

MAINE STATE LEGISLATURE

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L.D. 2440

(Filing No. S- 482)

STATE OF MAINE
SENATE
113TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 929, L.D. 2440,
Bill, "AN ACT Concerning Tribal Courts."

Amend the bill by striking out all of the title
and inserting in its place the following:

'AN ACT Concerning the Penobscot Tribal Court.'

Further amend the bill by striking out everything
after the title and inserting in its place the
following:

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

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

A. Criminal offenses against a person or property
for which the maximum potential term of
imprisonment does not exceed 6 months and the
maximum potential fine does not exceed \$500 and
which are committed on the Indian reservation of
the respective tribe or nation by a member of
either tribe or nation against another member of
either tribe or nation or against the property of
another member of either tribe or nation.

1 (1) The Penobscot Nation shall also have the
2 right to exercise exclusive jurisdiction
3 separate and distinct from the State over
4 criminal offenses against a person or
5 property for which the maximum potential term
6 of imprisonment is less than one year and the
7 maximum potential fine does not exceed \$5,000
8 and which are committed on the Penobscot
9 Indian Reservation by a member of the
10 Penobscot Nation against another member of
11 the Penobscot Nation or against the property
12 of another member of the Penobscot Nation.

13 (a) This subparagraph is repealed on
14 September 30, 1995. Before that date,
15 the Penobscot Nation and the Department
16 of the Attorney General may each submit
17 written reports to the joint standing
18 committee of the Legislature having
19 jurisdiction over judiciary concerning
20 the effect of this subparagraph;

21 **Sec. 2. Effective date; certification.** This Act
22 shall take effect October 1, 1989, provided that,
23 within 60 days of the adjournment of the Legislature,
24 the Secretary of State receives written certification
25 by the Governor and Council of the Penobscot Nation
26 that the Penobscot Nation has agreed to the provisions
27 of this Act pursuant to the United States Code, Title
28 25, Section 1725(e)(1), copies of which shall be
29 submitted by the Secretary of State to the Secretary
30 of the Senate and the Clerk of the House of
31 Representatives.'

32 STATEMENT OF FACT

33 This amendment completely rewrites the original
34 bill to expand the jurisdiction of the Penobscot
35 Tribal Court to include Class D crimes committed on
36 the Penobscot Reservation between members of the
37 Penobscot Nation or by one tribal member against
38 another tribal member's property. Class D crimes

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COMMITTEE AMENDMENT " A " to S.P. 929, L.D. 2440

1 generally include those for which the punishment is
2 limited to imprisonment of less than one year and, for
3 individuals, a fine of up to \$1,000. When a Class D
4 crime is committed by an organization or when an
5 individual commits certain Class D crimes, such as
6 hunting a bear during closed season, as provided in
7 the Maine Revised Statutes, Title 12, section 7901,
8 state law prescribes fines higher than \$1,000. Under
9 the amendment, the Penobscot Tribal Court will have
10 jurisdiction over all offenses punishable by less than
11 one year imprisonment and a fine of up to \$5,000.

12 Existing law, limiting the court to hearing Class
13 E crimes, is based on limits that existed at the time
14 of the Maine Indian Land Claims Settlement Act in the
15 United States Indian Civil Rights Act. The United
16 States Indian Civil Rights Act was amended in 1986 to
17 provide that the tribal courts may impose greater
18 penalties, namely up to one year imprisonment and a
19 \$5,000 fine. This amendment establishes consistency
20 with the powers permitted other tribal courts under
21 federal law.

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Reported by Senator Gauvreau for the Committee on Judiciary.
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