

ROSEBUD SIOUX TRIBAL COURT)
ROSEBUD INDIAN RESERVATION) SS IN TRIBAL COURT
ROSEBUD, SOUTH DAKOTA)

IN THE MATTER OF COURT RULES) COURT RULE 17-01
REGARDING BAIL/BONDS AND)
RELEASES)

RST Criminal Court Rule: Bail/Bonds and Releases

WHEREAS, Article X, Section 1(g), of the Rosebud Sioux Tribal Constitution provides that the Tribe shall not require excessive bail; and Title Seven, Chapter 1, Section IV(D)(2)(a) of the Rosebud Sioux Tribal Law and Order Code provides that appropriate bail shall be set by the Court and the defendant released on bail or remanded to custody pending the trial in the event he or she is unable to post the bail as set by the Court; and the Indian Civil Rights found at 25 U.S.C.A. Section 1302(a)(7)(A) provides that no Indian Tribe in exercising the power of self-government shall require excessive bail; and the Chief Judge, having determined that there are no criteria for setting bail and desiring uniformity and fairness, has adopted the following rule to ensure appearance at future hearings by the defendant and provide for the safety of the community and public, now, therefore

IT IS ORDERED that the Rosebud Sioux Tribal Court hereby adopts this local court rule pursuant to RST Constitution Article XI Section 4.

1. Probable Cause determination when a defendant is not released or cannot post bond/bail.

- (a) When defendants are arrested and hooked on charges they are either released, held until seen by the Court or held on bond.
- (b) The Court must determine if there is probable cause for the charges against defendants charged and held in jail (with or without bond) within 48 hours of their arrest. The Court does this by the following methods:
 - (1) at defendant's arraignment held within 48 hours of arrest, or
 - (2) by the Court being read, via telephone, a copy of the police officer's probable cause report or by reviewing a copy of the police officer's probable cause report within 48 hours of arrest
- (c) If the Court finds no Probable Cause or there is no Probable Cause determination made within 48 hours of arrest the defendant is released with a summons to appear for arraignment.

2. An arrested person may not be released on bail without first appearing before a Court judge, as long as a probable cause determination is made by the Court within 48 hours, for the following offenses charged:

- (a) Assault resulting in serious bodily injury

- (b) Kidnaping
- (c) Sex Offenses
- (d) Domestic Abuse
- (e) Homicide
- (f) Escape
- (g) Arson
- (h) Drug Offenses with an element of intent to distribute
- (i) Possession of Methamphetamine
- (j) Child Abuse
- (k) Elder Abuse
- (l) Robbery

3. The following is the Bond Schedule used by jail staff when a person is arrested on charges not contained in Section 2 above and taken into custody before seeing a Judge:

Offense	Cash Bond
Class A	\$250.00
Class B	\$100.00
Class C	\$50.00

4. After review, the Court may lower or it may raise the Bond amount depending on the factors below.

5. Factors to be considered in determining bond. In determining bond and conditions of release, the Court shall take into account:

- (a) the nature and circumstances of the charges
- (b) the weight of the evidence,
- (c) the defendant's family ties
- (d) employment
- (e) financial resources
- (f) character and mental condition
- (g) the length of time on and ties to the Rosebud Indian Reservation
- (h) ties to the Rosebud Indian Reservation
- (i) record of convictions and record of appearance at court proceedings
- (j) failure to appear at court proceedings
- (k) charges of failure to appear
- (l) the risk defendant will flee the jurisdiction of the Rosebud Sioux Tribe
- (m) whether the defendant poses a danger to the community

6. The Court can hold a defendant without bond, impose a cash bond with conditions or grant a suspended cash bond with a specific dollar amount suspended with conditions.

7. Bond and release conditions can be brought up at the defendant's arraignment or at a subsequent bond hearing. The Court will use the factors in Section 5 above as well as the following factors in deciding release:

(a) The Court may deny bond in the following situations:

(1) if the defendant is charged with homicide, aggravated assault resulting in serious bodily injury, sexual assault, kidnaping, child abuse, weapons crimes, escape, arson, robbery or elder abuse.

(2) if the defendant is charged with a violent crime and was on probation, suspended jail time or bond at the time of the commission of the violent crime.

(b) Cash Bond. If the Court determines, based on credible evidence, that the defendant's appearance or the protection of the community cannot be otherwise assured a cash bond with conditions shall be imposed. The Court can either lower or increase the bond amount from the above bond schedule depending on the factors in Section 5 above.

(c) Suspended Cash Bond. If the Court determines, based on the factors in Section 5 above and on credible evidence, that the defendant's appearance or the protection of the community can be otherwise assured a suspended cash bond with conditions shall be imposed.

7. When released on a cash or suspended cash bond the Court may impose the following conditions of release to ensure the defendant's appearance or to protect the safety of the community:

(a) No violations of any Federal, Tribal or State laws.

(b) No consumption or usage of any form intoxicants, including alcohol or drugs unless prescribed by a physician.

(c) Appear at all court hearings on the matter.

(d) Submit to random urinalyses or PBT's at the request of law enforcement or the Court Services Officer.

(e) No contact with alleged victims or their households.

(f) Place restrictions on personal association with specified individuals or places.

(g) Maintain or seek gainful employment or schooling.

(h) Participate in drug, alcohol or mental health evaluation or treatment.

(i) Place restrictions on the defendant's place of residence.

(j) Comply with a specified curfew.

(k) Attend school, if applicable.

(l) Release to the custody of an approved responsible individual who agrees to monitor the defendant.

(m) No possession of a fire arm or other dangerous weapons.

(n) Any other conditions the Court deems appropriate.

IT IS FURTHER ORDERED that these rules shall become effective June 01, 2017.

Dated this 30th day of May, 2017.



Sherman J. Marshall, Chief Judge
Rosebud Sioux Tribal Court

I, Denita Marshall, Chief Clerk of Courts, certify that the forgoing is a true and correct copy of the Court Rule entered by this Court on May 30, 2017.



Denita Marshall, Chief Clerk of Courts