

ONEIDA INDIAN NATION
JUVENILE JUSTICE CODE

CHAPTER 1 - PURPOSE

101 SHORT TITLE

This Code shall be known as the "Juvenile Justice Code" and may be referred to herein as the "Code."

102 DEFINITIONS

Unless the context otherwise requires, as used in this Code, the term:

"Child" means any person under the age of sixteen (16) years who is not emancipated.

"Community Service" means, but is not limited to, performing services without compensation in an appropriate Oneida Indian Nation community services program or any other entity or organization as directed by the Court.

"Court" means the Oneida Nation Court and does not include the Oneida Indian Nation Appellate Court.

"Court Clerk" means the Court Clerk of the Oneida Nation Court.

"Custodian" means a person, other than a parent or guardian, to whom legal custody of the child has been given.

"Department" means the Oneida Indian Nation Family Services Department.

"Emancipated" means a person who has voluntarily abandoned the home of his parent, guardian or custodian at the time of the occurrence of the act giving rise to a proceeding.

"Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"Establishment" means a privately-owned place of business within the territorial jurisdiction of the Oneida Indian Nation operated for profit, to which the public is invited, including, but not limited to, any place of amusement or entertainment and any other place open to the general

public and devoted to business, amusement or entertainment of the general public or other lawful purpose.

"Guardian" means a person having the duty and authority to provide care, shelter, and control of a child.

"He/His" means he or she, his or her, and the singular includes plural.

"Juvenile Offender" means a child who has been adjudged by the Court, pursuant to the procedures set forth in this Code, to (i) have engaged in ungovernable behavior; or (ii) have been habitually truant from school; or (iii) have otherwise refused to obey the reasonable rules and regulations of his household.

"Operator" means any individual, firm, association, partnership or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

"Parent" means a natural or adoptive parent, but does not include persons whose parental rights have been legally terminated, nor does it include a putative unwed father whose paternity has not been acknowledged or established.

"Probation" means a legal status created by Court order whereby a "juvenile offender" is permitted to remain in his home under prescribed conditions and under the supervision of a person designated by the Court. A "juvenile offender" on probation is subject to return to Court for further proceedings in the event of his failure to comply with any of the prescribed conditions of probation.

"Probation Officer" means the probation officer as designated by the Oneida Indian Nation or any other appropriately experienced person who performs the duties and responsibilities of counseling.

"Prosecutor" means the Oneida Indian Nation Prosecutor.

"Public Place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, sidewalks, alleys, rights-of-way, playgrounds and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops. It also shall include the front or immediate area of the above, including, but not limited to, roads, sidewalks, alleys, parking lots, parks or other similar areas open to the general public.

"Remain" means to (a) linger or stay; or (b) fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

"Restitution" means financial or other reimbursement by the child and/or child's parents,

guardian or custodian to the victim, and is limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical, psychiatric and psychological treatment for injury to persons, and lost wages resulting from injury, which are a direct and proximate result of the offense. Restitution does not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses.

“Restricted Hours” means 11:00 p.m. on any day until 5:00 a.m. of the following day.

"Serious Bodily Injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

“Serious Offense” means any act which if committed by an adult would constitute a felony under the Oneida Indian Nation Penal Code or any other act of a similarly serious nature.

“Summons” means a written order issued by the judge directing that a person appear before the Court at a stated time and place and answer to a charge pending against the person.

"Territorial Jurisdiction" means all lands possessed, occupied or held by or for the Oneida Indian Nation.

“Warrant” means a written order made by the judge directed to any law enforcement officer commanding the officer to arrest the person named or described in the warrant.

103 TIME LIMITATIONS

A. Proceedings under this Code must be commenced within two (2) years after the act giving rise to the proceedings is committed by a child which, if committed by an adult, would constitute a violation of Oneida Indian Nation Penal Code, but shall not include any periods in which: the child is absent from the territorial jurisdiction of the Court; the child is so concealed within the jurisdiction of the Court that process cannot be served upon the accused; or the fact of the offense is concealed.

B. All other proceedings under this Code must be commenced within six (6) months after the act which renders a child to be a juvenile offender occurs, but shall not include any periods in which: the child is absent from the territorial jurisdiction of the Court; the child is so concealed within the jurisdiction of the Court that process cannot be served upon the accused; or the fact of the offense is concealed.