

INDIAN JURISDICTIONAL ISSUES

HISTORICAL BACKGROUND

The United States Constitution, which allocates powers of government between the state and federal governments, vests exclusive authority to address the affairs of Indians in Indian country in the federal government. Indian tribes, as sovereigns that preexist the federal Union, retain inherent sovereign powers over their members and territory, including the power to exercise criminal jurisdiction over Indians. As a result, states lack authority over Indians in Indian country absent congressional authorization. Historically, this meant that the federal government and Indian tribes jointly exercised criminal jurisdiction over Indians in Indian country. Under the federalist structure, exclusive authority over Indian affairs is vested in the federal government. See *Bryan v. Itasca County*, 426 U.S. 373, 376 (1976). As a result, states lack authority to prosecute Indians for crimes committed within Indian country without congressional authorization. *Seymour v. Superintendent*, 368 U.S. 351, 359 (1962).

In 1834 Congress first addressed crime in Indian country by enacting the General Crimes Act (also known as the "Inter-racial Crimes Act"), 18 U.S.C. § 1152, which extended federal criminal jurisdiction to crimes between Indians and non-Indians. The General Crimes Act preserved important components of tribal self-government by providing that crimes between Indians remained within the exclusive jurisdiction of tribal governments and by excepting Indian offenders whom the tribal government had tried and punished, ensuring that tribes retained concurrent jurisdiction over crimes by Indians. While states generally retain authority over non-Indians in Indian country, including crimes by non-Indians against non-Indians, the prevailing view is that the General Crimes Act preempts state criminal jurisdiction over non-Indians who commit crimes against Indians. *State v. Larsen*, 455 N.W.2d 600 (S.D. 1990); *State v. Flint*, 756 P.2d 324 (Ariz. App. 1988). In 1885 Congress enacted the Major Crimes Act, codified as 18 U.S.C. § 1153, which created federal jurisdiction over certain enumerated serious felonies by Indians; however, tribes retained their inherent authority to punish Indians for crimes listed in the Major Crimes Act although the punishment they could impose was limited to one year of imprisonment.

FEDERALLY GRANTED JURISDICTION AND PUBLIC LAW 280

In the early 1950s, Congress perceived a lack of law enforcement and judicial services in many areas of Indian country. As a result, Congress enacted

legislation commonly known as "Public Law 280," which is codified as 18 U.S.C. § 1162. Public Law 280 required six states to assume criminal and civil jurisdiction over all or part of Indian country within those states and provided that the General Crimes Act and the Major Crimes Act did not apply within those areas of Indian country. The six "mandatory" states were Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin. Public Law 280 also authorized other states to voluntarily opt to assume criminal and civil jurisdiction over Indian country. This second group of eight states was empowered to assume such jurisdiction by amending their state constitutions and state statutes. The second group was made up of Arizona, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Utah, and Washington. Under Public Law 280, the federal government retained concurrent jurisdiction to prosecute under the Major Crimes Act and General Crimes Act in the so-called "option states."

In 1968, however, Congress enacted various provisions to limit the further extension of Public Law 280. The 1968 provisions, codified as 25 U.S.C. §§ 1323 and 1324, require tribal consent, by majority vote of the adult members, before any of the option states could assume jurisdiction over any areas of Indian country.

NORTH DAKOTA AND PUBLIC LAW 280

North Dakota initially opted to assert jurisdiction over actions between members of the tribes and nonmembers occurring on tribal land. This was based upon an interpretation of a constitutional provision by the North Dakota Supreme Court in *Vermillion v. Spotted Elk*, 85 N.W.2d 432 (N.D. 1957). In *Vermillion* the court held the state had jurisdiction in a personal injury action arising between two Indians on the Standing Rock Indian Reservation. The court's holding was based upon a determination that Indians were residents of North Dakota and, as such, the courts of this state were open to them for prosecution of civil claims pursuant to Article I, Section 9, of the Constitution of North Dakota.

In 1963, however, the Legislative Assembly enacted North Dakota Century Code Chapter 27-19 (attached as an appendix), which provided that the consent of the tribe is required prior to the assertion of state jurisdiction. Chapter 27-19 provided a means by which jurisdiction of the State of North Dakota could be extended over civil causes of action arising on Indian reservations upon acceptance of the Indian tribes or individuals of this jurisdiction. Upon such acceptance the state's civil jurisdiction concerning Indians would be the same as the state's jurisdiction over all civil causes of action, and the civil laws of

North Dakota of general application to private property would have the same force and effect within the Indian reservation or Indian country and on the members of the affected tribe or tribes. Chapter 27-19 placed certain limitations upon jurisdiction, provided that to the extent not inconsistent with applicable civil law tribal ordinances and customs are to be preserved, and provided procedures for withdrawal from state jurisdiction by Indian tribes.

The 1963 enactment of this statutory requirement of consent to jurisdiction, coupled with the 1968 changes to Public Law 280, persuaded the North Dakota Supreme Court in *Gourneau v. Smith*, 207 N.W.2d 256 (N.D. 1973), that North Dakota could no longer assert jurisdiction over claims arising on tribal lands without complying with Public Law 280. *Gourneau* reaffirmed previous North Dakota rulings that *Vermillion* was no longer applicable. The court in *Gourneau* did not reject the analysis articulated in the *Vermillion* decision, but noted that although Indians are residents of the state, “[f]ederal law prohibits State courts from assuming jurisdiction of civil actions involving Indians . . .” and which arise on Indian land unless the tribe has previously consented to the exercise of state civil jurisdiction. The North Dakota Supreme Court also held, in *Nelson v. Dubois*, 232 N.W.2d 54 (N.D. 1975), that federal law rendered North Dakota Century Code Section 27-19-05, which provides for the individual acceptance of state jurisdiction, invalid as a method for obtaining state jurisdiction over Indian country. The court in *Nelson* held that “state jurisdiction over Indian Country may be obtained only by state and tribal compliance with Public Law 90-284, §§ 402 and 406.”

The issue of state jurisdiction in North Dakota was addressed by the United States Supreme Court in *Three Affiliated Tribes of the Fort Berthold Reservation v. Wold Engineering, P.C.*, 476 U.S. 877, 893 (1986). In the initial case, the Three Affiliated Tribes brought suit in a North Dakota court against a non-Indian engineering firm for negligence in designing and installing a water supply system on the reservation. Wold Engineering moved to dismiss the complaint for lack of jurisdiction after filing a counterclaim and argued that the tribes had not consented to state court jurisdiction over the reservation. The North Dakota Supreme Court initially held that the state courts lacked jurisdiction over the claim. *Three Affiliated Tribes of the Fort Berthold Reservation v. Wold Engineering, P.C.*, 321 N.W.2d 510, 511-12 (N.D. 1982). The United States Supreme Court, believing that the state court’s determination of its jurisdiction under state law may have been influenced by its erroneous interpretation of Public Law 280, reversed and remanded the case. *Three Affiliated Tribes of the Fort Berthold Reservation v. Wold Engineering, P.C.*, 467 U.S. 138 (1984). The Court noted that although North Dakota’s enabling act required it to disclaim jurisdiction over Indian country located within the state, and its original constitution so

provided, the federal restrictions on the state’s jurisdiction over Indian country were eliminated in 1953 by Public Law 280. Upon reconsideration, the North Dakota Supreme Court held that the action could be brought in state court if the tribe complied with the provisions of North Dakota Century Code Section 27-19-05, but also held that Section 27-19-05 eliminated any residual jurisdiction. *Three Affiliated Tribes of the Fort Berthold Reservation v. Wold Engineering, P.C.*, 364 N.W.2d 98 (N.D. 1985), rev’d 476 U.S. 877 (1986). Again the case was brought before the United States Supreme Court. *Three Affiliated Tribes*, 476 U.S. at 877. This time the United States Supreme Court unequivocally held that North Dakota could not disclaim jurisdiction over such suits and reversed and remanded the case back to the North Dakota Supreme Court for further proceeding consistent with its opinion. The North Dakota Supreme Court then recognized the second opinion of the United States Supreme Court in *Three Affiliated Tribes of the Fort Berthold Reservation v. Wold Engineering, P.C.*, 392 N.W.2d 87 (N.D. 1986).

CIVIL REGULATORY AND TAXATION AUTHORITY UNDER PUBLIC LAW 280

The United States Supreme Court in *Bryan v. Itasca County*, 426 U.S. 373 (1976), addressed the issue of whether Public Law 280 authorized states to exercise civil regulatory and taxation authority over Indians within the covered areas of Indian country. The Court found that it did not. The Court reasoned that Public Law 280 reflected Congress’s concern with the lack of law enforcement and judicial resources for Indian country and meant to allow states to provide those two services only. *Bryan*, 426 U.S. at 383-87. Moreover, the Court explained, [N]othing in [Public Law 280’s] legislative history remotely suggests that Congress meant the Act’s extension of civil jurisdiction to the States should result in the undermining or destruction of such tribal governments as did exist and the conversion of the affected tribes into little more than private, voluntary organizations.

The United States Supreme Court in *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987), also limited a state’s regulatory authority over Indians within Indian country. In this case, the Supreme Court explained that Public Law 280 did not authorize California to enforce its gaming laws in Indian country. The Court distinguished between civil regulatory laws and criminal prohibitory laws, allowing states to enforce only the latter in Indian country. According to the Court, the distinction between civil regulatory and criminal prohibitory laws hinges on whether a state completely forbids conduct or simply regulates how it is undertaken. Because of that distinction, states may not enforce regulatory laws against Indians in Indian

country, even though state law might impose a criminal sanction for their violation.

CONCLUSION

The 1953 enactment of Public Law 280 gave six "mandatory" states civil and criminal jurisdiction over all or part of Indian country within those states. Public Law 280 also authorized another group of states, which included North Dakota, to voluntarily opt to assume criminal and civil jurisdiction over Indian country. This second group of eight states was empowered to assume such jurisdiction by amending their state constitutions and state statutes. In 1963 the Legislative Assembly enacted North Dakota Century Code Chapter 27-19. This chapter requires a tribal acceptance of jurisdiction before the state can assume jurisdiction in certain matters. Under this law, determining the parentage of children, termination of parental rights, commitments by district courts, guardianship, guardianships, marriage contracts,

obligations of support of spouse, children, or other dependents are examples of the types of cases which the state court could decide. In addition to this statutory provision regarding the consent of the tribes before the state can assume jurisdiction, in 1968 Congress enacted similar provisions to limit the further extension of Public Law 280. The 1968 provisions require tribal consent, by majority vote of the adult members, before any of the option states could assume jurisdiction over any areas of Indian country. Since the enactment of this amendment, no tribe has voted to consent to state court jurisdiction. In addition, Public Law 280 was amended to provide that states that had previously opted to exercise jurisdiction over Indian country could retrocede or disclaim such jurisdiction, subject to acceptance by the federal government.

ATTACH:1

CHAPTER 27-19

INDIAN CIVIL JURISDICTION

Note: Some applications of this chapter are pre-empted by federal law. See annotations of *Three Affiliated Tribes v. Wold Eng'g*, 476 U.S. 877, 106 S.Ct. 2305, 90 L. Ed. 2d 881 (1986), following section 27-19-01. Also, some provisions of this chapter, such as section 27-19-05 and, possibly, section 27-19-06, are no longer effective, because of Public Law 90-284. See annotations of *Nelson v. Dubois*, 232 N.W.2d 54 (1975) and *Malaterre v. Malaterre*, 293 N.W.2d 139 (1980), following section 27-19-05.

Section

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27-19-01. Assumption of jurisdiction.

In accordance with the provisions of Public Law 83-280 and section 1 of article XIII of the Constitution of North Dakota, jurisdiction of the state of North Dakota shall be extended over all civil claims for relief which arise on an Indian reservation upon acceptance by Indian citizens in a manner provided by this chapter. Upon acceptance the jurisdiction of the state is to the same extent that the state has jurisdiction over other civil claims for relief, and those civil laws of this state that are of general application to private property have the same force and effect within such Indian reservation or Indian country as they have elsewhere within this state.

Source: S.L. 1963, ch. 242, § 1; 1985, ch. 82, § 41.

Acceptance of Jurisdiction by Indians.

Although methods by which Indians may accept jurisdiction of state courts over civil causes of action have been provided, such jurisdiction has not been accepted by Indians on any North Dakota reservation; until Indians do so accept, the state has no jurisdiction over any civil cause arising on an Indian reservation. *White Eagle v. Dorgan*, 209 N.W.2d 621 (N.D. 1973). But see, *Three Affiliated Tribes of Ft. Berthold Reservation v. Wold Eng'g*, 467 U.S. 138, 104 S. Ct. 2267, 81 L. Ed. 2d 113 (1984).

Action for Damages.

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State courts have no jurisdiction of an action brought by one Indian against another Indian for injuries and damages resulting from an automobile accident occurring on a state highway within the territorial limits of an Indian reservation, where Indians on the reservation have not voted as provided by this chapter and Public Law 280 of the 83rd Congress, Chapter 505 of the United States Statutes at Large, Volume 67, to accept state jurisdiction. *Gourneau v. Smith*, 207 N.W.2d 256 (N.D. 1973), overruling *Vermillion v. Spotted Elk*, 85 N.W.2d 432 (N.D. 1957).

Action Under Uniform Reciprocal Enforcement of Support Act.

Laws as to jurisdiction over Indians are not relevant to a proceeding initiated by the county social services department under the Uniform Reciprocal Enforcement of Support Act for reimbursement of support payments made to an Indian mother, where father was a non-Indian and a nonresident of the state. *Rolette County ex rel. Rolette County Welfare Bd. v. Eltobgi*, 221 N.W.2d 645 (N.D. 1974).

Consent.

This chapter requires consent for state court jurisdiction in a paternity case between Indians for conduct on the reservation. *McKenzie County Social Servs. Bd. v. V.G.*, 392 N.W.2d 399 (N.D. 1986), cert. denied, 480 U.S. 930, 107 S. Ct. 1566, 94 L. Ed. 2d 758 (1987).

Corporation with Indian Shareholders.

State court had subject matter jurisdiction over breach of contract action between a North Dakota corporation and another North Dakota chartered corporation with 51 percent Indian stockholders. *Airvator, Inc. v. Turtle Mt. Mfg. Co.*, 329 N.W.2d 596 (N.D. 1983).

Criminal Jurisdiction.

This chapter does not provide a method by which the state can assume criminal jurisdiction over an Indian reservation. *Davis v. O'Keefe*, 283 N.W.2d 73 (N.D. 1979).

Federal Court Jurisdiction.

Where statutory basis for federal jurisdiction was present, federal court had diversity jurisdiction of wrongful death action by North Dakota enrolled Indian against South Dakota enrolled Indian even though North Dakota court could not have exercised jurisdiction because tribe of which both Indians were members had not consented to state court jurisdiction. *Poitra v. Demarrias*, 502 F.2d 23 (8th Cir. 1974), cert. denied, 421 U.S. 934, 95 S. Ct. 1664, 44 L. Ed. 2d 93 (1975), rev'g 369 F. Supp. 257 (D.N.D. 1973), distinguished, *Schantz v. White Lightning*, 502 F.2d 67 (8th Cir. 1974).

Neither state court, federal court, nor Indian court had jurisdiction over action by non-Indians arising out of accident which occurred on Indian reservation where tribe had not consented to state jurisdiction and where tribal code precluded jurisdiction of tribal court over the controversy. *Schantz v. White Lightning*, 502 F.2d 67 (8th Cir. 1974), aff'g 368 F. Supp. 1070 (D.N.D. 1973).

Fort Berthold Reservation.

The Three Affiliated Tribes have not conferred jurisdiction upon the state courts over civil causes of action involving their enrolled members and arising within the boundaries of the Fort Berthold Reservation. *United States ex rel. Hall v. Hansen*, 303 N.W.2d 349 (N.D. 1981).

Intrusion on Indians' Sovereign Immunity.

The extent of the waiver presently required by this chapter is unduly intrusive on the Indians' common

law sovereign immunity, and thus on its ability to govern itself according to its own laws. By requiring that the Tribe open itself up to the coercive jurisdiction of state courts for all matters occurring on the reservation, the statute invites a potentially severe impairment of the authority of the tribal government, its courts, and its laws. *Three Affiliated Tribes of Ft. Berthold Reservation v. Wold Eng'g*, 476 U.S. 877, 106 S. Ct. 2305, 90 L. Ed. 2d 881 (1986).

Where the parties were married and lived together on the reservation with the children up until the time of separation, the district court's exercise of jurisdiction over child custody and support in the non-Indian spouse's divorce action infringed on the right of reservation Indians to make their own laws and be ruled by them. *Byzewski v. Byzewski*, 429 N.W.2d 394 (N.D. 1988).

If a jurisdictional holding results in denying a non-Indian plaintiff a state court forum in an action against an Indian which arises on the reservation and is therefore within the tribal court's exclusive jurisdiction, such disparate treatment of the Indian is justified because it is intended to benefit the class of which he is a member by furthering the congressional policy of Indian self-government. *Byzewski v. Byzewski*, 429 N.W.2d 394 (N.D. 1988).

Preemption of Chapter by Federal Law.

This chapter is pre-empted by federal law insofar as it is applied to disclaim pre-existing jurisdiction over suits by tribal plaintiffs against non-Indians for which there is no other forum, absent the Tribe's waiver of its sovereign immunity and consent to the application of state civil law in all cases to which it is a party. *Three Affiliated Tribes of Ft. Berthold Reservation v. Wold Eng'g*, 476 U.S. 877, 106 S. Ct. 2305, 90 L. Ed. 2d 881 (1986).

Public Law 90-284.

Public Law 90-284 changed the method by which states could assume civil jurisdiction over actions involving Indians and occurring within Indian country. No action has been taken in North Dakota in compliance with Public Law 90-284 and, consequently, North Dakota does not have jurisdiction over Indians residing within the exterior boundaries of an Indian reservation. Some provisions of this chapter such as section 27-19-05 and possibly section 27-19-06 are no longer effective because of Public Law 90-284. *Malaterre v. Malaterre*, 293 N.W.2d 139 (N.D. 1980).

State Court Jurisdiction.

Where non-Indian plaintiffs brought action against enrolled Indians for injuries sustained in auto accident which took place on state highway in Indian reservation and neither Indian defendants nor Indian tribe had accepted jurisdiction pursuant to provisions of this chapter, state courts had no jurisdiction over defendants or subject matter. *Schantz v. White Lightning*, 231 N.W.2d 812 (N.D. 1975), following *Gourneau v. Smith*, 207 N.W.2d 256 (N.D. 1973).

The fact that plaintiff successfully applied for public assistance with county outside of the reservation boundaries and that, at times, defendant had resided off the reservation were insufficient matters to permit state court jurisdiction to hear and determine a paternity claim between Indians for conduct on the reservation. *McKenzie County Social Servs. Bd. v. V.G.*, 392 N.W.2d 399 (N.D. 1986), cert. denied, 480 U.S. 930, 107 S. Ct. 1566, 94 L. Ed. 2d 758 (1987).

State Taxation of Indians.

State had no jurisdiction to impose income tax upon Indians residing on reservation where their income was earned exclusively on the reservation and there had been no agreement by the Indians residing on the reservation accepting jurisdiction of the state to impose an income tax upon individual members of the tribe. *White Eagle v. Dorgan*, 209 N.W.2d 621 (N.D. 1973).

Termination of Parental Rights.

A petition to terminate parental rights by the county juvenile commissioner is a civil action and the juvenile court has no jurisdiction of such an action against residents of an Indian reservation which has not consented to state jurisdiction under this chapter. *Whiteshield v. Very*, 124 N.W.2d 694 (N.D. 1963).

Law Reviews. Indian Law Symposiums, 48 N.D. L. Rev. 533 et seq., 51 N.D. L. Rev. 11 (1974).

State Jurisdiction Over Non-Indian Mineral Activities on Indian Reservations, 52 N.D. L. Rev. 265 (1976).

Tribal Administration of Natural Resource Development, 52 N.D. L. Rev. 307 (1976).

Indians - Jurisdiction - Individual Consent to State Jurisdiction by Reservation Indian Ineffective, 52 N.D. L. Rev. 419 (1976).

Can Federal Courts Remain Open When State Courts Are Closed? *Erie R. Co. v. Tompkins on the Indian Reservation*, 52 N.D. L. Rev. 647 (1976).

Interpretation of North Dakota's Indian Civil Jurisdiction Act: Comment on Three Affiliated Tribes v. Wold Engineering, P.C., 106 S. Ct. 2305, 62 N.D. L. Rev. 559 (1986).

27-19-02. Method of acceptance.

Acceptance of jurisdiction may be by either of the following methods:

1. Upon petition of a majority of the enrolled residents of a reservation who are eighteen years of age or older; or
2. The affirmative vote of the majority of the enrolled residents voting on the question who are eighteen years of age or older, at an election called and supervised by the North Dakota Indian affairs commission upon petition of fifteen percent or more of those eligible to vote at such an election.

Source: S.L. 1963, ch. 242, § 2; 1973, ch. 120, § 24; 1997, ch. 108, § 16.

Effective Date: The 1997 amendment of this section by section 16 of chapter 108, S.L. 1997 became effective August 1, 1997.

27-19-03. Acceptance proclamation.

Upon acceptance of civil jurisdiction by either method provided in section 27-19-02 the executive director of the Indian affairs commission shall certify such acceptance to the governor. Upon such certification the governor shall, within ten days, issue a proclamation proclaiming that thirty days from the date of the issuance of such proclamation the provisions of this chapter are in effect.

Source: S.L. 1963, ch. 242, § 3.

27-19-04. Effective date.

This chapter affects only those claims for relief which arise after the effective date of state jurisdiction as provided in section 27-19-03.

Source: S.L. 1963, ch. 242, § 4; 1985, ch. 82, § 42.

27-19-05. Individual acceptance.

An individual Indian may accept state jurisdiction as to himself and his property by executing a statement consenting to and declaring himself and his property to be subject to state civil jurisdiction as herein provided. Such jurisdiction becomes effective on the date of execution of such statement. The statement accepting state jurisdiction must be filed in the office of the county auditor of the county in which the person resides and when so filed is conclusive evidence of acceptance of state civil jurisdiction as provided herein.

Note: This section has been held ineffective under the supremacy clause of the United States Constitution and Public Law 90-284, 25 U.S.C. § 1322. See annotations of *Nelson v. Dubois*, 232 N.W.2d 54 (N.D. 1975), and *Malaterre v. Malaterre*, 293 N.W.2d 139 (N.D. 1980), below.

Public Law 90-284.

Public Law 90-284 changed the method by which states could assume civil jurisdiction over actions involving Indians and occurring within Indian country. No action has been taken in North Dakota in compliance with Public Law 90-284 and, consequently, North Dakota does not have jurisdiction over Indians residing within the exterior boundaries of an Indian reservation. Some provisions of this chapter such as this section and possibly section 27-19-06 are no longer effective because of Public Law 90-284. *Malaterre v. Malaterre*, 293 N.W.2d 139 (N.D. 1980).

Validity and Application.

This section is not valid under the Supremacy Clause of the U.S. Constitution and Public Law 90-284, 25 U.S.C. § 1322; an individual Indian cannot confer civil jurisdiction upon state by consent thereto; state jurisdiction over Indian country may be obtained only by state and tribal compliance with Public Law 90-284, §§ 402 and 406, 25 U.S.C. §§ 1322 and 1326; district court did not have "residuary jurisdiction" over Indian defendant; although this holding might leave plaintiffs without a forum in which to redress their injuries since federal courts would not accept jurisdiction unless the statutory bases therefor were present and amount claimed might exceed trial court's \$300 jurisdictional limit, the solution to that problem did not lie with state but with Congress which could amend its statutes and with the tribe which might begin to assert its own jurisdiction. *Nelson v. Dubois*, 232 N.W.2d 54 (N.D. 1975), following *Gourneau v. Smith*, 207 N.W.2d 256 (N.D. 1973).

27-19-06. Acceptance by guardian.

A guardian appointed by the tribal court or court of Indian offenses may consent to state civil jurisdiction for his ward provided he is authorized to do so by the tribal court or court of Indian

offenses.

Source: S.L. 1963, ch. 242, § 6.

Public Law 90-284.

Public Law 90-284 changed the method by which states could assume civil jurisdiction over actions involving Indians and occurring within Indian country. No action has been taken in North Dakota in compliance with Public Law 90-284 and, consequently, North Dakota does not have jurisdiction over Indians residing within the exterior boundaries of an Indian reservation. Some provisions of this chapter such as section 27-19-05 and possibly this section are no longer effective because of Public Law 90-284. *Malaterre v. Malaterre*, 293 N.W.2d 139 (N.D. 1980).

27-19-07. Contempt powers.

In addition to other authority conferred by this chapter, the courts of this state have the power to hold persons in contempt of court in order to maintain the dignity of the courts and enforce their orders.

Source: S.L. 1963, ch. 242, § 7; 1993, ch. 89, § 24.

27-19-08. Limitations upon jurisdiction.

Nothing in this section authorizes the alienation, encumbrance, or taxation of any real or personal property belonging to any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or authorizes regulation of the use of the property in a manner inconsistent with any federal treaty, agreement, or statute, or with any regulation made pursuant thereto; or confers jurisdiction upon the state to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein. The civil jurisdiction herein accepted and assumed includes the determination of parentage of children, termination of parental rights, commitments by district courts, guardianship, marriage contracts, and obligations for the support of spouse, children, or other dependents.

Source: S.L. 1963, ch. 242, § 8; 1983, ch. 82, § 58; 1991, ch. 326, § 97.

Effective Date: The 1991 amendment of this section became effective January 2, 1995.

Child Custody.

Although this section does not specifically mention child custody matters, they are impliedly included in the provision relating to the obligations for the support of spouse, children, or other dependents. *Malaterre v. Malaterre*, 293 N.W.2d 139 (N.D. 1980).

27-19-09. Tribal ordinances and customs preserved.

Any tribal ordinance or custom heretofore or hereafter adopted by any Indian tribe, band, or

community, in the exercise of any authority which it may possess must, if not inconsistent with the applicable civil law of this state, be given full force and effect in the determination of civil claims for relief pursuant to this section.

Source: S.L. 1963, ch. 242, § 9; 1985, ch. 82, § 43.

27-19-10. Other benefits not affected.

The provisions of this chapter may not be construed as requiring the extension of any health, welfare, educational, or other governmental service to Indian reservations or Indian country, not otherwise required by the laws or constitution of this state.

Source: S.L. 1963, ch. 242, § 10.

27-19-11. Petition for withdrawal.

Civil jurisdiction as herein provided over an Indian reservation may be terminated by petition of three-fourths of the enrolled residents of a reservation who are eighteen years of age or older. Such petition must be filed with the North Dakota Indian affairs commission.

Source: S.L. 1963, ch. 242, § 11; 1973, ch. 120, § 25.

27-19-12. Withdrawal proclamation.

Upon the filing of a petition for withdrawal from the civil jurisdiction of the state, the executive director of the North Dakota Indian affairs commission after substantiating that the provisions of section 27-19-11 have been complied with shall certify such withdrawal to the governor. Upon such certification the governor shall, within ten days, issue a proclamation proclaiming that thirty days from the date of the issuance of such proclamation the civil jurisdiction of the state is terminated except as to those claims for relief which arose prior to the effective date of such termination or to those contractual obligations which were incurred prior to the effective date of such termination of state civil jurisdiction.

Source: S.L. 1963, ch. 242, § 12; 1985, ch. 82, § 44.

27-19-13. Individual withdrawal.

An individual who has accepted state civil jurisdiction under the provisions of section 27-19-05 may withdraw upon filing with the county auditor a statement declaring his withdrawal. Withdrawal does not affect claims for relief which arose prior to the withdrawal or contractual obligations which were incurred prior to the withdrawal.

Source: S.L. 1963, ch. 242, § 13; 1985, ch. 82, § 45.