

**RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION**

**WHEREAS**, the Tribal Council recently adopted a Domestic Violence Code for the White Mountain Apache Tribe; and

**WHEREAS**, the Council is advised that the definition of domestic violence should be amended to clarify what constitutes a domestic violence offense under the ordinance and to clarify the definition of family or household member and to revise the criminal penalties so that there is a greater range of penalties for first, second and third offenses; and

**WHEREAS**, proposed amendments to the Domestic Violence Code are attached to this resolution; and

**WHEREAS**, the Tribal Council concludes that such proposed amendments should be posted for public comment as required by the constitution.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs the Tribal Council Secretary to post proposed amendments to the Domestic Violence Code for a period of ten days in each district as required by the Tribal Constitution.

The foregoing resolution was on February 12, 1998 duly adopted by a vote of five for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (i), (q), (s), (t), and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

  
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Chairman of the Tribal Council

  
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Secretary of the Tribal Council

PROPOSED AMENDMENTS TO THE DOMESTIC VIOLENCE CODE  
CHAPTER 6, WMAT CRIMINAL CODE  
(Revised 2/11/98)

SECTION 6.2      GENERAL DEFINITIONS

D.    "Domestic Violence" means abuse, mental anguish, physical harm, bodily injury, assault, or the infliction of reasonable fear or bodily injury, between family or household members, or sexual assault of one family or household member by another. Domestic violence offenses shall consist of the following:

1.    Assault
2.    Assault with a Deadly Weapon
3.    Assault with Intent to Commit Rape
4.    Assault with Intent to Cause Serious Bodily Injury
5.    Assault with Intent to Kill
6.    Battery
7.    Criminal Negligence
8.    Disobedience to a Lawful Order of the Court
9.    Sexual Abuse
10.   Sexual Conduct with a Minor
11.   Sexual Assault
12.   Sexual Assault of a Spouse
13.   Molestation of Child
14.   Child Abuse
15.   Sexual Exploitation of a Minor.

F.    "Family or Household Member" means spouses, former spouses, ~~adult persons or emancipated minors related by blood to the second degree or marriage, persons who are presently residing together or have previously resided together,~~ parents, grandparents, children, siblings, half-siblings, cousins, aunts, uncles, adult persons or emancipated minors presently residing together, or who have a child in common regardless of whether they have been married at any time, ~~and persons involved or previously involved as intimate companions.~~

## SECTION 6.3 PENALTIES

### A. Criminal Penalties

#### (1) First Offense:

(a) Any person who commits an act of domestic violence defined by this Chapter shall be deemed guilty of the offense of domestic violence. A person convicted of a first offense of domestic violence shall be imprisoned for a term of not less than ~~thirty (30)~~ ten (10) days or more than one (1) year and shall be fined an amount not less than ~~Five Hundred (\$500.00)~~ One Hundred Dollars (\$100.00) or more than Five Thousand Dollars (\$5000.00). Mandatory counseling shall be part of sentencing as provided in Section 6.4 of this Chapter, as well as restitution when appropriate.

(b) The Court may suspend imposition of fines and imprisonment for the first offense and place defendant on probation for not less than ~~one (1) year~~ three (3) months nor more than one (1) year. When a sentence is suspended there must be complete cooperation with the orders of the Court requiring cooperation with the domestic violence program and counseling as ordered.

(2) Second Offense: A person convicted of a second offense of domestic violence within five (5) years shall be imprisoned for a term of not less than ninety (90) days or more than one (1) year and shall be fined an amount not less than ~~One Thousand (\$1000.00)~~ Five Hundred Dollars (\$500.00) or more than Five Thousand Dollars (\$5000.00). Mandatory counseling shall be part of sentencing as provided in Section 6.4 of this Chapter, as well as restitution when appropriate.

(3) Third and Subsequent Offenses: A person convicted of a third or subsequent offense of domestic violence within five (5) years of the last conviction shall be imprisoned for a term of not less than one hundred eighty (180) days or more than one (1) year and shall be fined an amount not less than ~~Two Thousand (\$2000.00)~~ One Thousand Dollars (\$1000.00) or more than Five Thousand Dollars (\$5000.00). Mandatory counseling shall be part of sentencing as provided in Section 6.4 of this Chapter, as well as restitution when appropriate.

...

(7) A person convicted of domestic violence shall not be released from custody for community service or to attend funeral or wake services unless said services are for a member of the person's immediate family.

(a) Immediate family as used in the foregoing Subsection A(7) shall mean husband, wife, son, daughter, brother, sister, father, ~~or~~ mother or grandparent.