

**TITLE XXIV**

**CHOCTAW PEACEMAKER CODE  
CHOCTAW ITTĪ-KĀNA-ĪKBI CODE**

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## **CHAPTER 1. CHOCTAW PEACEMAKER CODE**

### **§24-1-1 Itt̄i-kāna-ikbi Court Creation and Purpose (General)**

- (1) The spelling for this term (Itt̄i-kāna-ikbi) is in accordance with Mississippi Band of Choctaw Indians (MBCI) Tribal Council Resolution 42-81(A). All references to the Choctaw Peacemaker Code appearing in any other ordinances or codes are deemed to refer to the Choctaw Itt̄i-kāna-ikbi Code as stated.
- (2) There is hereby established a Choctaw Peacemaker Court known as the Choctaw Itt̄i-kāna-ikbi Court as a division of the Tribal Court, which shall operate in accordance with provisions of this Chapter.
- (3) The purpose of the Choctaw Itt̄i-kāna-ikbi Court is to provide a forum for the use of traditional Choctaw methods of peacemaking to resolve disputes in a fair, informal and inexpensive manner. Any ambiguity in the Itt̄i-kāna-ikbi Code shall be liberally construed to carry out its purpose of encouraging traditional Mississippi Band of Choctaw Indians (MBCI) methods of dispute resolution without formal court proceedings.
- (4) The Senior Itt̄i-kāna-ikbi shall supervise the activities of the Itt̄i-kāna-ikbi Court and shall exercise supervisory control over any Itt̄i-kāna-ikbi pursuant to this Code.

### **§24-1-2 Jurisdiction**

- (1) The Itt̄i-kāna-ikbi Court shall have original jurisdiction over all cases filed with the Itt̄i-kāna-ikbi Court through the Office of the Court Clerk by joint petition of all parties who will be bound by any final order or agreement to be entered through the Itt̄i-kāna-ikbi Court.
- (2) The Itt̄i-kāna-ikbi Court shall also have jurisdiction over any matter referred to it by another trial court in the Choctaw Tribal Court system. For purposes of this provision, a trial court shall mean the Choctaw Criminal Court, the Choctaw Civil Court and the Choctaw Youth Court. Once a case is referred to the Itt̄i-kāna-ikbi Court by one of the other Choctaw trial courts, the case shall come off the docket of the other trial court and go onto the docket of the Itt̄i-kāna-ikbi Court, which shall thereafter have jurisdiction over the case for all purposes. If the Itt̄i-kāna-ikbi Court loses jurisdiction over a case under §24-1-10(6)(7), or if the Itt̄i-kāna-ikbi determines that the peacemaking process cannot produce an agreed resolution of the matter, the Itt̄i-kāna-ikbi shall transfer the case back to the trial court from which it was originally referred. At that point, the case will again be placed on the trial court's docket by the Court Clerk, and the trial court shall resume jurisdiction over the case.

### **§24-1-3 Itt̄i-kāna-ikbi Aliha of the Itt̄i-kāna-ikbi Court**

- (1) A Judge or Itt̄i-kāna-ikbi of the Itt̄i-kāna-ikbi Court shall meet the qualifications of Tribal Code §1-3-3.
- (2) The Senior Itt̄i-kāna-ikbi of the Itt̄i-kāna-ikbi Court shall be responsible for assigning cases filed with or referred to the Itt̄i-kāna-ikbi Court under §24-1-2 to a particular Itt̄i-

kāna-ikbi or Itt̄i-kāna-ikbi aliha who shall in turn be responsible for assisting the involved parties in resolving their dispute through traditional Choctaw methods of peacemaking.

- (3) The Senior Itt̄i-kāna-ikbi of the Itt̄i-kāna-ikbi Court shall select persons from the Choctaw community to serve as Itt̄i-kāna-ikbi aliha. Such persons shall be members of the Tribe, and shall be persons respected in the Choctaw community with a reputation for integrity and wisdom. Any person selected as an Itt̄i-kāna-ikbi must first be approved by and subsequently by the Tribal Council, the Tribal Council Committee on Judicial Affairs and Law Enforcement before such person shall serve as an Itt̄i-kāna-ikbi and must agree in writing and by oath to serve under the authority of the Senior Itt̄i-kāna-ikbi. The Clerk of the Court shall maintain a roster of persons approved as Itt̄i-kāna-ikbi aliha.
- (4) A person maybe removed from the Itt̄i-kāna-ikbi aliha roster, for cause, after the person has been afforded a hearing before the Senior Itt̄i-kāna-ikbi. A person removed from the Itt̄i-kāna-ikbi aliha roster for cause after a hearing before the Senior Itt̄i-kāna-ikbi may appeal his removal to the Choctaw Supremen Court . Itt̄i-kāna-ikbi aliha shall not have any rights under the grievance procedures of the Choctaw personnel policies.
- (5) The parties to any dispute may agree to a certain individual as an Itt̄i-kāna-ikbi for the resolution of their dispute. In such cases, the Itt̄i-kāna-ikbi need not be a member of the MBCI, but such individual must be agreed to by all parties in the dispute.
- (6) Judges and Itt̄i-kāna-ikbi aliha of the Itt̄i-kāna-ikbi Court are officers of the court and shall have the same immunities as other judges of other Choctaw courts.

#### **§24-1-4 Use of Tribal Traditions and Customary Law**

The Itt̄i-kāna-ikbi aliha shall have the authority to use Tribal cultural teachings and customs, including present day religious teachings in the peacemaking process if the Itt̄i-kāna-ikbi reasonably believes that such will further the objective of voluntarily resolving a dispute.

#### **§24-1-5 Compelling the Appearance of Parties and Subpoenas**

An Itt̄i-kāna-ikbi of the Itt̄i-kāna-ikbi Court may compel the attendance of parties and may direct that subpoenas be issued by the Tribal Court and served on persons who are not parties but whose presence is reasonably necessary to resolve the dispute between parties. Parties may request that an Itt̄i-kāna-ikbi have subpoenas issued and served. Subpoenas shall be served in accordance with the Choctaw Rules of Civil Procedure. At the request of a Judge or Itt̄i-kāna-ikbi of the Itt̄i-kāna-ikbi Court or referring Tribal Court may initiate contempt proceedings in accordance with §1-3-9 against any party who fails to appear when compelled or against any person who disobeys a subpoena properly issued and served.

#### **§24-1-6 Limitations on Itt̄i-kāna-ikbi Aliha Authority**

Itt̄i-kāna-ikbi aliha shall not have the authority to force the parties to resolve the disputed matter, nor shall Itt̄i-kāna-ikbi aliha have the authority to adjudicate a matter which the parties cannot resolve through voluntary agreement.

**§24-1-7 Procedure for Initiating on Action in the Itti-kāna-ikbi Court**

All parties to a dispute may file a written request with the Court Clerk asking that their dispute be heard in the Itti-kāna-ikbi Court. The complaint may be informal and handwritten and it may be made either on a form provided by the court or in any written form which provides the court with the following information:

- (1) the name, address and phone number of the person requesting the peacemaking;
- (2) the names of the parties involved in the dispute and their mailing address and place of residence;
- (3) a short statement of the type of dispute involved in the action;
- (4) the reason the party desires the action to be heard in the Itti-kāna-ikbi Court;
- (5) the names and addresses of any persons other than the parties, that the party believes might have information useful to an Itti-kāna-ikbi in resolving the action; and
- (6) if known, information as to whether each party is non-Indian or Indian, and if Indian, the party's Tribal affiliation and membership, if any.

**§24-1-8 Procedures for Requesting to Transfer as an Existing Action to the Itti-kāna-ikbi Court**

Any party to an action in a Choctaw Trial Court may request that the trial court refer the case to the Itti-kāna-ikbi Court by filing a written motion to the court. The motion for referral to the Itti-kāna-ikbi Court may be informal and handwritten and should comply with the requirements as stated in §24-1-7(1)-(6).

**§24-1-9 General Provision**

- (1) Non-Indians who are injured, hurt or aggrieved may voluntarily agree to participate in and be bound by the peacemaking process.
- (2) If a motion for referral to Itti-kāna-ikbi Court is made by a party, the Clerk of the Trial Court shall notify the other parties in writing of the motion. Trial court may decline to approve such referral if the court for good cause determines that the request was made mainly for delay. After a party files a motion for referral to the Itti-kāna-ikbi Court, any other party may object to the motion or may consent to the motion by filing a written objection or consent with the trial court within five (5) working days of receipt of the clerk's letter notifying the party of the motion for referral. A failure to respond by a party to a motion for referral to Itti-kāna-ikbi Court shall be considered an objection to the motion.
- (3) The trial court may decline to grant a motion for referral to the Itti-kāna-ikbi Court filed by a party if the trial court finds that the action is not the type that is appropriate for resolution through peacemaking.

- (4) The trial court shall grant a joint motion for referral to the Itt̄i-kāna-ikbi Court filed by all parties to the dispute indicating that all parties consent to the referral of their dispute to Itt̄i-kāna-ikbi Court.
- (5) The trial court may also, upon its own motion, refer an action to Itt̄i-kāna-ikbi Court if the court finds that the action, in light of the totality of circumstances concerning the action known then by the trial court, is the type of action that is appropriate for resolution through informal peacemaking and all parties consent to the referral of their dispute to the Itt̄i-kāna-ikbi Court.
- (6) Once a matter is referred to Itt̄i-kāna-ikbi Court, a party may not request the matter be removed from Itt̄i-kāna-ikbi Court back to the referring trial court unless such request is pursuant to a motion for a protective order as provided in §24-1-15.
- (7) Non-parties can neither request nor prevent the referral of matters to the Itt̄i-kāna-ikbi Court.
- (8) The Court Clerk shall assist any party that so requests in drafting a motion for referral to the Itt̄i-kāna-ikbi Court.
- (9) If a Choctaw Trial Court grants a motion for referral, whether a motion by a party or a motion by the court, the judge of the trial court will so indicate in a separate order.

#### **§24-1-10 Procedure in Itt̄i-kāna-ikbi Court**

- (1) Upon referral of a matter to the Itt̄i-kāna-ikbi Court, the Senior Itt̄i-kāna-ikbi shall preside over the case or shall select and appoint an Itt̄i-kāna-ikbi to handle the matter. The Clerk of the Itt̄i-kāna-ikbi Court shall notify the Itt̄i-kāna-ikbi of the selection and appointment by first class mail, in writing, by sending the Itt̄i-kāna-ikbi a copy of the trial court's referral order with an endorsement by the Itt̄i-kāna-ikbi Judge appointing the Itt̄i-kāna-ikbi to the matter. The Judge or Itt̄i-kāna-ikbi of the Itt̄i-kāna-ikbi Court shall insure that such appointment and notification are completed within ten (10) days of the referral of the matter to Itt̄i-kāna-ikbi Court. The selected Itt̄i-kāna-ikbi shall notify the Clerk of the Itt̄i-kāna-ikbi Court within ten (10) days of the notification whether he accepts the appointment. If the appointment is accepted, the Itt̄i-kāna-ikbi is responsible for informally advising the parties of his or her appointment. The copy of the referral order with the endorsement shall serve as evidence of the Itt̄i-kāna-ikbi authority. If the appointment is declined, the judge or Senior Itt̄i-kāna-ikbi of the Itt̄i-kāna-ikbi Court shall select another Itt̄i-kāna-ikbi and the foregoing procedure shall again be followed.
- (2) The Itt̄i-kāna-ikbi shall meet with the parties to resolve the dispute at a time and place agreed to by the Itt̄i-kāna-ikbi. The venue may be where the parties reside, in the community where the person complaining resides or a community or court designated by the Itt̄i-kāna-ikbi where the parties are from different communities. The Itt̄i-kāna-ikbi may schedule additional meetings if reasonably necessary to resolve the dispute. Neither the Choctaw Rules of Civil Procedure, the Choctaw Rules of Criminal Procedure nor Choctaw Rules of Evidence shall apply in Itt̄i-kāna-ikbi Court with the exception of subpoena authority as stated in §24-1-5. An Itt̄i-kāna-ikbi may meet alone with one party in order to enhance resolution of the dispute as long as the other parties are aware of the meeting. Legal counsel for a party or witness shall not have the right to participate in the

peacemaking proceedings or advise his choice outside the proceeding on any matter which might be the subject of a protective order pursuant to §24-1-15, or assistance in writing a complaint or motion the Itt̄i-kāna-ikbi Court under §24-1-7, or to advise their client as to any enforcement of judgments under §24-1-12, or privilege that might apply.

- (3) If the parties reach agreement through the peacemaking process, the Itt̄i-kāna-ikbi will assist the parties in drafting a written agreement to be signed by all parties and the Itt̄i-kāna-ikbi. The Itt̄i-kāna-ikbi will present to the Senior Itt̄i-kāna-ikbi Judge a copy of the agreement along with a proposed dismissal order. The Itt̄i-kāna-ikbi Judge shall, upon receipt of such a signed agreement and proposed order, review the agreement to insure it meets the requirements of §24-1-11, and if the agreement does meet such requirements, shall sign the proposed order and have it entered with the Clerk of the Itt̄i-kāna-ikbi Court and the clerk of the referring trial court. The Clerk of the Itt̄i-kāna-ikbi Court shall send a copy of the entered order to each of the parties and to the Itt̄i-kāna-ikbi.
- (4) If the agreement does not meet the requirements of §24-1-11, the Senior Itt̄i-kāna-ikbi Judge shall send the agreement back to the Itt̄i-kāna-ikbi with suggested revisions. If the parties sign another agreement incorporating the suggested revisions, the Itt̄i-kāna-ikbi shall then present the new agreement to the Senior Itt̄i-kāna-ikbi Judge, and the procedure described in §24-1-10(3) shall again be followed.
- (5) The agreement, if criteria in §24-1-10(3) have been met, shall have the effect of a Tribal court judgment.
- (6) If the parties cannot reach an agreement to resolve their dispute, the Itt̄i-kāna-ikbi shall certify in writing to the Senior Itt̄i-kāna-ikbi Judge that such is the case. The Senior Itt̄i-kāna-ikbi Judge may then refer the matter to another peacemaker, or the Itt̄i-kāna-ikbi Judge may enter an order referring the matter back to the referring trial court for proceedings in accordance with the rules of that court.
- (7) Notwithstanding any other provisions of this Chapter, the Itt̄i-kāna-ikbi Judge shall enter an order referring any matter in the Itt̄i-kāna-ikbi Court back to the referring trial court if the parties have not reached an agreement resolving the matter after sixty (60) days from the date of the order from the trial court referring the matter to Itt̄i-kāna-ikbi Court.
- (8) Notwithstanding any other provision of this Chapter, no matter may be referred to peacemaking more than one time by a trial court unless all of the parties to the matter consent.
- (9) Notwithstanding any other provision of this Chapter, all records, files, judgments and pleadings relating to matters referred to the Itt̄i-kāna-ikbi Court by the Choctaw Youth Court shall be governed by the confidentiality provisions of Title XI, Choctaw Youth Code, to the extent that such provisions differ or are more restrictive than the provisions of this Chapter.

#### **§24-1-11 Form of Agreements and Judgments**

- (1) No agreement referred to in §24-1-10(3) shall be approved by an Itt̄i-kāna-ikbi Judge unless:

- (a) the agreement contains a provision stating that the agreement resolves all issues between parties involved in the legal action;
  - (b) the agreement contains a statement that all parties have voluntarily signed the agreement; and
  - (c) the Ittī-kāna-ikbi Judge, upon review of the agreement in its entirety, finds that the agreement contains the complete agreement of the parties and contains sufficient information for the parties to understand their respective mutual obligations under the agreement.
- (2) Where the parties in Ittī-kāna-ikbi Court reach an agreement they wish to have confirmed and recorded by a formal judgment or order of the Tribal Court, they may present a draft judgment to the court for its consideration. A court may enter a judgment only when the following conditions have been met:
- (a) the court has jurisdiction over the parties and the subject matter of the agreement;
  - (b) all necessary parties have actual knowledge of the proposed judgment and have either agreed to it or have agreed to submit the questions to the Ittī-kāna-ikbi for a decision;
  - (c) the judgment contains the complete agreement of the parties and contains sufficient information regarding that full agreement, so a dispute as to the judgment is not likely to rise in the future; and
  - (d) the proposed judgment is otherwise proper and enforceable by the court.
- (3) All judgments referred to in §24-1-10(5) shall set forth the names of the parties, the fact that the matter has been resolved by peacemaking in the Ittī-kāna-ikbi Court, contain a statement that the parties have reached an agreement to resolve their dispute and an order approving the agreement has been entered.

**§24-1-12 Enforcement of Judgments**

- (1) A judgment entered pursuant to this Chapter shall be enforceable in the same manner as other judgments of the Tribal Court.
- (2) The Ittī-kāna-ikbi may give full faith and credit or comity to judgments, orders, decrees of the Tribal Court or courts of foreign jurisdiction.

**§24-1-13 Admissibility of Statements Made in Ittī-kāna-ikbi Court**

Statements made by any party in Itt Court during the peacemaking process shall be considered statement words during settlement negotiations and shall not be admissible in any later trial court proceedings.



#### **§24-1-14 Conduct of Itt̄i-kāna-ikbi Aliha**

Itt̄i-kāna-ikbi aliha shall not participate as an Itt̄i-kāna-ikbi in any matter:

- (1) in which he or she has a monetary or property interest; or
- (2) in which he is or has been a material witness.

#### **§24-1-15 Protective Orders**

- (1) Any party or witness involved in peacemaking in the Itt̄i-kāna-ikbi Court may move the Itt̄i-kāna-ikbi Court or referring trial court for a protective order ending the peacemaking process or putting limitations upon the peacemaking process. The grounds for such protective order shall be:
  - (a) harassment by the Itt̄i-kāna-ikbi or harassment by another which is not properly handled by the Itt̄i-kāna-ikbi;
  - (b) invasion of the Itt̄i-kāna-ikbi of personal privacy to an unreasonable extent;
  - (c) conduct of the Itt̄i-kāna-ikbi which is degrading, inhumane, dangerous, assaultive or otherwise violative of an individual's rights;
  - (d) conduct by the Itt̄i-kāna-ikbi in violation of §24-1-14;
  - (e) the assertion of any privilege recognized by law but not respected by the Itt̄i-kāna-ikbi; and
  - (f) the assertion of any right guaranteed by Tribal law or Federal law but not recognized by the Itt̄i-kāna-ikbi.
- (2) A motion for a protective order may be made in writing or may be made orally in open court.
- (3) Upon receipt of a petition for a protective order, the referring Senior Itt̄i-kāna-ikbi or Tribal Court Judge (if the matter involves the Senior Itt̄i-kāna-ikbi) shall conduct a hearing to determine whether the petition for a protective order should be granted or denied. The Senior Itt̄i-kāna-ikbi or Tribal Court Judge may grant the motion in whole or in part or deny the motion in whole or in part. The Itt̄i-kāna-ikbi or Tribal Court Judge may also order any remedy it finds reasonably appropriate, even if such remedy was not requested by the party or witness filing the motion. If a motion for a protective order concerns actions of the Senior Itt̄i-kāna-ikbi Judge, the motion shall be filed with the referring trial court.

#### **§24-1-16 Method/Basic Rights**

The Itt̄i-kāna-ikbi is permitted to use any reasonable method of working with people to solve their problems, as long as there is not force, violence or violation of an individual's basic rights. This

Code is intended to provide guidance, in writing, to the MBCI traditional method of resolving disputes.

**§24-1-17      Miscellaneous**

- (1) The Ittī-kāna-ikbi Judge may adopt standard forms for the implementation of these rules.
- (2) Information or plain language for explanations of the Ittī-kāna-ikbi Court peacemaking process may be published by the Clerk of the Ittī-kāna-ikbi Court for the use of persons before the Ittī-kāna-ikbi Court. The provisions of this Chapter shall prevail over any inconsistencies between the provisions of this Chapter and any plain language explanations that may be published.