

## 30 §6209-A. JURISDICTION OF THE PASSAMAQUODDY TRIBAL COURT

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**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 offenses for which the maximum potential term of imprisonment is less than one year and the maximum potential fine does not exceed \$5,000 and that are committed on the Indian reservation of the Passamaquoddy Tribe by a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation, except when committed against a person who is not a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation or against the property of a person who is not a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation; [2009, c. 384, Pt. E, §1 (AMD); 2009, c. 384, Pt. E, §3 (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 Passamaquoddy Tribe 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, the Houlton Band of Maliseet Indians or the Penobscot Nation on the reservation of the Passamaquoddy Tribe; [2009, c. 384, Pt. E, §1 (AMD); 2009, c. 384, Pt. E, §3 (AFF).]

C. Civil actions between members of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation arising on the Indian reservation of the Passamaquoddy Tribe and cognizable as small claims under the laws of the State, and civil actions against a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation under Title 22, section 2383 involving conduct on the Indian reservation of the Passamaquoddy Tribe by a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation; [2009, c. 384, Pt. E, §1 (AMD); 2009, c. 384, Pt. E, §3 (AFF).]

D. Indian child custody proceedings to the extent authorized by applicable federal law; and [1995, c. 388, §6 (NEW); 1995, c. 388, §8 (AFF).]

E. Other domestic relations matters, including marriage, divorce and support, between members of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation, both of whom reside within the Indian reservation of the Passamaquoddy Tribe. [2009, c. 384, Pt. E, §1 (AMD); 2009, c. 384, Pt. E, §3 (AFF).]

The governing body of the Passamaquoddy Tribe shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this subsection. If the Passamaquoddy Tribe chooses not to exercise, or chooses to terminate its exercise of, jurisdiction over the criminal, juvenile, civil and domestic matters described in this subsection, the State has exclusive jurisdiction over those matters. Except as provided in paragraphs A and B, all laws of the State relating to criminal offenses and juvenile crimes apply within the Passamaquoddy Indian reservation and the State has exclusive jurisdiction over those offenses and crimes.

[ 2009, c. 384, Pt. E, §1 (AMD); 2009, c. 384, Pt. E, §3 (AFF) .]

**2. Definitions of crimes; tribal procedures.** In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Passamaquoddy Tribe is deemed to be enforcing Passamaquoddy tribal law. The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the Passamaquoddy Tribe 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 or regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.

[ 1995, c. 388, §6 (NEW); 1995, c. 388, §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 Passamaquoddy Tribe 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.

[ 1995, c. 388, §6 (NEW); 1995, c. 388, §8 (AFF) .]

**4. Double jeopardy, collateral estoppel.** A prosecution for a criminal offense or juvenile crime over which the Passamaquoddy Tribe 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 Passamaquoddy Tribe has exclusive jurisdiction under this section. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a Passamaquoddy 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 Passamaquoddy tribal forum.

[ 1995, c. 388, §6 (NEW); 1995, c. 388, §8 (AFF) .]

**5. Future Indian communities.** Any 25 or more adult members of the Passamaquoddy Tribe residing within their Indian territory and in reasonable proximity to each other may petition the commission for designation as an extended reservation. If the commission determines, after investigation, that the petitioning Passamaquoddy tribal members constitute an extended reservation, the commission shall establish the boundaries of the extended reservation and recommend to the Legislature that, subject to the approval of the governing body of the Passamaquoddy Tribe, it amend this Act to extend the jurisdiction of the Passamaquoddy Tribe to the extended reservation. The boundaries of an extended reservation may not exceed those reasonably necessary to encompass the petitioning Passamaquoddy tribal members.

[ 1995, c. 388, §6 (NEW); 1995, c. 388, §8 (AFF) .]

#### SECTION HISTORY

1995, c. 388, §6 (NEW). 1995, c. 388, §8 (AFF). 2009, c. 93, §14 (AMD). 2009, c. 384, Pt. E, §1 (AMD). 2009, c. 384, Pt. E, §3 (AFF).

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