

AN ACT RELATING TO
THE COMMUNITY CORRECTIONS DEPARTMENT
BE IT ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL

SECTION 1.0 – TITLE AND CODIFICATION

This Chapter shall be known as the Snoqualmie Tribal Community Corrections Act and shall be codified as Title 7, Chapter 2 of the Snoqualmie Tribal Code.

SECTION 2.0 – STATUTORY AUTHORIZATION

The aboriginal and inherent sovereign power of the Snoqualmie Indian Tribe to govern is vested in the Snoqualmie Tribal Council. The Snoqualmie Tribal Council has the authority to safeguard and promote the peace, safety, moral and general welfare of the members of the Tribe by regulating the behavior of all persons within the jurisdiction of the Tribe, and to provide for the enactment and enforcement of the laws of the Tribe. This authority includes the authority to adopt laws regulating the procedure of Tribal agencies and officials. Snoq. Tr. Const. Art. VIII, Sec. 1(j), (o).

SECTION 3.0 – PURPOSE; SCOPE; FINDINGS OF FACT

The purpose of this Chapter is to enact provisions of law that establish a Community Corrections Department and define its scope of authority. The Tribal Council finds and declares that probation is a desirable disposition of appropriate criminal cases because:

- (a) It provides a framework by which the Tribe can provide positive and culturally appropriate rehabilitative measures imposed on an offender by the court;
- (b) The offender remains under the jurisdiction of the Court while engaging in the educational, therapeutic, cultural and community restorative pursuits that are most likely to lead to successful rehabilitation;
- (c) It maximizes the liberty of the offender while at the same time vindicating the authority of the law and effectively protecting the public from further violations of the law;
- (d) It affirmatively promotes the rehabilitation of the offender by continuing normal community contacts; and
- (e) It minimizes the impact of the conviction upon innocent dependents of the offender.

SECTION 4.0 – DEFINITIONS

COURT means the Snoqualmie Tribal Court, unless otherwise indicated.

DEPARTMENT means the Snoqualmie Tribal Community Corrections Department, unless otherwise indicated.

NOTICE TO THE PROBATIONER OR PAROLEE means the personal service of a warrant or a summons and petition for revocation of the parole or probation to a supervised offender.

PAROLE means the release to the community of an adult or juvenile offender as provided by law prior to the expiration of the offender's term, subject to the conditions imposed by the Court and subject to the supervision of the Department upon direction of the Court.

PROBATION means the release by the Court without imprisonment of an adult or juvenile offender found guilty of a crime upon verdict or plea, subject to conditions imposed by the Court and subject to the supervision of the Department upon direction of the Court.

SORNA means the Sex Offender Registration and Notification Act that the Community Corrections Department is charged with implementing on behalf of the Snoqualmie Indian Tribe.

SUPERVISED OFFENDER means an adult or juvenile offender (a) sentenced to probation; (b) whose sentence is deferred; or (c) released from incarceration subject to conditions imposed by the Court and subject to the supervision of the Department.

SECTION 5.0 – ESTABLISHMENT OF THE COMMUNITY CORRECTIONS DEPARTMENT

The Snoqualmie Tribal Council hereby establishes a Tribal Community Corrections Department. The purposes of the Department shall include the protection of the Snoqualmie Tribal Community by providing for the acceptance of custody and the supervision and rehabilitation of juvenile and adult tribal member offenders placed on probation or released on parole by the Tribal Court or by other jurisdictions.

SECTION 6.0 – ORGANIZATION OF THE COMMUNITY CORRECTIONS DEPARTMENT

The Community Corrections Department shall be managed by a Department Director, subject to the supervision of the Tribal Administrator. The Department shall be comprised of adult and juvenile community corrections officers, support staff, and such other personnel as may be deemed necessary and approved by the Tribal Council by means of its budgeting process.

SECTION 7.0 – PROBATION DUTIES OF THE DEPARTMENT

The Department shall fulfill the following probation duties:

- (a) To undertake investigations and make reports, including pre-sentence investigations and

reports, which may include alternative sentencing recommendations, requested by the Tribal Court;

- (b) To supervise an adult or juvenile probationer when requested to do so by the Tribal Court or any court of competent jurisdiction, in accord with the conditions set by the court;
- (c) To assure that a copy of the conditions of probation is signed by the supervised offender and given to him or her;
- (d) To regularly advise and consult with the supervised offender to encourage him or her to improve his or her condition;
- (e) To keep records and report on the progress of persons supervised as the court may require;
- (f) To identify and, where necessary, mobilize Tribal or community programs to which supervised offenders may be assigned for evaluation, treatment, or rehabilitation, or for the purpose of performing community services, and to monitor the execution and progress of any such court-ordered assignment;
- (g) To cooperate with all agencies, Tribal, public and private, that are concerned with the treatment or welfare of persons on probation;
- (h) To implement the Tribe's SORNA program in accordance with all applicable Tribal, Federal and State law requirements.

SECTION 8.0 – POWERS OF THE COMMUNITY CORRECTIONS DEPARTMENT

A community corrections officer, in carrying out their duties under this Chapter, is vested with all the authority of a Tribal law enforcement officer, including, without limitation:

- (a) the authority to carry firearms, including concealed firearms, when necessary;
- (b) the authority to request a judge of the Tribal Court to issue a warrant for arrest of the supervised offender or for search and seizure of the offender's person or property;
- (c) the authority to arrest a supervised offender without a warrant for violation of a condition of probation and commit the offender to Tribal jail by presenting to the Tribal police a written statement that the offender has, in the judgment of the officer, violated the conditions of his or her release;
- (d) the authority to detain a supervised offender in the interests of officer safety;
- (e) the authority to conduct a search without a warrant upon reasonable suspicion;

- (f) the Department may adopt rules and policies for the conduct of offenders placed on probation, except that the Department may not recommend any rule or policy that conflicts with conditions of probation imposed by a court of competent jurisdiction;
- (g) the authority to request a judge of the Tribal Court to issue an order for the release of records from any Tribal department, entity or official, including the Snoqualmie Casino, if such request is necessary for the Community Corrections Department to fulfill their duties set forth in this Chapter. Any request for an order for the release of records must be supported by a sworn affidavit from a Community Corrections officer explaining the need for the order and how the records will be used; and
- (h) the authority to negotiate with probation departments from other jurisdictions to enter into memoranda of agreement to facilitate the Community Correction Department's supervision of Snoqualmie Tribal offenders who are subject to probation or parole requirements in jurisdictions other than the Snoqualmie Tribe. The final approval authority for any memorandum of agreement described in this subsection shall remain with the Snoqualmie Tribal Council.

SECTION 9.0 – ARREST FOR VIOLATION OF PROBATION; PETITION FOR REVOCATION OF PROBATION

- (a) A community corrections officer may arrest a supervised offender for violation of a condition of probation. Any community corrections officer may arrest the offender without a warrant or may deputize any other officer with power to arrest to do so by giving him or her a written statement setting forth that the offender has, in the judgment of the community corrections officer, violated the conditions of his release. The written statement delivered with the offender by the arresting officer to the Tribal jail shall be sufficient warrant for the detention of the offender or conditional release. Pending hearing upon a charge of a probation violation, the offender may be incarcerated in the Tribal jail.
- (b) In the event an offender is arrested for a probation violation, the community corrections officer shall cause to be filed in Tribal Court a petition for revocation of probation, which shall include, but not be limited to, facts showing the basis for the arrest and for revocation of probation.
- (c) An arrested probationer is entitled to determination of probable cause for the grounds of his or her arrest within forty-eight (48) hours, exclusive of weekend and holidays, of the time of the arrest.
- (d) If probably cause is found for the arrest, the offender shall be held in the Tribal jail without bail until the probation revocation hearing is held.

SECTION 10.0 – PROBATION REVOCATION HEARING

- (a) A probationer is entitled to a probation revocation hearing before the Court within ten (10) days of the date of the filing of the petition for revocation of probation, or the date of arrest for violating probation, whichever is earlier, unless good cause for delay exists. The burden is on the party asking for the delay to show that good cause exists.
- (b) The subject matter of a probation revocation hearing is limited to alleged knowing violation(s) of probation conditions. A violation of a condition is deemed to be a knowing violation if the probationer signed, and was given a copy of, the conditions of probation.
- (c) Supervised offenders do not have a right to a jury trial at a probation revocation hearing.
- (d) If the probationer admits to violating a condition of probation, the Court, after the probationer has had the opportunity to offer testimony or evidence regarding any circumstances tending to mitigate the violation, may revoke probation.
- (e) If the probationer does not admit to violating a condition of probation, the prosecutor has the burden of proving by a preponderance of evidence that the probationer violated a condition of the probation. Prosecution evidence may not be suppressed on the ground that, if an admission of a violation, no warning was given of a right not to incriminate oneself.
- (f) The probationer may call witnesses or introduce evidence in his or her own behalf and may cross examine any prosecution witness. Hearsay evidence is admissible, although a decision to revoke probation may not be based solely on hearsay evidence. The prosecutor may show any aggravating circumstances, and the probationer may show any mitigating circumstances.
- (g) The Court shall determine the appropriate disposition of a petition for revocation by balancing the probationer's interest in liberty, employment, family ties, responsibilities, health, or community ties against the Tribe's interest in rehabilitation, public safety, victims' rights, and the probationer's duty to comply with each condition of probation.
- (h) An order revoking probation or denying the petition for probation revocation shall be in writing and shall contain findings of fact, including but not limited to, the findings required by this section, and conclusions of law supporting the Court's order.

SECTION 11.0 - PENALTIES UPON REVOCATION OF PROBATION

- (a) A person who is found, after a hearing, to have violated a condition of his or her probation may be required to do the following:
 - (1) In the case of probation during a suspended sentence, to serve in the Tribal jail up to the entire period for which execution of sentence was suspended; or

- (2) In the case of deferred imposition of sentence, to serve such sentence as may be imposed by the Court after a sentencing hearing.
- (b) Parole shall not be available to a supervised offender whose probation is revoked, but appellate review of the trial court's revocation decision may be had on the ground that the supervised offender was deprived of liberty without due process of law.

SECTION 12.0 – PAROLE DUTIES OF THE DEPARTMENT

- (a) The Community Corrections Department shall retain custody of all persons placed on parole and shall supervise the persons during their parole periods in accordance with the conditions set by the Court.
- (b) The community corrections officer shall review and monitor a person who is eligible for parole in preparing a parole plan. The officer shall make a report of the officer's efforts and findings to the Court prior to its consideration of the case of the eligible person.
- (c) A copy of the conditions of parole must be signed by the parolee and given to the parolee and to the parolee's probation and parole officer, who shall report on the parolee's progress to the Court as may be necessary or desirable.
- (d) To assist parolees the community corrections officer may, in addition to other appropriate services, provide or facilitate the following:
 - (1) Employment counseling and job placement;
 - (2) Family and individual counseling and treatment placement;
 - (3) Financial counseling;
 - (4) Vocational and educational counseling and placement; and
 - (5) Referral services to any appropriate agency.

SECTION 13.0 – ELIGIBILITY FOR PAROLE

An offender sentenced to confinement in the Tribal jail for forty (40) days or more on any conviction or combination of convictions, who has served at least one-half of the imposed sentence, and whose confinement is not the result of a probation or parole violation, may file a petition for parole with the Tribal Court.

SECTION 14.0 – PAROLE HEARING

The Court shall hold a hearing on the petition for parole within ten (10) days of the date it is filed with the Court. All persons desiring to speak at the hearing shall be heard, including but not

limited to law enforcement officers, the Tribal prosecutor, family and friends of the offender, the offender and the offender's attorney (if any), any victim of the offense for which the offender was sentenced in incarceration, and immediate, adult, family members of such victim. Notice of hearing shall be given to all parties at least five (5) days prior to the hearing.

SECTION 15.0 – COURT'S AUTHORITY TO GRANT PAROLE

- (a) In determining whether to grant a petition for parole, the Court shall consider all pertinent information including, but not limited to, the following:
 - (1) The circumstances and nature of the offense;
 - (2) The past criminal record of the petitioner;
 - (3) The past employment record of the petitioner;
 - (4) The conduct of the petitioner during imprisonment;
 - (5) The results of any physical or psychological reports; and
 - (6) The petitioner's employment status, family and community ties and responsibilities, and health, which may be balanced against the Tribes' interest in rehabilitation, public safety or victims' rights.
- (b) An order granting parole shall be in writing and shall set forth the duration of parole, the conditions of parole, commitment to the custody of the community corrections officer and the consequences of violating a condition of parole.

SECTION 16.0 – PENALTY FOR VIOLATION OF A CONDITION OF PAROLE

Any community corrections officer may arrest the offender without a warrant or may deputize any other officer with power to arrest to do so by giving him or her a written statement setting forth that the offender has, in the judgment of the community corrections officer, violated the conditions of his release or parole. The written statement delivered with the offender by the arresting officer to the Tribal jail shall be sufficient warrant for the detention of the parolee or conditional release. Pending hearing upon a charge of parole violation, the offender may be incarcerated in the Tribal jail.

SECTION 17.0 – DETERMINATION OF PROBABLE CAUSE AFTER ARREST

An arrested parolee is entitled to a determination within forty-eight (48) hours, exclusive of weekends and holidays, of whether there is probable cause to believe that the arrested parolee has committed acts which would constitute a violation of parole conditions.

SECTION 18.0 – PAROLE REVOCATION HEARING

- (a) Upon finding of probable cause or waiver of the hearing or upon issuance of a notice of parole violation by the community corrections officer, the community corrections officer shall file a petition for revocation of parole with the Court. The petition must be filed within the parole period and served upon the parolee.
- (b) The parolee is entitled to a revocation hearing within ten (10) days of his or her arrest for a parole violation or receipt of a notice of revocation, whichever occurs first, unless the Court finds that good cause for delay exists.
- (c) The subject matter of the hearing is limited to alleged violation(s) of parole condition(s).
- (d) The parolee has no right to a jury trial when a violation of a condition of parole is alleged.
- (e) Unless the parolee admits the parole violation, the community corrections officer, or Tribal Prosecutor, must prove by a preponderance of evidence that the parolee violated a condition of his or her parole. Evidence that the parolee violated a condition of parole is not excludable on the grounds that the parolee was not warned of his or her right not to incriminate himself or herself prior to admitting a violation.
- (f) Parole may not be revoked based solely on hearsay, but hearsay testimony may be admitted in the Court's discretion.
- (g) An order revoking probation or denying the petition for probation revocation shall be in writing and shall contain findings of fact and conclusions of law supporting the Court's order.
- (h) A parole revocation decision by the Court is appealable on the grounds that the revocation deprived the parolee of liberty without due process of the laws. The Court's refusal to revoke a parole is not appealable by or on behalf of the Tribe.

SECTION 19.0 - PROVISIONS AS CUMULATIVE

The provisions of this Chapter shall be cumulative as to existing law.

SECTION 20.0 – REPEAL PROVISIONS AND CONFORMING AMENDMENTS

Any laws or resolutions found to be inconsistent with this legislative act are repealed to the extent of their inconsistency.

SECTION 21.0 – SEVERABILITY

The provisions of this Chapter are severable and if any part or provisions shall be held void by any court of competent jurisdiction, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this Chapter.

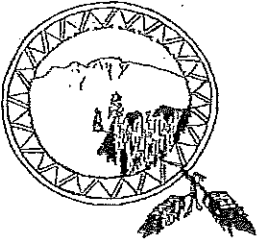
SECTION 22.0 – NO WAIVER OF SOVEREIGN IMMUNITY

Nothing herein shall constitute a waiver of the Tribe's sovereign immunity.

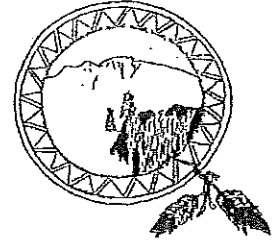
ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 26TH DAY OF JANUARY, 2012 IN SESSION DULY MET, WITH 4 FOR, 1 AGAINST, AND 0 ABSTAINING. TRIBAL RESOLUTION NO. 18-2012.

CODIFIED BY THE SNOQUALMIE SECRETARY OF TRIBAL AFFAIRS ON THE 26 DAY OF January 2012.

Huma M. Repin 2/24/12
Secretary of Tribal Affairs



SNOQUALMIE INDIAN TRIBE



RESOLUTION # 18 - 2012

A Resolution Adopting the Community Corrections Department Act

WHEREAS, the Snoqualmie Indian Tribe is a signatory to the Treaty of Point Elliott of 1855; and

WHEREAS, the Snoqualmie Tribal Council is the duly elected governing body of the Snoqualmie Indian Tribe; and

WHEREAS, the Snoqualmie Tribal Council is charged with the responsibility for the protection of the health, safety, and welfare of the members of the Snoqualmie Indian Tribe; and

WHEREAS, the Snoqualmie Tribal Council has passed a resolution creating the Snoqualmie Tribe Community Corrections Department; and

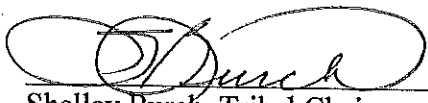
WHEREAS, the Snoqualmie Tribal Council desires to establish the Community Corrections Department by a legislative act that sets forth the Department's delegated authority to conduct community corrections business on behalf of the Snoqualmie Indian Tribe;

NOW THEREFORE BE IT RESOLVED that the attached Community Corrections Department Act is approved and the Secretary of Tribal Affairs is directed to codify the attached version of the Act into the Snoqualmie Tribal Code.

CERTIFICATION

Voted on this 26 of January, 2012 with a quorum present and voting for four.

Against one, Abstaining 0.


Shelley Burch, Tribal Chairperson

 ^{1/26/12}
Nina Repin, Tribal Secretary