

RESOLUTION NUMBER **TMBC219-03-23** OF THE DULY ELECTED AND CERTIFIED GOVERNING BODY OF THE TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS

WHEREAS, the Turtle Mountain Band of Chippewa Indians, hereinafter referred to as the Tribe, is an unincorporated Band acting under a revised Constitution and By-Laws approved by the Secretary of the Interior on June 16th, 1959 and amendments thereto approved; and

WHEREAS, Article IX (a) Section 1 of the Turtle Mountain Constitution and By-Laws empowers the Tribal Council with the authority to represent the Band and to negotiate with Federal, State, and Local Governments and with private persons; and

WHEREAS, Article IX (a) Section 1 of the Turtle Mountain Constitution and Bylaws requires a 30-day comment period prior to the adoption of any ordinances or amendments to the Tribal Code, whether proposed by resolution or otherwise. Adoption must occur through a roll call vote of the Tribal Council at a publicly held meeting; and

WHEREAS, the Tribe is proposing revisions to Title 26, Offenses and Penalties, to provide clarity to some provisions and add provisions; and

WHEREAS, the Tribe, by Resolution No. TMBC111-02-23, approved a 30 day public comment period for proposed revisions to Title 26, Offenses and Penalties Code, and no comments were made; now

THEREFORE BE IT RESOLVED that the Tribe is approving revisions to the Tribal Code, Title 26, Offenses and Penalties Code, as published in the comment period notice; and

BE IT FURTHER RESOLVED that the Tribal Code will be codified accordingly to insert amendments to Title 26.

C E R T I F I C A T I O N

I, the undersigned Tribal Secretary of the Turtle Mountain Band of Chippewa Indians, do hereby certify that the Tribal Council is composed of *nine (9) members* of whom *seven (7)* constituting a quorum were present at a meeting duly called, convened and held on the on the *23rd day of March, 2023* that the foregoing resolution was adopted by an affirmative vote of *six (6) in favor* – Representatives Ron Trottier Sr., Elmer Davis Jr., Craig Lunday, Kenneth Malaterre, Blaine “Slugger” Davis and Chad Counts; two (2) absent- Representatives Lynn Gourneau and Jon Jon Keplin; none (0) opposed; with the Chairman not voting.



Jolean A. Morin, Tribal Secretary *3/28/23*

() SIGNED INTO LAW/Dated this *28* day of *March*, 2023
() VETOED/Dated this _____ day of _____, 2023



Jamie Azure, Tribal Chairman

26.1304 **Assault, Threat of bodily harm.**

A person commits the crime of ~~assault~~ **threat of bodily harm** if the person intentionally places another in reasonable fear of being physically injured; or who shall threaten bodily harm to another person through unlawful force or violence shall be guilty of a Class **One (1)** offense, and may be required to furnish a satisfactory peace bond for [1] one year.

26.1305 **Assault and battery.**

- ~~1. It shall be unlawful and a class [2] two offense to "willfully" cause "bodily injury" to another person.~~
 - ~~a. Bodily injury is any impairment, including physical pain.~~
 - ~~b. Substantial bodily injury is any significant, but temporary impairment, loss, or disfigurement.~~

26.1305 **Simple assault.**

1. A person is guilty of an offense if that person:
 - a. Willfully causes bodily injury to another human being; or
 - b. Negligently causes bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.
2. The offense is:
 - a. A Class Four (4) Offense when the victim is a peace officer or correctional institution employee acting in an official capacity, which the actor knows to be a fact; an employee of a health care facility acting in the course and scope of employment, which the actor knows to be a fact, and the actor is an individual committed to or detained at the a health care facility; a person engaged in a judicial proceeding; or a member of a municipal or volunteer fire department or emergency medical services personnel unit or emergency department worker in the performance of the member's duties.
 - b. A Class Two (2) Offense, except as provided in subdivision a.
3. As used in this section:

"health care facility" means an office or institution providing health care services or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including a hospital; clinic; ambulatory surgery center; outpatient care facility; weight control clinic; nursing home; basic care or assisted living facility; laboratory; or office of any medical licensed professional per any state of the United States, or any individual who is included within a specialty and subspecialty of those fields. The term includes a waiting room, hallway, private room, semiprivate room, ward, and any mobile or temporary facility.

26.1305.01 **Assault.**

A person is guilty of a Class Three (3) Offense, if that person:

1. Willfully causes substantial bodily injury to another human being; or
2. Negligently causes substantial bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.
3. The person is guilty of a Class Four (4) Offense if the person violates Subsection One (1) and the victim is under twelve years of age.

26.1305.01 **Aggravated assault.**

1. ~~It shall be unlawful and a Class [3] three offense to “willfully” commit an act that’s done intentionally, knowingly, or recklessly to injure another person.~~
 - a. ~~willfully causing serious injury to another person~~
 - b. ~~knowingly causing bodily injury or substantial bodily injury to another person with a weapon under circumstances that indicate an intention to inflict serious injury~~
 - c. ~~causing bodily injury or substantial bodily injury while attempting to inflict serious bodily injury.~~

26.1305.02 Aggravated assault.

1. Except as provided in subsection 2, a person is guilty of a Class Four (4) Offense if that person:
 - a. Willfully causes serious bodily injury to another human being;
 - b. Knowingly causes bodily injury or substantial bodily injury to another human being with a dangerous weapon or other weapon, the possession of which under the circumstances indicates an intent or readiness to inflict serious bodily injury;
 - c. Causes bodily injury or substantial bodily injury to another human being while attempting to inflict serious bodily injury on any human being; or
 - d. Fires a firearm or hurls a destructive device at another human being.
2. The person is guilty of a Class Five (5) if the person violates Subsection One (1) and the victim:
 - a. Is under twelve years of age;
 - b. Is a peace officer or correctional institution employee acting in an official capacity, which the actor knows to be a fact; or
 - c. Suffers permanent loss or impairment of the function of a bodily member or organ.

26.1305.0203 Assault resulting in serious bodily injury.

1. It shall be unlawful to assault another person and inflict serious bodily injury and a ~~Class [4] four offense~~ **Class Five (5) Offense**.
2. An assault that causes serious injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

26.130603.01 Assault resulting in serious bodily injury ~~or~~ with a dangerous weapon, destructive device, or firearm.

It shall be unlawful and a ~~class [4] four offense~~ **Class Five (5) Offense** to assault another person with a ~~deadly~~ **dangerous** weapon or negligently causes serious bodily injury by means of a firearm, destructive device or another weapon of which would likely cause death or serious **bodily injury**, and **emitting any noxious liquid, gas, or substance** bodily injury. **(Confusing statement, not sure what it’s supposed to mean)**

1. **Any dangerous weapon and destructive device including, but not limited to;** any switchblade or gravity knife, machete, scimitar, stiletto, sword, or dagger; any throwing star, nunchaku, or other martial arts weapon, any billy club, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slingshot; any bow and arrow, crossbow, or spear; any stun gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquids, gas, or substance.
2. **Any firearm including, but not limited to; long gun (rifle), shotgun, pistol, or “zipgun”/homemade firearm.**
3. **The lists above are not exhaustive.**

Threat of Assault by pointing a gun with a dangerous weapon, destructive device, or firearm.

It shall be unlawful and a Class Three (3) Offense to threaten assault of another person with a dangerous weapon, destructive device or firearm.

1. Any dangerous weapon and destructive device including, but not limited to; any switchblade or gravity knife, machete, scimitar, stiletto, sword, or dagger; any throwing star, nunchaku, or other martial arts weapon, any billy club, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slingshot; any bow and arrow, crossbow, or spear; any stun gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquids, gas, or substance.
2. It shall be unlawful and a Class [3] three offense to point any gun or pistol at any person, ~~unless defending oneself~~, either in fun or otherwise, whether a BB or pellet gun, long gun (rifle), shotgun, pistol loaded or not loaded, whether a replica pistol that imitates a genuine gun or pistol, or "zipgun"/homemade firearm. ~~and shall be a Class [3] three offense.~~
3. The lists above are not exhaustive.
4. Subsection One (1) does not apply if an individual is defending oneself or others.

To replace 26.1704.04

Unlawful Ingesting a controlled substance - Penalty.

1. No person may knowingly ingest a controlled drug or substance or have a controlled drug or substance or be in an altered state into his or her body unless the substance was obtained directly or pursuant to a valid prescription or order from a practitioner, while acting in the course of a medical practitioner's professional practice. Violation of this section is class four (4) Offense.
2. Law Enforcement Official may request a warrant for urine, breath, blood, or hair upon probable cause that an individual has ingested or is under the influence of a controlled substance, failure to comply with said warrant shall be prima facie evidence of unlawful ingestion of a controlled substance. Probable cause shall be but not limited to, an individual with involuntary muscle spasms, involuntary face movement, elevated response to light, increased agitation, dilated eyes, jittery, paranoia, profuse sweating, and or an inability to control appendages. An individual is not required to illustrate all the symptoms of having ingested a controlled substance or being under the influence, in order for there to be probable cause for a warrant.

New provisions to the criminal Code**Assault by bodily fluids or excrement.**

1. An individual is guilty of an offense if the individual causes blood, emesis, excrement, mucus, saliva, semen, vaginal fluid, or urine to come in contact with:
 - a. A law enforcement officer acting in the scope of employment;
 - b. An employee of a correctional facility or the department of corrections and rehabilitation acting in the scope of employment unless the employee does an act within the scope of employment which requires or causes the contact;
 - c. An individual lawfully present in a correctional facility who is not an inmate;
 - d. An individual lawfully present in the penitentiary or an affiliated facility of the penitentiary who is not an inmate;
 - e. An individual transporting an individual who is lawfully detained;

- f. A health care facility employee or contractor acting within the scope of employment unless the employee or contractor is performing an act within the scope of employment which requires or causes the contact; or
- g. An emergency responder, including a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter, officer of a nonprofit volunteer fire department, emergency medical technician, emergency nurse, ambulance operator, or a provider of civil defense services, who while acting in the scope of employment is present at a health care facility.

2. The offense is a Class 4 Offense if the individual has a transmittable disease, a Class 3 Offense if the individual knowingly causes the contact, and is a Class 2 Offense if the individual recklessly causes the contact.

3. As used in this section, "health care facility" means an office or institution providing health care services or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including a hospital; clinic; ambulatory surgery center; outpatient care facility; weight control clinic; nursing home; basic care or assisted living facility; laboratory; or office of any medical professional licensed or registered under title 43 or any individual who is included within a specialty and subspecialty of those fields. The term includes a waiting room, hallway, private room, semiprivate room, ward, and any mobile or temporary facility

Introducing or possessing contraband into a correctional setting.

1. A person is guilty of a Class 3 Offense if he or she unlawfully provides an inmate of an official detention facility with any tool, weapon, or other object which may be useful for escape. Such person is guilty of a Class 4 Offense if the object is a firearm, destructive device, or other dangerous weapon.
2. An inmate of an official detention facility is guilty of a Class 3 Offense if he or she unlawfully procures, makes, or otherwise provides himself or herself with, or has in his or her possession, any tool, weapon, or other object which may be useful for escape. Such person is guilty of a Class Four (4) Offense if the object is a firearm, destructive device, or other dangerous weapon.
3. An inmate in an official detention facility is guilty of a Class 2 Offense if he or she solicits or obtains tobacco, controlled substances, alcohol or other goods in violation of the facilities rules.
4. In this section: a. "Official detention" means placed in a correctional facility either sentenced, pre-trial detention, serving a sentence for failure to pay a fine, or court ordered treatment facility.

Unlawful Chop Shop

1. It shall be unlawful for any person who knowingly owns, operates, maintains, or controls a chop shop or conducts operation a chop shop, he or she shall be guilty of a Class three (3) offense. If a conviction of a person under this section is for a second offense or greater the Offense shall be a Class four (4) offense.
2. The term " chop shop" means any building, lot, facility, or other structure or premise where on or more person engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle of vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part. The definition of motor vehicle is defined in § 38.0201.