

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

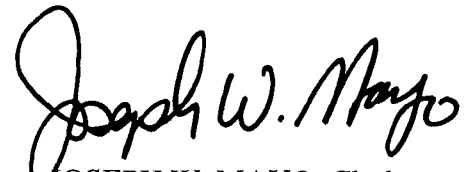
No. 116

H.P. 80

House of Representatives, January 17, 1995

**An Act to Clarify that the Jurisdiction of Tribal Courts Is Consistent with
Federal Laws.**

Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative KEANE of Old Town.
Cosponsored by Representatives: FISHER of Brewer, POVICH of Ellsworth, VOLENIK of
Sedgwick, Senator: RUHLIN of Penobscot.

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

Sec. 1. 30 MRSA §6209, sub-§1, ¶A, as amended by PL 1991, c. 766, §1 and affected by §2, is further 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 \$1,000 and that are committed on the Indian reservation of the ~~respective-tribe-or-nation~~ Passamaquoddy Tribe by a member of either ~~tribe~~ the Passamaquoddy Tribe or ~~nation~~ the Penobscot Nation against another member of either tribe or nation or against the property of another member of either tribe or nation.

(1) The Passamaquoddy Tribe ~~and-the-Penobscot-Nation~~ ~~also--have~~ has the right to exercise exclusive jurisdiction separate and distinct from the State over 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 the Indian reservation of the ~~respective~~ ~~tribe or-nation~~ by a member of either tribe or nation, except when committed against a person who is not a member of either tribe or nation or against the property of a person who is not a member of 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(a) This subparagraph is repealed on September 30, 1995.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 matters concerning the effect of this subparagraph;

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

A-1. 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 \$1,000 and that are committed on the Indian reservation of the Penobscot Nation by a member of any federally recognized Indian tribe, nation, band or other group against another member of any federally recognized Indian tribe, nation, band or other group or against the property of another member of any federally recognized Indian tribe, nation, band or other group.

2 (1) The Penobscot Nation also has the right to
3 exercise exclusive jurisdiction separate and distinct
4 from the State over criminal offenses for which the
5 maximum potential term of imprisonment is less than one
6 year and the maximum potential fine does not exceed
7 \$5,000 and that are committed on the Indian reservation
8 of the nation by a member of any federally recognized
9 Indian tribe, nation, band or other group, except when
10 committed against a person who is not a member of the
11 nation or against the property of a person who is not a
12 member of the nation.

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

20 **Sec. 3. 30 MRSA §6209, sub-§1, ¶B,** as enacted by PL 1979, c.
21 732, §1, is amended to read:

22 B. Juvenile crimes against a person or property involving
23 conduct ~~which,~~ that if committed by an adult, would fall,
24 under paragraph A, within the exclusive jurisdiction of the
25 Passamaquoddy Tribe ~~or the Penobscot Nation,~~ and juvenile
26 crimes, as defined in Title 15, section 3103, subsection 1,
27 paragraphs B to D, committed by a juvenile member of either
28 tribe or nation on the Indian reservation of the respective
29 tribe or nation;

30 **Sec. 4. 30 MRSA §6209, sub-§1, ¶B-1** is enacted to read:

31 B-1. Juvenile crimes against a person or property involving
32 conduct that if committed by an adult would fall under
33 paragraph A within the exclusive jurisdiction of the
34 Penobscot Nation, and juvenile crimes, as defined in Title
35 15, section 3103, subsection 1, paragraphs B to D, committed
36 by a juvenile member of any federally recognized Indian
37 tribe, nation, band or other group on the Indian reservation
38 of the tribe nation, band or other group;

39 **Sec. 5. Effective date.** This Act is not effective unless,
40 within 60 days of the adjournment of the First Regular Session of
41 the 117th Legislature, the Secretary of State receives written
42 certification by the Governor and the Council of the Penobscot
43 Nation that the nation and tribe have agreed to the provisions of
44 this Act pursuant to 25 United States Code, Section 1725(e),
45 copies of which must be submitted by the Secretary of State to

2 the Secretary of the Senate, the Clerk of the House of
Representatives and the Revisor of Statutes, provided that in no
4 event may the Act become effective until 90 days after the
adjournment of the Legislature.

6

8 STATEMENT OF FACT

8

10 This bill amends the Act to Implement the Maine Indian
Claims Settlement defining the jurisdiction of the Penobscot
Nation and the Passamaquoddy Tribe over certain crimes committed
12 on their respective reservations.

14

16 Congress enacted legislation in response to the United
States Supreme Court decision in Duro v. Reina, 495 U.S. 676
(1990) clarifying that a federally recognized Indian tribe,
18 nation, band or other group has jurisdiction over a person who
commits a crime on the reservation of that tribe, nation, band or
group when that person is a member of any federally recognized
20 tribe, nation, band or other group.

22

24 This bill amends state law to comply with the federal law,
Public Law 102-137, for crimes committed on the Indian
reservation of the Penobscot Nation. Changes are not included
concerning the jurisdiction of the Passamaquoddy Tribe. Because
26 of this distinction, the bill deletes references to the Penobscot
Nation from the paragraphs concerning criminal jurisdiction and
enacts similar paragraphs, with the conforming language, covering
28 just the Penobscot Nation.

30