

**SKOKOMISH CRIMINAL CODE
GENERAL PROVISIONS**

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9.01.010 Title

This title shall be known and may be cited as the Skokomish Criminal Code.

9.01.020 Authority

This Title is enacted under the inherent power and authority of the Skokomish Indian Tribe as a sovereign nation and in accordance with the Tribe's Constitution and Bylaws.

9.01.030 Jurisdiction

Except as prohibited by the Treaty of Point No Point and Federal Law, the Skokomish Tribal Court shall have criminal jurisdiction on the Reservation over all persons, except that non-Indians must be apprehended and prosecuted in accordance with applicable federal law and consistent with the rule stated in Oliphant v. Suquamish Tribe, 435 U.S. 191 (1978), so long as such rule is good law.

9.01.040 Non Waiver of Sovereign Immunity

Nothing in this Title shall be deemed to constitute a waiver by the Skokomish Indian Tribe of its sovereignty, rights, powers or privileges.

9.01.050 Tribal Custom

Where helpful to the fair and equitable disposition of criminal matters, the Tribal Court may inquire into the tribal customs and usages of the Skokomish Indian Tribe.

9.01.060 Terms

Where a term is not defined in this Title, it shall be given its ordinary meaning.

Any reference to "he," "him," or other masculine terms shall include male and female persons. Any reference to a singular term includes the plural.

9.01.070 Definitions

(a) "Bodily Harm" and "Bodily Injury" means physical pain or injury or illness, or an impairment of physical condition.

(b) "Coercion" means that a person by use of a threat compels or induces another person to engage in conduct which the latter has a legal right to abstain from, or to abstain from conduct which he has a legal right to engage in.

(c) "Custodian" means any person having physical custody of a minor who provides food, shelter and supervision for the minor.

(d) "Deadly Weapon" means any revolver, pistol or other firearm, whether loaded or unloaded, any knife, other than an ordinary pocket knife, or any dirk, dagger, sling shot, metal knuckles, explosive or incendiary devices, martial arts weapon, or any instrument by the use of which death could be inflicted upon any other person

(e) "Guardian" means any person other than a parent having legal responsibility for a minor.

(f) "Intentionally" means with the purpose of achieving a result that constitutes a crime.

(g) "Knowingly" means aware of a fact, circumstance or result described by a statute defining an offense; or having information which would lead a reasonable person in the same situation to believe that facts exist which are described by a statute defining an offense.

(h) "Law Enforcement Officer," "Law Enforcement" and "Tribal Police" mean any person authorized by the Skokomish Indian Tribe to act on behalf of the Tribe in enforcing its laws as a Law Enforcement Officer.

(i) "Malice" and "Maliciously" mean a desire to cause annoyance or harm of any kind.

(j) "Minor" means any person under the age of eighteen (18) years and not emancipated or married.

(k) "Negligently" means failure to be aware of a substantial risk that a wrongful act may occur and the failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the same situation.

(l) "Physical Control" means that a person is in physical control of a vehicle when that person has authority to manage a vehicle which is operable or reasonably capable of being made operable, or that person is in a position to regulate the movement of such vehicle.

(m) "Public Officer" means any officer, employee, or representative of any tribal or other government organization or agency, including a tribal or other court, or any

person acting in an official capacity for or on behalf of any tribal or other government organization, whether that official is paid to perform his or her official duties or not, and whether that official has a temporary or permanent position.

(n) "Reckless" and "Recklessly" mean being aware of a substantial risk and disregarding the risk when such disregard is a gross deviation from the conduct of a reasonable person.

(o) "Serious Bodily Injury" and "Serious Physical Injury" mean bodily injury which causes serious or substantial disfigurement or impairment (temporary or permanent) of the function of any bodily part or organ.

(p) "Sexual Contact" (REPEALED March 19, 1998, S.T.C. 9.02A.005)

(q) "Sexual Intercourse" (REPEALED March 19, 1998, S.T.C. 9.02A.005)

(r) "Sexual Intercourse" (REPEALED March 19, 1990, S.T.C. 9.02A.005)

(s) "Threat" and "Threaten" means a declaration by word or action of one's intention to inflict injury on another person, their rights or property or employment.

(t) "Tribe" means the Skokomish Indian Tribe.

(u) "Weapon" means any revolver, pistol or other firearm, whether loaded or unloaded, any knife, other than an ordinary pocket knife, or any dirk, dagger, sling shot, metal knuckles, explosive or incendiary devices, martial arts weapon, or any instrument by the use of which injury could be inflicted upon the person or property of any other person.

(v) "Willfully" means with the purpose of achieving a result that constitutes a crime.

(w) "Without Lawful Authority" means that no legitimate defense justifies the conduct in question. Legitimate defenses include, but are not limited to: reasonable force and/or detention by an enforcement officer; reasonable discipline by a parent; force reasonably used in self-defense, defense of another or to prevent the commission of a crime; retrieving property when a person knows he or she has the right to it; doing an act pursuant to a lawfully issued permit or government agency, authority or court order; implied invitation by a business and by public organization for members of the public with legitimate business to be on the premises during normal working hours; or exercising a protected or legal or civil right. The absence of lawful authority can be inferred in appropriate circumstances unless the defendant asserts a legitimate defense.

9.01.080 Capacity

Children under the age of eight (8) years are incapable of committing crimes.