

SISSETON-WAHPETON SIOUX TRIBE

CHAPTER 19

UNIFORM CODE

INTERTRIBAL COURT OF APPEALS OF SOUTH DAKOTA

S. W. L. 1984
 Amendment
 New Adoption
Judicial Approved

Council Adopted
03-22-84

19-01-01 CREATION OF COURT OF APPEALS

There is hereby created an Intertribal Court of Appeals. Such Court shall serve such Indian Tribal Governments who adopt this Code without any change by any other Tribal Government of a respective Reservation, such adoption is to be construed as an express grant of jurisdiction by such Tribal Government and Tribal Court to this Intertribal Court of Appeals.

19-02-01 OATH OF OFFICE OF JUDGE OF THE COURT OF APPEALS

19-02-02 Each member of the Court of Appeals shall swear and affirm according to the following:

"I, (name of person taking oath) hereby swear that I will uphold the Constitution and By-law of such Indian Tribal Governments as I am called upon to review in my capacity as an Appeals Court Judge, and the Constitution and laws of the United States of America and that I will interpret and apply said laws with equity and fairness."

19-02-03 Said oath shall be administered by the chairperson of any of the Indian Tribes which are served by said Court of Appeals within thirty (30) days of the date that said Judge has been approved and employed.

19-03-01 JUDICIAL QUALIFICATIONS

No person shall act in the office of a Court of Appeals Judge unless he or she is a Judge in the Judicial Branch of a member Tribal Government at the time the Notice of Appeal is filed or is designated to subsequently fill such a position.

19-04-01 PROCEDURE FOR SELECTING JUDGES

The Court of Appeals shall be initially comprised of three (3) Judges and have available at least three (3) Alternate Judges. The Alternate Judges shall serve when the Chief Appellate Judge or other Appeals Judge is incapable or unable to serve. A Judge and at least one Alternate Judge shall be selected by each Member Tribe's Tribal Council within thirty (30) days of the date this Resolution is enacted. It is intended that each member Reservation Tribal Government have one of its designated Judges serve on each hearing or decision of each case heard before the Court of Appeals provided that such Judge is not otherwise disqualified from so serving. In the event that Reservation

governments other than Crow Creek, Lower Brule, and Rosebud seek to become members of the area served by the Court of Appeals, then the number of Judges shall be increased or decreased accordingly. If the Appeals Judge and all Alternate Judges from a particular Reservation are disqualified or are unable to serve then the Chief Judge shall designate a Judge from the remaining Reservations. It is intended that the panel hearing an appeal have at least one (1) lay Judge or one person who is a member of a member Tribe familiar with Indian Customs and traditions. It is further intended that the panel should have at least one (1) professional attorney Judge. In the event that no professional attorney is qualified under the terms of this code, then the Chief Judge shall cause a professional attorney Judge to be hired for the particular case or session where a professional attorney is unavailable or unable to serve. The cost of such professional attorney shall be assessed to the Reservation from which an appeal is submitted.

19-05-01 JUDICIAL COMPENSATION

Each respective member Tribal Council shall be responsible for compensating the Judges designated from their Reservation to act as Court of Appeals Judge.

19-06-01 COURT OF APPEALS TO BE A COURT OR RECORD

The proceedings of the Court of Appeals shall be recorded by a stenographer or a high quality electronic recorder, or both. The English language shall be the official language of the Court of Appeals. Interpreters shall be provided when determined appropriate by the Chief Judge.

19-07-01 ADMINISTRATION OF THE COURT OF APPEALS

19-07-02 The Court of Appeals shall convene at the call of the Chief Appellate Judge or at the request of two (2) Appellate Judges, or at the request of any member Tribal Council pursuant to any appropriately passed resolution. Such sessions shall be no less than on the first Monday of April, July, October, and January, or if such day is a holiday, then the first regular business day thereafter.

19-07-03 Oral hearings granted shall be heard at the time and place designated by the Chief Judge within the external boundaries of any of the Indian Reservation served by the Court, with preference being given to rotate the location for hearing among the member Reservations. All appeals filed with the Clerk of the Court of Appeals shall be heard at the next session of the Court, unless:

1. The Court grants an expedited hearing pursuant to the motion of a party or on the Court's own motion; or
2. The Court grants a continuance for good cause.

19-07-04 The Clerk of the Court of Appeals shall be located at the Tribal Courthouse in Fort Thompson, South Dakota.

19-07-05 All documents required to be filed in appellate matters shall be filed with said Appellate Court Clerk. The Clerk shall forward copies of all such documents filed to the Chief Appellate Judge of the Court of Appeals for disposition. Upon the Acceptance of jurisdiction by the Chief Judge, the Chief Judge shall direct that a complete file thereof be forwarded to all regular Judges of the Court of Appeals

19-07-06 The Court of Appeals shall not consider any matter unless at least two (2) Appellate Judges are serving in their terms or otherwise a majority of the Court, if the number of member Tribal Government participating increases.

19-07-07 The Chief Appellate Judge shall oversee the general operation of the Appeals Court system and administrative and procedural matters pertaining thereto. The Court Administrator shall be responsible for Court management and the daily administration of the Court, supervising employees, maintaining the calendar, developing and maintaining a Court record system, assisting the Chief Judge in planning and budgeting, coordinating Intertribal Court activities, and performing other related duties as appropriate.

19-08-01 VACANCIES IN THE COURT OF APPEALS - TERMS OF OFFICE

19-08-02 In the event the position of an Appeals Judge has been filled and subsequently becomes vacant, the Tribal Government who is responsible for such position shall take immediate action to fill said position within thirty (30) days of the date the position was vacated. Said position shall be filled, if possible, prior to the expiration of the term of office.

19-08-03 All terms of office for Appellate Judges, with the exception cited in Section 19-13-02, shall be for one (1) year and run concurrently with the Court fiscal year. All Appellate Judges, with the exception noted above, whether filling partial or full fiscal year terms, shall be appointed annually as provided for within Section 19-04-01.

19-09-01 REMOVAL OF APPEALS JUDGES

19-09-02 Any Appeals Judge may be removed for cause. For the purposes of this Section, removal for cause shall be:

1. Performance of official duties while intoxicated or under the intemperate influence of any drug or mind/behavior altering substance; or
2. Upon conviction for a felony; or

3. Upon conviction for a misdemeanor involving a crime of moral turpitude; or
4. Upon disbarment by any State or Federal Court; or
5. For failure to perform the duties of the office for a period of three (3) months from the date that there are duties required to be performed, but have not been performed; or
6. Willful misconduct in office.

19-09-03 Cause for removal shall be determined by a panel consisting of:

1. The Chairman of the Law and Order Committee of each Tribe served by the Court of Appeals;
2. A member of the Court of Appeals; and
3. The Chairperson of the Tribe who is represented by the person to be removed.

19-09-04 There shall be no appeal from a decision by the panel. Notice for a hearing to show cause why the Judge should not be removed shall be served upon the Judge by registered mail, return receipt requested, and shall give such judge twenty (20) days in which to request a hearing. If no hearing is requested within twenty (20) days from the date of service upon the Judge, then such panel may hear any complaint in absentia and make its determination. Such decision shall be served upon the Judge in the same manner as above.

19-09-05 Proceedings for removal shall commence by any member of the Tribal Councils served by the Court of Appeals filing a statement of formal complaint, not obviously unfounded or frivolous, and alleging facts indicating a cause for removal, with the chairperson or the Council. Such statement shall state the particular acts complained of. The chairperson of that Council shall file such complaint or statement with the Clerk of the Court of Appeals who shall in turn cause a Notice of Show Cause Hearing to be served upon the affected Judge and shall forthwith the members of the panel referred to herein. Such notice shall comply with all principles of due process of law. Service shall be accomplished as stated above.

19-10-01 PROCEDURE IN THE COURT OF APPEALS

19-10-02 Any party adversely affected by a decision of a member Tribal Court in a civil case may appeal from such decision. Any party in a criminal case, except the prosecution, may appeal from any final order, commitment, or judgement of Tribal Court, with the exception that the prosecution may appeal to correct alleged procedural error only.

- 19-10-03 An appeal shall be commenced by the filing of an original Notice of Appeal and one copy, with the Clerk of the Court of Appeals within thirty (30) days of the date the Tribal Court entered its final decision. Notice of said appeal shall also be served upon all parties and the Clerk of the Tribal Court from which the appeal is taken by the appealing party or their attorney. The Notice of Appeal shall specify: The parties to the appeal; the order, commitment or judgement appealed from; and a short statement of the reason and grounds for appeal. Copies of the Notice of Appeal shall be mailed to or served upon all other parties in the case by registered mail. Registered mail receipts for each party notified must accompany the original Notice of Appeal sent to the Clerk of Court of Appeals and shall demonstrate proof of service.
- 19-10-04 A Notice of Appeal shall be accomplished by a cash bond of fifty dollars (\$50.00); (1) in any civil case; and (2) in any criminal case. A bond for costs shall otherwise have sufficient surety and shall be conditioned to secure the payment of costs if the appeal is dismissed, the judgement or order affirmed, or such costs as the Court may direct if the judgement or order is modified or affirmed in part. However, a forma pauperis or affidavit of indigency may be filed and granted in lieu of bond in the discretion of the Chief Judge or Acting Chief Judge pursuant to criteria to be established by the Court of Appeals.
- 19-10-05 The party taking the appeal shall be referred to as the appellant and the adverse party shall be referred to as the respondent. The name of the case shall be the same as that used by the Tribal Court.
- 19-10-06 In any case in which an appeal is filed as required by this Section, the appellant may petition the Tribal Court for an order staying the order, commitment, or judgement. An Appellate Judge of the Court of Appeals may consider and grant a stay if first denied within Section 19-12-01 of this Code.
- 19-10-07 The Court shall grant such stay only when satisfied that the ends of justice require it, and upon such security as the Court may direct to safeguard any other party against damage by reason of delay. Therefore, a bond or cash payment may be required as a condition for granting a stay of judgement if it is reasonably likely that the appellant will not perform the judgement if the appeal is unsuccessful, or cannot pay the additional costs or rents represented by the appeal or the stay in judgement.
- 19-10-08 The Appellate Clerk shall forward copies of the Notice of Appeal to all Appellate Judges and the complete file to the Chief Judge, who shall determine whether the Court of Appeals has jurisdiction to hear the appeal and whether the appellant has complied with the procedural and substantive requirements for making, an appeal.

- 19-10-09 If the Chief Judge of the Court of Appeals accepts jurisdiction and finds that the appeal is proper, then the Chief Judge shall issue a memorandum of approximate costs of the appeal to all parties, setting forth those costs. Upon the receipt by the Court of Appeals of all required bonds, the Chief Judge shall establish a briefing schedule for all parties. Such briefing schedule shall require an appellant's brief and a respondent's a brief with an option in the appellant to submit a reply brief. The time requirements shall be at the discretion of the Chief Judge. No brief shall exceed sixty (60) pages, excluding appendices. Oral arguments shall be at the discretion of the Chief Judge or by the affirmative decision approving a petition for oral hearing by two (2) Appellant Judges.
- 19-10-10 All documents required to be filed in appellate matters shall be filed with said Appellate Court Clerk. The Clerk shall forward copies of all such documents filed to the Chief Judge of the Court of Appeals for disposition. Upon the acceptance of jurisdiction by the Chief Judge, the Chief Judge shall direct that a complete file thereof be forwarded to all Judges of the Court of Appeals.
- 19-10-11 The contents of the appellant's brief shall include:
1. A jurisdictional statement;
 2. A brief statement of the nature of the appeal;
 3. A brief statement of the proceedings in the lower Tribal Court;
 4. The issues presented on appeal;
 5. A statement of facts;
 6. Argument; and
 7. Conclusion.
- 19-10-12 In addition, the preface shall include a table of contents, a table of cases, a table of statutes, and a table of other authorities.
- 19-10-13 The brief of the respondent shall conform to the same requirements as stated above for the appellant.
- 19-10-14 The appellant may file a brief in reply to the brief of the respondent. The contents of the reply brief must be confined to new matter raised in the brief of the respondent.

- 19-10-15 The appellant shall, within ten (10) days after filing a Notice of Appeal, serve upon the respondent and with the Tribal Court Clerk, a designation of the portions of the record of the lower Court which the appellant desires to be included in the appeal. The respondent shall have ten (10) days from the date served with such designation to add other portions to the record. All costs associated with the reproduction of the records to be submitted on appeal shall be paid for in advance by the requesting party, unless the appeal is in forma pauperis. The designated record shall be submitted to the Tribal Court Clerk for processing and certification.
- 19-10-16 If no report or recording of all or any part of the proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may, within ten (10) days after filing a Notice of Appeal, prepare a statement of the proceedings from the best available means, including his recollection, and file a written notice of intention to file such a statement with the Clerk of the Tribal Court and the Clerk of the Appellate Court. The statement shall be served on the respondent as provided for in Section 19-10-15 above, who shall, within ten (10) days designate objections or amendments thereto. These together shall be submitted to the Tribal Court Clerk (ref. Sections 19-10-15 and 19-14-02 (3)).
- 19-10-17 The Court of Appeal may reverse, affirm, or modify any order or judgement appealed from, and order the lower Court to add to, modify, or complete the findings so as to make the same conform to issues presented and the facts as the facts may be found to be by the Tribal Court from the evidence, and the findings when corrected, or may order a new trial or order that further proceedings be held. All decisions shall be by the majority, in writing, and signed by the participating Appellate Judges. If no majority is reached on a decision, then the decision of the Tribal Court is upheld.
- 19-10-18 The Court of Appeals shall issue a written memorandum of decision. The memorandum shall state: The facts, the issues to be decided, the rules of law applied, and the reasoning of the Court. No written memorandum is required if the Court of Appeals is unanimous in its decision and there is clear precedent for such decision, however, the Court may issue a per curiam opinion if it so desires.
- 19-10-19 The Chief Judge of the Court of Appeals may enter any subsequent order to effectuate justice and fair play to the parties in accordance with the decision of the Court of Appeals.

19-10-20 Within twenty (20) days after a decision has been rendered by the Court, either party may petition the Court for rehearing. Such petition shall be submitted to the Appellate Court Clerk, and simultaneously served upon all parties, by registered mail, and must briefly set forth the alleged points of error. Adverse parties for rehearing shall operate to stay all proceedings until a decision is rendered thereon.

19-10-21 All judgements and orders of the Intertribal Court of Appeals shall be enforceable through and by the respective member Tribal Courts to which these judgement and orders shall issue. Upon compliance with and satisfaction of the judgement or order, the respective member Tribal Court Clerk shall forthwith issue a Satisfaction of Judgement to the Clerk of the Appeals Court.

19-10-22 In all cases a neglect of thirty (30) days after the affirmance on appeal of a judgement directing the payment of money and the filing of the judgment in Tribal Court to pay the amount directed, shall be deemed a breach of the undertaking on such appeal.

19-10-23 Upon good cause shown, the Chief Judge may enlarge the time any party has to comply with the Rules of the Court or the time requirements set forth in this Section.

19-10-24 The Intertribal Court of Appeals, by action of the majority of the Appellate Judges in regular service, may from time to time, make and amend such rules as deemed appropriate for the proper and efficient administration of the Court.

19-10-25 On any procedural issues arising, the Court, may, in its discretion, consult and apply, in turn:

1. Applicable Federal law; and
2. Applicable State law.

19-11-01 JURISDICTION

19-11-02 The Chief Appellate Judge, or his designee as otherwise provided for in this Code, shall determine whether or not the Appeals Court possesses jurisdiction in any civil or criminal case appealed to the Court, and shall thereupon proceed in accordance with this determination and the other provisions of this Code.

19-11-03 Civil and criminal appeals to the Intertribal Court of Appeals from member Tribes may be taken from:

1. A judgement;

2. An order affecting a substantial right, made in any action, that determines the action and prevents a judgement from which an appeal might be taken;
3. An order which grants, refuses, continues, dissolves, or modifies any of the remedies of arrest and bail, claim and delivery, injunction, attachment, garnishment, receivership, or deposit in Court; or
4. Any other order which in the Court's discretion be allowed by the Court as provided by Court Rules when the Court considers that the ends of justice will be served, or as otherwise provided in Section 19-10-02 of this Code.

19-11-04 In determining the Court's rulings and decisions on appeals before the Court, the Court shall apply the substantive law of the member Tribal Code from which the case originated and all applicable Federal laws, statutes and Acts.

19-11-05 Each member Tribal Government and Tribal Court shall grant full faith and credit to all decisions and rulings of the Intertribal Court of Appeals in accordance with Section I of this Code and the other Sections contained herein. Such express grant of full faith and credit shall include and extend to orders for extradition that may issue from the Court of Appeals.

19-11-06 When the appeal is from any order subject to appeal, the Appeals Court may review all matters appearing on the record relevant to the question of whether the order appealed from is erroneous.

19-11-07 This Intertribal Court of Appeals Uniform Code supersedes any and all other Tribal Appeals Procedures that may be in existence for any Tribe. Further, by enactment of this Code through appropriate resolution and its becoming effective, member Tribes agree and affirm that any and all of these other Tribal Appeals Procedures shall thereupon be null and void and deemed repealed, and that any and all Tribal Court appeals cases pending at the time this Code becomes effective shall be forthwith transferred to the Intertribal Court of Appeals for further action in accordance with this Code.

19-11-08 The Intertribal Court of Appeals shall possess power of contempt to enforce its decisions within the boundaries of member Tribal Reservations.

19-12-01 CONFLICTS OF INTEREST

19-12-02 It is intended that no Judge shall be a member of a panel of judges hearing or deciding an appeal if such Judge:

1. Heard the case on its merits in the Tribal Court;

2. Is related by blood or marriage if such relationship is in the first degree, such as a brother, sister, parent, spouse, child, step-child, foster child, adopted child, former spouse, grandparent, great grandparent, uncle or aunt (whether by blood or marriage), or first cousin, or the like;
3. Would benefit personally in a way and to a greater degree than members of the general public of the respective Indian Reservation would benefit; or
4. Would otherwise be in a position where his or her impartial judgement might be significantly affected.

19-12-03 No Judge shall be barred from hearing an appeal by virtue of the fact alone that the parties before the Court of Appeals are members of the same Tribe as the Judge.

19-12-04 Any Appellate Judge shall disqualify himself in any appellate case in which he/she has a substantial interest, or as otherwise provided for above, as to render it improper, in his opinion, for him to sit on the tribal, appeal, or other proceeding therein.

19-12-05 Either party to an appeal, in accordance with the above provisions, may file an affidavit of prejudice with the Clerk of the Appeals Court. The affidavit shall state the facts and reasons for the belief that bias or prejudice exists, and shall be filed no less than twenty (20) days before the scheduled hearing date or other proceeding. A party may file only one such affidavit in any case.

19-13-01 CHIEF APPELLATE JUDGE

19-13-02 The Chief Appellate Judge shall be designated to serve for a one (1) year turn commencing the date this Reservation becomes effective. If the initial one (1) year term ends during the Court fiscal year, the Chief Appellate Judge shall continue his term as Chief Judge to the end of the then fiscal year, however, all subsequent appointments for the Chief Appellate Judge shall run for one (1) year concurrent with the regular Court fiscal year.

19-13-03 Such position shall rotate among the member Tribes. The chairperson of a member Tribe shall designate a Judge(s) to serve within the pool of Judges from which the Appellate Judges are selected by each member Tribe's Tribal Council. Such person designated do not have to be a Judge in the chairperson's Tribe's judicial system so long as such Judge is within the judicial system of one of the member Tribes.

19-13-04 The first Tribal Council to enact this Resolution shall have its chairperson select the Chief Judge the first year of the Court or as otherwise provided for above. The second Tribal Council to enact this Resolution shall have its chairperson select the Chief Judge for the second year of the Court, and so on. In the event of a tie between or among Tribal Councils enacting this Resolution, then such tying Tribe which has the most numerous Judges in its judicial system shall be considered to be prior in time in enacting this Resolution.

19-13-05 In the event of a disqualification of the Chief Judge for any reason provided for herein, then the Chief Judge shall appoint another Appellate Judge to act in his or her stead in hearing or deciding the case before the Court and in deciding the matter of Court jurisdiction. However, the Chief Judge shall retain such authority pertaining to administration, procedure, and other matters not affecting the decision before the Court for which he/she is disqualified.

19-14-01 DUTIES OF THE TRIBAL COURT CLERK

19-14-02 DUTIES:

1. In addition to any duties for which the Clerk of the Tribal Court is responsible, the member Tribal Court Clerk shall keep and maintain complete and accurate files and records of all documents filed with the Tribal Court and all proceedings held in the Tribal Court.
2. The Clerk may make and certify to the accuracy of true and correct copies of any documents filed with the Tribal Court which are otherwise available for public inspection.
3. The Clerk shall prepare, certify to the accuracy of, and transmit to the Court of Appeals, the record, including verbatim records of hearings, etc., of any case for which an appeal is taken or so much of such record as the parties may designate, and perform other Court duties and responsibilities in accordance with Appeal Court Rules, Judgements, and Orders.
4. The Clerk shall maintain a current compilation of the decisions of the Court of Appeals in chronological order. Such decisions shall be made available to the public upon request and upon the payment of the cost of reproduction.
5. The duties of the Clerk may be performed by a deputy or assistant Clerk appointed, who shall have the same powers and be subject to the same duties, obligations, and penalties as the Clerk of the Tribal Court.

19-14-03 Penalties: It shall be a criminal offense, punishable by a fine not to exceed five hundred dollars (\$500.00), and/or imprisonment for a clerk, deputy, or assistant clerk, or any other person to knowingly make or keep a false file, record or certificate, or to alter, amend, or destroy any file, record or transcript of the Tribal Court or Court of Appeals without lawful authority, or to otherwise tamper with, falsify, conceal, or destroy any file, record, document, or transcript of such Courts.

19-15-01 **RESOLUTION BECOMES EFFECTIVE**

This Resolution shall not become effective as to all member Tribes until at least three (3) South Dakota Sioux Tribes adopt this exact same Resolution should be sent to the Court Administrator of the Intertribal Court of Appeals.

19-16-01 **DEFINITIONS**

19-16-02 Member Tribe - shall mean a Federally recognized Indian Tribe which is unanimously accepted by those other Indian Tribes who have adopted this Resolutions and its amendments in total.

19-16-03 Lay Judge - shall mean a person selected according to Tribal law who is not a graduate of an accredited law school in the United States or who is not a member of a State Bar.

19-17-01 **ALLOCATION OF COST OF MAINTAINING INTERTRIBAL COURT OF APPEALS**

19-17-02 It is intended that the Court of Appeals be supported financially from the funds of the participating Tribal governments in proportion to the use and benefit derived therefrom by each of the participating Tribes. Such allocation of cost of maintaining the Court of Appeals shall be approximated by the Chief Judge in consultation with the Appellate Court Policy Board by March 1 of each year. Such approximation shall be the basis upon which the Appellate Court Policy Board shall formulate a budget to present to each of the participating Tribal Governing Councils for appropriate adoption. Such budget proposal shall show the expenditures of the Court for the preceding twelve-month period, the allocation of cost to each participating twelve-month period, the allocation of cost to each participating Tribe, the amount collected from each participating Tribe, the financial needs of the Court to operate during the next budget period at the same level of service as then operating, the financial needs of the Court to operate at desired levels for the forthcoming budget period, and such other information as is necessary to account for the past financial operation of the Court and its future anticipated needs.

19-17-03 Budget requests for funding of the Court shall be submitted to the respective governing Councils of the participating Tribes by no later than July 1 of each year. The budget proposal shall contain the amount requested of each participating Tribe and the formula relied upon to obtain the amount requested of each participating Tribe.

19-17-04 The method to calculate the amount required for each participating Tribe for the next year's operating budget shall be as follows:

1. The number of criminal cases appealed from the Tribal Court of the Reservation and the number of civil cases appealed from the Tribal Court of the Reservation divided by the total number of cases docketed with the Court of Appeals. Such numbers shall equal a percent which is then multiplied with the requested budget amount.

(Example: 50 criminal cases from Rosebud + 100 civil cases from Rosebud would equal 37.5% of 400 total cases docketed with the Court of Appeals; $37.5\% \times \$50,000$ budget requested = \$18,750 to be provided by Rosebud.)

19-17-05 If any Tribal Council contests the amount allocated to it, it shall within thirty (30) days note its challenge with the Chief Appellate Judge who shall notify the chairperson of the Appellate Court Policy Board. The Appellate Court Policy Board shall within ten (10) days convene to recalculate the allocation to determine its accuracy based upon the above formula. If the calculations are accurate and the data relied upon to calculate the allocation is accurate, then such allocation shall be determined final. Once an allocation of budget to a Reservation governing Council has been finalized as herein this paragraph described, then the only remaining method of changing said allocation is for the contesting Tribal Council to request the governing Councils of the participating Reservations to affirmatively vote to accept the budget or such portion thereof as proposed by the contesting Tribal Council.

19-17-06 The fiscal year for the Court of Appeals shall be from October 1 to September 30. If any of the participating Tribal Councils have not affirmatively acted upon and accepted the proposed budget by September 15, and if none of the participating Tribal Councils have rejected the proposed budget by such date, then such proposed budget shall be deemed adopted and shall be binding upon all participating Tribal Councils and each respective Tribal Government's budget shall reflect such Court of Appeals budget as provided herein.

19-17-07 For the first two (2) fiscal years of the operation of the Court of Appeals, it is anticipated that all funding will be provided by a grant from the Law Enforcement Assistance Administration within the United States Department of Justice, thus the herein described formula will not be applied until the third fiscal year of operation.

19-18-01 APPELLATE COURT POLICY BOARD

19-18-02 There is hereby created an Appellate Court Policy Board comprised of two (2) representatives from each member Reservation. The representatives to such Board shall be selected by the Tribal chairperson of their respective Tribes. No person who is a Judge may be a member of the Appellate Court Policy Board.

19-18-03 The Appellate Court Policy Board shall elect their own officers and shall determine their own procedures all costs related to attendance at meetings and other expenses shall be paid by the respective member Tribe. The Board shall meet not less than semi-annually, but may meet as often as necessary. The chairperson of the Board is authorized to call a meeting of the Board with at least two (2) days notice or with less notice if with the consent of all members. Special meetings may be called by two (2) members who represent at least two (2) Reservations.

19-18-04 The initial members of the Appellate Court Policy Board shall be named by no later than thirty (30) days after at least (3) Tribes have adopted this Code. If not all persons are named by the respective chairperson within thirty (30) days as described herein, then those persons who have been named shall be authorized to select representatives from the particular Tribe that has failed to name its representatives after giving notice that they intend to so name representatives, if the respective chairperson has failed to so act within fifteen (15) days of the date of the notice.

19-18-05 The Appellate Court Policy Board shall have review and approval authority on all annual budget and operational matters of the Appellate Court system, except as otherwise provided in this Code. The Board shall approve all personnel policies and procedures and generally insure compliance with set policies. It will further receive all pertinent reports from the Court Administrator and/or Chief Appellate Judge, and in turn, have the responsibility of appropriately reporting to participating Tribal governing bodies.

19-19-01 AMENDMENTS TO CODE

Amendments may be made to this Uniform Code through and by the united action of respective member Tribal Governments only. Any and all proposed amendments shall be duly enacted by Tribal Council resolutions, each containing precisely identical wording. No amendments to this Code shall be deemed effective until all member Tribal Governments have effectively enacted the same proposed amendment.

19-20-01 WITHDRAWAL OF A MEMBER TRIBE

19-20-02 Any Tribal Government participating in the Court of Appeals as provided herein may withdraw from participation. However, such withdrawal shall not become effective until the completion of the then fiscal year. The participating Tribe who chooses to withdraw shall be obligated to fund its allocated portion of the Court of Appeals budget for the current fiscal year.

19-20-03 In the event that any member Tribe does not withdraw at the end of the fiscal year, or in the event that an additional Tribal Government is accepted under this Code, the budget of the Court of Appeals shall be adjusted according to the formula as described in Section 19-17-01 to reflect the then current information, and such recalculation shall be final, except as otherwise provided in this Code.

19-21-01 CERTIFICATION OF CODE ADOPTION

Adopted in total this _____ day of _____, 19____, by:

ATTEST: _____ BY: _____
Secretary Rosebud Sioux Tribe

ATTEST: _____ BY: _____
Secretary Crow Creek Sioux Tribe

ATTEST: _____ BY: _____
Secretary Lower Brule Sioux Tribe

Adopted by Lower Brule Sioux Tribe by Res. No. 81-73, dated 02/04/81, approved effective 03/05/81.

Adopted by Rosebud Sioux Tribe by Res. No. 81-11. dated 02/25/82, approved effective 04/02/82.

Adopted by Crow Creek Sioux Tribe by Res. No. CC-81-01-19-05, dated 01/19/81, approved effective 04/13/81.

Adopted by Cheyenne River Sioux Tribe by Res. No. 192-81-CR, dated 07/09/81.

19-22-01 SEVERABILITY

If any clause, sentence, paragraph, section, or part of this code shall, for any reason be adjudicated by any Court of competent jurisdiction, to be invalid or unconstitutional, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgement shall have been rendered.

S.W.S.T. CODE
 Amendment
 New Adoption
Judicial Approver
62-24-88
Council Approver
73-01-88