

**WAKANAKISING ODAWAK STATUTE 2012-014
AMENDMENT TO WAGANAKISING ODAWAK STATUTE 2011-006
TRIBAL PROSECUTOR**

SECTION I. REPEAL :

SECTION IX. APPOINTMENT OF SPECIAL PROSECUTOR

- A.** In case of conflict of interest, the Prosecutor shall recuse him or herself from any matter or case as the Prosecutor deems appropriate.
- B.** The Tribal Court upon motion of an interested party or on its own motion may recuse the Prosecutor if there is a showing of conflict of interest.
- C.** Every two years, the Tribal Chair shall provide nominations for Special Prosecutor for Tribal Council approval. Such nomination shall meet the qualifications as set forth in Section V of this Statute and shall be approved in accordance with the Tribal Constitution. The Special Prosecutor shall only serve for the limited purpose of handling matters or cases that involve a conflict of interest for the Tribal Prosecutor during the two year appointment.
- B.** The Special Prosecutor shall have all of the authority of the Tribal Prosecutor in the handling of matters or cases within the limited purpose as set forth in this section.

SECTION II. REPLACE WITH:

**SECTION IX. APPOINTMENT OF SPECIAL
PROSECUTOR/ASSISTANT PROSCUTOR**

- A.** In the case of either a conflict of interest or where the Prosecutor is unavailable, the Special Prosecutor also known as the Assistant Prosecutor shall have all of the authority of the Tribal Prosecutor in the handling of matters or cases within the limited purpose as set forth in this section.

B. The Prosecutor shall recuse him or herself from any matter or case as the Prosecutor deems appropriate based on conflict of interest or where a Court of competent jurisdiction, upon motion of an interested party or on its own motion, finds a conflict of interest.

C. Unavailable, within this section, shall mean death, incapacity, vacancy, or unavailable or unresponsive by phone, electronic communications, or other means for a period of not less than 24 hours and the matter needs to be addressed within 48 hours or the Tribe will suffer detrimental harm or the matter needs immediate attention within a 24 period or the Tribe will suffer detrimental harm.

D. Every two years, the Tribal Chair shall provide nominations for Special Prosecutor/Assistant Prosecutor for Tribal Council approval. Such nomination shall meet the qualifications as set forth in Section V of this Statute and shall be approved in accordancs with the Tribal Constitution. The Special Prosecutor/Assistant Prosecutor shall only serve for the limited purpose of handling matter or cases that involve a conflict of interest for the Prosecutor or a vacancy in the Prosecutor position during the two year appointment.

E. The Special Prosecutor/Assistant Prosecutor shall have all of the authority of the Tribal Prosecutor in the handling of matters or cases within the limited purpose as set forth in this section.

SECTION III. SAVINGS CLAUSE

In the event that any section, subsection or phrase of this Statute is found by a court of competent jurisdiction to violate the Constitution or laws of the Little Traverse Bay Bands of Odawa Indians, such part shall be considered to stand alone and to be deleted from this Statute, the entirety of the balance of the Statute to remain in full and binding force and effect so long as the overall intent of the Statute remains intact.

SECTION IV. EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the Statute, then upon Tribal Council override of the veto.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly passed by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on August 19, 2012 at which a quorum was present, by a vote of 9 in favor, 0 opposed, 0 abstentions, and 4 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Belinda Bardwell	X			
Bill A. Denemy	X			
Kevin Gasco	X			
John Keshick	X			
Aaron Otto	X			
Winnay Wemigwase	X			
John Bott	X			
Regina Gasco Bentley	X			
Melvin L. Kiogima	X			

Date: 8/19/12

Legislative Leader Melvin L. Kiogima

Date: 8-19-12

Regina Gasco Bentley, Secretary

Received by the Executive Office on 8-20-12 by _____

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: 9-19-12

Dexter McNamara, Tribal Chairperson