

SISSETON-WAHPETON SIOUX TRIBE

CHAPTER 30

JOINT EXERCISE OF POWERS AGREEMENT

RECIPROCAL EXTRADITION ORDINANCE

S.W.S.T. 200
 Amend
 New Adoption
Judicial Approved
08-08-84
Council Adopted
08-08-84

The ordinance authorizes the Tribal Chairman of the Sisseton-Wahpeton Sioux Tribe to enter into reciprocal agreements with the Executive Authority of any Reservation, State or Federal Government to provide for a more orderly and more uniform law enforcement in the area commonly referred to as the Lake Traverse Reservation.

30-01-01 DEFINITION OF TERMS

30-01-02 Executive Authority - includes any person performing the functions of Tribal Chairman of any federally recognized Indian Tribe or the Governor of any State or the United States Attorney representing any Federal District.

30-01-03 Fugitives from Justice - shall mean any person charged in any other jurisdiction with any crime, who has fled from that jurisdiction in order to avoid prosecution, any person who has fled from another jurisdiction while under a cash bail bond, personal recognizance bond, any person who has failed to appear for sentencing in another jurisdiction, probation violators, parole violators, inmates on temporary release from any State penitentiary or jail.

30-01-04 Jurisdiction - shall mean any other reservation, state or the federal government that has charged a fugitive from justice.

30-02-01 **FUGITIVES FROM JUSTICE: DUTY TO CAUSE ARREST AND DELIVERY**
It is the duty of the Tribal Chairman of the Sisseton-Wahpeton Sioux Tribe to have arrested and delivered up to the demanding Executive Authority of any other jurisdiction any fugitive from justice that has committed an offense in another jurisdiction. The Tribal Chairman shall also have the authority to demand from any other jurisdiction, a fugitive from justice that has committed an offense within the jurisdiction of the Lake Traverse Reservation and fled to another jurisdiction in order to avoid prosecution, sentencing or jail time or other proceedings.

30-02-02 Form of Demand
No demand for extradition of a person charged with a crime in another jurisdiction shall be honored unless in writing alleging that the accused was present in the demanding jurisdiction at the time of the commission of the offense. The demand shall be accompanied by:

1. an indictment/complaint
2. an affidavit from the Executive Authority requesting the extradition, with a statement that the person has committed the offense claimed
3. copy of the warrant signed by a Judge
4. copy of the judgement or conviction or sentence imposed or of the probation violation, parole violation or bond violation

30-03-01 INVESTIGATION BY THE TRIBAL CHAIRMAN

When a demand is made upon the Tribal Chairman for a fugitive from justice, the Tribal Chairman shall call upon the Prosecutor of the Tribe to investigate or assist in investigating the demand and submit a report to him in writing of the circumstances of the person so demanded.

30-04-01 PROCEDURE FOR ARREST AND TRANSFER

30-04-02 Warrant of Arrest - if it is determined by the Tribal Chairman that the fugitive should be transferred to the demanding jurisdiction the Chairman shall sign a warrant of arrest.

30-04-03 The warrant of arrest must substantially cite the facts necessary to the validity to its issuance.

30-05-01 MANNER AND PLACE OF ARREST

30-05-02 The Chairman's warrant of arrest shall authorize a Tribal Police Officer to arrest the accused at any time and anywhere within the jurisdiction of the Tribe and deliver the accused up to the demanding jurisdiction in accordance with the provisions of this chapter.

30-05-03 Tribal Police Officers are empowered with all rights and privileges accorded them under color of law and any resistance by the accused shall be subject to tribal violations.

30-06-01 HEARING OF EXTRADITION: RIGHTS OF ACCUSED PRIOR TO DELIVERY

Every person arrested on the Tribal Chairman's warrant of arrest shall be taken before a Tribal Judge, who shall inform the accused of the demand made for his/her surrender and of the crime with which he/she is charged, and the right to demand and procure legal counsel.

30-07-01 APPLICATION FOR HABEAS CORPUS

When an accused is taken before a Tribal Judge, the accused shall be fully informed of his/her rights including the right to habeas corpus relief.

30-07-02 The Tribal Judge shall fix a reasonable time to be allowed for the accused to apply for a writ of habeas corpus in Tribal Court. When such a writ is applied for, notice thereof, and of time and place of hearing shall be given to the accused, Office of Prosecutor of the Tribe, and to the agent of the demanding jurisdiction.

30-08-01 CONFINEMENT IN JAIL

After the issuance of the warrant of arrest by the Tribal Chairman, the accused shall be lodged in the Tribal Detention Center no longer than seventy-two (72) hours pending the hearing before the Tribal Judge who will fully inform the accused of his/her rights.

30-09-01 RIGHT TO BAIL

The accused shall not have a right to bail upon arrest by a Tribal Police Officer pending the hearing on transfer to the demanding jurisdiction. Bail may be set at the hearing on the transfer in accordance with Section 30-06-01, after which bail may be set if the accused is applying for a writ of habeas corpus.

30-09-02 Unless the offense with which the accused is charged is punishable by death or life imprisonment under the laws of the demanding jurisdiction, the Judge may set bail in accordance with bail set for offenses under Tribal law. If the offense is an offense not covered by Tribal law then it is left to the discretion of the Judge to set bail at a reasonable amount.

30-10-01 NO INQUIRY INTO GUILT OR INNOCENCE

The guilt or innocence of the accused of the crime charged may not be inquired into by the Chairman or by the Tribal Judge in any proceeding after the demand for extradition is submitted, other than to the identification of the accused.

30-11-01 WRITTEN WAIVER OF EXTRADITION PROCEEDINGS

Any person arrested on this reservation and charged with an offense committed in another jurisdiction, may, before a Tribal Judge waive all extradition proceedings by signing a written Waiver of Extradition before two witnesses, thereby waiving all rights to habeas corpus belief and consenting to be delivered up to the Executive Authority or his/her agent of the demanding jurisdiction, whereupon the accused shall be delivered up to a law enforcement officer of the demanding jurisdiction within twenty-four hours.

30-12-01 COSTS ASSOCIATED WITH THE TRANSFER OF AN ACCUSED
Any and all costs associated with transportation of an accused shall be borne by the demanding jurisdiction.

30-13-01 DOCUMENTS ON FILE
All documents associated with the extradition proceedings shall be kept on file in the Office of the Clerk of Courts.

30-14-01 SEVERABILITY
If any clause, sentence, paragraph, section, or part of this code shall, for any reason be adjudicated by any Court of competent jurisdiction, to be invalid or unconstitutional, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgement shall have been rendered.

W.S.T. CODE
] Amendment
[New Adoption
Judicial Approved
2-24-88
Council Adopted
13-01-88

SISSETON-WAHPETON SIOUX TRIBE
OF THE
LAKE TRAVERSE RESERVATION
SISSETON 7 S. DAK. 57262



RECIPROCAL AGREEMENT

between the

SISSETON-WAHPETON SIOUX TRIBE and STATE OF SOUTH DAKOTA

We, the Governor of the State of South Dakota and the Chairman of the Sisseton-Wahpeton Sioux Tribe do hereby agree to the following:

- (1) to enforce the Extradition Agreement adopted by the Sisseton-Wahpeton Tribal Council on August 8, 1984.
- (2) to enforce S.D.C.L. 23-24B-2 and other applicable sections of that chapter as they apply to Indians.
- (3) this agreement is reciprocal in that the Sisseton-Wahpeton Sioux Tribe may also ask for the extradition of any person that has committed an offense on trust land and meets the definition of "fugitive from justice."

Dated this 7th day of November, 1984.

Agreed to for the State of South Dakota by:


GOVERNOR William Janklow

Agreed to for the Sisseton-Wahpeton Sioux Tribe by:


CHAIRMAN Russell Hawkins

(seal)