

MAINE STATE LEGISLATURE

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L.D. 2007

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Report A

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JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1287, L.D. 2007, "An Act to Advance Self-determination for Wabanaki Nations"

Amend the bill by striking out the title and substituting the following:

'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'

Amend the bill by striking out everything after the enacting clause and inserting the following:

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.

COMMITTEE AMENDMENT

1 The Passamaquoddy Tribe may not deny to any criminal defendant prosecuted for a
2 Class C crime the rights and protections enumerated in 25 United States Code, Section
3 1302(c):

4 B. Juvenile crimes against a person or property involving conduct that, if committed
5 by an adult, would fall within the exclusive jurisdiction of the Passamaquoddy Tribe
6 under paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection
7 1, paragraphs B and C, committed by a juvenile member of the Passamaquoddy Tribe,
8 the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation
9 within Passamaquoddy Indian territory;

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

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

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

24 F. Notwithstanding any other provision of this subsection, civil and criminal actions
25 regarding the enforcement of ordinances enacted pursuant to section 6207, subsection
26 10, except that the Passamaquoddy Tribe may not exercise jurisdiction over a nonprofit
27 public municipal corporation, including, but not limited to, the water district
28 established by Private and Special Law 1983, chapter 25.

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

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

40 **1-A. Concurrent jurisdiction over certain criminal offenses.** The Passamaquoddy
41 Tribe has the right to exercise jurisdiction, concurrently with the State, over the following
42 ~~Class D crimes committed by a person on the Passamaquoddy Indian Reservation or on~~
43 ~~lands taken into trust by the secretary for the benefit of the Passamaquoddy Tribe, now or~~
44 ~~in the future, for which the potential maximum term of imprisonment does not exceed one~~

COMMITTEE AMENDMENT

1 ~~year and the potential fine does not exceed \$2,000; Title 17-A, sections 207-A, 209-A,~~
 2 ~~210-B, 210-C and 211-A and Title 19-A, section 4011. The concurrent jurisdiction~~
 3 ~~authorized by this subsection does not include an offense committed by a juvenile or a~~
 4 ~~criminal offense committed by a person who is not a member of any federally recognized~~
 5 ~~Indian tribe, nation, band or other group against the person or property of a person who is~~
 6 ~~not a member of any federally recognized Indian tribe, nation, band or other group. criminal~~
 7 ~~offenses:~~

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

13 B. Class C, D and E crimes committed within Passamaquoddy Indian territory by a
 14 person who is not a member of any federally recognized Indian tribe, nation, band or
 15 other group as authorized in the federal Violence Against Women Act Reauthorization
 16 Act of 2022, Public Law 117-103, Division W, Title VIII, Subtitle A, Section 804, 25
 17 United States Code, Section 1304. Notwithstanding subsection 2, the Passamaquoddy
 18 Tribe may not deny to any criminal defendant prosecuted pursuant to this paragraph
 19 the rights and protections enumerated in 25 United States Code, Sections 1302(a),
 20 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the
 21 United States Constitution in order for Congress or the State to recognize concurrent
 22 jurisdiction under this paragraph.

23 ~~The governing body of the Passamaquoddy Tribe shall decide whether to exercise or~~
 24 ~~terminate the exercise of jurisdiction authorized by this subsection. Notwithstanding~~
 25 ~~subsection 2, the Passamaquoddy Tribe may not deny to any criminal defendant prosecuted~~
 26 ~~under this subsection the right to a jury of 12, the right to a unanimous jury verdict, the~~
 27 ~~rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c),~~
 28 ~~1303 and 1304(d) and all other rights whose protection is necessary under the United States~~
 29 ~~Constitution in order for the State to authorize concurrent jurisdiction under this subsection.~~
 30 ~~If a criminal defendant prosecuted under this subsection moves to suppress statements on~~
 31 ~~the ground that they were made involuntarily, the prosecution has the burden to prove~~
 32 ~~beyond a reasonable doubt that the statements were made voluntarily.~~

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

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

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

43 1-B. Exclusive jurisdiction of the State. Except as provided in subsection 1,
 44 paragraphs A and B and subsection 1-A, all laws of the State relating to criminal offenses
 45 and juvenile crimes apply within Passamaquoddy Indian territory and the State has

1 exclusive jurisdiction over those offenses and crimes. Notwithstanding subsections 1 and
 2 1-A, the State has exclusive jurisdiction over:

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

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

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

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

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

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

40 **PART B**

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

43 **1. General powers.** Except as otherwise provided in this Act, the Passamaquoddy
 44 Tribe and the Penobscot Nation, within their respective Indian territories, ~~shall have;~~ and

1 may exercise and enjoy all the rights, privileges, powers and immunities, including, but
 2 without limitation, the power to enact ordinances and collect taxes, and ~~shall be~~ are subject
 3 to all the duties, obligations, liabilities and limitations of a municipality of and subject to
 4 the laws of the State, provided, however, that internal tribal matters, including membership
 5 in the respective tribe or nation, the right to reside within the respective Indian territories,
 6 tribal organization, tribal government, tribal elections, the use or disposition of settlement
 7 fund income and the exercise of power by the Passamaquoddy Tribe pursuant to section
 8 6207, subsection 10, section 6207-A and section 6209-A, subsection 1, paragraph F ~~shall~~
 9 and by the Penobscot Nation pursuant to section 6207, subsection 11, section 6207-B and
 10 section 6209-B, subsection 1, paragraph F, respectively, is not be subject to regulation by
 11 the State. The Passamaquoddy Tribe and the Penobscot Nation shall designate such officers
 12 and officials as are necessary to implement and administer those laws of the State
 13 applicable to the respective Indian territories and the residents thereof. Any resident of the
 14 Passamaquoddy Indian territory or the Penobscot Indian territory who is not a member of
 15 the respective tribe or nation nonetheless ~~shall be~~ is equally entitled to receive any
 16 municipal or governmental services provided by the respective tribe or nation or by the
 17 State, except those services ~~which that~~ that are provided exclusively to members of the
 18 respective tribe or nation pursuant to state or federal law, and ~~shall be~~ is entitled to vote in
 19 national, state and county elections in the same manner as any tribal member residing
 20 within Indian territory.

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

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

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

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

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

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

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

39 **§6207-B. Jurisdiction of Penobscot Nation over drinking water within the Penobscot**
 40 **Indian territory**

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

1 **1. Jurisdiction of Penobscot Nation to administer drinking water-related**
 2 **programs.** The Penobscot Nation may seek to be treated as a state pursuant to the federal
 3 Safe Drinking Water Act, 42 United States Code, Section 300j-11, and its implementing
 4 regulations, as amended, within the Penobscot Indian territory and may otherwise benefit
 5 from and exercise jurisdiction under any other federal law enacted after October 10, 1980
 6 that permits a federally recognized Indian tribe to administer drinking water-related
 7 programs; and

8 **2. Administration of drinking water-related programs does not affect or preempt**
 9 **state law.** The application of any provision of the federal Safe Drinking Water Act and its
 10 implementing regulations, as amended, and of any other federal law enacted after October
 11 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-
 12 related programs and the enforcement of such laws and regulations by the Penobscot Nation
 13 under subsection 1 does not affect or preempt the laws of the State.

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

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

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

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

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

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

35 The Penobscot Nation may not deny to any criminal defendant prosecuted for a Class
 36 C crime the rights and protections enumerated in 25 United States Code, Section
 37 1302(c);

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

- 1 C. Civil actions between members of ~~either~~ the Passamaquoddy Tribe, the Houlton
 2 Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation arising ~~on the~~
 3 ~~Indian reservation of the~~ within Penobscot Nation Indian territory and cognizable as
 4 small claims under the laws of the State, and civil actions against a member of ~~either~~
 5 ~~the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation~~
 6 or the Penobscot Nation under Title 22, section 2383 involving conduct ~~on the Indian~~
 7 ~~reservation of the~~ within Penobscot Nation Indian territory by a member of ~~either~~ the
 8 Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or
 9 the Penobscot Nation;
- 10 D. Indian child custody proceedings to the extent authorized by applicable state and
 11 federal law; ~~and~~
- 12 E. Other domestic relations matters, including marriage, divorce and support, between
 13 members of ~~either~~ the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians,
 14 the Mi'kmaq Nation or the Penobscot Nation, both of whom reside ~~on the Indian~~
 15 ~~reservation of the~~ within Penobscot Nation Indian territory; and
- 16 F. Notwithstanding any other provision of this subsection, civil and criminal actions
 17 regarding the enforcement of ordinances enacted pursuant to section 6207, subsection
 18 11, except that the Penobscot Nation may not exercise jurisdiction over a nonprofit
 19 public municipal corporation.

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

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

31 **1-A. Concurrent jurisdiction over certain criminal offenses.** The Penobscot Nation
 32 has the right to exercise jurisdiction, concurrently with the State, over the following ~~Class~~
 33 ~~D-crimes committed by a person on the Penobscot Indian Reservation or on lands taken~~
 34 ~~into trust by the secretary for the benefit of the Penobscot Nation now or in the future, for~~
 35 ~~which the potential maximum term of imprisonment does not exceed one year and the~~
 36 ~~potential fine does not exceed \$2,000: Title 17-A, sections 207-A, 209-A, 210-B, 210-C~~
 37 ~~and 211-A and Title 19-A, section 4011. The concurrent jurisdiction authorized by this~~
 38 ~~subsection does not include an offense committed by a juvenile or a criminal offense~~
 39 ~~committed by a person who is not a member of any federally recognized Indian tribe,~~
 40 ~~nation, band or other group against the person or property of a person who is not a member~~
 41 ~~of any federally recognized Indian tribe, nation, band or other group. criminal offenses:~~

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

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

3 B. Class C, D and E crimes committed within Penobscot Indian territory by a person
 4 who is not a member of any federally recognized Indian tribe, nation, band or other
 5 group as authorized in the federal Violence Against Women Act Reauthorization Act
 6 of 2022, Public Law 117-103, Division W, Title VIII, Subtitle A, Section 804, 25
 7 United States Code, Section 1304. Notwithstanding subsection 2, the Penobscot
 8 Nation may not deny to any criminal defendant prosecuted pursuant to this paragraph
 9 the rights and protections enumerated in 25 United States Code, Sections 1302(a),
 10 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the
 11 United States Constitution in order for Congress or the State to recognize concurrent
 12 jurisdiction under this paragraph.

13 ~~The governing body of the Penobscot Nation shall decide whether to exercise or terminate~~
 14 ~~the exercise of jurisdiction authorized by this subsection. Notwithstanding subsection 2,~~
 15 ~~the Penobscot Nation may not deny to any criminal defendant prosecuted under this~~
 16 ~~subsection the right to a jury of 12, the right to a unanimous jury verdict, the rights and~~
 17 ~~protections enumerated in 25 United States Code, Sections 1302(a), 1302(e), 1303 and~~
 18 ~~1304(d) and all other rights whose protection is necessary under the United States~~
 19 ~~Constitution in order for the State to authorize concurrent jurisdiction under this subsection.~~
 20 ~~If a criminal defendant prosecuted under this subsection moves to suppress statements on~~
 21 ~~the ground that they were made involuntarily, the prosecution has the burden to prove~~
 22 ~~beyond a reasonable doubt that the statements were made voluntarily.~~

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

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

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

33 **1-B. Exclusive jurisdiction of the State.** Except as provided in subsection 1,
 34 paragraphs A and B and subsection 1-A, all laws of the State relating to criminal offenses
 35 and juvenile crimes apply within Penobscot Indian territory and the State has exclusive
 36 jurisdiction over those offenses and crimes. Notwithstanding subsections 1 and 1-A, the
 37 State has exclusive jurisdiction over:

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

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

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

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

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

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

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

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

34 **PART C**

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

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

41 **A. Criminal** ~~The following criminal offenses for which the maximum potential term~~
 42 ~~of imprisonment does not exceed one year and the maximum potential fine does not~~
 43 ~~exceed \$5,000 and that are committed on Houlton Band Jurisdiction Land by a~~ an adult

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1 member of any federally recognized Indian tribe, nation, band or other group, ~~except~~
2 ~~when committed against a person who is not a member of any federally recognized~~
3 ~~Indian tribe, nation, band or other group or against the property of a person who is not~~
4 ~~a member of any federally recognized Indian tribe, nation, band or other group;~~

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

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

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

14 B. Juvenile crimes against a person or property involving conduct that, if committed
15 by an adult, would fall within the exclusive jurisdiction of the Houlton Band of
16 Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15, section
17 3103, subsection 1, paragraphs B and C, committed by a juvenile member of the
18 Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or
19 the Mi'kmaq Nation within Houlton Band Jurisdiction Land;

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

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

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

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

38 The governing body of the Houlton Band of Maliseet Indians shall decide whether to
39 exercise or terminate the exercise of the exclusive jurisdiction authorized by this
40 subsection. The decision to exercise, to terminate the exercise of or to reassert the exercise
41 of jurisdiction under each of the subject areas described by paragraphs A to E may be made
42 separately. Until the Houlton Band of Maliseet Indians notifies the Attorney General that
43 the band has decided to exercise exclusive jurisdiction set forth in any or all of the
44 paragraphs in this subsection, the State has exclusive jurisdiction over those matters. If the

COMMITTEE AMENDMENT

1 Houlton Band of Maliseet Indians chooses not to exercise or chooses to terminate its
 2 exercise of exclusive jurisdiction set forth in any or all of the paragraphs in this subsection,
 3 the State has exclusive jurisdiction over those matters until the Houlton Band of Maliseet
 4 Indians chooses to exercise its exclusive jurisdiction. When the Houlton Band of Maliseet
 5 Indians chooses to reassert the exercise of exclusive jurisdiction over any or all of the areas
 6 of the exclusive jurisdiction authorized by this subsection it must first provide 30 days'
 7 notice to the Attorney General. ~~Except as provided in paragraphs A and B, all laws of the~~
 8 ~~State relating to criminal offenses and juvenile crimes apply within the Houlton Band Trust~~
 9 ~~Land and the State has exclusive jurisdiction over those offenses and crimes~~ In exercising
 10 its exclusive jurisdiction under paragraphs A and B, the Houlton Band of Maliseet Indians
 11 is enforcing the tribal law of the Houlton Band of Maliseet Indians.

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

13 **1-C. Concurrent jurisdiction over certain criminal offenses.** The Houlton Band of
 14 Maliseet Indians has the right to exercise jurisdiction, concurrently with the State, over the
 15 following criminal offenses:

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

21 B. Class C, D and E crimes committed on Houlton Band Jurisdiction Land by a person
 22 who is not a member of any federally recognized Indian tribe, nation, band or other
 23 group as authorized in the federal Violence Against Women Act Reauthorization Act
 24 of 2022, Public Law 117-103, Division W, Title VIII, Subtitle A, Section 804, 25
 25 United States Code, Section 1304. Notwithstanding subsection 2, the Houlton Band of
 26 Maliseet Indians may not deny to any criminal defendant prosecuted pursuant to this
 27 paragraph the rights and protections enumerated in 25 United States Code, Sections
 28 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary
 29 under the United States Constitution in order for Congress or the State to recognize
 30 concurrent jurisdiction under this paragraph.

31 The Houlton Band of Maliseet Indians may not deny to any criminal defendant prosecuted
 32 for a Class C crime the rights and protections enumerated in 25 United States Code, Section
 33 1302(c).

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

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

43 **1-D. Exclusive jurisdiction of the State.** Except as provided in subsection 1,
 44 paragraphs A and B and subsection 1-C, all laws of the State relating to criminal offenses

1 and juvenile crimes apply within Houlton Band Trust Land and the State has exclusive
 2 jurisdiction over those offenses and crimes. Notwithstanding subsections 1 and 1-C, the
 3 State has exclusive jurisdiction over:

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

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

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

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

20 **2. Definitions of crimes; tribal procedures.** ~~In exercising its exclusive jurisdiction~~
 21 ~~under subsection 1, paragraphs A and B, the Houlton Band of Maliseet Indians is deemed~~
 22 ~~to be enforcing tribal law of the Houlton Band of Maliseet Indians.~~ The definitions of the
 23 criminal offenses and juvenile crimes and the punishments applicable to those criminal
 24 offenses and juvenile crimes over which the Houlton Band of Maliseet Indians has
 25 exclusive jurisdiction under this section are governed by the laws of the State. Issuance and
 26 execution of criminal process are also governed by the laws of the State. The procedures
 27 for the establishment and operation of tribal forums created to effectuate the purposes of
 28 this section are governed by federal statute, including, without limitation, the provisions of
 29 25 United States Code, Sections 1301 to 1303 and rules and regulations generally
 30 applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian
 31 reservations.

32 **Sec. C-5. Contingent effective date.** This Part takes effect 150 days after
 33 adjournment of the Second Regular Session of the 131st Legislature only if, within 120
 34 days after adjournment of the Second Regular Session of the 131st Legislature, the
 35 Secretary of State receives written certification from the Chief of the Houlton Band of
 36 Maliseet Indians, or the designee under the Maine Revised Statutes, Title 3, section 602,
 37 that the Houlton Band of Maliseet Indians has agreed to the provisions of this Part, copies
 38 of which must be submitted by the Secretary of State to the Secretary of the Senate, the
 39 Clerk of the House of Representatives and the Revisor of Statutes. Upon such written
 40 certification by the Houlton Band Council of the Houlton Band of Maliseet Indians, each
 41 section of this Part regarding or affecting the Houlton Band of Maliseet Indians and its
 42 tribal members and lands constitutes a jurisdictional agreement for purposes of the federal
 43 Maine Indian Claims Settlement Act of 1980, Public Law 96-420, Section 6(e)(2). Such
 44 written certification by the Houlton Band Council of the Houlton Band of Maliseet Indians

1 does not constitute an agreement that the contingencies in Public Law 1981, chapter 675
2 were met or that the provisions of Public Law 1981, chapter 675 ever took effect.

3 **PART D**

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

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

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

11 ~~A. Criminal~~ The following criminal offenses for which the maximum potential term
12 ~~of imprisonment is less than one year and the maximum potential fine does not exceed~~
13 ~~\$5,000 and that are committed on Mi'kmaq Nation Jurisdiction Land by a an adult~~
14 ~~member of any federally recognized Indian tribe, nation, band or other group, except~~
15 ~~when committed against a person who is not a member of any federally recognized~~
16 ~~Indian tribe, nation, band or other group or against the property of a person who is not~~
17 ~~a member of any federally recognized Indian tribe, nation, band or other group;~~

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

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

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

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

32 C. Civil actions between members of the Mi'kmaq Nation, the Passamaquoddy Tribe,
33 the Houlton Band of Maliseet Indians or the Penobscot Nation arising on Mi'kmaq
34 Nation Jurisdiction Land and cognizable as small claims under the laws of the State
35 and civil actions against a member of the Mi'kmaq Nation, the Passamaquoddy Tribe,
36 the Houlton Band of Maliseet Indians or the Penobscot Nation under Title 22, section
37 2383 involving conduct within Mi'kmaq Nation Jurisdiction Land by a member of the
38 Mi'kmaq Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or
39 the Penobscot Nation;

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

42 E. Other domestic relations matters, including marriage, divorce and support, between
43 members of the Mi'kmaq Nation, the Passamaquoddy Tribe, the Houlton Band of

1 Maliseet Indians or the Penobscot Nation, both of whom reside within Mi'kmaq Nation
 2 Jurisdiction Land; and

3 F. Notwithstanding any other provision of this subsection, civil and criminal actions
 4 regarding the enforcement of ordinances enacted pursuant to section 7206, subsection
 5 8, except that the Mi'kmaq Nation may not exercise jurisdiction over a nonprofit public
 6 municipal corporation.

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

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

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

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

41 B. Class C, D and E crimes committed on Mi'kmaq Nation Jurisdiction Land by a
 42 person who is not a member of any federally recognized Indian tribe, nation, band or
 43 other group as authorized in the federal Violence Against Women Act Reauthorization
 44 Act of 2022, Public Law 117-103, Division W, Title VIII, Subtitle A, Section 804, 25
 45 United States Code, Section 1304. Notwithstanding subsection 3, the Mi'kmaq Nation

1 may not deny to any criminal defendant prosecuted pursuant to this paragraph the rights
 2 and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303
 3 and 1304(d) and all other rights whose protection is necessary under the United States
 4 Constitution in order for Congress or the State to recognize concurrent jurisdiction
 5 under this paragraph.

6 ~~The governing body of the Mi'kmaq Nation shall decide whether to exercise or terminate~~
 7 ~~the exercise of jurisdiction authorized by this subsection. Notwithstanding subsection 3,~~
 8 ~~the Mi'kmaq Nation may not deny to any criminal defendant prosecuted under this~~
 9 ~~subsection the right to a jury of 12, the right to a unanimous jury verdict, the rights and~~
 10 ~~protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and~~
 11 ~~1304(d) and all other rights whose protection is necessary under the United States~~
 12 ~~Constitution in order for the State to authorize concurrent jurisdiction under this subsection.~~
 13 ~~If a criminal defendant prosecuted under this subsection moves to suppress statements on~~
 14 ~~the ground that they were made involuntarily, the prosecution has the burden to prove~~
 15 ~~beyond a reasonable doubt that the statements were made voluntarily.~~

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

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

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

26 2-A. Exclusive jurisdiction of the State. Except as provided in subsection 1,
 27 paragraphs A and B and subsection 2, all laws of the State relating to criminal offenses and
 28 juvenile crimes apply within Mi'kmaq Nation Trust Land and the State has exclusive
 29 jurisdiction over those offenses and crimes. Notwithstanding subsections 1 and 2, the State
 30 has exclusive jurisdiction over:

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

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

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

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

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

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

22 **PART E**

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

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

38 A. Section 6209-A.

39 B. Section 6209-B.

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

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

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

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

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

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

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

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

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

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

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

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

40 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
 41 number to read consecutively.

SUMMARY

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This amendment, which is the majority report of the committee, replaces the bill, which is a concept draft, and changes the title. Parts A, B, C and D of the amendment amend the provisions of An Act to Implement the Maine Indian Claims Settlement, commonly known as "the Maine Implementing Act," and the provisions of the Mi'kmaq Nation Restoration Act to adopt most of federal Indian law related to the criminal jurisdiction of tribal courts, including the Indian Civil Rights Act of 1968, the Tribal Law and Order Act of 2010 and the tribal provisions of the Violence Against Women Act Reauthorization Act of 2022. The amendment affects the jurisdiction of the Passamaquoddy Tribal Court, the Penobscot Nation Tribal Court and the Houlton Band of Maliseet Indians Tribal Court as well as the potential criminal jurisdiction of the Mi'kmaq Nation Tribal Court, collectively referred to in this summary as "the tribal courts of the Wabanaki Nations." More specifically, Parts A, B, C and D of the amendment:

1. Recognize the exclusive jurisdiction of the tribal courts of the Wabanaki Nations over Class C, D and E crimes committed within the relevant Wabanaki Nation's respective Indian territory or jurisdiction land by an adult member of a federally recognized Indian tribe if those crimes:

- A. Are defined in the Maine Revised Statutes, Title 15, 17, 17-A, 19-A or 29-A and are not committed against a person or the property of a person; or
- B. Are defined in any Title of the Maine Revised Statutes and are committed against a person or the property of a person who is a member of any federally recognized Indian tribe;

2. Recognize the concurrent jurisdiction of the State and of the tribal courts of the Wabanaki Nations over Class C, D and E crimes committed within the relevant Wabanaki Nation's respective Indian territory or jurisdiction land:

- A. By an adult member of a federally recognized Indian tribe against a person or the property of a person who is not a member of any federally recognized Indian tribe; or
- B. By a person who is not a member of any federally recognized Indian tribe against a member of any federally recognized Indian tribe as authorized in the federal Violence Against Women Act Reauthorization Act of 2022. When exercising this concurrent criminal jurisdiction, the tribal courts of the Wabanaki Nations may not deny to a defendant the 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 the tribal court's concurrent jurisdiction;

3. Provide that the tribal courts of the Wabanaki Nations 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), including the requirement that the judge presiding over the criminal proceeding is licensed to practice law and has sufficient legal training; the right to the effective assistance of counsel; the right to the appointment of licensed counsel at the expense of the tribal government if the defendant is indigent; the right to advance notice of all criminal laws and applicable court rules of the tribal government; and the right to have the criminal proceeding recorded;

1 4. Retain the provisions of current law directing that, when the tribal courts of the
 2 Wabanaki Nations exercise exclusive or concurrent criminal jurisdiction, the definitions of
 3 the crimes and the punishments applicable to those crimes are governed by state law but
 4 clarify that, in doing so, the tribal courts of the Wabanaki Nations are nevertheless
 5 enforcing their respective tribal law. It also retains the provisions of current law directing
 6 that the provisions of 25 United States Code, Sections 1301 to 1303 and rules or regulations
 7 generally applicable to the exercise of criminal jurisdiction by Indian tribes apply when the
 8 tribal courts of the Wabanaki Nations exercise exclusive or concurrent criminal
 9 jurisdiction;

10 5. Recognize the exclusive jurisdiction of the State over all crimes and juvenile crimes
 11 not within the exclusive or concurrent jurisdiction of the tribal courts of the Wabanaki
 12 Nations that are committed on Indian territory or jurisdiction land, including:

13 A. Notwithstanding any provision of law to the contrary, all crimes and juvenile crimes
 14 against the State or any office, department, agency, authority, commission, board,
 15 institution, hospital or other instrumentality of the State; and

16 B. All Class C, D and E crimes defined in provisions of the Maine Revised Statutes
 17 outside of Titles 15, 17, 17-A, 19-A and 29-A committed by an adult member of any
 18 federally recognized Indian tribe that are not committed against a person or the property
 19 of a person; and

20 6. Clarify that nothing within the Maine Implementing Act or the Mi'kmaq Nation
 21 Restoration Act affects, alters or preempts the authority of the State to investigate or
 22 prosecute any conduct occurring on Indian territory or trust land that is within the State's
 23 exclusive or concurrent jurisdiction.

24 Part B of the amendment also amends the provisions of the Maine Implementing Act
 25 governing the jurisdictional relationship between the State and the Penobscot Nation that
 26 were included within Part C of Public Law 2023, chapter 369, but that were not approved
 27 by the Penobscot Nation within the time frame established in Part C, section 6 of that law.
 28 These provisions of Part B of the amendment:

29 1. Recognize the exclusive authority of the Penobscot Nation in Penobscot Indian
 30 territory to enact ordinances regulating drinking water unless the nation exercises its
 31 discretion to enter into an intergovernmental agreement authorizing the State to exercise
 32 concurrent jurisdiction over specific drinking water-related issues. It also prohibits the
 33 State from exercising primary enforcement authority to implement the federal Safe
 34 Drinking Water Act within Penobscot Indian territory and recognizes the authority of the
 35 Penobscot Nation to seek to be treated as a state and to obtain primary enforcement
 36 authority to implement the federal Safe Drinking Water Act within Penobscot Indian
 37 territory;

38 2. Provide that the exclusive jurisdiction of the Penobscot Nation Tribal Court over
 39 certain criminal offenses, juvenile crimes, small claims and civil drug possession actions
 40 arising within the Penobscot Indian reservation under current law extends to those same
 41 types of criminal offenses, juvenile crimes, small claims and civil drug possession actions
 42 arising within all of Penobscot Indian territory. To the extent that the Penobscot Nation
 43 Tribal Court has exclusive jurisdiction over members of the Passamaquoddy Tribe or the
 44 Penobscot Nation under these provisions, it extends that exclusive jurisdiction to members
 45 of any of the Wabanaki Nations. It also provides that the exclusive jurisdiction of the

1 Penobscot Nation Tribal Court over domestic relations matters between members of the
 2 Passamaquoddy Tribe and the Penobscot Nation, both of whom reside on the Penobscot
 3 Indian reservation, extends to the same types of domestic relations matters arising between
 4 members of any of the Wabanaki Nations, both of whom reside within Passamaquoddy
 5 Indian territory. The amendment further recognizes the exclusive authority of the
 6 Penobscot Nation Tribal Court to enforce any drinking water ordinances adopted by the
 7 nation for Penobscot Indian territory, except that the nation may not exercise jurisdiction
 8 over a nonprofit public municipal corporation; and

9 3. Clarify within the Maine Implementing Act that the State must give full faith and
 10 credit to the judicial proceedings of the Penobscot Nation and that the Penobscot Nation
 11 must give full faith and credit to the judicial proceedings of the Passamaquoddy Tribe, the
 12 Houlton Band of Maliseet Indians, the Mi'kmaq Nation and the State.

13 Part E of the amendment also amends the provisions of the Maine Implementing Act
 14 governing the jurisdictional relationship between the State and both the Passamaquoddy
 15 Tribe and the Penobscot Nation that were included within Part E of Public Law 2023,
 16 chapter 369, but that were not approved by the Penobscot Nation within the time frame
 17 established in Part E, section 5 of that law. These provisions of Part E of the amendment:

18 1. Provide that the Passamaquoddy Tribe and the Penobscot Nation each have
 19 exclusive jurisdiction within their respective Indian territory over violations of their
 20 respective tribal ordinances by members of any federally recognized Indian tribe, but that
 21 the State has exclusive jurisdiction within Passamaquoddy Indian territory and Penobscot
 22 Indian territory over violations of applicable tribal ordinances by persons who are not
 23 members of any federally recognized Indian tribe; and

24 2. Provide that law enforcement officers appointed by the Passamaquoddy Tribe and
 25 the Penobscot Nation have exclusive authority to enforce, within their respective Indian
 26 territories, civil and domestic relations laws over which the Passamaquoddy Tribal Court
 27 and the Penobscot Nation Tribal Court have exclusive jurisdiction, respectively. Law
 28 enforcement officers appointed by the Passamaquoddy Tribe and the Penobscot Nation also
 29 have exclusive authority to enforce, on their respective Indian reservations, the criminal
 30 and juvenile offenses over which the Passamaquoddy Tribal Court and the Penobscot
 31 Nation Tribal Court have exclusive jurisdiction, respectively. State and county law
 32 enforcement officers have concurrent authority with law enforcement officers appointed
 33 by the Passamaquoddy Tribe and the Penobscot Nation to enforce all other laws of the State
 34 within both Indian territories and concurrent authority to enforce fishing rules or
 35 regulations adopted by the Maine Indian Tribal-State Commission.

36 **FISCAL NOTE REQUIRED**

37 (See attached)



131st MAINE LEGISLATURE

LD 2007

LR 1184(02)

An Act to Advance Self-determination for Wabanaki Nations

Fiscal Note for Bill as Amended by Committee Amendment 'A' (H-910)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor savings - General Fund

Minor revenue decrease - General Fund

Minor revenue decrease - Other Special Revenue Funds

Correctional and Judicial Impact Statements

There may be some minor reduction of workload associated with the minimal number of cases that will no longer be filed in the court system. Reductions in the collection of fines will decrease General Fund or other dedicated revenue by minor amounts.