

By electronic votes of the Tribal Judiciary on June 22 and June 25, 2020 the LTBB Rules of Civil Procedure has been amended as follows:

Rule 1.101(C)(4). All Special Domestic Violence Jurisdiction over non-Indians committing domestic violence against Indians pursuant to the Violence Against Women Act, 25 USC 1304, Tribal Code 9.704B, or successor statute.

Rule 1.203 (1). To be represented by an attorney or a court- appointed attorney upon a finding of indigency, or to self- representation upon a knowing and voluntary waiver of counsel if the Court finds that such choice was competently made.

Rule 1.203 (6). To have a jury trial of composed of 6 members for any criminal offense, unless defendant is facing the possibility of more than a year in jail, in which case the jury shall be composed of 12 members.

Rule 1.310(A). The purpose of an arraignment is to bring the accused person before the Court; to allow him or her to be informed of the charges and his or her rights, including the right to a jury trial; to accept the plea; and to set bail and/or any release conditions.

Rule 1.310(C)(2). The Court shall explain the charges and the defendant's rights, including the right to seek federal habeas corpus relief and a stay of the proceedings in federal court to challenge the validity of any detention order.

Rule 1.318(B). Motions Before Trial: Defenses and Objections. Legal defenses based on defects in the institution of the prosecution of the complaint, failure to charge an offense or lack of jurisdiction must be raised on motion made before trial and properly noticed for hearing, as these are legal defenses to be decided by the court. If these issues have not been raised and litigated prior to trial, and are raised for the first time at trial, sanctions may be imposed but they are still to be decided by the court, outside the presence of the jury. Juries will decide factually whether the crime occurred in the location alleged by the prosecutor.

Rule 1.401(B). Trial by Jury or by the Court. The defendant is entitled to a jury trial whenever facing criminal charges.

Rule 1.401(C). Juries shall be comprised of 6 members, unless the Tribal Council passes the Tribal Law and Order Act, P.L. 111-211 (TLOA) and the defendant is facing the possibility of more than a year in jail, in which case it shall be comprised of 12 members. The court may select alternate jurors as it sees fit.

Rule 1.410(A). The verdict of a jury shall be agreed upon unanimously. If a jury cannot agree on its verdict, a mistrial may be declared, and the defendant may be retried before a new jury.

Rule 1.410(D). The jury may be polled at the request of either party, and if there is not unanimity by all jurors, they may be ordered to retire for further deliberation, or may be discharged.

Rule 7.405(D).* **Court appointed Counsel.** A defendant appealing a criminal conviction arising under WOTCL 9.704 domestic violence or successor statute is entitled to a court-appointed attorney upon a showing of indigency.

Rule 8.202. Criminal Cases. A defendant facing criminal charges shall be entitled to a jury trial.

Rule 8.303. Questionnaires. Jury questionnaires shall be mailed every two years to 50 Tribal citizens residing within Charlevoix County, Cheboygan County and Emmet County. An additional 50 questionnaires shall be mailed out to non-tribal members consisting of LTBB employees and housing residents for cases tried under 9.704B - Special Domestic Violence Criminal Jurisdiction (SDVCJ). The pool for all non-SDVCJ cases shall consist of enrolled Tribal citizens only. The pool for SDVCJ cases shall consist of the combined list of enrolled citizens, non-tribal employees and housing residents; excluding all persons convicted of a crime involving domestic violence.

Rule 8.305. Mailing of Questionnaires. Each potential juror selected by the random draw shall be mailed a jury questionnaire by first class mail.

Rule 8.308. Biannual Pool. Each person who is part of the jury pool shall remain in the pool for two years.

Rule 8.505. Each jury verdict for a criminal case shall be by a unanimous vote. The standard of proof for a guilty verdict shall be beyond a reasonable doubt. Each verdict for a civil case shall be by at least five of the seven jurors agreeing by a preponderance of the evidence as to responsibility.

*Will be replaced and will be renumbered as 7.405(E).