

**Chapter 6. Sentences**

**Sections:**

Sec. 601. Sentences..... 12  
Sec. 602. Probation. .... 13  
Sec. 603. Forfeiture of Weapons..... 13  
Sec. 604. Notification of right to appeal..... 13

**Sec. 601. Sentences.**

Any person who has been convicted of an offense enumerated in this Code may be sentenced by the Court to one or a combination of the following penalties:

(a) Imprisonment for a period not to exceed the maximum permitted by the code provisions defining the offense, including a felony charged pursuant to 6 CCOJ 511,512. Imprisonment may be continuous or intermittent. On any sentence of imprisonment, credit shall be given for all time spent in custody in an institution as a result of the charge for which the sentence was imposed. Imprisonment may include commitment to an appropriate institution or program, either on or off the Reservation, for care, treatment, evaluation, or rehabilitation of the offender. Anyone receiving physical custody of a person sentenced by the Court shall be acting solely as an agent of the Tribes and the Court. Jurisdiction over a person sentenced to a program or institution off the Reservation shall be absolutely retained by the Tribes and the Court. No placement off the Reservation shall be valid unless first approved in writing by the Chief Judge and any order of such placement shall specify that the Tribes and the Court retain jurisdiction over any person placed.

**(AMENDED AS PER RESOLUTION NO. 26-2811-2013-08; DATED 9/26/2013.)**

(b) A money fine in an amount not to exceed the maximum permitted by the code provision defining the offense. If the Court determines that a

convicted offender is unable to pay forthwith a money fine assessed under this Section or costs assessed under Section 505 of this Title, the Court shall allow him/her a reasonable period of time to pay the entire sum or allow him/her to make installment payments to the clerk of the court at specified intervals until the entire sum is paid. If the offender defaults on such payments, the Court may find him/her in contempt of court and punish him/her accordingly, but no person shall be held in contempt of court where nonpayment is because of indigency. Any convicted person may, if he/she chooses, elect to serve time in prison at the rate of \$40.00 per day to be credited against any fine or costs such person owes.

**(AMENDED AS PER RESOLUTION NO. 26-2291-2013-04; DATED 4/30/2013)**

(c) Parents, guardians, and custodians of a child who are convicted of rape, sexual assault, sexual exploitation, physical abuse, neglect, or abandonment of that child may be ordered to seek such therapy, treatment, or instruction as will assist in preventing recurrence of the conduct that formed the basis of the offense. Such treatment or therapy may be ordered in lieu of incarceration, with the proviso that if the offender fails to seek the therapy or treatment as ordered, the sentence of incarceration shall be reinstated.

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

(d) In addition to or in lieu of the penalties provided above, the Court may require a convicted offender who has inflicted injury upon the person or property of another to make restitution or compensation to the injured person by means of the surrender of property, payment of money damages, or the performance of any other act, including appropriate work detail, for the benefit of the injured party.

(e) In its discretion, the Court may commute or suspend some or all of the sentence imposing a fine or imprisonment, or grant probation, on condition that the convicted person does work for the benefit of the Tribes. A person unable or unwilling to work may be confined in jail or fined as provided above.

(f) In determining the character and duration of the sentence to be imposed, the Court shall take into consideration the previous conduct of the defendant, the circumstances under which the offense was committed, whether the offense was malicious or willful, whether the defendant has attempted to make amends, and shall give due consideration to the extent of the defendant's financial resources and the needs of his/her dependents.

### **Sec. 602. Probation.**

(a) Granting probation. After conviction of an offense, the defendant may be placed on probation, under such terms and conditions as the Court deems just, taking into consideration any prior criminal record of the defendant, his/her back-ground and characteristics helpful in determining the advisability of probation. Probation shall be no longer than the statutory penalty.

(b) Violations of conditions of probation. If any person violates the terms and conditions of probation, the Court may, after giving him/her notice and the opportunity for a hearing in open court, revoke or alter the terms of his/her probation, and may, as a penalty for violation of the probation, impose an additional fine or imprisonment.

**(AMENDED AS PER RESOLUTION NO. 28-2095-2016-01; DATED 1/25/2016)**

### **Sec. 603. Forfeiture of Weapons.**

Any person owning and using a firearm, or any sharp or dangerous weapon, in the commission of an offense shall forfeit such weapon to the Tribes as part of the sentence. Upon order of the Court, such weapon shall be destroyed, or sold a public sale after appropriate public notice, pursuant to the direction of the Court.

### **Sec. 604. Notification of right to appeal.**

Following the imposition of judgment of guilty, except upon a plea of guilty, the Court shall inform the defendant that he/she has a right to appeal. If the defendant requests, the clerk of the court shall prepare and file a Notice of Appeal on behalf of the defendant. The defendant, or the clerk of the court filing on his/her behalf, must

file the Notice of Appeal within fifteen (15) working days of the judgment.