

WAGANAKISING ODAWAK STATUTE #
AMENDMENT TO WAGANAKISING ODAWAK STATUTE # 2021-004
DOMESTIC VIOLENCE STATUTE

Section IV (B) of Waganakising Odawak Statute 2021-004 is amended to read:

- B. Special Domestic Violence Criminal Jurisdiction.** Based on the Tribe’s inherent sovereignty and jurisdiction and the Violence Against Women Reauthorization Act of 2022, 25 USC §1304, the Tribe exercises special domestic violence criminal jurisdiction over all persons whom LTBB does not have jurisdiction over pursuant to section A for Covered Crimes listed in 25 USC §1304 and defined in Section VII occurring within the territorial jurisdiction of LTBB.
1. The following are the only exceptions to LTBB’s special domestic violence criminal jurisdiction:
 - a. Neither the victim nor the defendant is an Indian.
 - b. Defendant lacks ties to LTBB. The defendant lacks ties to LTBB when the defendant:
 - i. Does not reside in the territorial jurisdiction of LTBB; or
 - ii. Is not employed within the territorial jurisdiction of LTBB; or
 - iii. Is not a spouse, intimate partner, or dating partner of an LTBB citizen; or an Indian who resides in the territorial jurisdiction of LTBB.
 2. The burden of proving an exception to LTBB’s jurisdiction is upon the defendant and must be raised as an affirmative legal defense in a pre-trial motion in accordance with Court Rule 1.318(B). The Court shall decide whether the exception to jurisdiction has been proven as a matter of law, prior to trial. If there is evidence weighing both in favor and against the exception, and the Court deems it a matter of factual dispute rather than law, it may allow the jury to decide the question at trial.

1 *Section VII is amended to read:*
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4 **A. Covered Crime.** Covered Crime means:
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- 6 **1.** Assault of Tribal Justice Official which means any violation of the criminal law
7 of LTBB that involves the use, attempted use, or threatened use of physical force
8 against an individual authorized to act for, or on behalf of, LTBB or serving
9 LTBB during, or because of, the performance or duties of that individual in—
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11 **i.** preventing, detecting, investigating, making arrests relating to, making
12 apprehensions for, or prosecuting a Covered Crime;
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14 **ii.** adjudicating, participating in the adjudication of, or supporting the
15 adjudication of a Covered Crime;
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17 **iii.** detaining, providing supervision for, or providing services for persons
18 charged with a Covered Crime; or
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20 **iv.** incarcerating, supervising, providing treatment for, providing
21 rehabilitation services for, or providing reentry services for persons
22 convicted of a Covered Crime.
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24 **2.** Child Violence which means the use, threatened use, or attempted use of violence
25 against a child proscribed by the criminal law of LTBB or as may provide the
26 grounds for out-of-home placement under the Child Protection Statute, 2022-001,
27 as may be amended.
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29 **3.** Dating Violence which means any violation of the criminal law of LTBB that is
30 committed by a person who is or has been in a social relationship of a romantic or
31 intimate nature with the victim, as determined by the length of the relationship,
32 the type of relationship, and the frequency of interaction between the persons
33 involved in the relationship.
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35 **4.** Domestic Violence which means any violation of the criminal law of LTBB that
36 is committed which means
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38 **i.** a current or former spouse, or intimate partner, of the victim;
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40 **ii.** a person with whom the victim shares a child in common;
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42 **iii.** a person who is cohabitating with, or who has cohabitated with the victim
43 as a spouse or intimate partner; or

1 iv. a person similarly situated to a spouse of the victim under the domestic or
2 family-violence laws of LTBB.
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5 **5.** Obstruction of Justice which means any violation of the criminal law of LTBB
6 that involves interfering with the administration or due process of the laws of
7 LTBB, including any Tribal criminal proceeding or investigation of a crime.
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9 **6.** Sexual Violence which means any nonconsensual sexual act or contact proscribed
10 by the criminal law of LTBB including in any case in which the victim lacks the
11 capacity to consent to the act, any crime set out in the LTBB Sexual Offenses
12 Statute (WOS 2018-012), and any act defined as rape or sexual assault under 10
13 U.S.C. §920.
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15 **7.** Sex Trafficking which means conduct within the meaning of 18 USC §1591(a), or
16 crimes set out in the LTBB Human Trafficking Statute (WOS 2018-011).
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18 **8.** Stalking which means engaging in a course of conduct directed at a specific
19 person proscribed by the criminal law of LTBB that would cause a reasonable
20 person--
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22 **i.** to fear for the person's safety or the safety of others; or
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24 **ii.** to suffer substantial emotional distress.
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26 **9.** Tribal Justice Official has the same meaning as in 25 U.S.C. § 2801(10) being:
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28 **i.** a Tribal prosecutor,
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30 **ii.** a Tribal Law Enforcement Officer, and
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32 **iii.** any other person responsible for investigating or prosecuting an alleged
33 criminal offense in Tribal Court.
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35 **10.** A Violation of a Protective Order which means an act that--
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37 **i.** occurs in the Indian country of LTBB; and
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39 **ii.** violates a provision of a protection order that--
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41 **a.** prohibits or provides protection against violent or threatening acts
42 or harassment against, sexual violence against, contact or
43 communication with, or physical proximity to, another person;

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- b. was issued against the defendant;
- c. is enforceable by LTBB; and
- d. is consistent with section 18 USC §2265(b), the criteria for the granting of full faith and credit.

B. Definition of Violence. Violence is defined as the act of causing actual physical or mental harm, or causing the fear of imminent physical or mental harm, or engaging in a course of conduct that causes a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or controlled.