

## **CHAPTER 27-19 INDIAN CIVIL JURISDICTION**

### **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.

### **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.

### **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.

### **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.

### **27-19-05. Individual acceptance.**

An individual Indian may accept state jurisdiction as to that individual and that individual's property by executing a statement consenting to and declaring that individual and that individual's 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.

### **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 the guardian's ward provided the guardian is authorized to do so by the tribal court or court of Indian offenses.

### **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.

### **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.

**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.

**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.

**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.

**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.

**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 that individual's withdrawal. Withdrawal does not affect claims for relief which arose prior to the withdrawal or contractual obligations which were incurred prior to the withdrawal.