not exceed \$2,000: Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A and Title 19-A, section 4011. The concurrent jurisdiction authorized by this subsection does not include an offense committed by a juvenile or a criminal offense committed by a person who is not a member of any federally recognized~~

Indian tribe, nation, band or other group against the person or property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group. criminal offenses:

A. Class C, D and E crimes committed within Passamaquoddy Indian territory by an adult member of any federally recognized Indian tribe, nation, band or other group against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group; and

B. Class C, D and E crimes committed within Passamaquoddy Indian territory by a person who is not a member of any federally recognized Indian tribe, nation, band or other group as authorized in the federal Violence Against Women Act Reauthorization Act of 2022, Public Law 117-103, Division W, Title VIII, Subtitle A, Section 804, 25 United States Code, Section 1304. Notwithstanding subsection 2, the Passamaquoddy Tribe may not deny to any criminal defendant prosecuted pursuant to this paragraph the rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for Congress or the State to recognize concurrent jurisdiction under this paragraph.

~~The governing body of the Passamaquoddy Tribe shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this subsection. Notwithstanding subsection 2, the Passamaquoddy Tribe may not deny to any criminal defendant prosecuted under this subsection the right to a jury of 12, the right to a unanimous jury verdict, the rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for the State to authorize concurrent jurisdiction under this subsection. If a criminal defendant prosecuted under this subsection moves to suppress statements on the ground that they were made involuntarily, the prosecution has the burden to prove beyond a reasonable doubt that the statements were made voluntarily.~~

The Passamaquoddy Tribe may not deny to any criminal defendant prosecuted for a Class C crime the rights and protections enumerated in 25 United States Code, Section 1302(c).

The governing body of the Passamaquoddy Tribe shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this subsection. In exercising the concurrent jurisdiction authorized by this subsection, the Passamaquoddy Tribe is deemed to be enforcing Passamaquoddy tribal law. The definitions of the criminal offenses and the punishments applicable to those criminal offenses over which the Passamaquoddy Tribe has concurrent jurisdiction under this subsection are governed by the laws of the State. Issuance and execution of criminal process also are governed by the laws of the State.

Sec. A-3. 30 MRSA §6209-A, sub-§1-B is enacted to read:

1-B. Exclusive jurisdiction of the State. Except as provided in subsection 1, paragraphs A and B and subsection 1-A, all laws of the State relating to criminal offenses and juvenile crimes apply within Passamaquoddy Indian territory and the State has exclusive jurisdiction over those offenses and crimes. Notwithstanding subsections 1 and 1-A, the State has exclusive jurisdiction over:

A. All crimes and juvenile crimes committed within Passamaquoddy Indian territory against the State or against any office, department, agency, authority, commission, board, institution, hospital or other instrumentality of the State, including the Maine Turnpike Authority, the Maine Port Authority, the Northern New England Passenger Rail Authority, the Maine Community College System, the Maine Veterans' Homes, the Maine Public Employees Retirement System, the Maine Military Authority and all similar state entities; and

B. Class C, D and E crimes defined in provisions of the Maine Revised Statutes outside of Titles 15, 17, 17-A, 19-A and 29-A committed within Passamaquoddy Indian territory by an adult member of any federally recognized Indian tribe, nation, band or other group that are not committed against a person or the property of a person.

Nothing in subsection 1 or 1-A affects, alters or preempts the authority of the State to investigate or prosecute any conduct occurring in the State, including conduct occurring in Passamaquoddy Indian territory, that is within the State's exclusive or concurrent jurisdiction.

Sec. A-4. 30 MRSA §6209-A, sub-§2, as enacted by PL 1995, c. 388, §6 and affected by §8, is amended to read:

2. Definitions of crimes; tribal procedures. ~~In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Passamaquoddy Tribe is deemed to be enforcing Passamaquoddy tribal law.~~ The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the Passamaquoddy Tribe has exclusive jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State. The procedures for the establishment and operation of tribal forums created to effectuate the purposes of this section are governed by federal statute, including, without limitation, the provisions of 25 United States Code, Sections 1301 to 1303 and rules or regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.

Sec. A-5. Contingent effective date. This Part takes effect 150 days after adjournment of the Second Regular Session of the 131st Legislature only if, within 120 days after adjournment of the Second Regular Session of the 131st Legislature, the Secretary of State receives written certification from the Chief of the Passamaquoddy Tribe at Sipayik and the Chief of the Passamaquoddy Tribe at Motahkomikuk, or the designee under the Maine Revised Statutes, Title 3, section 602, that the Passamaquoddy Tribe has agreed to the provisions of this Part, copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes.

PART B

Sec. B-1. 30 MRSA §6206, sub-§1, as amended by PL 2021, c. 650, §5 and affected by §13, is further amended to read:

1. General powers. Except as otherwise provided in this Act, the Passamaquoddy Tribe and the Penobscot Nation, within their respective Indian territories, ~~shall have; and~~ may exercise and enjoy all the rights, privileges, powers and immunities, including, but without limitation, the power to enact ordinances and collect taxes, and ~~shall be~~ are subject

to all the duties, obligations, liabilities and limitations of a municipality of and subject to the laws of the State, provided, however, that internal tribal matters, including membership in the respective tribe or nation, the right to reside within the respective Indian territories, tribal organization, tribal government, tribal elections, the use or disposition of settlement fund income and the exercise of power by the Passamaquoddy Tribe pursuant to section 6207, subsection 10, section 6207-A and section 6209-A, subsection 1, paragraph F shall and by the Penobscot Nation pursuant to section 6207, subsection 11, section 6207-B and section 6209-B, subsection 1, paragraph F, respectively, is not be subject to regulation by the State. The Passamaquoddy Tribe and the Penobscot Nation shall designate such officers and officials as are necessary to implement and administer those laws of the State applicable to the respective Indian territories and the residents thereof. Any resident of the Passamaquoddy Indian territory or the Penobscot Indian territory who is not a member of the respective tribe or nation nonetheless ~~shall be~~ is equally entitled to receive any municipal or governmental services provided by the respective tribe or nation or by the State, except those services ~~which that~~ are provided exclusively to members of the respective tribe or nation pursuant to state or federal law, and ~~shall be~~ is entitled to vote in national, state and county elections in the same manner as any tribal member residing within Indian territory.

Sec. B-2. 30 MRSA §6207, sub-§11 is enacted to read:

11. Regulation of drinking water by Penobscot Nation. Unless the Penobscot Nation, in its discretion, enters into an intergovernmental agreement authorizing the State to exercise concurrent jurisdiction over specific drinking water-related issues within the Penobscot Indian territory:

A. The Penobscot Nation has exclusive authority to enact ordinances regulating drinking water within Penobscot Indian territory;

B. The State may not exercise primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within the Penobscot Indian territory; and

C. The Penobscot Nation may seek to be treated as a state and to obtain primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within Penobscot Indian territory.

Notwithstanding any other provision of this subsection, the Penobscot Nation's jurisdiction does not extend beyond the Penobscot Indian territory.

Sec. B-3. 30 MRSA §6207-B is enacted to read:

§6207-B. Jurisdiction of Penobscot Nation over drinking water within the Penobscot Indian territory

Notwithstanding any provision of state law to the contrary, pursuant to the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420, Section 6(e)(1), the State and the Penobscot Nation agree and establish that:

1. Jurisdiction of Penobscot Nation to administer drinking water-related programs. The Penobscot Nation may seek to be treated as a state pursuant to the federal

Safe Drinking Water Act, 42 United States Code, Section 300j-11, and its implementing regulations, as amended, within the Penobscot Indian territory and may otherwise benefit from and exercise jurisdiction under any other federal law enacted after October 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-related programs; and

2. Administration of drinking water-related programs does not affect or preempt state law. The application of any provision of the federal Safe Drinking Water Act and its implementing regulations, as amended, and of any other federal law enacted after October 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-related programs and the enforcement of such laws and regulations by the Penobscot Nation under subsection 1 does not affect or preempt the laws of the State.

Notwithstanding any other provision of this section, the Penobscot Nation's jurisdiction does not extend beyond the Penobscot Indian territory.

Sec. B-4. 30 MRSA §6209-B, sub-§1, as corrected by RR 2009, c. 1, §19, is amended to read:

1. Exclusive jurisdiction over certain matters. Except as provided in subsections 3 and 4, the Penobscot Nation has the right to exercise exclusive jurisdiction, separate and distinct from the State, over:

A. ~~Criminal~~ The following criminal offenses for which the maximum potential term of imprisonment does not exceed one year and the maximum potential fine does not exceed \$5,000 and that are committed on the Indian reservation of the within Penobscot Nation Indian territory by a an adult member of any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group;

(1) Class C, D and E crimes in Titles 15, 17, 17-A, 19-A and 29-A that are not committed against a person or the property of a person; and

(2) Class C, D and E crimes committed against a person who is a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is a member of any federally recognized Indian tribe, nation, band or other group.

The Penobscot Nation may not deny to any criminal defendant prosecuted for a Class C crime the rights and protections enumerated in 25 United States Code, Section 1302(c):

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Penobscot Nation under paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B and C, committed by a juvenile member of either the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation ~~on the Indian reservation of the within Penobscot Nation Indian territory;~~

C. Civil actions between members of either the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation arising ~~on the Indian reservation of the within Penobscot Nation Indian territory and cognizable as~~

small claims under the laws of the State, and civil actions against a member of either the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation under Title 22, section 2383 involving conduct ~~on the Indian reservation of the~~ within Penobscot Nation Indian territory by a member of either the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation;

D. Indian child custody proceedings to the extent authorized by applicable state and federal law; ~~and~~

E. Other domestic relations matters, including marriage, divorce and support, between members of either the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation, both of whom reside ~~on the Indian reservation of the~~ within Penobscot Nation Indian territory; ~~and~~

F. Notwithstanding any other provision of this subsection, civil and criminal actions regarding the enforcement of ordinances enacted pursuant to section 6207, subsection 11, except that the Penobscot Nation may not exercise jurisdiction over a nonprofit public municipal corporation.

The governing body of the Penobscot Nation shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this subsection. If the Penobscot Nation chooses not to exercise, or chooses to terminate its exercise of, jurisdiction over the criminal, juvenile, civil and domestic matters described in this subsection, the State has exclusive jurisdiction over those matters. ~~Except as provided in paragraphs A and B, all laws of the State relating to criminal offenses and juvenile crimes apply within the Penobscot Indian reservation and the State has exclusive jurisdiction over those offenses and crimes~~ In exercising its exclusive jurisdiction under paragraphs A and B, the Penobscot Nation is enforcing Penobscot tribal law.

Sec. B-5. 30 MRSA §6209-B, sub-§1-A, as enacted by PL 2019, c. 621, Pt. C, §1 and affected by §4, is amended to read:

1-A. Concurrent jurisdiction over certain criminal offenses. The Penobscot Nation has the right to exercise jurisdiction, concurrently with the State, over the following ~~Class D crimes committed by a person on the Penobscot Indian Reservation or on lands taken into trust by the secretary for the benefit of the Penobscot Nation now or in the future, for which the potential maximum term of imprisonment does not exceed one year and the potential fine does not exceed \$2,000: Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A and Title 19-A, section 4011.~~ The concurrent jurisdiction authorized by this subsection does not include an offense committed by a juvenile or a criminal offense committed by a person who is not a member of any federally recognized Indian tribe, nation, band or other group against the person or property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group. ~~criminal offenses:~~

A. Class C, D and E crimes committed within Penobscot Indian territory by an adult member of any federally recognized Indian tribe, nation, band or other group against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group; and

B. Class C, D and E crimes committed within Penobscot Indian territory by a person who is not a member of any federally recognized Indian tribe, nation, band or other group as authorized in the federal Violence Against Women Act Reauthorization Act of 2022, Public Law 117-103, Division W, Title VIII, Subtitle A, Section 804, 25 United States Code, Section 1304. Notwithstanding subsection 2, the Penobscot Nation may not deny to any criminal defendant prosecuted pursuant to this paragraph the rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for Congress or the State to recognize concurrent jurisdiction under this paragraph.

~~The governing body of the Penobscot Nation shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this subsection. Notwithstanding subsection 2, the Penobscot Nation may not deny to any criminal defendant prosecuted under this subsection the right to a jury of 12, the right to a unanimous jury verdict, the rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for the State to authorize concurrent jurisdiction under this subsection. If a criminal defendant prosecuted under this subsection moves to suppress statements on the ground that they were made involuntarily, the prosecution has the burden to prove beyond a reasonable doubt that the statements were made voluntarily.~~

The Penobscot Nation may not deny to any criminal defendant prosecuted for a Class C crime the rights and protections enumerated in 25 United States Code, Section 1302(c).

The governing body of the Penobscot Nation shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this subsection. In exercising the concurrent jurisdiction authorized by this subsection, the Penobscot Nation is deemed to be enforcing Penobscot tribal law. The definitions of the criminal offenses and the punishments applicable to those criminal offenses over which the Penobscot Nation has concurrent jurisdiction under this subsection are governed by the laws of the State. Issuance and execution of criminal process also are governed by the laws of the State.

Sec. B-6. 30 MRSA §6209-B, sub-§1-B is enacted to read:

1-B. Exclusive jurisdiction of the State. Except as provided in subsection 1, paragraphs A and B and subsection 1-A, all laws of the State relating to criminal offenses and juvenile crimes apply within Penobscot Indian territory and the State has exclusive jurisdiction over those offenses and crimes. Notwithstanding subsections 1 and 1-A, the State has exclusive jurisdiction over:

A. All crimes and juvenile crimes committed within Penobscot Indian territory against the State or against any office, department, agency, authority, commission, board, institution, hospital or other instrumentality of the State, including the Maine Turnpike Authority, the Maine Port Authority, the Northern New England Passenger Rail Authority, the Maine Community College System, the Maine Veterans' Homes, the Maine Public Employees Retirement System, the Maine Military Authority and all similar state entities; and

B. Class C, D and E crimes defined in provisions of the Maine Revised Statutes outside of Titles 15, 17, 17-A, 19-A and 29-A committed within Penobscot Indian territory by

an adult member of any federally recognized Indian tribe, nation, band or other group that are not committed against a person or the property of a person.

Nothing in subsection 1 or 1-A affects, alters or preempts the authority of the State to investigate or prosecute any conduct occurring in the State, including conduct occurring in Penobscot Indian territory, that is within the State's exclusive or concurrent jurisdiction.

Sec. B-7. 30 MRSA §6209-B, sub-§2, as enacted by PL 1995, c. 388, §6 and affected by §8, is amended to read:

2. Definitions of crimes; tribal procedures. ~~In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Penobscot Nation is deemed to be enforcing Penobscot tribal law.~~ The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the Penobscot Nation has exclusive jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State. The procedures for the establishment and operation of tribal forums created to effectuate the purposes of this section are governed by federal statute, including, without limitation, the provisions of 25 United States Code, Sections 1301 to 1303 and rules or regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.

Sec. B-8. 30 MRSA §6209-B, sub-§6 is enacted to read:

6. Full faith and credit. The State shall give full faith and credit to the judicial proceedings of the Penobscot Nation. The Penobscot Nation shall give full faith and credit to the judicial proceedings of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation and the State.

Sec. B-9. Contingent effective date. This Part takes effect 150 days after adjournment of the Second Regular Session of the 131st Legislature only if, within 120 days after adjournment of the Second Regular Session of the 131st Legislature, the Secretary of State receives written certification from the Chief of the Penobscot Nation, or the designee under the Maine Revised Statutes, Title 3, section 602, that the Penobscot Nation has agreed to the provisions of this Part, copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes.

PART C

Sec. C-1. 30 MRSA §6209-C, sub-§1, as amended by PL 2023, c. 359, §12 and affected by §13 and amended by c. 369, Pt. D, §6 and affected by §8, is further amended to read:

1. Exclusive jurisdiction over certain matters. Except as provided in subsections 3 and 4, the Houlton Band of Maliseet Indians has the right to exercise exclusive jurisdiction, separate and distinct from the State, over:

A. ~~Criminal~~ The following criminal offenses for which the maximum potential term of imprisonment does not exceed one year and the maximum potential fine does not exceed \$5,000 and that are committed on Houlton Band Jurisdiction Land by a an adult member of any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized

~~Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group;~~

(1) Class C, D and E crimes in Titles 15, 17, 17-A, 19-A and 29-A that are not committed against a person or the property of a person; and

(2) Class C, D and E crimes committed against a person who is a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is a member of any federally recognized Indian tribe, nation, band or other group.

The Houlton Band of Maliseet Indians may not deny to any criminal defendant prosecuted for a Class C crime the rights and protections enumerated in 25 United States Code, Section 1302(c);

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Houlton Band of Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B and C, committed by a juvenile member of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation within Houlton Band Jurisdiction Land;

C. Civil actions between members of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation arising on Houlton Band Jurisdiction Land and cognizable as small claims under the laws of the State and civil actions against a member of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation under Title 22, section 2383 involving conduct within Houlton Band Jurisdiction Land by a member of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation;

D. Indian child custody proceedings to the extent authorized by applicable state and federal law;

E. Other domestic relations matters, including marriage, divorce and support, between members of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation, both of whom reside within the Houlton Band Jurisdiction Land; and

F. Notwithstanding any other provision of this subsection, civil and criminal actions regarding the enforcement of ordinances enacted pursuant to section 6207-C, subsection 10, except that the Houlton Band of Maliseet Indians may not exercise jurisdiction over a nonprofit public municipal corporation.

The governing body of the Houlton Band of Maliseet Indians shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this subsection. The decision to exercise, to terminate the exercise of or to reassert the exercise of jurisdiction under each of the subject areas described by paragraphs A to E may be made separately. Until the Houlton Band of Maliseet Indians notifies the Attorney General that the band has decided to exercise exclusive jurisdiction set forth in any or all of the paragraphs in this subsection, the State has exclusive jurisdiction over those matters. If the Houlton Band of Maliseet Indians chooses not to exercise or chooses to terminate its exercise of exclusive jurisdiction set forth in any or all of the paragraphs in this subsection,

the State has exclusive jurisdiction over those matters until the Houlton Band of Maliseet Indians chooses to exercise its exclusive jurisdiction. When the Houlton Band of Maliseet Indians chooses to reassert the exercise of exclusive jurisdiction over any or all of the areas of the exclusive jurisdiction authorized by this subsection it must first provide 30 days' notice to the Attorney General. ~~Except as provided in paragraphs A and B, all laws of the State relating to criminal offenses and juvenile crimes apply within the Houlton Band Trust Land and the State has exclusive jurisdiction over those offenses and crimes~~ In exercising its exclusive jurisdiction under paragraphs A and B, the Houlton Band of Maliseet Indians is enforcing the tribal law of the Houlton Band of Maliseet Indians.

Sec. C-2. 30 MRSA §6209-C, sub-§1-C is enacted to read:

1-C. Concurrent jurisdiction over certain criminal offenses. The Houlton Band of Maliseet Indians has the right to exercise jurisdiction, concurrently with the State, over the following criminal offenses:

A. Class C, D and E crimes committed on Houlton Band Jurisdiction Land by an adult member of any federally recognized Indian tribe, nation, band or other group against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group; and

B. Class C, D and E crimes committed on Houlton Band Jurisdiction Land by a person who is not a member of any federally recognized Indian tribe, nation, band or other group as authorized in the federal Violence Against Women Act Reauthorization Act of 2022, Public Law 117-103, Division W, Title VIII, Subtitle A, Section 804, 25 United States Code, Section 1304. Notwithstanding subsection 2, the Houlton Band of Maliseet Indians may not deny to any criminal defendant prosecuted pursuant to this paragraph the rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for Congress or the State to recognize concurrent jurisdiction under this paragraph.

The Houlton Band of Maliseet Indians may not deny to any criminal defendant prosecuted for a Class C crime the rights and protections enumerated in 25 United States Code, Section 1302(c).

The governing body of the Houlton Band of Maliseet Indians shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this subsection. In exercising the concurrent jurisdiction authorized by this subsection, the Houlton Band of Maliseet Indians is enforcing the tribal law of the Houlton Band of Maliseet Indians. The definitions of the criminal offenses and the punishments applicable to those criminal offenses over which the Houlton Band of Maliseet Indians has concurrent jurisdiction under this subsection are governed by the laws of the State. Issuance and execution of criminal process also are governed by the laws of the State.

Sec. C-3. 30 MRSA §6209-C, sub-§1-D is enacted to read:

1-D. Exclusive jurisdiction of the State. Except as provided in subsection 1, paragraphs A and B and subsection 1-C, all laws of the State relating to criminal offenses and juvenile crimes apply within Houlton Band Trust Land and the State has exclusive

jurisdiction over those offenses and crimes. Notwithstanding subsections 1 and 1-C, the State has exclusive jurisdiction over:

A. All crimes and juvenile crimes committed on Houlton Band Jurisdiction Land against the State or against any office, department, agency, authority, commission, board, institution, hospital or other instrumentality of the State, including the Maine Turnpike Authority, the Maine Port Authority, the Northern New England Passenger Rail Authority, the Maine Community College System, the Maine Veterans' Homes, the Maine Public Employees Retirement System, the Maine Military Authority and all similar state entities; and

B. Class C, D and E crimes defined in provisions of the Maine Revised Statutes outside of Titles 15, 17, 17-A, 19-A and 29-A committed on Houlton Band Jurisdiction Land by an adult member of any federally recognized Indian tribe, nation, band or other group that are not committed against a person or the property of a person.

Nothing in subsection 1 or 1-C affects, alters or preempts the authority of the State to investigate or prosecute any conduct occurring in the State, including conduct occurring on Houlton Band Trust Land, that is within the State's exclusive or concurrent jurisdiction.

Sec. C-4. 30 MRSA §6209-C, sub-§2, as enacted by PL 2009, c. 384, Pt. B, §1 and affected by §2, is amended to read:

2. Definitions of crimes; tribal procedures. ~~In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Houlton Band of Maliseet Indians is deemed to be enforcing tribal law of the Houlton Band of Maliseet Indians.~~ The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the Houlton Band of Maliseet Indians has exclusive jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State. The procedures for the establishment and operation of tribal forums created to effectuate the purposes of this section are governed by federal statute, including, without limitation, the provisions of 25 United States Code, Sections 1301 to 1303 and rules and regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.

Sec. C-5. Contingent effective date. This Part takes effect 150 days after adjournment of the Second Regular Session of the 131st Legislature only if, within 120 days after adjournment of the Second Regular Session of the 131st Legislature, the Secretary of State receives written certification from the Chief of the Houlton Band of Maliseet Indians, or the designee under the Maine Revised Statutes, Title 3, section 602, that the Houlton Band of Maliseet Indians has agreed to the provisions of this Part, copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes. Upon such written certification by the Houlton Band Council of the Houlton Band of Maliseet Indians, each section of this Part regarding or affecting the Houlton Band of Maliseet Indians and its tribal members and lands constitutes a jurisdictional agreement for purposes of the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420, Section 6(e)(2). Such written certification by the Houlton Band Council of the Houlton Band of Maliseet Indians does not constitute an agreement that the contingencies in Public Law 1981, chapter 675 were met or that the provisions of Public Law 1981, chapter 675 ever took effect.

PART D

Sec. D-1. 30 MRSA §7203, sub-§7, as enacted by PL 1989, c. 148, §§3 and 4 and affected by PL 2023, c. 369, Pt. A, §§2 and 5, is repealed.

Sec. D-2. 30 MRSA §7208, sub-§1, as enacted by PL 1989, c. 148, §§3 and 4 and affected by PL 2023, c. 369, Pt. A, §§2 and 5, is amended to read:

1. Exclusive jurisdiction over certain matters. Except as provided in subsections 5 and 6, the Mi'kmaq Nation has the right to exercise exclusive jurisdiction, separate and distinct from the State, over:

A. ~~Criminal~~ The following criminal offenses for which the maximum potential term of imprisonment is less than one year and the maximum potential fine does not exceed \$5,000 and that are committed on Mi'kmaq Nation Jurisdiction Land by a an adult member of any federally recognized Indian tribe, nation, band or other group, ~~except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group;~~

(1) Class C, D and E crimes in Titles 15, 17, 17-A, 19-A and 29-A that are not committed against a person or the property of a person; and

(2) Class C, D and E crimes committed against a person who is a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is a member of any federally recognized Indian tribe, nation, band or other group.

The Mi'kmaq Nation may not deny to any criminal defendant prosecuted for a Class C crime the rights and protections enumerated in 25 United States Code, Section 1302(c);

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Mi'kmaq Nation under paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B and C, committed by a juvenile member of the Mi'kmaq Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation within Mi'kmaq Nation Jurisdiction Land;

C. Civil actions between members of the Mi'kmaq Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation arising on Mi'kmaq Nation Jurisdiction Land and cognizable as small claims under the laws of the State and civil actions against a member of the Mi'kmaq Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation under Title 22, section 2383 involving conduct within Mi'kmaq Nation Jurisdiction Land by a member of the Mi'kmaq Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation;

D. Indian child custody proceedings to the extent authorized by applicable state and federal law;

E. Other domestic relations matters, including marriage, divorce and support, between members of the Mi'kmaq Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation, both of whom reside within Mi'kmaq Nation Jurisdiction Land; and

F. Notwithstanding any other provision of this subsection, civil and criminal actions regarding the enforcement of ordinances enacted pursuant to section 7206, subsection 8, except that the Mi'kmaq Nation may not exercise jurisdiction over a nonprofit public municipal corporation.

The governing body of the Mi'kmaq Nation shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this subsection. The decision to exercise, to terminate the exercise of or to reassert the exercise of jurisdiction under each of the subject areas described by paragraphs A to F may be made separately. Until the Mi'kmaq Nation notifies the Attorney General that the nation has decided to exercise exclusive jurisdiction set forth in any or all of the paragraphs in this subsection, the State has exclusive jurisdiction over those matters. If the Mi'kmaq Nation chooses not to exercise, or chooses to terminate its exercise of, jurisdiction over the criminal, juvenile, civil and domestic matters described in this subsection, the State has exclusive jurisdiction over those matters. When the Mi'kmaq Nation chooses to reassert the exercise of exclusive jurisdiction over any or all of the areas under paragraphs A to F, the nation must first provide 30 days' notice to the Attorney General. ~~Except as provided in paragraphs A and B, all laws of the State relating to criminal offenses and juvenile crimes apply within Mi'kmaq Nation Jurisdiction Land and the State has exclusive jurisdiction over those offenses and crimes~~ In exercising its exclusive jurisdiction under paragraphs A and B, the Mi'kmaq Nation is enforcing Mi'kmaq tribal law.

Sec. D-3. 30 MRSA §7208, sub-§2, as enacted by PL 1989, c. 148, §§3 and 4 and affected by PL 2023, c. 369, Pt. A, §§2 and 5, is amended to read:

2. Concurrent jurisdiction over certain criminal offenses. The Mi'kmaq Nation has the right to exercise jurisdiction, concurrently with the State, over the following ~~Class D crimes committed by a person within Mi'kmaq Nation Jurisdiction Land or on lands taken into trust by the secretary for the benefit of the Mi'kmaq Nation, now or in the future, for which the potential maximum term of imprisonment does not exceed one year and the potential fine does not exceed \$2,000: Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A and Title 19-A, section 4011. The concurrent jurisdiction authorized by this subsection does not include an offense committed by a juvenile or a criminal offense committed by a person who is not a member of any federally recognized Indian tribe, nation, band or other group against the person or property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group.~~ criminal offenses:

A. Class C, D and E crimes committed on Mi'kmaq Nation Jurisdiction Land by an adult member of any federally recognized Indian tribe, nation, band or other group against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group; and

B. Class C, D and E crimes committed on Mi'kmaq Nation Jurisdiction Land by a person who is not a member of any federally recognized Indian tribe, nation, band or other group as authorized in the federal Violence Against Women Act Reauthorization Act of 2022, Public Law 117-103, Division W, Title VIII, Subtitle A, Section 804, 25 United States Code, Section 1304. Notwithstanding subsection 3, the Mi'kmaq Nation may not deny to any criminal defendant prosecuted pursuant to this paragraph the rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303

and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for Congress or the State to recognize concurrent jurisdiction under this paragraph.

~~The governing body of the Mi'kmaq Nation shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this subsection. Notwithstanding subsection 3, the Mi'kmaq Nation may not deny to any criminal defendant prosecuted under this subsection the right to a jury of 12, the right to a unanimous jury verdict, the rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(e), 1303 and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for the State to authorize concurrent jurisdiction under this subsection. If a criminal defendant prosecuted under this subsection moves to suppress statements on the ground that they were made involuntarily, the prosecution has the burden to prove beyond a reasonable doubt that the statements were made voluntarily.~~

The Mi'kmaq Nation may not deny to any criminal defendant prosecuted for a Class C crime the rights and protections enumerated in 25 United States Code, Section 1302(c).

The governing body of the Mi'kmaq Nation shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this subsection. In exercising the concurrent jurisdiction authorized by this subsection, the Mi'kmaq Nation is deemed to be enforcing Mi'kmaq tribal law. The definitions of the criminal offenses and the punishments applicable to those criminal offenses over which the Mi'kmaq Nation has concurrent jurisdiction under this subsection are governed by the laws of the State. Issuance and execution of criminal process also are governed by the laws of the State.

Sec. D-4. 30 MRSA §7208, sub-§2-A is enacted to read:

2-A. Exclusive jurisdiction of the State. Except as provided in subsection 1, paragraphs A and B and subsection 2, all laws of the State relating to criminal offenses and juvenile crimes apply within Mi'kmaq Nation Trust Land and the State has exclusive jurisdiction over those offenses and crimes. Notwithstanding subsections 1 and 2, the State has exclusive jurisdiction over:

A. All crimes and juvenile crimes committed on Mi'kmaq Nation Jurisdiction Land against the State or against any office, department, agency, authority, commission, board, institution, hospital or other instrumentality of the State, including the Maine Turnpike Authority, the Maine Port Authority, the Northern New England Passenger Rail Authority, the Maine Community College System, the Maine Veterans' Homes, the Maine Public Employees Retirement System, the Maine Military Authority and all similar state entities; and

B. Class C, D and E crimes defined in provisions of the Maine Revised Statutes outside of Titles 15, 17, 17-A, 19-A and 29-A committed on Mi'kmaq Nation Jurisdiction Land by an adult member of any federally recognized Indian tribe, nation, band or other group that are not committed against a person or the property of a person.

Nothing in subsection 1 or 2 affects, alters or preempts the authority of the State to investigate or prosecute any conduct occurring in the State, including conduct occurring on Mi'kmaq Nation Trust Land, that is within the State's exclusive or concurrent jurisdiction.

Sec. D-5. 30 MRSA §7208, sub-§3, as enacted by PL 1989, c. 148, §§3 and 4 and affected by PL 2023, c. 369, Pt. A, §§2 and 5, is amended to read:

3. Definitions of crimes; tribal procedures. ~~In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Mi'kmaq Nation is deemed to be enforcing Mi'kmaq tribal law.~~ The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the Mi'kmaq Nation has exclusive jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State. The procedures for the establishment and operation of tribal forums created to effectuate the purposes of this section are governed by federal statute, including, without limitation, the provisions of 25 United States Code, Sections 1301 to 1303 and rules or regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.

Sec. D-6. Contingent effective date. This Part takes effect 150 days after adjournment of the Second Regular Session of the 131st Legislature only if, within 120 days after adjournment of the Second Regular Session of the 131st Legislature, the Secretary of State receives written certification from the Chief of the Mi'kmaq Nation, or the designee under the Maine Revised Statutes, Title 3, section 603, that the Mi'kmaq Nation has agreed to the provisions of this Part, copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes.

PART E

Sec. E-1. 30 MRSA §6206, sub-§3, as corrected by RR 2019, c. 2, Pt. A, §30, is amended to read:

3. Ordinances. The Passamaquoddy Tribe and the Penobscot Nation each has the right to exercise exclusive jurisdiction within its respective Indian territory over violations by members of ~~either tribe or nation~~ any federally recognized Indian tribe, nation, band or other group of tribal ordinances adopted pursuant to this section or section 6207. The decision to exercise or terminate the jurisdiction authorized by this section must be made by each tribal governing body. If either tribe or nation chooses not to exercise, or to terminate its exercise of, jurisdiction as authorized by this section or section 6207, the State has exclusive jurisdiction over violations of tribal ordinances by members of ~~either tribe or nation~~ any federally recognized Indian tribe, nation, band or other group within the Indian territory of that tribe or nation. The State has exclusive jurisdiction over violations of tribal ordinances by persons not members of ~~either tribe or nation~~ any federally recognized Indian tribe, nation, band or other group except as provided in the section or sections referenced in the following:

- A. Section 6209-A.
- B. Section 6209-B.

Sec. E-2. 30 MRSA §6210, sub-§1, as amended by PL 1995, c. 388, §7 and affected by §8, is repealed and the following enacted in its place:

1. Exclusive authority of tribal law enforcement officers. Law enforcement officers appointed by the Passamaquoddy Tribe and the Penobscot Nation have exclusive authority to enforce:

- A. Within their respective Indian territories, ordinances adopted under section 6206 and section 6207, subsections 1, 10 and 11;

B. On their respective Indian reservations, the criminal, juvenile, civil and domestic relations laws over which the Passamaquoddy Tribe or the Penobscot Nation have jurisdiction under section 6209-A, subsection 1 and section 6209-B, subsection 1, respectively; and

C. Within their respective Indian territories, the civil and domestic relations laws over which the Passamaquoddy Tribe or the Penobscot Nation have jurisdiction under section 6209-A, subsection 1, paragraphs C to F and section 6209-B, subsection 1, paragraphs C to F, respectively.

Sec. E-3. 30 MRSA §6210, sub-§2, as amended by PL 1995, c. 388, §7 and affected by §8, is repealed and the following enacted in its place:

2. Joint authority of tribal and state law enforcement officers. Law enforcement officers appointed by the Passamaquoddy Tribe and the Penobscot Nation have the authority within their respective Indian territories and state and county law enforcement officers have the authority within both Indian territories to enforce:

A. Rules or regulations adopted by the commission under section 6207, subsection 3; and

B. All laws of the State other than those over which law enforcement officers appointed by the Passamaquoddy Tribe or the Penobscot Nation have exclusive jurisdiction under subsection 1.

Sec. E-4. 30 MRSA §6210, sub-§3, as amended by PL 1995, c. 388, §7 and affected by §8, is further amended to read:

3. Agreements for cooperation and mutual aid. This section does not ~~prevent~~ impact existing agreements for cooperation and mutual aid between the Passamaquoddy Tribe or the Penobscot Nation and any state, county or local law enforcement agency or prevent the Passamaquoddy Tribe or the Penobscot Nation and any state, county or local law enforcement agency from entering into future agreements for cooperation and mutual aid.

Sec. E-5. Contingent effective date. This Part takes effect 150 days after adjournment of the Second Regular Session of the 131st Legislature only if, within 120 days after adjournment of the Second Regular Session of the 131st Legislature, the Secretary of State receives written certification from the Chief of the Penobscot Nation, or the designee under the Maine Revised Statutes, Title 3, section 602, that the nation has agreed to the provisions of this Part and from the Chief of the Passamaquoddy Tribe at Sipayik and the Chief of the Passamaquoddy Tribe at Motahkomikuk, or the designee under Title 3, section 602, that the Passamaquoddy Tribe has agreed to the provisions of this Part, copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes.