

WINNEBAGO TRIBAL CODE
TITLE 1 ARTICLE 12

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ARTICLE 12
JUVENILE DRUG COURT

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1-1201 Construction. These provisions shall be interpreted liberally with the goal of providing a fair alternative to juvenile justice proceedings involving juveniles who have been alleged to have committed or have been adjudicated of offenses wherein the abuse of alcohol or other prohibited substances, mental health issues, and/or trauma issues is involved. To the extent possible, the provisions herein shall be used and applied in accordance with Winnebago tradition and custom. [TCR 17-34]

1-1202 Purpose. The purpose of the Juvenile Drug Court is to:

1. Provide opportunities for rehabilitation and healing in a non-adversarial setting.
2. Provide alternate juvenile justice proceedings with treatment options for juveniles with alcohol abuse, substance abuse, mental health and/or trauma problems.
3. Provide formal support, structure and enforcement to traditional Winnebago methods of fostering juvenile growth and resolving delinquency.
4. Reduce the number of offenses committed by juveniles, minimize recidivism among juvenile offenders, and prevent escalation of criminal behavior.
5. Inform and teach young tribal members about tribal traditions, culture and history, family, and the individual's role in the Tribe.
6. Include grandparents, aunts, uncles and extended family members in the process of disciplining juvenile offenders.
7. Coordinate with Tribal resources and programs in an effort to influence and make positive corrections to the attitude and conduct of young Tribal members. [TCR 17-34]

1-1203 Juvenile Drug Court established.

1. The Juvenile Drug Court of the Winnebago Tribe is hereby established as part of the Winnebago Tribal Court. The Juvenile Drug Court may use the Tribal Court as a resource and infrastructure for purposes of supporting and maintaining the Winnebago Tribal Court system. The powers and duties of the Juvenile Drug Court are set forth in this Article.
2. The Juvenile Drug Court proceedings shall be conducted by a Juvenile Drug Court Judge with the assistance of an Intervention Specialist.
3. The Tribe shall be represented by a Special Prosecutor and individuals appearing before the Juvenile Drug Court shall be represented by a Juvenile Advocate.

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4. The Juvenile Drug Court shall work closely with the Winnebago Youth Crisis Intervention Center to coordinate services for juveniles participating in the Juvenile Drug Court. [TCR 17-34]

1-1204 Personal and subject matter jurisdiction.

1. Upon receiving a Voluntary Petition for Referral by the Special Prosecutor and upon the consent and agreement of the juvenile and the Juvenile Drug Court, a case shall be referred to the Juvenile Drug Court.
2. Upon receiving a Non-Voluntary Petition for Referral by the Special Prosecutor, a case shall be referred to the Juvenile Drug Court. [TCR 17-34]

1-1205 Appointment of Juvenile Drug Court Judge. The Juvenile Drug Court Judge shall be appointed by the Tribal Council. [TCR 17-34]

1-1206 Voluntary Pre-Adjudication Referral process.

1. The Juvenile Drug Court may accept a Voluntary Pre-Adjudication Referral from the Special Prosecutor, who shall take such steps necessary to determine eligibility prior to making such referral.
2. A Juvenile and his/her parent(s) or legal guardian(s) shall have the right to consult with the Juvenile Advocate prior to agreeing to voluntarily participate in the Juvenile Drug Court.
3. The Tribal Prosecutor may defer prosecution if the juvenile agrees to enter and complete the Juvenile Drug Court program. The time spent participating in the Juvenile Drug Court program shall not be counted toward any statute of limitation by which prosecution must commence, nor shall it count toward any time period required for a speedy trial.
4. A juvenile may decline participation in the Juvenile Drug Court at any time and have their case sent back to the Tribal Prosecutor who shall continue with Tribal Court proceedings.
5. After a Voluntary Pre-Adjudication Referral is submitted to the Juvenile Drug Court and upon being advised of their rights by the Juvenile Advocate, the juvenile, his/her parent(s) or legal guardian(s), and the Juvenile Drug Court shall enter into an agreement setting forth the conditions for the juvenile's participation in the Juvenile Drug Court. [TCR 17-34]

1-1207 Non-Voluntary Post-Adjudication process.

1. After adjudication, the Tribal Court may order a juvenile to participate in the Juvenile Drug Court, provided the juvenile meets eligibility guidelines.
2. Following receipt of an order to the Juvenile Drug Court, the Intervention Specialist shall schedule an intake appointment.
3. The juvenile and his/her parent(s) or legal guardian(s) shall be advised of the conditions of the juvenile's participation in the Juvenile Drug Court at a dispositional hearing.
4. If the juvenile completes the Juvenile Drug Court proceedings to the satisfaction of the Juvenile Drug Court, a final report shall be sent to the Traditional Wellness Court and the Drug Court case shall be closed. The Juvenile will continue proceedings with the Traditional Wellness Court for completion of the program. [TCR 17-34]

1-1208 Reports to Tribal Prosecutor.

1. Either at the conclusion of the Juvenile Drug Court proceedings or at such time as the Juvenile Drug Court finds there can be no resolution of the matter, the Juvenile Drug Court shall submit a final written report of the results of the juvenile's efforts to the Tribal Prosecutor and the Clerk of Court. This final written record shall be maintained in the Juvenile Court file.

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2. The final written report shall include:
 - a. A statement as to whether the juvenile successfully completed the Juvenile Drug Court proceedings; and
 - b. Any other information the Juvenile Drug Court deems necessary.
3. Upon successful completion of the Juvenile Drug Court proceedings, a final report of successful completion shall be sent to the Tribal Prosecutor and the Tribal Court case shall be closed. [TCR 17-34]

1-1209 Eligibility of Juveniles to Participate in the Juvenile Drug Court.

1. Except as otherwise provided herein, only cases involving juveniles who have been alleged to have committed or have been adjudicated of offenses wherein the abuse of alcohol or other prohibited substances, mental health issues, and/or trauma issues is involved shall be eligible for resolution by the Juvenile Drug Court.
2. A juvenile includes persons residing on the reservation who are:
 - a. under the age of 19; or
 - b. presently enrolled in high school.
3. Juveniles who are charged or would be charged with the following offenses may participate in the Juvenile Drug Court subject to review and acceptance by the Juvenile Drug Court only on a case-by-case basis.
 - a. Offenses under Title 3, Article 4 of the Winnebago Tribal Code involving Crimes Against the Person; and
 - b. Offenses constituting domestic violence under the Winnebago Tribal Code.
4. The Chief Judge of the Winnebago Tribal Court may, upon recommendation of the Tribal Court Administrator, establish additional rules to assist in determining whether a Juvenile meets eligibility guidelines for participation in the Juvenile Drug Court. [TCR 17-34]

1-1210 Powers and duties of Juvenile Drug Court Judge.

1. The Juvenile Drug Court Judge shall have the authority to conduct proceedings in any manner that facilitates the administration of justice, and to include or exclude individual family members, or any other persons deemed necessary, from any proceedings.
2. If the juvenile is a ward of the Court pursuant to Title 4 of the Tribal Code, any services as may be deemed necessary shall be coordinated with the juvenile's case worker.
3. The Juvenile Drug Court Judge shall exercise discretion to determine and impose the appropriate requirements for successful completion of the proceedings in each case, including, but not limited to, participation in both clinical and ancillary or support services based on the juvenile's assessment.
4. Whenever possible, the Juvenile Drug Court should seek to involve parents and/or legal guardians in the treatment plan for the juvenile. Further, the Juvenile Drug Court should seek to involve a juvenile's family members and elders to teach juveniles about Winnebago tribal custom and the juvenile's role in the Tribe.
5. The Juvenile Drug Court Judge may direct the Intervention Specialist to refer the matter to Child and Family Services in the event the parent and/or legal guardians fail to comply with the treatment plan for the juvenile.
6. The Juvenile Drug Court Judge shall establish a reasonable time frame for completion of all Juvenile Drug Court proceedings consistent with the treatment plan for each case. [TCR 17-34]

1-1211 Powers and duties of the Intervention Specialist.

1. The Intervention Specialist shall facilitate the activities of the Juvenile Drug Court and act as directed by the Juvenile Drug Court Judge.
2. The Intervention Specialist shall assist in making determinations of the eligibility of a juvenile to participate in the Juvenile Drug Court.
3. The Intervention Specialist shall receive referrals from the Special Prosecutor on behalf of the Juvenile Drug Court, schedule intake appointments, and distribute all documents as necessary.
4. The Intervention Specialist shall monitor the progress of all cases before the Juvenile Drug Court and submit required reports to the Tribal Prosecutor and Clerk of Court.
5. The Intervention Specialist shall serve as a liaison for the Juvenile Drug Court, coordinating the efforts of the Juvenile Drug Court, Youth Crisis Intervention Center, Traditional Wellness Court, Child and Family Services, probation officers, school counselors, family members and other community resources as necessary to assist in the success of the case before the Juvenile Drug Court.
6. The Intervention Specialist shall assist the Juvenile Drug Court with drafting reports.
7. The Intervention Specialist shall facilitate the development of treatment plans for each case. [TCR 17-34]

1-1212 Intake process.

1. Upon the determination of eligibility of a juvenile, the Drug Court Clerk shall create a file containing a copy of the incident report, citation, criminal complaint, plea agreement, deferral documents, and court order, as applicable.
2. At or immediately following the initial meeting with the juvenile, the Intervention Specialist shall schedule an intake appointment with the juvenile and his/her parent(s) or legal guardian(s). The intake documents and Voluntary or Non-Voluntary Petition for Referral shall be placed in the file.
3. Clinical assessments shall be completed in a timely manner and in accordance with procedures established by the Juvenile Drug Court.
4. The initial proceeding before the Juvenile Drug Court Judge shall be scheduled no later than fifteen business (15) days after the clinical assessment is completed.
5. A case plan shall be developed setting forth the conditions for the juvenile's participation in the Juvenile Drug Court proceedings and notify the juvenile and his/her parent(s) or legal guardian(s).
6. The Juvenile Drug Court shall provide notification to the juvenile, Special Prosecutor, Juvenile Advocate and any other persons or entities as the Juvenile Drug Court may deem appropriate. [TCR 17-34]

1-1213 Procedures. The Chief Judge of the Winnebago Tribal Court may, upon recommendation of the Tribal Court Administrator, adopt such procedures as necessary to administer justice and carry out the intent of this Article. [TCR 17-34]

1-1214 Records and confidentiality. The records and proceedings of the Juvenile Drug Court shall be privileged, confidential and shall not be shared outside the Juvenile Drug Court. [TCR 17-34]

1-1215 Completion of Proceedings.

1. In a Voluntary Referral case, if the juvenile completes the Juvenile Drug Court proceedings to the satisfaction of the Juvenile Drug Court, a final report shall be sent to the Traditional Wellness

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- Court and the Drug Court case shall be closed. The Juvenile will continue proceedings with the Traditional Wellness Court for completion of the program.
2. When a juvenile has satisfactorily completed all requirements of the Program, a notice and a final report shall be submitted to the Tribal Prosecutor and Clerk of Court. In a Voluntary Referral case, the Tribal Prosecutor shall dismiss the Juvenile Court Petition with prejudice. In a Non-Voluntary Referral case, the Tribal Prosecutor shall take such actions as necessary to close the case or the equivalent. When a juvenile has satisfactorily completed Juvenile Drug Court requirements and such Final Report has been made to the Juvenile Court, the Juvenile Court case shall be closed, the file sealed and any information regarding the case shall not be used for aggravation or enhancement of any later charge or shared with any outside agency.
 3. If, for any reason, the juvenile is discharged unsuccessfully by the Juvenile Drug Court, the case shall be sent back to the Tribal Prosecutor, and the Tribal Prosecutor shall continue Tribal Court proceedings against the juvenile. However, nothing contained in the final written Juvenile Drug Court report shall be used by the Tribal Court to adjudicate the juvenile for any alleged offense in Tribal Court.
 4. Where a juvenile has not satisfactorily complete the requirements set forth by the Juvenile Drug Court pursuant to a Non-Voluntary Referral based on a court order, then the juvenile shall be deemed to be in violation of the court order and the case shall be referred back to the Tribal Prosecutor for disposition. [TCR 17-34]

1-1216 Destruction of Records. Following the completion of a proceeding, whether successful or unsuccessful, the Juvenile Drug Court shall destroy all contents of the Juvenile Drug Court case file except for the final written report. [TCR 17-34]

1-1217 Appeals. Decisions of the Juvenile Drug Court are not subject to appeal. [TCR 17-34]