

MEMORANDUM

TO: Board of Directors
FROM: Lona Stewart, Board Administrator
DATE: September 23, 2026
RE: Workshop Agenda for September 28, 2026

AGENDA

1:00

Constitutional Implementation Planning:

Chapter 70: Criminal Procedure

Chapter 71: Criminal Offenses

PRELIMINARY DRAFT. NOT FINAL. FOR WORKSHOP PURPOSES ONLY.

70.104 Arrest.

(1) Arrest is the taking of a person into police custody in order that he may be held to answer for a criminal offense.

(2) No Tribal law enforcement officer shall arrest any person for a criminal offense except when:

(a) the officer shall have a warrant signed by a Tribal Judge commanding the arrest of such person, or the officer knows for a certainty that such a warrant has been issued; or

(b) the offense shall occur in the presence of the arresting officer; or

(c) the officer shall have probable cause to believe that the person to be arrested has committed an offense. ~~;~~ ~~or~~

~~(d) the officer has reasonable cause to believe that a violation of '71.114 or '71.115, being assault or threats of endangerment respectively, has taken place or is taking place and that the person who committed or is committing the violation is a spouse, a former spouse, or a person residing or having resided in the same household as the victim, may arrest the violator without a warrant for that violation, irrespective of whether the violation was committed in the presence of the officer.~~

Getting rid of subsection (d)

- put into code in 1992
- **over the years it has been amended to stay with our code, but lost in translation. It references 71.114 and 71.115 which do not exist in our code.**
- **It creates a legal standard for law enforcement of “reasonable cause” which is not a thing. In criminal law we have reasonable suspicion and probable cause. Each having different burdens for law enforcement. Creating our own standard of reasonable cause without guideline or standards creates an unachievable burden for law enforcement and opens the door for liability of the officers and the tribe for violation of individual rights.**
- I suspect this was put in place for arresting on domestic violence that occurred outside the presence of law enforcement, since 1992 there has been law established that allows for officer to arrest on specific misdemeanors (dv and owi) when they occur outside law enforcement presence.

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70.106 Notification of Rights at Time of Arrest.

Upon arrest, the suspect shall be advised of the following rights:

- (1) That he or she has the right to remain silent.
- (2) That any statements made by him or her may be used against him or her in court.
- ~~(3) That he or she has the right to obtain counsel at his or her own expense.~~
- ~~(3) That he or she has the right to an attorney, if they cannot afford one, one will be appointed for them.~~

Need to change because

- In conflicts with other part of the code, sch as vawa and special jurisdiction
- Could lead to issue with federal prosecution of cases as the defendant was not informed of their right to court appointed counsel
- Gets us in line with the well accepted and known Miranda warnings

70.115 Rights of Accused Charged under Special Tribal Criminal Jurisdiction

(1) Any Defendant charged with a crime in which the Tribe is exercising its special Tribal criminal jurisdiction pursuant to the Violence Against Women Act Reauthorization Act of 2022, shall be instructed by the judge presiding over their case, at the defendant's initial appearance before the Court, of their rights, including any rights provided under 25 U.S.C. §§ 1304(c) and 1304(e).

(2) Notwithstanding any other provision of Tribal law, the requirements and rights set forth in this Section shall be ensured in addition to—or shall supersede any inconsistent— provisions set forth in the Tribal Code in order to ensure compliance with the Violence Against Women Act Reauthorization Act.

(3) An individual charged with a Covered Crime pursuant to the Violence Against Women Act Reauthorization Act shall:

(a) Be provided the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution; and

(b) If indigent, be provided the assistance of a licensed defense attorney at the Tribe's expense.

(c) Be provided with a licensed Judge with sufficient legal training to preside over the criminal proceeding.

(d) Have the right to an impartial jury drawn from a source that reflects a fair cross section of the community and does not systematically exclude any distinctive group in the community, including non-Indians.

(e) Receive written notice of the right to habeas corpus petitions.

70.121 Right to Counsel.

(1) No defendant in a criminal proceeding shall be denied the right to counsel at his or her own expense.

(2) The Court shall appoint counsel to assist any person appearing as a criminal defendant for charges carrying a potential jail sentence if the defendant is determined to be financially qualified based upon standards of indigency established by the Court.

(3) Counsel representing a defendant shall be admitted to practice before the Tribal Court pursuant to Tribal Code Chapter 87.

(4) Counsel representing a defendant charged with a Covered Crime under the Violence Against Women Act Reauthorization Act shall be an attorney licensed to practice law by any jurisdiction and admitted to practice before the Tribal Court pursuant to Tribal Code Chapter 87.

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TRIBAL CODE

CHAPTER 71:

CRIMINAL OFFENSES

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TERITORYNOTE:

Current Ordinance

Originally enacted as Chapter 4 of the Law-and-Order Code, Resolution 11-28-79E, adopted November 11, 1979, effective immediately.

Reenacted in Tribal Code format as part of the Tribal Code on July 5, 1995, Resolution No. 95-89, effective immediately. Tribal Resolution 97-10, adopted Feb 4, 1999 enacts Chapter 71: Criminal Offenses and rescinds the current Chapter 71.

Amendments:

Tribal Resolution 2025-87, adopted May 6, 2025, adds 71.716 Threatening to Commit Violence with Firearm, Explosive, or Other Dangerous Weapon Against Students or Employees on School Property.

Tribal Resolution 2025-85, adopted May 6, 2025, adds 71.809 Breaking and Entering.

Tribal Resolution 2025-86, adopted May 6, 2025, adds 71.1111 Prohibited Use of Emergency 9-1-1 Service.

Tribal Resolution 2024-175, adopted June 4, 2024, amends 71.202 (20) Littering and adds 71.905 Illegal Dumping.

Tribal Resolution 2024-45, adopted February 6, 2024, repealing Section 71.1508 and 71.1509.

Tribal Resolution 2022-258, adopted September 27, 2022, implements the Tribe's jurisdiction over the criminal offenses provided in the Violence Against Women Act.

Tribal Resolution 2022-121, adopted April 26, 2022, amends Section 71.1613.

Tribal Resolution 2020-183, adopted August 11, 2020, deletes the current Section 71.1617 and replaces with new Section 71.1617, vacating of prior marijuana convictions.

Tribal Resolution 2020-101, adopted May 5, 2020, amending by raising the age of an adult for criminal jurisdiction purposes to 18 years of age or older.

Tribal Resolution 2020-94, adopted April 14, 2020, amending Sections 71.1601-71.1618.

Tribal Resolution 2019-278, adopted October 15, 2019 Limiting Electronic Cigarette.

Subchapter XV. Tribal Resolution 2019-144, adopted May 14, 2019, Technical Amendments.

Tribal Resolution 2019-109, adopted April 16, 2019, repealed current Subchapter XVI Controlled Substances and Related Offenses and enacted a wholly new Subchapter XVI Controlled Substances and Related Offenses. **Effective May 15, 2019.**

Tribal Resolution 2018-141, adopted June 12, 2018 amending §§71.1601, and 71.1603, Michigan Medical Marijuana Act, MCL 333.24621 et seq.

Tribal Resolution 2018-30, adopted February 6, 2018 amends §71.1505 and §.1506, Nicotine Products.

Tribal Resolution 2016-248, adopted October 18, 2016 amends §71.201, §71.202, §71.704, §71.707, §71.1404. Adds new sections §71.711, §71.712, §71.713, §71.714, §71.1406, §71.1605, §71.1809, §71.1810, §71.1811.

Tribal Resolution 2016-185, adopted July 26, 2016, amends Chapter 71, by adding §71.1602(3),
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possession and administration of Naloxone (Narcan).

Tribal Resolution 2013-225, adopted October 22, 2013, repealed current §71.1504 and enacted new §71.1504.

Tribal Resolution 2012-181, adopted September 4, 2012, adds §§71.1202(1)(m). Disorderly conduct in alcohol free zone. Tribal Resolution 2008-133, adopted June 17, 2008, adds §§71.1504-1506, Under Age Possession of Liquor, Tobacco and Delivery of Tobacco to Minor.

Tribal Resolution 2008-79, adopted April 15, 2008, deletes §71.1202 and replaces with a revised §71.1202.

Tribal Resolution 2008-61, adopted March 18, 2008, deletes §71.202-71.221 and replaces with §71.202, adds §71.604 and §71.110, deletes §71.1202 and replaces with new §71.1202 and deletes §71.1801 and replaces with §71.1801-1804. Replaces §71.1202 with a new §71.1202 and deletes §71.1801 and replaces it with §71.1801-1804.

Tribal Resolution 2007-54, adopted March 20, 2007, amends §71.502.

Tribal Resolution 2005-89, adopted June 14, 2005, adds new section 71.710 misuse of identity. Tribal Resolution 2005-90, adopted June 14, 2005, repealed current 71.706 and enacted new 71.706.

Tribal Resolution 2003-58, adopted April 29, 2003, amended '71.1102, improper influence Tribal Official.

Tribal Resolution 2003-41, adopted March 25, 2003, amended '71.303, violation of Chapter 43.

Tribal Resolution 7-25-87, adopted July 25, 1987, added '71.159, offenses concerning dogs.

Tribal Resolution 10-18-88, adopted October 18, 1988, amended '71.151(2) to increase the penalty.

Tribal Resolution 6-05-89A, adopted June 5, 1989, added '71.160, offenses concerning animals.

Tribal Resolution 11-20-90, adopted November 20, 1990, added '71.161, obstruction of justice.

Tribal Resolution 96-07, adopted January 15, 1996, added '71.161, election fraud

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TRIBAL CODE

CHAPTER 71:

CRIMINAL OFFENSES

SUBCHAPTER I: INTRODUCTORY MATTERS

71.101 Purposes.

- (1) It is Sault Ste Marie Tribe of Chippewa Indian's intention to assert its jurisdiction fully to protect its citizens and community. The conduct proscribed in this Chapter threatens not only the health and welfare of this Tribe, but also its political integrity and economic security. This Chapter shall be interpreted and applied to the fullest extent allowed under federal law.
- (2) The general purposes of the provisions governing the definition of offenses are:
 - (a) To forbid and deter conduct which unjustifiably and inexcusably inflicts or threatens substantial harm to individual or tribal interests; and
 - (b) To give fair warning of the nature of conduct declared to constitute criminal offenses.
- (3) The general purposes of the provisions governing the sentencing and treatment of offenders are:
 - (a) To punish the offender for crimes against the Tribe;
 - (b) To remove offenders from the tribal community when required in the interests of public protection;
 - (c) To promote the correction and rehabilitation of offenders;
 - (d) To deter the commission of offenses;
 - (e) To pay restitution to the injured party.

71.102 Repealer.

- (1) Except as provided in sub. (3), the following are repealed in their entirety:
 - (a) Chapter 4 of the Law-and-Order Code, adopted by Resolution No. 11-28-79E;
 - (b) any later amendments to Chapter 4;
 - (c) the recodification of Chapter 4 as Tribal Code Chapter 71: Criminal Offenses enacted as part of the Tribal Code by Resolution 95-89; and
 - (d) any later amendments to Chapter 71[CHB1].

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71.103 Effective Date.

- (1) This Chapter shall take immediate effect. The provisions of the Chapter shall apply to any offense committed on or after the date of enactment.

SUBCHAPTER II: DEFINITIONS

71.201 General Provisions.

- (1) For the purpose of the Chapter, certain terms are defined in the subchapter.
- (2) The definitions provided in Tribal Code '71.202 apply unless subchapters include specific and contrary definitions. Any specific definitions within a subchapter are superior to the general definitions listed in Tribal Code '71.202 and shall govern the definition of the word for that subchapter.
- (3) When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number, words in the plural number include the singular number, and words in the masculine gender include the feminine gender.
- (4) The word "shall" is always mandatory and not merely directory.
- (5) The definitions set forth in Tribal Code '70.102 shall apply to the Chapter as well.

71.202 Definitions.

- (1) "Apprehension of bodily injury" means any act which is intended to cause another person to reasonably fear imminent bodily injury.
- (2) "Bodily Injury" means any impairment of physical condition, including physical pain.
- (3) "Child" or "minor child" means a person who is less than eighteen (18) years old.
- (4) "Coercion; Commercial Sex Act" have the meanings given the terms in section 18 USC 1591 (e), United States Code.
- (5) "Course of Conduct" means a pattern of conduct composed of a series of two or more separate non-continuous acts evidencing a continuity of purpose.
- (6) "Credible threat" means a threat, verbal or nonverbal, that would cause a reasonable person to fear for their safety or the safety of a household member, including a spouse, former spouse, family member, present or former household member or co-parent of a child.
- (7) "Developmental disability" means an impairment of general intellectual functioning or adaptive behavior which meets all of the following criteria:
 - (a) It originated before the person became 18 years of age.

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- (b) It has continued since its origination or can be expected to continue indefinitely.
 - (c) It constitutes a substantial burden to the impaired person's ability to perform in society.
 - (d) It is attributable to 1 or more of the following:
 - i. Mental retardation, cerebral palsy, epilepsy, or autism.
 - ii. Any other condition of a person found to be closely related to mental retardation because it produces a similar impairment or requires treatment and services similar to those required for a person who is mentally retarded.
- (8) "Domestic Violence" means any violation of the Chapter that is committed by:
- (a) A current or former spouse or intimate partner of the victim;
 - (b) A person with whom the victim shares a child in common;
 - (c) A person who is cohabitating with or who has cohabitated with the victim as a spouse or intimate partner; or
 - (d) A person similarly situated to a spouse of the victim
- (9) "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential.
- (10) "Emergency situation" means a situation in which both of the following apply:
- (a) Human health, life or safety is in jeopardy and the prompt summoning of aid is essential.
 - (b) It is reasonable to believe that a domestic violence offense pursuant to section 71.1404 is being, has been or is about to be committed.
- (11) "Emotional Distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.
- (12) "Family member" means a spouse, a parent, a child or a person related by consanguinity to another person.
- (13) "Firearm" means any gun, revolver, pistol, shotgun, or other weapon which discharges a projectile by explosive force.
- (14) "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose. Harassing behavior can include but is not limited to vandalism, annoying or threatening telephone calls, following or other violations of protection orders, sending unwanted letters, electronic mail, electronic forms of communication, sending messages through third parties, showing up at victim's home or workplace, attempting to obtain private information about the victim through others, leaving

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gifts for the victim, disabling or otherwise tampering with the victim's vehicle, taking mail from the victim's mailbox, entering the victim's home or place of residence, parking near or driving by the victim's residence or workplace for no legitimate reason.

- (15) "Household member" means a person currently or formerly residing in a place of abode with another person.
- (16) "Indian" means any person who is:
 - (a) A member of the Tribe; or
 - (b) Any other person who would be subject to the jurisdiction of the United States as an Indian under 18 U.S.C. § 1153 if that person were to commit an offense listed in that section in Indian country to which that section applies.
- (17) "Intimate parts" includes the primary genital area, groin, inner thigh, buttock, or breast of a human being.
- (18) "Knife" means any dagger, dirk, knife, sword, spear, or stiletto with a blade over three and one-half (3 1/2) inches in length, or any other instrument capable of inflicting cutting, stabbing or tearing wounds, but it does not include a hunting or fishing knife carried for sport or other lawful use.
- (19) "Knowingly" means
 - (a) If the element involves the nature of the person's conduct or the attendant circumstances, the person is aware that the conduct is of that nature or that such circumstances exist; and
 - (b) If the element involves a result of the conduct, the person is aware that it is practically certain that the conduct will cause such a result.
- (20) "Litter" means any non-hazardous solid or liquid domestic or commercial refuse, garbage, debris, or rubbish.
- (21) "Mental health professional" means that term as defined in section 100b of the mental health code of the State of Michigan, 1974 PA 258, MCL 330.1100b.
- (22) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.
- (23) "Mentally disabled" means that a person has a mental illness, is mentally retarded, or has a developmental disability.
- (24) "Mentally incapable" means that a person suffers from a mental disease or defect that renders that person temporarily or permanently incapable of appraising the nature of their conduct.
- (25) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling their conduct due to the influence of a narcotic, anesthetic, or other substance administered to that person without their consent, or due to any other act committed upon that person without their consent.

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- (26) "Mentally retarded" means significantly subaverage general intellectual functioning that originates during the developmental period and is associated with impairment in adaptive behavior.
- (27) "Negligently" means a manner in which when the person should be aware of a substantial and unjustifiable risk that the material element exists or will result from their conduct. The risk must be of such a nature and degree that the person's failure to perceive it, considering the nature and purpose of the person's conduct and the circumstances known to the person, involves a gross deviation from the standard of care that a reasonably prudent person would observe in the actor's situation.
- (28) "Obstruction of Justice" means where a violation is committed in accordance with the Chapter that involves interfering with the administration or due process of the laws of the Sault Ste. Marie Tribe, including any Tribal criminal proceeding or investigation of a crime.
- (29) "Overt act" means an open, manifest act from which criminality may be implied.
- (30) "Personal injury" means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.
- (31) "Physically helpless" means that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act.
- (32) "Purposely or intentionally" means:
 - (a) If the element involves the nature of the person's conduct or a result thereof, it is the person's conscious object to engage in the conduct of that nature or to cause such a result; and
 - (b) If the element involves the attendant circumstances, the person is aware of the existence of such circumstances or the person believes or hopes that they exist.
- (33) "Prescription medication" means a drug, chemical, compound, or treatment that must be dispensed by a licensed pharmacist and is not otherwise available over-the-counter within the United States.
- (34) "Recklessly" means the person consciously disregards a substantial and unjustifiable risk that the material element exists or will result from the conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the person's conduct and the circumstances known to the person, its disregard involves a gross deviation of the standard of conduct that a law-abiding person would observe in the actor's situation.
- (35) "Riot" means a public disturbance involving an assemblage of three (3) or more persons which by tumultuous and violent conduct creates substantial danger of damage or injury to property or persons or substantially obstructs the performance of any lawful governmental function.

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- (36) "Sell" includes any form of remuneration, trade, or compensation.
- (37) "Sexual contact" includes the intentional touching of the victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for:
- (a) Revenge; or
 - (b) To inflict humiliation; or
 - (c) Out of anger.
- (38) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.
- (39) "Sexual Violence" means any nonconsensual sexual act or contact proscribed by a statute defined in the Chapter, including any case in which the victim lacks the capacity to consent to the act.
- (40) "Substantial step" means any conduct, whether act, omission or possession which is corroborative of the actor's intent to commit the other offense.
- (41) "Stalking" means engaging in a course of conduct directed at a specific person as defined by the Chapter where the violation occurs that would cause a reasonable person to:
- (a) Fear for the person's safety or the safety of others; or
 - (b) Suffer substantial emotional distress.
- (42) "Telecommunications" and "telecommunications service" mean any service lawfully provided for a charge or compensation to facilitate the origination, transmission, retransmission, emission, or reception of signs, data, images, signals, writings, sounds, or other intelligence or equivalence of intelligence of any nature over any telecommunications system by any method, including, but not limited to, electronic, electromagnetic, magnetic, optical, photo-optical, digital, or analog technologies.
- (43) "Telecommunication device" means any of the following:
- (a) Any Tribal Court instrument, device, card, plate, code, telephone number, account number, personal identification number, electronic serial number, mobile identification number, counterfeit number, or financial transaction device as defined in MCL 750.157m that alone or with another device can acquire, transmit, intercept, provide, receive, use, or otherwise facilitate the use, acquisition, interception, provision, reception, and transmission of any telecommunications service.
 - (b) Any type of instrument, device, machine, equipment, technology, or software that facilitates telecommunications or which is capable of transmitting, acquiring, intercepting, decrypting, or receiving any

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telephonic, electronic, data, internet access, audio, video, microwave, or radio transmissions, signals, telecommunications, or services, including the receipt, acquisition, interception, transmission, retransmission, or decryption of all telecommunications, transmissions, signals, or services provided by or through any cable television, fiber optic, telephone, satellite, microwave, data transmission, radio, internet based or wireless distribution network, system, or facility, or any part, accessory, or component, including any computer circuit, security module, smart card, software, computer chip, pager, cellular telephone, personal communications device, transponder, receiver, modem, electronic mechanism or other component, accessory, or part of any other device that is capable of facilitating the interception, transmission, retransmission, decryption, acquisition, or reception of any telecommunications, transmissions, signals, or services.

(44) "Tribal Justice Personnel" "Tribal Justice Personnel" includes but is not limited to the following, when acting on behalf of the Tribe or serving the Tribe for any investigation, adjudication, or other services related to a potential crime or a criminal case:

- (a) Any Tribal Court judge, Court administrator, Court Clerk, probation officer, or other employee or agent of the Court;
- (b) Any Tribal law enforcement officer or agent of tribal law enforcement, and any caseworker, law enforcement officer from any other jurisdiction, EMT worker, or other person that is working in coordination or conjunction with a tribal law enforcement officer;
- (c) Any person incarcerating, supervising, providing treatment, providing rehabilitation services, or providing reentry services on behalf of the Tribe;
- (d) Any ACFS caseworker, supervisor, or other agent when providing any services related to investigation of allegations that a child may be a child-in-need-of-care under the law of any tribe or state, or that any criminal act may have been committed against a child or against a vulnerable adult;
- (e) Any victim advocate for services to the alleged victim or other services to the tribal justice system;
- (f) Any medical or mental health professional or detention worker for any services related to the alleged victim related to the crime or for any services to the defendant related to bail, sentencing, rehabilitation, sentencing of the defendant, or other services to the tribal justice system.
- (g) The Tribe's prosecutor and all other employees in the Prosecutor's office;
- (h) The Defendant's attorney and all employees and agents of that attorney.
- (i) Any other person, for actions taken on behalf of the Tribe that would not have been taken but for the investigation or prosecution, court

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proceedings, or execution of the sentence for an alleged crime.

(45) "Tribe" (or "tribal") means (or refers to) the Sault Ste. Marie Tribe of Chippewa Indians.

(46) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

- (a) Following or appearing within the sight of that individual.
- (b) Approaching or confronting that individual in a public place or on private property.
- (c) Appearing at that individual's workplace or residence.
- (d) Entering onto or remaining on property owned, leased, or occupied by that individual.
- (e) Contacting that individual by telephone.
- (f) Sending mail or electronic communications to that individual.
- (g) Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

(47) "Violation of a Protection Order" means an act that:

- (a) Occurs within the jurisdiction of the Sault Ste. Marie Tribe; and
- (b) Violates a provision of a protection order that:
 - i. Prohibits or provides protection against violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person;
 - ii. Was issued against the defendant;
 - iii. Is enforceable by the Sault Ste. Marie Tribe; and
 - iv. Is consistent with section 2265(b) of title 18, United States Code.

(48) "Weapon" means a firearm, knife, or any of the following: any dart, blow-gun, air or pellet gun, non-safety razor, blackjack, billy club, sand club, sand bag, any hand operated striking weapon consisting at the striking end of an encased heavy substance or at the handle end a strap or springy shaft which increases the force of the impact, any device designed for propelling by release of gas or a spring pressure, any device designed to discharge chemicals as an offensive or defensive weapon, a bomb or any other explosive or incendiary device or Molotov cocktail, brass knuckles or other device intended to be worn on the hand or other part of the body for infliction of injury to another person, stun gun, shocking device or any other device used to inflict bodily injury.

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SUBCHAPTER III: JURISDICTION

71.301 Generally.

- (1) The offenses specified in the Chapter, or those provided for in other chapters of the Tribal Code, constitute forbidden criminal conduct against the Tribe. Persons committing such offenses may be tried and punished by the Tribal Court as provided for by the Chapter and Chapter 70; provided, however, that such jurisdiction, whether or not exercised, shall not affect the power or authority of any other courts, including those of the United States, or the State of Michigan, which may have jurisdiction.

71.302 Persons Under the Tribe's Criminal Jurisdiction.

- (1) The criminal jurisdiction of the Tribe shall extend to all Indians, and all other persons over whom the exercise of criminal jurisdiction by the Tribe is authorized or permitted by federal law.

71.303 Territorial Extent

- (1) Except as provided in sub. (2), the criminal jurisdiction of the Tribe shall extend to:
 - (a) All land within the limits of the Tribe's reservation, including trust land, fee patented land and rights of way running through the reservation; and
 - (b) All land outside the boundaries of the Tribe's reservation held in trust by the United States for individual members of the Tribe or for the Tribe; and
 - (c) All other land considered "Indian Country" as defined by 18 U.S.C. '1151² that is associated with the Tribe.
- (2) The criminal jurisdiction of the Tribe shall extend to the following offenses wherever committed:
 - (a) Embezzlement and theft from a tribal organization, ' 71.808
 - (b) Abuse of office, '71.1101, if the office involved is a tribal office;
 - (c) Improper influence of a tribal official, '71.1102;
 - (d) Election fraud, '71.1103, if the election involved is a tribal election;
 - (e) Malicious criminal prosecution, '71.1104, if the prosecution involves the Tribal Court;
 - (f) Obstruction of justice, '71.1105, if the investigation involves a violation of tribal law or the case involved is in Tribal Court;
 - (g) Public bribery, '71.1006, if the public servant involved is an official,

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appointee, judge or employee of the Tribe; [see Settler v. Lameer]

- (h) Refusing, omitting and delaying to arrest, '71.1107; and
- (i) Filing fictitious report, '71.1109.
- (j) Any violation of '43.1017 of Tribal Code Chapter 43: Tribal Tax Code.

SUBCHAPTER IV: GENERAL PROVISIONS

71.401 Affirmative Defenses.

- (1) Unless the prosecution's evidence raises an issue of affirmative defense to an alleged offense, the defendant, to raise the issue, must present some credible evidence on that issue. If the issue involved in an affirmative defense is raised, the guilt of the defendant must be established beyond a reasonable doubt as to that issue as well as all other elements of the offense.
- (2) Affirmative defenses include but are not necessarily limited to the following:
 - (a) Alibi. The evidence must indicate that the defendant's whereabouts at the time of the crime make it impossible or impracticable to place the defendant at the scene of the crime.
 - (b) Claim of right. The evidence must indicate that the person thought the property to be legally theirs, and that they were operating under an honest conviction that they were acting under claim of right.
 - (c) Duress. The evidence must indicate that the person engaged in the conduct charged because they were coerced against their will by the use, or the threatened use of, unlawful force against their person or the person of another. The coercion must be such that a reasonable person would be unable to resist.
 - (d) Protection of self, property or another person. The use of reasonable force towards another person is justified when:
 - i. The force is directed toward one who is using unlawful force; and
 - ii. The person using such force reasonably believes that use of force is necessary for the person's protection or that of a third person.
 - iii. Or the force is used to prevent the unlawful entry into the dwelling of the person asserting the defense or to prevent the unlawful carrying away of personal property.
 - (e) Those affirmative defenses specified elsewhere in the Chapter or another chapter of the Tribal Code

71.402 Double Jeopardy.

- (1) If a criminal prosecution is for a violation of the same provision of law and is

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based upon the same facts as a former prosecution in Tribal Court, it is barred by the former prosecution, when:

- (a) The former prosecution resulted in an acquittal; or
- (b) The former prosecution proceeded on the basis of a plea of guilty or no contest; or
- (c) The former prosecution resulted in a conviction which has not been reversed or vacated.

71.403 Intoxication.

- (1) Intoxication of the defendant is not a defense to the charge of a criminal offense, but in any prosecution for an offense, evidence of intoxication of the defendant may be offered by the defendant whenever it is relevant to negate the existence of a specific intent, if such intent is an element of the crime charged.

71.404 Multiple Counts.

- (1) When the conduct of a defendant establishes the commission of more than one offense, the defendant may be prosecuted for each such offense, unless:
 - (a) Inconsistent findings of facts are required to establish the commission of the offense; or
 - (b) The offenses differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct; or
 - (c) The offense is defined as a continuing course of conduct and the defendant's course was uninterrupted unless the law provides that specific periods or instances of such conduct constitute separate offenses.
- (2) If the same conduct is defined as an offense in different chapters of the Tribal Code or in different sections of the chapter, the offender may be prosecuted under any one or all of such sections or chapters subject to the limitations provided by the section. It shall be immaterial to such prosecution that one of the enactments or sections provides a lesser penalty than another, or was enacted at a later date than another unless the later section or enactment specifically repeals the earlier.

71.405 Presumption of Innocence.

- (1) Every person is presumed innocent of any offense with which they are charged until proven guilty.
- (2) No person shall be convicted of any offense unless their guilt, as to each material

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element, is proven beyond a reasonable doubt.

71.406 Sentencing Classifications

(1) Thirty (30) day misdemeanors

- (a) A person deemed guilty of a thirty (30) day misdemeanor shall be subject to immediate sentencing by the Tribal Court Judge and may be sentenced to a jail term not to exceed thirty (30) days, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

(2) Ninety (90) day misdemeanors

- (a) A person deemed guilty of a ninety (90) day misdemeanor shall be subject to immediate sentencing by the Tribal Court Judge and may be sentenced to a jail term not to exceed ninety (90) days, or a fine not to exceed One Thousand Dollars (\$1,000.00), or both.

(3) Ninety-Three (93) day misdemeanor

- (a) A person deemed guilty of a ninety-three (93) day misdemeanor shall be subject to immediate sentencing by the Tribal Court Judge and may be sentenced to a jail term not to exceed ninety-three (93) days, or a fine not to exceed One Thousand Dollars (\$1,000.00), or both.

(4) Six (6) Month misdemeanor

- (a) A person deemed guilty of a Six (6) month misdemeanor shall be subject to immediate sentencing by the Tribal Court Judge and may be sentenced to a jail term not to exceed Six (6) months, or a fine not to exceed Three Thousand Dollars (\$3,000.00), or both.

(5) One (1) year misdemeanor

- (a) A person convicted of a 1-year misdemeanor may be sentenced to a jail term not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

(6) Two (2) Year Felony

- (a) A person convicted of a 2-year felony may be sentenced to imprisonment not to exceed two (2) years, or a fine not to exceed Ten Thousand Dollars (\$10,000.00), or both.

(7) Three (3) year Felony

- (a) A person convicted of a 3-year felony may be sentenced to imprisonment not to exceed three (3) years, or a fine not to exceed Fifteen Thousand Dollars (\$15,000.00), or both.

71.407 Consecutive Terms of Imprisonment

- (1) If multiple crimes are committed, and multiple sentences of imprisonment are imposed on a person at the same time, the Court may, at its discretion, direct the sentences to run consecutively.

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71.408 Repeat Offender

- (1) The Court may, at its discretion, sentence a person who has been previously convicted of the same offense, or a comparable offense by any jurisdiction in the United States, to one class higher than the sentence imposed in the previous conviction.
 - a. The conviction must be for a separate act.

SUBCHAPTER V: CONTEMPT OF COURT

71.501 Criminal Contempt.

- (1) Offense. A person commits the offense of contempt of court, if:
 - (a) They intentionally fail to maintain the respect due the Tribal Court; or
 - (b) They intentionally engage in any offensive conduct in the Tribal Court courtroom.
- (2) Sentencing Classification. Ninety (90) day misdemeanor.

71.502 Disobedience of a Court Order.

- (1) Offense. A person commits the offense of disobedience of a court order, if they intentionally disobey any outstanding order, warrant or command duly issued by the Tribal Court, or any subpoena duly issued by the Tribal Court or an attorney of record.
- (2) Sentencing Classification. Ninety (90) day misdemeanor.

71.503 Perjury.

- (1) Offense. A person commits the offense of perjury, if they make any sworn statement, either in writing or orally, or a sworn affidavit, before the Tribal Court, knowing or having reasonable cause to know the same to be false, or if they induce another person to do so.
- (2) Sentencing Classification. Ninety (90) day misdemeanor.
- (3) Sentencing Enhancement. If as a result of such perjury, any other person is unjustly deprived of liberty or property, or the use or benefit thereof, the sentence may be a jail term not to exceed six (6) months, or a fine not to exceed Two Thousand Dollars (\$2,000.00), or both.

71.504 Violation of a Domestic Violence Protection Order

- (1) Offense. A person commits the offense of Violation of a Domestic Violence Protection Order, if they knowingly violate any provision of a Domestic

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Violence Protection Order, as defined in Section 71.202(47).

(2) **Sentencing Classification.** Ninety (90) day misdemeanor.

(3) **Sentencing Enhancement.** If as a result of such perjury, any other person is unjustly deprived of liberty or property, or the use or benefit^[C12] thereof, the sentence may be a jail term not to exceed six (6) months, or a fine not to exceed Two Thousand Dollars (\$2,000.00), or both.

SUBCHAPTER VI: SCHEMING AND PLANNING OFFENSES

71.601 **Aiding and Abetting.**

(1) **Offense.** A person commits the offense of aiding and abetting, if:

(a) With the intent to promote or facilitate the act or conduct constituting the commission of the offense, they aid, abet or advise such other person in planning or committing the offense.

(2) **Sentence.** A person convicted of the offense of aiding and abetting shall be subject to the same sentence as provided for the underlying crime.

(3) **Comment.**

(a) A person shall not be convicted of aiding and abetting if the principal offender is not found guilty of the underlying crime.

71.602 **Conspiracy.**

(1) **Offense.** A person commits the offense of criminal conspiracy, if with the intent to promote or facilitate the commission of another offense,

(a) They agree with another person or persons that they, or one or more of them, will engage in conduct which constitutes such other offense or an attempt to commit such other offense; or

(b) They agree to aid such other person or persons in planning and commission of such other offense or of an attempt to commit such other offense.

(2) **Sentence.** A person convicted of criminal conspiracy shall be subject to the same sentence as provided for the underlying crime. However, the penalty shall not exceed the maximum specified for the offense which was the subject of the conspiracy, whether or not such other offense was committed.

(3) **Comment.**

(a) Factual or legal impossibility of committing the other offense is not a defense to a charge of criminal attempt, if the other offense would have been committed had the attendant circumstances been as the actor believed them to be.

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- (b) A person who engages in conduct intending to aid another to commit any offense commits criminal attempt if the conduct would establish their complicity under '71.601 were the offense to be committed by the other person, even if the other person is not guilty of committing or attempting the offense.

71.603 Solicitation.

- (1) Offense. Except for authorized acts of persons authorized by law to investigate the commission of offenses by others, a person commits the offense of criminal solicitation, if they command, induces, entreats or otherwise attempts to persuade another person to commit an offense, where as principal or accomplice, with the intent to promote or facilitate the commission of that crime.
- (2) Sentence. A person convicted of criminal solicitation shall be subject to the same sentence as provided for the completed offense. However, the penalty for solicitation shall not exceed the maximum specified for the offense which was the subject of the solicitation whether or not the offense was committed.
- (3) Comment.
 - (a) It is no defense to a prosecution under the section that the person solicited could not commit or could not be guilty of the offense because of lack of responsibility, culpability or other incapacity.

71.604 Criminal Attempt.

- (1) Offense. A person commits the offense of criminal attempt, if, acting with the kind of culpability otherwise required for the commission of the crime, they:
 - (a) Purposely engages in conduct that would constitute the crime if the attendant circumstances were as they believed them to be; or
 - (b) When causing a particular result is an element of the crime, does or omits to do anything with the purpose of causing or with the belief that it will cause such result without further conduct on their part; or
 - (c) Purposely does or omits to do anything that, under the circumstances as they believe them to be, is an act or omission constituting a substantial step in a course of conduct planned to culminate in their commission of the crime.
- (2) Sentence. A person convicted of criminal attempt shall be subject up to one-half the maximum period of imprisonment or up to one-half the maximum fine specified for the intended offense, or both.

SUBCHAPTER VII: OFFENSES AGAINST THE PERSON

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71.701 Assault.

- (1) Offense. A person commits the offense of assault, if:
 - (a) They attempt to commit a battery or an unlawful act that places another in reasonable apprehension of receiving an immediate battery; and
 - (b) They intended either to injure the person or intended to put the person in reasonable fear or apprehension of an immediate battery.
- (2) Sentence Classification. Ninety-Three (93) day misdemeanor

71.702 Battery.

- (1) Offense. A person commits the offense of battery, if:
 - (a) They forcefully or violently strike or touch another person or something closely connected with the person; and
 - (b) They intended either to injure the person or intended to make the person reasonably fear immediate injury.
- (2) Sentence Classification: Six (6) Month misdemeanor.

71.703 Assault with a Weapon.

- (1) Offense. A person commits the offense of assault with a weapon if:
 - (a) They committed an assault as defined in '71.701(1); and
 - (b) They had the ability to commit a battery, or appeared to have the ability, or thought they had the ability; and
 - (c) They committed the assault with a weapon.
- (2) Sentence Classification. One (1) year misdemeanor
- (3) Sentencing Enhancement.
 - (a) If a person has one prior conviction of Aggravated Assault or Assault with a Weapon, the sentence may be imprisonment not to exceed Two (2) years, or a fine not to exceed Ten Thousand Dollars (\$10,000.00), or both.
 - (b) If a person has two or more prior convictions of Aggravated Assault or Assault with a Weapon, the sentence may be imprisonment not to exceed Three (3) years, or a fine not to exceed Fifteen Thousand Dollars (\$15,000.00), or both.

71.704 Aggravated Assault or Battery.

- (1) Offense. A person commits the crime of Aggravated Assault or Battery if the

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person:

- (a) Commits an assault or battery and causes "serious injury." Serious injury includes any injury for which medical attention is or should be sought.
 - (b) Commits an assault or battery which causes physical injury, however slight, and the assault or battery is committed in the immediate presence of, or is seen by, or directly perceived by, a minor child who is a family member or household member of either the victim or the assailant.
 - (c) Causing physical injury, however slight, and commits the assault or battery knowing that the victim is pregnant.
 - (d) Intentionally, knowingly or recklessly causes serious physical injury to another while operating a motor vehicle under the influence of intoxicants.
 - (e) Being at least 18 years of age, intentionally or knowingly causes physical injury to a child 10 years of age or younger.
- (2) Sentence Classification. One (1) year misdemeanor
- (3) Sentencing Enhancement.
- (a) If a person has one prior conviction of Aggravated Assault or Assault with a weapon, the sentence may be imprisonment not to exceed Two (2) years, or a fine not to exceed Ten Thousand Dollars (\$10,000.00), or both.
 - (b) If a person has two or more prior convictions of Aggravated Assault or Assault with a weapon, the sentence may be imprisonment not to exceed Three (3) years, or a fine not to exceed Fifteen Thousand Dollars (\$15,000.00), or both.

71.705 Battery on Tribal Justice Personnel.

- (1) Offense. A person commits the offense of **assault** on tribal justice personnel, if the person uses, attempts to use, or threatens to use physical force against any Tribal Justice Personnel because of the performance or duties of that individual as a Tribal Justice Personnel in:
- (a) Preventing, detecting, investigating, making arrests relating to, making apprehensions for, or prosecuting a crime;
 - (b) Adjudicating, participating in the adjudication of, or supporting the adjudication of a crime;
 - (c) Detaining, providing supervision for, or providing services for persons charged with a crime; or
 - (d) Incarcerating, supervising, providing treatment for, providing rehabilitation services for, or providing reentry services for persons convicted of a crime.

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(2) Sentence Classification. One (1) year misdemeanor

71.706 Harassment

- (1) Offense. A person commits the offense of harassment if that person, by words or conduct, and, with the intent to annoy, harass, intimidate, threaten or alarm:
- (a) Causes physical injury or severe emotional distress to another person;
 - (b) Subjects another person to offensive physical contact;
 - (c) Causes physical damage to or destruction of the property of another person;
 - (d) Places another person in reasonable fear of harm to their person or property or to the person or property of a third person;
 - (e) Interferes with another person's free exercise or enjoyment of any right or privilege secured to them by any applicable law or otherwise violates the rights of another.

(2) Sentence classification. Ninety (90) day misdemeanors

(3) Sentence enhancement.

- (a) If such harassment was by reason of, or in a way that was reasonably related to, associated with, or directed towards that person's actual or perceived race, color, religion, national origin, ancestry, gender, marital status, sexual orientation, or mental, physical or sensory disability of another individual or group, the sentence may be a jail term not to exceed one (1) year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

(4) Prosecution of a person under the subsection does not preclude prosecution and imposition of penalties for another crime in addition to the penalties imposed under the subsection

71.707 Stalking

- (1) Presumption. In a prosecution for a violation of the section evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, gives rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.
- (2) Offense. A person commits the crime of Stalking if the person engages in a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened,

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harassed, or molested.

(3) Sentence Classification. Six (6) Month misdemeanor

71.708 Homicide.

(1) Offense. A person commits the offense of criminal homicide, if:

- (a) They intentionally cause the death of another person; or
- (b) With the intent to cause bodily injury to a person, or to assault, threaten, menace, intimidate or endanger any person, they cause the death of that person or any other person; or
- (c) Acting alone or with one or more persons, they voluntarily commit or participates in the commission or attempt to commit arson, theft, burglary, kidnapping, assault or unlawful sexual behavior, and in the course of or in furtherance of the crime that is being committed or attempted, or in the immediate flight therefrom by anyone, the death of a person is caused; or
- (d) They recklessly or by gross negligence causes the death of another person; or
- (e) Under circumstances manifesting indifference to the value of human life, they intentionally engage in conduct which creates significant risk of injury or death to a person, and thereby causes the death of another person; or
- (f) They operate a motor vehicle in a reckless or grossly negligent manner, or while intoxicated, or while under the influence of alcohol, drugs or other intoxicant, and such conduct causes the death of another person.

(2) Sentence Classification. Three (3) year Felony.

71.709 Kidnapping.

(1) Offense. A person commits the offense of kidnapping, if:

- (a) They forcibly or otherwise seize and carry any person from one place to another without their consent and without legal justification or lawful authority; or
- (b) They entice, takes or decoys away any child under the age of eighteen (18) years not their own, with the intent to keep or conceal the child from the child's parent, guardian or lawful custodian; or
- (c) They intentionally confine, restrain or detain another without the other's consent; or
- (d) They are a natural, adoptive or foster parent of a child under the age of eighteen (18) years, but knowing or having reasonable cause to know that they have no privilege to do so, they take or entice such child from the custody of another parent, guardian or lawful custodian.

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(2) Sentence. One (1) year Misdemeanor.

71.710 Misuse of Identity.

(1) Offense. A person commits the offense of misuse of identity by:

- (a) Using or attempting to use the name, address, telephone number, place of employment, employee identification number or other Personal Information of another person with intent to defraud or violate the law to obtain credit, goods, services, money, property, Vital Records, Personal Records, or employment, or to commit another unlawful act.
- (b) Using or attempting to use the name, address, telephone number, place of employment, employee identification number or other Personal Information of another person by concealing, withholding, or misrepresenting the person's identity to obtain credit, goods, services, money, property, Vital Records, Personal Records, or employment, or to commit another unlawful act.
- (c) Obtaining, possessing, or attempting to obtain or possess, Personal Information of another person with the intent to use that information to commit an unlawful act.
- (d) Selling, transferring, or attempting to sell or transfer, Personal Information of another person if the person knows or has reason to know that the specific intended recipient will use, attempt to use, or further transfer the information to another person for the purpose of committing an unlawful act.
- (e) The unauthorized communication, disclosure or transmitted, electronically or otherwise, of Personal Information of another person.

(2) Defenses. A person may assert as an affirmative defense to misuse of identity that:

- (a) The person acted in otherwise lawful pursuit or enforcement of a person's legal rights, including an investigation of a crime or an audit, collection, investigation, or transfer of a debt, child or spousal support obligation, tax liability, claim, receivable, account, or interest in a receivable or account.
- (b) The action taken was authorized or required by federal, state or tribal law, rule, regulation, code, or court order or rule, or pursuant to legal discovery or process.
- (c) The person acted with the consent of the person whose Personal Information was used, unless the person giving consent knows that the information will be used to commit an unlawful act.
- (d) The Personal Information is disclosed to or used by a law enforcement agency, court, or prosecutor as part of a criminal investigation or prosecution, or is disclosed to or used by a health care provider for

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purposes of medical treatment and care.

- (e) The Personal Information is used to verify an individual's identity, identify an individual, or do another similar administrative purpose related to an account, transaction, product, service, or employment or proposed account, transaction, product, service or employment.
- (f) The Personal Information is used to provide or administer employee or health insurance or membership benefits, claims, or retirement programs or to administer the ownership of shares of stock or their investments, or for other official governmental, employment, or medical investigatory or administrative purposes.

(3) Sentence. One (1) year Misdemeanor.

(4) Definitions.

- (a) "Personal Information" means a number or other information that is used for the purpose of identifying a specific person or providing access to a person's financial accounts, including, but not limited to:

- (i) A person's driver license or other state issued personal identification card of license number;
- (ii) All or more than four sequential digits of a social security number;
- (iii) Employer or taxpayer identification number;
- (iv) Government passport number;
- (v) Health insurance identification number;
- (vi) Demand deposit, savings account or other financial account number or the person's account password;
- (vii) Stock or other security certificate or account number;
- (viii) Credit card number;
- (ix) Vital Records or other Personal Records.

(5) "Vital Records" include, without limitation, a certificate or registration of birth, death, marriage or divorce, an acknowledgment of parentage, tribal enrollment, or related data.

(6) "Personal Records" include any item, collection or grouping of information encompassing any information about a person including, without limitation, medical and mental health records, financial transaction records, education records, employment records or territory or criminal territory that contain the person's names, or the identifying number, symbol or other identifying particular assigned to the person, such as finger or voice print or a photograph, or are otherwise linked to that person through an identifying particular.

71.711 Assault with Intent to Do Great Bodily Harm.

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- (1) Offense. A person commits the crime of assault with intent to do great bodily harm if the person:
 - (a) Assaults another person with intent to do great bodily harm, less than the crime of Homicide.
 - (b) Assaults another person by strangulation or suffocation. Strangulation or suffocation means intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person.
- (2) The section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same conduct as the violation of the section.
- (3) Proof of actual injury is not necessary but may be taken into consideration in deciding whether someone intended to cause great bodily harm.
- (4) Sentence. Three (3) Year Felony

71.712 Assault with Intent to Commit Criminal Sexual Conduct.

- (1) Offense. A person is guilty of Assault with Intent to Commit Criminal Sexual Conduct if they commit an assault with the intent to commit any criminal offenses contained in Subchapter 18: Sex Crimes.
- (2) Sentence: Two (2) Year Felony.

71.713 Malicious Use of Telecommunications.

- (1) Offense. A person commits the crime of malicious use of telecommunications if they use any telecommunications service or device to, or with intent to, terrorize, frighten, intimidate, threaten, harass, molest, or annoy another person, or to disturb the peace and quiet of another person by any of the following:
 - (a) Threatening physical harm or damage to any person or property in the course of a conversation or message through the use of a telecommunications service or device.
 - (b) Falsely and deliberately reporting by message through the use of a telecommunications service or device that a person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime or an accident.
 - (c) Deliberately refusing or failing to disengage a connection between a telecommunications device and another telecommunications device or between a telecommunications device and other equipment provided for the transmission of messages through the use of a telecommunications service or device.
 - (d) Using vulgar, indecent, obscene, or offensive language or suggesting any lewd or lascivious act in the course of a conversation or message

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through the use of a telecommunications service or device.

- (e) Repeatedly initiating a telephone call and, without speaking, deliberately hanging up or breaking the telephone connection as or after the telephone call is answered.
- (f) Deliberately engaging or causing to engage the use of a telecommunications service or device of another person in a repetitive manner that causes interruption in telecommunications service or prevents the person from utilizing their telecommunications service or device.

(2) Sentence Classification. Six (6) Month misdemeanor.

71.714 Aggravated Stalking.

- (1) Presumption. In a prosecution for a violation of the section evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, gives rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.
- (2) Offense. A person commits an Aggravated Stalking if the person engages in stalking behavior and any of the following circumstances exist:
 - (a) At least one of the actions constituting the offense is in violation of a personal protection order and the individual has received actual notice of that order.
 - (b) At least one of the actions constituting the offense is in violation of a condition of probation, a condition of parole, a condition of pretrial release, or a condition of release on bond pending appeal.
 - (c) The course of conduct includes the making of one or more credible threats against the victim, a member of the victim's family, or another individual living in the same household as the victim.
 - (d) The individual has been previously convicted of a violation of Stalking or Aggravated Stalking.

(3) Sentence classification: One (1) year Misdemeanor..

71.715 Aggravated Assault on Tribal Justice Personnel.

- (1) Offense. A person commits the offense of aggravated assault on law enforcement officer or tribal justice personnel, if:
 - (a) They intentionally cause serious bodily injury to tribal justice personnel;

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- (b) They intentionally cause bodily injury to tribal personnel with a weapon;
- (c) They recklessly cause serious bodily injury to tribal justice personnel under circumstances manifesting indifference to the value of human life;
- (2) Sentence Classification. Three (3) Year Felony.

71.716 Threatening to Commit Violence with Firearm, Explosive, or Other Dangerous Weapon Against Students or Employees on School Property.

- (1) Offense. A person who verbally, through the use of an electronic device or system, or through other means intentionally threatens to use a firearm, explosive, or other dangerous weapon to commit an act of violence against any students or school employees on school grounds or school property if the threat can reasonably interpreted to be harmful or adverse to human life, or dangerous to human life.
- (2) Sentence Classification. One (1) year Misdemeanor.
- (3) The section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of the section.
- (4) As used in the section:
 - (a) “Adverse to human life” means that which causes a substantial likelihood of death or serious injury.
 - (b) “Dangerous weapon” means a knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.
 - (c) “School” means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12.
 - (d) “School property” means a building, playing field, or property used for school purposes to impart instruction to children or used for functions and events sponsored by a school, except a building used primarily for adult education or college extension courses.

SUBCHAPTER VIII: PROPERTY RELATED OFFENSES

71.801 Arson.

- (1) Offense. A person commits the offense of arson, if without legal justification or lawful authority to do so, they intentionally set fire to, burn, cause to be burned, or by the use of any explosive damages or destroys, or causes to be damaged or destroyed, any property of another, including public property or any unit of government, or in which another has any legally recognized interest.

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(2) Sentence classification. One (1) year misdemeanor.

71.802 Burglary.

(1) Offense. A person commits the offense of burglary, if:

- (a) They knowingly enter, break into or remain unlawfully in a building, other structure or motor vehicle belonging to another with the intent to commit therein a crime against person or property, other than criminal trespass as defined in '71.902; or
- (b) They enter or break into any vault, safe, cash register, coin, vending machine, product dispenser, money depository, safety deposit box, telephone coin box, vehicle, or other apparatus or equipment whether or not coin operated with the intent to take, use, or steal such object or facility or anything therein.

(2) Sentence classification. Two (2) Year Felony.

71.803 Illegally Receiving Property.

(1) Offense. A person commits the offense of illegally receiving stolen property, if they buy, receive, conceal, or arrange the sale, transfer, disposal or receipt of any property that they know or has reasonable cause to know was obtained by robbery, theft, fraud or deceit, or other unlawful means.

(2) Sentence classification. Six (6) month misdemeanor.

71.804 Joyriding.

(1) Offense. A person commits the offense of joyriding, if they drive or take away any motor vehicle without the consent of the owner or lawful possessor, or participates with any other person in such conduct, with the intent of temporarily depriving the owner or rightful possessor of the use of the same, or of temporarily making use of the motor vehicle.

(2) Sentence classification. Ninety (90) day misdemeanor.

(3) Sentence enhancement.

- (a) If the vehicle is damaged while the owner or lawful possessor is deprived of its use, the defendant may be sentenced to a jail term not to exceed six (6) months, or a fine not to exceed three thousand dollars (\$3,000.00), or both.
 - i. The defendant may also be ordered to pay restitution in the amount of the damage, to the owner or lawful possessor of the vehicle.

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- (4) Comment. For the purpose of the section, "temporarily depriving" and "temporarily making use" shall refer to a period of time of not more than twenty-four (24) hours. If the offender intends to use or deprive the owner or rightful possessor of the use of the motor vehicle, and in fact the owner or rightful possessor is deprived of the use of the vehicle, for a period in excess of twenty-four (24) hours, it shall be conclusively presumed that the person driving or taking away the motor vehicle without the consent of the owner or lawful possessor intended to permanently deprive the owner or lawful possessor of its use and benefit.

71.805 Robbery.

- (1) Offense. A person commits the offense of robbery, if they take anything of value from the person or presence of another by the use of force, threats, coercion or intimidation.
- (2) Sentence Classification. Two (2) year felony.
- (3) Sentencing Comment.
 - (a) The Tribal Court may require the offender to compensate the victim for the value of the stolen property.

71.806 Theft.

- (1) Offense. A person commits the offense of theft, if they knowingly obtain or exercises control over anything of value of another without authorization, or by threat or deception, or knowing said thing of value to have been stolen; and they
 - (a) Intends to deprive such other person permanently of the use or benefit of the thing of value; or
 - (b) Knowingly uses, conceals or abandons the thing of value in such a manner to deprive such other person permanently of its use or benefit; or
 - (c) Uses, conceals or abandons the thing of value intending that such use, concealment or abandonment will deprive such other person permanently of its use and benefit; or
 - (d) Demands any consideration to which they are not legally entitled as a condition of restoring the thing of value to such other person; or
 - (e) Having lawfully obtained possession for temporary use of the personal property of another, deliberately fails to reveal the whereabouts of or to retain said property to the owner or their representative or the person from whom they have received it, with the intent to permanently deprive such other person of its use and benefit.
- (2) Sentencing Classification. One (1) year misdemeanor.
- (3) Sentencing Comment.

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- (a) The Tribal Court may require the offense to compensate the victim for the value of the stolen property.

71.807 Theft of Services.

- (1) Offense. A person commits theft of services, if without lawful authority, that person obtains services which are available only for compensation with the intent of avoiding payment for such services.
- (2) Sentencing Classification. Six (6) month misdemeanor.
- (3) Sentencing Comment.
 - (a) The Tribal Court may require the offender to compensate the victim for the services wrongfully obtained.

71.808 Embezzlement and Theft from a Tribal Organization.

- (1) Offense. A person commits the offense of embezzlement and theft from a tribal organization, if:
 - (a) They embezzle, steal, knowingly converts to their use or to the use of another, willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, goods, assets, or other property belonging to any tribal organization or entrusted to the custody or care of any officer, employee, or agent of a tribal organization; or
 - (b) Knowing any such money, funds, credits, goods, assets, or other property to have been so embezzled, stolen, converted, misapplied or permitted to be misapplied, receives, conceals, or retains the same with intent to convert it to their use or the use of another.
- (2) Sentencing Classification. Six (6) Month Misdemeanor
- (3) Sentencing Enhancement.
 - (a) If the value of the embezzled property is greater than One Hundred Dollars (\$100.00) but less than Five Thousand Dollars (\$5,000.00), the sentence may be a jail term not to exceed One (1) Year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.
 - (b) If the value of the embezzled property is greater than Five Thousand Dollars (\$5,000.00) but less than Ten Thousand Dollars (\$10,000.00), the sentence may be imprisonment not to exceed Two (2) years, and a fine not to exceed Ten Thousand Dollars (\$10,000.00), or both.
 - (c) If the value of the embezzled property is greater than Ten Thousand Dollars (\$10,000.00), the sentence may be imprisonment not to exceed Three (3) years, or a fine not to exceed Fifteen Thousand Dollars (\$15,000.00), or both.
- (4) Comment. For the purposes of the section, "tribal organization" means the Tribe,

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or any entity created or owned by the Tribe for economic or governmental purposes, or any entity which is controlled by the Tribe's Board of Directors. An entity is controlled by the Tribe's Board of Directors if a majority of the persons serving on the body which governs the entity are chosen by or required to be members of the Board of Directors.

71.809 Breaking and Entering.

- (1) Offense. A person commits the offense of Breaking and Entering if:
 - (a) They break and enter or enters without breaking any:
 - i. Dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory, or other building, boat ship, railroad car or structure used or kept for public or private use, or any private apartment therein, or any cottage, clubhouse, boat house, hunting or fishing lodge, garage or the out-buildings belonging thereto, any ice shanty with a value of \$100.00 or more, or any other structure.
 - (b) Without first obtaining permission to enter from the person having immediate control and/or ownership thereof.
- (2) Comment. For the purpose of the section, it does not matter whether or not the building or other structure listed in subsection (1)(a)(a) is occupied or unoccupied.
- (3) Sentencing Classification. Six (6) month Misdemeanor.
- (4) Sentencing Enhancement.
 - (a) If the person who breaks and enters a dwelling has the intent to commit a felony, larceny, or assault in the dwelling, the sentence may be sentenced to imprisonment not to exceed One (1) year, or a fine not to exceed Five Thousand Dollar (\$5,000.00), or both.
 - (b) If the person who breaks and enters a dwelling is armed with a dangerous weapon and another person is lawfully present in the dwelling, the sentence may be imprisonment not to exceed Three (3) years, or a fine not to Exceed Fifteen Thousand (\$15,000.00), or both.
- (5) Sentencing Comment.
 - (a) If the building or other structure listed in subsection (1)(a)(i) is damaged in the process of breaking and entering, the offender may be sentenced to pay restitution for the damage.

SUBCHAPTER IX: DAMAGE TO PROPERTY

71.901 Abusing Property.

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- (1) Offense. A person commits the offense of abusing property, if they intentionally, knowingly or recklessly use or damage any property not exclusively their own.
- (2) Sentencing Classification. Ninety (90) day misdemeanor.
- (3) Sentencing Comment.
 - (a) The Tribal Court may require the offender to compensate the victim for the repair or replacement costs of the damaged property.

71.902 Trespass.

- (1) Offense. A person commits the offense of trespass if knowingly or having reasonable cause to know that they are not licensed or privileged to do so, they willfully enter or remains upon or within any building, structure, or land, or portion thereof after being ordered or notified not to enter or remain there. Such notice or order may be given by:
 - (a) Written or verbal communication actually given to the intruder; or
 - (b) Written notice posted on or about the property in a manner reasonably likely to come to the attention of potential intruders; or
 - (c) By fences, barricades, or other devices manifestly designed to enclose the property and to exclude potential intruders.
- (2) Sentencing Classification. Ninety (90) day Misdemeanor.

71.903 Desecration.

- (1) Offense. A person commits the offense of desecration if they intentionally deface, damage, pollute, or otherwise physically mistreats or destroys in any way any public monument, public structure or facility, or place of worship or burial, or desecrates in a public place any other object of veneration or respect by the public or a significant segment of the public.
- (2) Sentencing Classification. Ninety (90) day Misdemeanor.

71.904 Littering.

- (1) Offense. A person commits the offense of littering, if they deposit, throw, dump, discard, abandon, or leave any litter on any public or private property or waters unless:
 - (a) Such property is an area designated by law for the disposal of such litter and such person is authorized by the proper public authority to so use such property; or
 - (b) The litter is placed in a receptacle or container installed on such property for such use by the public or such person placing litter in it; or
 - (c) Such person is the owner or tenant in lawful possession of such property,

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or has first obtained written consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of said owner or tenant.

(2) Sentencing Classification. Thirty (30) day Misdemeanor.

71.905 Illegal Dumping.

(1) Offense. A person commits the offense of illegal dumping, if they without the consent of Tribal Environmental Department:

- (a) Dump, place, deposit, throw away, or allow a person to dump, place, deposit, or throw away solid waste or liquid on Tribal land or water other than in sites designated and set aside for such purposes; or
- (b) Dispose of or permit the disposal of hazardous waste on Tribal land. Hazardous waste must be disposed of off-reservation at an Approved Site; or
- (c) Run a transfer station or sanitary landfill on Tribal land without a permit from the Environmental Department. The Environmental Program may permit transfer stations, in its discretion, after considering impacts to the environment and community and imposing such restrictions and mitigation measures as the Environmental Program deems necessary to protect the environment and community; or
- (d) Abandon vehicle(s) or vessel(s) on Tribal land.

(2) Sentencing Classification. One (1) year misdemeanor.

(3) Sentencing Comment.

- (a) The Tribal Court may require the offender to pay restitution for the costs of returning the damaged resources to the previous condition.

SUBCHAPTER X: FORGERY AND RELATED OFFENSES

71.1001 Forgery.

(1) Offense. A person commits the offense of forgery, if with intent to defraud they falsely makes, completes, alters, issues, utters, delivers, files, or submits a written instrument or any portion thereof, for the purpose of obtaining money or other consideration or thing of value, for himself or any other person.

(2) Sentencing Classification. One (1) year misdemeanor.

71.1002 Fraud.

(1) Offense. A person commits the offense of fraud, if they obtain money, property,

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gain, advantage, credit, interest or assets from another by intentionally misrepresentation or deceit.

(2) Sentencing Classification. One (1) Year misdemeanor.

71.1003 Passing Bad Checks.

(1) Offense. A person commits the offense of passing bad checks, if they make, utter, issue, deliver or passes a written order to pay a sum of money, drawn on a bank, payable on demand or at a time certain, and signed by the drawer, when the person so acting knows or has reasonable cause to know at that time the order will not be paid or honored by the drawee because of insufficient funds or lack of an account of the drawer deposited or on account with the drawee.

(2) Sentencing Classification. One (1) year Misdemeanor.

71.1004 Bribery in Sports.

(1) Offense. A person commits the offense of bribery in sports, if:

- (a) They offer, confer, bestow or agree to confer or bestow any benefit upon or threatens any detriment to a participant or official in a sports contest or event, directed either to that person or such other person as may be designated or agreed to by that person, with the intent to influence that person not to give their best efforts as a participant or with intent to influence him to perform their duties as an official improperly; or
- (b) Being a sports participant or official in a sports contest they accept, agrees to accept, or solicits any benefit, directed to himself or such other person as may be designated or agreed to by him, from another person upon an understanding that they will thereby be influenced not to give their best and honest efforts as a participant or official in a sports contest.

(2) Sentencing Classification. One (1) year Misdemeanor.

71.1005 Private Bribery.

(1) Offense. A person commits the offense of private bribery, if:

- (a) They offer, confer, bestow, or agree to confer or bestow any personal or pecuniary benefit, gain privilege or advantage upon any other person, or upon any third person designated or agreed to by that other person, as consideration for that other person violating or agreeing to violate a duty to which they are subject as:
 - i. Agent or employee; or
 - ii. Trustee, guardian or other fiduciary; or
 - iii. Lawyer, physician, accountant, appraiser or other professional

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advisor; or

- iv. Officer, director, partner, manager, or other participant in the affairs of an incorporated or unincorporated firm, enterprise, company or association; or
- v. Duly elected or appointed representative or trustee of a labor organization or trust fund; or
- vi. Arbitrator or other purportedly disinterested adjudicator or referee.

(b) They are a person owing a duty in a capacity set forth in sub. (a) and while in that status they solicit, accept, or agree to accept any personal or pecuniary benefit, gain, privilege or advantage directed to himself or another person designated or agreed to by him, upon an agreement or understanding that they will violate or agree to violate their said duty.

(2) Sentencing Classification. One (1) year Misdemeanor.

71.1006 Public Bribery.

(1) Offense. A person commits the offense of public bribery, if:

- (a) They offer, confer, bestow or agree to confer or bestow any personal or pecuniary benefit, gain, privilege or advantage upon a public servant, or another person designated or agreed to be the public servant, with the intent to improperly influence the public servant's vote, opinion, judgment, exercise of discretion, or other action or inaction in their official capacity; or
- (b) While serving as a public servant, they solicit, accept, or agree to accept any personal or pecuniary benefit, gain, privilege or advantage directed at himself or another person designated or agreed to by the public servant, upon an agreement or understanding that the vote, opinion, judgment, exercise of discretion, or other action or inaction by him as a public servant will be influenced thereby.

(2) Sentencing Classification. One (1) year misdemeanor.

SUBCHAPTER XI: OBSTRUCTION OF TRIBAL ADMINISTRATION AND RELATED OFFENSES

71.1101 Abuse of Office.

(1) Offense. A person commits the offense of abuse of office, if they intentionally act or purport to act in an official capacity, including willful failure to act, so as to obtain any personal or pecuniary benefit, gain, advantage, or privilege to which they are not entitled in or by the performance of their official duties.

(2) Sentencing Classification. One (1) year misdemeanor.

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71.1102 Improper Influence of a Tribal Official.

- (1) Offense. A person commits the offense of improper influence of a tribal official, if they threaten harm or injury to any tribal official with the intent of influencing such person's official actions.
- (2) Sentencing Classification. Ninety (90) day misdemeanor
- (3) Comment. As used in the section, "tribal official" means an elected official of the Tribe or a tribal judge, appointee or employee, or a hearing officer or member of a hearing board established under Article VI, Section 4 of the Tribal Constitution.

71.1103 Election Fraud.

- (1) Offense. A person commits the offense of election fraud, if the person:
 - (a) Gives or offers to give anything of value to another person to induce that person to vote, or to refrain from voting, for any candidate, signing a nominating petition, or registering to vote; or
 - (b) Acts to compromise the integrity of the election, or attempts to do so by falsifying any document, including documents filed with the Tribal Election Committee or Board of Directors; or
 - (c) Compromises the security of the ballots and other election documents; or
 - (d) Discharges or threatens to discharge a tribal employee for the purpose of influencing the employee's vote or signature on a nominating petition; or
 - (e) Votes, or attempts to vote, more than once in the same election; or
 - (f) Opens, marks, alters, or destroys any ballot sent to another person; or
 - (g) Interfered with the mailing or election materials; or
 - (h) They alter, deface or destroy any election documents, including candidate signs or literature; or
 - (i) Files a false report required by Tribal Code '10.112.
- (2) Sentencing Classification. One (1) year misdemeanor.

71.1104 Malicious Criminal Prosecution.

- (1) Offense. A person commits the offense of malicious criminal prosecution, if they maliciously cause or attempts to cause a criminal charge to be prosecuted against an innocent person, knowing such person to be innocent.
- (2) Sentence Classification. Ninety (90) day misdemeanor.

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71.1105 Obstruction of Court Process^[C13].

- (1) A person commits the offense of obstruction of justice, if they knowingly use intimidation or physical force, threatens, corruptly persuades or attempts to do so, or engages in misleading conduct toward another person, with intent to:
 - (a) Influence the testimony of any person in an official proceeding; or
 - (b) Cause or induce any person to:
 - i. Withhold testimony, or withhold a record, document or other object, from an official proceeding; or
 - ii. Alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding; or
 - iii. Evade legal process summoning that person to appear as a witness, or to produce a record, document or other object, in an official proceeding; or
 - iv. Be absent from an official proceeding to which such person has been summoned by legal process; or
 - (c) Hinder, delay or prevent the communication to a law enforcement officer or judge of information relating to the commission or possible commission of a tribal or federal offense or a violation of conditions of probation, parole or release pending judicial proceedings.
- (2) A tribal law enforcement officer commits the offense of obstruction of justice if they:
 - (a) Commits any of the acts set forth in sub. (1); or
 - (b) Without official reason for doing so, obstructs, impedes, hinders, or interferes with any investigation or other official activity of the tribal public safety department, or of another law enforcement agency acting lawfully with respect to a matter arising within the Tribe's jurisdiction as provided in Subchapter III.
- (3) Sentencing Classification. One (1) Year misdemeanor.

71.1106 Obstructing Performance of Police Duties.

- (1) Offense. A person commits the offense of obstructing the performance of police duties, if they willfully prevent or attempt to prevent a police officer or other duly authorized law enforcement officer from affecting an arrest or otherwise discharging the duties of their office by any of the following:
 - (a) Creating or appearing to create a risk of bodily harm to the officer or any other person; or

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- (b) Employing means or threatening to employ means which would justify or require force on the part of the officer to overcome them; or
 - (c) Escaping, attempting to escape, or assisting or attempting to assist another to escape from custody of the officer.
- (2) Sentencing Classification. One (1) year misdemeanor.

71.1107 Refusing, Omitting and Delaying to Arrest.

- (1) Offense. Tribal law enforcement officers commit the offense of refusing, omitting and delaying to arrest, if any officer authorized to serve process, who shall willfully and corruptly refuse to execute any lawful process to him directed, and requiring him to apprehend or confine any person convicted or charged with an offense, or who shall willfully and corruptly omit or delay to execute such process, whereby such person shall escape and go at large.
- (2) Sentencing Classification. One (1) year misdemeanor.

71.1108 Concealing or Harboring One Who Has Escaped.

- (1) Offense. A person commits the offense of concealing or harboring one who has escaped, if they knowingly or willfully conceal or harbor for purpose of concealment, any person mentioned in the Chapter, who has escaped or is escaping from lawful custody.
- (2) Sentencing Classification. One (1) year misdemeanor

71.1109 Filing Fictitious Reports.

- (1) Offense. A person commits the offense of filing fictitious report, if they willfully and knowingly make to any tribal law enforcement officer a fictitious report of the commission of any crime knowing the same to be false
- (2) Sentencing Classification. One (1) year misdemeanor.

71.1110 Preventing the Use of a Telephone in an Emergency.

- (1) Offense. A person commits the offense of Preventing the Use of a Telephone in an Emergency if they engage in any of the following conduct:
 - (a) Knowingly refuses to yield or surrender the use of a telephone line to another person to report a fire or summon police or medical or other aid in case of emergency; or
 - (b) Intentionally prevents or interferes with the use of a telephone by another person in an emergency situation.

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(2) Sentencing Classification. Six (6) month misdemeanor.

71.1111 Prohibited Use of Emergency 9-1-1 Service.

- (1) Offense. A person shall not use an emergency 9-1-1 service authorized by the act for any reason other than to call for an emergency response service from a primary public safety answering point.
- (2) Sentencing Classification. Ninety (90) day misdemeanor.

SUBCHAPTER XII: RIOT AND RELATED OFFENSES

71.1201 Causing or Maintaining a Public Nuisance.

- (1) Offense. A person commits the offense of causing or maintaining a public nuisance, if they use, permit to be used or allow to be in such condition any real or personal property under their control so as to damage, injure or endanger the health, safety or property of another person or the public.
- (2) Sentencing Classification. Ninety (90) day misdemeanor.
- (3) Sentencing Comment.
 - (a) In addition to, or in lieu of, the sentence provided in sub. (2), the court may order the person to abate or eliminate the nuisance. Such an order to abate or eliminate the nuisance shall include the identification of the nuisance and the period of time in which it must be abated or eliminated.

71.1202 Disorderly Conduct.

- (1) Offense. A person commits the offense of disorderly conduct, if the person intentionally, knowingly or recklessly:
 - (a) Uses abusive, indecent, profane, or vulgar language in a public or private place which by its very utterance tends to incite violence, unlawful conduct, or a breach of the peace by others; or
 - (b) Makes an offensive gesture or display in a public or private place which by its very nature tends to incite violence, unlawful conduct, or a breach of the peace by others; or
 - (c) Abuses or threatens a person in a public or private place in a manner calculated to place the threatened person in fear of bodily harm; or
 - (d) Makes unreasonable noise in a public place, or on or near private property that they have no right to occupy; or
 - (e) Fights with another in a public or private place; or
 - (f) Displays a deadly weapon in a public or private place in a manner

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calculated to alarm; or

- (g) Discharges a firearm in a public or private place; or
- (h) Disrupts any lawful public or religious meeting or assembly; or
- (i) Lies or sleeps on any public street, alley or private property that they have no right to occupy; or
- (j) Urinates or defecates in any public place, except where an approved sanitary facility is provided, or in public view; or
- (k) Obstructs any highway or other public passage, whether alone or with others; or
- (l) Refuses to obey a reasonable request issued by a person the actor knows to be or is informed is a law enforcement officer, a fireman, or a person with authority to control the use of the premises in order to prevent obstruction of a highway or other public passage or in order to maintain public safety by dispersing those gathered in dangerous proximity to a fire or other hazard; or
- (m) Possesses any alcohol or illegal drug while inside an area posted as a drug and alcohol-free area.

(2) Sentencing Classification. Ninety (90) day misdemeanor.

(3) Comment.

- (a) As used in subsections 1(k) and 1(l), “obstructs” means render impassable without unreasonable inconvenience or hazard.
- (b) No person shall be deemed guilty of an offense under subsection 1(k) solely because of a gathering of persons to hear them speak or otherwise communicate, or solely because of being a member of such a gathering.
- (c) For purposes of subsection 1(l), an order to move, addressed to a person whose speech or other lawful behavior attracts an obstructing audience, shall not be deemed reasonable if the obstruction can be readily remedied by police control of the size or location of the gathering.

71.1203 Riot.

(1) Offense. A person commits the offense of rioting, if they engage in a riot.

(2) Sentencing Classification. One (1) year misdemeanor.

71.1203 Inciting a Riot.

(1) Offense. A person commits the offense of inciting a riot, if the person:

- (a) Incites or urges a person to participate or engage in a current or potential riot; or
- (b) Gives commands, instructions, or signals to other persons in furtherance of a riot; or

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- (c) Knowingly supplies a weapon or destructive device for use in a riot; or
- (d) Teach another to prepare or use a weapon or destructive device with intent that it be used in a riot.
- (2) Sentencing Classification. One (1) year misdemeanor.

71.1205 Disobedience of Public Safety Orders Under Riot Conditions.

- (1) Offense. A person commits the offense of disobedience of a public safety order under riot conditions, if during a riot, or when one is impending, they intentionally disobey a reasonable public safety order to move, disperse, or refrain from specified activities in the immediate vicinity of the riot.
- (2) Sentencing Classification. One (1) year misdemeanor.

71.1206 Obstructing Highway or Other Passageway.

- (1) Offense. A person commits the offense of obstructing a highway or other passageway, if they intentionally, knowingly or recklessly:
 - (a) Obstructs a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway or hallway to which the public or a substantial group of the public has access; or any other place used for the passage of persons, vehicles, or conveyances, whether the obstruction arises from their acts alone or from their acts and the acts of others; or
 - (b) Disobeys a reasonable request or order to move issued by a police officer, fireman, or a person with authority to control the use of the premises, to prevent obstruction of a highway or passageway, or to maintain public safety by disturbing those gathered in dangerous proximity to a fire, riot or other hazard.
- (2) Sentencing Classification. One (1) year misdemeanor.

71.1207 Transmitting False Alarms.

- (1) Offense. A person commits the offense of transmitting false alarms, if they knowingly transmit or cause to be transmitted a false message, report or signal of fire or other emergency to or within any organization dealing with emergencies involving danger to life or property.
- (2) Sentencing Classification. Ninety (90) day misdemeanor.
- (3) Sentencing Enhancement.
 - (a) If the false alarm results directly or indirectly in injury to another person or property, the offender may be sentenced to a jail term not to exceed

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six (6) months, or a fine not to exceed Three Thousand Dollars (\$3,000.00), or both.

- (b) If the false alarm results directly or indirectly in the death to another person, the offender may be sentenced to imprisonment not to exceed Three (3) years, or a fine not to exceed Fifteen Thousand Dollars (\$15,000.00), or both.

71.1208 Trespass or Interference in Public Buildings.

(1) Offense. A person commits the offense of trespass or interference if:

(a) While inside public building, they so conduct themselves as to:

- i. Willfully deny to any public official, public employee, or member of the public the lawful rights of such person to enter, to use the facilities of, or to leave any such public building or facility; or
- ii. Willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion, intimidation, or by force and violence or threat thereof; or
- iii. Willfully refuse or fail to leave any such public building or facility upon being requested to do so by the chief administrative officer, or their designee, charged with maintaining order in such public building or facility, of such person has committed, is committing, threatens to commit, or incites others to commit any act which does, or would if completed, disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures, or functions being carried on in such building or facility; or
- iv. At any meeting or session conducted by any judicial, legislative, or administrative body or official at, or in, any public building or facility, to willfully impede, disrupt, or hinder the normal proceedings of such meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting such meeting or session, or to commit any act designated to intimidate, coerce, or hinder any member of such body or official engaged in the performance of duties at such meeting or session.

(2) Sentencing Classification. Ninety (90) day misdemeanor.

71.1209 Soliciting Without a License.

(1) Offense. A person commits the offense of soliciting without a license, if they

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beg or solicit gifts or donations of money or property door to door or by telephone, or on the streets, sidewalks or other public places, without a license issued by the Tribal Board of Directors, or its duly authorized agency or representative.

- (2) Sentencing Classification. Thirty (30) day misdemeanor.

SUBCHAPTER XIII: **WEAPONS AND RELATED OFFENSES**^[CI4]

71.1301 Carrying a Concealed Weapon.

- (1) Offense. A person commits the offense of carrying a concealed weapon, if they knowingly carry concealed on or about their person a dangerous weapon unless they are lawfully authorized to carry such weapon.
- (2) Sentencing Classification. One (1) year misdemeanor.
- (3) Comment. It shall be an affirmative defense that the accused was in their own dwelling, or place of business, owned or operated by him, or on property owned or under their control at the time of the act of carrying.

71.1302 Unlawful Use of a Weapon.

- (1) Offense. A person commits the offense of unlawful use of a weapon, if:
- (a) They discharge a firearm in the proximity of a building or vehicle so as to knowingly or recklessly endanger a person or property; or
 - (b) They carry a firearm while intoxicated; or
 - (c) They handle or uses a firearm or other weapon so as to knowingly or recklessly endanger the safety or another; or
 - (d) Carries a firearm or other weapon with unlawful intent.
- (2) Sentencing Classification. One (1) year misdemeanor.

71.1303 Dangerous Use of Explosives.

- (1) Offense. A person commits the offense of dangerous use of explosives, if with the intent to injure, intimidate or terrify another, or to damage another's property, they maliciously explode, attempts to explode or places any explosive anywhere within the territorial jurisdiction of the Tribe.
- (2) Sentencing Classification. One (1) year misdemeanor.
- (3) Sentencing Comment.
- (a) In addition to, or in lieu of the sentence provided in Sub. (2) the Tribal Court may order the offender to pay to the injured party the cost of any property damaged.

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71.1304 Negligent Use of Explosives.

- (1) Offense. A person commits the offense of negligent use of explosives, if they negligently explode, attempt to explode or places any explosive in such a manner as to result in injury to another or to the property of another, or by such action that increases the probability to such injury.
- (2) Sentencing Classification. Six (6) month misdemeanor
- (3) Sentencing Comment.
 - (a) In addition to, in lieu of, the sentence provided in sub. (2), the Court may order the offender to pay to the injured party the costs of any property damaged by their actions.

SUBCHAPTER XIV: OFFENSES AGAINST THE FAMILY |

[C15]

71.1401 Bigamy.

- (1) Offense. A person commits the offense of bigamy, if knowing or having reasonable cause to know that they are then married, they marry another person, or they marry another person knowing or having reasonable cause to know that such person is then married to a third person.
- (2) Sentencing Classification. Six (6) month misdemeanor.

71.1402 Child Abuse. [C16]

- (1) Offense. A person commits the offense of child abuse, if they knowingly, intentionally, or negligently, and without justification, causes or permits a person under the age of eighteen (18) years to be:
 - (a) Placed in a situation that may endanger its life or health; or
 - (b) Exposed to the inclemency of the weather; or
 - (c) Abandoned, tortured, cruelly confined or cruelly punished; or
 - (d) Deprived of necessary food, clothing or shelter.
 - (e) Subjected to or threatened with any violence or apprehension of bodily injury.
- (2) Sentencing Classification. One (1) year misdemeanor
- (3) Sentencing Enhancement.
 - (a) If a person has one prior conviction for Child Abuse the sentence may be imprisonment not to exceed two (2) years, or a fine not to exceed Ten Thousand Dollars (\$10,000.00), or both.
 - (b) If a person has two or more prior convictions for Child Abuse the sentence may be imprisonment not to exceed Three (3) years, or a fine

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not to exceed Fifteen Thousand Dollars (\$15,000.00), or both.

71.1403 Incest.

- (1) Offense. A person commits the offense of incest, if they knowingly marry or has sexual intercourse with an ancestor or descendant, a brother or sister of the whole or half blood, or an uncle, aunt, nephew, or niece of the whole blood.
- (2) Sentencing Classification. Six (6) month misdemeanor.

71.1404 Domestic Battery and Assault.

- (1) Domestic Battery or Assault means any act described in subsection 3, if committed by:
 - (a) A current or former spouse or intimate partner of the victim;
 - (b) A person with whom the victim shares a child in common;
 - (c) A person by whom the victim is pregnant
 - (d) A person who is cohabitating with or who has cohabitated with the victim as a spouse or intimate partner; or
 - (e) A person similarly situated to a spouse of the victim
 - (f) A person in who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- (2) “Partner” means anyone listed above in subsection (1).
- (3) Offense. A Person commits the offense of Domestic Violence if they:
 - (a) Attempts to cause, threatens, or causes physical, substantial emotional, or mental harm to a partner through physical force or coercive control.
 - (b) Places a partner in fear of physical harm to themselves or another family or household member. The fear may be produced by behavior which induces fear in the victim, including, but not limited to, harassment, stalking, destruction of property, or physical harm or threat of harm to household pets.
 - (c) Causing a partner to engage in nonconsensual sexual activity, which includes, but not limited to, through coercion, intoxication, force, however slight (which includes the element of surprise or overcoming victim by size), threat of force, or duress.
- (4) Sentencing Classification. Ninety (90) day misdemeanor
- (5) Sentencing Enhancement.
 - (a) If a person has one prior conviction of Domestic Battery or Assault, or Domestic Violence, the sentence may be a jail term not to exceed One

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- (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.
- (b) If a person has two prior convictions of Domestic Battery or Assault, or Domestic Violence, the sentence may be imprisonment not to exceed Two (2) years, or a fine not to exceed Ten Thousand Dollars (\$10,000.00), or both
- (c) If a person has three or more prior convictions of Domestic Battery or Assault, or Domestic Violence, the sentence may be imprisonment not to exceed Three (3) years, or a fine not to exceed Fifteen Thousand Dollars (\$15,000.00), or both

71.1405 Contribute to Delinquency of a Minor.

- (1) A person commits the offense of contributing to the delinquency of a minor if they knowingly cause, encourage or assist a person under the age of eighteen (18) years to be a child offender, as defined in Tribal Code Chapter 36: Juvenile Code, and particularly '36.324.
- (2) Sentencing Classification. Thirty (30) day misdemeanor.

71.1406 Custodial Interference.

- (1) Offense. A person commits the crime of Custodial Interference if, knowing or having reason to know that they have no legal right to do so, they take, entice, or keep a person from their lawful custodian with intent to hold him permanently or for a protracted period or in violation of a lawful custody or visitation order.
- (2) It is a complete defense under the section if a parent proves that their actions were taken for the purpose of protecting the child from an immediate and actual threat of physical or mental harm, abuse, or neglect.
- (3) Sentencing Classification. One (1) year misdemeanor.

SUBCHAPTER XV: ALCOHOL RELATED OFFENSES

71.1501 Delivery of Liquor to a Minor.

- (1) Offense. A person commits the offense of delivery of liquor to a minor, if they sell, furnish, procure for, or knowingly assists in the furnishing of any beer, wine, or intoxicating liquor to any person under the age of twenty-one (21) years.
- (2) Sentencing Classification. Six (6) month misdemeanor.
- (3) Comment.

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- (a) For the purposes of the section, the terms "beer," and "wine," and "intoxicating liquor" shall have the meaning as defined in Tribal Code Chapter 41: Liquor Control Ordinance, and particularly '41.202(1), (13) and (7), respectively.

71.1502 Illegal Consumption of Liquor.

- (1) Offense. A person commits the offense of illegal consumption of liquor, if they consume any beer, wine or intoxicating liquor in any public place except on premises upon which there is lawful authority to sell such liquor by the drink for consumption on the premises.
- (2) Sentencing Classification. Thirty (30) day misdemeanor.
- (3) Comment.
 - (a) Possession of a container of beer, wine or intoxicating liquor on which the United States excise tax seal has been broken or removed, on from which the cap, cork or seal placed upon it by the manufacturer has been removed shall constitute a rebuttable presumption of consumption.
 - (b) For the purposes of the section, the terms "beer," and "wine," and "intoxicating liquor" shall have the meaning as defined in Tribal Code Chapter 41: Liquor Control Ordinance, and particularly '41.202(1), (13) and (7), respectively.

71.1503 Public Intoxication.

- (1) Offense. A person commits the offense of public intoxication, if they appear in any public place manifestly under the influence of alcohol, narcotics or other drugs to the degree that they may endanger himself or another person or property.
- (2) Sentencing Classification. Thirty (30) day misdemeanor.

71.1504 Under Age Possession of Liquor by a Minor.

- (1) Offense. A person under the age of twenty-one years old commits the offense of Underage Possession of Liquor by a Minor if they:
 - (a) Buys, receives, possesses, consumes any beer, wine or intoxicating liquor;
 - (b) Attempts to buy, receive, possess or consume any beer, wine or intoxicating liquor; or
 - (c) Has any bodily alcohol content.
- (2) It is not a violation of the section for a person to possess beer, wine or intoxicating liquor during the course of their employment.

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(3) The first offense under the section shall constitute a civil infraction.

(4) Sentencing Enhancements.

(a) For a second offense of underage possession of liquor by a minor the sentence may be (30) day misdemeanor, with a fine not to exceed One-hundred Dollars (\$100.00), or both.

i. Upon conviction a first violation of underage possession of liquor by a minor, The Tribal Court Judge shall order the defendant to complete a substance abuse assessment. The defendant is responsible for ensuring that the results of the substance abuse assessment are delivered to the Court before sentencing.

(b) For a third or subsequent offense of underage possession of liquor by a minor the sentence may be confinement in an appropriate facility for a period not to exceed ninety (90) days, or a fine not to exceed Three-hundred Dollars (\$300.00), or both.

(5) Comment.

(a) For the purposes of the section, the terms “beer”, and “wine”, and “intoxicating liquor” shall have the meaning as defined in Tribal Code Chapter 41: Liquor Control Ordinance, and particularly 41.202(1), (13) and (7), respectively.

(b) “Any bodily alcohol content” means either of the following:

i. An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

ii. Any presence of alcohol within a person’s body resulting from the consumption of alcoholic liquor, other than the consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(6) Affirmative Defense. It shall be an affirmative defense to the charge of Underage Possession of Liquor by a Minor that the alcohol was consumed in a jurisdiction where it was legal for a person of the person’s age to consume alcohol.

71.1505 Under Age Possession of Nicotine Products by a Minor.

(1) Offense. A person under the age of Eighteen (18) years commits the offense of underage possession of nicotine products by a minor, if they buy, receives, possesses or consumes, or attempts to buy, receive or possess any nicotine delivery systems.

(2) The first offense under the section shall constitute a civil infraction.

(3) Sentencing Enhancements.

(a) For a second offense of underage possession of nicotine by a minor the

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sentence may be (30) day misdemeanor, with a fine not to exceed One-hundred Dollars (\$100.00), or both.

- i. Upon conviction a first violation of underage possession of nicotine by a minor, The Tribal Court Judge shall order the defendant to include traditional use and commercial abuse education, two educational tobacco related assignments, and two hours volunteer work in the community.
 - (b) For a third or subsequent offense of underage possession of nicotine by a minor the sentence may be confinement in an appropriate facility for a period not to exceed ninety (90) days, or a fine not to exceed Three-hundred Dollars (\$300.00), or both.
- (4) Comment.
- (a) For the purposes of the section, the term “nicotine delivery systems” includes any item or substance used for the consumption, ingestion, use, or absorption of nicotine into the human body. Nicotine delivery systems shall include, but not be limited to: cigars, cigarettes, snuff, chewing tobacco, vapors, oils, wax, liquids, electronic cigarettes (e-cigs), vape mods, vape pens, edible products, dissolvable products, and any raw materials containing nicotine.
- (5) Affirmative Defense. Any person charged with under age possession of nicotine products by a minor shall be relieved of all liability for the offense if:
- (a) They can demonstrate that the tobacco was possessed for religious or ceremonial purposes.
 - (b) They can demonstrate that the nicotine product was prescribed by a doctor to overcome nicotine dependence or addiction.

71.1506 Delivery of Nicotine Products to a Minor.

- (1) Offense. A person commits the offense of delivery of nicotine products to a minor, if they sell, furnish, procure for, or knowingly assists in the furnishing of any nicotine delivery system to any person under the age of eighteen (18) years.
- (2) Sentencing Classification. Six (6) month misdemeanor.
- (3) For the purposes of the section, the term “nicotine delivery systems” includes, any item or substance used for the consumption, ingestion, use, or absorption of nicotine into the human body. Nicotine delivery systems shall include, but not be limited to: cigars, cigarettes, snuff, chewing tobacco, vapors, oils, vape mods, vape pens, electronic cigarettes, (e-cigs), edible products containing nicotine, and any raw materials containing nicotine.
- (4) Affirmative Defense. Any person charged with delivery of nicotine products to a minor shall be relieved of all liability for the offense if they can demonstrate that:

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- (a) The tobacco was delivered to a minor for religious or ceremonial purposes.
- (b) The nicotine product was prescribed by a doctor to overcome nicotine dependence or addiction and it was being delivered to the prescribed minor for that purpose.

71.1507 Use of Nicotine and Nicotine Delivery Systems on School Grounds Prohibited.

- (1) Offense. A person commits the offense of use of Nicotine and Nicotine Delivery Systems on school grounds if they use or are in possession of a nicotine or nicotine delivery system, as described therein, on tribal school grounds.
- (2) Sentencing.
 - (a) A violation of the subsection shall constitute a civil infraction of a fine not to exceed One Thousand Dollars (\$1,000.00).

71.1508 Use in Gaming Facilities Permitted. REPEALED

71.1509 Ban on Sale of Electronic Cigarettes. REPEALED

SUBCHAPTER XVI: CONTROLLED SUBSTANCE AND RELATED OFFENSES

71.1601 Furnishing Marijuana –REPEALED.

71.1602 Possession or Furnishing of Narcotics.

- (1) Offense. A person commits the offense of possession or furnishing of narcotics, if they knowingly possess, manufacture, transport, sell, consume, use, cultivate or trade in any drug or other substances identified or defined as a "controlled substance" under the provisions of P.A. 1978, No. 368, of the State of Michigan, as amended to the date of the offense, except marijuana.
- (2) Sentencing Classification. One (1) year misdemeanor.
- (3) It shall not be an offense under the section, or any other section of the Chapter, to possess, use, or administer an Opioid Antagonist. In the Section, "Opioid Antagonist" means naloxone hydrochloride or any other similarly acting and equally safe drug approved by the federal food and drug administration for the treatment of drug overdose.

71.1603 Possession of Marijuana –REPEALED.

71.1604 Inhaling Toxic Vapors.

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- (1) Offense. A person commits the offense of inhaling toxic vapors, if they, for the purpose of becoming intoxicated or subjecting himself to the influence of them, willfully inhales the vapors or fumes of paint, gasoline, glue or any other substance producing intoxicating fumes or vapors.
- (2) Sentencing Classification. Six (6) month misdemeanor.

71.1605 Misuse of Prescription Medication –REPEALED.

71.1606 Possession or Use of Medication without Prescription.

- (1) Offense.
 - (a) It shall be unlawful for any person to possess or use, without a valid prescription from a medical doctor, a controlled substance, as defined by the Controlled Substance Act of 1970, as amended from time to time (21 U.S. Code § 801 et. Seq.) And any substance listed in Schedule1 (MCL 333.7212) or Schedule2 (MCL 333.7214) of the Michigan Uniform Controlled Substance Act, as they may from time to time be amended. Possession or personal use of marijuana is not prohibited by the subsection.
 - (b) It shall be unlawful for any person to misuse a prescription medication by using it in a way not intended or not consistent with the directions of the prescribing doctor. Misuse includes but is not limited to:
 - i. Use in higher dose than prescribed;
 - ii. Crushing pills to inject, inhale or drink;
 - iii. Use of a medication prescribed to another individual; or
 - iv. Taking a medication to feel euphoria or achieve a “high”.
 - (c) It shall be unlawful for any person to obtain, or attempt to obtain, a prescription for medication on behalf of another person, or to induce another person to attempt to obtain a prescribed medication on their behalf.
 - (d) Any person who, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulling of the senses or nervous system, intentionally smells or inhales fumes of any chemical agent, is guilty of a violation of the section.
- (2) Sentencing Classification. One (1) year misdemeanor.

71.1607 Permitted Possession and Use of Marijuana.

- (1) The following acts by a person at least 21 years of age shall not constitute criminal or civil offenses except as expressly prohibited under the Chapter or other Tribal law. Further, these acts are not:

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- (a) Grounds for seizure or forfeiture of property,
 - (b) Grounds for arrest, prosecution, or penalty in any manner,
 - (c) Grounds for search or inspection, and
 - (d) Grounds to deny any other right or privilege:
- (2) Possessing, using or consuming, internally possessing, purchasing, transporting, or processing 2.5 ounces or less of marijuana, except that not more than 15 grams of marijuana may be in the form of marijuana concentrate;
 - (3) Within the person's residence, possessing, storing, and processing not more than 10 ounces of marijuana and any marijuana produced by marijuana plants cultivated on the premises and cultivating not more than 12 marijuana plants for personal use, provided that no more than 12 marijuana plants are possessed, cultivated, or processed on the premises at once;
 - (4) Giving away or otherwise transferring without remuneration to a person at least 21 years of age or older up to 2.5 ounces of marijuana, except that not more than 15 grams of marijuana may be in the form of marijuana concentrate, provided that the transfer is not advertised or promoted to the public; or
 - (5) Purchasing marijuana from a Licensed Marijuana Establishment in accordance with Chapter 47.

71.1608 Possession and Use of Marijuana in Excess of Authorized Amounts.

- (1) Offense. A person commits the offense if they, being a person 21 years of age or older, possess, use, consume, internally possess, purchase, transport, give away, transfer without remuneration, or process marijuana over the established limits outlined in 71.1607.
- (2) Sentencing Classification. Thirty (30) day misdemeanor.

71.1609 Distribution to a Person under 21 years of Age.

- (1) Offense. A person commits the offense if they, being a person at least 21 years of age sell, give, distribute, or help any person under 21 years of age possess, consume, purchase or otherwise obtain marijuana or marijuana accessories.
- (2) Sentencing Classification. One (1) year misdemeanor.

71.1610 Possession or Use by a Person between 18 and 21 Years of Age.

- (1) Offense. A person commits the offense if they, being a person under 21 years of age, but at least 18 years old, possess, purchase, consume, obtain, or sell marijuana or marijuana accessories.
- (2) Sentencing Classification. Thirty (30) day misdemeanor, with a fine not to

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exceed Five-hundred Dollars (\$500.00), or both.

- (a) Upon conviction the Tribal Court Judge shall order the defendant to complete a substance abuse assessment. The defendant is responsible for ensuring that the results of the substance abuse assessment are delivered to the Court before sentencing.

71.1611 Marijuana Accessories.

- (1) Notwithstanding any other law or provision of the Code the use, manufacture, possession, and purchase of marijuana accessories by a person 21 years of age or older and the distribution or sale of marijuana accessories to a person 21 years of age or older is
 - (a) Authorized,
 - (b) Not unlawful,
 - (c) Not an offense,
 - (d) Not grounds for seizing or forfeiting property,
 - (e) Not grounds for arrest, prosecution, or penalty in any manner, and not grounds to deny any other right or privilege.

71.1612 Marijuana Possession or Use Near School and Playgrounds Prohibited.

- (1) Marijuana products may not be consumed, possessed, or used within, in or on, the real property comprising a public or private elementary, vocational, or secondary school, or a public or private college, junior college, or university, or a playground, a public or private park, or other community recreational area. Any violation of the subsection shall constitute a civil infraction punishable by a fine not to exceed \$1,000.00.

71.1613 Marijuana Possession or Use in Public Areas or Public View Prohibited.

- (1) Marijuana products may not be consumed, possessed, or used within, in or on, or any public place, or possessed within the public view. Public view includes, but is not limited to, carrying marijuana on the body of a person where it is visible to the public. Public places include, but are not limited to: tribal government offices, tribal medical and wellness facilities, tribal businesses and enterprises (except for those authorized to sell marijuana), tribal schools, tribal gymnasiums, tribal parking lots, tribal government vehicles, tribally-owned open spaces. For purposes of the provision, public places do not include non-gaming areas designated by the Board of Directors or the Gaming Commission where marijuana products may be consumed. Any violation of the subsection shall constitute a civil infraction punishable by a fine not to exceed \$75.00.

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71.1614 Permitted Manufacture, Process and Sale of Marijuana Limited to Tribal Enterprises and Licensed Marijuana Establishments.

- (1) Only the following types of entities are authorized to engage in the commercial manufacturing, processing, packaging, delivery, distribution, or sale of marijuana, but solely to the extent provided under the laws of the Sault Ste. Marie Tribe of Chippewa Indians:
 - (a) Wholly owned enterprises of the Sault Ste. Marie Tribe of Chippewa Indians, or
 - (b) Licensed Marijuana Establishments pursuant to Chapter 47. Commercial manufacturing, processing, packaging, delivery, distribution, or sale of marijuana is otherwise prohibited by 71.1618. Wholly owned enterprises of the Sault Ste. Marie Tribe of Chippewa Indians are not subject to the requirements of Chapter 47.

71.1615 Operating a Vehicle.

- (1) The Section does not authorize operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat while under the influence of marijuana.

71.1616 Custody and Visitation.

- (1) A person shall not be denied custody or visitation with a minor for conduct that is permitted by the act, unless the person's behavior is such that it creates a risk of harm to the minor that can be clearly articulated and substantiated.

71.1617 Vacating Offenses.

- (1) All past marijuana convictions authorized by these Sections shall be set aside and expunged from individual records for all convictions prior to August 11, 2020. Future convictions may be set aside pursuant to Tribal Code Chapter 77.

71.1618 Distribution of Marijuana.

- (1) Offense. A person commits the offense if they grow, manufacture, or deliver, with the intent to sell or if they sell marijuana, and such person is not acting on behalf of a Licensed Marijuana Establishment or on behalf of a wholly owned enterprise of the Sault Ste. Marie Tribe of Chippewa Indians.
- (2) Sentencing Classification. Thirty (30) day misdemeanor.

71.1619 Maintaining a Drug House.

- (1) Offense. A person commits the offense if they knowingly keep or maintain a store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place that is frequented by persons using controlled substances in

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violation of the Code or that is used for keeping or selling controlled substances in violation of the Code.

- (2) Sentencing Classification. One (1) year misdemeanor.
- (3) Subsection (1) does not apply to any of a Practitioner, Physician prescriber, dentist prescriber or veterinarian prescriber licensed by law to practice and administer, distribute, prescribe, or dispense a controlled substance for purpose of medical treatment.

SUBCHAPTER XVII: ANIMAL CONTROL

71.1701 Cruelty to Animals.

- (1) Offense. A person commits the offense of cruelty to animals, if except as otherwise authorized by law, they intentionally or recklessly:
 - (a) Subjects any animal to mistreatment; or
 - (b) Subjects any animal in their custody to neglect; or
 - (c) Abandons any animal.
- (2) Sentencing Classification. Thirty (30) day misdemeanor.
- (3) Sentencing enhancement.
 - (a) If a person intentionally or recklessly kills or injures any animal the sentence may be a jail term not to exceed six (6) months and a fine not to exceed Three Thousand Dollars (\$3,000.00), or both.
- (4) Sentencing Comment.
 - (a) In addition to the other penalties provided, the Tribal Court may order any dog involved in a violation thereof to be impounded, destroyed, subjected to testing or otherwise disposed of. In addition, tribal officers or other representatives are authorized to seize any dog involved in any violation of the section and to hold the dog pending hearing or release to its owner upon reasonable conditions.

71.1702 Offense Concerning Dogs.

- (1) Offense. A person commits an offense concerning dogs, if that person:
 - (a) Fails to restrain their dog at all times within a fenced area on a leash not less than twenty (20) feet in length; or
 - (b) Maintains a pit bull; or
 - (c) Maintains a dog which is known to be dangerous or has bitten or attacked

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a person.

- (2) Sentencing Classification. Thirty (30) day misdemeanor.
- (3) Sentencing Comment.

- (a) In addition to the other penalties provided, the Tribal Court may order any dog involved in a violation thereof to be impounded, destroyed, subjected to testing or otherwise disposed of. In addition, tribal officers or other representatives are authorized to seize any dog involved in any violation of the section and to hold the dog pending hearing or release to its owner upon reasonable conditions

SUBCHAPTER XVIII: SEX CRIMES

71.1801 Criminal Sexual Conduct – First Degree.

- (1) Offense. A person is guilty of criminal sexual conduct in the first degree if they engage in sexual penetration with another person and if any of the following circumstances exists:
 - (a) That other person is under 13 years of age.
 - (b) That other person is at least 13 but less than 18 years of age and any of the following:
 - i. The actor is a member of the same household as the victim.
 - ii. The actor is related to the victim by blood or affinity to the fourth degree.
 - iii. The actor is in a position of authority over the victim and used the authority to coerce the victim to submit.
 - iv. The actor is a teacher, substitute teacher, or administrator of the public or nonpublic school in which that other person is enrolled.
 - (c) Sexual penetration occurs under circumstances involving the commission of any other crime which would be a felony if committed in the state of Michigan.
 - (d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:
 - i. The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
 - ii. The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes, but is not limited to, any of the circumstances listed in subdivision (f).
 - (e) The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.
 - (f) The actor causes personal injury to the victim and force or coercion is

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used to accomplish sexual penetration. Force or coercion includes, but is not limited to, any of the following circumstances:

- i. When the actor overcomes the victim through the actual application of physical force or physical violence.
 - ii. When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats.
 - iii. When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute the threat. As used in the subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.
 - iv. When the actor engages in the medical treatment or examination of the victim in a manner or for purposes that are medically recognized as unethical or unacceptable.
 - v. When the actor, through concealment or by the element of surprise, is able to overcome the victim.
- (g) The actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
- (h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:
- i. The actor is related to the victim by blood or affinity to the fourth degree.
 - ii. The actor is in a position of authority over the victim and used the authority to coerce the victim to submit.

(2) Sentencing Classification. Three (3) Year Felony.

(a) The offender must be registered as a sex offender.

71.1802 Criminal Sexual Conduct – Second Degree.

- (1) Offense. A person is guilty of criminal sexual conduct in the second degree if the person engages in sexual contact with another person and if any of the following circumstances exists:
- (a) That other person is under 13 years of age.
 - (b) That other person is at least 13 but less than 18 years of age and any of the following:
 - i. The actor is a member of the same household as the victim.
 - ii. The actor is related by blood or affinity to the fourth degree to the victim.

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- iii. The actor is in a position of authority over the victim and the actor used the authority to coerce the victim to submit.
 - iv. The actor is a teacher, substitute teacher, or administrator of the public or nonpublic school in which that other person is enrolled.
 - (c) Sexual contact occurs under circumstances involving the commission of any other crime which would be a felony if committed in the state of Michigan.
 - (d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:
 - i. The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
 - ii. The actor uses force or coercion to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in §71.1801(1)(f).
 - (e) The actor is armed with a weapon, or any article used or fashioned in a manner to lead a person to reasonably believe it to be a weapon.
 - (f) The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in §71.1801(1)(f).
 - (g) The actor causes personal injury to the victim and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
 - (h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:
 - i. The actor is related to the victim by blood or affinity to the fourth degree.
 - ii. The actor is in a position of authority over the victim and used the authority to coerce the victim to submit.
- (2) Sentencing Classification. Three (3) Year Felony.
- (a) The offender must be registered as a sex offender.

71.1803 Criminal Sexual Conduct – Third Degree.

- (1) Offense. A person is guilty of criminal sexual conduct in the third degree if the person engages in sexual penetration with another person and if any of the following circumstances exist:
 - (a) That other person is at least 13 years of age and under 18 years of age.
 - (b) Force or coercion is used to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in §71.1801(1)(f).

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- (c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
 - (d) That other person is related to the actor by blood or affinity to the third degree and the sexual penetration occurs under circumstances not otherwise prohibited by the chapter. It is an affirmative defense to a prosecution under the subdivision that the other person was in a position of authority over the defendant and used the authority to coerce the defendant to violate the subdivision. The defendant has the burden of proving the defense by a preponderance of the evidence. The subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.
 - (e) That other person is at least 16 years of age but less than 18 years of age and a student at a public or nonpublic school, and the actor is a teacher, substitute teacher, or administrator of that public or nonpublic school. The subdivision does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.
- (2) Sentencing Classification. Three (3) Year Felony.
- (a) The offender must be registered as a sex offender.

71.1804 Criminal Sexual Conduct – Fourth Degree.

- (1) Offense. A person is guilty of criminal sexual conduct in the fourth degree if the person engages in sexual contact with another person and if any of the following circumstances exist:
- (a) That other person is at least 13 years of age but less than 18 years of age, and the actor is 5 or more years older than that other person.
 - (b) Force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the following circumstances:
 - i. When the actor overcomes the victim through the actual application of physical force or physical violence.
 - ii. When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute that threat.
 - iii. When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute that threat. As used in the subparagraph, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.
 - iv. When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically

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recognized as unethical or unacceptable.

- v. When the actor achieves the sexual contact through concealment or by the element of surprise.
 - (c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
 - (d) That other person is related to the actor by blood or affinity to the third degree and the sexual contact occurs under circumstances not otherwise prohibited by the chapter. It is an affirmative defense to a prosecution under the subdivision that the other person was in a position of authority over the defendant and used the authority to coerce the defendant to violate the subdivision. The defendant has the burden of proving the defense by a preponderance of the evidence. The subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.
 - (e) The actor is a mental health professional and the sexual contact occurs during or within 2 years after the period in which the victim is their client or patient and not their spouse. The consent of the victim is not a defense to a prosecution under the subdivision. A prosecution under the subsection shall not be used as evidence that the victim is mentally incompetent.
 - (f) That other person is at least 16 years of age but less than 18 years of age and a student at a public or nonpublic school, and the actor is a teacher, substitute teacher, or administrator of that public or nonpublic school. The subdivision does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.
- (2) Sentencing Classification. Three (3) Year Felony.
- (a) The offender must be registered as a sex offender.

71.1805 Indecent Exposure.

- (1) Offense. A person commits the offense of indecent exposure, if they deliberately expose the genital organs of a person to the view of another person or persons or exposes them under circumstances that the exposing person has reasonable cause to know that such exposure may be viewed by another person or persons, if in either event the exposing person knows or has reasonable cause to know the conduct may offend some person or persons viewing the same.
- (2) Sentencing Classification. One (1) year misdemeanor.

71.1806 Prostitution.^[C17]

- (1) Offense. A person commits the offense of prostitution, if they perform, offer, or

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agree to perform any act of sexual intercourse, or of deviant sexual contact with any person not the spouse of the offender in exchange for money or any other thing of consideration or value.

(2) Sentencing Classification. Six (6) month misdemeanor.

71.1807 Solicitation for Prostitution.

(1) Offense. A person commits the offense of solicitation for prostitution if that person:

- (a) solicits another for the purpose of prostitution; or
- (b) arranges or offers to arrange a meeting; or
- (c) knowingly grants or permits the use of a place over which the person has or exercises control for the purpose of prostitution; or
- (d) knowingly lives on or is supported or maintained in whole or in part by money or other consideration or thing of value earned, received, procured, or realized by any person through prostitution; or
- (e) by word, gesture or action, endeavors to further the practice of prostitution in any public place or within public view; or
- (f) furnish or makes available to another person any facility, knowing that the same is to be used for or in aid of prostitution, or who shall advertise in any manner that they furnish or is willing to furnish or make available any such facility for such purpose.

(2) Sentencing Classification. One (1) year misdemeanor.

71.1808 Patronizing a Prostitute.

(1) Offense. A person commits the offense of patronizing a prostitute, if they engage in any act of sexual intercourse or of deviate sexual contact with a prostitute.

(2) Sentencing Classification. Six (6) month misdemeanor.

71.1809 Sexual Exploitation.

(1) Offense. A person commits the crime of sexual exploitation if they cause another to be exposed to explicit sexual acts, photographs, movies, or any other media, or takes sexually explicit photographs or videos or uses any other media to document same of another and the victim is:

- (a) 17 years old or younger or;
- (b) unaware of the photograph or videos (other medium used) being taken or;
- (c) suffers from a mental disease or defect, which renders them incapable of appraising the nature of their conduct.

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(2) Sentencing Classification. One (1) year misdemeanor.

71.1810 Accosting, Enticing or Soliciting a Child for Immoral Purpose.

- (1) Offense. A person commits the crime of accosting, enticing or soliciting a child for immoral purpose if they accosts, entices, or solicits a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom they believes is a child less than 16 years of age with the intent to induce or force that child or individual to commit an immoral act, to submit to an act of sexual contact or an act of gross indecency, or to any other act of depravity or delinquency, or who encourages a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom they believes is a child less than 16 years of age to engage in any of those acts.
- (2) Sentencing Classification. Two (2) Year Felony.
 - (a) The offender must be registered as a sex offender.

71.1811 Child Sexually Abusive Material or Activity.

(1) Definitions:

- (a) "Child sexually abusive activity" means a child engaging in a listed sexual act.
- (b) "Child sexually abusive material" means any depiction, whether made or produced by electronic, mechanical, or other means, including a developed or undeveloped photograph, picture, film, slide, video, electronic visual image, computer diskette, computer or computer-generated image, or picture, or sound recording which is of a child or appears to include a child engaging in a listed sexual act; a book, magazine, computer, computer storage device, or other visual or print or printable medium containing such a photograph, picture, film, slide, video, electronic visual image, computer, or computer-generated image, or picture, or sound recording; or any reproduction, copy, or print of such a photograph, picture, film, slide, video, electronic visual image, book, magazine, computer, or computer-generated image, or picture, other visual or print or printable medium, or sound recording.
- (c) "Erotic fondling" means touching a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved. Erotic fondling does not include physical contact, even if affectionate, that is not for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.
- (d) "Erotic nudity" means the lascivious exhibition of the genital, pubic, or

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rectal area of any person and, if female, any part of the breast. As used in the subdivision, "lascivious" means wanton, lewd, and lustful and tending to produce voluptuous or lewd emotions.

- (e) "Listed sexual act" means sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, passive sexual involvement, sexual excitement, or erotic nudity.
 - (f) "Masturbation" means the real or simulated touching, rubbing, or otherwise stimulating of a person's own clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, either by manual manipulation or self-induced or with an artificial instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.
 - (g) "Passive sexual involvement" means an act, real or simulated, that exposes another person to or draws another person's attention to an act of sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, sexual excitement, or erotic nudity because of viewing any of these acts or because of the proximity of the act to that person, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.
 - (h) "Sadomasochistic abuse" means either of the following:
 - i. Flagellation or torture, real or simulated, for the purpose of real or simulated sexual stimulation or gratification, by or upon a person.
 - ii. The condition, real or simulated, of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification of a person.
 - (i) "Sexual excitement" means the condition, real or simulated, of human male or female genitals in a state of real or simulated overt sexual stimulation or arousal.
 - (j) "Sexual intercourse" means intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal, or with an artificial genital.
- (2) Offense. A person commits the offense of Child Sexually Abusive Material or Activity if:
- (a) they persuades, induces, entices, coerces, causes, or knowingly allows a child to engage in a child sexually abusive activity for the purpose of producing any child sexually abusive material, or arranges for, produces, makes, copies, reproduces, or finances, or attempts or prepares or conspires to arrange for, produce, make, copy, reproduce, or finance any child sexually abusive activity or child sexually abusive material for personal, distributional, or other purposes, if that person knows, has

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reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child;

- (b) they distributes or promotes, or finances the distribution or promotion of, or receives for the purpose of distributing or promoting, or conspires, attempts, or prepares to distribute, receive, finance, or promote any child sexually abusive material or child sexually abusive activity, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child; or
 - (c) they knowingly possess or knowingly seeks and accesses any child sexually abusive material if that person knows, has reason to know, or should reasonably be expected to know the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child.
- (3) The subsection does not apply to attorneys, law enforcement, probation, health care providers, counselors, social workers, judicial officers acting in the scope of their employment or a party or a witness in a criminal or civil proceeding acting within the scope of that proceeding.
- (4) Sentencing Classification. Three (3) Year Felony.
- (a) The offender must be registered as a sex offender.

71.1812 Sex Trafficking^[C18].

(1) Definitions.

(a) "coercion" means:

- i. Threats of serious harm to or physical restraint against any person; or
- ii. Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- iii. The abuse or threatened abuse of law or the legal process.

(b) "Commercial sex act" means any sex act, on account of which anything of value is given to or received by any person.

(2) Offense. A person commits the offense of Sex Trafficking if they:

- (a) Engage in recruitment, transportation, transfer, harboring, enticement,

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providing, obtaining, or receipt of any sexual act, including sexual intercourse or sexual contact, from a person by any means, including electronic and telephonic, for the purpose of prostitution or practices similar to prostitution; and

- (b) Benefits financially or receives anything of value from knowing participation in the sex trafficking of a person, knowing or having reason to know it is derived from an act of sex trafficking; or
 - (c) Promotes, recruits, entices, harbors, transports, provides, or obtains by any means another person, knowing that person may be subject to sex trafficking; or
 - (d) Attempts or conspires, or has the intent to promote recruit, entice, harbor, transport, provide or obtain by any means another person knowing that person will be subjected to sex trafficking
- (3) Sentencing Classification. One (1) year misdemeanor..
- (a) The offender must be registered as a sex offender.

71.1813 Revenge Porn.

- (1) Offense. A person commits the offense of revenge porn if they disseminate any sexually explicit visual material of another person if all of the following conditions apply:
 - (a) The other person is over the age of 18.
 - (b) The other person is identifiable from the sexually explicit visual material itself or information displayed in connection with the sexually explicit visual material.
 - (c) The person obtains the sexually explicit visual material of the other person under circumstances in which a reasonable person would know or understand that the sexually explicit visual material was to remain private.
 - (d) The person knows or reasonably should know that the other person did not consent to the dissemination of the sexually explicit visual material.
- (2) Sentencing Classification. One (1) year misdemeanor.
- (3) Subsection (1) does not apply to any of the following:
 - (a) A person receiving the sexually explicit visual material in connection with the investigation, prosecution, defense, or sentencing of a criminal matter.
 - (b) A person disseminating sexually explicit visual material in the reporting of a crime.
 - (c) A person who disseminates sexually explicit visual material that is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical

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work, motion picture, film, or audiovisual work.

(4) Definitions as used in the section.

- (a) "Disseminate" means post, distribute, or publish on a computer device, computer network, website, or other electronic device or medium of communication.
- (b) "Sexually explicit visual material" means a photograph or video that depicts nudity, erotic fondling, sexual intercourse, or sadomasochistic abuse.
- (c) "Nudity" means displaying a person's genitalia or anus or, if the person is a female, her nipples or areola.