

JANUARY 2003 CROW TRIBAL LEGISLATURE

CROW LEGISLATIVE BILL NO. 0301

INTRODUCED BY: EXECUTIVE BRANCH

A BILL ENTITLED "TO AMEND TITLE 3 OF THE CROW TRIBAL CODE AND FOR OTHER PURPOSES".

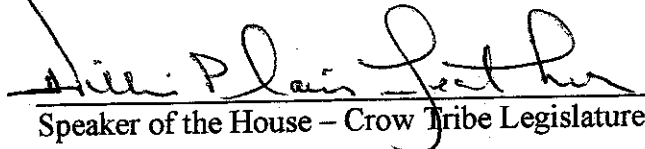
WHEREAS, there is a need to amend Title 3 of the Crow Tribal Code

WHEREAS, such amendments will address the issues of the qualification of the Tribal Judges, admission of attorney practicing with in and practicing at the Crow Tribe Courts and the qualification of the prosecutors and other issues of or the amendments.

THEREFORE BE IT RESOLVED that the following amendments are made to Title 3 of the Crow Tribal Code.

CERTIFICATION

I hereby certify that this Crow Legislative Bill was duly approved by the Crow Tribal Legislature with a vote of 14 in favor, 2 opposed, and 0 abstained and that a quorum was present on this 4th day of March, 2003.


Speaker of the House - Crow Tribe Legislature

EXECUTIVE ACTION

I hereby approved, veto this Joint Resolution pursuant to the authority vested in the Chairman of the Crow Tribe, by Articles V, Section 8 of the Constitution and Bylaws of the Crow Tribe of Indians.


Chairman - Executive Branch Crow Tribe of Indians

To amend portions of title 3

Bill or resolution number _____ Introduced by Executive Branch Date of Vote MAR 04 2003

Representative	Yes	No	Abstain
Bulltail	_____	_____	_____
Costa	✓	_____	_____
Crooked Arm	✓	_____	_____
Little Light	✓	_____	_____
Plain Feather	✓	_____	_____
Stewart	✓	_____	_____
Not Afraid	_____	✓	_____
Goes Ahead	_____	_____	_____
Hogan	✓	_____	_____
Old Elk	✓	_____	_____
Passes	✓	_____	_____
Pease	✓	_____	_____
Medicine Horse	✓	_____	_____
Russell	_____	✓	_____
Real Bird	✓	_____	_____
Blackhawk	✓	_____	_____
Stone	✓	_____	_____
Cloud	✓	_____	_____
Results	_____	_____	_____

Results of vote: Passed Not Passed Tabled Veto Override

Signature of Officer: William Plain Feather

Date: March 04, 2002

DRAFT

**TITLE 3
ESTABLISHMENT OF THE CROW TRIBAL COURTS AND
TRIBAL JURISDICTION**

FEB 13 2003

proposed Amendments
1st reading.

CHAPTER I. - GENERAL PROVISIONS

3-1-101. Crow Tribal Court. No change.

(2) No change.

3-1-102. Tribal Juvenile Court. (1) No change.

(2) No change.

3-1-103. Crow Court of Appeals. (1) No change.

(2) No change.

3-1-104. Applicable law. (1) No change.

(2) No change.

CHAPTER II. - JURISDICTION OF THE TRIBAL COURTS

3-2-201. Jurisdiction. No change.

3-2-202. Jurisdiction--Territorial. No change.

3-2-203. Jurisdiction--Personal. (1) No change.

(2) No change.

3-2-204. Jurisdiction--Property. (1) No change.

(2) No change.

3-02-205. Jurisdiction--Subject Matter. No change.

3-2-206. Sovereign Immunity. No change.

CHAPTER III. - COMPOSITION OF THE COURTS

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3-3-301. Judges. The Tribal Court shall be composed of three judges: one Chief Judge and two Associate Judges.

3-3-302. Chief Judges. The Chief Judge of the Tribal Court shall be elected by eligible voters of the Absalooka (Crow) Tribe to serve a four year term, and there shall be no limitation as to the number of terms an individual may serve as the Chief Judge. The most recent election for Chief Judge having occurred in October, 2001, the next election for Chief Judge shall be October, 2005, and an election shall be held every four years thereafter.

3-3-303. Chief Judge's Qualifications. (1) The Chief Judge must be at least thirty (30) years of age when elected; must be an enrolled member of the Absalooka (Crow) Tribe and must be fluent in both the Absalooka (Crow) and English languages; must not have ever been convicted of a felony or a misdemeanor crime or offense (involving moral turpitude) within one year of his or her filing for election. Moral turpitude means conduct contrary to justice, honesty, modesty or good morals.

(2) The Chief Judge shall be the head of the Judicial Branch of the Absalooka (Crow) Tribal Government and the Chief Judge's duties and overall responsibilities shall include but not be limited to:

1. Preside over civil and criminal cases and decide these case in a timely manner or fashion;
2. Assign cases and other legal proceedings or matters to other Tribal Judges, Associate or Special Judges;
4. Supervise the Tribal Court dockets;
5. Supervise and maintain court records;
6. Compile court statistics;
7. Draft and promulgate court rules and court procedures;
8. Supervise and monitor the performance of Tribal Probation and Parole Officers;
9. Have the ultimate responsibility for the establishment of a law library;
10. Draft personnel policies and procedures and use to
11. Hire and supervise all Tribal Court staff.

3-3-304. Associate Judge's Qualifications. (1) The Associate Judges must be at least thirty (30) years of age when elected; must be an enrolled members of the Absalooka (Crow) Tribe and must be fluent in both the Absalooka (Crow) and English languages; must not have ever been convicted of a felony or a misde-

meanor crime or offense involving moral turpitude within one year of his or her filing for election. Moral turpitude means conduct contrary to justice, honesty, modesty or good morals.

(2) Duties of the Associate Judges. The Associate Judges shall have the following duties and responsibilities; namely, (1) Preside over cases assigned to him or her by the Chief Judge; (2) Hear and decide these cases in a timely manner or fashion and (3) Participate as an Appellate level judge when assigned by the Chief Judge.

3-3-305. Special Judge(s). (1) The Chief Judge, in his or her discretion, may contract with a professional attorney licensed to practice before the highest court of any state, to sit as a Special Judge of the Tribal Court for a particular matter or proceeding.

3-3-306. Removal of a Judge. (1) No change.

(2) No change.

3-3-307. Disqualification of a Judge. (1) No change.

(2) No change.

3-3-308. Court of Appeals. (1) There is hereby reestablished the Court of Appeals for and on behalf of the Absalooka (Crow) Tribe or Nation. The Court of Appeals shall be the highest court of the Absalooka (Crow) Tribe or Nation.

(2) The Court of Appeals shall be compose of a three judge panel consisting of a Chief Justice, who shall be a professional attorney licensed to practice law in the highest court of any of the fifty States, and two justices who can either be Crow Tribal trial level judges, who did not hear the case at the lower or trial level or professional attorneys, licensed to practice law in any of the highest courts of any of the fifty States.

(3) Chief Justice. The Chief Justice shall be hired by and serve at the sole discretion of the Chief Tribal Judge. The Chief Justice shall preside over the Court of Appeals He or she shall have the authority to promulgate rules applicable and pertaining to practice and procedure before the Court of Appeals and Rules of Professional Conduct of attorneys and advocates who practice before the Tribal Court.

CHAPTER IV. - TRIBAL ATTORNEY GENERAL

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3-4-401. Establishing and Hiring. There is hereby established the position of "Tribal Attorney General". Said Tribal Attorney General or his or her assistant shall represent the Absalooka (Crow) Tribe of Indians in all criminal prosecutions in the Tribal Courts. The Tribal Attorney General shall be the highest ranking law enforcement official within the Executive Branch. The Tribal Attorney General shall be hired and serve at the pleasure of the Chairman of the Executive Branch.

3-4-402. Qualifications. The Tribal Attorney General shall have the following minimum qualifications:

1. Possess a juris doctorate degree from an ABA accredited law school, or shall have completed a course of study on Indian justice systems or lay advocate program, or shall have at least five (5) years relevant experience in a federal, state or tribal court or relevant experience in any of the aforementioned courts that total five (5) years. The Tribal Attorney General must be admitted to practice in the Tribal Court and take and pass the Tribal Bar examination.

3-4-403. Assistant Attorney General. An assistant or deputy Tribal Attorney General may be hired if the criminal caseload in the Tribal Court so warrants. The assistant or deputy Attorney General shall meet all the requirements of the Tribal Attorney General, and must work under the direct supervision of the Tribal Attorney General.

3-4-404. Contracting for Services of a Special Prosecutor. The Tribal Attorney General may contract with a licensed attorney to prosecute cases where the Tribal Attorney General and the assistant or deputy Tribal Attorney General may have a conflict or for other circumstances where both may be unable to prosecute a case.

CHAPTER V. - TRIBAL DEFENDER

3-5-501. Establishing and Hiring. No change.

3-5-502. Qualifications. No change.

3-5-504. Contracting for Defender Services. No change.

3-5-505. Conflict of Interest. No change.

CHAPTER VI. - TRIBAL CLERK

3-6-601. Appointment and Qualifications of Clerk of Court. No change.

(2) No change.

3-6-602. Duties. (1) No change.

(2) No change.

(3) No change.

(4) No change.

(5) No change.

(6) No change.

(7) No change.

(8) No change.

CHAPTER VII. - ADMISSION TO PRACTICE BEFORE THE COURT.

3-7-701. General Requirements. (1) The Absalooka (Crow) Tribe has a legitimate interest in protecting prospective clients and insuring the quality of justice within the Tribe's governmental system particularly the Absalooka (Crow) Judicial System. Therefore, anyone wishing to represent a party to an action in the Tribal Court must meet the following minimum requirements:

1. Must be at least (18) years of age;
2. Must demonstrate his or her competency to represent clients as described in this chapter;
3. Must demonstrate his or her good character and fitness to represent clients as described in this chapter;

(2) The burden of proof is on the applicant seeking admission to the Tribal Court that he or she meets the requirements as described in this chapter provided however that professional attorneys who have been admitted to practice in the Tribal Court prior to the passage and adoption of these requirements shall be deemed to have fulfilled all of the above minimum requirements.

(3) Special admission for a case. Attorneys admitted to practice law in any of the highest courts of the fifty (50) states may be admitted to practice on a pro hac vice basis provided however that the attorney shall associate an attorney who is a member of the Absalooka (Crow) Bar Association and who has been admitted to practice before the Absalooka (Crow) Tribal Court.

3-7-702. Competence Requirements. An applicant shall demonstrate their competency by:

1. Proof of admission to practice law and be in good standing in the highest Court of any state; or,
2. Successfully passing the Tribal Bar examination administered from time to time by the Appellate Court of the Absalooka (Crow) Tribe.

3-7-703. Character Requirements. An applicant shall demonstrate his or her good character and fitness to represent clients by:

1. Submitting supporting affidavits from two persons licensed to practice in the Tribal Court, not relatives, familiar with their integrity, honesty, moral, character, judgment, courtesy and self reliance;
2. Consenting to a background information check and granting permission to contact other references requested by the Tribal Court; and,
3. Submitting to a fingerprint check if requested by the Tribal Court.

3-7-704. Application Process. (1) The applicant shall request and fill out an application for admission. The applicant shall submit his or her application for admission, affidavits, releases of information, the application processing fee and any other documentation required in one filing.

(2) The applicant shall respond to any additional requests from the Court within twenty (20) days, or within the amount of time granted by the Court.

(3) The Chief Judge shall grant or deny the applications, or request additional information concerning the admission within thirty (30) days of receiving the request.

3-7-705. Denial of Admission. If an applicant is denied admission to the Court, he or she shall receive written notice of such denial including the reason for denial of admission. A request for review and any additional information the

applicant wishes to have considered must be submitted within twenty (20) days of the date of the notice of reason for denial of admission. Any further action on the request for admission is solely at the discretion of the Court. There is no further appeal.

3-7-706. Confidentiality. All information received by the Court in connection with an application for admission is confidential and will be released only upon written authorization of the applicant or by order of the Court.

3-7-707. Fees. The processing, admission and Tribal Bar fees for new applicants shall be set by the Court. Persons admitted to practice shall pay an annual fee set by the Court.

3-7-708. Rules of Professional Conduct. Lawyers and lay advocates admitted to practice in the Tribal Court shall be subject to and shall abide by Rules of Professional Conduct promulgated by the Chief Justice of the Absalooka (Crow) Court of Appeals. The Chief Justice shall establish a five (5) member commission on practice consisting of three attorneys and two lay people to handle alleged violations by lawyers and lay advocates of the Rules of Professional Conduct.

3/4/03
Legislature

Section 3-3-303. Chief Judge's Qualifications.

In Paragraph (1), after "thirty years of age when elected;" INSERT THE FOLLOWING:

"must have graduated from high school or received a G.E.D.;"

In Paragraph (1), after "felony", deleted the rest of the paragraph and INSERT THE FOLLOWING:

"and must not have been convicted of a misdemeanor offense within five (5) years of the election, not to include minor traffic offenses."

In Paragraph (1), add at the end:

"In order to be eligible to run for election as Chief Judge in all elections after the October 2001 election, and prior to certification as a candidate for election, each candidate shall have passed the Crow Tribal bar examination."

WILL READ AS FOLLOWS WITH ALL AMENDMENTS:

Section 3-3-303. Chief Judge's Qualifications. (1) The Chief Judge must be at least thirty (30) year of age when elected; **must have graduated from high school or received a G.E.D.;** must be an enrolled member of the Absalooka (Crow) Tribe and must be fluent in both the Absalooka (Crow) and English languages; must not have ever been convicted of a felony **and must not have been convicted of a misdemeanor offense within five (5) years of the election, not to include minor traffic offenses.** In order to be eligible to run for election as Chief Judge in all elections after the October 2001 election, and prior to certification as a candidate for election, each candidate shall have passed the Crow Tribal bar examination.

Section 3-4-304. Associate Judge's Qualifications.

In Paragraph (1), after "thirty years of age when elected;" INSERT THE FOLLOWING:

"must have graduated from high school or received a G.E.D.;"

In Paragraph (1), after "felony", deleted the rest of the sentence and INSERT THE FOLLOWING:

"and must not have been convicted of a misdemeanor offense within five (5) years of the election, not to include minor traffic offenses;"

In Paragraph (1), add at the end:

"In order to be eligible to run for election as Associate Judge in all elections after the October 2001 election, and prior to certification as a candidate for election, each candidate shall have passed the Crow Tribal bar examination."

Section 3-3-304. Associate Judge's Qualifications. (1) The Associate Judges must be at least thirty (30) year of age when elected; **must have graduated from high school or received a G.E.D.;** must be enrolled members of the Absalooka (Crow) Tribe and must be fluent in both the Absalooka (Crow) and English languages; must not have ever been convicted of a felony **and must not have been convicted of a misdemeanor offense within five (5) years of the election, not to include minor traffic offenses.** In order to be eligible to run for election as *Associate* **Chief Judge** in all elections after the October 2001 election, and prior to certification as a candidate for election, each candidate shall have passed the Crow Tribal bar examination

3-7-705. Denial of Admission.

Strike the last sentence (“There is no further appeal”) and replace with:

“The Chief Judge’s denial of any person’s admission to practice in the Tribal Court may be appealed to the Court of Appeals.”

Section 3-3-306. Removal of a Judge.

In Paragraph (2), delete the last sentence and replace with the following:

“The findings of fact, conclusions of law, and recommendations adopted by a majority of the Judicial Ethics Board shall be reported to the Legislature for further action. A two-thirds (2/3) majority of the full membership of the Crow Tribal Legislature is required to remove a Judge under this part.”

[Add the following Section:]

3-3-310. Filling Vacancies in Tribal Judge Positions.

If a vacancy shall occur in any of the positions of the elected Tribal Court Judges by reason of death, resignation, or removal for cause, a replacement may be appointed by the Chairman of the Executive Branch, who shall meet the qualifications for the vacated position and whose appointment shall be confirmed by majority vote of the Legislature. The term of any Judge so appointed and confirmed to fill the vacancy shall be for the unexpired term of the vacated position until the next general election of Tribal Court Judges.

in all criminal prosecutions in the Crow Courts and all civil actions against Tribal members. The Tribal Prosecutor will be hired and supervised by the Crow Tribal Executive Branch in accordance with the Crow Tribal Personnel Practices and Policy Manual with final approval by the Crow Tribal Chairperson.

Replaced

3-4-402. Qualifications. The Tribal Prosecutor shall have the following minimum qualifications:

1. Possess a juris doctorate from an ABA accredited law school, or shall have completed a course of study on Indian justice systems or lay advocate program, or shall have at least five (5) years relevant experience in a federal, state, or tribal court. In addition, the Tribal Prosecutor must be admitted to practice in the Crow Tribal Court pursuant to §§ 3-6-601 and 3-6-602 of this Title.

3-4-403. Assistant Prosecutor. An assistant prosecutor may be hired if the criminal caseload of the Court so warrants. The Assistant Prosecutor shall meet all the requirements of the Tribal Prosecutor, but must work under the direct supervision of the Tribal Prosecutor. It shall be the responsibility of the Tribal Prosecutor to train Assistant Prosecutors.

3-4-404. Contracting for Prosecutor Services. The Tribal Prosecutor may contract with a licensed attorney to prosecute cases where the Tribal Prosecutor and the Assistant Prosecutor may have a conflict or for other circumstances where both may be unable to prosecute the case.

3-4-405. Conflict of Interest. (1) It shall be the duty of ~~any Tribal Prosecutor~~ *the Attorney General or any assistant or deputy Attorney General* to disqualify themselves from adjudicating any criminal or civil case where any of the following circumstances exist: (a) the prosecutor is interested in the outcome of the case by reason of business, financial or professional association; (b) the prosecutor is related by blood or marriage within the second degree to any party or to counsel of any party; or (c) where the prosecutor has rendered legal assistance to any party.

CHAPTER V. TRIBAL DEFENDER

3-5-501. Establishment and Hiring. There may be established the position of "Tribal Defender." Said Tribal Defender or his/her assistant may represent certain indigent persons brought before the Crow Tribal Court in criminal actions if the criminal offense charged is punishable by possible incarceration. The Tribal Defender, if the position is established, will be hired and supervised by the Crow Tribal Executive Branch in accordance with the Crow Tribal Personnel Practices and Policy Manual with final approval by the Crow Tribal Chairperson.

3-5-502. Qualifications. The Tribal Defender shall have the following minimum qualifications:

1. Possess a juris doctorate from an ABA accredited law school, or shall have completed a course of study on Indian justice systems or lay advocate program, or shall have at least five (5) years relevant experience in a federal, state, or tribal court. In addition, the Tribal Defender must be admitted to practice in the Crow Tribal Courts pursuant to §§ 3-6-601 and 3-6-602 of this Title.