

# Flandreau Santee Sioux Tribe

P.O. Box 283 Flandreau, SD 57028

Ph. 605-997-3891

Fax 605-997-3878

[www.santeesioux.com](http://www.santeesioux.com)



## RESOLUTION NO. 2020-46

**WHEREAS,** the Flandreau Santee Sioux Tribe is a recognized Indian tribe organized pursuant to a Constitution and By-laws approved by the Secretary of Interior and Commissioner of Indian Affairs on April 24, 1936, amended February 7, 1941, and further amended November 16, 1967, and further amended November 14, 1984, and further amended May 17, 1997; and

**WHEREAS,** Article III of the Tribe's Constitution and By-laws provides that the governing body of the Tribe shall be the Executive Committee; and

**WHEREAS,** Article VIII Section 1(f) of said Constitution provides that the Executive Committee has the authority to promulgate and enforce ordinances governing and regulating the conduct of all persons on the reservation; and

**WHEREAS,** Article VIII Section 1(h) of said Constitution provides that the Executive Committee has the authority to adopt resolutions consistent with this Constitution and By-Laws, regulating the procedure of the Executive Committee itself and of other tribal agencies, tribal officials or tribal organizations of the Flandreau Santee Sioux Tribe; and

**WHEREAS,** the Executive Committee finds that it is in the interest of public safety to deter individuals who have illnesses and diseases from intentionally or recklessly spreading them to others.

**NOW THEREFORE BE IT RESOLVED** that that the Flandreau Santee Sioux Tribe Tribal Law and Order Code is hereby amended to criminalize actions related to exposing others to communicable diseases. The amendments are attached to this resolution and incorporated herein; and

**NOW THEREFORE BE IT FURTHER RESOLVED** that these amendments shall be published on the tribal website and in the tribal newsletter; and copies shall be provided to the Flandreau Santee Sioux Tribal Court and Flandreau Santee Sioux Police Department.

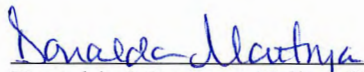
[Certification follows on next page.]

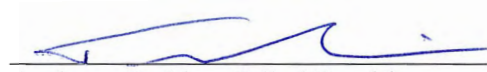
---

**CERTIFICATION**

The foregoing Resolution was duly enacted and adopted on this 20<sup>th</sup> day of March, 2020, by the Executive Committee of the Flandreau Santee Sioux Tribe during a duly called meeting with a quorum was present of 6 In Favor, 0 Opposed, 0 Abstaining, and 1 Not Voting, as follows:

Vice President, Andrew Weston:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
Secretary, Donalda Montoya:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
Trustee I, Kristi Bietz:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
Trustee II, David Kills-A-Hundred:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
Trustee III, Kenneth Weston:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
Trustee IV, John Jason Armstrong:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
President, Anthony Reider ( <i>If Required</i> ):	YES	NO	ABSTAIN	NOT PRESENT

  
\_\_\_\_\_  
Donalda Montoya, Tribal Secretary

  
\_\_\_\_\_  
Anthony Reider, Tribal President

# Proposed Amendments Related to Exposing others to Communicable Diseases

March 20, 2020

1. Add a new section to criminal procedure to ensure convicted sex offenders are registered. The Court is required to provide a form to FSST PD for all tribal court convictions under Title 24, but adding it as a sentencing mechanism further ensures compliance. See attachment 1, [Tribal Court Registration Form](#).

## TITLE 2. CRIMINAL PROCEDURE

### Chapter 19. SENTENCING AND JUDGMENT

**Section 2-19-21. Notification of sex offense convictions.** The court shall notify the police department of all sex offense convictions in accordance with the Sex Offender Registry Ordinance, codified in Title 24.

2. Amend the rape section in Title 3 to include acts that are non-consensual.

## TITLE 3. CRIMINAL LAW

### Chapter 6. SEX OFFENSES

**Section 3-6-1. Rape:** Any person who commits an act of sexual penetration with any person under any of the following circumstances:

- (1) If the victim is less than twelve years of age; or
- (2) Through the use of force, coercion or threats of immediate and great bodily harm against the victim or other persons within the victim's presence, accompanied by apparent power of execution; or
- (3) If the victim is incapable of giving consent because of any intoxicating, narcotic or anesthetic agent or hypnosis; or
- (4) If the victim is incapable, because of mental or physical incapacity, of giving consent to such act; or
- (5) If the person knowingly has a sexually-transmitted disease and does not

disclose the disease to a sexual partner, any sexual penetration shall be deemed without consent of the victim; or

- (6) knowing that he or she is without contraception or STD preventative measures, and gives the victim the belief that these protective measures are in place, shall be deemed to have done so without consent of the victim,

shall be guilty of rape. Rape is a felony.

3. Add a new section to Chapter 3, Assaults.

**Section 3-3-6. Exposing others to communicable diseases an assault.** Any person who knows he has an illness or disease, or has reason to believe he may have an illness or disease, that can be transmitted to another person, and intentionally or recklessly transmits such illness or disease by way of:

- (1) sharing intravenous needles, or
- (2) sexual contact, as defined in sec. 3-3-4, or
- (3) any other manner,

shall be guilty of an assault. The assault may be a simple assault or aggravated assault depending on the bodily injury.

Appendix 4. Tribal Court Notification Forms



**TRIBAL COURT REGISTRATION FORM  
SEX OFFENDER REGISTRY  
FLANDREAU SANTEE SIOUX TRIBE**

FLANDREAU SANTEE SIOUX TRIBE )  
COUNTY OF MOODY )  
STATE OF SOUTH DAKTOA )

IN TRIBAL COURT

In the Matter of \_\_\_\_\_ v. \_\_\_\_\_ ( \_\_\_\_\_ ), the Flandreau Santee Sioux Tribal Court, of competent jurisdiction as stated in Title I, Chapter 4 *et seq.* of the Flandreau Santee Sioux Tribe Law and Order Code, does hereby provide that the Court has determined that the hereafter named individual is ordered to register as a sex offender under Flandreau Santee Sioux Tribe Sex Offender Registry Ordinance, Title 24, *et seq.*

The Defendant, \_\_\_\_\_, was convicted in the Flandreau Santee Sioux Tribal Court on \_\_\_\_\_, of the following offenses:

- Offense 1 \_\_\_\_\_,
- Offense 2 \_\_\_\_\_,
- Offense 3 \_\_\_\_\_,
- Offense 4 \_\_\_\_\_.

The Court sentenced \_\_\_\_\_ to \_\_\_\_\_ months in jail, issued a \_\_\_\_\_ (Dollar) fine, and is requiring the defendant to register as a \_\_\_\_\_ Tier Sex Offender. The Defendant must begin registration, and continue to register for \_\_\_\_\_ years, appearing before the Flandreau Police Department every \_\_\_\_\_ days as provided by Chapter 24, Chapter 4, Section 4.21, beginning on \_\_\_\_\_.

IT IS ORDERED that the DEFENDANT must register as a sex offender in compliance with Chapter 24, of the FSST Code.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**BY THE COURT:**

**Tribal Court Judge**

**ATTEST:**

**Clerk of Courts  
FSST SORO POLICY & PROCEDURES (07/2011)**