

[For definition of “tribal government” as used in section 234(c) of Pub. L. 111-211, set out above, see section 203(a) of Pub. L. 111-211, set out as a note under section 2801 of this title.]

PURPOSE OF 1986 AMENDMENT

Section 4217 of Pub. L. 99-570 provided in part that amendment of par. (7) of this section was to “enhance the ability of tribal governments to prevent and penalize the traffic of illegal narcotics on Indian reservations”.

§ 1303. Habeas corpus

The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

(Pub. L. 90-284, title II, §203, Apr. 11, 1968, 82 Stat. 78.)

SUBCHAPTER II—MODEL CODE GOVERNING COURTS OF INDIAN OFFENSES

§ 1311. Model code

The Secretary of the Interior is authorized and directed to recommend to the Congress, on or before July 1, 1968, a model code to govern the administration of justice by courts of Indian offenses on Indian reservations. Such code shall include provisions which will (1) assure that any individual being tried for an offense by a court of Indian offenses shall have the same rights, privileges, and immunities under the United States Constitution as would be guaranteed any citizen of the United States being tried in a Federal court for any similar offense, (2) assure that any individual being tried for an offense by a court of Indian offenses will be advised and made aware of his rights under the United States Constitution, and under any tribal constitution applicable to such individual, (3) establish proper qualifications for the office of judge of the court of Indian offenses, and (4) provide for the establishing of educational classes for the training of judges of courts of Indian offenses. In carrying out the provisions of this subchapter, the Secretary of the Interior shall consult with the Indians, Indian tribes, and interested agencies of the United States.

(Pub. L. 90-284, title III, §301, Apr. 11, 1968, 82 Stat. 78.)

§ 1312. Authorization of appropriations

There is hereby authorized to be appropriated such sum as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 90-284, title III, §302, Apr. 11, 1968, 82 Stat. 78.)

SUBCHAPTER III—JURISDICTION OVER CRIMINAL AND CIVIL ACTIONS

§ 1321. Assumption by State of criminal jurisdiction

(a) Consent of United States

(1) In general

The consent of the United States is hereby given to any State not having jurisdiction over criminal offenses committed by or

against Indians in the areas of Indian country situated within such State to assume, with the consent of the Indian tribe occupying the particular Indian country or part thereof which could be affected by such assumption, such measure of jurisdiction over any or all of such offenses committed within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over any such offense committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

(2) Concurrent jurisdiction

At the request of an Indian tribe, and after consultation with and consent by the Attorney General, the United States shall accept concurrent jurisdiction to prosecute violations of sections 1152 and 1153 of title 18 within the Indian country of the Indian tribe.

(b) Alienation, encumbrance, taxation, and use of property; hunting, trapping, or fishing

Nothing in this section shall authorize 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; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

(Pub. L. 90-284, title IV, §401, Apr. 11, 1968, 82 Stat. 78; Pub. L. 111-211, title II, §221(a), July 29, 2010, 124 Stat. 2271.)

AMENDMENTS

2010—Pub. L. 111-211 substituted “Assumption by State of criminal jurisdiction” for “Assumption by State” in section catchline, inserted subsec. (a) heading, inserted par. (1) designation and heading, and added par. (2). Amendment to section catchline was executed as the probable intent of Congress, notwithstanding directory language which erroneously directed the amendment to subsec. (a).

§ 1322. Assumption by State of civil jurisdiction

(a) Consent of United States; force and effect of civil laws

The consent of the United States is hereby given to any State not having jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country situated within such State to assume, with the consent of the tribe occupying the particular Indian country or part thereof which would be affected by such assumption, such measure of jurisdiction over any or all such civil causes of action arising within such Indian country or any part thereof as may