

**A COUNCIL BILL AMENDING THE CRIMINAL CODE OF THE CHOCTAW  
NATION OF OKLAHOMA**

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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 AMEND** the Criminal Code of the Choctaw Nation of Oklahoma by; amending Section 800 of Title 70 which relates to clarifying sentencing; amending Section 1107 of Title 70, which relates to changing the title of the section and updating statutory language; repealing Section 1121 of Title 70 which relates to Sexual Battery, a duplicate section previously codified as Section 1107 of Title 70; creating Section 1123 of Title 70, which creates the crime of Lewd or Indecent Proposals or Acts to Child Under 16; setting penalties; amending Section 1173 of Title 70 which relates to changing the crime of stalking from a misdemeanor to a felony offense and amending the punishment; amending Section 1957 of Title 70, which relates to updating statutory language; creating Section 2000 of Title 70, which relates to crime of Neglect or Refusal to Compel Child to Attend School; providing for Codification; and providing an effective date.

**WHEREAS**, in accordance with Article IX, Section 4 of the Constitution of the Choctaw Nation of Oklahoma, 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 Council has previously adopted the Choctaw Nation Criminal Code, which defines crimes and punishments within the Choctaw Nation of Oklahoma;

**WHEREAS**, the Nation, as a sovereign nation, possesses the right to define crimes and provide for the punishment thereof;

**WHEREAS**, in accordance with Article IX, Section 4 of the Constitution of the Choctaw Nation of Oklahoma, 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 Council finds it is in the best interest of the Nation to adopt the proposed amendments to the Choctaw Nation Criminal Code as listed below, to define, revise and clarify various crimes and the punishments thereof.

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**THEREFORE BE IT ENACTED**, by the Tribal Council of the Choctaw Nation of Oklahoma, that this bill be cited as approval to amend the Choctaw Nation Criminal Code to read as follows:

SECTION 1. AMENDATORY Section 700 of Title 70, is amended to read as follows:

Section 700. Murder

A. A person commits murder in the first degree when that person unlawfully and with malice aforethought causes the death of another human being. Malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

B. A person also commits the crime of murder in the first degree, regardless of malice, when that person or any other person takes the life of a human being during, or if the death of a human being results from, the commission or attempted commission of murder of another person, shooting or discharge of a firearm or crossbow with intent to kill, intentional discharge of a firearm or other deadly weapon into any dwelling or building as provided in Section 1289.17A of this title, forcible rape, robbery with a dangerous weapon, kidnapping, escape from lawful custody, eluding an officer, first degree burglary, first degree arson, unlawful distributing or dispensing of controlled dangerous substances or synthetic controlled substances, trafficking in illegal drugs, or manufacturing or attempting to manufacture a controlled dangerous substance.

1. Except as provided in paragraph 3 of this subsection, the term "synthetic controlled substance" means a substance:
  - a. the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II,
  - b. which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II, or
  - c. with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

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2. The designation of gamma butyrolactone does not preclude a finding pursuant to paragraph 1 of this subsection that the chemical is a synthetic controlled substance.
3. Such term does not include:
  - a. a controlled substance,
  - b. any substance for which there is an approved new drug application,
  - c. with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to such substance is pursuant to such exemption, or
  - d. any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

C. A person commits murder in the first degree when the death of a child results from the willful or malicious injuring, torturing, maiming or using of unreasonable force by said person or who shall willfully cause, procure or permit any of said acts to be done upon the child pursuant to Sections 843.5 843 and 843.1 of this title. It is sufficient for the crime of murder in the first degree that the person either willfully tortured or used unreasonable force upon the child or maliciously injured or maimed the child.

D. A person commits murder in the first degree when that person unlawfully and with malice aforethought solicits another person or persons to cause the death of a human being in furtherance of unlawfully manufacturing, distributing or dispensing controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, unlawfully possessing with intent to distribute or dispense controlled dangerous substances, or trafficking in illegal drugs.

E. A person commits murder in the first degree when that person intentionally causes the death of a law enforcement officer, correctional officer, or corrections employee while the officer or employee is in the performance of official duties.

F. Homicide is murder in the second degree in the following cases:

1. When perpetrated by an act imminently dangerous to another person and evincing a depraved mind, regardless of human life, although without any premeditated design to effect the death of any particular individual; or

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2. When perpetrated by a person engaged in the commission of any felony other than the unlawful acts set out in ~~Section 1~~, subsection B, of this act section.

SECTION 2. AMENDATORY Section 800 of Title 70 is amended to read as follows:

**Section 800. Robbery or Attempted Robbery with Dangerous Weapon or Imitation Firearm  
– Punishment**

Any person or persons who, with the use of any firearms or any other dangerous weapons, whether the firearm is loaded or not, or who uses a blank or imitation firearm capable of raising in the mind of the one threatened with such device a fear that it is a real firearm, attempts to rob or robs any person or persons, or who robs or attempts to rob any place of business, residence or banking institution or any other place inhabited or attended by any person or persons at any time, either day or night, shall be guilty of a felony and, upon conviction therefor, shall suffer punishment by imprisonment for not less than two (2) nor more than three (3) years, ~~at the discretion of the court, or the jury trying the same.~~

SECTION 3. AMENDATORY Section 1107 of Title 70 is amended to read as follows:

**Section 1107. Sexual Battery and Other Unlawful Sex Acts**

A. It is a felony for any person to knowingly and intentionally commit sexual battery on any other person or, by force or fear to cause another person to engage in a sexual act. “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.

B. 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.

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- C. 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.
- D. It shall be a felony for any person to:
1. Engage in sexual contact with another person without that other person's permission ~~nor shall~~; or
  2. to cause another person to engage in sexual contact by threatening or placing that person in fear.
- E. Any person convicted of a violation of subsections A, C, or D of this section shall be deemed guilty of a felony and shall be punished by imprisonment for not more than three (3) years, or by a fine of up to Five Thousand Dollars (\$5,000.00), or both.
- F. 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 4. REPEALER Section 1121 of Title 70 is hereby repealed.

SECTION 5. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 1123 of Title 70, unless there is created a duplication in numbering read as follows:

**Section 1123 - Lewd or Indecent Proposals or Acts to Child Under 16 A.**

It is a felony for any person to knowingly and intentionally:

1. Make any oral, written or electronically or computer-generated lewd or indecent proposal to any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, for the child to have unlawful sexual relations or sexual intercourse with any person;
2. Look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law;

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3. Ask, invite, entice, or persuade any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, to go alone with any person to a secluded, remote, or secret place, with the unlawful and willful intent and purpose then and there to commit any crime against public decency and morality, as defined by law, with the child;

4. In any manner lewdly or lasciviously look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any indecent manner or in any manner relating to sexual matters or sexual interest; or

5. In a lewd and lascivious manner and for the purpose of sexual gratification:

a. urinate or defecate upon a child under sixteen (16) years of age, or force or require a child to defecate or urinate upon the body or private parts of another, or for the purpose of sexual gratification,

b. ejaculate upon or in the presence of a child,

c. cause, expose, force or require a child to look upon the body or private parts of another person,

d. force or require any child under sixteen (16) years of age or other individual the person believes to be a child under sixteen (16) years of age, to view any obscene materials, child pornography or materials deemed harmful to minors as such terms are defined by Section 1024.1 of this code,

e. cause, expose, force or require a child to look upon sexual acts performed in the presence of the child, or

f. force or require a child to touch or feel the body or private parts of the child or another person.

B. Any person convicted of any violation of this section shall be punished by imprisonment for not more than three (3) years and a fine of not more than Fifteen Thousand Dollars (\$15,000.00), or by such fine and imprisonment.

C. The provisions of this section shall not apply unless the accused is at least three (3) years older than the victim, except when accomplished by the use of force or fear.

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 6. AMENDATORY Section 1173 of Title 70 is amended to read as follows:

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**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~~ felony punishable by imprisonment for not more than ~~one (1) year~~ three (3) years or by a fine of not more than ~~One Thousand Dollars (\$1,000.00)~~ Five Thousand Dollars (\$5,000.00), 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 less than one (1) year ~~exceeding and not more than~~ three (3) years or by a fine of not more than ~~Five Thousand Dollars (\$5,000.00)~~ Ten Thousand Dollars (\$10,000.00), 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:

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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 code 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



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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 7. AMENDATORY Section 1957 of Title 70 is amended to read as follows:

**Section 1957. Access to Computers, Computer Systems and Computer Networks Prohibited for Certain Purposes**

A. 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.

B. Any person convicted of violating the provisions of this section ~~1951.6~~ 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 8. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 2000 of Title 70, unless there is created a duplication in numbering read as follows:

**Section 2000. Neglect or Refusal to Compel Child to Attend School**

A. It shall be unlawful for a parent, guardian, or other person having custody of a child who is over the age of five (5) years, and under the age of eighteen (18) years, to neglect or refuse to cause or compel the child to attend and comply with the rules of some public, private, or other school, as required by Oklahoma law.

B. In the prosecution of a parent, guardian, or other person having custody of a child for violation of any provision of this section, it shall be an affirmative defense that the parent, guardian, or other person having custody of the child has made substantial and reasonable efforts to comply with the compulsory attendance requirements of this section but is unable to cause the child to attend school. If the court determines the affirmative defense is valid, it shall dismiss the complaint against the parent, guardian, or other person having custody of the child and the court shall refer the child to the Tribal Prosecutor for the filing of a Child in Need of Supervision petition against the child pursuant to the Choctaw Nation Juvenile Code.

C. Any parent, guardian, custodian, child, or other person violating any of the provisions of this section, upon conviction, shall be guilty of a misdemeanor, punishable by imprisonment for up to one (1) year, a fine of up to Five Hundred Dollars (\$500.00), or both such fine and imprisonment.


SECTION 9. This act shall become effective immediately.

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**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 November 9, 2024. I further certify that the foregoing Council Bill CB- 11 -25 was adopted at such meeting by the affirmative vote of twelve ( 12 ) members, zero ( 0 ) negative votes, and zero ( 0 ) abstaining.

  
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Ronald Perry, Secretary  
Choctaw Nation Tribal Council

  
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Thomas Williston, Speaker  
Choctaw Nation Tribal Council

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

Date 11-12-24

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**Purpose/Need of Council Bill:** This proposed Council Bills amends the Criminal Code of the Choctaw Nation of Oklahoma by: amending Section 800 of Title 70 which relates to clarifying sentencing; amending Section 1107 of Title 70, which relates to changing the title of the section and updating statutory language; repealing Section 1121 of Title 70 which relates to Sexual Battery, a duplicate section previously codified as Section 1107 of Title 70; creating Section 1123 of Title 70, which creates the crime of Lewd or Indecent Proposals or Acts to Child Under 16; setting penalties under Section 1123; amending Section 1173 of Title 70 which relates to changing the crime of stalking from a misdemeanor to a felony offense and amending the punishment; amending Section 1957 of Title 70, which relates to updating statutory language; creating Section 2000 of Title 70, which relates to crime of Neglect or Refusal to Compel Child to Attend School; providing for Codification; and providing an effective date. These amendments will further the Nation's strategic plan goals by allowing for the protection of public safety, which will allow the Nation to continue to exercise its sovereignty to the fullest extent possible.

**Title of Council Bill:** A COUNCIL BILL AMENDING THE CRIMINAL CODE OF THE CHOCTAW NATION OF OKLAHOMA

**Agency:** Legal & Compliance

**Budget:** N/A

**Match Required:** N/A

**Request by Project Director:** D. Michael Haggerty, II, Tribal Prosecutor, Brian Danker, SEO, Legal & Compliance