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Chapter 2. Crimes Against Persons

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Subchapter A. Homicide and related offenses

Sec. 201. Murder.

Whoever intentionally causes the death of another human being is guilty of murder.

Murder is a felony.

Sec. 202. Manslaughter.

A person who recklessly causes the death of another human being is guilty of manslaughter.

Manslaughter is a felony.

Sec. 203. Negligent homicide.

A person who negligently causes the death of another human being is guilty of negligent homicide.

Negligent homicide is a felony.

Sec. 204. Causing or aiding suicide.

A person who intentionally causes another person to commit or attempt to commit suicide by force, duress or deception, or aids or solicits another to commit or attempt to commit suicide, is guilty of causing or aiding suicide.

Causing or aiding suicide is a Class A misdemeanor.

Subchapter B. Kidnaping and Related Offenses

Sec. 210. Kidnaping.

(a) Any person who by force, threat or deception:

(1) Removes another against his/her will from his/her place of residence or business, or a substantial distance from the vicinity from where he/she is located; or

(2) Confines another for a significant period against his/her will is guilty of kidnaping. Where the victim is twelve (12) years of age or less, it

shall be presumed that the removal or confinement was against the victim's will.

(b) Any natural or adoptive parent who by force, threat, or deception, or without knowledge or agreement of the child's custodian, removes that parent's child from the physical custody of any person who has custody of the child pursuant to a court order, and keeps that child for a significant period, is guilty of kidnaping. In determining whether a period of time is significant for purposes of this subsection, the Court must evaluate the surrounding facts and circumstances, including but not limited to the age of the child and the length of previous authorized visits with the offender. In a particular case, a relatively brief period may be considered significant.

(AMENDED AS PER RESOLUTION NO. 1287-86- 7, DATED 07/28/86.)

Sec. 211. Harboring a child.

Whoever removes, confines, harbors or keeps a minor or other incompetent without the consent of a parent, guardian or other person responsible for general supervision of the welfare of the minor or other incompetent is guilty of harboring a child; provided however, that no person shall be guilty of harboring a child who notifies a law enforcement officer of the child's whereabouts

Harboring a child is a Class B misdemeanor for the first offense, and a Class A misdemeanor for each subsequent offense.

Sec. 212. False imprisonment.

A person who intentionally makes or causes the unlawful arrest, imprisonment or detention of another person is guilty of false imprisonment if the defendant knows or reasonably should have known that the arrest, imprisonment or detention is without lawful authority.

False imprisonment is a Class A misdemeanor.

Sec. 213. Custodial interference.

(a) A person commits the offense of custodial interference if, knowing that the person has no legal right to do so, the person takes, entices, or

withholds from lawful custody any child, incompetent person or other person entrusted by authority of law to the custody of another person or institution.

(1) A person convicted of the offense of custodial interference under subsection (a) is guilty of a Class A misdemeanor.

(b) A person commits the offense of custodial interference if, knowing that the person has no legal right to do so, the person takes, entices or withholds from lawful custody a person placed by authority of law in protective custody in foster care or institutional placement.

(1) A person convicted of the offense of custodial interference under subsection (b) is guilty of a felony.

(c) With respect to the first alleged commission of the offense only, a person who has not left the Reservation does not commit an offense under this section if the person voluntarily returns the child, incompetent person, or other person to lawful custody before arraignment. With respect to the first alleged commission of the offense only, a person who has left the Reservation does not commit an offense under this section if the person voluntarily returns the child, incompetent person, or other person to lawful custody before arrest.

(AS PER RESOLUTION NO. 26-2221-2013-04; DATED 04/08/2013)

Subchapter C. Sexual Trafficking

Sec. 214. Sex trafficking.

(a) A person commits the offense of sex trafficking if the person intentionally or knowingly

(1) Entices, recruits, transports, harbors, isolates, provides, obtains, maintains, facilitates, directs, or arranges for an individual to provide commercial sexual activity;

(2) Offers or agrees to compensate an individual for sexual activity; or

(3) Benefits financially or by receiving anything of value from participation, other than as a victim of sex trafficking, in a venture, knowing that the venture has engaged or will engage in an of sex trafficking that is classified as a felony under Subsection (b).

(b) Sex trafficking is a Class A misdemeanor. However, if force, fraud, or coercion are used to obtain cooperation from the individual providing sexual activity, or that individual was under 18 at the time of the offense, it is a felony. It is not a defense that the offender lacked knowledge that the individual was under 18.

(c) For the purposes of this Subchapter, the following definitions apply:

(1) *Coercion* means:

(A) Threatening to use force; or

(B) Abusing a position of power or another individual's position of vulnerability;

(C) Abusing or threatening to abuse the law or legal process;

(D) Controlling or threatening to control an individual's access to an intoxicating beverage, toxic or controlled substance, or narcotic as defined in Chapter 4 of this Title.

(E) Destroying, taking or threatening to destroy or take an individual's property;

(F) Inducing an individual to provide commercial sexual activity in payment toward a real or purported debt; or

(G) Exploiting an individual's physical or mental impairment when the impairment has a substantial adverse effect on the individual's cognitive or volitional function.

(2) *Commercial sexual activity* means sexual activity for which anything of value is given to, promised to, or received by an individual.

(3) *Force* includes, but is not limited to abduction, physical restraint or confinement, sexual or physical violence, or serious harm.

(4) *Fraud* means intentional misrepresentation of a material existing fact made with knowledge of its falsity, including, but not limited to written or verbal statements about employment, wages, working conditions or other opportunities.

(5) *Sexual activity* means sexual act or sexual contact as those terms are defined in Sections 220 and 226.

(6) *Venture* means any group of two or more individuals associated in business, whether or not a legal entity.

(7) *Victim of sex trafficking* means an individual who is called upon to provide commercial sexual activity under Subsections (a) or (b).

Sec. 215. Forfeiture of assets aiding in or derived from a sex trafficking crime.

(a) Any person convicted of a felony violation of Section 214 of this Title shall forfeit to the Fort Peck Tribes, irrespective of any provision of State law:

(1) Any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as a result of such violation; and

(2) Any of the person's property used, intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

(b) The Court, in imposing a sentence on such person, shall order, in addition to any other sentence imposed pursuant to Section 214 of this Title, that the person forfeit to the Fort Peck Tribes any property described in Subsection (a).

Sec. 216. Victim immunity and affirmative defense.

A person is not criminally liable or subject to a criminal proceeding for a nonviolent offense if the person committed the offense while a victim of sex trafficking under 7 CCOJ 214.

Sec. 217. Victim access to expungement.

(a) A person convicted of a non-violent offense, including prostitution, committed while a victim of, or as a result of being a victim of sex trafficking, may apply to the Fort Peck Tribal Court to expunge the applicant's record of conviction for the offense. The Court may grant such motion on a finding that the applicant's participation in the offense occurred while the defendant was a victim or as the result of being a victim.

(b) While not necessary, official documentation from a federal, state, local, or tribal government agency indicating that the defendant was a victim at the time of the offense creates a presumption that the defendant's participation in the offense was a direct result of being a victim.

(c) A petition filed under this Section is governed by the procedures laid out in 6 CCOJ 902.

Sec. 218. Public-awareness sign.

Hospitals, emergency-care providers, and transit stations must display a public awareness sign containing information on local services for victims of sex trafficking and the National Human Trafficking Resource Center hotline number. This information must be in a place that is clearly visible to employees and the public.

(AS PER RESOLUTION NO. 28-0465-2016-03; DATED 3/14/2016)

Subchapter D. Sexual Offenses

Sec. 220. Rape.

A person who engages in a sexual act with another, or who causes another to engage in a sexual act, is guilty of rape if:

(a) The defendant compels the other person to submit by force or by any threat that would render a person of reasonable firmness incapable of resisting; or

(b) The defendant or someone else, with the defendant's knowledge, has substantially impaired the other person's power to appraise or control the person's conduct by administering or employing, without the other person's knowledge, intoxicants, drugs or another similar substance with intent to prevent resistance; or

(c) The other person is unconscious; or

(d) The defendant knows that the other person submits because the other person falsely supposes the defendant to be someone else;

(e) The other person is under 12 years of age; or

(f) The defendant knows that the other person submits suffers from a mental disease or defect which renders that person incapable of understanding the nature of his/her conduct;

(g) The other person is in official custody or otherwise detained in a hospital, prison, or other similar institution and the defendant has supervisory or disciplinary authority over the detained person.

(h) Sexual act means:

(1) Contact between the penis and vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however, slight;

(2) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

(3) The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

(4) The intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

Rape is a felony.

(AMENDED AS PER RESOLUTION # 206-642-2012-04; DATED 4/11/2012)

Sec. 221. Statutory rape.

A person eighteen (18) years of age or over who engages in a sexual act (as defined in Section 220) with another person who is between the ages of twelve (12) and fifteen (15) years, inclusive, is guilty of statutory rape.

Statutory rape is a Class A misdemeanor.

Sec. 222. Indecent exposure.

A person who exposes his/her genitals or other intimate parts under circumstances likely to cause affront or alarm is guilty of indecent exposure.

Indecent exposure is a Class B misdemeanor, except that second and subsequent offenses shall be a Class A misdemeanor.

Sec. 223. Prostitution and patronizing a prostitute.

Repealed by Resolution # 28-0465-2016-03, dated 3/14/2016.

See 7 CCOJ 214, *Sex Trafficking*.

Sec. 224. Stalking.

(a) A person commits the offense of stalking if the person intentionally causes another person

substantial emotional distress or reasonable apprehension of bodily injury or death by repeatedly:

(1) Following the stalked person; or

(2) Harassing, threatening, or intimidating the stalked person, in person or by electronic communication, by mail, or by other action, devise or method.

(b) Stalking is a Class A misdemeanor. A person convicted of stalking may be sentenced to pay all medical, counseling, and other costs incurred by or on behalf of the victim as a result of the offense.

(c) Upon presentation of credible evidence of a violation of this section, an order may be granted restraining a person from engaging in the activity described in subsection (a).

(d) Attempts by the accused person to contact or follow the stalked person after the accused person has been given actual notice that the stalked person does not want to be contacted or followed constitutes prima facie evidence that the accused person intentionally followed, harassed, threatened, or intimidated the stalked person.

(AMENDED AS PER RESOLUTION NO. 2303-94-11, DATED 11/21/1994; AMENDED AS PER RESOLUTION NO. 25-2166-2011-05; DATED 05/23/2011.)

Sec. 225. Adultery.

A person who engages in a sexual act as defined in Section 220 with another person, either of whom is married to a third person, is guilty of adultery.

No prosecution shall be instituted under this Section except on the complaint of the spouse of an alleged offender, and the prosecution shall not be commenced later than one (1) year from commission of the offense.

Adultery is a Class B misdemeanor.

Sec. 226. Sexual assault.

(a) A person who intentionally subjects another person to any sexual contact without consent commits the offense of sexual assault.

Sexual contact means any intentional touching of the sexual or other intimate parts of the person of another, whether clothed or unclothed, with no valid medical purpose.

(b) A person convicted of sexual assault is guilty of a Class A misdemeanor.

(c) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual assault, the offender is guilty of a felony.

(d) Consent is ineffective under this section if the victim is:

(1) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search.

(2) Less than 14 years old and the offender is 3 or more years older than the victim.

(AMENDED AS PER RESOLUTION NO. 26-908-2012-05; DATED 05/25/2012.)

Sec. 227. Aggravated sexual assault of a child.

Any person who commits sexual assault as defined in Section 226 of this Title where the victim is under eighteen (18) years of age and where any one of the following additional factors is present:

(a) The victim is under sixteen (16) years of age;

(b) The offender is the natural or adoptive parent, grandparent, sibling, aunt, or uncle of the victim;

(c) The offender has temporary or permanent care, custody, control, or supervision over the victim;

(d) There were repeated assaults over a period of time;

(e) Force or threats were employed during the assault is guilty of aggravated sexual assault of a child.

Aggravated sexual assault of a child is a felony.

(AMENDED AS PER RESOLUTION NO. 1287-86- 7, DATED 07/28/86 AND RESOLUTION NO. 1541-2007-4 DATED 04/09/07.)

Sec. 228. Sexual exploitation of a child.

(a) A person commits the offense of a sexual exploitation of a child if the person:

(1) Intentionally employs, uses, or permits the employment or use of a child in an exhibition of sexual conduct, actual or simulated;

(2) Intentionally photographs, films, videotapes, develops or duplicates the photographs, films, or videotapes, or records a child engaging in sexual conduct, actual or simulated;

(3) Intentionally, by any means of communication, including electronic communication, persuades, entices, counsels, or procures a child under 16 years of age or a person the offender believes to be a child under 16 years of age to engage in sexual conduct, actual or simulated;

(4) Intentionally processes, develops, prints, publishes, transports, distributes, sells, exhibits, or advertises any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

(5) Intentionally possesses any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

(6) Finances any of the activities described in subsections (a)(1) through (a)(4) and (a)(7), knowing that the activity is of the nature described in those subsections;

(7) Possesses with intent to sell any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

(8) Intentionally travels within, from or to this Reservation with the intention of meeting a child under 16 years of age or a person the offender believes to be a child under 16 years of age in order to engage in sexual conduct, actual or simulated; or

(9) Intentionally coerces, entices, persuades, arranges for, or facilitates a child under 16 years

of age or a person the offender believes to be a child under 16 years of age to travel within, from or to this Reservation with the intention of engaging in sexual conduct, actual or simulated.

(b) A person convicted of sexual exploitation of a child is guilty of a felony.

(c) An offense is not committed under subsections (a)(4) through (a)(7) if the visual or print medium is processed, developed, printed, published, transported, distributed, sold, possessed, or possessed with intent to sell, or if the activity is financed, as part of a sexual offender information or treatment course or program conducted or approved by the Court and/or the Branch of Corrections of the Department of Law and Justice.

(d) As used in this section, the following definitions apply:

(1) Electronic communication means a sign, signal, writing, image, sound, data, or intelligence of any nature transmitted or created in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system.

(2) Sexual conduct means:

(A) Actual or simulated:

(i) Sexual intercourse, whether between persons of the same or opposite sex;

(ii) Penetration of the vagina or rectum by any object, except when done as part of a recognized medical procedure;

(iii) Bestiality;

(iv) Masturbation;

(v) Sadomasochistic abuse;

(vi) Lewd exhibition of the genitals, breasts, pubic or rectal area, or other intimate parts of any person; or

(vii) Defecation or urination for the purpose of the sexual stimulation of the viewer; or

(B) Depiction of a child in the nude or in a state of partial undress with the purpose to abuse, humiliate, harass, or degrade the child or to arouse or gratify the person's own sexual response or desire or the sexual response or desire of any person.

(3) Simulated means any depicting of the genitals or pubic or rectal area that gives the appearance of sexual conduct or incipient sexual conduct.

(4) Visual medium means:

(A) Any film, photograph, videotape, negative, slide, or photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or

(B) Any disk, diskette, or other physical media that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

(AMENDED AS PER RESOLUTION NO. 26-2220-2013-04; DATED 04/08/2013)

Sec. 229. Failure to register as a sexual offender.

Failure to register as a sexual offender by not following any of the provisions of 6 CCOJ Chap. 8, shall be convicted as a felony, punishable as per 7 CCOJ 501(1).

(AS PER RESOLUTION NO. 26-737-2012-05; DATED 05/15/2012.)

Sec. 229-A. Hindrance of sex offender registration.

A person is guilty of a felony if he/she:

(a) Intentionally harbors or intentionally attempts to harbor, or intentionally assists another person in harboring or attempting to harbor a sex offender who is in violation of 6 CCOJ Chap. 8;

(b) Intentionally assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of 6 CCOJ Chap. 8; or

(c) Provides information to a law enforcement agency regarding a sex offender which the person knows to be false.

(AS PER RESOLUTION NO. 26-737-2012-05; DATED 05/15/2012.)

Sec. 229-B. Failure to register as a violent offender.

Failure to register as a violent offender by not following any of the provisions of 6 CCOJ 850 shall be convicted as a felony, punishable as per 7 CCOJ 505(1).

(AS PER RESOLUTION 26-737-2012-05; DATED 05/15/2012.)

Subchapter E. Assault and Related Offenses

Sec. 230. Aggravated assault.

Whoever;

(a) Intentionally causes serious bodily injury to another; or

(b) Intentionally causes bodily injury to another with a deadly weapon; or

(c) Recklessly causes serious bodily injury to another under circumstances manifesting indifference to the value of human life is guilty of aggravated assault.

Aggravated assault is a felony.

Sec. 231. Simple assault.

A person who

(a) Intentionally causes bodily injury to another; or

(b) Recklessly or negligently causes bodily injury to another with a deadly weapon; or

(c) Attempts by physical menace to put another in fear of serious bodily harm, or by physical menace causes another to harm himself/herself is guilty of an assault.

Simple assault is a Class A misdemeanor.

(AMENDED AS PER RESOLUTION NO. 1444-96-8, DATED 08/26/96.)

Sec. 232. Assault with bodily fluid.

(a) A person commits the offense of assault with a bodily fluid if the person intentionally causes one of the person's bodily fluids to make physical contact with:

(1) A law enforcement officer, a staff person of a correctional or detention facility, or a health care provider, including a health care provider performing emergency services, while the health care provider is acting in the course and scope of

the health care provider's profession and occupation:

(A) During or after an arrest for a criminal offense;

(B) While the person is incarcerated in or being transported to or from a jail or detention facility, or health care facility; or

(C) If the person is a minor, while the youth is detained in or being transported to or from a jail or detention or correctional facility, health care facility or shelter care facility; or

(2) An emergency responder.

(b) A person convicted under this section shall be guilty of a Class A misdemeanor, punishable pursuant to 7 CCOJ 501(2).

(c) As used in this section, the following definitions apply:

(1) "Bodily fluid" means any bodily secretion, including but not limited to feces, urine, blood, and saliva.

(2) "Health care provider" means a person who is licensed, certified, or otherwise authorized by law to provide health care in the ordinary course of business or practice of a profession.

(3) "Emergency responder" means a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter or officer of a nonprofit volunteer fire company, emergency medical technician, emergency nurse, ambulance operator, provider of civil defense services, or any other person who in good faith renders emergency care or assistance at a crime scene or the scene of an emergency or accident.

Sec. 233. Intimidation, bullying, harassment.

(a) A person commits the offense of intimidation when, with the purpose to cause another to perform or to omit the performance of any act, he communicates to another, under circumstances which reasonably tend to produce a fear that it will be carried out, a threat to perform without lawful authority any of the following acts:

(1) Inflict physical harm on the person threatened or any other person;

(2) Subject any person to physical confinement or restraint; or

(3) Commit any felony.

(b) A person commits the offense of intimidation if he intentionally communicates a threat or false report of a pending fire, explosion, or disaster which would endanger life or property.

(c) A person is guilty of bullying or harassment when a person by means of any persistent threatening, insulting, or demeaning gesture or physical conduct, including any intentional written, verbal, or electronic communication (as defined in 7 CCOJ 408) or threat directed at a person that causes a person physical harm, damages a person's property, or places a person in reasonable fear of harm to the person or the person's property. This bullying or harassment or intimidation includes retaliation against a victim or witness who reports information about an act of bullying, harassment or intimidation.

(d) Conviction under this Section is a Class B misdemeanor for the first offense and a Class A misdemeanor for the second and subsequent offenses.

If any of the actions listed in subsection (c) result in serious bodily injury, attempted suicide or suicide of the victim, the perpetrator(s) will be charged with a felony.

(AMENDED AS PER RESOLUTION NO. 26-1329-2012-08; DATED 8/27/2012.)

Sec. 234. Criminal endangerment.

A person who knowingly engages in conduct that creates a substantial risk of death or serious bodily injury to another commits the offense of criminal endangerment.

For the purposes of this section, "knowingly" means that the person is aware of the high probability that the conduct in which he or she is engaging, whatever the conduct may be, will cause substantial risk of death or serious bodily injury to another.

Criminal endangerment is a felony.

(RESOLUTION NO. 606-2008-04; DATED 4/28/2008)

Sec. 235. Negligent endangerment.

A person who negligently engages in conduct that creates a substantial risk of death or serious bodily injury to another commits the offense of negligent endangerment.

Negligent endangerment is a Class A misdemeanor.

(RESOLUTION NO. 606-2008-04; DATED 4/28/2008)

Sec. 236. Serious bodily or physical injury defined.

(a) Serious bodily or physical injury means bodily injury that:

(1) Creates a substantial risk of death;

(2) Causes serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ; or

(3) At the time of injury, can reasonably be expected to result in serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ.

(b) The term includes serious mental illness or impairment.

Sec. 237. Assaults by strangling or suffocating.

Whoever assaults another by strangling or suffocating is guilty of a felony.

(a) The term strangling means intentionally or recklessly impeding the normal breathing or circulation of the blood of a person by applying pressure to the throat or neck, regardless of whether such conduct results in any visible injury and regardless of whether there is any intent to kill or protractedly injure the victim.

(b) The term suffocating means intentionally or recklessly impeding the normal breathing of a person by covering the mouth of the person, the nose of the person, or both, regardless of whether such conduct results in any visible injury and regardless of whether there is any intent to kill or protractedly injure the victim.

(AS PER RESOLUTION NO. 26-737a-2012-05; DATED 05/15/2012.)

Subchapter F. Crimes Against the Family

Sec. 240. Abuse of a child.

Any person having the responsibility for the care and welfare of a child under eighteen (18) years of age who engages in the abuse of that child or fails to make reasonable efforts to prevent the infliction of abuse by another of that child shall be guilty of abuse of a child. An abused child is a child who has suffered or is likely in the immediate future to suffer physical and/or emotional harm as a result of any person inflicting or failing to make reasonable efforts to prevent the infliction of physical and/or emotional injury upon a child, including excessive corporal punishment or act of sexual abuse or molestation.

Abuse of a child is a Class A misdemeanor for the first offense and a felony for all subsequent offenses.

(AMENDED AS PER RESOLUTION NO. 1287-86- 7, DATED 07/28/86 AND AS PER RESOLUTION NO. 1566-88-11, DATED 11/10/88.)

Sec. 240-A. Felony abuse of a child.

Any person:

(a) Who inflicts severe physical injury to a child under eighteen years of age or who fails to make reasonable efforts to prevent the infliction of severe physical injury to a child; or

(b) Who, with a child in close proximity, commits the acts prohibited under 7 CCOJ Chapter 2 and 7 CCOJ Chapter 4, Subsection B, is guilty of a felony.

(RESOLUTION NO. 605-2008-04; DATED 4/28/2008)

Sec. 240-B. Endangering welfare of children.

(a) A parent, guardian, or other person supervising the welfare of a child less than 18 years old commits the offense of endangering the welfare of children if the parent, guardian, or other person intentionally endangers the child's welfare by violating a duty of care, protection, or support.

(b) A parent or guardian or any person who is 18 years of age or older, whether or not the parent, guardian, or other person is supervising the welfare of the child, commits the offense of endangering the welfare of children if the parent, guardian, or other person intentionally contributes to the delinquency of a child less than:

(1) 18 years old by:

(A) Supplying or encouraging the use of an intoxicating substance by the child; or

(B) Assisting, promoting, or encouraging the child to enter a place of prostitution; or

(2) 16 years old by assisting, promoting, or encouraging the child to:

(A) Abandon the child's place of residence without the consent of the child's parents or a guardian; or

(B) Engage in sexual conduct.

(c) A parent, guardian, or other person supervising the welfare of a child less than 16 years of age may verbally or in writing request a person who is 18 years of age or older and who has no legal right of supervision or control over the child to stop contacting the child if the requester believes that the contact is not in the child's best interests. If the person continues to contact the child, the parent, guardian, or other person supervising the welfare of the child may petition or the Tribal Prosecutor may upon the person's request petition for a temporary restraining order under 8 CCOJ 401. A person who intentionally violates this temporary restraining order commits the offense of endangering the welfare of children and upon conviction shall be sentenced as provided in subsection (d).

(d) A person convicted of endangering the welfare of children commits a Class A misdemeanor for the first conviction and commits a felony for the second and subsequent convictions.

(RESOLUTION NO. 1451-2010-12, DATED 12/13/2010.)

Sec. 240-C. Reckless assault of a child.

(a) A person is guilty of reckless assault of a child when, being 18 years of age or more, such person recklessly causes serious physical injury

to the brain of a child less than 5 years old by shaking the child, or by slamming or throwing the child so as to impact the child's head on a hard surface or object.

(b) For purposes of this section, the following shall constitute "serious physical injury":

(1) "Serious physical injury" as defined in 7 CCOJ 236 of this Title; or

(2) Extreme rotational cranial acceleration and deceleration and one or more of the following:

(i) Subdural hemorrhaging;

(ii) Intracranial hemorrhaging; or (iii) retinal hemorrhaging.

(c) Reckless assault of a child is a felony.

(AS PER RESOLUTION NO. 26-1201-2012-08, DATED 8/13/2012.)

Sec. 240-D. Endangering an unborn child - substance abuse.

(a) A person commits this offense by:

(1) Intentionally inhaling, injecting, ingesting or otherwise introducing into her bloodstream any illegal substances, drugs, non-prescribed prescription drugs, intoxicants, or any other dangerous drug as defined in 7 CCOJ 413-B knowing that she is pregnant.

(2) Intentionally ingesting alcoholic beverages so as to raise her blood alcohol content to any measurable level, knowing she is pregnant.

(3) Providing any illegal substance, drug, nonprescription drug, intoxicant, or alcoholic beverage to a pregnant female, knowing that the female is pregnant.

(4) Obtaining narcotics without notifying the

medical provider that she is pregnant.

(b) Refusal to submit to analysis of breath, blood or urine upon the request of a law enforcement officer having probable cause to suspect violation of this Section shall be prima facie evidence of guilt. However, the consequences of such refusal must be explained to the person.

(c) Upon probable cause, samples of blood or urine taken in furtherance of investigation into possible violation of this Section may only be taken by trained medical persons.

(d) A person found guilty under this Section is guilty of a felony.

(e) At the time of sentencing, the Court may suspend part of the sentence if the person completes a court-ordered alcohol or other drug treatment program and parenting classes. If the person does not complete the program, the Court shall issue an Order to Show Cause why the suspended portion of the sentence should not be served.

(AS PER RESOLUTION NO. 28-0702-2016-05; DATED 5/23/2016)

Sec. 241. Neglect of a child.

A parent or custodian who fails to provide such food, clothing, shelter, medical attention, hygiene, education, or supervision as the child needs for development, although the parent or custodian was able to furnish such needs or has refused Tribal or other assistance for furnishing such needs, and such failure is likely to result in serious bodily injury and/or emotional harm to the child as determined by appropriate medical or professional persons, is guilty of the offense of Neglect of a child.

Neglect of a child is a Class A misdemeanor for the first offense and a felony for all subsequent offenses.

(AMENDED AS PER RESOLUTION NO. 1287-87-7, DATED 07/28/86; AMENDED AS PER RESOLUTION NO. 1567-88-11, DATED 11/10/88; AMENDED AS PER RESOLUTION NO. 1451-2010-12, DATED 12/13/2010.) RESOLUTION NO. 1567-88-11, DATED 11/10/88.)

Sec. 242. Abandonment of a child.

Any person having the responsibility for the care and welfare of a child under eighteen (18) years of age who abandons that child as defined in Title 9, Section 102(c) of this Code is guilty of abandonment of a child.

Abandonment of a child is a Class A misdemeanor for the first offense and a felony for all subsequent offenses.

(AMENDED AS PER RESOLUTION NO. 1287-86- 7, DATED 07/28/86 AND AS PER RESOLUTION NO. 1568-88-11, DATED 11/10/88.)

Sec. 243. Reserved.

Sec. 244. Partner or Family Member Assault

(a) A person commits the offense of partner or family member assault if the person:

- (1) intentionally causes bodily injury to a partner or family member;
- (2) negligently causes bodily injury to a partner or family member with a weapon; or
- (3) intentionally causes reasonable apprehension of bodily injury in a partner or family member.

(b) For the purpose of this section, the following definitions apply:

(1) *Family member* means mothers, fathers, children, brothers, sisters, and other past or present family members of a household. These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.

(2) *Partners* means spouses, former spouses, persons who have a child in common, and persons who have been or are currently in a dating or ongoing intimate relationship.

(c) Partner and family member assault is a Class A misdemeanor for the first offense and a felony for the second and subsequent offenses.

(d) Those arrested and charged under this section shall not be released from custody except at arraignment as described in 6 CCOJ 402.

(AMENDED AS PER RESOLUTION NO. 28-1581-2017-02, DATED 2/14/2017)

Sec.245 Domestic Abuse.

Repealed by Resolution No. 28-1581-2017-02;
Dated 2/14/2017

Sec. 246. Added punishment for offenses in conjunction with Partner or Family Member Assault

(a) If someone convicted under 7 CCOJ 244 is also convicted of any of the following acts and the acts are done at or very near to the same time as the incident of abuse for which the defendant was convicted, then the defendant shall be considered to have committed a felony. *Very near to the same time* shall be defined as within 24 hours of the severe physical domestic abuse or domestic abuse. The acts are:

(1) Assault Offenses; Aggravated assault, Simple assault, Intimidation;

(2) Criminal trespass

(3) Criminal mischief

(4) Stalking;

(5) Theft;

(6) Carrying a concealed dangerous weapon, Unlawful discharge of firearms;

(7) Abuse of

a child, Neglect of a child, Abandonment of a child.

(b) If the Tribal Prosecutor intends to seek this enhanced punishment, the Tribal Prosecutor shall file notice of this intention in the charging document.

(AMENDED AS PER RESOLUTION NO. 26-1202-2012-08; 28-1581-2017-02, DATED 2/14/2017.)

Sec. 247. Duties of law enforcement officer to victim of domestic or family violence; notice to victim upon law enforcement's arrival to domestic violence situation.

(a) Whenever a law enforcement officer reports to the scene of an incidence of domestic abuse, if the victim is present, the office shall advise the victim of the availability of a battered person/at risk shelter and the other child and family services in the community. Domestic abuse is defined in Sections 244 and/or 249 of this Title. The law enforcement officer shall give the victim a copy of the following statement:

IF YOU ARE A VICTIM OF DOMESTIC ABUSE OR FEEL UNSAFE IN THIS HOUSE, YOU ARE STRONGLY ENCOURAGED TO REMOVE YOURSELF AND ANY PEOPLE DEPENDENT ON YOU FROM THE SOURCE OF DANGER, OR ELSE BE PERSISTENT IN MAKING SURE THE DANGER IS REMOVED FROM YOUR HOUSE.

You must not allow yourself to continue to be harmed. You may ask the police person who gave THIS TO YOU TO TAKE YOU AND YOUR DEPENDANTS TO A DOMESTIC VIOLENCE SAFE HOUSE, TO THE FORT PECK CRISIS CENTER, OR THE POLICE STATION.

ALLOWING YOURSELF AND ANY CHILDREN IN YOUR HOME TO CONTINUE BEING NEAR A SOURCE OF PHYSICAL AND EMOTIONAL DAMAGE IS NEGLIGENCE ON YOUR PART, AND IS BASIS FOR LEGAL ACTION TO BE BROUGHT AGAINST YOU BY TRIBAL AND STATE CHILD AND FAMILY PROTECTIVE SERVICES.

If you are the victim of domestic abuse, you may ask the tribal prosecutor to file criminal charges against your abuser, but to effectively punish your abuser, you must cooperate with the tribal prosecutor by explaining to her/him the facts relevant to the abuse you received in this incident.

You have the right to go to Court and file a petition requesting any of the civil orders for relief, but you must go to the Tribal Court building to make them happen. Under Chapter 4, Title 8 of the Fort Peck Comprehensive Code of Justice (CCOJ) you can ask for:

(1) A temporary order of protection's purpose is to force your abuser from being in your presence, but is only for a maximum of ten days, and can only be enforced if you inform the police when the abuser violates the temporary order of protection, and sign an affidavit which you must ensure the police deliver to the Tribal Court so that your abuser can be arrested. While the temporary order of protection is in effect, you should keep a copy of its Order with you at all times.

(2) After you have obtained a temporary order of protection against your abuser, the Court will schedule a hearing in 10 days for a determination if the temporary order of protection will become permanent. You must attend the 10 day hearing and present to the Court the reasons why the permanent order of protection should be placed against your abuser. Your abuser may appear at this hearing and attempt to avoid having the permanent order of protection ordered, or to modify it.

(3) If you have asked the prosecutor to bring charges, the prosecutor will notify you when your abuser will be arraigned. You may attend the criminal proceedings against your abuser. The prosecutor should inform you of the pretrial hearing and any other hearing time or dates, the

status of litigation progress, and should accept your input as to whether your abuser could be trusted or deserve a probation, parole, or a reduced, mitigated jail sentence.

Elective Civil Actions. You may file a civil complaint with the Fort Peck Tribal Court against your abuser for the tortious battery, if you are physically injured; or assault, if you were threatened and had the impression you were going to be hurt; and for the intentional infliction of emotional distress.

(b) For the temporary or permanent custody of your children, you may file a complaint in the Fort Peck Tribal Court under Section 304 or 304a of Title 10, CCOJ. Section 304 also provides that the Court may order child support payments to be made to the non-custodial parent.

Contacts:

-Family Violence Resource Center, 629 7th Ave. S., Wolf Point; 653-1494.

-State of Montana Public Health and Human Services, Child and Family Services 100 Main, Wolf Point; 653-3520.

-Wolf Point Police non-emergency, 2014th Ave. S.; 653-1093. -Poplar Police non-emergency; 653-6216.

-Tribal Police non-emergency; 653-3556; 768-5565.

Law enforcement with jurisdiction in the Fort Peck Reservation are expected to keep updated copies of this notice in their patrol vehicles, and to ensure the phone numbers and addresses are current and up to date.

(c) Law enforcement officers responding to calls alleging domestic or family violence shall use all reasonable means to protect the victim and prevent further violence, including but not limited to:

(1) Confiscating any weapons involved in the alleged violence;

(2) Transporting or arranging transport for the victim and dependents of the victim to a safe house/shelter, hospital, police station, or a friend or relative's residence.

(3) Assisting the victim and dependents in removing essential personal effects; see also 8 CCOJ 402(7).

(AMENDED AS PER RESOLUTION NOS. 1251-88-9; DATED 09/12/88; 28-1581-2017-02, DATED 2/14/2017.)

Sec. 248. Determination by law enforcement officer of primary aggressor and the power to arrest.

(a) If a law enforcement officer has probable cause [defined in 6 CCOJ 201(c)] to believe a person has committed an offense of domestic abuse, as per Section 244 and/or 249 of this Title, whether the offense was committed in or outside the presence of the officer, the law enforcement officer shall presume that arresting and charging the person is the appropriate response.

(b) When a law enforcement officer receives a complaint of domestic or family violence from two or more opposing persons of the same residence, the officer shall evaluate the situation to determine who is the primary aggressor. The officer need only arrest the primary aggressor. Factors for determining the primary aggressor include:

(1) Prior complaints of family and domestic abuse from the residence: who made them, what was alleged;

(2) The relative severity of injuries inflicted to the people present;

(3) The likelihood of future injury to each person; and

(4) Whether one of the persons acted in self-defense.

(c) The law enforcement officer shall use professional methods at all times, and shall not threaten a person in order to shirk an obligation to make an arrest or to compel an arrest. See 7 CCOJ 120(a)(3). An officer shall not base an arrest decision purely on the request of a victim to do so, or on the officer's perception of the willingness of a victim or witness to testify or other wise participate in a judicial proceeding.

(ENACTED AS PER RESOLUTION NO. 821-2002-8, DATED 8/12/2002;

AMENDED AS PER RESOLUTION NO. 28-1581-2017-02, DATED 2/14/2017)

Sec. 249. Special domestic violence criminal offense.

(a) *Jurisdiction.* The Fort Peck Tribal Court is vested with jurisdiction to enforce this section against any person who has committed an act of Dating Violence, Domestic Violence or Violation of a Protection Order against an Indian victim within the Indian country of the Assiniboine and Sioux Tribes provided the defendant has sufficient ties to the Fort Peck Tribes.

A defendant has sufficient ties if the defendant resides or is employed in the Indian country of the Assiniboine and Sioux Tribes; or if the defendant is a spouse, intimate partner, or dating partner of any Indian who resides in the Indian country of the Assiniboine and Sioux Tribes.

(b) *Definitions.*

(1) *Dating Violence* - The term *dating violence* means violence committed by a person 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) *Domestic Violence* - The term *domestic violence* means violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the victim. 7 CCOJ 244.

(3) *Indian Country* - The term *Indian country* has the meaning given the term in section 1151 of title 18, United States Code.

(4) *Protection Order* - The term *protection order* means any injunction, restraining order, or other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person; and includes any temporary or final order issued by a civil or criminal court, whether obtained by filing an independent action or as a pendent lite order in another proceeding, if the civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

(5) *Spouse or Intimate Partner* - The terms *spouse or intimate partner* has the meaning given the term in section 2266 of title 18, United States Code.

(c) *Offenses; Domestic and Dating Violence, Violations of Protection Orders.*

Every person who commits an act of domestic violence, dating violence or violation of a protective order is punishable by imprisonment not exceeding three years or by fine not exceeding \$15,000, or by both. Domestic and dating violence include the offenses as stated in 7 CCOJ 244 as well as emotional abuse, controlling or domineering, intimidation, stalking, neglect or economic deprivation. Violation of a Protection Order includes any act where the protection order was issued against the defendant, the protection order is consistent with 18 U.S.C. 2265(b), and the violation relates to that portion of the protection order that provides protection against violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, the protected person.

(d) *Rights of Defendants.* In any criminal proceeding under this section, the defendant shall be entitled to:

(1) all applicable rights under the Indian Civil Rights Act, 25 U.S.C.

(2) if a term of imprisonment of any length may be imposed, the Tribal Court shall:

(A) provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution; and

(B) at the expense of the Fort Peck tribal government, provide an indigent defendant the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys;

(C) require that the judge presiding over the criminal proceeding has sufficient legal training to preside over criminal proceedings; and is licensed to practice law by any jurisdiction in the United States;

(D) prior to charging the defendant, make publicly available the criminal laws, rules of evidence, and rules of criminal procedure (including rules of governing the recusal of judges in appropriate circumstances) of the Fort Peck Tribes; and

(E) maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding.

(3) the right to a trial by an impartial jury that is drawn from sources that reflect a fair cross section of the Fort Peck Reservation community; and do not systematically exclude any distinctive group in the community;

(4) timely notification of the right to petition for a writ of habeas corpus in a court of the United States under section 25 U.S.C. 1303, and the right to petition that court to stay further detention pursuant to 25 U.S.C. 1304(e);

(5) all other rights whose protection is necessary under the Constitution of the United States in order for Congress to recognize and affirm the inherent power of the Fort Peck Tribes to exercise special domestic violence criminal jurisdiction over the defendant. **(AS PER RESOLUTION NOS.**

27-201-2013-12, DATED 12/23/2013;

, DATED

6/09/2014; 28-1581-2017-02, DATED 2/14/2017.)

(AS PER RESOLUTION NO. 51-2003-11,
DATED NOVEMBER 25, 2003.)

Sec. 252-299. Reserved.

Sec. 250. Spousal privileges inapplicable in criminal proceedings involving domestic abuse.

(a) The following evidentiary privileges do not necessarily apply in any criminal proceeding in which a spouse or other family or household member is the victim of an alleged crime involving domestic or family violence perpetrated by the other spouse:

(1) The privilege of confidential communication between spouses.

(2) The testimonial privilege of spouses.

(b) It shall be an election of the Court to decide if the situation merits suspension of any of such spousal privileges.

(AS PER RESOLUTION NO.821-2002-8,
DATED AUGUST 12, 2002.)

Sec. 251 Elder Abuse

(a) A person commits the offense of elder abuse by knowingly or purposely, physically or mentally, abusing or exploiting an elder person.

(b) "Exploiting" means the unjust use of an individual's money or property for another's advantage by means of duress, menace, fraud or undue influence.

(c) "Older person" means a Tribal member or other person residing on the Reservation who is:

(1) 60 years of age or older;

(2) Determined by the Tribal Court to be an elder; or

(3) At least 45 years of age and unable to protect herself or himself from abuse, neglect, or exploitation because of a mental disorder or physical impairment, or frailties or dependencies brought about by age or disease or alcoholism.

(d) Elder abuse is a Class A misdemeanor.