

## Chapter 1. General Provisions

### Sections:

Sec. 101. Reserved.....	1
Sec. 102. Criminal offenses based on voluntary conduct .....	1
Sec. 103. States of Mind.....	1
Sec. 104. Burden of proof .....	1
Sec. 105-109. Reserved.....	1
Sec. 110. Ignorance or mistake.....	1
Sec. 111. Intoxication .....	2
Sec. 112. Mental disease or defect.....	2
Sec. 113. Self-defense. ....	2
Sec. 114. Defense of others .....	2
Sec. 115. Defense of property.....	2
Sec. 116. Use of deadly force .....	2
Sec. 117-119. Reserved.....	2
Sec. 120. Criminal complicity and solicitation. ....	2
Sec. 121. Attempts. ....	3

### Subchapter A. General Provisions

#### Sec. 101. Reserved.

#### Sec. 102. Criminal offenses based on voluntary conduct.

No person shall be convicted of an offense except based on conduct which includes a voluntary act or the omission to perform an act of which the defendant is physically capable. Unless otherwise provided in this Code with respect to a particular offense, an offense is established only if a person acts intentionally with respect thereto.

#### Sec. 103. States of Mind.

(a) "Intentional". A defendant's state of mind is intentional with respect to result or to conduct if the defendant's conscious objective is to engage in such conduct or to cause such a result.

(b) "Negligent". Conduct is negligent if, with respect to a result or to a circumstance, a person should be aware of a substantial and unjustifiable risk that such a result will occur or that such a circumstance exists, and his/her conduct involves a significant deviation from the standard of care that a reasonable person would observe.

(c) "Reckless". Conduct is reckless if, with respect to a result or to a circumstance, a person consciously disregards a substantial risk that such result will occur or that such a circumstance exists, and the risk is of such a nature and degree that its disregard involves a gross deviation from the standard of conduct that a law-abiding person would observe in the situation.

#### Sec. 104. Burden of proof.

(a) The Tribes have the burden of proving each element of an offense beyond a reasonable doubt.

(b) Whenever the defendant introduces sufficient evidence of a defense to support a reasonable belief as to the existence of that defense, the Tribes have the burden of disproving such defense beyond a reasonable doubt, unless this Code or another ordinance expressly requires the defendant to prove the defense by a preponderance of evidence.

#### Sec. 105-109. Reserved

### Subchapter B. Defenses

#### Sec. 110. Ignorance or mistake.

(a) Ignorance or mistake as to a matter of fact or law is a defense if:

(1) The ignorance or mistake negates the necessary mental state required for the commission of an offense; or

(2) The law provides that the state of mind established by such ignorance or mistake constitutes a defense.

(b) Whenever in this Code, an offense depends on a child being below the age of twelve (12) years of age, it is no defense that the defendant did not know the child's age, or reasonably believed the child to be older than twelve (12) years of age. When criminality depends on the child's being below a critical age other than twelve (12) years of age, it is an affirmative defense for the defendant to prove that he/she reasonably believed the child to be above the critical age.

**Sec. 111. Intoxication.**

(a) Intoxication is not a defense unless it negates an element of the offense.

(b) When negligence or recklessness establishes an element of the offense, self-induced intoxication is no defense.

(c) Intoxication does not, in itself, constitute a mental disease or defect within the meaning of Section 112.

**Sec. 112. Mental disease or defect.**

(a) A person is not responsible for criminal conduct if, at the time of such conduct, as a result of mental disease or defect, he/she lacks substantial capacity either to appreciate the wrongfulness of that conduct or to conform that conduct to the requirements of law.

(b) As used in this Section, the terms "mental disease or defect" do not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

**Sec. 113. Self-defense.**

(a) The use of reasonable force is a defense when a person reasonably believes that such force is immediately necessary to protect himself/herself.

(b) A person is not justified in using force for the purpose of resisting arrest, execution of process, or other performance of duty by a public servant regardless of whether the conduct of the public servant is lawful; but clearly excessive force on the part of the public servant may be resisted.

(c) A person is not justified in using force if the conduct of the person against whom force is used was provoked by the defendant himself/herself with the intent to cause physical injury to that other person.

**Sec. 114. Defense of others.**

The use of force in order to defend a third person is a defense if:

(a) The defendant reasonably believes that the person whom he/she seeks to protect would be justified in using such protective force; and

(b) The defendant has not, by provocation or otherwise, forfeited the right of self-defense; and

(c) The defendant reasonably believes that intervention is necessary for the protection of such other person.

**Sec. 115. Defense of property.**

The use of force, other than deadly force, is a defense if the defendant reasonably believes that such force is necessary to prevent or terminate conduct which the defendant reasonably believes to be the commission or attempted commission of a crime involving trespass, damage to, or theft of property.

**Sec. 116. Use of deadly force.**

The use of deadly force is a defense only where the defendant reasonably believes that such force is necessary to protect himself/herself or another person against death, serious bodily harm, kidnapping, a sexual act as defined in Section 220 compelled by force or threat, or to prevent or terminate the commission or attempted commission of arson.

**Sec. 117-119. Reserved**

**Subchapter C. Inchoate Offenses**

**Sec. 120. Criminal complicity and solicitation.**

(a) A person may be convicted of an offense based upon the conduct of another person when:

(1) Acting with the state of mind sufficient for the commission of the offense, the defendant causes another person to engage in such conduct; or

(2) With the intent that an offense be committed, the defendant solicits, requests, commands, induces or intentionally aids another person to engage in such conduct; or

(3) Having a legal duty as a law enforcement officer to prevent the offense, the defendant fails to make proper effort to do so.

(b) The penalty for being an accomplice to a crime is the same as the penalty for being a principal in the crime.

(c) A person is not liable under this Section for the conduct of another if he/she terminates his/her complicity prior to the commission of the offense and gives timely warning to law enforcement authorities or otherwise makes proper effort to prevent the commission of the offense.

**Sec. 121. Attempts.**

(a) A person is guilty of an attempt to commit a crime who intentionally does or omits to do anything which, under the circumstances as the defendant believes them to be, is an act or omission constituting a substantial step toward the commission of a crime.

(b) A person who engages in conduct designed to aid another person to commit a crime which would establish complicity under Section 120(a) (2) If the crime were committed by such other person is guilty of an attempt to commit the crime, although the crime is not actually committed or attempted.

(c) Conduct is not criminal which could only be characterized as an attempt to commit a crime which is itself defined solely in terms of attempt.

(d) The penalty for an attempted crime is the same as the penalty for the completed crime.