

PRAIRIE ISLAND INDIAN COMMUNITY

INVOLUNTARY CIVIL COMMITMENT

PART I - GENERAL PROVISIONS

Section 101. Standards.

The Court shall use the following standards:

1. **Danger to Self or Others.** Either: (a) a substantial risk that physical harm will be inflicted by the Respondent upon their own person, as evidenced by recent actions, threats, and attempts to inflict physical harm on oneself; or (b) a substantial risk that physical harm will be inflicted by the Respondent upon another, as evidenced by recent actions, threats, and attempts to inflict physical harm on another.

2. **Gravely Disabled.** A condition in which a person, as a result of mental illness or chemical dependency, is in danger of serious physical harm because: (a) they are not providing for their essential needs such as food, clothing, shelter, vital medical care, or safety; (b) they need, but is not receiving inpatient treatment for mental illness or chemical dependency, and (c) they are incapable of determining whether to accept such treatment because their judgment is impaired.

Section 102. Liability.

Any Petitioner acting in good faith upon either actual knowledge or reliable information shall not be subject to civil or criminal penalties for filing a petition for commitment under this Ordinance.

Section 103. Restriction.

Except when ordered by the Court, no person subject to this Ordinance shall be confined in a jail or correctional institution.

Section 104. Due Process Requirements.

1. Respondent has the right to be represented by counsel, and if Respondent cannot afford an attorney, the Court shall appoint a qualified attorney. If Respondent is a minor, the

Court shall appoint counsel without a determination as to need.

2. Respondent, their counsel and, if Respondent is a minor, their parent or guardian shall receive notice of all proceedings under this Ordinance. All notices shall be personally served within a reasonable time prior to the hearing.

3. All hearings required under this Ordinance shall include the right to a closed hearing, the right to request an open hearing, and the right to present and cross-examine witnesses.

Section 105. Treatment by Spiritual Means.

Nothing in this Ordinance shall be construed to preclude supplementary treatment by spiritual means for any person who desires such treatment, or to a minor if their his parent, guardian, or conservator desires such treatment.

Section 106. Severability.

If any clause, sentence, paragraph, section or part of this Chapter shall, for any reason, be adjudicated by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

PART III. NTVOLUNTARY COMMTTMENT OF MENTALLY ILL PERSONS.

Section 201. Petition for the Involuntary Commitment of Mentally Ill Persons.

Proceedings for the involuntary treatment of an allegedly Mentally Ill Person may be commenced by any Interested Person by filing a petition with the Tribal Court of the Prairie Island Indian Community. The petition shall contain:

1. The name, address, and age of Petitioner;
2. The name, address, age, marital status and occupation, if known, of the Respondent;
3. The name, address, if known, of Respondent's nearest relatives; and
4. The facts upon which the allegations are based, including a statement by the Petitioner

alleging that the Respondent is a person who is a Danger to Self or Others or who is Gravely Disabled, a statement by medical personnel, law enforcement, or other persons having knowledge of Respondent's illness, and a statement, if known, of the nature of the mental illness.

Section 202. Emergency Detention,

Upon receiving a petition, the Court may enter an order for immediate apprehension and detention of the Respondent and commitment to a Treatment facility if probable cause exists to believe that the Respondent is;

1. A Mentally Ill Person;
2. Poses an immediate Danger to Self or Others or is Gravely Disabled; and
3. Needs immediate care and treatment.

The law enforcement officer shall present the Respondent with a notice of the hearing, a copy of the petition and detention order and a written statement of the Respondent's right to an attorney and the standard upon which they may be committed. The law enforcement officer shall orally inform the Respondent that they are being taken into custody as the result of a commitment petition.

Upon apprehension, the Respondent shall be examined within twenty four (24) hours and cannot be detained longer than forty-eight (48) hours without a hearing.

Section 203. Review by Family Services.

Upon receiving a petition, the Court shall inform the Family Services Department of the Community. The Family Services Department shall appoint an individual to conduct an investigation into the petition's allegations. The investigation shall include: 1) a personal interview with the Respondent and other individuals who appear to have knowledge of the condition of the Respondent. If the Respondent is not interviewed, specific reasons must be documented; 2) identification and investigation of specific alleged conduct which is the basis for the petition; 3) identification and listing of the specific reasons for rejecting or recommending alternatives for involuntary commitment; and 4) input from the Respondent's health plan company, if applicable, about services the respondent needs. The report is not admissible in any court proceedings unrelated to the commitment proceeding. The Family Services Department shall refuse to support a petition if the investigation does not disclose evidence sufficient to

support commitment.

Section 204. Examination of Respondent.

Upon receiving a petition and prior to the hearing, the Court shall order a psychological examination of the Respondent by a health care examiner. If the Respondent is not subject to emergency detention under Section 202, the Court shall enter and personally serve upon Respondent an order and summons to appear for the examination. If the Respondent fails to appear for the examination, the Court may enter an order for immediate apprehension and detention.

The health care examiner shall take all responsible precautions to ensure that at the time of the hearing, Respondent is not under the influence of drugs, medication, or other treatment as to be hampered in preparing for or participating in the hearing. Where the health care examiner is of the opinion that the discontinuance of drugs, medication or other treatment is not in the best interest of the Respondent, the Court, at the time of the hearing, shall be presented a record of all drugs, medication or other treatment which the patient has received within forty-eight (48) hours immediately prior to the hearing.

Section 205. Hearing.

1. Upon receiving a petition, the Court shall schedule a hearing to review the petition: (a) within forty-eight (48) hours of detention if the Respondent is being detained pursuant to Section 202; or (b) within seventy-two (72) hours if the Respondent is not being detained.

2. The Court shall serve written notice of the date, time, and place of the hearing upon the Respondent, any person designated by the Respondent, and the spouse, parents, and/or guardians of the Respondent. The notice shall include the alleged grounds for confinement and the Respondent's rights to: (a) retain counsel at Respondent's expense or to have counsel provided by the Tribe if the Respondent is unable to afford counsel; (b) be present; (c) testify, present documentary evidence, call witnesses and ask questions of all witnesses; (d) obtain an additional examination at one's own expense; provided, if detained for emergency treatment, this latter right may be exercised only after commitment.

3. (e) The hearing shall be tried as a civil matter and conducted in an informal manner. The Judge shall not be bound by rules of procedure or evidence applicable in other civil proceedings. The Respondent must be physically present

at the final hearing. Hearings shall be closed to the general public, unless a public hearing is requested by the Respondent or their authorized representative and the Court so orders. If necessary, the hearing shall be held at a Treatment Facility. The Court shall have the power to issue subpoenas to compel the testimony of, witnesses or the production of books, records, documents or any other physical evidence related to the determination of the case. In the absence of justification satisfactory to the Court, a person who fails to obey a subpoena may be cited and held in contempt.

4. If the Court finds by clear and convincing evidence that the Respondent is a Mentally Ill Person and is a Danger to Self or Others or Gravely Disabled, it shall order commitment to a Treatment Facility, The order shall state that the Respondent meets the criteria for civil commitment under the laws of the prairie Island Indian Community.

5. Any commitment shall be for the duration of the psychiatric disabilities. The Court shall retain jurisdiction until the Respondent is discharged from the Treatment Center. The Treatment Center shall furnish monthly reports to the Court outlining the treatment being administered, the Respondent's progress, and the Treatment Facility's recommendation as to the need for continued detention.

Section 206. Petition for Release

The Respondent, or an authorized representative, may at any time petition the Court for release from the Treatment Facility. The petition shall be in writing, but need not be in any particular form. Upon receipt of a petition for release, the Court shall review the petition, and serve a copy upon the Petitioner, Respondent and Treatment Facility. The Treatment Facility shall file a written response to the petition within seven (7) calendar days. If, after consideration of the petition and Treatment Facility's response, the Court finds substantial evidence that the Respondent no longer poses a Danger to Self or Others, the Court shall hold a hearing on the matter, following the procedures set forth in Section 205. The findings and order of the Court shall be filed with the Clerk of Court who shall serve certified copies upon the Respondent, Petitioner, and the Treatment Facility.

Section 207. Status Review Hearings.

The Tribal Court shall conduct a status review hearing, in an appropriate location, every ninety (90) days for all persons remaining under this Part. The Respondent shall have the right to be present at that hearing, to be represented by counsel, and to subpoena and cross-examine

witnesses. The Court shall require a report from the health care examiner on the status of the Respondent and the need for continuing treatment.

PART III - INVOLUNTARY COMMITMENT FOR CHEMICALLY DEPENDENT PERSONS

Section 301. Partition for the Involuntary Commitment of Chemically Dependent Persons.

Proceedings for the involuntary treatment of an allegedly Chemically Dependent Person may be commenced by any Interested Person by filing a petition with the Tribal Court of the Prairie Island Indian Community. The petition shall contain:

1. The name, address, and age of Petitioner;
2. The name, address, age, marital status and occupation, if known, of the Respondent;
3. The name, address, if known, of Respondent's nearest relatives; and
4. The facts upon which the allegations are based, including a statement by the Petitioner alleging that the Respondent is a Chemically Dependent Person who poses a Danger to Self or Others when intoxicated or who is Gravely Disabled, a statement by medical personnel, law enforcement, or other persons having knowledge of Respondent's illness.

Section 302. Emergency Detention.

Upon receiving a petition, the Court may enter an order for immediate apprehension and detention of the Respondent and commitment to a Treatment facility if probable cause exists to believe that the Respondent is: (a) a Chemically Dependent Person; b) poses an immediate Danger to Self or Others or is Gravely Disabled; and (c) needs immediate care and treatment.

The law enforcement officer shall present the Respondent with a notice of the hearing, a copy of the petition and detention order and a written statement of the Respondent's right to an attorney and the standard upon which they may be committed. The law enforcement officer shall orally inform the respondent that they are being taken into custody as the result of a commitment petition.

Upon apprehension, the Respondent shall be examined within twenty four (24) hours and cannot

be detained longer than forty-eight (48) hours without a hearing.

Section 303. Review by Family Services Department

Upon receiving a petition, the Court shall inform the Family Services Department of the Community. The requirements of Section 203 above shall apply to all petitioner for the commitment and treatment of Chemically Dependent persons.

Section 304. Examination of Respondent.

Upon receiving a petition and prior to the hearing, the Court shall order an examination of the Respondent by a health care examiner. The requirements of Section 204 above shall apply to all petitions for the commitment and treatment of Chemically Dependent Persons. Additionally, the health care examiner's report shall outline treatment alternatives and plans for those persons deemed to be Chemically Dependent.

Section 305. Hearing.

1. Upon receiving a petition, the court shall schedule a hearing to review the petition: (a) within forty-eight (48) hours of detention if the Respondent is being detained pursuant to Section 202; or (b) within seventy-two (72) hours if the Respondent is not being detained.

2. The Court shall serve written notice of the date, time, and place of the hearing upon the Respondent, any person designated by the Respondent, and the spouse, parents, and/or guardians of the Respondent. The notice shall include the alleged grounds for confinement and the Respondent's rights to: (a) retain counsel at Respondent's expense or to have counsel provided by the Tribe if the Respondent is unable to afford counsel; (b) be present; (c) testify, present documentary evidence, call witnesses and ask questions of all witnesses; (d) obtain an additional examination at one's own expense; provided, if detained for emergency treatment, this latter right may be exercised only after commitment.

3. The hearing shall be tried as a civil matter and conducted in an informal manner. The Judge shall not be bound by rules of procedure or evidence applicable in other civil proceedings. The Respondent must be physically present at the final hearing. Hearings shall be closed to the general public, unless a public hearing is requested by the Respondent or their authorized representative and the Court so orders. If necessary, the hearing shall be held at a Treatment Facility. The Court

shall have the power to issue subpoenas to compel the testimony of witnesses or the production of books, records, documents or any other physical evidence related to the determination of the case. In the absence of justification satisfactory to the Court, a person who fails to obey a subpoena may be cited and held in contempt.

4. If the Court finds by clear and convincing evidence that the Respondent is a Chemically Dependent Person and is a Danger to self or others or Gravely Disabled, it shall order commitment to a Treatment Facility for: (a) up to a maximum of thirty-one (31) days of in-patient treatment for an alcohol dependent person; and (b) up to a maximum of six (6) months for a drug dependent person. The order shall state that the Respondent meets the criteria for civil commitment under the laws of the Prairie Island Indian Community.

5. The Treatment Center shall furnish monthly reports to the Court outlining the treatment being administered, the Respondent's progress, and the Treatment Facility's recommendation as to the need for continued detention.

Section 306. Substance Abuse by Pregnant Women.

Medical evidence suggests that prenatal drug and/or alcohol exposure places the child at high risk of having medical, psychological and social problems after birth known as Fetal Alcohol Syndrome. Such affected infants are often born prematurely, have low birth weights and other significant medical problems. The Prairie Island Indian Community recognizes the need to protect its future generation, and therefore, specifically provides for the protection of the unborn child.

1. If the Tribal court receives a report alleging abuse of alcohol or drugs by a pregnant woman, they shall arrange an appropriate assessment with the Family Services Department of the Community. All notices sent by the Tribal Court or the Family Services Department shall be personally served upon the Respondent.

2. In lieu of court-ordered treatment, the Respondent and Family Services may voluntarily enter into a written settlement agreement providing for appropriate treatment including, but not limited to, a referral for a chemical dependency assessment, chemical dependency treatment, or classes on parental care. All settlement agreements must be approved by the Tribal Court.

3. If Respondent fails to meet with Family Services, denies the allegations, or fails to comply with the treatment plan, Family Services shall file a petition with the Tribal Court in accordance with Section 301. Upon receipt of such petition, the Tribal court may issue an order to detain the Respondent pending final disposition. The Tribal Court may not detain the Respondent at any Treatment Facility that is unable to monitor the welfare of the unborn child while providing appropriate treatment for the mother.

4. The due process requirements as enumerated in Section 104 shall be strictly adhered to in order to protect the rights of the Respondent.

PART IV. APPEALS

Section 401. Appeals.

Appeals from the Tribal Court's decisions or orders shall be made to the Tribal Appellate Court pursuant to the Tribal Appellate Court Rules of Civil Procedure. The Respondent shall have the right to an expedited hearing. The appeal shall be limited to a review of the proceedings of the Tribal Court and shall not be a de novo hearing.