

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 523

6
7 S.P. 168

In Senate, February 1, 1983

8 Received by the Secretary of the Senate on February 1, 1983. Referred to
9 the Committee on Judiciary, and ordered printed pursuant to Joint Rule 14.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Pearson of Penobscot.

Cosponsor: Representative Cashman of Old Town.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT Relating to Criminal Offenses on
18 the Penobscot Reservation.
19

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

22 Sec. 1. 30 MRSA §6209, sub-§1, as enacted by PL
23 1979, c. 732, §§1 and 31, is amended to read:

24 1. Exclusive jurisdiction in tribes over certain
25 matters. Except as provided in subsections 3 and 4,
26 the Passamaquoddy Tribe and the Penobscot Nation
27 shall have the right to exercise exclusive jurisdic-
28 tion separate and distinct from the State over:

29 A. Criminal offenses against a person or prop-
30 erty for which the maximum potential term of
31 imprisonment does not exceed 6 months and the
32 maximum potential fine does not exceed \$500 and
33 which are committed on the Indian reservation of

1 the respective tribe or nation by a member of
2 either tribe or nation against another member of
3 either tribe or nation or against the property of
4 another member of either tribe or nation;

5 B. Juvenile crimes against a person or property
6 involving conduct which, if committed by an
7 adult, would fall, under paragraph A, within the
8 exclusive jurisdiction of the Passamaquoddy Tribe
9 or the Penobscot Nation, and juvenile crimes as
10 defined in Title 15, section 3103, subsection 1,
11 paragraphs B to D committed by a juvenile member
12 of either tribe or nation on the Indian reserva-
13 tion of the respective tribe or nation;

14 C. Civil actions between members of either tribe
15 or nation arising on the Indian reservation of
16 the respective tribe or nation and which are cog-
17 nizable as small claims under the laws of the
18 State and civil actions against a member of
19 either tribe or nation under Title 22, section
20 2383 involving conduct on the Indian reservation
21 of the respective tribe or nation by a member of
22 either tribe or nation;

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

25 E. Other domestic relations matters including
26 marriage, divorce and support between members of
27 either tribe or nation both of whom reside on the
28 Indian reservation of the respective tribe or
29 nation.

30 The decision to exercise or terminate the exercise of
31 the jurisdiction authorized by this subsection shall
32 be made by the tribal governing body. Should either
33 tribe or nation choose not to exercise, or choose to
34 terminate its exercise of, jurisdiction over the
35 criminal, juvenile, civil and domestic matters de-
36 scribed in this subsection, the State shall have
37 exclusive jurisdiction over those matters. Except as
38 provided in paragraphs A and B and under subsection
39 6, all laws of the State relating to criminal
40 offenses and juvenile crimes shall apply within the
41 Passamaquoddy and Penobscot Indian reservations and
42 the State shall have exclusive jurisdiction over
43 those offenses and crimes.

1 Sec. 2. 30 MRSA §6209, sub-§2, as enacted by PL
2 1979, c. 732, §§1 and 31, is amended to read:

3 2. Definitions of crimes; tribal procedures. In
4 exercising its exclusive jurisdiction under subsection
5 1, paragraphs A and B and subsection 6, the
6 respective tribe or nation shall be deemed to be
7 enforcing tribal law, provided, ~~however,~~ that the
8 definitions of the criminal offenses and the juvenile
9 crimes, and the punishments applicable thereto, over
10 which the respective tribe or nation has exclusive
11 jurisdiction under this section, shall be governed by
12 the laws of the State. The procedures for the establishment
13 and operation of tribal forums created to effectuate
14 the purpose of this section shall be governed by any and
15 all federal statutes, including, but without limitation,
16 the provisions of the United States Code, Title 25, sections
17 1301 -- 03 and rules or regulations generally applicable to
18 the exercise of criminal jurisdiction by Indian tribes on
19 federal Indian reservations.
20

21 Sec. 3. 30 MRSA §6209, sub-§6 is enacted to
22 read:

23 6. Criminal offenses by nonmembers. The
24 Penobscot Nation shall have the right to exercise
25 exclusive jurisdiction separate and distinct from the
26 State over criminal offenses against a person or
27 property for which the maximum potential term of
28 imprisonment is less than one year and the maximum
29 potential fine does not exceed \$1,000 and violations
30 of statutes or regulations governing the operation of
31 motor vehicles including Title 17-A, section 360,
32 subsection 1, paragraphs A and B, and Title 28,
33 section 1002, but not including Title 29, chapter
34 18-A, when those criminal offenses or other violations
35 are committed on the Penobscot Indian reservation
36 by a person over whom the Penobscot Nation does
37 not have the right to exercise exclusive jurisdiction
38 under subsection 1. All the provisions of this
39 section relating to the exercise of or termination of
40 the exercise of jurisdiction by the Penobscot Nation
41 authorized by this section shall apply to this sub-
42 section.

1 STATEMENT OF FACT

2 This bill adds a new subsection to Title 30,
3 section 6209, extending the jurisdiction of the
4 Penobscot Tribal Court over offenses whose maximum
5 fine is not over \$1,000 and maximum imprisonment is
6 not over one year, as well as to violations of the
7 motor vehicle laws committed by nonmembers on the
8 reservation.

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