



# Choctaw Nation of Oklahoma

## Choctaw Nation Criminal Code

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## **Part I. In General**

### **Chapter 1. Preliminary Provisions**

#### **Section 1. Title of code**

This code shall be known as the Criminal Code of the Choctaw Nation of Oklahoma.

#### **Section 2. Criminal acts are only those prescribed**

No act or omission shall be deemed criminal or punishable except as prescribed or authorized by this code. The words “this code” as used in the “criminal code” shall be construed to mean “Statutes of the Choctaw Nation of Oklahoma”.

#### **Section 3. Crime and public offense defined**

A crime or public offense is an act or omission forbidden by law, and to which is annexed, upon conviction, either of the following punishments:

1. Imprisonment; or
2. Fine.

#### **Section 4. Crimes classified**

Crimes are divided into:

1. Felonies;
2. Misdemeanors.

### **Section 5. Felony defined**

A felony is a crime which is, or may be, punishable by imprisonment for more than one year.

### **Section 6. Misdemeanor defined**

Every other crime is a misdemeanor.

### **Section 7. Objects of criminal code**

A. This title specifies the classes of persons who are deemed capable of committing crimes, and who are liable to punishment therefor. This title defines the nature of various crimes and prescribes the kind and measure of punishment to be inflicted for each. The manner of prosecuting and convicting criminals is regulated by the Code of Criminal Procedure.

B. This Code shall be construed so as to protect and ensure the political integrity, the economic security, and the health and welfare of the tribe.

### **Section 8. Conviction must precede punishment**

The punishments prescribed by this chapter can be inflicted only upon a legal conviction in a court having jurisdiction.

### **Section 9. Punishment of felonies**

Except in cases where a different punishment is prescribed by this title, or by some existing provision of law, every offense declared to be a felony is punishable by a fine not exceeding Fifteen Thousand Dollars (\$15,000.00), or by imprisonment not exceeding three (3) years, or by both such fine and imprisonment.

### **Section 10. Punishment of misdemeanor**

Except in cases where a different punishment is prescribed by this chapter or by some existing provisions of law, every offense declared to be a misdemeanor is punishable by imprisonment

not exceeding one (1) year or by a fine not exceeding Five Hundred Dollars (\$500.00), or both such fine and imprisonment.

**Section 11. Special provisions as governing—Acts punishable in different ways—Acts not otherwise punishable by imprisonment**

A. If there be in any other provision of the laws of the Choctaw Nation of Oklahoma a provision making any specific act or omission criminal and providing the punishment therefor, and there be in this title any provision or section making the same act or omission a criminal offense or prescribing the punishment therefor, that offense and the punishment thereof, shall be governed by the special provisions made in relation thereto, and not by the provisions of this title. But an act or omission which is made punishable in different ways by different provisions of this title may be punished under any of such provisions, except that in cases specified in Section 51 of this title, the punishments therein prescribed are substituted for those prescribed for a first offense, but in no case can a criminal act or omission be punished under more than one section of law; and an acquittal or conviction and sentence under one section of law, bars the prosecution for the same act or omission under any other section of law.

B. Provided, however, notwithstanding any provision of law to the contrary, any offense, including traffic offenses, in violation of the laws of the Choctaw Nation of Oklahoma which is not otherwise punishable by a term of imprisonment or confinement shall be punishable by a term of imprisonment not to exceed ten days in the discretion of the court, in addition to any fine prescribed by law.

**Section 12. Reserved**

**Section 13. Uniform reporting system to be used by criminal and juvenile justice information systems**

For purposes of any crime specified by the criminal code of this title or any provision of the law in the Choctaw Nation of Oklahoma, all criminal and juvenile justice information systems shall adopt and use the uniform reporting standard created and published by the Oklahoma State Bureau of Investigation as provided by Section 1517 of Title 22 of the Oklahoma Statutes. The uniform reporting standard shall ensure the accurate reporting of all criminal and juvenile delinquency information relating to arrests, charges, custody records, dispositions, and any other information record purporting to identify a criminal or juvenile delinquency history record or information to be maintained by any criminal or juvenile justice information system within the Choctaw Nation of Oklahoma. Every district court, criminal justice agency, and juvenile delinquency agency of the Choctaw Nation of Oklahoma is hereby directed to comply with and use the uniform reporting standard for reporting and maintaining all criminal justice information systems as set forth in this section.



#### **Section 14. Sentencing Authority**

A. The Choctaw Nation of Oklahoma has authority pursuant to the “Tribal Law and Order Act of 2010”, Pub.L. 111–211, Title II, July 29, 2010, 124 Stat. 2261 and 25 U.S.C. § 1302 may subject a person convicted of a crime punishable by the laws of the Choctaw Nation of Oklahoma to a term of imprisonment not to exceed three (3) years for any single offense and a fine not to exceed Fifteen Thousand Dollars (\$15,000.00), or both.

B. The Choctaw Nation of Oklahoma may impose upon a convicted person a total penalty or punishment of imprisonment for not more than nine (9) years in a criminal proceeding.

C. For the purposes of this section, the term “offense” means a violation of a criminal law.

D. For the purposes of this section, the term “criminal proceeding” means a prosecution for a single offense or a series of offenses that are part of a continuing transaction that may constitute separate offenses, but that are closely related in time.

E. If a defendant is convicted in a criminal proceeding for more than one offense where the total punishment upon conviction would be more than nine (9) years, the sentencing judge shall at the time of sentencing order that some or all of the sentences be served concurrently so that a term of imprisonment is not entered where the defendant would be subjected to imprisonment for a term of more than nine (9) years.

#### **Section 15. Sentences of imprisonment, where served**

A. The District Court of the Choctaw Nation shall remand a defendant sentenced to imprisonment in the Choctaw Nation of Oklahoma to the custody of the Choctaw Nation Department of Public Safety.

B. The Director of the Choctaw Nation Department of Public Safety shall require each defendant in his or her custody to serve the sentence:

1. in a tribal correctional center that has been approved by the Bureau of Indian Affairs for long-term incarceration;
2. in the nearest appropriate federal facility, at the expense of the United States pursuant to the Bureau of Prisons tribal prisoner pilot programs described in Section 304(c) of the Tribal Law and Order Act of 2010; or
3. in a state or local government approved detention or correctional center pursuant to an agreement with the Choctaw Nation of Oklahoma and the state or local government.

## **Chapter 2. General Provisions**

### **Section 21. Prohibited act a misdemeanor unless otherwise stated**

Where the performance of an act is prohibited by any statute, and no penalty for the violation of such statute is imposed in any statute, the doing of such act is a misdemeanor.

### **Section 22. Gross injuries—Grossly disturbing peace—Openly outraging public decency—Injurious acts not expressly forbidden**

Every person who willfully and wrongfully commits any act which grossly injures the person or property of another, or which grossly disturbs the public peace or health, or which openly outrages public decency, including but not limited to urination in a public place, and is injurious to public morals, although no punishment is expressly prescribed therefor by this code, is guilty of a misdemeanor.

### **Section 23. Acts punishable under foreign laws**

An act or omission declared punishable by this code, is not less so because it is also punishable under the laws of another Indian tribe, state, government or country, unless the contrary is expressly declared in this code.

### **Section 24. Criminal acts may also be punishable as contempt of court**

A criminal act is not the less punishable as a crime because it is also declared to be punishable as a contempt of court.

### **Section 25. Mitigation of punishment**

Where it is made to appear at the time of passing sentence upon a person convicted, that such person has already paid a fine or suffered an imprisonment for the act which he stands convicted, under an order adjudging it a contempt, the court authorized to pass sentence may mitigate the punishment to be imposed, in its discretion.

### **Section 26. Aiding in a misdemeanor**

Whenever an act is declared a misdemeanor, and no punishment for counseling or aiding in the commission of such act is expressly prescribed by law, every person who counsels or aids another in the commission of such act, is guilty of a misdemeanor, and punishable in the same manner as the principal offender.

## **Section 27. Sending letter—When complete—Place of prosecution**

In the various cases in which the sending of a letter is made criminal by this code, the offense is deemed complete from the time when such letter is deposited in any post office or any other place, or delivered to any person with intent that it shall be forwarded. And the party may be charged and tried in the courts of the Choctaw Nation of Oklahoma if such letter was so deposited or delivered, or if the letter was received by the person to whom it is addressed.

## **Section 28. Failure to perform duty**

No person is punishable for an omission to perform an act, where such act has been performed by another person acting in his or her behalf, and competent by law to perform it.

## **Attempts**

## **Section 41. Conviction for attempt not permitted where crime is perpetrated**

No person can be convicted of an attempt to commit a crime when it appears that the crime intended or attempted was perpetrated by such person in pursuance of such attempt.

## **Section 42. Attempts to commit crimes—Punishment**

Every person who attempts to commit any crime, and in such attempt does any act toward the commission of such crime, but fails, or is prevented or intercepted in the perpetration thereof, is punishable, where no provision is made by law for the punishment of such attempt, as follows:

1. If the offense so attempted be punishable by imprisonment, the person guilty of such attempt is punishable by imprisonment for a term not exceeding one-half ( $\frac{1}{2}$ ) the longest term of imprisonment prescribed upon a conviction for the offense so attempted.
2. If the offense so attempted be punishable by a fine, the offender convicted of such attempt is punishable by a fine not exceeding one-half ( $\frac{1}{2}$ ) the largest fine which may be imposed upon a conviction of the offense so attempted.
3. If the offense so attempted be punishable by imprisonment and by a fine, the offender convicted of such attempt may be punished by both imprisonment and fine, not exceeding one-half ( $\frac{1}{2}$ ) the longest term of imprisonment and the fine not exceeding one-half ( $\frac{1}{2}$ ) the largest fine which may be imposed upon a conviction for the offense so attempted.

## **Section 43. Unsuccessful attempt—Another crime committed**

The last two sections do not protect a person who in attempting unsuccessfully to commit a crime, accomplishes the commission of another and different crime, whether greater or less in guilt, from suffering the punishment prescribed by law for the crime committed.

#### **Section 44. Attempt defined**

A person is guilty of an attempt to commit a crime if, acting with the kind of culpability otherwise required for commission of the crime, he:

1. purposely engages in conduct which would constitute the crime if the attendant circumstances were as he believes them to be; or,
2. when causing a particular result in an element of the crime, does anything with the purpose of causing or with the belief that it will cause such result, without further conduct on his part.

#### **Habitual Offenses and Punishment**

##### **Section 51. Offense of Habitual Criminal and Punishment**

A. It shall be unlawful for any person to commit a felony in the Choctaw Nation of Oklahoma after said person has been convicted within the preceding ten (10) years in the Choctaw Nation of Oklahoma, in another federally recognized Indian tribe, or in any state of the United States, or by the federal government of any prior felony offense.

B. Any person found guilty of violating subsection A of this section shall upon conviction be guilty of a felony and punished by imprisonment for not more than three (3) years, or by a fine of not exceeding Ten Thousand Dollars (\$10,000.00), or by both fine and imprisonment.

C. The purpose of this section is to enhance the punishment for convicted felons who continue to commit felony offenses and shall be liberally construed in support of that purpose. A person may be convicted of the provisions of this section and for committing the underlying crime without the offenses merging.

#### **Sentence and Imprisonment**

##### **Section 61. Sentences to be served in order received by penal institution—Concurrent sentences—Credit for good conduct**

When any person is convicted of two or more crimes in the same proceeding or in different proceedings, and the judgment and sentence for each conviction arrives at a penal institution on

different dates, the sentence which is first received at the institution shall commence and be followed by those sentences which are subsequently received at the institution, in the order in which they are received by the institution, regardless of the order in which the judgments and sentences were rendered by the court, unless a judgment and sentence provides that it is to run concurrently with another judgment and sentence.

#### **Section 62. Sentences to run concurrent with other court sentences**

When a defendant is sentenced in a court of the Choctaw Nation and is also under sentence from a federal court, a state court or another tribal court, the court may direct that custody of the defendant be relinquished to the federal, state, or tribal authorities and that such Choctaw Nation court sentences as are imposed may run concurrently with the federal, state, or another tribe's sentence imposed.

#### **Section 63. Imposition of fine in addition to imprisonment**

A. Upon a conviction for any misdemeanor punishable by imprisonment, in relation to which no fine is prescribed by law, the court or a jury may impose a fine on the offender not exceeding One Thousand Dollars (\$1,000.00) in addition to the imprisonment prescribed.

B. Upon a conviction for any felony punishable by imprisonment, in relation to which no fine is prescribed by law, the court or a jury may impose a fine on the offender not exceeding Fifteen Thousand Dollars (\$15,000.00) in addition to the imprisonment prescribed.

#### **Section 65. Civil rights suspended**

A sentence of imprisonment suspends all the civil rights of the person so sentenced for a period of ten (10) years after the expiration of the execution of the sentence.

#### **Section 66. Person of convict protected**

The person of a convict sentenced to imprisonment under the laws of the Choctaw Nation of Oklahoma is under the protection of the law, and any injury to his person, not authorized by law, is punishable in the same manner as if he was not convicted or sentenced.

#### **Section 67. Conviction does not work forfeiture**

No conviction of any person for crime works any forfeiture of any property, except in the cases in which a forfeiture is expressly imposed by law.

## **Perjury on Examination of Privileged Witness**

### **Section 81. Testimony—Privilege of witnesses and perjury**

The various sections of this title which declare that evidence obtained upon the examination of a person as a witness shall not be received against him in any criminal proceeding, do not forbid such evidence being proved against such person upon any proceedings founded upon a charge of perjury committed in such examination.

### **Definitions**

#### **Section 91. Terms to have meanings specified unless different meaning appears**

Wherever the terms mentioned in the following sections are employed in this title, they are deemed to be employed in the senses hereafter affixed to them, except where a different sense plainly appears.

#### **Section 92. Willfully defined**

The term “willfully” when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage.

#### **Section 93. Negligent—Negligence**

The terms “neglect”, “negligence”, “negligent” and “negligently”, when so employed, import a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concerns.

#### **Section 94. Corruptly**

The term “corruptly” when so employed, imports a wrongful design to acquire some pecuniary or other advantage to the person guilty of the act or omission referred to.

#### **Section 95. Malice—Maliciously**

The terms “malice” and “maliciously”, when so employed, import a wish to vex, annoy or injure another person, established either by proof or presumption of law.

## **Section 96. Knowingly**

The term “knowingly”, when so applied, imports only a knowledge that the facts exist which bring the act or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of such act or omission.

## **Section 97. Bribe**

The term “bribe” signifies any money, goods, right in action, property, thing of value or advantage, present or prospective, or any promise or undertaking, asked, given or accepted, with a corrupt intent to influence unlawfully the person to whom it is given, in his action, vote or opinion, in any public or official capacity.

## **Section 98. Vessel**

The word “vessel”, when used with reference to shipping, includes ships of all kinds, steamboats, and steamships, canal boats, and every structure adapted to be navigated from place to place.

## **Section 99. Peace officers**

The term “peace officer” means any tribal law enforcement officer, sheriff, police officer, federal or state law enforcement officer, or any other law enforcement officer whose duty it is to enforce and preserve the public peace.

Every United States Marshal, United States Deputy Marshal, Special Agent of the Federal Bureau of Investigation or any other federal law enforcement officer who is employed full-time as a law enforcement officer by the federal government, who is authorized by federal law to conduct any investigation of, and make any arrest for, any offense in violation of federal law shall have the same authority, and be empowered to act, as peace officers within the Choctaw Nation of Oklahoma in rendering assistance to any law enforcement officer in an emergency, or at the request of any officer, and to arrest any person committing any offense in violation of the laws of the Choctaw Nation of Oklahoma.

## **Section 99a. Authority of peace officers**

A. In addition to any other powers vested by law, a peace officer of the State of Oklahoma, or any political subdivision thereof, may enforce the criminal laws of the Choctaw Nation of Oklahoma throughout the territorial bounds of the Choctaw Nation of Oklahoma, under the following circumstances:

1. In response to an emergency involving an immediate threat to human life or property;

2. Upon the prior consent of the Chief of the Choctaw Nation or the Executive Director of the Choctaw Nation Department of Public Safety;
  3. In response to a request for assistance pursuant to a mutual law enforcement assistance agreement;
  4. In response to the request for assistance by a peace officer of the Choctaw Nation of Oklahoma with investigatory or territorial jurisdiction;
  5. While the officer is transporting a prisoner; or
  6. After a cross-deputization agreement between the Choctaw Nation and another federally recognized Indian tribe, a state or local governmental agency, or with a federal law enforcement agency.
- B. While serving as peace officers of the Choctaw Nation of Oklahoma and rendering assistance under the circumstances enumerated above, all peace officers shall have the same powers and duties as though employed by and shall be deemed to be acting within the scope of authority of the Choctaw Nation of Oklahoma. Salaries, insurance and other benefits shall not be the responsibility of the Choctaw Nation of Oklahoma, if the Choctaw Nation is not the employing agency for the officer.

#### **Section 100. Signature**

The term “signature” includes any name, mark or sign, written with the intent to authenticate any instrument or writing.

#### **Section 101. Writing includes printing**

The term “writing” includes printing.

#### **Section 102. Real property**

The term “real property” includes every estate, interest and right in lands, tenements and hereditaments.

#### **Section 103. Personal property**

The term “personal property” includes every description of money, goods, chattels, effects, evidences of right in action, and written instruments by which any pecuniary obligation, right or



title to property, real or personal, is created or acknowledged, transferred, increased, defeated, discharged or diminished.

#### **Section 104. Property defined**

The term “property” includes both real and personal property.

#### **Section 105. Person defined**

The word “person” includes corporations, as well as natural persons.

#### **Section 106. Person as designating party whose property may be subject of offense**

Where the term “person” is used in this code to designate the party whose property may be the subject of any offense, it includes the Choctaw Nation of Oklahoma, any other federally recognized Indian tribe, state, government or country which may lawfully own any property within the Choctaw Nation of Oklahoma, and all public and private corporations or joint associations, as well as individuals.

#### **Section 107. Singular includes plural**

The singular number includes the plural, and the plural the singular.

#### **Section 108. Gender**

Words used in the masculine gender comprehend as well the feminine and neuter.

#### **Section 109. Present tense**

Words used in the present tense include the future, but exclude the past.

#### **Section 110. Intent to defraud**

Whenever, by any of the provisions of this code, an intent to defraud is required in order to constitute any offense, it is sufficient if an intent appears to defraud any person, association or body politic or corporation.

#### **Other Remedies and Punishments**

### **Section 131. Civil remedies not affected**

The omission to specify or affirm in this code, any liability to any damages, penalty, forfeiture or other remedy, imposed by law, and allowed to be recovered or enforced in any civil action or proceeding, for any act or omission declared punishable herein, does not affect any right to recover or enforce the same.

### **Section 132. Reserved**

### **Section 133. Military punishment—Contempt—Apprentices, bastards, etc.**

This code, does not affect any power conferred by law upon any authority or officer to impose or inflict punishment upon offenders; nor any power conferred by law upon any public body, tribunal, or officer, to impose or inflict punishment for a contempt; nor any provisions of the laws relating to apprentices, disorderly persons and vagrants.

### **Fines and Penalties**

### **Section 141. Payment of fines, fees, assessments, forfeitures and penalties into the court fund**

All fines, fees, assessments, forfeitures and pecuniary penalties prescribed as a punishment by any of the provisions of this code, when collected, shall be paid into the court fund, unless some other provision of law provides otherwise.

### **Crime Victims Compensation Act**

#### **Section 142.1. Intent of the Tribal Council**

A. It is the intent of the Tribal Council to provide a method of compensating and assisting those persons who become victims of criminal acts and who suffer physical or psychological injury or death who are either within the Choctaw Nation of Oklahoma or who are members of the Choctaw Nation of Oklahoma who become victims, as defined in Section 142.3 of this title. It is the further intent of the Tribal Council that the Victim Assistance Program and the office of the prosecuting attorney shall provide services to victims of crime, as provided by law, and to assist in completing victim compensation claims pursuant to this act. To this end, it is the further intent of the Tribal Council to provide compensation in the amount of expenses actually incurred as a direct result of the criminal acts of other persons.

B. Claims arising under this act shall not be approved or paid unless sufficient monies exist in the Victims Compensation Revolving Fund as created pursuant to Section 142.17 of this title. In no event, shall expenditures or claims be an expense of the Choctaw Nation of Oklahoma, but shall be a claim against the Victims Compensation Revolving Fund as provided for in Section 142.18 of this title. If the Victims Compensation Revolving Fund has been exhausted or has insufficient funds to pay allowable claims, the Crime Victims Compensation Board may diminish, defer, reduce, or cancel claims until sufficient funds exist in the fund to pay allowable claims, at the discretion of the Crime Victims Compensation Board.

### **Section 142.2. Short title**

This act shall be known and may be cited as the “Crime Victims Compensation Act”.

### **Section 142.3. Definitions**

As used in the Crime Victims Compensation Act, Section 142.1 et seq. of this title:

1. “Allowable expense” means:

- a. charges incurred for needed products, services and accommodations, including, but not limited to, medical care, wage loss, rehabilitation, rehabilitative occupational training and other remedial treatment and care,
- b. any reasonable expenses related to the funeral, cremation or burial,
- c. reasonable costs for counseling family members of a homicide victim,
- e. reasonable cost of vehicle impound fees associated with the collection and security of crime scene evidence;

2. “Board” means the Crime Victims Compensation Board created by Section 142.4 of this title;

3. “Claimant” means any of the following persons applying for compensation under the Crime Victims Compensation Act:

- a. a victim,
- b. a dependent of a victim who has died because of criminally injurious conduct, or
- c. a person authorized to act on behalf of any of the persons enumerated in subparagraphs a and b of this paragraph;

4. “Collateral source” means a source of benefits or advantages for economic loss for which the claimant would otherwise be eligible to receive compensation under this act, and which the claimant has received, or which is readily available to the claimant, from any one or more of the following:

- a. the offender,
- b. the government of the United States or any agency thereof, in the form of benefits, such as social security, Medicare and Medicaid, an Indian tribe, a state or any of its political subdivisions or an instrumentality or two or more states, unless the law providing for the benefits or advantages makes them excessive or secondary to benefits under this act,
- c. state-required temporary non-occupational disability insurance,
- d. workers’ compensation,
- e. wage continuation programs of any employer,
- f. a contract providing prepaid hospital and other health care services or benefits for disability,
- g. a contract providing prepaid burial expenses or benefits, or
- h. proceeds of any contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct, except:

(1) life insurance proceeds or uninsured motorist proceeds in an amount of Fifty Thousand Dollars (\$50,000.00) or less shall not be considered a collateral source when computing loss of support, and

(2) life insurance proceeds and proceeds from personal uninsured motorist coverage of any amount shall not be considered a collateral source for computing burial expenses;

5. a. “Criminally injurious conduct” means a misdemeanor or felony which occurs or is attempted in the Choctaw Nation of Oklahoma, or against a member of the Choctaw Nation of Oklahoma in a state that does not have an eligible crime victims compensation program as such term is defined in the federal Victims of Crime Act of 1984, 42 U.S.C.A. Section 10601 et seq., that results in bodily injury, threat of bodily injury or death to a victim which:

(1) may be punishable by fine, imprisonment or death, or

(2) if the act is committed by a child, could result in such child being adjudicated a delinquent child.

b. Such term shall not include acts arising out of the negligent maintenance or use of a motor vehicle unless:

(1) the vehicle was operated or driven by the offender while under the influence of alcohol, with a blood alcohol level in excess of the legal limit, or while under the influence of any other intoxicating substance,

(2) the vehicle was operated or driven by the offender with the intent to injure or kill the victim or in a manner imminently dangerous to another person and evincing a depraved mind, although without any premeditated design to injure or effect the death of any particular person,

(3) the offense involved willful, malicious or felonious failure to stop after being involved in a personal injury accident to avoid detection or prosecution, provided the victim of the accident was a pedestrian or was operating a vehicle moved solely by human power or a mobility device at the time of contact, or

(4) the offense involving one or more vehicles results in the death of the victim due to the reckless disregard for the safety of others by the offender. As used in this division, "reckless disregard for the safety of others" is defined as the omission to do something which a reasonably careful person would do, or the lack of the usual and ordinary care and caution in the performance of an act usually and ordinarily exercised by a person under similar circumstances and conditions.

c. "Criminally injurious conduct" shall include an act of terrorism, as defined in Section 2331 of Title 18, United States Code, committed outside the United States;

6. "Dependent" means a natural person wholly or partially dependent upon the victim for care or support, and includes a child of the victim born after the death of the victim where the death occurred as a result of criminally injurious conduct;

7. "Economic loss of a dependent" means loss after death of the victim of contributions of things of economic value to the dependent, not including services which would have been received from the victim if he or she had not suffered the fatal injury;

8. "Replacement services loss of dependent" means the loss reasonably incurred by dependents after death of the victim in obtaining ordinary and necessary services in lieu of those the deceased victim would have performed for their benefit had the deceased victim not suffered the fatal injury, less expenses of the dependent avoided by reason of death of the victim and not subtracted in calculating the economic loss of the dependent;

9. "Economic loss" means monetary detriment consisting only of allowable expense, work loss, replacement services loss and, if injury causes death, economic loss and replacement services loss of a dependent, but shall not include noneconomic loss;

10. “Non-economic detriment” means pain, suffering, inconvenience, physical impairment and non-pecuniary damage;

11. “Replacement services loss” means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for the benefit of self or family, if the victim had not been injured or died;

12. “Traffic offense” means violation of a law relating to the operation of vehicles, but shall not mean negligent homicide due to operation of a motor vehicle, reckless driving, tampering with or damaging a motor vehicle, failure of a driver of a motor vehicle involved in an accident resulting in death or personal injury to stop at the scene of the accident, leaving the scene of an accident resulting in death or personal injury, operating or being in actual physical control of a motor vehicle while intoxicated or impaired due to alcohol or other intoxicating substance, or combination thereof, or operating a motor vehicle with a blood alcohol content in excess of the legal limit;

13. “Work loss for victim” means loss of income from work the victim would have performed if such person had not been injured or died, reduced by any income from substitute work actually performed by the victim or by income the victim would have earned in available appropriate substitute work that the victim was capable of performing but unreasonably failed to undertake, or loss of income from work the victim’s caregiver would have performed if the injuries of the victim sustained as a result of the criminally injurious conduct had not created the need for the caregiver to miss work to care for the injured victim; and

14. “Victim” means a person who suffers personal injury or death as a result of criminally injurious conduct and shall include a member of the Choctaw Nation of Oklahoma who is injured or killed by an act of terrorism committed outside of the United States.

#### **Section 142.4. Crime Victims Compensation Program**

A. There is hereby created a Crime Victims Compensation Board, consisting of three (3) members appointed by the Chief of the Choctaw Nation with the advice and consent of the Tribal Council to serve four-year terms and until the successor is appointed and qualified. Of the first members appointed, one shall be appointed for a term of two (2) years, one shall be appointed for a term of three (3) years, and one shall be appointed for a term of four (4) years. Vacancies shall be filled in the same manner as regular appointments. Members of the Crime Victims Compensation Board may be employees or officials of the Choctaw Nation of Oklahoma, except judges of the Choctaw Nation of Oklahoma shall be ineligible to serve during their term of office.

B. Each year the Board shall elect the chairman from its membership. Members of the Board shall receive such compensation, subsistence allowances, mileage and expenses as are determined by the Chief.

#### **Section 142.5. Powers relating to claims for compensation—Office and staff support**

A. The Crime Victims Compensation Program shall award compensation for economic loss arising from criminally injurious conduct if satisfied by a preponderance of the evidence that the requirements for compensation have been met. The Director of the Crime Victims Compensation Program shall establish such administrative rules as may be necessary to carry into effect the provisions of this act. The claimant shall have a right of appeal to the Executive Director of the Social Services Department for any claim in dispute.

B. The Board shall hear and determine all matters relating to claims for compensation of Ten Thousand Dollars (\$10,000.00) or more and may hear claims under Ten Thousand Dollars (\$10,000.00). The Board shall be able to reinvestigate or reopen claims without regard to statutes of limitation. However, claims that have been inactive for a period of more than three (3) years from the date of the last action by the Board shall be deemed closed and any further action forever barred. Claim files may be destroyed after a claim is closed. Claims which have been declined may be destroyed after nine (9) months, following the last Board action, provided the claimant has not notified the Board of any intentions to request reconsideration of the claim.

C. The Board shall have the power to subpoena witnesses, compel their attendance, require the production of records and other evidence, administer oaths or affirmations, conduct hearings and receive relevant evidence.

D. The Board shall be provided such office, support, staff and secretarial services as determined by the Chief of the Choctaw Nation. Such director and staff may hold other positions within the Choctaw Nation of Oklahoma.

#### **Section 142.6. Additional powers of the Director of the Crime Victims Compensation Program**

In addition to any other powers and duties specified elsewhere in this act, the Board may:

1. Regulate its own procedures except as otherwise provided in this act;
2. Adopt rules and regulations to implement the provisions of this act;
3. Define any term not defined in this act;
4. Prescribe forms necessary to carry out the purposes of this act;
5. Have access to any reports of investigations from all law enforcement agencies, or other data necessary to assist the Board in making a determination of eligibility for compensation under the provisions of this act;

6. Take judicial notice of general, technical and scientific facts within their specialized knowledge; and
7. Publicize the availability of compensation and information regarding the filing of claims therefor.

#### **Section 142.7. Collateral source contributions**

The Board may require any claimant to seek or accept any collateral source contribution.

#### **Section 142.8. Parties—Right to appear—Hearing—Notice—Settlement of claim**

- A. Every party to the claim shall be afforded an opportunity to appear and be heard and to offer evidence and argument on any issue relevant to the claim, and to examine witnesses and offer evidence in reply to any matter of an evidentiary nature in the record relevant to the claim.
- B. In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice pursuant to regulations promulgated by the Board. A record of the proceedings of the hearing in a contested case shall be made and shall be transcribed upon request of any party, who shall pay transcription costs unless otherwise ordered by the Board.
- C. The Board may, without a hearing, settle a claim by stipulation, agreed settlement, consent order or default.

#### **Section 142.9. Waiver of physician-patient privilege—Mental or physical examination—Reports—Advisory panel—Limiting compensation for treatment—Debt collection**

- A. Any person filing a claim under the provisions of Section 142.1 et seq. of this title shall be deemed to have waived any physician-patient privilege as to communications or records relevant to an issue of the physical, mental or emotional conditions of the claimant.
- B. If the mental, physical or emotional condition of a claimant is material to a claim, the Crime Victims Compensation Board upon good cause shown may order the claimant to submit to a mental or physical examination. The examination report shall set out the findings of the person making the report, including results of all tests made, diagnoses, prognoses and other conclusions and reports of earlier examinations of the same conditions.
- C. The Board shall furnish a copy of the report examined. If the victim is deceased, the Board, on request, shall furnish a copy of the report to the claimant.
- D. The Board may require the claimant to supply any additional medical or psychological reports available relating to the injury or death for which compensation is claimed.



E. In certain cases wherein mental health expenses are being claimed, the Board and Administrator may request assistance from a panel of professionals in the mental health field. The panel of professionals may only act in an advisory capacity to the Board.

F. The Board shall have the authority to set limits of compensation on any medical or mental health treatment, and require that providers of medical or mental health treatments be licensed prior to compensating for said treatment. Awards for all medical services shall not exceed eighty percent (80%) of the total cost of the service less any other reduction for contributory conduct, as determined by the Board. Any medical provider that receives payment from the Crime Victims Compensation Revolving Fund for medical, dental or psychological services, or any provider that supplies equipment pursuant to an award under the Crime Victims Compensation Act shall, as a condition of the receipt of such payment, accept such payment as discharging in full any and all obligations of the claimant to pay, reimburse or compensate the provider for medical services, supplies or equipment that have been reimbursed pursuant to the Crime Victims Compensation Act. In the event the claimant has paid for a medical service, the claimant will be reimbursed for the out-of-pocket loss, less any reductions for contributory conduct, as determined by the Board.

G. All records and information given to the Board to process a claim on behalf of a crime victim shall be confidential. Such exhibits, medical records, psychological records, counseling records, work records, criminal investigation records, criminal court case records, witness statements, telephone records, and other records of any type or nature whatsoever gathered for the purpose of evaluating whether to compensate a victim shall not be obtainable by any party to any civil or criminal action through any discovery process except:

1. In the event of an appeal from a decision of the Board and then only to the extent narrowly and necessarily to obtain court review; or
2. Upon a strict showing to the court in a separate civil or criminal action that particular information or documents are not obtainable after diligent effort from any independent source, and are known to exist otherwise only in Board records, the court may inspect in camera such records to determine whether the specific requested information exists. If the court determines the specific information sought exists in the Board's records, the documents may then be released only by court order if the court finds as part of its order that the documents will not pose any threat to the safety of the victim or any other person whose identity may appear in the Board's records.

#### **Section 142.10. Award of compensation—Criteria—Amount—Denial, withdrawal or reduction—Reconsideration**

A. Compensation shall not be awarded:

1. Unless the claim has been filed with the Board within one (1) year after the injury or death upon which the claim is based. The Board may, at its discretion, extend the filing period up to two (2) years from the date of the incident, provided the Board finds there was good cause for failure to file the claim within one (1) year. If the victim is mentally handicapped or is a child under eighteen (18) years of age, the Board may use the date the criminal incident was disclosed to a responsible adult, when establishing whether or not the claim was timely filed;

2. To a claimant who was the offender, or an accomplice of the offender;

3. To another person if the award would unjustly benefit the offender or accomplice; or

4. Unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within seventy-two (72) hours after its occurrence or the Board finds there was good cause for the failure to report within that time.

B. Compensation otherwise payable to a claimant shall be diminished to the extent:

1. That the economic loss is recouped from collateral sources; or

2. Of the degree of responsibility for the cause of the injury or death attributable to the victim as determined by the Board.

C. The Board, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny, withdraw or reduce an award of compensation.

D. The Board, on its own motion or on request of the claimant, may reconsider a decision granting or denying an award or determining its amount. The motion or request to reconsider a decision shall be made within six (6) months from the date of the last action by the Board on the claim at issue. An order on reconsideration of an award shall not require a refund of amounts previously paid, unless the award was obtained by fraud. The right of reconsideration does not affect the finality of the Board decision for the purpose of judicial review. On claims which are denied by the Board, reconsideration may only be granted within six (6) months of the last action by the Board.

**Section 142.11. Prosecution, conviction or adjudication not required—Proof of conviction or copy of adjudication order—Suspension of proceedings**

An award may be made whether or not any person is prosecuted or, convicted as an adult offender or adjudicated a delinquent child. Proof of conviction of a person whose acts give rise to a claim or a copy of the adjudication order for a delinquent child whose acts give rise to a claim is conclusive evidence that the crime was committed, unless an application for rehearing, an appeal of the conviction, certiorari or adjudication is pending, or a rehearing or new trial has been ordered. The Board may suspend the proceedings pending disposition of a criminal

prosecution or delinquent child adjudication that has been commenced or is imminent, but may make a tentative award under Section 143.13 of this title.

**Section 142.12. Recovery from collateral source—Subrogation of program—Retention of funds in trust—Notice to the Board**

A. If compensation is awarded, the Board shall be subrogated to all the rights of a claimant to receive or recover from a collateral source to the extent that compensation was awarded.

B. In the event the claimant recovers compensation, other than under the provisions of this act, for injuries or death resulting from criminally injurious conduct, the claimant shall retain, as trustee, so much of the recovered funds as necessary to reimburse the Victims Compensation Revolving Fund to the extent that compensation was awarded to the claimant from that fund. The funds retained in trust shall be promptly deposited in the Victims Compensation Revolving Fund.

C. If a claimant brings an action to recover damages related to the criminally injurious conduct upon which compensation is claimed or awarded, the claimant shall give the Board written notice of the action. After receiving the notice, the Board may join in the action as a party plaintiff to recover the compensation awarded.

**Section 142.13. Payment of award—Exemption from process—Assignment—Counseling expenses**

A. The Board may compensate for work loss, replacement services loss, dependent's economic loss and dependent's replacement service loss. Compensation for a caregiver who has out-of-pocket wage loss as a result of caring for the victim who was injured as a result of criminally injurious conduct may not exceed Three Thousand Dollars (\$3,000.00).

B. Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed Twenty Thousand Dollars (\$20,000.00) in the aggregate. The Board may, after approval of an initial award of Twenty Thousand Dollars (\$20,000.00), grant an additional sum not to exceed Twenty Thousand Dollars (\$20,000.00), specifically for loss of wages for the victim or loss of support for dependents of a deceased victim provided, there is verifiable economic loss after deducting payments from other sources. In no event shall compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim exceed Forty Thousand Dollars (\$40,000.00) in the aggregate.

C. The Board may provide for the payment to a claimant in a lump sum or in installments. At the request of the claimant, the Board may convert future economic loss, other than allowable expense, to a lump sum.

D. An award payable in a lump sum or installments for loss of support for a dependent of the deceased victim may be computed through a formula which calculates the net loss of support for dependents based upon an estimated date of retirement or an estimated date of adulthood for dependent children, beginning with the date of death of the victim and ending with the least of one of the following time periods for each dependent filing loss of support:

1. The amount of time from the date of death of the victim to the date the victim would have been expected to reach sixty-two (62) years of age;
2. The amount of time from the date of death of the victim to the date the spouse of the victim is expected to reach sixty-two (62) years of age; or
3. The amount of time from the date of death of the victim to the date a dependent child is expected to reach eighteen (18) years of age or twenty-three (23) years of age if the dependent child is enrolled as a full-time student. An award payable in installments for future loss of support may be modified by the Board in the event a dependent child receiving loss of support is between the ages of eighteen (18) and twenty-three (23) years of age and is no longer enrolled as a full-time student, the dependent dies before all installments are paid or the dependent receiving installments moves and leaves no forwarding address with the Board office.

E. An award shall not be subject to execution, attachment, garnishment or other process, except for child support and except that an award for allowable expense shall not be exempt from a claim of a creditor to the extent that such creditor has provided products, services or accommodations, the costs of which are included in the award.

F. An assignment by the claimant to any future award under the provisions of this act is unenforceable, except:

1. An assignment of any award for work loss to assure payment of court ordered alimony, maintenance or child support; or
2. An assignment of any award for allowable expense to the extent that the benefits are for the cost of products, services or accommodations necessitated by the injury or death on which the claim is based and are provided or to be provided by the assignee.

G. The Board may, in its discretion, approve payment of crisis counseling, occurring within three (3) years of the crime, in an amount not to exceed Three Thousand Dollars (\$3,000.00) for each family member of a homicide victim; provided, the counselor is a qualified mental health care provider. Medical and pharmaceutical treatment is not compensable for any family member of a deceased victim.

H. Outpatient counseling expenses for a victim of criminally injurious conduct may be considered by the Board provided the counseling is focused on the crime and the counselor is a qualified mental health care provider. A total not to exceed Three Thousand Dollars (\$3,000.00)

may be awarded for individual counseling sessions for victims of criminally injurious conduct. Sessions between the mental health care provider and non-offending parents of a victimized child under eighteen (18) years of age may also be included in the award provided the combined total for the counseling and parental sessions do not exceed Three Thousand Dollars (\$3,000.00) and the parental sessions relate to the victimization. In extreme cases, the Board may, in its discretion, waive the three-thousand-dollar (\$3,000.00) limit. Inpatient mental health treatment will be reviewed on a case-by-case basis and may be compensated, at the discretion of the Director of the Crime Victims Compensation Program, in an amount not to exceed Twenty Thousand Dollars (\$20,000.00).

I. Reasonable funeral, cremation or burial expenses shall not exceed Seven Thousand Five Hundred Dollars (\$7,500.00).

J. Reasonable costs associated with crime scene cleanup shall not exceed Two Thousand Dollars (\$2,000.00).

K. Loss of income of a caregiver shall not exceed Three Thousand Dollars (\$3,000.00).

L. Reasonable costs for vehicle impound fees are limited to violent crimes occurring in a vehicle owned by the victim of the violent crime or an eligible claimant, provided such fee is associated with the collection and security of crime scene evidence. Reimbursement for vehicle impound fees shall not exceed Seven Hundred Fifty Dollars (\$750.00).

#### **Section 142.14. Advancement on award**

If the Board determines that the claimant will suffer financial hardship unless an advance award is made, an amount may be paid to the claimant and shall be deducted from the final award, or shall be repaid by and recoverable from the claimant to the extent that it exceeds the final award.

#### **Section 142.15. Reports to be made by the Board**

The Crime Victims Compensation Program shall prepare and transmit annually to the Tribal Council and to the Chief of the Choctaw Nation of Oklahoma, a report of its activities, including the amount of compensation awarded and a statistical summary of claims and awards made and denied.

#### **Section 142.16. False claims**

The filing of a false claim for compensation pursuant to this act shall constitute a misdemeanor, and shall be punishable by a fine not to exceed One Thousand Dollars (\$1,000.00) or by imprisonment for a term not to exceed one (1) year, or by both such fine and imprisonment.

#### **Section 142.17. Crime Victims Compensation Revolving Fund**

There is hereby created a revolving fund for the Crime Victims Compensation Program to be designated the "Crime Victims Compensation Revolving Fund". The Fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Crime Victims Compensation Board from any source excluding appropriated funds. All monies accruing to the credit of said fund are hereby appropriated and, except for operating expenses for administering federal grant programs, may be budgeted and expended by the Crime Victims Compensation Board for the purpose of implementing the provisions of the Crime Victims Compensation Act.

#### **Section 142.18. Victim compensation assessments**

A. In addition to the imposition of any costs, penalties or fines imposed pursuant to law, any person convicted of, pleading guilty to or agreeing to a deferred judgment procedure under the provisions set forth in the Choctaw Nation Statutes for a felony involving criminally injurious conduct shall be ordered to pay a victim compensation assessment of at least Fifty Dollars (\$50.00), but not to exceed Ten Thousand Dollars (\$10,000.00), for each crime for which the person was convicted or for which the person agreed to a deferred judgment procedure. In imposing this penalty, the court shall consider factors such as the severity of the crime, the prior criminal record, the expenses of the victim of the crime, and the ability of the defendant to pay, as well as the economic impact of the victim compensation assessment on the dependents of the defendant.

B. In addition to the imposition of any costs, penalties or fines imposed pursuant to law, any person convicted of, pleading guilty to or agreeing to a deferred judgment procedure under the provisions set forth in the Choctaw Nation Statutes for a felony or misdemeanor offense, not including traffic offenses, and not described in subsection A of this section, the court shall levy a victim compensation assessment of at least Fifty Dollars (\$50.00), but not to exceed One Thousand Dollars (\$1,000.00) for each felony or misdemeanor upon every fine, penalty, and forfeiture imposed and collected. When a cash bond is posted for any offense included in this subsection, the bond shall also include a sufficient amount to cover the minimum amount for victim compensation assessment.

C. All monies collected pursuant to this section shall be forwarded monthly by the court clerk to the Victims Compensation Revolving Fund.

#### **Victim's Rights Act**

## **Section 142A. Short title**

Sections 142A, 142A-1 and 142B of this title and Sections 4 through 11 of this act shall be known and may be cited as the “Victim’s Rights Act”.

## **Section 142A-1. Definitions**

For purposes of the Victim’s Rights Act:

1. “Crime victim” or “victim” means any person against whom a crime was committed, except homicide, in which case the victim may be a surviving family member including a stepbrother, stepsister or stepparent, or the estate when there are no surviving family members other than the defendant, and who, as a direct result of the crime, suffers injury, loss of earnings, out-of-pocket expenses, or loss or damage to property, and who is entitled to restitution from an offender pursuant to an order of restitution imposed by a sentencing court under the laws of the Choctaw Nation of Oklahoma;
2. “Injury” means any physical, mental, or emotional harm caused by the conduct of an offender and includes the expenses incurred for medical, psychiatric, psychological, or generally accepted remedial treatment of the actual bodily or mental harm, including pregnancy and death, directly resulting from a crime and aggravation of existing physical injuries, if additional losses can be attributed to the direct result of the crime;
3. “Loss of earnings” means the deprivation of earned income or of the ability to earn previous levels of income as a direct result of a crime and the loss of the cash equivalent of social security, railroad retirement, pension plan, retirement plan, disability, veteran’s retirement, court-ordered child support or court-ordered spousal support, where the payment is the primary source of the victim’s income, and where the victim is deprived of the money as a direct result of the crime;
4. “Members of the immediate family” means the spouse, a child by birth or adoption, a stepchild, a parent, a grandparent, or a sibling of each victim;
5. “Out-of-pocket loss” means the unreimbursed and non-reimbursable expenses or indebtedness incurred for medical care, nonmedical care, or other services necessary for the treatment of the actual bodily or mental harm, including pregnancy and funeral expenses, directly resulting from the crime and aggravation of existing physical injuries, if additional losses can be attributed directly to the crime; the unreimbursed and non-reimbursable expenses for damage to real and personal property as a direct result of the crime, and unreimbursed and non-reimbursable economic losses incurred as a consequence of participation in prosecution and proceedings related to the crime;
6. “Property” means any real or personal property;

7. “Restitution” means the return of property to the crime victim or payments in cash or the equivalent thereof, and payment in cash or the equivalent thereof as reparation for injury, loss of earnings, and out-of-pocket loss ordered by the court in the disposition of a criminal proceeding;

8. “Victim impact statements” means information about the financial, emotional, psychological, and physical effects of a violent crime on each victim and members of their immediate family, or person designated by the victim or by family members of the victim and includes information about the victim, circumstances surrounding the crime, the manner in which the crime was perpetrated, and the opinion of the victim of a recommended sentence; and

9. “Violent crime” means any of the following felony crimes, or any attempts to commit or conspiracy or solicitation to commit the following crimes:

- a. assault, battery, or assault and battery with a dangerous or deadly weapon;
- b. aggravated assault and battery on a police officer, or any other officer of the law;
- c. poisoning with intent to kill;
- d. shooting with intent to kill;
- e. assault with intent to kill;
- f. assault with intent to commit a felony;
- g. assaults while masked or disguised;
- h. kidnapping;
- i. burglary in the first degree;
- j. burglary with explosives;
- k. kidnapping for extortion;
- l. maiming;
- m. child abuse;
- n. wiring any equipment, vehicle or structure with explosives;
- o. forcible sodomy;
- p. use of a firearm or offensive weapon to commit or attempt to commit a felony;



- q. pointing firearms;
- r. rioting;
- s. inciting to riot;
- t. arson in the first degree;
- u. injuring or burning public buildings;
- v. extortion;
- w. obtaining signature by extortion; or
- x. using a vehicle to facilitate the discharge of a weapon.

#### **Section 142A-2. Victims and witnesses rights**

A. A prosecuting attorney or a member of the prosecutor's staff shall inform the victims and witnesses of crimes of the following rights:

1. To be notified that a court proceeding to which a victim or witness has been subpoenaed will or will not go on as scheduled, in order to save the person an unnecessary trip to court;
2. To receive protection from harm and threats of harm arising out of the cooperation of the person with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available and how to access protection;
3. To be informed of financial assistance and other social services available as a result of being a witness or a victim, including information on how to apply for the assistance and services;
4. To be informed of the procedure to be followed in order to apply for and receive any witness fee to which the victim or witness is entitled;
5. To be informed of the procedure to be followed in order to apply for and receive any restitution to which the victim is entitled;
6. To be provided, whenever possible, a secure waiting area during court proceedings that does not require close proximity to defendants and families and friends of defendants;
7. To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. If feasible, all such property, except weapons,

currency, contraband, property subject to evidentiary analysis and property the ownership of which is disputed, shall be returned to the person;

8. To be provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize the loss of pay and other benefits of the employee resulting from court appearances;

9. To have the family members of all homicide victims afforded all of the services under this section, whether or not the person is to be a witness in any criminal proceeding;

10. To be informed of any plea bargain negotiations;

11. To have victim impact statements filed with the judgment and sentence;

12. To be informed if a sentence is overturned, remanded for a new trial or otherwise modified by the Choctaw Nation Court of Appeals;

13. To be informed in writing of all statutory rights;

14. To be informed that when any family member is required to be a witness by a subpoena from the defense, there must be a showing that the witness can provide relevant testimony as to the guilt or innocence of the defendant before the witness may be excluded from the proceeding by invoking the rule to remove potential witnesses;

15. To receive written notification of how to access victim rights information from the interviewing officer or investigating detective; and

16. To a speedy disposition of the charges free from unwarranted delay caused by or at the behest of the defendant or minor. In determining a date for any criminal trial or other important criminal or juvenile justice hearing, the court shall consider the interests of the victim of a crime to a speedy resolution of the charges under the same standards that govern the right to a speedy trial for a defendant or a minor. In ruling on any motion presented on behalf of a defendant or minor to continue a previously established trial or other important criminal or juvenile justice hearing, the court shall inquire into the circumstances requiring the delay and consider the interests of the victim of a crime to a speedy resolution of the case. If a continuance is granted, the court shall enter into the record the specific reason for the continuance and the procedures that have been taken to avoid further delays.

B. The prosecuting attorney's office may inform the crime victim of an offense committed by a juvenile of the name and address of the juvenile found to have committed the crime, and shall notify the crime victim of all court hearings involving that particular juvenile act. If the victim is not available, the prosecuting attorney's office shall notify an adult relative of the victim of said hearings.

C. The prosecuting attorney's office shall inform victims of violent crimes and members of the immediate family of such victims of their rights under this act.

D. The prosecuting attorney's office shall inform the victim, as soon as practicable, or an adult member of the immediate family of the victim if the victim is deceased, incapacitated, or incompetent, of the progress of pretrial proceedings which could substantially delay the prosecution of the case.

### **Section 142A-3. Informing victim of rights**

A. Upon the preliminary investigation of a violent crime, it shall be the duty of the officer who interviews the victim of such crime to inform the victim, or a responsible adult if the victim is a minor child or an incompetent person, in writing, of their rights as a crime victim. Written notification shall consist of handing the victim, responsible adult, if the victim is a minor child or an incompetent person, a preprinted card or brochure that, at a minimum, includes the following information:

1. A statement that reads, "As a victim of crime, you have certain rights"; and

2. Telephone and address information for the Victim Assistance Program.

B. A victim of domestic abuse has the right to be informed by the first peace officer who interviews the victim of domestic abuse of notice of certain rights. The notice shall consist of handing such victim the following statement:

"As a victim of domestic abuse, you have certain rights. These rights are as follows:

1. The right to request that charges be pressed against your assailant;

2. The right to request protection from any harm or threat of harm arising out of your cooperation with law enforcement and prosecution efforts as far as facilities are available and to be provided with information on the level of protection available;

3. The right to be informed of financial assistance and other social services available as a result of being a victim, including information on how to apply for the assistance and services; and

4. The right to file a petition for a protective order or, when the domestic abuse occurs when the court is not open for business, to request an emergency temporary protective order."

### **Section 142A-4. Petition for relief**

A victim of domestic abuse, a victim of stalking, a victim of harassment, a victim of rape, any adult or emancipated minor household member on behalf of any other family or household member who is a minor or incompetent, or any minor age sixteen (16) or seventeen (17) years may seek relief under the provisions of the Protection from Domestic Abuse Act. The person seeking relief shall prepare the petition for a protective order or, at the request of the plaintiff, the court clerk or the victim-witness coordinator, victim support person, or court case manager shall prepare or assist the plaintiff in preparing the petition.

#### **Section 142A-5. Restitution form**

The prosecuting attorney's office shall provide all victims, regardless of whether the crime victim makes a specific request, with an official request for restitution form to be completed and signed by the crime victim, and to include all invoices, bills, receipts, and other evidence of injury, loss of earnings and out-of-pocket loss. The crime victim shall provide all documentation and evidence of compensation or reimbursement from insurance companies or other agencies of any Indian tribe, state, or the federal government received as a direct result of the crime for injury, loss of earnings or out-of-pocket loss. The unexcused failure or refusal of the crime victim to provide all or part of the requisite information prior to the sentencing, unless disclosure is deferred by the court, shall constitute a waiver of any grounds to appeal or seek future amendment or alteration of the restitution order predicated on the undisclosed available information.

#### **Section 142A-6. Priority interest in proceeds**

The victims and the legal representative of a victim of a crime shall have a priority interest in any proceeds or profits received by the district court from an offender or any other person with the cooperation of the offender, who is required to forfeit any proceeds or profits from any source, as a direct or indirect result of the crime or sentence.

#### **Section 142A-7. Address designation**

An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, shall information the prosecuting attorney's office of his or her address designation for purposes of notice required by this act.

#### **Section 142A-8. Presentation and use of victim impact statement at sentencing**

A. Each victim, or members of the immediate family of each victim or person designated by the victim or by family members of the victim, may present a written victim impact statement, which may include religious invocations or references, or may appear personally at the sentence proceeding and present the statements orally. Provided, however, if a victim or any member of

the immediate family or person designated by the victim or by family members of a victim wishes to appear personally, the person shall have the absolute right to do so. Any victim or any member of the immediate family or person designated by the victim or by family members of a victim who appears personally at the formal sentence proceeding shall not be cross-examined by opposing counsel; provided, however, such cross-examination shall not be prohibited in a proceeding before a jury or a judge acting as a finder of fact. A written victim impact statement introduced at a formal sentence proceeding shall not be amended by any person other than the author, nor shall the statement be excluded in whole or in part from the court record. The court shall allow the victim impact statement to be read into the record.

B. The judge shall make available to the parties copies of any victim impact statements.

C. In any case which is plea bargained, victim impact statements shall be presented at the time of sentencing or attached to the district attorney narrative report. In determining the appropriate sentence, the court shall consider among other factors any victim impact statements if submitted to the jury, or the judge in the event a jury was waived.

#### **Section 142A-9. Disclosure of personal information of victim or witness may be prohibited**

The court, upon the request of a victim, witness, or the prosecuting attorney, may order that the residential address, telephone number, place of employment, or other personal information of the victim or witness shall not be disclosed in any law enforcement record or any court document, other than the transcript of a court proceeding, if it is determined by the court to be necessary to protect the victim, witness, or immediate family of the victim or witness from harassment or physical harm and if the court determines that the information is immaterial to the defense.

#### **Section 142A-10. Reserved**

#### **Section 142A-11. Return of exhibit**

If the owner of an exhibit that has been introduced, filed, or held in custody of the Choctaw Nation in any criminal action or proceeding is the victim of the offense for which such exhibit is held, the victim may make application to the court at any time prior to the final disposition of the action or proceeding for the return of the exhibit.

#### **Section 142B. Civil action by victim of felony crime against offender—Attorney's fees and costs—Reduction of hardship exemption from garnishment**

In any civil action against an offender for property damages resulting from a felony crime committed by the offender, the court may award a victim who prevails in the civil action

reasonable attorney's fees and other costs of litigation; provided, there has been a felony conviction of the defendant for the crime which caused the damage.

### **Chapter 3. Persons Liable to Punishment**

#### **Section 151. Persons liable to punishment in the Choctaw Nation of Oklahoma**

The following persons are liable to punishment under the laws of the Choctaw Nation of Oklahoma:

1. All Indian persons who commit, in whole or in part, any crime within the Choctaw Nation of Oklahoma.
2. All Indian persons who commit theft out of the Choctaw Nation of Oklahoma, and bring, or are found with the property stolen, in the Choctaw Nation of Oklahoma.
3. All Indian persons who, being out of the Choctaw Nation of Oklahoma abduct or kidnap, by force or fraud, any Indian person contrary to the laws of the place where such act is committed, and bring, send, or convey such Indian person within the limits of the Choctaw Nation of Oklahoma, and are afterward found therein.
4. All Indian persons who, being out of the Choctaw Nation of Oklahoma, cause or aid, advise or encourage, another Indian person, causing an injury to any Indian person or property within the Choctaw Nation of Oklahoma by means of any act or neglect which is declared criminal by this code, and who are afterward found within the Choctaw Nation of Oklahoma.
5. Though one who is not an Indian person may not be punished under the criminal laws of the Choctaw Nation of Oklahoma, any person who is not an Indian person who violates any criminal law of the Choctaw Nation of Oklahoma shall be subject to the civil remedies and penalties of the Choctaw Nation of Oklahoma.

#### **Section 152. Persons capable of committing crimes—Exceptions—Children—Idiots—Lunatics—Ignorance—Commission without consciousness—Involuntary subjection**

All persons are capable of committing crimes, except those belonging to the following classes:

1. Children under the age of seven (7) years;
2. Children over the age of seven (7) years, but under the age of fourteen (14) years, in the absence of proof that at the time of committing the act or neglect charged against them, they knew its wrongfulness;

3. Persons who are impaired by reason of mental retardation upon proof that at the time of committing the act charged against them they were incapable of knowing its wrongfulness;
4. Mentally ill persons, and all persons of unsound mind, including persons temporarily or partially deprived of reason, upon proof that at the time of committing the act charged against them they were incapable of knowing its wrongfulness;
5. Persons who committed the act, or made the omission charged, under an ignorance or mistake of fact which disproves any criminal intent. But ignorance of the law does not excuse from punishment for its violation;
6. Persons who committed the act charged without being conscious thereof; and
7. Persons who committed the act, or make the omission charged, while under involuntary subjection to the power of superiors.

### **Section 153. Intoxication no defense**

No act committed by a person while in a state of voluntary intoxication shall be deemed less criminal by reason of his having been in such condition.

### **Section 154. Morbid propensity no defense**

A morbid propensity to commit prohibited acts existing in the mind of a person who is not shown to have been incapable of knowing the wrongfulness of such acts, forms no defense to a prosecution therefor.

### **Section 155. Subjection to superior exonerates**

The involuntary subjection to the power of a superior which exonerates a person charged with a criminal act or omission from punishment therefor, arises from duress.

### **Section 156. Duress defense**

A person is entitled to assert duress as a defense if that person committed a prohibited act or omission because of a reasonable belief that there was imminent danger of death or great bodily harm from another upon oneself, one's spouse, or one's child.

### **Section 160. Public foreign ministers exempted**

Ambassadors and other public ministers from foreign governments accredited to the President or the Government of the United States, and recognized by it according to the laws of the United States, with their secretaries, messengers, families and servants are not liable to punishment in the Choctaw Nation of Oklahoma, but are to be returned to his/her own country for trial and punishment.

## **Chapter 4. Parties to Crime**

### **Section 171. Classification of parties**

The parties to crimes are classified as:

1. Principals, and,
2. Accessories.

### **Section 172. Principals defined**

All persons concerned in the commission of crime, whether it be felony or misdemeanor, and whether they directly commit the act constituting the offense, or aid and abet in its commission, though not present, are principals.

### **Section 173. Accessories defined**

All persons who, after the commission of any felony, conceal or aid the offender, with knowledge that he has committed a felony, and with intent that he may avoid or escape from arrest, trial, conviction, or punishment, are accessories.

### **Section 174. No accessories to misdemeanor**

If the underlying crime is a misdemeanor, there are no accessories.

### **Section 175. Punishment of accessories**

Except in cases where a different punishment is prescribed by law, an accessory to a felony crime is a misdemeanor and is punishable as follows:

1. If the underlying offense is a felony punishable by imprisonment, the person guilty of being an accessory shall be subject to imprisonment for not more than one (1) year;



2. If the underlying offense be punishable by a fine only, the person guilty of being an accessory shall be subject to a fine not exceeding one-half (½) of the largest amount of money which may be imposed as a fine upon a conviction of the underlying offense; and

3. If the underlying offense be punishable by both imprisonment and a fine, the offender convicted of being an accessory shall be subject to both imprisonment and fine, not exceeding one-half (½) of the longest term of imprisonment and one-half (½) of the largest fine which may be imposed upon a conviction of the underlying offense.

## **Chapter 5. Crimes Against the Elective Franchise**

### **Section 181. Betting upon an election a misdemeanor**

Every person who makes, offers or accepts any bet or wager upon the result of any election, or upon the success or failure of any person or candidate, or upon the number of votes to be cast either in the aggregate, or for any particular candidate, or upon the vote to be cast by any person, or upon the decision to be made by any inspector or canvasser, of any question arising in the course of an election, or upon any event whatever depending upon the conduct or result of an election, is guilty of a misdemeanor.

### **Section 182. Offers of office by candidate a misdemeanor**

Every person who, being a candidate at any election, offers or agrees to appoint or procure the appointment of any particular person to office, as an inducement or consideration to any person to vote for, to procure or aid in procuring the election of such candidate, is guilty of a misdemeanor.

### **Section 183. Communicating an offer of office**

Every person who, not being a candidate, communicates any offer made in violation of the next preceding section, to any person, with intent to induce him to vote for or procure or aid in procuring the election of the candidate making the offer is guilty of a misdemeanor.

## **Chapter 6. Crimes Against the Executive Power**

### **Section 261. Assuming office before qualifying**

Every person who executes any of the functions of a tribal office without having taken and duly filed the required oath of office, or without having executed and duly filed the required security,

is guilty of a misdemeanor; and in addition to the punishment prescribed therefor, he forfeits his right to the office.

#### **Section 262. Act of officer de facto**

The last section shall not be construed to affect the validity of acts done by a person exercising the functions of a tribal office in fact, where other persons than himself are interested in maintaining the validity of such acts.

#### **Section 263. Falsely assuming to be officer**

Every person who shall falsely assume or pretend to be any tribal officer, or who shall knowingly take upon himself to act as such or to require any person to act as such, or assist him in any matter pertaining to such office, shall be punished by imprisonment for not more than one (1) year nor less than three (3) months, and by fine not exceeding Five Hundred (\$500.00) nor less than Fifty Dollars (\$50.00).

#### **Section 264. False impersonation of peace officers—False insignia on motor vehicle**

A. Any person who shall without due authority exercise or attempt to exercise the functions of or hold himself or herself out to any one as a deputy sheriff, marshal, police officer, constable or peace officer shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, or by a fine not exceeding Five Hundred Dollars (\$500.00), or by both such fine and imprisonment; provided, however, this section shall not be so construed as to prevent private persons from making arrests for felonies or misdemeanors committed in their presence.

B. It shall be unlawful for any person to affix on his or her motor vehicle, either temporarily or permanently, any insignia typically used by a law enforcement agency for the purpose of causing any other motor vehicle operator to yield the right-of-way and stop, or which actually causes any other motor vehicle operator to yield the right-of-way and stop, whether intended or not. Any person who violates the provisions of this subsection shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment. The provisions of this subsection shall not apply to vehicles of any fire department, fire patrol, law enforcement vehicles, ambulances, or other authorized emergency vehicles.

#### **Section 265. Bribing or offering bribe to executive officer**

Any person who gives or offers any bribe to any executive officer, with intent to influence him in respect to any act, decision, vote, opinion, or other proceedings of such officer, shall be guilty of

a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00); or both.

#### **Section 266. Asking or receiving bribes**

Any executive officer or person elected or appointed to executive office who asks, receives or agrees to receive any bribe upon any agreement or understanding that his vote, opinion or action upon any matter then pending, or which may by law be brought before him in his official capacity, shall be influenced thereby, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or both; and in addition thereto, any such person forfeits office and is forever disqualified from holding any public office under the laws of the Choctaw Nation of Oklahoma.

#### **Section 267. Preventing officer's performance of duty**

Every person who attempts, by means of any threat or violence, to deter or prevent any executive officer from performing any duty imposed upon such officer by law is guilty of a misdemeanor.

#### **Section 268. Resisting executive officer**

Every person who knowingly resists, by the use of force or violence, any executive officer in the performance of his duty, is guilty of a misdemeanor.

#### **Section 269. Asking or receiving unauthorized reward for official act**

A. Every executive officer who asks or receives any emolument, gratuity or reward, or any promise of any emolument, gratuity or reward, excepting such as may be authorized by law, for doing any official act, is guilty of a misdemeanor.

B. It shall be unlawful for any tribal employee, with responsibility or oversight for processing a benefit or allowance, to solicit any portion of the benefit or allowance as a gratuity, kickback, or loan from a recipient who is otherwise entitled to the benefit or allowance.

C. Any tribal employee convicted of violating the provisions of subsection B of this section shall be guilty of a misdemeanor punishable by a fine of not less than Five Hundred Dollars (\$500.00), or by imprisonment for a term not to exceed one (1) year, or by both such fine and imprisonment.

#### **Section 270. Reward for omission to act, asking or receiving**

Every executive officer who asks or receives any emolument, gratuity or reward, or any promise of any emolument, gratuity or reward, for omitting or deferring the performance of any official duty, is guilty of a misdemeanor.

#### **Section 271. Asking or receiving unauthorized advance fees**

Every executive officer who asks or receives any fee or compensation for any official service which has not been actually rendered, except in cases of charges for prospective costs, or of fees demandable in advance in the cases allowed by law, is guilty of a misdemeanor.

#### **Section 272. Taking unlawful reward for requisition for fugitive**

Every officer who asks or receives any compensation, fee or reward of any kind for any service rendered or expense incurred in procuring from the Chief of the Choctaw Nation a demand upon the executive authority of a State or Territory of the United States, or of a foreign government, or of another Indian tribe, for the surrender of a fugitive from justice, or of any service rendered or expense incurred in procuring the surrender of such fugitive, or of conveying him to the Choctaw Nation of Oklahoma or for detaining him therein, except upon an employment by the Chief of the Choctaw Nation, and upon an account duly audited and paid out of the tribal treasury, is guilty of a misdemeanor.

#### **Section 273. Buying appointments to office**

Every person who gives or agrees, or offers to give any gratuity or reward in consideration that himself or any other person shall be appointed to any tribal office, or shall be permitted to, or to exercise, perform or discharge the prerogatives or duties of any office, is punishable by imprisonment for not less than six (6) months nor more than one (1) year, or by a fine of not less than Two Hundred Dollars (\$200.00) or more than One Thousand Dollars (\$1,000.00), or both.

#### **Section 274. Selling appointments to office**

Every person who, directly or indirectly, asks or receives or promises to receive any gratuity or reward, or any promise of a gratuity or reward for appointing another person or procuring for another person an appointment to any tribal office or any clerkship, deputation or other subordinate position in any tribal office, is punishable by imprisonment for not less than six (6) months nor more than one (1) year, or by a fine not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00), or both.

#### **Section 275. Reward for making appointment or deputation**

Any tribal officer who, for any gratuity or reward, appoints another person to a tribal office, or permits another person to exercise, perform or discharge any of the prerogatives or duties of his office, shall be guilty of a felony punishable by imprisonment for not less than six (6) months nor more than two (2) years, and by a fine of not less than Two Hundred Dollars (\$200.00) or more than One Thousand Dollars (\$1,000.00); and in addition thereto the tribal officer forfeits office.

#### **Section 276. Unlawful deputation is void**

Every grant or deputation made contrary to the provisions of the two preceding sections is void; but official acts done before a conviction for any offense prohibited by those sections shall not be deemed invalid in consequence of the invalidity of such grant or deputation.

#### **Section 277. Exercising functions of office after term expires**

Every person who having been an executive officer willfully exercises any of the functions of his office after his term of office has expired and a successor has been duly elected or appointed, and has qualified in his place, and he has notice thereof, is guilty of a misdemeanor.

#### **Section 278. Refusal to surrender books to successor**

Every person who having been an executive officer of the Choctaw Nation of Oklahoma, wrongfully refuses to surrender the official seal or any of the books and papers appertaining to his office, to his successor, who has been duly elected or appointed, and has duly qualified, and has demanded the surrender of the books and papers of such office is guilty of a misdemeanor.

#### **Section 279. Administrative officers included**

The various provisions of this article which relate to executive officers apply in relation to administrative officers in the same manner as if administrative and executive officers were both mentioned together.

#### **Section 280. Disturbance, interference or disruption of tribal business—Penalties**

A. It is unlawful for any person, alone or in concert with others and without authorization, to willfully disturb, interfere or disrupt tribal business, agency operations or any employee, agent, official or representative of the tribe.

B. It is unlawful for any person who is without authority or who is causing any disturbance, interference or disruption to willfully refuse to disperse or leave any property, building or structure owned, leased or occupied by tribal officials, employees, agents or representatives or

used in any manner to conduct tribal business or operations after proper notice by a peace officer, sergeant-at-arms, or other security personnel.

C. Any violation of the provisions of this section shall be a misdemeanor punishable by imprisonment for a term of not more than one (1) year, by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

D. For purposes of this section, “disturb, interfere or disrupt” means any conduct that is violent, threatening, abusive, obscene, or that jeopardizes the safety of self or others.

### **Section 281. False statements made during an internal investigation**

A. Any person who knowingly makes or utters a materially false statement, either verbally or in writing, in the course of an internal tribal agency investigation shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, or by a fine not exceeding Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

B. The person being interviewed pursuant to subsection A of this section shall be informed in writing and prior to commencement of the interview that providing a materially false statement shall subject the person to criminal prosecution.

### **Section 282. Unlawful acts—Violations**

A. It shall be unlawful for any person or group of persons to:

1. Willfully and knowingly enter or remain in any posted, cordoned off, or otherwise restricted area of a building or grounds where the Chief, Assistant Chief, any member of the immediate family of the Chief, the Assistant Chief, or other tribal official being provided protection by the Choctaw Nation Department of Public Safety is or will be temporarily visiting;
2. Willfully and knowingly enter or remain in any posted, cordoned off, or otherwise restricted area of a building or grounds the use of which is restricted in conjunction with an event designated as a special event of national or tribal significance;
3. Willfully and knowingly, enter with the intent to impede or to disrupt the orderly conduct of government business or official functions in or within close proximity to any building or grounds, as described in paragraph 1 or 2 of this subsection, or to engage in disorderly or disruptive conduct in or within close proximity to any building or grounds, as described in paragraph 1 or 2 of this subsection, which results in the impeding or disruption of the orderly conduct of government business or official functions;

4. Willfully and knowingly obstruct or to impede ingress or egress to or from any building or grounds, as described in paragraph 1 or 2 of this subsection; or

5. Willfully and knowingly engage in any act or acts of physical violence against any person or property in any building or grounds, as described in paragraph 1 or 2 of this subsection.

B. Violation of this section and attempts or conspiracies to commit such violations shall, upon conviction, be punishable by:

1. A fine of One Thousand Dollars (\$1,000.00) or imprisonment for not more than three (3) years, or by both fine and imprisonment, if:

a. the person, during and in relation to the offense, uses or carries a deadly or dangerous weapon or firearm, or

b. the offense results in great bodily injury to any other person; or

2. A fine of Five Hundred Dollars (\$500.00) or imprisonment for not more than one (1) year, or by both fine and imprisonment, in any other case.

## **Chapter 7. Crimes Against the Legislative Power**

### **Section 301. Preventing meetings of the Tribal Council**

Any person who willfully and by force or fraud prevents the Tribal Council, or any of the members thereof, from meeting or organizing shall be guilty of a felony punishable by imprisonment for not less than one (1) year nor more than three (3) years, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Dollars (\$2,000.00), or both.

### **Section 302. Disturbing legislative proceedings—Penalty**

Any person who alone or in concert with others willfully disturbs, disrupts or interferes with any session, meeting or proceeding of the Tribal Council or any committee thereof, whether within or outside the presence of the Tribal Council or any committee, by:

1. Engaging in violent, tumultuous or threatening behavior;

2. Using abusive or obscene language or making an obscene gesture;

3. Making unreasonable noise; or

4. Congregating with other persons and refusing to comply with a lawful order of the police or security officer to disperse;

shall be guilty of a misdemeanor.

#### **Section 302.1. Refusal to leave legislative chamber, gallery and offices—Penalty**

Any person who alone or in concert with others, and without proper authorization, refuses to leave any part of the chamber, gallery or offices of the Tribal Council or building in which such chamber, gallery or any such office is located, or within any room or building or upon the property of a building in which a legislative hearing or meeting is being conducted upon a lawful order of the police or a security officer to disperse, leave, or move to a designated area, shall be guilty of a misdemeanor.

#### **Section 303. Compelling adjournment of Tribal Council**

Every person who willfully and by force or fraud compels or attempts to compel the Tribal Council to adjourn or disperse shall be guilty of a felony punishable by imprisonment for not less than one (1) year nor more than three (3) years, or by a fine of not less than Five Hundred Dollars (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), or both.

#### **Section 304. Preventing legislative member or personnel from performing official duties—Penalty**

Any person who alone or in concert with others willfully either by force, physical interference, fraud, intimidation, or by means of any independently unlawful act, prevents or attempts to prevent any member, officer or employee of the Tribal Council or any committee of the Tribal Council from performing any official act, function, power or duty shall be guilty of a misdemeanor.

#### **Section 305. Compelling Tribal Council to perform or omit act**

Any person who willfully compels or attempts to compel the Tribal Council to pass, amend or reject any bill or resolution, or to grant or refuse any petition, or to perform or omit to perform any other official act, shall be guilty of a felony punishable by imprisonment for not less than one (1) year nor more than three (3) years, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Dollars (\$2,000.00), or both.

#### **Section 306. Altering draft bill**



Any person who fraudulently alters the draft of any bill or resolution which has been presented to the Tribal Council, to be passed or adopted, with intent to procure it to be passed or adopted by the Tribal Council, or certified by the presiding officer of the Tribal Council, in language different from that intended by such Tribal Council, shall be guilty of a felony.

### **Section 307. Altering engrossed copy of bill**

Any person who fraudulently alters any bill which has been passed by the Tribal Council, with intent to procure it to be approved by the Chief or certified by the Secretary of the Tribal Council, or printed or published by the printer of the statutes in language different from that in which it was passed by the Tribal Council, shall be guilty of a felony.

### **Section 308. Bribery of or influencing members**

Any person who gives or offers to give a bribe to any member of the Tribal Council, or attempts directly or indirectly, by menace, deceit, suppression of truth or any other corrupt means, to influence a member in giving or withholding his vote, or in not attending the Tribal Council, or any committee thereof, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or both.

### **Section 309. Soliciting bribes—Trading votes**

Any member of the Tribal Council, who asks, receives or agrees to receive any bribe upon any understanding that his official vote, opinion, judgment or action shall be influenced thereby, or shall be given in any manner or upon any particular side of any question or matter upon which he may be required to act in his official capacity, or who gives, or offers or promises to give any official vote in consideration that another member of the Tribal Council shall give any such vote, either upon the same or another question, is guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or both.

### **Section 310. Witness refusing to attend Legislature or committee**

Every person who, being duly summoned to attend as a witness before the Tribal Council or any committee thereof authorized to summon witnesses, refuses or neglects without lawful excuse to attend pursuant to such summons, is guilty of a misdemeanor.

### **Section 311. Witness refusing to testify before Tribal Council or committee**

Every person who, being present before the Tribal Council or any committee thereof authorized to summon witnesses, willfully refuses to be sworn or affirmed, or to answer any material and

proper question, or to produce upon reasonable notice any material and proper books, papers, or documents in his possession or under his control, is guilty of a misdemeanor.

### **Section 312. Forfeiture of office—Disqualification to hold office**

The conviction of a member of the Tribal Council of any of the crimes defined in section 301 through section 321 this title, involves as a consequence, in addition to the punishment prescribed by this code, the forfeiture of his office, and disqualifies him from ever afterwards holding any office under the Choctaw Nation of Oklahoma.

### **Section 318. Bribery**

No person, firm, or member of a firm, corporation, or association shall give or offer any money, position or thing of value to any member of the Tribal Council to influence him to work or to vote for any proposition, nor shall any member of the Tribal Council accept any money, position, promise, or reward or thing of value for his work or vote upon any bill, resolution or measure before the Tribal Council.

### **Section 319. Penalty for Bribery**

Any person or member of any firm, corporation or association violating the provisions of Section 318 of this title shall be guilty of a felony punishable by imprisonment for not less than one (1) year nor more than three (3) years, and by a fine in the sum of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00).

### **Section 320. Member of Tribal Council—Soliciting or securing employment with tribal department or institution**

It shall be unlawful for any member of the Tribal Council to solicit, receive or accept any money or thing of value either directly or through another person for soliciting or securing employment of or for another person from any department or institution of the tribe, where the said department or institution is supported in whole or in part from tribal funds or funds available to the tribe pursuant to any federal grant.

### **Section 321. Penalty for violating Section 321**

Any member of the Tribal Council who shall violate the provisions of Section 321 of this title shall be guilty of a felony, and upon conviction shall be fined not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), and be imprisoned for not less than one (1) year nor more than three (3) years and, in addition thereto, the member shall forfeit office.

## **Section 322. Compensation contingent upon influencing official action or legislation**

No person may retain or employ a lobbyist for compensation contingent in whole or in part on the passage or defeat of any official action or the approval or veto of any legislation, issuance of an executive order or approval or denial of a pardon or parole by the Chief. No lobbyist may accept any employment or render any service for compensation contingent on the passage or defeat of any legislation or the approval or veto of any legislation by the Chief. Any person convicted of violating the provisions of this section shall be guilty of a felony punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment not exceeding two (2) years or by both such fine and imprisonment.

## **Chapter 8. Crimes Against the Revenue and Property of the Choctaw Nation**

### **Section 341. Embezzlement and false accounts by officers**

Every tribal officer or member or officer of the Tribal Council, and every deputy or clerk of any such officer and every other person receiving any money or other thing of value on behalf of or for account of the Choctaw Nation of Oklahoma or any department of the government of the Choctaw Nation of Oklahoma or any bureau or fund created by law and in which the Choctaw Nation of Oklahoma or the people thereof, are directly or indirectly interested, who either:

First: Receives, directly or indirectly, any interest, profit or perquisites, arising from the use or loan of public funds in the officer's or person's hands or money to be raised through an agency for tribal purposes; or

Second: Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to any moneys so received by him, on behalf of the tribe, or the people thereof, or in which they are interested; or

Third: Fraudulently alters, falsifies, cancels, destroys or obliterates any such account, shall, upon conviction, thereof, be deemed guilty of a felony and shall be punished by a fine of not to exceed Five Thousand Dollars (\$5,000.00), and by imprisonment for a term of not less than one (1) year nor more than three (3) years and, in addition thereto, the person shall be disqualified to hold office in the Choctaw Nation of Oklahoma, and the court shall issue an order of such forfeiture, and should appeal be taken from the judgment of the court, the defendant may, in the discretion of the court, stand suspended from such office until such cause is finally determined.

#### **Section 341.1. Postage meter—Unlawful use**

Every person who uses a postage meter that is owned, operated or has been installed by any tribal department, board, commission or educational institution, for his own personal use, or to the use of any person not entitled thereto, without authority of law, is guilty of a misdemeanor.

### **Section 342. Suspension—Vacancy filled**

When any person is suspended from office by any court under the provisions of section 341, said court shall certify the fact of such suspension to the proper officer or authority provided by law to fill a vacancy in such office. Such office shall be filled during the suspension in like manner as provided by law for filling vacancies in such offices.

### **Section 343. Other violation of official conduct**

Every officer or other person mentioned in the section 341 who willfully disobeys any provisions of law regulating his official conduct, in cases other than those specified in that section, is guilty of a misdemeanor.

### **Section 344. Fraud by officer authorized to sell, lease or make contract**

Except as otherwise provided in this section, every tribal officer, being authorized to sell or lease any property, or make any contract in his or her official capacity, who voluntarily becomes interested individually in such sale, lease or contract, directly or indirectly, is guilty of a misdemeanor.

### **Section 345. Refusal of officer to perform duty**

Any tribal officer who willfully fails, neglects or refuses to perform the duties of his or her office according to law, is guilty of a misdemeanor.

### **Section 349. Injuring or burning public buildings**

Any person who willfully burns, destroys, or injures any tribal buildings or improvements in the Choctaw Nation of Oklahoma shall be guilty of a felony, punishable by imprisonment not exceeding three (3) years.

### **Section 352. Unlawfully issuing or paying warrants**

It shall be unlawful for any tribal officer or deputy or employee of said officer to issue, cause to be issued or consent to the issuing, or to pay, cause to be paid or consent to the paying of any warrant, order, or other evidence of tribal debt in excess of the appropriation duly made or when no appropriation has been made by the Tribal Council, for the fund upon which the same may be drawn.

### **Section 353. Officer dealing in warrants—Misdemeanor**

It shall be unlawful for any tribal officer or deputy or employee of such officer to either directly or indirectly, buy, barter for, or otherwise engage in any manner in the purchase of any bonds, warrants or any other evidence of indebtedness against the Choctaw Nation of Oklahoma.

#### **Section 354. Penalty**

Any person who shall violate any of the provisions of the two preceding sections shall be deemed guilty of the unlawful issuing of warrants or the unlawful purchase of warrants as the case may be, and shall be punished by a fine of not exceeding One Thousand Dollars (\$1,000.00).

#### **Section 355. False, fictitious, or fraudulent claim for payment of public funds or on employment application**

A. It shall be unlawful for any person, firm, corporation, association or agency to make, present, or cause to be presented to any employee or officer of the Choctaw Nation of Oklahoma, or to any department or agency thereof, any false, fictitious or fraudulent claim for payment of funds upon or against the Choctaw Nation of Oklahoma, or any department or agency thereof, knowing such claim to be false, fictitious or fraudulent.

B. It shall be unlawful for any person applying for employment with the Choctaw Nation of Oklahoma to make a materially false, fictitious or fraudulent statement or representation on an employment application, knowing such statement or representation to be materially false, fictitious or fraudulent.

#### **Section 356. Penalties**

A. Any person, firm, corporation, association or agency found guilty of violating subsection A of Section 355 of this title shall be guilty of a felony punishable by a fine not exceeding Ten Thousand Dollars (\$10,000.00), or by imprisonment for a term not exceeding two (2) years, or by both such fine and imprisonment.

B. Any person found guilty of violating subsection B of Section 355 of this title shall be guilty of a misdemeanor punishable by a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment for a term not exceeding one (1) year, or by both such fine and imprisonment.

### **Chapter 9. Bribery and Corruption**

#### **Section 380. Bribery of fiduciary**

A. Any fiduciary who, with a corrupt intent and without the consent of his beneficiary, intentionally or knowingly solicits, accepts, or agrees to accept any bribe from another person with the agreement or understanding that the bribe as defined by law will influence the conduct of the fiduciary in relation to the affairs of his beneficiary, upon conviction, is guilty of a felony punishable by imprisonment for a term not more than three (3) years, or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both said imprisonment and fine.

B. Any person who offers, confers, or agrees to confer any bribe the acceptance of which is an offense pursuant to the provisions of subsection A of this section, upon conviction, is guilty of a felony punishable by imprisonment for a term not more than three (3) years, or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

C. As used in subsection A of this section:

1. "Beneficiary" means any person for whom a fiduciary is acting.

2. "Fiduciary" means:

a. an agent or employee; or

b. a trustee, guardian, custodian, administrator, executor, conservator, receiver, or similar fiduciary; or

c. a lawyer, physician, accountant, appraiser, or other professional advisor; or

d. an officer, director, partner, manager, or other participant in the direction of the affairs of a corporation or association.

### **Section 381. Bribing officers**

Whoever corruptly gives, offers, or promises to any executive, legislative, judicial, or other officer, or any employee of the Choctaw Nation of Oklahoma, including peace officers and any other law enforcement officer, or any person assuming to act as such officer, after his election or appointment, either before or after he has qualified or has taken his seat, any gift or gratuity whatever, with intent to influence his act, vote, opinion, decision, or judgment on any matter, question, cause, or proceeding which then may be pending, or may by law come or be brought before him in his official capacity, or as a consideration for any speech, work, or service in connection therewith, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00).

### **Section 382. Officers receiving bribes**

Every executive, legislative, judicial, or other officer, or any employee of the Choctaw Nation of Oklahoma, including peace officers and any other law enforcement officer, or any person assuming to act as such officer, who corruptly accepts or requests a gift or gratuity, or a promise to make a gift, or a promise to do an act beneficial to such officer, or that judgment shall be given in any particular manner, or upon a particular side of any question, cause or proceeding, which is or may be by law brought before him in his official capacity, or as a consideration for any speech, work, or service in connection therewith, or that in such capacity he shall make any particular nomination or appointment, shall forfeit his office, be forever disqualified to hold any office, trust, or appointment under the laws of the Choctaw Nation of Oklahoma, and be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00).

### **Section 383. Bribing jurors, referees, etc.**

Any person who gives or offers to give a bribe to any judicial officer, juror, referee, arbitrator, umpire or assessor, or to any person who may be authorized by law or agreement of parties interested to hear or determine any question or controversy, with intent to influence his vote, opinion or decision upon any matter or question which is or may be brought before him for decision, is guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or both.

### **Section 384. Receiving bribes by jurors, referees, etc.**

Any juror, referee, arbitrator, umpire or assessor, and every person authorized by law to hear or determine any question or controversy, who asks, receives, or agrees to receive, any bribe upon any agreement or understanding that his vote, opinion or decision upon any matter or question which is or may be brought before him for decision, shall be thereby influenced, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or both.

### **Section 385. Misconduct of jurors**

Every juror or person drawn or summoned as a juror, or chosen arbitrator, or umpire, or appointed referee, who either:

1. Makes any promise or agreement to give a verdict for or against any party; or,
2. Willfully permits any communication to be made to him, or receives any book, paper, instrument, or information relative to any cause pending before him, except according to the regular course of proceeding upon the trial of such cause, is guilty of a misdemeanor.

### **Section 386. Accepting gifts**

Every judicial officer, juror, referee, arbitrator or umpire, who accepts any gift from any person, knowing him to be a party in interest or the attorney or counsel of any party in interest to any action or proceeding then pending or about to be brought before him, is guilty of a misdemeanor.

### **Section 387. Gifts defined**

The word “gift” in the foregoing section shall not be taken to include property received by inheritance, by will or by gift in view of death.

### **Section 388. Attempts to influence jurors**

Every person who attempts to influence a juror, or any person summoned or drawn as a juror, or chosen as arbitrator or appointed a referee, in respect to his verdict, or decision of any cause or matter pending, or about to be brought before him, either:

1st, By means of any communication oral or written had with him, except in the regular course of proceedings upon the trial of the cause;

2nd, By means of any book, paper, or instrument, exhibited otherwise than in the regular course of proceedings, upon the trial of the cause;

3rd, By means of any threat or intimidation;

4th, By means of any assurance or promise of any pecuniary or other advantage; or,

5th, By publishing any statement, argument or observation relating to the cause, is guilty of a misdemeanor.

### **Section 389. Drawing jurors fraudulently**

Every person authorized by law to assist at the drawing of any jurors to attend any court, who willfully puts or consents to the putting upon any list of jurors as having been drawn any name which shall not have been drawn for that purpose in the manner prescribed by law; or, who omits to place on such list any name that shall have been drawn in the manner prescribed by law, or who signs or certifies any list of jurors as having been drawn which was not drawn according to law; or, who is guilty of any other unfair, partial or improper conduct in the drawing of any such list of jurors, is guilty of a misdemeanor.

### **Section 390. Misconduct by officer in charge of jury**



Every officer to whose charge any juror or jury is committed by any court or magistrate who negligently or willfully permits them, or any one of them, either:

1. To receive any communication from any person;
2. To make any communication to any person;
3. To obtain or receive any book or paper or refreshment; or
4. To leave the jury room, the jury box, or his immediate custody or control, without the leave of such court or magistrate first obtained, is guilty of a misdemeanor.

Every bailiff, or other officer or person, into whose custody and care any court of record contemplates committing any juror or jury, before entering upon his duties as such for the court term or such lesser period of such service as the court may determine, shall first be admonished and shall make in writing and file with the clerk of such court a solemn oath, sworn to before the clerk or judge of such court, to the effect that he will regard the foregoing provisions of this section and that he will faithfully prevent the same and obstruct any attempt to accomplish or to attempt to do any of them, but at the same time to have regard to the comfort and well-being of the jurors and all of them, entrusted into his care in each and every jury trial in any cause during such court term or lesser period of appointment by such court.

In every court the same admonition shall be given and the same oath required as above, in each jury trial; but the court shall have the option whether the same be oral, or in writing and filed in such case, but thereafter during the trial of the same cause and until such jury is dismissed from further consideration of the same it shall not be necessary, for all intent and purposes of this act, to administer again such admonition or to require such oath.

### **Section 399. Athletic contests—Bribery of participants, officials, etc.**

Whoever corruptly gives, offers or promises any gift, gratuity or thing of value to any player, participant, coach, referee, umpire, official or any other person having authority in connection with the conducting of any amateur or professional athletic contest with the intent to influence the action, conduct, judgment, or decision of any such person in, or in connection with, such contest, or as a consideration for such person acting, playing or performing his functions in any such contest, in any manner calculated to affect the result thereof, or in consideration of such person failing to participate or engage in such contest, shall be deemed guilty of bribery, and upon conviction shall be guilty of a felony punishable by imprisonment not to exceed three (3) years; or by a fine of not to exceed Three Thousand Dollars (\$3,000.00), or by both.

### **Section 400. Acceptance of bribe by participant, official, etc.**

Every player, participant, coach, umpire, referee or other person having or exercising authority in connection with the conducting of any amateur or professional athletic contest, who corruptly accepts or requests a gift or gratuity or a promise of any such gift or gratuity, or any other thing of value, or the performance of an act beneficial to any such person in consideration of such person performing any act or making any judgment or decision, or in consideration of such person playing or making decisions or judgments or conducting such athletic contest, in a manner intended or calculated to affect or change the result of such athletic contest, or in consideration of such person failing to participate or engage in any such contest, shall be deemed guilty of a felony and upon conviction shall be punished by imprisonment not to exceed one (1) year, or by a fine of not to exceed Three Thousand Dollars (\$3,000.00) or by both fine and imprisonment.

#### **Section 401. Gifts or rewards for outstanding play or meritorious service not prohibited**

The provisions of Sections 399 and 400 of this act shall not be construed as preventing or prohibiting the giving or accepting of gifts or rewards by any of the persons specified in said sections for outstanding play or meritorious service in the performance of their duties in, or in connection with, any athletic contest or contests.

#### **Section 402. Forfeiture of monies, properties and assets used in violation of bribery laws**

All monies, properties and assets of any kind or character used in the violation of any and all of the bribery laws of the Choctaw Nation of Oklahoma, and which have been paid, delivered or turned over to any person, firm, corporation or public official, shall be forfeited to the court fund of the Choctaw Nation by order of the court before which the action concerning the person, firm, or corporation charged with such bribery has terminated with the conviction of such person, firm, or corporation.

#### **Section 403. Issuance of orders and writs pending trial**

The court before which bribery charges are pending, shall, pending the trial thereof, issue such orders and issue such writs as may be necessary directing the Choctaw Nation Tribal Police to seize and take possession of such monies, funds, properties or assets, and to hold the same subject to the further proceedings to be had therein.

#### **Section 404. Hearing—Judgment of forfeiture—Sale of properties or assets**

The court having jurisdiction of the monies, funds, properties or assets so seized upon conviction of the person, firm, or corporation charged, shall, without a jury, order an immediate hearing as to whether the monies, funds, properties or assets so seized were being used for unlawful purposes, and take such legal evidences as are offered on each behalf and determine the same as

in civil cases. Should the court find from a preponderance of the testimony that the monies, funds, properties or assets so seized were being used for the violation of the bribery laws of the Choctaw Nation of Oklahoma, it shall render judgment accordingly and declare said monies, funds, properties or assets forfeited to the Choctaw Nation of Oklahoma. Thereupon, said properties or assets shall, under the order of said court, be sold by the officer having the same in charge, after ten (10) days' notice published in a daily newspaper of the county wherein said sale is to take place, or if no daily newspaper is published in said county, then by posting five (5) notices in conspicuous places in the city or town wherein such sale is to be made; and if the same is money or a fund, or of such nature as being negotiable and sale unnecessary, then such money, fund or negotiable property shall be held by the officer having charge of same, until disposed of in accordance with the provisions of this act. All sales of property and assets hereunder shall be for cash.

#### **Section 405. Appeals—Disposition of proceeds**

Appeals may be allowed as in civil cases, but the possession of monies, funds, properties or assets being so unlawfully used shall be prima facie evidence that it is the properties, funds, monies or assets of the person so using it. Where said monies, funds, properties or assets are sold or otherwise ordered forfeited under the provisions of this act the proceeds shall be disbursed and applied as follows:

First. To the payment of the costs of the forfeiting proceedings and actual expenses of preserving the properties.

Second. One-eighth (1/8) of the proceeds remaining to the public official, witness, juror or other person to whom the bribe was given, provided such public official, witness, juror or other person had theretofore voluntarily surrendered the same to the Choctaw Nation Tribal Police and informed the proper officials of the bribery or attempted bribery.

Third. The balance to the court fund of the Choctaw Nation of Oklahoma.

#### **Section 406. Fees as additional to salaries**

The fees paid to any officer as provided in the preceding section, shall be in addition to the salaries now provided for them by law.

### **Chapter 10. Conspiracy**

#### **Section 421. Conspiracy—Definition—Punishment**

A. If two or more persons conspire, either:

1. To commit any crime; or
2. Falsely and maliciously to indict another for any crime, or to procure another to be charged or arrested for any crime; or
3. Falsely to move or maintain any suit, action or proceeding; or
4. To cheat and defraud any person of any property by any means which are in themselves criminal, or by any means which, if executed, would amount to a cheat or to obtaining money or property by false pretenses; or
5. To commit any act injurious to the public health, to public morals, or to trade or commerce, or for the perversion or obstruction of justice or the due administration of the laws,

they are guilty of a conspiracy.

B. Except in cases where a different punishment is prescribed by law the punishment for conspiracy shall be a misdemeanor unless the conspiracy is to commit a felony.

C. Conspiracy to commit a felony shall be a felony and is punishable by payment of a fine not exceeding Five Thousand Dollars (\$5,000.00), or by imprisonment for a period not exceeding three (3) years, or by both such fine and imprisonment.

#### **Section 422. Conspiracy outside the nation against the peace of the nation**

If two or more persons, being out of the Choctaw Nation of Oklahoma, conspire to commit any act against the peace of the Choctaw Nation of Oklahoma, the commission or attempted commission of which, within the Choctaw Nation of Oklahoma, would be treason against the nation, they shall be guilty of a felony punishable by imprisonment not exceeding three (3) years.

#### **Section 423. Overt act necessary**

No agreement to commit a felony or to commit a misdemeanor amounts to a conspiracy, unless some act besides such agreement be done to effect the object thereof, by one or more of the parties to such agreement.

#### **Section 424. Punishment for conspiracy against the nation**

If two or more persons conspire either to commit any offense against the Choctaw Nation of Oklahoma, or any department, agency, or school thereof, or to defraud the Choctaw Nation of Oklahoma, or any department, agency, or school thereof, in any manner or for any purpose, and

if one or more of such parties do any act to effect the object of the conspiracy, all the parties to such conspiracy shall be guilty of a felony punishable by a fine of not more than Five Thousand Dollars (\$5,000.00) or imprisonment for not more than three (3) years or by both such fine and imprisonment.

## **Chapter 11. Escapes and Aiding Therein**

### **Section 431. Re-arrest of escaped prisoners**

Every prisoner confined upon conviction for a criminal offense, who escapes from any prison, jail or from any other lawful detention, may be pursued, retaken and imprisoned again, notwithstanding the term for which he was sentenced to be imprisoned may have expired at the time when he is retaken, and he shall remain so imprisoned until tried for such escape, or discharged, on a failure to prosecute therefor.

### **Section 434. Attempt to escape from penitentiary or jail**

Every prisoner confined in any penitentiary or jail, who attempts by force or fraud, although unsuccessfully, to escape therefrom, is guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine of up to Five-thousand dollars (\$5,000), or by both fine and imprisonment.

### **Section 435. Assisting prisoner to escape**

Any person who willfully by any means whatever, assists any prisoner confined in any prison or jail to escape therefrom, is punishable as follows:

1. If such prisoner was confined upon a charge or conviction of a felony, such person shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both fine and imprisonment.
2. If such prisoner was confined otherwise than upon a charge or conviction of a felony, by imprisonment not exceeding one (1) year, or by fine, not exceeding One Thousand Dollars (\$1,000.00), or both.

### **Section 438. Carrying into prison or jail things to aid escape**

Any person who carries or sends into any prison or jail anything useful to aid any prisoner in making his escape, with intent thereby to facilitate the escape of any prisoner confined therein, is punishable as follows:

1. If such prisoner was confined upon any charge or conviction of felony, by imprisonment not exceeding three (3) years.
2. If such prisoner was confined otherwise than upon a charge or conviction of felony, by imprisonment not exceeding one (1) year, or by a fine of One Thousand Dollars (\$1,000.00), or both.

### **Section 439. Concealing escaped prisoner**

Every person who willfully and knowingly conceals any prisoner, who having been confined in prison or jail upon a charge or conviction of misdemeanor, has escaped therefrom, is guilty of a misdemeanor.

### **Section 440. Harboring criminals and fugitives—Assisting a sex offender in violation of registration requirements—Unlawful acts—Penalties**

A. Any person who shall knowingly feed, lodge, clothe, arm, equip in whole or in part, harbor, aid, assist or conceal in any manner any person guilty of any felony, or outlaw, or fugitive from justice, or any person seeking to escape arrest for any felony committed within the Choctaw Nation of Oklahoma or any other Indian tribe, state or territory, shall be guilty of a felony punishable by imprisonment for a period not exceeding three (3) years.

B. It shall be unlawful for any person who has reason to believe that a sex offender is in violation of the registration requirements of the Sex Offenders Registration Act and who has the intent to assist the sex offender in eluding arrest, to do any of the following:

1. Withhold information from, or fail to notify, a law enforcement agency about the noncompliance of the sex offender with the registration requirements of the Sex Offenders Registration Act, and, if known, the whereabouts of the offender;
2. Harbor, attempt to harbor, or assist another person in harboring or attempting to harbor, the sex offender;
3. Conceal, or attempt to conceal, or assist another person in concealing or attempting to conceal, the sex offender; or
4. Provide information to a law enforcement agency regarding the sex offender that the person knows to be false information.

C. Any person convicted of violating the provisions of subsection B of this section shall be guilty of a misdemeanor punishable by a fine of not less than One Thousand Dollars (\$1,000.00), or by imprisonment for a term not to exceed one (1) year, or by both such fine and imprisonment.

#### **Section 441. Assisting escape from officer**

Every person who willfully assists any prisoner in escaping or attempting to escape from the custody of any officer or person having the lawful charge of such prisoner under any process of law or under any lawful arrest is guilty of a misdemeanor punishable by a fine of not less than One Thousand Dollars (\$1,000.00), or by imprisonment for a term not to exceed one (1) year, or by both such fine and imprisonment.

#### **Section 442. Prisoner defined**

The term prisoner in this article includes every person held in custody under process of law issued from a court of competent jurisdiction, whether civil or criminal, or under any lawful arrest.

#### **Section 443. Escape from jail, or other lawful custody—Penalty—Juvenile offender**

A. Any person having been imprisoned in a jail awaiting charges on a felony offense, or a prisoner awaiting trial, or a prisoner having been sentenced on a felony charge, or any other prisoner having been lawfully detained who escapes from a jail or prison, either while actually confined therein, while permitted to be at large as a trustee, or while awaiting transportation to a jail, correctional or other facility for execution of sentence, shall be guilty of a felony punishable by imprisonment of not less than one (1) year nor more than three (3) years.

B. For the purposes of this section, a prisoner assigned to an alternative to incarceration authorized by law shall be considered to have escaped if the inmate cannot be located within a twenty-four hour period or if he or she fails to report to a correctional facility or institution, as directed. This includes any person escaping by absconding from an electronic monitoring device or absconding after removing an electronic monitoring device from his or her body.

C. Any juvenile offender lawfully placed in a juvenile detention facility or secure juvenile facility, other than a community intervention center, who escapes from the facility while actually confined therein, who escapes while escorted by a transportation officer, or who escapes while permitted to be on an authorized pass or work program outside the facility shall be guilty of a felony punishable by imprisonment for not less than one (1) year nor more than three (3) years. For purposes of this subsection:

1. A juvenile offender permitted to be on an authorized pass or work program shall be considered to have escaped if the juvenile offender cannot be located within a twenty-four-hour period or if

the juvenile offender fails to report to the facility at the specified time, and shall include any juvenile offender escaping by absconding from an electronic monitoring device or absconding after removing an electronic monitoring device from the body of the juvenile offender; and

2. “Escape” means a juvenile offender in lawful custody who has absented himself or herself without official permission from a facility or secure placement, during transport to or from such facility, or failure to return from a pass issued by a facility.

#### **Section 444. Additional punishment under rules and regulations of jail or prison after escape**

In addition, all prisoners who escape from either of the aforesaid jails or prisons either while confined therein, or while at large as a trustee, when apprehended and returned to the jail or prison, shall be punishable by the jail or prison authorities in such manner as may be prescribed by the rules and regulations of the jail or prison provided that such punishment shall not be cruel or unusual.

#### **Section 445. Escape or attempt to escape from arrest or detention—Removal of monitoring device**

A. It is unlawful for any person, after being lawfully arrested or detained by a peace officer, to escape or attempt to escape from such peace officer.

B. Any person who escapes or attempts to escape after being lawfully arrested or detained for custody for a misdemeanor offense shall be guilty of a misdemeanor.

C. Any person who escapes or attempts to escape after being lawfully arrested or detained for custody for a felony offense shall be guilty of a felony.

D. It is unlawful for any person admitted to bail or released on recognizance, bond, or undertaking for appearance before any magistrate or court of the Choctaw Nation of Oklahoma, and required as a condition of such release from detention to wear any electronic monitoring device on the body of the person to remove such device without authorization from the court. For purposes of this subsection, any person charged with a misdemeanor offense who removes such device without authorization from the court shall be guilty of a misdemeanor and any person charged with a felony offense who removes such device without authorization from the court shall be guilty of a felony.

#### **Section 446. Unauthorized entry into penal institution, jail, etc.—Penalties**

Any person who willfully gains unauthorized entry into any penal institution, jail, any place where prisoners are located, or the penal institution grounds, upon conviction, shall be guilty of a



felony punishable by imprisonment for not less than one (1) year nor more than three (3) years, or by the imposition of a fine of not less than Five Hundred Dollars (\$500.00) or more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

## **Chapter 12. Falsifying Evidence**

### **Section 451. Offering false evidence**

Any person who, upon any trial, proceedings, inquiry or investigation whatever, authorized by law, offers in evidence, as genuine, any book, paper, document, record, or other instrument in writing, knowing the same to have been forged, or fraudulently altered, shall be guilty of a felony and shall be punished in the same manner as the forging or false alteration of such instrument is made punishable by the provisions of this title.

### **Section 452. Deceiving witness**

Every person who practices any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token or writing, to any witness or person about to be called as a witness, upon any trial, proceeding, inquiry or investigation whatever, proceeding by authority of law, with intent to affect the testimony of such witness, is guilty of a misdemeanor.

### **Section 453. Preparing false evidence**

Any person guilty of falsely preparing any book, paper, record, instrument in writing, or other matter or thing, with intent to produce it, or allow it to be produced as genuine upon any trial, proceeding or inquiry whatever, authorized by law, shall be guilty of a felony.

### **Section 454. Destroying evidence**

Every person who knowing that any book, paper, record, instrument in writing, or other matter or thing, is about to be produced in evidence upon any trial, proceeding, inquiry or investigation whatever, authorized by law, willfully destroys the same, with intent thereby to prevent the same from being produced, is guilty of a misdemeanor.

### **Section 455. Preventing witness from giving testimony—Threatening witness who has given testimony**

A. Every person who willfully prevents any person from giving testimony who has been duly summoned or subpoenaed or endorsed on the criminal information or juvenile petition as a witness, or who makes a report of abuse or neglect, or who is a witness to any reported crime, or threatens or procures physical or mental harm through force or fear with the intent to prevent any witness from appearing in court to give his testimony, or to alter his testimony is, upon conviction, guilty of a felony punishable by not less than one (1) year nor more than three (3) years.

B. Every person who threatens physical harm through force or fear or causes or procures physical harm to be done to any person or harasses any person or causes a person to be harassed because of testimony given by such person in any civil or criminal trial or proceeding, or who makes a report of abuse or neglect is, upon conviction, guilty of a felony punishable by not less than one (1) year nor more than three (3) years.

#### **Section 456. Bribing witness—Subornation of perjury**

Any person who gives or offers or promises to give to any witness or person about to be called as a witness in any matter whatever any bribe upon any understanding or agreement that the testimony of such witness shall be influenced, or who attempts by any other means fraudulently to induce any witness to give false testimony shall be guilty of a felony, but if the offer, promise, or bribe is in any way to induce the witness to swear falsely, then it shall be held to be subornation of perjury.

### **Chapter 13. Forging, Stealing, Mutilating and Falsifying Judicial and Public Records and Documents**

#### **Section 461. Larceny or destruction of records by clerk or officer**

Any clerk or deputy, or any other officer or employee having the custody of any record, map or book, or of any paper or proceeding of any court, filed or deposited in any tribal office, who is guilty of stealing, willfully destroying, mutilating, defacing, altering or falsifying or unlawfully removing or secreting such record, map, book, paper or proceeding, or who permits any other person so to do, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, and in addition thereto, such person shall forfeit his or her office or employment.

#### **Section 462. Larceny or destruction of records by other persons**

Any person not an officer such as is mentioned in Section 461 of this title, who is guilty of any of the acts specified in that section shall be guilty of a felony, punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

### **Section 463. Offering forged or false instruments for record**

Any person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any tribal office within the Choctaw Nation of Oklahoma, which instrument, if genuine, might be filed or registered or recorded under any law of the Choctaw Nation of Oklahoma or of the United States, shall be guilty of a felony.

### **Section 464. Forging name to petition—Penalties**

Any person who shall knowingly sign, subscribe or forge the name of any other person, without the consent of such other person, to any petition, application, remonstrance, or other instrument of writing, authorized by law to be filed in or with any court, board or officer, with intent to deceive or mislead such court, board or officer, shall be punished by a fine of not exceeding One Thousand Dollars (\$1,000.00), or imprisonment not exceeding one (1) year, or by both such fine and imprisonment.

### **Chapter 14. Reserved**

### **Chapter 15. Perjury and Subornation of Perjury**

#### **Section 491. Perjury defined—Defense**

Whoever, in a trial, hearing, investigation, deposition, certification or declaration, in which the making or subscribing of a statement is required or authorized by law, makes or subscribes a statement under oath, affirmation or other legally binding assertion that the statement is true, when in fact the witness or declarant does not believe that the statement is true or knows that it is not true or intends thereby to avoid or obstruct the ascertainment of the truth, is guilty of perjury. It shall be a defense to the charge of perjury as defined in this section that the statement is true.

#### **Section 492. Oath defined**

The term “oath,” as used in the last section, includes an affirmation, and every other mode of attesting the truth of that which is stated, which is authorized by law.

#### **Section 493. Oath of office**

So much of an oath of office as relates to the future performance of official duties is not such an oath as is intended by the previous sections.

**Section 494. Irregularities no defense**

It is no defense to a prosecution for perjury that the oath was administered or taken in an irregular manner.

**Section 495. Incompetency no defense**

It is no defense to a prosecution for perjury that the accused was not competent to give the testimony, deposition or certificate of which falsehood is alleged. It is sufficient that he actually was required to give such testimony or made such deposition or certificate.

**Section 496. Contradictory statements as perjury**

Whoever, in one or more trials, hearings, investigations, depositions, certifications or declarations, in which the making or subscribing of statements is required or authorized by law, makes or subscribes two or more statements under oath, affirmation or other legally binding assertion that the statements are true, when in fact two or more of the statements contradict each other, is guilty of perjury.

**Section 497. Making deposition or certificate**

The making of a deposition or certificate is deemed to be complete, within the provisions of this article, from the time when it is delivered by the accused to any other person with the intent that it be uttered or published as true.

**Section 498. Degree of proof required**

A. Proof of guilt beyond a reasonable doubt is sufficient for conviction under this act, and it shall not be necessary also that proof be by a particular number of witnesses or by documentary or other type of evidence.

B. Lack of materiality of the statement is not a defense but the degree to which a perjured statement might have affected some phase or detail of the trial, hearing, investigation, deposition, certification or declaration shall be considered, together with the other evidence or circumstances, in imposing sentence.

C. In a prosecution for perjury by contradictory statements, as defined in Section 496 of Title 21, it is unnecessary to prove which, if any, of the statements is not true.

**Section 499. Defenses to charges of perjury**

A. Upon accusation of a charge of perjury by single statement, as defined in Section 491 of Title 21, it is a defense that the statement is true.

B. Upon accusation of a charge of perjury by contradictory statements, as defined in Section 496 of Title 21, it is a defense that the accused at the time he made each statement believed the statement was true.

### **Section 500. Perjury as a felony**

Perjury is a felony punishable by imprisonment for not more than three (3) years.

### **Section 501. Summary committal of witness**

Whenever it appears probable in any court of record, that any person who has testified in any action or proceeding in such court has committed perjury, such court must immediately commit such person by an order or process for that purpose to prison or take a recognizance with sureties for his appearance and answering for the perjury.

### **Section 502. Witness bound over to appear**

Such court shall thereupon bind over the witnesses to establish such perjury to appear at the proper court to testify upon the trial for such perjury, and shall also cause immediate notice of such commitment or recognizance, with the names of the witnesses so bound over, to be given to the prosecuting official.

### **Section 503. Documents may be retained**

If, upon the hearing of such action or proceeding in which such perjury has probably been committed, any papers or documents produced by either party shall be deemed necessary to be used on the prosecution for such perjury, the court may by order detain such papers or documents from the party producing them, and direct them to be delivered to the prosecuting official.

### **Section 504. Perjury by subornation—Felony—Attempted perjury by subornation**

Whoever procures another to commit perjury is guilty of perjury by subornation. Perjury by subornation is a felony, punishable as provided in Section 505 of this title. Whoever does any act with the specific intent to commit perjury by subornation but fails to complete that offense is guilty of attempted perjury by subornation.

### **Section 505. Punishment of subornation of perjury**

Any person guilty of subornation of perjury is punishable in the same manner as he would be if personally guilty of the perjury so procured.

## **Chapter 16. Rescues**

### **Section 521. Rescuing prisoners**

Any person who by force or fraud rescues or attempts to rescue, or aids another person in rescuing or in attempting to rescue any prisoner from any officer or other person having him in lawful custody, is punishable as follows:

1. If such prisoner was in custody upon a charge or conviction of felony, such person shall be guilty of a felony by imprisonment for not more than three (3) years; or
2. If such prisoner was in custody otherwise than upon a charge or conviction of a felony, by imprisonment not exceeding one (1) year.

### **Section 522. Taking goods from legal custody**

Every person who willfully injures or destroys, takes or attempts to take, or assists any other person in taking or attempting to take from the custody of any officer or person, any personal property which such officer or person has in charge under any process of law, is guilty of a misdemeanor.

## **Chapter 17. Other Crimes Against Public Justice**

### **Section 531. Destruction or falsification of records**

Any law enforcement officer, clerk of a court, bailiff, secretary, or any other officer or employee, and every deputy or subordinate of any officer who mutilates, destroys, conceals, erases, obliterates or falsifies any record or paper appertaining to his office shall be guilty of a felony.

### **Section 532. Permitting escapes**

Any law enforcement officer, jailer, bailiff, clerk of a court, or any other officer and any deputy or subordinate of any such officer, who either:

1. Willfully or carelessly allows any person lawfully held by him in custody to escape or go at large, except as may be permitted by law; or
  2. Receives any gratuity or reward, or any security or promise of one, to procure, assist, connive at or permit any prisoner in his custody to escape, whether such escape is attempted or not; or
  3. Commits any unlawful act tending to hinder justice,
- shall be guilty of a felony.

### **Section 533. Refusing to receive or fingerprint prisoners—Medical exceptions**

A. Except as provided in this section, or for emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb, any peace officer or jail or prison contractor who, in violation of a duty imposed upon the officer or contractor by law or by contract to receive into custody any person as a prisoner, willfully neglects or refuses so to receive such person into custody is guilty of a misdemeanor.

B. Except as provided in this section, or for emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb, any peace officer or jail or prison contractor who, in violation of a duty imposed upon the officer or contractor by law or by contract to fingerprint any person received into custody as a prisoner, willfully neglects or refuses so to fingerprint such person is guilty of a misdemeanor.

C. Any person coming into contact with a peace officer prior to being actually received into custody at a jail facility or holding facility, including, but not limited to, during the time of any arrest, detention, transportation, investigation of any incident, accident or crime, who needs emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb, shall be taken directly to a medical facility or hospital for such emergency medical care notwithstanding any duty imposed pursuant to this section or any other provision of law to first take such person into custody or to fingerprint such person. The responsibility for payment of such emergency medical costs shall be the sole responsibility of the person coming into the officer's contact and shall not be the responsibility of any jail, law enforcement agency, jail or prison contractor, except when the condition is a direct result of injury caused by such officer acting outside the scope of lawful authority.

### **Section 534. Delaying to take before magistrate**

Every officer or other person having arrested any person upon any criminal charge, who willfully delays taking such person before a magistrate having jurisdiction or to deliver said person to a jail to await court, is guilty of a misdemeanor.

**Section 535. Arrest without authority**

Every officer or person pretending to be an officer, who under the pretense or color of any process or other legal authority, arrests any person, or detains him against his will, or seizes or levies upon any property, or dispossesses anyone of any lands or tenements without due and legal process, is guilty of a misdemeanor.

**Section 536. Misconduct in executing a search warrant**

Every peace officer who, in executing a search warrant, willfully exceeds his authority, or exercises it with unnecessary severity, is guilty of a misdemeanor.

**Section 537. Refusing to aid officer**

Every person who, after having been lawfully commanded to aid any officer in arresting any person or in retaking any person who has escaped from legal custody, or in executing any legal process, willfully neglects or refuses to aid such officer, is guilty of a misdemeanor.

**Section 538. Refusing to make arrest**

Every person who, after having been lawfully commanded by any magistrate or judge to arrest another person, willfully neglects or refuses so to do, is guilty of a misdemeanor.

**Section 540. Obstructing officer**

A. Every person who willfully delays or obstructs any public officer in the discharge or attempt to discharge any duty of his office is guilty of a misdemeanor.

B. "Public officer" shall mean an elected or appointed official or any employee of the Choctaw Nation.

**Section 540A. Eluding police officer**

A. Any operator of a motor vehicle who has received a visual signal, a red light, from a peace officer driving a motor vehicle showing the same to be an official law enforcement vehicle directing the operator to bring the vehicle to a stop and who willfully increases the speed or extinguishes the lights of the vehicle in an attempt to elude such peace officer, or willfully attempts in any other manner to elude the peace officer, or who does elude such peace officer, is guilty of a misdemeanor. The peace officer, while attempting to stop a violator of this section, may communicate a request for the assistance of other peace officers from any office, department or agency. Any peace officer within the Choctaw Nation of Oklahoma having



knowledge of such request is authorized to render such assistance in stopping the violator and may effect an arrest under this section upon probable cause. Violation of this subsection shall constitute a misdemeanor and shall be punishable by not more than one (1) year imprisonment or by a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00) or by both such fine and imprisonment. A second or subsequent violation of this subsection shall be punishable by not more than one (1) year imprisonment or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) or both such fine and imprisonment.

B. Any person who violates the provisions of subsection A of this section in such manner as to endanger any other person shall be deemed guilty of a felony punishable by imprisonment for a term of not less than one (1) year nor more than three (3) years, or by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

C. 1. Any person who causes an accident, while eluding or attempting to elude an officer, resulting in great bodily injury to any other person while driving or operating a motor vehicle within the Choctaw Nation of Oklahoma and who is in violation of the provisions of subsection A of this section may be charged with a violation of the provisions of this subsection. Any person who is convicted of a violation of the provisions of this subsection shall be deemed guilty of a felony punishable by imprisonment in a state correctional institution for not less than one (1) year and not more than five (5) years, and a fine of not more than Five Thousand Dollars (\$5,000.00).

2. As used in this subsection, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

#### **Section 540B. Roadblocks**

A peace officer may set up one or more roadblocks to apprehend any person riding upon or within a motor vehicle traveling upon a highway, street, or area accessible to motoring public, when the officer has probable cause to believe such person is committing or has committed:

1. A violation of Section 540A of this title;
2. Escape from the lawful custody of any peace officer;
3. A felony under the laws of the Choctaw Nation of Oklahoma or the laws of any other jurisdiction.

A roadblock is defined as a barricade, sign, standing motor vehicle, or similar obstacle temporarily placed upon or adjacent to a public street, highway, or area accessible to the

motoring public, with one or more peace officers in attendance thereof directing each operator of approaching motor vehicles to stop or proceed.

Any operator of a motor vehicle approaching such roadblock has a duty to stop at the roadblock unless directed otherwise by a peace officer in attendance thereof and the willful violation hereof shall constitute a separate offense from any other offense committed. Any person who willfully attempts to avoid such roadblock or in any manner willfully fails to stop at such roadblock or who willfully passes by or through such roadblock without receiving permission from a peace officer in attendance thereto is guilty of a felony and shall be punished by imprisonment for not less than one (1) year, nor more than three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00) or by both such fine and imprisonment.

#### **Section 540C. Fortification of access point to place where felony under Controlled Dangerous Substances Act being committed or attempted**

A. It shall be unlawful for any person to willfully fortify an access point into any dwelling, structure, building or other place where a felony offense prohibited by the Uniform Controlled Dangerous Substances Act is being committed, or attempted, and the fortification is for the purpose of preventing or delaying entry or access by a law enforcement officer, or to harm or injure a law enforcement officer in the performance of official duties.

B. For purposes of this section, “fortify an access point” means to willfully construct, install, position, use or hold any material or device designed to injure a person upon entry or to strengthen, defend, restrict or obstruct any door, window or other opening into a dwelling, structure, building or other place to any extent beyond the security provided by a commercial alarm system, lock or deadbolt, or a combination of alarm, lock or deadbolt.

C. Any person violating the provisions of this section shall, upon conviction, be guilty of a felony punishable by imprisonment for a term of not more than three (3) years, or by a fine in an amount not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

#### **Section 541. Extrajudicial oaths**

Every person who takes an oath before an officer or person authorized to administer judicial oaths, except when such oath is required or authorized by law, or is required by the provisions of some contract as the basis of or in proof of a claim, or when the same has been agreed to be received by some person as proof of any fact, in the performance of any contract, obligation or duty instead of other evidence, is guilty of a misdemeanor.

#### **Section 542. Administering extrajudicial oaths**

Every officer or other person who administers an oath to another person, or who makes and delivers any certificate that another person, has taken an oath, except when such oath is required by the provisions of some contract as a basis of or proof of a claim, or when the same has been agreed to be received by some person as proof of any fact in the performance of any contract, obligation or duty, instead of other evidence, is guilty of a misdemeanor.

### **Section 543. Compounding crimes**

Any person who, having knowledge of the actual commission of a crime or violation of statute, takes any money or property of another, or any gratuity or reward, or any engagement or promise therefor, upon any agreement or understanding, express or implied, to compound or conceal such crime, or violation of statute, or to abstain from any prosecution therefor, or to withhold any evidence thereof, is punishable as follows:

1. By imprisonment not exceeding three (3) years if the crime or violation of statute compounded is a felony; or
3. By imprisonment not exceeding one (1) year if the crime or violation of statute compounded is a misdemeanor, or violation of statute for which a pecuniary or other penalty or forfeiture is prescribed.

### **Section 544. Compounding prosecution**

Every person who takes any money or property of another, or any gratuity or reward, or any engagement or promise therefor, upon any agreement or understanding, express or implied, to compound, discontinue or delay any prosecution then pending for any crime or violation of statute, or to withhold any evidence in aid thereof, is guilty of a misdemeanor.

### **Section 545. Attempt to intimidate officer**

Every person who, directly or indirectly, utters or addresses any threat or intimidation to any judicial or ministerial officer, to any juror, referee, arbitrator, or other person authorized by law to hear or determine any controversy, with intent to induce him either to any act not authorized by law, or to omit or delay the performance of any duty imposed upon him by law, is guilty of a misdemeanor.

### **Section 546. Suppressing evidence**

Every person who maliciously practices any deceit or fraud, or uses any threat, menace or violence, with intent to prevent any party to an action or proceeding from obtaining or producing therein any book, paper, or other matter or thing which might be evidence, or from procuring the

attendance or testimony of any witness therein, or with intent to prevent any person having in his possession any book, paper or other matter or thing which might be evidence in such suit or proceeding, or prevent any person being cognizant of any fact material thereto from producing or disclosing the same, is guilty of a misdemeanor.

**Section 547. Reserved**

**Section 548. Reserved**

**Section 549. Reserved**

**Section 550. Reserved**

**Section 551. Reserved**

**Section 552. Reserved**

**Section 553. Reserved**

**Section 554. Reserved**

**Section 555. Prosecuting attorneys and their partners**

Every attorney who directly or indirectly advises in relation to, or aids or promotes the defense of any action or proceeding in any court, the prosecution of which is carried on, aided or promoted by any person as a prosecutor; with whom such person is directly or indirectly connected as a partner, or who takes or receives, directly or indirectly, from or on behalf of any defendant therein, any valuable consideration, upon any understanding or agreement whatever, express or implied, having relation to the defense thereof, is guilty of a misdemeanor; and in addition to the punishment prescribed therefor, he shall forfeit his license to practice.

**Section 556. Prosecutor advising the defense**

Every attorney who, having prosecuted or in any manner aided or promoted any action or proceeding in any court, as a prosecutor, afterward, directly or indirectly, advises in relation to, or takes any part in the defense thereof, as attorney or otherwise, or takes or receives any

valuable consideration from or on behalf of any defendant therein, upon any understanding or agreement whatever, express or implied, having relation to the defense thereof, is guilty of a misdemeanor; and in addition to the punishment prescribed therefor he shall forfeit his license to practice.

#### **Section 557. Attorneys may defend themselves**

The two last sections do not prohibit an attorney from defending himself in person, as attorney or as counsel, when prosecuted either civilly or criminally.

#### **Section 559. Claims for collection, loans or advances on**

Every attorney or judge, who, directly or indirectly, lends or advances any money or property, or agrees for or procures any loan or advance, to any person, as a consideration for or inducement toward committing any evidence of debt or thing in an action to such attorney or judge or any other person, for collection, is guilty of a misdemeanor.

#### **Section 560. Receiving claims in payment of debts**

Nothing in the preceding sections shall be construed to prohibit the receiving in payment of any evidence of debt or thing in action for any estate, real or personal, or for any services of any attorney actually rendered, or for a debt antecedently contracted, or the buying or receiving any evidence of debt or the thing in action for the purpose of remittance, and without any intent to violate the preceding section.

#### **Section 561. Application of preceding sections**

The provisions of the foregoing sections relating to the buying of claims by an attorney with intent to prosecute them, or to the lending or advancing money by an attorney in consideration of a claim being delivered for collection, shall apply to every case of such buying a claim, or lending or advancing money by any person prosecuting a suit or demanding in person.

#### **Section 562. Privilege of witnesses in respect to claims or debts sold**

No person shall be excused from testifying in any civil action, to any facts showing that an evidence of debt or thing in action has been bought, sold or received contrary to law, upon the ground that his testimony might tend to convict him of a crime. But no evidence derived from the examination of such person shall be received against him upon any criminal prosecution.

#### **Section 563. Contempts, direct and indirect—Definition**

Contempts of court shall be divided into direct and indirect contempts. Direct contempts shall consist of disorderly or insolent behavior committed during the session of the court and in its immediate view, and presence, and of the unlawful and willful refusal of any person to be sworn as a witness, and the refusal to answer any legal or proper question; and any breach of the peace, noise or disturbance, so near to it as to interrupt its proceedings, shall be deemed direct contempt of court, and may be summarily punished as hereinafter provided for. Indirect contempts of court shall consist of willful disobedience of any process or order lawfully issued or made by court; resistance willfully offered by any person to the execution of a lawful order or process of a court.

#### **Section 564. Trial court—Power to punish contempt—Censure—Contempt proceedings**

A. The trial judge has the power to cite for contempt anyone who, in his presence in open court, willfully obstructs judicial proceedings. If necessary, the trial judge may punish a person cited for contempt after an opportunity to be heard has been given.

B. Censure shall be imposed by the trial judge only if:

1. it is clear from the identity of the offender and the character of his acts that disruptive conduct is willfully contemptuous; or

2. the conduct warranting the sanction is preceded by a clear warning that the conduct is impermissible and that specified sanctions may be imposed for its repetition.

C. The trial judge, as soon as practicable after he is satisfied that courtroom misconduct requires contempt proceedings, should inform the alleged offender of his intention to institute said proceedings.

D. Before imposing any punishment for contempt, the judge shall give the offender notice of the charges and an opportunity to adduce evidence or argument relevant to guilt or punishment.

E. The judge before whom courtroom misconduct occurs may impose appropriate sanctions including punishment for contempt. If the judge's conduct was so integrated with the contempt that he contributed to it or was otherwise involved or his objectivity can reasonably be questioned, the matter shall be referred to another judge.

#### **Section 565. Direct or indirect contempt—Penalties—Cases involving failure to comply with court orders regarding children**

A. Unless otherwise provided for by law, punishment for direct or indirect contempt shall be by the imposition of a fine in a sum not exceeding Five Hundred Dollars (\$500.00) or by imprisonment not exceeding six (6) months, or by both, at the discretion of the court.

B. Any court in the Choctaw Nation of Oklahoma has the power to enforce an order for current child support, past-due child support and child support arrearage payments, other support, visitation, or other court orders regarding minor children and to punish an individual for failure to comply therewith, as set forth in subsection A of this section.

Orders for current child support, past-due child support and child support arrearage payments are enforceable until paid in full. The remedies provided by this section are available regardless of the age of the child.

### **Section 566. Noncompliance with child support order—Indirect civil contempt**

A. When a court of competent jurisdiction has entered an order compelling a parent to furnish child support, necessary food, clothing, shelter, medical support, payment of child care expenses, or other remedial care for the minor child of the parent:

1. Proof that:

- a. the order was made, filed, and served on the parent,
- b. the parent had actual knowledge of the existence of the order,
- c. the order was granted by default after prior due process notice to the parent, or
- d. the parent was present in court at the time the order was pronounced; and

2. Proof of noncompliance with the order,

shall be prima facie evidence of an indirect civil contempt of court.

B. 1. In the case of indirect contempt for the failure to comply with an order for child support, child support arrears, or other support, punishment shall be, at the discretion of the court:

- a. incarceration not exceeding six (6) months, or
- b. incarceration on weekends or at other times that allow the obligor to be employed, seek employment or engage in other activities ordered by the court.

2. Punishment may also include imposition of a fine in a sum not exceeding Five Hundred Dollars (\$500.00).

C. 1. During proceedings for indirect contempt of court, the court may order the obligor to complete an alternative program and comply with a payment plan for child support and arrears. If the obligor fails to complete the alternative program and comply with the payment plan, the

court shall proceed with the indirect contempt and shall impose punishment pursuant to subsection B of this section.

2. An alternative program may include:

a. a problem-solving court program for obligors when child support services are being provided for the benefit of the child. A problem-solving court program is an immediate and highly structured judicial intervention process for the obligor and requires completion of a participation agreement by the obligor and monitoring by the court. A problem-solving court program differs in practice and design from the traditional adversarial contempt prosecution and trial systems. The problem-solving court program uses a team approach administered by the judge in cooperation with a child support attorney and a child support court liaison who focuses on removing the obstacles causing the nonpayment of the obligor. The obligors in this program shall be required to sign an agreement to participate in this program as a condition to stay contempt proceedings or in lieu of incarceration after a finding of guilt. The court liaisons assess the needs of the obligor, develop a community referral network, make referrals, monitor the compliance of the obligor in the program, and provide status reports to the court, and

b. participation in programs such as counseling, treatment, educational training, social skills training or employment training to which the obligor reports daily or on a regular basis at specified times for a specified length of time.

D. In the case of indirect contempt for the failure to comply with an order for child support, child support arrears, or other support, the Court of Appeals shall promulgate guidelines for determination of the sentence and purge fee. If the court fails to follow the guidelines, the court shall make a specific finding stating the reasons why the imposition of the guidelines would result in inequity. The factors that shall be used in determining the sentence and purge fee are:

1. The proportion of the child support, child support arrearage payments, or other support that was unpaid in relation to the amount of support that was ordered paid;

2. The proportion of the child support, child support arrearage payments, or other support that could have been paid by the party found in contempt in relation to the amount of support that was ordered paid;

3. The present capacity of the party found in contempt to pay any arrearages;

4. Any willful actions taken by the party found in contempt to reduce the capacity of that party to pay any arrearages;

5. The past history of compliance or noncompliance with the support order; and

6. Willful acts to avoid the jurisdiction of the court.



### **Section 567. Indirect contempts—Proceedings**

A. In all cases of indirect contempt the party charged with contempt shall be notified in writing of the accusation and have a reasonable time for defense; and the party so charged shall, upon demand, have a trial by jury.

B. In the event the party so charged shall demand a trial by jury, the court shall thereupon set the case for trial at a time determined by the court. The court shall fix the amount of an appearance bond to be posted by said party charged, which bond shall be signed by said party and two sureties, which sureties together shall qualify by showing ownership of real property, the equal of which property shall be in double the amount of the bond, or, in the alternative, the party charged may deposit with the court clerk cash equal to the amount of the appearance bond.

C. In a case of indirect contempt, it shall not be necessary for the party alleging indirect contempt, or an attorney for that party, to attend an initial appearance or arraignment hearing for the party charged with contempt, unless the party alleging the indirect contempt is seeking a cash bond. If a cash bond is not being requested, the clerk of the court shall, upon request, notify the party alleging the indirect contempt of the date of the trial.

### **Section 567A. Violation of child custody order—Affirmative defense—Emergency or protective custody**

A. Any parent or other person who violates an order of any court of the Choctaw Nation of Oklahoma granting the custody of a child under the age of eighteen (18) years to any person, agency, institution, or other facility, with the intent to deprive the lawful custodian of the custody of the child, shall be guilty of a felony. The fine for a violation of this subsection shall not exceed Five Thousand Dollars (\$5,000.00).

B. The offender shall have an affirmative defense if the offender reasonably believes that the act was necessary to preserve the child from physical, mental, or emotional danger to the child's welfare and the offender notifies the local law enforcement agency nearest to the location where the custodian of the child resides.

C. If a child is removed from the custody of the child's lawful custodian pursuant to the provisions of this section any law enforcement officer may take the child into custody without a court order and, unless there is a specific court order directing a law enforcement officer to take the child into custody and release or return the child to a lawful custodian, the child shall be held in emergency or protective custody pursuant to the provisions of Section 1-4-201 of the Choctaw Nation Children's Code.

### **Section 567B. Failure to Appear for Jury Service**

An individual who fails to appear in person on the date scheduled for jury service and who has failed to obtain a postponement in compliance with the provisions for requesting a postponement, or who fails to appear on the date set for said jury service, shall be in indirect contempt of court and shall be punished by the imposition of a fine not to exceed Five Hundred Dollars (\$500.00). The prospective juror may be excused from paying sanctions for good cause shown or in the interests of justice. In addition to or in lieu of the fine, the court may order that the prospective juror complete a period of community service for a period no less than if the prospective juror would have completed jury service, and provide proof of completion of this community service to the court.

#### **Section 568. Contempt—Substance of offense made of record**

Whenever a person shall be imprisoned for contempt the substance of the offense shall be set forth in the order for his confinement, and made a matter of record in the court.

#### **Section 569. Attorneys—Second application to another judge to stay trial**

Every attorney or counselor at law who, knowing that an application has been made for an order staying the trial, to a judge authorized to grant the same, and has been denied, without leave reserved to renew it, makes an application to another judge to stay the same trial, is guilty of a misdemeanor.

#### **Section 573. Fraudulent concealment of property**

Every person who, having been called upon, by the lawful order of any court, to make a true exhibit of his real and personal effects, either:

1. Willfully conceals any of his estate or effects, or any books or writing relative thereto; or,
2. Willfully omits to disclose to the court any debts or demands which he has collected, or any transfer of his property which he had made after being ordered to make an exhibit thereof, is guilty of a misdemeanor.

#### **Section 575. Attorneys, misconduct by—Deceit—Delaying suit—Receiving allowance for money not laid out**

Every attorney who, whether as attorney or as counselor, who:

1st, is guilty of any deceit or collusion, or consents to any deceit or collusion with intent to deceive the court or any party; or,

2nd, willfully delays his client's suit, with a view to his own gain; or,

3rd, willfully receives any money or allowance for or on account of any money which he has not laid out or become answerable for, is guilty of a misdemeanor; and, in addition to the punishment prescribed therefor by this code, he forfeits to the party injured treble damages, to be recovered in a civil action.

#### **Section 576. Attorney permitting other person to use his name**

If any attorney knowingly permits any person not being his general law partner or a clerk in his office to sue out any process or to prosecute or defend any action in his name, except as authorized by the next section, such attorney, and every person who shall so use his name is guilty of a misdemeanor.

#### **Section 577. Attorneys, use of name lawful, when**

Whenever an action or proceeding is authorized by law to be prosecuted or defended in the name of the Choctaw Nation, or of any officer, board of officers or corporation, on behalf of another party, the prosecutor or attorney of such public officer or board or corporation may permit any proceeding therein to be taken in his name by an attorney to be chosen by the party in interest.

#### **Section 580. Public officers—Willful neglect of duty a misdemeanor**

A public officer or person holding a public trust or employment upon whom any duty is enjoined by law, who willfully neglects to perform the duty is guilty of a misdemeanor. This section does not apply to cases of official acts or omissions, the prevention or punishment of which is otherwise specially provided by statute.

#### **Section 581. Willful omission of duty by officers of the Choctaw Nation**

Where any duty is or shall be enjoined by law upon any officer of the Choctaw Nation, or upon any person holding any public trust or employment, every willful omission to perform such duty where no special provision shall have been made for the punishment of such delinquency, is punishable as a misdemeanor.

#### **Section 584. Prosecuting suit or bringing action or procuring arrest in false name**

Every person who maliciously institutes or prosecutes any action or legal proceeding; or makes or procures any arrest, in the name of a person who does not exist, or has not consented that it be instituted or made, is guilty of a misdemeanor.

**Section 586. Communicating with a convict**

Every person who, not being authorized by law, or by a written permission from a law enforcement officer, jailor, or by the consent of the warden or some similar person having authority, communicates with any convict in a jail or penitentiary, or brings into or conveys out of the jail or penitentiary any letter or printing to or from any convict, is guilty of a misdemeanor.

**Section 587. False certificate by officer**

Every officer who, being authorized by law to make or give any certificate or other writing, knowingly makes and delivers as true any such certificate or writing containing any statement which he knows to be false, is guilty of a misdemeanor.

**Section 588. Recording of petit jury proceedings—Listening or observing—Penalty**

If any person, firm or corporation shall knowingly and willfully, by means of any device whatsoever, records or attempts to record the proceedings of any petit jury in any court of the Choctaw Nation of Oklahoma while such jury is deliberating or voting or listens to or observes, or attempts to listen to or observe, the proceedings of any petit jury of which he is not a member in any court of the Choctaw Nation of Oklahoma while such jury is deliberating or voting shall be guilty of a felony and shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than two (2) years, or both. Provided, however, that nothing in this section shall be construed to prohibit the taking of notes by a juror in any court of the Choctaw Nation of Oklahoma in connection with and solely for the purpose of assisting him in the performance of his duties as such juror.

**Section 589. False reporting of crime—False reporting of missing child**

A. It shall be unlawful to willfully, knowingly and without probable cause make a false report to any person of any crime or circumstances indicating the possibility of crime having been committed, including the unlawful taking of personal property, which report causes or encourages the exercise of police action or investigation. Any person convicted of violating the provisions of this subsection shall be guilty of a misdemeanor punishable by imprisonment for not more than six (6) months or by a fine of not more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

B. It shall be unlawful to willfully, knowingly, and without probable cause communicate false information concerning a missing child to a law enforcement agency that causes or encourages the activation of an AMBER alert warning system. Any person convicted of violating the provisions of this subsection shall be guilty of a felony punishable by imprisonment for not more

than one (1) year or by a fine of not less than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

## **Chapter 18. Assault and Battery**

### **Section 641. Assault defined**

An assault is any willful and unlawful attempt or offer with force or violence to do a corporal hurt to another.

### **Section 642. Battery defined**

A battery is any willful and unlawful use of force or violence upon the person of another.

### **Section 643. Force against another not unlawful, when—Self-defense—Defense of property**

To use or to attempt to offer to use force or violence upon or toward the person of another is not unlawful in the following cases:

1. When necessarily committed by a public officer in the performance of any legal duty, or by any other person assisting such officer or acting by such officer's direction;
2. When necessarily committed by any person in arresting one who has committed any felony, and delivering such person to a public officer competent to receive such person in custody;
3. When committed either by the person about to be injured, or by any other person in such person's aid or defense, in preventing or attempting to prevent an offense against such person, or any trespass or other unlawful interference with real or personal property in such person's lawful possession; provided the force or violence used is not more than sufficient to prevent such offense;
4. When committed by a parent or the authorized agent of any parent, or by any guardian, master or teacher, in the exercise of a lawful authority to restrain or correct such person's child, ward, apprentice or scholar, provided restraint or correction has been rendered necessary by the misconduct of such child, ward, apprentice or scholar, or by the child's refusal to obey the lawful command of such parent or authorized agent or guardian, master or teacher, and the force or violence used is reasonable in manner and moderate in degree;
5. When committed by a carrier of passengers, or the authorized agents or servants of such carrier, or by any person assisting them at their request, in expelling from any carriage, railroad

car, vessel or other vehicle, any passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force and violence used is not more than is sufficient to expel the offending passenger, with a reasonable regard to such passenger's personal safety; and

6. When committed by any person in preventing a person who is impaired by reason of mental retardation or developmental disability, a mentally ill person, insane person or other person of unsound mind, including persons temporarily or partially deprived of reason, from committing an act dangerous to such person's self or to another, or enforcing such restraint as is necessary for the protection of the person or for restoration to health, during such period only as shall be necessary to obtain legal authority for the restraint or custody of the person.

#### **Section 644. Assault—Assault and battery—Domestic abuse**

A. Assault shall be punishable by imprisonment not exceeding thirty (30) days, or by a fine of not more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

B. Assault and battery shall be punishable by imprisonment not exceeding six (6) months, or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

C. Any person who commits any assault and battery against a current or former spouse, a present spouse of a former spouse, a former spouse of a present spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is or was in a dating relationship, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or a person living in the same household as the defendant shall be guilty of domestic abuse. Upon conviction, the defendant shall be guilty of a misdemeanor and punished by imprisonment for not more than one (1) year, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. Upon conviction for a second or subsequent offense, the person shall be guilty of a felony and punished by imprisonment for not more than three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. The provisions of Section 51 of this title shall apply to any second or subsequent offense.

D. Any person convicted of domestic abuse committed against a pregnant woman with knowledge of the pregnancy shall be guilty of a misdemeanor, punishable by imprisonment for not more than one (1) year.

Any person convicted of a second or subsequent offense of domestic abuse against a pregnant woman with knowledge of the pregnancy shall be guilty of a felony, punishable by imprisonment for not more than three (3) years.

Any person convicted of domestic abuse committed against a pregnant woman with knowledge of the pregnancy and a miscarriage occurs or injury to the unborn child occurs shall be guilty of a felony, punishable by imprisonment for not more than three (3) years.

E. Any person convicted of domestic abuse as defined in subsection C of this section that results in great bodily injury to the victim shall be guilty of a felony and punished by imprisonment for not more than three (3) years. The provisions of Section 51 of this title shall apply to any second or subsequent conviction of a violation of this subsection.

F. Any person convicted of domestic abuse as defined in subsection C of this section that was committed in the presence of a child shall be guilty of a misdemeanor and punished by imprisonment for not less than six (6) months nor more than one (1) year, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. Any person convicted of a second or subsequent domestic abuse as defined in subsection C of this section that was committed in the presence of a child shall be guilty of a felony and punished by imprisonment for not less than one (1) year nor more than three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. The provisions of Section 51 of this title shall apply to any second or subsequent offense.

G. For every conviction of any provision of this section, the court shall:

1. Specifically order as a condition of a suspended sentence or probation that a defendant participate in counseling or undergo treatment to bring about the cessation of domestic abuse as specified in paragraph 2 of this subsection;

2. a. The court shall require the defendant to participate in counseling or undergo treatment for domestic abuse by an individual licensed practitioner or a domestic abuse treatment program. If the defendant is ordered to participate in a domestic abuse counseling or treatment program, the order shall require the defendant to attend the program for a minimum of fifty-two (52) weeks, complete the program, and be evaluated before and after attendance of the program by a program counselor or a private counselor. Three unexcused absences in succession or seven unexcused absences in a period of fifty-two (52) weeks from any court-ordered domestic abuse counseling or treatment program shall be prima facie evidence of the violation of the conditions of probation.

- b. A program for anger management, couples counseling, or family and marital counseling shall not solely qualify for the counseling or treatment requirement for domestic abuse pursuant to this subsection. The counseling may be ordered in addition to counseling specifically for the treatment of domestic abuse or per evaluation as set forth below. If, after sufficient evaluation and attendance at required counseling sessions, the domestic violence treatment program or licensed professional determines that the defendant does not evaluate as a perpetrator of domestic violence or does evaluate as a perpetrator of domestic violence and should complete other programs of treatment simultaneously or prior to domestic violence treatment, including but not limited to programs related to the mental health, apparent substance or alcohol abuse or

inability or refusal to manage anger, the defendant shall be ordered to complete the counseling as per the recommendations of the domestic violence treatment program or licensed professional;

The defendant may be required to pay all or part of the cost of the counseling or treatment, in the discretion of the court.

H. As used in subsection F of this section, “in the presence of a child” means in the physical presence of a child; or having knowledge that a child is present and may see or hear an act of domestic violence. For the purposes of subsections C and F of this section, “child” may be any child whether or not related to the victim or the defendant.

I. For the purposes of subsections C and F of this section, any conviction for assault and battery against a current or former spouse, a present spouse of a former spouse, a former spouse of a present spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is or was in a dating relationship, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or any person living in the same household as the defendant, shall constitute a sufficient basis for a felony charge if that conviction is rendered in any court of record.

J. Any plea of guilty or nolo contendere or a finding of guilt for a violation of any subsection of this section shall constitute a conviction of the offense for the purpose of this act or any other criminal statute under which the existence of a prior conviction is relevant for a period of ten (10) years following the completion of any court imposed probationary term; provided, the person has not, in the meantime, been convicted of a misdemeanor involving moral turpitude or a felony.

L. For purposes of subsection F of this section, “great bodily injury” means bone fracture, protracted and obvious disfigurement, protracted loss or impairment of the function of a body part, organ or mental faculty, or substantial risk of death.

#### **Section 645. Assault, battery, or assault and battery with dangerous weapon**

Every person who, with intent to do bodily harm and without justifiable or excusable cause, commits any assault, battery, or assault and battery upon the person of another with any sharp or dangerous weapon, or who, without such cause, shoots at another, with any kind of firearm, air gun, conductive energy weapon or other means whatever, with intent to injure any person, although without the intent to kill such person or to commit any felony, upon conviction is guilty of a felony punishable by imprisonment not exceeding three (3) years.

#### **Section 646. Aggravated assault and battery defined**



A. An assault and battery becomes aggravated when committed under any of the following circumstances:

1. When great bodily injury is inflicted upon the person assaulted; or
2. When committed by a person of robust health or strength upon one who is aged, decrepit, or incapacitated, as defined in Section 641 of this title.

B. For purposes of this section “great bodily injury” means bone fracture, protracted and obvious disfigurement, protracted loss or impairment of the function of a body part, organ or mental faculty, or substantial risk of death.

#### **Section 647. Punishment for aggravated assault and battery**

Aggravated assault and battery shall be punished by imprisonment not exceeding three (3) years, or by a fine of not more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

#### **Section 648. Definitions**

A. “Police officer”, “police” or “peace officer” means any duly appointed person who is charged with the responsibility of maintaining public order, safety, and health by the enforcement of all laws, ordinances or orders of the Choctaw Nation of Oklahoma and who is authorized to bear arms in execution of his responsibilities, including reserve force deputies, and law enforcement officers who are commissioned pursuant to a cross-deputization agreement.

B. “Police dog” means any dog used by a law enforcement agency of the Choctaw Nation of Oklahoma, or a law enforcement officer who is commissioned pursuant to a cross-deputization agreement, which is especially trained for law enforcement work and is subject to the control of a dog handler.

C. “Police horse” means any horse which is used by a law enforcement agency of the Choctaw Nation of Oklahoma, or a law enforcement officer who is commissioned pursuant to a cross-deputization agreement for law enforcement work.

D. “Dog handler” means any police officer or peace officer who has successfully completed training in the handling of a police dog as established by the policy or standard of the law enforcement agency employing said officer.

#### **Section 649. Assault, battery or assault and battery upon police officer or other peace officer—Penalties**

A. Every person who, without justifiable or excusable cause, knowingly commits any assault upon the person of a law enforcement officer, police officer, corrections personnel, or other peace officer employed or duly appointed by any tribal governmental agency, or a law enforcement officer who is commissioned pursuant to a cross-deputization agreement to enforce tribal laws while said officer is in the performance of his duties is punishable by imprisonment not exceeding six (6) months, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

B. Every person who, without justifiable or excusable cause knowingly commits battery or assault and battery upon the person of a law enforcement officer, police officer, corrections personnel, or other peace officer employed or duly appointed by any tribal governmental agency, or a law enforcement officer who is commissioned pursuant to a cross-deputization agreement to enforce tribal laws while said officer is in the performance of his duties, upon conviction, shall be guilty of a felony punishable by imprisonment of not more than three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

C. As used in this section and in Section 650 of this title, “corrections personnel” means any person, employed, contracted by, or duly appointed by the tribe, who has direct contact with inmates of a jail, detention center, or correctional facility, and includes but is not limited to jailors, janitors, maintenance personnel, dispatchers, clerical personnel, personnel in job classifications requiring direct contact with inmates, persons providing vocational-technical training to inmates, education personnel who have direct contact with inmates because of education programs for inmates, and persons employed, contracted, or duly appointed to supervise inmates or to provide medical treatment or meals to inmates of a jail, detention center, or any other correctional facility whatsoever.

#### **Section 649.1. Certain acts against police dog or police horse prohibited—Penalties**

A. No person shall willfully torture, torment, beat, mutilate, injure, disable, or otherwise mistreat a police dog or police horse owned, or the service of which is employed, by any law enforcement agency.

B. No person shall willfully interfere with the lawful performance of any police dog or police horse.

C. Except as provided in subsection D of this section, any person convicted of violating any of the provisions of this section shall be guilty of a misdemeanor, punishable by the imposition of a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment.

D. Any person who knowingly and willfully and without lawful cause or justification violates the provisions of this section, during the commission of a misdemeanor or felony, shall be guilty of a

felony, punishable by the imposition of a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment not exceeding two (2) years, or by both such fine and imprisonment.

#### **Section 649.2. Killing police dog or police horse—Penalties**

A. No person shall willfully kill any police dog or police horse owned, or the service of which is employed, by any law enforcement agency.

B. Except as provided in subsection C of this section, any person convicted of violating the provisions of this section is guilty of a misdemeanor punishable by the imposition of a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment.

C. Any person who knowingly and willfully and without lawful cause or justification violates the provisions of this section, during the commission of a misdemeanor or felony, shall be guilty of a felony, punishable by the imposition of a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment not exceeding two (2) years, or by both such fine and imprisonment.

#### **Section 649.3. Harming, mistreating or killing service animal—Willful interference with service animal's performance—Permitting animal to fight, injure or kill service animal—Penalties—Exemption from registration or license fees**

A. No person shall willfully harm, including torture, torment, beat, mutilate, injure, disable, or otherwise mistreat or kill a service animal that is used for the benefit of any handicapped person.

B. No person shall willfully interfere with the lawful performance of any service animal used for the benefit of any handicapped person.

C. Except as provided in subsection D of this section, any person convicted of violating any of the provisions of this section shall be guilty of a misdemeanor, punishable by the imposition of a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment.

D. Any person who knowingly and willfully and without lawful cause or justification violates the provisions of this section, during the commission of a misdemeanor or felony, shall be guilty of a felony, punishable by the imposition of a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment not exceeding two (2) years, or by both such fine and imprisonment.

E. Any person who encourages, permits or allows an animal owned or kept by such person to fight, injure, disable or kill a service animal used for the benefit of any handicapped person in the Choctaw Nation of Oklahoma, or to interfere with a service animal in any place where the service animal resides or is performing, shall, upon conviction, be guilty of a misdemeanor

punishable as provided in subsection C of this section. In addition to the penalty imposed, the court shall order the violator to make restitution to the owner of the service animal for actual costs and expenses incurred as a direct result of any injury, disability or death caused to the service animal, including but not limited to costs of replacing and training any new service animal when a service animal is killed, disabled or unable to perform due to injury. For purpose of this subsection, when a person informs the owner of an animal that the animal is a threat and requests the owner to control or contain the animal and the owner disregards the request, the owner shall be deemed to have encouraged, permitted or allowed any resulting injury to or interference with a service animal.

F. As used in this section, “service animal” means an animal that is trained for the purpose of guiding or assisting a disabled person who has a sensory, mental, or physical impairment.

### **Section 650. Aggravated assault and battery upon peace officer**

A. Every person who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of a law enforcement officer, police officer, corrections personnel, or other peace officer employed or duly appointed by any tribal governmental agency, or a law enforcement officer who is commissioned pursuant to a cross-deputization agreement to enforce tribal laws while said officer is in the performance of his duties, or any state peace officer employed by any state or federal governmental agency to enforce state laws, while said officer is in the performance of his or her duties shall upon conviction thereof be guilty of a felony, which shall be punishable by imprisonment for not more than three (3) years or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

B. Every person who, without justifiable or excusable cause, commits any aggravated assault and battery upon a person that the violator knows or should reasonably know is a law enforcement officer, police officer, corrections personnel, or other peace officer employed or duly appointed by any tribal governmental agency, or a law enforcement officer who is commissioned pursuant to a cross-deputization agreement to enforce tribal laws while said officer is in the performance of his duties, or any state peace officer employed by any state or federal governmental agency to enforce state laws, that results in maiming as defined in Section 751 of this title, while said officer is in the performance of his or her duties shall upon conviction be guilty of a felony punishable by imprisonment for not less than one (1) year nor more than three (3) years or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

C. This section shall not supersede any other act or acts, but shall be cumulative thereto.

### **Section 650.1. Athletic contests—Assault and battery upon referee, umpire, etc.**

Every person who, without justifiable or excusable cause and with intent to do bodily harm, commits any assault, battery, assault and battery upon the person of a referee, umpire,

timekeeper, coach, official, or any person having authority in connection with any amateur or professional athletic contest is guilty of a misdemeanor and is punishable by imprisonment not exceeding one (1) year or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

**Section 650.2. Assault or battery upon Corrections, Children and Family Services or Juvenile Services employee or contractor**

A. Every person incarcerated in an institution, prison, jail or detention facility owned, operated, or contracted by the Choctaw Nation of Oklahoma, who, without justifiable or excusable cause, knowingly commits any assault, battery or assault and battery upon the person of an employee of the institution, prison, jail, detention facility or any contractor while said employee is in the performance of his or her duties shall, upon conviction thereof, be guilty of a felony.

C. Every person in the custody of the Department of Children and Family Services who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of a Department of Children and Family Services employee or any contractor, or a person contracting with the Department to provide services, while the employee or contractor is in the performance of his or her duties shall, upon conviction thereof, be guilty of a felony.

D. Every person in the custody of the Choctaw Nation of Oklahoma who, without justifiable or excusable cause, knowingly commits any assault, battery or assault and battery upon the person of a juvenile services employee while said employee is in the performance of his or her duties shall, upon conviction thereof, be guilty of a felony.

E. Every person in the custody of the Choctaw Nation of Oklahoma who, without justifiable or excusable cause, knowingly commits any battery or assault and battery resulting in bodily injury to any juvenile services employee or employee of any residential facility while said employee is in the performance of duties of employment shall, upon conviction thereof, be guilty of a felony. The fine for a violation of this subsection shall not be less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), which may be imposed whether or not a period of incarceration is imposed.

**Section 650.3. Delaying, obstructing or interfering with emergency medical technician or other emergency medical care provider—Punishment**

Every person who willfully delays, obstructs or in any way interferes with an emergency medical technician or other emergency medical care provider in the performance of or attempt to perform emergency medical care and treatment or in going to or returning from the scene of a medical emergency, upon conviction, is guilty of a misdemeanor punishable by imprisonment not exceeding one (1) year, or by a fine not to exceed One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

#### **Section 650.4. Assault and battery upon emergency medical care providers**

A. Every person who, without justifiable or excusable cause and with intent to do bodily harm, commits any assault, battery or assault and battery upon the person of an emergency medical care provider who is performing medical care duties, upon conviction, is guilty of a felony punishable by imprisonment for a term not exceeding two (2) years, or by a fine not exceeding Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

B. As used in this section, “emergency medical care provider” means doctors, residents, interns, nurses, nurses’ aides, emergency medical technicians, laboratory and other medical technicians, and members of a hospital or other medical clinic security force.

#### **Section 650.5. Aggravated assault and battery or assault with firearm or other dangerous weapon upon emergency medical technician or other emergency medical care provider—Penalty**

Every person who, without justifiable or excusable cause and with intent to do bodily harm, commits any aggravated assault and battery or any assault with a firearm or other deadly weapon upon the person of an emergency medical technician or other emergency medical care provider, upon conviction, is guilty of a felony punishable by imprisonment for not more than three (3) years, or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

#### **Section 650.6. Assault or battery or assault and battery upon officer of district or appellate court, witness or juror—Penalty**

A. Every person who commits any assault upon any officer of a district or appellate court, including but not limited to judges, bailiffs, court reporters, court clerks or deputy court clerks, or upon any witnesses or juror, because of said person’s service in such capacity or within six (6) months of said person’s service in such capacity, shall be guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, by a fine not to exceed One Thousand Dollars (\$1,000.00), or by both such imprisonment and fine.

B. Every person who commits any battery or assault and battery upon any officer of a district or appellate court, including but not limited to judges, bailiffs, court reporters, court clerks or deputy court clerks, or upon any witnesses or juror, because of said person’s service in such capacity or within six (6) months of said person’s service in such capacity, shall be guilty of a felony punishable by imprisonment for not more than three (3) years, by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such imprisonment and fine.

#### **Section 650.7. Assault, battery or assault and battery upon school employee or student—Notice—Definition**

A. As used in this section, “school employee” means a teacher, principal, or any duly appointed person employed by a school system or employees of a firm contracting with a school system for any purpose, including any personnel not directly related to the teaching process and school board members during school board meetings.

B. Any person who, without justifiable or excusable cause, commits any assault, battery, or assault and battery upon the person of a school employee while such employee is in the performance of any duties as a school employee or upon any student while such student is participating in any school activity or attending classes on school property during school hours shall, upon conviction, be guilty of a misdemeanor. The convicted person shall be punished by a term of imprisonment for a period not exceeding one (1) year, or by a fine not exceeding Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

C. Any person who, without justifiable or excusable cause, commits any aggravated battery or aggravated assault and battery upon the person of a school employee while such employee is in the performance of any duties as a school employee shall, upon conviction, be guilty of a felony punishable by a term of imprisonment for a period not exceeding two (2) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

D. For purposes of this section, “assault” shall be defined by Section 641 of this Title, “battery” shall be defined by Section 642 of this Title, and “aggravated assault and battery” shall be defined by Section 646 of this Title.

#### **Section 650.8. Felony assault, battery or assault and battery upon employee of facility for delinquent children, juvenile detention center or juvenile bureau**

A. Every person who, without justifiable or excusable cause, knowingly commits any assault, battery or assault and battery upon the person of an employee of a facility maintained by the Choctaw Nation of Oklahoma, a facility maintained by a contractor pursuant to a contract with the Choctaw Nation of Oklahoma primarily for delinquent children, a juvenile detention center, or a juvenile bureau, while the employee is in the performance of his duties, shall upon conviction thereof be guilty of a felony.

B. This section shall not supersede any other act or acts, but shall be cumulative thereto.

#### **Section 650.9. Persons in custody—Placing body wastes or fluids upon tribal employee or contractor**

Every person in the custody of the Choctaw Nation of Oklahoma, or a contractor of the Choctaw Nation of Oklahoma, who throws, transfers or in any manner places feces, urine, semen, saliva or

blood upon the person of an employee of the tribe, or an employee of a contractor of the tribe shall, upon conviction thereof, be guilty of a felony.

#### **Section 650.10. Touching assistive device with intent to harass—Penalties**

Every person who, without justifiable or excusable cause and with intent to harass, touches any assistive device of another person, shall upon conviction, be guilty of a misdemeanor punishable by imprisonment for a period of not more than one (1) year, or by a fine not to exceed One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

As used in this section, “assistive device” means any device that enables a person with a disability to communicate, see, hear, or maneuver.

### **Chapter 19. Attempts to Kill**

#### **Section 651. Poison, attempt to kill by administering**

Any person who, with intent to kill, administers or causes or procures to be administered to another any poison which is actually taken by such other person but by which death is not caused shall be guilty of a felony, punishable by imprisonment for not more than three (3) years.

#### **Section 652. Shooting or discharging firearm with intent to kill—Use of vehicle to facilitate discharge of weapon in conscious disregard of safety of others—Assault and battery with deadly weapon, etc.**

A. Every person who intentionally and wrongfully shoots another with or discharges any kind of firearm, with intent to kill any person, including an unborn child shall upon conviction be guilty of a felony punishable by imprisonment not exceeding three (3) years.

B. Every person who uses any vehicle to facilitate the intentional discharge of any kind of firearm, crossbow or other weapon in conscious disregard for the safety of any other person or persons including an unborn child shall upon conviction be guilty of a felony punishable by imprisonment for a term not exceeding three (3) years.

C. Any person who commits any assault and battery upon another, including an unborn child by means of any deadly weapon, or by such other means or force as is likely to produce death, or in any manner attempts to kill another, including an unborn child, or in resisting the execution of any legal process, shall upon conviction be guilty of a felony punishable by imprisonment not exceeding three (3) years.

D. The provisions of this section shall not apply to:



1. Acts which cause the death of an unborn child if those acts were committed during a legal abortion to which the pregnant woman consented; or

2. Acts which are committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment.

E. Under no circumstances shall the mother of the unborn child be prosecuted for causing the death of the unborn child unless the mother has committed a crime that caused the death of the unborn child.

F. "Unborn child" means the unborn offspring of human beings from the moment of conception, through pregnancy, and until live birth including the human conceptus, zygote, morula, blastocyst, embryo and fetus.

### **Section 653. Punishment for other assaults with intent to kill**

Any person who is guilty of an assault with intent to kill any person, the punishment for which is not prescribed by Section 652 of this title, shall be guilty of a felony punishable by imprisonment for a term not exceeding three (3) years, or by a fine not exceeding Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

### **Chapter 20. Reserved**

### **Chapter 21. Reserved**

### **Chapter 22. Duels and Challenges**

#### **Section 661. Duel defined**

A duel is any combat with deadly weapons fought between two persons by agreement.

#### **Section 662. Dueling a felony**

Any person guilty of fighting any duel, although no death or wound ensues, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years.

### **Chapter 23. Felonious Assaults**

## **Section 681. Assaults with intent to commit felony**

Any person who is guilty of an assault with intent to commit any felony, except an assault with intent to kill, the punishment for which assault is not otherwise prescribed in this code, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

## **Chapter 24. Reserved**

## **Chapter 25. Kidnapping**

### **Section 741. Kidnapping defined**

Any person who, without lawful authority, forcibly seizes and confines another, or inveigles or kidnaps another, with intent, either:

First. To cause such other person to be confined or imprisoned in the Choctaw Nation of Oklahoma against the will of the other person; or

Second. To cause such other person to be sent out of the Choctaw Nation of Oklahoma against the will of the other person; or

Third. To cause such person to be sold as a slave, or in any way held to service against the will of such person, shall be guilty of a felony punishable by imprisonment for a term not exceeding three (3) years. Upon any trial for a violation of this section, the consent thereto of the person kidnapped or confined, shall not be a defense, unless it appears satisfactorily to the jury, that such person was above the age of twelve (12) years, and that such consent was not extorted by threat, or by duress.

### **Section 742. Kidnapping for purpose of extortion—Assisting in disposing, receiving, possessing or exchanging money or property received**

A. Every person who, without lawful authority, forcibly seizes and confines another, or inveigles or kidnaps another, for the purpose of extorting any money, property or thing of value or advantage from the person so seized, confined, inveigled or kidnapped, or from any other person, or in any manner threatens either by written instrument, word of mouth, message, telegraph, telephone, by placing an ad in a newspaper, or by messenger, demands money or other thing of value, shall be guilty of a felony, and upon conviction shall suffer death or imprisonment , not more than three (3) years.

B. Every person, not a principal in the kidnapping and not a relative or agent authorized by a relative of a kidnapped person, but who knowingly aids, assists, or participates in the disposing, receiving, possession or exchanging of any moneys, property or thing of value or advantage from the person so seized, confined, inveigled or kidnapped, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment for not more than three (3) years.

#### **Section 743. Holder of hostage—Telephone communications**

A. The supervising law enforcement official having jurisdiction in the geographical area where any hostage is held or any suspect is barricaded who has probable cause to believe that the holder of any hostage or that any suspect is committing a crime shall have the authority to order a telephone company to arrange to cut, reroute or divert telephone lines in any emergency in which any hostage is being held or any suspect is barricaded, for the purpose of preventing telephone communication by the holder of any hostage or any barricaded suspect with any person other than a peace officer or a person authorized by the peace officer.

B. The serving telephone company within the geographical area of a law enforcement unit shall designate appropriate telephone company management employees to provide, or cause to be provided, all required assistance to law enforcement officials to carry out the purposes of this section.

C. Good faith reliance on an order by a supervising law enforcement official pursuant to this section, shall constitute a complete defense to any civil or criminal action brought against a telephone company, its agents or employees, as a result of compliance with said order.

D. During any hostage or barricaded suspect situation as provided in subsection A of this section it shall be unlawful for any person to publicly disseminate, unless with the consent or at the request of the law enforcement agency of the supervising law enforcement officer, any information received from any hostage holder or barricaded suspect when a cellular telephone has been used to establish contact with such hostage holder or barricaded suspect. Every person convicted of a violation of this subsection shall be guilty of a misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00).

#### **Section 744. Human trafficking for forced labor or forced sexual exploitation**

A. As used in Sections 744 and 745 of this title:

1. “Coercion” means compelling, forcing or intimidating a person to act by:

a. threats of harm or physical restraint against any person,

b. any act, scheme, plan, or pattern intended to cause a person to believe that performing, or failing to perform, an act would result in serious physical, financial, or emotional harm or distress to or physical restraint against any person,

c. the abuse or threatened abuse of the law or legal process,

d. knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport, labor or immigration document, or other government identification document, including but not limited to a driver license or birth certificate, of another person,

e. facilitating or controlling a person's access to any addictive or controlled substance other than for legal medical purposes,

f. blackmail,

g. demanding or claiming money, goods, or any other thing of value from or on behalf of a prostituted person where such demand or claim arises from or is directly related to the act of prostitution,

h. determining, dictating or setting the times at which another person will be available to engage in an act of prostitution with a third party,

i. determining, dictating or setting the places at which another person will be available for solicitation of, or to engage in, an act of prostitution with a third party, or

j. determining, dictating or setting the places at which another person will reside for purposes of making such person available to engage in an act of prostitution with a third party;

2. "Commercial sex" means any form of commercial sexual activity such as sexually explicit performances, prostitution, participation in the production of pornography, performance in a strip club, or exotic dancing or display;

3. "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;

4. "Human trafficking" means modern-day slavery that includes, but is not limited to, extreme exploitation and the denial of freedom or liberty of an individual for purposes of deriving benefit from that individual's commercial sex act or labor;

5. "Human trafficking for labor" means:

a. recruiting, enticing, harboring, maintaining, transporting, providing or obtaining, by any means, another person through deception, force, fraud, threat or coercion or for purposes of engaging the person in labor, or

b. benefiting, financially or by receiving anything of value, from participation in a venture that has engaged in an act of trafficking for labor;

6. “Human trafficking for commercial sex” means:

a. recruiting, enticing, harboring, maintaining, transporting, providing or obtaining, by any means, another person through deception, force, fraud, threat or coercion for purposes of engaging the person in a commercial sex act, or

b. benefiting, financially or by receiving anything of value, from participating in a venture that has engaged in an act of trafficking for commercial sex;

7. “Legal process” means the criminal law, the civil law, or the regulatory system of the federal government, any state, territory, district, commonwealth, or trust territory therein, and any foreign government or subdivision thereof and includes legal civil actions, criminal actions, and regulatory petitions or applications; and

8. “Minor” means an individual under eighteen (18) years of age.

B. It shall be unlawful to knowingly engage in human trafficking.

C. Any person violating the provisions of this section shall, upon conviction, be guilty of a felony punishable by imprisonment for not more than three (3) years, or by a fine of not more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment. Any person violating the provisions of this section where the victim of the offense is under eighteen (18) years of age at the time of the offense shall, upon conviction, be guilty of a felony punishable by imprisonment for not more than three (3) years, or by a fine of not more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

D. It is an affirmative defense to prosecution for a criminal offense that, during the time of the alleged commission of the offense, the defendant was a victim of human trafficking.

## **Section 745. Guidelines for treatment of human trafficking victims—Right to civil action**

A. Human trafficking victims shall:

1. Be housed in an appropriate shelter as soon as practicable;

2. Not be detained in facilities inappropriate to their status as crime victims;

3. Not be jailed, fined, or otherwise penalized due to having been trafficked;
  4. Receive prompt medical care, mental health care, food, and other assistance, as necessary;
  5. Have access to legal assistance, information about their rights, and translation services, as necessary; and
  6. Be provided protection if the safety of the victim is at risk or if there is a danger of additional harm by recapture of the victim by a trafficker, including:
    - a. taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals, and
    - b. ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.
- B. Any person aggrieved by a violation of subsection B of Section 744 of this title may bring a civil action against the person or persons who committed the violation to recover actual and punitive damages and reasonable attorney fees. A criminal case or prosecution is not a necessary precedent to the civil action. The statute of limitations for the cause of action shall not commence until the latter of the victim's emancipation from the defendant or the victim's twenty-first birthday.

## **Chapter 26. Maiming**

### **Section 751. Maiming defined**

Every person who, with premeditated design to injure another, inflicts upon another person any injury which disfigures the personal appearance of the other person or disables any member or organ of the body or seriously diminishes the physical vigor of the person, is guilty of maiming.

### **Section 752. Maiming one's self**

Every person who with design to disable himself from performance of any legal duty, existing or anticipated, inflicts upon himself any injury whereby he is so disabled, is guilty of maiming.

### **Section 753. Means and manner of maiming immaterial**

To constitute maiming it is immaterial by what means or instrument, or in what manner the injury was inflicted.

**Section 754. Maiming by disfigurement**

To constitute maiming by disfigurement, the injury must be such as is calculated, after healing, to attract observation. A disfigurement which can only be discovered by close inspection does not constitute maiming.

**Section 755. Design to maim inferred**

A design to injure, disfigure, or disable, is inferred from the fact of inflicting an injury which is calculated to disfigure or disable, unless the circumstances raise a reasonable doubt whether such design existed.

**Section 756. Premeditated design**

A premeditated design to injure, disfigure or disable, sufficient to constitute maiming, may be formed instantly before inflicting the wound.

**Section 757. Recovery before trial a bar—Conviction of assault and battery**

Where it appears, upon a trial for maiming another person, that the person injured has, before the time of trial, so far recovered from the wound that he is no longer by it disfigured in personal appearance, or disabled in any member or organ of his body, or affected in physical vigor, no conviction for maiming shall be had; but the accused may be convicted of assault and battery, with or without a special intent, according to proof.

**Section 758. Penalty for maiming**

Any person guilty of maiming another, as defined in Section 751 of this title, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years or by a fine not exceeding Ten Thousand Dollars (\$10,000.00), or both such fine and imprisonment.

**Section 759. Female genital mutilation**

A. Female genital mutilation shall be unlawful in the Choctaw Nation of Oklahoma. Whoever knowingly circumcises, excises, or infibulates, in whole or in part, the labia majora, labia minora, or clitoris of another shall, upon conviction, be guilty of a felony punishable by incarceration for a term of not more than three (3) years, or by a fine of not more than Ten Thousand Dollars (\$10,000.00), or by both fine and imprisonment. Consent to the procedure by a minor on whom it is performed or by the parent or parents of the minor is not a defense to a violation of this subsection.

B. A surgical procedure is not a violation of subsection A of this section if the procedure:

1. Is necessary as a recognized treatment for a known disease or for purposes of cosmetic surgery to repair a defect or injury for the person on whom it is performed and is performed by:

a. a licensed physician, or

b. a physician in training under the supervision of a licensed physician; or

2. Is necessary in the assistance of childbirth or for medical purposes connected with that labor or birth and is performed by:

a. a licensed physician,

b. a physician in training under the supervision of a licensed physician, or

c. a certified nurse-midwife.

## **Chapter 27. Libel and Slander**

### **Section 771. Libel defined**

Libel is a false or malicious unprivileged publication by writing, printing, picture, or effigy or other fixed representation to the eye, which exposes any person to public hatred, contempt, ridicule or obloquy, or which tends to deprive him of public confidence, or to injure him in his occupation, or any malicious publication as aforesaid, designed to blacken or vilify the memory of one who is dead, and tending to scandalize his surviving relatives or friends.

### **Section 772. Privileged publications**

A privileged publication is one made:

First. In any legislative or judicial proceeding or any other proceeding authorized by law;

Second. In the proper discharge of an official duty.

Third. By a fair and true report of any legislative or judicial or other proceeding authorized by law, or anything said in the course thereof, and any and all expressions of opinion in regard thereto, and criticisms thereon, and any and all criticisms upon the official acts of any and all public officers, except where the matter stated of and concerning the official act done, or of the officer, falsely imputes crime to the officer so criticized.



In all cases of publication of matter not privileged under this section, malice shall be presumed from the publication; unless the fact and the testimony rebut the same. No publication which, under this section, would be privileged, shall be punishable as libel.

### **Section 773. Penalty—Civil liability**

Every person who makes, composes or dictates such libel or procures the same to be done; or who willfully publishes or circulates such libel; or in any way knowingly or willfully aids or assists in making, publishing or circulating the same, shall be punishable by imprisonment for not more than one (1) year, or by fine not exceeding One Thousand Dollars (\$1,000.00), or both, and shall also be civilly liable to the party injured.

### **Section 774. Defenses in criminal libel action**

In all criminal prosecutions or indictments for libel, the truth thereof may be given in evidence to the jury, and if it be made to appear by the defendant that the matter charged as libelous was true, and in addition thereto was published with good motives, and for justifiable ends, or was a privileged communication, the defendant shall be acquitted.

### **Section 775. Publication, what constitutes**

To sustain the charge of publishing libel it is not needful that the words complained of should have been read by any person; it is enough and sufficient evidence that the accused knowingly parted with the immediate custody of the libel under circumstances which exposed it to be read by any person other than himself.

### **Section 776. Newspapers reporting official proceedings**

No editor or proprietor of any newspaper shall be liable to prosecution for a fair and true report of any judicial, legislative or other public official proceedings except upon proof of malice in making such report, and in making such report of public official proceedings, malice shall not be implied from publication; but libelous remarks connected with matter privileged under this section, shall not be privileged by reason of their being connected therewith.

### **Section 777. Threatened libel**

Any person who threatens to publish a libel concerning any other person, or concerning any relative, wife or child or dead relative of such person, or member of his family, shall be liable civilly and criminally to have the same intent as though the publication had been made. But if the threat be not in writing, the threat and character of the libelous matter must be proven by at least two witnesses, or by one witness and corroborating circumstances.

**Section 778. Imputing unchastity to females—Penalty**

If any person shall orally or otherwise, falsely and maliciously or falsely and wantonly impute to any female, married or unmarried, a want of chastity, he shall be deemed guilty of slander, and upon conviction shall be fined not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment for not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment.

**Section 779. Imputing unchastity—Evidence necessary—Defenses**

In any prosecution under the preceding section it shall not be necessary for the tribe to show that such imputation was false, but the defendant may, in justification, show the truth of the imputation, and the general reputation for chastity of the female alleged.

**Section 781. False rumors—Slander—Penalty**

Any person, who shall willfully, knowingly, or maliciously repeat or communicate to any person, or persons, a false rumor or report of a slanderous or harmful nature, or which may be detrimental to the character or standing of such other person, or persons, whether such person is a private citizen, or officer, or candidate for office, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or imprisoned not less than thirty (30) days nor more than one hundred and twenty (120) days, or both so fined and imprisoned for each offense.

**Chapter 28. Reserved****Chapter 29. Suicide****Section 811. Suicide defined**

Suicide is the intentional taking of one's own life.

**Section 812. Aiding suicide**

Every person who willfully, in any manner, advises, encourages, abets, or assists another person in taking his own life, is guilty of aiding suicide.

**Section 813. Furnishing weapon or drug**

Every person who willfully furnishes another person with any deadly weapon or poisonous drug, knowing that such person intends to use such weapon or drug in taking his own life, is guilty of aiding suicide, if such person thereafter employs such instrument or drug in taking his own life.

#### **Section 814. Aid in attempt to commit suicide**

Every person who willfully aids another in attempting to take his own life, in any manner which by the preceding sections would have amounted to aiding suicide if the person assisted had actually taken his own life, is guilty of aiding an attempt at suicide.

#### **Section 815. Incapacity of person committing or attempting suicide no defense**

It is no defense to a prosecution for aiding suicide or aiding an attempt at suicide, that the person who committed or attempted to commit the suicide was not a person deemed capable of committing crime.

#### **Section 816. Aiding suicide a felony**

Any person guilty of aiding suicide shall be guilty of a felony punishable by imprisonment for not less than seven (2) years.

#### **Section 817. Aiding an attempt at suicide a felony**

Every person guilty of aiding an attempt at suicide shall be guilty of a felony punishable by imprisonment not exceeding two (2) years, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or both.

### **Chapter 30. Miscellaneous Offenses Against the Person**

#### **In General**

#### **Section 831. Intoxicated physician**

Every physician who being in the state of intoxication administers any poison, drug or medicine, or does any other act as such physician to another person, is guilty of a misdemeanor.

#### **Section 832. Willfully poisoning food, drink, medicine, or patent or proprietary medicine**

A. 1. No person shall willfully mingle any poison, Schedule I through V drug pursuant to provisions of the Uniform Controlled Dangerous Substances Act, or sharp object, or any other object or substance which if used in a manner which is not customary or usual is harmful to human life, with any food, drink, medicine, or patent or proprietary medicine with intent that the same shall be taken, consumed, applied, or used in any manner by any human being to his injury; and

2. Unless authorized by law, no person shall willfully poison or place any Schedule I through V drug pursuant to the provisions of the Uniform Controlled Dangerous Substances Act or any other object or substance which if used in a manner which is not customary or usual is harmful to human life in any spring, well, or reservoir of water.

B. Any person convicted of violating any of the provisions of this section shall be guilty of a felony, punishable by imprisonment for not more than three (3) years, or by a fine of not less than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

### **Section 833. Unlawful confinement of lunatics**

Every overseer of the poor, constable, keeper of a jail, or other person who confines a person who is impaired by reason of mental retardation or developmental disability, mentally ill person, insane person or other person of unsound mind, in any other manner or in any other place than is authorized by law, is guilty of a misdemeanor.

### **Section 834. Reconfining persons discharged upon writ of deliverance**

Every person who, either solely or as a member of a court, in the execution of a judgment, order or process, knowingly recommits, imprisons or restrains of his liberty, for the same cause, any person who has been discharged from imprisonment upon a writ of deliverance, is guilty of a misdemeanor; and, in addition to the punishment prescribed therefor, he forfeits to the party aggrieved One Thousand Dollars (\$1,000.00), to be recovered in a civil action.

### **Section 835. Concealing persons to avoid habeas corpus**

Every person having in his custody or power, or under his restraint, a party who by the provisions of law relating to habeas corpus, would be entitled to a writ of habeas corpus, or for whose relief such writ has been issued, who, with intent to elude the service of such writ, to avoid the effect thereof, transfers the party to the custody, or places him under the power or control of another, or conceals or changes the place of his confinement, or who, without lawful excuse, refuses to produce him, is guilty of a misdemeanor.

### **Section 836. Assisting in concealing person to avoid habeas corpus**

Every person who knowingly assists in the violation of the preceding section is guilty of a misdemeanor.

### **Section 837. Intimidating laborers**

Every person who, by use of force, threats or intimidation, prevents or endeavors to prevent any hired foreman, journeyman, apprentice, workman, laborer, servant or other person employed by another, from continuing or performing his work, or from accepting any new work or employment, or induces such hired person to relinquish his work or employment, or to return any work he has in hand, before it is finished, is guilty of a misdemeanor.

Every person who, by use of force, threats, or intimidation, prevents or endeavors to prevent any farmer or rancher from harvesting, handling, transporting or marketing any agricultural products, is guilty of a misdemeanor.

### **Section 838. Intimidating employers**

Every person who, by use of force, threats or intimidation, prevents or endeavors to prevent another from employing any person, or to compel another to employ any person, or to force or induce another to alter his mode of carrying on business, or to limit or increase the number of his hired foremen, journeymen, apprentices, workmen, laborers, servants or other persons employed by him, or their rate of wages or time of service, is guilty of a misdemeanor.

## **Body Piercing and Tattooing**

### **Section 840. Performing or offering to perform body piercing or tattooing on child under 18 years—Definitions**

A. It shall be unlawful for any person to perform or offer to perform body piercing or tattooing on a child under eighteen (18) years of age. No person under eighteen (18) years of age shall be allowed to receive a tattoo. No person under eighteen (18) years of age shall be allowed to receive a body piercing procedure unless the parent or legal guardian of such child gives written consent for the procedure, and the parent or legal guardian of the child is present during the procedure. No person shall be allowed to purchase or possess tattoo equipment or supplies without being licensed either as an Oklahoma medical micropigmentologist or as an Oklahoma tattoo artist.

B. Tattooing shall not be performed upon a person impaired by drugs or alcohol. A person impaired by drugs or alcohol is considered incapable of consenting to tattooing and incapable of understanding tattooing procedures and aftercare suggestions.

C. It shall be unlawful for any person to perform or offer to perform scleral tattooing upon a person.

D. As used in this section and Sections 840 and 841 of this title:

1. “Body piercing” means a procedure in which an opening is created in a human body solely for the purpose of inserting jewelry or other decoration; provided, however, the term does not include ear piercing;

2. “Tattooing” means the practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related equipment; provided, that medical micropigmentation, performed pursuant to the provisions of the Oklahoma Medical Micropigmentation Regulation Act, shall not be construed to be tattooing;

3. “Body piercing operator” means any person who owns, controls, operates, conducts, or manages any permanent body piercing establishment, whether actually performing the work of body piercing or not. A mobile unit, including, but not limited to, a mobile home, recreational vehicle, or any other nonpermanent facility, shall not be used as a permanent body piercing establishment;

4. “Tattoo operator” means any person who owns, controls, operates, conducts, or manages any permanent tattooing establishment whether performing the work of tattooing or not, or a temporary location that is a fixed location at which an individual tattoo operator performs tattooing for a specified period of not more than seven (7) days in conjunction with a single event or celebration, where the primary function of the event or celebration is tattooing;

5. “Artist” means the person who actually performs the body piercing or tattooing procedure;

6. “Apprentice” means any person who is training under the supervision of a licensed tattoo artist. That person cannot independently perform the work of tattooing. Apprentice also means any person who is training under the supervision of a licensed body artist. That person cannot independently perform the work of body piercing; and

7. “Scleral tattooing” means the practice of producing an indelible mark or figure on the human eye by scarring or inserting a pigment on, in, or under the fornix conjunctiva, bulbar conjunctiva, ocular conjunctive, or other ocular surface using needles, scalpels or other related equipment.

E. Sections 840 through 841 of this title shall not apply to any act of a licensed practitioner of the healing arts performed in the course of practice of the practitioner.

F. Any person violating the provisions of this section shall be punished as provided in Section 841 of this title.

## **Section 841. Penalties**

Any person convicted of violating the provisions of Section 840 of this title shall be guilty of a misdemeanor punishable by imprisonment not to exceed ninety (90) days, a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

## **Abuse of Elderly or Disabled Persons**

### **Section 842. Definitions**

A. "Abuse" means causing or permitting:

1. the infliction of physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, or mental anguish, or
2. the deprivation of nutrition, clothing, shelter, health care, or other care or services without which serious physical or mental injury is likely to occur to a vulnerable adult by a caretaker or other person providing services to a vulnerable adult;

B. "Financial neglect" means repeated instances by a caretaker, or other person, who has assumed the role of financial management, of failure to use the resources available to restore or maintain the health and physical well-being of a vulnerable adult, including, but not limited to:

1. squandering or negligently mismanaging the money, property, or accounts of a vulnerable adult,
2. refusing to pay for necessities or utilities in a timely manner, or
3. providing substandard care to a vulnerable adult despite the availability of adequate financial resources;

C. "Neglect" means:

1. the failure to provide protection for a vulnerable adult who is unable to protect his or her own interest,
2. the failure to provide a vulnerable adult with adequate shelter, nutrition, health care, or clothing, or
3. negligent acts or omissions that result in harm or the unreasonable risk of harm to a vulnerable adult through the action, inaction, or lack of supervision by a caretaker providing direct services;

D. "Sexual abuse" means:

1. oral, anal, or vaginal penetration of a vulnerable adult by or through the union with the sexual organ of a caretaker or other person providing services to the vulnerable adult, or the anal or vaginal penetration of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult with any other object, or
2. for the purpose of sexual gratification, the touching, feeling or observation of the body or private parts of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult, or
3. indecent exposure by a caretaker or other person providing services to the vulnerable adult;

E. "Exploit" means:

1. an unjust or improper use of the resources of a vulnerable adult for the profit or advantage, pecuniary or otherwise, of a person other than the vulnerable adult through the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense;
2. Knowingly, by deception or intimidation, obtaining or using, or endeavoring to obtain or use, an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who:
  - a. stands in a position of trust and confidence with the elderly person or disabled adult, or
  - b. has a business relationship with the elderly person or disabled adult, or
3. Obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who knows or reasonably should know that the elderly person or disabled adult lacks the capacity to consent.
4. For purposes of this section, "elderly person" means any person sixty-two (62) years of age or older.

F. "Indecent exposure" means forcing or requiring a vulnerable adult to:

- a. look upon the body or private parts of another person or upon sexual acts performed in the presence of the vulnerable adult, or



b. touch or feel the body or private parts of another;

G. “Sexual exploitation” includes, but is not limited to, a person causing, allowing, permitting or encouraging a vulnerable adult to engage in prostitution or in the lewd, obscene, or pornographic photographing, filming or depiction of the vulnerable adult;

H. “Verbal abuse” means the use of words, sounds, or other communication including, but not limited to, gestures, actions or behaviors, by a caretaker or other person providing services to a vulnerable adult that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame or degradation.

I. “Vulnerable adult” means an individual who is an incapacitated person or who, because of physical or mental disability, incapacity, or other disability, is substantially impaired in the ability to provide adequately for the care or custody of himself or herself, or is unable to manage his or her property and financial affairs effectively, or to meet essential requirements for mental or physical health or safety, or to protect himself or herself from abuse, verbal abuse, neglect, or exploitation without assistance from others;

J. “Incapacitated person” means:

1. any person eighteen (18) years of age or older:

(a) who is impaired by reason of mental or physical illness or disability, dementia or related disease, mental retardation, developmental disability or other cause, and

(b) whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent that such person lacks the capacity to manage his or her financial resources or to meet essential requirements for his or her mental or physical health or safety without assistance from others, or

2. a person for whom a guardian, limited guardian, or conservator has been appointed pursuant to the Choctaw Nation Guardianship and Conservatorship Act;

K. “Meet essential requirements for mental or physical health and safety” means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which physical injury or illness to the vulnerable adult is likely to occur; and

L. “Caretaker” means a person who has:

a. the responsibility for the care of a vulnerable adult or the financial management of the resources of a vulnerable adult as a result of a family relationship,

b. assumed the responsibility for the care of a vulnerable adult voluntarily, by contract, or as a result of the ties of friendship, or

c. been appointed a guardian, limited guardian, or conservator pursuant to the Choctaw Nation Guardianship and Conservatorship Act;

#### **Section 842.1. Caretakers—Abuse, financial neglect, neglect, sexual abuse or exploitation of charge**

A. No caretaker or any other person shall abuse, commit financial neglect, neglect, commit sexual abuse, or exploit any person entrusted to the care of such caretaker or other person in a nursing facility, hospital, clinic, home or any other setting, or knowingly cause, secure, or permit any of these acts to be done.

B. Any person convicted of a violation of this section shall be guilty of a felony and shall be punished by imprisonment for a term not to exceed three (3) years, and by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

C. Consent shall not be a defense for any violation of this section.

#### **Section 842.2. Verbal abuse of charge**

No caretaker shall verbally abuse any person entrusted to his or her care, or knowingly cause, secure, or permit an act of verbal abuse to be done. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by imprisonment for a term not to exceed one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000. 00), or by both such fine and imprisonment.

### **Child Abuse, Neglect and Exploitation or Enabling Child Abuse**

#### **Section 843. Definitions**

A. “Abandonment” means:

1. the willful intent by words, actions, or omissions not to return for a child, or
2. the failure to maintain a significant parental relationship with a child through visitation or communication in which incidental or token visits or communication are not considered significant, or
3. the failure to respond to notice of deprived proceedings;

B. “Abuse” means harm or threatened harm or failure to protect from harm or threatened harm to the health, safety, or welfare of a child, including but not limited to non-accidental physical or

mental injury, sexual abuse, or sexual exploitation, or the act of willfully or maliciously injuring, torturing or maiming a child by another.

1. “Sexual abuse” includes but is not limited to rape, incest, and lewd or indecent acts or proposals made to a child by a person responsible for the health, safety, or welfare of the child;

2. “Sexual exploitation” includes but is not limited to allowing, permitting, or encouraging a child to engage in prostitution, or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic photographing, filming, or depicting of a child in those acts by a person responsible for the health, safety, and welfare of the child;

C. “Child” means any unmarried person less than eighteen (18) years of age;

D. “Custodian” means an individual other than a parent, legal guardian or Indian custodian, to whom legal custody of the child has been awarded by the court;

E. “Day treatment” means a nonresidential program which provides intensive services to a child who resides in the child’s own home, the home of a relative, group home, a foster home or residential child care facility. Day treatment programs include, but are not limited to, educational services;

F. “Dependency” means a child who is homeless or without proper care or guardianship through no fault of his or her parent, legal guardian, or custodian;

G. “Enabling child abuse” means the causing, procuring or permitting of a willful or malicious act of child abuse by another. As used in this subsection, “permitting” means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of abuse as proscribed by this subsection.

H. “Enabling child neglect” means the causing, procuring or permitting of a willful or malicious act of child neglect by another. As used in this subsection, “permitting” means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of neglect as proscribed by this subsection.

I. “Enabling child sexual abuse” means the causing, procuring or permitting of a willful or malicious act of child sexual abuse by another. As used in this subsection, “permitting” means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of sexual abuse as proscribed by this subsection.

J. “Enabling child sexual exploitation” means the causing, procuring or permitting of a willful or malicious act of child sexual exploitation by another. As used in this subsection, “permitting” means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of sexual exploitation as proscribed by this subsection.

K. “Harm or threatened harm” means any real or threatened physical, mental, or emotional injury or damage to the body or mind that is not accidental including, but not limited to, sexual abuse, sexual exploitation, neglect, or dependency;

L. “Neglect” means that a person responsible for a child’s health, safety, or welfare has:

1. failed or omitted to provide any of the following:

(a) adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or appropriate education,

(b) medical, dental, or behavioral health care,

(c) supervision or appropriate caretakers, or

(d) special care made necessary by the physical or mental condition of the child,

2. failed or omitted to protect a child from exposure to any of the following:

(a) the use, possession, sale, or manufacture of illegal drugs,

(b) illegal activities, or

(c) sexual acts or materials that are not age- appropriate, or

3. abandoned the child.

Nothing in this paragraph shall be construed to mean a child is abused or neglected for the sole reason the parent, legal guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child;

M. “Person responsible for a child’s health, safety, or welfare” includes a parent; a legal guardian; custodian; a foster parent; a person eighteen (18) years of age or older with whom the child’s parent cohabitates or any other adult residing in the home of the child; an agent or

employee of a public or private residential home, institution, facility or day treatment program; or an owner, operator, or employee of a child care facility;

N. “Risk” means the likelihood that an incident of child abuse or neglect will occur in the future;

O. “Safety threat” means the threat of serious harm due to child abuse or neglect occurring in the present or in the very near future and without the intervention of another person, a child would likely or in all probability sustain severe or permanent disability or injury, illness, or death;

### **Section 843.1. Child abuse—Child neglect—Child sexual abuse—Child sexual exploitation—Enabling—Penalties**

Any parent or other person who shall willfully or maliciously engage in child abuse, enabling child abuse, child neglect, enabling child neglect, child sexual abuse, enabling child sexual abuse, child sexual exploitation, or enabling child sexual exploitation shall, upon conviction, be guilty of a felony punishable by imprisonment not exceeding three (3) years imprisonment or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

### **Section 843.2. Payment of costs by defendant upon conviction**

A. 1. In addition to any other costs which a court is authorized to require a defendant to pay, upon conviction of any offense involving child abuse or neglect, the court may require that the defendant pay court-appointed attorney fees for the child to any local, state, or tribal agency incurring the cost or any other person or entity providing services to or on behalf of the child, and the cost of any medical examinations conducted on the child in order to determine the nature or extent of the abuse or neglect.

2. If the court determines that the defendant has the ability to pay all or part of the costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the local, state, or tribal agency or other person or entity incurring the cost in the manner in which the court believes reasonable and compatible with the defendant’s financial ability.

3. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

B. 1. In addition to any other costs which a court is authorized to require a defendant to pay, upon conviction of any offense involving sexual abuse, the court may require that the defendant pay, to the local, state, or tribal agency incurring the cost, the cost of any medical examinations conducted on the child for the collection and preservation of evidence.

2. If the court determines that the defendant has the ability to pay all or part of the cost of the medical examination, the court may set the amount to be reimbursed and order the defendant to pay that sum to the local, state, or tribal agency incurring the cost, in the manner in which the court believes reasonable and compatible with the defendant's financial ability.

3. In making the determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

4. In no event shall a court penalize an indigent defendant by imposing an additional period of imprisonment in lieu of payment.

C. 1. The court shall require the defendant to pay, upon conviction of any offense involving the sexual or physical abuse of a child, for the psychological evaluation to determine the extent of counseling necessary for the victim of the abuse and any necessary psychological counseling deemed necessary to rehabilitate the child.

2. Such evaluations and counseling may be performed by psychiatrists, psychologists, licensed professional counselors or social workers. The results of the examination shall be included in the court records and in information contained in the central registry.

### **Section 843.3. Appointment of representatives for child**

A. 1. In every criminal case filed pursuant to this act, the judge of the district court may appoint an attorney-at-law to appear for and represent a child who is the alleged victim of child abuse or neglect.

2. The attorney may be allowed a reasonable fee for such services and shall meet with the child as soon as possible after receiving notification of the appointment.

3. Except for good cause shown to the court, the attorney shall meet with the child not less than twenty-four (24) hours prior to any hearing.

4. The attorney shall be given access to all reports relevant to the case and to any reports of examination of the child's parents, legal guardian, custodian or other person responsible for the child's health or safety made pursuant to this section.

5. The attorney shall represent the child and any expressed interests of the child. To that end, the attorney shall make such further investigation as the attorney deems necessary to ascertain the facts, to interview witnesses, examine and cross-examine witnesses at the preliminary hearing and trial, make recommendations to the court, and participate further in the proceedings to the degree appropriate for adequately representing the child.

B. A court-appointed special advocate or guardian ad litem may be appointed to represent the best interests of the child who is the alleged subject of child abuse or neglect. The court-appointed special advocate or guardian ad litem shall be given access to all reports relevant to the case and to reports of service providers and of examination of the child's parents, legal guardian, custodian or other person responsible for the child's health or safety made pursuant to this section including but not limited to, information authorized by the Choctaw Nation Children's Code.

#### **Section 843.4. Ordinary force as means of discipline not prohibited**

Provided, however, that nothing contained in this act shall prohibit any parent, teacher or other person from using ordinary force as a means of discipline, including but not limited to spanking, switching or paddling.

### **Explosives**

#### **Section 849. Wiring or equipping of vehicles or structures with explosives a felony**

Every person who shall attach to, or place in or upon any motor vehicle or any vehicle designed or customarily used to transport a person or persons or any structure designed or customarily used for the occupancy of a person or persons, any explosive material, thing or device with the intent of causing bodily injury or death to any person shall be guilty of a felony, and, upon conviction therefor, shall suffer punishment by imprisonment for a period of time of not less than three (3) years.

### **Malicious Intimidation or Harassment**

#### **Section 850. Malicious intimidation or harassment because of race, color, religion, ancestry, national origin or disability—Standardized reporting system**

A. No person shall maliciously and with the specific intent to intimidate or harass another person because of that person's race, color, religion, ancestry, national origin or disability:

1. Assault or batter another person;
2. Damage, destroy, vandalize or deface any real or personal property of another person; or
3. Threaten, by word or act, to do any act prohibited by paragraph 1 or 2 of this subsection if there is reasonable cause to believe that such act will occur.

B. No person shall maliciously and with specific intent to incite or produce, and which is likely to incite or produce, imminent violence, which violence would be directed against another person because of that person's race, color, religion, ancestry, national origin or disability, make or transmit, cause or allow to be transmitted, any telephonic, computerized, or electronic message.

C. No person shall maliciously and with specific intent to incite or produce, and which is likely to incite or produce, imminent violence, which violence would be directed against another person because of that person's race, color, religion, ancestry, national origin or disability, broadcast, publish, or distribute, cause or allow to be broadcast, published or distributed, any message or material.

D. Any person convicted of violating any provision of subsections A, B or C of this section shall be guilty of a misdemeanor for a first offense and shall be imprisoned for not more than one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

E. Any person convicted of a second or any subsequent violation of any of the provisions of subsection A, B or C of this section shall be guilty of a felony and imprisoned for not more than three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both fine and imprisonment. Furthermore, said person shall be civilly liable for any damages resulting from any violation of this section.

F. No person, partnership, company or corporation that installs telephonic, computerized, or electronic message equipment shall be required to monitor the use of such equipment for possible violations of this section, nor shall such person, partnership, company or corporation be held criminally or civilly liable for the use by another person of the equipment in violation of this section, unless the person, partnership, company or corporation that installed the equipment had prior actual knowledge that the equipment was to be used in violation of this section.

## **Chapter 31. Abandonment and Neglect of Wife or Children**

### **Section 851. Desertion of children under age of ten a felony**

Any parent of any child or children under the age of ten (10) years, and every person to whom such child or children have been confided for nurture or education, who deserts such child or children within the Choctaw Nation of Oklahoma, or takes such child or children without the Choctaw Nation of Oklahoma, with the intent wholly to abandon him or her shall be deemed guilty of a felony and, upon conviction thereof shall be punished by imprisonment for not less than one (1) year nor more than three (3) years.



## **Section 852. Omission to provide for a child—Penalties**

A. Unless otherwise provided for by law, any parent, guardian, or custodian, as defined in Section 1-1-105 of the Choctaw Nation Children's Code, who willfully omits, without lawful excuse, to furnish necessary food, clothing, shelter, monetary child support, medical attendance, payment of court-ordered day care or payment of court-ordered medical insurance costs for such child which is imposed by law, upon conviction, is guilty of a misdemeanor; provided, any person obligated to make child support payments who willfully and without lawful excuse becomes delinquent in said child support payments and such delinquent child support accrues without payment by the obligor for a period of one (1) year, or exceeds Five Thousand Dollars (\$5,000.00) shall, upon conviction thereof, be guilty of a felony which is punishable in the same manner as any subsequent conviction pursuant to the provisions of this section. Any subsequent conviction pursuant to this section shall be a felony, punishable by imprisonment for not more than three (3) years or by the imposition of a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. As used in this section, the duty to furnish medical attendance shall mean that the parent or person having custody or control of a child must furnish medical treatment in such manner and on such occasions as an ordinarily prudent person, solicitous for the welfare of a child, would provide; such parent or person having custody or control of a child is not criminally liable for failure to furnish medical attendance for every minor or trivial complaint with which the child may be afflicted.

B. Nothing in this section shall be construed to mean a child is endangered for the sole reason the parent, guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child; provided, that medical care shall be provided where permanent physical damage could result to such child; and that the laws, rules, and regulations relating to communicable diseases and sanitary matters are not violated.

C. Nothing contained in this section shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the health or welfare of the child.

D. Psychiatric and psychological testing and counseling are exempt from the provisions of this section.

E. It is the duty of any parent having legal custody of a child who is an alcohol-dependent person or a drug-dependent person to provide for the treatment of such child. Any parent having legal custody of a child who is an alcohol-dependent person or a drug-dependent person who without having made a reasonable effort fails or willfully omits to provide for the treatment of such child shall be guilty of a misdemeanor. For the purpose of this subsection, the duty to provide for such treatment shall mean that the parent having legal custody of a child must provide for the treatment in such manner and on such occasions as an ordinarily prudent person, solicitous for the welfare of a child, would provide.

**Section 852.1. Child endangerment—Knowingly permitting physical or sexual abuse—Good faith reliance on spiritual healing—Penalties**

A. A person who is the parent, guardian, or custodian of a child as defined in Section 1-1-105 of the Choctaw Nation Children's Code, commits child endangerment when the person:

1. Knowingly permits physical or sexual abuse of a child;
2. Knowingly permits a child to be present at a location where a controlled dangerous substance is being manufactured or attempted to be manufactured;
3. Knowingly permits a child to be present in a vehicle when the person knows or should have known that the operator of the vehicle is impaired by or is under the influence of alcohol or another intoxicating substance; or
4. Is the driver, operator, or person in physical control of a vehicle while driving under the influence of alcohol, drugs, any other intoxicating substance, or a combination of alcohol, drugs or any other intoxicating substance while transporting or having in the vehicle such child or children.

However, it is an affirmative defense to this paragraph if the person had a reasonable apprehension that any action to stop the physical or sexual abuse or deny permission for the child to be in the vehicle with an intoxicated person would result in substantial bodily harm to the person or the child.

Nothing in this subsection shall prohibit the prosecution of a person pursuant to the provisions of Section 11-902 or 11-904 of the Choctaw Nation Traffic Code.

B. The provisions of this section shall not apply to any parent, guardian or other person having custody or control of a child for the sole reason that the parent, guardian or other person in good faith selects and depends upon spiritual means or prayer for the treatment or cure of disease or remedial care for such child. This subsection shall in no way limit or modify the protections afforded said child in Section 852 of this title or Section 1-4-904 of the Choctaw Nation Children's Code.

C. Any person convicted of violating any provision of this section shall be guilty of a felony punishable by imprisonment for a term of not more than three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

**Section 853. Desertion of wife or child under 15 a felony**

Every person who shall without good cause abandon his wife in destitute or necessitous circumstances and neglect and refuse to maintain or provide for her, or who shall abandon his or

her minor child or children under the age of fifteen (15) years and willfully neglect or refuse to maintain or provide for such child or children, shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one (1) year or more than ten (10) years.

#### **Section 854. Proof of marriage—Wife as competent witness—Duty of prosecutor**

No other evidence shall be required to prove marriage of such husband and wife, or that such person is the lawful father or mother of such child or children than is or shall be required to prove such fact in a civil action, and such wife shall be a competent witness to testify in any case brought under this act, and to any and all matters relevant thereto, including the fact of such marriage and the parentage of such child or children. It shall be the mandatory duty of each prosecutor of the Choctaw Nation of Oklahoma to diligently prosecute all persons violating any of the provisions of this chapter, and in all cases where the evidence is deemed sufficient to justify a prosecution for such violation, any prosecutor who shall willfully fail, neglect or refuse to institute criminal proceedings to enforce such provisions, shall be subject to removal from office.

#### **Chapter 31A. Contributing to Delinquency of Minors**

#### **Section 856. Causing, aiding, abetting or encouraging minor to be delinquent or runaway child, to commit felony or to become involved with criminal street gang**

A. 1. Except as otherwise specifically provided by law, every person who shall knowingly or willfully cause, aid, abet or encourage a minor to be, to remain, or to become a delinquent child or a runaway child, upon conviction, shall, for the first offense, be guilty of a misdemeanor punishable by imprisonment not to exceed one (1) year, or by a fine not to exceed One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

2. For purposes of prosecution under this subsection, a “runaway child” means an unemancipated minor who is voluntarily absent from the home without a compelling reason, without the consent of a custodial parent or other custodial adult and without the parent or other custodial adult’s knowledge as to the child’s whereabouts. “Compelling reason” means imminent danger from incest, a life-threatening situation, or equally traumatizing circumstance. A person aiding a runaway child or aiding a child based upon a reasonable belief that the child is in physical, mental or emotional danger and with notice to the Department of Children and Family Services or a local law enforcement agency of the location of the child within twelve (12) hours of aiding the child shall not be subject to prosecution under this section.

B. Every person convicted of a second or any subsequent violation of this section shall be guilty of a felony punishable by imprisonment not to exceed three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

C. Every person eighteen (18) years of age or older who shall knowingly or willfully cause, aid, abet, or encourage a minor to commit or participate in committing an act that would be a felony if committed by an adult shall, upon conviction, be guilty of a felony punishable by the maximum penalty allowed for conviction of the offense or offenses which the person caused, aided, abetted, or encouraged the minor to commit or participate in committing.

D. Every person who shall knowingly or willfully cause, aid, abet, encourage, solicit, or recruit a minor to participate, join, or associate with any criminal street gang, as defined by subsection E of this section, or any gang member for the purpose of committing any criminal act shall, upon conviction, be guilty of a felony punishable by imprisonment for a term of not more than three (3) years, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

E. "Criminal street gang" means any ongoing organization, association, or group of five or more persons that specifically either promotes, sponsors, or assists in, or participates in, and requires as a condition of membership or continued membership, the commission of one or more of the following criminal acts:

1. Assault, battery, or assault and battery with a deadly weapon;
2. Aggravated assault and battery;
3. Robbery by force or fear;
4. Robbery or attempted robbery with a dangerous weapon or imitation firearm;
5. Unlawful homicide or manslaughter;
6. The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled dangerous substances;
7. Trafficking in illegal drugs;
8. Arson;
9. The influence or intimidation of witnesses and jurors;
10. Theft of any vehicle;
11. Rape;
12. Extortion;

13. Transporting a loaded firearm in a motor vehicle;
14. Possession of a concealed weapon; or
15. Shooting or discharging a firearm with the unlawful intent to kill.

**Section 856.1. Causing, aiding, abetting or encouraging minor to participate in certain drug-related crimes**

Every person who shall knowingly, intentionally or willfully cause, aid, abet or encourage a minor child to:

1. Distribute, dispense, possess or manufacture a controlled dangerous substance;
2. Create, distribute, or possess a counterfeit controlled dangerous substance;
3. Distribute any imitation controlled substance; or
4. Conspire or participate in any scheme, plan or act for the purposes of avoiding, eluding or evading arrest or detection by law enforcement authorities for crimes involving controlled substances

shall be guilty of a felony punishable by imprisonment for a term not more than three (3) years and a fine of not more than Five Thousand Dollars (\$5,000.00). Said sentence shall not be subject to statutory provisions for suspended sentences, or deferred sentences except when the conviction is for a first offense.

**Section 856.2. Harboring endangered runaway child**

It shall be unlawful for any person to knowingly and willfully harbor an endangered runaway child. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment. Every person convicted of a second or any subsequent violation shall, upon conviction, be guilty of a felony punishable by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by imprisonment not exceeding three (3) years, or by both such fine and imprisonment. For purposes of this section, an “endangered runaway child” means an un-emancipated minor who is voluntarily absent from the home for seventy-two (72) hours or more without a compelling reason and without the consent of a custodial parent or other custodial adult or an un-emancipated minor who is voluntarily absent from the home without a compelling reason and without the consent of a custodial parent or other custodial adult and the child needs medication or other special services.

For purposes of this section, “compelling reason” shall be defined as provided in Section 856 of the Choctaw Nation Children’s Code.

### **Section 856.3. Gang related offenses—Condition of membership**

Any person who attempts or commits a gang-related offense as a condition of membership in a criminal street gang or while in association with any criminal street gang or gang member shall be guilty of a felony offense. Upon conviction, the violator shall be punished by incarceration for a term of three (3) years, which shall be in addition to any other penalty imposed. For purposes of this section, “criminal street gang” is defined by subsection E of Section 856 this Title and “gang-related offense” means those offenses enumerated in paragraphs 1 through 15 of subsection E of Section 856 of this Title.

### **Section 857. Definitions**

1. “Every person,” as used in Sections 856, 857, 858.1 and 858.2 of this Title, shall include human beings, without regard to their legal or natural relationship to such minor, as well as legal or corporate entities.
2. “Minor” or “child,” as used in Sections 856, 857, 858.1 and 858.2 of this Title, shall include male or female persons who shall not have arrived at the age of eighteen (18) years at the time of the commission of the offense.
3. “Encourage,” as used in Sections 856, 857, 858.1 and 858.2 of this Title, in addition to the usual meaning of the word, shall include a willful and intentional neglect to do that which will directly tend to prevent such act or acts of delinquency on the part of such minor, when the person accused shall have been able to do so.
4. “Delinquent child,” as used in Sections 856, 857, 858.1 and 858.2 of this Title, shall include a minor, as herein defined, who shall have been or is violating any penal statute of the Choctaw Nation of Oklahoma, or who shall have been or is committing any one or more of the following acts, to wit:
  - (a) Associating with thieves, vicious or immoral persons;
  - (b) Frequenting a house of ill repute;
  - (c) Frequenting any policy shop, or place where any gambling device is operated;
  - (d) Frequenting any saloon, dram shop, still, or any place where intoxicating liquors are manufactured, stored or sold;

(e) Possession, carrying, owning or exposing any vile, obscene, indecent, immoral or lascivious photograph, drawing, picture, book, paper, pamphlet, image, device, instrument, figure or object;

(f) Willfully, lewdly or lasciviously exposing his or her person, or private parts thereof, in any place, public or private, in such manner as to be offensive to decency, or calculated to excite vicious or lewd thoughts, or for the purpose of engaging in the preparation or manufacture of obscene, indecent or lascivious photographs, pictures, figures or objects;

(g) Possessing, transporting, selling, or engaging or aiding or assisting in the sale, transportation or manufacture of intoxicating liquor, or the frequent use of same;

(h) Being a runaway from his or her parent or legal guardian; or

(i) Violating any penal provision of the Choctaw Nation Statutes regarding controlled dangerous substances.

**Section 858. Parent or guardian whose child commits crime of possession of firearm on school property—Administrative penalty**

Any custodial parent or guardian of a child under eighteen (18) years of age whose child commits the crime of possession of a firearm on school property may be fined not exceeding Two Hundred Dollars (\$200.00), or ordered to perform community service not exceeding forty (40) hours or both such fine and community service. To satisfy any community service requirement, the court may give preference to work which benefits the school said child attends. Said penalty shall be an administrative penalty and shall not be recorded on the custodial parents' or guardian's criminal record. The fine shall be payable to the court clerk to be deposited in the court fund. Nothing in this section shall prohibit the filing or prosecution of any criminal charge.

**Section 858.1. Causing, aiding, abetting or encouraging minor to be in need of supervision or deprived**

A. Any parent or other person who knowingly and willfully:

1. causes, aids, abets or encourages any minor to be in need of supervision, or deprived; or

2. shall by any act or omission to act have caused, encouraged or contributed to the deprivation, or the need of supervision of the minor, or to such minor becoming deprived, or in need of supervision;

shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined a sum not to exceed Five Hundred Dollars (\$500.00), or imprisonment for a period not to exceed one (1) year, or by both such fine and imprisonment.

B. Upon a second or succeeding conviction for a violation of this section, the defendant shall be fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not to exceed one (1) year, or punished by both such fine and imprisonment.

### **Section 858.2. Neglect of minor adjudicated delinquent, in need of supervision or deprived**

In all cases where a minor has been adjudged delinquent, in need of supervision or deprived by a court of competent jurisdiction and such court by order for care or probation, has placed such minor in the care or on probation to the parent, legal guardian, legal custodian of such minor, stepparent or other adult person living in the home, any parent, legal guardian or legal custodian of such minor who shall neglect, fail or refuse to give such minor proper parental care, or to comply with the order for care or probation shall be deemed guilty of a misdemeanor and upon conviction thereof shall, as applicable, be punished as provided in Section 856 or 858.1 of this title.

### **Section 858.3. Causing, aiding, abetting or encouraging minor to become delinquent, in need of supervision, or dependent and neglected—Penalty**

Any person who knowingly and willfully:

1. Causes, aids, abets or encourages a minor to be, to remain or to become delinquent, in need of supervision or dependent and neglected, or
2. Omits the performance of any duty, which act or omission causes or tends to cause, aid, abet, or encourage any minor to be delinquent, in need of supervision or dependent and neglected, within the purview of the Choctaw Nation Children's Code or the Choctaw Nation Juvenile Code, upon conviction, shall be guilty of a misdemeanor and, as applicable, shall be punished pursuant to the provisions of Section 856, 858.1 or 858.2 of this Title.

## **Chapter 32. Concealing Death of Children**

### **Section 861. Concealing stillbirth or death of child**

Every woman who endeavors either by herself or by the aid of others to conceal the stillbirth of an issue of her body or the death of any such issue under the age of two (2) years, is punishable by imprisonment not exceeding one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or both.



## **Chapter 33. Reserved**

## **Chapter 34. Incest and Sodomy**

### **Section 885. Incest**

Persons who, being within the degrees of consanguinity within which marriages are by the laws of the Choctaw Nation declared incestuous and void, intermarry with each other, or commit adultery or fornication with each other, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years.

### **Section 886. Crime against nature**

Every person who is guilty of the detestable and abominable crime against nature, committed with a beast, is punishable by imprisonment not exceeding three (3) years.

### **Section 887. Crime against nature, what penetration necessary**

Any sexual penetration, however slight, is sufficient to complete the crime against nature.

### **Section 888. Forcible sodomy**

A. Any person who forces another person to engage in the detestable and abominable crime against nature, pursuant to Section 886 of this title, upon conviction, is guilty of a felony punishable by imprisonment for a period of not more than three (3) years. Any person convicted of a second violation of this section, where the victim of the second offense is a person under sixteen (16) years of age, shall not be eligible for probation, or a suspended or deferred sentence.

B. The crime of forcible sodomy shall include:

1. Sodomy committed by a person over eighteen (18) years of age upon a person under sixteen (16) years of age; or
2. Sodomy committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or
3. Sodomy accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the victim or the person committing the crime; or

4. Sodomy committed by a Choctaw Nation employee or a contractor or an employee of a contractor of the Choctaw Nation of Oklahoma upon a person who is under the legal custody, supervision or authority of the Choctaw Nation of Oklahoma.

5. Sodomy committed upon a person who is at least sixteen (16) years of age but less than twenty (20) years of age and is a student of any public or private secondary school, junior high or high school, or public vocational school, with a person who is eighteen (18) years of age or older and is employed by the same school system.

## **Chapter 35. Child Stealing**

### **Section 891. Child stealing—Penalty**

Whoever maliciously, forcibly or fraudulently takes or entices away any child under the age of sixteen (16) years, with intent to detain or conceal such child from his or her parent, guardian or other person having the lawful charge of such child or to transport such child from the jurisdiction of the Choctaw Nation of Oklahoma or the United States without the consent of the person having lawful charge of such child shall, upon conviction, be guilty of a felony punishable by imprisonment not exceeding three (3) years.

## **Chapter 36. Reserved**

## **Chapter 37. Reserved**

## **Chapter 38. Reserved**

## **Chapter 39. Obscenity, Pornography and Prostitution**

### **Section 1025. Prostitution house, etc.—Penalty**

Every person who keeps any bawdy house, house of ill fame, of assignation, or of prostitution, or any other house or place for persons to visit for unlawful sexual intercourse, or for any other lewd, obscene or indecent purpose, is guilty of a misdemeanor and upon conviction shall be fined in any sum not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense.

### **Section 1026. Disorderly house**

Every person who keeps any disorderly house, or any house of public resort by which the peace, comfort or decency of the immediate neighborhood is habitually disturbed, is guilty of a misdemeanor.

### **Section 1027. Letting building for unlawful purposes**

Every person who lets any building or portion of any building knowing that it is intended to be used for any purpose declared punishable by this Section 1021 through Section 1027 of this title, or who otherwise permits any building or portion of a building to be so used, is guilty of a misdemeanor.

### **Section 1028. Setting up or operating place of prostitution—Ownership—Renting—Procuring—Receiving person for forbidden purpose—Transportation—Receiving proceeds**

It shall be unlawful in the Choctaw Nation of Oklahoma:

- (a) To keep, set up, maintain, or operate any house, place, building, other structure, or part thereof, or vehicle, trailer, or other conveyance with the intent of committing an act of prostitution, lewdness, or assignation;
- (b) To knowingly own any house, place, building, other structure, or part thereof, or vehicle, trailer, or other conveyance used with the intent of committing an act of lewdness, assignation, or prostitution, or to let, lease, or rent, or contract to let, lease, or rent any such place, premises, or conveyance, or part thereof, to another with knowledge or reasonable cause to believe that the intention of the lessee or rentee is to use such place, premises, or conveyance for prostitution, lewdness, or assignation;
- (c) To offer, or to offer to secure, another with the intent of having such person commit an act of prostitution, or with the intent of having such person commit any other lewd or indecent act;
- (d) To receive or to offer or agree to receive any person into any house, place, building, other structure, vehicle, trailer, or other conveyance with the intent of committing an act of prostitution, lewdness, or assignation, or to permit any person to remain there with such intent;
- (e) To direct, take, or transport, or to offer or agree to take or transport, or aid or assist in transporting, any person to any house, place, building, other structure, vehicle, trailer, or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the intent of such directing, taking or transporting is prostitution, lewdness or assignation;
- (f) To knowingly accept, receive, levy, or appropriate any money or other thing of value without consideration from a prostitute or from the proceeds of any woman engaged in prostitution;

(g) To knowingly abet the crime of prostitution by allowing a house, place, building, or parking lot to be used or occupied by a person who is soliciting, inducing, enticing, or procuring another to commit an act of lewdness, assignation, or prostitution or who is engaging in prostitution, lewdness, or assignation on the premises of the house, place, building, or parking lot.

**Section 1029. Engaging in prostitution, etc.—Soliciting or procuring—Residing or being in place for prohibited purpose—Aiding, abetting or participating**

It shall further be unlawful:

1. To engage in prostitution, lewdness, or assignation;
2. To solicit, induce, entice, or procure another to commit an act of lewdness, assignation, or prostitution, with himself or herself;
3. To reside in, enter, or remain in any house, place, building, or other structure, or to enter or remain in any vehicle, trailer, or other conveyance with the intent of committing an act of prostitution, lewdness, or assignation; or
4. To aid, abet, or participate in the doing of any of the acts prohibited in paragraph 1, 2 or 3 of this subsection.

**Section 1030. Definitions**

As used in the Choctaw Nation of Oklahoma Statutes, unless otherwise provided for by law:

1. “Prostitution” means:
  - a. the giving or receiving of the body for sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lewdness with any person not his or her spouse, in exchange for money or any other thing of value, or
  - b. the making of any appointment or engagement for sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lewdness with any person not his or her spouse, in exchange for money or any other thing of value;
2. “Anal intercourse” means contact between human beings of the genital organs of one and the anus of another;
3. “Cunnilingus” means any act of oral stimulation of the vulva or clitoris;

4. "Fellatio" means any act of oral stimulation of the penis;
5. "Lewdness" means:
  - a. any lascivious, lustful or licentious conduct,
  - b. the giving or receiving of the body for indiscriminate sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse, or lascivious, lustful or licentious conduct with any person not his or her spouse, or
  - c. any act in furtherance of such conduct or any appointment or engagement for prostitution; and
6. "Masturbation" means stimulation of the genital organs by manual or other bodily contact exclusive of sexual intercourse.
7. "Obscene material" means and includes any representation, performance, depiction or description of sexual conduct, whether in any form or on any medium including still photographs, undeveloped photographs, motion pictures, undeveloped film, videotape, optical, magnetic or solid-state storage, CD or DVD, or a purely photographic product or a reproduction of such product in any book, pamphlet, magazine, or other publication or electronic or photo-optical format, if said items contain the following elements:
  - a. depictions or descriptions of sexual conduct which are patently offensive as found by the average person applying contemporary community standards,
  - b. taken as a whole, have as the dominant theme an appeal to prurient interest in sex as found by the average person applying contemporary community standards, and
  - c. a reasonable person would find the material or performance taken as a whole lacks serious literary, artistic, educational, political, or scientific purposes or value.
8. "Performance" means and includes any display, live or recorded, in any form or medium;
9. "Sexual conduct" means and includes any of the following:
  - a. acts of sexual intercourse including any intercourse which is normal or perverted, actual or simulated,
  - b. acts of deviate sexual conduct, including oral and anal sodomy,
  - c. acts of masturbation,
  - d. acts of sadomasochistic abuse including but not limited to:

(1) flagellation or torture by or upon any person who is nude or clad in undergarments or in a costume which is of a revealing nature, or

(2) the condition of being fettered, bound, or otherwise physically restrained on the part of one who is nude or so clothed,

e. acts of excretion in a sexual context, or

f. acts of exhibiting human genitals or pubic areas; and

The types of sexual conduct described in paragraph 3 of this subsection are intended to include situations when, if appropriate to the type of conduct, the conduct is performed alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

**Section 1031. Punishment for violations—Fines—Knowingly engaging in prostitution while infected with HIV—Violations within certain distance from school or church**

A. Except as provided in subsection B or C of this section, any person violating any of the provisions of Section 1028, 1029 or 1030 of this title shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment for not less than thirty (30) days nor more than one (1) year or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such imprisonment and fine. In addition, the court may require a term of community service of not less than forty (40) nor more than eighty (80) hours.

B. Any person who engages in an act of prostitution with knowledge that they are infected with the human immunodeficiency virus (HIV) shall be guilty of a felony punishable by imprisonment for not more than three (3) years.

C. Any person who engages in an act of child prostitution, as defined in Section 1030 of this title, shall, upon conviction, be guilty of a felony punishable by imprisonment for not more than three (3) years and by fines as follows: a fine of not more than Five Thousand Dollars (\$5,000.00).

D. Any person violating any of the provisions of Section 1028, 1029 or 1030 of this title within one thousand (1,000) feet of a school or church shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than three (3) years or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such imprisonment and fine. In addition, the court may require a term of community service of not less than forty (40) nor more than eighty (80) hours.

**Section 1032. Acts prohibited—Felony**

Every person who, with knowledge of its contents, sends, brings, or causes to be sent or brought into the Choctaw Nation of Oklahoma for sale or commercial distribution, or in the Choctaw Nation of Oklahoma prepares, sells, exhibits, commercially distributes, gives away, offers to give away, or has in his possession with intent to sell, to commercially distribute, to exhibit, to give away, or to offer to give away any obscene material or gives information stating when, where, how, or from whom, or by what means obscene material can be purchased or obtained, upon conviction, is guilty of a felony and shall be punished by imprisonment for not more than three (3) years in prison or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such imprisonment and fine.

### **Section 1033. Action for adjudication of obscenity—content of mailable matter**

Whenever the prosecutor has reasonable cause to believe that any person, with knowledge of its contents, is (1) engaged in sending or causing to be sent, bringing or causing to be brought, into the Choctaw Nation of Oklahoma for sale or commercial distribution, or is (2) in the Choctaw Nation of Oklahoma preparing, selling, exhibiting or commercially distributing or giving away, or offering to give away, or has in his possession with intent to sell, or commercially distribute or to exhibit or give away or offer to give away, any obscene material, the prosecutor may institute an action in the district court for an adjudication of the obscenity or child pornographic content of the mailable matter.

### **Section 1034. Petition**

The action described in Section 1033 of this title shall be commenced by filing with the district court a petition:

- (a) directed against the matter by name or description;
- (b) alleging it is obscene material;
- (c) listing the names and addresses, if known, of its author, publisher and any other person sending or causing it to be sent, bringing or causing it to be brought into the Choctaw Nation of Oklahoma for sale or commercial distribution and of any person in the Choctaw Nation of Oklahoma preparing, selling, exhibiting or commercially distributing it, or giving away or offering to give it away, or possessing it with intent to sell or commercially distribute or exhibit or give away or offer to give it away;
- (d) seeking an adjudication that it is obscene material, as defined in Section 1030 of this title;
- (e) seeking a permanent injunction against any person sending or causing it to be sent, bringing or causing it to be brought, into the Choctaw Nation of Oklahoma for sale or commercial distribution, or in the Choctaw Nation of Oklahoma preparing, selling, exhibiting or

commercially distributing it, giving away or offering to give it away, or possessing it with intent to sell or commercially distribute or exhibit or give away or offer to give it away;

(f) seeking its surrender, seizure and destruction.

### **Section 1035. Summary examination of material—Dismissal or show cause order**

(a) Upon the filing of the petition described in Section 1034 of this title, the court shall summarily examine the alleged obscene material.

(b) If the court finds no probable cause to believe it is obscene material, the court shall dismiss the petition.

(c) If the court finds probable cause to believe it is obscene material, the court shall immediately issue an order or rule to show cause why it should not be adjudicated to be obscene material.

(d) The order or rule to show cause shall be:

(1) directed against it by name or description;

(2) if their names and addresses are known, served personally in the manner provided in this act for the service of process or in any manner now or hereafter provided by law, upon its author, publisher, and any other person interested in sending or causing it to be sent, bringing or causing it to be brought, into the Choctaw Nation of Oklahoma for sale or commercial distribution, and on any person in the Choctaw Nation of Oklahoma preparing, selling, exhibiting or commercially distributing it or giving away or offering to give it away, or possessing it with intent to sell or commercially distribute or exhibit or give away or offer to give it away;

(3) returnable six (6) days after its service.

### **Section 1036. Answer**

(a) On or before the return date specified in the order or rule to show cause, the author, publisher, or any person interested in sending or causing to be sent, bringing or causing to be brought, into the Choctaw Nation of Oklahoma for sale or commercial distribution, or any person in the Choctaw Nation of Oklahoma preparing, selling, exhibiting or commercially distributing, or giving away or offering to give away, or possessing with intent to sell or commercially distribute or exhibit or give away or offer to give away, the matter may appear and file an answer.

(b) The court may, by order, permit any other person to appear and file an answer as amicus curiae. A person granted permission and appearing and filing an answer has all the rights of a party to the proceeding.



(c) If no person appears and files an answer on or before the return date specified in the order or rule to show cause, the court shall enter judgment either

(1) adjudicating the matter not to be obscene material, if the court so finds; or

(2) adjudicating it to be obscene material, if the court so finds.

(d) Every person appearing and answering shall be entitled, upon request, to a trial of the issues before the court not less than three (3) days after a joinder of issue.

### **Section 1037. Trial—Evidence**

(a) The court shall conduct the trial in accordance with the rules of civil procedure applicable to the trial of cases by the court without a jury.

(b) The court shall receive evidence at the trial, including the testimony of experts, pertaining, but not limited, to:

(1) whether, to the average person, applying contemporary community standards, the dominant theme of the mailable matter taken as a whole is to prurient interest;

(2) the artistic, literary, scientific and educational merits of the mailable matter considered as a whole;

(3) the intent of the author and publisher in preparing, writing and publishing the mailable matter;

(4) the appeal to prurient interest, or absence thereof, in advertising or other promotion of the mailable matter.

### **Section 1038. Destruction—Injunction**

In the event that a judgment is entered adjudicating the matter to be obscene material, the court shall further:

(a) order the person or persons having possession of it to surrender it to a law enforcement officer for destruction and, in the event that person refuses, order law enforcement officers to seize and destroy it;

(b) enter a permanent injunction against any person sending or causing it to be sent, bringing or causing it to be brought, into the Choctaw Nation of Oklahoma for sale or commercial

distribution, and against any person in the Choctaw Nation of Oklahoma preparing, selling, exhibiting or commercially distributing it, giving it away or offering to give it away, or having it in his possession with intent to sell or commercially distribute or exhibit or give it away or offer to give it away.

### **Section 1039. Sending or selling of materials with knowledge of judgment**

Any matter which, following the entry of a judgment that it is obscene material, is sent or caused to be sent, brought or caused to be brought, into the Choctaw Nation of Oklahoma for sale or commercially distributed, given away or offered to be given away, by any person with knowledge of the judgment, or is in the possession of any such person with intent to sell or commercially distribute or exhibit or give away or offer to give away, is subject to the provisions of Section 1032 of this title.

### **Section 1040. Contempt**

After the entry of a judgment that the matter is obscene material, any person who, with knowledge of the judgment or of the order or rule to show cause, sends or causes to be sent, brings or causes to be brought, into the Choctaw Nation of Oklahoma for sale or commercial distribution, the matter, or who in the Choctaw Nation of Oklahoma sells, exhibits or commercially distributes it, gives away or offers to give it away, or has it in his possession with intent to sell or commercially distribute or exhibit or give away or offer to give it away, shall be guilty of contempt of court and upon conviction after notice and hearing shall be for not more than one (1) year or fined not more than One Thousand Dollars (\$1,000.00), or be so imprisoned and fined.

### **Section 1041. Extradition**

In all cases in which a charge or violation of any section or sections of this act is brought against a person who cannot be found in the Choctaw Nation of Oklahoma, the executive authority of the Choctaw Nation of Oklahoma, being the Chief of the Choctaw Nation of Oklahoma or any person performing the functions of Chief by authority of the law of the Choctaw Nation of Oklahoma, shall demand extradition of such person from the executive authority of the tribe or state in which such person may be found, pursuant to the law of the Choctaw Nation of Oklahoma.

### **Section 1042. Presumptions**

The possession of two or more of any single article that is obscene material, or the possession of a combined total of any five articles that are obscene material (except the possession of them for the purpose of return to the person from whom received) shall create a presumption that they are

intended for sale or commercial distribution, exhibition or gift, but such presumption shall be rebuttable. The burden of proof that their possession is for the purpose of return to the person from whom received shall be on the possessor.

## **Chapter 40. Reserved**

## **Chapter 41. Reserved**

## **Chapter 42. Pandering**

### **Section 1081. Offense—Punishment—Fines**

Any person who shall procure any other person for prostitution, or who, by promise, threats, violence or by any device or scheme shall cause, induce, persuade or encourage another person to become a prostitute; or shall procure a place as inmate in a house of prostitution for another person; or who shall, by promise, threats, violence, or by any device or scheme cause, induce, persuade or encourage an inmate of a house of prostitution to remain therein as such inmate; or who shall, by fraud, or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority procure any other person to become a prostitute, or to enter any place in which prostitution is encouraged or allowed within the Choctaw Nation of Oklahoma, or to come into the Choctaw Nation of Oklahoma or leave the Choctaw Nation of Oklahoma for the purpose of prostitution, or who shall procure any other person, who has not previously practiced prostitution to become a prostitute within the Choctaw Nation of Oklahoma, or to come into the Choctaw Nation of Oklahoma or leave the Choctaw Nation of Oklahoma for the purpose of prostitution; or shall receive or give or agree to receive or give any money or thing of value for procuring or attempting to procure any other person to become an inmate of a house of prostitution within the Choctaw Nation of Oklahoma, or to come into the Choctaw Nation of Oklahoma or leave the Choctaw Nation of Oklahoma for the purpose of prostitution, shall be guilty of pandering, and upon conviction for any offense of Section 1081 through Section 1086 of this title shall be guilty of a felony and shall be punished by imprisonment for a period of not less than two (2) years nor more than three (3) years and by fines as follows: a fine of not less than One Thousand Dollars (\$1,000.00) and not more than Five Thousand Dollars (\$5,000.00).

### **Section 1082. Part of offense outside of the Choctaw Nation, no defense**

It shall not be a defense to a prosecution for any of the acts prohibited in the foregoing section that any part of such act or acts shall have been committed outside the Choctaw Nation of Oklahoma.

**Section 1083. Injured party as witness**

Any such female person, referred to in the foregoing sections, shall be a competent witness in any prosecution under Section 1081 through Section 1086 of this title to testify for or against the accused as to any transaction or as to any conversation with the accused or by him with another person or persons in her presence, notwithstanding the fact of her having married the accused before or after the violation of any of the provisions of this article, whether called as a witness during the existence of the marriage or after its dissolution.

**Section 1084. Marriage no defense**

The act or state of marriage shall not be a defense to any violation of Section 1081 through Section 1086 of this title.

**Section 1085. Restraining female in house of prostitution a felony**

Whoever shall by any means keep, hold, detain, or restrain against her will, any female person in a house of prostitution or other place where prostitution is practiced or allowed; or whoever shall, directly or indirectly keep, hold, detain or restrain or attempt to keep, hold, detain or restrain, in any house of prostitution or other place where prostitution is practiced or allowed, any female person by any means for the purpose of compelling such female person, directly or indirectly to pay, liquidate or cancel any debt, dues or obligations incurred or said to have been incurred by such female person, shall upon conviction be guilty of a felony and shall be punished by imprisonment for a period of not less than two (2) years nor more than three (3) years, and by a fine of not less than Five Hundred Dollars (\$500.00) and not more than Five Thousand Dollars (\$5,000.00).

**Section 1086. Allowing offense on premises—Punishment**

Any owner, proprietor, keeper, manager, conductor, or other person, who knowingly permits or suffers the violation of any provision of Section 1081 through Section 1086 of this title in any house, building, room, tent, lot or premises under his control or of which he has possession, upon conviction, shall be punished for the first offense by imprisonment for a period of not less than six (6) months nor more than one (1) year, and by a fine of not more than Five Hundred Dollars (\$500.00), and upon conviction for any subsequent offense under this article shall be guilty of a felony and shall be punished by imprisonment for a period of not less than one (1) year nor more than three (3) years.

**Section 1087. Child under 18 years of age—Procuring for prostitution, lewdness or other indecent act—Punishment**

A. No person shall:

1. Offer, or offer to secure, a child under eighteen (18) years of age for the purpose of prostitution, or for any other lewd or indecent act, or procure or offer to procure a child for, or a place for a child as an inmate in, a house of prostitution or other place where prostitution is practiced;
2. Receive or to offer or agree to receive any child under eighteen (18) years of age into any house, place, building, other structure, vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose; or
3. Direct, take, or transport, or to offer or agree to take or transport, or aid or assist in transporting, any child under eighteen (18) years of age to any house, place, building, other structure, vehicle, trailer, or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.

B. 1. Any person violating the provisions of subsection A of this section shall, upon conviction, be guilty of a felony punishable by imprisonment of not less than one (1) year nor more than three (3) years.

2. Any owner, proprietor, keeper, manager, conductor, or other person who knowingly permits any violation of this section in any house, building, room, or other premises or any conveyances under his control or of which he has possession shall, upon conviction for the first offense, be guilty of a misdemeanor and punishable by imprisonment for a period of not less than six (6) months nor more than one (1) year, and by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00). Upon conviction for a subsequent offense pursuant to this subsection such person shall be guilty of a felony and shall be punished by imprisonment for a period of not less than one (1) year nor more than three (3) years, or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

## **Chapter 43. Junk dealers**

### **Section 1092. Refusing to exhibit stolen goods**

Any junk dealer or person carrying on the business of a pawnbroker, and every junk dealer, who having received any goods which have been embezzled or stolen, refuses or omits to exhibit them, upon demand, during the usual business hours, to the owner of said goods or his agent authorized to demand an inspection thereof, or any peace officer, shall be guilty of a felony.

## **Section 1093. Punishment**

Any person convicted of violating the previous section shall be punished by imprisonment for not more than two (2) years, or by a fine of up to Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

## **Chapter 44. Reserved**

## **Chapter 45. Sex Offenses and Abduction**

### **Section 1117. Abduction of person under fifteen**

Every person who takes away or induces to leave any person under the age of fifteen (15) years, from a parent, guardian or other person having the legal charge of the person, without the consent of said parent, guardian, or other person having legal charge, for the purpose of marriage or concubinage, or any crime involving moral turpitude shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

### **Section 1118. Reserved**

### **Section 1119. Reserved**

### **Section 1120. Reserved**

### **Section 1121. Sexual battery**

A. It is a felony for any person to knowingly and intentionally commit sexual battery on any other person. "Sexual battery" shall mean the intentional touching, mauling or feeling of the body or private parts of any person sixteen (16) years of age or older, in a lewd and lascivious manner:

1. Without the consent of that person;
2. When committed by a Choctaw Nation employee or a contractor or an employee of a contractor of the Choctaw Nation of Oklahoma upon a person who is under the legal custody, supervision or authority of the Choctaw Nation of Oklahoma; or

3. When committed upon a person who is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or in the legal custody or supervision of any public or private elementary or secondary school, or technology center school, by a person who is eighteen (18) years of age or older and is an employee of the same school system that the victim attends.

As used in this subsection, “employee of the same school system” means a teacher, principal or other duly appointed person employed by a school system or an employee of a firm contracting with a school system who exercises authority over the victim.

B. No person shall in any manner lewdly or lasciviously:

1. Look upon, touch, maul, or feel the body or private parts of any human corpse in any indecent manner relating to sexual matters or sexual interest; or

2. Urinate, defecate or ejaculate upon any human corpse.

C. Any person convicted of a violation of subsection A or B of this section shall be deemed guilty of a felony and shall be punished by imprisonment for not more than three (3) years.

D. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense pursuant to this section shall not constitute a defense to a prosecution under this section.

#### **Section 1122. Reserved**

#### **Section 1123. Reserved**

#### **Section 1124. Reserved**

#### **Section 1125. Zone of safety—Schools, child care centers, playgrounds and parks—Restrictions on convicted sex offenders—Exemptions**

A. A zone of safety is hereby created around any elementary, junior high and high schools, child care centers, playgrounds and parks. A person is prohibited from loitering within five hundred (500) feet of any elementary, junior high or high school, child care center, playground, or park if the person has been convicted of a crime that requires the person to register pursuant to the Sex Offenders Registration Act or the person has been convicted of an offense in another jurisdiction, which offense if committed or attempted in the Choctaw Nation of Oklahoma, would have required the person to register as a sex offender under the Sex Offenders Registration Act.

B. A person convicted of a violation of subsection A of this section shall be guilty of a felony punishable by a fine not exceeding Two Thousand Five Hundred Dollars (\$2,500.00), or by imprisonment for a term of not more than one (1) year, or by both such fine and imprisonment. Any person convicted of a second or subsequent violation of subsection A of this section shall be punished by a fine not exceeding Two Thousand Five Hundred Dollars (\$2,500.00), or by imprisonment for a term of not less than three (3) years, or by both such fine and imprisonment. This proscription of conduct shall not modify or remove any restrictions currently applicable to the person by court order, conditions of probation or as provided by other provision of law.

C. 1. A person shall be exempt from the prohibition of this section regarding a school or a child care facility only under the following circumstances and limited to a reasonable amount of time to complete such tasks:

a. the person is the custodial parent or legal guardian of a child who is an enrolled student at the school or child care facility, and

b. the person is enrolling, delivering or retrieving such child at the school or child care center during regular school or facility hours or for school sanctioned or child care center sanctioned extracurricular activities.

Prior to entering the zone of safety for the purposes listed in this paragraph, the person shall inform school or child care center administrators of his or her status as a registered sex offender. The person shall update monthly, or as often as required by the school or center, information about the specific times the person will be within the zone of safety as established by this section.

2. This exception shall not be construed to modify or remove any restrictions applicable to the person by court order, conditions of probation, or as provided by other provision of law.

D. The provisions of subsection A of this section shall not apply to any person receiving medical treatment at a hospital or other facility. As used in this subsection, “medical treatment” shall not include any form of psychological, social or rehabilitative counseling services or treatment programs for sex offenders.

E. Nothing in this section shall prohibit a person, who is registered as a sex offender pursuant to the Sex Offenders Registration Act, from attending a recognized church or religious denomination for worship; provided, the person has notified the religious leader of his or her status as a registered sex offender and the person has been granted written permission by the religious leader.

## **Chapter 46. Reserved**



## **Chapter 47. Violating Sepulture and the Remains of the Dead**

### **Section 1151. Disposal of one's own body**

A. Any person has the right to direct the manner in which his or her body shall be disposed of after death, and to direct the manner in which any part of his or her body which becomes separated therefrom during his or her lifetime shall be disposed of. The provisions of Section 1151 et seq. of this title do not apply where such person has given directions for the disposal of his or her body or any part thereof inconsistent with these provisions.

B. A person may assign the right to direct the manner in which his or her body shall be disposed of after death by executing a sworn affidavit stating the assignment of the right and the name of the person or persons to whom the right has been assigned.

C. If the decedent died while serving in any branch of the United States Armed Forces, the United States Reserve Forces or the National Guard, and completed a United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form, the person authorized by the decedent pursuant to that form shall have the right to bury the decedent or to provide other funeral and disposition arrangements, including but not limited to cremation.

D. Any person who knowingly fails to follow the directions as to the manner in which the body of a person shall be disposed of pursuant to subsection A, B or C of this section, upon conviction thereof, shall be guilty of a misdemeanor punishable by a fine of not more than Five Thousand Dollars (\$5,000.00).

### **Section 1151a. Forfeiture of right to dispose of body of decedent**

Any person entitled by law to the right to dispose of the body of the decedent shall forfeit that right, and the right shall be passed on to the next qualifying person as listed in Section 1158 of this title, in the following circumstances:

1. Any person charged in any jurisdiction with first or second degree murder or voluntary manslaughter in connection with the death of the decedent, and whose charges are known to the funeral director; provided, however that if the charges against such person are dropped, or if such person is acquitted of the charges, the right of disposition shall be returned to the person;

2. Any person who does not exercise the right of disposition within three (3) days of notification of the death of the decedent or within five (5) days of the death of the decedent, whichever is earlier; or

3. If the district court determines that the person entitled to the right of disposition and the decedent were estranged at the time of death. For purposes of this paragraph, "estranged" means

a physical and emotional separation from the decedent at the time of death that clearly demonstrates an absence of due affection, trust and regard for the decedent.

### **Section 1152. Duty of burial**

Except in the cases in which a right to dissect a dead body is expressly conferred by law, every dead body of a human being must be decently buried within a reasonable time after the death.

### **Section 1153. Burial in another place**

The last section does not affect the right to carry the dead body of a human being through the Choctaw Nation of Oklahoma, or to remove from the Choctaw Nation of Oklahoma the body of a person dying within it, for the purpose of burying the same in another nation, state, or territory.

### **Section 1154. Autopsy—Definition—When allowed—Retention of tissue and specimens**

A. Autopsy means a post mortem dissection of a dead human body in order to determine the cause, seat or nature of disease or injury and includes, but is not limited to, the retention of tissues for evidentiary, identification, diagnostic, scientific and therapeutic purposes.

B. An autopsy may be performed on the dead body of a human being in the following cases:

1. In cases authorized by positive enactment of the Tribal Council or by other law;
2. Whenever the death occurs under circumstances in which a medical examiner is authorized to conduct such autopsy; or
3. Whenever consent is given to a licensed physician to conduct an autopsy on the body of a deceased person by whichever one of the following assumes custody of the body for purposes of burial: father, mother, husband, wife, child, guardian, next of kin, or in the absence of any of the foregoing, a friend, or a person charged by law with the responsibility for burial. If two (2) or more such persons assume custody of the body, the consent of one of them shall be deemed sufficient.

C. 1. Any physician or hospital authorized to perform an autopsy pursuant to this section, whether by statutory authority or by consent from a person entitled to assume custody of the body for burial, shall be and is authorized to retain such tissue and specimens as the examining physician deems proper. Such tissue and specimens may be retained for examination, dissection or study in furtherance of determining the cause of death, or for evidentiary, diagnostic, or scientific purposes.

2. No physician or hospital authorized to perform an autopsy pursuant to this section shall be subject to criminal or civil liability for the retention, examination, dissection, or study of tissue and specimens obtained from said autopsy under existing laws regarding the prevention of mutilation of dead bodies.

#### **Section 1155. Unlawful dissection is a misdemeanor**

Every person who makes or procures to be made any dissection of the body of a human being, except by authority of law, or in pursuance of a permission given by the deceased, is guilty of a misdemeanor.

#### **Section 1156. Remains after dissection**

In all cases in which a dissection has been made, the provisions of this chapter requiring the burial of a dead body, and punishing interference with or injuries to a dead body, apply equally to the remains of the body dissected as soon as the lawful purposes of such dissection have been accomplished.

#### **Section 1157. Dead limb or member of body**

All provisions of this chapter requiring the burial of a dead body, or punishing interference with or injuries to a dead body, applying equally to any dead limb or member of a human body, separated therefrom during lifetime.

#### **Section 1158. Right to control disposition of the remains of a deceased person**

The right to control the disposition of the remains of a deceased person, the location, manner and conditions of disposition, and arrangements for funeral goods and services vests in the following order, provided the person is eighteen (18) years of age or older and of sound mind:

1. The decedent, provided the decedent has entered into a pre-need funeral services contract or executed a written document that meets the requirements of the Choctaw Nation of Oklahoma;
2. A representative appointed by the decedent by means of an executed and witnessed written document meeting the requirements of the Choctaw Nation of Oklahoma;
3. The surviving spouse;
4. The sole surviving adult child of the decedent whose whereabouts is reasonably ascertained or if there is more than one adult child of the decedent, the majority of the surviving adult children whose whereabouts are reasonably ascertained;

5. The surviving parent or parents of the decedent, whose whereabouts are reasonably ascertained;
6. The surviving adult brother or sister of the decedent whose whereabouts is reasonably ascertained, or if there is more than one adult sibling of the decedent, the majority of the adult surviving siblings, whose whereabouts are reasonably ascertained;
7. The guardian of the person of the decedent at the time of the death of the decedent, if one had been appointed;
8. The person in the classes of the next degree of kinship, in descending order, under the laws of descent and distribution to inherit the estate of the decedent. If there is more than one person of the same degree, any person of that degree may exercise the right of disposition;
9. If the decedent was an indigent person or other person the final disposition of whose body is the financial responsibility of the public officer or employee responsible for arranging the final disposition of the remains of the decedent; and
10. In the absence of any person under paragraphs 1 through 9 of this section, any other person willing to assume the responsibilities to act and arrange the final disposition of the remains of the decedent, including the personal representative of the estate of the decedent or the funeral director with custody of the body, after attesting in writing that a good-faith effort has been made to no avail to contact the individuals under paragraphs 1 through 9 of this section.

#### **Section 1158a. Court authority to award the right of disposition of body of decedent**

The district court may award the right of disposition to the person determined by the court to be the most fit and appropriate to carry out the right of disposition, and may make decisions regarding the remains of the decedent if those sharing the right of disposition cannot agree. The following provisions shall apply to the determination of the court under this section:

1. If the persons holding the right of disposition are two or more persons with the same relationship to the decedent and cannot, by majority vote, make a decision regarding the disposition of the remains of the decedent, any of the persons or a funeral director with custody of the remains may file a petition asking the district court to make a determination in the matter;
2. In making a determination under this section, the district court shall consider the following:
  - a. the reasonableness and practicality of the proposed funeral arrangements and disposition,
  - b. the degree of the personal relationship between the decedent and each person claiming the right of disposition,

c. the desires of the person or persons who are ready, willing and able to pay the cost of the funeral arrangements and disposition,

d. the convenience and needs of other families and friends wishing to pay respects,

e. the desires of the decedent, and

f. the degree to which the funeral arrangements would allow maximum participation by all wishing to pay respect;

3. In the event of a dispute regarding the right of disposition, a funeral director shall not be liable for refusing to accept the remains or to inter or otherwise dispose of the remains of the decedent or complete the arrangements for the final disposition of the remains until the funeral director receives a court order or other written agreement signed by the parties in the disagreement that decides the final disposition of the remains. If the funeral director retains the remains for final disposition while the parties are in disagreement, the funeral director may embalm, refrigerate, or shelter the body in order to preserve it while awaiting the final decision of the district court and may add the cost of embalming, refrigeration or sheltering to the final disposition costs. If a funeral director brings an action under this section, the funeral director may add the legal fees and court costs associated with a petition under this section to the cost of final disposition. This section shall not be construed to require or to impose a duty on a funeral director to bring an action under this section. A funeral director shall not be held criminally or civilly liable for choosing not to bring an action under this section; and

4. Except to the degree it may be considered by the district court under subparagraph c of paragraph 2 of this section, the fact that a person has paid or agreed to pay for all or part of the funeral arrangements and final disposition does not give that person a greater right to the right of disposition than the person would otherwise have. The personal representative of the estate of the decedent does not, by virtue of being the personal representative, have a greater claim to the right of disposition than the person would otherwise have.

#### **Section 1158b. Funeral service agreements—Instructions**

Any person signing a funeral service agreement, cremation authorization form, or any other authorization for disposition shall be deemed to warrant the truthfulness of any facts set forth therein, including the identity of the decedent whose remains are to be buried, cremated, or otherwise disposed of, and the authority of the person to order such disposition. A funeral establishment shall have the right to rely on such funeral service contract or authorization and shall have the authority to carry out the instructions of the person or persons who the funeral director reasonably believes holds the right of disposition. The funeral director shall have no responsibility to contact or to independently investigate the existence of any next of kin or relative of the decedent. If there is more than one person in a class who are equal in priority and

the funeral director has no knowledge of any objection by other members of such class, the funeral director shall be entitled to rely on and act according to the instructions of the first person in the class to make funeral and disposition arrangements; provided that no other person in such class provides written notice of objections to the funeral director.

#### **Section 1158c. Funeral directors—Final disposition—Collection of charges**

A funeral director shall have complete authority to control the final disposition and to proceed under this act to recover reasonable charges for the final disposition when both of the following apply:

1. The funeral director has actual knowledge that none of the persons described in paragraphs 1 through 7 of Section 1158 of this title exist or that none of the persons so described whose whereabouts are reasonably ascertained, can be found; and
2. The appropriate public or court authority fails to assume responsibility for disposition of the remains within thirty-six (36) hours after having been given written notice of the facts. Written notice may be delivered by hand, United States mail, facsimile transmission or electronic mail.

#### **Section 1158d. Funeral director—Criminal and civil liability**

No funeral establishment or funeral director who relies in good faith upon the instructions of an individual claiming the right of disposition shall be subject to criminal or civil liability or subject to disciplinary action for carrying out the disposition of the remains in accordance with the instructions.

#### **Section 1159. Neglect of burial**

Every person upon whom the duty of making burial of the remains of a deceased person is imposed by law, who omits to perform that duty within a reasonable time, is guilty of a misdemeanor; and, in addition to the punishment prescribed therefor, is liable to pay to the person performing the duty in his stead, treble the expenses incurred by the latter in making the burial, to be recovered in a civil action.

#### **Section 1160. Persons entitled to custody of body**

The person charged by law with the duty of burying the body of a deceased person is entitled to the custody of such body for the purpose of burying it, except that in the cases in which an inquest is required by law to be held upon a dead body, the officer holding the inquest is entitled to its custody until such inquest has been completed.

**Section 1161. Unlawful removal of dead body—Violation of or damage to casket or burial vault**

A. No person shall intentionally remove the dead body of a human being or any part thereof from the initial site where such dead body is located for any purpose, unless such removal is authorized by the prosecuting attorney or his or her authorized representative, or medical examiner or his or her authorized representative, or is not required to be investigated pursuant to some other law, said authorization by the prosecuting attorney or medical examiner shall not be required prior to the removal of said body. A prosecuting attorney may refuse to prosecute a violation of this subsection if the prosecuting attorney determines that circumstances existed which would justify such removal or that such removal was not an act of malice or wantonness.

B. No person shall remove any part of the dead body of a human being from any grave or other place where the same has been buried, or from any place where the same is deposited while awaiting burial, with intent to sell the same, or to dissect it without authority of law, or from malice or wantonness.

C. No person shall willfully or with malicious intent violate or cause damage to the casket or burial vault holding the deceased human remains.

D. Any person convicted of violating any of the provisions of this section shall be guilty of a felony and shall be punished by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

**Section 1161.1. Desecration of a human corpse—Penalty—Prosecution with other offenses—Definition**

A. It is unlawful for any person to knowingly and willfully desecrate a human corpse for any purpose of:

1. Tampering with the evidence of a crime;
2. Camouflaging the death of human being;
3. Disposing of a dead body;
4. Impeding or prohibiting the detection, investigation or prosecution of a crime;
5. Altering, inhibiting or concealing the identification of a dead body, a crime victim, or a criminal offender; or
6. Disrupting, prohibiting or interfering with any law enforcement agency or the Office of the Chief Medical Examiner of the State of Oklahoma in detecting, investigating, examining,

determining, identifying or processing a dead body, cause of death, the scene where a dead body is found, or any forensic examination or investigation relating to a dead body or a crime.

B. Upon conviction, the violator of any provision of this section shall be guilty of a felony punishable by imprisonment for a term not more than three (3) years, by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

C. This offense may be prosecuted in addition to any prosecution pursuant to Section 1161 of this title for removal of a dead body or any other criminal offense.

D. For purposes of this section, “desecration of a human corpse” means any act committed after the death of a human being including, but not limited to, dismemberment, disfigurement, mutilation, burning, or any act committed to cause the dead body to be devoured, scattered or dissipated; except, those procedures performed by a government agency or licensed authority in due course of its duties and responsibilities for forensic examination, gathering or removing crime scene evidence, presentation or preservation of evidence, dead body identification, cause of death, autopsy, cremation or burial, organ donation, use of a cadaver for medical educational purposes, or other necessary procedures to identify, remove or dispose of a dead body by the proper authority.

#### **Section 1162. Purchasing dead body**

Whoever purchases, or who receives, except for the purpose of burial, any dead body of a human being, knowing the same has been removed contrary to Section 1161 of this title shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

#### **Section 1163. Unlawful interference with places of burial**

Any person who opens any grave or any place of burial, temporary or otherwise, or who breaks open any building wherein any dead body of a human being is deposited while awaiting burial, with intent either:

1. To remove any dead body of a human being for the purpose of selling the same, or for the purpose of dissection; or
2. To steal the coffin, or any part thereof or anything attached thereto, or connected therewith, or the vestments or other articles buried with the same,

shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.



#### **Section 1164. Removal to another burial place**

Whenever a cemetery or other place of burial is lawfully authorized to be removed from one place to another, the right and duty to disinter, remove and rebury the remains of bodies there lying buried devolves upon the same persons required to bury the deceased in the order in which they there are named, and if they all fail to act, then upon the lawful custodians of the place of burial so removed. Every omission of such duty is punishable in the same manner as other omissions to perform the duty of making burial.

#### **Section 1165. Arresting or attaching dead body**

Every person who arrests or attaches any dead body of a human being upon any debt or demand whatever, or detains or claims to detain it for any debt or demand, or upon any pretended lien or charge, is guilty of a misdemeanor.

#### **Section 1166. Disturbing funerals**

Every person who willfully disturbs, interrupts, or disquiets any assemblage of people met for the purpose of any funeral, or who, without authority of law, obstructs or detains any persons engaged in carrying or accompanying any dead body of a human being to a place of burial, is guilty of a misdemeanor.

#### **Section 1167. Destruction, mutilation, etc. of cemetery structures, markers, etc.—Sale or barter of veteran markers**

Every person who:

1. Shall willfully with malicious intent destroy, mutilate, deface, injure or remove any tomb, monument or gravestone, or other structure placed in any cemetery or private burying ground, or any fence, railing, or other work for the protection or ornament of any such cemetery or place of burial of any human being, or tomb, monument or gravestone, memento, veteran marker from any war, or memorial, or other structure aforesaid, or of any lot within a cemetery, or shall willfully or with malicious intent destroy, cut, break, or injure any tree, shrub or plant, within the limits thereof; or
2. Knowingly buys, sells or barter for profit any veteran marker from any war that is placed on a lot within a cemetery or place of burial of any human being, shall be guilty of a misdemeanor if the amount of damage is less than Five Thousand Dollars (\$5,000.00), and shall, upon conviction thereof, be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment for not less than ninety (90) days nor more than one year, or by both such fine and imprisonment. In addition, the court shall require the person to perform not more than one hundred twenty (120) hours of community service. If the amount of damage exceeds Five

Thousand Dollars (\$5,000.00) the person shall be guilty of a felony and shall, upon conviction thereof, be punished by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. In addition, the court shall require the person to perform not more than two hundred forty (240) hours of community service. The court shall not suspend any portion of the community service requirement set forth in this section.

## **Section 1168. Definitions**

As used in Sections 1168.1 through 1168.6 of this title:

1. “Human skeletal remains” means the bony portion of a human body which remains after the flesh has decomposed;
2. “Burial grounds” means any place where human skeletal remains are buried; and
3. “Burial furniture” means any items intentionally placed with human remains at the time of burial and shall include but not be limited to burial markers, items of personal adornment, casket and hardware, stone, bone, shell and metal ornaments and elaborately decorated pottery vessels.

### **Section 1168.1. Buying, selling or bartering for profit of human skeletal remains or associated burial furniture—Felony**

Anyone who knowingly buys, sells, or barters for profit any human skeletal remains or associated burial furniture, previously buried within the Choctaw Nation of Oklahoma, shall be guilty of a felony.

### **Section 1168.2. Certain institutions and museums to consult Choctaw Nation officials before disposition of remains**

Any educational institutions, or other institutions or museums coming into possession or knowledge of human skeletal remains or associated burial furniture within the Choctaw Nation shall consult with Choctaw Nation officials regarding the final disposition of said remains prior to any activities related to scientific or educational purposes.

### **Section 1168.3. Display of open burial ground, furniture or skeletal remains for profit or commercial enterprise**

Anyone who knowingly displays an open burial ground, burial furniture or human skeletal remains previously buried in the Choctaw Nation of Oklahoma for profit or to aid and abet a commercial enterprise shall be guilty of a misdemeanor and each day of display shall be a separate offense.

#### **Section 1168.4. Discovery of human remains or burial furniture—Reporting and notification procedure**

A. All persons who encounter or discover human skeletal remains or what they believe may be human skeletal remains or burial furniture thought to be associated with human burials in or on the ground shall immediately cease any activity which may cause further disturbance and shall report the presence and location of such human skeletal remains to an appropriate law enforcement officer.

B. Any person who willfully fails to report the presence or discovery of human skeletal remains or what they believe may be human skeletal remains within forty-eight (48) hours to an appropriate law enforcement officer shall be guilty of a misdemeanor.

C. Any person who knowingly disturbs human skeletal remains or burial furniture other than a law enforcement officer, registered mortician, a representative of the Office of the Chief Medical Examiner of the State of Oklahoma, a professional archaeologist or physical anthropologist, or other officials designated by law in performance of official duties, shall be guilty of a felony.

D. Anyone other than a law enforcement officer, registered mortician, a representative of the Office of the Chief Medical Examiner of the State of Oklahoma, a professional archaeologist or physical anthropologist, or other officials designated by law in performance of official duties, who disturbs or permits disturbance of a burial ground with the intent to obtain human skeletal remains or burial furniture shall be guilty of a felony.

E. The law enforcement officer, if there is a reason to believe that the skeletal remains may be human, shall promptly notify the landowner and the Chief Medical Examiner of the State of Oklahoma.

#### **Section 1168.5. Designation of repository for remains and furniture for scientific purposes**

If the human skeletal remains and any burial furniture are not directly related to a tribal group or if the remains are not claimed by the consulted entity, the Tribal Council may designate a repository for curation of such skeletal remains and burial furniture for scientific purposes.

#### **Section 1168.6. Penalties**

A. Any person convicted of a misdemeanor pursuant to the provisions of Sections 1168 through 1168.5 of this title shall be punishable by a fine not exceeding One Thousand Dollars (\$1,000.00), by imprisonment not exceeding one (1) year, or by both such fine and imprisonment.

B. Any person convicted of a felony pursuant to the provisions of Sections 1168 through 1168.5 of this title shall be punishable by a fine not exceeding Five Thousand Dollars (\$5,000.00), by imprisonment not exceeding three (3) years, or by both such fine and imprisonment.

**Section 1168.7. Tribal, federal and state agencies encountering burial grounds, human skeletal remains or burial furniture—Reports—Disposition**

A. Any tribal, federal, or state department or agency which, in the performance of its duties, discovers a burial ground, human skeletal remains or burial furniture shall immediately cease any activity which may cause further disturbance of the site and shall report the presence and location of any skeletal remains to an appropriate law enforcement officer as required by Section 1168 et seq. of this title and shall comply with all other provisions of said sections.

B. If it is determined that the burial ground, human skeletal remains or burial furniture is not directly related to a tribal group, officials of the Choctaw Nation of Oklahoma shall work with the director of the tribal, federal, or state department or agency until disposition of the burial ground, human skeletal remains or burial furniture has been completed.

**Section 1169. Disposition of human tissue—Rules and regulations**

A. All human tissues in medical facilities of the Choctaw Nation of Oklahoma shall be disposed of according to the rules and regulations of the Oklahoma State Board of Health.

B. All human tissues in the custody or control of any physician, or other health care professional, their employees or agents shall be disposed of as directed by the rules and regulations of the Oklahoma State Board of Medical Licensure and Supervision and/or the State Board of Osteopathic Examiners.

C. Any person violating any rule or regulation established pursuant to subsections A or B of this section relating to the disposition of human tissue shall, upon conviction, be fined an amount not to exceed Five Thousand Dollars (\$5,000.00).

**Chapter 47A. General and Miscellaneous Provisions**

**Section 1171. Peeping Tom—Use of photographic, electronic or video equipment—Offenses and punishment—Definition**

A. Every person who hides, waits or otherwise loiters in the vicinity of any private dwelling house, apartment building, any other place of residence, or in the vicinity of any locker room, dressing room, restroom or any other place where a person has a right to a reasonable

expectation of privacy, with the unlawful and willful intent to watch, gaze, or look upon any person in a clandestine manner, shall, upon conviction, be guilty of a misdemeanor. The violator shall be punished by imprisonment for a term of not more than one (1) year, or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

B. Every person who uses photographic, electronic or video equipment in a clandestine manner for any illegal, illegitimate, prurient, lewd or lascivious purpose with the unlawful and willful intent to view, watch, gaze or look upon any person without the knowledge and consent of such person when the person viewed is in a place where there is a right to a reasonable expectation of privacy, or who publishes or distributes any image obtained from such act, shall, upon conviction, be guilty of a felony. The violator shall be punished by imprisonment for a term of not more than three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

C. Every person who uses photographic, electronic or video equipment in a clandestine manner for any illegal, illegitimate, prurient, lewd or lascivious purpose with the unlawful and willful intent to view, watch, gaze or look upon any person and capture an image of a private area of a person without the knowledge and consent of such person and knowingly does so under circumstances in which a reasonable person would believe that the private area of the person would not be visible to the public, regardless of whether the person is in a public or private place shall, upon conviction, be guilty of a misdemeanor. The violator shall be punished by imprisonment for a term of not more than one (1) year, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

D. As used in this section, the phrase “private area of the person” means the naked or undergarment-clad genitals, pubic area, buttocks, or any portion of the areola of the female breast of that individual.

#### **Section 1172. Obscene, threatening or harassing telecommunication or other electronic communications—Penalty**

A. It shall be unlawful for a person who, by means of a telecommunication or other electronic communication device, willfully either:

1. Makes any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent;
2. Makes a telecommunication or other electronic communication with intent to terrify, intimidate or harass, or threaten to inflict injury or physical harm to any person or property of that person;
3. Makes a telecommunication or other electronic communication, whether or not conversation ensues, with intent to put the party called in fear of physical harm or death;

4. Makes a telecommunication or other electronic communication, whether or not conversation ensues, without disclosing the identity of the person making the call or communication and with intent to annoy, abuse, threaten, or harass any person at the called number;

5. Knowingly permits any telecommunication or other electronic communication under the control of the person to be used for any purpose prohibited by this section; and

6. In conspiracy or concerted action with other persons, makes repeated calls or electronic communications or simultaneous calls or electronic communications solely to harass any person at the called number(s).

B. As used in this section, “telecommunication” and “electronic communication” mean any type of telephonic, electronic or radio communications, or transmission of signs, signals, data, writings, images and sounds or intelligence of any nature by telephone, including cellular telephones, wire, cable, radio, electromagnetic, photo-electronic or photo-optical system or the creation, display, management, storage, processing, transmission or distribution of images, text, voice, video or data by wire, cable or wireless means, including the Internet. The term includes:

1. A communication initiated by electronic mail, instant message, network call, or facsimile machine; and

2. A communication made to a pager.

C. Use of a telephone or other electronic communications facility under this section shall include all use made of such a facility between the points of origin and reception. Any offense under this section is a continuing offense and shall be deemed to have been committed at either the place of origin or the place of reception.

D. Except as provided in subsection E of this section, any person who is convicted of the provisions of subsection A of this section, shall be guilty of a misdemeanor.

E. Any person who is convicted of a second offense under this section shall be guilty of a felony.

### **Section 1173. Stalking—Penalties**

A. Any person who willfully, maliciously, and repeatedly follows or harasses another person in a manner that:

1. Would cause a reasonable person or a member of the immediate family of that person as defined in subsection F of this section to feel frightened, intimidated, threatened, harassed, or molested; and

2. Actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed, or molested,

upon conviction, shall be guilty of the crime of stalking, which is a misdemeanor punishable by imprisonment for not more than one (1) year or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

B. Any person who violates the provisions of subsection A of this section when:

1. There is a permanent or temporary restraining order, a protective order, an emergency ex parte protective order, or an injunction in effect prohibiting the behavior described in subsection A of this section against the same party, when the person violating the provisions of subsection A of this section has actual notice of the issuance of such order or injunction; or

2. Said person is on probation or parole, a condition of which prohibits the behavior described in subsection A of this section against the same party or under the conditions of a community or alternative punishment; or

3. Said person, within ten (10) years preceding the violation of subsection A of this section, completed the execution of sentence for a conviction of a crime involving the use or threat of violence against the same party, or against any member of the immediate family of such party,

upon conviction, shall be guilty of a felony punishable by imprisonment for a term not exceeding three (3) years or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

C. Evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact, as defined in subsection D of this section, with the victim after having been requested by the victim to discontinue the same or any other form of unconsented contact, and to refrain from any further unconsented contact with the victim, shall give rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

D. For purposes of this section:

1. "Harasses" means a pattern or course of conduct directed toward another individual that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable person to suffer emotional distress, and that actually causes emotional distress to the victim. Harassment shall include harassing or obscene phone calls as prohibited by Section 1172 of this title and conduct prohibited by Section 850 of this title. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose;

2. “Course of conduct” means a pattern of conduct composed of a series of two (2) or more separate acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of “course of conduct”;

3. “Emotional distress” means significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling;

4. “Unconsented contact” means any contact with another individual that is initiated or continued without the consent of the individual, or in disregard of that individual’s expressed desire that the contact be avoided or discontinued. Constitutionally protected activity is not included within the meaning of unconsented contact. Unconsented contact includes but is not limited to any of the following:

a. following or appearing within the sight of that individual,

b. approaching or confronting that individual in a public place or on private property,

c. appearing at the workplace or residence of that individual,

d. entering onto or remaining on property owned, leased, or occupied by that individual,

e. contacting that individual by telephone,

f. sending mail or electronic communications to that individual, and

g. placing an object on, or delivering an object to, property owned, leased, or occupied by that individual; and

5. “Member of the immediate family”, for the purposes of this section, means any spouse, parent, child, person related within the third degree of consanguinity or affinity or any other person who regularly resides in the household or who regularly resided in the household within the prior six (6) months.

#### **Section 1174. Burning cross with intent to intimidate**

It shall be unlawful for any person or persons, with the intent of intimidating any person or group of persons, to burn, or cause to be burned, a cross on the property of another, a highway or other public place. Any person who shall violate any provision of this section shall be guilty of a felony.

#### **Section 1175. Unauthorized use of newborn DNA**



A laboratory, medical facility, hospital or birthing place is prohibited from the unauthorized storage, transferring, use or databasing of DNA from any newborn child without express parental consent.

## **Part V. Crimes Against Public Health and Safety**

### **Chapter 48. General and Miscellaneous Provisions**

#### **Section 1190. Hazing—Prohibition—Presumption as forced activity—Penalty—Definition**

A. No student organization or any person associated with any organization sanctioned or authorized by the governing board of any public or private school or institution of higher education in the Choctaw Nation of Oklahoma shall engage or participate in hazing.

B. Any hazing activity described in subsection F of this section upon which the initiation or admission into or affiliation with an organization sanctioned or authorized by a public or private school or by any institution of higher education in the Choctaw Nation of Oklahoma is directly or indirectly conditioned shall be presumed to be a forced activity, even if the student willingly participates in such activity.

C. A copy of the policy or the rules and regulations of the public or private school or institution of higher education which prohibits hazing shall be given to each student enrolled in the school or institution and shall be deemed to be part of the bylaws of all organizations operating at the public school or the institution of higher education.

D. Any organization sanctioned or authorized by the governing board of a public or private school or of an institution of higher education in the Choctaw Nation of Oklahoma which violates subsection A of this section, upon conviction, shall be guilty of a misdemeanor, and may be punishable by a fine of not more than One Thousand Dollars (\$1,000.00) and the forfeit for a period of not less than one (1) year all of the rights and privileges of being an organization organized or operating at the public or private school or at the institution of higher education.

E. Any individual convicted of violating the provisions of subsection A of this section shall be guilty of a misdemeanor, and may be punishable by imprisonment for not to exceed ninety (90) days, or by the imposition of a fine not to exceed One Thousand Dollars (\$1,000.00), or by both such imprisonment and fine.

F. For purposes of this section:

1. “Hazing” means an activity which recklessly or intentionally endangers the mental health or physical health or safety of a student for the purpose of initiation or admission into or affiliation

with any organization operating subject to the sanction of the public or private school or of any institution of higher education in the Choctaw Nation of Oklahoma;

2. "Endanger the physical health" shall include but not be limited to any brutality of a physical nature, such as whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of any food, intoxicating beverage containing more than three and two-tenths percent (3.2%) alcohol by weight or any low-point beer as otherwise defined by the Choctaw Nation of Oklahoma, drug, controlled dangerous substance, or other substance, or any other forced physical activity which could adversely affect the physical health or safety of the individual; and

3. "Endanger the mental health" shall include any activity, except those activities authorized by law, which would subject the individual to extreme mental stress, such as prolonged sleep deprivation, forced prolonged exclusion from social contact, forced conduct which could result in extreme embarrassment, or any other forced activity which could adversely affect the mental health or dignity of the individual.

#### **Section 1191. Public nuisance a misdemeanor**

Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor and upon conviction thereof, guilty of a misdemeanor and shall be punished by imprisonment not to exceed one (1) year, or by the imposition of a fine not to exceed One Thousand Dollars (\$1,000.00), or by both such imprisonment and fine.

#### **Section 1192. Reserved**

#### **Section 1193. Reserved**

#### **Section 1194. Gas tar, throwing into public water**

Every person who throws or deposits any gas tar, or refuse of any gas house or factory, into any public waters, river or stream, or into any sewer or stream emptying into any such public waters, river or stream, is guilty of a misdemeanor and shall be punished by imprisonment for not more than one (1) year or a fine of One Thousand Dollars (\$1,000.00) or both such fine and imprisonment.

#### **Section 1195. Quarantine regulations, violating**

Every person who having been lawfully ordered by any health officer to be detained in quarantine and not having been discharged leaves the quarantine grounds or willfully violates any quarantine law or regulation is guilty of a misdemeanor and shall be punished by imprisonment for not more than one (1) year or a fine of One Thousand Dollars (\$1,000.00) or both such fine and imprisonment.

#### **Section 1196. Apothecary liable for negligence—Willful or ignorant acts or omissions**

Every apothecary or every person employed as clerk or salesman by an apothecary, or otherwise carrying on business as a dealer in drugs or medicines, who, in putting up any drugs or medicines, willfully, negligently or ignorantly omits to label the same, or puts any untrue label, stamp or other designation of contents upon any box, bottle or other package containing any drugs or medicines, or substitutes a different article for any article prescribed or ordered, or puts up a greater or less quantity of any article than that prescribed or ordered, or otherwise deviates from the terms of the prescription or order which he undertakes to follow, in consequence of which human life or health is endangered, is guilty of a misdemeanor and shall be punished by imprisonment for not more than one (1) year or a fine of One Thousand Dollars (\$1,000.00) or both such fine and imprisonment.

#### **Section 1197. Poisons, laying out**

Whosoever shall willfully lay out poison with the intent that the same be taken by any domestic animal, or in such a manner as to endanger human life; or whoever shall, if in open range livestock territory, lay out poisons except in a safe place on his own premises, is guilty of a misdemeanor and shall be punished by imprisonment for not more than one (1) year or a fine of One Thousand Dollars (\$1,000.00) or both such fine and imprisonment.

#### **Section 1198. Fires, refusing to aid at or interfering with others' acts**

Every person who, at any burning of a building, is guilty of any disobedience to lawful orders of any tribal law enforcement officer or fireman, or of any resistance to or interference with the lawful efforts of any fireman or company of firemen to extinguish the same, or of any disorderly conduct calculated to prevent the same from being extinguished, or who forbids, prevents or dissuades others from assisting to extinguish the same, is guilty of a misdemeanor and shall be punished by imprisonment for not more than one (1) year or a fine of One Thousand Dollars (\$1,000.00) or both such fine and imprisonment.

#### **Section 1199. Contagious disease, exposing oneself or another with**

Every person who willfully exposes himself or another person, being affected with any contagious disease in any public place or thoroughfare, except in his or her necessary removal in

a manner not dangerous to the public health, is guilty of a misdemeanor and shall be punished by imprisonment for not more than one (1) year or a fine of One Thousand Dollars (\$1,000.00) or both such fine and imprisonment.

#### **Section 1200. Frauds affecting market price**

Every person who willfully makes or publishes any false statement, spreads any false rumor, or employs any other false and fraudulent means or device, with intent to affect the market price of any kind of property, is guilty of a misdemeanor and shall be punished by imprisonment for not more than one (1) year or a fine of One Thousand Dollars (\$1,000.00) or both such fine and imprisonment.

#### **Section 1201. Newspapers, false statements in**

Every editor or proprietor of any newspaper who willfully publishes in such newspaper as true, any statement which he has not good reason to believe to be true, with intent to increase thereby the sales of copies of such paper, is guilty of a misdemeanor and shall be punished by imprisonment for not more than one (1) year or a fine of One Thousand Dollars (\$1,000.00) or both such fine and imprisonment.

#### **Section 1202. Eavesdropping**

Every person guilty of secretly loitering about any building, with intent to overhear discourse therein, and to repeat or publish the same to vex, annoy, or injure others, is guilty of a misdemeanor and shall be punished by imprisonment for not more than one (1) year or a fine of One Thousand Dollars (\$1,000.00) or both such fine and imprisonment.

#### **Section 1203. Reserved**

#### **Section 1204. Reserved**

#### **Section 1205. Throwing, leaving or depositing trash near road unlawful—Establishment of solid waste disposal sites**

It shall be unlawful for any person to throw or leave or deposit garbage, tin cans, junk, rubbish or refuse and other items and matters commonly referred to as trash within one hundred (100) yards of any highway or any road. Provided, however, that the Choctaw Nation of Oklahoma may establish solid waste disposal sites. Any person violating this provision of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than One Thousand

Dollars (\$1,000,00) or imprisoned for not more than one (1) year or both such fine and imprisonment.

**Section 1206. Abandonment of refrigerators and iceboxes in places accessible to children—Penalty**

Any person, firm or corporation who abandons or discards, in any place accessible to children, any refrigerator, icebox, or ice chest, of a capacity of one and one-half (1½) cubic feet or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch, or who, being the owner, lessee, or manager of such place, knowingly permits such abandoned or discarded refrigerator, icebox or ice chest to remain in such condition, shall be deemed negligent as a matter of law and shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than One Thousand Dollars (\$1,000,00) or imprisoned for not more than one (1) year or both such fine and imprisonment.

**Rescue Operation in Disaster Area Act**

**Section 1207. Rescue Operation in Disaster Area**

Section 1207 through Section 1213 of this title may be cited as the “Rescue Operations in Disaster Area Act”.

**Section 1208. Disaster areas—Prevention of unauthorized persons from hampering rescue operations**

The purpose of this act is to prevent sightseers, thrill-seekers, souvenir hunters and other unauthorized persons from hampering the work of rescue operations in a disaster area.

**Section 1209. Definitions**

For the purpose of, and when used in this act:

1. The term “disaster area” means the scene or location of a natural or military disaster, an explosion, an aircraft accident, a fire, a railroad accident and a major traffic accident.
2. The term “authorized person” shall include all Choctaw Nation of Oklahoma law enforcement and fire personnel; hospital and ambulance crews; or other personnel authorized or ordered into the disaster area by the Choctaw Nation of Oklahoma.

**Section 1210. Following of emergency vehicles unlawful**

It shall be unlawful for the driver of any vehicle other than one on official business to follow any emergency vehicle or to purposely drive to any location on or near a highway or roadway where a disaster area exists.

#### **Section 1211. Disruption or prevention of emergency telephone call—Penalties**

Any person, who intentionally interrupts, disrupts, impedes or interferes with an emergency telephone call or intentionally prevents or hinders another person from placing an emergency telephone call shall be guilty of a misdemeanor. Upon conviction, the person shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment not more than one (1) year or by both such fine and imprisonment.

#### **Section 1212. Proceeding to or remaining at disaster area unlawful—Removal of objects**

It shall be unlawful for any person except an authorized person to proceed to or to remain at a disaster area for the purpose of being a bystander, spectator, sightseer or souvenir hunter; or for any such person to take or remove from the disaster area, or disturb or move, any material objects, equipment or thing either directly or indirectly relating or pertaining to the disaster.

#### **Section 1213. Penalties**

(a) Unless otherwise provided, it is a misdemeanor for any person to violate any of the provisions of this act.

(b) Every person convicted of a misdemeanor for violating any provision of this act shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than one (1) year or by both such fine and imprisonment.

#### **Section 1214. Radio sets capable of receiving on police frequencies—Unlawful uses**

It shall be unlawful for any person to operate a mobile radio capable of receiving transmissions made by any tribal law enforcement agency for illegal purposes or while in the commission of a crime and not otherwise and any person violating the provisions hereof shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not more than Five Thousand Dollars (\$5000.00) or by imprisonment for not more than three (3) years or by both such fine and imprisonment.

#### **Section 1215. Intoxicating beverages or low-point beer—Possession by persons under age 21**

It shall be unlawful for any person under the age of twenty-one (21) years to be in the possession of any intoxicating beverage containing more than three and two-tenths percent (3.2%) alcohol by weight or any low-point beer as otherwise defined by the Choctaw Nation of Oklahoma while such person is upon any public highway, street or roadway or in any public building or place. A violation of this section shall be a misdemeanor. Upon conviction, the person shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment not more than one (1) year or by both such fine and imprisonment.

#### **Section 1216. Reserved**

#### **Section 1217. Firefighters—Interference with performance of duties**

Any person or persons acting in concert with each other who knowingly and willfully interfere with, molest, or assault firefighters in the performance of their duties, or who knowingly and willfully obstruct, interfere with or impede the progress of firefighters to reach the destination of a fire, shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine of not more than Five Thousand Dollars (\$5000.00) or by imprisonment for not more than three (3) years or by both such fine and imprisonment.

#### **Section 1218. Display of names of military dead at demonstrations or protests without consent prohibited**

It shall be unlawful for the names of persons killed in military action to be carried, displayed on cards or placards, or otherwise published for the purpose of any antiwar, antipolice action or anti-draft demonstration or protest on the grounds of schools, colleges, universities, institutions or facilities, which are wholly or in part supported by Choctaw Nation of Oklahoma funds, or on any other public property such as parks and streets dedicated to public use, without the written consent of the surviving spouse of such deceased person, if married at time of death or, if unmarried, the written consent of one or both parents, or if they both be deceased, then the next of kin. A violation of this section shall be a misdemeanor. Upon conviction, the person shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment not more than one (1) year or by both such fine and imprisonment.

#### **Section 1219. Reserved**

#### **Section 1220. Transporting intoxicating beverage or low-point beer—Prohibition—Exceptions—Penalty**

A. Except as provided in subsection C of this section, it shall be unlawful for any operator to knowingly transport or for any passenger to possess in any moving vehicle upon a public

highway, street or alley any intoxicating beverage or low-point beer containing more than three and two-tenths percent (3.2%) alcohol by weight or any low-point beer as otherwise defined by the Choctaw Nation of Oklahoma, except in the original container which shall not have been opened and from which the original cap or seal shall not have been removed, unless the opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a station wagon or panel truck, or any outside compartment which is not accessible to the driver or any other person in the vehicle while it is in motion. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment not more than one (1) year or by both such fine and imprisonment.

B. The provisions of subsection A of this section shall not apply to the passenger area of buses and limousines; however, it shall be unlawful for the driver of the bus or limousine to consume or have in the driver's immediate possession any intoxicating beverage or low-point beer.

C. As used in this section:

1. "Bus" means a vehicle chartered for transportation of persons for hire. It shall not mean a school bus transporting children or a vehicle operated pursuant to an agreement with the Choctaw Nation of Oklahoma over a regularly scheduled route; and

2. "Limousine" means a chauffeur-driven motor vehicle, other than a bus or taxicab, designed and used for transportation of persons for compensation.

### **Section 1220.1. Prohibition of alcohol inhalation device**

It is unlawful for any person to buy, sell, furnish, manufacture or possess any alcohol inhalation device, alcohol infuser or any other device capable of causing a blood or breath alcohol concentration in the human body by means of fumes, vapors, gases, air particles or matter inhaled directly into the central nervous system by mouth or nasal passages. Any person convicted of any violation of this section shall be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than one (1) year or both such fine and imprisonment. Provided, however, that any inhalation device which may contain alcohol and is intended or used for medicinal purposes, whether it is available for over-the-counter or by prescription purchase, shall be exempt from these provisions.

## **Chapter 49. Animals and Carcasses**

### **Section 1221. Contagious diseases among domestic animals**

Any person who shall suffer to run at large, or who shall keep in any place where other animals can have access to or become infected by them, any horse, mare, mule, ass, ox, bull, cow, sheep



or other domestic animals owned by him, or in his care or possession, and known by him, or good reason to believe such animal to be infected by any infectious or contagious disease, or who shall bring into the Choctaw Nation of Oklahoma any diseased cattle, shall be punished and upon conviction of the same, by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than one (1) year or both such fine and imprisonment.

#### **Section 1222. Disposition of animals dying of contagious or infectious diseases**

It shall be the duty of the owner of any domestic animal in the Choctaw Nation of Oklahoma, which may hereafter die of any contagious or infectious disease, either to burn the carcass thereof or bury the same within twenty-four (24) hours after he has notice or knowledge of such fact so that no part of such carcass shall be nearer than two and one-half (2 ½) feet of the surface of the soil: Provided, that all hogs dying of any disease shall be burned. It shall further be unlawful to bury any such carcass as mentioned in this section in any land along any stream or ravine, where it is liable to become exposed through erosion of the soil, or where such land is any time subject to overflow. Owner, as used in this section, shall mean and include any person having domestic animals in his possession, either by reason of ownership, rent, hire, loan, or otherwise, and shall be subject to all the pains and penalties of this article.

#### **Section 1223. Leaving carcass in certain places unlawful**

It shall be unlawful for any person to leave or deposit, or cause to be deposited or left the carcass of any animal, chicken or other fowl, whether the same shall have died from disease or otherwise, in any well, spring, pond or stream of water; or leave or deposit the same within one-fourth (1/4) of a mile of any occupied dwelling or of any public roadway, without burying the same as provided in the preceding section of this act.

#### **Section 1224. Violation of sections regarding carcasses a misdemeanor**

Every person who violates the two preceding sections, shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than one (1) year or both such fine and imprisonment.

#### **Section 1225. Unclean slaughterhouses**

If any owner or occupier of any slaughterhouses, or any premises where hogs, beeves or other animals are slaughtered, shall permit the same to remain unclean, to the annoyance of the citizens of the Choctaw Nation of Oklahoma, or any of them, every person so offending shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than one (1) year or both such fine and imprisonment.

**Section 1226. Selling or buying infected carcass**

If any person shall barter, sell or dispose of the carcass of any swine or other domestic animals infected with cholera or other infectious diseases at the time of death to any person for the purpose of manufacturing the same into lard, soap or for any other purpose, or if any person shall buy or otherwise obtain the carcass of any swine or other domestic animals infected with cholera or other infectious diseases at the time of death for manufacturing purposes as aforesaid or any other purpose except that of burial or burning shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than one (1) year or both such fine and imprisonment.

**Section 1227. Selling or driving infected swine on highway a misdemeanor**

It shall be unlawful for any person to sell or otherwise dispose of any live swine that is infected with cholera or any other contagious diseases or to drive any such swine on the public highways, after any such person or persons have received knowledge of any such contagious diseases.

**Section 1228. Violation a misdemeanor**

Any person violating the provisions of the preceding section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than one (1) year or both such fine and imprisonment.

**Section 1229. Exhibition livestock—Administration of certain substances or performance of certain surgical procedures to alter appearance**

For livestock utilized for exhibition purposes, it shall be unlawful for any person to inject into the livestock or cause the livestock to ingest any drug, chemical or substance that is not labeled for use on animals, or to administer any chemical or substance used on livestock for the specific purpose of altering the appearance of livestock or to alter the muscle or fat content of the animal's carcass or to perform any surgical procedure to alter the appearance of the livestock. Ordinary and customary veterinarian procedures, including but not limited to dehorning, branding, tagging or notching ears, castrating, deworming, vaccinating or docking the tail of farm animals shall not be prohibited. Surgery of any kind performed to change the natural contour or appearance of the animal's body or hide, shall be prohibited by this section. Any violation of the provisions of this section shall be a misdemeanor, upon conviction, punishable by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment for a term not more than one (1) year, or by both such fine and imprisonment. A second or subsequent violation of the provisions of this section shall be a felony and, upon conviction thereof, punishable by a fine of not more than Five Thousand Dollars (\$5,000.00), or by imprisonment for a term not more than three (3) years, or by both such fine and imprisonment.

## **Chapter 50. Tobacco**

### **Section 1241. Furnishing Tobacco Products to Minors—Punishment**

Any person who shall furnish to any minor by gift, sale or otherwise any cigarettes, cigarette papers, cigars, bidis, snuff, chewing tobacco, or any other form of tobacco product shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine in the amount of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00) and by imprisonment for a term of not less than ten (10) days nor more than ninety (90) days for each offense.

### **Section 1242. Refusal of Minor to Disclose Place Where and Person from Whom Obtained**

Any minor in possession of cigarettes, cigarette papers, cigars, snuff, chewing tobacco, or any other form of tobacco product and being by any police officer, constable, juvenile court officer, truant officer, or teacher in any school, asked where and from whom such cigarettes, cigarette papers, cigars, snuff, chewing tobacco, or any other form of tobacco product were obtained, who shall refuse to furnish such information, shall be guilty of a misdemeanor and upon conviction thereof before the district court, or any judge of the district court, such minor being of the age of sixteen (16) years or upwards shall be sentenced to pay a fine not exceeding Five Dollars (\$5.00) or to undergo an imprisonment not exceeding five (5) days, or both; if such minor shall be under the age of sixteen (16) years, he or she shall be certified by such magistrate to the juvenile division of said court for such action as said court shall deem proper.

### **Section 1243. Smoking in Certain Public Place Prohibited—Punishment**

A. The possession of lighted tobacco in any form is a public nuisance and dangerous to public health and is hereby prohibited when such possession is in any indoor place used by or open to the public, public transportation, or any indoor workplace of the Choctaw Nation of Oklahoma, except where specifically allowed by law.

B. All buildings and other properties, or portions thereof, owned or operated by the Choctaw Nation shall be designated as nonsmoking.

C. All buildings, or portions thereof, owned by an educational facility of the Choctaw Nation of Oklahoma shall be designated as nonsmoking. All campuses, buildings and grounds, or portions thereof, owned or operated by the Choctaw Nation of Oklahoma shall be designated as tobacco free, including smoking or smokeless tobacco.

D. No smoking shall be allowed within twenty-five (25) feet of the entrance or exit of any building specified in subsection A, B, or C of this section.

E. The restrictions provided in this section shall not apply to casinos, guest rooms at a hotel and other areas where the Tribal Council or other tribal officials or boards authorized by the Tribal Council have specifically authorized tobacco products.

F. Any person who knowingly violates the provisions of this section is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00).

## **Chapter 51. Reserved**

## **Part VI. Crimes Against Public Peace**

## **Chapter 52. Reserved**

## **Chapter 53. Firearms and Weapons**

### **Section 1271. Detention or arrest of person under 18 years—Confiscation and forfeiture of prohibited weapons and firearms—Disposition of forfeited weapons and firearms**

A. Whenever a person under eighteen (18) years of age is detained or arrested by a law enforcement officer and is carrying any weapon or firearm prohibited by Section 1272 of this title, each such prohibited weapon and firearm may be confiscated and forfeited to the Choctaw Nation of Oklahoma by the law enforcement authority. Such confiscation and forfeiture shall not require that criminal charges be filed against the minor.

B. However, when a weapon or firearm confiscated pursuant to the provisions of this section has been taken by a minor without the permission of the owner, the weapon or firearm shall be returned to the owner pursuant to the procedures provided in Section 1321 of the Choctaw Nation Code of Criminal Procedure, provided the possession of such weapon or firearm by the owner is not otherwise prohibited by law.

C. Any weapon or firearm confiscated and forfeited by any law enforcement authority may be sold at public auction, or when no longer needed as evidence in the criminal proceeding the confiscating authority may lease any firearm confiscated and forfeited by law pursuant to this section to any law enforcement agency for a period of one (1) year. Such lease may be renewed each year thereafter at the discretion of such authority to assist in the enforcement of the laws of the Choctaw Nation of Oklahoma or its political subdivisions. Any weapon or firearm deemed by the confiscating authority to be inappropriate for lease or sale shall be destroyed.

D. For purposes of this section, the term “confiscate” shall not be construed to prohibit any parent, guardian or other adult person from removing or otherwise seizing from any minor any weapon or firearm in the minor’s possession. Provided however, no school authority shall return any weapon or firearm removed or otherwise seized from any minor to any person, and shall immediately deliver such weapon or firearm to a law enforcement authority for prosecution and forfeiture.

### **Section 1272. Unlawful carry**

A. It shall be unlawful for any person to carry upon or about his or her person, or in a purse or other container belonging to the person, any pistol, revolver, shotgun or rifle whether loaded or unloaded or any dagger, bowie knife, dirk knife, switchblade knife, sword cane, knife having a blade which opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife, blackjack, loaded cane, billy, hand chain, metal knuckles, or any other offensive weapon, whether such weapon be concealed or unconcealed, except this section shall not prohibit:

1. The proper use of guns and knives for hunting, fishing, educational or recreational purposes;
2. The carrying or use of weapons in a manner otherwise permitted by statute or authorized by any valid concealed or unconcealed carry weapon permit or license issued by any state of the United States;
3. The carrying, possession and use of any weapon by a peace officer or other person authorized by law to carry a weapon in the performance of official duties and in compliance with the rules of the employing agency;
4. The carrying or use of weapons in a courthouse of the Choctaw Nation of Oklahoma by a district judge or special district judge within the Choctaw Nation of Oklahoma; or
5. The carrying and use of firearms and other weapons provided in this subsection when used for the purpose of living history reenactment. For purposes of this paragraph, “living history reenactment” means depiction of historical characters, scenes, historical life or events for entertainment, education, or historical documentation through the wearing or use of period, historical, antique or vintage clothing, accessories, firearms, weapons, and other implements of the historical period.

B. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor punishable as provided in Section 1276 of this title.

### **Section 1272.1. Carrying firearms where liquor is consumed**

A. It shall be unlawful for any person to carry or possess any weapon designated in Section 1272 of this title in any establishment where low-point beer or alcoholic beverages are consumed. This provision shall not apply to a peace officer, as defined in Section 99 of this title; or to private investigators with a firearms authorization when acting in the scope and course of employment; and shall not apply to an owner or proprietor of the establishment having a pistol, rifle, or shotgun on the premises. Provided however, a person permitted by statute or authorized by any valid concealed or unconcealed carry weapon permit or license issued by any state of the United States may carry the concealed or unconcealed handgun into any restaurant or other establishment licensed to dispense low-point beer or alcoholic beverages where the sale of low-point beer or alcoholic beverages does not constitute the primary purpose of the business.

Provided further, nothing in this section shall be interpreted to authorize any peace officer in actual physical possession of a weapon to consume low-point beer or alcoholic beverages, except in the authorized line of duty as an undercover officer.

Nothing in this section shall be interpreted to authorize any private investigator with a firearms authorization in actual physical possession of a weapon to consume low-point beer or alcoholic beverages in any establishment where low-point beer or alcoholic beverages are consumed.

B. Any person violating the provisions of this section shall be punished as provided in Section 1272.2 of this title.

### **Section 1272.2. Penalty for firearm in liquor establishment**

Any person who intentionally or knowingly carries on his or her person any weapon in violation of Section 1272.1 of this title, shall, upon conviction, be guilty of a felony punishable by a fine not to exceed One Thousand Dollars (\$1,000.00), or imprisonment for a period not to exceed two (2) years, or by both such fine and imprisonment.

### **Section 1272.3. Unlawful discharge of stun gun or deleterious agent—Penalties**

It is unlawful for any person to knowingly discharge, or cause to be discharged, any electrical stun gun, tear gas weapon, mace, tear gas, pepper mace or any similar deleterious agent against another person knowing the other person to be a peace officer, corrections officer, probation or parole officer, firefighter, or an emergency medical technician who is acting in the course of official duty. Any person violating the provisions of this section, upon conviction, shall be guilty of a felony punishable by imprisonment for a term of not exceeding three (3) years.

### **Section 1273. Allowing minors to possess firearms**

A. It shall be unlawful for any person within the Choctaw Nation of Oklahoma to sell or give to any child any of the arms or weapons designated in Section 1272 of this title; provided, the

provisions of this section shall not prohibit a parent from giving his or her child a rifle or shotgun for participation in hunting animals or fowl, hunter safety classes, target shooting, skeet, trap or other recognized sporting events, except as provided in subsection B of this section.

B. It shall be unlawful for any parent or guardian to intentionally, knowingly, or recklessly permit his or her child to possess any of the arms or weapons designated in Section 1272 of this title, including any rifle or shotgun, if such parent is aware of a substantial risk that the child will use the weapon to commit a criminal offense or if the child has either been adjudicated a delinquent or has been convicted as an adult for any criminal offense.

C. It shall be unlawful for any child to possess any of the arms or weapons designated in Section 1272 of this title, except rifles or shotguns used for participation in hunting animals or fowl, hunter safety classes, target shooting, skeet, trap or other recognized sporting event. Provided, the possession of rifles or shotguns authorized by this section shall not authorize the possession of such weapons by any person who is subject to the provisions of Section 1283 of this title.

D. Any person violating the provisions of this section shall, upon conviction, be punished as provided in Section 1276 of this title, and, any child violating the provisions of this section shall be subject to adjudication as a delinquent. In addition, any person violating the provisions of this section shall be liable for civil damages for any injury or death to any person and for any damage to property resulting from any discharge of a firearm or use of any other weapon.

E. As used in this section, "child" means a person under eighteen (18) years of age.

#### **Section 1274. Reserved**

#### **Section 1275. Reserved**

#### **Section 1276. Penalty for violating Sections 1272 and 1273**

Any person violating the provisions of Section 1272 or 1273 of this title shall, upon a first conviction, be guilty of a misdemeanor and the party offending shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00), or by imprisonment for a period not to exceed thirty (30) days, or both such fine and imprisonment. On the second and every subsequent violation, the party offending shall, upon conviction, be punished by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment for a period not less than thirty (30) days nor more than one (1) year, or by both such fine and imprisonment.

#### **Section 1277. Unlawful carry in certain places**

A. It shall be unlawful for any person in possession of a valid handgun license permitted by statute or authorized by any valid concealed or unconcealed carry weapon permit or license issued by any state of the United States into any of the following places:

1. Any structure, building, or office space which is owned or leased by a tribal or federal governmental authority for the purpose of conducting business with the public including all of the Choctaw Nation Capitol grounds and buildings in Tushka Homma (Tuskahoma, Pushmataha County, Oklahoma) and the Choctaw Nation Tribal Complex in Durant, Bryan County, Oklahoma;
2. Any meeting of any tribal or federal officials, school board members, tribal council members, or any other elected or appointed officials;
3. Any prison, jail, detention facility or any facility used to process, hold, or house arrested persons, prisoners or persons alleged delinquent or adjudicated delinquent;
4. Any elementary or secondary school;
5. Any sports arena during a professional sporting event;
6. Any place where pari-mutuel wagering is authorized by law; and
7. Any other place specifically prohibited by law.

B. For purposes of paragraphs 1, 2, 3, 5 and 6 of subsection A of this section, the prohibited place does not include and specifically excludes the following property:

1. Any property set aside for the use or parking of any vehicle, whether attended or unattended, by a tribal or federal governmental authority;
2. Any property set aside for the use or parking of any vehicle, whether attended or unattended, by any entity offering any professional sporting event which is open to the public for admission, or by any entity engaged in pari-mutuel wagering authorized by law;
3. Any property adjacent to a structure, building, or office space in which concealed or unconcealed weapons are prohibited by the provisions of this section; and
4. Any property designated by a tribal or federal governmental authority as a park, recreational area, or fairgrounds; provided, nothing in this paragraph shall be construed to authorize any entry by a person in possession of a concealed or unconcealed handgun into any structure, building, or office space which is specifically prohibited by the provisions of subsection A of this section.

Nothing contained in any provision of this subsection shall be construed to authorize or allow any person in control of any place described in paragraph 1, 2, 3, 5 or 6 of subsection A of this



section to establish any policy or rule that has the effect of prohibiting any person in lawful possession of a handgun license from possession of a handgun allowable under such license in places described in paragraph 1, 2, 3 or 4 of this subsection.

C. Any person violating the provisions of subsection A of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00).

D. The provisions of this section shall not apply to any peace officer or to any person authorized by law to carry a firearm in the course of employment. District judges and special district judges shall be exempt from this section when acting in the course and scope of employment within the courthouses of the Choctaw Nation of Oklahoma. Private investigators with a firearms authorization shall be exempt from this section when acting in the course and scope of employment.

### **Section 1278. Unlawful intent to carry**

Any person in the Choctaw Nation of Oklahoma who carries or wears any deadly weapons or dangerous instrument whatsoever with the intent or for the avowed purpose of unlawfully injuring another person, upon conviction, shall be guilty of a felony punishable by a fine not exceeding Five Thousand Dollars (\$5,000.00), by imprisonment for a period not exceeding two (2) years, or by both such fine and imprisonment. The mere possession of such a weapon or dangerous instrument, without more, however, shall not be sufficient to establish intent as required by this section.

### **Section 1279. Misdemeanor pointing a firearm**

Except for an act of self-defense, it shall be unlawful for any person to point any pistol or any other deadly weapon whether loaded or not, at any other person or persons. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor punishable as provided in Section 1280 of this title.

### **Section 1280. Penalty for violations of Section 1279**

Any person violating the provisions of Section 1279 of this title, upon conviction, shall be guilty of a misdemeanor. The person offending shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) and shall be imprisoned for a period not less than three (3) nor more than twelve (12) months.

### **Section 1280.1. Possession of firearm on school property**

A. It shall be unlawful for any person to have in his or her possession on any public or private school property or while in any school bus or vehicle used by any school for transportation of students or teachers any firearm or weapon designated in Section 1272 of this title, except as provided in subsection C of this section or as otherwise authorized by law.

B. For purposes of this section:

1. "School property" means any property owned by or held in trust for the Choctaw Nation of Oklahoma or held for purposes of elementary, secondary or vocational-technical education, and shall not include property that is leased or rented to an individual or corporation and used for purposes other than educational purposes; and

2. "Private school" means a school that offers a course of instruction for students in one or more grades from pre-kindergarten through grade twelve and is not operated by a governmental entity.

C. Firearms and weapons are allowed on school property and deemed not in violation of subsection A of this section as follows:

1. A gun or knife designed for hunting or fishing purposes kept in a privately owned vehicle and properly displayed or stored as required by law, or a handgun carried in a vehicle pursuant to any statute or authorized by any valid concealed or unconcealed carry weapon permit or license issued by any state of the United States, provided such vehicle containing said gun or knife is driven onto school property only to transport a student to and from school and such vehicle does not remain unattended on school property;

2. A gun or knife used for the purposes of participating in any hunting, fishing, safety or firearms training courses, or a recognized firearms sports event, team shooting program or competition, or living history reenactment, provided the course or event is approved by the principal or chief administrator of the school where the course or event is offered, and provided the weapon is properly displayed or stored as required by law pending participation in the course, event, program or competition; and

3. Weapons in the possession of any peace officer or other person authorized by law to possess a weapon in the performance of their duties and responsibilities.

D. Any person violating the provisions of this section shall, upon conviction, be guilty of a felony punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), and imprisonment for not more than two (2) years.

## **Section 1281. Manufacturing slung shot**

Any person who manufactures or causes to be manufactured, or sells or offers or keeps for sale or disposes of any instrument or weapon of the kind usually known as slung shot, or of any similar kind, is guilty of a misdemeanor.

### **Section 1282. Felony use of a slung shot**

Any person who carries upon his person, whether concealed or not, or uses or attempts to use against another, any instrument or weapon of the kind usually known as slung shot, or of any similar kind, shall be guilty of a felony.

### **Section 1283. Convicted felons and delinquents—Firearm possession**

A. Except as provided in subsection B of this section, it shall be unlawful for any person convicted of any felony in any court of the Choctaw Nation of Oklahoma or of another federally recognized Indian tribe, any state, or of the United States to have in his or her possession or under his or her immediate control, or in any vehicle which the person is operating, or in which the person is riding as a passenger, or at the residence where the convicted person resides, any pistol, shotgun or rifle; imitation or homemade pistol, altered air or toy pistol, shotgun or rifle; machine gun, sawed-off shotgun or rifle, or any other dangerous or deadly firearm.

B. Any person who has previously been convicted of a nonviolent felony in any court of the Choctaw Nation of Oklahoma or of another federally recognized Indian tribe, any state, or of the United States, and who has received a full and complete pardon from the proper authority and has not been convicted of any other felony offense which has not been pardoned, shall have restored the right to possess any firearm or other weapon prohibited by subsection A of this section and the right to perform the duties of a peace officer, gunsmith, or for firearms repair.

C. It shall be unlawful for any person on probation or parole by any tribal, state or federal government authority thereof to have in his or her possession or under his or her immediate control, or at his or her residence, or in any passenger vehicle which the supervised person is operating or is riding as a passenger, any pistol, shotgun or rifle, including any imitation or homemade pistol, altered air or toy pistol, shotgun or rifle, while such person is subject to supervision, probation, parole or inmate status.

D. It shall be unlawful for any person previously adjudicated as a delinquent child for the commission of an offense, which would have constituted a felony offense if committed by an adult, to have in the possession of the person or under the immediate control of the person, or have in any vehicle which he or she is driving or in which the person is riding as a passenger, or at the residence of the person, any pistol, shotgun or rifle; imitation or homemade pistol, altered air or toy pistol, shotgun or rifle; machine gun, sawed-off shotgun or rifle, or any other dangerous or deadly firearm within ten (10) years after such adjudication; provided, that nothing in this subsection shall be construed to prohibit the placement of the person in a home with a

full-time duly appointed peace officer who is certified by the Oklahoma Council on Law Enforcement Education and Training (CLEET).

E. Any person having been issued a handgun license pursuant to any statute or authorized by any valid concealed or unconcealed carry weapon permit or license issued by any state of the United States, and who thereafter knowingly or intentionally allows a convicted felon or adjudicated delinquent as prohibited by the provisions of subsection A, C, or D of this section to possess or have control of any pistol shall, upon conviction, be guilty of a felony punishable as provided in Section 1284 of this title.

F. Any convicted or adjudicated person violating the provisions of this section shall, upon conviction, be guilty of a felony punishable as provided in Section 1284 of this title.

G. For purposes of this section, “sawed-off shotgun or rifle” shall mean any shotgun or rifle which has been shortened to any length.

H. For purposes of this section, “altered toy pistol” shall mean any toy weapon which has been altered from its original manufactured state to resemble a real weapon.

I. For purposes of this section, “altered air pistol” shall mean any air pistol manufactured to propel projectiles by air pressure which has been altered from its original manufactured state.

#### **Section 1284. Penalty for violation of Section 1283**

Any previously convicted or adjudicated person who violates any provision of Section 1283 of this title shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for a period not less than one (1) year nor more than three (3) years, or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both.

#### **Section 1285. Reserved**

#### **Section 1286. Reserved**

#### **Section 1287. Use of firearm while committing a felony**

A. Any person who, while committing or attempting to commit a felony, possesses a pistol, shotgun, rifle, or any other offensive weapon in such commission or attempt, whether the pistol, shotgun or rifle is loaded or not, or who possesses a blank or imitation pistol, altered air or toy pistol, shotgun or rifle capable of raising in the mind of one threatened with such device a fear that it is a real pistol, shotgun or rifle, or who possesses an air gun or carbon dioxide or other gas-filled weapon, electronic dart gun, conductive energy weapon, knife, dagger, dirk,

switchblade knife, blackjack, ax, loaded cane, billy, hand chain or metal knuckles, in addition to the penalty provided by statute for the felony committed or attempted, upon conviction shall be guilty of a felony for possessing such weapon or device, which shall be a separate offense from the felony committed or attempted and shall be punishable by imprisonment for a period of not less than two (2) years nor for more than three (3) years.

B. As used in this section, “altered toy pistol” shall mean any toy weapon which has been altered from its original manufactured state to resemble a real weapon.

C. As used in this section, “altered air pistol” shall mean any air pistol manufactured to propel projectiles by air pressure which has been altered from its original manufactured state.

### **Section 1288. Penalty enhancement for weapon possession**

Any person who, while committing or attempting to commit a crime of violence, discharges a firearm, in addition to the penalty provided by statute for the crime of violence committed or attempted, upon conviction, may be charged, in the discretion of the prosecutor, with an additional felony for possessing such weapon, which shall be a separate offense punishable, upon conviction, by not less than three (3) years which may be served concurrently with the sentence for the crime of violence. For purposes of this section, “crime of violence” means an offense that is a felony and has as an element of the offense, the use, attempted use, or threatened use of physical force against the person of another or that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense. For purposes of this section, “firearm” means a rifle, pistol or shotgun.

## **Choctaw Nation Firearms Act**

### **Section 1289.1. Choctaw Nation Firearms Act**

Sections 1289.1 through 1289.17 of this title may be known and cited as the “Choctaw Nation Firearms Act”.

### **Section 1289.2. Tribal Council findings for Firearms Act**

The Tribal Council finds as a matter of public policy and fact that it is necessary for the safe and lawful use of firearms to curb and prevent crime wherein weapons are used by enacting legislation having the purpose of controlling the use of firearms, and of prevention of their use, without unnecessarily denying their lawful use in defense of life, home and property, and as may otherwise be provided by law, including their use and transportation for lawful purposes.

### **Section 1289.3. Definitions for Firearms Act—Pistols**

“Pistols” as used in the Choctaw Nation Firearms Act shall mean any firearm capable of discharging a projectile composed of any material which may reasonably be expected to be able to cause lethal injury, with a barrel or barrels less than sixteen (16) inches in length, and using either gunpowder, gas or any means of rocket propulsion, but not to include flare guns, underwater fishing guns or blank pistols.

### **Section 1289.4. Definitions for Firearms Act—Rifles**

“Rifles” as used in the Choctaw Nation Firearms Act shall mean any firearm capable of discharging a projectile composed of any material which may reasonably be expected to be able to cause lethal injury, with a barrel or barrels more than sixteen (16) inches in length, and using either gunpowder, gas or any means of rocket propulsion, but not to include archery equipment, flare guns or underwater fishing guns. In addition, any rifle capable of firing “shot” but primarily designed to fire single projectiles will be regarded as a “rifle”.

### **Section 1289.5. Definitions for Firearms Act—Shotguns**

“Shotguns” as used in the Choctaw Nation Firearms Act shall mean any firearm capable of discharging a series of projectiles of any material which may reasonably be expected to be able to cause lethal injury, with a barrel or barrels more than eighteen (18) inches in length, and using either gunpowder, gas or any means of rocket propulsion, but not to include any weapon so designed with a barrel less than eighteen (18) inches in length. In addition, any “shotgun” capable of firing single projectiles but primarily designed to fire multiple projectiles such as “shot” will be regarded as a “shotgun”.

### **Section 1289.6. Conditions under which firearms may be carried**

A. A person shall be permitted to carry loaded and unloaded shotguns, rifles and pistols, open and not concealed and without a handgun license pursuant to the following conditions:

1. When hunting animals or fowl;
2. During competition in or practicing in a safety or hunter safety class, target shooting, skeet, trap or other recognized sporting events;
3. During participation in or in preparation for a military function of any tribal, federal, or state military forces, whether active, reserve or part of an organized militia of a state government;
4. During participation in or in preparation for a recognized police function;

5. During a practice for or a performance for entertainment purposes; or
  6. For any legitimate purpose not in violation of the Choctaw Nation Firearms Act or any legislative enactment regarding the use, ownership and control of firearms.
- B. A person shall be permitted to carry unloaded shotguns, rifles and pistols, open and not concealed and without a handgun license pursuant to the following conditions:
1. When going to or from the person's private residence or vehicle or a vehicle in which the person is riding as a passenger to a place designated or authorized for firearms repairs or reconditioning, or for firearms trade, sale, or barter, or gunsmith, or hunting animals or fowl, or hunter safety course, or target shooting, or skeet or trap shooting or any recognized firearms activity or event and while in such places; or
  2. For any legitimate purpose not in violation of the Choctaw Nation Firearms Act.
- C. The provisions of this section shall not be construed to prohibit educational or recreational activities, exhibitions, displays or shows involving the use or display of rifles, shotguns or pistols or other weapons if the activity is approved by the property owner and sponsor of the activity.

#### **Section 1289.7. Firearms in vehicles**

Any person, except a convicted felon, may transport in a motor vehicle a rifle, shotgun or pistol, open and unloaded, at any time. For purposes of this section "open" means the firearm is transported in plain view, in a case designed for carrying firearms, which case is wholly or partially visible, in a gun rack mounted in the vehicle, in an exterior locked compartment or a trunk of a vehicle.

Any person, except a convicted felon, may transport in a motor vehicle a rifle or shotgun concealed behind a seat of the vehicle or within the interior of the vehicle provided the rifle or shotgun is not clip, magazine or chamber loaded. The authority to transport a clip or magazine loaded rifle or shotgun shall be pursuant to Section 1289.13 of this title.

#### **Section 1289.7a. Transporting or storing firearms in locked motor vehicle on private premises—Prohibition proscribed—Liability—Enforcement**

A. No person, property owner, tenant, employer, or business entity shall maintain, establish, or enforce any policy or rule that has the effect of prohibiting any person, except a convicted felon, from transporting and storing firearms in a locked motor vehicle, or from transporting and storing firearms locked in or locked to a motor vehicle on any property set aside for any motor vehicle.

B. No person, property owner, tenant, employer, or business entity shall be liable in any civil action for occurrences which result from the storing of firearms in a locked motor vehicle on any property set aside for any motor vehicle, unless the person, property owner, tenant, employer, or owner of the business entity commits a criminal act involving the use of the firearms.

C. An individual may bring a civil action to enforce this section. If a plaintiff prevails in a civil action related to the personnel manual against a person, property owner, tenant, employer or business for a violation of this section, the court shall award actual damages, enjoin further violations of this section, and award court costs and attorney fees to the prevailing plaintiff.

D. As used in this section, “motor vehicle” means any automobile, truck, minivan, sports utility vehicle, motorcycle, motor scooter and any other vehicle powered by a combustible engine and capable of transporting at least one person.

### **Section 1289.8. Carrying concealed weapon**

A. Any retired tribal, state, county, municipal, or federal peace officer who is present in the Choctaw Nation of Oklahoma, or any retired tribal, state, county, or municipal peace officer classified as a reserve peace officer, or any retired federal law enforcement officer may retain his or her status as a peace officer, retired, in the Choctaw Nation of Oklahoma, and as such may carry a concealed pistol pursuant to the provisions of subsection B of this section. A retired tribal, federal, state, county, or municipal peace officer may in times of great emergency or danger serve to enforce the law, keep the peace, or to protect the public in keeping with their availability and ability at the request of the Chief of the Choctaw Nation.

B. Eligible retired tribal, federal, state, county and municipal peace officers shall carry an identification card issued by the Oklahoma Council on Law Enforcement Education and Training (CLEET) which authorizes the retired peace officer to carry a concealed pistol in the Choctaw Nation of Oklahoma until such time as the identification card is suspended or revoked by CLEET.

C. The retired peace officer shall follow all of the requirements of the Oklahoma Council on Law Enforcement Education and Training (CLEET) and submit any other information requested by CLEET:

D. A retired peace officer, who has made application for the CLEET identification card authorized in subsection B of this section, shall be authorized to carry a concealed firearm as an off-duty peace officer, pursuant to Section 1289.23 of this title, until the authority to carry a concealed firearm as a retired officer is finally approved or denied by CLEET.

E. Any peace officer, retired, who carries any pistol in violation of the provisions of this section shall be deemed to be in violation of Section 1272 of this title and may be prosecuted as provided by law for a violation of that section.



### **Section 1289.9. Carrying weapons under influence of alcohol**

It shall be unlawful for any person to carry or use shotguns, rifles or pistols in any circumstances while under the influence of beer, intoxicating liquors or any hallucinogenic, or any unlawful or un-prescribed drug, and it shall be unlawful for any person to carry or use shotguns, rifles or pistols when under the influence of any drug prescribed by a licensed physician if the aftereffects of such consumption affect mental, emotional or physical processes to a degree that would result in abnormal behavior. Any person convicted of a violation of the provisions of this section shall be punished as provided in Section 1289.15 of this title.

### **Section 1289.10. Furnishing firearms to incompetent persons**

It shall be unlawful for any person to knowingly transmit, transfer, sell, lend or furnish any shotgun, rifle or pistol to any person who is under an adjudication of mental incompetency, or to any person who is mentally deficient or of unsound mind. Any person convicted of a violation of the provisions of this section shall be punished as provided in Section 1289.15 of this title.

### **Section 1289.11. Reckless conduct**

It shall be unlawful for any person to engage in reckless conduct while having in his or her possession any shotgun, rifle or pistol, such actions consisting of creating a situation of unreasonable risk and probability of death or great bodily harm to another, and demonstrating a conscious disregard for the safety of another person. Any person convicted of violating the provisions of this section shall be punished as provided in Section 1289.15 of this title.

### **Section 1289.12. Giving firearms to convicted persons**

It shall be unlawful for any person within the Choctaw Nation of Oklahoma to knowingly sell, trade, give, transmit or otherwise cause the transfer of rifles, shotguns or pistols to any convicted felon or an adjudicated delinquent, and it shall be unlawful for any person within the Choctaw Nation of Oklahoma to knowingly sell, trade, give, transmit or otherwise cause the transfer of any shotgun, rifle or pistol to any individual who is under the influence of alcohol or drugs or is mentally or emotionally unbalanced or disturbed. All persons who engage in selling, trading or otherwise transferring firearms will display this section prominently in full view at or near the point of normal firearms sale, trade or transfer. Any person convicted of violating the provisions of this section shall be punished as provided in Section 1289.15 of this title.

### **Section 1289.13. Transporting a loaded firearm**

Except as otherwise provided by the provisions of any Choctaw Nation statute or authorized by any valid concealed or unconcealed carry weapon permit or license issued by any state of the

United States, it shall be unlawful to transport a loaded pistol, rifle or shotgun in a land borne motor vehicle over a public highway or roadway. However, a rifle or shotgun may be transported clip or magazine loaded and not chamber loaded when transported in an exterior locked compartment of the vehicle or trunk of the vehicle or in the interior compartment of the vehicle notwithstanding the provisions of Section 1289.7 of this title when the person is in possession of a valid handgun license or permit issued by any state of the United States.

Any person convicted of a violation of this section shall be punished as provided in Section 1289.15 of this title.

Any person who is the operator of a vehicle or is a passenger in any vehicle wherein another person who is licensed or permitted pursuant to a valid handgun license or permit issued by any state of the United States to carry a concealed or unconcealed handgun and is carrying a concealed or unconcealed handgun or has a handgun or rifle or shotgun in such vehicle shall not be deemed in violation of the provisions of this section provided the licensee is in or near the vehicle.

**Section 1289.13A. Improper transportation of firearm—Fine and court costs—Confiscation of firearm**

A. Notwithstanding the provisions of Section 1272 or 1289.13 of this title, any person stopped pursuant to a moving traffic violation who is transporting a loaded pistol in the motor vehicle without a valid handgun permit authorized by a valid handgun license or permit issued by any state of the United States, whether the loaded firearm is concealed or open in the vehicle, shall be issued a traffic citation for transporting a firearm improperly. In addition to the traffic citation provided in this section, the person may also be arrested for any other violation of law.

B. When the arresting officer determines that a valid handgun license exists, pursuant to a valid handgun license or permit issued by any state of the United States, for any person in the stopped vehicle, any firearms permitted to be carried pursuant to that license shall not be confiscated, unless:

1. The person is arrested for violating another provision of law other than a violation of subsection A of this section; provided, however, if the person is never charged with an offense pursuant to this paragraph or if the charges are dismissed or the person is acquitted, the weapon shall be returned to the person; or

2. The officer has probable cause to believe the weapon is:

- a. contraband, or

- b. a firearm used in the commission of a crime other than a violation of subsection A of this section.

C. Nothing in this section shall be construed to require confiscation of any firearm.

#### **Section 1289.14. Reserved**

#### **Section 1289.15. Penalty for violations of the Choctaw Nation Firearms Act**

Any person adjudged guilty of violating any provision of Section 1289.9, 1289.10, 1289.11, 1289.12 or 1289.13 of this title shall, upon conviction, be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), or imprisonment for not less than ten (10) days nor more than six (6) months, or by both such fine and imprisonment.

#### **Section 1289.16. Felony pointing firearms**

It shall be unlawful for any person to willfully or without lawful cause point a shotgun, rifle or pistol, or any deadly weapon, whether loaded or not, at any person or persons for the purpose of threatening or with the intention of discharging the firearm or with any malice or for any purpose of injuring, either through physical injury or mental or emotional intimidation or for purposes of whimsy, humor or prank, or in anger or otherwise, but not to include the pointing of shotguns, rifles or pistols in the performance of a play on stage, rodeo, television or on film, or in defense of any person, one's home or property. Any person convicted of a violation of the provisions of this section shall be punished as provided in Section 1289.17 of this title.

#### **Section 1289.17. Penalties for violation of Section 1289.16**

Any violation of Section 1289.16 of this title shall constitute a felony, for which a person convicted thereof shall be sentenced to imprisonment for not less than one (1) year nor more than three (3) years.

#### **Section 1289.17A. Felony discharging firearms**

It shall be unlawful for any person to willfully or intentionally discharge any firearm or other deadly weapon at or into any dwelling, or at or into any building used for public or business purposes. Any violation of the provisions of this section shall be a felony punishable by imprisonment for a term not less than two (2) years nor more than three (3) years. The provisions of this section shall not apply to any law enforcement officer in the performance of any lawful duty.

#### **Section 1289.18. Definitions**

A. "Sawed-off shotgun" shall mean any firearm capable of discharging a series of projectiles of any material which may reasonably be expected to be able to cause lethal injury, with a barrel or barrels less than eighteen (18) inches in length, and using either gunpowder, gas or any means of rocket propulsion.

B. "Sawed-off rifle" shall mean any rifle having a barrel or barrels of less than sixteen (16) inches in length or any weapon made from a rifle (whether by alteration, modification, or otherwise) if such a weapon as modified has an overall length of less than twenty-six (26) inches in length, including the stock portion.

C. Every person who has in his possession or under his immediate control a sawed-off shotgun or a sawed-off rifle, whether concealed or not, shall upon conviction be guilty of a felony for the possession of such device, and shall be punishable by a fine not to exceed One Thousand Dollars (\$1,000.00), or imprisonment for a period not to exceed two (2) years, or both such fine and imprisonment.

D. It is a defense to prosecution under this section, if the approved application form that authorized the making or transfer of the particular firearm to the defendant, which indicates the registration of the firearm to said defendant pursuant to the National Firearm's Act, 26 U.S.C.A. Section 5841 et seq., is introduced.

#### **Section 1289.19. Restricted bullet and body armor defined**

As used in Sections 1289.20 through 1289.22 of this title and Section 1289.26 of this title:

1. "Restricted bullet" means a round or elongated missile with a core of less than sixty percent (60%) lead and having a fluorocarbon coating, which is designed to travel at a high velocity and is capable of penetrating body armor; and

2. "Body armor" means a vest or shirt of ten (10) plies or more of bullet resistant material as defined by the Office of Development, Testing and Dissemination, a division of the United States Department of Justice.

#### **Section 1289.20. Manufacture of restricted bullets**

A. Except for the purpose of public safety or national security, it shall be unlawful to manufacture, cause to be manufactured, import, advertise for sale or sell within the Choctaw Nation of Oklahoma any restricted bullet as defined in Section 1289.19 of this title.

B. Any person convicted of violating subsection A of this section shall be guilty of a felony and shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five

Thousand Dollars (\$5,000.00), or by imprisonment for not more than three (3) years, or by both such fine and imprisonment.

#### **Section 1289.21. Possession or use of restricted bullets**

A. It shall be unlawful for any person to possess, carry upon his person, use or attempt to use against another person any restricted bullet as defined in Section 1289.19 of this title.

B. Any person convicted of violating subsection A of this section shall be guilty of a felony and shall be punished by imprisonment for not less than two (2) years nor more than three (3) years. The sentence so imposed shall not be suspended or deferred.

#### **Section 1289.22. Exemptions**

The prohibition of possessing or using a restricted bullet shall not apply to law enforcement agencies when such bullet is used for testing, training or demonstration.

#### **Section 1289.23. Concealed firearm for off-duty police officer**

A. A full-time duly appointed peace officer who is certified by the Oklahoma Council on Law Enforcement Education and Training (CLEET) is hereby authorized to carry a weapon certified and approved by the employing agency during periods when the officer is not on active duty as provided by the provisions of subsection B of this section.

B. When an off-duty officer carries a certified weapon, the officer shall be wearing the law enforcement uniform prescribed by the employing agency or when not wearing the prescribed law enforcement uniform, the officer shall be required:

1. To have the official peace officers badge, Commission Card and CLEET Certification Card on his or her person at all times when carrying a weapon certified and approved by the employing agency; and

2. To keep the authorized weapon concealed from view at all times, except when the weapon is used within the guidelines established by the employing agency.

C. Nothing in this section shall be construed to alter or amend the provisions of Section 1272.1 of this title or expand the duties, authority or jurisdiction of any peace officer.

D. A reserve peace officer who has satisfactorily completed a basic police course of not less than one hundred twenty (120) hours of accredited instruction for reserve police officers and reserve deputies from the Oklahoma Council on Law Enforcement Education and Training or a course of

study approved by CLEET may carry a certified weapon when such officer is off duty as provided by subsection E of this section, provided:

1. The officer has been granted written authorization signed by the director of the employing agency; and
2. The employing agency shall maintain a current list of any officers authorized to carry a certified weapon while said officers are off duty, and shall provide a copy of such list to the Council on Law Enforcement Education and Training. Any change to the list shall be made in writing and mailed to the Council on Law Enforcement Education and Training within five (5) days.

E. When an off-duty reserve peace officer carries a certified weapon, the officer shall be wearing the law enforcement uniform prescribed by the employing agency or when not wearing the prescribed law enforcement uniform, the officer shall be required:

1. To have his or her official peace officer's badge, Commission Card, CLEET Certification Card and written authorization on his or her person at all times when carrying a weapon certified and approved by the employing agency; and
2. To keep the authorized weapon concealed from view at all times, except when the weapon is used within the guidelines established by the employing agency.

F. Nothing in subsection D of this section shall be construed expand the duties, jurisdiction or authority of any reserve peace officer.

G. Nothing in this section shall be construed to limit or restrict any peace officer or reserve peace officer from carrying a handgun as allowed by a valid handgun license or permit issued by any state of the United States after issuance of a valid license or permit. When an off-duty officer elects to carry a handgun under the authority of a valid handgun license or permit issued by any state of the United States, the person shall comply with all provisions of such act and shall not be representing the employing agency.

H. Any off-duty peace officer who carries any weapon in violation of the provisions of this section shall be deemed to be in violation of Section 1272 of this title and may be prosecuted as provided by law for a violation of that section.

## **Section 1289.24. Reserved**

## **Section 1289.24a. Lawsuits against gun manufacturers**

1. The Tribal Council declares that the lawful design, marketing, manufacturing, or sale of firearms or ammunition to the public is not unreasonably dangerous activity and does not constitute a nuisance.

2. The authority to bring suit and right to recover against any firearms or ammunition manufacturer, trade association, or dealer by or on behalf of any governmental unit created by or pursuant to an act of the Tribal Council, or any department, agency, or authority thereof, for damages, abatement, or injunctive relief resulting from or relating to the lawful design, manufacturing, marketing, or sale of firearms or ammunition to the public shall be reserved exclusively to the Choctaw Nation. This section shall not be construed to prohibit an individual from bringing a cause of action based upon an existing recognized theory of law.

### **Section 1289.25. Physical or deadly force against intruder**

A. The Tribal Council hereby recognizes that the citizens of the Choctaw Nation of Oklahoma have a right to expect absolute safety within their own homes or places of business.

B. A person or an owner, manager or employee of a business is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or great bodily harm to another if:

1. The person against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, a dwelling, residence, occupied vehicle, or a place of business, or if that person had removed or was attempting to remove another against the will of that person from the dwelling, residence, occupied vehicle, or place of business; and

2. The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.

C. The presumption set forth in subsection B of this section does not apply if:

1. The person against whom the defensive force is used has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder, and there is not a protective order from domestic violence in effect or a written pretrial supervision order of no contact against that person;

2. The person or persons sought to be removed are children or grandchildren, or are otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used; or

3. The person who uses defensive force is engaged in an unlawful activity or is using the dwelling, residence, occupied vehicle, or place of business to further an unlawful activity.

D. A person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force, if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony.

E. A person who unlawfully and by force enters or attempts to enter the dwelling, residence, occupied vehicle of another person, or a place of business is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

F. A person who uses force, as permitted pursuant to the provisions of subsections B and D of this section, is justified in using such force and is immune from criminal prosecution and civil action for the use of such force. As used in this subsection, the term “criminal prosecution” includes charging or prosecuting the defendant.

G. A law enforcement agency may use standard procedures for investigating the use of force, but the law enforcement agency may not arrest the person for using force unless it determines that there is probable cause that the force that was used was unlawful.

H. The provisions of this section shall not be construed to require any person using a pistol pursuant to the provisions of this section to be licensed in any manner.

J. As used in this section:

1. “Dwelling” means a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people;

2. “Residence” means a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest; and

3. “Vehicle” means a conveyance of any kind, whether or not motorized, which is designed to transport people or property.

### **Section 1289.26. Use of body armor**

Any person who commits or attempts to commit a felony while wearing body armor as defined in Section 1289.19 of this title, in addition to the penalty provided by statute for the felony committed or attempted, upon conviction shall be guilty of a felony for wearing such body



armor, which shall be a separate offense from the felony committed or attempted, and shall be punishable by imprisonment for a period of not more than three (3) years.

#### **Section 1289.27. Reserved**

#### **Section 1289.28. Definitions—Illegal transfer of a firearm**

A. For purposes of this section:

1. “Licensed dealer” means a person who is licensed pursuant to 18 U.S.C., Section 923 and pursuant to any laws of the Choctaw Nation of Oklahoma and engages in the business of dealing in firearms;
2. “Private seller” means a person who sells or offers for sale any firearm, as defined by the laws of the Choctaw Nation of Oklahoma, or ammunition;
3. “Ammunition” means any cartridge, shell, or projectile designed for use in a firearm; and
4. “Materially false information” means information that portrays an illegal transaction as legal or a legal transaction as illegal.

B. Any person, who knowingly solicits, persuades, encourages or entices a licensed dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under circumstances which the person knows would violate the laws of the Choctaw Nation of Oklahoma or the United States is guilty of a felony.

C. Any person who provides to a licensed dealer or private seller of firearms or ammunition what the person knows to be materially false information with intent to deceive the dealer or seller about the legality of a transfer of a firearm or ammunition is guilty of a felony.

D. Any person who willfully procures another to engage in conduct prohibited by this section shall be held accountable as a principal.

E. This section does not apply to a law enforcement officer acting in his or her official capacity or to a person acting at the direction of such law enforcement officer.

F. A violation of this section is punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), a term of imprisonment not to exceed three (3) years, or by both fine and imprisonment.

#### **Chapter 54. Masks and Disguises; Threatening Letters; Unlawful Organizations**

### **Section 1301. Masks and hoods—Unlawful wearing of—Exceptions**

It shall be unlawful for any person in the Choctaw Nation of Oklahoma to wear a mask, hood or covering, which conceals the identity of the wearer during the commission of a crime or for the purpose of coercion, intimidation or harassment; provided, the provisions of Section 1301 et seq. of this title shall not apply to the pranks of children on Halloween, to those going to, or from, or participating in masquerade parties, to those participating in any public parade or exhibition of an educational, religious or historical character, to those participating in any meeting of any organization within any building or enclosure wholly within and under the control of said organization, and to those participating in the parades or exhibitions of minstrel troupes, circuses or other amusements or dramatic shows. Any person, or persons, violating the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment for a period of not exceeding one (1) year, or by both such fine and imprisonment.

### **Section 1302. Trespass—Masked person demanding admission to premises**

Any person, masked or in disguise, who shall enter upon the premises of another or demand admission into the house or enclosure of another with intent to inflict bodily injury, or injury to property shall be deemed guilty of assault with intent to commit a felony and such entrance or demand for admission shall be prima facie evidence of such intent, and upon conviction thereof, such person shall be guilty of a felony and shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), and by imprisonment for a term of not less than one (1) year nor more than three (3) years.

### **Section 1303. Assaults while masked or disguised**

Any person, while masked or in disguise, who shall assault another with a dangerous weapon, or other instrument of punishment, shall be deemed guilty of a felony, and upon conviction thereof shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment for a term of not less than two (2) years nor more than three (3) years, or by both fine and imprisonment.

### **Section 1304. Letters—Mailing threatening or intimidating letters**

Any person who shall send, deliver, mail or otherwise transmit to any person, or persons, in the Choctaw Nation of Oklahoma any letter, document or other written or printed matter, anonymous or otherwise, designed to threaten or intimidate such person or persons, or designed to put him, her, or them in fear of life, bodily harm or the destruction of his, her, or their property, shall be deemed guilty of committing a felony, and upon conviction thereof shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars

(\$500.00), and by imprisonment for a period of not less than ninety (90) days nor more than one (1) year.

### **Section 1305. Prosecuting attorney—Tribal law enforcement officers—Duties under act**

It is hereby made the duty of the prosecuting attorney and all tribal peace officers of the Choctaw Nation of Oklahoma to diligently prosecute any violations of this Chapter; and failure or neglect to diligently prosecute any violations of this act shall be a cause for removal from office, and shall disqualify such officer from holding any office of profit or trust within the Choctaw Nation of Oklahoma, and it shall be the duty of the of any and all prosecuting attorneys of the Choctaw Nation to file information and complaint against any peace officer or prosecuting attorney who shall fail or neglect to diligently prosecute all violations of this Chapter. If there be only one prosecuting attorney, any licensed attorney admitted to practice in the courts of the Choctaw Nation may file the required information and/or complaint against the prosecuting attorney for a violation of this Chapter.

### **Section 1306. Organizations—Oaths**

No society, association or corporation which, as a part of its constitution, bylaws, ritual or regulations, requires its members to take an oath or obligation in conflict with or repugnant to the provisions of the Constitution of the Choctaw Nation of Oklahoma, or the Constitution of the United States, or requires its members to hold their allegiance to some other government, power, person or influence, shall be organized or permitted to exist or function within the Choctaw Nation of Oklahoma, and no person who belongs to any such society, association or corporation, and who owes allegiance to any government, king, potentate, power or person other than the government of the United States or the government of the State of Oklahoma, shall be inducted into or hold a public office within the Choctaw Nation of Oklahoma. Any society, association, corporation or individual, violating any of the provisions of this section shall be subject to a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00).

## **Chapter 55. Other Crimes Against Public Peace**

### **Riots and Unlawful Assemblies**

#### **Section 1311. Riot defined**

Any use of force or violence, or any threat to use force or violence if accompanied by immediate power of execution, by three or more persons acting together and without authority of law, is riot.

### **Section 1312. Punishment for riot**

Every person guilty of participating in any riot is punishable as follows:

1. If any murder, maiming, robbery, rape or arson was committed in the course of such riot, such person is punishable in the same manner as a principal in such crime;
2. If the purpose of the riotous assembly was to resist the execution of any statute of the Choctaw Nation of Oklahoma, or to obstruct any public or peace officer of the Choctaw Nation of Oklahoma, in the performance of any legal duty, or in serving or executing any legal process, such person shall be guilty of a felony punishable by imprisonment not exceeding three (3) years or by a fine not exceeding Five Thousand Dollars (\$5,000.00) or by both such fine and imprisonment.

### **Section 1313. Rout defined**

Whenever three or more persons, acting together, make any attempt to do any act toward the commission of an act which would be riot if actually committed, such assembly is a rout.

### **Section 1314. Unlawful assembly defined**

Wherever three or more persons assemble with intent or with means and preparations to do an unlawful act which would be riot if actually committed, but do not act toward the commission thereof, or whenever such persons assemble without authority of law, and in such a manner as is adapted to disturb the public peace, or excite public alarm, such assembly is an unlawful assembly.

### **Section 1315. Punishment for rout or unlawful assembly**

Every person who participates in any rout or unlawful assembly is guilty of a misdemeanor and upon conviction thereof is punishable by imprisonment not exceeding one (1) year or by a fine not exceeding One Thousand Dollars (\$1,000.00) or both such imprisonment and fine.

### **Section 1316. Warning to disperse, remaining after**

Every person remaining present at the place of any riot, rout or unlawful assembly after the same has been lawfully warned to disperse, except public officers and persons assisting them in attempting to disperse the same, is guilty of a misdemeanor and upon conviction thereof is punishable by imprisonment not exceeding one (1) year or by a fine not exceeding One Thousand Dollars (\$1,000.00) or both such imprisonment and fine.

**Section 1317. Presence after unlawful purpose becomes known**

Where three or more persons assemble for a lawful purpose and afterwards proceed to commit an act that would amount to riot if it had been the original purpose of the meeting, every person who does not retire when the change of purpose is made known, except public officers of the Choctaw Nation of Oklahoma and persons assisting them in attempting to disperse the same, is guilty of a misdemeanor punishable by imprisonment not exceeding one (1) year or by a fine not exceeding One Thousand Dollars (\$1,000.00) or both such imprisonment and fine.

**Section 1318. One refusing to aid in arrest deemed rioter**

Every person present at any riot, and lawfully commanded to aid officers in arresting any rioter, who neglects or refuses to obey such command, is deemed one of the rioters, is guilty of a misdemeanor punishable by imprisonment not exceeding one (1) year or by a fine not exceeding One Thousand Dollars (\$1,000.00) or both such imprisonment and fine.

**Section 1319. Combination to resist process**

Every person who resists, or enters into a combination with any other person to resist the execution of any legal process, under circumstances not amounting to a riot, is punishable by imprisonment not exceeding one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or both.

**Section 1320.1. Riot**

For the purposes of this act, "riot" means that crime defined in Section 1311.

**Section 1320.2. Incitement to riot**

It shall be unlawful and shall constitute incitement to riot for a person or persons, intending to cause, aid, or abet the institution or maintenance of a riot, to do an act or engage in conduct that urges other persons to commit acts of unlawful force or violence, or the unlawful burning or destroying of property, or the unlawful interference with a law enforcement officer, peace officer, fireman or any unit of the armed services officially assigned to riot duty in the lawful performance of his duty.

**Section 1320.3. Unlawful assembly**

It shall be unlawful and shall constitute an unlawful assembly for a person to assemble or act in concert with four or more persons for the purpose of engaging in conduct constituting the crime

of riot, or to remain at the scene of a riot after being instructed to disperse by law enforcement authorities.

#### **Section 1320.4. Penalty for riot or incitement to riot**

Any person guilty of the crime of riot shall be deemed guilty of a felony, punishable by not more than three (3) years imprisonment, or a fine of not more than Five Thousand Dollars (\$5,000.00), or both.

#### **Section 1320.5. Penalty for unlawful assembly**

Any person guilty of the crime of unlawful assembly, shall be deemed guilty of a felony, punishable by not more than three (3) years incarceration, or a fine of not more than Five Thousand Dollars (\$5,000.00), or both.

#### **Section 1320.6 Act as cumulative**

This act shall not supersede any other act or acts, but shall be cumulative thereto.

#### **Section 1320.7. Teaching, demonstrating or training in the use of firearms, explosives or incendiary devices in furtherance of riot or civil disorder**

No person, except those specifically authorized by the Choctaw Nation of Oklahoma, shall:

1. Teach or demonstrate to any group of persons the use, application or making of any firearm, explosive or incendiary device or application of physical force capable of causing injury or death to a person knowing or intending that such firearm, explosive or incendiary device or application of physical force will be employed for use in, or in furtherance of, a riot or civil disorder; or
2. Assemble with one or more persons for the purpose of training with, practicing with or being instructed in the use of any firearm, explosive or incendiary device or application of physical force capable of causing injury or death to a person, intending to employ such firearm, explosive or incendiary device or application of physical force for use in, or in furtherance of, a riot or civil disorder. Any violation of this section shall be a felony punishable by not more than three (3) years incarceration, or a fine of not more than Five Thousand Dollars (\$5,000.00), or both.

#### **Entry or Intrusion on Real Estate**

#### **Section 1351. Penalty for Procuring Violence During Forcible Entry and Detainer**

Every person guilty of using or procuring, encouraging or assisting another to use any force, or violence in entering upon or detaining any lands or other possessions of another except in the cases and manner allowed by law, is guilty of a misdemeanor.

### **Section 1352. Penalty for Returning to Reside on Lands after Lawful Removal**

Every person who has been removed from any lands by process of law, or who has removed from any lands pursuant to the lawful adjudication or direction of any court, tribunal or officer, and who afterward, without authority by law, returns to settle or reside upon such lands, is guilty of a misdemeanor.

### **Miscellaneous Provisions**

### **Section 1361. Penalty for Disturbing Assembly or Meeting**

Every person who without authority of law willfully disturbs or breaks up any assembly or meeting, not unlawful in its character, other than a religious meeting, public meeting of electors, or funeral, is guilty of a misdemeanor.

### **Section 1362. Disturbance by Loud or Unusual Noise or Abuse, Violent, Obscene, Profane or Threatening Language**

If any person shall willfully or maliciously disturb, either by day or night, the peace and quiet of any city, town, village, neighborhood, family or person by loud or unusual noise, or by abusive, violent, obscene or profane language, whether addressed to the party so disturbed or some other person, or by threatening to kill, do bodily harm or injury, destroy property, fight, or by quarreling or challenging to fight, or fighting, or shooting off any firearms, or brandishing the same, or by running any horse at unusual speed along any street, alley, highway or public road, he shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not to exceed Five Hundred Dollars (\$500.00), or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment, at the discretion of the court or jury trying the same.

### **Section 1363. Use of Language Calculated to Arouse Anger or Cause Breach of Peace**

If any person shall make use of any profane, violent, abusive or insulting language toward or about another person, in the presence or hearing, which language, in its common acceptance, is calculated to arouse to anger the person about or to whom it is spoken or addressed, or to cause a breach of the peace or an assault, every such person shall be deemed guilty of a breach of the peace, and, upon conviction thereof, shall be punished by a fine in any sum not to exceed Five

Hundred Dollars (\$500.00), or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment, at the discretion of the court or jury trying the same.

#### **Section 1364. Discharging Firearm**

Every person who willfully discharges any pistol, rifle, shotgun, airgun or other weapon, or throws any other missile in any public place, or in any place where there is any person to be endangered thereby, although no injury to any person shall ensue, is guilty of a misdemeanor.

#### **Section 1365. Possession of Explosives with Unlawful Intent after Felony Conviction**

A. Any person who has been convicted of a felony under the laws of the Choctaw Nation, or any other federally recognized Indian tribe, of the laws of any state or the laws of the United States who, with an unlawful intent, is in possession of any explosives, upon conviction, shall be guilty of a felony and shall be punished by a fine of not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment for a term not to exceed three (3) years, or by both such fine and imprisonment.

B. For purposes of this section, the term “explosive” means any chemical compound or mechanical mixture that is commonly used or which is intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, by chemical reaction, or by detonation of any part of the compound or mixture may cause gaseous pressures capable of producing destructive effects on contiguous objects or of destroying life or limb. Provided, that dynamite, nitroglycerin, gunpowder, blasting powder and trinitrotoluene shall be deemed explosives without further proof of their explosive nature. The term “explosive” shall also include all material which is classified as explosive by the United States Department of Transportation. The term “explosive” shall not include explosives in the forms prescribed in the official UNITED STATES PHARMACOPOEIA; fireworks; or small arms ammunition and components therefor, which are subject to the Gun Control Act of 1968 (Title 18, Chapter 44, U.S. Code) and regulations promulgated thereunder.

#### **Disruption of Educational Institutions**

##### **Section 1370. Disruption of Educational Institutions**

Section 1370 through Section 1372 of this title shall be known and may be cited as the “Disruption of Educational Institutions Act”.

##### **Section 1371. Definitions**



When used in this act the following words and phrases shall have the following meanings, except to the extent that any such word or phrase is qualified by its context:

1. “Chief administrative officer” shall mean the president, superintendent, principal or other person in charge of the management, administration or control of any university, college, elementary or secondary school or other private or public institution of learning in the Choctaw Nation of Oklahoma.
2. “Institution of learning” shall mean any university, college, elementary or secondary school or other private or public institution of learning in the Choctaw Nation of Oklahoma, and includes the area or property under the jurisdiction of such institution.

### **Section 1372. Orders to Leave Institutions of Learning—Grounds—Penalty**

The chief administrative officer or anyone designated by the chief administrative officer or the governing board of the institution of learning to maintain order at an institution of learning shall have the authority and power to direct any person to leave the institution of learning who is not a student, officer or employee thereof, and who:

1. Interferes with the peaceful conduct of activities at an institution of learning;
2. Commits an act which interferes with the peaceful conduct of activities at an institution of learning; or
3. Enters the institution of learning for the purpose of committing an act which may interfere with the peaceful conduct of activities at an institution of learning.

B. Any person to whom this section applies, who fails to leave the institution of learning as directed or returns within six (6) months thereafter, without first obtaining written permission from the chief administrative officer or anyone designated by the chief administrative officer or the governing board of the institution of learning, shall be guilty of a misdemeanor.

C. “Interferes with the peaceful conduct” includes actions that directly interfere with classes, study, student or faculty safety, housing or parking areas, or extracurricular activities; threatening or stalking any person; damaging or causing waste to any property belonging to another person or the institution of learning; or direct interference with administration, maintenance or security of property belonging to the institution of learning.

### **Section 1373. Projecting Object at Public Event**

It shall be unlawful for any person in attendance at an athletic or other public entertainment event to project in any manner an object which could cause bodily harm to another person.

Any person violating the provisions of this section shall be subject to ejection from the event by the officials supervising the event.

A violation of this section shall be a misdemeanor punishable by a fine not exceeding Five Hundred Dollars (\$500.00).

The provisions of this section shall not apply to the participants in the athletic or other public entertainment event.

#### **Section 1374. Punishment for Planning or Threatening Violent Act**

A. Any person who shall attempt, conspire or endeavor to perform an act of violence involving or intended to involve serious bodily harm or death of another person shall be guilty of a felony, punishable upon conviction thereof by imprisonment for a period of not more than three (3) years.

B. Any person who shall threaten to perform an act of violence involving or intended to involve serious bodily harm or death of another person shall be guilty of a misdemeanor, punishable upon conviction thereof by imprisonment for a period of not more than six (6) months.

C. Any person who shall devise any plan, scheme or program of action to cause serious bodily harm or death of another person with intent to perform such malicious act of violence, whether alone or by conspiring with others, shall be guilty of a felony, punishable upon conviction thereof by imprisonment for a period of not more than three (3) years.

#### **Section 1375. Willfully Bypassing a Security Checkpoint**

A. No person shall, without authorization, willfully bypass or go around a security checkpoint when entering any facility requiring persons to pass through a security checkpoint used for inspecting or screening persons or their belongings.

B. Every facility requiring persons to pass through a security checkpoint and submit to inspection or screening of their person or belongings shall post notice stating such requirement. All security checkpoints used for persons or their belongings shall be clearly identified as such, and notice shall be posted informing persons that they and their belongings are subject to search.

C. No person shall, without authorization, aid or assist any person or persons in bypassing a security checkpoint by opening, holding open, or propping open any secured door, portal, or entryway.

D. No person shall, without authorization, aid or assist any person or persons in bypassing or avoiding a security checkpoint by passing items or belongings, or receiving items or belongings through a secured door, entryway, window, loading dock, or any other avenue of entry.

E. All persons approaching a security checkpoint shall obey the lawful requests and orders of security staff present at the checkpoint.

F. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor and punished by imprisonment for not more than one (1) year, by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

#### **Section 1376. Obstructing or Impeding Passage through any Choctaw Nation building— Punishment**

A. It is unlawful for any person, acting alone or in concert with others, to obstruct, or to impede in any way, passage through or within any building, office or facility that is owned, leased, or used by the Choctaw Nation of Oklahoma.

B. It is unlawful for any person, acting alone or in concert with others, to obstruct entrances and exits to any building, office or facility that is owned, leased, or used by the Choctaw Nation of Oklahoma.

C. The provisions of subsections A and B of this section shall not apply to commissioned peace officers and security officers of the Choctaw Nation of Oklahoma, or contractors thereof in the performance of their duties.

D. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, or by a fine not exceeding Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

#### **Funeral Picketing Act**

##### **Section 1380. Short title**

Section 1380 through Section 1385 of this title shall be known and may be cited as the “Funeral Picketing Act.”

##### **Section 1381. Legislative Findings**

The Tribal Council finds that:

- a. it is generally recognized that families have a substantial interest in organizing and attending funerals for deceased relatives,
- b. the interests of families in privately and peacefully mourning the loss of deceased relatives are violated when funerals are targeted for picketing and other public demonstrations,
- c. picketing of funerals causes emotional disturbance and distress to grieving families who participate in funerals, and
- d. full opportunity exists under the terms and provisions of this section for the exercise of freedom of speech and other constitutional rights at times other than the period from two (2) hours before the scheduled commencement of funeral services until two (2) hours after the actual completion of the funeral services.

### **Section 1382. Purpose**

The purposes of this section are to:

- 1. Protect the privacy of grieving families during the period from two (2) hours before the scheduled commencement of the funeral services until two (2) hours after the actual completion of the funeral services; and
- 2. Preserve the peaceful character of cemeteries, mortuaries and churches from two (2) hours before the scheduled commencement of funerals services until two (2) hours after the actual completion of the funeral services.

### **Section 1383. Definitions**

As used in this section:

- 1. “Funeral” means the ceremonies, processions and memorial services held in connection with the burial or cremation of the dead; and
- 2. “Picketing” means protest activities engaged in by a person or persons within one thousand (1,000) feet of the property line of a cemetery, mortuary, church or other place where any portion of a funeral service is held during the period from two (2) hours before the scheduled commencement of funeral services until two (2) hours after the actual completion of the funeral services.

### **Section 1384. Unlawful Acts—Penalty**

It is unlawful for any person to engage in picketing within one thousand (1,000) feet of the property line of any cemetery, church, mortuary or other place where any portion of a funeral service is held during the period from two (2) hours before the scheduled commencement of funeral services until two (2) hours after the actual completion of the funeral services.

Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

### **Section 1385. Other Remedies**

Notwithstanding the penalties provided in the previous section, the district court may enjoin conduct proscribed by this section and may in any such proceeding award damages, including punitive damages attorney fees or other appropriate relief against the persons found guilty of actions made unlawful by this section.

## **Part VII. Crimes Against Property**

### **Chapter 56. Arson**

#### **Section 1401. Arson in the first degree**

A. Any person who willfully and maliciously sets fire to or burns, or by the use of any explosive device, accelerant, ignition device, heat-producing device or substance or while manufacturing or attempting to manufacture a controlled dangerous substance, destroys in whole or in part, or causes to be burned or destroyed, or aids, counsels or procures the burning or destruction of any building or structure or contents thereof, inhabited or occupied by one or more persons, whether the property of that person or another, or who willfully and maliciously sets fire to or burns, or by the use of any explosive device, accelerant, ignition device, heat-producing device or substance or while manufacturing or attempting to manufacture a controlled dangerous substance, causes a person to be burned, or aids, counsels or procures the burning of a person, shall be guilty of arson; or in the first degree, which is a felony, and upon conviction thereof shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00) or imprisoned for not more than three (3) years or both.

#### **Section 1402. Arson in the second degree**

A. Any person who willfully and maliciously sets fire to or burns or by the use of any explosive device or substance or while manufacturing or attempting to manufacture a controlled dangerous substance destroys in whole or in part, or causes to be burned or destroyed, or aids, counsels or

procures the burning or destruction of any uninhabited or unoccupied building or structure or contents thereof, whether the property of himself or another, shall be guilty of arson in the second degree, which is a felony, and upon conviction thereof shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00) or imprisoned for not more than three (3) years.

B. Any person who willfully and maliciously sets fire to or burns or by the use of any explosive device or substance destroys in whole or in part, or causes to be burned or destroyed, or aids, counsels or procures the burning of any property whatsoever, including automobiles, trucks, trailers, motorcycles, boats, standing farm crops, pasture lands, forest lands, or any other property not herein specifically named, such property, whether the property of himself or another, shall be guilty of arson in the second degree, and upon conviction thereof shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00) or imprisoned for not more than three (3) years.

C. Any person who willfully and maliciously, and with intent to injure or defraud the insurer, sets fire to or burns or by use of any explosive device or substance destroys in whole or in part, or causes to be burned or destroyed, or aids, counsels, or procures the burning or destruction of any building, property, or other chattels, whether the property of himself or another, which shall at the time be insured against loss or damage by fire or explosion, shall be guilty of arson in the second degree, and upon conviction thereof shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00) or imprisoned for not more than three (3) years.

D. Any person who willfully and maliciously attempts to set fire to or burn or attempts by use of any explosive device or substance to destroy in whole or in part, or causes to be burned or destroyed, or attempts to counsel or procure the burning or destruction of any building or property mentioned in Sections 1401 or 1402 of this title shall be guilty of arson in the second degree, and upon conviction thereof shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00) or imprisoned for not more than three (3) years.

E. The placing or distributing of any flammable, explosive or combustible material or substance or any device in any building or property mentioned in Sections 1401 or 1402 of this title, in an arrangement or preparation with intent to eventually willfully and maliciously set fire to or burn or to procure the setting fire to or burning of same, shall for the purposes of this section constitute an attempt to burn such building or property, and shall be guilty of arson in the second degree, and upon conviction thereof shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00), or be confined for not more than three (3) years.

#### **Section 1405. Endangering or causing personal injury to human life during commission of arson**

Any person violating any of the provisions of Sections 1401 or 1402, of this title who during such violation endangers any human life, including all emergency service personnel, shall be

guilty of a felony and upon conviction shall be punished by imprisonment for not more than three (3) years, or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

## **Chapter 57. Documents of Title to Merchandise, Offenses Respecting**

### **Section 1411. Fraudulent bill of lading**

Any person being the master, owner or agent of any vessel, or officer or agent of any railroad, express or transportation company, or otherwise being or representing any carrier who delivers any bill of lading, receipt or other voucher, or by which it appears that any merchandise of any description has been shipped on board of any vessel, or delivered to any railroad, express or transportation company or other carrier, unless the same has been so shipped or delivered, and is at the time actually under the control of such carrier, or the master, owner or agent of such vessel, or some officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt or voucher, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or both.

### **Section 1412. Fraudulent warehouse receipts**

Any person carrying on the business of a warehouseman, wharfinger or other depository of property, who issues any receipt, bill of lading or other voucher for any merchandise of any description which has not been actually received upon the premises of such person, and is not under his actual control at the time of issuing such instrument, whether such instrument is issued to a person as being the owner of such merchandise, or as security for any indebtedness, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or both.

### **Section 1413. Correspondence between instrument and merchandise received**

No person can be convicted of any offense under the last two sections by reason that the contents of any barrel, box, case, cask or other vessel or package mentioned in the bill of lading, receipt or other voucher, did not correspond with the description given in such instrument of the merchandise received, if such description corresponded substantially with the marks, labels or brands upon the outside of such vessel or package, unless it appears that the accused knew that such marks, labels or brands were untrue.

### **Section 1414. Duplicate receipts or vouchers**

Any person mentioned in Section 1411 or 1412 of this title, who issued any second or duplicate receipt or voucher of a kind specified in those two sections, at a time while any former receipt or

voucher for the merchandise specified in the second receipt is outstanding and un-cancelled, without writing across the face of the same the word "Duplicate," in a plain and legible manner, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or both.

#### **Section 1415. Selling goods without consent of holder of bill of lading**

Any person mentioned in Section 1411 or 1412 of this title, who sells, hypothecates or pledges any merchandise for which any bill of lading, receipt or voucher has been issued by him without the consent in writing thereto of the person holding such bill, receipt or voucher, shall be guilty of a felony punishable by confinement not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or both.

#### **Section 1416. Unlawful delivery of goods**

Any person mentioned in Section 1412 of this title, who delivers to another any merchandise for which any bill of lading, receipt or voucher has been issued, unless such receipt or voucher bore upon its face the words "Not negotiable," plainly written or stamped, or unless such receipt is surrendered to be canceled at the time of delivery or unless, in the case of partial delivery, a memorandum thereof is endorsed upon such receipt or voucher, shall be guilty of a felony punishable by confinement not exceeding three (3) years or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or both.

#### **Section 1417. When law does not apply**

The last two sections do not apply where property is demanded by virtue of process of law.

### **Chapter 58. Burglary and House Breaking**

#### **Section 1431. Burglary in first degree**

Every person who breaks into and enters the dwelling house of another, in which there is at the time some human being, with intent to commit some crime therein, either:

1. By forcibly bursting or breaking the wall, or an outer door, window, or shutter of a window of such house or the lock or bolts of such door, or the fastening of such window or shutter; or
2. By breaking in any other manner, being armed with a dangerous weapon or being assisted or aided by one or more confederates then actually present; or



3. By unlocking an outer door by means of false keys or by picking the lock thereof, or by lifting a latch or opening a window, is guilty of burglary in the first degree.

**Section 1432. Reserved**

**Section 1433. Reserved**

**Section 1434. Reserved**

**Section 1435. Burglary in second degree—Acts constituting**

Every person who breaks and enters any building or any part of any building, room, booth, tent, railroad car, automobile, truck, trailer, vessel or other structure or erection, in which any property is kept, or breaks into or forcibly opens, any coin-operated or vending machine or device with intent to steal any property therein or to commit any felony, is guilty of burglary in the second degree.

**Section 1436. Burglary**

Burglary is a felony punishable by imprisonment as follows:

1. Burglary in the first degree is punishable by imprisonment for any term not more than three (3) years and for not less than two (2) years or a fine not exceeding Five Thousand Dollars (\$5,000.00) or both; and
2. Burglary in the second degree is punishable by imprisonment for any term not more than three (3) years or a fine not exceeding Five Thousand Dollars (\$5,000.00).

**Section 1437. Possession of burglar's implements**

Every person who, under circumstances not amounting to a felony has in his possession any dangerous offensive weapon or instrument whatever, or any pick-lock, crow, key, bit, jack, jimmy, nippers, pick, betty or other implement of burglary, with intent to break and enter any building or part of any building, booth, tent, railroad car, vessel or other structure or erection and to commit any felony therein, is guilty of a misdemeanor punishable by confinement not exceeding one (1) year or by a fine not exceeding One Thousand Dollars (\$1,000.00), or both.

**Section 1438. Entering building or other structure with intent to commit felony, larceny or malicious mischief—Breaking and entering dwelling without permission**

A. Every person who, under circumstances not amounting to any burglary, enters any building or part of any building, booth, tent, warehouse, railroad car, vessel, or other structure or erection with intent to commit any felony, larceny, or malicious mischief, is guilty of a misdemeanor punishable by confinement not exceeding one (1) year or by a fine not exceeding One Thousand Dollars (\$1,000.00), or both.

B. Every person who, without the intention to commit any crime therein, shall willfully and intentionally break and enter into any building, trailer, vessel or other premises used as a dwelling without the permission of the owner or occupant thereof, except in the cases and manner allowed by law, shall be guilty of a misdemeanor punishable by confinement not exceeding one (1) year or by a fine not exceeding One Thousand Dollars (\$1,000.00), or both.

#### **Section 1439. Dwelling and dwelling house defined**

A. The term “dwelling house” as used in Section 1431 includes every house or edifice, any part of which has usually been occupied by any person lodging therein at night, and any structure joined to and immediately connected with such a house or edifice.

B. The term “dwelling” as used in this Section includes every house, trailer, vessel, apartment or other premises, any part of which has usually been occupied by a person lodging therein at night and any structure joined to and immediately connected with such house, trailer or apartment.

#### **Section 1440. Reserved**

#### **Section 1441. Burglary with explosives**

Any person who enters any building, railway car, vehicle, or structure and there opens or attempts to open any vault, safe, or receptacle used or kept for the secure keeping of money, securities, books of accounts, or other valuable property, papers or documents, without the consent of the owner, by the use of or aid of dynamite, nitroglycerine, gunpowder, or other explosives, or who enters any such building, railway car, vehicle, or structure in which is kept any vault, safe or other receptacle for the safe keeping of money or other valuable property, papers, books or documents, with intent and without the consent of the owner, to open or crack such vault, safe or receptacle by the aid or use of any explosive, upon conviction, shall be deemed guilty of a felony, and upon conviction shall be punished by confinement for a term of not more than three (3) years or a fine of Five Thousand Dollars (\$5,000.00), or both.

#### **Section 1442. Possession of certain tools by persons previously convicted of burglary**

Any person who has been previously convicted of the crime of burglary who has in his possession, custody or concealed about his person, or transports or causes to be transported, any

combination of three (3) or more of the following tools: Sledge hammer, pry bar, punches, chisel, bolt cutters, with the intent to use or employ, or allow the same to be used or employed, in the commission of a crime, or knowing that the tools are to be used in the commission of a crime, shall be guilty of a felony and upon conviction shall be punished by confinement for a term of not more than three (3) years or a fine of Five Thousand Dollars or both.

## **Chapter 59. Embezzlement**

### **Section 1451. Embezzlement defined—Penalties**

A. Embezzlement is the fraudulent appropriation of property of any person or legal entity, legally obtained, to any use or purpose not intended or authorized by its owner, or the secretion of the property with the fraudulent intent to appropriate it to such use or purpose, under any of the following circumstances:

1. Where the property was obtained by being entrusted to that person for a specific purpose, use, or disposition and shall include, but not be limited to, any funds “held in trust” for any purpose;
2. Where the property was obtained by virtue of a power of attorney being granted for the sale or transfer of the property;
3. Where the property is possessed or controlled for the use of another person;
4. Where the property is to be used for a public or benevolent purpose;
5. Where any person diverts any money appropriated by law from the purpose and object of the appropriation;
6. Where any person fails or refuses to pay over to the Choctaw Nation of Oklahoma, or appropriate authority, any monies collected in accordance with Choctaw Nation of Oklahoma law, and who appropriates the monies to the use of that person, or to the use of any other person not entitled to monies;
7. Where the property is possessed for the purpose of transportation, without regard to whether packages containing the property have been broken;
8. Where any person removes crops from any leased or rented premises with the intent to deprive the owner or landlord interested in the land of any of the rent due from that land, or who fraudulently appropriates the rent to that person or any other person; or

9. Where the property is possessed or controlled by virtue of a lease or rental agreement, and the property is willfully or intentionally not returned within ten (10) days after the expiration of the agreement.

Embezzlement does not require a distinct act of taking, but only a fraudulent appropriation, conversion or use of property.

B. Except as provided in subsection C of this section, embezzlement shall be punished as follows:

1. If the value of the property embezzled is less than One Thousand Dollars (\$1,000.00), any person convicted shall be punished by a fine not exceeding One Thousand Dollars (\$500.00), or by imprisonment for a term not more than one (1) year, or by both such fine and imprisonment, and ordered to pay restitution to the victim;

2. If the value of the property embezzled is One Thousand Dollars (\$1,000.00) or more, any person convicted shall be guilty of a felony and shall be punished by confinement for not more than three (3) years or a fine not exceeding Five Thousand Dollars (\$5,000.00) or both, and ordered to pay restitution to the victim.

For purposes of this subsection, a series of offenses may be aggregated into one offense when they are the result of the formulation of a plan or scheme or the setting up of a mechanism which, when put into operation, results in the taking or diversion of money or property on a recurring basis. When all acts result from a continuing course of conduct, they may be aggregated into one crime. Acts forming an integral part of the first taking which facilitate subsequent takings, or acts taken in preparation of several takings which facilitate subsequent takings, are relevant to determine the party's intent to commit a continuing crime.

C. Any tribal employee, who shall divert any money appropriated by law from the purpose and object of the appropriation, shall, upon conviction, be guilty of a felony punishable by imprisonment for a term of not more than three (3) years, and a fine not to exceed Five Thousand Dollars (\$5,000.00) and ordered to pay restitution to the victim. The fine shall operate as a judgment lien at law on all estate of the party so convicted and sentenced, and shall be enforced by execution or other process for the use of the person whose money or other funds or property were embezzled. In all cases the fine, so operating as a judgment lien, shall be released or entered as satisfied only by the person in interest.

D. Any executor, administrator, trustee, beneficiary or other person benefiting from, acting in a fiduciary capacity for, or otherwise administering a probate, intestate, or trust estate, whether the trust is inter vivos or testamentary, upon conviction of embezzlement from the estate shall not receive any portion, share, gift or otherwise benefit from the estate.

## **Section 1452. Reserved**

**Section 1453. Reserved**

**Section 1454. Reserved**

**Section 1455. Reserved**

**Section 1456. Reserved**

**Section 1457. Reserved**

**Section 1458. Evidence of debt subject of embezzlement**

Any evidence of debt, negotiable by delivery only, and actually executed, is equally the subject of embezzlement whether it has been delivered or issued as a valid instrument or not.

**Section 1459. Property taken under claim of title**

Upon any prosecution for embezzlement it is a sufficient defense that the property was appropriated openly and avowedly, and under a claim of title preferred in good faith even though such claim is untenable. But this provision shall not excuse the retention of the property of another, to offset or pay demand held against him.

**Section 1460. Intent to restore no defense**

The fact that the accused intended to restore the property embezzled is no ground of defense, or of mitigation of punishment, if it has not been restored before an information has been laid before a magistrate, charging the commission of the offense.

**Section 1461. Mitigation of punishment**

Whenever it is made to appear that prior to any information laid before a judge charging the commission of embezzlement, the person accused voluntarily and actually restored or tendered restoration of the property alleged to have been embezzled, or any part thereof, such is not a ground of defense to the indictment, but it authorizes the court to mitigate punishment in its discretion.

**Section 1462. Reserved**

## **Section 1463. Reserved**

## **Section 1464. Reserved**

## **Section 1465. Property or goods under control of carrier or other person for purpose of interstate transportation—Abandonment without notice to owner**

A. No carrier or other person having property or goods under its control for the purpose of transportation for hire shall abandon the property or goods contained therein without notice to the owner of the property or goods.

B. Any person convicted of violating the provisions of subsection A of this section may be guilty of a misdemeanor and punished by confinement for not more than one (1) year, or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

## **Chapter 60. Extortion and Blackmail**

### **Section 1481. Extortion defined**

Extortion is the obtaining of property from another with his consent, induced by a wrongful use of force or fear, or under color of official right.

### **Section 1482. Threats constituting extortion**

Fear such as will constitute extortion, may be induced by a threat, either:

1st. To do an unlawful injury to the person or property of the individual threatened, or to any relative of his or member of his family; or,

2nd. To accuse him, or any relative of his or member of his family, of any crime; or,

3rd. To expose, or impute to him, or them, any deformity or disgrace; or,

4th. To expose any secret affecting him or them.

### **Section 1483. Extortion or attempted extortion**

Every person who extorts or attempts to extort any money or other property from another, under circumstances not amounting to robbery, by means of force or any threat such as is mentioned in

Section 1482 of this title, upon conviction, shall be guilty of a felony. A conviction for extortion or attempted extortion is punishable by imprisonment for a term not exceeding three (3) years or a fine not exceeding Five Thousand Dollars (\$5,000.00 or both.

#### **Section 1484. Extortion under color of official right**

Every person who commits any extortion under color of official right, in cases for which a different punishment is not prescribed by this code, is guilty of a felony punishable by imprisonment for a term not exceeding three (3) years or a fine not exceeding Five Thousand Dollars (\$5,000.00), or both.

#### **Section 1485. Obtaining signature by extortion**

Every person, who by any extortionate means, obtains from another his signature to any paper or instrument, whereby, if such signature were freely given, any property would be transferred, or any debt, demand, charge or right of action created, is punishable in the same manner as if the actual delivery of such property or payment of the amount of such debt, demand, charge or right of action were obtained.

#### **Section 1486. Letters, threatening**

Every person who, with intent to extort any money or other property from another, sends to any person any letter or other writing, whether subscribed or not, expressing or implying, or adapted to imply, any threat, such as is specified in the second section of this article, is punishable in the same manner as if such money or property were actually obtained by means of such threat.

#### **Section 1487. Reserved**

#### **Section 1488. Blackmail**

Blackmail is verbally or by written or printed communication and with intent to extort or gain anything of value from another or to compel another to do an act against his or her will:

1. Accusing or threatening to accuse any person of a crime or conduct which would tend to degrade and disgrace the person accused;
2. Exposing or threatening to expose any fact, report or information concerning any person which would in any way subject such person to the ridicule or contempt of society; or

3. Threatening to report a person as being illegally present in the United States, and is coupled with the threat that such accusation or exposure will be communicated to a third person or persons unless the person threatened or some other person pays or delivers to the accuser or some other person something of value or does some act against his or her will. Blackmail is a felony punishable by confinement for a term not to exceed three (3) years or a fine not to exceed Five Thousand Dollars (\$5,000.00) or by both such imprisonment and fine.

## **Chapter 61. False Pretenses, False Personations, Cheats and Frauds**

### **Frauds in General**

#### **Section 1500. Real property loans—Securing by false instrument—Penalty**

A. It shall be unlawful for any person willfully, knowingly, or fraudulently to make, issue, deliver, use or submit, or to participate in making, issuing, delivering, using or submitting any fictitious, false or fraudulent offer, agreement, contract or other instrument concerning any real property or improvements thereon for the purpose either of inducing or attempting to induce any lender, prospective lender or government agency to make any loan, advance or commitment or of securing any guaranty or insurance in connection therewith.

B. Any person violating the provisions of this act shall be deemed to be guilty of a felony and upon conviction shall be fined not more than Five Thousand Dollars (\$5,000.00) or shall be imprisoned for not more than one (3) years, or both.

#### **Section 1501. Securing credit fraudulently—Penalty**

Any person who shall:

1. Knowingly make or cause to be made, either directly or indirectly, or through any agency whatsoever, any false statement in writing, with intent that it shall be relied upon, respecting the financial condition, or means or ability to pay of such person, or any other person, firm or corporation, in whom the person is interested, or for whom the person is acting, for the purpose of procuring in any form whatsoever, either the delivery of personal property, the payment of cash, the making of a loan or credit, the extension of a credit, the discount of an account receivable, or the making, acceptance, discount, sale or endorsement of a bill of exchange or promissory note, for the benefit of either such person or any other person, firm or corporation;

2. With knowledge that a false statement in writing has been made, respecting the financial condition or means or ability to pay, of such person, or any other person, firm or corporation in which the person is interested, or for whom the person is acting, procures, upon the faith thereof,



for the benefit of either such person, or any other person, firm or corporation, either or any of the things of benefit mentioned in paragraph 1 of this section;

3. With knowledge that a statement in writing has been made, respecting the financial condition or means or ability to pay of such person, or any other person, firm or corporation, in which the person is interested, or for whom the person is acting, represents on a later date in writing, that the statement theretofore made, if then again made on said day, would be then true, when in fact, the statement if then made would be false, and procures upon the faith thereof, for the benefit of either such person or any other person, firm or corporation, either or any of the things of benefit mentioned in paragraph 1 of this section; or

4. Knowingly with intent to defraud, make any false statement or report or willfully falsify the value of any land, property or security for the purpose of influencing in any way the action taken or decision made on any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment or loan, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release or substitution of security;

shall be, upon conviction, guilty of a felony punishable by confinement for not more than three (3) years or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

#### **Section 1502. Fraudulent advertising prohibited—Punishment**

Any person, firm, corporation or association who, with intent to sell or in anywise dispose of merchandise, securities, service or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates or places before the public, or causes directly or indirectly to be made, published, disseminated, circulated or placed before the public in the Choctaw Nation of Oklahoma, in a newspaper or publication or in form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment not exceeding one (1) year, or both such fine and imprisonment.

#### **Section 1503. Value of One Thousand Dollars or less— Value of One Thousand Dollars or more**

Any person who shall obtain food, lodging, services or other accommodations at any hotel, inn, restaurant, boarding house, rooming house, motel or auto camp, with intent to defraud the owner or keeper thereof, if the value of such food, lodging, services or other accommodations is One Thousand Dollars (\$1,000.00) or less, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00), or be confined not exceeding one (1) year, or punished by both such fine and imprisonment and ordered to pay restitution to the victim, and if the value of such food, lodging, services or other accommodations is more than One Thousand Dollars (\$1,000.00) any person convicted pursuant to this section shall be guilty of a felony and shall be punished by confinement not to exceed three (3) years or shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) or punished by both such fine and imprisonment and ordered to provide restitution to the victim. Any person who shall obtain shelter, lodging, or any other services at any apartment house, apartment, rental unit, rental house, or trailer camp, with intent to defraud the owner or keeper thereof, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding One Thousand Dollars (\$1000.00), or be confined not exceeding one (1) year, or be punished by both fine and imprisonment. Proof that such lodging, food, services or other accommodations were obtained by false pretense or by false or fictitious show or pretense of any baggage or other property, or that he gave a check on which payment was refused, or that he left the hotel, inn, restaurant, boarding house, rooming house, motel, apartment house, apartment, rental unit or rental house, trailer camp or auto camp, without payment or offering to pay for such food, lodging, services or other accommodation, or that he surreptitiously removed or attempted to remove his baggage, or that he registered under a fictitious name, shall be prima facie proof of the intent to defraud mentioned in this section; but this section shall not apply where there has been an agreement in writing for delay in payment.

#### **Section 1504. Reserved**

#### **Section 1505. False increase of weight**

Every person who puts or conceals in any bag, bale, box, barrel or other package of goods usually sold by weight any other thing whatever for the purpose of increasing the weight of such package shall be punished by a fine of not more than One Hundred Dollars (\$100.00) for each offense.

#### **Section 1506. Mock auction**

Any person who obtains any money or property from another, or obtains the signature of another to any written instrument, the false making of which would be forgery, by means of any false or fraudulent sale of property or pretended property by auction, or by any of the practices known as mock auctions, shall be guilty of a felony punishable by confinement not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

**Section 1507. Fraud by auctioneer**

Every person carrying on, or employed about the business of selling property or goods by auction, who sells any goods or property in a damaged condition which he offers as sound or in a good condition, is guilty of a misdemeanor punishable by confinement not exceeding one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

**Section 1508. Fictitious co-partnership**

Every person transacting business in the name of a person as a partner who is not interested in his firm, or transacting business under a firm name in which the designation “and company” or “& Co.” is used without representing an actual partner except in the cases in which the continued use of a co-partnership name is authorized by law, is guilty of a misdemeanor punishable by confinement not exceeding one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

**Section 1509. Reserved****Section 1510. Destroying evidence of ownership of wrecked property**

Every person who defaces or obliterates the marks upon wrecked property, or in any manner disguises the appearance thereof with intent to prevent the owner from discovering its identity, or who destroys or suppresses any invoice, bill of lading or other document tending to show the ownership, is guilty of a misdemeanor punishable by confinement not exceeding one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

**Section 1511. Fraud in limited partnership**

Every member of a limited partnership, who is guilty of any fraud in the affairs of the partnership, is guilty of a misdemeanor punishable by confinement not exceeding one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

**Section 1512. Reserved****Section 1513. Reserved**

**Section 1514. Insignia, badge or pin calculated to deceive, wearing of—Name of society, order or organization calculated to deceive, using—Punishment**

Any person who shall wear the badge, pin, or insignia, or shall use the name of any society, order or organization of ten (10) years' standing or existence in the Choctaw Nation of Oklahoma, either in the identical form or in any such near resemblance thereto as might be calculated to deceive, or shall use the same to obtain aid or assistance within the Choctaw Nation of Oklahoma, unless entitled to use or wear the same under the constitution and bylaws, rules and regulations of such order or society, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not more than One Thousand Dollars (\$1,000.00), and in addition thereto, may imprisoned for a period of time not exceeding one (1) year.

**Section 1515. Telecommunication services—Unlawful procurement—Penalty**

Any individual, corporation, or other person, who, with intent to defraud or to aid and abet another to defraud any individual, corporation, or other person, of the lawful charge, in whole or in part, for any telecommunications service, shall avoid or attempt to avoid or shall cause or assist another to avoid or attempt to avoid any such charge for such service:

- (a) by charging such service to an existing account, or using such services from an existing account, telephone number or credit card number without the authority of the subscriber thereto or the legitimate holder thereof; or
- (b) by charging such service to a nonexistent, false, fictitious, or counterfeit account, telephone number or credit card number or to a suspended, terminated, expired, cancelled or revoked telephone number or credit card number; or
- (c) by use of a code, prearranged scheme, or other similar stratagem or device whereby said person in effect sends or receives information; or
- (d) by rearranging, tampering with or making connection with any facilities or equipment of a telephone or other communications company, whether physically, inductively, acoustically, or electrically, or by utilizing such service, having reason to believe that such rearrangement, connection, or tampering existed or occurred;

shall be guilty of a misdemeanor, and shall, upon conviction thereof, be imprisoned for a term not exceeding one (1) year or fined in any sum not exceeding One Thousand Dollars (\$1,000.00), or both, in the discretion of the court.

**Section 1516. Devices or plans to procure services—Making, possessing, etc., prohibited—Penalty**

Any individual, corporation or other person who:

(a) makes or possesses any instrument, apparatus, equipment, or device designed, adapted or which can be used

(1) to fraudulently avoid the lawful charge for any telecommunication service; or

(2) to conceal, or to assist another to conceal, from any supplier of telecommunication service or from any lawful authority the existence or place of origin or of destination of any telecommunication; or

(b) sells, gives or otherwise transfers to another, or offers or advertises to sell, give or otherwise transfer, any instrument, apparatus, equipment, or device, described in (a) above, or plans or provides instructions for making or assembling the same; under circumstances evidencing an intent to use or employ such instrument, apparatus, equipment, or device, or to allow the same to be used or employed, for a purpose described in (a)(1) or (a)(2), above, or knowing or having reason to believe that the same is intended to be so used, or that the aforesaid plans or instructions are intended to be used for making or assembling such instrument, apparatus, equipment, or device;

shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be imprisoned for a term not exceeding one (1) year or fined in any sum not more than One Thousand Dollars (\$1,000.00), or both, in the discretion of the court.

### **Section 1517. Amateur radio operators exempt**

Nothing herein shall apply to public service and emergency communications performed by holders of valid Federal Communications Commission radio amateur licenses without charge on the part of such licensees; provided that nothing herein shall excuse any person from compliance with lawful tariffs of any telecommunications company.

## **Misrepresentation of Age by False Document Act**

### **Section 1518. Short Title**

Section 1518 through Section 1520 of this title shall be known and may be cited as the "Misrepresentation of Age by False Document Act."

### **Section 1519. Misrepresentation of age by false document**

It shall be unlawful for any person, for the purpose of violating any statutes of the Choctaw Nation of Oklahoma, to willfully and knowingly misrepresent his age by presenting a false document purporting to state his true age and upon conviction thereof shall be guilty of a misdemeanor and fined in an amount not to exceed One Thousand Dollars (\$1,000.00), or shall be imprisoned for a term not to exceed one (1) year, or by both such fine and imprisonment.

#### **Section 1520. Provisions as cumulative**

The provisions of this act shall be cumulative to existing laws.

#### **Section 1521. Motor vehicle lease or rental—Payment by false or bogus check**

Every person who shall lease or rent, for any period of time whatsoever, any motor vehicle and, with intent to cheat and defraud, who pays the fees for such lease or rental by means of a false, bogus or worthless check written for the sum of One Thousand Dollars (\$1,000.00) or less shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or both such fine and imprisonment and ordered to provide restitution to the victim. If the value of the false, bogus or worthless check shall exceed the sum of One Thousand Dollars (\$1,000.00), any person convicted pursuant to this section shall be guilty of a felony and shall be punished by imprisonment for a term not to exceed three (3) years or shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) or both such fine and imprisonment and ordered to provide restitution to the victim.

#### **Section 1522. Reserved**

#### **Section 1523. Reserved**

#### **Section 1524. Reserved**

#### **Section 1525. Reserved**

#### **Section 1526. Reserved**

#### **Section 1527. Reserved**

**Section 1528. False personation—Marriage—Becoming bail or surety—Execution of instrument—Creating liability or benefit**

Any person who falsely personates another, and in such assumed character:

1. Marries or pretends to marry, or to sustain the marriage relation toward another, with or without the connivance of such other person; or
2. Becomes bail or surety for any party, in any proceeding whatever, before any court or officer authorized to take such bail or surety; or
3. Subscribes, verifies, publishes, acknowledges or proves, in the name of another person, any written instrument, with intent that the same may be delivered or used as true; or
4. Does any other act whereby, if it were done by the person falsely personated, he might in any event become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture or penalty, or whereby any benefit might accrue to the party personating, or to any other person;

shall be guilty of a felony punishable by imprisonment not exceeding three (3) years or a fine in a sum not to exceed Five Thousand Dollars (\$5,000.00) or both such imprisonment and fine. It shall not be necessary in a prosecution under this section to prove that the person falsely personated is a real person.

**Section 1529. Receiving money or property intended for individual personated**

Any person who falsely personates another, and in such assumed character receives any money or property, that knowing it is intended to be delivered to the individual so personated, with intent to convert the same to his own use, or to that of another person who is not entitled thereto, shall be punishable in the same manner and to the same extent as for larceny of the money or property so received.

**Section 1530. Penalties—Definitions—Certain defenses excluded**

A. Except as otherwise provided, every person who falsely personates any public officer, civil or military, any firefighter, any law enforcement officer, any emergency medical technician or other emergency medical care provider, or any private individual having special authority by law to perform any act affecting the rights or interests of another, or who assumes, without authority, any uniform or badge by which such officers or persons are usually distinguished, and in such assumed character does any act whereby another person is injured, defrauded, harassed, vexed or annoyed, upon conviction, is guilty of a misdemeanor punishable by imprisonment not exceeding

one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

B. Every person who falsely personates any Choctaw Nation of Oklahoma employee, officer or any law enforcement officer in connection with or relating to any sham legal process shall, upon conviction, be guilty of a felony, punishable by imprisonment for not more than three (3) years, or a fine not exceeding Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

C. Every person who falsely asserts authority of law in connection with any sham legal process shall, upon conviction, be guilty of a felony, punishable by imprisonment for not more than three (3) years, or a fine not exceeding Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

D. Every person who, while acting falsely in asserting authority of law, attempts to intimidate or hinder a Choctaw Nation of Oklahoma official or law enforcement officer in the discharge of official duties by means of threats, harassment, physical abuse, or use of sham legal process, shall be guilty of a felony, punishable by imprisonment for not more than three (3) years, or a fine not exceeding Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

E. Any person who, without authority under the Choctaw Nation of Oklahoma law, acts as a judge, a magistrate, a clerk of the court or deputy, a notary public, a juror or other official holding authority to determine a controversy or adjudicate the rights or interests of others, or signs a document in such capacity, shall be guilty of a felony, punishable by imprisonment for not more than three (3) years, or a fine not exceeding Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

F. Every person who uses any motor vehicle or motor-driven cycle usually distinguished as a law enforcement vehicle or equips any motor vehicle or motor-driven cycle with any spot lamps, audible sirens, or flashing lights, or in any other manner uses any motor vehicle or motor-driven cycle for the purpose of falsely personating a law enforcement officer and who in such assumed character commits any act whereby another person is injured, defrauded, harassed, vexed or annoyed shall, upon conviction, be guilty of a felony, punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

G. 1. Any person who, without authority from the Choctaw Nation of Oklahoma, displays or causes to be displayed the word "Police" alone or in conjunction with any other word or words on any motor vehicle, badge, clothing, identification card, or any other object or document with the intent to communicate peace officer or investigating authority shall, upon conviction, be guilty of a felony, punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. This paragraph shall not apply to any peace officer of the Choctaw Nation of Oklahoma.



2. Any person who displays or causes to display such words as provided in this subsection for the purpose of falsely personating a law enforcement officer and as such commits any act whereby another person is injured, defrauded, harassed, vexed or annoyed shall, upon conviction, be guilty of a felony punishable by confinement not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

H. As used in this section:

1. “Sham legal process” means the issuance, display, delivery, distribution, reliance on as lawful authority, or other use of an instrument that is not lawfully issued, whether or not the instrument is produced for inspection or actually exists, and purports to do any of the following:

a. to be a summons, subpoena, judgment, arrest warrant, search warrant, or other order of a court recognized by the laws of the Choctaw Nation of Oklahoma,

b. to assert jurisdiction or authority over or determine or adjudicate the legal or equitable status, rights, duties, powers, or privileges of any person or property, or

c. to require or authorize the search, seizure, indictment, arrest, trial, or sentencing of any person or property; and

2. “Lawfully issued” means adopted, issued, or rendered in accordance with the applicable statutes, rules, regulations, and ordinances of the Choctaw Nation of Oklahoma.

I. It shall not be a defense to a prosecution under subsection B, C, D or E of this section that:

1. The recipient of the sham legal process did not accept or believe in the authority falsely asserted in the sham legal process;

2. The person violating subsection B, C, D or E of this section does not believe in the jurisdiction or authority of the Choctaw Nation of Oklahoma; or

3. The office the person violating subsection B, C, D or E of this section purports to hold does not exist or is not an official office recognized by the Choctaw Nation of Oklahoma.

### **Section 1531. Identity theft—Penalties—Civil action**

A. It is unlawful for any person to willfully and with fraudulent intent obtain the name, address, social security number, date of birth, place of business or employment, debit, credit or account numbers, driver license number, or any other personal identifying information of another person, living or dead, with intent to use, sell, or allow any other person to use or sell such personal identifying information to obtain or attempt to obtain money, credit, goods, property, or service in the name of the other person without the consent of that person.

B. It is unlawful for any person to use with fraudulent intent the personal identity of another person, living or dead, or any information relating to the personal identity of another person, living or dead, to obtain or attempt to obtain credit or anything of value.

C. It is unlawful for any person with fraudulent intent to lend, sell, or otherwise offer the use of such person's own name, address, social security number, date of birth, or any other personal identifying information or document to any other person with the intent to allow such other person to use the personal identifying information or document to obtain or attempt to obtain any identifying document in the name of such other person.

D. It is unlawful for any person to willfully create, modify, alter or change any personal identifying information of another person with fraudulent intent to obtain any money, credit, goods, property, service or any benefit or thing of value, or to control, use, waste, hinder or encumber another person's credit, accounts, goods, property, title, interests, benefits or entitlements without the consent of that person.

E. Any person convicted of violating any provision of this section shall be guilty of identity theft. Identity theft is a felony offense punishable by imprisonment for a term of not more than three (3) years, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. Restitution to the victim may be ordered in addition to any criminal penalty imposed by the court. The victim of identity theft may bring a civil action for damages against any person participating in furthering the crime or attempted crime of identity theft.

**Section 1532. Fraudulently obtaining another person's information of financial institution—Presenting false or fraudulent information to officer, employee, agent or another customer of financial institution**

A. It is unlawful for any person to willfully and knowingly obtain, or attempt to obtain, another person's personal, financial or other information of a financial institution by means of any false or fraudulent statement made to any officer, employee, agent or customer of such financial institution.

B. It is unlawful for any person to willfully and knowingly present any false or fraudulent document or information, or any document or information obtained or used without lawful consent or authority, to any officer, employee, agent or another customer of such financial institution to obtain, or attempt to obtain, another person's personal, financial or other information from a financial institution or to commit any crime.

C. Any person violating any provision of this section shall, upon conviction, be guilty of a felony punishable by imprisonment for a term of not more than three (3) years or a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. In addition, the

court may order restitution to be paid by the defendant to every customer whose information was obtained or otherwise utilized in violation of this provision.

**Section 1533. Identity theft incident report—Preparation and filing by law enforcement—Reports not considered open cases**

A. Notwithstanding that jurisdiction may lie elsewhere for investigation and prosecution of a crime of identity theft, victims of identity theft have the right to contact the law enforcement agency where the victim is domiciled and have an incident report about the identity theft prepared and filed. The law enforcement agency that prepares and files the incident report shall, upon request, provide the victim with a copy of the incident report. The law enforcement agency may share the incident report with law enforcement agencies located in other jurisdictions. For purposes of this section, “incident report” means a loss or other similar report prepared and filed by a law enforcement agency.

B. Nothing in this section shall interfere with the discretion of a law enforcement agency to allocate resources for investigations of crimes.

**False Pretenses; Trick or Deception**

**Section 1541.1. Obtaining or attempting to obtain property by trick or deception—False statements or pretenses—Confidence game—Penalty**

Every person who, with intent to cheat and defraud, shall obtain or attempt to obtain from any person, firm or corporation any money, property or valuable thing, of a value less than One Thousand Dollars (\$1,000.00), by means or by use of any trick or deception, or false or fraudulent representation or statement or pretense, or by any other means or instruments or device commonly called the “confidence game”, or by means or use of any false or bogus checks, or by any other written or printed or engraved instrument or spurious coin, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment and ordered to provide restitution to the victim.

**Section 1541.2. Value of Money, Property or Valuable Thing**

If the value of the money, property or valuable thing referred to in Section 1541.1 of this title is One Thousand Dollars (\$1,000.00) or more, any person convicted pursuant to this section shall be guilty of a felony and shall be punished by imprisonment not to exceed three (3) years, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) or by both such fine and imprisonment and ordered to provide restitution to the victim.

### **Section 1541.3. Value of One Thousand Dollars or more**

Any person making, drawing, uttering or delivering two or more false or bogus checks, drafts or orders, as defined by Section 1541.4 of this title, the total sum of which is One Thousand Dollars (\$1,000.00) or more, even though each separate instrument is written for less than One Thousand Dollars (\$1,000.00), all in pursuance of a common scheme or plan to cheat and defraud, shall be deemed guilty of a felony and shall be punished by imprisonment for a term not more than three (3) years, or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment and ordered to provide restitution to the victim.

### **Section 1541.4. False or bogus check or checks defined; prima facie evidence of intent to defraud and knowledge of insufficient funds or credit; effect of refusal by drawee of check offered for purchase of goods or livestock**

A. The term “false or bogus check or checks” shall include checks or orders, including those converted to electronic fund transfer, which are not honored on account of insufficient funds of the maker to pay same or because the check or order was drawn on a closed account or on a nonexistent account when such checks or orders are given:

1. In exchange for money or property;
2. In exchange for any benefit or thing of value; or
3. As a down payment for the purchase of any item of which the purchaser is taking immediate possession, as against the maker or drawer thereof.

B. The making, drawing, uttering, or delivering of a check, draft, or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and the knowledge of insufficient funds in, or credit with, such bank or other depository; provided, such maker or drawer shall not have paid the drawee thereof the amount due thereon, within five (5) days from the date the same is presented for payment; and provided, further, that said check or order is presented for payment within thirty (30) days after same is delivered and accepted.

C. A check offered for the purchase of goods or livestock that is refused by a drawee shall not be considered to be an extension of credit by the seller of goods or livestock to the maker or drawer of the check.

D. A check or order offered to a merchant in payment on an open account of the maker with the merchant shall mean “a check or order given in exchange for a benefit or thing of value”, notwithstanding that the merchant may debit the account of the maker or impose other charges pursuant to applicable law in the event the check or order is not honored.

### **Section 1541.5. Credit defined**

The word “credit,” as used in Section 1541.1 through 1541.4 of this title, shall be construed to mean an arrangement or understanding with the bank, depository, or seller of goods or livestock for the payment of such check, draft, or order.

### **Section 1541.6. Refund fraud—Penalties**

A. No person shall give a false or fictitious name or address as his own, or give the name or address of any other person without the knowledge and consent of that person, for the purpose of obtaining or attempting to obtain a refund for merchandise from a business establishment.

B. Any person convicted of violating the provisions of this section shall be guilty of a felony punishable by the imposition of a fine of not more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not more than three (3) years, or by both said fine and imprisonment.

### **Section 1542. Obtaining property or signature under false pretenses—Use of retail sales receipt or Universal Price Code Label to cheat or defraud**

A. Every person who, with intent to cheat or defraud another, designedly, by color or aid of any false token or writing, or other false pretense, obtains the signature of any person to any written instrument, or obtains from any person any money or property, is punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

B. Every person who, with intent to cheat or defraud another, possesses, uses, utters, transfers, makes, manufactures, counterfeits, or reproduces a retail sales receipt or a Universal Price Code Label, is punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

### **Section 1543. Obtaining signature or property for charitable purposes by false pretenses**

Any person who designedly, by color or aid of any false token or writing, or other false pretense, obtains the signature of any person to any written instrument, or obtains from any person any money or property for any alleged charitable or benevolent purpose whatever, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

### **Section 1544. False negotiable paper**

If the false token by which any money or property is obtained in violation of the first and second preceding sections of this article, is a promissory note or negotiable evidence of debt purporting to be issued by or under the authority of any banking company or corporation not in existence, the person guilty of such cheat shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

#### **Section 1545. Using false check—False token**

The use of a matured check or other order for the payment of money, as a means of obtaining any signature, money or property, such as is specified in the last two sections, by a person who knows that a drawer thereof is not entitled to draw for the sum specified therein, upon the drawee, is the use of a false token within the meaning of those sections although no representation is made in respect thereto.

#### **Section 1546. Removing, defacing, altering or obliterating—Subsequent sale**

Any person, firm or corporation who removes, defaces, alters, changes, destroys, covers, obliterates or makes a substitution of any trademark, distinguishing or identification number, serial number or mark, on or from any machine or electrical or mechanical device or apparatus, and thereafter sells or resells or offers for sale or resale the same in such condition, is guilty of a felony punishable by the imposition of a fine of not more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not more than three (3) years, or by both said fine and imprisonment.

#### **Section 1547. Person acquiring machine or device with mark removed, altered, etc.**

Any person, firm or corporation who acquires, for the purpose of sale or resale and possesses any machine or electrical or mechanical device or apparatus, or any of the parts thereof, from or on which any trademark, distinguishing or identification number, serial number or mark has been removed, covered, altered, changed, defaced, destroyed, obliterated or substituted for, is guilty of a felony punishable by the imposition of a fine of not more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not more than three (3) years, or by both said fine and imprisonment, unless within ten (10) days after such machine or electrical or mechanical device or apparatus, or any such part thereof, shall have come into his or its possession, said person, firm or corporation files with the chief law enforcement officer of the Choctaw Nation of Oklahoma: The source of his or its title, identification or distinguishing number or serial number or mark, if known, and, if known, the manner of and reason for such mutilation, change, alteration, concealment, defacement or substitution, the length of time such machine or electrical or mechanical device or apparatus or part has been held, and the price paid therefor, and provided further, that any and all such verified statements shall be available for inspection by any interested person.

### **Section 1548. Vehicles excepted**

The provisions of this act shall not apply to motor vehicles and other vehicles.

### **Section 1549. Changes of serial numbers by original manufacturer**

The provisions of this act shall not apply to changes of serial numbers authorized and made by the original manufacturer.

### **Section 1550. Person committing felony in possession or control of firearm with removed, defaced, etc. serial number**

A. Any person who, while in the commission or attempted commission of a felony, has in his possession or under his control a firearm, the factory serial number or identification number of which has been removed, defaced, altered, obliterated or mutilated in any manner, upon conviction, shall be guilty of a felony punishable by imprisonment for a period of not more than three (3) years, or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

B. Any person who removes, defaces, alters, obliterates or mutilates in any manner the factory serial number or identification number of a firearm, or in any manner participates therein, upon conviction, shall be guilty of a felony punishable by imprisonment for a period of not more than three (3) years, or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

C. 1. Upon a conviction of a violation of this section, the court clerk, law officer or other person having custody of the firearm shall immediately deliver the firearm to the Chief Law Enforcement Officer, or his or her designee, of the Choctaw Nation of Oklahoma, who shall preserve the firearm pending order of the court.

2. At the conclusion of a trial or proceeding for a violation of this section, if a finding is made that the factory serial number or identification number of the firearm has been removed, defaced, altered, obliterated or mutilated, the court shall issue a written order for destruction of the firearm, unless the defendant files a timely motion to preserve the firearm pending appeal. At the conclusion of the appeal, if a finding is made that the factory serial number or identification number of the firearm has been removed, defaced, altered, obliterated or mutilated, the court shall issue a written order for destruction of the firearm.

### **Credit Cards**

#### **Section 1550.1. Definitions**

1. The term “credit card” means an identification card or device issued to a person, firm or corporation by a business organization which permits such person, firm or corporation to purchase or obtain goods, property or services on the credit of such organization.

2. “Debit card” means an identification card or device issued to a person, firm or corporation by a business organization which permits such person, firm or corporation to obtain access to or activate a consumer banking electronic facility.

### **Section 1550.2. Value of One Thousand Dollars or less—Value of One Thousand Dollars or More**

Any person who knowingly uses or attempts to use in person, by telephone or by the Internet, for the purpose of obtaining credit, or for the purchase of goods, property or services, or for the purpose of obtaining cash advances in lieu of these items, or to deposit, obtain or transfer funds, either a credit card or a debit card which has not been issued to such person or which is not used with the consent of the person to whom issued or a credit card or a debit card which has been revoked or cancelled by the issuer of such card and actual notice thereof has been given to such person, or a credit card or a debit card which is false, counterfeit or nonexistent is guilty of a misdemeanor and punishable by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment if the amount of the credit or purchase or funds deposited, obtained or transferred by such use does not exceed One Thousand Dollars (\$1,000.00); or, by a fine of not more than Five Thousand Dollars (\$5,000.00) or by imprisonment of not more than three (3) years, or by both such fine and imprisonment if the amount of the credit or purchase or funds deposited, obtained or transferred by such use exceeds One Thousand Dollars (\$1,000.00).

### **Section 1550.3. Actual notice**

The words “actual notice” as used herein shall be construed to include either notice given to the purchaser in person or notice given to him in writing. Such actual notice in writing shall be presumed to have been given when deposited as registered or certified mail, in the United States mail, addressed to such person at his last-known address.

## **Credit Card Crime Act**

### **Section 1550.21. Definitions**

As used in this act:

(1) “Cardholder” means the person or organization named on the face of a credit card or debit card to whom or for whose benefit the credit card or debit card is issued.



(2) “Credit card” means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit and all such credit cards lawfully issued shall be considered the property of the cardholders or the issuer for all purposes.

(3) “Debit card” means any instrument or device, whether known as a debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds from a consumer banking electronic facility.

(4) “Issuer” means any person, firm, corporation, financial institution or its duly authorized agent who issues a credit card or a debit card.

(5) “Receives” or “receiving” means acquiring possession or control or accepting as security for a loan.

(6) “Revoked card” means a credit card or a debit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

#### **Section 1550.22. Taking credit card or debit card—Receiving taken credit or debit card**

(a) A person who takes a credit card or debit card from the person, possession, custody or control of another without the cardholder’s consent, or who, with knowledge that it has been so taken, receives the credit card or debit card with intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder, is guilty of card theft and is subject to the penalties set forth in Section 1550.33(a) of this title.

(b) Taking a credit card or a debit card without consent includes obtaining it by the crime of larceny, larceny by trick, larceny by the bailee, embezzlement or obtaining property by false pretense, false promise, extortion or in any manner taking without the consent of the cardholder or issuer.

(c) A person who has in his possession or under his control any credit card or debit card obtained under subsection (b) of this section is presumed to have violated this section.

#### **Section 1550.23. Receiving, holding or concealing lost or mislaid card**

A person who receives, holds or conceals a credit card or a debit card which has been lost or mislaid under circumstances which give him knowledge or cause to inquire as to the true owner and appropriates it to his use or the use of another not entitled thereto is subject to the penalties set forth in Section 1550.33(a) of this title.

#### **Section 1550.24. Selling or buying credit card or debit card**

A person other than the issuer who sells a credit card or debit card or a person who buys a credit card or a debit card from a person other than the issuer is guilty of theft and is subject to the penalties set forth in Section 1550.33(a) of this title.

#### **Section 1550.25. Controlling credit or debit card as security for debt**

A person with intent to defraud (a) the issuer, (b) a person or organization providing money, goods, services or anything else of value, or (c) any other person, who obtains control over a credit card or debit card as security for debt is guilty of theft and is subject to the penalties set forth in Section 1550.33(a) of this title.

#### **Section 1550.26. Receiving taken or retained card upon giving consideration**

A person, other than the issuer, who receives, on giving of any consideration, credit cards or debit cards issued to any other person, which he has reason to know were taken or retained under circumstances which constitute card theft, is guilty of card theft and is subject to the penalties set forth in Section 1550.33(a) of this title.

#### **Section 1550.27. False making or embossing of credit or debit card**

(a) A person, with intent to defraud (1) a purported issuer, (2) a person or organization providing money, goods, services or anything else of value, or (3) any other person, who falsely makes or falsely embosses a purported credit card or debit card or utters such a credit card or debit card is guilty of forgery and is subject to the penalties set forth in Section 1550.33(a) of this title.

(b) A person other than the purported issuer who possesses any credit card or debit card which is falsely made or falsely embossed is presumed to have violated this section.

(c) A person “falsely makes” a credit card or debit card when he makes or draws, in whole or in part, a device or instrument which purports to be the credit card or debit card of a named issuer but which is not such a credit card or debit card because the issuer did not authorize the making or drawing, or when he alters a credit card or debit card which was validly issued.

(d) A person “falsely embosses” a credit card or debit card when, without the authorization of the named issuer, he completes a credit card or debit card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card or debit card before it can be used by a cardholder.

#### **Section 1550.28. Signing of card—Possession of signed or unsigned card**

(a) A person other than the cardholder or a person authorized by him who, with intent to defraud (1) the issuer, (2) a person or organization providing money, goods, services or anything else of value, or (3) any other person, signs a credit card or debit card violates this subsection and is subject to the penalties set forth in Section 1550.33(a) of this title.

(b) When a person, other than the cardholder or a person authorized by him, possesses any credit card or debit card which is signed or not signed, such possession shall be a crime and subject to the penalties set forth in Section 1550.33 of this title.

#### **Section 1550.29. Forged or revoked card**

A person who, with intent to defraud (a) the issuer, (b) a person or organization providing money, goods, services or anything else of value, or (c) any other person, uses for the purpose of obtaining money, goods, services or anything else of value a credit card or debit card obtained or retained in violation of any provision of Sections 1550.22 through 1550.28 of this title or a credit card or debit card which he knows is forged or revoked, or obtains money, goods, services or anything else of value by representing, without the consent of the cardholder, that he is the holder of a specified card or by representing that he is the holder of a card and such card has in fact not been issued, has violated this subsection and is guilty of an offense and is subject to the penalties set forth in Section 1550.33(a) of this title. Knowledge of revocation shall be presumed to have been received by a cardholder fourteen (14) days after it has been mailed to him at the address in the Choctaw Nation of Oklahoma set forth on the credit card application or at his last-known address by registered or certified mail, return receipt requested.

#### **Section 1550.30. Failure to furnish money, goods or services represented to have been furnished**

A person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card or debit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer or cardholder, fails to furnish money, goods, services or anything else of value which he represents in writing to the issuer that he has furnished violates this subsection and is subject to the penalties set forth in Section 1550.33(a) of this title.

#### **Section 1550.31. Possessing incomplete cards**

(a) A person other than the cardholder possessing one or more incomplete credit cards or debit cards, with intent to complete them without the consent of the issuer, or a person possessing, with knowledge of its character, machinery, plates or any other contrivance designed to reproduce instruments purporting to be the credit cards or debit cards of an issuer who has not consented to the preparation of such credit cards or debit cards, is guilty of an offense and is subject to the penalties set forth in Section 1550.33(b) of this title.

(b) A credit card or debit card is “incomplete” if part of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card or debit card before it can be used by a cardholder has not yet been stamped, embossed, imprinted, or written on it.

#### **Section 1550.32. Receiving of money, goods, or services in violation of Section 1550.29**

A person who receives money, goods, services, or anything else of value obtained in violation of Section 1550.29 of this title, with the knowledge or belief that it was so obtained, is guilty of an offense and is subject to the penalties set forth in Section 1550.33(a) of this title.

#### **Section 1550.33. Penalties**

(a) A person who is subject to the penalties of this subsection shall be guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00) or imprisoned for not more than three (3) years, or both.

(b) A person who is subject to the penalties of this subsection shall be guilty of a felony and shall be imprisoned for not more than three (3) years.

(c) A person who violates any provision of the Credit Card Crime Act shall be deemed guilty of a felony.

#### **Section 1550.34. Other criminal law not precluded—Exception**

This act shall not be construed to preclude the applicability of any other provision of the criminal law of the Choctaw Nation of Oklahoma which presently applies or may in the future apply to any transaction which violates this act, unless such provision is inconsistent with the terms of this act.

#### **Section 1550.35. Provisions cumulative**

The provisions of this act shall be cumulative to any existing laws.

#### **Section 1550.36. Short title**

This act shall be known and may be cited as the “Credit Card Crime Act.”

#### **Identification Documents, Cards and Certificates**

## **Section 1550.41. Definitions—Offenses—Penalties**

A. As used in this section and Section 1550.42 of this title, “identification document”, “identification card”, or “identification certificate” means any printed form which contains:

1. The name and photograph of a person;
2. The name and any physical description of a person;
3. The name and social security number of a person; or
4. Any combination of information provided for in paragraphs 1 through 3 of this subsection; and

which by its format, is capable of leading a person to believe said document, card, or certificate has been issued for the purpose of identifying the person named thereon, but shall not include any printed form which, on its face, conspicuously bears the term “NOT FOR IDENTIFICATION” in not less than six-point type.

B. It is a misdemeanor for any person:

1. To purchase an identification document, identification card, or identification certificate which bears altered or fictitious information concerning the date of birth, sex, height, eye color, weight, a fictitious or forged name or signature or a photograph of any person, other than the person named thereon;
2. To display or cause or permit to be displayed or to knowingly possess an identification document, identification card or identification certificate which bears altered or fictitious information concerning the date of birth, sex, height, eye color, weight, or fictitious or forged name or signature or a photograph of any person, other than the person named thereon;
3. To display or cause or permit to be displayed or to knowingly possess any counterfeit or fictitious identification document, identification card, or identification certificate; or
4. To use “The Great Seal of the Choctaw Nation of Oklahoma” or facsimile thereof, on any identification document, identification card, or identification certificate which is not issued by an entity of the Choctaw Nation of Oklahoma, or by the United States. Provided, nothing in this paragraph shall be construed to prohibit the use of “The Great Seal of the Choctaw Nation of Oklahoma” for authorized advertising, including, but not limited to, business cards, calling cards and stationery.

C. It is a felony for any person:

1. To create, publish or otherwise manufacture an identification document, identification card or identification certificate or facsimile thereof, or to create, manufacture or possess an engraved

plate or other such device for the printing of an identification document, identification card or identification certificate or facsimile thereof, which purports to identify the bearer of such document, card, or certificate whether or not intended for use as identification, and includes, but is not limited to, documents, cards, and certificates purporting to be driver licenses, non-driver identification cards, birth certificates, social security cards, and employee identification cards, except as authorized by law;

2. To sell or offer for sale an identification document, identification card, or identification certificate or facsimile thereof, which purports to identify the bearer of such document, card, or certificate whether or not intended for use as identification, and includes, but is not limited to, documents, cards, and certificates purporting to be driver licenses, non-driver identification cards, birth certificates, social security cards, and employee identification cards, except as authorized by law; or

3. To display or present an identification document, identification card or identification certificate which bears altered, false or fictitious information for the purpose of:

a. committing or aiding in the commission of a felony in any commercial or financial transaction,

b. misleading a peace officer in the performance of duties, or

c. avoiding prosecution.

D. 1. The violation of any of the provisions of subsection B of this section shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00), nor more than Five Hundred Dollars (\$500.00).

2. The violation of any of the provisions of subsection C of this section shall constitute a felony and, upon conviction thereof, shall be punishable by a fine not exceeding Five Thousand Dollars (\$5,000.00) or a term of imprisonment not to exceed three (3) years, or by both such fine and imprisonment.

E. Notwithstanding any provision of this section, the chief administrator of a tribal, federal or state law enforcement, military, or intelligence agency may request the Executive Director of the Department of Public Safety to authorize the issuance of an identification document, identification card, or identification certificate which would otherwise be a violation of this section, to identify a law enforcement officer or agent as another person for the sole purpose of aiding in a criminal investigation or a military or intelligence operation. A person displaying or possessing such identification shall not be prosecuted for a violation of this section. Upon termination of the investigation or operation, the person to whom such identification document, identification card or identification certificate was issued shall return such identification to the Department of Public Safety.

**Section 1550.42. Entities authorized to print identification documents, cards and certificates**

A. The following entities may create, publish or otherwise manufacture an identification document, identification card, or identification certificate and may possess an engraved plate or other such device for the printing of such identification; provided, the name of the issuing entity shall be clearly printed upon the face of the identification:

1. Businesses, companies, corporations, service organizations and tribal, federal, state and other governmental agencies for employee identification which is designed to identify the bearer as an employee;
2. Businesses, companies, corporations and service organizations for customer identification which is designed to identify the bearer as a customer or member;
3. Tribal, federal, state and other government agencies for purposes authorized or required by law or any legitimate purpose consistent with the duties of such an agency, including, but not limited to, voter identification cards, driver licenses, non-driver identification cards, passports, birth certificates and social security cards;
4. Any tribal, public, or private school or educational institution, to identify the bearer as an administrator, faculty member, student or employee;
5. Any professional organization or labor union to identify the bearer as a member of the professional organization or labor union; and
6. Businesses, companies or corporations which manufacture medical-alert identification for the wearer thereof.

**Section 1550.43. False or fraudulent identification cards, etc.—Seizure and forfeiture of cards and equipment—Service of notice—Hearing—Claim for equipment—Liability—Expenses—Proceeds—Definitions**

A. Any false or fraudulent identification document, card or certification in violation of Section 1550.41 of this title or any driver license or identification card in violation of Section 6-301 of the Choctaw Nation Traffic Code that is possessed, transferred, sold or offered for sale in violation of law shall be seized and summarily forfeited when no longer needed as evidence.

B. Any peace officer of the Choctaw Nation of Oklahoma is authorized to seize any equipment which is used, or intended for use in the preparing, photographing, printing, selling, exhibiting, publishing, distributing, displaying, advertising, filming, copying, recording, or mailing of any identification document, card, or certificate in violation of Section 1550.41 of this title or of any driver license or identification card in violation of Section 6-301 of the Choctaw Nation Traffic

Code. Said equipment may be held as evidence until a forfeiture has been declared or a release ordered. Forfeiture actions under this section may be brought by the prosecuting attorney as petitioner; provided, in the event the prosecuting attorney elects not to file such an action, or fails to file such action within ninety (90) days of the date of the seizure of such equipment, a forfeiture action may be brought by the entity seizing such equipment as petitioner.

C. Notice of seizure and intended forfeiture proceeding shall be given all owners and parties in interest by the party seeking forfeiture as follows:

1. Upon each owner or party in interest whose name and address is known, by mailing a copy of the notice by registered mail to the last-known address; and

2. Upon all other owners or parties in interest, whose addresses are unknown, by one publication in a newspaper of general circulation in the county where the seizure was made.

D. Within sixty (60) days after the mailing or publication of the notice, the owner of the equipment and any other party in interest may file a verified answer and claim to the equipment described in the notice of seizure and of the intended forfeiture proceeding.

E. If at the end of sixty (60) days after the notice has been mailed or published there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use and may order the equipment forfeited to the state, if such fact is proven.

F. If a verified answer is filed, the forfeiture proceeding shall be set for hearing.

G. At the hearing the party seeking the forfeiture shall prove by clear and convincing evidence that the equipment was used in the preparing, photographing, printing, selling, exhibiting, publishing, distributing, displaying, advertising, filming, copying, recording, or mailing of any identification document, card, or certificate in violation of Section 1550.41 of this title or of any driver license or identification card in violation of Section 6-301 of the Choctaw Nation Traffic Code with knowledge by the owner of the equipment.

H. The owner or party in interest may prove that the right or interest in the equipment was created without any knowledge or reason to believe that the equipment was being, or was to be, used for the purpose charged.

I. In the event of such proof, the court may order the equipment released to the bona fide or innocent owner or party in interest if the amount due the person is equal to, or in excess of, the value of the equipment as of the date of the seizure.

J. If the amount due to such person is less than the value of the equipment, or if no bona fide claim is established, the equipment shall be forfeited to the Choctaw Nation and shall be sold or destroyed pursuant to the judgment of the court.



K. Equipment taken or detained pursuant to this section shall not be replevable, but shall be deemed to be in the custody of the office of the prosecuting attorney where the equipment was seized or in the custody of the party seeking the forfeiture. The prosecuting attorney or the party seeking the equipment may release said equipment to the owner of the equipment if it is determined that the owner had no knowledge of the illegal use of the equipment or if there is insufficient evidence to sustain the burden of showing illegal use of the equipment. Equipment which has not been released by the prosecuting attorney or the party seizing the equipment shall be subject to the orders and decrees of the court or the official having jurisdiction thereof.

L. The prosecuting attorney or the party seizing such equipment shall not be held civilly liable for having custody of the seized equipment or proceeding with a forfeiture action as provided for in this section.

M. The proceeds of the sale of any equipment not taken or detained by the Department of Public Safety shall be distributed as follows, in the order indicated:

1. To the bona fide or innocent purchaser or conditional sales vendor of the equipment, if any, up to the amount of the person's interest in the equipment, when the court declaring the forfeiture orders a distribution to such person;
2. To the payment of the actual expenses of preserving the equipment; and
3. The balance to a revolving fund to be used and maintained as a revolving fund for any purpose by the department. Monies from the fund may be used to pay costs for the storage of such equipment if such equipment is ordered released to a bona fide or innocent owner, purchaser, or conditional sales vendor and if such monies are available in the fund.

N. When any equipment is forfeited pursuant to this section, the district court may order that the equipment seized may be retained by the law enforcement agency which seized the equipment for its official use.

O. If the court finds that the equipment was not used in the preparing, photographing, printing, selling, exhibiting, publishing, distributing, displaying, advertising, filming, copying, recording, or mailing of any identification document, card, or certificate in violation of Section 1550.41 of this title or of any driver license or identification card in violation of Section 6-301 of the Choctaw Nation Traffic Code, the court shall order the equipment released to the owner.

P. No equipment shall be forfeited pursuant to the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the knowledge or consent of such owner, or by any person other than such owner while such equipment was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, of any state, or of any federally recognized Indian tribe.

Q. For the purposes of this section, the term “equipment” shall include computers, printers, copy machines, other machines, furniture, supplies, books, records, files, data, currency, or negotiable instruments including, but not limited to, money orders or cashier’s checks but shall not include vehicles or real property.

## **Chapter 62. False Weights and Measures**

### **Section 1551. Use of false weights and measures**

If any person with intent to defraud, use a false balance, weight or measure, in the weighing or measuring of anything whatever that is purchased, sold, bartered, shipped or delivered, for sale or barter, or that is pledged, or given in payment, he shall be punished by a fine not exceeding One Hundred Dollars (\$100.00) nor less than Five Dollars (\$5.00), or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment, and shall be liable to the injured party in double the amount of damages.

### **Section 1552. Retaining same knowingly**

Every person who retains in his possession any weight or measure, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it, or permit it to be used in violation of the last section, shall be punished as therein provided.

### **Section 1553. False weights and measures may be seized**

Every person who is authorized or enjoined by law to arrest another person for violation of the first two sections of this article, is equally authorized and enjoined to seize any false weights or measures found in the possession of the person so arrested, and to deliver the same to the magistrate before whom the person so arrested is required to be taken.

### **Section 1554. Testing seized weights and measures—Disposition**

The magistrate to whom any weight or measure is delivered, pursuant to the last section, shall, upon the examination of the accused, or if the examination is delayed or prevented, without awaiting such examination, cause the same to be tested by comparison with standards conformable to law; and if he finds it to be false, he shall cause it to be destroyed, or to be delivered to the prosecuting attorney, as the interests of justice in his judgment require.

### **Section 1555. Destruction of false weights or measures after conviction**

Upon the conviction of the accused, such prosecuting attorney shall cause any weight or measure in respect whereof the accused stands convicted, and which remains in the possession or under the control of such prosecuting attorney, to be destroyed.

### **Section 1556. Marking false weight or false tare**

Every person who knowingly marks or stamps false or short weight, or false tare on any cask or package or knowingly sells or offers for sale any cask or package so marked is guilty of a misdemeanor.

## **Chapter 63. Forgery or Counterfeiting**

### **Forgery in First Degree**

#### **Section 1561. Wills, deeds and certain other instruments, forgery of**

Every person who, with intent to defraud, forges, counterfeits or falsely alters:

1st. Any will or codicil of real or personal property, or any deed or other instrument being or purporting to be the act of another, by which any right or interest in real property is, or purports to be, transferred, conveyed or in any way changed or affected; or,

2nd. Any certificate or endorsement of the acknowledgment by any person of any deed or other instrument which by law may be recorded or given in evidence, made or purporting to have been made by any officer duly authorized to make such certificate or endorsement; or,

3rd. Any certificate of the proof of any deed, will, codicil or other instrument which by law may be recorded or given in evidence, made or purporting to have been made by any court or officer duly authorized to make such certificate,

is guilty of forgery in the first degree.

#### **Section 1562. Reserved**

Every person who, with intent to defraud, forges, counterfeits, or falsely alters:

### **Forgery in Second Degree**

#### **Section 1571. Public and corporate seals, forgery of**

Every person who, with intent to defraud, forges, or counterfeits the great or privy seal of the Choctaw Nation of Oklahoma, the seal of any public office authorized by law, the seal of any court of record, or the seal of any corporation created by the laws of the Choctaw Nation of Oklahoma, or of any other tribe, state, government or country, or any other public seal authorized or recognized by the laws of the Choctaw Nation of Oklahoma, or of any other tribe, state, government or country, or who falsely makes, forges or counterfeits any impression purporting to be the impression of any such seal, is guilty of forgery in the second degree.

#### **Section 1572. Records, forgery of**

Every person who, with intent to defraud, falsely alters, destroys, corrupts or falsifies:

1. Any record of any will, codicil, conveyance or other instrument, the record of which is, by law, evidence; or,
2. Any record of any judgment in a court of record, or any enrollment of any decree of a court of equity; or
3. The return of any officer, court or tribunal to any process of any court,

is guilty of forgery in the second degree.

#### **Section 1573. Making false entries in record**

Every person who, with intent to defraud, falsely makes, forges or alters, any entry in any book of records, or any instrument purporting to be any record or return specified in the last section; and any abstractor, his officer, agent or employee, who, with intent to defraud, falsely makes or alters any abstract entry or copy thereof in any material matter, is guilty of forgery in the second degree.

#### **Section 1574. Making false certificate of acknowledgment**

If any officer authorized to take the acknowledgment or proof of any conveyance of real property, or of any other instrument which by law may be recorded, knowingly and falsely certifies that any such conveyance or instrument was acknowledged by any party thereto, or was proved by any subscribing witness, when in truth such conveyance or instrument was not acknowledged or proved as certified, he is guilty of forgery in the second degree.

#### **Section 1575. False bank note plates**

Every person who, makes or engraves, or causes or procures to be made or engraved, any plate in the form or similitude of any promissory note, bill of exchange, draft, check, certificate of

deposit or other evidence of debt issued by any banking corporation or association, or individual banker, incorporated or carrying on business under the laws of the Choctaw Nation of Oklahoma, or of any other tribe, state, government or country, without the authority of such bank, or has or keeps in his custody or possession any such plate, without the authority of such bank, with intent to use or permit the same to be used for the purpose of taking therefrom any impression, to be passed, sold or altered, or has or keeps in his custody or possession, without the authority of such bank, any impression taken from any such plate, with intent to have the same filled up and completed for the purpose of being passed, sold or altered; or makes or causes to be made, or has in his custody or possession, any plate upon which are engraved any figures, or words, which may be used for the purpose of falsely altering any evidence of debt issued by any such bank, with intent to use the same, or to permit them to be used for such purpose, is guilty of forgery in the second degree.

#### **Section 1576. Imitation of genuine bank note defined**

Every plate specified in the last section shall be deemed to be in the form and similitude of the genuine instrument imitated, in either of the following cases:

1. When the engraving on such plate resembles and conforms to such parts of the genuine instrument as are engraved; or,
2. When such plate is partly finished, and the part so finished resembles and conforms to similar parts of the genuine instrument.

#### **Section 1577. Notes, checks, bills, drafts—Sale, exchange or delivery**

Every person who sells, exchanges or delivers for any consideration any forged or counterfeited promissory note, check, bill, draft, or other evidence of debt, or engagement for the payment of money absolutely, or upon any contingency, knowing the same to be forged or counterfeited, with intent to have the same uttered or passed, or who offers any such note or other instrument for sale, exchange or delivery for any consideration, with the like knowledge and intent, or who receives any such note or other instrument upon a sale, exchange or delivery for any consideration with the like knowledge and intent, is guilty of forgery in the second degree.

#### **Section 1578. Possession of forged evidences of debt**

Every person who, with intent to defraud, has in his possession any forged, altered or counterfeit negotiable note, bill, draft or other evidence of debt issued or purporting to have been issued by any corporation or company duly authorized for that purpose by the laws of the Choctaw Nation of Oklahoma or of any other tribe, state, government or country, the forgery of which is hereinbefore declared to be punishable, knowing the same to be forged, altered or counterfeited,

with intent to utter the same as true or as false, or to cause the same to be so uttered, is guilty of forgery in the second degree.

#### **Section 1579. Possession of other forged instruments**

Every person who has in his possession any forged or counterfeited instrument, the forgery of which is hereinbefore declared to be punishable, other than such as are enumerated in the last section, knowing the same to be forged, counterfeited or falsely altered with intent to injure or defraud by uttering the same to be true, or as false, or by causing the same to be uttered, is guilty of forgery in the second degree.

#### **Section 1580. Issuing spurious certificates of stock**

Any officer or agent of any corporation or joint-stock association formed or existing under or by virtue of the laws of the Choctaw Nation of Oklahoma, or of any other tribe, state, government or country, who, within the Choctaw Nation of Oklahoma, willfully signs or procures to be signed, with intent to issue, sell or pledge, or to cause to be issued, sold or pledged, or who willfully issues, sells or pledges, or causes to be issued, sold or pledged, any false or fraudulent certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such corporation or association, whether of full-paid shares or otherwise, or of any interest in its property or profits, or of any certificate or other evidence of such ownership, transfer or interest, or any instrument purporting to be a certificate or other evidence of such ownership, transfer or interest, the signing, issuing, selling or pledging of which has not been duly authorized by the board of directors or other managing body of such corporation or association having authority to issue the same, is guilty of forgery in the second degree.

#### **Section 1581. Reissuing cancelled certificates of stock**

Any officer or agent of any corporation or joint-stock association formed or existing under or by virtue of the laws of the Choctaw Nation of Oklahoma, or of any other tribe, state, government or country, who, within the Choctaw Nation of Oklahoma, willfully reissues, sells or pledges, or causes to be reissued, sold or pledged, any surrendered or canceled certificate, or other evidence of the ownership or transfer of any share or shares of the capital stock of such corporation or association, or of an interest in its property or profits, with intent to defraud, is guilty of forgery in the second degree.

#### **Section 1582. False evidences of debt**

Any officer or agent of any corporation, municipal or otherwise, of any joint-stock association formed or existing under or by virtue of the laws of the Choctaw Nation of Oklahoma, or of any other tribe, state, government or country, who, within the Choctaw Nation of Oklahoma,

willfully signs or procures to be signed with intent to issue, sell or pledge, or cause to be issued, sold or pledged, or who willfully issues, sells or pledges, or causes to be issued, sold or pledged, any false or fraudulent bond or other evidence of debt against such corporation or association of any instrument purporting to be a bond or other evidence of debt against such corporation or association, the signing, issuing, selling or pledging of which has not been duly authorized by the board of directors or common council or other managing body of officers of such corporation having authority to issue the same, is guilty of forgery in the second degree.

### **Section 1583. Counterfeiting coin**

Every person who counterfeits any gold or silver coin, whether of the United States or any foreign government or country, with intent to sell, utter, use or circulate the same as genuine, within the Choctaw Nation of Oklahoma, is guilty of forgery in the second degree.

### **Section 1584. Counterfeiting coin for exportation**

Every person who counterfeits any gold or silver coin, whether of the United States or of any foreign country or government, with intent to export the same, or permit them to be exported to injure or defraud any foreign government, or the subjects thereof, is guilty of forgery in the second degree.

### **Section 1585. Forging process of court or title to property, etc.**

Every person who, with intent to defraud, falsely marks, alters, forges or counterfeits:

1. Any instrument in writing, being or purporting to be any process issued by any competent court, magistrate, or officer of being or purporting to be any pleading, proceeding, bond or undertaking filed or entered in any court, or being or purporting to be any license or authority authorized by any statute; or,
2. Any instrument of writing, being or purporting to be the act of another by which any pecuniary demand or obligation is, or purports to be created, increased, discharged or diminished, or by which any rights or property whatever, are, or purport to be, transferred, conveyed, discharged, diminished, or in any manner affected, the punishment of which is not hereinbefore prescribed, by which false marking, altering, forging or counterfeiting, any person may be affected, bound or in any way injured in his person or property, is guilty of a forgery in the second degree.

### **Section 1586. Making false entries in public book**

Every person who, with intent to defraud, makes any false entry or falsely alters any entry made in any book of accounts kept in the office of the Choctaw Nation Auditor, or in the office of the Treasurer of the Choctaw Nation of Oklahoma, by which any demand or obligation, claim, right or interest either against or in favor of the Choctaw Nation of Oklahoma, or any individual, is or purports to be discharged, diminished, increased, created, or in any manner affected, is guilty of forgery in the second degree.

#### **Section 1587. Forging tickets of passage**

Every person who, with intent to defraud, forges, counterfeits, or falsely alters any ticket, check or other paper or writing to entitle the holder or proprietor thereof to a passage upon any railroad, or in any vessel or other public conveyance; and every person who, with like intent, sells, exchanges or delivers, or keeps or offers for sale, exchange or delivery, or receives upon any purchase, exchange or delivery any such ticket, knowing the same to have been forged, counterfeited or falsely altered is guilty of forgery in the second degree.

#### **Section 1588. Postage stamps, forging**

Every person who forges, counterfeits or alters any postage or revenue stamp of the United States, or who sells or offers to keep for sale, as genuine or as forged, any such stamp, knowing it to be forged, counterfeited or falsely altered, is guilty of forgery in the second degree.

#### **Section 1589. False entries in corporation books**

Every person who, with intent to defraud, makes any false entry, or falsely alters any entry made in any book of accounts kept by any corporation within the Choctaw Nation of Oklahoma, or in any book of accounts kept by any such corporation or its officers, and delivered or intended to be delivered to any person dealing with such corporation, by which any pecuniary obligation, claim or credit is, or purports to be, discharged, diminished, increased, created or in any manner affected, is guilty of forgery in the second degree.

#### **Section 1590. Officer or employee of corporation making false entries**

Every person who being a member or officer or in the employment of any corporation, association or partnership, falsifies, alters, erases, obliterates or destroys any account or book of accounts or records belonging to such corporation, association or partnership, or appertaining to their business or makes any false entries in such account or book or keeps any false account in such business with intent to defraud his employers, or to conceal any embezzlement of their money, or property, or any defalcation or other misconduct, committed by any person in the management of their business, is guilty of forgery in the second degree.



**Section 1591. Possession of counterfeit coin**

Every person who has in his possession any counterfeit of any gold or silver coin, whether of the United States or any foreign country or government, knowing the same to be counterfeit, with intent to sell or to use, circulate or export the same, as true or as false, or by causing the same to be uttered or passed, is guilty of forgery in the second degree.

**Section 1592. Uttering forged instruments or coin**

Every person who, with intent to defraud, utters or publishes as true any forged, altered or counterfeited instrument or any counterfeit gold or silver coin, the forging, altering or counterfeiting of which is hereinbefore declared to be punishable, knowing such instrument or coin to be forged, altered or counterfeited, is guilty of forgery in the second degree.

**Section 1593. Falsely obtaining signature**

Every person who, by any false representation, artifice or deceit, procures from another his signature to any instrument, the false making of which would be forgery, and which the party signing would not have executed had he known the facts and effect of the instrument, is guilty of forgery in the second degree.

**General Provisions****Section 1621. Forgery a felony**

Forgery is a felony punishable by imprisonment as follows:

1. Forgery in the first degree by imprisonment not less than two (2) years nor more than three (3) years, by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both said fine and imprisonment; and
2. Forgery in the second degree not exceeding two (2) years, or by a fine of up to Five Thousand Dollars (\$5,000.00), or by both said fine and imprisonment.

**Section 1622. Fraudulently uttering one's signature as that of another of same name**

Every person who, with intent to defraud, makes or subscribes any instrument in his own name, intended to create, increase, discharge, defeat or diminish any pecuniary obligation, right or interest, or to transfer or affect any property whatever, and utters or passes such instrument, under the pretense that it is the act of another who bears the same name, is guilty of forgery in

the same degree as if he had forged the instrument of a person bearing a different name from his own.

### **Section 1623. Fraudulently uttering one's endorsement as another's**

Every person who, with intent to defraud, endorses any negotiable instrument in his own name, and utters or passes such instrument, under the fraudulent pretense that it is endorsed by another person who bears the same name, is guilty of forgery in the same degree as if he had forged the endorsement of a person bearing a different name from his own.

### **Section 1624. Erasure and obliterations**

The total or partial erasure or obliteration of any instrument or writing, with intent to defraud, by which any pecuniary obligation, or any right, interest or claim to property is or is intended to be created, increased, discharged, diminished or in any manner affected, is forgery in the same degree as the false alteration of any part of such instrument or writing.

### **Section 1625. Writing and written defined**

Every instrument partly printed and partly written, or wholly printed with a written signature thereto, and every signature of an individual, firm or corporation, or of any officer of such body, and every writing purporting to be such signature, is a writing or a written instrument, within the meaning of the provisions of this Chapter 63 of this title.

### **Section 1626. Signing fictitious names as officers of corporations**

The false making or forging of an evidence of debt purporting to have been issued by any corporation and bearing the pretended signature of any person as an agent or officer of such corporation, is forgery in the same degree as if such person was at the time an officer or agent of such corporation; notwithstanding such person may never have been an officer or agent of such corporation, or notwithstanding there never was any such person in existence.

### **Section 1627. False or bogus order directing payment of money**

Every person who, with intent to cheat or defraud, shall obtain or attempt to obtain from any person any labor or personal services, or the postponement of actual payment due for labor or personal services theretofore performed, by means or use of any false or bogus written, printed or engraved order directing the payment of money, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

The term “false or bogus written, printed or engraved order directing the payment of money,” in addition to its common meaning, also shall include any check, draft or order on any bank or trust company which is not honored on presentation on account of insufficient funds to the credit of the maker or drawer thereof with which to pay same. The word “credit,” as used herein, shall mean any arrangement or understanding with a bank or trust company for the payment by it of any check, draft or money payment order.

As against the maker or drawer of any false or bogus written, printed or engraved order directing the payment of money, and as against any officer or employee of the maker or drawer thereof, who shall authorize or direct the making, drawing, uttering or delivering, or who shall make, draw, utter or deliver any such false or bogus written, printed or engraved order directing the payment of money, to obtain or to attempt to obtain from any person any labor or personal services, or the postponement of actual payment due for labor or personal services, the fact of dishonor or refusal to pay the amount of money specified in said false or bogus order shall be prima facie evidence of intent to cheat or defraud, and of knowledge of insufficient funds to the credit of the maker or drawer, with the drawer specified therein, to pay the same; provided, said fact shall not constitute prima facie evidence as above set forth if the maker or drawer shall pay the amount of such false or bogus order, together with protest fees, within five (5) days from the date the same shall have been presented to the drawer for payment; and provided further, that said fact shall not constitute prima facie evidence as above set forth unless the said false or bogus order be presented to the drawer within thirty (30) days after the same shall have been uttered or delivered.

#### **Section 1627.1. False or bogus orders as payment for labor—Penalties**

In addition to the criminal penalties imposed pursuant to the provisions of Section 1627 of this Title, any person who obtains or attempts to obtain from any person, with the intent to cheat or defraud, any labor or personal services, or the postponement of actual payment due for labor or personal services performed, by means or use of any false or bogus written, printed or engraved order directing the payment of money, shall also be liable to the payee, in addition to the amount owing upon such order, for damages of double the amount so owing, but in no case shall the amount of damages awarded be less than Two Hundred Dollars (\$200.00), plus reasonable attorney fees and court costs. Said damages shall be recoverable in a civil action.

#### **Chapter 64. Reserved**

#### **Chapter 65. Frauds on Insurance Companies**

#### **Section 1662. False claim or proof of loss in insurance**

Any person who presents or causes to be presented any false or fraudulent claim, or any proof in support of any such claim, upon any contract of insurance, for the payment of any loss, or who prepares, makes or subscribes any account, certificate, survey affidavit, proof of loss, or other book, paper or writing, with intent to present or use the same, or to allow it to be presented or used in support of any such claim, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or both.

### **Section 1663. Workers' compensation fraud—Punishment**

A. Any person who commits workers' injury fraud, upon conviction, shall be guilty of a felony punishable by imprisonment for not exceeding three (3) years or by a fine not exceeding Five Thousand Dollars (\$5,000.00) or by both such fine and imprisonment.

B. For the purposes of this section, workers' injury fraud shall include, but not be limited to, any act or omission prohibited by subsection C of this section and committed by a person with the intent to injure, defraud or deceive another with respect to any of the following:

1. A claim for payment or other benefit pursuant to claim of injury by any worker; or
2. A request for any approval or permission required by the Workers' Injury Code or by the rules of the Human Resources Department of the Choctaw Nation of Oklahoma necessary to secure compensation;

C. A person is guilty of workers' injury fraud who:

1. Presents, causes to be presented or intends to present to another, any statement as part of or in support of any of the purposes described in subsection B of this section knowing that such statement contains any false, fraudulent, incomplete or misleading information concerning any fact or thing material to the purpose for the statement;
2. Assists, abets, solicits or conspires with another to prepare or make any statement that is intended to be presented to, used by or relied upon by another in connection with or in support of any of the purposes described in subsection B of this section knowing that such statement contains any false, fraudulent, incomplete or misleading information concerning any fact or thing material to the purpose of the statement;
3. Conceals, attempts to conceal or conspires to conceal any information concerning any fact material to any of the purposes described in subsection B of this section;
4. Solicits, accepts or conspires to solicit or accept any benefit in exchange for violating any provision of this section;

5. Conceals, attempts to conceal, conspires to conceal or fails to disclose any change in any material fact, circumstance or thing for which there is a duty to disclose to another; or

6. Alters, falsifies, forges, distorts, counterfeits or otherwise changes any material statement, form, document, contract, application, certificate, or other writing with the intent to defraud, deceive, or mislead another.

D. For the purposes of this section:

1. “Person” means any individual or entity, whether incorporated or not, and in the case of an entity, includes those persons directly responsible for the fraudulent actions of the entity;

2. “Statement” includes, but is not limited to, any oral, written, computer-generated or otherwise produced notice, proof of loss, bill of lading, receipt for payment, invoice, account, certificate, survey affidavit, book, paper, writing, estimate of property damage, bill for services, diagnosis, prescription, medical record, x-ray, test result or other evidence of loss, injury or expense; and

3. “Work” does not include activities that result in nominal economic gain.

## **Chapter 66. Fraudulent Insolvencies by Individuals**

### **Section 1671. Fraudulent conveyance**

Every person who being a party to any conveyance or assignment of any real or personal property, or of any interest therein, made or created with intent to defraud prior or subsequent purchasers, or to hinder, delay or defraud creditors or other persons, and every person being privy to or knowing of such conveyance, assignment or charge, who willfully puts the same in use as having been made in good faith, is guilty of a misdemeanor.

### **Section 1672. Fraudulent removal of property**

Every person who removes any of his property out of the Choctaw Nation of Oklahoma, with intent to prevent the same from being levied upon by any execution or attachment, or who secretes, assigns, conveys or otherwise disposes of any of his property, with intent to defraud any creditor, or to prevent such property being made liable for the payment of his debts, and every person who receives any such property with such intent, is guilty of a misdemeanor.

### **Section 1673. Assignment to creditor with preference**

Every person who, knowing that his property is insufficient for the payment of all his lawful debts, assigns, transfers or delivers any property for the benefit of any creditor or creditors, upon

any trusts or condition, that any creditor shall receive a preference or priority over any other, except in the cases in which such preference is expressly allowed to be given by law, or with intent to create such preference or priority, is guilty of a misdemeanor.

#### **Section 1674. Frauds by insolvent debtor**

Every person who, upon making or prosecuting any application for a discharge as an insolvent debtor, under the provision of any law now in force, or that may hereafter be enacted, either:

1. Fraudulently presents, or authorizes to be presented on his behalf such application, in a case in which it is not authorized by law; or,
2. Makes or presents to any court or officer, in support of such application, any petition, schedule, book, account, voucher or other paper or document, knowing the same to contain any false statement; or,
3. Fraudulently makes or exhibits, or alters, obliterates or destroys any account or voucher relating to the condition of his affairs, or any entry or statement in such account or voucher; or
4. Practices any fraud upon any creditor, with intent to induce him to petition for, or consent to such discharge; or
5. Conspires with or induces any person fraudulently to unite as a creditor in any petition for such discharge, or to practice any fraud in aid thereof,

is guilty of a misdemeanor.

### **Chapter 67. Injuries to Animals**

#### **Section 1680. Short title**

This act shall be known and may be cited as the “Animal Protection Act”.

#### **Section 1680.1. Definitions**

As used in this act:

1. “Animal” means any mammal, bird, fish, reptile or invertebrate, including wild and domesticated species, other than a human being;

2. “Person” means any individual, corporation, association, nonprofit corporation, joint stock company, firm, trust, partnership, two or more persons having a common interest, or other legal entity;

#### **Section 1680.2. Reserved**

#### **Section 1680.3. Veterinarian required to report suspected animal abuse—Immunity from civil liability**

A. A veterinarian shall report suspected cases of animal abuse to tribal law enforcement within twenty-four (24) hours of any examination or treatment administered to any animal which the veterinarian reasonably suspects and believes has been abused. The report shall contain the breed and description of the animal together with the name and address of the owner.

B. A veterinarian who files a report as provided in this section shall be immune from civil liability with respect to any report made in good faith.

#### **Section 1680.4. Reserved**

#### **Section 1681. Poisoning animals**

Any person who willfully administers poison to any animal, the property of another, and every person who maliciously exposes any poisonous substance with intent that the same shall be taken by any such animal, shall be guilty of a felony and shall be punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

#### **Section 1682. Instigating fights between animals**

Every person who maliciously, or for any bet, stake or reward, instigates or encourages any fight between animals, or instigates or encourages any animal to attack, bite, wound or worry another, upon conviction, shall be guilty of a felony and shall be punishable by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

#### **Section 1683. Keeping places for fighting animals**

Every person who keeps any house, pit or other place, to be used in permitting any fight between animals shall be guilty of a felony and shall be punishable by imprisonment not exceeding three

(3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

#### **Section 1684. Reserved**

#### **Section 1685. Cruelty to animals**

Any person who shall willfully or maliciously torture, destroy or kill, or cruelly beat or injure, maim or mutilate any animal in subjugation or captivity, whether wild or tame, and whether belonging to the person or to another, or deprive any such animal of necessary food, drink, shelter, or veterinary care to prevent suffering; or who shall cause, procure or permit any such animal to be so tortured, destroyed or killed, or cruelly beaten or injured, maimed or mutilated, or deprived of necessary food, drink, shelter, or veterinary care to prevent suffering; or who shall willfully set on foot, instigate, engage in, or in any way further any act of cruelty to any animal, or any act tending to produce such cruelty, shall be guilty of a felony and shall be punished by imprisonment not exceeding three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00) or both. Any animal so maltreated or abused shall be considered an abused or neglected animal.

#### **Section 1686. Abandoned animals—Euthanasia—Custody of animal following arrest**

A. Any person owning or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons the animal or who allows the animal to lie in a public street, road, or public place one (1) hour after the person receives notice by a duly constituted authority that the animal is disabled or dead, upon conviction, shall be guilty of a misdemeanor.

B. Any law enforcement officer or animal control officer may humanely destroy or cause to be humanely destroyed any animal found abandoned and for which no proper care has been given.

C. When any person who is arrested is, at the time of the arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any law enforcement officer may take custody of the animal or of the vehicle and its contents, or deliver the animal or the vehicle and its contents into the possession of law enforcement, who shall assume the custody thereof. All necessary expenses incurred in taking custody of the animal or of the vehicle and its contents shall be a lien on such property.

D. The term “abandon” means the voluntary relinquishment of an animal and shall include but shall not be limited to vacating a premises and leaving the animal in or at the premises, or failing to feed the animal or allowing it to stray or wander onto private or public property with the intention of surrendering ownership or custody over the animal.



**Section 1687. Reserved****Section 1688. Animals in transit**

Any person who carries or causes to be carried in or upon any vessel or vehicle, or otherwise, any animal in a cruel or inhuman manner or so as to produce torture is guilty of a misdemeanor.

**Section 1689. Poisonous drugs, unjustifiable administration of**

Any person who unjustifiably administers any poisonous or noxious drug or substance to any animal, or unjustifiably exposes any such drug or substance with intent that the same shall be taken by an animal, whether such animal be the property of himself or another, is guilty of a misdemeanor.

**Section 1690. Reserved****Section 1691. Abandoning of domestic animals along streets or highways or in any public place prohibited**

Any person, who deposits any live dog, cat, or other domestic animal along any private or public roadway, or in any other private or public place with the intention of abandoning the domestic animal upon conviction, shall be guilty of a misdemeanor.

**Section 1692. Penalty**

Any person found guilty of violating any of the provisions of Sections 1686, 1688, 1689 and 1691 of this title shall be punished by a fine in an amount not more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than one (1) year, or by both said fine and imprisonment.

**Chapter 68. Larceny****Section 1701. Larceny defined**

Larceny is the taking, stealing, or carrying away of personal property accomplished by fraud or stealth, and with intent to deprive another thereof.

**Section 1702. Larceny of lost property**

One who finds lost property under circumstances which gives him knowledge or means of inquiry as to the true owner, and who appropriates such property to his own use, or to the use of another person who is not entitled thereto, without having first made such effort to find the owner and restore the property to him as the circumstances render reasonable and just, is guilty of larceny.

### **Section 1703. Degrees of larceny**

Larceny is divided into two degrees; the first of which is termed grand larceny, the second petit larceny.

### **Section 1704. Grand and petit larceny defined**

Grand larceny is larceny committed in either of the following cases:

1. When the property taken is of value exceeding One Thousand Dollars (\$1,000.00).
2. When such property, although not of value exceeding One Thousand Dollars (\$1,000.00), is taken from the person of another.

Larceny in other cases is petit larceny.

### **Section 1705. Grand larceny a felony**

Grand larceny is a felony punishable by imprisonment not exceeding three (3) years or a fine not exceeding Five Thousand Dollars (\$5,000.00) or both and ordered to provide restitution to the victim.

### **Section 1706. Punishment for petit larceny**

Petit larceny shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisonment not to exceed one (1) year, or by both such fine and imprisonment, at the discretion of the court.

### **Section 1707. Grand larceny—Receiving or Purchasing Stolen Property**

Any person who shall steal, take, or carry away any:

1. Item in a dwelling house or vessel;
2. Money or other thing of value from any house, railroad car, tent, booth or temporary building;

3. Item from the person of another in the nighttime;
4. Evidence of debt or other written instrument when any amount of money is remaining due thereon or secured to be paid or in which any contingency might be collected thereon;
5. Instrument for the payment of money, evidence of debt, public security or passage ticket, completed and ready to be issued or delivered, though the same has never been issued or delivered by the makers thereof to any person as a purchaser or owner;
6. Ticket, or other paper or writing entitling or purporting to entitle the holder or proprietor thereof to a passage upon any railroad, or in any vessel or other public conveyance;
7. Fixture or part of realty, the instant it is severed from the realty becomes personal property;
8. Horse, jackass, jennet, mule, cow, hog, implement of husbandry, dog, sheep, or goat;
9. Domestic fowl, or fowls;
10. Aircraft, automobile or other automotive driven vehicle, construction equipment or farm equipment;
11. Domesticated fish or game; or
12. Exotic livestock

shall be guilty of grand larceny, regardless of the value thereof, and upon conviction shall be punished as provided in Section 1705 of this title.

### **Section 1708. Definitions**

As used in this chapter:

1. The word “horse” as used in this paragraph includes all animals of the equine species;
2. The word “cow” includes all animals of bovine species;
3. “Domesticated fish or game” means all birds, mammals, fish and other aquatic forms and all other animals, regardless of classifications, whether resident, migratory or imported, protected or unprotected, dead or alive, and shall extend to and include every part of any individual species when such domesticated fish or game are not in the wild and are in the possession of a person currently licensed to possess such fish or game;

4. “Exotic livestock” means commercially raised exotic livestock including animals of the families bovidae, cervidae and antilocapridae or birds of the ratite group.

#### **Section 1709. Receiving stolen property—Presumption**

A. Every person who buys or receives, in any manner, upon any consideration, any personal property of any value whatsoever that has been stolen, embezzled, obtained by false pretense or robbery, knowing or having reasonable cause to believe the same to have been stolen, embezzled, obtained by false pretense, or robbery, or who conceals, withholds, or aids in concealing or withholding such property from the owner, shall be guilty of a felony punishable by imprisonment not to exceed three (3) years, or by a fine not to exceed Five Thousand Dollars (\$5000.00) or by both such fine and imprisonment.

B. Every person who, without making reasonable inquiry, buys, receives, conceals, withholds, or aids in concealing or withholding any property which has been stolen, embezzled, obtained by false pretense or robbery, or otherwise feloniously obtained, under such circumstances as should cause such person to make reasonable inquiry to ascertain that the person from whom such property was bought or received had the legal right to sell or deliver it shall be presumed to have bought or received such property knowing it to have been so stolen or wrongfully obtained. This presumption may, however, be rebutted by proof.

C. Personal property as used in this section shall also include any construction equipment or farm equipment.

#### **Section 1710. Fraudulent consumption of gas**

Every person who, with intent to defraud, makes or causes to be made, any pipe or other instrument or contrivance, and connects the same, or causes it to be connected, with any pipe laid for conducting illuminating gas, so as to conduct gas to a point where the same may be consumed without its passing through the meter providing for registering the quantity consumed, or in any other manner so as to evade paying therefor, and every person who with like intent injures or alters any gas meter, or obstructs its action, is guilty of a misdemeanor punishable by imprisonment for a term of not more than one (1) year or by a fine in an amount not to exceed One Thousand Dollars (\$1,000.00) or by both such fine and imprisonment.

#### **Section 1715. Bringing stolen property into the Choctaw Nation of Oklahoma**

Every person who steals the property of another in any other jurisdiction, and brings the same into the Choctaw Nation of Oklahoma shall be guilty of a felony upon conviction and shall be punished as provided in Section 1705 of this title.

### **Section 1716. Tapping pipeline**

Any person who shall unlawfully make or cause to be made any connection with or in any way tap or cause to be tapped, or drill or cause to be drilled a hole in any pipe or pipeline or tank laid or used for the conduct or storage of crude oil, naphtha, gas or casing head gas, or any of the manufactured or natural products thereof, with intent to deprive the owner thereof of any of said crude oil, naphtha, gas, casing head gas or any of the manufactured or natural products thereof, shall be guilty of a felony, and upon conviction the person shall be punished by forfeiture of the instrumentality of the crime and by a fine of not more than Five Thousand Dollars (\$5000.00), or confinement for a term of not more than three (3) years, or by both such fine and imprisonment.

### **Section 1717. Taking oil, gas, gasoline or any product thereof—When misdemeanor or felony**

Any person who shall unlawfully take any crude oil or gasoline, or any product thereof, from any pipe, pipeline, tank, tank car, or other receptacle or container and any person who shall unlawfully take or cause to be taken any machinery, drilling mud, equipment or other materials necessary for the drilling or production of oil or gas wells, with intent to deprive the owner or lessee thereof of said crude oil, gas, gasoline, or any product thereof, machinery, drilling mud, equipment or other materials necessary for the drilling or production of oil or gas wells shall:

1. Be guilty of a misdemeanor if the value of said product so taken is less than One Thousand Dollars (\$1,000. 00), and upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment for a term not to exceed one (1) year, or by both such fine and imprisonment;
2. Be guilty of a felony if the value of such product so taken is One Thousand Dollars (\$1,000.00) or more and upon conviction thereof, shall be punished by forfeiture of the instrumentality of the crime and by a fine of not more than Five Thousand Dollars (\$5,000.00), or by imprisonment for a term not more than three (3) years, or by both such fine and imprisonment and ordered to provide restitution to the victim.

### **Section 1718. Mercury—Possession of more than one pound without written evidence of title—Penalty—Defenses**

A. Any person who may be found in the Choctaw Nation of Oklahoma with more than one (1) pound of mercury in his possession, and who does not have valid written evidence of his title to such mercury, shall be guilty of a felony and upon conviction thereof shall be punishable by imprisonment for a period of time not to exceed three (3) years or by a fine not to exceed Five Thousand Dollars (\$5,000.00) or both such fine and imprisonment.

B. It shall be a defense to any charge under this section that the person so charged (1) is a bona fide miner or processor of mercury or (2) that the mercury possessed by such person is, while in his possession, an integral part of a tool, instrument, or device used for a beneficial purpose. In any complaint, information, or indictment brought under this section, it shall not be necessary to negative any exception, excuse, exemption, or defense provided in this section, and the burden of proof of any such exception, excuse, exemption or defense shall be upon the defendant.

#### **Section 1719. Copper—Stealing or removing—Penalties**

Any person who shall enter upon any premises, easement, or right of way with intent to steal or remove without the consent of the owner, or with intent to aid or assist in stealing or removing any copper wire, copper cable, or copper tubing from and off of any appurtenance on such premises, easement, or right of way shall be guilty of a felony and upon conviction shall be punished by imprisonment for a period of time not to exceed three (3) years or by a fine not to exceed Five Thousand Dollars (\$5,000.00) or both such fine and imprisonment.

#### **Section 1720. Possessing, receiving or transporting stolen copper—Penalty**

Any person who shall receive, transport, or possess in the Choctaw Nation of Oklahoma stolen copper wire, copper cable, or copper tubing under such circumstances that he knew or should have known that the same was stolen shall upon conviction thereof be guilty of a felony and shall be imprisoned for a period of time not to exceed three (3) years or by a fine not to exceed Five Thousand Dollars (\$5,000.00) or both such fine and imprisonment.

#### **Section 1721. Act as cumulative—Definitions**

This act shall be cumulative of all laws of the Choctaw Nation of Oklahoma and any violation hereof may be prosecuted, irrespective of whether or not the acts complained of constitute any or some of the essential elements of other or different offenses against the laws of the Choctaw Nation of Oklahoma; and for the purposes of this act the word “stolen” or “steal” shall mean larceny as defined by, Section 1701, and the word “stolen” or “steal” need not be defined in any indictment, complaint, or information for the prosecution of any offense hereunder.

#### **Section 1722. Larceny of merchandise from retailer or wholesaler—Punishment—Recidivists**

Larceny of merchandise held for sale in retail or wholesale establishments shall be punishable as follows:

1. For the first conviction, in the event the value of the goods, edible meat or other corporeal property which has been taken is less than One Thousand Dollars (\$1,000.00), the violator shall

be punishable by imprisonment for a term not exceeding one (1) year, or by a fine not more than One Thousand Dollars (\$1,000.00) or both.

2. If it be shown, in the trial of a case in which the value of the goods, edible meat or other corporeal property is less One Thousand Dollars (\$1,000.00), that the defendant has been once before convicted of the same offense, the defendant shall, on a second conviction, be guilty of a felony and be punished by confinement for a term of not more than three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00) or both.

3. In the event the value of the goods, edible meat or other corporeal property is One Thousand Dollars (\$1,000.00) or more, the defendant shall be guilty of a felony and shall be punished by confinement for a term of not more than three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00) or both and ordered to provide restitution to the victim.

### **Section 1723. Shoplifting—Civil liabilities—Public service in lieu of damages—Limitations—Jurisdiction**

A. As used in this section:

1. “Merchant” means an owner or operator of any mercantile establishment, and includes the merchant’s employees, servants, security agents or other agents;

2. “Mercantile establishment” means any place where merchandise is displayed, held or offered for sale, either at retail or wholesale;

3. “Unemancipated minor” means any unmarried person under eighteen (18) years of age under direct supervision and care of the parent or legal guardian of the minor; and

4. “Emancipated minor” means any person under eighteen (18) who is married and/or not under direct supervision and care of the parent or legal guardian of the minor.

B. An adult or emancipated minor who takes possession of any goods, wares, or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner, seller, or merchant and with the intention of converting such goods, wares, or merchandise to his own use without having paid the purchase price thereof, shall be liable in a civil action for the retail price of the merchandise if it is unsalable or the percentage of the diminished value of the merchandise due to the conversion together with attorney fees and court costs.

C. The parent or legal guardian having custody of an unemancipated minor who takes possession of any goods, wares, or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner, seller, or merchant, and with the intention of converting such goods, wares, or merchandise to his own use without having

paid the purchase price thereof shall be liable in a civil action for the retail price of the merchandise if it is unsalable or the percentage of the diminished value of the merchandise due to the conversion together with attorney fees and court costs.

D. An adult, emancipated minor or unemancipated minor against whom judgment is rendered for taking possession of any goods, wares or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner, seller or merchant and with the intention of converting such goods, wares or merchandise to his or her own use without having paid the purchase price thereof, may also be required to pay exemplary damages.

E. In lieu of the exemplary damages prescribed by subsection D of this section, any adult, emancipated minor or unemancipated minor against whom a judgment for exemplary damages has been rendered hereunder may be required to perform public services designated by the court; provided, that in no event shall any such person be required to perform less than the number of hours of such public service necessary to satisfy the damages assessed by the court at the minimum wage at the time of judgment, but in no case less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).

F. The provisions of this section are in addition to criminal penalties and other civil remedies and shall not limit merchants or other persons from electing to pursue criminal penalties and other civil remedies, so long as a double recovery does not result.

G. For the purpose of this section, liability shall not be imposed upon any Choctaw Nation of Oklahoma entity, private agency, or foster parent assigned responsibility for the minor child pursuant to court order or action of the Choctaw Nation of Oklahoma Department of Children and Family Services.

H. Notwithstanding any other provision of law, a civil action or proceeding pursuant to this section may be commenced at any time within two (2) years after the conduct in violation of a provision of this section terminates or the cause of action accrues. If a criminal prosecution is brought by the Choctaw Nation of Oklahoma to punish, prevent, or restrain any criminal action contained or described in this section, the running of the period of limitations prescribed by this section shall be suspended during the pendency of such prosecution, action, or proceeding and for one (1) year following its termination or conclusion.

I. An action for recovery of damages, pursuant to this section, may be brought in the district court.

#### **Section 1724. Larceny of trade secrets—Applicability of section**



A. Any person who, with intent to deprive or withhold from the owner thereof the control of a trade secret, or with an intent to appropriate a trade secret to his or her own use or to the use of another:

(a) steals or embezzles an article representing a trade secret, or,

(b) without authority makes or causes to be made a copy of an article representing a trade secret,

shall be guilty of larceny under Section 1704 of this title. For purposes of determining whether such larceny is grand larceny or petit larceny under this section, the value of the trade secret and not the value of the article shall be controlling.

B. (a) The word “article” means any object, material, device, customer list, business records, or substance or copy thereof, including any writing, record, recording, drawing, sample, specimen, prototype, model, photograph, microorganism, blueprint, information stored in any computer-related format, or map.

(b) The word “representing” means describing, depleting, containing, constituting, reflecting or recording.

(c) The term “trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, customer list, business records or process, that:

1. derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

2. is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(d) The word “copy” means any facsimile, replica, photograph or other reproduction of an article, including copying, transferring and e-mailing of computer data, and any note, drawing or sketch made of or from an article.

C. In a prosecution for a violation of this act, it shall be no defense that the person so charged returned or intended to return the article so stolen, embezzled or copied.

D. The provisions of this section shall not apply if the person acted in accordance with a written agreement with the person’s employer that specified the manner in which disputes involving clients are to be resolved upon termination of the employer-employee relationship.

## **Section 1725. Larceny of cable, information, or telecommunications services**

A. Any person who:

1. Shall knowingly obtain or attempt to obtain cable, information, or telecommunications service of any type or kind including but not limited to cable television, telephony, internet, and data transmission service from another by means, artifice, trick, deception, or device without the payment to the operator of said service of all lawful compensation for each type of service obtained; or

2. Shall knowingly assist or instruct any other person in obtaining or attempting to obtain cable, information, or telecommunications service of any type or kind including but not limited to cable television, telephony, internet, and data transmission service without the payment to the operator of all lawful compensations; or

3. Shall knowingly tamper or otherwise interfere with or connect to by any means, whether mechanical, electrical, acoustical, or other means, any cables, wires, or other devices used for the distribution of cable, information, or telecommunications service of any type or kind including but not limited to cable television, telephony, internet, and data transmission service without authority from the operator of said service; or

4. Shall knowingly manufacture, import into the Choctaw Nation of Oklahoma, distribute, sell, offer for sale, rental, or use, possess for sale, rental, or use, or advertise for sale, rental, or use any device of any description, or any plan, or kit for a device, designed in whole or in part to facilitate the doing of any of the acts specified in paragraphs 1, 2 and 3 of this subsection;

shall be guilty, upon conviction, of the misdemeanor of larceny of cable television, cable, information, or telecommunications service or tampering with cable television, cable, information, or telecommunications service, which offenses are punishable by imprisonment for not more than one (1) year or by a fine not exceeding One Thousand Dollars (\$1,000.00), or both said fine and imprisonment.

B. In any prosecution as set forth in subsection A of this section, the existence on the property and in the actual possession of the accused, of (1) any connection, wire, conductor, or any device whatsoever, which is connected in such a manner as would appear to permit the use of cable, information, or telecommunications service of any type or kind including but not limited to cable television, telephony, internet, and data transmission service without the same being reported for payment to and specifically authorized by the operator of the cable, information, or telecommunications service of any type or kind including but not limited to cable television, telephony, internet, and data transmission service or (2) the existence on the property and in the actual possession of the accused, in quantities or volumes suggesting possession for resale, of any device designed in whole or in part to facilitate the performance of any of the illegal acts mentioned in subsection A of this section shall be prima facie evidence of intent to violate and of the violation of the provisions of subsection A of this section by the accused.

C. Any person who violates the provisions of this section shall be liable to the franchised or otherwise duly licensed cable television system, information service provider, or other telecommunications service or equipment provider for the greater of the following amounts:

1. Two Thousand Five Hundred Dollars (\$2,500.00); or
2. Three times the amount of actual damages, if any, sustained by the plaintiff, plus reasonable attorney's fees.

D. Any franchised or otherwise duly licensed cable television system, information service provider, or other telecommunications service or equipment provider may bring an action to enjoin and restrain any violation of the provisions of this section or an action of conversion, or both, and may in the same action seek damages as provided for in subsection C of this section.

E. It is not a necessary prerequisite to an action pursuant to this section that the plaintiff has suffered, or be threatened with, actual damages.

F. The provisions of this section shall not be construed or otherwise interpreted to prohibit an individual from owning or operating a device commonly known as a "satellite receiving dish" for the purpose of receiving and utilizing satellite-relayed television signals for his own use.

**Section 1726. Seizure and forfeiture proceedings—Vehicles, airplanes, vessels, etc. used in attempt or commission of certain crimes**

A. 1. Any commissioned law enforcement officer of the Choctaw Nation of Oklahoma is authorized to seize any equipment, vehicle, airplane, vessel or any other conveyance that is used in the commission of any armed robbery offense, used to facilitate the intentional discharge of any kind of firearm, used in the attempt or commission of any act of burglary in the first or second degree, motor vehicle theft, unauthorized use of a vehicle, obliteration of distinguishing numbers on vehicles or criminal possession of vehicles with altered, removed or obliterated numbers, used in the commission of any arson offense, used in any manner to facilitate or participate in the commission of any human trafficking offense, or used by any defendant when such vehicle or other conveyance is used in any manner by a prostitute, pimp or panderer to facilitate or participate in the commission of any prostitution offense in violation of Sections 1028, 1029 or 1030 of this title; provided, however, that the vehicle or conveyance of a customer or anyone merely procuring the services of a prostitute shall not be included.

2. No conveyance used by a person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to the unlawful use of the conveyance in violation of this section.

3. No conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the knowledge or consent of such owner, and if the act is committed by any person other than such owner, the owner shall establish further that the conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the Choctaw Nation of Oklahoma.

B. In addition to the property described in subsection A of this section, the following property is also subject to forfeiture pursuant to this section:

1. Property used in the commission of theft of livestock or in any manner to facilitate the theft of livestock;
2. The proceeds gained from the commission of theft of livestock;
3. Personal property acquired with proceeds gained from the commission of theft of livestock;
4. All conveyances, including aircraft, vehicles or vessels, and horses or dogs which are used to transport or in any manner to facilitate the transportation for the purpose of the commission of theft of livestock;
5. Any weapon possessed, used or available for use in any manner during the commission of a felony within the Choctaw Nation of Oklahoma, or any firearm that is possessed by a convicted felon;
6. Any police scanner used in violation of this title;
7. Any computer and its components and peripherals, including but not limited to the central processing unit, monitor, keyboard, printers, scanners, software, and hardware, when it is used in the commission of any crime in the Choctaw Nation of Oklahoma;
8. All property used in the commission of, or in any manner to facilitate the violation of Choctaw Nation of Oklahoma obscenity or child pornography laws;
9. All conveyances, including aircraft, vehicles or vessels, monies, coins and currency, or other instrumentality used or intended to be used, in any manner or part, to commit a violation of Choctaw Nation of Oklahoma laws, where the victim of the crime is a minor child;
10. All conveyances, including aircraft, vehicles or vessels, monies, coins and currency, or other instrumentality used in any manner or part, to commit any violation of the Human Trafficking Laws;
11. Any and all property used in any manner or part to facilitate, participate or further the commission of a human trafficking offense, and all property, including monies, real estate, or

any other tangible assets or property of or derived from or used by a prostitute, pimp or panderer in any manner or part to facilitate, participate or further the commission of any prostitution offense; provided, however, any monies, real estate or any other tangible asset or property of a customer or anyone merely procuring the services of a prostitute shall not be included; and

12. Any vehicle, airplane, vessel, or parts of a vehicle whose numbers have been removed, altered or obliterated so as to prevent determination of the true identity or ownership of said property and parts of vehicles which probable cause indicates are stolen but whose true ownership cannot be determined.

C. Property described in subsection A or B of this section may be held as evidence until a forfeiture has been declared or a release ordered. Forfeiture actions under this section may be brought by the Choctaw Nation of Oklahoma as petitioner; provided, in the event the Choctaw Nation of Oklahoma elects not to file such action, or fails to file such action within ninety (90) days of the date of the seizure of such equipment, the property shall be returned to the owner unless said property is being held for evidence in the prosecution of said offense or offenses.

D. Notice of seizure and intended forfeiture proceeding shall be filed in the office of the clerk of the district court and shall be given all owners and parties in interest.

E. Notice shall be given in accordance with:

1. The manner of service of process in civil cases prescribed by the Choctaw Nation of Oklahoma;

2. Upon each owner or party in interest whose name and address is known, served in the manner of service of process in civil cases prescribed by the Choctaw Nation of Oklahoma;

3. Upon all other owners, whose addresses are unknown, but who are believed to have an interest in the property served in the manner of service of process in civil cases prescribed by the Choctaw Nation of Oklahoma.

F. Within after service of notice, the owner of the property and any other party in interest or claimant may file a verified answer and claim to the property described in the notice of seizure and of the intended forfeiture proceeding.

G. If at the end of sixty (60) days after the notice has been mailed or published there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use and may order the property forfeited to the Choctaw Nation of Oklahoma, if such fact is proven.

H. If a verified answer is filed, the forfeiture proceeding shall be set for hearing.

I. At the hearing the petitioner shall prove by clear and convincing evidence that property was used in the attempt or commission of an act specified by law.

J. The claimant of any right, title, or interest in the property may prove the lien, mortgage, or conditional sales contract to be bona fide and that the right, title, or interest created by the document was created without any knowledge or reason to believe that the property was being, or was to be, used for the purpose charged.

K. In the event of such proof, the court may order the property released to the bona fide or innocent owner, lien holder, mortgagee, or vendor if the amount due such person is equal to, or in excess of, the value of the property as of the date of the seizure, it being the intention of this section to forfeit only the right, title, or interest of the purchaser, except for items bearing a counterfeit mark or used exclusively to manufacture a counterfeit mark.

L. If the amount due to such person is less than the value of the property, or if no bona fide claim is established, the property may be forfeited to the Choctaw Nation of Oklahoma and may be sold pursuant to judgment of the court, as on sale upon execution, except as otherwise provided for by law and for property bearing a counterfeit mark which shall be destroyed.

M. Property taken or detained pursuant to this section shall not be repleviable, but shall be deemed to be in the custody of the petitioner or in the custody of law enforcement. The petitioner shall release said property to the owner of the property if it is determined that the owner had no knowledge of the illegal use of the property or if there is insufficient evidence to sustain the burden of showing illegal use of such property. If the owner of the property stipulates to the forfeiture and waives the hearing, the petitioner may determine if the value of the property is equal to or less than the outstanding lien. If such lien exceeds the value of the property, the property may be released to the lien holder. Property which has not been released by the petitioner shall be subject to the orders and decrees of the court or the official having jurisdiction thereof.

N. The petitioner, or the law enforcement agency holding property, shall not be held civilly liable for having custody of the seized property or proceeding with a forfeiture action as provided for in this section.

O. Attorney fees shall not be assessed against the Choctaw Nation of Oklahoma for any actions or proceeding pursuant to this title.

P. The proceeds of the sale of any property shall be distributed as follows, in the order indicated:

1. To the bona fide or innocent purchaser, conditional sales vendor, or mortgagee of the property, if any, up to the amount of such person's interest in the property, when the court declaring the forfeiture orders a distribution to such person;
2. To the payment of the actual reasonable expenses of preserving the property;

3. To the victim of the crime to compensate said victim for any loss incurred as a result of the act for which such property was forfeited; and

4. The balance to the Choctaw Nation of Oklahoma.

Q. If the court finds that the property was not used in the attempt or commission of an act specified in subsection A of this section and was not property subject to forfeiture pursuant to subsection B of this section and is not property bearing a counterfeit mark, the court shall order the property released to the owner as the right, title, or interest appears on record.

R. No vehicle, airplane, or vessel used by a person as a common carrier in the transaction of business as a common carrier shall be forfeited pursuant to the provisions of this section unless it shall be proven that the owner or other person in charge of such conveyance was a consenting party or privy to the attempt or commission of an act specified in subsection A or B of this section. No property shall be forfeited pursuant to the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the knowledge or consent of such owner, and by any person other than such owner while such property was unlawfully in the possession of a person other than the owner.

S. Whenever any property is forfeited pursuant to this section, the district court may order that the forfeited property may be retained for its official use by the Choctaw Nation of Oklahoma or the law enforcement agency which seized the property.

### **Section 1727. Library theft**

A. As used in this section:

1. "Library facility" means any:

a. library authorized or established by the Choctaw Nation of Oklahoma or any subdivision thereof; or

b. library of an educational, historical or eleemosynary institution, organization, or society; or

c. museum authorized or established by the Choctaw Nation of Oklahoma of any subdivision thereof; or

d. repository of Choctaw of Oklahoma institutional records.

2. "Library material" means any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, catalog cards or catalog records, electronic data processing records, computer software, artifacts,

or other documentary, written or printed materials regardless of physical form or characteristics, belonging or on loan to, or otherwise in the custody of a library facility.

3. “Demand” means either actual notice to the possessor of any library materials or the mailing of written notice to the possessor at the last address of record which the library facility has for said person, demanding the return of designated library materials. If demand is made by mail it shall be deemed to have been given as of the date the notice is mailed by the library facility.

B. Any person shall be guilty, upon conviction, of library theft who willfully:

1. Removes or attempts to remove any library material from the premises of a library facility without authority; or
2. Mutilates, destroys, alters or otherwise damages, in whole or in part, any library materials; or
3. Fails to return any library materials which have been lent to said person by the library facility, within seven (7) days after demand has been made for the return of the library materials.

C. A person convicted of library theft shall be guilty of a misdemeanor punishable by imprisonment for a term of not more than one (1) year, or by a fine in an amount not to exceed Five Thousand Dollars (\$5,000.00), or by both and shall pay restitution to the library facility, including payment of all related expenses incurred by the library facility as a result of the actions of the offender.

### **Section 1728. Pump Pirates Act**

Any person who pumps gasoline into the gasoline tank of a vehicle and leaves the premises where the gasoline was pumped without making payment for the gasoline shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or confinement for a period of not more than one (1) year, or by both such fine and imprisonment.

### **Section 1729. Dimensional stone product—Stealing or removing**

A. It shall be unlawful for any person to enter upon any premises with intent to steal or remove without the consent of the owner, or with intent to aid or assist in stealing or removing any dimensional stone product. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.



B. As used in this section, “dimensional stone product” means any natural rock material quarried for the purpose of obtaining blocks or slabs that meet specifications as to size and shape. Varieties of dimensional stone shall include, but not be limited to, granite, limestone, marble, sandstone or slate.

## **Unlawful use of a Recording Device**

### **Section 1741. Unlawful Use of a Recording Device—Definitions—Violations—Penalties—Liability—Exclusions—Other laws**

A. This act shall be known as and may be cited as the “Unlawful Use of a Recording Device Act”.

B. As used in the Unlawful Use of a Recording Device Act:

1. “Audiovisual recording function” means the capability of a device to record or transmit a motion picture or any part thereof by means of any technology now known or later developed; and

2. “Facility” does not include a personal residence.

C. Any person, where a motion picture is being exhibited, who knowingly operates an audiovisual recording function of a device without the consent of the owner or lessee of the facility and of the licensor of the motion picture being exhibited shall be guilty of unlawful use of a recording device and shall be punished by imprisonment for a term not to exceed one (1) year, or by a fine not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

D. The owner or lessee of a facility where a motion picture is being exhibited, or the authorized agent or employee of said owner or lessee, or the licensor of the motion picture being exhibited or the licensor’s agent or employee, who alerts law enforcement authorities of an alleged violation of this section shall not be liable in any civil action arising out of measures taken in good faith by said owner, lessee, licensor, agent or employee to detain, identify, or collect evidence from a person believed to have violated this section while awaiting the arrival of law enforcement authorities, unless the plaintiff can show by clear and convincing evidence that the measures were manifestly unreasonable or the period of detention was unreasonably long.

E. This act shall not prevent any lawfully authorized investigative, law enforcement protective, or intelligence gathering employee or agent, of Choctaw Nation of Oklahoma, from operating any audiovisual recording device in any facility where a motion picture is being exhibited, as part of lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities.

F. This act shall not apply to a person who operates an audiovisual recording function of a device in a retail establishment solely to demonstrate the use of that device for sales purposes.

G. Nothing in this section shall be construed to prevent prosecution for any act of recording or transmitting under any other provision of law providing for greater penalty.

### **Section 1742. Telephone records—Definitions**

As used in this act:

1. “Telephone record” means information retained by a telephone company that relates to the telephone number dialed by the customer or any other person using the telephone of the customer with the permission of the customer, or the incoming number of a call directed to a customer or any other person using the telephone of the customer with the permission of the customer, or other data related to such calls typically contained on a customer telephone bill such as the time the call started and ended, the duration of the call, the time of day the call was made, and any charges applied. For purposes of this act, any information collected and retained by or on behalf of a customer utilizing a Caller I.D. or equivalent service, or other similar technology, does not constitute a telephone record;
2. “Telephone company” means any person that provides commercial telephone services to a customer, irrespective of the communications technology used to provide such service including, but not limited to, traditional wireline or cable telephone service; cellular, broadband PCS, or other wireless telephone service; microwave, satellite, or other terrestrial telephone service; and voice over Internet telephone service;
3. “Telephone” means any device used by a person for voice communications, in connection with the services of a telephone company, whether such voice communications are transmitted in analog, data, or any other form;
4. “Customer” means the person who subscribes to telephone service from a telephone company or in whose name such telephone service is listed;
5. “Person” means any individual, partnership, corporation, limited liability company, trust, estate, cooperative association, or other entity; and
6. “Procure” in regard to such a telephone record means to obtain by any means, whether electronically, in writing, or in oral form, with or without consideration.

### **Section 1743. Unauthorized or fraudulent procurement, sale or receipt of telephone records**

A. Whoever:

1. Knowingly procures, attempts to procure, solicits, or conspires with another to procure a telephone record of any resident of the Choctaw Nation of Oklahoma without the authorization of the customer to whom the record pertains or by fraudulent, deceptive, or false means;
2. Knowingly sells or attempts to sell a telephone record of any resident of the Choctaw Nation of Oklahoma without the authorization of the customer to whom the record pertains; or
3. Receives a telephone record of any resident of the Choctaw Nation of Oklahoma knowing that the record has been obtained without the authorization of the customer to whom the record pertains or by fraudulent, deceptive, or false means,

shall be punished in accordance with the provisions of subsection B of this section and shall be liable for restitution in accordance with subsection C of this section.

B. An offense under subsection A of this section is a felony and the punishment is:

1. Imprisonment for not more than one (1) year if the violation of subsection A of this section involves a single telephone record;
2. Imprisonment for not more than three (3) years if the violation of subsection A of this section involves two or more telephone records of a resident of the Choctaw Nation of Oklahoma; and
3. In all cases, forfeiture of any personal property used or intended to be used to commit the offense.

C. A person found guilty of an offense under subsection A of this section, in addition to any other punishment, shall be ordered to make restitution for any financial loss sustained by the customer or any other person who suffered financial loss as the direct result of the offense.

D. In a prosecution brought pursuant to subsection A of this section, the act of unauthorized or fraudulent procurement, sale, or receipt of telephone records shall be considered to have been committed in the Choctaw Nation of Oklahoma:

1. Where the customer whose telephone record is the subject of the prosecution resided at the time of the offense; or
2. In which any part of the offense took place.

E. A prosecution pursuant to subsection A of this section shall not prevent prosecution pursuant to any other provision of law when the conduct also constitutes a violation of some other provision of law.

F. Subsection A of this section shall not apply to any person acting pursuant to a valid court order, warrant, or subpoena.

#### **Section 1744. Limitation on applicability of act**

No provision of this act shall be construed:

1. So as to prevent any action by a law enforcement agency, or any officer, employee, or agent of a law enforcement agency, to obtain telephone records in connection with the performance of the official duties of the agency;
2. To prohibit a telephone company from obtaining, using, disclosing, or permitting access to any telephone record, either directly or indirectly, through its agents:
  - a. as otherwise authorized by law,
  - b. with the lawful consent of the customer or subscriber,
  - c. as may be reasonably incident to the rendition of the service or to the protection of the rights or property of the telephone company, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to such services,
  - d. to a governmental entity, if the telephone company reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person justifies disclosure of the information, or
  - e. to the National Center for Missing and Exploited Children, in connection with a report submitted thereto.
3. To apply to or expand upon the obligations and duties of any telephone company to protect telephone records beyond those otherwise established by tribal law or as set forth in Section 4 of this act;
4. To create a cause of action against a telephone company, its agents and/or representatives, who reasonably and in good faith act pursuant to this act, notwithstanding any later determination that such action was not in fact authorized.

#### **Section 1745. Reasonable procedures to protect telephone records required**

A. Telephone companies that maintain telephone records of a resident of the Choctaw Nation of Oklahoma shall establish reasonable procedures to protect against unauthorized or fraudulent disclosure of the records which could result in substantial harm or inconvenience to any

customer. For purposes of this act, a telephone company's actions and procedures shall be deemed reasonable if the telephone company makes a good faith effort to comply with the provisions governing Customer Proprietary Network Information and the regulations promulgated thereto pursuant to the Federal Communications Commission.

B. No private right of action is authorized under this act.

## **Chapter 69. Malicious Mischief**

### **Section 1751. Railroads, injuries to**

Any person who maliciously, wantonly or negligently either:

1. Removes, displaces, injures or destroys any part of any railroad, or railroad equipment, whether for steam or horse cars, or any track of any railroad, or of any branch or branchway, switch, turnout, bridge, viaduct, culvert, embankment, station house, or other structure or fixture, or any part thereof, attached to or connected with any railroad; or
2. Places any obstruction upon the rails or tracks of any railroad, or any branch, branchway, or turnout connected with any railroad,

shall be guilty of a felony punishable by imprisonment not exceeding three (3) years or a fine not to exceed Five Thousand Dollars (\$5,000.00) or both.

### **Section 1752. Death from displacing of railroad equipment**

Whenever any offense specified in Section 1751 of this title results in the death of any human being, the offender shall be guilty of a felony punishable by imprisonment for not more than three (3) years.

#### **Section 1752.1. Trespass upon or interference with railroad property**

A. Any person shall be guilty of a misdemeanor if the person:

1. Without consent of the owner or the owner's agent, enters or remains on railroad property, knowing that it is railroad property;
2. Throws an object at a train, or rail-mounted work equipment; or
3. Maliciously or wantonly causes in any manner the derailment of a train, railroad car or rail-mounted work equipment.

B. Any person shall be guilty of a felony if the person commits an offense specified in subsection A of this section which results in a demonstrable monetary loss, damage or destruction of railroad property when said loss is valued at more than One Thousand Dollars (\$1,000.00) or results in bodily injury to a person. Any person shall be guilty of a felony if the person discharges a firearm or weapon at a train, or rail-mounted work equipment.

C. Any person violating the misdemeanor provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished by imprisonment not exceeding one (1) year or by a fine not exceeding One Thousand Dollars (\$1,000.00), or both such fine and imprisonment. Any person violating the felony provisions of this section shall be deemed guilty of a felony, and upon conviction shall be punished by imprisonment not exceeding three (3) years or a fine not to exceed Five Thousand Dollars (\$5,000.00) or both.

D. Subsection A of this section shall not be construed to interfere with the lawful use of a public or private crossing.

E. Nothing in this section shall be construed as limiting a representative of a labor organization which represents or is seeking to represent the employees of the railroad, from conducting such business as provided under the Railway Labor Act.

F. As used in this section “railroad property” includes, but is not limited to, any train, locomotive, railroad car, caboose, rail-mounted work equipment, rolling stock, work equipment, safety device, switch, electronic signal, microwave communication equipment, connection, railroad track, rail, bridge, trestle, right-of-way or other property that is owned, leased, operated or possessed by a railroad.

### **Section 1753. Highways, injuries to**

Any person, who maliciously digs up, removes, displaces, breaks, or otherwise injures or destroys any public roadway or bridge, or any private way laid out by authority of law, or bridge upon such way, shall be guilty of a felony.

#### **Section 1753.1. Throwing, dropping, depositing or otherwise placing litter upon highways, roads or public property—Penalties**

A. The operator of a vehicle, unless any other person in the vehicle admits to or is identified as having committed the act, shall be liable pursuant to subsection B of this section for any act of throwing, dropping, depositing, or otherwise placing any litter from a vehicle upon public roadways or public property.

B. Any person convicted of violating the provisions of subsection A of this section shall be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars (\$1,000.00) and upon conviction shall be sentenced to perform not less than five (5) nor more than twenty (20) hours of community service in a work program as approved by the court,

C. Any person convicted of violating the provisions of subsection A of this section with any flaming or glowing substances except those which by law may be placed upon highway rights-of-way, or any substance which may cause a fire shall be felony punishable by a fine of not more than Five Thousand Dollars (\$5,000.00) and, upon conviction, shall be sentenced to perform not less than ten (10) nor more than one hundred (100) hours of community service in work program approved by the court.

D. During a declared burn ban by the Choctaw Nation of Oklahoma any person convicted of violating the provisions of subsection A of this section with any flaming or glowing substances except those which by law may be placed upon highway rights-of-way, or any substance which may cause a fire shall be guilty of a felony punishable by a fine of not more than Five Thousand Dollars (\$5,000.00) and, upon conviction, shall be sentenced to perform not less than twenty (20) nor more than one hundred (100) hours of community service in a work program approved by the court.

E. As used in this section, “litter” means any flaming or glowing substances except those which by law may be placed upon roadway rights-of-way, any substance which may cause a fire, any bottles, cans, trash, garbage, or debris of any kind. As used in this section, “litter” shall not include trash, garbage, or debris placed beside a public road for collection by a garbage or collection agency, or deposited upon or within public property designated by the Choctaw Nation of Oklahoma or by any of its agencies or political subdivisions as an appropriate place for such deposits if the person making the deposit is authorized to use the property for such purpose.

#### **Section 1753.2. Defacing, stealing or possessing road signs or markers—Violation resulting in personal injury or death—Penalties**

A. Any person who defaces, steals or possesses any road sign or marker posted or authorized to be posted by the Choctaw Nation of Oklahoma shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or restitution which shall be paid to the Choctaw Nation of Oklahoma, or by not more than twenty (20) days of community service, or by imprisonment for a term of not more than one (1) year, or by such fine, imprisonment, community service, or restitution, as the Court may order.

B. If a violation of subsection A of this section results in personal injury to or death of any person, the person committing the violation shall, upon conviction, be guilty of a felony, punishable by imprisonment for not more than three (3) years, or by a fine of not more than Five Thousand Dollars (\$5,000.00). In addition, the person may be ordered to pay restitution, which

shall be paid to the Choctaw Nation of Oklahoma, or to perform not less than forty (40) days of community service, or to such combination of fine, imprisonment, community service, and/or restitution, as the Court may order.

#### **Section 1754. Obstructing highways—Punishment—Damages**

Every person who shall knowingly and willfully obstruct or plow up, or cause to be obstructed or plowed up, any roadway or public street, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding One Thousand Dollars (\$1,000.00), and shall be liable for all damages to person or property by reason of the same.

#### **Section 1755. Reserved**

#### **Section 1756. Irrigation ditches, canals, water lines or conduits—Interference with**

It shall be unlawful for any person to divert any of the waters from any irrigation ditch, canal, waterline or conduit, in the Choctaw Nation of Oklahoma, or to interfere in any manner whatever with any irrigation ditch, canal, waterline or conduit, without first having obtained the permission of the owner of such ditch, canal, waterline or conduit, or of the person or persons lawfully in charge thereof.

#### **Section 1757. Penalty**

Any person violating any of the provisions of Section 1756 of this title shall be deemed guilty of a misdemeanor punishable upon conviction by a fine of not more than One Thousand Dollars or imprisonment for not more than one (1) year or both.

#### **Section 1758. Malicious injury or destruction of property generally—Punishment—Damages**

A. Every person who maliciously injures defaces or destroys any real or personal property not his or her own, in cases other than such as are specified in Section 1759 et seq. of this title, is guilty of:

1. A misdemeanor, if the damage, defacement or destruction causes a loss which has an aggregate value of less than One Thousand Dollars (\$1,000.00);
2. A felony, if the damage, defacement or destruction causes a loss which has an aggregate value of One Thousand Dollars (\$1,000.00) or more; or



3. A felony, if the defendant has two or more prior convictions for an offense under this section, notwithstanding the value of loss caused by the damage, defacement or destruction.

B. In addition to any other punishment prescribed by law for violations of subsection A of this section, he or she is liable in treble damages for the injury done, to be recovered in a civil action by the owner of such property or by the Choctaw Nation of Oklahoma.

### **Section 1759. Following sections not restrictive of Section 1758**

The specification of the acts enumerated in the following sections of this title is not intended to restrict or qualify the interpretation of the last section.

### **Section 1760. Dumping of trash on public or private property prohibited—Penalties**

A. Any person who deliberately places, throws, drops, dumps, deposits, or discards any garbage, trash, waste, rubbish, refuse, debris, or other deleterious substance on any Choctaw Nation of Oklahoma property or on any private property of another without consent of the property owner shall be deemed guilty of a misdemeanor.

B. Any person convicted of violating the provisions of subsection A of this section shall be punished by a fine of more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

C. Any person convicted of violating the provisions of subsection A of this section with any flaming or glowing substance, or any substance which may cause a fire shall be punished by a fine of not more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. Any person violating the provisions of this subsection shall be liable for all damages caused by the violation.

D. During a burn ban declared by the Choctaw Nation of Oklahoma, any person convicted of violating the provisions of subsection A of this section with any flaming or glowing substances, or any substance which may cause a fire shall be punished by a fine of not more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not more than three (3) years, or by both such fine and imprisonment. Any person violating the provisions of this subsection shall be liable for all damages caused by the violation.

E. In addition to the penalty prescribed by subsection B of this section, the court shall direct the person to make restitution to the property owner affected; to remove and properly dispose of the garbage, trash, waste, rubbish, refuse, or debris from the property; to pick up, remove, and properly dispose of garbage, trash, waste, rubbish, refuse, debris, and other nonhazardous deleterious substances from public property; or perform community service or any combination of the foregoing which the court, in its discretion, deems appropriate.

F. The discovery of two or more items which have been dropped, dumped, deposited, discarded, placed, or thrown at one location and which bear a common address in a form which tends to identify the latest owner of the items shall create a rebuttable presumption that any competent person residing at such address committed the unlawful act.

G. Any person may report a violation of this section, if committed in their presence, to a law enforcement officer or any other peace officer in the Choctaw Nation of Oklahoma. The law enforcement officer shall then conduct an investigation into the allegations, if warranted. If a violation of this section has in fact been committed, and the law enforcement officer has reasonable cause to believe a particular person or persons have committed the violation, a report shall be filed for prosecution.

#### **Section 1761. Reserved**

#### **Section 1762. Reserved**

#### **Section 1763. House of worship or contents, injuring**

Any person who willfully breaks, defaces, or otherwise injures any house of worship, or any part thereof, or any appurtenance thereto, or any book, furniture, ornament, musical instrument, article of silver or plated ware, or other chattel kept therein for use in connection with religious worship, shall be guilty of a felony and upon conviction shall be fined not more than Five Thousand Dollars (\$5,000.00) or imprisoned not to exceed three (3) years or both.

#### **Section 1764. Use or threat to use explosive, incendiary device, or simulated bomb to damage or injure persons or property**

A. Any person who shall willfully or maliciously commit any of the following acts shall be deemed guilty of a felony:

1. Place in, upon, under, against or near to any building, car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure, any explosive or incendiary device with unlawful intent to destroy, throw down, or injure, in whole or in part, such property, or conspire, aid, counsel or procure the destruction of any building, public or private, or any car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure; or
2. Place in, upon, under, against or near to any building, car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure, any explosive or incendiary device with intent to destroy, throw down, or injure in whole or in part, under circumstances that, if such intent were accomplished, human life or safety would be endangered thereby; or

3. By the explosion of any explosive or the igniting of any incendiary device destroy, throw down, or injure any property of another person, or cause injury to another person; or

4. Manufacture, sell, transport, or possess any explosive, the component parts of an explosive, an incendiary device, or simulated bomb with knowledge or intent that it or they will be used to unlawfully kill, injure or intimidate any person, or unlawfully damage any real or personal property; or

5. Place in, upon, under, against or near to any building, car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure, any foul, poisonous, offensive or injurious substance or compound, explosive, incendiary device, or simulated bomb with intent to wrongfully injure, molest or coerce another person or to injure or damage the property of another person; or

6. Injure, damage or attempt to damage by an explosive or incendiary device any person, persons, or property, whether real or personal; or

7. Make any threat or convey information known to be false, concerning an attempt or alleged attempt to kill, injure or intimidate any person or unlawfully damage any real or personal property by means of an explosive, incendiary device, or simulated bomb; or

8. Manufacture, sell, deliver, mail or send an explosive, incendiary device, or simulated bomb to another person; or

9. While committing or attempting to commit any felony, possess, display, or threaten to use any explosive, incendiary device, or simulated bomb.

B. Nothing contained herein shall be construed to apply to, or repeal any laws pertaining to, the acts of mischief of juveniles involving no injurious firecrackers or devices commonly called “stink bombs”.

### **Section 1765. Violations of preceding section**

Any person violating any of the provisions of Section 1764 of this title shall be deemed guilty of a felony, and upon conviction shall be punished by imprisonment for not more than three (3) years or by a fine not to exceed Five Thousand Dollars (\$5,000.00) or by both.

### **Section 1766. Definitions**

As used in Section 1764 of this title:

1. “Explosive” or “explosives” means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion or which, although not its primary or common purpose, has been modified, manipulated, altered, enhanced, or otherwise caused to function by explosion that is, with substantial instantaneous release of gas, heat, debris, or concussive pressure or force, or any combination of such actions), unless such compound, mixture or device is otherwise specifically classified by the United States Department of Transportation. The term “explosive” or “explosives” shall include but not be limited to gunpowder, dynamite, any bomb, and all material which is classified as explosives by the United States Department of Transportation;
2. “Person” means any individual or individuals, firm, copartnership, corporation, company, association, joint stock association, and includes any trustee, receiver, assignee or personal representative thereof;
3. “Incendiary device” means any chemical compound, mixture or device, the primary purpose of which is to ignite on impact or as a result of chemical reaction such as a “Molotov cocktail” or “firebomb” which is ignited on impact, causing a mechanical reaction of the container’s breaking and permitting the inflammable matter to spread or splatter and is ignited from the burning wick or hypergolic reaction of chemicals;
4. “Component parts” means separate parts which if assembled would form an explosive device. Component parts of an “incendiary device” shall consist of an inflammable material, a breakable container and a source of ignition; and
5. “Simulated bomb” means any device or object that by its design, construction, content, or characteristics appears to be, or to contain, an incendiary device, explosive, or explosives, as defined in this section, but is, in fact, an inoperative facsimile or imitation of such a device or explosive.

#### **Section 1767. Tracing of telephone calls—Immunity**

Any telephone company, its officers, agents or employees, when acting upon any request by the Choctaw Nation of Oklahoma, shall make reasonable effort to identify the telephone from which any telephone communication claimed to be prohibited by this act is being or has been made. If identification of such telephone is made, the telephone company, its officers, agents or employees shall provide to law enforcement officials the location of such telephone. Any telephone company, its officers, agents or employees, in acting pursuant to this section of this act, shall be immune from any civil or criminal action or liability under this act.

#### **Section 1768. Reserved**

### **Section 1769. Trespass by Destroying, Cutting or Taking Wood, Timber, etc.**

Every person who willfully commits any trespass by either:

1. Cutting down or destroying any kind of wood or timber, standing or growing upon the lands of another; or, driving or riding through, into, or across any cultivated hedge or tree row, or any grove of ornamental trees or orchard of fruit trees growing upon the land of another, or in any other manner injuring the same; or,
2. Carrying away any kind of wood or timber that has been cut down, and is lying on such lands; or,
3. Maliciously severing from the freehold any produce thereof, or anything attached thereto; or,
4. Digging, taking, or carrying away from any lot situated within the bounds of any incorporated city, without the license of the owner, or legal occupant thereof, any earth, soil or stone, being a part of the freehold, or severed therefrom at some previous time, under such circumstances as would render the trespass a larceny, if the thing so severed or carried away were personal property; or,
5. Digging, taking, or carrying away from any land in any incorporated city or town of this state, laid down on the map or plan of said city or town as a street or avenue, or otherwise established or recognized as a street or avenue, without the license of the mayor and common council or other governing body of such city or town, or owner of the fee thereof, any earth, soil or stone under such circumstances as would render the trespass a larceny, if the thing so severed or carried away were personal property;

is guilty of a misdemeanor.

### **Section 1770. Standing crops, injuring**

Every person who maliciously injures or destroys any standing crops, grain, cultivated fruits, or vegetables, the property of another, in any case for which a punishment is not otherwise prescribed by this chapter or by some other statute, is guilty of a misdemeanor and upon conviction shall be imprisoned for a term not to exceed one (1) year or by a fine not to exceed One Thousand Dollars (\$1,000.00) or both.

### **Section 1771. Injuring fruit, melons or flowers in the day time**

Every person who maliciously or mischievously enters in the day time, the enclosure, or goes upon the premises of another, with the intent to knock off, pick, destroy, or carry away, or having lawfully entered or gone upon does afterward wrongfully knock off, pick, destroy, or carry away

any apples, peaches, pears, plums, grapes, or other fruit, melons, or flowers of any tree, shrub, bush, or vine, shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00) and not less than Fifty Dollars (\$50.00), or by imprisonment not exceeding six (6) months.

#### **Section 1772. Injuring fruit, melons or flowers in the night time**

Every person who shall maliciously or mischievously enter the enclosure, or go upon the premises of another in the night time, and knock off, pick, destroy, or carry away, any apples, peaches, pears, plums, grapes, or other fruit, melons, or flowers of any tree, shrub, bush, or vine, or having entered the enclosure or gone upon the premises of another, in the night time, with the intent to knock off, pick, destroy, or carry away any fruit or flowers, as aforesaid, be actually found thereon, shall, on conviction thereof, be punished by fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment not exceeding one (1) year.

#### **Section 1773. Injuring fruit or ornamental trees**

Every person who shall maliciously or mischievously, bruise, break or pull up, cut down, carry away, destroy, or in anywise injure any fruit or ornamental tree, shrub, vine or material for hedge, being, growing, or standing on the land of another, shall be punished by fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment not exceeding one (1) year.

#### **Section 1774. Removing or altering landmarks**

Every person who either:

1. Maliciously removes any monuments of stone, wood, or other material, erected for the purpose of designating any point in the boundary of any lot or tract of land; or,
2. Maliciously defaces or alters the marks upon any tree, post or other monument, made for the purpose of designating any point, course, or line in any such boundary; or,
3. Maliciously cuts down or removes any tree upon which any such marks have been made for such purpose, with intent to destroy such marks;

is guilty of a misdemeanor.

#### **Section 1775. Piers or dams, interfering with**

Every person who, without authority of law, interferes with any pier, booms or dams, lawfully erected or maintained upon any waters within the Choctaw Nation of Oklahoma, or hoists any gate in or about said dams, is guilty of a felony.

#### **Section 1776. Destroying dam**

Every person who maliciously destroys any dam or structure erected to create hydraulic power, or any embankment necessary for the support thereof, or maliciously makes, or causes to be made, any aperture in such dam or embankment, with intent to destroy the same, is guilty of a felony.

#### **Section 1777. Piles, removing or injuring**

Any person who maliciously draws up or removes or cuts or otherwise injures any piles fixed in the ground and used for securing any bank or dam of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, dock, quay, jetty or lock, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years or by a fine not exceeding Five Thousand Dollars, or by both such fine and imprisonment.

#### **Section 1778. Train signal light, removing or masking—False light or signal**

Any person who unlawfully masks, alters or removes any light or signal, or willfully exhibits any false light or signal, with intent to bring any locomotive or any railway car or train of cars into danger, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years or by a fine not exceeding Five Thousand Dollars, or by both such fine and imprisonment.

#### **Section 1779. Injuring written instruments the false making of which would be forgery**

Every person who maliciously mutilates, tears, defaces, obliterates, or destroys any written instrument being the property of another, the false making of which would be forgery, is punishable in the same manner as the forgery of such instrument is made punishable.

#### **Section 1780. Reserved**

#### **Section 1781. Letters, opening and reading—Publishing letters**

Every person who willfully opens or reads, or causes to be read, any sealed letter not addressed to himself, without being authorized so to do, either by the writer of such letter or by the person to whom it is addressed, and every person who without like authority publishes any letter,

knowing it to have been opened in violation of this section or any part thereof, is guilty of a misdemeanor.

**Section 1782. Reserved**

**Section 1783. Reserved**

**Section 1784. Reserved**

**Section 1785. Works of literature or art in, injuring**

Any person who maliciously cuts, tears, disfigures, soils, obliterates, breaks or destroys any book, map, chart, picture, engraving, statue, coin, model, apparatus, specimen or other work of literature or art, or object of curiosity deposited in any Choctaw Nation of Oklahoma library, gallery, museum, collection, fair or exhibition, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or a fine of Five Thousand Dollars or both.

**Section 1786. Injuries to pipes and wires**

Any person who willfully breaks, digs up or obstructs any pipes or mains for conducting gas or water, or any works erected for supplying buildings with gas or water, or any appurtenances or appendages therewith connected, or injures, cuts, breaks down or destroys any electric light wires, poles or appurtenances, or any telephone or telegraph wires, cable or appurtenances, shall be guilty of a felony punishable by imprisonment not exceeding three (3) years, or a fine of Five Thousand Dollars (\$5,000.00) or both.

**Section 1787. Automobile or motor vehicle, loitering in, injuring or molesting**

It shall be unlawful for any person or persons to loiter in or upon any automobile or motor vehicle, or to deface or injure such automobile or motor vehicle, or to “molest, drive, or attempt to drive any automobile, for joyriding or any other purpose, or” to manipulate or meddle with any machinery or appliances thereof without the consent of the owner of such automobile or motor vehicle.

**Section 1788. Penalty**

Any person violating Section 1787 of this title, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than One Thousand Dollars



(\$1,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

### **Section 1789. Caves or caverns, injuring**

A. It shall be unlawful for any person to willfully or knowingly break, break off, crack, carve upon, write or otherwise mark upon, or in any manner destroy, mutilate, deface, mar or harm any natural material found in any cave or cavern located on lands owned by the Choctaw Nation of Oklahoma, or on private property without the prior written consent of the owner; to kill, harm or disturb any plant or animal life found in any cave or cavern, and, whether inside or outside a cave, any fish of the genera chologaster, typhlicthys or amblyopsis (commonly known as cavefish, springfish or blindfish), any salamander of the genus typhlotriton (commonly known as the Ozark blind, grotto or spring grotto salamander), or the species eurycea lucifuga (commonly known as cave salamander); provided, nothing in this act shall be construed as prohibiting the commercial mining of bat guano or the destruction of any predatory terrestrial mammal or poisonous snake seeking shelter within a cave if such destruction is not otherwise unlawful.

B. It shall be unlawful for any person to willfully or knowingly place, throw, drop, deposit or discard any garbage, trash, waste, rubbish, refuse, debris or other deleterious substance in or near any cave, cavern or natural subterranean drainage system.

Any person violating Section 1789 of this title, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

### **Section 1790. Reserved**

## **Chapter 70. Other Offenses Against Property Rights**

### **Section 1834. Chattels encumbered by mortgage, conditional sales contract or security agreement—Removal or destruction**

Any mortgagor or conditional sales contract vendee or pledgor or debtor under a security agreement of personal property, or his legal representative, who, while such mortgage, security agreement or conditional sales contract remains in force and unsatisfied, conceals, sells, or in any manner disposes of such property, or any part thereof, or removes such property, or any part thereof, beyond the limits of the county, or materially injures or willfully destroys such property, or any part thereof, without the written consent of the holder of such mortgage or conditional sales contract, secured party or pledgee under a security agreement, shall be deemed guilty of a felony, and shall, upon conviction, be punished by imprisonment for a period not exceeding three

(3) years or by a fine of not to exceed Five Thousand Dollars (\$5,000.00); provided, that the writing containing the consent of the holder of the mortgage or conditional sales contract, secured party or pledgee under a security agreement, as before specified, shall be the only competent evidence of such consent, unless it appears that such writing has been lost or destroyed.

#### **Section 1834.1. Sale of secured personal property—Debtor as trustee of funds received**

Every debtor owning personal property in the Choctaw Nation of Oklahoma in which a creditor has a security interest who, with the consent of the secured party or his assignee, shall sell such collateral, or any part thereof, while the security agreement remains in force and unsatisfied, shall be deemed and conclusively held to be the trustee of the funds received upon the sale thereof, for the benefit of such secured party, or assignee, to the extent of the indebtedness secured thereby or any balance due thereof.

#### **Section 1835. Trespass on posted property after being forbidden or without permission—Penalties—Exceptions**

A. Whoever shall willfully or maliciously enter the garden, yard, pasture or field of another after being expressly forbidden to do so or without permission by the owner or lawful occupant thereof when such property is posted shall be deemed guilty of trespass and upon conviction thereof shall be fined in any sum not to exceed One Thousand Dollars (\$1,000.00); provided, that this provision shall not apply to land surveyors and professional engineers for the purpose of land surveying in the performance of their professional services; and, provided further, that anyone who willfully or maliciously enters any such garden, yard, pasture or field, and therein commits or attempts to commit waste, theft, or damage shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than One Thousand Dollars (\$1,000.00), or by confinement not more than one (1) year, or both such fine and imprisonment. For purposes of this section, “posted” means exhibiting signs to read as follows: “PROPERTY RESTRICTED”; “POSTED — KEEP OUT”; “KEEP OUT”; “NO TRESPASSING”; or similar signs which are displayed. Property that is fenced or not fenced must have such signs placed conspicuously and at all places where entry to the property is normally expected.

B. Whoever shall willfully enter the pecan grove of another without the prior consent of the owner or occupant thereof to so do shall be deemed guilty of trespass and upon conviction thereof shall be fined in any sum not more than One Thousand Dollars (\$1,000.00); provided, that anyone who willfully enters any such pecan grove and therein commits or attempts to commit waste, theft, or damage shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than One Thousand Dollars (\$1,000.00), or by confinement in for not more than one (1) year, or by both such fine and imprisonment.

### **Section 1835.1. Entry or presence upon premises of place of business of persons convicted of certain crimes**

A. Every person, partnership, corporation or other legal entity engaged in any public business, trade, or profession of any kind wherein merchandise, goods or services are offered for sale may forbid the entry or presence of any person upon the premises of the place of business, if the person has been convicted of a crime involving entry onto or criminal acts occurring upon any real property owned, leased, or under the control of such person, partnership, corporation or other legal entity. Such crimes shall include, but are not limited to, shoplifting, vandalism, and disturbing the peace while upon the premises of any place of business of the person, partnership, corporation, or other legal entity.

B. In order to exercise the authority conferred by subsection A of this section, the owner or an agent of the owner of a public business, trade, or profession must notify the person whom the owner or agent desires to prohibit from such owner's place of business.

C. No person shall willfully enter or remain upon the premises after being expressly forbidden to do so in the manner provided for in this section. Any person convicted of violating the provisions of this section, upon conviction, shall be guilty of trespass and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by confinement for a term of not more than one (1) year, or by both such fine and imprisonment.

D. The provisions of this act shall not preclude any other remedy allowed by law.

### **Section 1835.2. Trespass upon private land primarily devoted to farming, ranching, or forestry—Exceptions—Affirmative defense**

A. Notwithstanding the provisions of Section 1835 of this title, the following provisions apply to private land that is primarily devoted to farming, ranching, or forestry purposes:

1. Except as provided in this section, whoever willfully enters private land of another that is primarily devoted to farming, ranching, or forestry purposes without permission by the owner or lawful occupant thereof shall be deemed guilty of trespass and, upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by confinement for a term of not more than one (1) year, or by both such fine and imprisonment and in addition, the court shall order restitution for actual damages incurred;

2. This provision shall not apply to law enforcement officers or tribal employees engaged in the performance of their duties, or to any firefighters, emergency medical personnel, or public utility employees engaged in addressing an emergency that presents an imminent danger to health, safety, or the environment in the performance of their duties, or to parties engaged in oil and gas operations, which shall include, without limitation, exploration, drilling, production and sales activities, under authority of mineral ownership, an oil and gas lease, seismic agreement or

permit, gas gathering, purchase, transportation, or treating contracts, or other lawful authority from persons entitled to give the same. The provisions of this section shall not prohibit railroad employees and emergency equipment from entering such land to restore rail service following an accident, derailment or natural disaster; nor the entrance of utility employees or contractors while acting in the scope of their employment; nor employees or contractors of valid easement or license holders while acting in the scope of their employment;

3. The following persons may enter such land of another unless forbidden to do so, either orally or in writing, by the owner or lawful occupier thereof: registered land surveyors and registered professional engineers for the purpose of land surveying in the performance of their professional services, persons making a delivery, selling a product or service, conducting a survey or poll, working on behalf of a candidate for political office, or who otherwise have a legitimate reason for entering and who, immediately upon entering, seek to conduct such business; and

4. Anyone who willfully or maliciously enters any such land of another and therein commits or attempts to commit waste, theft, or damage shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not more than One Thousand Dollars (\$1,000.00) or by confinement for a term of not more than one (1) year, or by both such fine and imprisonment, and in addition, the court shall order restitution for actual damages incurred.

B. 1. It shall be an affirmative defense to prosecution under paragraph 1 of subsection A of this section that the accused had express or implied permission or legal authority to be on the property.

2. If an accused reasonably believed he or she was upon property for which they had permission to be upon, it shall be an affirmative defense to prosecution under paragraph 1 of subsection A of this section that the accused had with him or her, on his or her person, written permission from the owner or lawful occupant to be upon such person's land while the accused was upon any adjoining property. This defense shall not be available to the accused if:

a. the accused has previously pled guilty, nolo contendere, or has been convicted of any act of trespass or has been found civilly liable of any act of trespass, or

b. the accused, while the accused was upon the adjoining property, does not have with him or her, on his or her person, the written permission specified in this paragraph.

#### **Section 1840. Anonymous campaign literature**

A. It shall be unlawful for any person, firm, corporation, partnership, organization, or association to cause to be broadcast, written, printed, posted, or distributed a statement, circular, poster, or advertisement which is designed to influence the voters on the nomination or election of a candidate or to influence the voters on any constitutional or statutory amendment or on any other issue in any election, or to influence the vote of any member of the Tribal Council, unless there

appears in a conspicuous place upon such circular, poster, or advertisement, or within a broadcast statement, either the name and address of the person who paid for the communication if an individual, or the name and address of the president, chairman, or secretary, or of two officers of the organization, if an organization which paid for the communication. Persons violating this act shall be guilty of a misdemeanor.

B. The provisions of this section shall not apply to bumper stickers, pins, buttons, and other small items upon which the required information cannot be conveniently printed. The provisions of this section shall not apply to skywriting, water towers, or other means of displaying of such a nature that the inclusion of the required information would be impractical. Nothing in this section shall be construed to apply to any matter broadcast by the electronic media or thing published in any newspaper, magazine, or journal recognized and circulating as such, which matter is broadcast by the electronic media or published by such newspaper, magazine, or journal on its own behalf and upon its own responsibility and for which it shall not charge or receive any compensation whatsoever, nor shall the provisions of this section apply to any publication issued by any legally constituted election officials in the performance of their duties.

### **Serial Numbers on Farm Machinery**

#### **Section 1841. Destruction, removal, altering, covering or defacing**

No person, firm, association or corporation shall destroy, remove, alter, cover or deface the manufacturer's serial number from any tractor, combine, corn picker, corn sheller or hay baler, or any other piece of farm machinery having a retail value of more than Twenty-five Dollars (\$25.00) upon which the manufacturer has placed a serial number; nor shall any person, firm, corporation or association, sell, offer for sale, or lease, or otherwise dispose of any such equipment on which the serial numbers have been destroyed, removed, altered, covered or defaced.

#### **Section 1842. Exception to application of act**

The provisions of the previous section shall not apply to any machine or part thereof now owned and used by a bona fide farmer who has had such equipment in his possession prior to the effective date of this act.

#### **Section 1843. Violations—Punishment**

Any person violating the provisions of Section 1841 of this title, shall, upon conviction thereof, be fined not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00), or imprisoned for not less than thirty (30) days nor more than one (1) year, or both, for each offense.

## **Spurious Coins in Coin-Operated Machines**

### **Section 1848. Definitions**

Definitions: (1) The term “coin-operated machine” as used herein shall include any parking meter, vending machine, service meter, coin box telephone or other receptacle designed to receive or be operated by lawful coin of the United States of America.

(2) The term “spurious coin” as used herein, shall include any token, disk, blank, slug, washer, sweated, mutilated, false or counterfeited coin or other device, whether solid or otherwise used in substitution for lawful coin of the United States of America in the operation, use or enjoyment of any coin-operated machine.

### **Section 1849. Operation of machines by spurious coins—Penalty**

Whoever by means of any spurious coin or by any other means, method, trick or device whatsoever not lawfully authorized by the owner, lessee, or licensee of any coin-operated machine operated in furtherance of or connection with the sale, use or enjoyment of any service, facility or privilege, knowingly shall operate or cause to be operated, or shall attempt to operate any such coin-operated machine or whoever shall take, obtain, accept or receive from or by means of any such coin-operated machine any article of value or service or the use or enjoyment of any service, facility or privilege by use of any spurious coin shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than Five Thousand Dollars (\$500.00), or imprisoned not more than thirty (30) days, or both.

### **Section 1850. Manufacture or sale of spurious coins for unlawful use—Penalty**

Every person who, with intent to cheat or defraud another of the use, enjoyment and benefit of property, service, facility or privilege, or whoever, knowingly or having cause to believe that same is intended for fraudulent or unlawful use on the part of the purchaser, donee or user thereof, shall manufacture, sell, offer to sell, advertise for sale, give away or possess any spurious coin as herein defined, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of One Thousand Dollars (\$1,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. The manufacture, sale, offering for sale, advertising for sale, distribution or possession of any such spurious coin, as herein defined, shall be prima facie evidence of intent to cheat or defraud within the meaning of this act.

## **Reporting of Fires**

### **Section 1851. False reporting**

It shall be unlawful for any person to report, or cause to be reported, directly or indirectly, the existence of a fire to a fire department, fire station or other agency charged with the responsibility of extinguishing fires, unless such person knows or reasonably believes that such fire is in existence.

### **Section 1852. Penalty**

Any person violating the previous section shall be guilty of a misdemeanor.

## **Computer Crimes Act**

### **Section 1951. Short title**

This act shall be known and may be cited as the “Computer Crimes Act”.

### **Section 1952. Definitions**

As used in the Computer Crimes Act:

1. “Access” means to approach, gain entry to, instruct, communicate with, store data in, retrieve data from or otherwise use the logical, arithmetical, memory or other resources of a computer, computer system or computer network;
2. “Computer” means an electronic device which performs work using programmed instruction having one or more of the capabilities of storage, logic, arithmetic or communication. The term includes input, output, processing, storage, software and communication facilities which are connected or related to a device in a system or network;
3. “Computer network” means the interconnection of terminals by communication modes with a computer, or a complex consisting of two or more interconnected computers;
4. “Computer program” means a set or series of instructions or statements and related data which when executed in actual or modified form directs or is intended to direct the functioning of a computer system in a manner designed to perform certain operations;
5. “Computer software” means one or more computer programs, procedures and associated documentation used in the operation of a computer system;
6. “Computer system” means a set of related, connected or unconnected, computer equipment, devices including support devices, one or more of which contain computer programs, electronic instructions, input data, and output data, that performs functions including, but not limited to,

logic, arithmetic, data storage and retrieval, communication, and control and software. "Computer system" does not include calculators which are not programmable and are not capable of being connected to or used to access other computers, computer networks, computer systems or support devices;

7. "Data" means a representation of information, knowledge, facts, concepts, computer software, computer programs or instructions. Data may be in any form, in storage media, or as stored in the memory of the computer or in transit or presented on a display device;

8. "Property" means any tangible or intangible item of value and includes, but is not limited to, financial instruments, geophysical data or the interpretation of that data, information, computer software, computer programs, electronically-produced data and computer-produced or stored data, supporting documentation, computer software in either machine or human readable form, electronic impulses, confidential, copyrighted or proprietary information, private identification codes or numbers which permit access to a computer by authorized computer users or generate billings to consumers for purchase of goods and services, including but not limited to credit card transactions and telecommunications services or permit electronic fund transfers and any other tangible or intangible item of value;

9. "Services" includes, but is not limited to, computer time, data processing and storage functions and other uses of a computer, computer system or computer network to perform useful work;

10. "Supporting documentation" includes, but is not limited to, all documentation in any form used in the construction, design, classification, implementation, use or modification of computer software, computer programs or data; and

11. "Victim expenditure" means any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program or data was or was not altered, deleted, disrupted, damaged or destroyed by the access.

### **Section 1953. Prohibited acts**

A. It shall be unlawful to:

1. Willfully, and without authorization, gain or attempt to gain access to and damage, modify, alter, delete, destroy, copy, make use of, disclose or take possession of a computer, computer system, computer network or any other property;

2. Use a computer, computer system, computer network or any other property as hereinbefore defined for the purpose of devising or executing a scheme or artifice with the intent to defraud, deceive, extort or for the purpose of controlling or obtaining money, property, services or other thing of value by means of a false or fraudulent pretense or representation;



3. Willfully exceed the limits of authorization and damage, modify, alter, destroy, copy, delete, disclose or take possession of a computer, computer system, computer network or any other property;
  4. Willfully and without authorization, gain or attempt to gain access to a computer, computer system, computer network or any other property;
  5. Willfully and without authorization use or cause to be used computer services;
  6. Willfully and without authorization disrupt or cause the disruption of computer services or deny or cause the denial of access or other computer services to an authorized user of a computer, computer system or computer network;
  7. Willfully and without authorization provide or assist in providing a means of accessing a computer, computer system or computer network in violation of this section;
  8. Willfully use a computer, computer system, or computer network to annoy, abuse, threaten, or harass another person; and
  9. Willfully use a computer, computer system, or computer network to put another person in fear of physical harm or death.
- B. Any person convicted of violating paragraph 1, 2, 3, 6, 7 or 9 of subsection A of this section shall be guilty of a felony punishable as provided in Section 1955 of this title.
- C. Any person convicted of violating paragraph 4, 5 or 8 of subsection A of this section shall be guilty of a misdemeanor.

#### **Section 1954. Certain acts as prima facie evidence of violation of act**

Proof that any person has accessed, damaged, disrupted, deleted, modified, altered, destroyed, caused to be accessed, copied, disclosed or taken possession of a computer, computer system, computer network or any other property, or has attempted to perform any of these enumerated acts without authorization or exceeding the limits of authorization, shall be prima facie evidence of the willful violation of the Computer Crimes Act.

#### **Section 1955. Penalties—Civil actions**

A. Upon conviction of a felony under the provisions of the Computer Crimes Act, punishment shall be by a fine of not more than Five Thousand Dollars (\$5,000.00), or by confinement for a term of not more than three (3) years, or by both such fine and imprisonment.

B. Upon conviction of a misdemeanor under the provisions of the Computer Crimes Act, punishment shall be by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment not to exceed one (1) year, or by both such fine and imprisonment.

C. In addition to any other civil remedy available, the owner or lessee of the computer, computer system, computer network, computer program or data may bring a civil action against any person convicted of a violation of the Computer Crimes Act for compensatory damages, including any victim expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program or data was or was not altered, damaged, deleted, disrupted or destroyed by the access. In any action brought pursuant to this subsection the court may award reasonable attorney's fees to the prevailing party.

**Section 1956. Access of computer, computer system or computer network in one jurisdiction from another jurisdiction—Bringing of action**

For purposes of bringing a civil or a criminal action pursuant to the Computer Crimes Act, a person who causes, by any means, the access of a computer, computer system or computer network in one jurisdiction from another jurisdiction is deemed to have personally accessed the computer, computer system or computer network in each jurisdiction.

**Section 1957. Access to computers, computer systems and computer networks prohibited for certain purposes—Penalty**

No person shall communicate with, store data in, or retrieve data from a computer system or computer network for the purpose of using such access to violate any of the provisions of the Choctaw Nation Statutes.

Any person convicted of violating the provisions of this section shall be guilty of a felony punishable by imprisonment for a term of not more than three (3) years, or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such imprisonment and fine.

**Section 1958. Subpoenas prior to commencement of proceedings—Noncompliance—Misdemeanor**

A. When any person has engaged in, is engaged in, or is attempting or conspiring to engage in any conduct constituting a violation of any of the provisions of Section 1953 of this title, any prosecuting attorney in the Choctaw Nation of Oklahoma may conduct an investigation of the activity. On approval of the district judge, the prosecuting attorney, is authorized before the commencement of any civil or criminal proceeding to subpoena witnesses, compel their attendance, examine them under oath, or require the production of any business papers or records by subpoena duces tecum. Evidence collected pursuant to this section shall not be admissible in any civil proceeding.

B. Any business papers and records subpoenaed by the prosecuting attorney shall be available for examination by the person who produced the material or by any duly authorized representative of the person. Transcripts of oral testimony shall be available for examination by the person who produced such testimony and their counsel.

Except as otherwise provided for in this section, no business papers, records, or transcripts or oral testimony, or copies of it, subpoenaed by the prosecuting attorney shall be available for examination by an individual other than another law enforcement official without the consent of the person who produced the business papers, records or transcript.

C. All persons served with a subpoena by the prosecuting attorney pursuant to the provisions of the Computer Crimes Act shall be paid the same fees and mileage as paid witnesses in the courts of the Choctaw Nation of Oklahoma.

D. No person shall, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part by any person with any duly served subpoena of the prosecuting attorney pursuant to the provisions of this section, knowingly remove from any place, conceal, withhold, destroy, mutilate, alter, or by any other means falsify any business papers or records that are the subject of the subpoena duces tecum.

E. Any person violating the provisions of this section shall be guilty, upon conviction, of a misdemeanor.

## **Laser Safety Act**

### **Section 1992. Short title—Penalties—Definitions**

A. This section shall be known and may be cited as the “Laser Safety Act”.

B. Any person who knowingly and maliciously projects a laser, as defined in this section, on or at a law enforcement officer without the consent of the officer while the officer is acting within the scope of the official duties of the officer shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Any person who commits a second or subsequent violation of this section shall be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars (\$1,000.00), a term of imprisonment of not more than one (1) year, or by both such fine and imprisonment.

C. As used in this section:

1. “Laser” means any device that projects a beam or point of light by means of light amplification by stimulated emission of radiation or a device that emits light which simulates the appearance of a laser; and

2. “Law enforcement officer” means any police officer, peace officer, correctional officer, probation or parole officer, emergency management employee, judge, magistrate, or any employee of a governmental agency who is authorized by law to engage in the investigation, arrest, prosecution, or supervision of the incarceration of any person for any violation of law or that has statutory powers of arrest.

### **Section 1993. Tampering with or disabling security or surveillance camera or security system**

A. It shall be unlawful for any unauthorized person to refocus, reposition, cover, manipulate, disconnect, or otherwise tamper with or disable a security or surveillance camera or security system. Any person violating the provisions of this subsection shall be guilty, upon conviction, of a misdemeanor punishable by a fine of not more than Five Thousand Dollars (\$5,000.00).

B. It shall be unlawful for any person to use, refocus, reposition, cover, manipulate, disconnect, or otherwise tamper with or disable a security or surveillance camera or security system for the purpose of avoiding detection when committing, attempting to commit, or aiding another person to commit or attempt to commit any misdemeanor. Any person violating the provisions of this section shall be guilty, upon conviction, of a misdemeanor punishable by imprisonment for not more than one (1) year, or a fine of not more than One Thousand Dollars (\$1,000.00), or by both such imprisonment and fine.

C. It shall be unlawful for any person to use, refocus, reposition, cover, manipulate, disconnect, or otherwise tamper with or disable a security or surveillance camera or security system for the purpose of avoiding detection when committing, attempting to commit, or aiding another person to commit or attempt to commit any felony. Any person violating the provisions of this section shall be guilty, upon conviction, of a felony, punishable by imprisonment for not more than three (3) years, or a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such imprisonment and fine.