

ROSEBUD SIOUX TRIBE
Ordinance 2021-02

TITLE FIVE-CHAPTER 46 HUMAN TRAFFICKING

- 5-46-1 PURPOSE**
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5-46-1 PURPOSE

The Rosebud Sioux Tribe recognizes that the Oyate and its members are being targeted by those from within and outside of our Tribal territories who have and will continue to exploit and target our tribal citizens to the horrors of human trafficking. It is the duty of the Rosebud Sioux Tribal Government to “to establish justice, to ensure tranquility, and to enjoy the blessings of freedom and liberty.”¹ The Rosebud Sioux Tribe will take the appropriate steps to prevent human trafficking, punish traffickers, protect the rights of victims of trafficking, and assist them in their healing.

5-46-2 SEVERABILITY

If any part, or parts, or the application of any part of this chapter is held invalid, such holding shall not affect the validity of the remaining parts of this chapter. The Rosebud Sioux Tribal Council hereby declares that it would have passed the remainder of this chapter even if it had known that such part or parts or application of any part thereof would be declared invalid.

5-46-3 DEFINITIONS

1. “Coercion” shall be defined as any of the following:
 - a. Threats of serious harm to or physical restraint against any person;
 - b. The use of a plan, statement, or pattern of behavior, with the intent of causing a person to believe that failure to perform an act will result in the use of physical force or violence against the person or will result in the person's restraint, isolation, confinement, or abduction;
 - i. This section shall also relate to threats against any third person which are calculated to procure the performance of the person.
 - c. Threatening to cause harm to any person by abusing the law or legal process, or knowingly destroying, concealing, removing, confiscating or retaining, any actual or purported governmental document of any person;
 - i. This section shall also relate to extortion as contemplated by RSTLOC 5-25-4 (1) through (7)
 - d. The use of a person's physical or mental impairment to procure that person's performance, if that impairment has a substantial adverse effect on the person's cognitive or volitional function;
 - e. Inducing a person to provide commercial sexual activity as payment toward or in satisfaction of a real or purported debt;

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2. "Commercial Sex Activity" shall have the meaning of any sexual act or sexually explicit exhibition for which anything of value is given, promised or received by that person.
3. "Commercial Sex Act" means any sex act, on account of which anything of value is given to or received by any person.
4. "Knowingly" means that the defendant was conscious and aware of defendant actions/ omissions, realized what the defendant was doing or what was happening around the defendant, and did not act through ignorance, mistake, or accident.
5. "Serious Harm" means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.
6. "Trafficking" shall be defined as the illegal recruitment, transportation, transfer, harboring or obtains by any means another person or receipt of a person, with the intent to hold the person captive or exploit the person for labor, services or body parts, forcing the person into prostitution and other sex crimes.
7. "Venture" shall have the meaning of any group of two or more individuals associated in business, whether or not a legal entity.

5-46-4 HUMAN TRAFFICKING

Any person commits the offense of human trafficking if he or she knowingly;

1. recruits, solicits, entices, transports or obtains by any means another person with the intent or knowledge that force, fraud or coercion will be used to subject the person to labor, services or to engage in commercial sexual activity; or
2. recruits, solicits, entices, transports or obtains by any means a person under the age of eighteen years of age with the intent or knowledge that the minor person will be caused to engage in commercial sexual activity; or
3. benefits financially or by receiving anything of value from participation, other than as a victim of sex trafficking, in a venture, knowing that the venture has engaged or will engage in sex trafficking.

The crime of Human Trafficking shall be a Class F crime.

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Resolution No. 2021-331

WHEREAS, The Rosebud Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of 1934 and 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 Sections1 (k), and (m); and

WHEREAS, The Rosebud Sioux Tribe Judiciary Committee has recommended the Rosebud Sioux Tribe Law and Order Title Five, be amended by addition of the following Sections to Title V, Chapter 46, Section 5-46-1, PURPOSE, Section 5-46-2, SEVERABILITY, Section 5-46-3, DEFINITIONS, Section 5-46-4, HUMAN TRAFFICKING, and the following provision; "The crime of Human Trafficking shall be a Class F Crime"; and

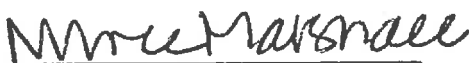
THEREFORE BE IT RESOLVED, that the Rosebud Sioux Tribal Council adopts the amendments to the Rosebud Sioux Tribe Law and Order Code by adopting Ordinance 2021-02, by the addition of Chapter 46, HUMAN TRAFFICKING, Section 5-46-1, PURPOSE, Section 5-46-2, SEVERABILITY, Section 5-46-3, DEFINITIONS, Section 5-46-4, HUMAN TRAFFICKING, and the following provision; "The crime of Human Trafficking shall be a Class F Crime"; and

BE IT ALSO RESOLVED, that the effective date of the amendments to the Rosebud Sioux Tribe Law and Order Code shall be upon the final approval by the Rosebud Sioux Tribal Council.

CERTIFICATION

This is to certify that the above petition Resolution No. 2021-331 and Ordinance 2021-02 was duly passed by the Rosebud Sioux Tribal Council for a first reading on January 13, 2022, by a vote of fifteen (15) in favor, zero (0) opposed and one (1) not voting. A second reading was held on August 10, 2022 by a vote of eighteen (18) in favor, zero (0) opposed and zero (0) not voting. The said resolution was adopted pursuant to authority vested in the Council. A quorum was present.

ATTEST:



Nicole Marshall, Secretary
Rosebud Sioux Tribe



Scott Herman, President
Rosebud Sioux Tribe