

Part 2

State and Tribal Jurisdiction

9-9-201 Assumption by state of criminal and civil jurisdiction over Indians and Indian territory.

The state of Utah hereby obligates and binds itself to assume criminal and civil jurisdiction over Indians and Indian territory, country, and lands or any portion thereof within this state in accordance with the consent of the United States given by the Act of Congress of April 11, 1968, 82 Stat. 78-80 (Public Law 284, 90th Congress), to the extent authorized by that act and this chapter.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-202 Special elections on acceptance or retrocession of state jurisdiction.

- (1) State jurisdiction acquired or retroceded pursuant to this chapter with respect to criminal offenses or civil causes of action shall be applicable in Indian country only where the enrolled Indians residing within the affected area of the Indian country accept state jurisdiction or request its retrocession by a majority vote of the adult Indians voting at a special election held for that purpose.
- (2) These special elections shall be called pursuant to federal law.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-203 Acceptance or rejection of cession of state jurisdiction -- Proclamation by governor.

- (1) If the governor receives a resolution signed by the majority of any tribe, tribal council, or other governing body duly recognized by the Bureau of Indian Affairs of any tribe, community, band or group in the state certifying the results of a special election expressly ceding criminal or civil jurisdiction of the Indian tribe, community, band, or group or its lands or any portion thereof to the state of Utah within the limits authorized by federal law, he shall either accept or reject the cession of jurisdiction within 60 days.
- (2) If the governor accepts jurisdiction, he shall issue a proclamation within 60 days to the effect that civil or criminal jurisdiction shall apply, subject to the limitations of this chapter, to all Indians and all Indian territory, country, lands or any portion thereof of the Indian body involved to the extent authorized by the resolution. Failure to issue the proclamation within the time prescribed is considered a rejection of the assumption of jurisdiction.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-204 Criminal jurisdiction.

The state of Utah shall assume jurisdiction over offenses as set forth in this chapter, committed by or against Indians in the lands described in each tribal resolution 60 days after issuance of the governor's proclamation to the same extent it has jurisdiction over offenses committed elsewhere within the state. The criminal laws of the state shall have the same force and effect within these lands as they have elsewhere within the state.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-205 Civil jurisdiction.

The state of Utah shall assume jurisdiction over civil causes of action as set forth in this chapter, between Indians or to which Indians are parties in the lands described in each tribal resolution 60 days after issuance of the governor's proclamation to the same extent it has jurisdiction over civil causes of action as elsewhere within the state. The civil laws of the state shall have the same force and effect within these lands as they have elsewhere within the state, except as otherwise provided by this chapter.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-206 State jurisdiction subject to provisions of federal law and resolution of tribe.

The jurisdiction assumed pursuant to this chapter is subject to the limitations and provisions of the federal Act of Congress of April 11, 1968, 82 Stat. 78-80 (Public Law 284, 90th Congress), and the specific limitations set forth in each resolution ceding jurisdiction to the state, both as to geographical area and subject matter.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-207 Retrocession of state jurisdiction -- Proclamation by governor.

- (1) The state of Utah hereby obligates and binds itself to retrocede all or any measure of the criminal or civil jurisdiction acquired by it pursuant to this chapter whenever the governor receives a resolution from a majority of any tribe, tribal council, or other governing body duly recognized by the Bureau of Indian Affairs of any Indian tribe, community, band or group in this state, certifying the results of a special election and expressly requesting the state to retrocede jurisdiction over its people or lands or any portion thereof within the limits authorized by the Act of Congress of April 11, 1968, 82 Stat., 78-80 (Public Law 284, 90th Congress).
- (2) The governor shall issue within 60 days a proclamation to the effect that jurisdiction has been retroceded for all these Indians and all Indian territory, country, lands or any portion thereof.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-208 Limitations on state authority with respect to property and rights of Indians.

Nothing in this chapter:

- (1) authorizes the alienation, encumbrance, or taxation of any real or personal property, including water rights belonging to any Indian or any 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;
- (2) authorizes the regulation of the use of this property in a manner inconsistent with any federal treaty, agreement, or statute or with any regulation made pursuant to them;
- (3) confers jurisdiction upon the state to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of this property or any interest in it; or
- (4) enlarges, diminishes, or deprives any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under federal treaty, agreement, statute, or executive order with respect to Indian land grants, hunting, trapping, or fishing or the control, licensing, or regulation of these.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-209 Tribal ordinance or custom given full force and effect.

Any tribal ordinance or custom adopted by an Indian tribe, band, or community in the exercise of any authority that it may possess shall, if not inconsistent with any applicable civil law of the state, be given full force and effect in the determination of civil causes of action.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-210 Criminal jurisdiction of state over hunting, trapping, or fishing offenses on reservations -- "Indian reservation" defined.

As used in this part, "Indian reservation" means:

- (1) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights of way running through the reservation; and
- (2) all Indian allotments, to which the Indian titles have not been extinguished, including rights of way thereon.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-211 Hunting, trapping, or fishing on reservation a misdemeanor.

Any person who, without lawful authority or permission from constituted tribal authorities, willfully and knowingly goes upon any real property within an Indian reservation belonging to any Indian, or any 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, for the purpose of hunting, trapping, or fishing thereon, or for the removal of game, peltries, or fish therefrom, is guilty of a class B misdemeanor, and all game, fish, and peltries in the person's possession shall be forfeited to the tribe.

Amended by Chapter 148, 2018 General Session

9-9-212 Jurisdiction of tribe over hunting, trapping, or fishing offenses by member.

This chapter does not extend to offenses committed by an enrolled member of a federally recognized Indian tribe who is subject to the law of the tribe having jurisdiction of the Indian reservation, or in any case where the exclusive jurisdiction over the offense is, or may be, secured to the Indian tribes respectively.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-213 Concurrent state and federal jurisdiction over hunting, trapping, or fishing offenses on reservations.

- (1) With respect to any of the offenses enumerated in this chapter, over which federal courts may have lawful jurisdiction, the jurisdiction of the courts of the state of Utah shall be concurrent and not exclusive.
- (2) It shall be the duty of the courts of the state of Utah to order delivery to the proper authorities of the federal government for prosecution, any offender, there to be dealt with according to law or regulations authorized by law, where such authorities consent to exercise jurisdiction lawfully vested in them over the said offender.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-214 Law enforcement in presidential townsites.

- (1) As used in this section:
 - (a) "Agents of the Bureau of Indian Affairs" means individuals the Bureau of Indian Affairs has empowered to enforce federal statutes in Indian land under 25 U.S.C. Sec. 2802 or 25 U.S.C. Sec. 2804.
 - (b) "Bureau of Indian Affairs" means the Bureau of Indian Affairs within the United States Department of the Interior.
 - (c) "Indian land" means land that qualifies as "Indian country" under 18 U.S.C. Sec. 1151.
 - (d) "Indian tribe" or "tribe" means an Indian tribe included in the list of federally recognized Indian tribes under 25 U.S.C. Sec. 5131.
 - (e) "Non-Indian land" means land that does not qualify as "Indian country" under 18 U.S.C. Sec. 1151.
 - (f) "Presidential townsite with Indian land" means a municipality incorporated under the laws of the state:
 - (i) created by presidential proclamation pursuant to Sections 2380 and 2381 of the Revised Statutes of the United States, Act of Congress of March 3, 1863, 12 Stat. 754; and
 - (ii) encompassing Indian land and non-Indian land within its municipal boundaries.
- (2) A presidential townsite with Indian land may enter into an agreement that grants authority to agents of the Bureau of Indian Affairs to enforce all applicable state and local misdemeanor and felony offenses on all lands within the presidential townsite with Indian land, provided that each of the following shall be party to the agreement:
 - (a) the presidential townsite with Indian land;
 - (b) the local county sheriff;
 - (c) the Indian tribe with jurisdiction over Indian lands within the presidential townsite with Indian land; and
 - (d) the Bureau of Indian Affairs.
- (3) An agreement entered into under Subsection (2) may be for any period of time and shall state the period of time that the agreement lasts.
- (4) Agents of the Bureau of Indian Affairs who are granted authority to enforce state and local criminal misdemeanor offenses and felonies under an agreement entered into under Subsection (2) shall successfully complete a course focusing on Utah criminal and constitutional law and process specifically approved by the director of the Peace Officer Standards and Training Division created under Section 53-6-103 to qualify the individual for cross-deputization pursuant to this section.

Enacted by Chapter 237, 2018 General Session