

# Overview of Civil Diversion Agreement

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# Civil Diversion Agreement

- What:
  - A voluntary agreement between the State and tribes / communities
- Purpose:
  - To create a path for tribes to handle certain misdemeanors in tribal court as opposed to State criminal court
  - Increases public safety with more local control



# Public Safety in Rural Alaska

- Numerous rural communities have no or limited law enforcement presence
- Domestic violence and substance abuse touch all parts of a community
- Drug and alcohol importation known within the community
- Effective public safety requires a commitment from all involved

# How the Agreement Works

- Choice:

- State and tribe agree on a diversion framework
- People who commit certain state law offenses would be able to choose whether they wanted their case heard in State or Tribal court
- Both **tribal members and nonmembers** may choose diversion to tribal court



# Three requirements of the Civil Diversion Agreement

- Law Enforcement **refers** a case to Tribal Court
- Offender **agrees** to civil diversion
- Tribe **accepts** the offender into Tribal Court



# What the Civil Diversion Agreement doesn't do

- The Agreement **does not** dictate which procedures Tribal courts must follow or how they should handle cases
- Available Remedies:
  - \$1500 fine
  - Forfeiture of property valued at less than \$1500
  - Restitution
  - Temporary deprivation of property



# Role of Law Enforcement Officer

- “Law enforcement officers” means Alaska State Trooper, Village Public Safety Officers (VPSOs), Village Police Officers (VPOs), Tribal Police Officers (TPOs), and/or cooperating municipal or borough law enforcement officers.
- Investigation conducted in typical manner
  - Witnesses interviewed
  - Evidence collected
  - Photographs taken
- No difference until time of arrest

# Which Offenses does the agreement Cover?

## Alcohol Offenses

- **Minor consuming or in possession offenses, including misdemeanor and non-misdemeanor violations**
  - AS 04.16.050, AS 28.35.280
- **Local option alcohol offenses in communities where alcohol possession is banned**
  - AS 04.11.501

## Class B Misdemeanors

- **Offenses under Title 11 of Alaska Statutes**
- **Examples:** Harassment, misconduct involving weapons, disorder conduct, second-degree criminal trespass, low-level thefts (less than \$250)



# Violence offenses covered under the Agreement

## Class A Misdemeanor

- **Assault (4<sup>th</sup> degree)**
- **Reckless Endangerment**
- **DV – Assault 4 (against a household member)**
- *if the offender has no prior felony or DV assault convictions*
  - AS 11.41.230; AS 18.66.990

## Class B Misdemeanors

- **Title 11 offenses defined as domestic violence if committed against a household member**
- **Examples:** Certain forms of harassment (repeated phone calls, threatening communication); Criminal Trespass in the 2<sup>nd</sup> Degree; Criminal Mischief in the 5<sup>th</sup> degree; Indecent Exposure in the 2<sup>nd</sup> degree
  - AS 18.66.990

# Domestic violence offenses covered under the Agreement

The statutory definition of “household member” includes, for example, people:

- who are current or former spouses
- who live together or who used to live together
- who are dating or who used to date
- who are related to each other by blood, marriage, or adoption
- who have a child together

# Domestic Violence Cases

- Investigate
- Ask offender if interested in diversion
- Talk with victim about diversion and solicit their input
- Refer case to local District Attorney's Office
- All before transport out of community

# Domestic Violence Cases

- DV protections apply (AS 18.65):
  - Transport to safe location;
  - Assist in removing belongings;
  - Assist in obtaining medical attention;
  - Seize deadly weapons;
  - Advise of protective order; and
  - Advise about OVR and VCCB.

# Benefits of entering into the Agreement with the State

- ✓ Increase community involvement in solving rural public safety issues
- ✓ Increase the likelihood that tribal courts/law enforcement will receive Federal funding
- ✓ Open a line of communication with the State
- ✓ Learn from each other and build mutual trust



Questions?