

ATTACHMENT #1

AMENDMENT TO THE ROSEBUD SIOUX TRIBE

LAW AND ORDER CODE, TITLE 5, CHAPTER 1, SECTION 4, TO INSERT AS A NEW SECTION (Criminal Jurisdiction)

ENACTED AS ORDINANCE NO. 2020-03

CHAPTER 1 – PARTIES TO CRIMES

- 5-1-1. Person capable of committing crimes
- 5-1-2. Aiding, abetting, advising, or assisting criminal conduct-charged and punished as principal
- 5-1-3. Accessories to crime
- 5-1-4 *Criminal Jurisdiction*

5-1-1. PERSONS CAPABLE OF COMMITTING CRIMES. All persons are capable of committing crimes except the following:

- (1) Children under the age of 10 years;
- (2) Children of the age of 10 years or more but under the age of 14 years in the absence of proof that at the time of the committing of the act charged against them they knew its wrongfulness;
- (3) Persons who committed the act charged while under the involuntary subjection to the power of superiors;
- (4) Persons who, at the time of committing the act charged against them, were mentally ill.

5-1-2. AIDING, ABETTING, ADVISING, OR ASSISTING CRIMINAL CONDUCT-CHARGED AND PUNISHED AS PRINCIPAL.

Any person, who, with the intent to promote or facilitate the commission of a crime, aids, abets, advises, or assists another person in the planning or commission of a crime, is chargeable and punishable as a principal to the crime committed.

5-1-3. ACCESSORIES TO CRIME.

A person is an accessory to a Class A crime, if, with the intent to hinder, delay, or prevent the discovery, detection, apprehension, prosecution, conviction, or punishment of another for the commission of a Class A crime, he renders assistance to the other person. There are no accessories to Class B crimes or Class C crimes.

The term “render assistance” means to:

- (1) Harbor or conceal the other person;
- (2) Provide the other person with money, transportation, a weapon, a disguise, or any other thing to be used in avoiding discovery or apprehension, including information as to the impending discovery or apprehension of the other person;
- (3) Obstruct anyone by force, intimidation, or deception in the performance of any act which might aid in the discovery, detection, apprehension, prosecution, conviction, or punishment of the other person: or:

- (4) Conceal, destroy, or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction, or punishment of the other person.

A violation of this section is a Class A crime

5-1-4 Criminal Jurisdiction

The Rosebud Sioux Tribe's criminal jurisdiction shall extend to the territory within the original confines of the Rosebud Reservation boundaries as established by the act of March 2, 1889, and to such other lands as may hereafter be added thereto under any law of the United States, except as otherwise provided by law. (Constitution and By-laws of the Rosebud Sioux Tribe, Art. I). The criminal jurisdiction of the Tribe shall extend to all Indians, and all other persons over whom the exercise of criminal jurisdiction by the Tribe is authorized or permitted by federal law.

The Rosebud Sioux Tribe's criminal jurisdiction shall extend to Non-Indians who by federal law are subject to the Tribe's special jurisdiction who commit violent crimes specifically domestic violence and dating violence against Indians within the Tribe's jurisdiction. The Rosebud Sioux Tribe's special criminal jurisdiction shall extend to criminal protection order violations under 5-44-7. The conditions for a Non-Indian who violate the Tribes' domestic violence and dating violence are;

- 1. Reside within the territorial jurisdiction of the Rosebud Sioux Tribe; or*
- 2. Is employed within the territorial jurisdiction of the Rosebud Sioux Tribe; or*
- 3. Is a spouse, intimate partner, or dating partner of:*
 - a. A member of the Rosebud Sioux Tribe; or*
 - b. An Indian who resides within the territorial jurisdiction of the Rosebud Sioux Tribe.*

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WHEREAS, the Rosebud Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization act of 1934 and all pertinent amendments thereof; and

WHEREAS, the Rosebud Sioux Tribe is governed by a Tribal Council made up of elected representatives who act in accordance with the powers granted to it by its constitution and By-Laws; and

WHEREAS, the Rosebud Sioux Tribal Council is authorized to promulgate and enforce ordinances for the maintenance of law and order, and to safeguard the peace and morals, and general welfare of the Tribe, pursuant to the Rosebud Sioux Tribe Constitution and By-laws Article IV, Sections 1(k) and (m); and

WHEREAS, the Rosebud Sioux Tribal Council declared in the passage of Resolution 2018-95 that the Tribe is resolved in its efforts to protect the women, men and children of the Rosebud Sioux Tribe against violence, and that the Tribe will adopt the Violence Against Women Act of 2013 to prosecute Non-Indians under its inherent rights to punish those who violate tribal laws within its territory.

WHEREAS, that the Rosebud Sioux Tribal Council now adopts the following changes to the Rosebud Sioux Tribal Law and Order Code, that it is to be amended as follows; Title 5, Chapter 1, Section 4, be added to state;

5-1-4 Criminal Jurisdiction

The Rosebud Sioux Tribe's criminal jurisdiction shall extend to the territory within the original confines of the Rosebud Reservation boundaries as established by the act of March 2, 1889, and to such other lands as may hereafter be added thereto under any law of the United States, except as otherwise provided by law. (Constitution and By-laws of the Rosebud Sioux Tribe, Art. I). The criminal jurisdiction of the Tribe shall extend to all Indians, and all other persons over whom the exercise of criminal jurisdiction by the Tribe is authorized or permitted by federal law.

The Rosebud Sioux Tribe's criminal jurisdiction shall extend to Non-Indians who by federal law are subject to the Tribe's special jurisdiction who commit violent crimes specifically domestic violence and dating violence against Indians within the Tribe's jurisdiction. The Rosebud Sioux Tribe's special criminal jurisdiction shall extend to criminal protection order violations under 5-44-7. The conditions for a Non-Indian who violates the Tribes' domestic violence, dating violence and criminal protection order violations are;

- 1. Reside within the territorial jurisdiction of the Rosebud Sioux Tribe; or*
- 2. Is employed within the territorial jurisdiction of the Rosebud Sioux Tribe; or*
- 3. Is a spouse, intimate partner, or dating partner of:*
 - a. A member of the Rosebud Sioux Tribe; or*
 - b. An Indian who resides within the territorial jurisdiction of the Rosebud Sioux Tribe.*

WHEREAS, the Rosebud Sioux Tribe agrees with and adopts the proposed amendments to the Rosebud Sioux Tribe Law and Order Code by the Rosebud Sioux Tribe; and

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THEREFORE BE IT RESOLVED, that the Rosebud Sioux Tribal Council adopts the amendments to the Rosebud Sioux Tribal Law and Order Code to exercise special jurisdiction over Non-Indians through the Violence Against Women Reauthorization Act of 2013, P.L.113-4, Sec. 904, 905.

THEREFORE BE IT RESOLVED, that the Rosebud Sioux Tribal Council adopts the amendments to the Rosebud Sioux Tribe Law and Order Code by the Rosebud Sioux Tribe and it will set forth in Ordinance No. 2020-03.


BE IT ALSO RESOLVED, that the effective date of the amendment to the Rosebud Sioux Tribal Council shall be upon the final approval by the Rosebud Sioux Tribal Council and publication as required by law; and

BE IT ALSO RESOLVED, that the RST Office of the Secretary shall distribute the Ordinance to the Office of the Attorney General and all interest tribal entities, including tribal judges, police, office of the Prosecutor, tribal attorney and any other departments responsible for endorsement of this law.


CERTIFICATION

This is to certify that the above Resolution No. 2020-04 and Ordinance No. 2020-03 was duly passed by the Rosebud Sioux Tribal Council for a First Reading on January 9, 2020, by a vote of fifteen (15) in favor, zero (0) opposed and one (1) not voting. A second reading was held on September 10, 2020, and passed by a vote of sixteen (16) in favor, zero (0) opposed and two (2) not voting. The said resolution was adopted pursuant to authority vested in the Council. A quorum was present.

ATTEST:



Wayne Boyd, Secretary
Rosebud Sioux Tribe



Rodney M. Bordeaux, President
Rosebud Sioux Tribe