

## **WRITTEN MOTION FOR BOND REDUCTION**

Use the attached form motion for bond reduction to explain to the Court why your current bond should be reduced. Whether it be for length of time you have been held on the current bond without a trial, your family or employment situation, use this form to explain to the Court any family, financial or medical situation that affects your ability to post the current bond. economic and financial circumstances that would make it a hardship on you and your family

The Court may grant your motion without a hearing but should not deny your motion without a bond reduction hearing. More than likely your current bond was set by a bond schedule without a hearing. You should ask for a bond reduction hearing to prove your grounds for a bond reduction. At the bond reduction hearing be prepared to submit evidence (meaning financial and medical documents and witnesses) to backup your assertions in the written motion for bond reduction. If you need any witnesses who will not voluntarily appear at the bond hearing, please contact the clerk of courts to have the witnesses subpoenaed (meaning they will be ordered to appear and testify at the bond reduction hearing).

The Court may deny your request because either it finds that you are a flight risk or a danger to the community. The Court will take into account the severity of the current charges, your past criminal record and any history of failures to appear for court proceedings.

Both the Tribe's Constitution and the Indian Civil Rights Act (Federal Law) prohibit the Tribe from requiring excessive bail. Both also prohibit the Tribe from denying any person of liberty without due process of law. The current bond amount may have been set without hearing or any due process of law being afforded to you.

**INSTRUCTIONS FOR FILLING OUT THE FORM.** To fill out the attached form follow these instructions. The numbers to each instruction below is the number on the blank line on the form where the information for that number needs to be inserted on the form.

Instructions for filling out the motion:

- (1) on this line insert your name. If you are charged with a crime(s) you are the defendant.
- (2) on this line insert the date you were arrested on the charges you are being held on.
- (3) on this line itemize the charges you are currently being held on.
- (4) on this line insert the current amount of the bond you are being held on.
- (5) on this line insert either the date you became jailed on the charges you are being held on or insert the length of time you have been jailed on the current charges you are being held on.
- (6) insert your monthly net income from what ever source including wages from employment any government assistance you receive, or other income. If you have no income please state that. Economic and financial circumstances that would make it a hardship on you and your family may be helpful in obtaining a PR bond.
- (7) on this line identify the source of your income (for example employment, public benefits by name and any other income such as lease income). If you have no income insert NA.
- (8) on this line insert the number of people you support financially or rely on you for food and shelter.

(9) on this line insert how much you pay in court ordered monthly child support.

(10) on this line insert family ties to the reservation

(11) on this line insert set out your employment history from the last couple of years and if not currently employed explain why you are not currently employed

(12) insert your educational level and the last grade you completed.

(13) insert your general character: affable, friendly, outgoing, surly, hard to get along with, etc.

(14) insert your health condition that makes further incarceration dangerous (for example ) or the health condition of a family member you are required to help with (for example breast feeding your baby, helping with medications, etc.).

(15) insert the length of time you have resided on the reservation and the community you currently reside.

(16) insert any past crimes you have been convicted. The less the record the better your chances for a PR bond. Don't lie or minimize your record, the Court and the Prosecutor has access to these records and will check it out.

(17) insert if you have any failures to appear for a court hearing after being ordered to appear. This will include any charges of Failure to Appear. Again, don't lie or minimize your record, the Court and the Prosecutor has access to these records and will check it out. Not having failed to appear for court hearings or Failure to Appear charges, the better your chances of getting a PR bond.

(18) on this line insert the date you sign the motion

(19) on this line sign the motion

**Note:** Your motion must be signed and dated before the Clerk can accept it for filing and service

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

IN CRIMINAL COURT

Rosebud Sioux Tribe, Plaintiff,  v.  (1) _____, Defendant.	DOCKET #CR _____  MOTION FOR BOND REDUCTION
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Comes now, the above-named Defendant who moves this honorable Court for its order granting the Defendant a personal recognizance bond or in the alternative a reduction in the current bond set by the Court for the following reasons:

1. That on (2) \_\_\_\_\_ (date) I was arrested on the charges of (3) \_\_\_\_\_ and I have been incarcerated in the RST Adult Correctional Facility.
2. Bond was set in the amount of \$(4) \_\_\_\_\_. Said bond is excessive and I am unable to post the bond due to financial limitations.
3. There has been no judicial inquiry made into the defendant's ability to pay the bond amount nor any less restrictive options have been explored.
4. That the defendant is unable to fulfill the conditions of said bond and does hereby request the Court to review the amount of said bond and any other conditions imposed on said bond.
5. That the defendant has been incarcerated on the current charges since (5) \_\_\_\_\_.
6. That the defendant has monthly income in the amount \$(6) \_\_\_\_\_ from (7) \_\_\_\_\_ (state source of income: employment, public benefits, etc).
7. That the defendant supports (8) \_\_\_\_\_ people and pays monthly child support in the amount of \$(9) \_\_\_\_\_.
8. The following factors support the defendant's release on his or her own recognizance or in the alternative a reduction in the current bond:
  - a. Family Ties:(10) \_\_\_\_\_
  - b. Employment History:(11) \_\_\_\_\_
  - c. Education: (12) \_\_\_\_\_
  - d. Character: (13) \_\_\_\_\_

e. Health Condition: (14) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

f. Length of Time in the Community:(15) \_\_\_\_\_

g. Prior Criminal History:(16) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

h. Record of Appearing for Court Hearings:(17) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Article X Section 1(g) of the RST Constitution and 25 USC Section 1302 (a)(7)(A) of the Indian Civil Rights Act both prohibit the Tribe from requiring excessive bail.

10. Article X Section 1(f) of the RST Constitution and 25 USC Section 1302 (a)(8) of the Indian Civil Rights Act both prohibit the Tribe from denying any person of liberty without due process of law. The current bond amount was set without hearing or any due process of law being afforded to the defendant.

11. The current bond violates the defendant’s right against excessive bail and deprives the defendant of his/her liberty without due process of law if he/she is not given a hearing on this motion.

12. The defendant is not a flight risk nor is he/she a danger to the community.

WHEREFORE, the Defendant prays this Court:

1. Have a copy of this motion transmitted to the RST Prosecutor’s Office,
2. Release the defendant on his or her own recognizance or in the alternative a reduction in the current bond consistent with the defendant’s circumstances,
3. Schedule a hearing on this matter consistent with due process.

(18) \_\_\_\_\_

(19) \_\_\_\_\_  
Defendant

CERTIFICATE OF SERVICE

The Clerk of the Rosebud Sioux Tribe Criminal Court hereby certifies that on  
(6) \_\_\_\_\_ I did serve a true and correct copy of the Document in the above matter  
by mail on the Rosebud Sioux Tribal Prosecutor's Office at P.O. Box 500, Rosebud, SD 57570.

(7) \_\_\_\_\_  
Clerk of the Criminal Court