

TO AMEND THE CHOCTAW NATION OF OKLAHOMA CRIMINAL PROCEDURE CODE

IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION

ANTHONY DILLARD INTRODUCED THE FOLLOWING COUNCIL BILL

A COUNCIL BILL

TO AMEND the Choctaw Nation of Oklahoma Criminal Procedure Code to clarify the rights of crime victims in criminal cases.

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; and

WHEREAS, the Council has previously adopted the Choctaw Nation Criminal Procedure Code, which controls procedures in criminal cases in the Courts of the Choctaw Nation; and

WHEREAS, the Nation, as a sovereign nation, possesses the right to define the procedures to be followed in its courts; and

WHEREAS, the Council finds it is in the best interest of the Nation to adopt the proposed amendments to the Choctaw Nation Criminal Procedure Code as listed below, to clarify the rights of crime victims in criminal cases.

THEREFORE BE IT ENACTED, by the Tribal Council of the Choctaw Nation of Oklahoma, that this bill be cited as approval to add Chapter 30 of the Choctaw Nation Criminal Procedure Code as follows:

SECTION 1. AMENDATORY. Section 1901 of the Choctaw Nation Criminal Procedure Code is amended to read as follows (additions indicated by underline, deletions by ~~strikeout~~):

Chapter 30. Victims' Rights Act

Section 1901. Rights of Victims in Criminal Proceedings.

- A. The victim of a crime shall have the following rights in any criminal proceeding related to said crime, upon his request:
1. To be notified of and present at all proceedings involving the criminal case;
 2. To be heard in any proceeding involving release, plea, sentencing, disposition or any other proceeding where a right of the victim is implicated;
 3. To be notified as soon as practicable whenever any court proceeding at which the victim has been subpoenaed will or will not go on as scheduled, in order to save the person an unnecessary trip to court;

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4. To be treated with fairness and respect for the safety, dignity and privacy of the victim, to receive protection from harm and threats of harm arising out of the cooperation of the person with law enforcement and prosecution efforts, to be provided with information as to the level of protection available and how to access protection and, upon request, to be notified of any release or escape of an accused;
5. 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;
6. 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;
7. To be informed of the procedure to be followed in order to apply for and receive any restitution to which the victim is entitled;
8. 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;
9. 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;
10. 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;
11. 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;
12. To be informed of any plea bargain negotiations and, upon request, to confer with the attorney for the Nation;
13. To have victim impact statements filed with the judgment and sentence;
14. To be informed if a sentence is overturned, remanded for a new trial or otherwise modified by an appellate court;
15. To a speedy disposition of the charges free from unwarranted delay caused by the defendant or at his behest, and to have this right considered any time a delay in the criminal proceedings is requested by any party;
16. To refuse an interview or other request made by the defendant or any person acting on behalf of the defendant, other than a refusal to appear if subpoenaed by the defendant;
17. To have their residential address, telephone number, place of employment or other personal information to be excluded or redacted from any law enforcement record or court document, other than the transcript of a court proceeding, if the Court determines that is necessary to protect the victim or a member of their immediate family from harassment or physical harm and if the court determines the information is immaterial to the defense; and

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18. To have administered to a defendant, against whom an information or indictment is presented for a crime in which by force or threat of force the perpetrator compels the victim to engage in sexual activity, testing for human immunodeficiency virus (HIV) not later than 48 hours after the date on which the information or indictment is presented and defendant is in custody or has been served with the information or indictment. In addition, the following rights shall apply:
 - a. Notification as soon as practicable to the victim, or parent and guardian of the victim, and defendant of the testing results; and
 - b. Follow-up tests for HIV as may be medically appropriate, and that as soon as practicable after each such test the results be made available as set forth in the preceding paragraph.
19. To receive notification of these rights as soon as practicable.
- B. The Tribal Prosecutor shall make all practicable efforts to promptly notify victims of their rights as set forth in this section. Upon the commencement of a criminal proceeding, the Tribal Prosecutor shall cause to be mailed to the last-known address of the victim a written notification of said rights.
- C. The Tribal Prosecutor shall make all practicable efforts to 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 agencies of this state, any other 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.
- D. The victims and the legal representative of a victim of a crime shall have a priority interest in any proceeds or profits received by a 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, or the notoriety which the crime or sentence has conferred upon the offender pursuant to the provisions Section 17 of the Choctaw Nation Criminal Procedure Code.
- E. For purposes of this section:
 1. "Crime victim" or "victim" means any person against whom a crime or delinquent act was committed or a person directly and proximately harmed by the commission of a crime or delinquent act, 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 this state. The term "victim" does not include the

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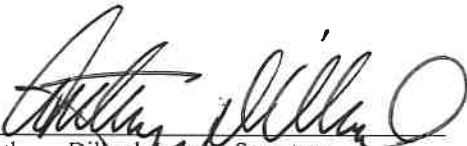
- accused or a person whom the court finds would not act in the best interests of a person who is deceased or incompetent, a minor or an incapacitated victim;
2. "Criminal proceeding" includes any criminal or juvenile delinquent case, in which a person is accused of committing a criminal offense in violation of the laws of the Choctaw Nation of Oklahoma;
 3. "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;
 4. "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;
 5. "Members of the immediate family" means the spouse, a child by birth or adoption, a stepchild, a parent by birth or adoption, a stepparent, a grandparent, a grandchild, a sibling, or a stepsibling of each victim;
 6. "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;
 7. "Property" means any real or personal property;
 8. "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; and
 9. "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.

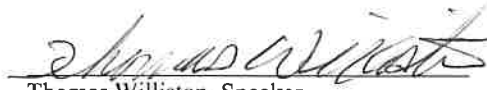
SECTION 2. EFFECTIVE DATE. The enactment in this Council Bill shall become effective on the date signed upon the passage of this bill and the receipt of all proper signatures.

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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 ~~eleven~~ 11 members answered roll call and that a quorum was present at the Regular Session of the Tribal Council in Tvshka Homma, Oklahoma on April 12, 2025. I further certify that the foregoing Council Bill CB-51 -25 was adopted at such meeting by the affirmative vote of eleven (11) members, zero (0) negative votes, and zero (0) abstaining.


Anthony Dillard, Interim Secretary
Choctaw Nation Tribal Council


Thomas Williston, Speaker
Choctaw Nation Tribal Council


Gary Patton, Chief
Choctaw Nation of Oklahoma

Date 4-16-25

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Purpose/Need of Council Bill: This bill proposes an amendment to the Choctaw Nation Criminal Procedure Code, to clarify the rights of victims in criminal cases.

Title of Council Bill: **TO AMEND THE CHOCTAW NATION OF OKLAHOMA CRIMINAL PROCEDURE CODE**

Agency: Legal & Compliance

Budget: N/A

Match Required: N/A

Request by Project Director: Mike Haggerty, Tribal Prosecutor