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Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION CODE (HCC)

TITLE 9 – CRIMINAL CODE

SECTION 946 – CRIMES AGAINST GOVERNMENT AND ITS ADMINISTRATION

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SUBCHAPTER I
TREASON AND DISLOYAL ACTS

946.03 Sedition. (1) Whoever does any of the following is guilty of a felony:

(a) Attempts the overthrow of the government of this Nation by the use or threat of physical violence; or

(b) Is a party to a conspiracy with or a solicitation of another to overthrow the government of this Nation by the use or threat of physical violence; or

(c) Advocates or teaches the duty, necessity, desirability or propriety of overthrowing the government of this Nation by the use or threat of physical violence with intent that such government be overthrown; or

(d) Organizes or assists in the organization of an assembly with knowledge that the purpose of the assembly is to advocate or teach the duty, necessity, desirability or propriety of overthrowing the government this Nation by the use or threat of physical violence with intent that such government be overthrown.

(2) Whoever permits any premises under his or her care, control or supervision to be used by an assembly with knowledge that the purpose of the assembly is to advocate or teach the duty, necessity, desirability or propriety of overthrowing the government of this Nation by the use or threat of physical violence with intent that such government be overthrown or, after learning that the premises are being so used, permits such use to be continued is guilty of a felony.

SUBCHAPTER II
BRIBERY AND OFFICIAL MISCONDUCT

946.10 Bribery of public officers and employees. Whoever does either of the following is guilty of a felony:

(1) Whoever, with intent to influence the conduct of any public officer or public employee in relation to any matter which by law is pending or might come before the officer or employee in the officer's or employee's capacity as such officer or employee or with intent to induce the officer or employee to do or omit to do any act in violation of the officer's or employee's lawful duty transfers or promises to the officer or employee or on the officer's or employee's behalf any property or any personal advantage which the officer or employee is not authorized to receive; or

(2) Any public officer or public employee who directly or indirectly accepts or offers to accept any property or any personal advantage, which the officer or employee is not authorized to receive, pursuant to an understanding that the officer or employee will act in a certain manner in relation to any matter which by law is pending or might come before the officer or employee in the officer's or employee's capacity as such officer or employee or that the officer or employee will do or omit to do any act in violation of the officer's or employee's lawful duty.

946.12 Misconduct in public office. Any public officer or public employee who does any of the following is guilty of a felony:

(1) Intentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of the officer's or employee's office or employment within the time or in the manner required by law; or

(2) In the officer's or employee's capacity as such officer or employee, does an act which the officer or employee knows is in excess of the officer's or employee's lawful authority or which the officer or employee knows the officer or employee is forbidden by law to do in the officer's or employee's official capacity; or
(3) Whether by act of commission or omission, in the officer's or employee's capacity as such officer or employee exercises a discretionary power in a manner inconsistent with the duties of the officer's or employee's office or employment or the rights of others and with intent to obtain a dishonest advantage for the officer or employee or another; or
(4) In the officer's or employee's capacity as such officer or employee, makes an entry in an account or record book or return, certificate, report or statement which in a material respect the officer or employee intentionally falsifies; or
(5) Under color of the officer's or employee's office or employment, intentionally solicits or accepts for the performance of any service or duty anything of value which the officer or employee knows is greater or less than is fixed by law.

946.16 Judicial officer collecting claims. Any judicial officer who causes to be brought in a court over which the officer presides any action or proceeding upon a claim placed with the officer as agent or attorney for collection is guilty of a Class B misdemeanor

946.17 Corrupt means to influence legislation; disclosure of interest. Any person who gives or agrees or offers to give anything of value to any person, for the service of such person or of any other person in procuring the passage or defeat of any measure before the legislature or before any committee thereof, upon the contingency or condition of the passage or defeat of the measure, or who receives, or agrees to receive anything of value for such service, upon any such contingency or condition, or who, having a pecuniary or other interest, or acting as the agent or attorney of any person in procuring or attempting to procure the passage or defeat of any measure before the legislature or before any committee thereof, attempts in any manner to influence any member of the legislature for or against the measure, without first making known to the member the real and true interest he or she has in the measure, either personally or as such agent or attorney, is guilty of a class A misdemeanor.

SUBCHAPTER III
PERJURY AND FALSE SWEARING

946.31 Perjury. (1) Whoever under oath or affirmation orally makes a false material statement which the person does not believe to be true, in any matter, cause, action or proceeding, before any of the following, whether legally constituted or exercising powers as if legally constituted, is guilty of a felony:

(a) A court;
(b) A magistrate;
(c) A judge, or court commissioner;
(d) An administrative agency or arbitrator authorized by statute to determine issues of fact;
(e) A notary public while taking testimony for use in an action or proceeding pending in court;
(f) An officer authorized to conduct inquests of the dead;
(g) A grand jury;

(h) A legislative body or committee.

(2) It is not a defense to a prosecution under this section that the perjured testimony was corrected or retracted.

946.32 False swearing. (1) Whoever does either of the following is guilty of a felony:

(a) Under oath or affirmation makes or subscribes a false statement which he or she does not believe is true, when such oath, affirmation, or statement is authorized or required by law or is required by any public officer or governmental agency as a prerequisite to such officer or agency taking some official action.

(b) Makes or subscribes 2 inconsistent statements under oath or affirmation in regard to any matter respecting which an oath, affirmation, or statement is, in each case, authorized or required by law or required by any public officer or governmental agency as a prerequisite to such officer or agency taking some official action, under circumstances which demonstrate that the witness or subscriber knew at least one of the statements to be false when made. The period of limitations within which prosecution may be commenced runs from the time of the first statement.

(2) Whoever under oath or affirmation makes or subscribes a false statement which the person does not believe is true is guilty of a Class A misdemeanor.

SUBCHAPTER IV
INTERFERENCE WITH LAW ENFORCEMENT

946.40 Refusing to aid officer. (1) Whoever, without reasonable excuse, refuses or fails, upon command, to aid any person known by the person to be a peace officer is guilty of a Class C misdemeanor.

(2) This section does not apply if under the circumstances the officer was not authorized to command such assistance.

946.41 Resisting or obstructing officer. (1) Except as provided in subs. (2m) and (2r), whoever knowingly resists or obstructs an officer while such officer is doing any act in an official capacity and with lawful authority is guilty of a Class A misdemeanor.

(2) In this section:

(a) "Obstructs" includes without limitation knowingly giving false information to the officer or knowingly placing physical evidence with intent to mislead the officer in the performance of his or her duty including the service of any summons or civil process.

(b) "Officer" means a peace officer or other public officer or public employee having the authority by virtue of the officer's or employee's office or employment to take another into custody.

(c) "Soft tissue injury" means an injury that requires medical attention to a tissue that connects, supports, or surrounds other structures and organs of the body and includes tendons, ligaments, fascia, skin, fibrous tissues, fat, synovial membranes, muscles, nerves, and blood vessels.

(2m) Whoever violates sub. (1) under all of the following circumstances is guilty of a felony:

(a) The violator gives false information or places physical evidence with intent to mislead an officer.

(b) At a criminal trial, the trier of fact considers the false information or physical evidence.

(c) The trial results in the conviction of an innocent person.

(2r) Whoever violates sub. (1) and causes substantial bodily harm or a soft tissue injury to an officer is guilty of a felony.

(2t) Whoever violates sub. (1) and causes great bodily harm to an officer is guilty of a felony.

(3) Whoever by violating this section hinders, delays or prevents an officer from properly serving or executing any summons or civil process, is civilly liable to the person injured for any actual loss caused thereby and to the officer or the officer's superior for any damages adjudged against either of them by reason thereof.

946.415 Failure to comply with officer's attempt to take person into custody. (1) In this section, "officer" means a peace officer or other public officer or public employee having the authority by virtue of the officer's or employee's office or employment to take another into custody.

(2) Whoever intentionally does all of the following is guilty of a felony:

(a) Refuses to comply with an officer's lawful attempt to take him or her into custody.

(b) Retreats or remains in a building or place and, through action or threat, attempts to prevent the officer from taking him or her into custody.

(c) While acting under pars. (a) and (b), remains or becomes armed with a dangerous weapon or threatens to use a dangerous weapon regardless of whether he or she has a dangerous weapon.

946.42 Escape. (1) In this section:

(a) 1. "Custody" includes without limitation all of the following:

a. Actual custody of an institution, including a juvenile correctional facility, a secured residential care center for children and youth, a juvenile detention facility, a Type 2 residential care center for children and youth, a facility used for the detention of persons committed as sexually violent persons, or a juvenile portion of a county jail.

b. Actual custody of a peace officer or institution guard.

bm. Actual custody or authorized physical control of a correctional officer.

c. Actual custody or authorized physical control of a probationer, parolee, or person on extended supervision by the department of corrections.

e. Constructive custody of persons committed as sexually violent persons placed on supervised release.

f. Constructive custody of prisoners and juveniles outside the institution whether for the purpose of work, school, medical care, a leave, a temporary leave or furlough granted to a juvenile, or otherwise.

g. Custody of the sheriff of the county to which the prisoner was transferred after conviction.

h. Custody of a person subject to a confinement order under s. 973.09 (4).

2. "Custody" does not include the constructive custody of a probationer, parolee, or person on extended supervision by the department of corrections or a probation, extended supervision, or parole agent or the constructive custody of a person who has been released to aftercare supervision under a juvenile justice code.

(b) "Escape" means to leave in any manner without lawful permission or authority.

(c) "Legal arrest" includes without limitation an arrest pursuant to process fair on its face notwithstanding insubstantial irregularities and also includes taking a juvenile into custody.

(2) A person in custody who intentionally escapes from custody under any of the following

circumstances is guilty of a Class A misdemeanor:

(a) Pursuant to a legal arrest for or lawfully charged with or convicted of a violation of a statutory traffic regulation, a statutory offense for which the penalty is a forfeiture or a municipal ordinance.

(b) Lawfully taken into custody a juvenile for a violation of or lawfully alleged or adjudged to have violated a statutory traffic regulation, a statutory provision for which the penalty is a forfeiture or a municipal ordinance.

(c) Pursuant to a civil arrest or body execution.

(2m) A person who is in the custody of a probation, parole, or extended supervision agent, or a correctional officer, based on an allegation or a finding that the person violated the rules or conditions of probation, parole, or extended supervision and who intentionally escapes from custody is guilty of a felony.

(3) A person in custody who intentionally escapes from custody under any of the following circumstances is guilty of a felony:

(a) Pursuant to a legal arrest for, lawfully charged with or convicted of or sentenced for a crime.

(b) Lawfully taken into custody under a juvenile justice code for or lawfully alleged or adjudged under a juvenile justice code to be delinquent on the basis of a violation of a criminal law.

(c) Subject to a juvenile code disposition placing an individual in a type II residential care center for children and youth, a serious offender program or correctional facility, or such facility upon an aftercare revocation.

(cm) Subject to an order for extended out-of-home care in a child welfare proceeding.

(e) In custody under the circumstances described in sub. (2) and leaves the jurisdiction to avoid apprehension. Leaving the jurisdiction and failing to return is prima facie evidence of intent to avoid apprehension.

(f) Pursuant to a legal arrest as a fugitive from justice in another jurisdiction.

(g) Committed to a department of health services in a criminal proceeding.

(3m) A person who intentionally escapes from custody under any of the following circumstances is guilty of a felony:

(a) While subject to a detention order or a custody order as a person committed as a sexually violent person.

(b) While subject to an order issued committing a sexually violent person to custody of the department of health services, regardless of whether the person is placed in institutional care or on supervised release.

(4) If a person is convicted of an escape under this section, the maximum term of imprisonment for the escape may be increased by not more than 3 years if an individual who had custody of the person who escaped is injured during the course of the escape.

946.425 Failure to report to jail. (1) Any person who is subject to a series of periods of imprisonment and who intentionally fails to report to jail as required under the sentence is guilty of a felony.

(1m) (a) Any person who receives a stay of execution of a sentence of imprisonment of less than 10 days to jail and who intentionally fails to report to jail as required under the sentence is guilty of a Class A misdemeanor.

(b) Any person who receives a stay of execution of a sentence of imprisonment of 10 or more days to jail and who intentionally fails to report to jail as required under the sentence is guilty

of a felony.

(1r) (a) Any person who is subject to a confinement order that affords work release as the result of a conviction for a misdemeanor and who intentionally fails to report to jail or house of correction as required under the order is guilty of a Class A misdemeanor.

(b) Any person who is subject to a confinement order that affords work release as the result of a conviction for a felony and who intentionally fails to report to jail or house of correction as required under the order is guilty of a felony.

(3) A prosecutor may not charge a person with violating both subs. (1) and (1m) regarding the same incident or occurrence.

946.46 Encouraging violation of probation, extended supervision or parole. Whoever intentionally aids or encourages a parolee, probationer or person on extended supervision or any person committed to the custody or supervision of the probation and parole office or a tribal or county department by reason of crime or delinquency to abscond or violate a term or condition of parole, extended supervision or probation is guilty of a Class A misdemeanor.

946.465 Tampering with a global positioning system tracking device. Whoever, without the authorization of the probation and parole office, intentionally tampers with, or blocks, diffuses, or prevents the clear reception of, a signal transmitted by, a global positioning system tracking device or comparable technology that is provided is guilty of a felony.

946.47 Harboring or aiding felons. (1) Whoever does either of the following may be penalized as provided in sub. (2m):

(a) With intent to prevent the apprehension of a felon, harbors or aids him or her; or

(b) With intent to prevent the apprehension, prosecution or conviction of a felon, destroys, alters, hides, or disguises physical evidence or places false evidence.

(2) As used in this section "felon" means either of the following:

(a) A person who commits an act within the jurisdiction of this Nation which constitutes a felony under the law of this Nation; or

(b) A person who commits an act within the jurisdiction of another which is punishable by imprisonment for one year or more in prison or penitentiary under the law of that jurisdiction and would, if committed in this Nation, constitute a felony under the law of this Nation.

(2m) Whoever violates sub. (1) is guilty of a felony, if the offense committed by the felon being aided is, or would have been if the offense had been committed in this Nation, it is a felony.

946.48 Kidnapped or missing persons; false information. (1) Whoever sends, delivers, or causes to be transmitted to another any written or oral communication with intent to induce a false belief that the sender has knowledge of the whereabouts, physical condition, or terms imposed upon the return of a kidnapped or missing person is guilty of a felony.

(2) Violation of this section may be prosecuted in either the location where the communication was sent or the location in which it was received.

946.49 Bail jumping. (1) Whoever, having been released from custody, intentionally fails to comply with the terms of his or her bond is:

(a) If the offense with which the person is charged is a misdemeanor, guilty of a Class A

misdemeanor.

(b) If the offense with which the person is charged is a felony, guilty of a felony.

(2) A witness for whom bail has been required is guilty of a felony for failure to appear as provided.

946.495 Violation of nonsecure custody order. If a juvenile person has been placed in nonsecure custody by an intake worker or by a judge and the person is alleged to be delinquent, alleged to be in need of protection or services as they are under the age of 10 years and have committed a delinquent act or has been taken into custody for committing an act that is a violation of a tribal, state or federal criminal law, the person is guilty of a Class A misdemeanor if he or she intentionally fails to comply with the conditions of his or her placement in nonsecure custody.

946.50 Absconding. Any person who is adjudicated delinquent, but who intentionally fails to appear before the court assigned to exercise jurisdiction under a child welfare or a juvenile delinquency proceeding for his or her dispositional hearing in a delinquency proceeding, and who does not return to that court for a dispositional hearing before attaining the age of 17 years is guilty of the following:

(1) A felony, if the person was adjudicated delinquent for committing an act that would be a felony if committed by an adult.

(6) A Class A misdemeanor, if the person was adjudicated delinquent for committing an act that would be a misdemeanor if committed by an adult.

SUBCHAPTER V
OTHER CRIMES AFFECTING THE ADMINISTRATION OF GOVERNMENT

946.60 Destruction of documents subject to subpoena. (1) Whoever intentionally destroys, alters, mutilates, conceals, removes, withholds or transfers possession of a document, knowing that the document has been subpoenaed by a court or by or at the request of a prosecutor or the attorney general, is guilty of a felony.

(2) Whoever uses force, threat, intimidation or deception, with intent to cause or induce another person to destroy, alter, mutilate, conceal, remove, withhold or transfer possession of a subpoenaed document, knowing that the document has been subpoenaed by a court or by or at the request of a prosecutor or the attorney general, is guilty of a felony.

(3) It is not a defense to a prosecution under this section that:

(a) The document would have been legally privileged or inadmissible in evidence.

(b) The subpoena was directed to a person other than the defendant.

946.61 Bribery of witnesses. (1) Whoever does any of the following is guilty of a felony:

(a) With intent to induce another to refrain from giving evidence or testifying in any civil or criminal matter before any court, judge, grand jury, magistrate, court commissioner, referee or administrative agency authorized by statute to determine issues of fact, transfers to him or her or on his or her behalf, any property or any pecuniary advantage; or

(b) Accepts any property or any pecuniary advantage, knowing that such property or pecuniary advantage was transferred to him or her or on his or her behalf with intent to induce him or her to refrain from giving evidence or testifying in any civil or criminal matter before any court,

judge, grand jury, magistrate, court commissioner, referee, or administrative agency authorized by statute to determine issues of fact.

(2) This section does not apply to a person who is charged with a crime, or any person acting in his or her behalf, who transfers property to which he or she believes the other is legally entitled.

946.64 Communicating with jurors. Whoever, with intent to influence any person, summoned or serving as a juror, in relation to any matter which is before that person or which may be brought before that person, communicates with him or her otherwise than in the regular course of proceedings in the trial or hearing of that matter is guilty of a felony.

946.65 Obstructing justice. (1) Whoever for a consideration knowingly gives false information to any officer of any court with intent to influence the officer in the performance of official functions is guilty of a felony.

(2) "Officer of any court" includes the judge, reporter, bailiff and prosecutor.

946.66 False complaints of police misconduct. (1) In this section:

(a) "Complaint" means a complaint filed by any person regarding the conduct of a law enforcement officer.

(b) "Law enforcement officer" means any person employed by the Nation or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances that the person is employed to enforce.

(2) Whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a Class A forfeiture.

946.67 Compounding crime. (1) Whoever receives any property in return for a promise, express or implied, to refrain from prosecuting a crime or to refrain from giving information bearing on the probable success of a criminal prosecution is guilty of a Class A misdemeanor.

(2) Subsection (1) does not apply if the act upon which the actual or supposed crime is based has caused a loss for which a civil action will lie and the person who has sustained such loss reasonably believes that he or she is legally entitled to the property received.

(3) No promise mentioned in this section shall justify the promisor in refusing to testify or to produce evidence against the alleged criminal when subpoenaed to do so.

946.68 Simulating legal process. (1g) In this section, "legal process" includes a subpoena, summons, complaint, warrant, injunction, writ, notice, pleading, order or other document that directs a person to perform or refrain from performing a specified act and compliance with which is enforceable by a court or governmental agency.

(1r) (a) Except as provided in pars. (b) and (c), whoever sends or delivers to another any document which simulates legal process is guilty of a felony.

(b) If the document under par. (a) is sent or delivered with intent to induce payment of a claim, the person is guilty of a felony.

(c) If the document under par. (a) simulates any criminal process, the person is guilty of a felony.

(2) Proof that a document specified under sub. (1r) was mailed or was delivered to any person with intent that it be forwarded to the intended recipient is sufficient proof of sending.

(3) This section applies even though the simulating document contains a statement to the effect that it is not legal process.
(4) Violation of this section may be prosecuted in the Nation if either the document was sent within the Nation's jurisdiction or from the Nation's jurisdiction.

946.69 Falsely assuming to act as a public officer or employee or a utility employee. (1) In this section, "utility" means any of the following:

(a) A public utility, as defined as every corporation, company, individual, association, their lessees, trustees or receivers appointed by any court, and every sanitary district, town, village or city that may own, operate, manage or control any toll bridge or all or any part of a plant or equipment, within the Nation, for the production, transmission, delivery or furnishing of heat, light, water or power either directly or indirectly to or for the public. "Public utility" includes all of the following:

1. Any person engaged in the transmission or delivery of natural gas for compensation within this Nation by means of pipes or mains and any person, except a governmental unit, who furnishes services by means of a sewerage system either directly or indirectly to or for the public.
2. A telecommunications utility.

(am) "Public utility" does not include any of the following:

1. A cooperative association organized for the purpose of producing or furnishing heat, light, power or water to its members only.
2. Any company, which owns, operates, manages or controls a telecommunications utility unless the company furnishes, directly to the public, telecommunications or sewer service, heat, light, water or power or, by means of pipes or mains, natural gas.
3. A commercial mobile radio service provider.
4. A joint local water authority.
5. A person that owns an electric generating facility or improvement to an electric generating facility that is subject to a leased generation contract, unless the person furnishes, directly to the public, telecommunications or sewer service, heat, light, water or power or, by means of pipes or mains, natural gas.

(b) A municipal power district.

(c) A cooperative association organized to furnish or provide telecommunications service, or a cooperative organized to furnish or provide gas, electricity, power or water.

(2) Whoever does any of the following is guilty of a felony:

(a) Assumes to act in an official capacity or to perform an official function, knowing that he or she is not the public officer or public employee or the employee of a utility that he or she assumes to be.

(b) Exercises any function of a public office, knowing that he or she has not qualified so to act or that his or her right so to act has ceased.

946.70 Impersonating peace officers, fire fighters, or other emergency personnel. (1) (a) Except as provided in sub. (2), whoever impersonates a peace officer with intent to mislead others into believing that the person is actually a peace officer is guilty of a Class A misdemeanor.

(b) Except as provided in sub. (2), whoever impersonates a fire fighter with intent to mislead others into believing that the person is actually a fire fighter is guilty of a Class A misdemeanor.

(c) Except as provided in sub. (2), whoever impersonates an emergency medical technician with intent to mislead others into believing that the person is actually an emergency medical technician is guilty of a Class A misdemeanor. An emergency medical technician is defined as an emergency medical technician — basic (an individual who is licensed to administer basic life support and to properly handle and transport sick, disabled or injured individuals), an emergency medical technician — intermediate (an individual who is licensed by the department as an emergency medical technician — intermediate), or an emergency medical technician — paramedic (an individual who is specially trained in emergency cardiac, trauma and other lifesaving or emergency procedures in a training program or course of instruction and licensed as an emergency medical technician — paramedic).

(d) Except as provided in sub. (2), whoever impersonates a first responder with intent to mislead others into believing that the person is actually a first responder is guilty of a Class A misdemeanor. A first responder is defined as a person who is certified as such and as a condition of employment or as a member of an organization that provides emergency medical care before hospitalization, provides emergency medical care to a sick, disabled or injured individual before the arrival of an ambulance, but who does not provide transportation for a patient.,

(2) Any person violating sub. (1) with the intent to commit or aid or abet the commission of a crime other than a crime under this section is guilty of a felony.

946.71 Unlawful use of license for carrying concealed weapons. (1) In this section, "license" means a license to carry a concealed weapon issued by a licensing jurisdiction.

(2) Whoever does any of the following is guilty of a Class A misdemeanor:

(a) Intentionally represents as valid any revoked, suspended, fictitious, or fraudulently altered license.

(b) If the actor holds a license, intentionally sells or lends the license to any other individual or knowingly permits another individual to use the license.

(c) Intentionally represents as one's own any license not issued to him or her.

(d) If the actor holds a license, intentionally permits any unlawful use of that license.

(e) Intentionally reproduces by any means a copy of a license for a purpose that is prohibited under this subsection.

(f) Intentionally defaces or intentionally alters a license.

946.72 Tampering with public records and notices. (1) Whoever with intent to injure or defraud destroys, damages, removes or conceals any public record is guilty of a felony.

(2) Whoever intentionally damages, alters, removes or conceals any public notice, posted as authorized by law, before the expiration of the time for which the notice was posted, is guilty of a Class B misdemeanor.

946.74 Aiding escape from mental institutions. (1) Whoever intentionally does or attempts to do any of the following is guilty of a Class A misdemeanor:

(a) Aids any person committed to an institution for the care of the mentally ill, infirm or deficient to escape therefrom.

(b) Introduces into any institution for the care of the mentally ill, infirm or deficient, or transfers to any person committed to such institution, anything adapted or useful in making

an escape therefrom, with intent to aid any person to escape.

(c) Removes from any institution for the care of the mentally ill, infirm or deficient any person committed thereto.

(2) Whoever violates sub. (1) with intent to commit a crime against sexual morality with or upon the inmate of the institution is guilty of a felony.

946.75 Denial of right of counsel. Whoever, while holding another person in custody and if that person requests a named attorney, denies that other person the right to consult and be advised by an attorney at law at personal expense, whether or not such person is charged with a crime, is guilty of a Class A misdemeanor.

946.76 Search warrant; premature disclosure. Whoever discloses prior to its execution that a search warrant has been applied for or issued, except so far as may be necessary to its execution, is guilty of a felony.

946.79 False statements to financial institutions. (1) In this section:

(a) "Financial institution" means a bank, savings bank, savings and loan association, credit union, loan company, sales finance company, insurance premium finance company, community currency exchange, seller of checks, insurance company, trust company, securities broker-dealer, , mortgage banker, mortgage broker, pawnbroker, telegraph company, or dealer in precious metals, stones, or jewels.

(b) "Financial transaction information" means information being submitted to a financial institution in connection with a transaction with that financial institution.

(c) "Monetary instrument" includes any of the following:

1. Coin or currency of the United States or any other country.
2. Traveler's check, personal check, money order, or share draft or other draft for payment.
3. Investment security or negotiable instrument, in bearer form, book entry, or other form that provides that title to the security or instrument passes upon delivery or transfer of the security or instrument.
4. Precious metals, stones, or jewels.

(d) "Personal identification document" means any of the following:

1. A document containing personal identifying information.
2. An individual's card or plate, if it can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value or benefit, or if it can be used to initiate a transfer of funds.
3. Any other device that is unique to, assigned to, or belongs to an individual and that is intended to be used to access services, funds, or benefits of any kind to which the individual is entitled.

(e) "Personal identifying information" means any of the following information:

1. An individual's name.
2. An individual's address.
3. An individual's telephone number.
4. The unique identifying driver number assigned to the individual by the state department of transportation.
5. An individual's social security number.

6. An individual's employer or place of employment.
7. An identification number assigned to an individual by his or her employer.
8. The maiden name of an individual's mother.
9. The identifying number of a depository account, of an individual.
10. An individual's taxpayer identification number.
11. An individual's deoxyribonucleic acid profile.
12. Any of the following, if it can be used, alone or in conjunction with any access device, to obtain money, goods, services, or any other thing of value or benefit, or if it can be used to initiate a transfer of funds:
    a. An individual's code or account number.
    b. An individual's electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier.
    c. Any other means of account access.
13. An individual's unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical representation.
14. Any other information or data that is unique to, assigned to, or belongs to an individual and that is intended to be used to access services, funds, or benefits of any kind to which the individual is entitled.
15. Any other information that can be associated with a particular individual through one or more identifiers or other information or circumstances.

(f) "Transaction" means the acquisition or disposition of property by any means, including any of the following:
1. The purchase, sale, trade, transfer, transmission, exchange, loan, pledge, investment, delivery, deposit, or withdrawal of a monetary instrument.
2. The use of a safe deposit box.
3. The extension of credit.

(2) Whoever knowingly does any of the following in connection with the submission of financial transaction information is guilty of a felony:
(a) Falsifies or conceals or attempts to falsify or conceal an individual's identity.
(b) Makes a false statement regarding an individual's identity.
(c) Makes or uses a writing containing false information regarding an individual's identity.
(d) Uses a false personal identification document or false personal identifying information.

SUBCHAPTER VI RACKETEERING ACTIVITY AND CONTINUING CRIMINAL ENTERPRISE

946.80 Short title. Sections 946.80 to 946.88 may be cited as the Ho-Chunk Nation Organized Crime Control Act.

946.81 Intent. The legislature finds that a severe problem is posed in this Nation by the increasing organization among certain criminal elements and the increasing extent to which criminal activities and funds acquired as a result of criminal activity are being directed to and against the legitimate economy of the Nation. The legislature declares that the intent of the Ho-Chunk Nation Organized Crime Control Act is to impose sanctions against this subversion of the economy by organized criminal elements and to provide compensation to private persons injured thereby. It

is not the intent of the legislature that isolated incidents of misdemeanor conduct be prosecuted under this act, but only an interrelated pattern of criminal activity the motive or effect of which is to derive pecuniary gain.

946.82 Definitions. In ss. 946.80 to 946.88:
(1) "Commission of a crime" means being concerned in the commission of a crime under s. 939.05.
(2) "Enterprise" means any sole proprietorship, partnership, limited liability company, corporation, business trust, union organized under the laws of this Nation or other legal entity or any union not organized under the laws of this Nation, association or group of individuals associated in fact although not a legal entity. "Enterprise" includes illicit and licit enterprises and governmental and other entities.
(3) "Pattern of racketeering activity" means engaging in at least 3 incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, provided at least one of the incidents occurred after April 27, 1982 and that the last of the incidents occurred within 7 years after the first incident of racketeering activity. Acts occurring at the same time and place which may form the basis for crimes punish- able under more than one statutory provision may count for only one incident of racketeering activity.
(4) "Racketeering activity" means any activity specified in 18 USC 1961 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission of any of the felonies specified in: chs. 945 and 961, , and ss. 940.01, 940.19 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.302 (2), 940.305, 940.31, 941.20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g), 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (bf) to (e), 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27, 943.28, 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4) (bf), (bm), and (c) and (4m), 943.60, 943.70, 943.81, 943.82, 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e), 944.32, 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.12, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.76, 946.79, 947.015, 948.05, 948.051, 948.08, 948.12, 948.30, and Wis Stat. subch. V of ch. 551, and ss. 49.49, 134.05, 139.44 (1), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637, 221.1004, 553.41 (3) and (4), 553.52 (2).

946.83 Prohibited activities. (1) No person who has received any proceeds with knowledge that they were derived, directly or indirectly, from a pattern of racketeering activity may use or invest, whether directly or indirectly, any part of the proceeds or the proceeds derived from the investment or use thereof in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.
(2) No person, through a pattern of racketeering activity, may acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.
(3) No person employed by, or associated with, any enterprise may conduct or participate, directly or indirectly, in the enterprise through a pattern of racketeering activity.

946.84 Penalties. (1) Any person convicted of engaging in racketeering activity in violation of s. 946.83 is guilty of a felony.

(2) In lieu of a fine under sub. (1), any person convicted of engaging in conduct in violation of s. 946.83, through which he or she derived pecuniary value, or by which he or she caused personal injury or property damage or other loss, may be fined not to exceed 2 times the gross value gained or 2 times the gross loss caused, whichever is the greater, but not to exceed $15,000, plus court costs and the costs of investigation and prosecution, reasonably incurred. In calculating the amount of fine based on personal injury, any measurement of pain and suffering shall be excluded.
(3) The court shall hold a hearing to determine the amount of the fine authorized by sub. (2).
(4) In sub. (2), "pecuniary value" means:

(a) Anything of value in the form of money, a negotiable instrument, or a commercial interest or anything else the primary significance of which is economic advantage; or

(b) Any other property or service that has a value in excess of $100.

946.85 Continuing criminal enterprise. (1) Any person who engages in a continuing criminal enterprise is guilty of a felony.
(2) In this section a person is considered to be engaged in a continuing criminal enterprise, if he or she engages in a prohibited activity under s. 946.83, and:

(a) The activity is undertaken by the person in concert with 5 or more other persons, each of whom acted with intent to commit a crime and with respect to whom the person occupies a supervisory position; and

(b) The person obtains gross income or resources in excess of $25,000 from the activity.

946.86 Criminal forfeitures. (1) In addition to the penalties under ss. 946.84 and 946.85, the court shall order forfeiture, according to the procedures set forth in subs. (2) to (4), of all real or personal property used in the course of, or intended for use in the course of, derived from or realized through conduct in violation of s. 946.83 or 946.85. All forfeitures under this section shall be made with due provision for the rights of innocent persons. Property constituting proceeds derived from conduct in violation of s. 946.83 or 946.85 includes, but is not limited to, any of the following:

(a) Any position, office, appointment, tenure, commission or employment contract of any kind that the defendant acquired or maintained in violation of s. 946.83 or 946.85, through which the defendant conducted or participated in the conduct of the affairs of an enterprise in violation of s. 946.83 or 946.85, or that afforded the defendant a source of influence or control over the affairs of an enterprise that the defendant exercised in violation of s. 946.83 or 946.85.

(b) Any compensation, right or benefit derived from a position, office, appointment, tenure, commission or employment contract that accrued to the defendant during the period of conduct in violation of s. 946.83 or 946.85.

(c) Any interest in, security of, claim against or property or contractual right affording the defendant a source of influence or control over the affairs of an enterprise in which the defendant participated in violation of s. 946.83 or 946.85.

(d) Any amount payable or paid under any contract for goods or services that was awarded or performed in violation of s. 946.83 or 946.85.

(2) Any criminal complaint alleging violation of s. 946.83 or 946.85 shall allege the extent of property subject to forfeiture under this section. At trial, the trier of fact shall return a special verdict determining the extent of property, if any, to be subject to forfeiture under this section. When a special verdict contains a finding of property subject to a forfeiture under this section,

a judgment of criminal forfeiture shall be entered along with the judgment of conviction.
(3) If any property included in a special verdict of criminal forfeiture cannot be located, has been sold to a bona fide purchaser for value, has been placed beyond the jurisdiction of the court, has been substantially diminished in value by the conduct of the defendant, has been commingled with other property that cannot be divided without difficulty or undue injury to innocent persons or is otherwise unreachable without undue injury to innocent persons, the court may order forfeiture of any other property of the defendant up to the value of the property that is unreachable.
(4) Any injured person has a right or claim to forfeited property or the proceeds derived therefrom superior to any right or claim the Nation has under this section in the same property or proceeds. This subsection does not grant the injured person priority over Nation or state claims or rights by reason of a tax lien or other basis not covered by ss. 946.80 to 946.88. All rights, titles and interest in property described in sub. (1) vest in the Nation upon the commission of the act giving rise to forfeiture under this section.

946.87 Civil remedies. (1) After making due provision for the rights of innocent persons, the court may enjoin violations of s. 946.83 or 946.85 and may issue appropriate orders and judgments related thereto, including, but not limited to:

(a) Ordering any defendant to divest himself or herself of any interest in any enterprise which is involved in the violation of s. 946.83 or 946.85, including real property.

(b) Imposing reasonable restrictions upon the future activities or investments of any defendant related to enjoining violations of s. 946.83 or 946.85, including, but not limited to, prohibiting any defendant from engaging in the same type of endeavor as the enterprise in which he or she was engaged in violation of s. 946.83 or 946.85.

(c) Ordering the dissolution or reorganization of any related enterprise.

(d) Ordering the suspension or revocation of a license, permit or prior approval granted to any related enterprise by any agency of the Nation, state, county or municipality.

(e) Ordering the dissolution of a corporation , or the revocation of a certificate authorizing a foreign corporation to conduct business within the Nation, upon finding that the board of directors or a managerial agent acting on behalf of the corporation, in conducting the affairs of the corporation, has authorized or engaged in conduct in violation of s. 946.83 or 946.85 and that, for the prevention of future criminal activity, the public interest requires the action under this paragraph.

(2) (a) All property, real or personal, including money, used in the course of, intended for use in the course of, derived from, or realized through, conduct which has resulted in a conviction for violation of s. 946.83 or 946.85 is subject to civil forfeiture to the Nation. The Nation shall dispose of all forfeited property as soon as commercially feasible. If property is not exercisable or transferable for value by the Nation, it shall expire. All forfeitures or dispositions under this section shall be made with due provision for the rights of innocent persons. The proceeds realized from the forfeitures and dispositions shall be deposited in the school fund.

(am) Notwithstanding par. (a), property described in par. (a) is subject to forfeiture if the person who violated s. 946.83 or 946.85 has not been convicted, but he or she is a defendant in a criminal proceeding, is released, pending trial, on bail, as defined in s. 969.001, and fails to appear in court regarding the criminal proceeding. However, before making the final determination of any action under this section, the court must determine that the party bringing the action can prove the person committed the violation of s. 946.83 or 946.85.

(b) Any injured person has a right or claim to forfeited property or the proceeds derived therefrom superior to any right or claim the Nation has under this section in the same property or proceeds. This paragraph does not grant the person priority over Nation claims or rights by reason of a tax lien or other basis not covered by ss. 946.80 to 946.88.

(3) The attorney general or the prosecutor may institute civil proceedings under this section. In any action brought under this section, the trial court shall proceed as soon as practicable to the hearing and determination. Pending final determination of any action under this section, the court may at any time enter such injunctions, prohibitions or restraining orders or take such actions, including the acceptance of satisfactory performance bonds, as the court deems proper. At any time pending final determination of a forfeiture action under sub. (2), the court may order the seizure of property subject to forfeiture and may make such orders as it deems necessary to preserve and protect the property.

(4) Any person who is injured by reason of any violation of s. 946.83 or 946.85 has a cause of action for 2 times the actual damages sustained and, when appropriate, punitive damages. The person shall also recover attorney fees and costs of the investigation and litigation reasonably incurred. The defendant or any injured person may demand a trial by jury in any civil action brought under this section.

(5) The burden of proof under this section is that of satisfying or convincing to a reasonable certainty by a greater weight of the credible evidence that the property is subject to forfeiture under this section.

(6)A final judgment or decree rendered in favor of the Nation in any criminal proceeding under ss. 946.80 to 946.88 shall stop the defendant from denying the essential allegations of the criminal offense in any subsequent civil action or proceeding.

946.88 Enforcement and jurisdiction. (1) A criminal or civil action or proceeding under ss. 946.80 to 946.88 may be commenced at any time within 6 years after a violation under ss. 946.80 to 946.88 terminates or the cause of action accrues. If a criminal action or proceeding under ss. 946.80 to 946.88 is brought, or intervened in, to punish, prevent or restrain any such violation, the running of the period of limitations with respect to any civil action or proceeding, including an action or proceeding under s. 946.87, which is based in whole or in part upon any matter complained of in the criminal action or proceeding shall be suspended for 2 years following the termination of the criminal action or proceeding.

(2) The application of one civil or criminal remedy under ss. 946.80 to 946.88 does not preclude the application of any other remedy, civil or criminal, under ss. 946.80 to 946.88 or any other provision of law. Civil remedies under ss. 946.80 to 946.88 are supplemental, and not mutually exclusive, except the Nation may not proceed under both ss. 946.84 (2) and 946.87 (4).

(3) The attorney general and the prosecutor of this Nation have concurrent authority to institute criminal proceedings under ss. 946.80 to 946.88, except a prosecutor may institute proceedings only with the prior written approval of the attorney general.

946.93 Public assistance fraud. (1) In this section, "public assistance" means any aid, benefit, or services provided by the Nation.

(2) Whoever intentionally makes or causes to be made any false statement or representation of material fact in any application for or receipt of public assistance is guilty of a Class A misdemeanor.

(3) No person may do any of the following:

(a) Having knowledge of an event affecting the initial or continued eligibility for public assistance, conceal or fail to disclose that event with an intent to fraudulently secure public assistance, including payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized.

(b) Receive any income or assets and fail to notify the public assistance agency within 10 days after receiving the income or assets, unless a different time period is required under the applicable public assistance program.

(c) Fail to notify the public assistance agency within 10 days of any change in circumstances for which notification by the recipient must be provided under law, unless a different time period is required under the applicable public assistance program.

(d) Receive a voucher under a public assistance program for goods or services and use the funding granted under the voucher for purposes that are not authorized by the public assistance agency.

(e) Whoever violates par. (a), (b), (c), or (d) is subject to the following penalties:

1. If the value of the payment or benefit does not exceed $300, a Class B forfeiture.
2. If the value of the payment or benefit is more than $300 but does not exceed $1,000, a Class B misdemeanor.
3. If the value of the payment or benefit is more than $1,000 but does not exceed $2,000, a Class A misdemeanor.
4. If the value of the payment or benefit is more than $2,000, a felony.

(4) A person who obtains money, goods, services, or any other thing of value because he or she sends or brings a person to a county department, federally recognized American Indian tribe or band, multicounty consortium, or Wisconsin Works agency for the purpose of obtaining public assistance is guilty of a Class C misdemeanor.

(5) (a) Whoever solicits or receives money, goods, services, or any other thing of value in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which a public assistance payment may be made in whole or in part, or in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which public assistance payment may be made in whole or in part, is guilty of a felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than $15,000.

(b) Whoever offers or provides money, goods, services, or any other thing of value to any person to induce the person to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which public assistance payment may be made in whole or in part, or to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which public assistance payment may be made in whole or in part, is guilty of a felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than $5,000.

(c) This subsection does not apply to any of the following:

1. A discount or other reduction in price obtained by a provider of services or other entity under the law if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under a public assistance program.
2. An amount paid by an employer to an employee who has a bona fide employment relationship with the employer for employment in the provision of covered items or

services.

(6) Whoever makes any statement in a written application for public assistance is considered to have made an admission as to the existence, correctness, or validity of any fact stated. Such a statement is prima facie evidence against the person who made it in any complaint, information, or indictment, or in any action brought for enforcement of any provision of this section.

Legislative History:

12/17/13	Legislature established the Criminal Code Workgroup through Resolution 12-17-13C.
12/11/14	The Criminal Code Workgroup presented the Criminal Code to the Administration Committee at which time it was referred to the full Legislature to be placed out for 45 Day Public Comment.
01/06/15	Legislature placed the Criminal Code out for 45 Day Public Comment by Resolution 01-06-15B.
03/17/15	Legislature placed the Criminal Code out for an additional 45 Day Public Comment by Resolution 03-17-15K.
05/05/15	Legislature enacted the Criminal Code through Resolution 05-05-15P.
05/17/16	Technical corrections made in accordance with Section 45 of the Legislative Organization Act (2 HCC § 11).