

**RESOLUTION OF THE GOVERNING BODY OF
THE THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD RESERVATION**

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and

WHEREAS, The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

WHEREAS, Article I of the Constitution of the Three Affiliated Tribes expressly provides that the jurisdiction of the Three Affiliated Tribes shall extend to all persons and all lands within the exterior boundaries of the Fort Berthold Reservation; and

WHEREAS, Article VI, Section 3 of the Constitution of the Three Affiliated Tribes specifically grants to the Tribal Business Council all necessary sovereign authority - legislative and judicial - for the purpose of exercising the jurisdiction granted by the people of the Three Affiliated Tribes in Article I of the Constitution; and

WHEREAS, Article VI, Section 5(1) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to adopt laws regulating the procedures of agencies and officials of the Three Affiliated Tribes; and

WHEREAS, The consumption of alcohol and other drugs by minor children on the Fort Berthold Reservation is becoming a progressively critical problem, which conduct not only adversely affects the health of Tribal youth, but also serves as a contributing factor in the commission of criminal acts and in the exhibition of other negative behavior by an ever-increasing percentage of our Tribal youth; and

WHEREAS, It is the considered judgment of the Tribal Business Council that it should exercise its legislative authority in an effort to minimize and ultimately eliminate such problematic and unlawful conduct with the intent of protecting the health and welfare of the Tribal youth resident on the Reservation; and

WHEREAS, The Tribal Business Council has had the opportunity to

SECTION 1000.12 CONSUMPTION OF ALCOHOLIC BEVERAGE OR CONTROLLED SUBSTANCE BY PERSON UNDER AGE OF EIGHTEEN (18) YEARS

VIOLATIONS: A person under the age of eighteen (18) years (“child”) who has consumed an alcoholic beverage or a controlled substance shall be guilty of an offense.

PROCEDURES: The following procedures shall apply when law enforcement personnel apprehend a child for violation of this section.

1. **FIRST APPREHENSION AND WARNING**: When a law enforcement officer (“officer”) apprehends a child whom the officer has probable cause to believe has violated this section, the officer shall either:

- (a) return the child immediately to his/her home or other household wherein the child may lawfully spend the night; or
- (b) place the child in protective detention, if he/she is severely intoxicated and/or is reasonably believed to be a danger to himself/herself or to others.

In either case, the officer shall additionally warn the child and advise his/her parent(s), guardian or other adult having custody that the child has violated this section and that any subsequent violation(s) of this section will result in a juvenile complaint being filed against the child.

2. **SECOND AND SUBSEQUENT APPREHENSIONS**: In the instance of the second and subsequent apprehensions of a child under this section, when an officer has probable cause to believe that the child has violated this section, the officer shall apprehend the child and shall either:

- (a) return the child immediately to his/her home or other household wherein the child may lawfully spend the night, and issue a citation and summons to appear in court for violation of this section; or
- (b) place the child in protective detention, if he/she is severely intoxicated and/or is reasonably believed to be a danger to himself/herself or to others, and appropriately process the child for violation of this section; or
- (c) detain the child as otherwise necessitated and justified the particular circumstances, and appropriately process the child for violation of this section.

DISPOSITIONS: The following dispositions may be ordered when a child is adjudged as having violated this section in the context of either his/her first offense or his/her second and subsequent offenses respectively.

1. **FIRST OFFENSE:** A child adjudged as having violated this section, in connection with the first formal complaint filed with the court, shall be subject to the performance of community service, imposition of a fine not to exceed \$150.00, and/or detention for a period not to exceed ten (10) days. In addition, an alcohol and drug evaluation shall be ordered by the court which shall be conducted and submitted to the court within a reasonable period of time; the child shall comply with and fully satisfy any and all recommendations arising out of the evaluation, as ordered by the court. Probation may be utilized as appropriate.

2. **SECOND AND SUBSEQUENT OFFENSES:** A child adjudged as having violated this section, in connection with a second or subsequent formal complaint filed with the court under this section, shall be subject to the performance of community service, imposition of a fine not to exceed \$300.00, and/or detention for a period not to exceed thirty (30) days. In addition, an alcohol and drug evaluation shall be ordered by the court which shall be conducted and submitted to the court within a reasonable period of time; the child shall comply with and fully satisfy any and all recommendations arising out of the evaluation, as ordered by the court. Probation may be utilized as appropriate.

review and comment on the draft of proposed legislative language designed to address this problem and approves the attached draft of the statutory provisions titled "Consumption of Alcoholic Beverage or Controlled Substance by Person Under Age of Eighteen (18) Years";

NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes hereby formally enacts the attached statutory provisions titled "Consumption of Alcoholic Beverage or Controlled Substance by Person Under Age of Eighteen (18) Years" and designates said provisions as Section 1000.12 of Chapter 2 of Title III of the Fort Berthold Tribal Code.

BE IT FURTHER RESOLVED, That the attached statutory provisions titled "Consumption of Alcoholic Beverage or Controlled Substance by Person Under Age of Eighteen (18) Years" shall become effective immediately and shall supersede and replace any and all conflicting or inconsistent provisions included in the body of law of the Three Affiliated Tribes.

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

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 5 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 14th day of May, 1997; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 4 members, 0 members opposed, 1 members abstained, 0 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 14th day of May, 1997.

Daylon Spotted Bear
Secretary, Tribal Business Council

ATTEST:

Ann B. Bice
for Chairman, Tribal Business Council