

# ONEIDA NATION PUBLIC MEETING NOTICE

**Thursday, July 18, 2019, 5:00 pm**

**Norbert Hill Center-Business Committee Conference Room  
N7210 Seminary Rd., Oneida, Wisconsin**

**Find Public Meeting Materials at**

[Oneida-nsn.gov/government/register/public meetings](http://Oneida-nsn.gov/government/register/public%20meetings)

**Send Public Comments to**

[LOC@oneidanation.org](mailto:LOC@oneidanation.org)

**Ask Questions here**

[LOC@oneidanation.org](mailto:LOC@oneidanation.org)

920-869-4312



## CURFEW LAW

The purpose of this law is to protect the health, safety, and welfare of persons and property within the Reservation by regulating the activities of minors on the Reservation during certain hours, while imposing certain obligations and responsibilities upon the parents, guardians, and/or legal custodians of a minor for the control and supervision of that minor.

### The Curfew law will:

1. Require that no minor be on any public space between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of the Reservation, unless the minor is accompanied by a parent, guardian, or legal custodian.
2. Provide exemptions to the curfew - or situations in which a minor can be out during curfew hours without violating curfew.
3. Provide the process for the enforcement of the curfew by the Oneida Police Department, and what penalties the Family Court may issue against a minor and/or his or her parent, guardian, or legal custodian upon a finding that a curfew violation occurred.

## PUBLIC COMMENTS PERIOD CLOSES THURSDAY, JULY 25, 2019

During the Public Comment Period, anyone may submit written comments. Comments may be submitted to the Oneida Nation Secretary's Office or the Legislative Reference Office in person, by U.S. mail, interoffice mail, or e-mail.



## PROVIDING USEFUL PUBLIC COMMENTS

Providing public comment is an important way to make your voice heard in decision making. Public comments can strengthen a decision or provide different perspectives. The Legislative Operating Committee wants to hear from you!



**READ THE PUBLIC MEETING MATERIALS:** Before you provide comments familiarize yourself with the legislation. A public meeting packet is made for every public meeting and they include 1) a notice with the date, time, location, 2) a draft of the proposed legislation, and 3) a plain language review of the legislation and its impact on the Oneida Nation.



**PREPARE YOUR COMMENTS:** When you are familiar with the legislation, start to prepare comments. The LOC is responsible for reviewing every comment received. To get your message across effectively, frame your comment clearly and concisely. Here is an example of how to create a useful comment:

Least Useful Comment	More Useful Comment	Most Useful Comment
This law isn't good for the community.	I don't like the curfew hours.	Curfew beginning at 10:00 p.m. is too early. Curfew should start at 11:30 p.m. instead.



**Tayethinatshawlate? Kayanlksla?**  
(duh ye teen uh zah wah lahday guyan luh sla)  
*we'll put our arms across to stop them*  
**CURFEW LAW LEGISLATIVE ANALYSIS**

**SECTION 1. EXECUTIVE SUMMARY**

<b>REQUESTER:</b> Tribal Action Plan Laws and Policy Subcommittee	<b>SPONSOR:</b> Ernest Stevens III	<b>DRAFTER:</b> Clorissa N. Santiago	<b>ANALYST:</b> Maureen Perkins
<b>Intent of the Legislation</b>	The Tribal Action Plan (TAP) Laws and Policy Subcommittee recommended the Legislative Operating Committee (LOC) draft a curfew law to protect the safety of youth in the community, as well as provide accountability to both youth and parents through consequences that reflect the circumstances and needs of the community. The Curfew law ("Law") will protect the health, safety and welfare of persons and property on the Reservation by restricting access to public spaces by minors during certain night time and early morning hours.		
<b>Purpose</b>	To protect the health, safety, and welfare of persons and property within the Reservation by regulating the activities of minors on the Reservation during certain hours, while imposing certain obligations and responsibilities upon the parents, guardians, and/or legal custodians of minors for the control and supervision of minors [3 O.C. 308.1-1].		
<b>Affected Entities</b>	Oneida Police Department (OPD) and Oneida Judiciary		
<b>Affected Legislation</b>	Family Court law, Per Capita law, Garnishment law, Rules of Appellate Procedure, Family Court Rules, Oneida Judiciary Rules of Evidence, Oneida Judiciary Rules of Civil Procedure, Landlord-Tenant law		
<b>Enforcement</b>	The OPD will enforce suspected violations of this Law by issuing warnings and citations [3 O.C. 308.6]. Citations issued result in a mandatory appearance at a citation pre-hearing for both the minor and his or her parent, guardian, or legal custodian. <ul style="list-style-type: none"><li>The Family Court may issue conditional orders as well as penalties that include fines, community service, mandatory participation in family counseling or parenting programs, and any other penalty the Family Court deems appropriate [3 O.C. 308.6-3(a) and (c)].</li></ul>		
<b>Due Process</b>	A citation for a violation of this Law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations [3 O.C. 308.6-3(b)].		
<b>Public Meeting</b>	A public meeting has not yet been held.		
<b>Fiscal Impact</b>	A fiscal impact statement prepared in accordance with the Legislative Procedures Act has not yet been requested.		

**SECTION 2. LEGISLATIVE DEVELOPMENT**

- A. **Background.** The Nation does not currently have a law establishing a curfew governing minors in public spaces during certain night time and early morning hours. This Curfew law was requested by the Tribal Action Plan (TAP) Laws and Policy Subcommittee which included input from a cross functional core team that included representatives from the Oneida Business Committee (OBC), Oneida

Police Department, Governmental Services Division, Oneida Gaming Commission, Oneida Family Support Services, Legislative Operating Committee, Legislative Reference Office (LRO), Oneida Human Resources Department and Retail Division. This team concluded that a curfew law would help curtail opportunities for minors to be influenced by drugs by limiting their presence in public spaces within the community during certain hours, including night time and early morning, without the presence of a parent, guardian, or legal custodian.

#### *Outreach Efforts*

Outreach with the community was held during the Community Budget Session on November 30, 2018 where the LOC had an opportunity to collect input from participants by asking them to share their ideas about new laws, amendments to existing laws or anything else they wanted to share. Participants indicated the need for a curfew law for the Reservation [*LOC FY19 First Quarter Report*]. Additionally; a community outreach event was held on March 21, 2019 at the Norbert Hill Center cafeteria from 5:00 p.m. to 7:30 p.m. to collect input from the community. No members of the community participated in this event.

#### *Related Research*

Research regarding curfew laws revealed that the most common goals of a curfew law are to 1) protect children from becoming victims or perpetrators of crimes, 2) assist parents in exercising their responsibility over minors, and 3) prevent all persons from the dangers posed by unsupervised minors who are out late at night and in the early morning hours. Research indicates that curfew laws may protect youth from victimization and prevent juvenile crimes and delinquency by reducing or preventing exposure of youth to negative situations by restricting their access to public spaces at night and early morning hours [*Grossman & Martin, 2015*]. Although some research has indicated that most crimes involving minors take place during after school hours rather than late at night or early morning hours [*Meyers, 2016*]; the goal of this legislation within the Oneida Reservation is to keep minors safe and accounted for during curfew hours.

According to the Office of Juvenile and Delinquency Prevention; the following contribute to the successful implementation of curfew policies:

- Community involvement;
- Creating specific procedures for repeat offenders such as recreational, educational, and job opportunities as well as antidrug and antigang programs;
- Providing a hotline for community questions or problems related to curfews or juvenile delinquency in general; and
- Providing intervention services for juveniles and their families.

B. ***Previous Attempts to Implement a Curfew.*** The LOC has considered a law that included a curfew in the past. A curfew provision was considered in a Public Nuisances law drafted by the LOC in 2010; however, this law was not completed or adopted.

- Previous attempts at regulating minors through a curfew that were not legislative include a curfew requirement of 10:00 p.m. to 6:00 a.m. that was included in previous Oneida Housing Authority tenant leases. This provision is not in current leases [*Email Communication 05/03/2019, Scott Denny, Residential Rentals & Outreach Area Manager, Oneida Comprehensive Housing Division*].

C. ***Expected Benefits.*** The purpose of this legislation is to provide a clear timeframe that minors must be out of public spaces and accounted for by their parents, guardians or legal custodians. Members of the Oneida Nation High School Clan Council indicated that a curfew law may help to prevent teens from partying, staying out late and engaging in other bad behaviors; as well as helping with responsibility,

encouraging youth to stay out of trouble and encouraging safety and school attendance. A curfew law provides a means for parents to enforce a curfew with their children to provide an additional measure of safety, accountability, obligation and responsibility to both the Nation's minors and adults [McDowall, Loftin & Wiersema, 2009]. A curfew law provides OPD with a means to engage with suspected minors during curfew hours to tell them to go home and to encourage adult supervision of minors during curfew hours. OPD has expressed that the goal is to keep minors safe and to prevent vandalized property, arson, graffiti, petty theft and drug issues.

### SECTION 3. CONSULTATION AND OUTREACH

**A. Departments and Groups.** The following departments and groups participated in the development of this Law:

1. Oneida Police Department; and
2. Members of the Oneida Nation High School Clan Council.

**B. Laws of the Nation.** The drafting of this legislative analysis included a review of the following laws of the Nation: Family Court law, Family Court Rules, Rules of Appellate Procedure, Oneida Judiciary Rules of Evidence, and Oneida Judiciary Rules of Civil Procedure, Per Capita law, Garnishment law, Public Use of Tribal Lands law, and Landlord-Tenant law.

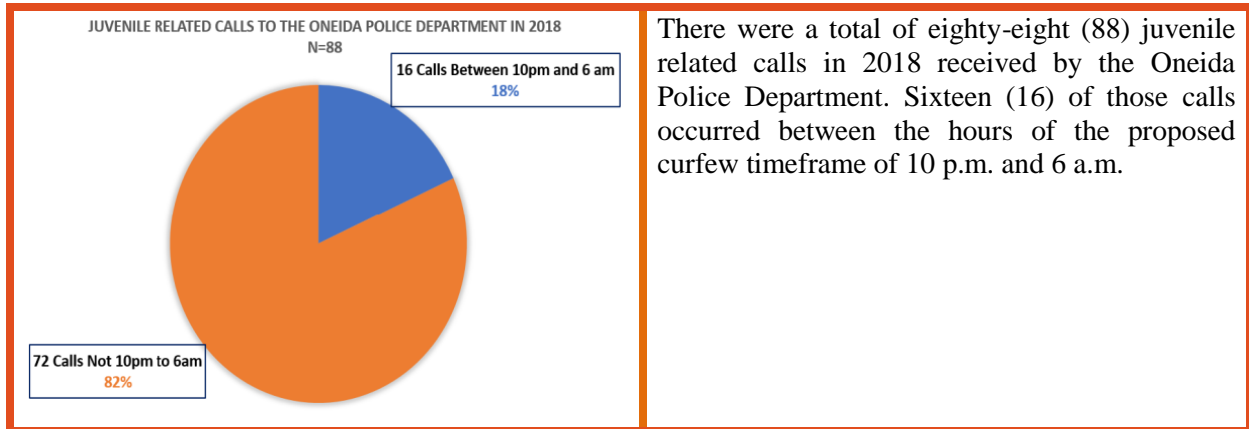
**C. Area and Tribal Laws.** The following curfew laws from surrounding municipalities and other tribal communities were reviewed. The chart provides a breakdown of the ages and curfew time frames the laws apply to.

Municipality or Tribe	Curfew Applies to Ages:	Curfew in Effect From:
Brown County	Under 17	10pm to 6am
Village of Hobart	Under 17	10pm to 6am
City of Green Bay	Under 17	10pm to 6am
City of De Pere	Under 17	10pm to 6am
Village of Ashwaubenon	Under 17	10pm to 6am
City of Seymour	Under 17	11pm to 6am
Village Howard	Under 17	10pm to 6am
Ho-Chunk Nation	Under 16	10pm to 5am
	16-17	12am to 5am
Lac Du Flambeau Band of Lake Superior Chippewas	Under 18	9pm to daylight during central standard time
		10pm to daylight during daylight savings time
Hoop Valley Tribe	Under 18	10pm to 5am
Prairie Island Indian Community	Under 16	10pm to 6am
	Over 16 and under 18	11pm to 6am
Ely Shoshone Tribe	Under 18	10pm to 5am Sunday - Thursday
		12am to 5am Friday - Saturday

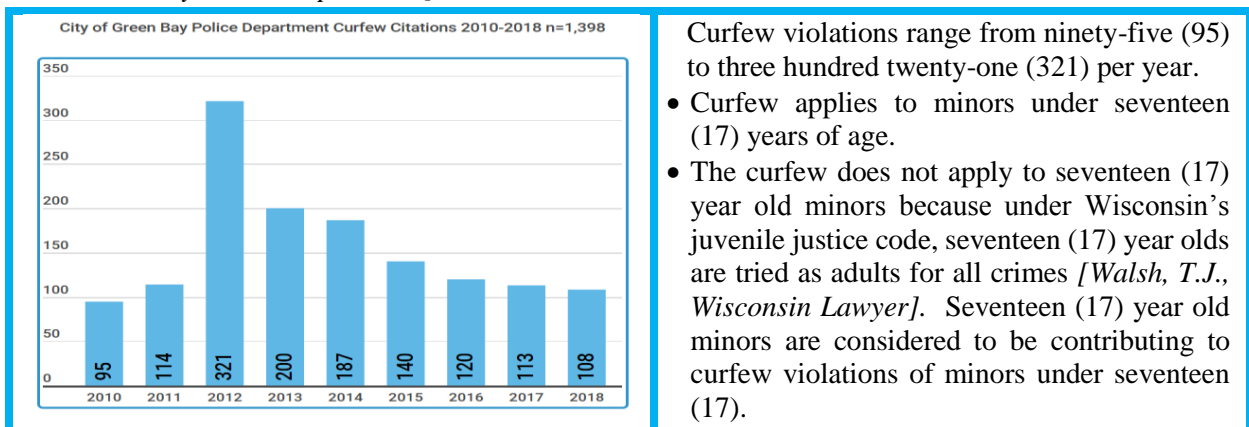
*\*The State of Wisconsin, Outagamie County and Town of Oneida do not have curfew laws in place.*

**D. Data.** A memorandum from the TAP Laws and Policy Subcommittee suggested that data related to police interactions with youth ages seventeen (17) years and younger be requested from the Oneida Police Department and other neighboring jurisdictions to provide a background for juvenile activity in the area.

1. The Oneida Police Department does not currently enforce any curfew laws. The following is a breakdown of juvenile related calls received by the Oneida Police Department in 2018 [Email communication 05/06/2019, Eric Boulanger, Chief of Police, Oneida Police Department].



2. The City of Green Bay has issued the following citations related to curfew violations from 2010 to 2018 [Email communication 05/03/2019, Michelle Belongie, Crime Analyst, Green Bay Police Department].



\*The LOC has determined that the law will apply to minors seventeen (17) years of age or younger. Parent, guardians and legal custodians are responsible for minor's actions until they reach eighteen (18) years of age and become legally competent adults. The law places the discretion with OPD to determine in each individual instance whether the Curfew law has been violated and whether to issue a citation.

## SECTION 4. PROCESS

A. Below is a diagram of the legislative process contained in the Legislative Procedures Act [1 O.C. 109] with some additional useful information. The LOC has reviewed the proposed Curfew law and legislative analysis and is currently at the stage of requesting a public meeting be held and a fiscal impact statement developed by the Finance Office.


**Diagram 1. Curfew Law Drafting Process Contained in the Legislative Procedures Act [1 O.C. 109].**



C. The following meetings, work meetings, and outreach events took place at the time of the development of this legislative analysis:

- December 19, 2018: A request for a Curfew law was received from the TAP Laws and Policy Subcommittee, considered by the LOC and the Curfew law was added to the active files list.
- February 13, 2019: A work meeting was held with the LRO staff and the OPD.
- February 14, 2019: A work meeting was held with the LOC and the LRO staff.
- March 13, 2019: A work meeting was held with the LRO staff and the Oneida Nation High School Clan Council.
- March 21, 2019: A Community Outreach Meeting was held. Although no one attended this meeting; the opportunity was presented to the community to gather input on the development of the Law.
- May 1, 2019: A work meeting was held with the LOC and the LRO.
- May 15, 2019: A work meeting was held with the LOC and the LRO.
- June 5, 2019: The draft and legislative analysis are scheduled to be presented to the LOC for further consideration.

**Community Outreach Event March 21, 2019**



March 21, 2019  
The LOC hosted a community pot luck to discuss a Curfew Law. While the community expressed interest in the event, no one attended the meeting. This highlights how collecting public comment is difficult.

**LEGISLATIVE OPERATING COMMITTEE OUTREACH EVENT**  
COMMUNITY POT LUCK  
WWW.ONEIDA-NSN.GOV/GOVERNMENT  
Thursday, March 21, 2019, 5:00-7:30pm  
Norbert Hill Center Cafeteria  
7210 Seminary Rd., Oneida, Wisconsin

**PROPOSED CURFEW LAW**  
This will be an exploratory meeting that will gather input from the community regarding issues and concerns related to the implementation of a curfew for minors seventeen (17) years old or younger, and the consequences that would result from violating the curfew.

**OUTREACH**  
The Legislative Operating Committee (LOC) holds community outreach events in an effort to collect thoughts and ideas from the community at the beginning of the legislative process. This provides insight and ideas early and is a more efficient way of getting work done. Outreach events also provide the community with additional opportunities to share their thoughts with the LOC. When the LOC feels that the community may have a particular interest in proposed legislation these events are held in addition to the formal public meetings required by the Legislative Procedures Act.

**FOR MORE INFORMATION:**  
www.oneida-nsn.gov/Register/Public Meetings or contact Oneida Nation Legislative Reference Office located in the Norbert Hill Center, PO Box 365, Oneida, Wisconsin 54155  
Email: LOC@oneidation.org Phone: 920-869-4376

## SECTION 5. CONTENTS OF THE LEGISLATION

### A. Purpose and Policy [3 O.C. 308.1]

- The purpose of the Law is to restrict access to public spaces by minors not accompanied by certain adults during established night and early morning hours, while imposing obligations and responsibilities upon adults to protect the health, safety and welfare of youth, adults and public property of the Nation. It is the policy of the Nation to support substance abuse prevention initiatives to minimize the opportunities of for minors to encounter harmful situations.

### B. Jurisdiction [3 O.C. 308.4]

- *Personal Jurisdiction.* This Law applies to: 1) all members of the Nation and those eligible for enrollment with the Nation, as well as members of other federally recognized tribes, 2) individuals and their households who lease, occupy or otherwise use fee land or trust land owned by the Nation or by individual members of the Nation; through consensual contract or other agreement, 3) individuals who have consented to the jurisdiction of the Nation through other consensual relationships with the Nation or Nation's entities, corporations or members of the Nation through contracts or agreements; and 4) any other facts that manifest consent to

jurisdiction consistent with federal law and policy including failure to object to the exercise of personal jurisdiction in a timely manner.

- i. In accordance with section 308.4-1(b), the Law applies to individuals and their households who lease, rent, or occupy any home involved in a housing program with the Nation's Comprehensive Housing Division, including children who are not enrolled or eligible for enrollment with the Nation or any other federally recognized tribe. The Landlord-Tenant law requires all tenants of the Nation's housing programs to abide by the Nation's laws [6 O.C. 611.6-3(b)(3)].

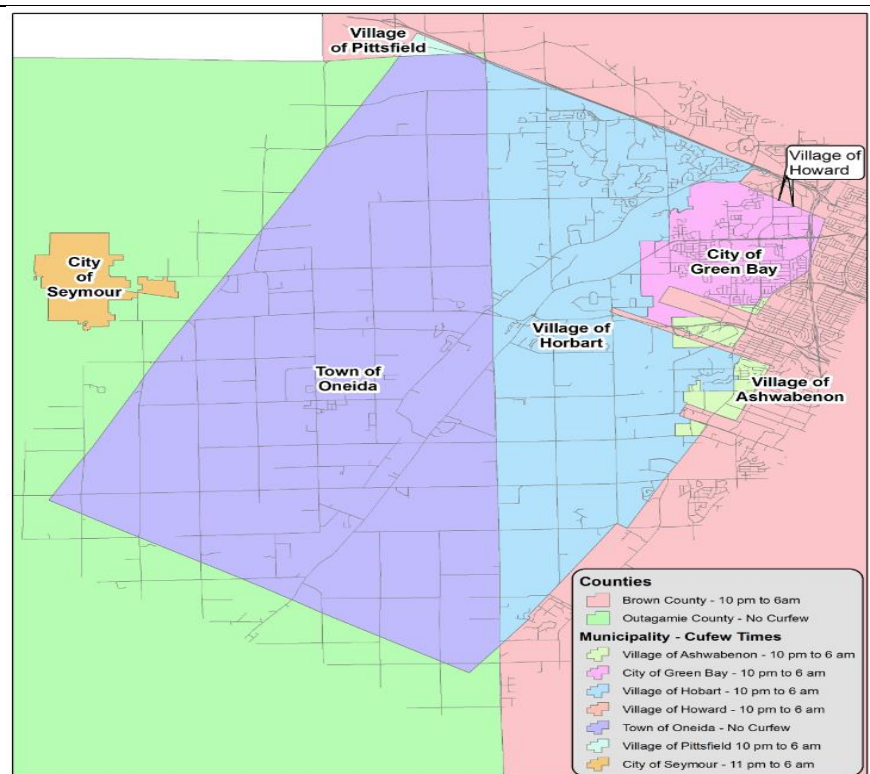
- *Territorial Jurisdiction.* This Law applies to the Reservation to all land owned by the Nation and individual trust and/or fee land of a member of the Nation.

### C. Curfew [3 O.C. 308.5]

- The curfew is established from 10:00 p.m. to 6:00 a.m. for ages seventeen (17) years old or younger in any public space either on foot or in a vehicle driven or parked within the boundaries of the Reservation. No adult shall knowingly permit or fail to take action to prevent a minor to be in a public space after curfew unless an exemption is met [3 O.C. 308.5-3].
  - i. Exemptions include common reasons minors would be out at night without the presence of their parent, guardian, or legal custodian such as traveling home from work, participating in cultural and sports activities chaperoned by an adult, and traveling home from the movies; as well as a discretionary measure for OPD to determine if the law has been violated or not.
- The map below demonstrates the curfew in the proposed Law is consistent with the curfew established by municipalities surrounding the Reservation. Members of the Oneida Nation High School Clan Council indicated during a work meeting that Oneida's curfew should be similar to area curfew laws for consistency purposes.

This is a map of the Reservation and surrounding jurisdictions with any curfew currently in place. The curfew timeframe of 10 p.m. to 6 a.m. in the proposed law is consistent with most jurisdictions near the Reservation.

- The State of Wisconsin, Outagamie County, and the Town of Oneida all lack curfew laws. This means nearly half the Reservation does not have any curfew law in place.
- OPD does not currently enforce any curfew laws of area jurisdictions [Verbal Communication, February 13, 2019].



**D. *Enforcement of Curfew Violations* [3 O.C. 308.6]**

- Oneida Police Department (OPD) officers may stop any minor suspected of violating this law. OPD must ask, and the minor must provide, their name, age and reason for violating curfew. If an OPD officer believes the Curfew law has been violated; the officer may take the minor into custody and contact their parents, guardian or legal custodian to return the minor to their care and custody. If the OPD officer cannot locate a parent, guardian or legal custodian, they may find and release the child to an adult relative or other responsible adult willing and able to accept the care and custody of the minor.
  - i. The first time a minor is taken into custody results in a warning by OPD to both the minor and the minor's parent, guardian or legal custodian advising them of the law and informing them that any additional violations of the curfew law may result in a fine, community service, mandatory parenting program, mandatory family counseling, or other penalties at the discretion of the Family Court [3 O.C. 308.6-2].
  - ii. Subsequent curfew violations that result in a minor being taken into custody by OPD may result in the issuance of a citation which will require the attendance of the minor and their parent, guardian, or legal custodian at a mandatory pre-hearing with the Family Court. Additionally; subsequent violations of the Curfew law may include a fine, mandatory or voluntary community service, mandatory parenting program, mandatory family counseling, or any other penalty at the discretion of the Family Court, as well as any conditional orders made by the Family Court [3 O.C. 308.6-3].
  - iii. The Family Court may issue conditional orders at the mandatory pre-hearing until the matter is resolved [3 O.C. 308.6-3(a)].

**E. *Penalties of Curfew Violations* [3.O.C. 308.7]**

- The following penalties may be issued to those that violate the law; focusing on specific programs that aim to improve family dynamics and parenting; at the discretion of Family Court:
  - i. Fines (community service may be a substitute for all or part of fines at the discretion of the Family Court);
    - 1. The Law contains detailed procedures related to fines issued under this Law [3 O.C. 308.7-1(a)]. More detail is provided in Section 7 of this analysis.
  - ii. Community service;
    - 1. The Law contains detailed procedures related to community service requirements [3 O.C. 308.7-1(b)]. More detail is provided in Section 7 of this analysis.
  - iii. Family counseling;
  - iv. Parenting programs; and/or
  - v. Any other penalty deemed appropriate by the Family Court.

**SECTION 6. EFFECT ON EXISTING LEGISLATION**

**A. *References to Other Laws.*** The following laws of the Nation are referenced in this law and are required to be followed:

- **Family Court** [8 O.C. 806]. The Family Court law delegates authority to the Family Court over all matters pertaining to the family, children and elders, except for probate matters [8 O.C.

- 806.4-1]. The Family Court has been delegated authority to make all orders and judgments as may be necessary to carry into effect the powers and jurisdiction of the Court [8 O.C. 806.8-1(c)]. The Family Court law governs the administration of law, justice, judicial procedures and practices by the Oneida Family Court as it pertains to Oneida families and/or children to create a knowledgeable, fair, and impartial forum for resolution of all family law matters that come before it. The Family Court is delegated authority under this law to hear contested citations, make conditional orders at the pre-hearing and issue penalties [3 O.C. 308.6-4(b) and 308.7-1]. All orders of the Family Court are appealable to the Court of Appeals [8 O.C. 806.6].
- **Per Capita** [1 O.C. 123]. The Family Court is considered an Oneida entity [1 O.C. 123.3-1(n)] under the Per Capita law and has the authority to pursue attachments of any money owed and any nonpayment of any citations issued to parents, guardians or legal custodians under this law [3 O.C. 308.7-1(a)(3)]. An attachment means the citation is paid for from the debtors per capita payment using the process contained in the Per Capita law [1 O.C. 123.4-9(a)(2)].
  - **Garnishment** [2 O.C. 204]. The Family Court is considered an Oneida entity [2 O.C. 204.3-1(p)] under the Garnishment law as a branch of the Judiciary and has the authority to initiate a garnishment of employee wages to pursue payment from parents, guardians or legal custodians who have failed to make the required payments for citations issued to them in accordance with this law [3 O.C. 308.7-1(a)(3)]. Garnishment means the legal process in which the earnings of the debtor are required to be withheld by the Nation for a payment of a debt [2 O.C. 204.3-1(j)] using the process outlined in the Garnishment law.
- B. Other Laws of the Nation that Interact with this Legislation.** The following laws of the Nation interact with this law and are required to be followed:
- **Family Court Rules** [8 O.C. 807]. The Family Court Rules supplement the Oneida Judiciary Rules of Civil Procedure and govern appearances in Court, provides rules of decorum while in Court, governs default judgments, as well as other aspects of the Family Court proceedings. The Family Court Rules will govern behavior during curfew citation hearings.
  - **Oneida Judiciary Rules of Civil Procedure** [8 O.C. 803]. The Oneida Judiciary Rules of Civil Procedure create a consistent set of rules that govern the process of civil actions of the Family Court and the Judiciary. The Oneida Judiciary Rules of Civil Procedures will govern hearings for all curfew citation hearings.
  - **Oneida Judiciary Rules of Evidence** [8 O.C. 804]. The Oneida Judiciary Rules of Evidence apply to proceedings held in the Family Court, including curfew citation proceedings, and govern the rules related to evidence presented to the Court.
  - **Rules of Appellate Procedure** [8 O.C. 805]. The Rules of Appellate Procedure govern the process for anyone who wishes to contest the determination of a lower Court's decision to the Nation's Court of Appeals and will govern appeals the Family Court's decisions. All orders of the Family Court are appealable to the Court of Appeals [8 O.C. 806.6].
  - **Landlord-Tenant** [6 O.C. 611]. This law applies to all individuals (tenants) granted the right to use or occupy a premises pursuant to a rental agreement with the Oneida Nation. All tenants are required to follow all laws of the Nation [6 O.C. 611.6-3(b)(3)], including the Curfew law; even if the tenant is not enrolled or eligible for enrollment with the Oneida Nation or is not enrolled with another federally recognized tribe [3 O.C. 308.4-1].

## SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

- A. The Law will be enforced by OPD utilizing existing resources.
- B. Minors and parents, guardians and/or legal custodians who are issued citations under this law may contest the citation at the mandatory citation pre-hearing at the Family Court [3 O.C. 308.6-3(c)].
- C. Implementation of this Law is as follows:
- OPD is responsible for implementing and enforcing this law and issuing citations which may include fines and other penalties to both the minor and/or their parents, guardians or legal custodians [3 O.C. 308.6-3].
  - The Family Court may, at its discretion, order penalties under this law to both minors and adults [3 O.C. 308.7]. Penalties include fines, community service, parenting programs, family counseling and any other penalties deemed appropriate by the Family Court.
    - i. The Family Court may allow community service to be substituted for fines [3 O.C. 308.7-1(a)(5)].
    - ii. Community service may be ordered by the Court in lieu or in addition to a fine [3 O.C. 308.7-1(b)]. The individual will be responsible for finding his or her community service and getting approval from the Court [3 O.C. 308.7-1(b)(1)]. The Family Court will provide a written statement of the requirements of the community service assignment including the number of hours, the timeframe for completion, how hours will be reported and any other relevant information and the requirement that community service is monitored [3 O.C. 308.7-1(b)(2) and (3)].
    - iii. Family counseling or parenting programs may be required by the Family Court [3 O.C. 308.7-1(c)].
      1. Oneida Family Support Services Department offers family counseling, parenting classes and other programs. These programs may be an option for violators of this Law to fulfill the penalties issued by the Family Court.
        - a. Clientele of services offered by this Department are typically determined by enrollment or eligibility for enrollment with the Nation. Consideration is given to significant others or family members who are not eligible for enrollment [<https://oneida-nsn.gov/resources/child-family-services/>].
      2. Those who violate the Law may seek other services offered outside of the Oneida community to fulfill the penalties issued by the Family Court.
  - The OBC is responsible for adopting a fine schedule by resolution that determines specific fine amounts for violations of this law [3 O.C. 308.7-1(a)].

## SECTION 8. OTHER CONSIDERATIONS

- A. **Citations law.** A citation for a violation of this law will be processed in accordance with the procedure contained in the Nation's laws and policies governing citations [3 O.C. 308.6-3(b)].
- There are currently no laws of the Nation governing citations. There is a Citations law on the LOC's active files list that is currently being developed at the same time as this Curfew law.
- B. **Fiscal Impact.** Please refer to the fiscal impact statement for any fiscal impacts.

- Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [1 O.C. 109.6-1].
- A fiscal impact statement shall be submitted by any agencies as directed by the Legislative Operating Committee and may be prepared by any agency who may receive funding if the legislation is enacted, any agency who may administer a program if the legislation is enacted, any agency who may have financial information concerning the subject matter of the legislation, or by the Finance Office, upon request of the Legislative Operating Committee [1 O.C. 109.6-1(a) and (b)].

### ***Research Citations***

Grossman, E.R. and Miller, N.A. (2015). A Systematic Review of the Impact of Juvenile Curfew Laws on Public Health and Justice Outcomes. *Am J Prev Med.* 49(6): 945-951.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4656116/>

McDowell, D. Loftin C. and Wiersema, B. (2009). The Impact of Youth Curfew Laws on Juvenile Crime Rates.

[https://www.researchgate.net/publication/249718752\\_The\\_Impact\\_of\\_Youth\\_Curfew\\_Laws\\_on\\_Juvenile\\_Crime\\_Rates](https://www.researchgate.net/publication/249718752_The_Impact_of_Youth_Curfew_Laws_on_Juvenile_Crime_Rates)

Myers, D.L. (2016). Juvenile curfew laws: A consideration of something that “doesn’t work”. EBPSOCIETY: Evidence Based Society.

<https://www.ebpsociety.org/blog/education/206-juvenile-curfew-laws>

Office of Juvenile Justice and Delinquency Prevention. Juvenile Justice Reform Initiatives in the States 1994-1996.

[https://www.ojjdp.gov/pubs/reform/ch2\\_c.html](https://www.ojjdp.gov/pubs/reform/ch2_c.html)

Walsh, T.J. (2019). Adults Only: Returning 17 Year Olds to Juvenile Court. Wisconsin Lawyer.

<https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?ArticleID=23659>

**Title 3. Health and Public Safety - Chapter 308**  
**T<yethin<tshaw^=late> Kayanl^sla>**  
*We'll put our arms across to stop them*  
**CURFEW**

308.1. Purpose and Policy  
308.2. Adoption, Amendment, Repeal  
308.3. Definitions  
308.4. Jurisdiction

308.5. Curfew  
308.6. Enforcement of Curfew Violations  
308.7. Penalties of Curfew Violations

**308.1. Purpose and Policy**

308.1-1. *Purpose.* The purpose of this law is to protect the health, safety, and welfare of persons and property within the Reservation by regulating the activities of minors on the Reservation during certain hours, while imposing certain obligations and responsibilities upon the parents, guardians, and/or legal custodians of a minor for the control and supervision of that minor.

308.1-2. *Policy.* It is the policy of the Nation to support all drug use prevention initiatives of the Nation by protecting the health, safety, and welfare of persons through the establishment of a curfew for minors in public spaces within the Reservation during certain hours in an effort to minimize the opportunity for harm to come to minors during those hours.

**308.2. Adoption, Amendment, Repeal**

308.2-1. This law was adopted by the Oneida Business Committee by resolution BC-\_\_-\_\_-\_\_-\_\_.

308.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

308.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

308.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

308.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**308.3. Definitions**

308.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Court of Appeals" means the branch of the Nation's Judiciary delegated the authority of final appeal within the Nation's Judiciary, as authorized by Oneida General Tribal Council resolution GTC-03-19-17-A .

(b) "Family Court" means the branch of the Nation's Judiciary delegated the authority to administer the judicial authorities and responsibilities of the Nation related to the family and/or children, as authorized by Oneida General Tribal Council resolution GTC-03-19-17-A.

(c) "Guardian" means the person, department, and/or agency appointed the duty and authority of guardianship of a child by a Court for the purpose of managing and caring for the child. A guardian has the right to make major decisions affecting a child including education, religious and cultural upbringing, the right to consent to marriage, to enlistment

in the armed forces, to major surgery and medical treatment and to adoption, or make recommendations as to adoption.

(d) “Legal custodian” means any person, department, and/or agency, other than a parent or guardian, to whom legal custody of a child has been granted by Court order and has the rights and responsibilities for the following:

(1) To have physical custody of the child as determined by the Court, if physical custody is not with the person having legal custody;

(2) To protect, educate and discipline the child so long as it is in the child’s best interest; and

(3) To provide the child with adequate food, shelter, education, ordinary medical care and other basic needs, according to court order. In an emergency situation, a custodian shall have the authority to consent to surgery as well as any other emergency medical care needs.

(e) “Member of the Nation” means an individual enrolled in the Oneida Nation.

(f) “Minor” means a person age seventeen (17) years old or younger.

(g) “Nation” means the Oneida Nation.

(h) “Parent” means the biological or adoptive parent of a child.

(j) “Public space” means any public streets, highways, roads, alleys, parks, vacant lots, or any public lands.

(j) “Relative” means any person connected with a child by blood, marriage or adoption.

(k) “Reservation” means all the property within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

#### **308.4. Jurisdiction**

308.4-1. *Personal Jurisdiction.* This law applies to:

(a) All members of the Nation, individuals eligible for enrollment in the Nation, and members of other federally-recognized tribes.

(b) Individuals leasing, occupying or otherwise using fee land owned by the Nation or by individual members of the Nation; and/or lands held in trust on behalf of the Nation or individual members of the Nation.

(c) Individuals who have consented to the jurisdiction of the Nation or as otherwise consistent with federal law. An individual shall be considered to have consented to the jurisdiction of the Nation:

(1) By entering into a consensual relationship with the Nation, or with the Nation’s entities, corporations, or members of the Nation, including but not limited to contracts or other agreements; or

(2) By other facts which manifest an intent to consent to the authority of the Nation, including failure to raise an objection to the exercise of personal jurisdiction in a timely manner.

308.4-2. *Territorial Jurisdiction.* This law extends within the Reservation to all land owned by the Nation and individual trust and/or fee land of a member of the Nation.

#### **308.5. Curfew**

308.5-1. *Curfew Established.* No minor shall be on any public space either on foot or in any vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of the Reservation, unless the minor is accompanied by a parent, guardian, or legal custodian.

308.5-2. *Parental Responsibility*. No parent, guardian, or legal custodian shall knowingly permit or fail to take action to prevent the minor from being on any public space either on foot or in any vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of the Reservation.

308.5-3. *Exemptions to Curfew*. A minor shall not be in violation of the curfew, if at the time of the alleged violation the minor was:

- (a) in the performance of a duty directed by such parent, guardian, or legal custodian;
- (b) engaged in employment or an employment related activity, or traveling to or returning home from employment;
- (c) engaged in interstate travel;
- (d) attending an educational, cultural, religious, or recreational activity that was supervised by adults, or traveling to or returning home from such activity;
- (e) on the sidewalk in front of his or her home or an adjacent home;
- (f) going to, attending, or returning home from a movie theatre;
- (g) engaged in hunting, fishing, or trapping in accordance with the laws, policies, and rules of the Nation;
- (h) exercising rights protected by the Nation's Constitution and the United States Constitution, such as free exercise of religion, freedom of speech, and the right of assembly;
- (i) involved in an emergency situation; and/or
- (j) engaged in any other activity as deemed appropriate by the Oneida Police Department officer.

### **308.6. Enforcement of Curfew Violations**

308.6-1. *Enforcement Procedure*. A suspected violation of curfew shall be enforced by the Oneida Police Department in the following ways:

- (a) A minor who is suspected of violating curfew may be stopped by an Oneida Police Officer. No person shall assault, obstruct or flee from any Oneida Police Officer enforcing or attempting to enforce the provisions of this law.
- (b) The Oneida Police Officer shall ask the minor's name, age, and reason for violating curfew. The minor shall provide the Oneida Police Officer identification if available. No person shall falsely represent his or her name or age to an Oneida Police Officer.
- (c) If the Oneida Police Officer reasonably believes based on the totality of the circumstances that a violation of curfew has occurred and not one of the exemptions in section 308.5-3 apply, the Oneida Police Officer may take custody of the minor for the purpose of returning such minor to the care and custody of a parent, guardian, or legal custodian.
- (d) Once the Oneida Police Officer has taken the minor into his or her custody, the minor shall provide the Oneida Police Officer with contact information for his or her parent, guardian, or legal custodian. The Oneida Police Officer shall contact the minor's parent, guardian, or legal custodian to come and pick up the minor and take the minor into his or her care and custody. If the minor's parent, guardian, or legal custodian is unable to pick the minor up, then the Oneida Police Officer may bring the minor home to release the minor to the custody and care of the minor's parent, guardian, or legal custodian.
- (e) If the Oneida Police Officer is unable to contact the minor's parent, guardian, or legal custodian after reasonable efforts are made, the Oneida Police Officer shall attempt to

130 locate an adult relative or other responsible adult willing and able to accept the care and  
131 custody of the minor, and may release the minor into the care and custody of such person.  
132 308.6-2. *Warning.* The first time a minor is held in custody by an Oneida Police Officer for a  
133 curfew violation the Oneida Police Officer shall provide the minor and the minor's parent,  
134 guardian, or legal custodian a warning and advise the minor and parent, guardian, or legal  
135 custodian of the provisions of this law and that any subsequent curfew violations may result in the  
136 issuance of a citation and the imposition of a penalty.

137 308.6-3. *Issuance of a Citation.* Any subsequent time a minor is held in custody by an Oneida  
138 Police Officer for a curfew violation the Oneida Police Officer may issue a citation to the minor  
139 and the minor's parent, guardian, or legal custodian.

140 (a) A citation for a violation of this law and/or any orders issued pursuant to this law may  
141 include fines and other penalties, as well as conditional orders made by the Family Court.

142 (b) A citation for a violation of this law shall be processed in accordance with the  
143 procedure contained in the Nation's laws and policies governing citations.

144 (c) All citations for violations of this law require a mandatory appearance at the citation  
145 pre-hearing by the minor and his or her parent, guardian, or legal custodian.  
146

### 147 **308.7. Penalties of Curfew Violations**

148 308.7-1. Upon a finding by the Family Court that a violation of this law has occurred, the minor  
149 and/or the minor's parent, guardian, or legal custodian may be subject to the following penalties:

150 (a) *Fines.* An individual may be ordered to pay a fine as a result of a violation of this law.  
151 The Oneida Business Committee shall hereby be delegated the authority to adopt through  
152 resolution a fine schedule which sets forth specific fine amounts for violations of this law.

153 (1) All fines shall be paid to the Judiciary.

154 (2) Fines shall be paid within ninety (90) days after the order is issued or upheld  
155 on final appeal, whichever is later.

156 (A) The ninety (90) day deadline for payment of fines may be extended if  
157 an alternative payment plan is approved by the Family Court.

158 (3) If an individual does not pay his or her fine the Family Court may seek to collect  
159 the money owed through the Nation's garnishment and/or per capita attachment  
160 process.

161 (5) Community service may be substituted for part or all of any fine at the minimum  
162 wage rate of the Nation for each hour of community service.

163 (b) *Community service.* An individual may be ordered to perform community service.  
164 Community service can be used in lieu of, or in addition to, a fine.

165 (1) All community service assignments shall be approved by the Family Court.  
166 The Family Court shall give preference to culturally relevant community service  
167 assignments and/or community service assignments that focus on the betterment of  
168 the individual's community.

169 (2) The Family Court shall provide the individual a written statement of the terms  
170 of the community service order, and a statement that the community service order  
171 is monitored.

172 (3) The Family Court's community service order shall specify:

173 (A) how many hours of community service the individual is required to  
174 complete;

175 (B) the time frame in which the hours shall be completed;

(C) how the individual shall obtain approval for his or her community service assignment;

(D) how the individual shall report his or her hours; and

(E) any other information the Family Court determines is relevant.

(c) *Family counseling and/or parenting programs.* An individual may be ordered to participate in a family counseling and/or a parenting program.

(d) Any other penalty as deemed appropriate by the Family Court.

*End.*

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Adopted – BC-\_\_-\_\_-\_\_-\_\_