



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Executive Conference Room-2nd Floor Norbert Hill Center
June 19, 2019
9:00 a.m.

- I. Call to Order and Approval of the Agenda**

- II. Minutes to be Approved**
 - 1. June 5, 2019 LOC Meeting Minutes (pg. 2)

- III. Current Business**
 - 1. Curfew Law (pg. 3)
 - 2. Sanctions and Penalties Law (pg. 44)

- IV. New Submissions**

- V. Additions**

- VI. Administrative Updates**

- VII. Executive Session**

- VIII. Recess/Adjourn**



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
June 5, 2019
9:00 a.m.

Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Daniel Guzman King

Others Present: Maureen Perkins, Brandon Wisneski, Clorissa Santiago, Jennifer Falck, Kristen Hooker, Leyne Orosco, Brooke Doxtator, Bonnie Pigman, Dan W. Skenandore, Ronald Melchert, Ed Delgado, Rae Skenandore

I. Call to Order and Approval of the Agenda

David P. Jordan called the June 5, 2019 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster to adopt the agenda; seconded by Kirby Metoxen. Motion carried unanimously.

II. Minutes to be Approved

Motion by Kirby Metoxen to approve the May 15, 2019 Legislative Operating Committee meeting minutes and forward to the Oneida Business Committee for consideration; seconded by Ernest Stevens III. Motion carried unanimously.

III. Current Business

1. Curfew Law (1:03-40:57)

Motion by Jennifer Webster to accept the draft and legislative analysis of the Curfew law and defer these items to a work meeting for further consideration, replacing page four (4) of the packet with the handout; seconded by Ernie Stevens III. Motion carried unanimously.

IV. New Submissions

V. Additions

VI. Administrative Items

1. Election Law Amendments (41:03-50:28)

Motion by Jennifer Webster to enter the May 28, 2019 LOC E-Poll results approving the Election Law Amendments materials for the July 11, 2019 General Tribal Council meeting into the record; seconded by Kirby Metoxen. Motion carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by Kirby Metoxen to adjourn the June 5, 2019 Legislative Operating Committee meeting at 9:50 a.m.; seconded by Ernie Stevens III. Motion carried unanimously.

A good mind. A good heart. A strong fire.





Legislative Operating Committee
June 19, 2019

Curfew Law

Submission Date: 12/19/18	Public Meeting: n/a
LOC Sponsor: Ernest Stevens III	Emergency Enacted: n/a

Summary: *This was a recommendation from the TAP Law and Policy Subcommittee, to develop a curfew law for the Oneida Nation.*

12/19/18 LOC: Motion by Jennifer Webster add the Curfew Law to the active files list and assign Ernest Stevens III as the sponsor; seconded Ernest Stevens III. Motion carried unanimously.

2/13/19: *Work Meeting.* Present: Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Maureen Perkins. The purpose of this work meeting was to obtain information from the Oneida Police Department regarding any issues that may currently be occurring on the Reservation related to a lack of curfew, as well as discuss OPD's role in potentially enforcing a Curfew law.

2/14/19: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to provide the LOC an update on communications with the Oneida High School's Clan Council, and recent work meeting with OPD. The LOC also discussed potential dates for holding a community meeting potluck on the curfew law.

2/20/19 LOC: Motion by Daniel Guzman King to approve the community meeting notice and direct that a community meeting for the proposed Curfew Law be held on Thursday, March 21, 2019; seconded by Ernest Stevens III. Motion carried unanimously.

3/13/19: *Work Meeting.* Present: Clorissa N. Santiago, Maureen Perkins, student representatives from the Oneida Nation Clan Council. The purpose of this work meeting was to obtain information from the Oneida High School Clan Council regarding their thoughts and opinions on a potential curfew law.

3/21/19: *Work Meeting.* Present: David P. Jordan, Ernest Stevens III, Daniel Guzman King, Jennifer Falck, Clorissa N. Santiago, Maureen Perkins. The purpose of this work meeting was to prepare for tonight's community meeting on the curfew law. The LOC discussed the format for the community meeting, potential discussion points, and questions the LOC members currently have themselves regarding this topic.

3/21/19: *Community Meeting.* Present: David P. Jordan, Lisa Summers, Ernest Stevens III, Daniel Guzman King, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Maureen Perkins. No community members attended the community meeting.

5/1/19: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Maureen Perkins. The purpose of this work meeting was for the LOC to review the draft of the Curfew law. The LOC made policy decisions for

curfew, and directed minor changes be made to the draft. The LRO will update the draft and complete a legislative analysis to be brought back in the near future.

5/15/19: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Jennifer Falck, Clorissa N. Santiago, Maureen Perkins. The purpose of this work meeting was to review and discuss a couple remaining questions that need to be determined before a draft is finalized. LOC provided direction, and a draft will be finalized and moved forward. On track to bring draft and analysis to June 5, 2019 LOC meeting.

6/5/19 LOC: Motion by Jennifer Webster to accept the draft and legislative analysis of the Curfew law and defer these items to a work meeting for further consideration, replacing page four (4) of the packet with the handout; seconded by Ernie Stevens III. Motion carried unanimously.

6/5/19: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Maureen Perkins. The purpose of this work meeting was for the LOC to review the two (2) policy considerations contained in the legislative analysis. LOC discussed other potential amendments and directed that minor revisions be made to the law. Additionally, LOC made a decision as to who will be directed to complete the financial analysis – the Finance Department. A memo regarding the fiscal impact statement to Finance and the public meeting packet will be prepared for the next LOC meeting.

6/13/19: E-Poll Conducted. E-Poll was titled “Approval of the Curfew Law Fiscal Impact Statement Request Memorandum to the Finance Department. The requested action of this e-poll was to approve the Curfew law fiscal impact statement request memorandum, with accompanying updated draft and legislative analysis, and forward to the Finance Department directing that a fiscal impact statement of the proposed Curfew law be prepared and submitted to the LOC by July 18, 2019. The e-poll was approved by David P. Jordan, Kirby Metoxen, Jennifer Webster, and Ernest Stevens III. Daniel Guzman King did not provide a response to the e-poll.

Next Steps:

- Approve the public meeting packet and forward the Curfew law to a public meeting to be held on July 18, 2019.
- Enter the June 13, 2019, LOC E-Poll titled, “Approval of the Curfew Law Fiscal Impact Statement Request Memorandum” results into the record.

ONEIDA NATION PUBLIC MEETING NOTICE

Thursday, July 18, 2019, 5:00 pm

**Norbert Hill Center-Business Committee Conference Room
N7210 Seminary Rd., Oneida, Wisconsin**

Find Public Meeting Materials at

Oneida-nsn.gov/government/register/publicmeetings

Send Public Comments to

LOC@oneidanation.org

Ask Questions here

LOC@oneidanation.org

920-869-4312



CURFEW LAW

The purpose of this law is to protect the health, safety, and welfare of persons and property within the Reservation by regulating the activities of minors on the Reservation during certain hours, while imposing certain obligations and responsibilities upon the parents, guardians, and/or legal custodians of a minor for the control and supervision of that minor.

The Curfew law will:

1. Require that no minor be on any public space between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of the Reservation, unless the minor is accompanied by a parent, guardian, or legal custodian.
2. Provide exemptions to the curfew - or situations in which a minor can be out during curfew hours without violating curfew.
3. Provide the process for the enforcement of the curfew by the Oneida Police Department, and what penalties the Family Court may issue against a minor and/or his or her parent, guardian, or legal custodian upon a finding that a curfew violation occurred.

PUBLIC COMMENTS PERIOD CLOSSES THURSDAY, JULY 25, 2019

During the Public Comment Period, anyone may submit written comments. Comments may be submitted to the Oneida Nation Secretary's Office or the Legislative Reference Office in person, by U.S. mail, interoffice mail, or e-mail.



PROVIDING USEFUL PUBLIC COMMENTS

Providing public comment is an important way to make your voice heard in decision making. Public comments can strengthen a decision or provide different perspectives. The Legislative Operating Committee wants to hear from you!



READ THE PUBLIC MEETING MATERIALS: Before you provide comments familiarize yourself with the legislation. A public meeting packet is made for every public meeting and they include 1) a notice with the date, time, location, 2) a draft of the proposed legislation, and 3) a plain language review of the legislation and its impact on the Oneida Nation.



PREPARE YOUR COMMENTS: When you are familiar with the legislation, start to prepare comments. The LOC is responsible for reviewing every comment received. To get your message across effectively, frame your comment clearly and concisely. Here is an example of how to create a useful comment:

Least Useful Comment	More Useful Comment	Most Useful Comment
This law isn't good for the community.	I don't like the curfew hours.	Curfew beginning at 10:00 p.m. is too early. Curfew should start at 11:30 p.m. instead.

6 Police Department, Governmental Services Division, Oneida Gaming Commission, Oneida Family
7 Support Services, Legislative Operating Committee, Legislative Reference Office (LRO), Oneida
8 Human Resources Department and Retail Division. This team concluded that a curfew law would help
9 curtail opportunities for minors to be influenced by drugs by limiting their presence in public spaces
10 within the community during certain hours, including night time and early morning, without the
11 presence of a parent, guardian, or legal custodian.

12 *Outreach Efforts*

13 Outreach with the community was held during the Community Budget Session on November 30,
14 2018 where the LOC had an opportunity to collect input from participants by asking them to share their
15 ideas about new laws, amendments to existing laws or anything else they wanted to share. Participants
16 indicated the need for a curfew law for the Reservation [*LOC FY19 First Quarter Report*].
17 Additionally; a community outreach event was held on March 21, 2019 at the Norbert Hill Center
18 cafeteria from 5:00 p.m. to 7:30 p.m. to collect input from the community. No members of the
19 community participated in this event.

20 *Related Research*

21 Research regarding curfew laws revealed that the most common goals of a curfew law are to 1)
22 protect children from becoming victims or perpetrators of crimes, 2) assist parents in exercising their
23 responsibility over minors, and 3) prevent all persons from the dangers posed by unsupervised minors
24 who are out late at night and in the early morning hours. Research indicates that curfew laws may
25 protect youth from victimization and prevent juvenile crimes and delinquency by reducing or
26 preventing exposure of youth to negative situations by restricting their access to public spaces at night
27 and early morning hours [*Grossman & Martin, 2015*]. Although some research has indicated that most
28 crimes involving minors take place during after school hours rather than late at night or early morning
29 hours [*Meyers, 2016*]; the goal of this legislation within the Oneida Reservation is to keep minors safe
30 and accounted for during curfew hours.

31 According to the Office of Juvenile and Delinquency Prevention; the following contribute to the
32 successful implementation of curfew policies:

- 33 ○ Community involvement;
- 34 ○ Creating specific procedures for repeat offenders such as recreational, educational, and job
35 opportunities as well as antidrug and antigang programs;
- 36 ○ Providing a hotline for community questions or problems related to curfews or juvenile
37 delinquency in general; and
- 38 ○ Providing intervention services for juveniles and their families.

39 B. ***Previous Attempts to Implement a Curfew.*** The LOC has considered a law that included a curfew in
40 the past. A curfew provision was considered in a Public Nuisances law drafted by the LOC in 2010;
41 however, this law was not completed or adopted.

- 42 • Previous attempts at regulating minors through a curfew that were not legislative include a curfew
43 requirement of 10:00 p.m. to 6:00 a.m. that was included in previous Oneida Housing Authority
44 tenant leases. This provision is not in current leases [*Email Communication 05/03/2019, Scott
45 Denny, Residential Rentals & Outreach Area Manager, Oneida Comprehensive Housing
46 Division*].

47 C. ***Expected Benefits.*** The purpose of this legislation is to provide a clear timeframe that minors must be
48 out of public spaces and accounted for by their parents, guardians or legal custodians. Members of the
49 Oneida Nation High School Clan Council indicated that a curfew law may help to prevent teens from
50 partying, staying out late and engaging in other bad behaviors; as well as helping with responsibility,

51 encouraging youth to stay out of trouble and encouraging safety and school attendance. A curfew law
 52 provides a means for parents to enforce a curfew with their children to provide an additional measure
 53 of safety, accountability, obligation and responsibility to both the Nation’s minors and adults
 54 [McDowall, Loftin & Wiersema, 2009]. A curfew law provides OPD with a means to engage with
 55 suspected minors during curfew hours to tell them to go home and to encourage adult supervision of
 56 minors during curfew hours. OPD has expressed that the goal is to keep minors safe and to prevent
 57 vandalized property, arson, graffiti, petty theft and drug issues.
 58

59 **SECTION 3. CONSULTATION AND OUTREACH**

60 **A. Departments and Groups.** The following departments and groups participated in the development of
 61 this Law:

- 62 1. Oneida Police Department; and
- 63 2. Members of the Oneida Nation High School Clan Council.

64 **B. Laws of the Nation.** The drafting of this legislative analysis included a review of the following laws of
 65 the Nation: Family Court law, Family Court Rules, Rules of Appellate Procedure, Oneida Judiciary
 66 Rules of Evidence, and Oneida Judiciary Rules of Civil Procedure, Per Capita law, Garnishment law,
 67 Public Use of Tribal Lands law, and Landlord-Tenant law.

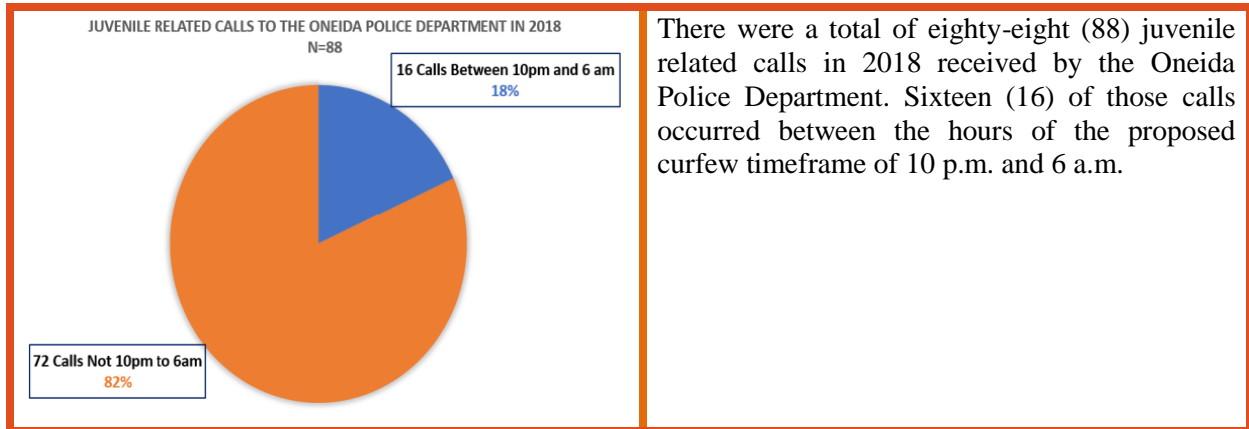
68 **C. Area and Tribal Laws.** The following curfew laws from surrounding municipalities and other tribal
 69 communities were reviewed. The chart provides a breakdown of the ages and curfew time frames the
 70 laws apply to.

Municipality or Tribe	Curfew Applies to Ages:	Curfew in Effect From:
Brown County	Under 17	10pm to 6am
Village of Hobart	Under 17	10pm to 6am
City of Green Bay	Under 17	10pm to 6am
City of De Pere	Under 17	10pm to 6am
Village of Ashwaubenon	Under 17	10pm to 6am
City of Seymour	Under 17	11pm to 6am
Village Howard	Under 17	10pm to 6am
Ho-Chunk Nation	Under 16	10pm to 5am
	16-17	12am to 5am
Lac Du Flambeau Band of Lake Superior Chippewas	Under 18	9pm to daylight during central standard time
		10pm to daylight during daylight savings time
Hoop Valley Tribe	Under 18	10pm to 5am
Prairie Island Indian Community	Under 16	10pm to 6am
	Over 16 and under 18	11pm to 6am
Ely Shoshone Tribe	Under 18	10pm to 5am Sunday - Thursday
		12am to 5am Friday - Saturday

71
 72 **The State of Wisconsin, Outagamie County and Town of Oneida do not have curfew laws in place.*
 73

74 **D. Data.** A memorandum from the TAP Laws and Policy Subcommittee suggested that data related to
 75 police interactions with youth ages seventeen (17) years and younger be requested from the Oneida
 76 Police Department and other neighboring jurisdictions to provide a background for juvenile activity in
 77 the area.

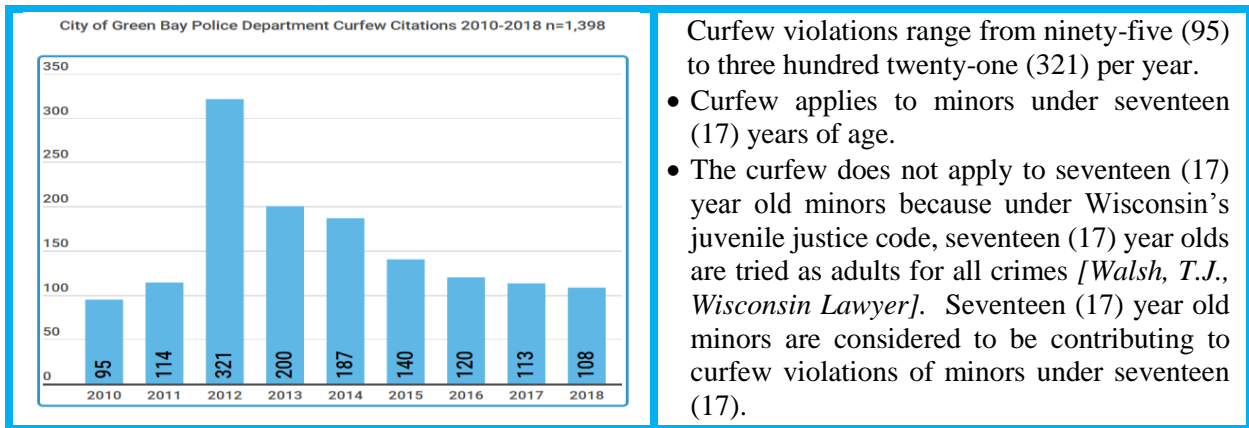
- 78 1. The Oneida Police Department does not currently enforce any curfew laws. The following is
 79 a breakdown of juvenile related calls received by the Oneida Police Department in 2018 [Email
 80 communication 05/06/2019, Eric Boulanger, Chief of Police, Oneida Police Department].



There were a total of eighty-eight (88) juvenile related calls in 2018 received by the Oneida Police Department. Sixteen (16) of those calls occurred between the hours of the proposed curfew timeframe of 10 p.m. and 6 a.m.

81
 82
 83
 84

2. The City of Green Bay has issued the following citations related to curfew violations from 2010 to 2018 [Email communication 05/03/2019, Michelle Belongie, Crime Analyst, Green Bay Police Department].



Curfew violations range from ninety-five (95) to three hundred twenty-one (321) per year.

- Curfew applies to minors under seventeen (17) years of age.
- The curfew does not apply to seventeen (17) year old minors because under Wisconsin’s juvenile justice code, seventeen (17) year olds are tried as adults for all crimes [Walsh, T.J., Wisconsin Lawyer]. Seventeen (17) year old minors are considered to be contributing to curfew violations of minors under seventeen (17).

85
 86
 87
 88
 89

*The LOC has determined that the law will apply to minors seventeen (17) years of age or younger. Parent, guardians and legal custodians are responsible for minor’s actions until they reach eighteen (18) years of age and become legally competent adults. The law places the discretion with OPD to determine in each individual instance whether the Curfew law has been violated and whether to issue a citation.

SECTION 4. PROCESS

91
 92
 93
 94
 95

A. Below is a diagram of the legislative process contained in the Legislative Procedures Act [1 O.C. 109] with some additional useful information. The LOC has reviewed the proposed Curfew law and legislative analysis and is currently at the stage of requesting a public meeting be held and a fiscal impact statement developed by the Finance Office.


Diagram 1. Curfew Law Drafting Process Contained in the Legislative Procedures Act [1 O.C. 109].



96

- 97 C. The following meetings, work meetings, and outreach events took place at the time of the
98 development of this legislative analysis:
- 99 • December 19, 2018: A request for a Curfew law was received from the TAP Laws and Policy
100 Subcommittee, considered by the LOC and the Curfew law was added to the active files list.
 - 101 • February 13, 2019: A work meeting was held with the LRO staff and the OPD.
 - 102 • February 14, 2019: A work meeting was held with the LOC and the LRO staff.
 - 103 • March 13, 2019: A work meeting was held with the LRO staff and the Oneida Nation High School
104 Clan Council.
 - 105 • March 21, 2019: A Community Outreach Meeting was held. Although no one attended this
106 meeting; the opportunity was presented to the community to gather input on the development of
107 the Law.
 - 108 • May 1, 2019: A work meeting was held with the LOC and the LRO.
 - 109 • May 15, 2019: A work meeting was held with the LOC and the LRO.
 - 110 • June 5, 2019: The draft and legislative analysis are scheduled to be presented to the LOC for
111 further consideration.

Community Outreach Event March 21, 2019



March 21, 2019

The LOC hosted a community pot luck to discuss a Curfew Law. While the community expressed interest in the event, no one attended the meeting. This highlights how collecting public comment is difficult.

LEGISLATIVE OPERATING COMMITTEE OUTREACH EVENT


COMMUNITY POT LUCK
WWW.ONEIDA-NSN.GOV/GOVERNMENT

Thursday, March 21, 2019, 5:00-7:30pm

Norbert Hill Center Cafeteria
7210 Seminary Rd., Oneida, Wisconsin


PROPOSED CURFEW LAW

This will be an exploratory meeting that will gather input from the community regarding issues and concerns related to the implementation of a curfew for minors seventeen (17) years old or younger, and the consequences that would result from violating the curfew.



OUTREACH

The Legislative Operating Committee (LOC) holds community outreach events in an effort to collect thoughts and ideas from the community at the beginning of the legislative process. This provides insight and ideas early and is a more efficient way of getting work done. Outreach events also provide the community with additional opportunities to share their thoughts with the LOC. When the LOC feels that the community may have a particular interest in proposed legislation these events are held in addition to the formal public meetings required by the Legislative Procedures Act.



FOR MORE INFORMATION:
www.oneida-nsn.gov/Register/PublicMeetings or contact Oneida Nation Legislative Reference Office located in the Norbert Hill Center, PO Box 365, Oneida, Wisconsin 54155
Email: LOC@oneidation.org Phone: 920-869-4376

- 112
- 113 **SECTION 5. CONTENTS OF THE LEGISLATION**
- 114 **A. Purpose and Policy [3 O.C. 308.1]**
- 115 • The purpose of the Law is to restrict access to public spaces by minors not accompanied by
116 certain adults during established night and early morning hours, while imposing obligations and
117 responsibilities upon adults to protect the health, safety and welfare of youth, adults and public
118 property of the Nation. It is the policy of the Nation to support substance abuse prevention
119 initiatives to minimize the opportunities of for minors to encounter harmful situations.
- 120 **B. Jurisdiction [3 O.C. 308.4]**
- 121 • *Personal Jurisdiction.* This Law applies to: 1) all members of the Nation and those eligible for
122 enrollment with the Nation, as well as members of other federally recognized tribes, 2)
123 individuals and their households who lease, occupy or otherwise use fee land or trust land owned
124 by the Nation or by individual members of the Nation; through consensual contract or other
125 agreement, 3) individuals who have consented to the jurisdiction of the Nation through other
126 consensual relationships with the Nation or Nation's entities, corporations or members of the
127 Nation through contracts or agreements; and 4) any other facts that manifest consent to

jurisdiction consistent with federal law and policy including failure to object to the exercise of personal jurisdiction in a timely manner.

i. In accordance with section 308.4-1(b), the Law applies to individuals and their households who lease, rent, or occupy any home involved in a housing program with the Nation’s Comprehensive Housing Division, including children who are not enrolled or eligible for enrollment with the Nation or any other federally recognized tribe. The Landlord-Tenant law requires all tenants of the Nation’s housing programs to abide by the Nation’s laws [6 O.C. 611.6-3(b)(3)].

- *Territorial Jurisdiction.* This Law applies to the Reservation to all land owned by the Nation and individual trust and/or fee land of a member of the Nation.

C. Curfew [3 O.C. 308.5]

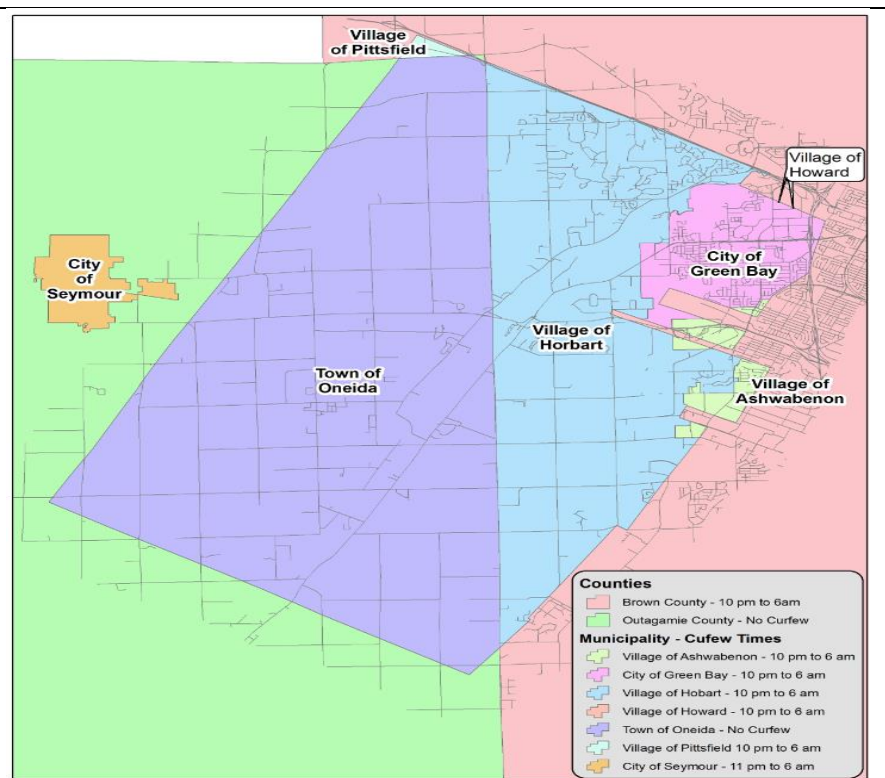
- The curfew is established from 10:00 p.m. to 6:00 a.m. for ages seventeen (17) years old or younger in any public space either on foot or in a vehicle driven or parked within the boundaries of the Reservation. No adult shall knowingly permit or fail to take action to prevent a minor to be in a public space after curfew unless an exemption is met [3 O.C. 308.5-3].

i. Exemptions include common reasons minors would be out at night without the presence of their parent, guardian, or legal custodian such as traveling home from work, participating in cultural and sports activities chaperoned by an adult, and traveling home from the movies; as well as a discretionary measure for OPD to determine if the law has been violated or not.

- The map below demonstrates the curfew in the proposed Law is consistent with the curfew established by municipalities surrounding the Reservation. Members of the Oneida Nation High School Clan Council indicated during a work meeting that Oneida’s curfew should be similar to area curfew laws for consistency purposes.

This is a map of the Reservation and surrounding jurisdictions with any curfew currently in place. The curfew timeframe of 10 p.m. to 6 a.m. in the proposed law is consistent with most jurisdictions near the Reservation.

- The State of Wisconsin, Outagamie County, and the Town of Oneida all lack curfew laws. This means nearly half the Reservation does not have any curfew law in place.
- OPD does not currently enforce any curfew laws of area jurisdictions [Verbal Communication, February 13, 2019].



160 **D. Enforcement of Curfew Violations [3 O.C. 308.6]**

- 161 • Oneida Police Department (OPD) officers may stop any minor suspected of violating this law.
162 OPD must ask, and the minor must provide, their name, age and reason for violating curfew. If
163 an OPD officer believes the Curfew law has been violated; the officer may take the minor into
164 custody and contact their parents, guardian or legal custodian to return the minor to their care
165 and custody. If the OPD officer cannot locate a parent, guardian or legal custodian, they may
166 find and release the child to an adult relative or other responsible adult willing and able to accept
167 the care and custody of the minor.
- 168 i. The first time a minor is taken into custody results in a warning by OPD to both
169 the minor and the minor’s parent, guardian or legal custodian advising them of the
170 law and informing them that any additional violations of the curfew law may result
171 in a fine, community service, mandatory parenting program, mandatory family
172 counseling, or other penalties at the discretion of the Family Court [3 O.C. 308.6-
173 2].
- 174 ii. Subsequent curfew violations that result in a minor being taken into custody by
175 OPD may result in the issuance of a citation which will require the attendance of
176 the minor and their parent, guardian, or legal custodian at a mandatory pre-hearing
177 with the Family Court. Additionally; subsequent violations of the Curfew law may
178 include a fine, mandatory or voluntary community service, mandatory parenting
179 program, mandatory family counseling, or any other penalty at the discretion of
180 the Family Court, as well as any conditional orders made by the Family Court [3
181 O.C. 308.6-3].
- 182 iii. The Family Court may issue conditional orders at the mandatory pre-hearing until
183 the matter is resolved [3 O.C. 308.6-3(a)].

184 **E. Penalties of Curfew Violations [3.O.C. 308.7]**

- 185 • The following penalties may be issued to those that violate the law; focusing on specific
186 programs that aim to improve family dynamics and parenting; at the discretion of Family Court:
- 187 i. Fines (community service may be a substitute for all or part of fines at the
188 discretion of the Family Court);
- 189 1. The Law contains detailed procedures related to fines issued under this
190 Law [3 O.C. 308.7-1(a)]. More detail is provided in Section 7 of this
191 analysis.
- 192 ii. Community service;
- 193 1. The Law contains detailed procedures related to community service
194 requirements [3 O.C. 308.7-1(b)]. More detail is provided in Section 7
195 of this analysis.
- 196 iii. Family counseling;
- 197 iv. Parenting programs; and/or
- 198 v. Any other penalty deemed appropriate by the Family Court.
- 199

200 **SECTION 6. EFFECT ON EXISTING LEGISLATION**

201 **A. References to Other Laws.** The following laws of the Nation are referenced in this law and are required
202 to be followed:

- 203 • **Family Court [8 O.C. 806].** The Family Court law delegates authority to the Family Court
204 over all matters pertaining to the family, children and elders, except for probate matters [8 O.C.

205 806.4-1]. The Family Court has been delegated authority to make all orders and judgments as
206 may be necessary to carry into effect the powers and jurisdiction of the Court [8 O.C. 806.8-
207 1(c)]. The Family Court law governs the administration of law, justice, judicial procedures
208 and practices by the Oneida Family Court as it pertains to Oneida families and/or children to
209 create a knowledgeable, fair, and impartial forum for resolution of all family law matters that
210 come before it. The Family Court is delegated authority under this law to hear contested
211 citations, make conditional orders at the pre-hearing and issue penalties [3 O.C. 308.6-4(b) and
212 308.7-1]. All orders of the Family Court are appealable to the Court of Appeals [8 O.C. 806.6].

- 213 • **Per Capita** [1 O.C. 123]. The Family Court is considered an Oneida entity [1 O.C. 123.3-
214 1(n)] under the Per Capita law and has the authority to pursue attachments of any money owed
215 and any nonpayment of any citations issued to parents, guardians or legal custodians under this
216 law [3 O.C. 308.7-1(a)(3)]. An attachment means the citation is paid for from the debtors per
217 capita payment using the process contained in the Per Capita law [1 O.C. 123.4-9(a)(2)].
- 218 • **Garnishment** [2 O.C. 204]. The Family Court is considered an Oneida entity [2 O.C. 204.3-
219 1(p)] under the Garnishment law as a branch of the Judiciary and has the authority to initiate a
220 garnishment of employee wages to pursue payment from parents, guardians or legal custodians
221 who have failed to make the required payments for citations issued to them in accordance with
222 this law [3 O.C. 308.7-1(a)(3)]. Garnishment means the legal process in which the earnings of
223 the debtor are required to be withheld by the Nation for a payment of a debt [2 O.C. 204.3-1(j)]
224 using the process outlined in the Garnishment law.

225

226 **B. Other Laws of the Nation that Interact with this Legislation.** The following laws of the Nation
227 interact with this law and are required to be followed:

- 228 • **Family Court Rules** [8 O.C. 807]. The Family Court Rules supplement the Oneida Judiciary
229 Rules of Civil Procedure and govern appearances in Court, provides rules of decorum while
230 in Court, governs default judgments, as well as other aspects of the Family Court proceedings.
231 The Family Court Rules will govern behavior during curfew citation hearings.
- 232 • **Oneida Judiciary Rules of Civil Procedure** [8 O.C. 803]. The Oneida Judiciary Rules of
233 Civil Procedure create a consistent set of rules that govern the process of civil actions of the
234 Family Court and the Judiciary. The Oneida Judiciary Rules of Civil Procedures will govern
235 hearings for all curfew citation hearings.
- 236 • **Oneida Judiciary Rules of Evidence** [8 O.C. 804]. The Oneida Judiciary Rules of Evidence
237 apply to proceedings held in the Family Court, including curfew citation proceedings, and
238 govern the rules related to evidence presented to the Court.
- 239 • **Rules of Appellate Procedure** [8 O.C. 805]. The Rules of Appellate Procedure govern the
240 process for anyone who wishes to contest the determination of a lower Court's decision to
241 the Nation's Court of Appeals and will govern appeals the Family Court's decisions. All
242 orders of the Family Court are appealable to the Court of Appeals [8 O.C. 806.6].
- 243 • **Landlord-Tenant** [6 O.C. 611]. This law applies to all individuals (tenants) granted the
244 right to use or occupy a premises pursuant to a rental agreement with the Oneida Nation. All
245 tenants are required to follow all laws of the Nation [6 O.C. 611.6-3(b)(3)], including the
246 Curfew law; even if the tenant is not enrolled or eligible for enrollment with the Oneida
247 Nation or is not enrolled with another federally recognized tribe [3 O.C. 308.4-1].

248

249 **SECTION 7. ENFORCEMENT AND ACCOUNTABILITY**

- 250 A. The Law will be enforced by OPD utilizing existing resources.
- 251 B. Minors and parents, guardians and/or legal custodians who are issued citations under this law may
252 contest the citation at the mandatory citation pre-hearing at the Family Court [3 O.C. 308.6-3(c)].
- 253 C. Implementation of this Law is as follows:
- 254 • OPD is responsible for implementing and enforcing this law and issuing citations which may
255 include fines and other penalties to both the minor and/or their parents, guardians or legal
256 custodians [3 O.C. 308.6-3].
 - 257 • The Family Court may, at its discretion, order penalties under this law to both minors and
258 adults [3 O.C. 308.7]. Penalties include fines, community service, parenting programs, family
259 counseling and any other penalties deemed appropriate by the Family Court.
 - 260 i. The Family Court may allow community service to be substituted for fines [3
261 O.C. 308.7-1(a)(5)].
 - 262 ii. Community service may be ordered by the Court in lieu or in addition to a fine
263 [3 O.C. 308.7-1(b)]. The individual will be responsible for finding his or her
264 community service and getting approval from the Court [3 O.C. 308.7-
265 1(b)(1)]. The Family Court will provide a written statement of the
266 requirements of the community service assignment including the number of
267 hours, the timeframe for completion, how hours will be reported and any other
268 relevant information and the requirement that community service is monitored
269 [3 O.C. 308.7-1(b)(2) and (3)].
 - 270 iii. Family counseling or parenting programs may be required by the Family Court
271 [3 O.C. 308.7-1(c)].
 - 272 1. Oneida Family Support Services Department offers family
273 counseling, parenting classes and other programs. These programs
274 may be an option for violators of this Law to fulfill the penalties issued
275 by the Family Court.
 - 276 a. Clientele of services offered by this Department are typically
277 determined by enrollment or eligibility for enrollment with
278 the Nation. Consideration is given to significant others or
279 family members who are not eligible for enrollment
280 [<https://oneida-nsn.gov/resources/child-family-services/>].
 - 281 2. Those who violate the Law may seek other services offered outside of
282 the Oneida community to fulfill the penalties issued by the Family
283 Court.
 - 284 • The OBC is responsible for adopting a fine schedule by resolution that determines specific
285 fine amounts for violations of this law [3 O.C. 308.7-1(a)].

287 **SECTION 8. OTHER CONSIDERATIONS**

- 288 A. **Citations law.** A citation for a violation of this law will be processed in accordance with the procedure
289 contained in the Nation’s laws and policies governing citations [3 O.C. 308.6-3(b)].
- 290 • There are currently no laws of the Nation governing citations. There is a Citations law on the
291 LOC’s active files list that is currently being developed at the same time as this Curfew law.
- 292 B. **Fiscal Impact.** Please refer to the fiscal impact statement for any fiscal impacts.

- 293 • Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation
294 except emergency legislation [*1 O.C. 109.6-1*].
295 • A fiscal impact statement shall be submitted by any agencies as directed by the Legislative
296 Operating Committee and may be prepared by any agency who may receive funding if the
297 legislation is enacted, any agency who may administer a program if the legislation is enacted,
298 any agency who may have financial information concerning the subject matter of the
299 legislation, or by the Finance Office, upon request of the Legislative Operating Committee [*1*
300 *O.C. 109.6-1(a) and (b)*].
301

302 ***Research Citations***

303 Grossman, E.R. and Miller, N.A. (2015). A Systematic Review of the Impact of Juvenile Curfew Laws
304 on Public Health and Justice Outcomes. *Am J Prev Med.* 49(6): 945-951.
305 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4656116/>
306
307 McDowell, D. Loftin C. and Wiersema, B. (2009). The Impact of Youth Curfew Laws on Juvenile Crime
308 Rates.
309 [https://www.researchgate.net/publication/249718752_The_Impact_of_Youth_Curfew_Laws_on_Juvenile](https://www.researchgate.net/publication/249718752_The_Impact_of_Youth_Curfew_Laws_on_Juvenile_Crime_Rates)
310 [Crime Rates](https://www.researchgate.net/publication/249718752_The_Impact_of_Youth_Curfew_Laws_on_Juvenile_Crime_Rates)
311
312 Myers, D.L. (2016). Juvenile curfew laws: A consideration of something that “doesn’t work”.
313 EBPSOCIETY: Evidence Based Society.
314 <https://www.ebpsociety.org/blog/education/206-juvenile-curfew-laws>
315
316 Office of Juvenile Justice and Delinquency Prevention. Juvenile Justice Reform Initiatives in the States
317 1994-1996.
318 https://www.ojjdp.gov/pubs/reform/ch2_c.html
319
320 Walsh, T.J. (2019). Adults Only: Returning 17 Year Olds to Juvenile Court. Wisconsin Lawyer.
321 <https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?ArticleID=23659>
322
323
324
325

326

Title 3. Health and Public Safety - Chapter 308
T<yethin<tshaw^=late> Kayanl^sla>
We'll put our arms across to stop them
CURFEW

308.1. Purpose and Policy
308.2. Adoption, Amendment, Repeal
308.3. Definitions
308.4. Jurisdiction

308.5. Curfew
308.6. Enforcement of Curfew Violations
308.7. Penalties of Curfew Violations

1
2 **308.1. Purpose and Policy**
3 308.1-1. *Purpose.* The purpose of this law is to protect the health, safety, and welfare of persons
4 and property within the Reservation by regulating the activities of minors on the Reservation
5 during certain hours, while imposing certain obligations and responsibilities upon the parents,
6 guardians, and/or legal custodians of a minor for the control and supervision of that minor.
7 308.1-2. *Policy.* It is the policy of the Nation to support all drug use prevention initiatives of the
8 Nation by protecting the health, safety, and welfare of persons through the establishment of a
9 curfew for minors in public spaces within the Reservation during certain hours in an effort to
10 minimize the opportunity for harm to come to minors during those hours.
11
12 **308.2. Adoption, Amendment, Repeal**
13 308.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-__.
14 308.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General
15 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
16 308.2-3. Should a provision of this law or the application thereof to any person or circumstances
17 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
18 to have legal force without the invalid portions.
19 308.2-4. In the event of a conflict between a provision of this law and a provision of another law,
20 the provisions of this law shall control.
21 308.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
22
23 **308.3. Definitions**
24 308.3-1. This section shall govern the definitions of words and phrases used within this law. All
25 words not defined herein shall be used in their ordinary and everyday sense.
26 (a) “Court of Appeals” means the branch of the Nation's Judiciary delegated the authority
27 of final appeal within the Nation’s Judiciary, as authorized by Oneida General Tribal
28 Council resolution GTC-03-19-17-A .
29 (b) “Family Court” means the branch of the Nation’s Judiciary delegated the authority to
30 administer the judicial authorities and responsibilities of the Nation related to the family
31 and/or children, as authorized by Oneida General Tribal Council resolution GTC-03-19-
32 17-A.
33 (c) “Guardian” means the person, department, and/or agency appointed the duty and
34 authority of guardianship of a child by a Court for the purpose of managing and caring for
35 the child. A guardian has the right to make major decisions affecting a child including
36 education, religious and cultural upbringing, the right to consent to marriage, to enlistment

37 in the armed forces, to major surgery and medical treatment and to adoption, or make
38 recommendations as to adoption.

39 (d) “Legal custodian” means any person, department, and/or agency, other than a parent
40 or guardian, to whom legal custody of a child has been granted by Court order and has the
41 rights and responsibilities for the following:

42 (1) To have physical custody of the child as determined by the Court, if physical
43 custody is not with the person having legal custody;

44 (2) To protect, educate and discipline the child so long as it is in the child’s best
45 interest; and

46 (3) To provide the child with adequate food, shelter, education, ordinary medical
47 care and other basic needs, according to court order. In an emergency situation, a
48 custodian shall have the authority to consent to surgery as well as any other
49 emergency medical care needs.

50 (e) “Member of the Nation” means an individual enrolled in the Oneida Nation.

51 (f) “Minor” means a person age seventeen (17) years old or younger.

52 (g) “Nation” means the Oneida Nation.

53 (h) “Parent” means the biological or adoptive parent of a child.

54 (j) “Public space” means any public streets, highways, roads, alleys, parks, vacant lots, or
55 any public lands.

56 (j) “Relative” means any person connected with a child by blood, marriage or adoption.

57 (k) “Reservation” means all the property within the exterior boundaries of the Reservation
58 of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566,
59 and any lands added thereto pursuant to federal law.

60 61 **308.4. Jurisdiction**

62 308.4-1. *Personal Jurisdiction.* This law applies to:

63 (a) All members of the Nation, individuals eligible for enrollment in the Nation, and
64 members of other federally-recognized tribes.

65 (b) Individuals leasing, occupying or otherwise using fee land owned by the Nation or by
66 individual members of the Nation; and/or lands held in trust on behalf of the Nation or
67 individual members of the Nation.

68 (c) Individuals who have consented to the jurisdiction of the Nation or as otherwise
69 consistent with federal law. An individual shall be considered to have consented to the
70 jurisdiction of the Nation:

71 (1) By entering into a consensual relationship with the Nation, or with the Nation’s
72 entities, corporations, or members of the Nation, including but not limited to
73 contracts or other agreements; or

74 (2) By other facts which manifest an intent to consent to the authority of the Nation,
75 including failure to raise an objection to the exercise of personal jurisdiction in a
76 timely manner.

77 308.4-2. *Territorial Jurisdiction.* This law extends within the Reservation to all land owned by
78 the Nation and individual trust and/or fee land of a member of the Nation.

79 80 **308.5. Curfew**

81 308.5-1. *Curfew Established.* No minor shall be on any public space either on foot or in any
82 vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of
83 the Reservation, unless the minor is accompanied by a parent, guardian, or legal custodian.

84 308.5-2. *Parental Responsibility*. No parent, guardian, or legal custodian shall knowingly permit
85 or fail to take action to prevent the minor from being on any public space either on foot or in any
86 vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of
87 the Reservation.

88 308.5-3. *Exemptions to Curfew*. A minor shall not be in violation of the curfew, if at the time of
89 the alleged violation the minor was:

- 90 (a) in the performance of a duty directed by such parent, guardian, or legal custodian;
- 91 (b) engaged in employment or an employment related activity, or traveling to or returning
92 home from employment;
- 93 (c) engaged in interstate travel;
- 94 (d) attending an educational, cultural, religious, or recreational activity that was supervised
95 by adults, or traveling to or returning home from such activity;
- 96 (e) on the sidewalk in front of his or her home or an adjacent home;
- 97 (f) going to, attending, or returning home from a movie theatre;
- 98 (g) engaged in hunting, fishing, or trapping in accordance with the laws, policies, and rules
99 of the Nation;
- 100 (h) exercising rights protected by the Nation’s Constitution and the United States
101 Constitution, such as free exercise of religion, freedom of speech, and the right of
102 assembly;
- 103 (i) involved in an emergency situation; and/or
- 104 (j) engaged in any other activity as deemed appropriate by the Oneida Police Department
105 officer.

106
107 **308.6. Enforcement of Curfew Violations**

108 308.6-1. *Enforcement Procedure*. A suspected violation of curfew shall be enforced by the Oneida
109 Police Department in the following ways:

- 110 (a) A minor who is suspected of violating curfew may be stopped by an Oneida Police
111 Officer. No person shall assault, obstruct or flee from any Oneida Police Officer enforcing
112 or attempting to enforce the provisions of this law.
- 113 (b) The Oneida Police Officer shall ask the minor’s name, age, and reason for violating
114 curfew. The minor shall provide the Oneida Police Officer identification if available. No
115 person shall falsely represent his or her name or age to an Oneida Police Officer.
- 116 (c) If the Oneida Police Officer reasonably believes based on the totality of the
117 circumstances that a violation of curfew has occurred and not one of the exemptions in
118 section 308.5-3 apply, the Oneida Police Officer may take custody of the minor for the
119 purpose of returning such minor to the care and custody of a parent, guardian, or legal
120 custodian.
- 121 (d) Once the Oneida Police Officer has taken the minor into his or her custody, the minor
122 shall provide the Oneida Police Officer with contact information for his or her parent,
123 guardian, or legal custodian. The Oneida Police Officer shall contact the minor’s parent,
124 guardian, or legal custodian to come and pick up the minor and take the minor into his or
125 her care and custody. If the minor’s parent, guardian, or legal custodian is unable to pick
126 the minor up, then the Oneida Police Officer may bring the minor home to release the minor
127 to the custody and care of the minor’s parent, guardian, or legal custodian.
- 128 (e) If the Oneida Police Officer is unable to contact the minor’s parent, guardian, or legal
129 custodian after reasonable efforts are made, the Oneida Police Officer shall attempt to

130 locate an adult relative or other responsible adult willing and able to accept the care and
131 custody of the minor, and may release the minor into the care and custody of such person.

132 308.6-2. *Warning.* The first time a minor is held in custody by an Oneida Police Officer for a
133 curfew violation the Oneida Police Officer shall provide the minor and the minor’s parent,
134 guardian, or legal custodian a warning and advise the minor and parent, guardian, or legal
135 custodian of the provisions of this law and that any subsequent curfew violations may result in the
136 issuance of a citation and the imposition of a penalty.

137 308.6-3. *Issuance of a Citation.* Any subsequent time a minor is held in custody by an Oneida
138 Police Officer for a curfew violation the Oneida Police Officer may issue a citation to the minor
139 and the minor’s parent, guardian, or legal custodian.

140 (a) A citation for a violation of this law and/or any orders issued pursuant to this law may
141 include fines and other penalties, as well as conditional orders made by the Family Court.

142 (b) A citation for a violation of this law shall be processed in accordance with the
143 procedure contained in the Nation’s laws and policies governing citations.

144 (c) All citations for violations of this law require a mandatory appearance at the citation
145 pre-hearing by the minor and his or her parent, guardian, or legal custodian.

146

147 **308.7. Penalties of Curfew Violations**

148 308.7-1. Upon a finding by the Family Court that a violation of this law has occurred, the minor
149 and/or the minor’s parent, guardian, or legal custodian may be subject to the following penalties:

150 (a) *Fines.* An individual may be ordered to pay a fine as a result of a violation of this law.
151 The Oneida Business Committee shall hereby be delegated the authority to adopt through
152 resolution a fine schedule which sets forth specific fine amounts for violations of this law.

153 (1) All fines shall be paid to the Judiciary.

154 (2) Fines shall be paid within ninety (90) days after the order is issued or upheld
155 on final appeal, whichever is later.

156 (A) The ninety (90) day deadline for payment of fines may be extended if
157 an alternative payment plan is approved by the Family Court.

158 (3) If an individual does not pay his or her fine the Family Court may seek to collect
159 the money owed through the Nation’s garnishment and/or per capita attachment
160 process.

161 (5) Community service may be substituted for part or all of any fine at the minimum
162 wage rate of the Nation for each hour of community service.

163 (b) *Community service.* An individual may be ordered to perform community service.
164 Community service can be used in lieu of, or in addition to, a fine.

165 (1) All community service assignments shall be approved by the Family Court.
166 The Family Court shall give preference to culturally relevant community service
167 assignments and/or community service assignments that focus on the betterment of
168 the individual’s community.

169 (2) The Family Court shall provide the individual a written statement of the terms
170 of the community service order, and a statement that the community service order
171 is monitored.

172 (3) The Family Court’s community service order shall specify:

173 (A) how many hours of community service the individual is required to
174 complete;

175 (B) the time frame in which the hours shall be completed;

- 176 (C) how the individual shall obtain approval for his or her community
177 service assignment;
178 (D) how the individual shall report his or her hours; and
179 (E) any other information the Family Court determines is relevant.
180 (c) *Family counseling and/or parenting programs.* An individual may be ordered to
181 participate in a family counseling and/or a parenting program.
182 (d) Any other penalty as deemed appropriate by the Family Court.

183
184 *End.*

185
186 _____
187 Adopted – BC-__-__-__-__

June 13, 2019 Legislative Operating Committee E-Poll

Approval of the Curfew Law Fiscal Impact Statement Request Memorandum to the Finance Department



Thu 6/13/2019 10:13 AM

LOC

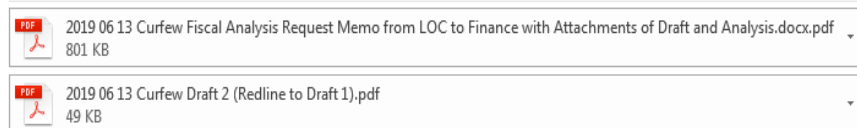
E-POLL REQUEST: Approval of the Curfew Law Fiscal Impact Statement Request Memorandum to the Finance Department

To Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster; Kirby W. Metoxen

Cc Cathy L. Bachhuber; Fawn J. Billie; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Maureen S. Perkins; Clorissa N. Santiago

Vote by clicking Vote in the Respond group above.

This message was sent with High importance.



Good Morning Legislative Operating Committee,

This e-mail serves as the e-poll for approval of the Curfew law fiscal impact statement request memorandum to the Finance Department, and accompanying updated draft and legislative analysis.

EXECUTIVE SUMMARY

The Legislative Operating Committee is currently developing a Curfew law. The Legislative Procedures Act requires that a fiscal impact statement be provided for all proposed legislation of the Nation. [1 O.C. 109.6-1]. The fiscal impact statement is an estimate of the total fiscal year financial effects associated with the proposed legislation, and can include: startup costs, personnel, office costs, documentation costs, and an estimate of the amount of time necessary for an individual or agency to comply with the law after implementation. [1 O.C. 109.3-1(c)].

The Legislative Procedures Act states that the fiscal impact statement should be included in the materials for a public meeting on the proposed legislation, if available. [1 O.C. 109.8-2]. In an effort to provide the community with all relevant information regarding the Curfew law for the discussion during the public meeting and public comment period, the Legislative Operating Committee decided to make an effort to provide the fiscal impact statement for this public meeting.

The Legislative Procedures Act grants the Legislative Operating Committee the authority to direct the Finance Department or any agency who may administer a program if the legislation is enacted or may have financial information concerning the subject matter of the legislation to submit a fiscal impact statement. [1 O.C. 109.6-1]. For the proposed Curfew law, the Legislative Operating Committee is directing the Finance Department to provide a fiscal impact statement.

An e-poll is necessary for this matter because the Legislative Operating Committee wishes to provide the Finance Department the maximum amount of time possible to complete the fiscal impact statement so that the fiscal impact statement can be made available for the public meeting for the Curfew law on the tentative date of July 18, 2019. The next Legislative Operating Committee meeting is not scheduled until June 19, 2019, and the Legislative Operating Committee wishes to provide the Finance Department this request for a fiscal impact statement sooner.

REQUESTED ACTION

Approve the Curfew law fiscal impact statement request memorandum, with accompanying updated draft and legislative analysis, and forward to the Finance Department directing that a fiscal impact statement of the proposed Curfew law be prepared and submitted to the LOC by July 18, 2019.

DEADLINE FOR RESPONSE

June 13, 2019 at 1:00 p.m.

All supporting documentation has been attached to this email for your convenience.

E-POLL RESULTS:

The e-poll was approved by David P. Jordan, Kirby Metoxen, Jennifer Webster, Ernest Stevens III. Daniel Guzman King did not provide a response.



Thu 6/13/2019 10:15 AM

David P. Jordan

RE: E-POLL REQUEST: Approval of the Curfew Law Fiscal Impact Statement Request Memorandum to the Finance Department

To LOC; Daniel P. Guzman; Ernest L. Stevens; Jennifer A. Webster; Kirby W. Metoxen; David P. Jordan

Cc Cathy L. Bachhuber; Fawn J. Billie; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Maureen S. Perkins; Clorissa N. Santiago

Approve



Thu 6/13/2019 10:21 AM

Kirby W. Metoxen

RE: E-POLL REQUEST: Approval of the Curfew Law Fiscal Impact Statement Request Memorandum to the Finance Department

To David P. Jordan; LOC; Daniel P. Guzman; Ernest L. Stevens; Jennifer A. Webster

Cc Cathy L. Bachhuber; Fawn J. Billie; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Maureen S. Perkins; Clorissa N. Santiago

Approve



Thu 6/13/2019 10:26 AM

Jennifer A. Webster

Approve: E-POLL REQUEST: Approval of the Curfew Law Fiscal Impact Statement Request Memorandum to the Finance Department

To LOC

The sender responded: Approve.



Thu 6/13/2019 10:29 AM

Ernest L. Stevens

RE: E-POLL REQUEST: Approval of the Curfew Law Fiscal Impact Statement Request Memorandum to the Finance Department

To LOC; Daniel P. Guzman; David P. Jordan; Jennifer A. Webster; Kirby W. Metoxen

Cc Cathy L. Bachhuber; Fawn J. Billie; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Maureen S. Perkins; Clorissa N. Santiago

Approve

<mailto:loc@oneidanation.org>
Click or tap to follow link.

Title 3. Health and Public Safety - Chapter 308

~~CURFEW~~

Tayethinatshawlate? Kayanlasla?

We'll put our arms across to stop them ~~Law~~

CURFEW

308.1. Purpose and Policy	308.5. Curfew
308.2. Adoption, Amendment, Repeal	308.6. Enforcement of Curfew Violations
308.3. Definitions	308.7. Penalties of Curfew Violations
308.4. Jurisdiction	

1
2 **308.1. Purpose and Policy**
3 308.1-1. *Purpose.* The purpose of this law is to protect the health, safety, and welfare of persons
4 and property within the Reservation by regulating the activities of minors on the Reservation
5 during certain hours, while imposing certain obligations and responsibilities upon the parents,
6 guardians, and/or legal custodians of a minor for the control and supervision of that minor.
7 308.1-2. *Policy.* It is the policy of the Nation to support all drug use prevention initiatives of the
8 Nation by protecting the health, safety, and welfare of persons through the establishment of a
9 curfew for minors in public spaces within the Reservation during certain hours in an effort to
10 minimize the opportunity for harm to come to minors during those hours.
11
12 **308.2. Adoption, Amendment, Repeal**
13 308.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-__.
14 308.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General
15 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
16 308.2-3. Should a provision of this law or the application thereof to any person or circumstances
17 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
18 to have legal force without the invalid portions.
19 308.2-4. In the event of a conflict between a provision of this law and a provision of another law,
20 the provisions of this law shall control.
21 308.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
22
23 **308.3. Definitions**
24 308.3-1. This section shall govern the definitions of words and phrases used within this law. All
25 words not defined herein shall be used in their ordinary and everyday sense.
26 (a) “Court of Appeals” means the branch of the Nation's Judiciary delegated the authority
27 of final appeal within the Nation’s Judiciary, as authorized by Oneida General Tribal
28 Council resolution GTC-03-19-17-A .
29 (b) “Family Court” means the branch of the Nation’s Judiciary delegated the authority to
30 administer the judicial authorities and responsibilities of the Nation related to the family
31 and/or children, as authorized by Oneida General Tribal Council resolution GTC-03-19-
32 17-A.
33 (c) “Guardian” means the person, department, and/or agency appointed the duty and
34 authority of guardianship of a child by a Court for the purpose of managing and caring for
35 the child. A guardian has the right to make major decisions affecting a child including
36 education, religious and cultural upbringing, the right to consent to marriage, to enlistment

37 in the armed forces, to major surgery and medical treatment and to adoption, or make
38 recommendations as to adoption.

39 (d) “Legal custodian” means any person, department, and/or agency, other than a parent
40 or guardian, to whom legal custody of a child has been granted by Court order and has the
41 rights and responsibilities for the following:

42 (1) To have physical custody of the child as determined by the Court, if physical
43 custody is not with the person having legal custody;

44 (2) To protect, educate and discipline the child so long as it is in the child’s best
45 interest; and

46 (3) To provide the child with adequate food, shelter, education, ordinary medical
47 care and other basic needs, according to court order. In an emergency situation, a
48 custodian shall have the authority to consent to surgery as well as any other
49 emergency medical care needs.

50 (e) “Member of the Nation” means an individual enrolled in the Oneida Nation.

51 (f) “Minor” means a person age seventeen (17) years old or younger.

52 (g) “Nation” means the Oneida Nation.

53 (h) “Parent” means the biological or adoptive parent of a child.

54 (j) “Public space” means any public streets, highways, roads, alleys, parks, vacant lots, or
55 any public lands.

56 (j) “Relative” means any person connected with a child by blood, marriage or adoption.

57 (k) “Reservation” means all the property within the exterior boundaries of the Reservation
58 of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566,
59 and any lands added thereto pursuant to federal law.

61 **308.4. Jurisdiction**

62 308.4-1. *Personal Jurisdiction.* This law applies to:

63 (a) All members of the Nation, individuals eligible for enrollment in the Nation, and
64 members of other federally-recognized tribes.

65 (b) Individuals leasing, occupying or otherwise using fee land owned by the Nation or by
66 individual members of the Nation; and/or lands held in trust on behalf of the Nation or
67 individual members of the Nation.

68 (c) Individuals who have consented to the jurisdiction of the Nation or as otherwise
69 consistent with federal law. An individual shall be considered to have consented to the
70 jurisdiction of the Nation:

71 (1) By entering into a consensual relationship with the Nation, or with the Nation’s
72 entities, corporations, or members of the Nation, including but not limited to
73 contracts or other agreements; or

74 (2) By other facts which manifest an intent to consent to the authority of the Nation,
75 including failure to raise an objection to the exercise of personal jurisdiction in a
76 timely manner.

77 308.4-2. *Territorial Jurisdiction.* This law extends within the Reservation to all land owned by
78 the Nation and individual trust and/or fee land of a member of the Nation.

80 **308.5. Curfew**

81 308.5-1. *Curfew Established.* No minor shall be on any public space either on foot or in any
82 vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of
83 the Reservation, unless the minor is accompanied by a parent, guardian, or legal custodian.

84 308.5-2. *Parental Responsibility*. No parent, guardian, or legal custodian shall knowingly permit
85 or fail to take action to prevent the minor from being on any public space either on foot or in any
86 vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of
87 the Reservation.

88 308.5-3. *Exemptions to Curfew*. A minor shall not be in violation of the curfew, if at the time of
89 the alleged violation the minor was:

- 90 (a) in the performance of a duty directed by such parent, guardian, or legal custodian;
- 91 (b) engaged in employment or an employment related activity, or traveling to or returning
92 home from employment;
- 93 (c) engaged in interstate travel;
- 94 (d) attending an educational, cultural, religious, or recreational activity that was supervised
95 by adults, or traveling to or returning home from such activity;
- 96 (e) on the sidewalk in front of his or her home or an adjacent home;
- 97 (f) going to, attending, or returning home from a movie theatre;
- 98 (g) engaged in hunting, fishing, or trapping in accordance with the laws, policies, and rules
99 of the Nation;
- 100 (h) exercising rights protected by the Nation's Constitution and the United States
101 Constitution, such as free exercise of religion, freedom of speech, and the right of
102 assembly;
- 103 (i) involved in an emergency situation; and/or
- 104 (j) engaged in any other activity as deemed appropriate by the Oneida Police Department
105 officer.

106
107 **308.6. Enforcement of Curfew Violations**

108 308.6-1. *Enforcement Procedure*. A suspected violation of curfew shall be enforced by the Oneida
109 Police Department in the following ways:

- 110 (a) A minor who is suspected of violating curfew may be stopped by an Oneida Police
111 Officer. No person shall assault, obstruct or flee from any Oneida Police Officer enforcing
112 or attempting to enforce the provisions of this law.
- 113 (b) The Oneida Police Officer shall ask the minor's name, age, and reason for violating
114 curfew. The minor shall provide the Oneida Police Officer identification if available. No
115 person shall falsely represent his or her name or age to an Oneida Police Officer.
- 116 (c) If the Oneida Police Officer reasonably believes based on the totality of the
117 circumstances that a violation of curfew has occurred and not one of the exemptions in
118 section 308.5-3 apply, the Oneida Police Officer may take custody of the minor for the
119 purpose of returning such minor to the care and custody of a parent, guardian, or legal
120 custodian.
- 121 (d) Once the Oneida Police Officer has taken the minor into his or her custody, the minor
122 shall provide the Oneida Police Officer with contact information for his or her parent,
123 guardian, or legal custodian. The Oneida Police Officer shall contact the minor's parent,
124 guardian, or legal custodian to come and pick up the minor and take the minor into his or
125 her care and custody. If the minor's parent, guardian, or legal custodian is unable to pick
126 the minor up, then the Oneida Police Officer may bring the minor home to release the minor
127 to the custody and care of the minor's parent, guardian, or legal custodian.
- 128 (e) If the Oneida Police Officer is unable to contact the minor's parent, guardian, or legal
129 custodian after reasonable efforts are made, the Oneida Police Officer shall attempt to

130 locate an adult relative or other responsible adult willing and able to accept the care and
131 custody of the minor, and may release the minor into the care and custody of such person.
132 308.6-2. *Warning.* The first time a minor is held in custody by an Oneida Police Officer for a
133 curfew violation the Oneida Police Officer shall provide the minor and the minor's parent,
134 guardian, or legal custodian a warning and advise the minor and parent, guardian, or legal
135 custodian of the provisions of this law and that any subsequent curfew violations may result in the
136 issuance of a citation and the imposition of a penalty.

137 308.6-3. *Issuance of a Citation.* Any subsequent time a minor is held in custody by an Oneida
138 Police Officer for a curfew violation the Oneida Police Officer may issue a citation to the minor
139 and the minor's parent, guardian, or legal custodian.

140 (a) A citation for a violation of this law and/or any orders issued pursuant to this law may
141 include fines and other penalties, as well as conditional orders made by the Family Court.

142 (b) A citation for a violation of this law shall be processed in accordance with the
143 procedure contained in the Nation's laws and policies governing citations.

144 (c) All citations for violations of this law require a mandatory appearance at the citation
145 pre-hearing by the minor and his or her parent, guardian, or legal custodian.
146

147 **308.7. Penalties of Curfew Violations**

148 308.7-1. Upon a finding by the Family Court that a violation of this law has occurred, the minor
149 and/or the minor's parent, guardian, or legal custodian may be subject to the following penalties:

150 (a) *Fines.* An individual may be ordered to pay a fine as a result of a violation of this law.
151 The Oneida Business Committee shall hereby be delegated the authority to adopt through
152 resolution a fine schedule which sets forth specific fine amounts for violations of this law.

153 (1) All fines shall be paid to the Judiciary.

154 (2) Fines shall be paid within ninety (90) days after the order is issued or upheld
155 on final appeal, whichever is later.

156 (A) The ninety (90) day deadline for payment of fines may be extended if
157 an alternative payment plan is approved by the Family Court.

158 (3) If an individual does not pay his or her fine the Family Court may seek to collect
159 the money owed through the Nation's garnishment and/or per capita attachment
160 process.

161 ~~(4) Money received from fines shall be deposited into the General Fund.~~

162 (5) Community service may be substituted for part or all of any fine at the minimum
163 wage rate of the Nation for each hour of community service.

164 (b) *Community service.* An individual may be ordered to perform community service.
165 Community service can be used in lieu of, or in addition to, a fine.

166 (1) All community service assignments shall be approved by the Family Court.
167 The Family Court shall give preference to culturally relevant community service
168 assignments and/or community service assignments that focus on the betterment of
169 the individual's community.

170 (2) The Family Court shall provide the individual a written statement of the terms
171 of the community service order, and a statement that the community service order
172 is monitored.

173 (3) The Family Court's community service order shall specify:

174 (A) how many hours of community service the individual is required to
175 complete;

176 (B) the time frame in which the hours shall be completed;

- 177 (C) how the individual shall obtain approval for his or her community
178 service assignment;
179 (D) how the individual shall report his or her hours; and
180 (E) any other information the Family Court determines is relevant.
181 (c) *Family counseling and/or parenting programs.* An individual may be ordered to
182 participate in a family counseling and/or a parenting program.
183 (d) Any other penalty as deemed appropriate by the Family Court.

184
185 *End.*

186
187 _____
188 Adopted – BC-__-__-__-__



TO: Lawrence E. Barton, Chief Financial Officer
Ralinda R. Ninham-Lamberies, Assistant Chief Financial Officer
Rae M. Skenandore, Financial Management Analyst
FROM: David P. Jordan, Legislative Operating Committee Chairman
DATE: June 13, 2019
RE: Curfew Law Fiscal Impact Statement

The Legislative Operating Committee (LOC) is currently developing a Curfew law. The Legislative Procedures Act requires that a fiscal impact statement be provided for all proposed legislation of the Nation. [1 O.C. 109.6-1]. The fiscal impact statement is an estimate of the total fiscal year financial effects associated with the proposed legislation, and can include:

- startup costs;
- personnel;
- office costs;
- documentation costs; and
- an estimate of the amount of time necessary for an individual or agency to comply with the law after implementation. [1 O.C. 109.3-1(c)].

The fiscal impact statement must be completed and submitted to the LOC prior to the proposed legislation being forwarded to the Oneida Business Committee for consideration. [1 O. C. 109. 6-2]. The fiscal impact statement provides the Oneida Business Committee information on what the potential adoption of the proposed legislation will cost the Nation, so that the Oneida Business Committee can determine if adoption of the proposed legislation is in the best interest of the Nation.

The Legislative Procedures Act grants the LOC the authority to direct the Finance Department or any agency who may administer a program if the legislation is enacted or may have financial information concerning the subject matter of the legislation to submit a fiscal impact statement. [1 O.C. 109.6-1]. For the proposed Curfew law, the LOC is directing the Finance Department to provide a fiscal impact statement by July 18, 2019.

A copy of the proposed Curfew law, as well as the legislative analysis, have been attached to this memorandum for your convenience.

Requested Action

Provide the LOC a fiscal impact statement of the proposed Curfew law by July 18, 2019.

Title 3. Health and Public Safety - Chapter 308
Tłyethinatshawk·late? Kayanłsla?
We'll put our arms across to stop them
CURFEW

308.1. Purpose and Policy
308.2. Adoption, Amendment, Repeal
308.3. Definitions
308.4. Jurisdiction

308.5. Curfew
308.6. Enforcement of Curfew Violations
308.7. Penalties of Curfew Violations

1
2 **308.1. Purpose and Policy**
3 308.1-1. *Purpose.* The purpose of this law is to protect the health, safety, and welfare of persons
4 and property within the Reservation by regulating the activities of minors on the Reservation
5 during certain hours, while imposing certain obligations and responsibilities upon the parents,
6 guardians, and/or legal custodians of a minor for the control and supervision of that minor.
7 308.1-2. *Policy.* It is the policy of the Nation to support all drug use prevention initiatives of the
8 Nation by protecting the health, safety, and welfare of persons through the establishment of a
9 curfew for minors in public spaces within the Reservation during certain hours in an effort to
10 minimize the opportunity for harm to come to minors during those hours.
11
12 **308.2. Adoption, Amendment, Repeal**
13 308.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-__.
14 308.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General
15 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
16 308.2-3. Should a provision of this law or the application thereof to any person or circumstances
17 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
18 to have legal force without the invalid portions.
19 308.2-4. In the event of a conflict between a provision of this law and a provision of another law,
20 the provisions of this law shall control.
21 308.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
22
23 **308.3. Definitions**
24 308.3-1. This section shall govern the definitions of words and phrases used within this law. All
25 words not defined herein shall be used in their ordinary and everyday sense.
26 (a) “Court of Appeals” means the branch of the Nation's Judiciary delegated the authority
27 of final appeal within the Nation’s Judiciary, as authorized by Oneida General Tribal
28 Council resolution GTC-03-19-17-A .
29 (b) “Family Court” means the branch of the Nation’s Judiciary delegated the authority to
30 administer the judicial authorities and responsibilities of the Nation related to the family
31 and/or children, as authorized by Oneida General Tribal Council resolution GTC-03-19-
32 17-A.
33 (c) “Guardian” means the person, department, and/or agency appointed the duty and
34 authority of guardianship of a child by a Court for the purpose of managing and caring for
35 the child. A guardian has the right to make major decisions affecting a child including
36 education, religious and cultural upbringing, the right to consent to marriage, to enlistment

37 in the armed forces, to major surgery and medical treatment and to adoption, or make
38 recommendations as to adoption.

39 (d) “Legal custodian” means any person, department, and/or agency, other than a parent
40 or guardian, to whom legal custody of a child has been granted by Court order and has the
41 rights and responsibilities for the following:

42 (1) To have physical custody of the child as determined by the Court, if physical
43 custody is not with the person having legal custody;

44 (2) To protect, educate and discipline the child so long as it is in the child’s best
45 interest; and

46 (3) To provide the child with adequate food, shelter, education, ordinary medical
47 care and other basic needs, according to court order. In an emergency situation, a
48 custodian shall have the authority to consent to surgery as well as any other
49 emergency medical care needs.

50 (e) “Member of the Nation” means an individual enrolled in the Oneida Nation.

51 (f) “Minor” means a person age seventeen (17) years old or younger.

52 (g) “Nation” means the Oneida Nation.

53 (h) “Parent” means the biological or adoptive parent of a child.

54 (j) “Public space” means any public streets, highways, roads, alleys, parks, vacant lots, or
55 any public lands.

56 (j) “Relative” means any person connected with a child by blood, marriage or adoption.

57 (k) “Reservation” means all the property within the exterior boundaries of the Reservation
58 of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566,
59 and any lands added thereto pursuant to federal law.

61 **308.4. Jurisdiction**

62 308.4-1. *Personal Jurisdiction.* This law applies to:

63 (a) All members of the Nation, individuals eligible for enrollment in the Nation, and
64 members of other federally-recognized tribes.

65 (b) Individuals leasing, occupying or otherwise using fee land owned by the Nation or by
66 individual members of the Nation; and/or lands held in trust on behalf of the Nation or
67 individual members of the Nation.

68 (c) Individuals who have consented to the jurisdiction of the Nation or as otherwise
69 consistent with federal law. An individual shall be considered to have consented to the
70 jurisdiction of the Nation:

71 (1) By entering into a consensual relationship with the Nation, or with the Nation’s
72 entities, corporations, or members of the Nation, including but not limited to
73 contracts or other agreements; or

74 (2) By other facts which manifest an intent to consent to the authority of the Nation,
75 including failure to raise an objection to the exercise of personal jurisdiction in a
76 timely manner.

77 308.4-2. *Territorial Jurisdiction.* This law extends within the Reservation to all land owned by
78 the Nation and individual trust and/or fee land of a member of the Nation.

80 **308.5. Curfew**

81 308.5-1. *Curfew Established.* No minor shall be on any public space either on foot or in any
82 vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of
83 the Reservation, unless the minor is accompanied by a parent, guardian, or legal custodian.

84 308.5-2. *Parental Responsibility*. No parent, guardian, or legal custodian shall knowingly permit
85 or fail to take action to prevent the minor from being on any public space either on foot or in any
86 vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of
87 the Reservation.

88 308.5-3. *Exemptions to Curfew*. A minor shall not be in violation of the curfew, if at the time of
89 the alleged violation the minor was:

- 90 (a) in the performance of a duty directed by such parent, guardian, or legal custodian;
- 91 (b) engaged in employment or an employment related activity, or traveling to or returning
92 home from employment;
- 93 (c) engaged in interstate travel;
- 94 (d) attending an educational, cultural, religious, or recreational activity that was supervised
95 by adults, or traveling to or returning home from such activity;
- 96 (e) on the sidewalk in front of his or her home or an adjacent home;
- 97 (f) going to, attending, or returning home from a movie theatre;
- 98 (g) engaged in hunting, fishing, or trapping in accordance with the laws, policies, and rules
99 of the Nation;
- 100 (h) exercising rights protected by the Nation's Constitution and the United States
101 Constitution, such as free exercise of religion, freedom of speech, and the right of
102 assembly;
- 103 (i) involved in an emergency situation; and/or
- 104 (j) engaged in any other activity as deemed appropriate by the Oneida Police Department
105 officer.

106

107 **308.6. Enforcement of Curfew Violations**

108 308.6-1. *Enforcement Procedure*. A suspected violation of curfew shall be enforced by the Oneida
109 Police Department in the following ways:

- 110 (a) A minor who is suspected of violating curfew may be stopped by an Oneida Police
111 Officer. No person shall assault, obstruct or flee from any Oneida Police Officer enforcing
112 or attempting to enforce the provisions of this law.
- 113 (b) The Oneida Police Officer shall ask the minor's name, age, and reason for violating
114 curfew. The minor shall provide the Oneida Police Officer identification if available. No
115 person shall falsely represent his or her name or age to an Oneida Police Officer.
- 116 (c) If the Oneida Police Officer reasonably believes based on the totality of the
117 circumstances that a violation of curfew has occurred and not one of the exemptions in
118 section 308.5-3 apply, the Oneida Police Officer may take custody of the minor for the
119 purpose of returning such minor to the care and custody of a parent, guardian, or legal
120 custodian.
- 121 (d) Once the Oneida Police Officer has taken the minor into his or her custody, the minor
122 shall provide the Oneida Police Officer with contact information for his or her parent,
123 guardian, or legal custodian. The Oneida Police Officer shall contact the minor's parent,
124 guardian, or legal custodian to come and pick up the minor and take the minor into his or
125 her care and custody. If the minor's parent, guardian, or legal custodian is unable to pick
126 the minor up, then the Oneida Police Officer may bring the minor home to release the minor
127 to the custody and care of the minor's parent, guardian, or legal custodian.
- 128 (e) If the Oneida Police Officer is unable to contact the minor's parent, guardian, or legal
129 custodian after reasonable efforts are made, the Oneida Police Officer shall attempt to

130 locate an adult relative or other responsible adult willing and able to accept the care and
131 custody of the minor, and may release the minor into the care and custody of such person.

132 308.6-2. *Warning.* The first time a minor is held in custody by an Oneida Police Officer for a
133 curfew violation the Oneida Police Officer shall provide the minor and the minor's parent,
134 guardian, or legal custodian a warning and advise the minor and parent, guardian, or legal
135 custodian of the provisions of this law and that any subsequent curfew violations may result in the
136 issuance of a citation and the imposition of a penalty.

137 308.6-3. *Issuance of a Citation.* Any subsequent time a minor is held in custody by an Oneida
138 Police Officer for a curfew violation the Oneida Police Officer may issue a citation to the minor
139 and the minor's parent, guardian, or legal custodian.

140 (a) A citation for a violation of this law and/or any orders issued pursuant to this law may
141 include fines and other penalties, as well as conditional orders made by the Family Court.

142 (b) A citation for a violation of this law shall be processed in accordance with the
143 procedure contained in the Nation's laws and policies governing citations.

144 (c) All citations for violations of this law require a mandatory appearance at the citation
145 pre-hearing by the minor and his or her parent, guardian, or legal custodian.

146

147 **308.7. Penalties of Curfew Violations**

148 308.7-1. Upon a finding by the Family Court that a violation of this law has occurred, the minor
149 and/or the minor's parent, guardian, or legal custodian may be subject to the following penalties:

150 (a) *Fines.* An individual may be ordered to pay a fine as a result of a violation of this law.
151 The Oneida Business Committee shall hereby be delegated the authority to adopt through
152 resolution a fine schedule which sets forth specific fine amounts for violations of this law.

153 (1) All fines shall be paid to the Judiciary.

154 (2) Fines shall be paid within ninety (90) days after the order is issued or upheld
155 on final appeal, whichever is later.

156 (A) The ninety (90) day deadline for payment of fines may be extended if
157 an alternative payment plan is approved by the Family Court.

158 (3) If an individual does not pay his or her fine the Family Court may seek to collect
159 the money owed through the Nation's garnishment and/or per capita attachment
160 process.

161 (5) Community service may be substituted for part or all of any fine at the minimum
162 wage rate of the Nation for each hour of community service.

163 (b) *Community service.* An individual may be ordered to perform community service.
164 Community service can be used in lieu of, or in addition to, a fine.

165 (1) All community service assignments shall be approved by the Family Court.
166 The Family Court shall give preference to culturally relevant community service
167 assignments and/or community service assignments that focus on the betterment of
168 the individual's community.

169 (2) The Family Court shall provide the individual a written statement of the terms
170 of the community service order, and a statement that the community service order
171 is monitored.

172 (3) The Family Court's community service order shall specify:

173 (A) how many hours of community service the individual is required to
174 complete;

175 (B) the time frame in which the hours shall be completed;

- 176 (C) how the individual shall obtain approval for his or her community
177 service assignment;
178 (D) how the individual shall report his or her hours; and
179 (E) any other information the Family Court determines is relevant.
180 (c) *Family counseling and/or parenting programs.* An individual may be ordered to
181 participate in a family counseling and/or a parenting program.
182 (d) Any other penalty as deemed appropriate by the Family Court.

183
184 *End.*

185
186 _____
187 Adopted – BC-__-__-__-__

6 Police Department, Governmental Services Division, Oneida Gaming Commission, Oneida Family
7 Support Services, Legislative Operating Committee, Legislative Reference Office (LRO), Oneida
8 Human Resources Department and Retail Division. This team concluded that a curfew law would help
9 curtail opportunities for minors to be influenced by drugs by limiting their presence in public spaces
10 within the community during certain hours, including night time and early morning, without the
11 presence of a parent, guardian, or legal custodian.

12 *Outreach Efforts*

13 Outreach with the community was held during the Community Budget Session on November 30,
14 2018 where the LOC had an opportunity to collect input from participants by asking them to share their
15 ideas about new laws, amendments to existing laws or anything else they wanted to share. Participants
16 indicated the need for a curfew law for the Reservation [*LOC FY19 First Quarter Report*].
17 Additionally; a community outreach event was held on March 21, 2019 at the Norbert Hill Center
18 cafeteria from 5:00 p.m. to 7:30 p.m. to collect input from the community. No members of the
19 community participated in this event.

20 *Related Research*

21 Research regarding curfew laws revealed that the most common goals of a curfew law are to 1)
22 protect children from becoming victims or perpetrators of crimes, 2) assist parents in exercising their
23 responsibility over minors, and 3) prevent all persons from the dangers posed by unsupervised minors
24 who are out late at night and in the early morning hours. Research indicates that curfew laws may
25 protect youth from victimization and prevent juvenile crimes and delinquency by reducing or
26 preventing exposure of youth to negative situations by restricting their access to public spaces at night
27 and early morning hours [*Grossman & Martin, 2015*]. Although some research has indicated that most
28 crimes involving minors take place during after school hours rather than late at night or early morning
29 hours [*Meyers, 2016*]; the goal of this legislation within the Oneida Reservation is to keep minors safe
30 and accounted for during curfew hours.

31 According to the Office of Juvenile and Delinquency Prevention; the following contribute to the
32 successful implementation of curfew policies:

- 33 ○ Community involvement;
- 34 ○ Creating specific procedures for repeat offenders such as recreational, educational, and job
35 opportunities as well as antidrug and antigang programs;
- 36 ○ Providing a hotline for community questions or problems related to curfews or juvenile
37 delinquency in general; and
- 38 ○ Providing intervention services for juveniles and their families.

39 B. ***Previous Attempts to Implement a Curfew.*** The LOC has considered a law that included a curfew in
40 the past. A curfew provision was considered in a Public Nuisances law drafted by the LOC in 2010;
41 however, this law was not completed or adopted.

- 42 • Previous attempts at regulating minors through a curfew that were not legislative include a curfew
43 requirement of 10:00 p.m. to 6:00 a.m. that was included in previous Oneida Housing Authority
44 tenant leases. This provision is not in current leases [*Email Communication 05/03/2019, Scott
45 Denny, Residential Rentals & Outreach Area Manager, Oneida Comprehensive Housing
46 Division*].

47 C. ***Expected Benefits.*** The purpose of this legislation is to provide a clear timeframe that minors must be
48 out of public spaces and accounted for by their parents, guardians or legal custodians. Members of the
49 Oneida Nation High School Clan Council indicated that a curfew law may help to prevent teens from
50 partying, staying out late and engaging in other bad behaviors; as well as helping with responsibility,

51 encouraging youth to stay out of trouble and encouraging safety and school attendance. A curfew law
 52 provides a means for parents to enforce a curfew with their children to provide an additional measure
 53 of safety, accountability, obligation and responsibility to both the Nation’s minors and adults
 54 [McDowall, Loftin & Wiersema, 2009]. A curfew law provides OPD with a means to engage with
 55 suspected minors during curfew hours to tell them to go home and to encourage adult supervision of
 56 minors during curfew hours. OPD has expressed that the goal is to keep minors safe and to prevent
 57 vandalized property, arson, graffiti, petty theft and drug issues.
 58

59 **SECTION 3. CONSULTATION AND OUTREACH**

60 **A. Departments and Groups.** The following departments and groups participated in the development of
 61 this Law:

- 62 1. Oneida Police Department; and
- 63 2. Members of the Oneida Nation High School Clan Council.

64 **B. Laws of the Nation.** The drafting of this legislative analysis included a review of the following laws of
 65 the Nation: Family Court law, Family Court Rules, Rules of Appellate Procedure, Oneida Judiciary
 66 Rules of Evidence, and Oneida Judiciary Rules of Civil Procedure, Per Capita law, Garnishment law,
 67 Public Use of Tribal Lands law, and Landlord-Tenant law.

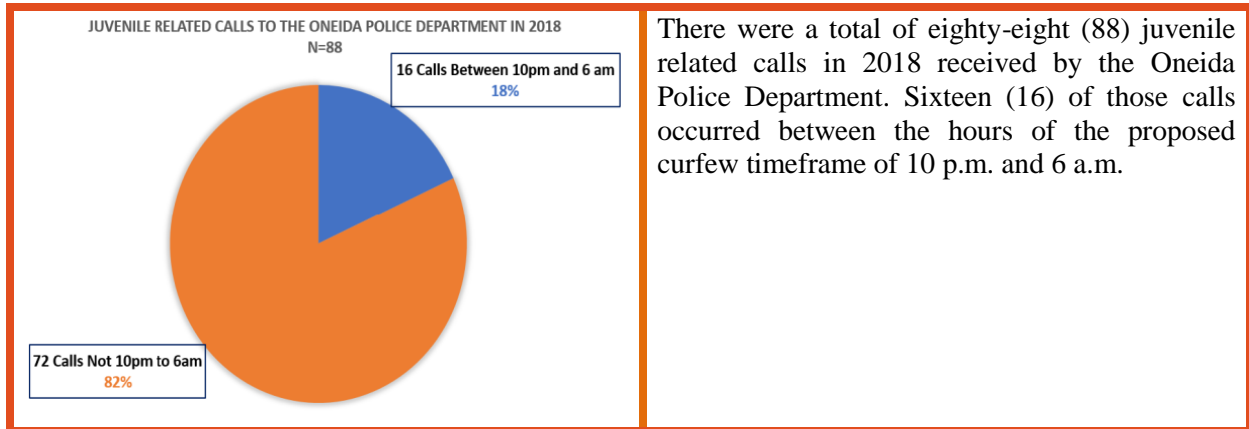
68 **C. Area and Tribal Laws.** The following curfew laws from surrounding municipalities and other tribal
 69 communities were reviewed. The chart provides a breakdown of the ages and curfew time frames the
 70 laws apply to.

Municipality or Tribe	Curfew Applies to Ages:	Curfew in Effect From:
Brown County	Under 17	10pm to 6am
Village of Hobart	Under 17	10pm to 6am
City of Green Bay	Under 17	10pm to 6am
City of De Pere	Under 17	10pm to 6am
Village of Ashwaubenon	Under 17	10pm to 6am
City of Seymour	Under 17	11pm to 6am
Village Howard	Under 17	10pm to 6am
Ho-Chunk Nation	Under 16	10pm to 5am
	16-17	12am to 5am
Lac Du Flambeau Band of Lake Superior Chippewas	Under 18	9pm to daylight during central standard time
		10pm to daylight during daylight savings time
Hoop Valley Tribe	Under 18	10pm to 5am
Prairie Island Indian Community	Under 16	10pm to 6am
	Over 16 and under 18	11pm to 6am
Ely Shoshone Tribe	Under 18	10pm to 5am Sunday - Thursday
		12am to 5am Friday - Saturday

71
 72 **The State of Wisconsin, Outagamie County and Town of Oneida do not have curfew laws in place.*
 73

74 **D. Data.** A memorandum from the TAP Laws and Policy Subcommittee suggested that data related to
 75 police interactions with youth ages seventeen (17) years and younger be requested from the Oneida
 76 Police Department and other neighboring jurisdictions to provide a background for juvenile activity in
 77 the area.

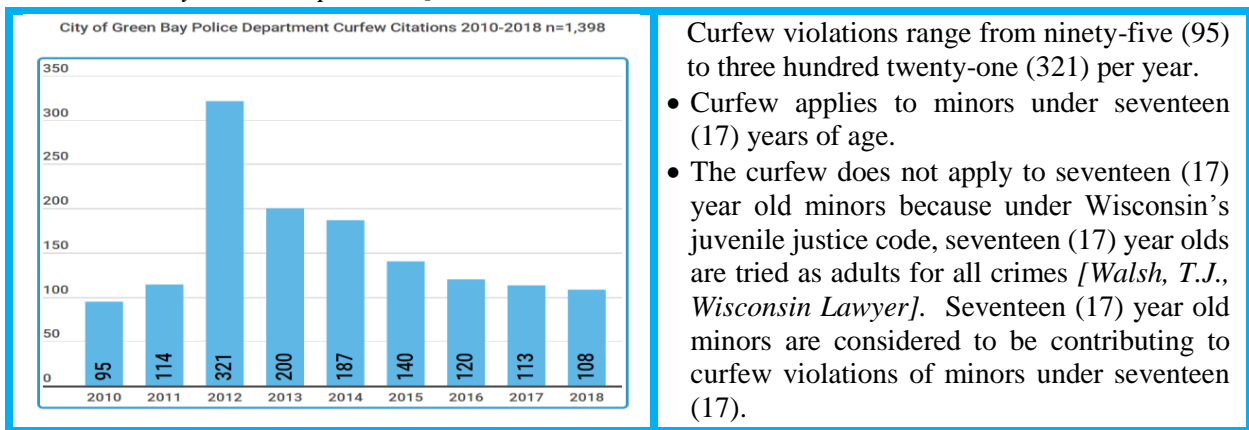
- 78 1. The Oneida Police Department does not currently enforce any curfew laws. The following is
 79 a breakdown of juvenile related calls received by the Oneida Police Department in 2018 [Email
 80 communication 05/06/2019, Eric Boulanger, Chief of Police, Oneida Police Department].



There were a total of eighty-eight (88) juvenile related calls in 2018 received by the Oneida Police Department. Sixteen (16) of those calls occurred between the hours of the proposed curfew timeframe of 10 p.m. and 6 a.m.

81
 82
 83
 84

2. The City of Green Bay has issued the following citations related to curfew violations from 2010 to 2018 [Email communication 05/03/2019, Michelle Belongie, Crime Analyst, Green Bay Police Department].



Curfew violations range from ninety-five (95) to three hundred twenty-one (321) per year.

- Curfew applies to minors under seventeen (17) years of age.
- The curfew does not apply to seventeen (17) year old minors because under Wisconsin’s juvenile justice code, seventeen (17) year olds are tried as adults for all crimes [Walsh, T.J., Wisconsin Lawyer]. Seventeen (17) year old minors are considered to be contributing to curfew violations of minors under seventeen (17).

85
 86
 87
 88
 89

*The LOC has determined that the law will apply to minors seventeen (17) years of age or younger. Parent, guardians and legal custodians are responsible for minor’s actions until they reach eighteen (18) years of age and become legally competent adults. The law places the discretion with OPD to determine in each individual instance whether the Curfew law has been violated and whether to issue a citation.

SECTION 4. PROCESS

91
 92
 93
 94
 95

A. Below is a diagram of the legislative process contained in the Legislative Procedures Act [1 O.C. 109] with some additional useful information. The LOC has reviewed the proposed Curfew law and legislative analysis and is currently at the stage of requesting a public meeting be held and a fiscal impact statement developed by the Finance Office.

Diagram 1. Curfew Law Drafting Process Contained in the Legislative Procedures Act [1 O.C. 109].




96

C. The following meetings, work meetings, and outreach events took place at the time of the development of this legislative analysis:

- December 19, 2018: A request for a Curfew law was received from the TAP Laws and Policy Subcommittee, considered by the LOC and the Curfew law was added to the active files list.
- February 13, 2019: A work meeting was held with the LRO staff and the OPD.
- February 14, 2019: A work meeting was held with the LOC and the LRO staff.
- March 13, 2019: A work meeting was held with the LRO staff and the Oneida Nation High School Clan Council.
- March 21, 2019: A Community Outreach Meeting was held. Although no one attended this meeting; the opportunity was presented to the community to gather input on the development of the Law.
- May 1, 2019: A work meeting was held with the LOC and the LRO.
- May 15, 2019: A work meeting was held with the LOC and the LRO.
- June 5, 2019: The draft and legislative analysis are scheduled to be presented to the LOC for further consideration.

Community Outreach Event March 21, 2019



March 21, 2019

The LOC hosted a community pot luck to discuss a Curfew Law. While the community expressed interest in the event, no one attended the meeting. This highlights how collecting public comment is difficult.

LEGISLATIVE OPERATING COMMITTEE OUTREACH EVENT

COMMUNITY POT LUCK
WWW.ONEIDA-NSN.GOV/GOVERNMENT

Thursday, March 21, 2019, 5:00-7:30pm

Norbert Hill Center Cafeteria
7210 Seminary Rd., Oneida, Wisconsin

PROPOSED CURFEW LAW

This will be an exploratory meeting that will gather input from the community regarding issues and concerns related to the implementation of a curfew for minors seventeen (17) years old or younger, and the consequences that would result from violating the curfew.

OUTREACH

The Legislative Operating Committee (LOC) holds community outreach events in an effort to collect thoughts and ideas from the community at the beginning of the legislative process. This provides insight and ideas early and is a more efficient way of getting work done. Outreach events also provide the community with additional opportunities to share their thoughts with the LOC. When the LOC feels that the community may have a particular interest in proposed legislation these events are held in addition to the formal public meetings required by the Legislative Procedures Act.

FOR MORE INFORMATION:
www.oneida-nsn.gov/Register/Public Meetings or contact Oneida Nation Legislative Reference Office located in the Norbert Hill Center, PO Box 365, Oneida, Wisconsin 54155
Email: LOC@oneidation.org Phone: 920-869-4376

SECTION 5. CONTENTS OF THE LEGISLATION

A. Purpose and Policy [3 O.C. 308.1]

- The purpose of the Law is to restrict access to public spaces by minors not accompanied by certain adults during established night and early morning hours, while imposing obligations and responsibilities upon adults to protect the health, safety and welfare of youth, adults and public property of the Nation. It is the policy of the Nation to support substance abuse prevention initiatives to minimize the opportunities of for minors to encounter harmful situations.

B. Jurisdiction [3 O.C. 308.4]

- Personal Jurisdiction.** This Law applies to: 1) all members of the Nation and those eligible for enrollment with the Nation, as well as members of other federally recognized tribes, 2) individuals and their households who lease, occupy or otherwise use fee land or trust land owned by the Nation or by individual members of the Nation; through consensual contract or other agreement, 3) individuals who have consented to the jurisdiction of the Nation through other consensual relationships with the Nation or Nation's entities, corporations or members of the Nation through contracts or agreements; and 4) any other facts that manifest consent to

jurisdiction consistent with federal law and policy including failure to object to the exercise of personal jurisdiction in a timely manner.

i. In accordance with section 308.4-1(b), the Law applies to individuals and their households who lease, rent, or occupy any home involved in a housing program with the Nation’s Comprehensive Housing Division, including children who are not enrolled or eligible for enrollment with the Nation or any other federally recognized tribe. The Landlord-Tenant law requires all tenants of the Nation’s housing programs to abide by the Nation’s laws [6 O.C. 611.6-3(b)(3)].

- *Territorial Jurisdiction.* This Law applies to the Reservation to all land owned by the Nation and individual trust and/or fee land of a member of the Nation.

C. Curfew [3 O.C. 308.5]

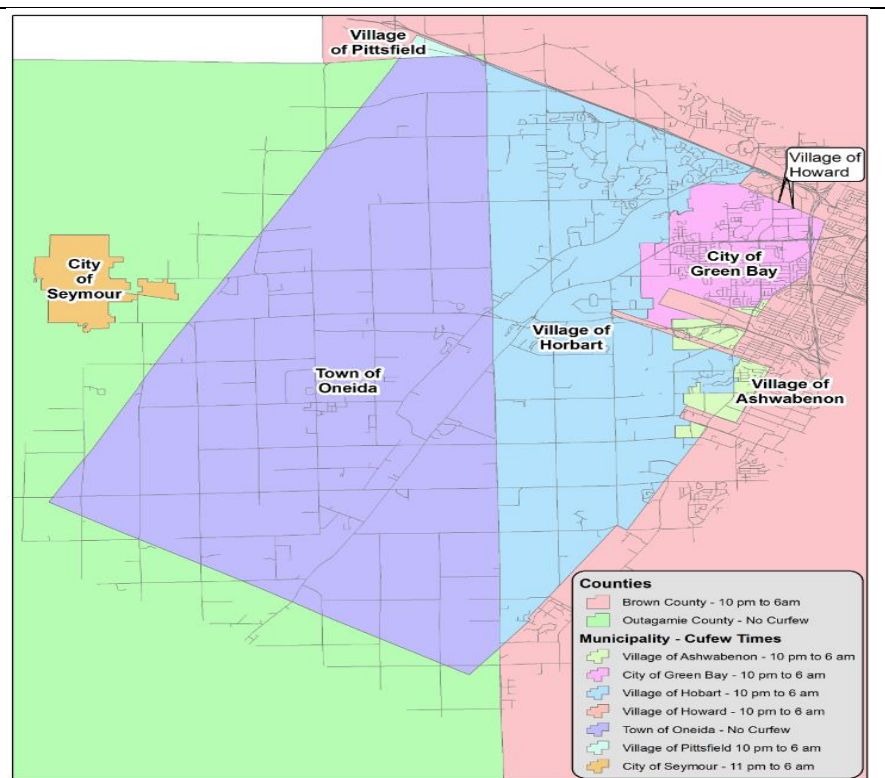
- The curfew is established from 10:00 p.m. to 6:00 a.m. for ages seventeen (17) years old or younger in any public space either on foot or in a vehicle driven or parked within the boundaries of the Reservation. No adult shall knowingly permit or fail to take action to prevent a minor to be in a public space after curfew unless an exemption is met [3 O.C. 308.5-3].

i. Exemptions include common reasons minors would be out at night without the presence of their parent, guardian, or legal custodian such as traveling home from work, participating in cultural and sports activities chaperoned by an adult, and traveling home from the movies; as well as a discretionary measure for OPD to determine if the law has been violated or not.

- The map below demonstrates the curfew in the proposed Law is consistent with the curfew established by municipalities surrounding the Reservation. Members of the Oneida Nation High School Clan Council indicated during a work meeting that Oneida’s curfew should be similar to area curfew laws for consistency purposes.

This is a map of the Reservation and surrounding jurisdictions with any curfew currently in place. The curfew timeframe of 10 p.m. to 6 a.m. in the proposed law is consistent with most jurisdictions near the Reservation.

- The State of Wisconsin, Outagamie County, and the Town of Oneida all lack curfew laws. This means nearly half the Reservation does not have any curfew law in place.
- OPD does not currently enforce any curfew laws of area jurisdictions [Verbal Communication, February 13, 2019].



160 **D. Enforcement of Curfew Violations [3 O.C. 308.6]**

- 161 • Oneida Police Department (OPD) officers may stop any minor suspected of violating this law.
162 OPD must ask, and the minor must provide, their name, age and reason for violating curfew. If
163 an OPD officer believes the Curfew law has been violated; the officer may take the minor into
164 custody and contact their parents, guardian or legal custodian to return the minor to their care
165 and custody. If the OPD officer cannot locate a parent, guardian or legal custodian, they may
166 find and release the child to an adult relative or other responsible adult willing and able to accept
167 the care and custody of the minor.
- 168 i. The first time a minor is taken into custody results in a warning by OPD to both
169 the minor and the minor’s parent, guardian or legal custodian advising them of the
170 law and informing them that any additional violations of the curfew law may result
171 in a fine, community service, mandatory parenting program, mandatory family
172 counseling, or other penalties at the discretion of the Family Court [3 O.C. 308.6-
173 2].
- 174 ii. Subsequent curfew violations that result in a minor being taken into custody by
175 OPD may result in the issuance of a citation which will require the attendance of
176 the minor and their parent, guardian, or legal custodian at a mandatory pre-hearing
177 with the Family Court. Additionally; subsequent violations of the Curfew law may
178 include a fine, mandatory or voluntary community service, mandatory parenting
179 program, mandatory family counseling, or any other penalty at the discretion of
180 the Family Court, as well as any conditional orders made by the Family Court [3
181 O.C. 308.6-3].
- 182 iii. The Family Court may issue conditional orders at the mandatory pre-hearing until
183 the matter is resolved [3 O.C. 308.6-3(a)].

184 **E. Penalties of Curfew Violations [3.O.C. 308.7]**

- 185 • The following penalties may be issued to those that violate the law; focusing on specific
186 programs that aim to improve family dynamics and parenting; at the discretion of Family Court:
- 187 i. Fines (community service may be a substitute for all or part of fines at the
188 discretion of the Family Court);
- 189 1. The Law contains detailed procedures related to fines issued under this
190 Law [3 O.C. 308.7-1(a)]. More detail is provided in Section 7 of this
191 analysis.
- 192 ii. Community service;
- 193 1. The Law contains detailed procedures related to community service
194 requirements [3 O.C. 308.7-1(b)]. More detail is provided in Section 7
195 of this analysis.
- 196 iii. Family counseling;
- 197 iv. Parenting programs; and/or
- 198 v. Any other penalty deemed appropriate by the Family Court.
- 199

200 **SECTION 6. EFFECT ON EXISTING LEGISLATION**

201 **A. References to Other Laws.** The following laws of the Nation are referenced in this law and are required
202 to be followed:

- 203 • **Family Court [8 O.C. 806].** The Family Court law delegates authority to the Family Court
204 over all matters pertaining to the family, children and elders, except for probate matters [8 O.C.

205 806.4-1]. The Family Court has been delegated authority to make all orders and judgments as
206 may be necessary to carry into effect the powers and jurisdiction of the Court [8 O.C. 806.8-
207 1(c)]. The Family Court law governs the administration of law, justice, judicial procedures
208 and practices by the Oneida Family Court as it pertains to Oneida families and/or children to
209 create a knowledgeable, fair, and impartial forum for resolution of all family law matters that
210 come before it. The Family Court is delegated authority under this law to hear contested
211 citations, make conditional orders at the pre-hearing and issue penalties [3 O.C. 308.6-4(b) and
212 308.7-1]. All orders of the Family Court are appealable to the Court of Appeals [8 O.C. 806.6].

- 213 • **Per Capita** [1 O.C. 123]. The Family Court is considered an Oneida entity [1 O.C. 123.3-
214 1(n)] under the Per Capita law and has the authority to pursue attachments of any money owed
215 and any nonpayment of any citations issued to parents, guardians or legal custodians under this
216 law [3 O.C. 308.7-1(a)(3)]. An attachment means the citation is paid for from the debtors per
217 capita payment using the process contained in the Per Capita law [1 O.C. 123.4-9(a)(2)].
- 218 • **Garnishment** [2 O.C. 204]. The Family Court is considered an Oneida entity [2 O.C. 204.3-
219 1(p)] under the Garnishment law as a branch of the Judiciary and has the authority to initiate a
220 garnishment of employee wages to pursue payment from parents, guardians or legal custodians
221 who have failed to make the required payments for citations issued to them in accordance with
222 this law [3 O.C. 308.7-1(a)(3)]. Garnishment means the legal process in which the earnings of
223 the debtor are required to be withheld by the Nation for a payment of a debt [2 O.C. 204.3-1(j)]
224 using the process outlined in the Garnishment law.

225

226 **B. Other Laws of the Nation that Interact with this Legislation.** The following laws of the Nation
227 interact with this law and are required to be followed:

- 228 • **Family Court Rules** [8 O.C. 807]. The Family Court Rules supplement the Oneida Judiciary
229 Rules of Civil Procedure and govern appearances in Court, provides rules of decorum while
230 in Court, governs default judgments, as well as other aspects of the Family Court proceedings.
231 The Family Court Rules will govern behavior during curfew citation hearings.
- 232 • **Oneida Judiciary Rules of Civil Procedure** [8 O.C. 803]. The Oneida Judiciary Rules of
233 Civil Procedure create a consistent set of rules that govern the process of civil actions of the
234 Family Court and the Judiciary. The Oneida Judiciary Rules of Civil Procedures will govern
235 hearings for all curfew citation hearings.
- 236 • **Oneida Judiciary Rules of Evidence** [8 O.C. 804]. The Oneida Judiciary Rules of Evidence
237 apply to proceedings held in the Family Court, including curfew citation proceedings, and
238 govern the rules related to evidence presented to the Court.
- 239 • **Rules of Appellate Procedure** [8 O.C. 805]. The Rules of Appellate Procedure govern the
240 process for anyone who wishes to contest the determination of a lower Court's decision to
241 the Nation's Court of Appeals and will govern appeals the Family Court's decisions. All
242 orders of the Family Court are appealable to the Court of Appeals [8 O.C. 806.6].
- 243 • **Landlord-Tenant** [6 O.C. 611]. This law applies to all individuals (tenants) granted the
244 right to use or occupy a premises pursuant to a rental agreement with the Oneida Nation. All
245 tenants are required to follow all laws of the Nation [6 O.C. 611.6-3(b)(3)], including the
246 Curfew law; even if the tenant is not enrolled or eligible for enrollment with the Oneida
247 Nation or is not enrolled with another federally recognized tribe [3 O.C. 308.4-1].

248

249 **SECTION 7. ENFORCEMENT AND ACCOUNTABILITY**

- 250 A. The Law will be enforced by OPD utilizing existing resources.
- 251 B. Minors and parents, guardians and/or legal custodians who are issued citations under this law may
252 contest the citation at the mandatory citation pre-hearing at the Family Court [3 O.C. 308.6-3(c)].
- 253 C. Implementation of this Law is as follows:
- 254 • OPD is responsible for implementing and enforcing this law and issuing citations which may
255 include fines and other penalties to both the minor and/or their parents, guardians or legal
256 custodians [3 O.C. 308.6-3].
 - 257 • The Family Court may, at its discretion, order penalties under this law to both minors and
258 adults [3 O.C. 308.7]. Penalties include fines, community service, parenting programs, family
259 counseling and any other penalties deemed appropriate by the Family Court.
 - 260 i. The Family Court may allow community service to be substituted for fines [3
261 O.C. 308.7-1(a)(5)].
 - 262 ii. Community service may be ordered by the Court in lieu or in addition to a fine
263 [3 O.C. 308.7-1(b)]. The individual will be responsible for finding his or her
264 community service and getting approval from the Court [3 O.C. 308.7-
265 1(b)(1)]. The Family Court will provide a written statement of the
266 requirements of the community service assignment including the number of
267 hours, the timeframe for completion, how hours will be reported and any other
268 relevant information and the requirement that community service is monitored
269 [3 O.C. 308.7-1(b)(2) and (3)].
 - 270 iii. Family counseling or parenting programs may be required by the Family Court
271 [3 O.C. 308.7-1(c)].
 - 272 1. Oneida Family Support Services Department offers family
273 counseling, parenting classes and other programs. These programs
274 may be an option for violators of this Law to fulfill the penalties issued
275 by the Family Court.
 - 276 a. Clientele of services offered by this Department are typically
277 determined by enrollment or eligibility for enrollment with
278 the Nation. Consideration is given to significant others or
279 family members who are not eligible for enrollment
280 [<https://oneida-nsn.gov/resources/child-family-services/>].
 - 281 2. Those who violate the Law may seek other services offered outside of
282 the Oneida community to fulfill the penalties issued by the Family
283 Court.
 - 284 • The OBC is responsible for adopting a fine schedule by resolution that determines specific
285 fine amounts for violations of this law [3 O.C. 308.7-1(a)].

287 **SECTION 8. OTHER CONSIDERATIONS**

- 288 A. **Citations law.** A citation for a violation of this law will be processed in accordance with the procedure
289 contained in the Nation's laws and policies governing citations [3 O.C. 308.6-3(b)].
- 290 • There are currently no laws of the Nation governing citations. There is a Citations law on the
291 LOC's active files list that is currently being developed at the same time as this Curfew law.
- 292 B. **Fiscal Impact.** Please refer to the fiscal impact statement for any fiscal impacts.

- 293 • Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation
294 except emergency legislation [*1 O.C. 109.6-1*].
295 • A fiscal impact statement shall be submitted by any agencies as directed by the Legislative
296 Operating Committee and may be prepared by any agency who may receive funding if the
297 legislation is enacted, any agency who may administer a program if the legislation is enacted,
298 any agency who may have financial information concerning the subject matter of the
299 legislation, or by the Finance Office, upon request of the Legislative Operating Committee [*1*
300 *O.C. 109.6-1(a) and (b)*].
301

302 ***Research Citations***

303 Grossman, E.R. and Miller, N.A. (2015). A Systematic Review of the Impact of Juvenile Curfew Laws
304 on Public Health and Justice Outcomes. *Am J Prev Med.* 49(6): 945-951.
305 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4656116/>
306
307 McDowell, D. Loftin C. and Wiersema, B. (2009). The Impact of Youth Curfew Laws on Juvenile Crime
308 Rates.
309 [https://www.researchgate.net/publication/249718752_The_Impact_of_Youth_Curfew_Laws_on_Juvenile](https://www.researchgate.net/publication/249718752_The_Impact_of_Youth_Curfew_Laws_on_Juvenile_Crime_Rates)
310 [Crime Rates](https://www.researchgate.net/publication/249718752_The_Impact_of_Youth_Curfew_Laws_on_Juvenile_Crime_Rates)
311
312 Myers, D.L. (2016). Juvenile curfew laws: A consideration of something that “doesn’t work”.
313 EBPSOCIETY: Evidence Based Society.
314 <https://www.ebpsociety.org/blog/education/206-juvenile-curfew-laws>
315
316 Office of Juvenile Justice and Delinquency Prevention. Juvenile Justice Reform Initiatives in the States
317 1994-1996.
318 https://www.ojjdp.gov/pubs/reform/ch2_c.html
319
320 Walsh, T.J. (2019). Adults Only: Returning 17 Year Olds to Juvenile Court. Wisconsin Lawyer.
321 <https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?ArticleID=23659>
322
323
324
325

326



Legislative Operating Committee
June 19, 2019

Sanctions and Penalties Law

Submission Date: 9/6/17	Public Meeting: 10/4/18
LOC Sponsor: Jennifer Webster	Emergency Enacted: n/a

Summary: *This item was carried over from the previous term. The original proposal was to develop a consistent process that would provide for members of the Oneida Business Committee and other Boards, Committees and Commissions to face sanctions for misconduct. Currently, the only penalty that OBC members may be subject to, is removal from office – meaning that less serious misconduct would either go unpunished or would result in a penalty that might be considered too extreme for a particular violation.*

9/6/17 LOC: Motion by Ernest Stevens III to add Sanctions and Penalties Law to the active files list with Jennifer Webster as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

9/6/17: *Work Meeting.* Present: David P. Jordan, Jenny Webster Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Tani Thurner. Drafting attorney provided an update on the status of the Sanctions and Penalties law. Next steps will be: 1) pull the current draft back, 2) hold community meetings to understand what sanctions/penalties the community is interested in, 3) meeting with the boards/committees/commissions for input, and 4) holding work meeting with LOC to make policy decisions and choose next steps.

11/1/17 LOC: Motion by Kirby Metoxen to approve the 60 day active files list update and continue development of all the items on the active files list; seconded by Ernie Stevens III. Motion carried unanimously.

11/1/17: *Work Meeting.* Present: Carol Silva, Bonnie Pigman, Ed Delgado, Rachel Hill, Matthew Denny, Reynold Danforth, Kirby Metoxen, Rosa Laster, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Jennifer Falck. Representatives from all the B/C/C's were invited to this meeting to provide input on what a Sanctions & Penalties Law might look like.

12/6/17: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Daniel Guzman King, Clorissa Santiago, Jennifer Falck. The LOC reviewed and considered comments from the November 1, 2017, work meeting with boards, committees, and commissions. LOC began making policy decisions. Drafter will work on draft, and policy options, and bring materials back to LOC when ready.

3/9/18: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Clorissa Santiago, Brandon Wisneski, Rosa Laster, Laura Laitinen-Warren. LOC reviewed the first draft of the law, and directed that the LRO schedule a community meeting, with a special invitation to members of boards, committees, and commissions, to discuss the proposed law.

- 3/16/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Ernest Stevens III, Clorissa Santiago, Brandon Wisneski, Cathy Bachhuber, Rosa Laster. The LOC reviewed the potential date for the community meeting, and directed the drafting attorney to schedule the community meeting for May 3, 2018, and to ensure the notice is published in the Kalihwisaks twice, an appointment is sent to all members of the LOC and boards, committees, and commissions, and that the Communications Department is included in the appointment so they can make efforts to communicate notice of the event.
- 4/2/18 LOC:** Motion by Jennifer Webster to accept the draft of the Sanctions and Penalties law and direct that a community meeting/potluck be held on May 3, 2018; seconded by Daniel Guzman King. Motion carried unanimously.
- 4/26/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Jennifer Falck. This was an LRO prep meeting to prepare a plan for the upcoming community meeting.
- 4/27/18:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Ernest Stevens III, Daniel Guzman King, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Rosa Laster, Cathy Bachhuber, Tani Thurner. The purpose of this work meeting was to prepare for the upcoming community meeting.
- 5/2/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Jennifer Falck, David P. Jordan, Jennifer Webster. The LOC continued to prepare and discuss the upcoming community meeting.
- 5/3/18:** *Community Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Maureen Perkins, Carol Silva, Chad Wilson, Janice McLester, Gina Buenrostro, Winnifred Thomas, Brooke Doxtator, Ed Delgado, Oyanolu Adams, Michelle Braaten, Mark Powless, Cathy L. Metoxen, Carole Liggins, Madelyn Genskow. The purpose of this community meeting was to gain input on the proposed Sanctions and Penalties law.
- 5/11/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Daniel Guzman, Clorissa Santiago, Brandon Wisneski, Jennifer Falck. The purpose of this work meeting was to review the comments received during the community meeting, and to determine if any revisions should be made to the law. The drafting attorney will update the draft of the law based on this discussion.
- 5/16/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Laura Laitinen-Warren. The purpose of this work meeting was to review and discuss the revisions to the draft made based on comments collected from the community meeting. Drafting attorney will update the draft.
- 6/6/18/ LOC:** Motion by Jennifer Webster to accept the draft of the Sanctions and Penalties law and direct that a legislative analysis be completed; seconded by Ernest Stevens III. Motion carried unanimously.
- 7/9/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Brooke Doxtator. The purpose of this work meeting was to review the BCSO's involvement in the Sanctions and Penalties law to ensure their role can be implemented as required by law.
- 7/18/18 LOC:** Motion by Kirby Metoxen to accept the legislative analysis for the Sanctions and Penalties Law and defer to a work meeting; seconded by Daniel Guzman King. Motion carried unanimously.
- 8/1/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Kristen Hooker. The purpose of this work meeting was to review and consider the legislative analysis.

8/15/18 LOC: Motion by Jennifer Webster to approve the public meeting packet and forward the Sanctions and Penalties Law to a public meeting to be held on September 20, 2018; seconded by Kirby Metoxen. Motion carried unanimously.

Subsequent Motion by Jennifer Webster to forward the Sanctions & Penalties Law to the Finance Office for a fiscal analysis to be completed; seconded by Kirby Metoxen. Motion carried unanimously.

9/10/18: *Work Meeting.* Present: David P. Jordan, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Kristen Hooker, Cathy Bachhuber, Maureen Perkins. The purpose of this work meeting was to discuss the fact that the September 20, 2018 public meeting on the proposed law will have to be canceled due to the Kalihwisaks failing to publish the public meeting notice in the September 6, 2018, edition. The LOC determined the next steps for moving the public meeting forward – an e-poll of an updated public meeting notice will be completed and the appointment that was sent out changed to reflect the new date.

E-poll conducted.

9/19/18 LOC: Motion by Daniel Guzman King to enter the e-poll results into the record; seconded by Jennifer Webster. Motion carried unanimously.

10/4/18: Public Meeting Held.

10/17/18 LOC: Motion by Jennifer Webster to accept the public meeting memo comments and public meeting comment review memorandum and defer to a work meeting; seconded by Daniel Guzman King. Motion carried unanimously.

10/17/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Kristen Hooker, Rosa Laster. The purpose of this work meeting was for the LOC to begin reviewing and considering the public comments that were received, and to make determinations on what revisions to the Law are necessary.

10/25/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Kristen Hooker. The purpose of this work meeting was for the LOC to continue reviewing and considering the public comments that were received, and to make determinations on what revisions to the Law are necessary. LRO will update the draft for the next LOC packet so a fiscal analysis can be requested.

11/7/18 LOC: Motion by Jennifer Webster to accept the public comment review memorandum and the updated draft; seconded by Daniel Guzman King. Motion carried unanimously.

11/30/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to review and approve the fiscal impact statement request memorandum to the Finance Department, and begin discussing a plan for the completion of this item.

12/5/18 LOC: Motion by Jennifer Webster to accept the updated legislative analysis, including the replacement of page 159 in the packet; seconded by Kirby Metoxen. Motion carried unanimously.

Motion by Kirby Metoxen to approve the fiscal impact statement memorandum and forward to the Finance Department directing that a fiscal impact statement of the proposed Sanctions and Penalties law be prepared for inclusion on the January 2, 2019 Legislative Operating Committee meeting agenda; seconded by Daniel Guzman King. Motion carried unanimously.

- 12/20/18:** *Work Meeting.* Present: Clorissa N. Santiago, Brandon Wisneski, Randall Cornelius. The purpose of this work meeting was to discuss traditional ways Oneida has sanctioned its leaders.
- 1/2/19:** *Work Meeting.* Present: Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Daniel Guzman, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to review the adoption packet and discuss any changes that should be made. LRO will update all adoption materials.
- 1/7/19 LOC:** Motion by Kirby Metoxen to approve the adoption packet for the proposed Sanctions and Penalties Law and forward to the Oneida Business Committee for inclusion on the tentatively scheduled February 24, 2019 General Tribal Council meeting agenda for the General Tribal Council's consideration of adoption; seconded by Ernest Stevens III. Motion carried unanimously.
- 1/24/19:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman, Clorissa N. Santiago, Brandon Wisneski, Kristen Hooker, Maureen Perkins. The purpose of this work meeting was to review and discuss an article to be included in the 2/7 Kalihwisaks edition.
- 1/29/19:** E-Poll conducted.
- 2/4/19:** *Work Meeting.* Present: Clorissa N. Santiago, Brandon Wisneski, Jennifer Falck, Nathan Wisneski, Xavier Horkman. The purpose of this work meeting was to discuss the creation of a promotional video for the Sanctions and Penalties law.
- Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to review and discuss the script for the Sanctions and Penalties law PowerPoint presentation. The LOC also discussed filming a promotional video for the Sanctions and Penalties law.
- 2/6/19 LOC:** Motion by Jennifer Webster to enter the results of the January 29, 2019 e-poll entitled "E-poll Request: Sanctions and Penalties Law February 7, 2019 Kalihwisaks Article" into the record; seconded by Kirby Metoxen. Motion carried unanimously.
- 2/6/19:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Kristen Hooker, Maureen Perkins. The purpose of this work meeting was to practice the PowerPoint presentation for the upcoming GTC meeting, as well as review and approve the script for the promotional video.
- 2/8/19:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Jennifer Falck, Clorissa N. Santiago, Phil Wisneski. The purpose of this work meeting was to film the promotional video for the Sanctions and Penalties law.
- 2/14/19:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Cathy Bachhuber. The purpose of this work meeting was to practice the PowerPoint presentation for the upcoming GTC meeting, as well as review the "FAQ" sheet.
- 2/20/19:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Ernest Stevens III, Daniel Guzman, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Kristen Hooker. The purpose of this work meeting was to practice the PowerPoint presentation for the upcoming GTC meeting, practice responding to potential questions, and review and approve the Sanctions and Penalties law promotional video.
- 3/1/19:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to review and discuss the engagement with the informational video, practice the LOC's PowerPoint presentation, and prepare to answer potential questions that may be asked at the upcoming GTC meeting.

- 3/15/19:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Maureen Perkins. The purpose of this work meeting was to practice the LOC's PowerPoint presentation and prepare to answer potential questions that may be asked at the upcoming GTC meeting.
- 3/17/19 GTC:** Motion by Cathy L. Metoxen to table this item for sixty (60) days. Motion ruled out of order by Vice-Chairman Brandon Stevens; all the materials are available today in order to make a decision
- Motion by Becky Webster to adopt the resolution entitled Sanctions and Penalties Law on pages 5 and 6 of the meeting packet; with the amendment to the law to limit those who have standing to file a complaint to Tribal Members only. Seconded by Jamie Willis. Motion not voted on; item deferred, see amendment.
- Amendment to the main motion by Mike Debraska to defer item IV.A. for at least sixty (60) days for GTC to have additional time to consider it and have input. Seconded by Tina Danforth. Motion carried by show of hands.
- 3/20/19:** *Work Meeting.* Present: David P. Jordan, Ernest Stevens III, Daniel Guzman King, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to debrief on the 3/17 GTC meeting, and begin discussing a plan for how to move this law forward, and the additional outreach we will conduct.
- 3/28/19:** *Work Meeting.* Present: David P. Jordan, Ernest Stevens III, Daniel Guzman King, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Rosa Laster. The purpose of this work meeting was to briefly discuss potential ideas for additional outreach videos that can be made before this item is presented to the GTC again for consideration. Ernie expressed interest in taking a larger role in the creation of development of these videos.
- 5/1/19:** *Work Meeting.* Present: David P. Jordan, Ernest Stevens III, Kirby Metoxen, Jennifer Webster, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to discuss a plan for outreach events the LOC can hold, and a plan for when this item might be presented to GTC again. The LRO was directed to move forward with developing a Kalihwisaks article that discusses outreach and provides a schedule of the new outreach dates.
- 6/13/19:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Destiny Prendiville, Laura Laitinen-Warren. The purpose of this work meeting was to review the community outreach notice that will be published in the Kalihwisaks and discuss the outreach plan.

Next Steps:

- Approve the community outreach notice for the Sanctions and Penalties law, and forward to the Kalihwisaks for publication in the July 3, 2019 Kalihwisaks edition.

LEGISLATIVE OPERATING COMMITTEE COMMUNITY OUTREACH EVENTS

SANCTIONS AND PENALTIES LAW

At the March 17, 2019, General Tribal Council meeting the General Tribal Council directed that the consideration of the adoption of the proposed Sanctions and Penalties law be deferred until the General Tribal Council has additional time to consider it and have input.



Join the Legislative Operating Committee (LOC) at the following community outreach events to share ideas, ask questions, and provide input on the proposed Sanctions and Penalties law:

DATE	TIME	LOCATION
July 11, 2019	Prior to General Tribal Council Meeting from 5:00 pm —6:00 pm	Radisson Hotel & Conference Center
July 17, 2019	12:00pm-1:00pm	Norbert Hill Center Business Committee Conference Room
August 9, 2019	8:00am-9:00am	Oneida Veteran's Breakfast Vets Office, Riverdale Dr, Oneida
August 15, 2019	12:00pm-3:00pm	Oneida Farmer's Market Water Circle Place, Oneida

Additional Opportunity for Input on the Sanctions and Penalties Law

If you are unable to attend a community outreach event to provide input, the LOC is offering the additional opportunity to provide comments and input through written submissions. The LOC will be accepting written thoughts and comments from the community until **August 31, 2019**. Written comments can be submitted via e-mail to LOC@oneidation.org or in person to the Legislative Reference Office located in the Norbert Hill Center.



-FOR MORE INFORMATION-

www.oneida-nsn.gov/Register/FeaturedLegislation or contact Oneida Nation Legislative Reference Office
located in the Norbert Hill Center, PO Box 365, Oneida, Wisconsin 54155
Email: LOC@oneidation.org Phone: 920-869-4376

June 2019

June 2019							July 2019						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
						1		1	2	3	4	5	6
2	3	4	5	6	7	8	7	8	9	10	11	12	13
9	10	11	12	13	14	15	14	15	16	17	18	19	20
16	17	18	19	20	21	22	21	22	23	24	25	26	27
23	24	25	26	27	28	29	28	29	30	31			
30													

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
May 26	27	28	29	30	31	Jun 1
2	3	4	5 9:00am LOC (BC_Conf_Room) - LOC 9:00am LOC Meeting 9:00am LOC Meeting	6	7	8
9	10	11	12	13 2:00pm LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	14	15
16	17	18	19 9:00am LOC Meeting (BCCR) - LOC	20	21	22
23	24	25	26	27 9:00am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	28	29
30	Jul 1	2	3	4	5	6

July 2019

July 2019

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August 2019

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jun 30	Jul 1	2 9:00am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	3 LOC CANCELLED	4	5	6
7	8 11:00am LOC Work Session - Election Presentation Practice (BC_Exec_Conf_Room) - Clorissa N.	9	10	11 6:00pm GTC (Radisson)	12 1:00pm LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	13
14	15	16	17 9:00am LOC Meeting (BCCR) - LOC	18	19	20
21	22	23	24	25 8:30am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	26	27
28	29 8:00am FW: Mandatory BC Work Session - Bylaws (Ridgeview Plaza - Suite 4) - TribalSecretar	30 Mandatory BC Work Session- Bylaws; Ridgeview Plaza - Suite 4	31	Aug 1	2	3