

**A COUNCIL BILL ENACTING THE CHOCTAW NATION UNLAWFUL ENTRY/PRESENCE ACT**

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**IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION**

**RONALD PERRY INTRODUCED THE FOLLOWING COUNCIL BILL**

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**A COUNCIL BILL**

**TO ENACT** the Choctaw Nation Unlawful Entry/Presence Act (the “Act”), which relates to protecting the property rights of the Choctaw Nation of Oklahoma, its Tribal members, community members, and visitors.

**WHEREAS**, Article IX, Section 4 of the Constitution of the Choctaw Nation of Oklahoma (the “Nation”) provides that the Tribal Council (the “Council”) shall enact legislation, rules and regulations not inconsistent with the Constitution for the general good of the Choctaw Nation and for the administration and regulation of the affairs of the Choctaw Nation;

**WHEREAS**, the Act states that “acts of persons that interfere with the property rights and/or welfare of the Nation, the Nation’s members, residents and guests threaten the peace, health, safety, environment, morals and general welfare of the Reservation and the health, welfare, environment, political integrity and economic security of the Nation.” See the Act, attached as Exhibit A;

**WHEREAS**, the intent of the Act is to establish a process for ejecting, removing and/or banning people from the Nation’s property who commit acts that violate the Act, which threaten the peace, health, safety, environment, morals and general welfare of the Nation;

**WHEREAS**, acts that qualify as violations of the Act and are proper grounds for ejection, removal and/or banning include, but are not limited to: using obscene, abusive, offensive, or violent language aimed at others, harassing others, fighting or challenging someone to fight, making threats of bodily injury, death, or the destruction of property, etc. See the Act, attached as Exhibit A;

**WHEREAS**, the Act also provides a review process for people who are banned from Tribal Property for violating the Act in order to ensure that any bans issued are not arbitrary; and

**WHEREAS**, the Council finds that it is in the best interest of the Nation to protect the property rights of the Nation, its Tribal members, community members, and visitors and preserve the peace, health, safety, environment, morals and general welfare of the Reservation by enacting the Choctaw Nation Unlawful Entry/Presence Act, attached as Exhibit A.

**THEREFORE BE IT ENACTED** by the Tribal Council of the Choctaw Nation of Oklahoma that this Bill be cited as approval for enacting the Choctaw Nation Unlawful Entry/Presence Act, attached as Exhibit A.

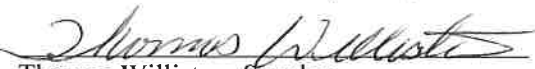
**BE IT FURTHER ENACTED** by the Tribal Council of the Choctaw Nation of Oklahoma that this Bill be cited as approval for the Choctaw Nation Unlawful Entry/Presence Act to become effective immediately.

**A COUNCIL BILL ENACTING THE CHOCTAW NATION UNLAWFUL ENTRY/PRESENCE  
ACT**

**CERTIFICATION**

*I, the undersigned, as speaker of the Tribal Council of the Choctaw Nation of Oklahoma, do hereby certify that the Tribal Council is composed of twelve (12) seats. Eight (8) members must be present to constitute a quorum. I further certify that twelve (12) members answered roll call and that a quorum was present at the Regular Session of the Tribal Council at Tuskahoma, Oklahoma on December 10, 2022. I further certify that the foregoing Council Bill CB- 37-23 was adopted at such meeting by the affirmative vote of twelve ( 12 ) members, zero ( 0 ) negative votes, and zero ( 0 ) abstaining.*

  
\_\_\_\_\_  
Ronald Perry, Secretary  
Choctaw Nation Tribal Council

  
Thomas Williston, Speaker  
Choctaw Nation Tribal Council

  
\_\_\_\_\_  
Gary Patton, Chief  
Choctaw Nation of Oklahoma

Date 12-13-22

**A COUNCIL BILL ENACTING THE CHOCTAW NATION UNLAWFUL ENTRY/PRESENCE ACT**

**Purpose/Need of Council Bill:** This Bill enacts the Choctaw Nation Unlawful Entry/Presence Act (the "Act"), which relates to protecting the property rights of the Choctaw Nation of Oklahoma, its Tribal members, community members, and visitors. Furthermore, the Act "provides a means for the Choctaw Nation of Oklahoma (the "Nation") to protect the Nation, its property, its members, and other persons in the Reservation from people whose presence on the Reservation is harmful to, or threatens harm to the peace, health, safety, environment, morals and general welfare of the Reservation." See the Act, attached as Exhibit A.

**Title of Council Bill: A COUNCIL BILL ENACTING THE CHOCTAW NATION UNLAWFUL ENTRY/PRESENCE ACT**

**Agency:** Legal & Compliance

**Budget:** N/A

**Match Required:** N/A

**Request by Project Director:** Brian Danker, Senior Executive Officer

# **Choctaw Nation Unlawful Entry/Presence Act**

## **A. Purpose.**

This Act shall be known as the Choctaw Nation Unlawful Entry/Presence Act (the “Act”) provides a means for the Choctaw Nation of Oklahoma (the “Nation”) to protect the Nation, its property, its members, and other persons in the Reservation from people whose presence on the Reservation is harmful to, or threatens harm to the peace, health, safety, environment, morals and general welfare of the Reservation.

The laws of the Nation, specifically § 1835 of Chapter 12 of the Choctaw Nation Criminal Code, provides that “whoever shall willfully or maliciously enter any building or property of the Choctaw nation of Oklahoma or the garden, yard, pasture or field of another, after being expressly forbidden to do so, or without the prior permission by the owner or lawful occupant thereof when such property is posted, shall be deemed guilty of misdemeanor trespass 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.” This Act intends to provide the process and procedure for expressly forbidding the entry or presence of any person upon the property of the Nation.

## **B. Scope.**

This Act applies to all persons, regardless of tribal membership, in attendance and presence on Tribal Property as well as the attendance and participation in tribal activities. The enforcement of this Act will be completed by various departments of the Nation, particularly the Public Safety Department.

Nothing in this Act shall modify or alter any policies in effect which effect the gaming or medical facilities of the Nation. Those policies shall be effective in addition to this Act.

## **C. Background and Intent.**

The Nation has determined that acts of persons that interfere with the property rights and/or welfare of the Nation, the Nation’s members, residents and guests threaten the peace, health, safety, environment, morals and general welfare of the Reservation and the health, welfare, environment, political integrity and economic security of the Nation. It is the intent of the Nation to deem such acts as proper grounds for ejecting, removal and/or banning the person(s) from the Nation’s property where the acts are committed with the desire to protect such property rights.

## **D. Definitions.**

As used in this Act, the following words or phrases shall have the following definitions:

1. “Reservation” shall mean all lands that are part of the Choctaw Nation of Oklahoma’s reservation and all other lands held in trust by the United States for the Choctaw Nation or any of its members.
2. “Tribal member” shall mean a member of the Choctaw Nation of Oklahoma.

3. "Property" shall mean real estate, whether governmental, commercial or residential.
4. "Tribal Property" shall mean Property owned, operated, controlled, leased, used by the Nation. Tribal Property shall also mean transportation vehicles owned operated, leased, or used by the Nation.
5. "Tribal Police" shall mean the Tribal polices Officers of the Public Safety Department of the Nation as officers of any other jurisdiction duly deputized to serve the Public Safety Department.
6. "Issuing Official" shall mean that manager, director, or Executive Officer over the property, program, or department which manages or operates the Tribal Property subject to the ban. Issuing Official may also include the Executive Director of Public Safety or the Chief of Police. The Issuing Official must sign the ban, but the ban may be delivered by any employee, agent or representative of the Nation to the person(s) subject to the ban.

**E. Violation of this Act.**

Any person who enters the property of the Nation after being properly ejected, removed and/or banned from the Nation's property will be subject to the provisions of the Choctaw Nation Criminal Code, specifically § 1835 of Chapter 12, *Trespass on property after being forbidden or without permission.*

**F. Conduct Subject to Ejectment, Removal, Banishment.**

Acts that qualify as violations of this Act and constitute proper grounds for ejectment, removal and/or banning include but are not limited to:

1. Using obscene, abusive, offensive, or violent language aimed at others;
2. Harassing others;
3. Fighting or challenging someone to fight;
4. Making threats of bodily injury, death, or the destruction of property;
5. Shouting or engaging in other noisy behaviors that disturbs and/or interrupts the business and affairs of the Nation;
6. Refusing to follow any rules of conduct or decorum required at the Tribal Property;
7. Discharging a firearm, releasing an arrow from a bow, or otherwise using or brandishing any weapon;
8. Engaging in conduct in violation of the Chief and Tribal Council Election Ordinance as amended from time to time;
9. Engaging in other acts that the Nation deems as threatening to the peace, health, safety, environment, morals or general welfare of the Reservation, or the health, welfare, environment, political integrity, or economic security of the Nation or its members; and

- a. Engaging in criminal activity, a violation of any policies or laws of the Choctaw Nation or conduct that is or may reasonably be deemed to be threatening, disruptive, or violent.

**G. Removal.**

Persons violating § F of this Act may be removed from Tribal Property. The Public Safety Department, either by Tribal Police or Tribal Security, shall have the discretionary authority to determine whether or not to remove a person for a violation of this Act. Those persons resisting removal will be considered trespassing.

**H. Bans; Initiated; Effect; Term.**

1. Persons violating § H of this Act may be banned from Tribal Property. The banning of a person(s) from the entry or presence on Tribal Property for violating § H above shall be determined within the sole discretion of issuing official. The issuing official shall have the absolute discretion to determine the duration that any ban under this Act will remain in effect for; *provided*, that repeat offenders of this Act should be banned for significantly greater periods of time.
2. The Issuing Officer may issue a ban if
  - a. he or she witnesses the offending conduct directly or through recorded, visual or audio evidence, or
  - b. if the offending conduct is reported by a witness in a written, verified statement, under penalty of perjury, detailing the conduct and listing other witnesses and information.
    - i. However, witnesses may elect for their name and other personal information to remain confidential and free from disclosure; provided, the witness' name and contact information must be provided so the Review Panel may contact the witness for an interview. All information given confidentially will remain so unless the witness' name and information are ordered to be produced pursuant to a court order from the District Court of the Choctaw Nation.
    - ii. All witnesses reporting the offending conduct must cooperate with the Review Panel's request for information, interviews or materials.
3. Any ban that is contested shall remain in effect until a review, by the Review Panel set forth in § K below, can be had to determine whether or not the ban should be withdrawn.
4. Furthermore, any banishment under this Act shall not affect a tribal member's ability to receive tribal services.

**I. Written Notice of Bans.**

Any ban issued pursuant to this Act shall be in writing and signed by Issuing Official. Generally, a written notice of ban will inform the person:

1. That they are banned from the specified Tribal Property or portion of Tribal Property at issue;
2. The duration of the ban;
3. The reason for the ban; and
4. That if they return to the specified Tribal Property or portion of Tribal Property they will be subject to arrest for ***Trespass on property after being forbidden or without permission***, in accordance with the Choctaw Nation Criminal Code § 1835 of Chapter 12.

**J. Emergency Ejection.**

If the Nation, through any of its agents, employees, officials or representatives, has reason to believe that an emergency threatens the peace, health, safety, morals or general welfare of the Tribe, its members, or other persons on the Tribal Property, then the Nation through any of its agents, employees, officials or representatives, may immediately eject such persons that create the emergency from the Tribal Property. Those persons resisting ejection will be considered trespassing.

**K. Review.**

1. A person who has received a written notice of ban may petition for review before the Review Panel, consisting of at least five (5) members. The Review Panel members may include any of the following or any designee of the following: the SEO for Legal and Compliance, the Executive Director of Risk management, the Executive Director of Tribal Public Safety, the SEO of Membership and Tribal Services, the SEO of Human Resources, or other members designated by the Chief.
2. The Review Panel must meet to review the ban no later than twenty-one (21) days upon the receipt of the petition for review. A ban will be upheld unless rejected or modified by a majority vote of the Review Panel.
3. The petition for review must be written, under oath and filed within ten calendar days of receipt of the notice. The petition must be delivered to the office of the SEO of Legal and Compliance.
4. The petition must include the reasons for the review request, a complete and candid explanation for the conduct that precipitated the ban, the basis for the desire to be on the Tribal Property at issue, and any other information the person wishes to be considered. The petitioner will be given five (5) days written notice of any review that is to be held for the bans issued under this Act.
5. The Review Panel shall be authorized, for the purposes of this Act, to conduct an investigations, gather information, documentation, materials, and compel interviews of witnesses, employees, and others in conducting a review of a petition for review.

6. The person that is subject to the ban may appear before the Review Panel to dispute the ban. Persons subject to a ban may choose to have the assistance of an attorney at the review hearing but are not entitled to one.
7. Final decisions by the Review Panel may be appealed within ten (10) days to the District Court of the Choctaw Nation for an abuse of discretion review by the judge.
8. The Review Panel may adopt rules to facilitate this Act. Any rules adopted by the Review Panel must be delivered to the Chief, Assistant Chief, Speaker of Tribal Council and Speaker Pro Tempore of Tribal Council to become effective.

**L. Reservation of Sovereign Immunity.**

Nothing in this Act shall be construed as a waiver of sovereign immunity in any court.