



MILLE LACS BAND OF OJIBWE

Executive Branch of Tribal Government

May 2, 2022

Speaker Sheldon Boyd
Honorable District Representatives
Band Assembly
43408 Oodena Drive
Onamia, MN 56359

Dear Speaker Boyd and Honorable District Representatives:

Pursuant to 4 MLBS Section 6(I), I veto Band Assembly Bill 20-01-43-22.

First, I am opposed to renaming the Court of Central Jurisdiction as the "Judicial Branch". While the Court of Central Jurisdiction is the judicial branch of our division of powers form of government, the name "Court of Central Jurisdiction" is the historical name of a branch of government that has existed since we divided the powers of the reservation business committee form of government into how we govern today. However, I support the clarifications throughout the bill that clearly distinguish between the Court of Appeals and the District Court.

Second, while I support expanding the number of justices serving on the Court of Appeals to five, I am opposed to the proposition that they do not have be enrolled members of the Mille Lacs Band. One of Chief Executive Art Gahbow's and Secretary-Treasurer Doug Sam's founding visions behind division of powers was that Band members would serve in the highest positions of government, despite lacking the education that non-Indian governments would require for similar positions. This vision is foundational to the Band's pursuit of preserving and expanding sovereignty.

Finally, I want to point out a small detail. Under Section 5 of the bill (amending Title 1, Section 10), there appears to be a grammatical error in the first sentence of subsection (b).

I look forward to discussing these issues with you at the compromise hearing.

Miigwech,

Melanie Benjamin, Chief Executive

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URBAN OFFICE

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1 **Band Assembly Bill 20-01-43-22**

2
3 A Bill amending and re-enacting Title 5, repealing Section 4 of Chapter 1 of Title 21, repealing
4 Sections 2002, 2003, 2004, 2005, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2501, 2502, 2503,
5 2504, 2505, 3001, 3002, 3003, 3004, 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3309, 3401,
6 3402, and 3403 of Chapter 3 of Title 24, amending and re-enacting Section 10 of Title 1,
7 amending and re-enacting Chapter 1 of Title 24, amending and re-enacting Section 2001 of
8 Chapter 3 of Title 24, amending and re-enacting Subchapter 4 of Chapter 3 of Title 24, amending
9 and re-enacting Subchapter 6 of Chapter 3 of Title 24, and amending and re-enacting Section 17
10 of Title 3 of Mille Lacs Band Statutes.

11
12 This bill may be referred to as the Judicial Branch Reform Act.

13
14 The formal public hearing required by 3 MLBS § 17(a) was held on April 13, 2022.

15
16 The District III Representative introduced this bill on the 27th day of April, 2022.

17
18 **BE IT ENACTED BY THE BAND ASSEMBLY OF THE NON-REMOVABLE MILLE**
19 **LACS BAND OF OJIBWE:**

20
21 **Section 1. Amending and re-enacting Title 5 of Mille Lacs Band Statutes.**

22
23 **TITLE 5 - JUDICIAL BRANCH**

24

<u>Chapter</u>	<u>Section</u>
1. Judicial Organization	1
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26
27
28
29 **CHAPTER 1**

30
31 **JUDICIAL ORGANIZATION**

32
33 Section

- 34 1. Definitions
35 2. Judicial Branch Court of Central Jurisdiction; Composition.
36 3. Judicial Branch Court of Central Jurisdiction; Constituent Courts and Leadership.
37 4. Judicial Branch; Responsibilities of Justices and Judges.
38 5. Judicial Branch; Court Staff
39 6. Judicial Branch; Trainings

- 40 7. Judicial Branch; Official Seal
 41 8. Judicial Branch; Salaries of Justices and Judges
 42 9. Judicial Branch; Fines and Bonds
 43 10. Judicial Branch; Special Magistrate
 44 11. Judicial Branch; Vacancies
 45 12. Chief Justice; Election and Term of Office
 46 ~~3.13. Chief Justice; Duties.~~
 47 14. Court of Appeals; Composition of Court of Appeals.
 48 ~~4.15. Court of Appeals; Jurisdiction~~
 49 ~~5. Composition of District Court.~~
 50 16. Court of Appeals; Appointment and Terms of Office of Justices.
 51 17. Court of Appeals; Qualifications of Associate Justices.
 52 ~~6.18. Court of Appeals; Qualifications of Auxiliary Associate Justices.~~
 53 ~~19. Chief Justice; Election and Term of Office. District Court; Composition~~
 54 ~~7.20. District Court; Jurisdiction~~
 55 ~~8.21. District Court District Court Judge and Associate Judges; Appointments and Terms~~
 56 ~~of Office.~~
 57 ~~9. Vacancy in Court of Central Jurisdiction.~~
 58 ~~10. Qualifications of Justices.~~
 59 ~~22. District Court; Qualifications of Judges District Judge and Associate Judges.~~
 60 ~~11.23. District Court; Convening Schedule~~
 61 ~~12. Removal or Discipline of Justices and Judges.~~
 62 ~~13. Salaries of Justices.~~
 63 ~~14. Official Seal.~~
 64 ~~15. Convening Schedule of District Court.~~
 65 ~~16.24. Fines and Bonds.~~

66
67
68 **§ 1. Definitions.**

69
70 All words within this title are to be interpreted according to their ordinary meaning unless
 71 otherwise defined. The following terms are defined for the purposes of chapters 1, 2, and 3 of
 72 this title:

- 73
74 (a) “Associate Justice” means any of the five (5) justices appointed pursuant to §§ 17
 75 and 18 of this chapter.
 76
77 (b) “Band” means the Mille Lacs Band of Ojibwe.
 78
79 (c) “Indian” means a person who has some Indian blood and is recognized as an Indian
 80 by a tribe, the federal government, or both.
 81
82 (d) “Justice” means the Chief Justice and Associate Justices.
 83
84 (e) “Judge” means the District Court Judge and Associate District Court Judges.
 85

86 (f) “Special Magistrate” means a licensed attorney appointed pursuant to § 10 of this
87 chapter.
88
89

90 **§ 21. Judicial Branch Court of Central Jurisdiction; Composition.**
91

92 All judicial authority of the ~~Band Non-Removable Mille Laes Band of Chippewa Indians~~ shall be
93 vested in the ~~Judicial Branch Court of Central Jurisdiction~~. The ~~Judicial Branch Court of Central~~
94 ~~Jurisdiction~~ shall be composed of the ~~Justices and Judges of the Judicial Branch Court of~~
95 ~~Central Jurisdiction, the Special Magistrates, the Clerks of Court, the Court Administrator, and~~
96 other judicial employees.
97

98
99 **§ 32. Judicial Branch Court of Central Jurisdiction; Constituent Courts and Leadership.**
100

101 The ~~Judicial Branch Court of Central Jurisdiction~~ shall consist of the District Court and the Court
102 of Appeals ~~of the Non-Removable Mille Laes Band of Chippewa Indians~~ and as otherwise
103 provided for by law, ~~and shall be led by the Chief Justice who~~ shall serve as the leader of the
104 ~~Judicial Branch Court of Central Jurisdiction.~~
105

106
107 **§ 4. Judicial Branch; Responsibilities of Justices and Judges.**
108

- 109 (a) The Court of Appeals shall adopt rules of judicial conduct, and all justices and judges
110 shall conform their conduct to the same.
111
112 (b) A judge or justice who discloses any confidential information, as defined by Band
113 law, relating to any pending case to the public-at-large or engages in prohibited *ex*
114 *parte* communication may be subject to disciplinary action by the Joint Session.
115
116 (c) No justice, judge, or Special Magistrate shall be qualified to act as such in any case
117 wherein he or she has any direct or indirect financial interest or wherein any relative
118 more closely related than once removed under cultural law is a party of interest in the
119 proceeding.
120
121 (d) The individual justices and judges shall attend legal education and training courses
122 each year as provided for in the annual budget.
123

124
125 **§ 5. Judicial Branch; Court Staff.**
126

- 127 (a) The Judicial Branch shall have the power to hire Clerks of Court, a Court
128 Administrator, and any other court staff as may be required and to prescribe the
129 necessary duties and responsibilities of those positions not inconsistent with Band
130 law.
131

- 132 (b) The Chief Justice may delegate to the Court Administrator managerial authority over
133 the day-to-day administrative operations of the Judicial Branch, including the
134 authority to participate in meetings or events in the Chief Justice's stead when the
135 Chief Justice is unable to attend.
136
137

138 **§ 6. Judicial Branch; Trainings.**
139

140 The Court Administrator, and court staff shall provide to each justice, as soon as practicable after
141 the appointment of the justice to the Court of Appeals, training on the operations of the Judicial
142 Branch.
143
144

145 **§ 7. Judicial Branch; Official Seal.**
146

- 147 (a) The Judicial Branch shall have the power to adopt a seal which shall be used to
148 authenticate judgments, orders, opinions, and other court papers. The form of the seal
149 and regulation of the seal's use shall be specified by court rules.
150
151 (b) The official seal of the Judicial Branch shall be affixed to all official documents of
152 the Court. Any document of the Judicial Branch without both the official seal and an
153 authorized signature shall have no legal force and effect.
154
155 (c) The official seal of the Judicial Branch shall be at all times kept in a secure location.
156
157

158 **§ 8. Judicial Branch; Compensation of Justices and Judges.**
159

- 160 (a) The compensation for the justices and judges shall be established by Band Assembly
161 appropriation.
162
163 (b) The Chief Justice may recommend to the Band Assembly adjustments to
164 compensation rates based upon recommendations contained in an annual report of the
165 Judicial Branch, current and anticipated caseloads, and general business conditions.
166
167

168 **§ 9. Judicial Branch; Fines and Bonds.**
169

- 170 (a) All fees, fines, or forfeitures paid to the District Court or Court of Appeals as a result
171 of any case pending or adjudicated, or pursuant to lawful order of the Court, shall be
172 submitted to the Clerk of Court, who shall issue a receipt to the payor or forfeiter.
173
174 (b) All said monies shall be forthwith deposited with the Office of Management and
175 Budget, in the name of the Judicial Branch.
176
177

178 **§ 10. Judicial Branch; Special Magistrate.**
179

180 The Judicial Branch shall have the power to contract with a licensed attorney to serve as a
181 Special Magistrate as needed to hear cases at such times as the interests of justice require
182 independent or supplementary judicial review. A Special Magistrate shall have all authority
183 conferred upon any other justice or judge of the Judicial Branch.
184

185
186 **§ 11. Judicial Branch; Vacancies.**
187

- 188 (a) Should the Chief Justice temporarily become unable to perform the duties of the
189 office, those powers and duties shall devolve upon the longest serving Band member
190 Associate Justice, until such disability is removed.
191
192 (b) Whenever a justice is unable to perform the duties of the office, those powers and
193 duties shall devolve upon a Special Magistrate, until such disability is removed or
194 another justice is appointed and sworn in.
195
196 (c) In the event a justice or judge is unable to complete his or her term of office, that
197 position will be filled by nomination by the Chief Executive subject to ratification by
198 the Band Assembly.
199
200

201 **§ 12. Chief Justice; Election and Term of Office.**
202

203 The Justices of the Court of Appeals shall elect from among the Band member Associate Justices
204 a Chief Justice, who shall then serve a four-year term as Chief Justice expiring August 30, 1996,
205 and on this date every four (4) years hence.
206
207

208 **§ 13. Chief Justice; Duties.**
209

210 The Chief Justice shall have the following duties:
211

- 212 (a) to convene the Court of Appeals as may be necessary to decide appeals or conduct
213 other business;
214
215 (b) to present to the Band Assembly an annual State of the Judiciary Address on the
216 second Tuesday of January of each calendar year;
217
218 (c) to present to the Chief Executive and the Band Assembly information and
219 recommendations for the improvement of the Judicial Branch;
220
221 (d) to execute rules and policies of the Judicial Branch consistent with the provisions of
222 Band Statute for the orderly conduct of Court business as provided for by law;
223

224 (e) to prepare a biennial appropriation request, for the Judicial Branch after consultation
225 with the other Justices and Judges and the Court Administrator, and submit the
226 request no later than September 1 of each odd numbered year;

227
228 (f) to appoint Special Magistrates when necessary;

229
230 (g) to undertake all administrative duties necessary for the continued conduct of
231 competent court operations; and;

232
233 (h) to enter the judgment and order determinations made in a Cultural Cause of Action.
234

235
236 **§ 143. Court of Appeals; Composition of Court of Appeals.**

237
238 The Court of Appeals shall be composed of one (1) Chief Justice and ~~four~~ (4) Associate
239 Justices.

240
241
242 **§ 15. Court of Appeals; Jurisdiction.**

243
244 The Court of Appeals shall have original jurisdiction over such matters as are designated by
245 Band law and appellate jurisdiction over all lawful appeals of the decisions of the District Court.
246

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

248
249 ~~The District Court shall be composed of one District Court Judge and such other Associate~~
250 ~~District Court Judges as necessary~~

251
252
253 **§ 165. Court of Appeals; Appointment and Terms of Office of Justices.**

254
255 (a) The terms of office of the Justices of the Court of Appeals shall be for six (6) years.
256 ~~Any Justice may be disciplined or removed for cause pursuant to 3 MLBS § 25.~~

257
258 (b) Sixty (60) calendar days prior to the expiration of the term of a justice, or as needed
259 to fill vacancies in the Court of Appeals, the Chief Executive shall submit a
260 → nomination of a new justice to the Band Assembly. The Band Assembly shall, upon
261 receipt of said nomination, act to confirm or reject the nominee within forty-five (45)
262 calendar days.~~The Justices shall be nominated by the Chief Executive, who shall~~
263 ~~submit the nomination to Band Assembly. Band Assembly shall upon receipt of the~~
264 ~~nomination confirm or reject the nomination within thirty (30) days.~~

265
266 (c) There shall be one (1) justice from each of the three (3) respective districts of the
267 Mille Laes Band.
268

269 ~~(b)~~(d) There shall be two (2) at-large justices who shall serve a six-year term expiring on
270 August 15, 2028, and on this date every six (6) years hence.

271
272 ~~(e)~~(e) The Justice from the Nay-Ah-Shing District shall serve a six-year term expiring
273 August 15, 1996, and on this date every six (6) years hence. The Justice from the Ga-
274 me-ta-wa-ga-gi-moog District shall serve a six-year term expiring August 30, 1998,
275 and on this date every six (6) years hence. The Justice from the Ah-sho-moog
276 District shall serve a six-year term expiring August 15, 2000, and on this date every
277 six (6) years hence.

278
279
280 **§ 17. Court of Appeals; Qualifications of Associate Justices.**

281
282 (a) Any person who is nominated as an Associate Justice of the Court of Appeals shall
283 meet the following qualifications:

284
285 (1) shall be an enrolled member of the Band;

286
287 (2) shall have reached the chronological age of twenty-five (25);

288
289 (3) shall have graduated from high school or obtained an equivalent degree, or be
290 at least 55 years old;

291
292 (4) shall be knowledgeable of the Constitution of the Minnesota Chippewa Tribe,
293 the laws of the Band, and the unwritten customs and traditions of the Band;
294 and

295
296 (5) shall be a person of honor, integrity, and good moral character as evidenced
297 by letters of recommendation from four (4) elders of the Band who are not
298 related within the first degree to the person nominated for office.

299
300 (b) No individual who has been convicted of a felony, or convicted of a gross
301 misdemeanor within the previous seven (7) years, may be nominated as an Associate
302 Justice.

303
304
305 **§ 18. Court of Appeals; Qualifications of At-Large Associate Justices.**

306
307 (a) Any person who is nominated as an At-Large Associate Justice of the Court of
308 Appeals shall meet the following qualifications:

309
310 (1) shall have reached the chronological age of twenty-five (25);

311
312 (2) shall have graduated from an American Bar Association accredited law
313 school;

315 (3) shall be licensed to practice law and in good standing with the bar associations
316 of all states in which the nominee is admitted to practice;

317
318 (4) shall be knowledgeable of the Constitution of the Minnesota Chippewa Tribe,
319 the laws of the Band, and the unwritten customs and traditions of the Band;
320 and

321
322 (5) shall be a person of honor, integrity, and good moral character.

323
324 (b) No individual who has been convicted of a felony, or convicted of a gross
325 misdemeanor within the previous seven (7) years, may be nominated as an At-Large
326 Associate Justice.

327
328 (c) It shall be the policy of the Band to utilize the Band's Indian preference requirements
329 in selecting At-Large Associate Justices.

330
331
332 **§ 6. Chief Justice; Election and Term of Office.**

333
334 ~~The Justices of the Court of Appeals shall elect from among themselves the Chief Justice who~~
335 ~~shall then serve a four year term as Chief Justice expiring August 30, 1996 and on this date every~~
336 ~~four years hence.~~

337
338
339 **§ 19. District Court; Composition.**

340
341 The District Court shall be composed of one (1) District Court Judge and such other Associate
342 District Court Judges as are necessary.

343
344
345 **§ 20. District Court; Jurisdiction.**

346
347 The District Court shall be a trial court of general original jurisdiction that hears cases as
348 authorized by Band law and enters findings of fact, conclusions of law, orders, and judgements.

349
350
351 **§ 217. District Court District Court Judge and Associate Judges; Appointment and Terms**
352 **of Office.**

353
354 (a) ~~The District Court Judge and the Associate Judges shall be nominated by the Chief~~
355 ~~Executive who shall submit the nomination to Band Assembly. Band Assembly shall~~
356 ~~upon receipt of the nominations confirm or reject the nominations within 30~~
357 ~~days. Sixty (60) calendar days prior to the expiration of the term of a judge, or as~~
358 ~~needed to fill vacancies in the District Court, the Chief Executive shall submit a~~
359 ~~nomination of a new judge to the Band Assembly. The Band Assembly shall, upon~~

360 receipt of said nomination, act to confirm or reject the nominee within forty-five (45)
361 calendar days.

- 362
363 (b) The District Court Judge shall serve a six-year term expiring August 15, 1996, and on
364 this date every six (6) years hence.
365
366 (c) The Associate Judges shall each serve a four-year term expiring August 30, 2024, and
367 on this date four (4) years hence.
368
369 ~~(d) The District Court Judge or Associate Judges may be disciplined or removed for~~
370 ~~cause pursuant to 3 MLBS § 25.~~

371
372
373 **~~§ 8. Vacaney in Court of Central Jurisdiction.~~**

- 374
375 ~~(a) Should the Chief Justice temporarily become unable to perform the duties of office~~
376 ~~those powers and duties shall devolve upon the Senior Associate Justice until such~~
377 ~~disability is removed.~~
378
379 ~~(b) Whenever an Associate Justice of the Court is unable to perform the duties of office,~~
380 ~~these powers and duties shall devolve upon a Special Magistrate, until such disability~~
381 ~~is removed or another justice is appointed and sworn in.~~
382
383 ~~(b) In the event a Justice or Judge is unable to complete their term of office that position~~
384 ~~will be filled by nomination from the Chief Executive subject to ratification by Band~~
385 ~~Assembly.~~

386
387
388 **~~§ 9. Qualifications of Justices.~~**

- 389
390 ~~(-) Any person who is nominated as a justice of the Court of Central Jurisdiction shall~~
391 ~~meet the following qualifications:~~
392
393 ~~(0) Shall be an enrolled member of the Non-Removable Mille Laes Band of~~
394 ~~Chippewa Indians, and;~~
395
396 ~~(0) Shall have reached the chronological age of twenty-one, and;~~
397
398 ~~(0) Shall have graduated from high school or obtained an equivalent degree, or be~~
399 ~~at least 55 years old, and;~~
400
401 ~~(0) Shall be knowledgeable of the Constitution of the Minnesota Chippewa Tribe,~~
402 ~~the laws of the Non-Removable Mille Laes Band of Chippewa Indians and the~~
403 ~~unwritten customs and traditions of the Band, and;~~
404

405 (1) ~~Shall be a person of honor, integrity, and good moral character as evidenced~~
406 ~~by letters of recommendation from four (4) elders of the Band who are not~~
407 ~~related within the first degree to the person nominated for office.~~

408
409 (a) ~~No person shall be nominated as a justice in the event said person shall have been~~
410 ~~convicted of a felony or if that person has been convicted of a gross misdemeanor~~
411 ~~within seven (7) years.~~

412
413
414 **§ 2210. District Court; Qualifications of Judges**~~District Judge and Associate Judges.~~

415
416 Any person who is nominated as a judge shall meet the following qualifications:

- 417
418 (a) s~~Shall have graduated from an American Bar Association accredited law school and~~
419 ~~be in good standing with the bar associations of all states in which the nominee is~~
420 ~~admitted to practice of a state bar.~~
421
422 (b) s~~Shall have never been convicted of a felony or gross misdemeanor and, if convicted~~
423 ~~for such while seated as a judge, shall be subject to removal pursuant to~~
424 ~~5 MLBS § 243 MLBS § 25.~~

425
426
427 **§ 23. District Court; Convening Schedule.**

428
429 The District Court shall regularly convene in District I and convene at least once monthly in
430 Districts II and III.

431
432
433 **§ 2411. Removal or Discipline of Justices and Judges.**

- 434
435 (a) A joint session of the Band Assembly, pursuant to 3 MLBS § 2528, may remove or
436 discipline any justice or judge of the Court for just cause, which may be associated
437 with a violation of the Judicial Code of Ethics of the ~~Non-Removable Mille Laes~~
438 ~~Band, of Chippewa Indians or a violation of Article X, § 2(a), (b), (c), (d) and (e) of~~
439 ~~the Constitution of the Minnesota Chippewa Tribe or conviction for any felony, gross~~
440 ~~misdemeanor, or a second misdemeanor conviction while holding office, excluding~~
441 ~~minor traffic offenses, or a criminal conviction in the District Court~~Court of Central
442 Jurisdiction.
443
444 (b) No judge or j~~Justice of the Judicial Branch~~Court of Central Jurisdiction shall be
445 removed or disciplined without due process of law.
446
447 (c) The following procedures shall apply to all removal or disciplinary proceedings of
448 j~~Justices or j~~Judges:
449

- 450 (1) The removal process shall be by a Joint Session with the Speaker of the Band
451 Assembly presiding. The ~~judge or justice~~Judge/Justice may be represented by
452 counsel during the process and shall have the right to call witnesses and
453 present evidence on ~~his or her~~their behalf and shall be advised of the
454 ~~allegation~~charges against them.
- 455
- 456 (2) Following questioning by the hearing officer, the witness may make
457 additional comments within the limits of relevancy and propriety. The judge
458 or justice, or his or her legal counsel, may cross-examine any witness.~~Any~~
459 ~~other party or legal representative may question the witness.~~ A witness may be
460 recalled at the discretion of the Speaker of the Assembly or the hearing officer
461 if additional questions are raised.
- 462
- 463 (3) Hearings are to be held upon at least ~~five (5) business days~~seventy-two (72)
464 hours advance notice to the parties. A continuance may be granted for good
465 cause at the discretion of the Speaker of the Assembly~~hearing officer~~.
466 Hearings shall be informal and there may be as many sessions as deemed
467 necessary by the Joint Session to enable review of all the evidence.
- 468
- 469 (4) The decisions of the Joint Session, whether interim or final, shall be in writing
470 and shall contain the following:
- 471
- 472 (i) ~~t~~The name of the judge or justice who is the subject of the
473 proceeding~~party;~~
- 474
- 475 (ii) ~~t~~The date of the hearing;
- 476
- 477 (iii) ~~t~~The facts established by the evidence, including the Rule of Judicial
478 Conduct violated or details of the criminal conviction of the judge or
479 justice;
- 480
- 481 (iv) ~~t~~The decision of the Joint Session, including the remedy being given.
- 482
- 483 (d) The decision of the Joint Session on any removal or disciplinary action shall be final.
- 484
- 485

486 **~~§ 12. Salaries of Justices.~~**

487

- 488 ~~() The salary for the Associate Justices of the Court of Appeals shall be as established~~
489 ~~by Band Assembly appropriation.~~
- 490
- 491 ~~() The Chief Justice may recommend to the Band Assembly adjustments to salaries~~
492 ~~based upon recommendations contained in an annual report of the Judiciary, current~~
493 ~~and anticipated case loads, and the general business conditions existing in the court.~~
- 494
- 495

496 ~~§ 13. Official Seal~~

497

498 ~~(a) The official seal of the Court of Central Jurisdiction shall be affixed to all official~~
499 ~~documents of the Court. Any document of the Court of Central Jurisdiction without~~
500 ~~the official seal shall have no legal force and effect.~~

501

502 ~~(a) The official seal of the Court of Central Jurisdiction shall be at all times kept in a~~
503 ~~secure location.~~

504

505

506 ~~§ 14. Convening Schedule of District Court~~

507

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

511

512

513 ~~§ 15. Fines and Bonds~~

514

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

518

519

520

CHAPTER 2

521

522

JUDICIAL AUTHORITY AND JURISDICTION

523

Section

525 **101. Judicial Authority.**

526 **102. Writs, Judgments, and Orders.**

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

528 **104. Powers of Construction and Interpretation.**

529 **105. Judicial Philosophy**

530 **106. Traditional Theory of Law**

531 **107. Principle of Law**

532 **108. Manaaji'idiwin and Full Faith and Credit**

533 **109. Opinion and Orders of the Court**

534 ~~104.~~

535 ~~105.110. _____ Rules.~~

536 ~~106. Regulation of Practice of Law.~~

537 ~~107.111. _____ Court Staff.~~

538 ~~108. Special Magistrate.~~

539 ~~109. Contracts, Grants, Bequests, Donations, or Gifts.~~

540 ~~110.112. _____ Seal.~~

541 ~~111.113. _____ Subject Matter Jurisdiction.~~

542 ~~112.114.~~ Persons Subject to Criminal Jurisdiction.
543 ~~113.115.~~ Personal Jurisdiction.
544 ~~114. Duties of Chief Justice.~~
545 ~~115. Oath for Band Officers.~~
546 116. Duties of Individual Justices and Judges.
547 ~~117. Responsibilities of Individual Justices and Judges.~~
548 ~~118. Continuing Education.~~
549 117. Immunity for Justices and Judges.
550 ~~119.118.~~ Trial by Jury

551
552
553

554 **§ 101. Judicial Authority.**

555

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

562

563

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

565

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

569

570

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

572

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

576

577

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

579

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

584

585

586 **§ 105. Judicial Philosophy.**

587

588 The judicial philosophy of the Band is a product of the terms and conditions of our customs of
589 life since time immemorial. Peace and harmony between the people of the Band is necessary to
590 ensure the continued survival of the Anishinabe. At times the circle of peace and harmony
591 amongst the people will be disrupted. This circle of life needs to be restored in a manner that
592 permits the integrity of the individual to be maintained so that the community will continue to
593 grow and prosper. It shall be the judicial philosophy of the Judicial Branch to promote the
594 spiritual and traditional teachings of our elders that have served the people so well since the
595 beginning of time, to apply these principles of life to resolve conflicts between individuals, and
596 to strengthen and help those who come before the Court so that they may experience miino-
597 bimadiziiwin, a good life. To this end, proceedings in the Judicial Branch shall not be
598 adversarial but shall be a search for truth and justice.

599
600

601 **§ 106. Traditional Theory of Law.**

602

603 The theory of law of the Band is based upon a high regard for the concept of zhawenima. It is
604 one of our ways of life according to custom. The purpose of zhawenima is to keep the people
605 together as one. This purpose is good for all people. It serves to balance the forces of life and
606 brings stability to the people. To achieve this way of life, the laws of the Band shall be construed
607 to balance the rights of the individual with the need to continue to co-exist in peace and
608 harmony with one another. In this way, order will be preserved and justice shall be accorded to
609 each person who has cause to appear before the Judicial Branch.

610

611

612 **§ 107. Principle of Law.**

613

614 The principle of law in the Judicial Branch shall be a cooperative search for truth and justice
615 among all persons coming before the court, as well as the court itself. All individuals coming
616 before the court share an equal obligation and responsibility in bringing forth the facts
617 surrounding a particular event that has given rise to a matter before the court. To achieve this
618 goal, all individuals who appear before the court must adhere to basic principles of honor,
619 respect, integrity, pity, and kindness. Therefore, it shall be the mission of the Judicial Branch to
620 actively search for truth within the principles of individual rights, privileges, honor, respect,
621 integrity, pity, and kindness to and for all persons who have cause to utilize the judicial system
622 of the Band. To this end, the justices and judges of the Judicial Branch shall be bound.

623

624

625 **§ 108. Manaaji'idiwin and Full Faith and Credit.**

626

627 The Judicial Branch shall give manaaji'idiwin, which shall hold the same legal meaning as
628 comity, to the public acts, records, and judicial decisions of all other federally recognized tribes
629 and all federal and state jurisdictions on a case-by-case basis. The Judicial Branch shall give full
630 faith and credit to the orders and judgments of other jurisdictions when directed to do so by
631 Band or federal law.

632

633

634 **§ 109. Opinions and Orders of the Court.**

635
636 Each justice and judge shall be bound by the provisions of the Constitution of the
637 Minnesota Chippewa Tribe, the laws of the Band, and any applicable laws of the United States.
638 Prior to the issuance of any opinion and order of the Court, each justice and judge shall consider
639 and weigh unwritten Ojibwe cultural law, historical tribal legal opinions, and precedents of the
640 Judicial Branch.

641
642
643 **§ 11005. Rules.**

- 644
645 (a) The Court of ~~Appeals~~Central Jurisdiction shall have the power to prescribe by general
646 rules, the forms of process, writs, pleadings, rules of evidence and motions, and the
647 practice and procedure of the District Court and Court of Appeals of the ~~Mille Laes~~
648 Band in civil actions and criminal actions and appeals therein, Such rules shall not
649 abridge, enlarge, or modify the substantive rights of any person.
650
651 (b) Such rules shall not take effect until ninety (90) calendar days after they have been
652 reported to the Band Assembly by the Chief Justice during a regular session of the
653 Band Assembly and shall not abridge the right of Band Assembly to enact, modify, or
654 repeal any statute or modify or repeal any rule of the Judicial Branch~~Court of Central~~
655 ~~Jurisdiction~~ pursuant thereto.
656
657

658 **§ 11106. Regulation of Practice of Law.**

659
660 The ~~Court of Appeals~~Court of Central Jurisdiction shall have the power to prescribe rules
661 governing the admission of individuals to practice law, ~~and to prescribe rules~~ governing conduct
662 in the practice of law, and ~~rules concerning~~ the presentation, hearing, and determination of
663 accusations of ethical violations against individuals practicing law. Such rules shall not be
664 inconsistent with the laws of the ~~Mille Laes~~ Band.
665
666

667 **§ 107. Court Staff.**

668
669 ~~The Court of Central Jurisdiction shall have the power to appoint a Clerk of Court, Court~~
670 ~~Administrator or any other court staff as may be required and to prescribe the necessary duties~~
671 ~~and responsibilities of those positions not inconsistent with Mille Laes Band law.~~
672
673

674 **§ 108. Special Magistrate.**

675
676 ~~The Court of Central Jurisdiction shall have the power to appoint a law trained individual to~~
677 ~~serve as a Special Magistrate as needed to hear cases at such times as the interests of justice~~
678 ~~require independent or supplementary judicial review. A Special Magistrate shall have all~~
679 ~~authority conferred upon any other justice or judge of the Court of Central Jurisdiction.~~

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§ 11209. Contracts, Grants, Bequests, Donations, or Gifts.

The ~~Judicial Branch 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 Laes Band~~, if ethically permissible, 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 Judicial Branch Court by and with the advice and consent of the Band Assembly in accordance with applicable Band law.

~~§ 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.~~

§ 1134. Subject Matter Jurisdiction.

- (a) The ~~District Court 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 ~~District Court Court of Central Jurisdiction~~ shall have civil jurisdiction over non-Indians in all cases as provided in Section 1153 of this Chapter. The Judicial Branch Court shall have jurisdiction pursuant to the laws of the United States of America. The ~~District Court Court~~ shall have jurisdiction over contracts made with the ~~Band Non-Removable Mille Laes 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 ~~District Court 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 ~~Band Non-Removable Mille Laes Band of Chippewa Indians~~.
- (c) The ~~District Court 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 ~~District Court 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 ~~Band Non-Removable Mille Laes Band of Chippewa Indians~~.

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(d)

- (1) ~~The District Court~~~~Court of Central Jurisdiction~~ shall have jurisdiction over all civil matters in which the ~~Band~~~~Non-Removable Mille Laes 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 District Court~~~~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.

§ 1142. Persons Subject to Criminal Jurisdiction.

~~The Court of Central Jurisdiction shall have criminal jurisdiction over Mille Laes Band members and non-member Indians alike and as may otherwise be prescribed by law.~~ The criminal jurisdiction of the Band shall extend and apply to enrolled members of the Band, enrolled members of any of the other five (5) Bands of the Minnesota Chippewa Tribe, those Indian persons who reside on lands subject to the territorial jurisdiction of the Band, and as may otherwise be prescribed by law.

§ 1153. Personal Jurisdiction.

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

- (a) ~~t~~Transacts business with any member of the Band within the territorial jurisdiction of the Band;
- (b) ~~e~~Engages in any activity which results in injury or property damage within the territorial jurisdiction of the ~~Mille Laes Band~~;
- (c) ~~e~~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;

- 772 (d) ~~c~~Contracts to insure any person, property, corporation, business organization, or risk
773 located within the territorial jurisdiction of the Band;
774
- 775 (e) ~~e~~Enters into a written or verbal sales or service agreement within the territorial
776 jurisdiction of the ~~Mille Laes~~ Band or where performance of the agreement is to be
777 within the territorial jurisdiction of the ~~Mille Laes~~ Band; or
778
- 779 (f) ~~e~~Engages in conduct that may affect the environment or territories under the
780 jurisdiction of the Band or affects the natural resources of the Band or threatens the
781 health, safety, peace, or welfare of the ~~Mille Laes~~ Band or inhabitants thereof.
782

783

784 **~~§ 114. Duties of Chief Justice.~~**

785

786 ~~The Chief Justice of the Court of Central Jurisdiction shall have the following Judicial and~~
787 ~~Administrative authority in exercising the judicial powers of the Band government:~~
788

789

789 ~~(a) To convene the Court of Appeals on the first Tuesday of February, June, September~~
790 ~~and November for the purpose of opening the general term of the Court. The Chief~~
791 ~~Justice may convene the Court of Appeals on special occasions at such time and~~
792 ~~locations as may be designated upon five (5) days written notice to the other justices~~
793 ~~prior thereto;~~
794

795

795 ~~(a) To present to the Band Assembly an annual State of the Judiciary Address on the~~
796 ~~second Tuesday of January of each calendar year;~~
797

798

798 ~~(a) To present to the Chief Executive and the Band Assembly information and~~
799 ~~recommendations for the improvement of the Judiciary;~~
800

801

801 ~~(a) To execute rules and policies of the Court consistent with the provisions of Band~~
802 ~~Statute for the orderly conduct of Court business as provided for by law;~~
803

804

804 ~~(a) To prepare a biennial appropriation request, for the court after consultation with the~~
805 ~~other Justices and Judges of the Court, and submit the request no later than September~~
806 ~~1 of each odd numbered year;~~
807

808

808 ~~(a) To appoint a Special Magistrate in a proceeding, who has graduated from law school,~~
809 ~~in the interests of justice and in accordance with 5 MLBS § 108, when necessary;~~
810

811

811 ~~(a) To exercise all administrative duties necessary for the continued conduct of~~
812 ~~competent court operations;~~
813

814

814 ~~(a) To enter as a judgment and order determinations made in a Cultural Cause of Action;~~
815

816

817

817 **~~§ 115. Oath for Band Offices.~~**

818

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

821

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

828

829

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

831

832 Individual justices and judges of the Judicial Branch~~Court of Central Jurisdiction~~ shall have the
833 following authority:

834

835 (a) ~~t~~To preserve and enforce order in their immediate presence, and in all proceedings
836 when performing official duties;

837

838 (b) ~~t~~To compel obedience to lawful directives and orders;

839

840 (c) ~~t~~To compel attendance of persons called to testify in a proceeding as provided by
841 law;

842

843 (d) ~~t~~To administer oaths and affirmation to persons in proceedings before them and in
844 any other circumstance where such shall be necessary in the exercise of Judicial
845 powers or duties or where the law so requires an oath or affirmation; and;

846

847 (e) ~~t~~To punish civilly or criminally, for contempt, any person, to enassure the effective
848 exercise of judicial authority.

849

850

851 ~~§ 117. Responsibilities of Individual Justices and Judges.~~

852

853 ~~(a) The individual justices and judges shall adopt by court order a code of judicial~~
854 ~~conduct and conform their conduct to the same.~~

855

856 ~~(b) A judge or justice who discloses any information relative to any pending case to the~~
857 ~~public at large may be subject to disciplinary action by the Joint Session.~~

858

859 ~~(c) No Justice, Judge or Special Magistrate shall be qualified to act as such in any case~~
860 ~~wherein he/she has any direct or indirect interest or wherein any relative once~~
861 ~~removed under cultural law by marriage is a party of interest in the proceeding.~~

862

863

864 ~~§ 118. Continuing Education.~~

865

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

868

869

870 **§ 1179. Immunity for Justices and Judges.**

871

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

874

875

876

CHAPTER 3

877

878

JUDICIAL PROCEEDINGS

879

Section

881 **201. Generally; Public-At-Large**

882 **202. Generally; Record of Proceedings**

883 **203. Generally; Written Decisions**

884 **204. Generally; Survival of Actions**

885 **205. Appeals; Notice**

886 **206. Appeals; Basis**

887 **207. Appeals; Nature**

888 **208. Appeals; Decision**

889 **209. Certification of Questions; From Exterior Courts**

890 **210. Certification of Questions; To Exterior Courts**

891 **211. Certification of Questions; Orders, Petitions, or Motions for Answers**

892 **212. Certification of Questions; Uniformity of Construction**

893

894 **§ 201. Generally; Public-At-Large.**

895

896 The proceedings of the Judicial Branch shall be open to the public except in matters involving
897 minors or as otherwise ordered closed by Band law. The presiding judge or justice may exclude
898 the public from a proceeding upon the motion of any party or upon the Court's own motion for
899 good cause.

900

901

902 **§ 202. Generally; Record of Proceedings.**

903

904 The District Court and Court of Appeals shall maintain a record of all proceedings of the Court,
905 which record shall include the title of the case, the parties, the names and addresses of all
906 witnesses, the date of the hearing or trial, the name of the presiding judge or justice, and the
907 judgment together with any other facts or circumstances deemed important to the case.

908

909

910 **§ 203. Generally; Written Decisions.**

911
912 The District Court and Court of Appeals shall in all cases give written decisions, which shall be
913 filed with the Clerk of Court along with all other papers in the case.
914

915
916 **§ 204. Generally; Survival of Actions.**

917
918 In the event any person has a claim against another person, whether arising on a contract or
919 otherwise, and such person dies prior to final adjudication of said claim, that action may be
920 continued or maintained by the decedent's personal representative.
921

922
923 **§ 205. Appeal; Notice.**

924
925 A party aggrieved by a final judgment or other final order of the District Court shall within thirty
926 (30) days after the date of such judgment or order, file with the Clerk of Court a notice of intent
927 to appeal, along with a twenty (\$20.00) dollar filing fee.
928

929
930 **§ 206. Appeal; Basis.**

931
932 The following shall constitute lawful reasons for an appeal, which may include but not be limited
933 to:
934

935 (a) irregularity in the proceedings of the District Court, jury, or adverse party, error of the
936 District Court, or abuse of discretion by which either party was prevented from
937 having a fair trial;
938

939 (b) misconduct of the jury, if any one (1) or more jurors have been induced to assent to
940 any general or special verdict to a finding on any question submitted to them by the
941 District Court;
942

943 (c) surprise which ordinary foresight could not have guarded against;
944

945 (d) newly discovered evidence which could not, with reasonable care, have been
946 discovered and produced at the trial;
947

948 (e) insufficiency of the evidence to justify the verdict or other decision or that which is
949 against the law;
950

951 (f) error of law occurring at the trial as in ruling in the admission of evidence or in
952 charging the jury or judicial rulings founded in objections; or
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954 (g) prejudice on the part of the trial judge or abuse of discretion.
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§ 207. Appeal; Nature.

All appeals taken before the Court of Appeals shall be heard on the basis of the record of the proceedings, except where the appellant is unable to procure a transcript of the proceedings through no fault of his or her own.

§ 208. Appeal; Decision.

The concurrence of a majority of the Justices of the Court of Appeals is necessary to reach a decision. If a majority of justices does not concur, the judgment or order of the District Court is affirmed. If the Chief Justice declines to author the written opinion of the Court of Appeals, the Chief Justice shall assign to an Associate Justice the task. Minority opinions shall not be published. The opinion of an individual justice on any case shall not be disclosed to the public.

§ 209. Certification of Questions; From Exterior Courts.

(a) The Court of Appeals may answer questions of law certified to it by an exterior court when requested. The Court of Appeals may answer questions of law of the Band which may be determinative of a cause then pending in the certifying court when there is no controlling precedent in the decisions of the Judicial Branch.

(b) Subsection (a) may be invoked by legislative order, executive order, or upon a petition of the Solicitor General or upon the Court's own motion or upon the motion of a party.

§ 210. Certification of Questions; To Exterior Courts.

The District Court or Court of Appeals may order certification of questions of law to a foreign court when there are involved in any proceeding before the District Court or Court of Appeals questions of foreign law which may be determinative of the cause then pending when there are no controlling precedents in the decisions of the foreign jurisdiction.

§ 211. Certification of Questions; Uniformity of Construction.

Sections 209 and 210 shall be construed so as to make uniform the law among those jurisdictions which have enacted a uniform certification of questions of law act.

Section 2. Repealing Section 4 of Chapter 1 of Title 21 of Mille Lacs Band Statutes.

Section 4 of Chapter 1 of Title 21 is hereby repealed.

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Section 3. Repealing Sections 2002, 2003, 2004, 2005, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2501, 2502, 2503, 2504, 2505, 3001, 3002, 3003, 3004, 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3309, 3401, 3402, and 3403 of Chapter 3 of Title 24 of Mille Lacs Band Statutes.

Sections 2002, 2003, 2004, 2005, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2501, 2502, 2503, 2504, 2505, 3001, 3002, 3003, 3004, 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3309, 3401, 3402, and 3403 of Chapter 3 of Title 24 are hereby repealed.

Section 4. Enacting Section 7 of Subchapter 1 of Chapter 1 of Title 24 of Mille Lacs Band Statutes.

A new section is enacted in Subchapter 1 of Chapter 1 of Title 24 as follows:

§ 7. Statute of Limitations.

The following limitations on actions shall be utilized for civil cases before the District Court:

- (a) An action may be commenced only within the time stated in this section unless a different time is specified by law. The time within which the action may be commenced starts at the time the act complained of was discovered, unless otherwise provided for by law.

- (b) All civil actions shall be commenced within six (6) years from the time the cause of action occurred in the case of contracts, within three (3) years in the case of harmful conduct, and within one (1) year from the time a cause of action arose as a result of an employee-employer relationship or the hiring or termination of an individual from employment, unless a different time is otherwise prescribed by law. An action shall be deemed to have been commenced for the purposes of this section when a written complaint has been filed. The statute of limitations shall not run while a person is a minor, incompetent, or serving in the armed forces of the United States. The time is tolled as to persons absent from the jurisdiction of the Band for the purpose of avoiding process.

Section 5. Amending and re-enacting Section 10 of Title 1 of Mille Lacs Band Statutes.

§ 10. Rights to Trial by Jury.

- (a) All persons accused of an offense within the territorial jurisdiction of the Non-Removable Mille Lacs Band of ~~Ojibwe-Chippewa~~ Indians which is punishable by imprisonment or a fine greater than five hundred dollars (\$500.00) ~~of not more than one year~~, shall have the right, upon request, to a trial by jury of not less than six (6) persons.

- 1048
1049 (b) The right to a trial by jury shall in civil cases where the plaintiff's claim exceeds one
1050 thousand dollars (\$1000.00). A trial by jury shall not be available in domestic
1051 relations, probate, or cases in equity matters.
1052
1053 (c) In cases where a jury may be requested, the request for a jury must be made in writing
1054 to the Clerk. The request for a jury in a civil matter may be made at any time after
1055 commencement of an action, but no later than five (5) business days after the filing of
1056 the last pleading. The request for a trial by jury in civil matters must be accompanied
1057 by a case or surety bond in the amount of one hundred dollars (\$100.00) to cover the
1058 costs of the jury trial.
1059
1060 (d) The failure of a party to request a jury constitutes a waiver of a trial by jury.
1061
1062

1063 **Section 6. Amending and re-enacting Chapter 1 of Title 24.**
1064

1065 Chapter 1 of Title 24 is hereby amended and re-enacted by the addition of a new subchapter 4:
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1067

1068 **SUBCHAPTER 4**
1069

1070 **CREDITORS' REMEDIES**
1071
1072

1073 **Section**

1074 **801. Due Process.**

1075 **802. Property Defined.**

1076 **803. Petitions to District Court.**

1077 **804. Notice of Hearing.**

1078 **805. Findings, Orders and Bond.**

1079 **806. Protection of Petitioner's Rights.**

1080 **807. Order for Seizure of Property.**

1081 **808. Unlawful Removal or Disconnection of Property.**
1082
1083

1084 **§ 801. Due Process.**
1085

1086 Any creditor be they a person, company, corporation, association, partnership, cooperative,
1087 utility, and any other public or private commercial entity who engaged in any commercial
1088 activity, whether it be selling in any goods or services of any material value or any other type of
1089 commercial transaction for the purchase of any goods or services with any person who resides on
1090 lands under the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe, who has not
1091 received monetary compensation for the provision of said goods or services or any licensed
1092 commercial entity who provides a services, received payment for the service, and failed to
1093 perform or deliver the goods or services, whereby such written or oral agreement has been

1094 entered into or said service or property was consumed or is located on lands subject to the
1095 jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe shall not deprive any person of
1096 any property, real or personal, or any service absent due process of law in the Judicial Branch
1097 pursuant to 1 MLBS § 8 and Article XIII of the Constitution of the Minnesota Chippewa Tribe.
1098
1099

1100 **§ 802. Property Defined.**
1101

1102 Property includes, but is not limited to, everything which is subject to ownership, corporeal or
1103 incorporeal, tangible or intangible, visible or invisible, real or personal; everything that has an
1104 exchangeable value which is or may be the subject of ownership, legal or beneficial or private as
1105 a result of a transaction of any type from one party to another. Services provided by public or
1106 private cooperatives, utilities, or public or private commercial entities are specifically included.
1107
1108

1109 **§ 803. Petitions to District Court.**
1110

1111 Any person, company, corporation, association, partnership, cooperative, utility, and any other
1112 public or private commercial entity, including financial institutions who seek to deny any person
1113 subject to the jurisdiction of the Band of any property, with or without just cause, shall first
1114 petition the District Court for a show cause hearing and a determination that said property may
1115 be lawfully removed from any said person or that services may be lawfully denied, or that
1116 compensation should be received or any other relief deemed appropriate and reasonable.
1117
1118

1119 **§ 804. Summons.**
1120

1121 The Clerk of Court shall schedule a hearing within thirty (30) calendar days after receipt of the
1122 petition. The Clerk shall have served a summons on the person against whom the action is being
1123 instituted. The summons shall state that the person has a right to appear at this hearing on his
1124 own behalf or with an attorney. The person shall have a right to present defenses to the claim and
1125 to state the reasons why the property or service described in the petition should not be taken or
1126 denied. The petition shall clearly state a claim to the goods sought to be recovered or the services
1127 sought to be requested or denied. Finally, the summons shall clearly state that if the person fails
1128 to appear at the hearing the District Court has the authority to enter a default judgment on behalf
1129 of the petitioner and direct that the above-described property be immediately taken from their
1130 possession or that services may be lawfully denied or that services must be performed or that
1131 compensation should be received or whatever appropriate or reasonable relief is requested.
1132
1133

1134 **§ 805. Findings, Orders, and Bond.**
1135

1136 After a hearing, the District Court shall order seizure of the property or denial of services from
1137 the person and deliver to the petitioner, if the petitioner has demonstrated the probability of
1138 success on the merits entitling the petitioner to payment, possession, repossession, or
1139 disconnection of property or service unless the District Court makes the following findings: The

1140 person has shown a defense to the merits of the petitioner's claim, the defense is a fair basis for
1141 litigation, and the defense would, if established at hearing on the merits, entitle the person to
1142 retain possession of the property. In such cases where a defense on the merits is found to be fair,
1143 the person shall post a bond in the amount plus one-quarter of the petitioner's monetary claim.
1144 This bond shall indicate said persons good faith to compensate the petitioner in the event that the
1145 District Court rules in favor of the petitioner.

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1147

1148 **§ 806. Protection of Petitioner's Rights.**

1149

1150 If the District Court makes the findings prescribed by 24 MLBS § 805 and orders that the person
1151 may retain possession pending final decision on the merits, the District Court shall enter a further
1152 order protecting the rights of the petitioner to the extent possible. The order may require that the
1153 person make partial payment of the debt which may be due and that the payment shall be made
1154 either directly to petitioner or into an escrow account that the person post a bond in an amount
1155 set by the District Court, that the person make the property available for inspection from time to
1156 time, that the person be restrained from certain activities, including, but not limited to, selling,
1157 disposing, or otherwise encumbering the property, or any other provision the District Court may
1158 deem just and appropriate.

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1161 **§ 807. Order for Seizure of Property.**

1162

1163 An order for seizure of property shall identify the property to be seized or the disconnection of
1164 the serviced property, direct a law enforcement officer to seize the property or to accompany any
1165 petitioner to seize or disconnect property pursuant to court order, and specify that the petitioner
1166 is authorized immediately or after a specified reasonable period of time to seek or otherwise
1167 dispose of property as a method of collection of any judgment debt.

1168

1169

1170 **§ 808. Unlawful Removal or Disconnection of Property.**

1171

1172 Any creditor be they a person, company, corporation, association, partnership, cooperative,
1173 utility, or any other public or private commercial entity, who, absent a lawful order from the
1174 District Court, shall attempt to remove or disconnect any property from any person under the
1175 jurisdiction of the Band, shall be deemed to have committed a property trespass offense.

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1178 **Section 7. Amending and re-enacting Section 2001 of Chapter 3 of Title 24.**

1179

1180 Section 2001 of Chapter 3 of Title 24 is amended and re-enacted as follows:

1181

1182 **§ 2001. Definitions.**

1183

1184 The following definitions shall be utilized for all cases before the District Court~~Court of Central~~
1185 Jurisdiction.

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- (a) ~~“Elder” means. An elder for purposes of this statute shall be~~ an enrolled Mille Lacs Band member who has reached the chronological age of 55.
- (b) ~~“Guardian aAd Litem” means a. A person~~ guardian who is appointed by the District Court to represent the best interests of a minor or vulnerable adult ~~court to speak for or defend a minor or incompetent~~ in any suit to which the minor or vulnerable adult ~~incompetent in any way~~ may be a party.
- (e) ~~Incompetent. A person who is insane, an imbecile, or feeble minded, or is not mentally able to manage their affairs.~~
- (d)(c) ~~“Minor” means a. A person who is under the age of eighteen (18) years, unless otherwise specified.~~
- (e)(d) ~~“Parties” means t. The persons who take part in the performance of any act, or who are directly interested in any affair, contract, or conveyance, or who are actively concerned in the prosecution and defense of any legal proceeding.~~
- (f)(e) ~~“Party aAggrieved” means a party. One whose right has been directly and injuriously affected by action of the court.~~
- (g)(f) ~~“Statute of Llimitations” means a. A specified length of time after which no cause of action or right to sue exists.~~
- (g) ~~“Summons” means a. A notice in writing to a defendant informing him or /her that an action has been brought against him or /her and judgment will be taken against him or /her if he or /she fails to answer the complaint within the prescribed time set forth therein.~~
- (h) ~~“Vulnerable adult” means a person who is not mentally able to manage his or her affairs.~~

Section 8. Amending and re-enacting Subchapter 4 of Chapter 3 of Title 24.
Subchapter 4 of Chapter 3 of Title 24 is amended and re-enacted as follows:

SUBCHAPTER 4-a
WITHHOLDING FROM EARNINGS AND PER CAPITA PAYMENTS AND
COLLECTION OF DEBTS

Section
3351. Findings and Determinations

1232 **3352. Authority**
 1233 **3351.3353. Definitions**
 1234 **3352.3354. Withholding from Earnings**
 1235 **3353.3355. Withholding from Per Capita Payments**
 1236 **3354.3356. Ripeness**
 1237 **3355.3357. Notice to Debtor; Hearing**
 1238 **3356.3358. Priority**
 1239 **3357.3359. Full Payment of Debts**
 1240 **3358.3360. Notice to Creditor**
 1241 **3359.3361. Duty of Creditor**
 1242 **3360.3362. Sovereign Immunity of the Band**
 1243 **3363. Civil Procedure**
 1244 **3364. Notice of Process**
 1245
 1246

1247 **§ 3351. Findings and Determinations.**
 1248

- 1249 (a) The Non-Removable Mille Lacs Band of Ojibwe desires to be a government that is
 1250 consistently financially responsible in order to better serve our people now and in the
 1251 future.
- 1252
- 1253 (b) The Personal Loan Program(s) of the Non-Removable Mille Lacs Band of Ojibwe
 1254 have many delinquent loans outstanding.
- 1255
- 1256 (c) The District Court has imposed fines, many of which are unpaid or uncollectable.
 1257
- 1258 (d) Outstanding or delinquent loans and unpaid court-imposed fines are a threat to the
 1259 financial integrity of the Non-Removable Mille Lacs Band of Ojibwe.
 1260

1261

1262 **§ 3352. Authority.**
 1263

- 1264 (a) Under this subchapter, the Secretary-Treasurer of the Mille Lacs Band shall exercise
 1265 the authority of the Mille Lacs Band to withhold any funds that may be payable to
 1266 any person for use as a set-off against any debt or court ordered fine owed by that
 1267 person to the Mille Lacs Band.
- 1268
- 1269 (b) The Secretary-Treasurer shall withhold any funds payable to individuals only if the
 1270 debt or fine owed is delinquent by forty-five (45) calendar days or more.
 1271
- 1272 (c) The Secretary-Treasurer shall give twenty (20) calendar days written notice prior to
 1273 any set-off withholding that may occur.
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1276 **§ 33531. Definitions.**
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1278 For the purpose of this sSubchapter:

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- (a) **“Actual or compensatory damages”**~~The term “actual damages”~~ means an amount assessed pursuant to an adjudicated matter before a court of competent jurisdiction for ~~losses~~damages actually incurred, ~~which does. Such damages do not include nominal damages, exemplary damages, or punitive damages, or court costs, or attorney fees.~~
- (~~a~~)**(b)** **“Consequential damages”** means foreseeable losses that occur as an indirect result of an event.
- (~~b~~)**(c)** **“Earnings”**~~The term “earnings”~~ means compensation paid or payable for personal services, whether denominated as wages, salary, commission, or otherwise, and includes periodic payments to a personal retirement program.
- (~~e~~)**(d)** **“Disposable income”**~~The term “disposable income”~~ means that part of the income of any individual remaining after the required deduction from that income of any amounts, such as but not limited to, federal income tax, social security, state income tax, if any, pension deductions, and cost of health insurance coverage for obligor and dependents. Disposable income shall also include per capita payments.
- (~~d~~)**(e)** **“Garnishment”**~~The term “garnishment”~~ means any legal or equitable procedure through which the earnings of an individual are withheld for payment of any lawful debt.
- (~~e~~)**(f)** **“Per capita payment”**~~The term “per capita payment”~~ means any distribution of gaming proceeds to members of the Mille Lacs Band pursuant to the Band’s Net Gaming Revenue Allocation Plan as approved by the Secretary of the Interior pursuant to 25 U.S.C. § 2701 et seq., or any other distribution to a member of the Mille Lacs Band that is designated a “per capita payment” by Band statute. No Band Member and no other person or entity shall have any right, title, interest or entitlement in or to any per capita payment unless and until the payment is made. The rights, if any, of judgment creditors or other persons or entities to obtain a share of a per capita payment when it is made are governed by §§ 3352 through 3359 of this Title.
- (~~f~~)**(g)** **“Political subdivision”**~~The term “political subdivision”~~ shall mean the Corporate Commission of the Mille Lacs Band of Ojibwe as defined in 16 MLBS § 101 or any other entity defined in Band Statutes as a political subdivision of the Band.

§ 3354.2. Withholding from Earnings.

As an ancillary proceeding to ~~(1)~~a civil or criminal action for the recovery of money filed in the ~~District Court~~Court of Central Jurisdiction, or ~~(2)~~a civil judicial proceeding, public act or record granted full faith and credit by the ~~District Court~~Court of Central Jurisdiction pursuant to ~~5 MLBS § 10824~~MLBS § 2009, the ~~District Court~~Court of Central Jurisdiction shall have the

1324 authority, pursuant to its subject matter jurisdiction as described in 5 MLBS § 1134, to order the
1325 Office of Management and Budget to withhold from the earnings of any person to which a debt
1326 judgment or judgment for child support or arrearages has been obtained and remit the amount
1327 withheld to the judgment creditor.- Except in circumstances of child support payment or
1328 arrearages, the earnings of an individual shall not be withheld in excess of ten percent (10%) of
1329 the individual's disposable income. -Except as specifically provided in this ~~s~~Section or
1330 controlling Federal law, the Court shall not order any withholding from the earnings of any
1331 person to satisfy any judgment or other claim.

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§ 33553. Withholding from Per Capita Payments.

(a) As an ancillary proceeding to ~~(1)~~a civil or criminal action for the recovery of money filed in the ~~District Court~~Court of Central Jurisdiction, or ~~(2)~~a civil judicial proceeding, public act, or record granted manaaji'idiwin, which shall have the same legal meaning as comity, or full faith and credit by the ~~District Court~~Court of Central Jurisdiction pursuant to 5 MLBS § 10824 ~~MLBS § 2009~~, the ~~District Court~~Court of Central Jurisdiction shall have the authority, pursuant to its subject matter jurisdiction as described in 5 MLBS § 1134, to order the Office of Management and Budget to withhold and remit portions of per capita payments from Band Members for the sole purpose of satisfying a judgment or a lien against the Band Member to whom the per capita payments are payable that is:

- (1) ~~i~~n favor of the United States Internal Revenue Service;
- (2) ~~f~~For child support payments or arrearages;
- (3) ~~i~~n favor of an individual Band member, provided that the District Court shall not order the withholding and remission of any portion of a per capita payment to satisfy a judgment or lien obtained in connection with a loan or other transaction relating to a bail bond or other similar transaction; ~~or~~
- (4) ~~i~~n favor of the Band or any political subdivision thereof; or
- (5) ~~f~~For actual and consequential damages expressed in the form of a restitution award incorporated within a final criminal judgment involving:
 - (i) ~~(1)~~ assault and battery as either defined herein, 24 MLBS §1102, or pursuant to equivalent federal, state or tribal law; or
 - (ii) ~~(2)~~ an offense committed against the property of another as defined in Subchapter 4 of Chapter 3 herein, or equivalent federal, state or tribal law.

(b) Except for judgments or liens for child support payments or arrearages, the total amounts withheld from a per capita payment to satisfy the judgments or liens listed

1370 above shall not exceed thirty percent (30%) of the payment. -In cases involving
1371 judgments or liens for child support payments or arrearages, the total amount
1372 withheld shall not exceed fifty percent (50%) of the payment. -Except as specifically
1373 provided in this sSection or controlling Federal law, the District Court shall not order
1374 any withholding from a per capita payment to satisfy any judgment or other claim.
1375

1376 (c) The Band's Judicial Branch~~Court of Central Jurisdiction~~ shall have no authority to
1377 award punitive, ~~special, exemplary, or~~ treble, ~~or consequential~~ damages, and any such
1378 award shall be null and void and of no effect.
1379

1380
1381 **§ 33564. Ripeness.**
1382

1383 The District Court~~Court of Central Jurisdiction~~ shall not initiate a withholding proceeding
1384 pursuant to this sSubchapter for any debt that is not at least 60 days past due, except in
1385 circumstances of current child support payments and arrearages.
1386

1387
1388 **§ 33575. Notice to Debtor; Hearing.**
1389

1390 In any withholding proceeding pursuant to this sSubchapter, the debtor shall receive notice as
1391 required by the Mille Lacs Band Rules of Civil Procedure.- Upon such notice to the debtor, the
1392 District Court~~Court of Central Jurisdiction~~ shall hold a hearing, at the debtor's request, to permit
1393 the debtor to dispute the financial obligation in question.- The burden of proof shall be on the
1394 debtor to show that a proposed garnishment would be improper.
1395

1396
1397 **§ 33586. Priority.**
1398

1399 The District Court~~Court of Central Jurisdiction~~ shall give priority to any withholding from
1400 earnings or per capita payments in the following order:
1401

- 1402 (a) sSatisfaction of a judgment or lien in favor of the United States Internal Revenue
1403 Service, except to the extent that Federal law allows priority to be given to
1404 satisfaction of a judgment or lien for child support payments or arrearages;
1405
- 1406 (b) sSatisfaction of a judgment or lien for child support payments or arrearages;
1407
- 1408 (c) sSatisfaction of a judgment or lien in favor of individual Band Members who
1409 obtained the judgment lien in the first instance in the District Court~~Court of Central~~
1410 ~~Jurisdiction~~, provided that the Court shall not order the withholding of any portion of
1411 a per capita payment to satisfy a judgment or lien obtained in connection with a loan
1412 or other transaction relating to a bail bond or other similar transaction;
1413
- 1414 (d) sSatisfaction of a judgment or lien in favor of non-Band member petitioners who
1415 obtained a criminal judgment lien in the District Court~~Court of Central Jurisdiction~~;

- 1416
- 1417 (e) ~~s~~Satisfaction of a judgment or lien in favor of the Band or any political subdivision
- 1418 thereof;
- 1419
- 1420 (f) ~~s~~Satisfaction of any other judgment in favor of a Band Member for which
- 1421 withholding from earnings is authorized under § 3352 of this Subchapter, provided
- 1422 that the District Court shall not order the withholding of a portion of a per capita
- 1423 payment to satisfy such a judgment; and
- 1424
- 1425 (g) ~~s~~Satisfaction of any other judgment in favor of a non-Band Member for which
- 1426 withholding from earnings is authorized under § 3352 of this ~~c~~Chapter, provided that
- 1427 the District Court shall not order the withholding of a portion of a per capita payment
- 1428 to satisfy such a judgment.
- 1429
- 1430

1431 **§ 33527. Full Payment of Debts.**

1432

1433 The ~~District Court~~~~Court of Central Jurisdiction~~ shall order the withholding of portions of a

1434 person's earnings or from a Band Member's per capita payments in accordance with §§ 3352

1435 through 3356 of this ~~s~~Subchapter until such time as the judgments or liens for which portions of

1436 the person's earnings or the Band Member's per capita payments are being withheld are paid in

1437 full or discharged by the judgment creditor.

1438

1439

1440 **§ 336058. Notice to Creditor.**

1441

1442 The ~~District Court~~~~Court of Central Jurisdiction~~ shall duly inform any creditor for whom a prior

1443 order of withholding has been modified by the Court due to an order of withholding granted in

1444 favor of a subsequent creditor with higher priority.

1445

1446

1447 **§ 336159. Duty of Creditor.**

1448

1449 Any creditor who has obtained an order of withholding pursuant to this ~~c~~Chapter must notify the

1450 ~~District Court~~~~Court of Central Jurisdiction~~ within five (5) business days when a judgment subject

1451 to such an order has been repaid in full or discharged by the creditor.- The failure of a creditor to

1452 provide such notice to the Court shall constitute grounds for a finding of contempt by the District

1453 ~~Court~~~~Court of Central Jurisdiction~~.

1454

1455

1456 **§ 33620. Sovereign Immunity of the Band.**

1457

1458 Nothing contained in this ~~subchapter~~~~Act~~ shall be construed as a waiver of the sovereign

1459 immunity of the Mille Lacs Band of Ojibwe or any of its political subdivisions.

1462 **§ 3363. Civil Procedure.**

1463

1464 All actions pursuant to this ~~title~~ shall be conducted in accordance with the Mille Lacs Band
1465 Rules of Civil Procedure.- The Office of Solicitor General shall develop appropriate forms for
1466 use in any action pursuant to this ~~title~~. The ~~District Court~~~~Court of Central Jurisdiction~~ shall
1467 retain copies of such forms for use by any party.

1468

1469

1470 **§ 3364. Notice of Process.**

1471

1472 (a) For purposes of this subchapter, notice is given by the Secretary-Treasurer placing a
1473 Notice of Withholding in the mail and a sending of notice by certified mail return
1474 receipt requested to the last known address. If either of the two (2) Notice of
1475 Withholding mailings does not return to the Secretary-Treasurer within a 10-day time
1476 period, notice has been given.

1477

1478 (b) In the event that an individual disputes the set-off withholding they have ten (10) days
1479 from the date of the mailing of the notice to file a petition with the District Court. The
1480 burden of proof shall be on the petitioning party to show that the withholding is
1481 improper or that they were not given notice.

1482

1483 (c) The District Court shall hold a hearing within ten (10) days of the filing of a petition
1484 pursuant to this Subchapter. Notice must be given to the Secretary-Treasurer within
1485 five (5) days of the filing of a petition as described in subsection (b) of this section or
1486 by any disinterested third-party personally serving the Secretary-Treasurer.

1487

1488 (d) Relief that the District Court may grant pursuant to this subchapter is limited to a
1489 determination of whether the set-off withholding is proper.

1490

1491 (e) The withholding provisions of this subchapter are in addition to any other
1492 withholding provisions in Band law.

1493

1494 (f) The provisions of this subchapter are intended to apply retroactively to any debt that
1495 was incurred previous to the enactment of this subchapter.

1496

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1498 **Section 9. Amending and re-enacting Subchapter 6 of Chapter 3 of Title 24.**

1499

1500 Subchapter 6 of Chapter 3 of Title 24 is amended and re-enacted as follows:

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SUBCHAPTER 6

CRIMINAL PROCEDURE

Part

Section

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A. Preliminary Proceedings	4151
A. Trial	4201
A. Sentence	4251
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1510 **PART A**

1512 **GENERAL PROVISIONS**

1514 **Section**

1515	<u>4001. In General; Definitions.</u>
1516	4002. Court of Central Jurisdiction.
1517	4003. Jurisdiction over Persons.
1518	4004.4002. In General; Rights of Defendant.
1519	4003. Deposit and Disposition of Fines, Fees and Other Payments Made to Court.
1520	<u>Complaint; Initiation of Prosecution.</u>
1521	<u>4004. Complaint; Form and Content.</u>
1522	<u>4005. Complaint; Screening and Submission.</u>
1523	<u>4006. Complaint; Joinder of Offenses.</u>
1524	<u>4007. Complaint; Joinder of Defendants.</u>
1525	<u>4008. Complaint; Amendment of Complaint.</u>
1526	<u>4009. Warrant, Summons, and Arrest; Arrest Warrants</u>
1527	<u>4010. Warrant, Summons, and Arrest; Summons in Lieu of Warrant to Arrest</u>
1528	<u>4011. Warrant, Summons, and Arrest; Prerequisites for Arrest</u>
1529	<u>4012. Warrant, Summons, and Arrest; Time of Making Arrest</u>
1530	<u>4013. Warrant, Summons, and Arrest; Summons in Lieu of Arrest</u>
1531	<u>4014. Warrant, Summons, and Arrest; Notification of Rights at Time of Arrest</u>
1532	<u>4015. Warrant, Summons, and Arrest; Search Warrants</u>
1533	<u>4016. Warrant, Summons, and Arrest; Search Without Warrant</u>
1534	<u>4017. Warrant, Summons, and Arrest; Stop and Frisk</u>
1535	<u>4018. Warrant, Summons, and Arrest; Inventory of Seized Property</u>
1536	<u>4019. Preliminary Proceedings; Time of Arraignment</u>
1537	<u>4020. Preliminary Proceedings; Reading of Complaint and Advice of Rights</u>
1538	<u>4021. Preliminary Proceedings; Appearance at Arraignment</u>
1539	<u>4022. Preliminary Proceedings; Receipt of Pleas at Arraignment</u>
1540	<u>4023. Preliminary Proceedings; Bail – Release Prior to Trial</u>
1541	<u>4024. Preliminary Proceedings; Bail – Release by Law Enforcement Officer</u>
1542	4005.4025. Preliminary Proceedings; Dismissal
1543	<u>4026. Preliminary Proceedings; List of Witnesses</u>
1544	<u>4027. Preliminary Proceedings; Production of Evidentiary Materials for Inspection</u>
1545	<u>4028. Preliminary Proceedings; Notice of Interposed Defense</u>

- 1546 **4029. Preliminary Proceedings; Suppression of Evidence Illegally Seized or**
- 1547 **Involuntary Confession or Admission**
- 1548 **4030. Preliminary Proceedings; Time to Prepare for Trial**
- 1549 **4031. Trial; Jury Trial**
- 1550 **4032. Trial; Special Instructions**
- 1551 **4033. Trial; Verdict**
- 1552 **4034. Sentence; Acquittal**
- 1553 **4035. Sentence; Penalties**
- 1554 **4036. Sentence; Payment of Fines by Installments**
- 1555 **4037. Sentence; Considerations in Sentencing**
- 1556 **4038. Sentence; Probation**
- 1557 **4039. Sentence; Parole**
- 1558 **4040. Juvenile Delinquency; Exclusion of Public from Hearing**
- 1559 **4041. Juvenile Delinquency; Rights of Accused**
- 1560 **4042. Juvenile Delinquency; Disposition in Lieu of Sentence**
- 1561 **4043. Juvenile Delinquency; Records**
- 1562 **4044. Juvenile Delinquency; Violations Heard in Criminal Division**

1563

1564

1565 **§ 4001. In General; Definitions.**

1566

1567 The following terms are defined for the purpose of this subchapter:

1568

- 1569 (a) **“Arraignment”** means ~~Arraignment~~ is the bringing of an accused before the District
- 1570 Court, informing him or /her of his or /her rights and of the charge against him or
- 1571 her, receiving his or /her plea and setting bail as appropriate in accordance with 24
- 1572 MLBS § 4025~~158~~ and Court orders promulgated thereof.
- 1573
- 1574 (b) **“Arrest”** means ~~Arrest~~ is the taking of a person into custody in the manner authorized
- 1575 by law, in order that he or /she may be held to answer for a criminal offense.
- 1576
- 1577 (c) **“Bail”** means ~~Bail~~ is the security given for the purpose of insuring that the accused is
- 1578 present at the impending criminal proceedings.
- 1579
- 1580 (d) **“Complaint”** means ~~A complaint~~ is a written statement sworn to by the complaining
- 1581 witness and charging that a named individual has committed a particular criminal
- 1582 offense.
- 1583
- 1584 (e) **“Search warrant”** means ~~A search warrant~~ is a written order in the name of the Band,
- 1585 signed by a judge~~Justice~~ of the District Court~~Court of Central Jurisdiction~~ and
- 1586 directed to a law enforcement officer ordering him or /her to conduct a search, to
- 1587 seize items or property or a place to be searched and shall particularly describe the
- 1588 items to be seized and brought before the Justice.
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- 1590

1591 **§ 4002. Court of Central Jurisdiction.**

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~~The Court of Central Jurisdiction is hereby granted subject matter jurisdiction for any cause of action which arises from 24 MLBS Chapter 2 (§ 1001 et seq.) or this subchapter. Nothing in this subchapter shall be construed as a waiver of sovereign immunity of the Non-Removable Mille Laes Band of Ojibwe in any state or federal court of competent jurisdiction. The Court of Central Jurisdiction shall have original jurisdiction over all causes of action which arise from any provisions of 24 MLBS Chapter 2 and this subchapter. A Criminal Division is hereby created in the Court of Central Jurisdiction to hear causes of action arising from 24 MLBS Chapter 2 and this subchapter.~~

~~§ 4003. Jurisdiction Over Persons.~~

~~The criminal jurisdiction of the Non-Removable Mille Laes Band of Chippewa Indians shall extend and apply to enrolled members of the Non-Removable Mille Laes Band of Chippewa Indians, enrolled members of any of the other five Bands of the Minnesota Chippewa Tribe and those Indian Persons who reside on Lands subject to the territorial jurisdiction of the Band.~~

§ 40024. In General; Rights of Defendant.

In all criminal prosecutions, the defendant shall have the following rights: the right to be present throughout the proceeding and to defend himself or herself with proper decorum or at his or her own expense by counsel, the right to know the nature and cause of the charge and to receive a copy of the complaint, the right to meet the witnesses against him or her face to face, the right to compulsory process to obtain the testimony of witnesses in his or her behalf and physical evidence, the right to a speedy public trial by an impartial jury, but the defendant may waive the right to a speedy trial by requesting a delay, and the right not to testify. The failure of the defendant to testify shall not be construed against him or her or commented upon by the Solicitor General.

~~§ 4005. Deposit and Disposition of Fines, Fees and Other Payments Made to Court.~~

~~All monies paid to the Court of Central Jurisdiction as a result of the provisions of this subchapter or 24 MLBS Chapter 2 (§ 1001 et seq.) or other lawful orders of the Court, shall be paid to the Clerk of Court, who shall issue a receipt.~~

PART B

COMPLAINT

Section

4051.— Initiation of Prosecution.

- 1638 ~~4052. Form and Content of Complaint.~~
- 1639 ~~4052. Screening and Submission of Complaints.~~
- 1640 ~~4052. Joinder of Offenses.~~
- 1641 ~~4052. Joinder of Defendants.~~
- 1642 ~~4052. Amendment of Complaint.~~

1643

1644

1645 **§ 400351. Complaint; Initiation of Prosecution.**

1646

1647 All criminal prosecutions for violation of the Code of Offenses shall be initiated by complaint. A

1648 complaint may be initiated by the Solicitor General, any law enforcement officer of the Band, or

1649 any person under the jurisdiction of the Band.

1650

1651

1652 **§ 400452. Complaint; Form and Content of Complaint.**

1653

1654 Complaints shall:

1655

- 1656 (a) ~~b~~Be in writing and in the name of the Non-Removable Mille Lacs Band of
- 1657 ~~OjibweChippewa~~ Indians and be signed by the complaining witness sworn to and
- 1658 witnessed before the ~~Court of Central Jurisdiction's~~ Solicitor General ~~and/or before a~~
- 1659 ~~duly qualified Justice of the Court of Central Jurisdiction;~~
- 1660
- 1661 (b) ~~c~~Contain a statement by the complaining witness describing in ordinary language the
- 1662 nature of the offense committed, including the time and place as nearly as may be
- 1663 ascertained;
- 1664
- 1665 (c) ~~s~~State the name or description of the person alleged to have committed the offense;
- 1666 and
- 1667
- 1668 (d) ~~s~~State the section of 24 MLBS Chapter 2 which has been violated.
- 1669
- 1670

1671 **§ 400553. Complaint; Screening and Submission of Complaints.**

1672

1673 The Solicitor General shall file complaints with the Clerk of Court~~Chief Justice of the Court of~~

1674 ~~Central Jurisdiction may designate an individual or individuals who shall be available to assist~~

1675 ~~persons in drawing up complaints and who shall screen them for sufficiency. Complaints shall~~

1676 ~~then be submitted without delay to a Justice of the Court of Central Jurisdiction to determine~~

1677 ~~whether probable cause exists and whether a warrant or summons shall be issued. However,~~

1678 provisions of Band Statute which required mediation and Court orders which require Show

1679 Cause Hearings shall apply prior to any formal filing of a complaint with the Clerk of Court.

1680

1681

1682 **§ 400654. Complaint; Joinder of Offenses.**

1683

1684 A complaint may charge two (2) or more different offenses connected together in their
1685 commission arising out of the same incident. If two (2) or more complaints are filed against the
1686 same defendant in the District Court, the Court may order them to be consolidated. The
1687 Solicitor General is not required to elect between the different offenses or counts set forth in the
1688 complaint, but the defendant may be convicted of any number of offenses charged and each
1689 offense for which the defendant is convicted may be stated in the verdict or the finding of the
1690 Court. However, the Court may, in the interests of justice and for good cause shown, in its
1691 discretion, order that the different offenses counts set forth in the complaint be tried separately.
1692 An acquittal of one (1) or more counts shall not be deemed an acquittal of any other count.

1693
1694

1695 **§ 400755. Complaint: Joinder of Defendants.**

1696

1697 Two (2) or more defendants may be charged in the same complaint if they are alleged to have
1698 participated in the same series of acts constituting an offense or offenses. All of the defendants
1699 need not be charged in each count. When two (2) or more persons are included in the same
1700 charge, at any time before the defendants begin their defense, on the application of the Solicitor
1701 General, the District Court may direct any defendant to be discharged so that he or she may be a
1702 witness for the Band. When two (2) or more persons are included in the same complaint, and the
1703 Court is of the opinion that there is not sufficient evidence against one (1) defendant, it must
1704 order him or her to be discharged before the evidence is closed, so that he or she may be a
1705 witness for his or her co-defendant.

1706

1707

1708 **§ 400856. Complaint: Amendment of Complaint.**

1709

1710 A complaint may be amended in matters of substance at any time before the defendant pleads,
1711 without leave of the District Court. The Court may permit any charge to be amended as to form
1712 at any time before verdict or the finding of the court if no additional or different offense is
1713 charged and if the substantive rights of defendants are not prejudiced. No charge will be
1714 dismissed because of a defect in form which does not prejudice a substantial right of the
1715 defendant.

1716

1717

1718 **PART C**

1719

1720 **WARRANT, SUMMONS AND ARREST**

1721

1722 **Section**

1723 ~~4100. Arrest Warrants.~~

1724 ~~4100. Summons in Lieu of Warrant to Arrest.~~

1725 ~~4100. Prerequisites for Arrest.~~

1726 ~~4100. Time of Making Arrest.~~

1727 ~~4100. Summons in Lieu of Arrest.~~

1728 ~~4100. Notification of Rights at Time of Arrest.~~

1729 ~~4100. Search Warrants.~~

1730 ~~4101. Search Without Warrant.~~
1731 ~~4101. Stop and Frisk.~~
1732 ~~4101. Inventory of Seized Property.~~

1733
1734

1735 **§ 4009101. Warrant, Summons, and Arrest; Arrest Warrants.**
1736

1737 (a) If it appears from the complaint, ~~or~~ from an affidavit or affidavits filed with the
1738 complaint, or from examination upon oath of witnesses, that there is probable cause
1739 to believe an offense has been committed, a warrant for the arrest of the defendant
1740 shall be issued by the District Court. ~~Each~~ ~~very~~ ~~judge~~ ~~Justice~~ of the District Court ~~Court~~
1741 ~~of Central Jurisdiction~~ of the Non-Removable Mille Lacs Band of OjibweChippewa
1742 Indians shall have the authority to issue such warrants. An arrest warrant shall be in
1743 writing and in the name of the Non-Removable Mille Lacs Band of OjibweChippewa
1744 Indians, specify the name or description and address, if known, of the person to be
1745 arrested, state the date of issuance of the warrant, describe the offense charged, be
1746 signed by the issuing judgeJustice, command that the person against whom the
1747 complaint was made be arrested and brought before the District Court ~~issuing the~~
1748 ~~warrant.~~

1749
1750 (b) A warrant to arrest shall be executed by a duly qualified enforcement officer. No
1751 warrant to arrest shall be valid unless it bears the signature of a duly qualified
1752 judgeJustice of the District Court ~~Court of Central Jurisdiction of the Non-Removable~~
1753 Mille Lacs Band of Chippewa Indians. The warrant may specify the amount of bail.
1754

1755
1756 **§ 4010102. Warrant, Summons, and Arrest; Summons in Lieu of Warrant to Arrest.**
1757

1758 When authorized to issue a warrant of arrest, a duly qualified judgeJustice of the District
1759 Court ~~Court of Central Jurisdiction~~ may, in lieu thereof, issue a summons commanding the
1760 accused to appear before the Court at a specified time and place, to answer to the charge. If a
1761 defendant fails to appear in response to a summons, a warrant for his arrest shall be issued.
1762

1763
1764 **§ 4011103. Warrant, Summons, and Arrest; Prerequisites for Arrest.**
1765

1766 (a) No law enforcement officer shall arrest any person for a violation of 24 MLBS
1767 Chapter 2 except when the officer shall have a warrant signed by a judgeJustice of the
1768 District Court ~~Court of Central Jurisdiction~~ commanding the arrest of such person, ~~or~~
1769 the officer knows for a certainty that such a warrant has been issued, ~~or~~ the offense
1770 shall occur in the presence of the arresting officer, or the officer shall have probable
1771 cause to believe that the person to be arrested has committed an offense and the
1772 existing circumstances require an immediate arrest.
1773

1774 (b) When the accused has been arrested without a warrant, a complaint shall be filed
1775 forthwith for the District Court ~~Court of Central Jurisdiction~~ to review as to whether

1776 probable cause exists to hold the accused, and in no instance shall a complaint be
1777 filed later than at the time of the arraignment.
1778
1779

1780 **§ 4012404. Warrant, Summons, and Arrest; Time of Making Arrest.**
1781

1782 An arrest may be made on any day and at any time of day or night, except that a person cannot be
1783 arrested pursuant to an arrest warrant, in his or /her home at night, unless so directed by the
1784 judgeJustice in writing on the arrest warrant.
1785
1786

1787 **§ 4013405. Warrant, Summons, and Arrest; Summons in Lieu of Arrest.**
1788

1789 When otherwise authorized to arrest a suspect without a warrant, a law enforcement officer may
1790 instead issue to such person a summons to appear before the District Court~~Court of Central~~
1791 ~~Jurisdiction~~ at a stated time and place, and answer to the charge. The summons shall contain the
1792 same information as a warrant, except that it may be signed by a law enforcement officer. If a
1793 defendant fails to appear in response to such a summons, a warrant for his or /her arrest shall be
1794 issued.
1795
1796

1797 **§ 4014406. Warrant, Summons, and Arrest; Notification of Rights at Time of Arrest.**
1798

1799 Upon arrest the suspect shall be advised of the following rights: that he or /she has the right to
1800 remain silent, that any statements made by him or /her may be used against him or /her in Court,
1801 that he or /she has the right to obtain counsel at his or /her own expense.
1802
1803

1804 **§ 4015407. Warrant, Summons, and Arrest; Search Warrants.**
1805

- 1806 (a) ~~Each~~ every judgeJustice of the District Court~~Court of Central Jurisdiction~~ shall have
1807 authority to issue warrants for search and seizure of the premises and property of any
1808 person under the jurisdiction of the Court.
1809
- 1810 (b) No warrant of search and seizure shall be issued except upon statement of fact
1811 sufficient to show probable cause that a search will discover stolen, embezzled,
1812 contraband, or otherwise criminally possessed property, property which has been or is
1813 being used to commit a criminal offense, or property which constitutes evidence of
1814 the commission of a criminal offense. Such probable cause shall be supported by a
1815 written and sworn statement based upon reliable information and particularly
1816 describing the place or things to be searched and things to be seized.
1817
- 1818 (c) Warrants of search and seizure shall only be executed by law enforcement officers.
1819 The executing officer shall return the warrant to the District Court~~Court of Central~~
1820 ~~Jurisdiction~~ within the time limit shown on the face of the warrant, which in no case

1821 shall be longer than ten (10) days from the date of issuance. Warrants not returned
1822 within such time limits shall be void.
1823
1824

1825 **§ 4016108. Warrant, Summons, and Arrest; Search Without Warrant.**
1826

1827 No law enforcement officer shall conduct any search without a valid warrant except incident to
1828 making a lawful arrest or with consent of the person being searched, ~~or~~ person lawfully in
1829 possession of the object or place to be searched, ~~or~~ who is reasonably believed to be in lawful
1830 possession or when he or /she has probable cause to believe that the person searched may be
1831 armed and the officer conducts a frisk search, or when the search is of a ~~moving~~ vehicle and the
1832 officer has ~~probable~~y cause to believe that it contains contraband, stolen, or embezzled property.
1833
1834

1835 **§ 4017109. Warrant, Summons, and Arrest; Stop and Frisk.**
1836

- 1837 (a) A law enforcement officer may stop any person he or /she observes in circumstances
1838 that give the law enforcement officer ~~probable~~reasonable cause to suspect that the
1839 person has committed, ~~or~~ is committing, or is about to commit an offense involving
1840 the use or attempted use of force against a person, or theft, damage, or destruction of
1841 property, if the stop is ~~reasonably~~ necessary to obtain or verify an account of the
1842 person's presence or conduct or to determine whether to arrest the person.
1843
- 1844 (b) A law enforcement officer may stop any person he or /she finds near the scene of
1845 ~~an~~the offense that the law enforcement officer has ~~probable~~reasonable cause to
1846 suspect has just been committed if the law enforcement officer has
1847 ~~probable~~reasonable cause to suspect that the person has knowledge of material facts
1848 needed to aid to the investigation of the offense, or the stop is reasonably necessary to
1849 obtain or verify the person's identity or an account of the offense.
1850
- 1851 (c) A law enforcement officer who has lawfully stopped a person under this section may
1852 frisk that person and take other reasonable ~~searches if he or she has~~ probable cause to
1853 suspect that the person is armed and presently dangerous to the law enforcement
1854 officer or another person present, and take possession of any object that the law
1855 enforcement officer discovers during the frisk if the law enforcement officer has
1856 probable cause to believe the object is a deadly weapon.
1857
- 1858 (d) A law enforcement officer who has lawfully stopped a person under this section may
1859 demand of the person his or /her name and his or /her present or last address.
1860
- 1861 (e) A law enforcement officer who has lawfully stopped a person under this section shall
1862 inform the person, as promptly as possible under the circumstances, and in any case
1863 before questioning the person, that he or /she is a law enforcement officer and that the
1864 stop is not an arrest, but rather a temporary detention for an investigation, and that
1865 upon ~~completion~~ of the investigation the person will be released unless he is
1866 arrested.

1867
1868 (f) After the authorized purpose of the stop has been accomplished or 30 minutes have
1869 elapsed, whichever occurs first, the law enforcement officer shall allow the person to
1870 go unless he or /she has arrested the person.
1871

1872
1873 **§ 4018410. Warrant, Summons, and Arrest; Inventory of Seized Property.**
1874

1875 Law enforcement officers shall make an inventory of all property seized by warrant or otherwise,
1876 and a copy of such inventory shall be left with the persons from whom the property was taken.
1877 All such property shall be kept in a secure location.
1878

1879
1880 **PART D**

1881
1882 **PRELIMINARY PROCEEDINGS**
1883

1884 **Section**

- 1885 ~~4151. Time of Arraignment.~~
- 1886 ~~4151. Reading of Complaint and Advice of Rights.~~
- 1887 ~~4151. Appearance at Arraignment.~~
- 1888 ~~4151. Receipt of Pleas at Arraignment.~~
- 1889 ~~4151. Record.~~
- 1890 ~~4151. Bail Release Prior to Trial.~~
- 1891 ~~4151. Bail Release by Law Enforcement Officer.~~
- 1892 ~~4151. Dismissal.~~
- 1893 ~~4151. List of Witnesses.~~
- 1894 ~~4151. Production of Evidentiary Materials for Inspection.~~
- 1895 ~~4151. Notice of Interposed Defense.~~
- 1896 ~~4151. Suppression of Evidence Illegally Seized or Involuntary Confession or Admission.~~
- 1897 ~~4151. Time to Prepare for Trial.~~

1898
1899
1900 **§ 4019451. Preliminary Proceedings; Time of Arraignment.**
1901

1902 Arraignment shall be held in open cCourt without unnecessary delay after the accused is taken
1903 into custody, and in no instance, shall arraignment be later than 72 hours after an accused is
1904 detained, taken into custody, or held under atthe temporary commitment order signed by a
1905 judgeJustice of the District CourtCourt of Central Jurisdiction.
1906

1907
1908 **§ 4020452. Preliminary Proceedings; Reading of Complaint and Advice of Rights.**
1909

1910 Before an accused is required to plead to any criminal charge, the judgeJustice shall provide the
1911 accused with a copy of the complaint, read to the accused the charges, and determined
1912 whetherthat he or /she understands the complaint and the section of the Mille Lacs Band Statutes

1913 ~~Annotated~~ which he or /she is charged with violating, including the maximum authorized
1914 penalty, and advise the accused that he or /she has the right to remain silent, to secure bail, to be
1915 tried by jury, to cross-examine the witnesses against him or /her, to call witnesses in his or /her
1916 behalf, to be represented by counsel at his or /her own expense, and that the arraignment will be
1917 postponed should he or /she desire to consult with lay or professional counsel.

1918
1919

1920 **§ 4021453. Preliminary Proceedings: Appearance at Arraignment.**

1921

1922 The accused has the right to appear personally for the arraignment; ~~H~~however, the accused may
1923 elect to appear through counsel.

1924
1925

1926 **§ 4022454. Preliminary Proceedings: Receipt of Pleas at Arraignment.**

1927

1928 (a) If the accused pleads "not guilty" to the charge, the judge~~Justice~~ shall then inform
1929 him or /her of a trial date and set conditions for bail prior to trial.

1930

1931 (b) If the accused pleads "guilty" to the charge, the judge~~Justice~~ shall determine that the
1932 plea is made voluntarily and that the accused understands the consequences of the
1933 plea, including the rights which he or /she is waiving by the plea. The judge~~Justice~~
1934 may then impose a sentence, or defer sentencing for a reasonable time, in order to
1935 obtain any information he or /she deems necessary for imposition of a just sentence.
1936 The accused shall be afforded an opportunity to inform the Court of extenuating
1937 circumstances or facts that favor~~in~~ mitigation of the sentence.

1938

1939 (c) If the accused refuses to plead, the judge~~Justice~~ shall enter a plea of not guilty on his
1940 or /her behalf.

1941

1942

1943 **~~§ 4155. Record.~~**

1944

1945 ~~The Court must prepare and keep a record of all arraignment proceedings.~~

1946

1947

1948 **§ 4023456. Preliminary Proceedings: Bail - Release Prior to Trial.**

1949

1950 ~~Each~~very person charged with any offense before the District Court~~Court of Central Jurisdiction~~
1951 shall be entitled to release from custody, pending trial, under whichever one (1) or more of the
1952 following conditions is deemed necessary to reasonably enassure the appearance of the person at
1953 any time lawfully required:

1954

1955 (a) rRelease on personal recognizance upon execution by the accused of a written
1956 promise to appear at trial and all other lawfully required times;:-

1957

- 1958 (b) ~~r~~Release to the custody of a designated person or organization agreeing to enassure
 1959 the accused's appearance;:-
 1960
 1961 (c) ~~r~~Release with reasonable restrictions on the travel, association, or place of residence
 1962 of the accused during the period of release;:-
 1963
 1964 (d) ~~r~~Release after deposit by the accused or a bondsman of the bond, in either cash or
 1965 other sufficient collateral in an amount specified by the ~~judgeJustice~~ or bail schedule.
 1966 The ~~judgeJustice~~, in his or /her discretion, may require that the accused post only a
 1967 portion of the total bond. The full sum becomes due if the accused fails to appear as
 1968 ordered. In all cases wherein the bail is determined to be necessary, bail must be
 1969 reasonable in amount and the amount shall be sufficient to enassure compliance with
 1970 the conditions set forth in the bail, not oppressive, commensurate with the nature of
 1971 the offense charged, considerate of the financial ability of an accused, and considerate
 1972 of the defendant's record, employment status, and family background; or:-
 1973
 1974 (e) ~~r~~Release after execution of a bail agreement by two (2) reliable members of the Band
 1975 who shall appear before a ~~judgeJustice~~ of the ~~District CourtCourt of Central~~
 1976 ~~Jurisdiction~~ and execute whatever agreement is necessary to enassure the appearance
 1977 of the person at any time lawfully required.
 1978
 1979

1980 **§ 4024157. Preliminary Proceedings: Bail - Release by Law Enforcement Officer.**
 1981

1982 Any law enforcement officer authorized to do so by the ~~District CourtCourt of Central~~
 1983 ~~Jurisdiction~~ may admit an arrested person to bail pursuant to the bail schedule or release upon
 1984 personal recognizance. The law enforcement officer shall have available a bail schedule prepared
 1985 by the ~~District CourtCourt of Central Jurisdiction~~ which shall be used for setting money bond,
 1986 where such condition or release is deemed necessary. Any law enforcement officer who refuses
 1987 to release an accused on bail, or who specifies a bail condition which the accused is unable to
 1988 satisfy, shall bring such accused before a ~~judgeJustice of the Court of Central Jurisdiction~~ for
 1989 review of the release conditions at the first available opportunity and without unnecessary delay.
 1990

1991
 1992 **§ 4025158. Preliminary Proceedings: Dismissal.**
 1993

1994 The ~~District Court~~ may either on its own motion or upon the application of the Solicitor General
 1995 and in furtherance of justice, order a complaint to be dismissed. The reasons for the dismissal
 1996 shall be set forth in an order entered upon the minutes.
 1997

1998
 1999 **§ 4026159. Preliminary Proceedings: List of Witnesses.**
 2000

2001 The prosecution shall furnish the defendant a current list of witnesses to be used in connection
 2002 with the trial. This list shall include the names and addresses of the witnesses.
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§ ~~4027~~160. Preliminary Proceedings; Production of Evidentiary Materials for Inspection.

Upon a motion of either party, within a reasonable time before trial, the District Court may require all parties to produce all documents, papers, or things ~~that~~^{which} each party intends to use as evidence at the trial. Inspection of such materials shall take place in the Court's presence. The Court shall exclude from evidence all materials not presented for inspection unless good cause is shown for failure to comply.

§ ~~4028~~161. Preliminary Proceedings; Notice of Interposed Defense.

At the time of entering a plea of not guilty, or later if for good cause, the District Court permit, the defendant shall furnish the prosecution written notice of intent to interpose the defense of insanity, self-defense, or alibi. The defendant shall also furnish a list of witnesses to be called in support of such defense.

§ ~~4029~~162. Preliminary Proceedings; Suppression of Evidence Illegally Seized or Involuntary Confession or Admission.

A defendant may move the District Court to suppress any confession or admission given by him or her on the grounds that it was not voluntary. A defendant may move the District Court to suppress any evidence obtained by an unlawful search and seizure. Such motions must be in writing and served upon the prosecution before trial, unless good cause is shown. At least ten (10) days notice of such motions must be given upon hearing. ~~If~~ the motion is granted, the confession, admission, or evidence shall not be admitted as evidence against the defendant.

§ ~~4030~~163. Preliminary Proceedings; Time to Prepare for Trial.

After plea, the defendant shall be entitled to a reasonable time to prepare for trial.

~~PART E~~

~~TRIAL~~

Section

~~Jury Trial.~~

~~Order of Procedure.~~

~~Special Instructions.~~

~~Verdict.~~

§ ~~4031~~201. Trial; Jury Trial.

2050 Any person accused of an offense for which imprisonment is a possible penalty shall be granted a
2051 jury trial, upon his or her request made at the time of arraignment. The ~~judge~~Justice shall
2052 instruct the jury with regard to the applicable law and the jury shall decide all questions of fact
2053 on the basis of that law. The jury shall deliberate in secret and return a verdict of guilty or not
2054 guilty. The ~~judge~~Justice shall render judgment in accordance with the jury verdict.
2055
2056

2057 ~~§ 4202. Order of Procedure.~~
2058

2059 ~~The rules of Court procedure relating to the conduct of trials shall apply to trials held pursuant to~~
2060 ~~this subchapter, with the additional provisions set out in 24 MLBS §§ 4203, 4204.~~
2061
2062

2063 ~~§ 4032203. Trial; Special Instructions.~~
2064

2065 When the evidence is concluded, if either party desires special instructions to be given to the
2066 jury, such party should submit them to the ~~judge~~Justice in writing. Outside the presence of the
2067 jury, the opposing party or parties and their counsel shall have reasonable time to examine the
2068 requested instructions and argue to the Court for their adoption or rejection. The instructions
2069 shall then be settled by the ~~judge~~Justice.
2070
2071

2072 ~~§ 4033204. Trial; Verdict.~~
2073

2074 After the close of evidence, the ~~judge~~Justice shall render a verdict or in a jury trial, the
2075 ~~judge~~Justice may direct a verdict of acquittal. Except in case of directed verdict, the jury shall
2076 retire to determine a verdict after the charge. All instructions, physical evidence, and notes taken
2077 by the jurors shall be available to them. The jury shall remain in the charge of the bailiff
2078 appointed by the District Court until discharged by the ~~judge~~Justice. During its deliberation, the
2079 jury may return to Court to request further instructions from the ~~judge~~Justice or request that the
2080 Clerk read portions of the transcript of any testimony in the case. The jury must render a verdict
2081 of "guilty" by a two-thirds vote or "not guilty" on every allegation in the complaint. After the
2082 verdict of the jury has been announced to the ~~judge~~Justice, or in case the jury is unable to reach a
2083 verdict, the ~~judge~~Justice shall discharge the jury.
2084
2085

2086 **PART F**

2087
2088 **SENTENCE**

2089 **Section**

2091 ~~4251. Acquittal.~~

2092 ~~4251. Penalties.~~

2093 ~~4251. Payment of Fines by Installments.~~

2094 ~~4251. Considerations in Sentencing.~~

2095 ~~4251. Probation.~~

2096 ~~4252. Parolee.~~

2097

2098

2099 **§ 4034251. Sentence: Acquittal.**

2100

2101 If a judgment of acquittal is rendered the defendant must be immediately released.

2102

2103

2104 **§ 4035252. Sentence: Penalties.**

2105

2106 (a) Any person who has been convicted in the ~~District Court~~Court of Central Jurisdiction

2107 of an offense shall be sentenced to one (1) or a combination of the following

2108 penalties:

2109

2110 (1) ~~imprisonment~~ for a period not to exceed the maximum permitted by the

2111 provision defining the offense, which in no case shall be greater than six (6)

2112 months, and which can also include a work or school release program;:-

2113

2114 (2) ~~a~~A money fine in an amount not to exceed the maximum permitted by the

2115 provision defining the offense, which in no case shall be greater than

2116 \$5,000.00 per offense;:-

2117

2118 (3) ~~c~~Community ~~s~~Services for the benefit of the Band; or:-

2119

2120 (4) ~~r~~Rehabilitative measures.

2121

2122 (b) In addition to or in lieu of any of the above penalties, the Court may require an

2123 offender who has inflicted injury upon the person or property of another to make

2124 restitution or compensate the injured person through the surrender of the property, the

2125 payment of money damages, or the performance of any other act for the benefit of the

2126 injured party.

2127

2128

2129 **§ 4036253. Sentence: Payment of Fines by Installments.**

2130

2131 If a convicted offender is unable to pay forthwith a money fine assessed under 24 MLBS §

2132 ~~4035252~~, the District Court shall allow him or /her to make reasonable installment payments to

2133 the Clerk of Court at specified intervals until the entire sum is paid, or sentence him or /her to

2134 labor for the benefit of the Band in order to discharge a fine at the rate of \$10.00 per day. If the

2135 offender defaults on such payments the Court may finde him or /her in contempt of ~~c~~Court and

2136 imprison him or /her accordingly, or after notice to the offender, collect the unpaid balance from

2137 the offender's per capita payments or other property.

2138

2139

2140 **§ 4037254. Sentence: Considerations in Sentencing.**

2141

2142 In determining the character and duration of the sentence which shall be imposed, the District
2143 Court shall take into consideration the previous conduct of the defendant, the circumstances
2144 under which the offense was committed, ~~and~~ whether the offense was malicious or willful, and
2145 whether the offender has made efforts to make amends and shall give due consideration to the
2146 extent of the defendant's resources and the needs of his or /her dependents.
2147
2148

2149 **§ 4038255. Sentence; Probation.**

- 2150
2151 (a) Where a sentence of imprisonment has been imposed on a convicted offender, the
2152 District Court~~Court of Central Jurisdiction~~ may in its discretion, suspend the serving
2153 of such sentence and release the person on probation under any reasonable conditions
2154 deemed appropriate by the Court, provided that the period of probation shall not
2155 exceed the maximum term of sentence set for such offense.
2156
2157 (b) Any person who violates the terms of his or /her probation may be required by the
2158 Court to serve the sentence originally imposed or such part of it as the Court may
2159 determine to be suitable, giving consideration to all the circumstances provided that
2160 such revocation of probation shall not be ordered without a hearing before the Court
2161 at which time the offender shall have the opportunity to explain his or /her actions.
2162
2163

2164 **§ 4039256. Sentence; Parolee.**

- 2165
2166 (a) Any person who shall, without misconduct, serve one-half of the sentence imposed
2167 shall be eligible for parolee under such reasonable conditions as set by the District
2168 Court.
2169
2170 (b) Any person who violates the conditions of his or /her parolee may be required by the
2171 Court to serve the whole of the original sentence, provided that such revocation of
2172 parolee shall not be ordered without a hearing before the Court at which time the
2173 offender shall have the opportunity to explain his or /her actions.
2174
2175

2176 **PART-G**

2177
2178 **~~JUVENILE DELINQUENCY~~**

2179
2180
2181 **Section**

2182 **~~Exclusion of Public from Hearing.~~**

2183 **~~Rights of Accused.~~**

2184 **~~Disposition in Lieu of Sentence.~~**

2185 **~~Records.~~**

2186 **~~Violations Heard in Criminal Division.~~**

2187

2188 § ~~4040301~~. Juvenile Delinquency; Exclusion of Public from Hearing.
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2190 Whenever ~~a~~the person under the ages of 14 years is accused of committing an offense established
2191 ~~under Band law one of the offenses of this Band Statute~~, the general public shall be excluded
2192 from the hearing, except, under petition of the juvenile, the District Court in its discretion, may
2193 hear and determine the case in a public hearing.
2194

2195
2196 § ~~4041302~~. Juvenile Delinquency; Rights of Accused.
2197

2198 The juvenile shall be entitled to have counsel with him or /her at his or /her own expense, shall
2199 be allowed to present, confront, and cross-examine witnesses under oath, shall be entitled to
2200 adequate notice of charges against him or /her, and the privilege against self-incrimination shall
2201 apply to any statement the juvenile may have made before the trial and at the trial. Adequate
2202 notice of the charges against a juvenile shall also be given to the parents or guardian of the
2203 juvenile. ~~The~~A standard of guilt to be employed is that the juvenile must be found guilty beyond
2204 a reasonable doubt.
2205

2206
2207 § ~~4042303~~. Juvenile Delinquency; Disposition in Lieu of Sentence.
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2209 In lieu of sentence the District Court may place the juvenile under supervision of a responsible
2210 person or institution, selected by the ~~judge~~Justice for a designated period or may take such other
2211 action as may be deemed advisable in the circumstances.
2212

2213
2214 § ~~4043304~~. Juvenile Delinquency; Records.
2215

2216 (a) All law enforcement records concerning a juvenile, except traffic records, shall not be
2217 open to public inspection of their contents or disclosed to the public, unless ordered
2218 by the District Court.
2219

2220 (b) All law enforcement records and records of the Court pertaining to a juvenile shall be
2221 physically sealed when the youth reaches the age of 18 years. These records shall not
2222 be open to inspection except by a written order from the Court.
2223

2224
2225 § ~~4044305~~. Juvenile Delinquency; Violations Heard in Criminal Division.
2226

2227 Exceptions to 24 MLBS § ~~4042303~~ are that the following violations may be heard in either the
2228 Criminal Division or the Human Resources Division of the ~~District Court~~Court of Central
2229 ~~Jurisdiction~~ and the records may be open to inspection if tried in either the Criminal Division on
2230 any traffic, liquor law, or fish and game violation.
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2232
2233 **Section 10. Amending and Re-Enacting Section 17 of Title 3 of Mille Lacs Band Statutes.**

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Section 17 of Title 3 of Mille Lacs Band Statutes is amended and re-enacted as follows:

§ 17. Passage of Laws.

- (a) The Band Assembly shall conduct formal public hearings on any bill which alters, amends, or repeals Titles 1, 3, 4, ~~and 5,~~ or Chapter 1 of Title 2, ~~and Subchapters 1 to 3 of Chapter 3 of Title 24~~ of the Mille Lacs Band Statutes. The Band Assembly may conduct formal public hearings on any or all other bills at their discretion. Formal public hearings shall be held either in all appropriate districts of the Band's Reservation or via a media broadcast that is reasonably calculated to be available in each district prior to the time that the Band Assembly seeks to formally act upon said bill. Additionally, each bill shall be posted on the Tribal Register in a conspicuous ~~location~~ for ten (10) calendar days after said bill has been introduced at a formal public hearing. This provision shall not apply to any bill on which no formal public hearing has been held.
- (b) A majority vote of the three (3) District Representatives shall be required for the passage of each bill.
- (c) After the formal action of the Band Assembly, no later than 72 hours after said action, each bill shall be personally delivered to the Chief Executive, who shall have five (5) calendar days from the date of receipt to either sign the bill into law, or veto the bill and return it to the Band Assembly with a written veto message containing the objections to the bill. In the event the Chief Executive neither signs the bill nor vetoes it, it shall become law without the Chief Executive's signature after the expiration of five (5) calendar days from date of receipt of the bill.
- (d) The Clerk of the Band Assembly shall certify the date and time that each bill has been forwarded to the Chief Executive for action. This date shall be utilized to determine the appropriate five (5) calendar day time period found in subsection (c).
- (e) Any bill which has been vetoed and returned by the Chief Executive shall have a compromise hearing within five (5) calendar days of the return. Failure of the Band Assembly to act within the five (5) calendar days shall halt further action on said bill for 180 calendar days. Should the Band Assembly hold a compromise hearing with the Chief Executive within the allocated time, 15 calendar days shall be available to negotiate an agreement for the bill's passage into law. Should an agreement not be concluded within the allotted time, further action on the bill is precluded for 180 calendar days from said date. Appropriation bills shall be excluded from the above time schedule.
- (f) An appropriation bill which has been returned by the Chief Executive shall have a compromise hearing within three (3) calendar days of the return to the Band Assembly. Negotiations shall commence with the Chief Executive on the fourth

2279 calendar day thereafter and shall continue until a compromise has been achieved.
2280 During this time the Band Assembly is precluded from adjourning.

2281
2282 (g) A veto by the Chief Executive is a total veto of the entire bill. Sectional vetoes shall
2283 be prohibited pursuant to the provisions of this section.
2284

2285
2286 **Section 11. Directing the Revisor of Statutes to Update the Following Term Throughout**
2287 **Band Statutes.**

2288
2289 The Revisor of Statutes is hereby directed to replace throughout Band statutes the term “Court of
2290 Central Jurisdiction” with the term “Judicial Branch,” “District Court,” or “Court of Appeals,”
2291 whichever is relevant, in consultation with the Judicial Branch. Such replacement must be
2292 completed no later than December 31, 2022.

2293
2294
2295 **Section 12. Directing the Revisor of Statutes to Update the Following Terms Throughout**
2296 **Band Statutes.**

2297
2298 The Revisor of Statutes is further directed to replace the terms “Justice,” “Associate Justice,” and
2299 “Associate Justice of the Court of Appeals” with the term “judge” in all sections in which the
2300 term “District Court” replaces the term “Court of Central Jurisdiction,” in consultation with the
2301 Judicial Branch. Such replacement must be completed no later than December 31, 2022.

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2304 **EFFECTIVE DATE.** This bill shall become effective immediately upon signature, or lack of a
2305 veto, by the Chief Executive pursuant to 3 MLBS § 32.

**Ordinance 43-22
(Band Assembly Bill 20-01-43-22)**

Introduced to the Band Assembly on this
Twenty-seventh day of April in the year
Two thousand twenty-two.

Passed by the Band Assembly on this
Twenty-seventh day of April in the year
Two thousand twenty-two.


Sheldon Boyd, Speaker of the Assembly

VETO

APPROVED

Date: May 2, 2022


Melanie Benjamin, Chief Executive

OFFICIAL SEAL OF THE BAND