

**THE TULALIP TRIBES OF WASHINGTON**  
**RESOLUTION 2024- 422**

**Amendment to Tulalip Tribal Code - 2.25 Adding .210 Victim Rights**

**WHEREAS**, the Board of Directors is the governing body of the Tulalip Tribes under the Constitution and Bylaws of the Tribes approved by the United States Commissioner of Indian Affairs and the Secretary of the Interior on January 24, 1936, pursuant to the Act of June 18, 1934 (48 Stat. 984, 25 U.S.C. 5123); and

**WHEREAS**, the Tulalip Board of Directors under Article VI, Section 1(K) & (L), the Board of Directors has the authority to safeguard and promote the peace, safety, morals, and general welfare of the Tulalip Reservation by promulgating and enforcing ordinances providing for the maintenance of law and order and the administration of justice; and

**WHEREAS**, the Board of Directors recognizes the need to establish comprehensive victim rights and who is entitled to such rights; and that enforcement of victim rights is crucial to a victim-centered approach and minimizing re-traumatization; and

**NOW THEREFORE BE IT ENACTED**, by the Board of Directors of the Tulalip Tribes:

*Section 1.* The attached Victim Rights ordinance is hereby adopted and shall be codified as Tulalip Tribal Code Chapter 2.25.210.

*Section 2.* Tulalip Tribal Code sections 4.25.400 and 4.25.410; and resolutions 2021-002, 2013-379, and 2001-365 are hereby amended as indicated by the attached track changes document.

*Section 3.* This ordinance shall be in full force and effect December 1, 2024.

**ADOPTED** by the Board of Directors of the Tulalip Tribes of Washington at a regular board meeting assembled on the 6th day of September, 2024, with a quorum present, by a vote of 0 For, 0 Against, and 0 Abstain.

**THE TULALIP TRIBES OF WASHINGTON**



Teri Gobin, Chair

**ATTEST:**

  
Theresa Sheldon, Secretary

24- \_\_\_\_\_  
**Updating Victim Rights**

Resolution Summary

Updates the current Victim Rights code to:

- Define who a victim is;
- Determine who is responsible for upholding victim rights; and
- Create a mechanism for enforcement of victim rights.

**Background**

Victim rights were born out of the need to include the victim in the criminal justice process. Prior to the victim's rights movement of the 1970's and 1980's, the courts only focused on defendant's rights, losing the victim's voice in the process. Over the years, changes have been made to ensure victim rights are statutorily or constitutionally authorized, ultimately encouraging the criminal justice system to focus on victim safety through a victim-centered approach.

**Summary of Resolution**

This resolution endeavors to define who a victim is, enumerate what rights they are entitled to, and establish how their rights are protected. This victim-centered approach allows victim's wishes, safety and well-being to take priority while also minimizing retraumatization. While the code currently establishes a number of victim rights, it lacks a mechanism for enforcement. In order for the victim rights code to be effective, there must be a mechanism for enforcement otherwise there are no repercussions if the rights are not honored.

**Crime victim rights**

The proposed ordinance establishes or clarifies the following rights:

- To be promptly informed by the Tribes of these rights
- To be treated fairly and with respect for the victim's dignity and privacy
- To be reasonably protected from violence, intimidation, uninitiated contact, and harassment
- To be present at and, upon request, to be timely informed of all criminal proceedings
- To bring a support person with them through all stages of the case
- To be reasonably heard, upon request, at any public Court proceeding

- To assistance with crime victim compensation.
- To consult with the prosecution
- To read police, pre-sentence, and post-conviction compliance reports related to the crime
- To receive full and timely restitution as provided in law
- To civil and criminal proceedings free from unreasonable delay
- To refuse a pretrial interview request

Additionally, any person requesting an interview with a victim must clearly identify themselves and their role, inform the victim that he or she has the right to refuse to speak or provide discovery absent a court order, and that the victim has a right to have a support person, advocate, prosecutor, or other attorney present.

### **Who is gets victim rights?**

The proposed ordinance establishes that a “victim” is a person:

- Against whom an offense in chapters 4.25 (domestic violence, family violence, and stalking), 3.15 (crimes against persons, such as assault or harassment), or 3.20 (sex crimes) is committed; or
- Who is directly harmed by the commission of an offense and for whom restitution may be ordered (for example, a person whose car is damaged by a drunk driver).

### **What if a victim or the Tribes thinks that crime victim rights are not being followed?**

A victim, or an attorney on behalf of the Tribes, can file a motion with the court if they believe that a victim’s rights have been violated. The court must decide the matter quickly. If the court doesn’t rule in the victim’s favor, the victim can ask the Court of Appeals to review the matter. The Court of Appeals must decide the issue within 30 days.

## 2.25.210 Victim Rights

(1) A victim of a crime under the laws of the Tulalip Tribes shall have the following rights:

(a) To be treated fairly and with respect for the victim's dignity and privacy. The Court shall refrain from inquiring about the level of communication between a victim and prosecution or specific requests made or not made by the victim while on the record or in the presence of the defendant. Victim contact information shall be protected from unnecessary disclosure.

(b) To be informed. To be promptly informed by the Tribes of these rights and, upon request, to be informed of conditions of the defendant's release and escape from custody.

(c) To be present. To be present at and, upon request, to be timely informed of all criminal proceedings where the defendant has the right to be present

(d) To be protected. To be reasonably protected from violence, intimidation, uninitiated contact, and harassment by the defendant or individuals acting in concert with or at the behest of the defendant, which may include, but are not limited to, a separate waiting area or other safeguards to minimize the victim's contact with the defendant and defense counsel, defendant's relatives, and defendant's witnesses during court proceedings.

(e) To be supported. To bring a support person with them through all stages of the case including, but not limited to, court hearings and interviews.

(f) To assistance with crime victim compensation. Tribal systems-based and community-based advocates will assist eligible crime victims in preparing a crime victim compensation application.

(g) To be heard. To be reasonably heard, upon request, at any public Court proceeding and to provide a victim impact statement if there is a nexus to the immediate crime or a related or underlying crime.

(h) To refuse. To refuse a pretrial interview request. Any person requesting an interview with a victim must clearly identify themselves and their role, inform the victim that he or she has the right to refuse to speak or provide discovery absent a court order, and that the victim has a right to have a support person, advocate, prosecutor, or other attorney present during any interview or contact.

(i) To consult. To consult with the prosecution, upon request, before or after the crime against the victim has been charged, before trial or before any disposition of the case and to be reasonably informed of the disposition.

(j) To read reports. To read, upon request, police, pre-sentence, and post-conviction compliance reports related to the crime involving the victim when they are available.

(k) To receive restitution. To receive full and timely restitution as provided in law and to the expeditious return of personal property seized as evidence whenever possible.

(l) To prompt proceedings. To civil and criminal proceedings free from unreasonable delay.

(2) Enforcement and limitations:

(a) Rights. The victim or the victim's lawful representative, or an attorney for the Tribes may assert the rights described above. The person accused of the crime may not obtain any form of relief under this section.

(b) Motion for Relief and Writ of Mandamus. The rights described in section 2.25.210(1) shall be asserted first in the Tulalip Tribal Court. The Court shall take up and decide forthwith any motion after notice has been provided to the defendant asserting a victim's right. If the Court denies the relief sought, the movant may petition the Court of Appeals for a writ of mandamus. The Court of Appeals shall take up and decide such application within 30 days after the petition has been filed and notice has been provided to the defendant. In no event shall proceedings be stayed or subject to a continuance more than 30 days for purposes of enforcing this chapter. If the Court of Appeals denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion, and, when warranted, shall include directives to the trial court regarding the motion. If the Court of Appeals grants the relief sought, it shall issue a written opinion with directives to the trial court.

(c) Error. In any appeal in a criminal case, the Tribes may assert as error and seek a declaratory judgement on the court's denial of any crime victim's right in the proceeding to which the appeal relates provided such denial was raised on the record before the trial court.

(d) Limitation on Relief. In no case shall the exercise of a right or a failure to afford a right under this chapter provide grounds for a new trial, dismissal of charges, setting

aside a conviction or sentence, or dismissing or denying a victim's filing of a civil petition for protection against the defendant. A victim may make a motion to modify a sentence only if:

(i) The victim has asserted the right to be heard before or during the proceeding at issue and such right was denied; or

(ii) The victim petitions the court of appeals for a writ of mandamus within 10 days of the plea or sentence and the court appeals issues the writ.

(e) No cause of action. Nothing in this chapter shall be construed to waive the provisions of section 4.25.070 (Nonwaiver of sovereign immunity) or authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the Tribes or any of its officers or employees could be held liable in damages. Nothing in this chapter shall be construed to impair the prosecutorial discretion of the Office of Reservation Attorney.

(3) Definition. As used in this section, "victim" means a person:

(a) Against whom an offense contained in Chapter 4.25, 3.15, or 3.20 is committed; or

(b) Who is directly and proximately harmed by the commission of an offense for which restitution may be ordered.

(4) The Office of Reservation Attorney shall develop protocols and policies to implement the requirements of this section. The Tulalip Tribal Court shall develop and recommend Rules of Court regarding 2.25.210 to govern judicial proceedings under this section, and such rules shall become effective upon approval by the Board of Directors.

4.25.400 Reserved.

4.25.410 Reserved.

**ADOPTED** Redline Ordinance Attachment below, by the Board of Directors of the Tulalip Tribes of Washington at a special board meeting assembled on the \_\_\_\_ day of \_\_\_\_\_, 2024, with a quorum present, by a vote of \_\_\_\_ For, \_\_\_\_ Against, and \_\_\_\_ Abstain.

**THE TULALIP TRIBES OF WASHINGTON**

\_\_\_\_\_  
Teri Gobin, Chairwoman

**ATTEST:**

\_\_\_\_\_  
Debra Posey, Secretary

**ADOPTED** Ordinance Attachment:

**Redline "Track Changes" Ordinance Attachment**

2.25.210 Victim Rights

(1) A victim of a crime under the laws of the Tulalip Tribes shall have the following rights:

- (a) To be treated fairly and with respect for the victim's dignity and privacy. The Court shall refrain from inquiring about the level of communication between a victim and prosecution or specific requests made or not made by the victim while on the record or in the presence of the defendant. Victim contact information shall be protected from unnecessary disclosure.
- (b) To be informed. To be promptly informed by the Tribes of these rights and, upon request, to be informed of conditions of the defendant's release and escape from custody.
- (c) To be present. To be present at and, upon request, to be timely informed of all criminal proceedings where the defendant has the right to be present
- (d) To be protected. To be reasonably protected from violence, intimidation, uninitiated contact, and harassment by the defendant or individuals acting in concert with or at the behest of the defendant, which may include, but are not limited to, a separate waiting area or other safeguards to minimize the victim's contact with the defendant and defense counsel, defendant's relatives, and defendant's witnesses during court proceedings.
- (e) To be supported. To bring a support person with them through all stages of the case including, but not limited to, court hearings and interviews.

(f) To assistance with crime victim compensation. Tribal systems-based and community-based advocates will assist eligible crime victims in preparing a crime victim compensation application.

(g) To be heard. To be reasonably heard, upon request, at any public Court proceeding and to provide a victim impact statement if there is a nexus to the immediate crime or a related or underlying crime.

(h) To refuse. To refuse a pretrial interview request. Any person requesting an interview with a victim must clearly identify themselves and their role, inform the victim that he or she has the right to refuse to speak or provide discovery absent a court order, and that the victim has a right to have a support person, advocate, prosecutor, or other attorney present during any interview or contact.

(i) To consult. To consult with the prosecution, upon request, before or after the crime against the victim has been charged, before trial or before any disposition of the case and to be reasonably informed of the disposition.

(j) To read reports. To read, upon request, police, pre-sentence, and post-conviction compliance reports related to the crime involving the victim when they are available.

(k) To receive restitution. To receive full and timely restitution as provided in law and to the expeditious return of personal property seized as evidence whenever possible.

(l) To prompt proceedings. To civil and criminal proceedings free from unreasonable delay.

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(b) Motion for Relief and Writ of Mandamus. The rights described in section 2.25.210(1) shall be asserted first in the Tulalip Tribal Court. The Court shall take up and decide forthwith any motion after notice has been provided to the defendant asserting a victim's right. If the Court denies the relief sought, the movant may petition the Court of Appeals for a writ of mandamus. The Court of Appeals shall take up and decide such application within 30 days after the petition has been filed and notice has been provided to the defendant. In no event shall proceedings be stayed or subject to a continuance more than



30 days for purposes of enforcing this chapter. If the Court of Appeals denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion, and, when warranted, shall include directives to the trial court regarding the motion. If the Court of Appeals grants the relief sought, it shall issue a written opinion with directives to the trial court.

(c) Error. In any appeal in a criminal case, the Tribes may assert as error and seek a declaratory judgment on the court's denial of any crime victim's right in the proceeding to which the appeal relates provided such denial was raised on the record before the trial court.

(d) Limitation on Relief. In no case shall the exercise of a right or a failure to afford a right under this chapter provide grounds for a new trial, dismissal of charges, setting aside a conviction or sentence, or dismissing or denying a victim's filing of a civil petition for protection against the defendant. A victim may make a motion to modify a sentence only if:

(i) The victim has asserted the right to be heard before or during the proceeding at issue and such right was denied; or

(ii) The victim petitions the court of appeals for a writ of mandamus within 10 days of the plea or sentence and the court appeals issues the writ.

(e) No cause of action. Nothing in this chapter shall be construed to waive the provisions of section 4.25.070 (Nonwaiver of sovereign immunity) or authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the Tribes or any of its officers or employees could be held liable in damages. Nothing in this chapter shall be construed to impair the prosecutorial discretion of the Office of Reservation Attorney.

(3) Definition. As used in this section, "victim" means a person:

(a) Against whom an offense contained in Chapter 4.25, 3.15, or 3.20 is committed; or

(b) Who is directly and proximately harmed by the commission of an offense for which restitution may be ordered.

(4) The Office of Reservation Attorney shall develop protocols and policies to implement the requirements of this section. The Tulalip Tribal Court shall develop and recommend Rules of Court regarding 2.25.210 to govern judicial proceedings under this section, and such rules shall

become effective upon approval by the Board of Directors.

~~4.25.400 Advocates Present during prosecution or defense interviews~~ Reserved.

~~If requested by the victim, and if the presence of the advocate does not cause any unnecessary delay in the investigation or prosecution of the case, an advocate of the victim's choosing shall be present at any interview with the victim and at any judicial proceeding related to criminal acts committed against the victim.~~

~~4.25.410 Victim rights~~ Reserved.

~~Notwithstanding other provisions of the Tulalip Tribal Code, a victim of a crime under the laws of the Tulalip Tribes shall have the following rights:~~

- ~~(1) The right to be reasonably protected from the accused.~~
- ~~(2) The right to reasonable, accurate, and timely notice of any public Court proceeding, or any probation proceeding, involving the crime or of any release or escape of the accused.~~
- ~~(3) The right not to be excluded from any such public Court proceeding, unless the Court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.~~
- ~~(4) The right to be reasonably heard at any public proceeding in Court involving release, plea, sentencing, or any parole proceeding.~~
- ~~(5) The reasonable right to confer with the Prosecutor in the case.~~
- ~~(6) The right to full and timely restitution as provided in law.~~
- ~~(7) The right to proceedings free from unreasonable delay.~~
- ~~(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.~~
- ~~(9) The victim has the right to provide a victim impact statement if there is a nexus to the immediate crime or a related or underlying crime.~~

~~A victim impact statement is a written or oral statement given to the sentencing judge by the victim. Such statements may include the impact of the crime on the victim, and how the crime affected the victim psychologically, financially, and physically. The Prosecutor shall assist the victim to provide this statement. The Court shall make all reasonable efforts to accommodate the participation of the victim at the sentencing hearing, being mindful of the unique emotional and psychological barriers victims may experience when facing a perpetrator in Court.~~



Tulalip Tribes Office Of The  
Reservation  
Attorney

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**LEGAL REVIEW FORM**

Complete Submittal Received by ORA: 6/17/24 Is this a policy?  No  Yes  
If yes, has this been created/uploaded to PolicyTech?  No  Yes

Title of Submittal: Victim Rights Code

Document Type: Resolution

Contract Amount: \$ \_\_\_\_\_ Funding Source: \*\*Choose Funding Source\*\*

Submitted By: Krystle Curley/ Domestic Violence Prosecutor/ ORA  
(Name/Title/Department)

Return Submittal To: Krystle Curley/ Domestic Violence Prosecutor/ ORA  
(Name/Title/Department)

- Submittal is **APPROVED**
- Submittal Requires **ADDITIONAL INFORMATION**
- Submittal is **DISAPPROVED**
- Submittal is Approved With the (Following/Attached) Revisions:

Notes/Comments:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reviewed By: 6/17/24 [Signature]  
Date Signed Reservation Attorney Signature

**Notice/Disclaimer:**  
Program or enterprise is responsible for keeping records of their documents and this Legal Review the Reservation Attorney Office only keeps copies of the Legal Review cover sheet for its own Records. **Please Read: This is review for the policy or contract's legal effect only, and the Office of Reservation Attorney does not evaluate the advisability of executing the policy or contract as a business or governmental decision.**

Legal Review Returned By:  Email  Interoffice Mail  In-Person  
To: \_\_\_\_\_ on \_\_\_\_\_ by \_\_\_\_\_  
Name of Recipient Month/Date Initials