

§6209-C. Jurisdiction of the Houlton Band of Maliseet Indians Tribal Court

(CONFLICT)

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. D, §8)

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

A. Criminal offenses for which the maximum potential term of imprisonment does not exceed one year and the maximum potential fine does not exceed \$5,000 and that are committed on Houlton Band Jurisdiction Land by a 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; [PL 2023, c. 369, Pt. D, §6 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Houlton Band of Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B and C, committed by a juvenile member of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation within Houlton Band Jurisdiction Land; [PL 2023, c. 369, Pt. D, §6 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

C. Civil actions between members of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation arising on Houlton Band Jurisdiction Land and cognizable as small claims under the laws of the State and civil actions against a member of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation under Title 22, section 2383 involving conduct within Houlton Band Jurisdiction Land by a member of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation; [PL 2023, c. 369, Pt. D, §6 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

D. **(CONFLICT: Text as amended by PL 2023, c. 359, §12)** Indian child custody proceedings to the extent authorized by applicable state and federal law; and [PL 2023, c. 359, §12 (AMD); PL 2023, c. 359, §13 (AFF).]

D. **(CONFLICT: Text as amended by PL 2023, c. 369, Pt. D, §6)** Indian child custody proceedings to the extent authorized by applicable state and federal law; [PL 2023, c. 369, Pt. D, §6 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

E. Other domestic relations matters, including marriage, divorce and support, between members of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation, both of whom reside within the Houlton Band Jurisdiction Land; and [PL 2023, c. 369, Pt. D, §6 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

F. Notwithstanding any other provision of this subsection, civil and criminal actions regarding the enforcement of ordinances enacted pursuant to section 6207-C, subsection 10, except that the Houlton Band of Maliseet Indians may not exercise jurisdiction over a nonprofit public municipal corporation. [PL 2023, c. 369, Pt. D, §6 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

The governing body of the Houlton Band of Maliseet Indians shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this subsection. The decision to exercise, to terminate the exercise of or to reassert the exercise of jurisdiction under each of the subject areas described by paragraphs A to E may be made separately. Until the Houlton Band of Maliseet

Indians notifies the Attorney General that the band has decided to exercise exclusive jurisdiction set forth in any or all of the paragraphs in this subsection, the State has exclusive jurisdiction over those matters. If the Houlton Band of Maliseet Indians chooses not to exercise or chooses to terminate its exercise of exclusive jurisdiction set forth in any or all of the paragraphs in this subsection, the State has exclusive jurisdiction over those matters until the Houlton Band of Maliseet Indians chooses to exercise its exclusive jurisdiction. When the Houlton Band of Maliseet Indians chooses to reassert the exercise of exclusive jurisdiction over any or all of the areas of the exclusive jurisdiction authorized by this subsection it must first provide 30 days' notice to the Attorney General. Except as provided in paragraphs A and B, all laws of the State relating to criminal offenses and juvenile crimes apply within the Houlton Band Trust Land and the State has exclusive jurisdiction over those offenses and crimes. [PL 2023, c. 359, §12 (AMD); PL 2023, c. 359, §13 (AFF); PL 2023, c. 369, Pt. D, §6 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

1-A. Exclusive jurisdiction over Penobscot Nation members.

[PL 2023, c. 369, Pt. D, §6 (RP); PL 2023, c. 369, Pt. D, §8 (AFF).]

REVISOR'S NOTE: (Subsection 1-A as enacted by PL 2009, c. 384, Pt. E, §2 and affected by §3 is REALLOCATED TO TITLE 30, SECTION 6209-C, SUBSECTION 1-B)

1-B. (REALLOCATED FROM T. 30, §6209-C, sub-§1-A) Exclusive jurisdiction over Passamaquoddy Tribe members.

[PL 2023, c. 369, Pt. D, §6 (RP); PL 2023, c. 369, Pt. D, §8 (AFF).]

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

[PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

2-A. Criminal records, juvenile records and fingerprinting. At the arraignment of a criminal defendant, the Houlton Band of Maliseet Indians Tribal Court shall inquire whether fingerprints have been taken or whether arrangements have been made for fingerprinting. If neither has occurred, the Houlton Band of Maliseet Indians Tribal Court shall instruct both the responsible law enforcement agency and the person charged as to their respective obligations in this regard, consistent with Title 25, section 1542-A.

At the conclusion of a criminal or juvenile proceeding within the Houlton Band of Maliseet Indians' exclusive or concurrent jurisdiction, except for a violation of Title 12 or Title 29-A that is a Class D or Class E crime other than a Class D crime that involves hunting while under the influence of intoxicating liquor or drugs or with an excessive alcohol level or the operation or attempted operation of a watercraft, all-terrain vehicle, snowmobile or motor vehicle while under the influence of intoxicating liquor or drugs or with an excessive alcohol level, the Houlton Band of Maliseet Indians Tribal Court shall transmit to the Department of Public Safety, State Bureau of Identification an abstract duly authorized on forms provided by the bureau.

[PL 2023, c. 369, Pt. D, §6 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

3. Lesser included offenses in state courts. In any criminal proceeding in the courts of the State in which a criminal offense under the exclusive jurisdiction of the Houlton Band of Maliseet Indians

constitutes a lesser included offense of the criminal offense charged, the defendant may be convicted in the courts of the State of the lesser included offense. A lesser included offense is as defined under the laws of the State.

[PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

4. Double jeopardy; collateral estoppel. A prosecution for a criminal offense or juvenile crime over which the Houlton Band of Maliseet Indians has exclusive jurisdiction under this section does not bar a prosecution for a criminal offense or juvenile crime arising out of the same conduct over which the State has exclusive jurisdiction. A prosecution for a criminal offense or juvenile crime over which the State has exclusive jurisdiction does not bar a prosecution for a criminal offense or juvenile crime arising out of the same conduct over which the Houlton Band of Maliseet Indians has exclusive jurisdiction under this section. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a tribal forum does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a state court. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a state court does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a tribal forum.

[PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

5. Houlton Band Jurisdiction Land.

[PL 2023, c. 369, Pt. D, §6 (RP); PL 2023, c. 369, Pt. D, §8 (AFF).]

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

[PL 2023, c. 369, Pt. D, §6 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

SECTION HISTORY

PL 2009, c. 384, Pt. B, §1 (NEW). PL 2009, c. 384, Pt. B, §2 (AFF). PL 2009, c. 384, Pt. D, §1 (AMD). PL 2009, c. 384, Pt. D, §2 (AFF). PL 2009, c. 384, Pt. E, §2 (AMD). PL 2009, c. 384, Pt. E, §3 (AFF). RR 2011, c. 1, §45 (COR). PL 2023, c. 359, §12 (AMD). PL 2023, c. 359, §13 (AFF). PL 2023, c. 369, Pt. D, §6 (AMD). PL 2023, c. 369, Pt. D, §8 (AFF).

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