

TRIBAL COUNCIL
(AT LARGE)

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Cyril Archambault

Stephanie Yellow Hammer

Alice Bird Horse

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Frank Jamerson
Vice Chairman



Susan Agard
Secretary

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Cannonball District

Sid Bailey, Jr.
Long Soldier District

Jeff Cadotte, Sr.
Wakpala District

Delray Demery
Kenel District

Joe White Mountain
Jr.
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Paul Archambault
Rock Creek District

Jessica R. Porras
Running Antelope District

Wilberta Red
Tomahawk
Porcupine District

Truth  Compassion

Remember Who We Are

NOTICE TO PUBLIC

On September 16, 2024 the Standing Rock Sioux Tribal Council approved to post revisions to **Title IV (4), Chapter 4, Pardon** for ten (10) days. Pursuant to Title XIX of the Code of Justice, any interested persons may submit comments on **Title IV (4), Chapter 4, Pardon** which the person believes should be amended.

Members of the Judicial Committee and the Standing Rock Tribal Council will accept oral, written and electronic comments until **October 11, 2024**. You may submit your electronic comments to the following:

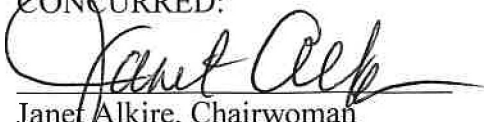
Judicial Committee Chairman, Charles Walker - cwalker@standingrock.org

If you are receiving this notice and attachments in your role as District Officer, please post a copy at your local district offices and ensure it is available to other District Officers and District Members. In addition, please have copies available to distribute upon request.

Please note you can also access the Title on the Tribe's website at www.standingrock.com. From the home page, click on Titles, followed by Titles for Review, and find the link to **Title IV (4), Chapter 4 Pardon**.

Dated this 30th day of September, 2024.

CONCURRED:


Janet Alkire, Chairwoman
Standing Rock Sioux Tribe

RESOLUTION NO. 445-24

RESOLUTION TO POST REVISIONS TO TITLE IV, CHAPTER 4, PARDON FOR PUBLIC COMMENT

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, Section 5, shall post all proposed ordinances introduced at a Tribal Council Meeting in each district for not less than ten days prior to final adoption by the Tribal Council for public inspection. All enacted ordinances shall be made available to the Local District Councils; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, Section 1(c), is empowered to promote and protect the health, education, and general welfare of the members of the Tribe, and to administer charity and such other services as may contribute to the social and economic advancement of the Tribe and its members; and

WHEREAS, the Tribal Council has reviewed proposed revisions to Criminal Offenses/Sex Offenders, Title IV, Chapter 4 Pardon and desires to post the proposed revisions for ten (10) days in order to allow for public inspection and comment and to be made available to the Local Districts; and

NOW THEREFORE BE IT RESOLVED, the Tribal Council hereby approves to post the revisions to the Criminal Offenses/Sex Offenders, Title IV, Chapter 4 Pardon for public comment and to be provided to all Local District Councils for ten (10) days pursuant to the Constitution of the Standing Rock Sioux Tribe and Tribal Code; and


BE IT FINALLY RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.


CERTIFICATION

We, the undersigned, Chairman and Secretary of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of 17 members, of whom 15 constituting a quorum, were present at a meeting duly and regularly called, noticed, convened and held on the 16th day of SEPTEMBER, 2024, and that the foregoing resolution was duly adopted by the affirmative vote of 14 members, with 0 opposing, and with 1 not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT IN CASE OF A TIE.**

DATED THIS 16TH DAY OF SEPTEMBER, 2024.

ATTEST:


Susan Agard, Secretary
Standing Rock Sioux Tribe


Janet Alkire, Chairwoman
Standing Rock Sioux Tribe

[OFFICIAL TRIBAL SEAL]



Chapter 4

Pardon and Expungement

4-401 Power of Pardon

The Tribal Pardon Commission shall have the sole and exclusive power to grant pardons after final conviction for all offenses by the Standing Rock Sioux Tribal Court. The Commission shall have no power to grant reprieve, commute sentences, or remit fines and forfeitures. One member shall be designated by the Council as Chairman of the Commission.

4-402 Definitions

“Expungement” means to permanently destroy, delete, or erase a record of an offense from the criminal history record system maintained by the Standing Rock Tribal Court.

“Pardon” means the sealing of records of a criminal conviction on file with the Standing Rock Tribal Court without destruction of the crime from the person’s criminal record.

“Record” means any: (i) criminal complaint, judgment, or disposition arising from a criminal complaint.

4-403 Application of Pardon

All applications for pardon shall be filed in writing with the Chairman of the Commission. A conviction shall not be eligible to be considered for a pardon until:

- a. For a felony conviction, a period of five (5) years has passes, or
- b. for misdemeanor conviction, a period of two (2) years has passed,

since whichever of the following occurred latest in time regarding the conviction for which a pardon is being requested; upon the condition that: 1) no portion of the sentence remained unexecuted; 2) the time period for appeal ended; 3) any costs or fees- including restitution- were paid (~~or the time to pay expired~~); 4) all requirements of probation were satisfied (including the completion of any required alcohol and/or drug evaluation and/or treatment, anger management, or domestic violence counseling); and 5) the period of probation ended.

Upon receiving an application, the Chairman shall provide copies of the application to each member of the Commission and shall ~~cause the application request public notice~~ to be posted in public places on the Reservation. This public notice shall state the date on which the application will be considered by the Commission. The application shall be sworn to by the applicant under oath or by a person authorized to act on his or her behalf. The application shall state concisely the ground upon which the pardon is sought and in addition shall contain the following facts:

- a. ~~a.~~ The name under which the applicant was convicted, and every alias by which he has been known;
- b. ~~b.~~ The date and crime(s) the applicant was convicted of;
- c. ~~c.~~ The date and terms of the sentence(s) imposed against him/her;
- d. ~~d.~~ The name of any victims, if applicable;
- ~~d.e.~~ The name of the Trial Judge who presided at the trial;

- ~~e.f.~~ ~~e.~~ If an appeal was taken from the judgment of convictions, the date of the final determination by the Supreme Court;
- ~~f.g.~~ ~~f.~~ The age, birthplace, parentage, occupation and residence of the applicant; and
- ~~g.h.~~ ~~g.~~ a statement of all other arrests, indictments, information and convictions, if any, against the applicant, regardless of jurisdiction.

4-403 Hearing on Application

The Commission Chairman shall schedule hearing on each application for pardon on a quarterly basis. Prior to the hearing the Commission Chairman shall obtain and make available to all members of the Commission the complete record of the conviction from the Standing Rock Sioux Tribal Court, together with any recommendation by the Chief Judge of the Standing Rock Sioux Tribal Court.⁵ The Commission Chairman or Commission may also ~~issues~~ process requiring the presence of any person subject to its jurisdiction before it, with or without ~~books and papers~~ documentation or evidence deemed relevant to the hearing; the failure of such person to comply with the process shall be considered criminal contempt under Section 4-904 and shall be punished accordingly. The applicant shall be given the opportunity to appear for the hearing, testify on his/her own behalf, present witnesses and evidence, and have the right to be represented by counsel at his/her own expense. All testimony before the Commission shall be under oath and open to the public. The Tribal Prosecutor shall also be allowed to testify under oath before the Commission ~~if the Prosecutor recommends denying the pardon.~~

4-404 Determination by the Commission

The Commission shall, at the close of the hearing, determine whether to grant the application absolutely, grant the application ~~up~~-on conditions, or deny the application. A pardon shall be granted only upon a clear showing that the public interest necessitates it and only by at least three (3) members of the Commission who attended the hearing. The decision of the Commission shall be final and no appeal of the Commission decision shall be taken. The Commission Chairman shall cause a record to be kept of every application for pardon, and the determination of the Commission thereon.

4-405 Effect of Pardon

- a. Except as set forth in subsection (b) of this section, a pardon properly granted by the Commission shall pardon the effects of a prior conviction, and relieve the pardoned individual from all legal disabilities resulting from his or her conviction. Records of the Court shall be amended or otherwise updated to recognize that the individual has been granted a pardon for the specific pardoned offense(s). A pardon does not have the same effect as the expungement of a record.
- b. Notwithstanding the provision of subsection (a) of this Section, a properly granted pardon does not ~~pardon a felony offense, nor~~ relieve the pardoned individual from legal disability resulting from their conviction, of the purpose of the eligibility requirements for running for, or serving on, Tribal Council under Article III of the Constitution of the Standing Rock Sioux Tribe, and even a pardoned, sealed or expunged felony conviction shall stand as a bar to the individual being qualified to seek and hold membership on the Tribal Council.

~~4-406 Limitation on Pardons~~

~~The Pardon Commission may grant each enrolled member of the Standing Rock Sioux Tribe only one pardon for the duration of that member's life, regardless of whether the pardon granted is for a misdemeanor or a felony. In other words, once an enrolled member of the Tribe has been granted one pardon, for either a misdemeanor or a felony, that individual may receive no other pardons.~~

4-406 Expungement

1. Findings. The Standing Rock Sioux Tribal Council recognizes and acknowledges that the criminal history of a reformed and rehabilitated individual is a hindrance to a person's present and future ability to obtain employment, housing, education, and credit and the Standing Rock Sioux Tribe must take steps to protect persons convicted in the Standing Rock Tribal Court from the unwarranted damage which may occur when the existence of a criminal history continues indefinitely. The Standing Rock Tribal Council favors giving second chances to offenders who are rehabilitated, while simultaneously protecting public safety.

2. Petition for Expungement

An individual may apply to the Pardon Commission for an expungement of the record of arrest for all convictions, whether in one case or multiple cases, on the following conditions:

- a. The individual has not been convicted of any offenses for a minimum of ten (10) years; and
- b. The individual has demonstrated he/she has successfully rehabilitated; and
- c. Any victims are notified and do not object; and
- d. The individual does not have any subsequent convictions in the Standing Rock Tribal Court for a period of two years after expungement; and
- e. The individual petitioned for expungement pursuant to this section no more than one time during the person's life.

3. Offenses not Eligible for Expungement.

The following convictions may not be expunged from an individual's criminal record:

- a. Violent Felonies
- b. Domestic Violence Felonies
- c. Sex Offenses
- d. Offenses against a vulnerable person, including children, disabled, and elders.
- e. Felony firearm or armed offenses

4. Notice Required

- a. A person seeking expungement shall serve a copy of the application to the Standing Rock Tribal Prosecutor's Office.
- b. If a victim of an offense subject to a requested expungement exists, the Standing Rock Tribal Prosecutor's Office shall attempt to notify the victim within 14 days of receiving the application for expungement and shall document such attempts to notify the victim and provide proof to the Pardon Commission prior to the scheduled hearing on the application for expungement. The notification must include that the victim has the right to respond to the expungement request and must inform the victim of the date scheduled for the pardon hearing.

5. Consideration of Petition for Expungement

In making the determination of whether expungement should be granted, the Pardon Commission shall consider the following:

- a. The age of the petitioner at the time the offense(s) were committed;
- b. The length of time between the conviction and the petition for expungement;
- c. The rehabilitation of the petitioner;
- d. The likelihood that the individual will reoffend;
- e. The response of any victim(s);
- f. The interests of public safety; and
- g. Any other factor the Pardon Commission considers relevant.

6. Procedure

The Commission Chairman shall schedule hearing on each application for expungement on a quarterly basis. Prior to the hearing the Commission Chairman shall obtain and make available to all members of the Commission the complete record of the conviction from the Standing Rock Sioux Tribal Court, together with any recommendation by the Chief Judge of the Standing Rock Sioux Tribal Court. The Commission Chairman or Commission may also issue process requiring the presence of any person subject to its jurisdiction before it, with or without documentation or evidence deemed relevant to the hearing; the failure of such person to comply with the process shall be considered criminal contempt under Section 4-904 and shall be punished accordingly. The applicant shall be given the opportunity to appear for the hearing, testify on his/her own behalf, present witnesses and evidence, and have the right to be represented by counsel at his/her own expense. All testimony before the Commission shall be under oath and open to the public. The Tribal Prosecutor shall also be allowed to testify under oath before the Commission.

7. Pardon Commission Decision on Expungement Petition

- a. When multiple offenses are requested to be expunged, the Pardon Commission may order expungement of all, some, or none of the offenses.
- b. Any decision of the Pardon Commission must clearly set out the conviction to be expunged by case number, offense, and date.
- c. The decision of the Pardon Commission must be provided to the Tribal Court with direction to permanently seal all records and convictions regarding expunged offenses;
- a.d. On receipt of an expungement, the Tribal Court Clerk shall expunge all records of convictions in accordance with the Pardon Commission decision.
- e. Any records subject to expungement must be kept and sealed for determination of eligibility to run for Tribal Council, in accordance with the Standing Rock Tribal Constitution, Article III, and Section 4-405(b).

8. Revocation of Expungement

- a. Following the Pardon Commission's grant of expungement, for any individual, the Pardon Commission reserves the right to obtain information from the Tribal Prosecutor for a period of two years to ensure an individual who received an expungement is not convicted of any other crimes.
- b. In the event the Tribal Prosecutor provides the Pardon Commission with proof that an individual who was granted an expungement is convicted of a crime within two years from the date of the expungement, the Pardon Commission may revoke the

expungement effective immediately, with written notice provided to the individual at the address on file with the Pardon Commission.