

**BAY MILLS INDIAN COMMUNITY
TRIBAL COURT**

On order of the Court, pursuant to its authority under Sec. 105 of the Tribal Code of the Bay Mills Indian Community, the following Rule of the Bay Mills Indian Community Tribal Court is adopted and promulgated.

Rule 105.3 COURT APPOINTED ATTORNEYS/ADVOCATES.

3.01 Purpose. The purpose of this Rule is to establish standards for providing legal representation for individuals who could not otherwise afford representation, and who are named a defendant/respondent in an action brought by the Bay Mills Indian Community in the Tribal Court.

3.02 Definitions. When used in this Code, unless the content otherwise indicates:

(A) "Attorney" and/or "Advocate" means an individual who is a current member in good standing of the State Bar of Michigan or of another state. Further, this individual must be admitted to practice before this Court. *Bay Mills Indian Community Tribal Code § 306*. This individual must be also under contract with this court to represent individuals.

(B) "Court" or "Tribal Court" means the Bay Mills Indian Community Tribal Court.

(C) "Tribe" means the Bay Mills Indian Community.

(D) "Court Personnel" means any person employed with the Court, including but not limited to the following: judge, clerk or court administrator.

3.03 Eligibility. A defendant may be entitled to a court-appointed attorney/advocate provided at no cost based upon: (1) the type of case and (2) the indigence of the defendant (unable to afford an attorney). The Court shall determine that a defendant is indigent based upon financial information provided by the defendant.

3.04 Guidelines used in determining appointment for Attorney/Advocate. The Court will use the U.S. Department of Health and Human Services Federal Poverty Guidelines, as revised annually, in determining eligibility for appointment of legal counsel. The defendant seeking an attorney/advocate appointed by the Court shall provide the following information:

- a. A list of any and all bank accounts in the name of the defendant or defendant's spouse, and the balance in each.

- b. A list of any and all defendant's interests in real property and those of defendant's spouse.
- c. A list of any and all automobiles and other personal property of significant value (\$1,000 or more) belonging to defendant or defendant's spouse.
- d. A list of any and all debts in the name of defendant or defendant's spouse, and the total of each.
- e. A record of earnings and other sources of income in the name of defendant or defendant's spouse and the total of each.
- f. A copy of the defendant's federal income tax return and the defendant's spouse's federal income tax return if filed separately.

3.05 Situations where an Attorney/Advocate is appointed. The following are situations where the Court shall appoint representation:

- a. An indigent defendant in a criminal case if the offense charged requires incarceration on conviction, or the court determines that it might sentence the defendant to jail.
- b. An indigent respondent in a criminal contempt proceeding concerning a personal protection order.
- c. An indigent juvenile in a delinquency proceeding.
- d. In all cases involving a mentally ill person or a developmentally disabled person.
- e. An indigent respondent in a child protective proceeding.
- f. As a guardian ad litem for all children subject to a protective services petition.
- g. Forfeiture of commercial fishing equipment.
- h. Suspension or revocation of a commercial fishing license.

3.06 Situations where an Attorney/Advocate may be appointed. The following are situations where the Court may appoint representation:

- a. For an indigent non-custodial parent in a contest regarding termination of parental rights in a step-parent adoption.
- b. A guardian ad litem for a minor in a guardianship, conservatorship or protective case.
- c. A legally incapacitated person who does not already have an attorney in a proceeding to modify a guardianship.
- d. A juvenile subject to a petition brought under § 717 of the Tribal Code.

BY THE COURT:

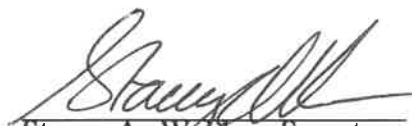
Dated this 17th day of January, 2017.

/s/ 
BRYAN A. NEWLAND, Chief Judge

Bay Mills Indian Community Tribal Court Rule 105.3

CERTIFICATION

I, the undersigned, as Secretary of the Bay Mills Indian Community Executive Council, do hereby certify that the attached Tribal Court Rule 105.3, as amended January 17, 2017, was adopted and approved at a meeting of the Bay Mills Executive Council held at Bay Mills, Michigan, on the 23d day of January, 2017, with a vote of 4 in favor, 0 opposed, 0 absent, and 1 abstaining. As per the provisions of the Bay Mills Constitution, the President must abstain except in the event of a tie.


Stacey A. Walden, Secretary
Bay Mills Indian Community
Executive Council

Bay Mills Tribal Court
Bay Mills Justice Center
12449 W. Lakeshore Drive, Brimley, MI 49715
Telephone: 906-248-8810/8811
Fax: 906-248-5817

**PETITION AND ORDER FOR
COURT APPOINTED ATTORNEY**

File No. _____

In the matter of:

The Defendant request a court appointed attorney and submits the following information:

1. Case Type(s):

Bail amount: \$ _____] Bond posted

2. Residence: [] rent [] own [] live with parents

3. Address: _____ Telephone No: _____

4. Marital status: [] Single [] Married [] Divorced [] Separated [] Dependents: _____

Income verification must be attached to this petition (includes all household income)

5. Income:

Employer: _____ Length of Employment: _____

Average take-home pay \$ _____ [] weekly [] monthly [] bi-weekly

Other Income – state monthly amount and source. Example: DSS, VA, Rent, Pensions, Spouse, Unemployment, etc.

6. Assets – state value of car, home, bank deposits, accounts, bonds, stock, etc.

If you want the Court to consider obligations, receipts, or proof of payments must be attached to petition

7. Obligations – itemize monthly rent, installment payments, mortgage payments, child support, etc.

8. Repayment – I understand that I may be ordered to repay the court for all or part of my attorney and defense costs.

9. Verification – I declare under penalty of contempt of court that the above information is true to the best of my information, knowledge and belief.

Dated: _____ Signature: _____

ORDER

[] _____ is appointed to represent the petitioner.

[] The petition is denied because: _____

Dated: _____

Bay Mills Tribal Court Judge