

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

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 the Houlton Band Jurisdiction Land by a member of the Houlton Band of Maliseet Indians, except when committed against a person who is not a member of the Houlton Band of Maliseet Indians or against the property of a person who is not a member of the Houlton Band of Maliseet Indians; [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (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 on the Houlton Band Jurisdiction Land; [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

C. Civil actions between members of the Houlton Band of Maliseet Indians arising on the 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 under Title 22, section 2383 involving conduct on the Houlton Band Jurisdiction Land by a member of the Houlton Band of Maliseet Indians; [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

D. Indian child custody proceedings to the extent authorized by applicable federal law; and [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

E. Other domestic relations matters, including marriage, divorce and support, between members of the Houlton Band of Maliseet Indians, both of whom reside within the Houlton Band Jurisdiction Land. [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (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 subsections 2 and 3, 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 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

1-A. Exclusive jurisdiction over Penobscot Nation members. 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 the Houlton Band Jurisdiction Land by a member of the Penobscot Nation against a member or property of a member of those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection, and by a member of those federally

recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection against a member or the property of a member of the Penobscot Nation; [PL 2009, c. 384, Pt. D, §1 (NEW); PL 2009, c. 384, Pt. D, §2 (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 Penobscot Nation on the Houlton Band Jurisdiction Land; [PL 2009, c. 384, Pt. D, §1 (NEW); PL 2009, c. 384, Pt. D, §2 (AFF).]

C. Civil actions between a member of those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection and members of the Penobscot Nation arising on the Houlton Band Jurisdiction Land and cognizable as small claims under the laws of the State and civil actions against a member of the Penobscot Nation under Title 22, section 2383 involving conduct on the Houlton Band Jurisdiction Land by a member of the Penobscot Nation; [PL 2009, c. 384, Pt. D, §1 (NEW); PL 2009, c. 384, Pt. D, §2 (AFF).]

D. Indian child custody proceedings to the extent authorized by applicable federal law; and [PL 2009, c. 384, Pt. D, §1 (NEW); PL 2009, c. 384, Pt. D, §2 (AFF).]

E. Other domestic relations matters, including marriage, divorce and support, between members of either those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection or the Penobscot Nation, both of whom reside on the Houlton Band Jurisdiction Land. [PL 2009, c. 384, Pt. D, §1 (NEW); PL 2009, c. 384, Pt. D, §2 (AFF).]

The Houlton Band of Maliseet Indians may assert, terminate or reassert exclusive jurisdiction over these areas as described in subsection 1.

[PL 2009, c. 384, Pt. D, §1 (NEW); PL 2009, c. 384, Pt. D, §2 (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. 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 the Houlton Band Jurisdiction Land by a member of the Passamaquoddy Tribe against a member or property of a member of those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection, and by a member of those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection against a member or the property of a member of the Passamaquoddy Tribe; [RR 2011, c. 1, §45 (RAL).]

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 Passamaquoddy Tribe on the Houlton Band Jurisdiction Land; [RR 2011, c. 1, §45 (RAL).]

C. Civil actions between a member of those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection and members of the Passamaquoddy Tribe arising on the Houlton Band Jurisdiction Land and cognizable as small claims under the laws of the State and civil actions against a member of the

Passamaquoddy Tribe under Title 22, section 2383 involving conduct on the Houlton Band Jurisdiction Land by a member of the Passamaquoddy Tribe; [RR 2011, c. 1, §45 (RAL).]

D. Indian child custody proceedings to the extent authorized by applicable federal law; and [RR 2011, c. 1, §45 (RAL).]

E. Other domestic relations matters, including marriage, divorce and support, between members of either those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection or the Passamaquoddy Tribe, both of whom reside on the Houlton Band Jurisdiction Land. [RR 2011, c. 1, §45 (RAL).]

The Houlton Band of Maliseet Indians may assert, terminate or reassert exclusive jurisdiction over these areas as described in subsection 1.

[RR 2011, c. 1, §45 (RAL).]

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).]

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. For the purposes of this section, “Houlton Band Jurisdiction Land” means only the Houlton Band Trust Land described as follows:

A. Lands transferred from Ralph E. Longstaff and Justina Longstaff to the United States of America in trust for the Houlton Band of Maliseet Indians, located in Houlton, Aroostook County and recorded in the Aroostook County South Registry of Deeds in Book 2144, Page 198; and [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

B. Lands transferred from F. Douglas Lowrey to the United States of America in trust for the Houlton Band of Maliseet Indians, located in Houlton and Littleton, Aroostook County and recorded in the Aroostook County South Registry of Deeds in Book 2847, Page 114. [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

The designation of Houlton Band Jurisdiction Land in this subsection in no way affects the acquisition of additional Houlton Band Trust Land pursuant to applicable federal and state law, nor limits the Houlton Band of Maliseet Indians from making additional requests that portions of the trust land be included in this subsection.

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

6. Effective date; full faith and credit. This section takes effect only if the State, the Passamaquoddy Tribe and the Penobscot Nation agree to give full faith and credit to the judicial proceedings of the Houlton Band of Maliseet Indians and the Houlton Band of Maliseet Indians agrees to give full faith and credit to the judicial proceedings of the State, the Passamaquoddy Tribe and the Penobscot Nation.

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

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