



## SOUTHERN UTE INDIAN TRIBE

### GUIDELINES - CRIMINAL CODE

May \_\_, 2023

### CRIMINAL PENALTY SCHEDULE – SUITC §5-14-101(I)

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## PART I – PURPOSE, AUTHORITY, APPLICATION

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### A. Purpose

In 2023, the Southern Ute Indian Tribe revised the Criminal Code and developed a Criminal Penalty Schedule pursuant to §5-14-101(1) that provides various classes of offenses with associated penalties. The Criminal Penalty Schedule appears in Part II of these guidelines.

### B. Authority

The Tribe enacted the Criminal Code pursuant to its Constitution, Article VII, Section 1(e). The Constitution authorizes the Tribal Council to govern the administration of justice through the tribal courts and to prescribe the powers, rules, and procedures of the tribal courts in the adjudication of cases involving criminal offenses and civil actions. The Criminal Code, at §5-14-101(1), provides that criminal offenses will be sentenced in accordance with the Criminal Penalty Schedule.

### C. Application

The Criminal Penalty Schedule applies to penalties assessed pursuant to the Criminal Code.

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**PART II – Title 5 Criminal Code – CRIMINAL PENALTY SCHEDULE**

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**Criminal Penalty Schedule**

<b>Class</b>	<b>Maximum Sentence and Fine</b>
<b>Class 1</b>	365 days jail, \$5,000 fine, or both
<b>Class 2</b>	270 days jail, \$4,000 fine, or both
<b>Class 3</b>	180 days jail, \$3,000 fine, or both
<b>Class 4</b>	90 days jail, \$2,000 fine, or both
<b>Class 5</b>	30 days in jail, \$500 fine, or both
<b>Class 6</b>	Fine not to exceed \$450.

<b>CLASS 1</b>	<b>Offense</b>
§5-5-102	Aggravated Assault & Battery
§5-7-104	Aggravated Child Abuse
§5-5-108	Aggravated Kidnapping
§5-2-104	Aggravated Robbery
§5-2-115	Arson
§5-5-103	Assault & Battery on Officer or Other Personnel
§5-2-105(1)	Burglary – 1 <sup>st</sup> degree
§5-5-106	Homicide
§5-4-110	Human Trafficking for Sexual Gratification
§5-4-109	Possession of Child Pornography
§5-3-107	Retaliation Against a Witness or Victim
§5-4-101	Sexual Assault
§5-4-106	Sexual Exploitation of a Child
§5-4-107	Sexual Exploitation of a Child by a Parent, Guardian or Custodian
§5-4-108	Trafficking in Child Pornography
§5-6-101(1)(e)	Trespass
§5-4-102	Unlawful Sexual Contact
§5-9-103	Violating a Domestic Violence Protection Order
<b>CLASS 2</b>	<b>Offense</b>
§5-5-105	Aggravated Menacing
§5-5-101	Assault & Battery
§5-3-101	Bribery
§5-2-105(2)	Burglary 2 <sup>nd</sup> degree
§5-7-103	Child Abuse
§5-2-110	Embezzlement
§5-2-109	Extortion
§5-3-113	Fleeing or Evading
§5-2-111	Forgery
§5-2-108	Fraud
§5-5-107	Kidnapping
§5-3-114	Obstructing Justice
§5-11-103	Possession of a Firearm by a Previous Offender
§5-3-114	Providing or Possessing Contraband
§5-3-110	Retaliation against a Judge or Juror
§5-2-103	Robbery

§5-3-106	Tampering with a Witness or Victim
§5-2-101	Theft
§5-6-103	Unlawful Sale or Distribution of a Controlled Substance
§5-5-110	Violation of Custody
<b>CLASS 3</b>	<b>Offense</b>
§5-6-105	Abuse of Toxic Vapors
§5-2-105(3)	Burglary 3 <sup>rd</sup> degree
§5-11-107	Careless Use of a Weapon
§5-11-105	Carrying a Concealed Weapon
§5-2-117	Criminal Mischief
§5-3-115	Escape
§5-5-109	False Imprisonment
§5-5-111	Harassment
§5-2-107	Illegal Sale or Disposal of Tribal Property
§5-5-104	Menacing
§5-2-112	Misappropriation of Property of an Estate
§5-3-114	Obstructing Justice
§5-6-107	Obtaining a Controlled Substance by Fraud or Deceit
§5-3-103	Official Misconduct
§5-3-102	Official Oppression
§5-3-104	Perjury
§5-11-103	Possession of a Firearm
§5-11-101	Possession of an Illegal Weapon
§5-3-112	Resisting Arrest
§5-5-112	Stalking - Enhanced
§5-3-108	Tampering with Evidence
§5-2-102	Theft by Receiving Stolen Property
§5-2-114(1)(d)	Trespass
§5-2-116	Unlawful Burning
§5-6-101	Unlawful Possession or Use of a Controlled Substance
§5-6-106	Unlawfully Possess, Sell, or Distribute Date Rape Drug
§5-3-118	Violation of a Protection Order
§5-3-119	Violation of an Exclusion Order – fine limit up to \$500
<b>CLASS 4</b>	<b>Offense</b>
§5-7-102	Contributing to the Delinquency of a Minor
§5-12-101	Cruelty to Animals - Enhanced
§5-7-101	Endangering the Welfare of a Child
§5-3-105	False Alarm, False Charge, & False Information
§5-3-109	Impersonating a Peace Officer or Peace Officer
§5-4-103	Incest
§5-3-111	Obstructing Governmental Operations
§5-9-104	Obstruction of Telephone Use
§5-11-104	Possession of a Handgun by a Juvenile
§5-5-114	Reckless Endangerment
§5-5-112	Stalking – 1 <sup>st</sup> offense
§5-2-114(1)(c)	Trespass
§5-11-102	Unlawful Possession of a Weapon on School Grounds
§5-6-104	Unlawfully Possess, Distribute, or Sell Drug Paraphernalia
<b>CLASS 5</b>	<b>Offense</b>
§5-10-101	Aiding & Abetting

§5-8-103	At-Risk Adult or Elder Abuse
§5-8-104	Caretaker Neglect of At-Risk or Elder
§5-12-101	Cruelty to Animals
§5-2-113	Deceptive Business Practices
§5-2-118	Defacing Property
§5-3-117	Disobedience to Court Orders
§5-5-113	Disorderly Conduct
§5-13-103	Disturbing the Peace
§5-8-105	Exploitation of At-Risk Adult or Elder
§5-13-104	Fence Cutting
§5-13-102	Harassment by Electronic Means
§5-4-104	Indecent Exposure
§5-3-116	Introduction or Possession of Contraband
§5-4-105	Invasion of Privacy for Sexual Gratification
§5-4-113	Keeping a Place of Prostitution
§5-12-102	Livestock Offense
§5-2-119	Maintaining a Public Nuisance
§5-11-106	Prohibited Use of a Weapon
§5-4-111	Prostitution
§5-13-101	Public Places Offenses
§5-4-112	Soliciting for Prostitution
§5-13-106	Timber Use Policy Violation – additional penalties: seizure of timber and equipment
§5-6-109	Unlawful Possession of Open Container in Public
§5-3-120	Violation of Bond Conditions
§5-13-105	Waters Offense
<b>CLASS 6</b>	<b>Offense</b>
§5-6-108	Illegally Possess or Consume Alcohol or Marijuana by Person Underage
§5-2-106	Shoplifting
§5-7-103	Unlawful Possession, Distribution, or Sale of Drug Paraphernalia by 18-20 year old
§5-7-101	Unlawful Possession of a Controlled Substance in an Unofficial Container – §5-7-101(2)(d) fine limit up to \$100
§5-7-102	Unlawful Possession or Use of Marijuana – fine limit up to \$100 for amounts under one ounce

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**PART III – ADDITIONAL OFFENSES**

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**A. Criminal Attempt**

Offenses charged as criminal attempt offenses should be charged under the same penalty class as the related offense.

**B. Offenses without specified penalties**

For any criminal offense not listed in the Criminal Penalty Schedule or containing a specified penalty in the Criminal Code, the Court may impose a sentence or penalty in accordance with offenses of similar magnitude in the Code and Schedule.

**C. Sentence Enhancement**

Offenses for which there is sentence enhancement are listed in the Criminal Penalty Schedule.

Adopted on \_\_\_\_\_, Resolution No. \_\_\_\_\_