

# Mille Lacs Band Statutes Annotated

Amendments received through: April 20, 2022

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## TITLE 5 - JUDICIAL BRANCH

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### CHAPTER 1

#### JUDICIAL ORGANIZATION

##### Section

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§ 1. Court of Central Jurisdiction; Composition.

All judicial authority of the Non-Removable Mille Lacs Band of Chippewa Indians shall be vested in the Court of Central Jurisdiction. The Court of Central Jurisdiction shall be composed of the Justices and Judges of the Court of Central Jurisdiction, the Clerk of Court, Court Administrator and other judicial employees.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 7.

#### **Cross References**

Court staff, *see* 5 MLBS § 107.

### **§ 2. Court of Central Jurisdiction; Constituent Courts and Leadership.**

The Court of Central Jurisdiction shall consist of the District Court and the Court of Appeals of the Non-Removable Mille Lacs Band of Chippewa Indians and as otherwise provided for by law and shall be led by the Chief Justice who shall serve as the leader of the Court of Central Jurisdiction.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 7.01.

### **§ 3. Composition of Court of Appeals.**

The Court of Appeals shall be composed of one Chief Justice and two Associate Justices.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 7.02.

### **§ 4. Composition of District Court.**

The District Court shall be composed of one District Court Judge and such other Associate District Court Judges as necessary

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC4, § 7.03.

**§ 5. Appointment and Terms of Office of Justices.**

- (a) The terms of office of the three Justices of the Court of Appeals shall be for six (6) years. Any Justice may be disciplined or removed for cause pursuant to 3 MLBS § 25.
- (b) The Justices shall be nominated by the Chief Executive, who shall submit the nomination to Band Assembly. Band Assembly shall upon receipt of the nomination confirm or reject the nomination within thirty (30) days. There shall be one justice from each of the three respective districts of the Mille Lacs Band.
- (c) The Justice from the Nay-Ah-Shing District shall serve a six-year term expiring August 15, 1996 and on this date every six years hence. The Justice from the Ga-me-ta-wa-ga-gi-moog District shall serve a six-year term expiring August 30, 1998 and on this date every six years hence. The Justice from the Ah-sho-moog District shall serve a six-year term expiring August 15, 2000 and on this date every six years hence.

**Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 12.

**Cross References**

Designation of Band districts, *see* MLBS § 11.

**§ 6. Chief Justice; Election and Term of Office.**

The Justices of the Court of Appeals shall elect from among themselves the Chief Justice who shall then serve a four-year term as Chief Justice expiring August 30, 1996 and on this date every four years hence.

**Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 12.03.

**§ 7. District Court Judge and Associate Judges; Appointment and Terms of Office.**

- (a) The District Court Judge and the Associate Judges shall be nominated by the Chief Executive who shall submit the nomination to Band Assembly. Band Assembly shall upon receipt of the nominations confirm or reject the nominations within 30 days.
- (b) The District Court Judge shall serve a six-year term expiring August 15, 1 996 and on this date every six years hence.
- (c) The Associate Judges shall each serve a four-year term expiring August 30, 2024 and on this date four years hence.
- (d) The District Court Judge or Associate Judges may be disciplined or removed for cause pursuant to 3 MLBS § 25.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 12.04, 12.05.  
Band Ordinance 39-19.

#### **§ 8. Vacancy in Court of Central Jurisdiction.**

- (a) Should the Chief Justice temporarily become unable to perform the duties of office those powers and duties shall devolve upon the Senior Associate Justice, until such disability is removed.
- (b) Whenever an Associate Justice of the Court is unable to perform the duties of office, those powers and duties shall devolve upon a Special Magistrate, until such disability is removed or another justice is appointed and sworn in.
- (c) In the event a Justice or Judge is unable to complete their term of office that position will be filled by nomination from the Chief Executive subject to ratification by Band Assembly.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 13.

#### **Cross References**

Special Magistrate, *see* MLBS § 108.

#### **§ 9. Qualifications of Justices.**

- (a) Any person who is nominated as a justice of the Court of Central Jurisdiction shall meet the following qualifications:
- (1) Shall be an enrolled member of the Non-Removable Mille Lacs Band of Chippewa Indians, and;
  - (2) Shall have reached the chronological age of twenty-one, and;
  - (3) Shall have graduated from high school or obtained an equivalent degree, or be at least 55 years old, and;
  - (4) Shall be knowledgeable of the Constitution of the Minnesota Chippewa Tribe, the laws of the Non-Removable Mille Lacs Band of Chippewa Indians and the unwritten customs and traditions of the Band, and;
  - (5) Shall be a person of honor, integrity and good moral character as evidenced by letters of recommendation from four (4) elders of the Band who are not related within the first degree to the person nominated for office.
- (b) No person shall be nominated as a justice in the event said person shall have been convicted of a felony or if that person has been convicted of a gross misdemeanor within seven (7) years.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 14.

#### **§ 10. Qualifications of District Judge and Associate Judges.**

- (a) Shall have graduated from an accredited law school and be in good standing of a state bar.
- (b) Shall have never been convicted of a felony or gross misdemeanor and if convicted for such while seated as a judge shall be subject to removal pursuant to 3 MLBS § 25.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 15.

Band Ordinance 39-19.

#### **§ 11. Removal or Discipline of Justices and Judges.**

- (a) A joint session of the Band Assembly, pursuant to 3 MLBS § 25, may remove or discipline any justice or judge of the Court for just cause associated with a violation

of the Judicial Code of Ethics of the Non-Removable Mille Lacs Band of Chippewa Indians or a violation of Article X, § 2(a), (b), (c), (d) and (e) of the Constitution of the Minnesota Chippewa Tribe or for any felony, gross misdemeanor or a second misdemeanor conviction while holding office, excluding minor traffic offenses or a criminal conviction in the Court of Central Jurisdiction.

- (b) No Justice of the Court of Central Jurisdiction shall be removed or disciplined without due process of law.
- (c) The following procedures shall apply to all removal or disciplinary proceedings of Justices or Judges:
  - (1) The removal process shall be by a Joint Session with the Speaker of the Band Assembly presiding. The Judge/Justice may be represented by counsel during the process and shall have the right to call witnesses and present evidence on their behalf and shall be advised of the charges against them.
  - (2) Following questioning by the hearing officer, the witness may make additional comments within the limits of relevancy and propriety. Any other party or legal representative may question the witness. A witness may be recalled at the discretion of the hearing officer if additional questions are raised.
  - (3) Hearings are to be held upon at least seventy-two (72) hours advance notice to the parties. A continuance may be granted for good cause at the discretion of the hearing officer. Hearings shall be informal and there may be as many sessions as deemed necessary by the Joint Session to enable review of all the evidence.
  - (4) The decisions of the Joint Session, whether interim or final shall be in writing and shall contain the following:
    - (i) The name of the party;
    - (ii) The date of the hearing;
    - (iii) The facts established by the evidence;
    - (iv) The decision of the Joint Session, including the remedy being given.
- (d) The decision of the Joint Session on any removal or disciplinary action shall be final.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 21.

#### **Cross References**

Due process of law, *see* 1 MLBS § 8.  
Joint Session of Band Assembly, *see* 3 MLBS § 24.

## **§ 12. Salaries of Justices.**

- (a) The salary for the Associate Justices of the Court of Appeals shall be as established by Band Assembly appropriation.
- (b) The Chief Justice may recommend to the Band Assembly adjustments to salaries based upon recommendations contained in an annual report of the Judiciary, current and anticipated case loads, and the general business conditions existing in the court.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 18.

## **§ 13. Official Seal.**

- (a) The official seal of the Court of Central Jurisdiction shall be affixed to all official documents of the Court. Any document of the Court of Central Jurisdiction without the official seal shall have no legal force and effect.
- (b) The official seal of the Court of Central Jurisdiction shall be at all times kept in a secure location.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 31.

### **Cross References**

Seal, judicial authority, *see* 5 MLBS § 110.

## **§ 14. Convening Schedule of District Court.**

The District Court of the Mille Lacs Band of Chippewa Indians shall regularly convene in District III, at least one (1) day in every two (2) week period; District II, at least one (1) day in every two (2) week period and District I, at all other times.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 36.

**§ 15. Fines and Bonds.**

All moneys paid into the Court of Central Jurisdiction, or received by the Clerk of Court, in any case pending or adjudicated, shall be forthwith deposited with the Office of Management and Budget, in the name of the Court of Central Jurisdiction.

**Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 30.

**CHAPTER 2**

**JUDICIAL AUTHORITY AND JURISDICTION**

**Section**

- 101. Judicial Authority.**
- 102. Writs, Judgments, and Orders.**
- 103. Cultural Causes of Action; Panel of Elders' Decisions.**
- 104. Powers of Construction and Interpretation.**
- 105. Rules.**
- 106. Regulation of Practice of Law.**
- 107. Court Staff.**
- 108. Special Magistrate.**
- 109. Contracts, Grants, Bequests, Donations, or Gifts.**
- 110. Seal.**
- 111. Subject Matter Jurisdiction.**
- 112. Persons Subject to Criminal Jurisdiction.**
- 113. Personal Jurisdiction.**
- 114. Duties of Chief Justice.**
- 115. Oath for Band Offices.**
- 116. Duties of Individual Justices and Judges.**
- 117. Responsibilities of Individual Justices and Judges.**
- 118. Continuing Education.**
- 119. Immunity for Justices and Judges.**

**§ 101. Judicial Authority.**

Except as otherwise provided for by law the Court of Central Jurisdiction shall have all judicial authority extending to cases in law and equity. The Court of Central Jurisdiction shall have all powers necessary for carrying into execution its judgments and determinations in order to promote the general welfare, preserve and maintain justice, and to protect the rights of all persons under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 8.

#### **Cross References**

Functions of governmental authority, *see* 2 MLBS § 4.

### **§ 102. Writs, Judgments, and Orders.**

The Court of Central Jurisdiction shall have the power to issue writs of habeas corpus, judgments, orders requiring conduct, orders prohibiting conduct, certification of appeals or any other writs as are necessary in the furtherance of justice.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 8.03.

### **§ 103. Cultural Causes of Action; Panel of Elders' Decisions.**

The Court of Central Jurisdiction shall have the authority to enter as a judgment and order a decision made by a panel of elders in a Cultural Cause of Action between Band members as defined by 24 MLBS § 601 et seq.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 8.10.

### **§ 104. Powers of Construction and Interpretation.**

The Court of Central Jurisdiction shall have the power to construe and interpret statutes, legal instruments, records, decisions, or legal process applicable or pertaining to or emanating from the Non-Removable Mille Lacs Band of Chippewa Indians, when brought before the Court.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 8.08.

**§ 105. Rules.**

- (a) The Court of Central Jurisdiction shall have the power to prescribe by general rules, the forms of process, writs, pleadings, rules of evidence and motions and the practice and procedure of the District Court and Court of Appeals of the Mille Lacs Band in civil actions and criminal actions and appeals therein, such rules shall not abridge, enlarge or modify the substantive rights of any person.
- (b) Such rules shall not take effect until 90 days after they have been reported to the Band Assembly by the Chief Justice during a regular session of the Band Assembly and shall not abridge the right of Band Assembly to enact, modify, or repeal any statute or modify or repeal any rule of the Court of Central Jurisdiction pursuant thereto.

**Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, §§ 8.01, 8.02.

**§ 106. Regulation of Practice of Law.**

The Court of Central Jurisdiction shall have the power to prescribe rules governing the admission of individuals to practice law and to prescribe rules governing conduct in the practice of law, and rules concerning the presentation, hearing and determination of accusations against individuals practicing law. Such rules shall not be inconsistent with the laws of the Mille Lacs Band.

**Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 8.04.

**§ 107. Court Staff.**

The Court of Central Jurisdiction shall have the power to appoint a Clerk of Court, Court Administrator or any other court staff as may be required and to prescribe the necessary duties and responsibilities of those positions not inconsistent with Mille Lacs Band law.

**Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 8.05.

### **§ 108. Special Magistrate.**

The Court of Central Jurisdiction shall have the power to appoint a law trained individual to serve as a Special Magistrate as needed to hear cases at such times as the interests of justice require independent or supplementary judicial review. A Special Magistrate shall have all authority conferred upon any other justice or judge of the Court of Central Jurisdiction.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 8.06.

### **§ 109. Contracts, Grants, Bequests, Donations, or Gifts.**

The Court of Central Jurisdiction shall have the power to contract with and to receive grants, bequests, donations or gifts for the enhancement of the judiciary of the Mille Lacs Band and to apply the same to the purpose designated. All said contracts, grants, bequests, donations or gifts may be accepted or entered into by the Court by and with the advice and consent of the Band Assembly in accordance with applicable Band law.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 8.07.

### **§ 110. Seal.**

The Court of Central Jurisdiction shall have the power to adopt a seal which shall be used to authenticate judgments, orders, opinions and other court papers. The form of the seal and regulation of the seal's use shall be specified by court rules.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 8.09.

#### **Cross References**

Official seal, judicial organization, *see* 5 MLBS § 13.

### **§ 111. Subject Matter Jurisdiction.**

- (a) The Court of Central Jurisdiction shall have jurisdiction over all civil and criminal matters where all parties are Indians within the jurisdiction of the Court. The Court of Central Jurisdiction shall have civil jurisdiction over non-Indians in all cases as

- provided in Section 113 of this Chapter. The Court shall have jurisdiction pursuant to the laws of the United States of America. The Court shall have jurisdiction over contracts made with the Non-Removable Mille Lacs Band of Chippewa Indians, or any of its political subdivisions or entities, for services to be performed within the territorial jurisdiction of the Band, except as such jurisdiction may be otherwise limited by Band Statute.
- (b) The Court of Central Jurisdiction is hereby granted exclusive original jurisdiction over all criminal or civil causes of action, involving any person, where such grievance or dispute arises concerning any property personal or otherwise, located on lands or contiguous waters subject to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.
  - (c) The Court of Central Jurisdiction shall have subject matter jurisdiction over any cause of action that may arise from unwritten cultural law or a violation thereof. The Court of Central Jurisdiction however, in the exercise of its authority to enforce all provisions of unwritten cultural law and upon the authority it possess as to accord equal justice shall give full force and effect to 24 MLBS Chapter 1 , if the provisions of that chapter are not inconsistent with any custom or cultural law heretofore or hereafter in place in the determination of cultural causes of action arising pursuant to any statute of the Non-Removable Mille Lacs Band of Chippewa Indians.
  - (d)
    - (1) The Court of Central Jurisdiction shall have jurisdiction over all civil matters in which the Non-Removable Mille Lacs Band of Chippewa Indians, any of its political subdivisions or entities, or its officers, appointees or employees are parties in their official capacity. Nothing herein shall be construed as a waiver of sovereign immunity of the Band unless specifically authorized in accordance with Band law or by specific Band Statute.
    - (2) The Court of Central Jurisdiction has exclusive jurisdiction over all suits in which Band officials are defendants where declaratory and equitable relief is sought.
  - (e) The District Court of the Court of Central Jurisdiction shall have original jurisdiction over all criminal and civil matters except as otherwise provided for by law.
  - (f) The Court of Appeals shall have original jurisdiction over election disputes pursuant to the Minnesota Chippewa Tribal Election Ordinance and on issues certified to the Court of Appeals from foreign jurisdictions.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1092-MLC-25, § 16.

Band Statute 1130-MLC-51, T. I, § 6.

Band Statute 1303-MLC-4, § 9-11.  
Band Ordinance 08-93.

### **Cross References**

Change of name, authority of Court, *see* 8 MLBS § 801.  
Civil causes of action, exclusive original jurisdiction, *see* 24 MLBS § 2.  
Commercial practices, jurisdiction, *see* 18 MLBS § 5.  
Commissioner of Finance, subject matter jurisdiction of Court of Central Jurisdiction, *see* 22 MLBS § 113.  
Concurrent civil jurisdiction with United States Courts, *see* 24 MLBS § 3.  
Criminal offenses, subject matter jurisdiction, *see* 24 MLBS § 4002.  
Education, subject-matter jurisdiction, *see* 9 MLBS § 29.  
Employee Credit Union, jurisdiction of Court, *see* 17 MLBS § 18.  
Federation Cultural Resources Board, review of decisions, *see* 10 MLBS § 119.  
Firewood harvest, jurisdiction, *see* 11 MLBS § 2412.  
Gasoline and petroleum products excise tax, subject matter jurisdiction, *see* 22 MLBS § 315.  
Housing Authority, jurisdiction, *see* 12 MLBS § 31.  
Motor vehicles, subject matter jurisdiction, *see* 19 MLBS § 12.  
Natural Resource Protection Code, jurisdiction, *see* 11 MLBS § 2601.  
Procurement, subject matter jurisdiction, *see* 7 MLBS § 48.  
Prohibited drugs, subject matter jurisdiction, *see* 23 MLBS § 9.  
Property disputes, jurisdiction, *see* 21 MLBS §§ 3, 4.  
Sales and use taxes, subject matter jurisdiction, *see* 22 MLBS § 516.  
Tobacco excise taxes, subject matter jurisdiction, *see* 22 MLBS § 221.  
Treaty usufructuary rights, implementation, subject matter jurisdiction, *see* 2 MLBS § 1104.  
Uniform Commercial Code, jurisdiction, *see* 18 MLBS § 301.

### **§ 112. Persons Subject to Criminal Jurisdiction.**

The Court of Central Jurisdiction shall have criminal jurisdiction over Mille Lacs Band members and non-member Indians alike and as may otherwise be prescribed by law.

### **Historical and Statutory Notes**

#### **Source:**

Band Statute 1303-MLC-4, § 9.01.

### **Cross References**

Criminal procedure, jurisdiction over persons, *see* 24 MLBS § 4003.  
Enrolled members exercising usufructuary rights in ceded territory, jurisdiction, *see* 2 MLBS § 1151.

### **§ 113. Personal Jurisdiction.**

The Court of Central Jurisdiction shall have civil jurisdiction over any person, corporation, business organization or other private entity that:

- (a) Transacts business with any member of the Band within the territorial jurisdiction of the Band;
- (b) Engages in any activity which results in injury or property damage within the territorial jurisdiction of the Mille Lacs Band;
- (c) Engages in any activity which results in a dispute over the ownership, use, possession or interest in any property within the territorial jurisdiction of the Band;
- (d) Contracts to insure any person, property, corporation, business organization or risk located within the territorial jurisdiction of the Band;
- (e) Enters into a written or verbal sales or service agreement within the territorial jurisdiction of the Mille Lacs Band or where performance of the agreement is to be within the territorial jurisdiction of the Mille Lacs Band;
- (f) Engages in conduct that may affect the environment or territories under the jurisdiction of the Band or affects the natural resources of the Band or threatens the health, safety, peace or welfare of Mille Lacs Band or inhabitants thereof.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 9.02.

#### **Cross References**

Commercial practices, jurisdiction, *see* 18 MLBS § 5.

Concurrent jurisdiction with United States Courts, *see* 24 MLBS § 3.

Enrolled members exercising usufructuary rights in ceded territory, jurisdiction, *see* 2 MLBS § 1151.

Environmental protection, actions for declaratory or equitable relief, jurisdiction and service of process, *see* 11 MLBS § 20.

Native American veteran Direct Loan Program, unlawful detainer, *see* 12 MLBS § 115.

Nay-Ah-Shing School, admission of persons under Band jurisdiction, *see* 9 MLBS § 18.

#### **§ 114. Duties of Chief Justice.**

The Chief Justice of the Court of Central Jurisdiction shall have the following Judicial and Administrative authority in exercising the judicial powers of the Band government:

- (a) To convene the Court of Appeals on the first Tuesday of February, June, September and November for the purpose of opening the general term of the Court. The Chief Justice may convene the Court of Appeals on special occasions at such time and locations as may be designated upon five (5) days written notice to the other justices prior thereto;

- (b) To present to the Band Assembly an annual State of the Judiciary Address on the second Tuesday of January of each calendar year;
- (c) To present to the Chief Executive and the Band Assembly information and recommendations for the improvement of the Judiciary;
- (d) To execute rules and policies of the Court consistent with the provisions of Band Statute for the orderly conduct of Court business as provided for by law,
- (e) To prepare a biennial appropriation request, for the court after consultation with the other Justices and Judges of the Court, and submit the request no later than September 1 of each odd numbered year;
- (f) To appoint a Special Magistrate in a proceeding, who has graduated from law school, in the interests of justice and in accordance with 5 MLBS § 108, when necessary.
- (g) To exercise all administrative duties necessary for the continued conduct of competent court operations.
- (h) To enter as a judgment and order determinations made in a Cultural Cause of Action.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 16.  
Band Ordinance 23-99, §§ 2, 6.

#### **Cross References**

Juvenile detention and shelter care facilities, rules and regulations, *see* 8 MLBS § 15.

#### **§ 115. Oath for Band Offices.**

The Chief Justice or in his/her absence any other Justice of the Court shall administer the following Oath of Office for Band Officials:

"I, \_\_\_\_\_, do hereby swear that I will support, honor, and respect the Constitution of the Minnesota Chippewa Tribe and the laws of the Non-Removable Mille Lacs Band of Chippewa Indians and I will protect the rights of Band members and others under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indian, and that I will faithfully and impartially discharge the duties of the office to the best of my judgment and ability so help me gi chi ma ni do."

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 32.

## **Cross References**

Federation Cultural Resources Board, oath of office, *see* 10 MLBS § 106.  
Official oath of office, *see* 2 MLBS § 8.

### **§ 116. Duties of Individual Justices and Judges.**

Individual justices and judges of the Court of Central Jurisdiction shall have the following authority:

- (a) To preserve and enforce order in their immediate presence, and in all proceedings when performing official duties.
- (b) To compel obedience to lawful directives and orders.
- (c) To compel attendance of persons called to testify in a proceeding as provided by law.
- (d) To administer oaths and affirmation to persons in proceedings before them and in any other circumstance where such shall be necessary in the exercise of Judicial powers or duties or where the law so requires an oath or affirmation.
- (e) To punish civilly or criminally, for contempt, any person, to assure the effective exercise of judicial authority.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 17.

### **§ 117. Responsibilities of Individual Justices and Judges.**

- (a) The individual justices and judges shall adopt by court order a code of judicial conduct and conform their conduct to the same.
- (b) A judge or justice who discloses any information relative to any pending case to the public-at-large may be subject to disciplinary action by the Joint Session.
- (c) No Justice, Judge or Special Magistrate shall be qualified to act as such in any case wherein he/she has any direct or indirect interest or wherein any relative once removed under cultural law by marriage is a party of interest in the proceeding.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, §§ 19, 22, 23.

### **Cross References**

Confidentiality, child support proceedings, see 8 MLBS § 2104.

### **§ 118. Continuing Education.**

The individual justices and judges shall attend a minimum number of legal education and training courses each year as provided for in the annual budget.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 19.01.

### **§ 119. Immunity for Justices and Judges.**

The justices and judges of the Court of Central Jurisdiction shall be immune from civil liability arising from judicial acts and deeds in the performance of their judicial duties.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1303-MLC-4, § 20.

### **Cross References**

Suits against Band officials, *see* 24 MLBS § 701.

## **CHAPTER 3**

## **RESERVED**

## CHAPTER 4

### FAMILY HEALING TO WELLNESS COURT

#### Section

- 301. Findings and Determinations.**
- 302. Purposes and Establishment.**
- 303. Definitions.**
- 304. Structure.**
- 305. Eligibility.**
- 306. Admission.**
- 307. Monitoring.**
- 308. Information.**
- 309. Hearings.**
- 310. Drug and Alcohol Testing.**
- 311. Treatment Services.**
- 312. Participant Services.**
- 313. Termination.**
- 314. Graduation.**
- 315. Continuing Education.**
- 316. Program Reporting.**
- 317. Office of the Solicitor General.**

#### **§ 301. Findings and Determinations.**

- (a) The Band Assembly hereby finds that the purpose of this chapter is to bring together healing resources, cultural resources, and drug treatment by using a team approach to achieve the healing of the individual, the preservation and reunification of Band families, and the strengthening of Band communities.
- (b) The Band Assembly hereby finds that 24 MLBS § 2003 states that Zhawenimaa, to keep the people together as one, is the way of life of the Non-Removable Mille Lacs Band of Ojibwe. The Band's goal is to restore the circle of peace and harmony by helping those that come before the Court of Central Jurisdiction so that they may experience a good life and the Band will continue to survive.
- (c) The Band Assembly hereby finds that Band children and families impacted by substance abuse and mental health disorders are better served by a cooperative process grounded in Band culture and traditional teachings as an alternative to the usual court process.

## Historical and Statutory Notes

**Source:**

Band Ordinance 30-22.

### § 302. Purposes and Establishment.

- (a) **Voluntary Program.** The Family Healing to Wellness Court of the Non-Removable Mille Lacs Band of Ojibwe, Noojimo’wiigamig Inaawanidiwag, which means Healing Journey, is established as a voluntary program under 8 MLBS § 3001 et seq. to:
- (1) provide intensive services and more frequent court intervention to facilitate the reunification of Band families and to prevent the breakup of such families;
  - (2) improve the safety and well-being of children whose families are affected by substance abuse, trauma, and mental health conditions;
  - (3) prevent the prenatal exposure of infants to alcohol and controlled substances;
  - (4) expedite family reunification and reduce the lengths of children’s out-of-home placements;
  - (5) strengthen families’ indigenous cultural, traditional, and community ties;
  - (6) reduce recidivism rates of substance abuse and promote recovery; and
  - (7) develop future healthy generations of Band members by promoting health and wellness for participants, their families, and Band communities.
- (b) **Authorities.** The Family Healing to Wellness Court shall exercise its authority in accordance with this chapter and any rules it adopts pursuant to 5 MLBS § 105. The Family Healing to Wellness Court is empowered to issue all orders reasonably necessary to ensure the safety, well-being, and rehabilitation of individuals who come within or consent to its jurisdiction.
- (c) **Multidisciplinary Cultural Approach.** The Family Healing to Wellness Court shall use a multidisciplinary, collaborative, and culturally-based approach to serve Band families who are involved with the Band’s child protection system due to substance abuse and mental health needs.

## Historical and Statutory Notes

**Source:**

Band Ordinance 30-22.

### § 303. Definitions.

Unless otherwise provided in this section, all words in this chapter shall be construed according to their ordinary meaning. The following terms are defined for purposes of this chapter:

- (a) **“Ancillary Service”** means any type of aid, benefit, evaluation, support, treatment, or therapy that is provided to a participant by either a government or government-sanctioned entity that is not provided directly by the Family Healing to Wellness Court.
- (b) **“Applicant”** means any individual who has applied for admittance into the Family Healing to Wellness Court.
- (c) **“Band”** means the Non-Removable Mille Lacs Band of Ojibwe.
- (d) **“Case Manager”** means the primary trained person who assesses the needs of the participant and the participant’s family, when appropriate; links the participant to treatment and resources; ensures that services are appropriate; develops the wellness plan jointly with the participant; monitors program compliance; and communicates activities to the larger Healing Journey Team.
- (e) **“Case plan”** means a written document developed by the Band’s Family Services Department jointly with the parent, guardian, or custodian for the delivery of services to the family and the child who is the subject of a child protection case containing the components required by 8 MLBS § 3166.
- (f) **“Chemical dependency”** means the adaptation of neurons to repeated drug exposure resulting in the neurons only functioning normally in the presence of the drug.
- (g) **“Chemical dependency assessor”** means a clinician certified by the state of Minnesota to perform Rule 25 chemical assessments.
- (h) **“CHIPS”** or **“child protection case”** means a Child in Need of Protection or Services case filed with the Court of Central Jurisdiction pursuant to the definitions found under 8 MLBS § 3103(j).
- (i) **“Confidentiality”** means the ethical principle that a professional hold as secret all information relating to a patient, client, or participant unless the patient, client, or participant gives consent permitting disclosure.
- (j) **“Consequence”** means the court-ordered corrective action intended to improve behavior and increase motivation that must be completed by a non-compliant participant.
- (k) **“Controlled substance”** means any drug or chemical whose manufacture, possession, or use is regulated by the United States Food and Drug Administration.

- (l) **“Coordinator”** means an individual responsible for the overall management of the Family Healing to Wellness Court, which includes collecting data on overall participant completion rates and other performance measures needed for reporting and building relationships that are beneficial to the Family Healing to Wellness Court.
- (m) **“Court”** means the Band’s Court of Central Jurisdiction.
- (n) **“Court Administrator”** means an officer appointed by the Court to work with the Justices and Judges in overseeing the Court’s administration.
- (o) **“Custodian”** means one who has physical custody of a minor and who is providing food, shelter, and supervision to him or her.
- (p) **“Drug”** means a medicine or other substance which has a physiological effect when ingested or otherwise introduced into the body.
- (q) **“Evidence-based”** means that a medicine, treatment principles, or educational curriculum approach is backed by scientific evidence.
- (r) **“GC/MS”** means gas chromatography/mass spectrometry, which is an analytical method that combines the features of gas chromatography and mass spectrometry to identify different substances within a test sample.
- (s) **“Guardian”** means a person other than the minor’s parent who is by law responsible for that minor (but not the minor’s property).
- (t) **“Guardian Ad Litem”** means a person appointed by the Court to represent the child’s best interests before the Court
- (u) **“HIPAA”** means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, a federal law that requires the creation of national standards to protect sensitive patient health information from being disclosed without the patient’s consent or knowledge.
- (v) **“Healing Journey”** means the Family Healing to Wellness Court program of the Non-Removable Mille Lacs Band of Ojibwe, also known as Noojimo’wiigamig Inaawaniidiwag, established pursuant to § 302 of this chapter.
- (w) **“Healing Journey Team”** or **“Team”** means the group of individuals responsible for the day-to-day service delivery and activities of the Family Healing to Wellness Court in accordance with § 304(c) of this chapter.
- (x) **“Judge”** means either a District Court Judge or Associate Judge appointed pursuant to 5 MLBS § 7 or a Special Magistrate appointed pursuant to 5 MLBS § 108.

- (y) **“Justice”** means a Court official nominated by the Chief Executive and confirmed by the Band Assembly pursuant to 5 MLBS § 5.
- (z) **“LC/MS”** means liquid chromatography/mass spectrometry, which is a technique used to provide information about the molecular weight, structure, identity, and quantity of specific sample components.
- (aa) **“Medication Assisted Recovery”** means the use of medications, in combination with counseling and behavioral therapies, to treat substance abuse.
- (bb) **“Parent”** means a natural or adoptive parent, but does not include persons whose parental rights have been terminated, nor does it include the unwed father whose paternity has not been acknowledged or established.
- (cc) **“Participant”** means an individual who is admitted into the Family Healing to Wellness Court.
- (dd) **“Probation officer”** means a person appointed by law to supervise offenders on probation.
- (ee) **“Program”** means the Family Healing to Wellness Court of the Non-Removable Mille Lacs Band of Ojibwe, also known as the Healing Journey, Noojimo’wiigamig Inaawanidiwag, established pursuant to § 302 of this chapter.
- (ff) **“Psychotropic medication”** means a remedial or therapeutic substance that changes the nervous system function and results in alterations in perception, mood, consciousness, cognition, or behavior, e.g. a sedative.
- (gg) **“Post-Traumatic Stress Disorder”** means a condition in which a person has difficulty recovering after experiencing or witnessing a traumatic event.
- (hh) **“Reasonable suspicion”** means an objectively justifiable suspicion that is based on specific facts or circumstances.
- (ii) **“Sex crime”** means a category of offense that arises when violence occurs during a sexual act, when there is a lack of consent by one party to the sexual act, or when someone engages in sexual activity with an individual who is legally incapable of consent, such as a child.
- (jj) **“Substance abuse”** means a pattern of harmful use of any drug for mood-altering purposes.
- (kk) **“Team meeting”** means a meeting of the Healing Journey Team, usually held just prior to participant court appearances, in which information about the participant’s drug-testing results, attendance and participation in required treatment and other required activities, and other relevant information is shared and updated.

- (ll) **“Treatment plan”** means a therapeutic strategy to address an individual’s substance abuse and mental health needs that may incorporate patient education, mental health services, dietary adjustment, an exercise program, drug treatment, traditional Ojibwe healing practices, involvement in cultural activities, and the participation of nursing and allied health professionals.
- (mm) **“Violent crime”** means a violent felony, crime of violence, or crime of a violent nature in which an offender or perpetrator uses or threatens to use harmful force upon a victim.”
- (nn) **“Violent offender”** means a person who:
  - (1) has been convicted of an offense that is punishable by a term of imprisonment exceeding one year, during the course of which offense or conduct:
    - (i) the person carried, possessed, or used a firearm or dangerous weapon; or
    - (ii) there occurred the death of or serious bodily injury to any person; or
    - (iii) there occurred the use of force against the person of another, without regard to whether any of the circumstances described in subparagraph (i) or (ii) is an element of the offense; or
  - (2) has one or more prior convictions for a felony crime involving the use or attempted use of force against a person with the intent to cause death or serious bodily or psychological harm.
- (oo) **“Wellness plan”** is a written document, based on an assessment of the circumstances necessitating the participant’s involvement with the Family Healing to Wellness Court, that is developed in collaboration with the participant that includes the components of the case plan, the treatment plan, and the program phase requirements.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 30-22.

**§ 304. Structure.**

The Family Healing to Wellness Court is structured to foster engagement by the establishment of the following:

- (a) **Oversight.** Oversight of the Family Healing to Wellness Court shall be provided by the Band’s Chief Executive, Chief Justice, Speaker of the Assembly, and District Representatives according to their statutorily defined duties.

- (b) **Steering Committee.** The District Court Judge shall establish a Steering Committee, which provides advice and guidance in the development of Healing Journey procedures and addresses any inconsistencies or gaps in the provision of necessary treatment or services.
- (c) **Healing Journey Team.** Designated Band judicial officers and court staff, a Deputy Solicitor General, defense counsel, cultural advisors, a Family Services social worker, guardians ad litem, service providers, and representatives of Band departments working with a participant and the participant's family shall comprise a collaborative Healing Journey Team responsible for daily service delivery, participant monitoring, and the general operations of the program. When relevant and appropriate for a participant or family, the Healing Journey Team may also include school officials, language teachers, a tribal court peacemaker, peers in recovery, tribal law enforcement officers, and county social workers, probation agents, and parole officers.
- (d) **Phases.** The Healing Journey Team is empowered to establish the required components of the four Family Healing to Wellness Court phases, which are:
  - (1) Tobacco (New Beginnings);
  - (2) Cedar (Personal Responsibility);
  - (3) Sage (Cooperation and Accountability); and
  - (4) Sweetgrass (Completion and Sharing).

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 30-22.

### **§ 305. Eligibility.**

To be eligible to participate in the Family Healing to Wellness Court, the applicant must:

- (a) be a Band member or the parent, guardian, or custodian of a minor child who is either a Band member, a Band member descendant, or a child eligible to become a Band member in accordance with Band law;
- (b) be a respondent in a child protection case pending before the Court under 8 MLBS § 3001 et seq.;
- (c) be diagnosed with a substance abuse condition and be willing to comply with treatment recommendations;

- (d) never have been convicted of felony child abuse or be found at any time to be a violent offender;
- (e) never have been convicted of any sex crime within the preceding ten years; and
- (f) be willing to execute a release of information to allow confidential information to be shared with the Healing Journey Team, ancillary service providers, and probation officers when appropriate.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 30-22.

### **§ 306. Admission.**

To be admitted into the Family Healing to Wellness Court, an applicant must file a petition. After the petition is filed with the Family Healing to Wellness Court, the Healing Journey Team shall review the petition according to a four-step process.

- (a) **Step 1.** The case manager shall meet with the applicant to verify eligibility. If the case manager determines that the applicant is eligible, the case manager shall refer the applicant to a chemical dependency assessor for a substance abuse assessment. The applicant shall execute a release of information authorizing the results of the evaluation to be shared with the Healing Journey Team. The case manager shall accept any previously completed substance abuse assessment that remains current.
- (b) **Step 2.** After completion of the evaluation and development of treatment recommendations, the chemical dependency assessor shall send a full report to the case manager. The Healing Journey Team shall thereafter meet to determine whether to recommend the applicant for admission into the Family Healing to Wellness Court by evaluating:
  - (1) the results of the substance abuse assessment;
  - (2) the contents of the Child in Need of Protection or Services petition;
  - (3) the applicant's history of criminal behavior and domestic violence, if any; and
  - (4) all other available information relevant to the applicant's fitness for participation in the Family Healing to Wellness Court.
- (c) **Step 3.** After the applicant is informed of her or his eligibility for the Family Healing to Wellness Court, the case manager must inform the applicant of the wellness plan, possible consequences of non-compliance, and other Healing Journey requirements. Applicants may meet with legal counsel for the same purposes. If the applicant is

indigent and unable to retain legal counsel, the Court shall appoint an attorney to represent the applicant, if funding allows.

- (d) **Step 4.** Upon a showing that the applicant has voluntarily agreed to the wellness plan and all Healing Journey requirements, the judge may issue an order admitting the applicant into the Family Healing to Wellness Court.
- (e) **Filing Deadline.** The petition for admission to the Family Healing to Wellness Court must be filed on or before 120 calendar days from the CHIPS petition's filing date unless the judge authorizes admission at a later date.
- (f) **CHIPS Trial Continued.** Once an applicant is admitted into the Family Healing to Wellness Court prior to adjudication, the District Court CHIPS trial shall be continued until the applicant graduates or is terminated from the Healing Journey. The Family Healing to Wellness Court may hold pre-trial and review hearings and issue orders as necessary for ongoing foster care funding and to ensure that the best interests of the child are being met.
- (g) **Re-admittance.** Any applicant previously terminated from the Family Healing to Wellness Court in accordance with § 313 of this chapter may not be re-admitted for a period of at least 30 days after termination.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 30-22.

#### **§ 307. Monitoring.**

- (a) **Wellness Plan Adherence.** After a participant is admitted into the Family Healing to Wellness Court, the case manager shall monitor the participant's adherence to the wellness plan and all other Healing Journey requirements. Monitoring may include, but is not limited to:
  - (1) regular meetings between the case manager and the participant;
  - (2) testing for alcohol and controlled substances;
  - (3) home visits;
  - (4) verification of participant's completion of phase requirements; and
  - (5) inquiries of treatment providers and probation or parole officers.
- (b) **Communication.** Healing Journey Team members and service providers operating within the Band government shall engage in ongoing communication with one

another, including frequent exchanges of timely and accurate information about the participant's overall performance.

- (c) **Team meetings.** Members of the Healing Journey Team shall consistently attend team meetings to review participant progress, determine appropriate actions to improve outcomes, and prepare for status hearings. Team meetings are closed to participants and the public unless the Healing Journey Team determines that there is good cause for a participant to attend. With the participant's written consent, the Healing Journey Team may permit other persons to observe team meetings, provided that no identifying participant information shall be disclosed.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 30-22.

### **§ 308. Information.**

- (a) **Information Sharing.** Participants shall provide voluntary, informed, and written consent about what information will be shared between members of the Healing Journey Team. Participant consent shall be obtained through the execution of a release of information, which shall comport with HIPAA and 42 CFR, Part 2.
- (b) **Confidentiality.** Any statement made by a Family Healing to Wellness Court participant shall not be used against the participant in a subsequent adversarial proceeding, except that statements made by a participant which pertain to any mandatory reporting, such as abuse or neglect of a child or vulnerable adult, must be used in accordance with 8 MLBS § 3143. Substance use, mental health, and other professional evaluations of a terminated participant may also be used in a subsequent District Court proceeding. All other records of the Family Healing to Wellness Court are confidential and shall not be disclosed except to the members of the Healing Journey Team. The Court Administrator shall cause to be maintained a separate confidential file for an applicant or participant's Family Healing to Wellness Court records.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 30-22.

### **§ 309. Hearings.**

- (a) **Status Hearings.** The judge shall preside over status hearings for Healing Journey participants which shall be held on the schedule determined by the phases and as the Healing Journey Team determines necessary. Status hearings must be conducted in a

strictly non-adversarial manner reflecting the Anishinaabe Values and adhering to the concept of Zhawenimaa. Matters to be considered at the hearing include:

- (1) whether the participant is attending required treatment sessions and is compliant with other components of the wellness plan;
  - (2) the participant's random alcohol and drug test results;
  - (3) the participant's own report of achievements made and challenges confronted; and
  - (4) the awarding of incentives for wellness plan progress; or
  - (5) the imposition of consequences for program non-compliance, after the participant has an opportunity to be heard regarding the non-compliant behavior.
- (b) **Judicial Decision-Making.** The judge shall make the final decision concerning the provision of incentives or imposition of consequences that affect a participant's program status after taking into consideration the recommendation of the other members of the Healing Journey Team and discussing the matter in court with the participant or the participant's legal counsel. The judge shall rely on the expert input of trained treatment professionals when imposing treatment-related conditions. If the judge believes that there is new evidence or other considerations that may affect the Healing Journey Team's initial recommendation, the judge shall confer with the rest of the team before providing an incentive or imposing a consequence other than the initial recommendation.
- (c) **Progressive Consequences.** Immediate, graduated, and individualized consequences shall govern the responses of the Healing Journey Team to each participant's noncompliance. Members of the Healing Journey Team shall consider recent and past behavior when responding to infractions. Consequences should be developed using a therapeutic approach, not a punitive approach, so as to encourage the participant's renewed program compliance.
- (d) **Opportunity to Respond.** The judge shall allow participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of consequences, incentives, and therapeutic adjustments. Participants shall receive a clear justification for why a particular consequence is being imposed. If a participant has difficulty expressing herself or himself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge shall permit the participant's legal counsel or representative to assist in providing such explanations.
- (e) **Non-Medical Use of Substances.** Consequences shall be imposed for the non-medically prescribed use of drugs, including alcohol, cannabis, and prescribed pharmaceuticals, regardless of the licit or illicit status of the drug. The Healing

Journey Team shall rely on medical advice to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available. Consideration shall be given to the use of traditional Ojibwe healing medicines.

- (f) **Incentives.** The Healing Journey Team shall place as much emphasis on incentivizing productive behaviors as it does on substance abuse and other infractions. Criteria for phase advancement and graduation shall include objective evidence that participants are completing the requirements of their wellness plans.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 30-22.

### **§ 310. Drug and Alcohol Testing.**

- (a) **Written Testing Procedures.** The Family Healing to Wellness Court shall have written policies and procedures governing sample collection, sample analysis, and result reporting for drug and alcohol testing. The testing policies and procedures shall address elements that contribute to the reliability and validity of the testing process. Urine specimens shall be routinely tested for evidence of dilution and adulteration.
- (b) **Notice of Testing.** Upon admittance to the Healing Journey, participants shall receive a clear and comprehensive explanation of their rights and responsibilities related to drug and alcohol testing.
- (c) **Random Testing.** All testing shall be random and conducted as needed in accordance with this chapter. Participants shall not receive more than an eight-hour notice of when a sample will be collected. For tests with short detection windows, such as oral fluid tests, specimens shall be provided within four hours after notification.
- (d) **Confirmation Tests.** If a participant denies substance use in response to a positive screening test, a portion of the same specimen shall be subjected to confirmatory analysis using an instrumented test, such as GC/MS or LC/MS.
- (e) **Availability of Results.** Test results from an instant drug or alcohol screening shall be made available to the case manager within two business days of administration. Results from a lab-tested screening shall be forwarded to the case manager as soon as practicable after receipt. When a positive test is received by the case manager, the Healing Journey Team shall be notified immediately.
- (f) **Refusal and Adulteration.** A participant's refusal to submit to testing, submission of a sample from another person, or production of an adulterated sample shall be treated as non-compliant behavior.

- (g) **Scope of Testing.** Drug or alcohol testing shall not be limited to a single drug of the participant's choice but shall regularly include a panel of drugs to detect a broad array of known drugs of use.
- (h) **Frequency of Testing.** The Healing Journey Team shall establish the required frequency of testing for each program phase with the understanding that, as a participant progresses, testing may be less frequent. An increase in the frequency of testing may be imposed upon the Healing Journey Team's reasonable suspicion of use or as a consequence for a participant testing positive for alcohol or prohibited drugs.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 30-22.

#### **§ 311. Treatment Services.**

- (a) **Continuum of Care.** The Healing Journey Team shall provide prompt access to a continuum of substance abuse and medical and mental health services based on a clinical assessment of the participant's treatment needs.
- (b) **Participant's Goals.** The Healing Journey Team shall, in collaboration with the participant, set individualized short and long-term goals based on the participant's wellness plan. A participant's progress through the Family Healing to Wellness Court phases and an individual's progress through those phases shall not be based solely upon pre-set court timelines.
- (c) **Adjustments to the Level of Care.** Adjustments to the level of substance abuse treatment and other care shall be predicated on each participant's response to treatment and shall not be tied to the programmatic phase structure. If a participant relapses or uses alcohol or a prohibited drug, the Healing Journey Team shall develop a remedial plan together with the participant to regain and maintain sobriety.
- (d) **Individualized Treatment.** Healing Journey participants shall be matched to services according to their specific needs. Treatment plans shall be individualized for each participant based on the results of the initial assessment and ongoing assessments. Participants shall be reassessed at a frequency determined by the program and treatment plans may be modified or adjusted based on results.
- (e) **Provider Training and Credentials.** All chemical dependency and mental health treatment services shall be evidence-based and provided by licensed programs or individuals.
- (f) **Medication Assisted Recovery.** The Family Healing to Wellness Court may accept applicants taking medications to treat chemical dependency so long as the medication is prescribed by a trained and authorized addiction physician. The Family Healing to

Wellness Court shall have policies specific to Medication Assisted Recovery and memoranda of understanding in place to ensure proper coordination with treatment and medical providers. The Healing Journey Team shall not require any participant to discontinue Medication Assisted Recovery unless clinical and medical assessment indicates that it is not appropriate for the participant or is no longer needed.

- (g) **Trauma-Informed Services.** Services provided to participants shall be trauma-informed when appropriate and clinically necessary to the degree that available resources allow. Participants shall be screened and assessed, as needed, for trauma history, trauma-related symptoms, and Post-Traumatic Stress Disorder.
- (h) **Concurrent Mental Health and Substance Abuse Treatment.** Mental health and substance abuse shall be treated concurrently using an evidence-based approach that focuses on mutually aggravating effects of the two conditions, when recommended by appropriate providers.

#### Historical and Statutory Notes

**Source:**

Band Ordinance 30-22.

#### § 312. Participant Services.

- (a) **Healing Services.** The Healing Journey Team shall refer participants for treatment and social services to address conditions that are likely to interfere with their response to substance abuse or mental health treatment, diminish long-term treatment gains, or negatively impact their parenting abilities. Depending upon participant needs, services may include housing assistance, trauma-informed services, criminal-thinking interventions, individual, family, or interpersonal counseling, vocational or educational services, cultural and traditional education and activities, transportation, and medical or dental treatment. Participants shall only be required to receive services for which they have an assessed need.
- (b) **Psychotropic Medications.** Applicants shall not be denied admittance into the Family Healing to Wellness Court because they are receiving lawfully prescribed psychotropic medication. Participants shall receive psychotropic medication based on a determination of medical necessity or medical indication by a qualified medical provider. Participants shall not be required to discontinue lawfully prescribed psychotropic medication as a condition of graduating from the Family Healing to Wellness Court.
- (c) **Family Participation.** If a participant wishes to enlist the help and support of a family member or friend to assist with progress on the wellness plan, the participant may do so as long as the necessary releases of information are executed. If the participant's co-parent, co-guardian, or co-custodian who is also a respondent in the child protection matter, or the participant's child, objects to the requested family

member or friend accessing confidential information, no such information shall be released to that person.

- (d) **Overdose Prevention and Referral.** As early in the Healing Journey as feasible, participants shall complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse overdose or poisoning from opioids, other drugs, or alcohol.
- (e) **Peer Support.** Where appropriate and feasible, the Healing Journey Team shall incorporate peer recovery support services which may include referrals to peer recovery support programs and cultural groups, the establishment of alumni groups, and the training of Healing Journey graduates as peer recovery support specialists.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 30-22.

#### **§ 313. Termination.**

- (a) **Grounds for Termination.** A participant may be terminated from the Family Healing to Wellness Court for any of the following reasons:
  - (1) persistent non-compliance or lack of progress on her or his wellness plan, non-compliance with Healing Journey requirements, drug test tampering, or lack of progress in treatment;
  - (2) commission of a violent crime, a crime endangering the safety or welfare of a child, or a crime committed in furtherance of the participant securing alcohol or other prohibited drugs;
  - (3) evidence indicating that the participant is involved with the dealing of controlled substances or driving while under the influence of an intoxicant;
  - (4) any threatening, abusive, or violent behavior;
  - (5) hostile, threatening, or disrespectful conduct towards the Healing Journey Team or other participants; or
  - (6) any other conduct for which the Healing Journey Team deems termination to be an appropriate remedy.
- (b) **Recommendation to Terminate.** If the Healing Journey Team believes that a participant's conduct is grounds for termination from the Family Healing to Wellness Court, the Team shall:
  - (1) deliberate and obtain consensus on whether the participant should be terminated;

- (2) put into writing the termination recommendation and supporting rationale; and
  - (3) provide a copy of the termination recommendation to the participant and the participant's legal counsel, if any.
- (c) **Termination Hearing.** Upon the filing of the Healing Journey Team's written recommendation to terminate the participant from the Healing Journey, the judge shall:
- (1) schedule the matter for a hearing and provide the participant and participant's legal counsel with notice of the hearing; and
  - (2) after conducting the hearing, issue a written order that terminates the participant from the Healing Journey; or
  - (3) if during the hearing, the judge receives evidence or is made aware of other considerations that may warrant not terminating the participant, after recessing the hearing to consult with the Healing Journey Team, may issue an order declining to terminate the participant from the Healing Journey.
- (d) **Evidentiary Hearing.** If the judge finds that an evidentiary hearing is necessary to determine whether to terminate a participant from the Healing Journey, the Office of the Solicitor General shall serve as the prosecutor.
- (e) **Return to CHIPS Process.** When a participant is terminated from the Healing Journey, the participant's child protection matter shall resume under the usual procedures set forth by 8 MLBS § 3101 et seq.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 30-22.

#### **§ 314. Graduation.**

- (a) **Eligibility for Graduation.** Upon a participant's successful completion of all four phases of the Healing Journey and the components of the participant's wellness plan, the Healing Journey Team may recommend the participant's graduation.
- (b) **Graduation Ceremony.** Upon the Healing Journey Team's recommendation for a participant's graduation, the case manager shall assist the successful participant to plan a graduation ceremony to be held following the final status hearing. The participant shall decide which individuals to invite to the ceremony, if any.
- (c) **Final Status Hearing.** A final status hearing will be held at which the Healing Journey Team's recommendation for the participant's graduation may be accepted by

the Court. If the judge accepts the recommendation, then the Court shall issue an order finding that the participant has successfully completed the Healing Journey.

- (d) **Graduation Certificate.** At the final status hearing, the judge shall issue a graduation certificate to the participant and provide a copy of the certificate to the Office of the Solicitor General. The Healing Journey Team should be prepared to offer comments and may give culturally meaningful gifts or tokens to the graduating participant.
- (e) **Dismissal of CHIPS Case.** Upon receipt of the copy of the participant's graduation certificate, the Office of the Solicitor General shall promptly file a motion to dismiss the participant's CHIPS case in the District Court, where it shall be granted.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 30-22.

#### **§ 315. Continuing Education.**

Members of the Healing Journey Team shall attend continuing education workshops at least every other year to gain up-to-date knowledge about best practices on relevant topics, including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision-making, and emerging legal issues in tribal Healing to Wellness Courts. Whenever available, the Healing Journey Team shall receive training on promising practices that incorporate Mille Lacs Band or other tribal culturally-informed approaches to the treatment of substance abuse and mental health disorders.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 30-22.

#### **§ 316. Program Reporting.**

The Family Healing to Wellness Court shall submit a comprehensive report to the Band Assembly no later than January 15th of each year, detailing the number of participants during the prior calendar year, the respective outcomes, and any other information that is reasonably necessary to assess the Family Healing to Wellness Court's impact on Band communities. All information reported shall contain only non-identifying data to maintain the confidentiality of Healing Journey participants.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 30-22.

### **§ 317. Office of the Solicitor General.**

For all purposes of this chapter, the Office of the Solicitor General's sole client shall be the Band's Family Services department.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 30-22.