

## **Chapter 6. Tribal Court Prosecutor and Public Defender**

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### **Sec. 601. Office of tribal court prosecutor.**

There shall be a tribal court prosecutor, and such assistant prosecutors as the Tribal Executive Board may determine.

### **Sec. 602. Qualifications.**

To be eligible to serve as tribal court prosecutor or assistant prosecutor, a person shall

- (1) Have an Associate of Arts degree or Bachelor of Arts degree from an accredited college in law and justice or similar field of study;

(2) Be at least twenty-one (21) years of age;  
(3) Be of high moral character and integrity;  
(4) Not have been dishonorably discharged from the Armed Services;

(5) Be physically able to carry out the duties of the office;

(6) Have successfully completed a bar examination administered as prescribed by the Tribal Executive Board;

(7) Must be a Fort Peck Tribal member capable of maintaining good relationships with the Tribal Courts;

(8) And must have training in Fort Peck Tribal Court Law and Assiniboine and Sioux culture.

**(AMENDED AS PER RESOLUTION NO. 2152-2001-9, DATED 09/10/01, AND RESOLUTION NO. 25-87-11, DATED 11/09/87.)**

Special Tribal Prosecutors may be appointed as required by Resolution of the Tribal Executive Board. Such person(s) appointed as Special Tribal Prosecutor must meet the qualifications set forth in this Section except that such person(s) need not be Fort Peck Tribal members.

**(AMENDED AS PER RESOLUTION NO. 639-90-4, DATED 04/23/90).**

#### **Sec. 603. Appointment and compensation.**

The tribal court prosecutor shall be appointed by a two-thirds (2/3) vote of the Tribal Executive Board taken at a meeting at which a quorum is present. Assistant tribal prosecutors shall be appointed by a majority vote of those voting at a meeting of the Tribal Executive Board at which a quorum is present. The Tribal Executive Board shall establish rates of compensation of the tribal court prosecutor and any assistants.

#### **Sec. 604. Oath of office.**

Before entering upon the duties of office, the tribal court prosecutor and assistant prosecutors shall take the following oath of affirmation:

"I, ....., do solemnly swear (or affirm) that I will truly, faithfully and impartially discharge all duties of my office as prosecutor to the best of my abilities and understanding. So help me God."

#### **Sec. 605. Term of office.**

**Repealed as per Resolution No. 145-2009-12; Dated 12/14/2009.**

#### **Sec. 606. Duties.**

The tribal court prosecutor and assistant prosecutors shall, in the name of the Tribes, prosecute criminal cases in Tribal Court. The prosecutors shall review and approve all criminal complaints, unless signed by a law enforcement officer having personal knowledge of the violation, shall supervise the gathering of evidence by law enforcement officers to make sure each case is promptly and fairly presented, shall represent the Tribes at arraignments, and shall be authorized to dismiss any criminal complaint that is not supported by sufficient evidence or is improvidently brought. The tribal court prosecutor and assistant prosecutors shall represent juveniles in Juvenile Court proceedings where parents or guardians are charged with neglect, abuse or abandonment, or where the custody of a child is disputed. The tribal court prosecutor shall make recommendations from time to time to the Tribal Executive Board on the administration of justice on the Reservation.

#### **Sec. 607. Termination of services of tribal court prosecutor.**

**Repealed as per Resolution No. 145-2009-12; Dated 12/14/2009.**

#### **Sec. 608. Office of tribal public defender.**

The Tribal Executive Board may appoint a tribal public defender and any assistants it deems necessary by majority vote of those voting at a meeting of the Tribal Executive Board at which a quorum is present.

#### **Sec. 609. Qualifications.**

(a) To be eligible to serve as Tribal public defender or assistant defender, a person shall:

- (1) Be at least 21 years of age;
- (2) Be of high moral character and integrity;
- (3) Not have been dishonorably discharged from the Armed Services;

(4) Be physically able to carry out the duties of the office; and

5) Successfully completed, during their probationary period, a bar examination administered as prescribed by the Tribal Executive Board.

(b) A public defender who has a Juris Doctor degree from an ABA accredited law school, passed the Fort Peck Bar Exam, taken the oath of office and passed a background check, is sufficiently qualified under the Indian Civil Rights Act to represent a defendant imprisoned more than one year and any defendant charged under the Tribes' Special Domestic Violence Criminal Jurisdiction.  
(AMENDED AS PER RESOLUTION NO. 28-0945-2016-07; DATED JULY 26, 2016)

**Sec. 610. Compensation.**

The Tribal Executive Board shall establish rates of compensation for the tribal public defender and assistants.

**Sec. 611. Oath of office.**

Before entering upon the duties of office, the tribal public defender and assistant defenders shall take the following oath or affirmation:

"I, ....., do solemnly swear (or affirm) that I will truly, faithfully and impartially discharge all duties of my office as defender to the best of my abilities and understanding. So help me God."

**Sec. 612. Term of office.**

**Repealed as per Resolution No. 145-2009-12;  
Dated 12/14/2009.**

**Sec. 613. Duties.**

The tribal public defender and assistants shall, without charge, represent persons accused of crimes in Tribal Court with consent of the defendant. Representation shall be provided at all stages of the proceeding following the filing of a complaint, and the tribal public defender shall take all necessary steps to investigate the facts of any case and shall have access to all Tribal and BIA social services personnel.

**Sec. 614. Termination of services of tribal public defender.**

**Repealed as per resolution No. 145-2009-12;  
Dated 12/14/2009.**