



BLACKFEET NATION

P.O. BOX 850 BROWNING, MONTANA 59417
Telephone (406) 338-7521 Fax: (406) 338-7530

EXECUTIVE COMMITTEE

TIMOTHY F. DAVIS – CHAIRMAN
ILIFF “SCOTT” KIPP, SR. – VICE CHAIRMAN
LAUREN MONROE, JR. – SECRETARY
TINSUWELLA BIRDRAITLER – TREASURER

BLACKFEET TRIBAL BUSINESS COUNCIL

TIMOTHY F. DAVIS
ILIFF “SCOTT” KIPP, SR.
LAUREN MONROE, JR.
STACEY A. KELLER
RODNEY R. GERVAIS, JR.
VERA A. WEASELHEAD
MARK E. POLLOCK
MARVIN WEATHERWAX, JR.
VIRGIL LAST STAR

RESOLUTION

Approving Public Comment for the Blackfeet Civil Commitment Law

No. 131-2022

- WHEREAS,** The Blackfeet Tribal Business Council is the duly constituted governing body within the exterior boundaries of the Blackfeet Indian Nation pursuant to Section 16 of Act of June 18, 1934 and Amendments thereof, and
- WHEREAS,** The Blackfeet Tribal Business Council has been organized to represent, develop, protect and advance the views, interests, and resources education and resources of the Blackfeet Indian Reservation, and
- WHEREAS,** Pursuant to the Blackfeet Tribal Constitution and Bylaws, Article VI, Section 1(k), the Blackfeet Tribal Business Council is empowered to promulgate ordinances for the purposes of safeguarding the peace and safety of residents of the Blackfeet Indian Reservation, and
- WHEREAS,** The Blackfeet Tribal Business Council through the Legal Department and the Blackfeet Family Services Evaluation Team, has submitted a draft of the “Blackfeet Civil Commitment Code”, and
- WHEREAS,** The Blackfeet Tribal Business Council acknowledges the dire need to ensure that public services are made available to address the mental health and substance abuse needs of the Blackfeet Community, to which such needs include protective services, treatment resources and public resources to address these social needs as a community, to which immediate response must be provided, and

WHEREAS, The Blackfeet Tribal Business Council through the Legal Department and the Blackfeet Family Services Evaluation Team, has submitted a draft of the “Blackfeet Civil Commitment Code”, and

WHEREAS, The Blackfeet Legal Department has requested a sixty (60) day public comment period for the opportunity to incorporate additional amendments that may improve the Code, and

WHEREAS, The Blackfeet Tribal Business Council is desirous to advance the implementation of the Blackfeet Civil Commitment Code on the Blackfeet Indian Reservation through the implementation and codification in the Blackfeet Law and Order Code-Family Code, now

THEREFORE, BE IT RESOLVED:

1. The Blackfeet Tribal Business Council hereby approves the Blackfeet Civil Commitment Code attached hereto and incorporated into this Resolution by this reference. After an opportunity for a sixty (60) day public comment the Blackfeet Civil Commitment Code will be codified into the Blackfeet Law and Order Code, Family Code.
2. A copy of the Blackfeet Civil Commitment Code shall be made available by notice in local media, that the Code will be available on the Blackfeet Nation Website- with comments to be made by email; or, by hard-copy from the Legal Department with written comment to be made to the Legal Department.
3. Upon conclusion of the public comment period, the Blackfeet Tribal Business Council will review comments for final approval.
4. If any provisions of the Blackfeet Civil Commitment Code or the application thereof to any person, entity or circumstance is held invalid, such invalidity shall not affect any other provision or applications of the Code and such invalidity shall be severed from the Code.
5. The Chairman or the Vice-Chairman in the Chairman’s absence and the Secretary of the Blackfeet Tribal Business Council are hereby authorized to sign this Resolution and any other documents to effectuate the purposes of this Resolution.

ATTEST:

**THE BLACKFEET TRIBE OF THE
BLACKFEET INDIAN RESERVATION**



LAUREN J. MONROE, JR.
Secretary



TIMOTHY F. DAVIS
Chairman

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Blackfeet Tribal Business Council in a duly called noticed and convened General Session assembled for business the 2nd day of December, 2021, with Nine (9) members present to constitute a quorum and by a vote of Nine (9) For, Zero (0) Opposed and Zero (0) Abstained.

(SEAL)


LAUREN J. MONROE JR., Secretary
Blackfeet Tribal Business Council

BLACKFEET CIVIL COMMITMENT CODE
Blackfeet Adult Protection Code, of the Family Code
CHAPTER _____

DECEMBER 2, 2021 RESOLUTION No. _____

Section 1. Policy	3
Section 2. Findings	3
Section 3. Purpose	3
Section 4. Definitions	3
Section 5. Jurisdiction	6
Section 6. Immunity	6
Section 7. Jail or Correctional Facilities Prohibited	6
Section 8. Incapacitation	6
Section 9. Due Process	7
Section 10. Burden of Proof	7
Section 11. Temporary Detainment by Law Enforcement	8
Section 12. Determination by the Presenting Officer	8
Section 13. Petition for Person in Need of Care	8
Section 14. Tribal Court Procedure Upon Receipt of Petition	9
Section 15. Initial Hearing Procedure	10
Section 16. Contested Hearing	10
Section 17. Findings by the Tribal Court Judge	11
Section 18. Petition for Release	12
Section 19. Status Review Hearings	12
Section 20. Contempt	12
Section 21. Voluntary Admission	12
Section 22. Records	13
Section 23. Petition for Recommitment	14
Section 24. Appeal	15

Respondent Rights	16
Affidavit	17
Petition for a Person In Need of Care Requiring Court Intervention (Sample)	19
Temporary Detention Order and Notice of Hearing (Sample)	22
Civil Commitment Order (Sample)	25

Section 1. Policy

The Blackfeet Tribe is familiar with the debilitating effects suffered by persons addicted to drugs and alcohol and the devastation caused by untreated mental illness. It is the policy of the Blackfeet Tribe to promote the health, safety, culture, and general welfare of all persons on the Blackfeet Reservation to recognize mental illness and substance use disorder as a disease subject to a variety of treatment alternatives and choices and, to recognize that those persons who are determined to be a danger to themselves or others are entitled to receive all resources available, in the least restrictive and most culturally relevant environment.

Section 2. Findings

The Blackfeet Tribe hereby finds:

- A. It is in the best interests of the Blackfeet Tribe to make laws which provide for the health, safety and welfare, of its members and persons found within the Blackfeet Reservation; and
- B. It is in the best interests of the Blackfeet Tribe to provide a forum which is fair, accessible and culturally appropriate for the protection of its members and persons who reside on the Blackfeet Reservation who may be mentally ill, chemically dependent, or a danger to themselves or others; and
- C. All cases involving the civil commitment of persons on the Blackfeet Reservation are adjudicated through the Blackfeet Tribal Court, to which civil jurisdiction applies to all persons found on the Blackfeet Reservation.

Section 3. Purpose

The purpose of this Code is to:

- A. Secure for each person, an immediate evaluation and treatment as will be suited to the needs of the person, and to provide cares and skilled treatment that protects personal dignity and cultural integrity; and
- B. Provide a community-based response; and
- C. Secure appropriate inpatient treatment when less restrictive alternatives are unavailable or inadequate when a person is so seriously mentally impaired as to require institutionalized care; and
- D. Assure that due process of law is upheld for any person subject to the provisions of this Code.

Section 4. Definitions

For the purposes of this chapter, the following definitions will apply:

- A. “**Alternative Resources**” means other resources made available when inpatient treatment is not recommended including: Healing to Wellness Courts, if proceedings are subject to criminal charges-probation, deferred or suspended sentences, informal proceedings under the Family Code; referrals to community services, etc.

- B. **“Approved Facility”** is a facility that is determined by Tribal Health that such facility is adequate to provide mental health or chemical dependency services for a “Person in Need of Care”. This term does not include a detention or jail facility.
- C. **“Assessment”** means an in-depth look into the scale of one's substance use for the purpose of making a diagnosis and recommendations for treatment. These evaluations look into the type of substance, the dosage, and the frequency with which it is being used to provide information on substance use.
- D. **“Case Manager”** means a person who is responsible for service coordination, planning, and crisis intervention for persons eligible for community-based services.
- E. **“Chemical Dependency”** means the use of any chemical substance, legal or illegal, that creates behavioral or health problems, or both, resulting in operational impairment. This term includes alcoholism, drug dependency, or both, that endanger the health, interpersonal relationships, or economic functions of an individual or the public health, welfare, or safety.
- F. **“Civil Commitment”** means a court order requiring an individual to receive an assessment/evaluation or treatment (inpatient or outpatient) upon a finding that a person is a “Person in Need of Care”.
- G. **“Community-Based Facilities or Services”** means those facilities and services that are available for the evaluation, treatment, and rehabilitation of persons in need of care.
- H. **“Court”** means the Blackfeet Tribal Court.
- I. **“Court Intervention”** means a court order proceeding for an individual’s mental health or substance use disorder issues as authorized under this Code.
- J. **“Detained”** means a person temporarily confined to a health facility by law enforcement or a court order for the purpose of assessing or evaluating the person.
- K. **“Emergency situation”** means a situation in which any person is substantially unable to care for oneself or is in imminent danger of bodily harm from the activity of the person who appears to be suffering from mental health, major depressive, or substance abuse disorders.
- L. **“Evaluation”** means a clinical psychological examination of a mental health professional.
- M. **“Family member”** means any competent person under the jurisdiction of the Blackfeet Tribe, custom and tradition who is a family member of a “Person in Need of Care” including but not limited to: the spouse, partner, mother, father, adult children, parent, or member of the household, whose life has been affected by the actions of the “Person in Need of Care”. This term also includes an extended family member or friend with an established on-going relationship with the “Person in Need of Care” when a family member is not available.
- N. **“Incapacitation”** means any person who is impaired by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, to the extent that the person lacks sufficient

understanding or capacity to make or communicate responsible decisions concerning oneself.

- O. **“Interested Person”** means the person initiating an action for “Person in Need of Care” through the presenting officer in Tribal Court. Persons who have standing under this term include: the presenting officer, prosecutor, family members, law enforcement, professional person, or social worker.
- P. **“Intoxicated Person”** means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or drugs.
- Q. **“Law Enforcement”** means Blackfeet Law Enforcement Services or any other law enforcement agency commissioned by the Blackfeet Tribe to perform the purposes of this Code.
- R. **“Mental Disorder”** means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. This term refers to any DSM-IV criteria. The term does not include:
 - 1. addiction to drugs or alcohol;
 - 2. drug or alcohol intoxication;
 - 3. developmental disability; or
 - 4. epilepsy.

A mental disorder may co-occur with addiction or chemical dependency.

- S. **“Person in Need of Care”** is a legal determination of a person, to which such person demonstrates a risk to self or others; and/or, well-being is diminished due to mental health disorders, and/or substance use disorders. A person is deemed “in need of care” if the conduct of the person has:
 - 1. caused self-inflicted injury or injury to others or the imminent threat thereof;
 - 2. resulted in behavior that creates serious difficulty in protecting the person's life or health even with the available assistance of family, friends, or others;
 - 3. is treatable, with a reasonable prospect of success and is consistent with the least restrictive course of treatment as provided in this Code, at or through the facility to which the person is to be committed;
 - 4. has deprived the person of the capacity to make an informed decision concerning treatment; or, has resulted in the person's refusing or being unable to consent to voluntary admission for treatment; and
 - 5. poses a significant risk of the person becoming seriously mentally ill or seriously behaviorally disordered, or will, if untreated, predictably will result in further serious deterioration in the mental condition of the person; and predictability may be established by the patient's medical history.
- T. **“Presenting Officer”** means an officer of the Court who represents the Tribe in family matters pursuant to the Blackfeet Family Code. For purposes of this Code, the Presenting officer represents the Interested Party or Parties.

- U. **“Professional”** means a licensed medical doctor or a person who meets criteria established by, a Federally recognized Indian Tribe, Indian Health Service, a state or federal licensing agency or a licensed mental health facility for certification as a mental health professional; or any licensed addictions counselor; or, licensed social worker.
- V. **“Respondent”** means the individual who is named as a “Person in Need of Care” in the legal proceedings.
- W. **“Social Services”** means any entity that provides a range of public services intended to support the needs of persons who lack access or ability to basic needs, such services includes but is not limited to: housing, TANF, GA, family services, job training, etc.
- X. **“Substance Abuse”** means the illegal or improper consumption of any substance.
- Y. **“Substance Use Disorder”** means the recurrent use of alcohol and/or drugs causes clinically significant impairment, including health problems, disability, and failure to meet major responsibilities at work, school, or home.
- Z. **“Substantial Risk of Harm”** means a person at substantial risk if he or she causes physical harm upon oneself, or another person, as evidenced by recent actions, threats, and attempts to inflict physical harm on oneself or other person(s).
- AA. **“Temporary Commitment Order”** means an order by a Tribal Court Judge for a respondent to be temporarily detained in an approved facility pending the completion of an assessment or evaluation. Temporary means 72 hours unless such commitment is held over by a Judge to ensure an assessment or evaluation is completed.
- BB. **“Treatment”** means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, which may be extended to chemically dependent persons, intoxicated persons, and family members.

Section 5. Jurisdiction

- A. The Blackfeet Court shall have original and exclusive jurisdiction over civil commitment matters arising on the Blackfeet Reservation as set forth under this Code.
- B. Persons subject to the Tribe's civil commitment jurisdiction include all persons residing or found on the Blackfeet Reservation.

Section 6. Immunity

Any Petitioner acting in good faith upon either actual knowledge or reliable information shall not be subject to civil or criminal penalties for filing a petition for commitment under this Code.

Section 7. Jail or Correctional Facilities Prohibited

Except when ordered by the Court pursuant to criminal offenses committed, no person subject to this Code shall be confined in a jail or correctional institution.

Section 8. Incapacitation

At any time during these proceedings, a professional finds an alleged “Person in Need of Care” is incapacitated or incompetent, the Court shall be informed with supporting documentation. Actions under this Code shall be dismissed upon the filing of a petition for conservatorship or guardianship under separate procedures governing such action.

Section 9. Due Process

- A. **Rights.** At all stages of proceedings under this Code, the Respondent shall enjoy all rights afforded to persons as provided for by the State of Montana, and the following right to:
1. appointment of legal counsel from the Tribal Defender’s Office to represent the Respondent prior to the initial hearing; or counsel of choice at Respondent’s own expense.
 2. a hearing with the Tribal Court Judge within 72 hours of when first detained; and, when Respondent had capacity to participate in the initial hearing,
 3. request a closed or open hearing,
 4. provide testimony, present documentary evidence, call witnesses and ask questions of all witnesses,
 5. access his or her personal medical records,
 6. have his or her personal information and medical records confidential, with the exception of the Judge, Presenting Officer and medical professionals,
 7. be notified in writing of his or her rights regarding hospitalization and other inpatient treatment at the time of admission,
 8. contact legal counsel while in inpatient treatment,
 9. be free from excessive or unnecessary medication, experiential research, restraint or isolation or hazardous treatment,
 10. be present at the hearing either in person or via teleconference or video conference,
 11. to have an examination by another professional, and
 12. to appeal at any stage of the legal proceedings.
- B. **Notice of Proceedings.** Respondent and his or her legal counsel and any court appointed guardian shall receive notice of all legal proceedings. The initial hearing notice shall be personally served upon a detained Respondent, as reasonably possible prior to the hearing. If Respondent is not detained, personal service shall be completed when Respondent is located and a court date shall be set on the notice within 72 hours. Notice of a status hearing shall be served at least five (5) days prior to the hearing. Legal pleadings not requiring personal service may be made by mail, facsimile, or email.

Section 10. Burden of Proof

- A. **Probable Cause.** In an action for a “Person in Need of Care” probable cause shall be the required burden of proof for the following:

1. The temporary detention of an alleged “Person in Need of Care” by a law enforcement officer to an approved facility pending an initial hearing.
 2. Court order for an assessment/evaluation.
 3. Exparte court order granting a petition for a “Person in Need of Care”.
- B. Clear and Convincing Evidence. Clear and convincing evidence shall be the required burden of proof for the following:
1. Civil commitment order for inpatient/outpatient treatment at an approved facility.
 2. Recommitment to civil commitment.
 3. That Respondent is no longer a danger to oneself or others.

Section 11. Temporary Detainment by Law Enforcement

- A. Affidavit of Probable Cause. A law enforcement officer may detain an alleged “Person in Need of Care” at an approved facility when the officer has probable cause, as established in the affidavit.
- B. Affidavit as Legal Temporary Detainment. Upon issuance of the affidavit to the approved facility, such facility shall treat the affidavit as the legal authority to detain an alleged “Person in Need of Care” not to exceed 72 hours, beginning from the time the individual is detained. A copy of the affidavit shall be presented to the approved facility’s staff on duty, pending the court intervention, unless the individual voluntarily consents to treatment without court intervention. The detainment shall expire upon 72 hours, unless extended by Court order if the person is to be stabilized to complete an assessment/evaluation.
- C. Filing with the Presenting Officer. The law enforcement officer shall submit an affidavit immediately to the Presenting Officer, either in person or by electronic means.

Section 12. Determination by the Presenting Officer

- A. Upon receipt of the affidavit, the Presenting Officer shall determine if probable cause exists that the person is a “Person in Need of Care”. The determination shall include consultation with the Interested Party, Tribal Prosecutor and attending professional or social worker.
- B. If probable cause is met, the Presenting Officer shall have 24 hours to file a petition for “Person in Need of Care” from the time the person was detained; or, from the time the petition was received by an Interested Party if the person was not detained.
- C. If probable cause is not met, the Presenting Officer shall file a letter declining the matter to the Interested Party or Parties, explaining the legal standard of probable cause and the lacking factors requiring a determination of the person as a “Person in Need of Care”.

Section 13. Petition for Person in Need of Care

A petition for an alleged “Person in Need of Care” may be commenced by any “Interested Person” by filing an affidavit with the Presenting Officer. The Presenting Officer shall represent the Interested Party as the Petitioner in the matter. The alleged “Person in Need of Care” need not be detained at the time of petition. The petition shall contain:

- A. the name, address and the Interested Party's relationship to the Respondent,
- B. the name, address, age, marital status and occupation, if known, of the Respondent,
- C. the name, address, if known, of Respondent's nearest relatives,
- D. the facts upon which the allegations are based from the affidavit filed by an "Interested Person(s)",
- E. a statement by the Presenting Officer alleging that the Respondent is a "Person in Need of Care", a statement by medical personnel, law enforcement, or other persons having knowledge of Respondent's illness, and a statement, if known, of the nature of the mental illness or substance use disorder,
- F. a statement whether the person is detained,
- G. a statement whether an assessment/evaluation has taken place,
- H. a statement as to whether the Respondent is at risk of harm to oneself or another person necessitating immediate apprehension and detention,
- I. a statement addressing whether alternatives to commitment were explored and why such alternatives were rejected, and
- J. documentation in the form of medical reports, letters from persons with knowledge of the circumstances necessitating commitment, examiner's statements, affidavits, police reports, and/or other reliable documents supporting the allegations in the petition.

Section 14. Tribal Court Procedure Upon Receipt of Petition

- A. Once a petition for "Person in Need of Care " is filed with the Tribal Court Clerk, the petition shall be forwarded to a Tribal Court Judge for immediate review and hearing.
- B. The Tribal Court Judge shall review the petition to determine if it is supported by probable cause that the Respondent is a "Person in Need of Care". The Judge shall then issue an ex parte order with the following:
 - 1. Appointment of a public defender to represent the Respondent,
 - 2. If Respondent is currently not detained, and there is no probable cause for immediate detainment of the Respondent, a show cause order shall be served on the Respondent with a hearing scheduled within 72 hours of service to include a copy of the petition, and a copy of Respondent's rights,
 - 3. If the person is currently not detained, and there exists probable cause that Respondent should be temporarily detained for assessment/evaluation, the Judge shall order Blackfeet Law Enforcement to detain the Respondent at an approved facility for a period not to exceed 72 hours pending an initial hearing. The law enforcement officer shall also serve the Respondent with a notice of the hearing, a copy of the petition, temporary detention order and a copy of Respondent's rights.
 - 4. an order for an assessment or evaluation of the Respondent, if one has not been completed, and

5. whether the 72 hour detainment shall be extended due to Respondent's need for detoxification or stabilization as recommended by the professional; or,
 6. If the Tribal Court Judge determines that there is no probable cause, the petition shall be dismissed and if the Respondent is detained, order the release of the Respondent.
- C. The Tribal Court Clerk shall serve the petition and hearing notice to the public defender.

Section 15. Initial Hearing Procedure

After the Tribal Court Judge finds probable cause on the Petition for a "Person in Need of Care", the Judge shall hold an initial hearing within 72 hours of initial detention or the show cause hearing notice for the purpose of ordering the appropriate response from the evidence. The hearing may be held at an approved facility or by video conference.

- A. The Judge shall read the petition and Respondent's Rights to the Respondent or his legal counsel or representative.
- B. The Judge shall take testimony, receive recommendations from the person(s) who administered the assessment or evaluation, police reports, medical reports, and consider the Presenting Officer's recommendations.
- C. The Judge shall request from the Respondent of whether the Respondent agrees to the recommendations; or, would like to proceed with a contested hearing.
- D. If the Respondent elects to contest the hearing, Respondent shall inform the Court if he or she is requesting a continuance to prepare his or her case. The continuance shall not exceed five (5) days.
- E. The Judge shall consider the release status of the Respondent pending the contested hearing or for an opening in a treatment facility. The judge's determination shall be based upon the Professional and Presenting Officer recommendations regarding protection of the Respondent's safety.
- F. If the Respondent agrees to the recommendations, the Tribal Court Judge may determine whether the matter will proceed as a voluntary commitment without court intervention.

Section 16. Contested Hearing

- A. A contested hearing shall be tried as a civil matter. The Tribal Court shall have the power to issue subpoenas to compel the testimony of witnesses or the production of books, records, documents or any other physical evidence related to the determination of the case. In the absence of justification satisfactory to the Tribal Court, a person who fails to obey a subpoena may be cited and held in contempt.
- B. Respondent shall be present at the contested hearing either at an approved facility or the Tribal court; but may also be present by video conference if approved by the Judge.
- C. The hearing shall be closed to the general public, unless a public hearing is requested by the Respondent and the Judge approves.
- D. The Judge shall admit and consider all relevant evidence presented at the contested hearing.

- E. The Petitioner must prove by clear and convincing evidence at the contested hearing that the Respondent is in need of civil commitment.
- F. The Tribal Court shall then make its Findings in accordance with Section 17.

Section 17. Findings by the Tribal Court Judge

After hearing all relevant evidence on at the initial hearing and contested hearing-if held, the Judge shall make a determination as follows:

- A. Person in Need of Care. Based upon all the information provided to the Court, the Judge shall declare the Respondent as a “Person in Need of Care” if such information meets probable cause that court intervention is necessary to protect the Respondent’s health, welfare and safety.
- B. Civil Commitment. Based upon a recommendation from the Professional that the Respondent should be under the care of a mental health facility or substance abuse treatment, either inpatient or outpatient; and, the Judge finds by clear and convincing evidence that such findings support the recommendation, the Judge shall order a civil commitment as recommended by the assessment or evaluation that the Respondent meets the criteria for civil commitment for treatment, and order as follows:
 - 1. A social services case manager shall be assigned to assist with supportive services to the Respondent and make recommendations and reports to the Court.
 - 2. Commitment to an inpatient treatment program, not to exceed 90 days, unless extended by the Court or the Respondent,
 - 3. Commitment to Outpatient services, not to exceed (one) 1 year,
 - 4. Commitment to transitional housing for up to 90 days after the completion of an inpatient treatment program;
 - 5. Monitoring and supportive services as recommended by the treatment provider for a period of up to 180 days after completion of inpatient treatment program;
 - 6. Further assessment, if necessary;
 - 7. Authorization for the exchange of records between treatment providers and to the court and Presenting Officer;
 - 8. A review of the proceedings every sixty (60) days by informal hearing with Respondent and legal counsel or representative and case manager.
- B. The Case Manager shall facilitate case staffing with all persons involved in providing any service to the Respondent outlining the treatment being administered, services being provided, the progress of the Respondent. The monthly case review shall be documented to the Court at least five (5) days prior to the informal hearing.
- C. The Presenting Officer shall provide a court report to the Tribal Court, and Respondent and his or her legal counsel at least five (5) calendar days before each hearing addressing the progress the Respondent has made to date and the recommendations of the Presenting Officer and the Treatment Facility.

- D. Lack of Probable Cause. The matter shall be dismissed if the evidence does not support a finding of probable cause that the Respondent should be found as a “Person in Need of Care”. The Court shall dismiss the matter and may refer to the matter to other alternative responses if necessary.

Section 18. Petition for Release

- A. The Respondent, or an authorized representative, may at any time petition the Tribal Court for release from a civil commitment order or facility by an oral request to the Court for release during a hearing, or by the filing of a written petition with the Court.
- B. Upon receipt of a written petition for release, the Tribal Court shall review the petition, and serve a copy upon the Presenting Officer, Case Manager and Treatment Facility or Professional. Upon receipt of a written petition for release, the Tribal Court shall allow the Presenting Officer and Treatment Provider seven (7) calendar days to respond.
- C. If, after consideration of the petition and Treatment Provider’s response, the Tribal Court finds substantial evidence that the Respondent no longer poses a danger to self or others, the Tribal Court shall hold a hearing on the matter.
- D. The Court shall consider the Petition for Release and make findings as to providing treatment in a least restrictive manner while ensuring the safety of the Respondent and community.
- E. If after the hearing, the evidence does not support release from civil commitment for lack of clear and convincing evidence that Respondent no longer poses a danger to self or others, the Court shall continue the commitment.
- F. The findings and order of the Tribal Court shall be filed with the Clerk of Court who shall serve certified copies upon the Respondent, Petitioner, and the Treatment Provider.

Section 19. Status Review Hearings

The Tribal Court shall conduct a status review hearing, in an appropriate location, every thirty (30) days for persons under court order. The status report shall include the necessary information and recommendations in a manner that addresses the needs of the Respondent in a least restrictive manner.

Section 20. Contempt

A person who violates an order from the Tribal Court may be found to be in contempt upon proof by clear and convincing evidence after a show cause hearing that the offender knowingly or willfully did not comply with an order of the Tribal Court. Contempt may include a fine not to exceed \$500.00 and/or further corrective action necessary to bring the contemtor back into compliance. Alternative orders may include admission to the Healing to Wellness Court, probation or suspended jail time.

Section 21. Voluntary Admission

This section may not be construed to limit the right of a person to make voluntary application for admission at any time to a mental health facility, alcohol or drug facility, or professional person.

- A. An application for admission to a mental health or treatment facility must be in writing on a form prescribed by an approved facility. Upon voluntary admission, the individual must be made aware that:
 - 1. That if the individual seeks release, the individual may be held involuntarily for up to five (5) days (excluding weekends and holidays after requesting to be released);
 - 2. That an approved facility may request the Tribal Court to involuntarily commit the individual; and
 - 3. A statement of the rights of the person voluntarily applying for admission, as set out in this Code, must be furnished to the patient within 12 hours.
- B. An individual who wishes to voluntarily apply for admission to an approved facility shall first obtain certification from a professional person that the applicant is suffering from a mental or substance use disorder.
- C. A person voluntarily entering or remaining in a mental health facility shall enjoy all the rights secured to a person involuntarily committed to the facility.
- D. A person who enters an approved facility on his or her own will, shall be held confidential to such person.

Section 22. Records

- A. Court Records Sealed. All records of involuntary civil commitment proceedings before the Tribal Court shall be sealed and are available only to the following persons:
 - 1. The Respondent;
 - 2. The Petitioner;
 - 3. Presenting Officer;
 - 4. Court Case Manager;
 - 5. Treatment providers while they are providing services court ordered through the civil commitment proceedings;
 - 6. Other persons or agencies by order of the Tribal Court who have demonstrated a compelling interest in knowledge of the civil commitment records.
- B. Records of treatment providers. Records of treatment providers are considered private protected records which cannot be released except under the following circumstances:
 - 1. Records of Tribal Health Programs may be released to the Presenting Officer, Case Manager, the Court, the Respondent, the Petitioner, and the Respondent's attorney upon order of the Tribal Court for the purpose of supporting or defending a petition for civil commitment.
 - 2. Records of Tribal Health Programs pertaining to the mental health and chemical use of the Respondent may be released to treatment providers currently providing treatment or evaluating whether they are able to provide treatment upon order of the Tribal Court for

the purpose of determining appropriate treatment and services for the Respondent.

3. Records of Tribal Health may be released to a County Health and Social Services Agency and the County attorney for the purpose of supporting a petition for civil commitment upon order of the Tribal Court.

C. Records of other health care providers.

1. Records of other health care providers including physician, hospital, emergency room, psychiatric, and chemical dependency records may be released to Tribal Health, Presenting Officer, Court case manager, and Tribal Court by order of the Tribal Court.
2. Records of other health care providers including physicians, hospitals, emergency room, psychiatric, and chemical dependency records in the possession of the Presenting Officer or Tribal Health, may be released by the Presenting Officer or Tribal Health to current treatment providers by order of the Tribal Court upon a showing that the records are necessary to determine or effect appropriate treatment for the Respondent.
3. Records of other health care providers including physician, hospital, emergency room, psychiatric, and chemical dependency records in the possession of the Presenting Officer or Tribal Health may be released by the Presenting Officer or Tribal Health to county social service agency or county attorney by order of the Tribal Court upon a showing that the records are necessary for the County to file civil commitment proceedings and that such proceedings can not be filed in Tribal Court.

Section 23. Petition for Recommitment

- A. Filing for Recommitment. Civil Commitment Petitions filed within 365 days of the dismissal of previous civil commitment proceedings shall be titled "Petition for Recommitment".
- B. Contents of Petition. A Petition for Recommitment shall contain all of the information as required as under this Code, and shall also contain :
 1. a history of previous commitments,
 2. services provided to date,
 3. progress by the Respondent,
 4. continued evidence that the Respondent continues to be a danger to him/herself or others or continues to be a "Person in Need of Care",
 5. a professional's statement made after an full examination of the Respondent made within 15 days of the filing of the petition supporting the recommitment, if possible, and
 6. explanation of the current needs of the Respondent, and recommendations for services.

C. Procedure.

1. The Presenting Officer shall file the petition and supporting documents with the court and shall personally serve a copy on the Respondent. The Respondent's attorney or

public defender may be served by personal service, mail, facsimile or email.

2. Upon the receipt of the petition, the Tribal Court Judge shall follow the same procedures as required under this Code.
3. The Respondent shall retain all rights in proceedings for recommitment as afforded under the procedures under this Code.

Section 24. Appeal

The Respondent shall have a right to appeal any order by the Tribal Court detaining the Respondent to the Blackfeet Court of Appeals through Habeas Corpus. Appeals filed under this Section shall be pursuant to the procedures set forth for incarcerated persons, by the Blackfeet Court of Appeals procedures of the Blackfeet Law and Order Code.

The Respondent may appeal the final commitment order not resulting in detainment of the Respondent in accordance with the Court of Appeals procedure under the Blackfeet Law and Order Code.

Respondent Rights

RESPONDENT RIGHTS

I have been advised of the following rights afforded to me during these proceedings. I acknowledge that these rights are afforded to me at every stage of the legal proceedings involving this matter.

I hereby acknowledge, that I enjoy the following rights:

1. That I shall be able to have a hearing with the Tribal Court Judge within 72 hours of when these proceedings began against me,
2. That I will be present at the hearing either in person or via teleconference or video conference,
3. That I will be appointed a public defender to represent me, or that I will have the right to hire my own legal counsel,
4. I may request the Court to conduct my hearing either closed or open to the public,
5. I have the right to provide testimony, present documentary evidence, call witnesses and ask questions of all witnesses,
6. I am able to access my personal medical records,
7. That my personal information and medical records are confidential, with the exception of the Judge, Presenting Officer and medical professionals,
8. That if I am admitted or committed to a treatment center, I will be notified in writing of my rights regarding hospitalization and other inpatient treatment at the time of admission,
9. That I may contact legal counsel while in inpatient treatment,
10. That I will be free from excessive or unnecessary medication, experiential research, restraint or isolation or hazardous treatment,
11. I may obtain an additional examination by a provider of my choice, and
12. The right to appeal at any stage of these legal proceedings.

Affidavit

**IN THE BLACKFEET TRIBAL COURT FOR
THE BLACKFEET INDIAN RESERVATION**

IN THE MATTER OF:

Respondent

DOB: _____

A Person In Need of Care

Case No. _____

AFFIDAVIT FOR PETITION OF A PERSON IN NEED OF CARE

I, _____, being first duly sworn, upon oath, deposes and states as follows:

1. That I am an Interested Party of the above-named Respondent as I am one of the following:

Professional___ Law Enforcement___ Family member___ Social Services___

Presenting Officer___ Prosecutor___.

2. I hereby state under oath that I believe the Respondent is a "Person In Need of Care", who

has demonstrated a risk to him or herself or another person; and, is or believed to be

suffering from a mental health disorder or substance use disorder. I have personally

observed the Respondent's actions as

follows: _____

3. I am aware of previous instances where the Respondent has received past intervention by court proceedings or by a professional in the past, as follows:

4. I am requesting the following relief in this matter.

_____.

Further, Affiant sayeth not.

DATED this _____ day of _____, 2021.

INTERESTED PARTY

*The following pertains to a situation where a law enforcement officer is listed as the Interested party and has been dispatched or received a court order to pick-up and hold the Respondent.

NOTICE TO APPROVED FACILITY:

I am a duly commissioned Law Enforcement Officer pursuant to the laws of the Blackfeet Tribe, to which I have brought the above-named Respondent to your facility for temporary detention pending an assessment/evaluation of the named Respondent and potential Blackfeet Tribal Court Intervention.

This affidavit shall serve as the legal authority to hold the above-named person pursuant to the Blackfeet Civil Commitment Code, Chapter 20, of the Blackfeet Law and Order Code, Section 11. Temporary Detainment by Law Enforcement. (B) Affidavit as Legal Temporary Detainment.

Upon issuance of the affidavit to the approved facility, such facility shall treat the affidavit as the legal authority to detain an alleged "Person in Need of Care" not to exceed 72 hours, beginning from the time the individual is detained. A copy of the affidavit shall be presented to the approved facility's staff on duty, pending the court intervention, unless the individual voluntarily consents to treatment without court intervention. The detainment shall expire upon 72 hours, unless extended by Court order if the person is to be stabilized to complete an assessment/evaluation.

Petition for a Person In Need of Care Requiring Court Intervention (Sample)

**IN THE BLACKFEET TRIBAL COURT FOR
THE BLACKFEET INDIAN RESERVATION**

IN THE MATTER OF:

Respondent

DOB: _____

Case No. _____

A Person In Need of Care

PETITION FOR A PERSON IN NEED OF CARE REQUIRING COURT INTERVENTION

COMES NOW, the Blackfeet Presenting Officer for and on behalf of the Interested Party who has initiated this action on the alleged Person In Need of Care, hereinafter as the Respondent. I hereby believe that there exists probable cause in this matter for Court intervention for the named "Person in Need of Care" as follows.

1. The Interested person initiating this action is _____.

2. Respondent's age is: _____.

3. Respondent is:

Married _____, and his or her name and address is _____

Not Married _____ Widowed _____

5. Respondent is currently under the supervision of: _____;
and his or her address is _____

6. Respondent's children, ages and addresses are as follows: _____

7. Respondent's nearest relatives and addresses are as follows: _____

8. As the Petitioner, I hereby swear upon oath, that upon which the allegations are based, to which, I believe the above-named Respondent is a "Person in Need of Care" based upon the

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

- BLACKFEET LAW AND ORDER CODE CHAPTER ____ CIVIL COMMITMENT CODE PAGE 21 of 27

14. Attachments In support of this Petition are as follows: _____

15. I am asking for the following relief: (a) Pick up and Hold for Assessment/Evaluation; and,
(b) that the assessment/evaluation recommendations be ordered by this Court and any other
just relief that is in the best interests of the Respondent.

On behalf of the Interested Party or Parties, the Presenting Officer hereby approves this
petition on belief that there exists probable cause that the Respondent is a Person in Need of Care,
necessitating court intervention as may be prescribed by a medical professional or licensed
addictions counselor.

Dated this _____ day of _____, 20____

PRESENTING OFFICER

WITNESS the Clerk of Court above named and the seal of the Court affixed the
_____ day of _____, 20____

CLERK OF COURT

Temporary Detention Order and Notice of Hearing (Sample)

**IN THE BLACKFEET TRIBAL COURT FOR
THE BLACKFEET INDIAN RESERVATION**

IN THE MATTER OF:

Respondent

DOB: _____

Case No. _____

A Person In Need of Care

TEMPORARY DETENTION ORDER AND NOTICE OF SHOW CAUSE HEARING

This matter having come before the Court on a Petition for a Person in Need of Care Requiring Court Intervention on _____. Based upon the information provided in the Petition and probable cause appearing, this Court now issues the following:

FINDINGS OF FACT

1. The Respondent is an adult/juvenile, a member or descendant of the Blackfeet Tribe or member of another Indian Tribe, or Non-Indian.
2. The Respondent has the following relatives or next of kin:
3. The Respondent was brought to the Blackfeet Emergency Room on _____,

based upon the following incident as outlined in the BLES Affidavit;

OR, The Interested Party _____ in this matter petitioned the Court, to which the Presenting Officer affirmed that the following situation constituted a matter in which the Respondent became a harm to himself/herself or another person, thereby establishing probable cause that the Respondent be temporarily detained pending an assessment/evaluation.

From these Findings of Fact, the Court now issues the following,

CONCLUSIONS OF LAW

1. The Blackfeet Tribal Court has exclusive personal and subject matter jurisdiction over this matter pursuant to the Blackfeet Civil Commitment Code of the Blackfeet Law and Order Code.
2. The Blackfeet Tribal Court finds probable cause that the Respondent be ordered to complete an assessment/evaluation as supported by the evidence provided through the initial hearing.
3. The Blackfeet Tribal Court finds probable cause in support of the petition, that Respondent should be detained for a period not to exceed 72 hours beginning from _____ pending the findings of such assessment/evaluation.

From these Findings of Fact and Conclusions of Law, the Court now issues the following:

ORDER

1. The Respondent is hereby ordered to complete an assessment/evaluation by: _____.
2. The Court shall convene a hearing on the findings of the assessment/evaluation on the _____ day of _____, 20____ at the hour of _____ AM/PM.
3. Respondent shall be immediately detained at the Indian Health Service until this Initial Hearing is completed pending further order of the Court.

Dated this _____ day of _____, 2021.

Blackfeet Tribal Court Judge

*Contempt Warning

Civil Commitment Order (Sample)

**IN THE BLACKFEET TRIBAL COURT FOR
THE BLACKFEET INDIAN RESERVATION**

IN THE MATTER OF:

Respondent

DOB: _____

Case No. _____

A Person In Need of Care

CIVIL COMMITMENT ORDER

This matter having come before the Court for an Initial Hearing on the Petition for a Person in Need of Care Requiring Court Intervention on _____, Present at the proceeding were the following: _____

_____, Judge _____ presided over the matter. Based upon the information provided in the Petition and the results of an assessment/evaluation and clear and convincing evidence appearing, this Court now issues the following:

FINDINGS OF FACT

1. The Respondent is an adult/juvenile, a member or descendant of the Blackfeet Tribe or member of another Indian Tribe, or Non-Indian.
2. The Respondent has the following relatives or next of kin:
3. The Respondent was brought to the Blackfeet Emergency Room on _____, based upon the following incident as outlined in the BLES Affidavit;
OR, The Interested Party _____ in this matter petitioned the Court, to

which the Presenting Officer affirmed that the following situation constituted a matter in which the Respondent became a harm to himself/herself or another person, thereby establishing probable for temporary detention pending an assessment/evaluation.

7. The recommendations of the assessment/evaluation are as follows:

8. The Respondent was represented and offered the following:

9. The matter was contested by the Respondent and a hearing was held on

_____. From that hearing the Court considered the additional information as relevant:

From these Findings of Fact, the Court now issues the following,

CONCLUSIONS OF LAW

1. The Blackfeet Tribal Court has exclusive personal and subject matter jurisdiction over this matter pursuant to the Blackfeet Civil Commitment Code of the Blackfeet Law and Order Code.

2. The Blackfeet Tribal Court finds by clear and convincing evidence that the Respondent be issued a civil commitment order not to exceed _____ days and be ordered to complete the following treatment. _____.

From these Findings of Fact and Conclusions of Law, the Court now issues the following:

ORDER

1. The Respondent is hereby ordered to enter treatment on_____.
2. Blackfeet Law Enforcement Services shall provide transportation to and from the facility.
2. The Respondent will follow any and all recommendations pursuant to the mental and physical health evaluations.
3. A status hearing shall be set no later than sixty (60) days on the_____ day of _____, 20____ at the hour of _____AM/PM, to determine why the Respondent should not be released from a Person in Need of Care status.

Dated this _____ day of _____, 2021.

Blackfeet Tribal Court Judge

*Contempt Warning