

Tribal Judicial Department Programs/Services Guide

Jurisdiction

Personal Jurisdiction - Civil

The Tribal Court has civil jurisdiction over persons as follows:

- (a) All persons residing, located or present within or upon reservation property; or,
- (b) All persons who transact, conduct or perform any business or activity within or upon reservation property, either in person or by an agent or representative, for any act prohibited by the Tribal Code or other ordinance of the tribe arising from such business activity; or,
- (c) All persons who own, use or possess any property within the reservation for any action arising under this code or other ordinance of the tribe; or,
- (d) All persons who commit tortious acts or engage in tortious conduct on or within the reservation, either in person or by an agent or representative; or,
- (e) All enrolled tribal members, members of other federally recognized tribes on or within the reservation or doing business with the tribe.

Personal Jurisdiction – Criminal

The Tribal Court has criminal jurisdiction over persons as follows:

- (a) All enrolled tribal members or other federally recognized Indians for any violation of a criminal offense contained in the Tribal Criminal Code or other ordinance of the Tribe when the criminal offense is alleged to have occurred on or within the reservation or within the territorial jurisdiction of the Tribe; or,
- (b) All enrolled tribal members, or other federally recognized Indians who commit a criminal offense as set out in the Tribal Criminal Code or other ordinance of the Tribe, by their own conduct or the conduct of another for which they are legally accountable if:
 - (1) The conduct occurs either wholly or partially on or within the reservation or territorial jurisdiction of the tribe; or,
 - (2) The conduct which occurs outside the reservation or territorial jurisdiction of the tribe constitutes an attempt, solicitation or conspiracy to commit an offense within the reservation or territorial jurisdiction of the tribe and an act in furtherance of the attempt or conspiracy occurs within the reservation or territorial jurisdiction of the tribe; or,
 - (3) The conduct which occurs within the reservation or territorial jurisdiction of the tribe constitutes an attempt, solicitation, or conspiracy to commit in another jurisdiction an offense prohibited by the Tribal Criminal Code or other ordinance of the tribe and is also prohibited by the other jurisdiction.

Healing to Wellness Court

- (a) A defendant in Tribal Court is eligible to participate in the Wellness Court if:
 - (1) the defendant is a Tribal Member or a child of a Tribal Member;
 - (2) the defendant is not a juvenile;
 - (3) the defendant has a substance abuse problem;

(4) the defendant is charged with crime or civil offense motivated by substance abuse;

(5) the Tribal Prosecutor recommends to the Tribal Court that the defendant be referred to Drug Court;

(6) the defendant is charged with a nonviolent offense; provided, however that the Tribal Court Judge may waive this requirement, if the Tribal Prosecutor believes that the defendant will likely respond to rehabilitative treatment despite the violent nature of the offense;

(7) the defendant does not have a history of violent acts; provided, however that the Tribal Court Judge may waive this requirement, if the Tribal Prosecutor believes that the defendant will likely respond to rehabilitative treatment despite the defendant's violent past;

(8) the defendant has not participated more than twice in Wellness Court;

(9) the defendant's participation in the program has never been revoked; and

(10) the defendant voluntarily and knowingly enters a plea of guilty to a criminal offense or admits liability in the civil offense.

(b) Tribal Members and children of Tribal Members, who are at least eighteen years of age or older, may also participate in Drug Court if he or she is referred to Wellness Court from a state court or social service agency, including the Poarch Band of Creek Indians Family Services Department.

Counseling Services

The Certified Forensic Counselor provides counseling services to Tribal Members or minor children of Tribal members who have been charged or convicted of an offence related to Drug or Alcohol abuse, domestic violence, or have been referred for counseling services from Tribal Court, Drug Court or another county/state court system.

Drug and Alcohol In-patient Treatment Referral Program

The Tribe will pay for in-patient drug and alcohol treatment for Tribal Members or First Generation Descendants provided however that participants or family members of participants sign a voluntary assignment of their General Welfare and/or per capita payment. The General Welfare and/or per capita payment will be collected if the participant does not complete the in-patient treatment program. The Tribe utilizes several in-patient treatment program facilities in Alabama, Florida and Mississippi on a regular basis. However, for out of area tribal members, other treatment program facilities can be considered.

Drug and Alcohol Treatment After Care Program

Tribal Members or First Generation Descendants can participate in the After Care Program after completing a drug and alcohol in-patient or Drug Court treatment program. Participants in the After Care Program are given incentive gifts for attending counseling sessions and passing drug tests. Gifts vary from t-shirts, gas cards, to payment of utility bills and child care.

Sober House

Tribal Members or First Generation Descendants can live in a sober house after completing a drug and alcohol in-patient or Drug Court treatment program. Referrals for the sober house are given to the department through the Drug Court Program, Family Services, or the Human Services Office within the Health Department. Participants in the Program living in the House are required to take drug tests and

attend bi-weekly counseling sessions. Participants are charged a participation fee depending on their income; fees vary from \$0-\$200.00 monthly. Participants are also required to obtain sustainable employment. The Sober House is only transitional and when the participants can maintain employment, they are asked to find other housing.

Probation Services/Community Service

Probation Services and Community Service Supervision is provided to Tribal Members who have been referred only through the Tribal Court System. Probation participants are monitored by the Probation Officer and receive random drug tests. The Tribal Court system can also order individuals to perform community service which is also supervised through the Probation Officer.

Drug Testing

The Tribal Court Administration has an onsite drug testing machine that tests for several drugs through urinalysis. Drug tests are given to Drug Court and Probation participants. We will also accept referrals from TERO, Family Services, Tribal Administration, and the Local School system. Drug Tests are also given to tribal members and children of tribal members at the request of a parent or legal guardian.

Notary Services

Four (4) employees within the court system are notaries. Notary Services are offered to community members free of charge. Community members must provide proof of identification.