MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

H.P. 1494 House of Representatives, January 7, 1992 Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26. Reference to the Committee on Judiciary suggested and ordered printed. EDWIN H. PERT, Clerk Presented by Representative CASHMAN of Old Town. Cosponsored by Representative LAWRENCE of Kittery and Representative KETTERER of Madison. STATE OF MAINE IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND NINETY-TWO An Act Concerning Tribal Courts.

Be it en	acted by	the t	People	of the	State of	Maine a	as follows:
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22.

- Sec. 1. 30 MRSA $\S6209$, sub- $\S1$, as amended by PL 1987, c. 756, $\S\S1$ and 2, is further amended to read:
- 1. Exclusive jurisdiction in tribes over certain matters. Except as provided in subsections 3 and 4, the Passamaquoddy Tribe and the Penobscot Nation shall have the right to exercise exclusive jurisdiction separate and distinct from the State over:
 - 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 that are committed on within the Indian reservation territory of the respective tribe or nation by a member of either tribe or nation, except when committed against another any person who is not a member of either tribe or nation or against the property of another any person who is not a member of either tribe or nation.
 - (1) The Passamaquoddy Tribe and the Penobscot Nation shall also have the right to exercise exclusive jurisdiction separate and distinct from the State over criminal offenses against—a—person—or—property for which the maximum potential term of imprisonment is less than one year and the maximum potential fine does not exceed \$5,000 and which that are committed en—the Penebsect——Indian——Reservation within the Indian territory of the respective tribe or nation by a member of the—Penebsect—Nation either tribe or nation, except when committed against another any person who is not a member of the—Penebscot—Nation either tribe or nation or against the property of another any person who is not a member of the—Penebscot—Nation either tribe or nation.
 - (a) This subparagraph is repealed on September 30, 1995. Before that date, the Penobscot Nation, the Passamaquoddy Tribe and the Department of the Attorney General may each submit written reports to the joint standing committee of the Legislature having jurisdiction over judiciary concerning the effect of this subparagraph.
 - B. Juvenile crimes against—a-person-or-property involving conduct which that, if committed by an adult, would fall, under paragraph A, within the exclusive jurisdiction of the Passamaquoddy Tribe or the Penobscot Nation, and juvenile crimes as defined in Title 15, section 3103, subsection 1, paragraphs B to D committed by a juvenile member of either

tribe or nation on within the Indian reservation territory of the respective tribe or nation;

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- C. Civil actions between members of either tribe or nation arising en within the Indian reservation territory of the respective tribe or nation and which that are cognizable as small claims under the laws of the State and civil actions against a member of either tribe or nation under Title 22, section 2383 involving conduct en within the Indian reservation territory of the respective tribe or nation by a member of either tribe or nation;
- D. Indian child custody proceedings to the extent authorized by applicable federal law; and
- E. Other domestic relations matters including marriage, divorce and support between members of either tribe or nation both of whom reside en within the Indian reservation territory of the respective tribe or nation.

The decision to exercise or terminate the exercise of the jurisdiction authorized by this subsection shall-be is made by the tribal governing body. Should either tribe or nation choose not to exercise, or choose to terminate its exercise of, jurisdiction over the criminal, juvenile, civil and domestic matters described in this subsection, the State shall-have 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 shall apply within the Passamaquoddy and Penobscot Indian reservations territories and the State shall have has exclusive jurisdiction over those offenses and crimes.

Sec. 2. Effective date; certification. This Act is not effective unless, within 60 days of the adjournment of the Legislature, the Secretary of State receives written certification by the Governor and Council of the Penobscot Nation and the Joint Tribal Council of the Passamaquoddy Tribe that the nation and tribe have agreed to the provisions of this Act pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate and the Clerk of the House of Representatives; provided that in no event may this Act become effective until 90 days after the adjournment of the Legislature.

STATEMENT OF FACT

This bill extends the territorial jurisdiction of the Passamaquoddy and Penobscot Tribal Courts to all of the trust

lands of the respective tribes, instead of just their 2 reservations, over those criminal, civil and domestic matters that fall within the exclusive jurisdiction of the tribal 4 courts. Together, the trust lands and the reservations are referred to as the Indian territory of the respective tribes. The bill also extends the jurisdiction of the Passamaquoddy б Tribal Court to include Class D offenses committed by tribal members. In addition, the bill makes clear that the tribal 8 courts have jurisdiction over all Class D and Class E offenses 10 committed within Indian territory by tribal members unless the person or property of a nonmember of either tribe is the victim 12 of the crime. Offenses committed by or against nonmembers of either tribe, or against the property of nonmembers, would 14 continue to be brought in state courts.