

CHAPTER 10 – JUVENILE CODE

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CHAPTER 10
JUVENILE ORDINANCE

We, the Sokaogon Chippewa Community find that there is no resource more vital to the continued existence and integrity of our community than our children, and that we have a direct interest in seeing that our children are brought up within our community and that the values of our community be imparted to them and to those that choose to reside within our community, and that any necessary measures for corrective action of their behavior be undertaken within our community do hereby adopt the following Juvenile Code.

10.1 JURISDICTION

The following shall apply to all youth who are enrolled or eligible to be enrolled with the Sokaogon Chippewa Community and all those who reside on the Mole Lake Reservation or other lands of the Sokaogon Chippewa Community regardless of their membership status.

10.1.1 Confidentiality and Record Keeping.

- A. All proceedings and records pursuant to this Code shall be confidential and, unless otherwise permitted under this, code may only be disclosed to:
 - (1) Court Staff, the Tribal Prosecutor, or SCC Indian Child Welfare Staff, acting within their official capacity.
 - (2) A Youth who has turned eighteen (18) may request a copy of their record.
 - (3) Anyone other than those listed in subsections (1) or (2) who petitions the Sokaogon Tribal Court for the release of such record and, at a hearing before the Court they can show a compelling need for information in the record, and that releasing such information is in the best interests of the Youth. In which instance the Court may order a release of the minimum amount of information necessary to fulfill the third party's need.
- B. Unless otherwise provided for under this Code all records in Juvenile proceedings shall be kept by the Clerk of the Tribal Court for a minimum of four years or until the Youth involved obtains the age of nineteen (19), whichever occurs sooner.

10.1.2 Civil Offenses. All violations of this code when handled by the Sokaogon Chippewa Tribal Court shall be considered civil violations.

10.2 PROCEDURE

10.2.1 Complaint and Summons.

- A. Any person with information concerning a minor in violation of any part of the Sokaogon Chippewa Tribal Code may file a complaint with the Clerk of the Tribal Court. Such a

complaint shall contain all the information below if known by the person filing the complaint:

- (1) Name, age, date of birth, address, name of custodial parent or guardian, and tribal affiliation of the child;
 - (2) A concise statement of the facts upon which the allegations are based, including the date, time, and location at which the alleged act(s) occurred; and
 - (3) A list of witnesses known to the person who files the complaint.
- B. Employees of the Sokaogon Chippewa Community Indian Child Welfare, Education, and Youth Services office must file a complaint on all violations they become aware of in the course of their duties.
- C. Upon receiving a complaint the Clerk of the Tribal Court shall forward such complaint to the tribal prosecutor who shall either create a Record of Transfer or issue a Summons to the youth and their parent(s) or guardian(s) to appear before the Tribal Court or the Traditional Peacemaking Court.
- D. Such summons shall list the alleged offense, and shall inform the Youth and their Parent(s) or Guardian(s) of the range of possible penalties for the offense. It shall also give the Youth and Parent information regarding the Traditional Peacemaking Court and inform them of their right to request Peacemaking no later than ten (10) days after the date the Summons is issued.
- E. Failure to comply with this summons shall be contempt of the Tribal Court, and the Court at its discretion may order the Parent(s) or Guardian(s) and Youth to pay a fine of no more \$250.00 each for such contempt.

10.2.2 Prosecution Transfer of Cases to Other Jurisdictions.

- A. The tribal prosecutor may at their discretion decline to prosecute under this code if they determine that:
- (1) The Court lacks jurisdiction over the youth or the offense; or
 - (2) The youth has significant criminal history such that remedies under this court are insufficient; or
 - (3) The youth has repeatedly failed to comply with orders of SCC Tribal Court or SCC TPMC; or
 - (4) The crime is one for which they could be tried as an adult in Wisconsin; or
 - (5) The complaint alleges facts that are part of a larger criminal act which is beyond the authority of this code to prosecute; or

- (6) The facts alleged in the complaint either do not violate any part of this code, or are an insignificant violation such that prosecution would not be in the best interests of the child; or
 - (7) The facts, as stated in the complaint, could be the basis Child in Need of Protective Services complaint, and the best interest of the child would be served by the filing of such a complaint in lieu of a Juvenile Court Summons.
- B. If the prosecutor determines that any of these factors apply they may forward a copy of the complaint to any other court with jurisdiction over the offense, or to any agency which may be interested in the child's well being. The prosecutor shall then create a Record of Transfer which includes the complaint, the reason they are declining to prosecute, and which other jurisdiction(s) or agencies they have forward the complaint to. This Record of Transfer shall be kept by the Clerk of the Tribal Court until the Youth attains the age of eighteen (18).
- (1) If the basis of the transfer is subsection 7 and the Sokaogon Chippewa Community Tribal Court has jurisdiction to proceed with a Child in Need of Protective Services the prosecutor shall immediately notify the SCC Indian Child Welfare Department, and may begin a Child in Need of Protective Services cases pursuant to Section --- of the SCC Code.

10.2.3 Acceptance of Cases from Other Courts.

- A. The Tribal Court may at its discretion accept Juvenile cases from any other jurisdiction, so long as the SCC Tribal Court has jurisdiction over the child or over their Parent(s) or Guardian(s).
- B. Before the Court accepts any such case the Sokaogon Tribal Court Clerk shall provide the Tribal Prosecutor and the Indian Child Welfare Director a copy of the complaint or charging document from the other court. The Prosecutor and the Indian Child Welfare Director shall present their recommendations to accept or decline the transfer to the SCC Family Court Judge within forty-eight (48) hours of receiving the complaint.
- C. The Tribal Court shall notify any court seeking to refer a case of its decision to accept or decline the case within seven (7) business days of receiving the complaint.

10.3 DOCKETING AND HEARING BEFORE THE TRIBAL COURT

10.3.1 Docketing.

- A. If the Youth and parent(s) or guardians do not request peacemaking or if the Peacemaking Court reports a failure to comply with terms of Peacemaking the complaint shall be docketed with the Sokaogon Chippewa Tribal Court.
- B. If the Youth and Parent request Peacemaking their case shall be removed from the docket of the Tribal Court, and held until the Clerk is informed by the Traditional Peacemaking Court that the family has either completed peacemaking which shall result in a dismissal

of the case or they have failed to complete peacemaking, at which time the case shall be docketed with the Tribal Court for further proceedings under this code.

10.3.2 Transfer of Cases to Other Jurisdictions.

- A. The Tribal Court may, at their discretion, transfer any case under this code if they determine that:
- (1) The Court does not have jurisdiction; or
 - (2) The youth has significant criminal history such that remedies under this court are insufficient; or
 - (3) The youth has repeatedly failed to comply with orders of SCC Tribal Court or SCC TPMC; or
 - (4) The crime is one for which they could be tried as an adult in Wisconsin; or
 - (5) The complaint alleges facts that are part of a larger criminal act which is beyond the authority of this code to prosecute; or
 - (6) The facts alleged in the complaint either do not violate any part of this code, or are an insignificant violation such that prosecution would not be in the best interests of the child.
- B. If the Court determines that any of these factors apply they may forward a copy of the complaint to any other court with jurisdiction over the offense, or to any agency which may be interested in the child's well being and they shall create a Record of Transfer which includes the complaint, the reason they are transferring the case, and which other jurisdiction(s) or agencies they have forward the complaint to. This Record of Transfer shall be kept by the Clerk of the Tribal Court until the Youth attains the age of eighteen (18).

10.3.3 Initial Appearance.

- A. At the Initial Appearance The Court shall advise the youth as follows:
- (1) Explain the nature of the proceedings.
 - (2) Read the allegations in the petition unless waived.
 - (3) Advise the juvenile of their right to an attorney at their own expense.
 - (4) Advise the juvenile of the privilege against self-incrimination and that any statement by the juvenile may be used against the juvenile.
 - (5) Advise the juvenile that parents, guardians, or custodians may not be compelled to give testimony against himself or herself or the juvenile.

(6) Advise the juvenile that he or his legal representative may introduce evidence, to examine (confront) witnesses against him or her, and be heard on their own behalf.

(7) The circumstances that gave rise to the juvenile petition.

B. After being so advised the Youth must enter a plea. A plea of no contest shall be entered into the record as a finding of guilt.

C. If a plea of No Contest or Guilty is entered at the initial appearance the Youth and Parent shall be given the option to participate in the Traditional Peacemaking Court in lieu of being sentenced by the Court. In which case the Court shall strike their conviction from the record and dismiss the action once it is informed by the Traditional Peacemaking Court that the Youth and Parents have successfully completed their Peacemaking agreement.

D. If a not guilty plea is entered the Court shall schedule a trial not less than fourteen (14) days and not more than forty-five (45) days from the date of initial hearing.

10.3.4 Trial. In all trials participants shall be entitled to all the rights that are reserved to them in Juvenile proceedings under the Sokaogon Chippewa Constitution and the Indian Civil Rights Act including but not limited to:

(1) Right to cross-exam the Prosecution's witnesses.

(2) Right to call their own witnesses.

(3) Right to counsel at their own expense.

10.3.5 Sentencing.

A. Once a finding of guilt made by the Tribal Court, the Court shall set a date not more than fourteen (14) days from the date of the trial for a sentencing hearing.

B. At the sentencing hearing the judge shall consider all factors involved in the case, including testimony by the Youth, the Parent, or any witness they may wish to call, and any sentencing recommendation made by the Tribal Prosecutor before determining a sentence.

10.4 TRADITIONAL PEACEMAKING COURT

A. If the Youth and Parents elect to participate in the Traditional Peacemaking Court (SCC TPMC) pursuant 3(A)(4) or 3(D)(1) the Clerk of Court shall schedule them to appear before the Traditional Peacemaking Court at its next scheduled meeting.

B. At the initial appearance the Peacemaking Court shall advise Youth and Parent(s) or Guardian(s) of the nature of the complaint and the peacemaking process.

- C. If Youth and Parent(s) or Guardian(s) agree to peacemaking, the Traditional Peacemaking Court is authorized to involve all necessary parties to address behavior in the complaint, including but not limited to staff from education, youth services, AODA, and ICW.
- D. Once all necessary parties are identified the Peacemaking Court shall schedule a Peacemaking session with the Youth, Parent(s) or Guardian(s), Court Staff, and all interested parties. At this meeting the parties shall create a peacemaking agreement which shall set forth actions required by the youth, parent(s) or guardian(s), services that will be made available, and a timeline of expectations towards fulfilling the agreement.
- E. The Youth and Parent(s) or Guardian(s) shall meet with the Peacemaking Court at scheduled dates as set forth in the peacemaking agreement, at which point they will provide the Court with documentation and reports on progress towards completion of the Peacemaking agreement.
- F. Failure to complete the terms of the Peacemaking Agreement during the agreed timeline, violating any express terms in the agreement, or having any additional complaints filed regarding the Youth in any court shall be considered a failure to comply with Peacemaking.
 - (1) If the Peacemaking Court determines that there has been a failure to comply with Peacemaking it may at its discretion retain the case with any additional terms it believes necessary to address the situation, or return the case to the Clerk of the Tribal Court with direction that the case be docketed with the Tribal Court as a Juvenile Delinquency or an Indian Child Welfare Case.
- G. Upon completion of the terms of the Peacemaking Agreement the complaint shall be dismissed and all records of the hearing and complaint shall be destroyed on the Youth's eighteenth birthday or after four (4) years whichever occurs first.
- H. All proceedings of the Peacemaking Court shall be confidential. This shall include all court employees, Youth, Parent(s) or Guardian(s), and all parties brought in by the Court.
- I. Any and all statements made by Youth, Parent(s) or Guardian(s) in the Peacemaking Court shall not be admissible in the Tribal Court, nor shall they be used against them for purposes of filing additional complaints.

10.5 GENERAL PROVISIONS

10.5.1 Parties to Crime.

- A. Whoever is involved in the commission of a crime may be charged with and convicted of the crime although the person did not directly commit it, even if the person who directly committed it has not been convicted.
- B. Parties to a crime include:

- (1) The person who directly commits the crime; or
- (2) Anyone who intentionally aids and abets the commission of it; or
- (3) Anyone who is a party to a conspiracy with another to commit it, or advises, hires, counsels or otherwise procures another to commit it. Such a party is also involved in the commission of any other crime which is committed in the course of the intended crime and which under the circumstances is a natural and probable consequence of the intended crime. This paragraph does not apply to a person who voluntarily changes his or her mind and no longer desires that the crime be committed and notifies the other parties concerned of his or her withdrawal within a reasonable time before the commission of the crime so as to allow the others also to withdraw.

10.5.2 Common Law Crimes Abolished; Common Law Rules Preserved. Common law crimes are abolished.

10.5.3 Criminal Conduct or Contributory Negligence of Victim No Defense. It is no defense to a prosecution for a crime that the victim also was guilty of a crime or was contributorily negligent.

10.5.4 Definitions. In this Chapter, the following words and phrases have the designated meanings unless the context of a specific section clearly requires a different construction, or the word or phrase is defined elsewhere in the section.

- A. “Bodily harm” means physical pain or injury, illness, or any impairment of physical condition.
- B. “Commission warden” means a conservation warden employed by the Great Lakes Indian Fish and Wildlife Commission.
- C. “Criminal gang” means an ongoing organization, association or group of three (3) or more persons, whether formal or informal, that has as one of its primary activities the commission of one or more of the criminal acts, or acts that would be criminal if the actor were an adult, that has a common name or a common identifying sign or symbol; and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.
- D. “Criminal gang member” means any person who participates in criminal gang activity, as defined in parts (E)(3) and (E)(15) of this subchapter.
- E. “Criminal intent” has the meaning designated in part (F) of this subchapter.
- F. “Dangerous weapon” means any firearm, whether loaded or unloaded; any device designed as a weapon and capable of producing death or great bodily harm; any electric weapon, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

- G. “Great bodily harm” means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.
- H. “Intentionally” has the meaning designated in part (F) of this subchapter.
- I. “Peace officer” means any person vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes.
- “Peace officer” includes a commission warden and employees of the Sokaogon Chippewa Housing Authority Security Force.
- J. “Property of another” means property in which a person other than the actor has a legal interest which the actor has no right to defeat or impair, even though the actor may also have a legal interest in the property.
- K. “Public officer”; “public employee”. A “public officer” is any person appointed or elected according to law to discharge a public duty for the Tribe, State or one of its subordinate governmental units. A “public employee” is any person, not a Peace Officer, who performs any official function on behalf of the Tribe, state or one of its subordinate governmental units.
- L. “Reasonably believes” means that the actor believes that a certain fact situation exists and such belief under the circumstances is reasonable even though erroneous.
- M. “Transfer” means any transaction involving a change in possession of any property, or a change of right, title, or interest to or in any property.
- N. “Vehicle” means any self-propelled device for moving persons or property or pulling implements from one place to another, whether such device is operated on land, rails, water, or in the air.
- O. “With intent” has the meaning designated in (E) of this subchapter.
- P. “Without consent” means no consent in fact or that consent is given for one of the following reasons:
- (1) Because the actor put the victim in fear by the use or threat of imminent use of physical violence on the victim, or on a person in the victim’s presence, or on a member of the victim’s immediate family; or
 - (2) Because the actor purports to be acting under legal authority; or
 - (3) Because the victim does not understand the nature of the thing to which the victim consents, either by reason of ignorance or mistake of fact or of law other than

criminal law or by reason of youth or defective mental condition, whether permanent or temporary.

10.5.5 Criminal Intent.

- A. When criminal intent is an element of a crime, such intent is indicated by the term “intentionally”, the phrase “with intent to”, the phrase “with intent that”, or some form of the verbs “know” or “believe”.
- B. “Know” requires only that the actor believes that the specified fact exists.
- C. “Intentionally” means that the actor either has a purpose to do the thing or cause the result specified, or is aware that his or her conduct is practically certain to cause that result. In addition, except as provided in subsection (6), the actor must have knowledge of those facts which are necessary to make his or her conduct criminal and which are set forth after the word “intentionally”.
- D. “With intent to” or “with intent that” means that the actor either has a purpose to do the thing or cause the result specified, or is aware that his or her conduct is practically certain to cause that result.
- E. Criminal intent does not require proof of knowledge of the existence or constitutionality of the section under which the actor is prosecuted or the scope or meaning of the terms used in that section.
- F. Criminal intent does not require proof of knowledge of the age of a minor even though age is a material element in the crime in question.

10.5.6 Criminal Negligence.

- A. In this section, “criminal negligence” means ordinary negligence to a high degree, consisting of conduct that the actor should realize creates a substantial and unreasonable risk of death or great bodily harm to another.
- B. If criminal negligence is an element of a crime the negligence is indicated by the term “negligent” or “negligently”.

10.5.7 Defenses to Criminal Liability. Under this code all common law defenses to criminal liability including but not limited to; intoxication, mistake of fact, coercion, necessity, self-defense and defense of others, shall be preserved to the extent that they are in accord with Sokaogon Chippewa tradition and custom, unless they are otherwise addressed in this code.

10.6 STATUS OFFENSES

10.6.1 Underage and Intoxicated Persons.

- A. No person while under the age of twenty-one (21) may possess or consume any alcoholic beverage.
- B. No person may purchase for, sell, or give away any alcohol beverages to any underage person.
- C. No person may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned or occupied by them or under their control. This subdivision does not apply to alcohol beverages used exclusively as part of a religious service.
- D. Any person under the age of eighteen (18) found to be under the influence of alcohol, in possession of alcohol, or found to have violated section (C) above is guilty of a delinquent act.
- E. A copy of any complaint that alleges a person over the age of eighteen (18) has violated section (c) shall be forwarded by the Clerk of Court to the SCC Indian Child Welfare office to determine if the children involved are in need of protective services.

10.6.2 Purchase or Possession of Cigarettes or Tobacco Products by Person Under 18 Prohibited.

- A. No person under eighteen (18) years of age may falsely represent his or her age for the purpose of receiving any cigarette or tobacco product.
- B. No person under eighteen (18) years of age may purchase, attempt to purchase or possess any cigarette or tobacco product except as follows:
 - (1) A person under eighteen (18) years of age may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer.
 - (2) A person under eighteen (18) years of age, may possess cigarettes or tobacco products for ceremonial purposes with the approval of a Sokaogon Chippewa elder.
- C. Any person under the age of eighteen (18) found to be sections (1) or (2) above is guilty of a delinquent act.

10.6.3 Habitual Absence from Home. Any person under eighteen (18) who is habitually absent from their home, defined as more than twenty-four (24) hours absence without the consent of their custodial Parent(s) or Guardian(s) shall be deemed guilty of a delinquent act and shall be subject to the Jurisdiction of this Court.

10.6.4 Truancy.

Any person under age eighteen (18), who:

- (1) Is enrolled at a public or private school and missed four (4) days without a valid excuse; or
- (2) Is enrolled at a public or private school and has missed seven (7) days with a valid excuse; or
- (3) Is enrolled in alternative education program, including a curriculum modification program leading to a high school diploma or a technical college diploma program, that has failed to maintain reasonable academic progress as defined by the program's administrator; or
- (4) Has been withdrawn from all formal school and is home schooled, and not maintaining reasonable academic progress or is otherwise out of compliance with the Sokaogon Chippewa Educational Ordinance (Chapter 5 of the Sokaogon Chippewa Code), including but not limited to missing instruction for more than four (4) days without a valid excuse or more than seven (7) days with a valid excuse, shall be considered truant, and subject to the jurisdiction of this Court.

10.7 ACTIONS WHICH WOULD BE A CRIME IF COMMITTED BY AN ADULT

10.7.1 Inchoate Crimes.

- A. Solicitation. Except as provided in sub. (2) whoever, with intent that a crime or delinquent act be committed, advises another to commit that crime or delinquent act under circumstances that indicate unequivocally that he or she has the intent is guilty of a Delinquent Act.
- B. Conspiracy. Whoever, with intent that a crime be committed, agrees or combines with another for the purpose of committing that crime may, if one or more of the parties to the conspiracy does an act to effect its object, be guilty of a delinquent act.
- C. Attempt.
 - (1) Whoever attempts to commit a crime specified in this code may be treated as if they had committed the crime.
 - (2) An attempt to commit a crime requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute such crime and that the actor does acts toward the commission of the crime which demonstrate unequivocally, under all the circumstances, that the actor formed that intent and would commit the crime except for the intervention of another person or some other extraneous factor.

10.7.2 Crimes Against Bodily Security.

- A. Battery. Whoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed is guilty of a delinquent act.

B. Stalking.

(1) Whoever intentionally engages in a course of conduct directed at a specific person that would cause a reasonable person under the same circumstances to suffer serious emotional distress or to fear bodily injury to or the death of himself or herself or a member of his or her family or household. And, the actor knows or should know that at least one of the acts they are performing will cause the specific person to suffer serious emotional distress or place the specific person in reasonable fear of bodily injury to or the death of himself or herself or a member of his or her family or household. Shall be guilty of a delinquent act.

(2) In this section:

(a.) “Course of conduct” means a series of two (2) or more acts carried out over time, however short or long, that show a continuity of purpose, including any of the following:

- (1) Maintaining a visual or physical proximity to the victim.
- (2) Approaching or confronting the victim.
- (3) Appearing at the victim’s workplace or contacting the victim’s employer or coworkers.
- (4) Appearing at the victim’s home or contacting the victim’s neighbors.
- (5) Entering property owned, leased, or occupied by the victim.
- (6) Contacting the victim by telephone or causing the victim’s telephone or any other person’s telephone to ring repeatedly or continuously, regardless of whether a conversation ensues. 6m. Photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the victim. This subdivision applies regardless of where the act occurs.
- (7) Sending material by any means to the victim or, for the purpose of obtaining information about, disseminating information about, or communicating with the victim, to a member of the victim’s family or household or an employer, coworker, or friend of the victim.
- (8) Placing an object on or delivering an object to property owned, leased, or occupied by the victim.
- (9) Delivering an object to a member of the victim’s family or household or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned,

leased, or occupied by such a person with the intent that the object be delivered to the victim.

(10) Causing another person to engage in any of the acts above.

(b) “Member of a family” means a spouse, parent, child, sibling, or any other person who is related by blood or adoption to another.

(c) “Member of a household” means a person who regularly resides in the household of another or who within the previous six (6) months regularly resided in the household of another.

(d) “Suffer serious emotional distress” means to feel terrified, intimidated, threatened, harassed, or tormented.

(3) This section does not apply to conduct that is or acts that are protected by the person’s right to freedom of speech or to peaceably assemble with others under the state and U.S. constitutions, including, but not limited to, any of the following:

(a) Giving publicity to and obtaining or communicating information regarding any subject, whether by advertising, speaking or patrolling any public street or any place where any person or persons may lawfully be.

(b) Assembling peaceably.

(c) Peaceful picketing or patrolling.

10.7.3 Crimes Against Public Health and Safety.

A. Negligent handling of burning material.

(1) Whoever handles burning material in a highly negligent manner is guilty of a delinquent act.

(2) Burning material is handled in a highly negligent manner if handled with criminal negligence or under circumstances in which the person should realize that a substantial and unreasonable risk of serious damage to another’s property is created.

B. Interfering with fire fighting.

(1) Whoever intentionally interferes with the proper functioning of a fire alarm system or the lawful efforts of fire fighters to extinguish a fire is guilty of a delinquent act.

(2) Whoever interferes with, tampers with or removes, without authorization, any fire extinguisher, fire hose or any other fire fighting equipment, is guilty of a delinquent act.

- (3) Whoever interferes with accessibility to a fire hydrant by piling or dumping material near it without first obtaining permission from the appropriate municipal authority is guilty of a delinquent act. Every day during which the interference continues constitutes a separate offense.
- C. False alarms. Whoever intentionally gives a false alarm to any public officer or employee, whether by means of a fire alarm system or otherwise, is guilty of a delinquent act.
- D. Endangering safety. Whoever endangers another's safety is guilty of a delinquent act.
- (1) This section includes:
- (a) Criminal recklessness meaning that the actor creates an unreasonable and substantial risk of death or great bodily harm to another human being and the actor is aware of that risk.
 - (b) Endangering another's safety by a high degree of negligence in the operation of a vehicle is guilty of a delinquent act.
 - (c) Injury by negligent handling of dangerous weapon, explosives or fire, meaning that whoever causes bodily harm to another by the negligent operation or handling of a dangerous weapon, explosives or fire is guilty of a delinquent act.
- (2) A voluntarily produced intoxicated or drugged condition is not a defense to liability for criminal recklessness.
- E. Abuse of hazardous substance.
- (1) Whoever does any of the following is guilty of a delinquent act:
- (a) Possesses a hazardous substance with the intent to abuse the hazardous substance.
 - (b) Intentionally abuses a hazardous substance.
- (2) Whoever distributes, or possesses with intent to distribute, a hazardous substance, knowing or having reason to know that the hazardous substance will be abused, is guilty of a delinquent act.
- (3) In this section:
- (a) "Abuse" means to ingest, inhale, or otherwise introduce into the human body a hazardous substance in a manner that is intended to induce intoxication or elation, to stupefy the central nervous system, or to change the human audio, visual, or mental processes.

- (b) “Distribute” means to transfer a hazardous substance from one person to another.
 - (c) “Hazardous substance” includes but is not limited to aerosols, paints, paint thinners, butane, nitrous oxide, or any substance defined as Hazardous Substance by Wisconsin State, or Federal Law. “Hazardous substance” also includes any substance or mixture of substances that has the capacity to produce personal injury or illness to a person who abuses the substance and includes any household product or any mixture of household products defined therein.
- (4) Subsection (1) does not apply to a person who possesses or uses the hazardous substance if the substance is obtained from, or pursuant to a valid prescription
 - (5) Subsection (3)(B) does not apply to a person who distributes a hazardous substance in an ordinary course of business.

F. Criminal gang member solicitation and contact.

- (1) Whoever intentionally solicits a child to participate in criminal gang activity is guilty of a delinquent act.
- (2) Whoever intentionally violates, under all of the following circumstances, a court order to refrain from contacting a criminal gang member is guilty of a delinquent act:
 - (a) The court finds that the person who is subject to the court order is a criminal gang member.
 - (b) The court informs the person of the contact restriction orally and in writing.
 - (c) The order specifies how long the contact restriction stays in effect.
- (3) In this section:
 - (a) “Child” means a person who has not attained the age of eighteen (18) years.
 - (b) “Criminal gang activity” means the commission of, attempt to commit or solicitation to commit one or more crimes, or acts that would be crimes if the actor were an adult, committed for the benefit of, at the direction of, or in association with any criminal gang.

10.7.4 Crimes Against Property.

- A. Damage to property. Whoever intentionally causes damage to any physical property of another without the person’s consent is guilty of a Delinquent Act.

B. Criminal damage to or graffiti on religious and other property. Whoever intentionally causes damage to, intentionally marks, draws or writes with ink or another substance on or intentionally etches into any physical property of another, without the person's consent and with knowledge of the character of the property, is guilty of a Delinquent Act if the property consists of one or more of the following:

- (1) Any church, synagogue or other building, structure or place primarily used for religious worship or another religious purpose.
- (2) Any cemetery, mortuary or other facility used for burial or memorializing the dead.
- (3) Any school, educational facility or community center publicly identified as associated with a group of persons of a particular race, religion, color, disability, sexual orientation, national origin or ancestry or by an institution of any such group.
- (4) Any personal property contained in any property under subs. (1) to (3) if the personal property has particular significance or value to any group of persons of a particular race, religion, color, disability, sexual orientation, national origin or ancestry and the actor knows the personal property has particular significance or value to that group.

C. Graffiti. Whoever intentionally marks, draws or writes with paint, ink or another substance on or intentionally etches into the physical property of another without the other person's consent is guilty of a delinquent act.

D. Entry into locked vehicle. Whoever intentionally enters the locked and enclosed portion or compartment of the vehicle of another without consent and with intent to steal therefrom is guilty of a delinquent act.

E. Trespass to land.

- (1) Whoever enters any enclosed, cultivated or undeveloped land of another without the express or implied consent of the owner or occupant is guilty of delinquent act.
- (2) In determining whether a person has implied consent to enter the land of another a trier of fact shall consider all of the circumstances existing at the time the person entered the land, including all of the following:
 - (a) Whether the owner or occupant allowed previous entries by the person or by other persons under similar circumstances.
 - (b) The customary use, if any, of the land by other persons.
 - (c) Whether the owner or occupant represented to the public that the land may be entered for particular purposes.

- (d) The general arrangement or design of any improvements or structures on the land.
- (3) An owner or occupant may give express consent to enter or remain on the land for a specified purpose or subject to specified conditions and it is a violation of this Chapter for a person who received that consent to enter or remain on the land for another purpose or contrary to the specified conditions.
- (4) This section does not apply to any of the following:
 - (a) A person entering the land, other than the residence or other buildings or the curtilage of the residence or other buildings, of another for the purpose of removing a wild animal.
 - (b) A hunter entering land that is required to be open for hunting under
 - (c) A person entering or remaining on any exposed shore area of a stream as authorized by law, tradition or practice
- F. Criminal trespass to dwellings. Whoever intentionally enters the dwelling of another without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace, is guilty of a delinquent act.
- G. Theft.
 - (1) Whoever intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of such property is guilty of a delinquent act:
 - (2) In this section:
 - (a) "Movable property" is property whose physical location can be changed, without limitation including any part of a vehicle.
 - (b) "Property of another" includes property which is held out for sale in a retail setting.
 - (3) Use of photographs as evidence. In any action or proceeding for a violation of sub. (1), a party may use duly identified and authenticated photographs of property which was the subject of the violation in lieu of producing the property.
- H. Operating vehicle without owner's consent.
 - (1) Whoever intentionally takes, drives or operates any vehicle without the consent of the owner is guilty of a delinquent act.

(2) Whoever knows that the owner does not consent to the driving or operation of a vehicle and intentionally accompanies, as a passenger in the vehicle, a person while he or she violates sub.(1), is guilty of a delinquent act.

(3) In this section:

(a) “Drive” means the exercise of physical control over the speed and direction of a vehicle while it is in motion.

(b) “Operate” includes the physical manipulation or activation of any of the controls of a vehicle necessary to put it in motion.

10.7.5 Perjury and False Swearing. Whoever under oath or affirmation orally or in writing makes a false material statement which the person does not believe to be true is guilty of a delinquent act.

10.7.6 Crimes Against Public Peace, Order, and Other Interests. Disorderly Conduct. Whoever, in a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance is guilty of a delinquent act.

10.7.7 Controlled Substances.

A. Definitions, in this Section;

(1) “Controlled Substance” means any drug, substance, or immediate precursor included in Schedules I through V of Title 21 of Section 1308 of the most recent issue of the Code of Federal Regulations.

(2) “Controlled Substance Analog” means any substance whose chemical structure is substantially similar to any listed drug or which has a stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II; or with respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

(3) “Drug paraphernalia” means all equipment, products and materials of any kind that are used, designed for use or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog in violation of this chapter.

(4) “Drug paraphernalia” includes, but is not limited to:

- (a) Scales and balances used, designed for use or primarily intended for use in weighing or measuring controlled substances or controlled substance analogs.
- (b) Objects used, designed for use or primarily intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, opiates, hashish or hashish oil into the human body.

(5) “Drug paraphernalia” excludes:

- (a) Hypodermic syringes, needles and other objects used for medically injecting substances into the human body for the treatment of a disease or illness.
- (b) Any items, including pipes, papers and accessories, that are designed for use or primarily intended for use with tobacco products.

B. Violations.

(1) Possession of a controlled substance. No person may possess or attempt to possess a controlled substance, a controlled substance analog unless the person obtains the substance or the analog directly from, or pursuant to a valid prescription or order of, a practitioner who is acting in the course of his or her professional practice.

(2) Imitation of Controlled Substances.

(a) No person may knowingly distribute or deliver a non-controlled substance and expressly or impliedly represent that the substance is a controlled substance in such a way that a reasonable person could believe their representation.

(b) Any of the following is evidence of a representation specified in subdivision a.:

- (1) The physical appearance of the finished product containing the substance is substantially the same as that of a specific controlled substance.
- (2) The substance is unpackaged or is packaged in a manner normally used for the illegal delivery of a controlled substance.
- (3) The substance is not labeled in accordance with 21 USC 352 or 353.

- (4) The person distributing or delivering, attempting to distribute or deliver or causing distribution or delivery of the substance to be made states to the recipient that the substance may be resold at a price that substantially exceeds the value of the substance.

(c) A Youth who violates this paragraph is guilty of a Delinquent Act.

- (3) Possession of drug paraphernalia. No person may use, or possess with the primary intent to use, drug paraphernalia to, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this chapter.

10.7.8 Penalties. Any Youth convicted in the Sokaogon Chippewa Tribal Court of any offense listed in this section may be subject to a fine not to exceed \$1,000.00, restitution, community service, mandatory assessment and treatment for Alcohol and Other Drug Abuse, suspension of driving or vehicle operation privileges, suspension of hunting and fishing rights, or being placed in an out of home placement in a location of the court's choosing. Any other punishment based on Sokaogon Chippewa Custom and Tradition may be imposed upon the youth, with their consent, in lieu of the punishments above.

Such penalties shall take into account the severity of the offense, the harm to others, the Youth's criminal history, home environment, social history, and shall be designed to encourage reformation and prevention of future delinquent acts by the Youth and not merely as a punitive measure. The aim with all Sentences shall be to keep Youth actively and substantially involved with the improvement and continued advancement of the Sokaogon Chippewa Community on the Mole Lake Reservation.

10.7.9 Definitions. As used in this section:

- A. "Fine" means cash payment made directly to the Court by the youth. Any fine levied must be paid by the youth and is not the responsibility of their parent(s) or guardian(s).
 - (1) A Youth who after diligent effort is unable to earn sufficient funds to pay their fine may request that their fine be commuted to community service, and on finding that the Youth is unable and not merely unwilling to earn or raise funds for the fine the Court shall commute the fine to community service at a rate equal to the Federal Minimum wage.
- B. "Restitution" means a payment of cash to the victim or victims to remedy any damage stemming from the delinquent act. The amount of restitution shall be computed by the Court and shall include any costs for labor, equipment or supplies, medical costs actually paid by the victim, and out of pocket expenses by the victim.
- C. Community Service means unpaid work for the Tribe, a non-profit or religious organization providing services on the reservation, or for a Sokaogon Chippewa elder that is not directly related to the Youth. Any person sentenced to community service must provide the court with a record of their time that details where they worked, for

whom, what tasks they performed, and must be signed by a supervisor or elder with direct knowledge of the work they performed.

D. Suspension of driving or vehicle operation privileges includes the privilege to operate all automobiles, boats, all terrain vehicles, mopeds, scooters, motorcycles or any other motor powered device for locomotion, while on the Mole Lake Reservation.

(1) Any Youth violating such a suspension shall be deemed to be in contempt of court, and any vehicle they are found operating may be seized by the Tribe unless the lawful owner files a complaint that the youth was operating the vehicle without their permission in violation of 9.5B(3)(III)(3)(B) above, or can demonstrate to the Court that the owner was not aware of the Youth's use of the vehicle and had taken reasonable steps to prevent youth residing with them from gaining access to the vehicle(s).

E. Suspension of hunting and fishing rights includes the suspension of all rights to hunt, fish or gather on or off reservation pursuant to tribal law, treaty, or state law.

F. Out-of-home placement- includes foster care, placement in a group home, or a residential treatment facility.

10.8 AUTHORIZATION OF COURT TO ENTER AGREEMENTS WITH OTHER AGENCIES TO ENHANCE AND ENFORCE THIS CODE

A. The Sokaogon Chippewa Tribal Court (SCCTC) is hereby authorized and empowered to enter into Memorandums of Understanding, Memorandums of Agreement, or Joint Powers Agreements with other agencies, courts, and government entities which improve enforcement, compliance, the transfer of cases to and from this court, or the reporting of violations of this code, including but not limited to the Crandon School District and the Forest County Circuit Court . This authority is limited, and the SCCTC is expressly prohibited from entering any agreement which waives or abrogates the Tribe's sovereign immunity or obligates money from the Tribe's general operating budget without the express authorization of the Tribal Council or Tribal Manager.

B. Any currently valid agreement under this section shall be given force and effect under this Code and shall be treated as a Section of this code.

History:

Enacted - unknown.

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