

B. Costs and fees. The victim shall not be required to pay filing or service costs related to a protection order. The District Court may assess court costs and filing fees against the abuser at the hearing on the petition.

**§ 3-404. Protection order; statement required; validity**

In addition to any other provisions required by this chapter, or otherwise required by law, each ex parte or final protection order issued pursuant to this chapter shall have the following statement printed in bold-faced type or in capital letters:

**"THE FILING OR NONFILING OF CRIMINAL CHARGES RELATING TO THIS MATTER AND THE PROSECUTION OF THE CASE SHALL NOT BE DETERMINED BY A PERSON WHO IS PROTECTED BY THIS ORDER, BUT SHALL BE AT THE DISCRETION OF THE MUSCOGEE (CREEK) NATION PROSECUTOR. NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER. THIS ORDER SHALL BE IN EFFECT FOR ~~THREE (3)~~ FIVE (5) YEARS UNLESS RENEWED, MODIFIED, VACATED OR RESCINDED BY THE COURT. A VIOLATOR OF THIS ORDER MAY BE PUNISHED BY CIVIL CONTEMPT OF COURT BY FINE OF UP TO \$5,000. A VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE BY A FINE OF UP TO \$2,500 OR IMPRISONMENT OF UP TO ONE (1) YEAR, OR BOTH SUCH FINE AND IMPRISONMENT FOR A FIRST OFFENSE AND UP TO FIVE ~~FIFTEEN~~ THOUSAND DOLLARS (\$15,000.00) FOR A SECOND OR SUBSEQUENT OFFENSE OR IMPRISONMENT OF UP TO ONE (1) YEAR ~~THREE (3)~~ YEARS, OR BY BOTH SUCH FINE AND IMPRISONMENT. A VIOLATION OF THIS ORDER WHICH CAUSES INJURY IS A CRIME PUNISHABLE BY IMPRISONMENT FOR TWENTY (20) DAYS TO ONE (1) YEAR ~~THREE (3)~~ YEARS OR A FINE OF UP TO FIVE ~~FIFTEEN~~ THOUSAND DOLLARS (\$15,000.00), OR BY BOTH SUCH FINE AND IMPRISONMENT. POSSESSION OF A FIREARM OR AMMUNITION BY A RESPONDENT WHILE THIS ORDER IS IN EFFECT MAY SUBJECT THE RESPONDENT TO PROSECUTION FOR VIOLATION OF FEDERAL LAW EVEN IF THIS ORDER DOES NOT SPECIFICALLY PROHIBIT THE RESPONDENT FROM POSSESSING A FIREARM OR AMMUNITION."**

**"A KNOWING VIOLATION OF A PROTECTION ORDER IS A CRIME IN THE JURISDICTION OF THE MUSCOGEE (CREEK) NATION, IN THE STATE OF OKLAHOMA AND IN OTHER JURISDICTIONS. ANY PERSON WHO TRAVELS ACROSS STATE LINES OR ENTERS OR LEAVES THE MUSCOGEE (CREEK) NATION TERRITORIAL JURISDICTION OR OTHER INDIAN COUNTRY WITH THE INTENT TO VIOLATE A PROTECTION ORDER AND WHO SUBSEQUENTLY ENGAGES IN SUCH CONDUCT IS SUBJECT TO FEDERAL PROSECUTION FOR A**

FEDERAL OFFENSE UNDER 18 U.S.C. § 2262. ANY PERSON WHO ENTERS OR LEAVES THE MUSCOGEE (CREEK) NATION TERRITORIAL JURISDICTION OR OTHER INDIAN COUNTRY WITH THE INTENT TO KILL, INJURE, HARASS, OR INTIMIDATE A SPOUSE OR INTIMATE PARTNER, AND WHO, IN THE COURSE OF OR AS A RESULT OF SUCH TRAVEL, COMMITS OR ATTEMPTS TO COMMIT A CRIME OF VIOLENCE AGAINST THAT SPOUSE OR INTIMATE PARTNER, SHALL BE SUBJECT TO FEDERAL PROSECUTION FOR A FEDERAL OFFENSE UNDER 18 U.S.C § 2261."

"FEDERAL LAW REQUIRES THAT THIS ORDER BE GIVEN FULL FAITH AND CREDIT BY THE COURT OF ANY OTHER STATE OR INDIAN TRIBE UNDER 18 U.S.C § 2265."

§ 3-405. Emergency ex parte protection order

A. Hearing on request for emergency ex parte protection order. If a petitioner requests an emergency ex parte protection order pursuant to this section, the District Court shall hold an ex parte hearing on the same day the petition is filed. The District Court may, for good cause shown at the hearing, issue any emergency ex parte order that it finds necessary to protect the victim from immediate and present danger of domestic, dating and family violence, stalking, sexual assault/attempted sexual assault or harassment. The emergency ex parte order shall be in effect until after the full hearing is conducted; provided, if the respondent, after having been served, does not appear at the hearing, the emergency ex parte order shall remain in effect until the respondent is served with the permanent order. If the terms of the permanent order are the same as those in the emergency order, or are less restrictive, then it is not necessary to serve the respondent with the permanent order. Any emergency ex parte order entered shall state: "IF YOU FAIL TO APPEAR AT THE HEARING, A PERMANENT ORDER MAY BE ISSUED WITHOUT FURTHER NOTICE TO YOU."

B. Contents of emergency ex parte order. An emergency ex parte order authorized by this section may include the following:

1. An order enjoining respondent from threatening to commit or committing acts of domestic or family violence against the petitioner or other family or household member;
2. An order prohibiting the respondent from harassing, visiting, stalking, annoying, telephoning, contacting, or otherwise interfering with or communicating with the petitioner, directly or indirectly.
3. An order removing and excluding the respondent from the residence of the petitioner;
4. An order requiring the respondent to stay away from the residence, school, place of employment, or a specified place frequented

- regularly by the petitioner and any named family or household member;
- 5. An order prohibiting the respondent from making any changes to the utilities or telephone services to the victim's residence;**
  - 6. An order addressing custody, visitation, and support of minor children;**
  - 7. An order issuing a "Writ of Assistance" allowing for Lighthorse Police to escort/assist petitioner in obtaining personal effects/belongings from the residence;**
  - 8. An order addressing the possession and safety of domestic animals;**
  - 59. An order prohibiting the respondent from using or possessing a firearm or other weapon specified by the Court;**
  - 610. An order requiring the respondent to pay attorney's fees and court costs; and**
  - 711. An order requiring the respondent to pay restitution, such as medical expenses, reimbursement for damaged property and expenses for shelter.**

C. Verbal or written order. If a petitioner requests an emergency temporary ex parte protection order as provided by subsection B of Title 6, §3-306, the judge who is notified of the request by a Lighthorse police or other authorized law enforcement officer may issue such order verbally to the officer or in writing when there is reasonable cause to believe that the order is necessary to protect the victim from immediate and present danger of domestic abuse. When the order is issued verbally the judge shall direct the Lighthorse police or other authorized law enforcement officer to complete and sign a statement attesting to the order.

D. Effective period. The emergency temporary ex parte order shall be in effect no more than ~~ten (10)~~ fifteen (15) days from the date it was issued unless extended, for good cause, by the District Court.

**§ 3-406. Service of Process**

A copy of the petition, notice of hearing and a copy of any ex parte order issued by the District Court shall be served upon the respondent in the same manner as a summons. The Lighthorse police shall attempt service within twenty-four (24) hours of the issuance of an ex parte order by the District Court; provided that a private process server who is licensed pursuant to the law of the Muscogee (Creek) Nation may serve such documents in the event that jurisdictional or practical considerations prevent service by the Lighthorse police and provided further that a private process server who is licensed pursuant to Oklahoma law or a law enforcement officer from another jurisdiction may

serve such documents outside of Muscogee (Creek) Nation territorial jurisdiction. Ex parte orders can be served twenty-four (24) hours a day.

**§ 3-407. Hearing and Issuance of order**

A. **Hearing.** Upon filing of a petition for protection order, the District Court shall schedule a full hearing on the petition, said hearing to be held no sooner than three (3) days and no later than ~~ten (10)~~ **fifteen (15)** days from the date of filing of the petition, regardless of whether an emergency ex parte order has been previously issued, requested or denied.

B. **Issuance of protection order.** At the hearing for a protection order, the District Court may grant any protection order to bring about the cessation of domestic, dating or family violence against the victim or stalking, sexual assault or harassment of the victim petitioner or other family or household members or domesticated animals.

C. **Contents of probation order.** Protection orders authorized by this section may include the following:

1. An order enjoining respondent from threatening to commit or committing acts of domestic or family violence against the petitioner or other family or household member;
2. An order prohibiting the respondent from harassing, visiting, stalking, annoying, telephoning, texting, emailing or using any other form of electronic or digital means to communicate, contacting or using a third party to contact, contacting, or otherwise interfering with or communicating with the petitioner, directly or indirectly;
3. An order removing and excluding the respondent from the residence of the petitioner;
4. An order requiring the respondent to stay away from the residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;
5. An order prohibiting the respondent from using or possessing, or requiring the respondent to surrender to Lighthorse any a firearm or other weapon specified by the Court;
6. An order addressing custody, visitation and support of minor children;
7. An order issuing a "Writ of Assistance" allowing for Lighthorse Police to escort/assist petitioner in obtaining personal effects/belongings from the residence;

- ~~68.~~ An order requiring the respondent to pay attorney fees and court costs;
- ~~79.~~ An order requiring the respondent to pay restitution, such as medical expenses, reimbursement for damaged property and expenses for shelter; and
- 10.** Other relief deemed appropriate by the Court.

D. Treatment. After notice and hearing, protection orders authorized by this section may require ~~the petitioner, the respondent or both~~ to undergo treatment or participate in the counseling services necessary to bring about cessation of domestic or family violence against the victim. ~~Either party or both~~ The respondent may be required to pay all or any part of the cost of such treatment or counseling services. The District Court shall not be responsible for such cost.

E. Service of Protection Order. When necessary to protect the victim and when authorized by the District Court, protection orders granted pursuant to the provisions of this section may be served upon the respondent by a Lighthorse officer or other authorized law enforcement officer whose duty it is to preserve the peace.

F. Time Limitations. Any protection order issued pursuant to this section shall be for a fixed period not to exceed a period of ~~three (3)~~ five (5) years unless extended by the District Court. The District Court shall notify the parties at the time of the issuance of the protection order of the duration of the protection order. The following shall apply:

1. The District Court Clerk shall send notice of expiration to the parties sixty (60) days prior to the expiration of a protection order.
2. The petitioning party shall have the opportunity to apply for renewal of the protection order for an additional ~~three (3)~~ five (5) years period.
3. Upon application, the District Court Clerk shall notify each party of the court date of the hearing on the application. It shall be the duty of each party to keep the District Court Clerk informed of his or her current address.
4. At the hearing for renewal of the protection order, the District Court may grant the renewal of the protection order or allow the protection order to expire.

G. Limited scope of protection order. No order issued under this chapter shall in any manner affect title to real property, purport to grant to the parties a divorce or otherwise purport to determine the issues between the parties as to ~~child custody, visitation, child support or~~ division of property or any other like relief otherwise obtainable under the laws of the Muscogee (Creek) Nation.

H. Receipt of protection order by the victim. Upon the issuance of a protection order the victim shall be entitled to receive a copy of the order prior to leaving the courthouse.

§ 3-408. Access to protection orders by law enforcement agencies

A. District Court responsibility to distribute protection orders. Within twenty-four (24) hours of the return of service of any ex parte or final protection order, the District Court Clerk shall send certified copies thereof to Lighthorse as well as to all appropriate law enforcement agencies designated by the petitioner. A certified copy of any extension, modification, vacation, cancellation or consent agreement concerning a final protection order shall be sent by the clerk of the issuing court to those law enforcement agencies receiving the original orders pursuant to this section.

B. Lighthorse Police responsibility to ensure access to protection orders. The Lighthorse police shall be required to ensure that other law enforcement agencies have access twenty-four (24) hours a day to the information contained in the documents. This includes but is not limited to insuring that all protection orders are entered into the National Crime Information Center (NCIC) database in a timely manner.

§ 3-409. Other proceedings; delay of relief prohibited; omission of petitioner's address

A. Duty to inform court. At any hearing in a proceeding to obtain an order for protection, each party has a continuing duty to inform the Court of each proceeding for an order for protection, any civil litigation, each proceeding in family or Juvenile Court, and each criminal case involving the parties, including the case name, the file number, and the county and state of the proceeding, if that information is known by the party.

B. Other actions. An order for protection is in addition to and not in lieu of any other available civil or criminal proceeding. A petitioner is not barred from seeking an order because of other pending proceedings. A Court shall not delay granting relief because of the existence of a pending action between the parties.

C. Address of Petitioner. A petitioner may omit her or his address from all documents filed with the Court. If a petitioner omits her or his address, the petitioner shall provide the Court a mailing address. If disclosure of petitioner's address is necessary to determine jurisdiction or consider venue, the Court may order the disclosure to be made:

1. After receiving the petitioner's consent;

2. Orally and in chambers, out of the presence of the respondent and a sealed record to be made; or
3. After a hearing, if the Court takes into consideration the safety of the petitioner and finds such disclosure is in the interest of justice.

**§ 3-410. Effect of action by petitioner or respondent on order**

If a respondent is excluded from the residence of a petitioner or ordered to stay away from the petitioner, an invitation by the petitioner to do so does not waive or nullify an order for protection.

**§ 3-411. Denial of relief due to lapse of time prohibited**

The Court shall not deny a petitioner relief requested pursuant to this subchapter solely because of a lapse of time between an act of domestic, dating or family violence, sexual assault, stalking or harassment and the filing of the petition.

**§ 3-412. Mutual orders for protection prohibited**

A court shall not grant a mutual order for protection to opposing parties.

**§ 3-413. Court-ordered and court-referred mediation of cases involving domestic, dating or family violence, stalking, sexual assault or harassment prohibited**

A court shall not order parties into mediation or joint counseling or refer them to mediation or joint counseling for resolution of the issues in a petition for an order for protection.

**§ 3-414. Violation of ex parte or final protection order; civil penalty**

A. Violation of order; contempt of court. Except as provided in subsection B of this section, any person who has been served with an ex parte or final protection order or foreign protection order and who is in violation of such protection order, may be punished for civil contempt of court and upon entry of a finding that such person is in contempt of court, shall be punished by a fine of not less than fifty dollars (\$50.00) and not more than ~~two~~ five thousand ~~five hundred~~ dollars (\$~~25,5000.00~~).

B. Violation of order; subsequent offenses. Any person who has been served with an ex parte or final protection order or foreign protection order and who is in violation of such protection order after a prior judicial finding of contempt of court for a previous violation of such protection order, may be punished for civil contempt of court and upon entry of a finding that such person is in contempt of court for a second or

subsequent offense, shall be punished by a fine of not less than one thousand dollars (\$1,000.00) and not more than five thousand dollars (\$5,000.00); and,

C. **Treatment.** In addition to any other civil penalty specified by this section, the District Court may require the respondent to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic or family violence against the victim.

D. **Violation of order by minor.** When a minor child violates the provisions of any protection order, the violation shall be heard in a civil juvenile proceeding and the District Court may order the child and the parent or parents of the child to participate in family counseling services necessary to bring about the cessation of domestic abuse against the victim and may order community service hours to be performed.

**§ 3-415. Registration and enforcement of foreign orders for protection; duties of Court Clerk**

A. **Registration.** A certified copy of a foreign protection order issued by another Tribal court or by a state court may be filed in the office of the District Court Clerk. The District Court Clerk shall act upon the order in the same manner as the clerk acts upon an order for protection issued by the District Court. The District Court Clerk shall not notify the perpetrator of the registration of an out of state or Tribal protection order, unless the victim requests the notification.

B. **Effect of foreign order.** An order for protection filed in accordance with subsection A of this section has the same effect and shall be enforced in the same manner as an order for protection issued by the District Court.

C. **Court Clerk Responsibilities.** The District Court Clerk shall:

1. Maintain a registry in which to enter certified orders for protection issued by other Tribal courts or by state courts that are received for filing.
2. At the request of a court of another Indian Tribe or of a state or at the request of a person who is affected by or has a legitimate interest in an order for protection, certify and forward a copy of the order to that court or person at no cost to the requesting party.

D. **Enforcement.** The District Court shall enforce all provisions of a registered foreign order for protection.

**§ 3-416. Judicial enforcement of foreign protection orders**



A. Full faith and credit. Pursuant to 18 U.S.C. §2265, any protection order issued that is valid according to the standards contained in subsection B of this section by the court of a state or another Indian Tribe shall be accorded full faith and credit by the District Court and the District Court shall enforce a valid foreign protection order as if it were issued by the District Court.

B. Requirements for valid orders. A protection order issued by a state or another Tribal court shall be valid if:

1. The issuing Court has jurisdiction over the parties and matter under the law of such state or Indian tribe; and
2. Reasonable notice and opportunity to be heard was given to the person against whom the order was sought sufficient to protect that person's right to due process. In the case of an ex parte order, notice and opportunity to be heard must have been provided within the time required by state or Tribal law, and in any event within a reasonable time after the order was issued, sufficient to protect the respondent's due process rights.

C. Registration is not required. Registration or filing of a foreign protection order shall not be a prerequisite for District Court enforcement of out-of-state or Tribal orders or protection.

D. Initiation of proceeding for enforcement. A proceeding to enforce a foreign protection order may be started in the District Court by:

1. A motion filed by the petitioner holding the foreign protection order, alleging that respondent has violated the protection order and requesting that the District Court enforce the order; and/or
2. An action filed by the Prosecutor alleging that respondent has violated the foreign protection order.

E. Validity of order; affirmative defense. If a foreign protection order bears the name of an issuing court, the persons to whom it applies, a judge's signature or an equivalent sign, terms and conditions against the respondent, and does not bear an expiration date that has passed or any other obvious indication that it is not authentic, it will be deemed valid, and the District Court shall enforce it, unless the party against whom the order is to be enforced proves, as an affirmative defense, that:

1. The issuing court did not have jurisdiction over the parties or the dispute under the law of the issuing court;
2. The respondent was not given due process, which means reasonable notice and an opportunity to be heard. If the foreign

protection order was originally entered without the respondent having an opportunity to be heard, the respondent shall have been given notice and an opportunity to be heard within the time required by the law of the issuing court, or in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights;

3. The protection order is a support or child custody order issued pursuant to state divorce and child custody laws that are is not entitled to full faith and credit under other federal law.

F. Cross or counter petitions. Cross or counter petitions are not entitled to full faith and credit unless a petition, complaint or other written pleading or motion was filed seeking a protection order and the issuing court made specific findings that each party was entitled to a protection order.

**§ 3-417. Role of law enforcement in foreign protection orders**

A. Manner of enforcement. A Lighthouse police or other authorized law enforcement officer shall enforce a foreign protection order in the same manner as he or she would enforce a protection order issued by the District Court.

B. Reliance on copy of order or statement of person. A Lighthouse police or other authorized law enforcement officer may rely on a copy of a foreign protection order that is provided to the officer from any source. A Lighthouse police or other authorized law enforcement officer may rely on the statement of a person protected by a foreign protection order that the order remains in effect.

C. Authenticity of order. If a copy of a foreign protection order is provided to the officer from any source, the officer shall enforce the order if it appears to the officer to be authentic. An officer shall treat a foreign protection order as authentic if it:

1. Bears the names of the issuing court and the persons to whom it applies, terms and conditions against the respondent, and a judge's signature or an equivalent sign; and
2. Does not bear an expiration date that has passed or any other obvious indication that it is not authentic.

D. Verification of authenticity. The fact that the foreign protection order cannot be verified in the manner described in the following paragraph does not mean that the order is not authentic.

E. Verification of information. If a person claiming to be protected by a foreign protection order does not have a copy of the order, the Lighthouse police or other authorized law enforcement officer shall attempt to verify the existence of the order, the names of the issuing court and the persons to whom it applies, the terms and conditions against the respondent, and that the order does not bear an expiration date that has passed or any other obvious indication that it is not authentic. If the Lighthouse police or other authorized law enforcement officer verifies this information, the officer shall enforce the foreign protection order. Examples of ways to verify the order include consulting the issuing court, the Law Enforcement Network ("LEIN"), the National Crime Information Center ("NCIC"), a registry operated by the issuing jurisdiction, or any similarly reliable source.

F. Maintenance of Peace. If a person claiming to be protected by a foreign protection order does not have a copy of the order and the Lighthouse Police or other authorized law enforcement officer cannot verify the existence of the order through reliable sources, the officer shall maintain the peace and take any other lawful action that appears appropriate to the officer.

G. Counter or cross petition. Cross or counter petitions shall not be enforced unless a petition, complaint or other written pleading was filed seeking a protection order and the issuing court made specific findings that each party was entitled to a protection order.

**§ 3-418. Violation of foreign protection order**

When, following a hearing, the District Court finds that a person has violated a foreign protection order within the Muscogee (Creek) Nation ~~territorial jurisdiction~~ Indian Country or on other property otherwise within the authority of the Nation, the District Court may impose any penalty provided by law for violating a protection order issued by the District Court. The determination whether a foreign protection order has been violated is made in accordance with the Muscogee (Creek) Nation procedures governing criminal and civil cases.

**§ 3-419. Forfeiture for violations of this chapter**

**A. Any weapon, vehicle, or any other item used by a native or non-native in the furtherance of an attempt or perpetration of a crime of domestic violence including violation of a protection order shall be subject to forfeiture.**

**B. All items forfeited in this section shall be forfeited under the procedures established under the Muscogee (Creek) Nation Judicial Procedures Code. Upon a finding of proof by a preponderance of the evidence that the particular item sought to be forfeited was used in an attempt to commit or in the**

perpetration of a crime of domestic: dating or family violence, the district court shall order that the item be forfeited and any money or monies derived from the sale of such item be deposited in a revolving fund, with the proceeds to be used for law enforcement purposes as approved by the Lighthorse Chief, Attorney General, Controller and the Principal Chief. At the request of the Lighthorse Chief, the District Court may order that proceeds be divided between the Nation and one or more assisting law enforcement agencies. The District Court may also order that items seized may be used by Lighthorse rather than sold at a public sale.

C. Any third-party lawful owner of such property may petition the court for return of such property. Upon a finding that the third-party participated in or had knowledge of the purpose for which the property would be, the court has the discretionary authority to order the property to be forfeited.

D. Notice. Notice shall be given by the Lighthorse Police of said hearing to each and every owner known and as set forth in said application by certified mail directed to their last known address at least ten (10) days prior to the date of said hearing. Said notice shall contain a brief description of the property of said owner and the place and date of the hearing. In addition, notice of said hearing shall be posted in three public places in the Muscogee (Creek) Nation territorial jurisdiction, one being the courthouse.

**SECTION FOUR. AMENDMENT.** This amendment shall be codified in Title 27, Chapter 1 and Chapter 2 and Appendix 1 Rule 13 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification said amendment and its inclusion in pocket parts of the Code of Laws of the Muscogee (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws and; (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following amendment, without further National Council approval:

**SECTION FIVE. AMENDMENT.** The following Sub-Chapters and Sub-Sections of MCNCA Title 27, Chapter 1, §1-102, and Chapter 2 §2-111 and Appendix 1 Rule 13 are hereby amended to read as follows:

**TITLE 27. JUDICIAL PROCEDURES**  
**SUBCHAPTER 1. AUTHORITY, JURISDICTION, AND APPLICABLE LAW**

§ 1-102. Jurisdiction

**A. Territorial Jurisdiction.** The territorial jurisdiction of the Muscogee Courts shall extend to all the territory defined in the 1866 Treaty with the United States, including without limitation any real property within the Nation's political jurisdiction as defined in Article I, Section 2 of the 1979 Muscogee (Creek) Nation Constitution and which constitutes Muscogee (Creek) Nation Indian country as follows: (1) property owned by any Muscogee citizen subject to federal restrictions against alienation or held in trust by the United States for the benefit of any Muscogee citizen or (2) property held in trust by the United States for the benefit of the Muscogee (Creek) Nation or (3) any property owned by Muscogee (Creek) Nation or (4) property which otherwise constitutes Indian Country as that term is used in 18 U.S.C. § 1151.

**B. Civil Jurisdiction.** The Muscogee (Creek) Nation courts shall have general civil jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the Muscogee (Creek) Nation including the Muscogee or Yuchi Common Law, which arise within the Muscogee (Creek) Nation Indian country, regardless of the Indian or non-Indian status of the parties. Personal jurisdiction shall exist over all defendants, regardless of the Indian or non-Indian status of said defendants, in cases arising from any action or event within the Muscogee (Creek) Nation Indian country and in any other cases in which the defendant has established contacts with Muscogee (Creek) Nation Indian Country sufficient to establish personal jurisdiction over said defendant. Personal jurisdiction shall also exist over all persons consenting to such jurisdiction. Residing, conducting business, using roadways or engaging in any other activity within the Muscogee (Creek) Nation Indian Country is deemed consent to Muscogee (Creek) Nation jurisdiction. All contracts between the Nation or its citizens and any other party entered into within the Muscogee (Creek) Nation Indian Country is deemed as consent to Muscogee (Creek) Nation jurisdiction by the parties. The act of entry upon the Muscogee (Creek) Nation Indian Country by any extraterritorial seller or merchant, or their agent(s) shall be considered consent by the seller or merchant to the jurisdiction of courts of the Muscogee (Creek) Nation for any dispute arising out of any sale or commercial transaction regardless of where the sale or transaction was entered or took place. The Muscogee Courts shall have probate jurisdiction as described by law of the Muscogee (Creek) Nation in Title 47 of the Code of Laws of the Muscogee (Creek) Nation. The Muscogee Courts shall have jurisdiction over proceedings involving family relations, including without limitation, child custody and divorce proceedings, as described by law of the Muscogee (Creek) Nation, including any such law codified in Title 6 of the Code of Laws of the Muscogee (Creek) Nation. The Muscogee Courts shall exercise such other civil jurisdiction as described by any other law of the Muscogee (Creek) Nation.

**C. Criminal Jurisdiction.** The Muscogee Courts shall have original jurisdiction over all Indians alleged to have committed in Muscogee (Creek) Nation Indian Country a criminal offense enumerated and defined by any law or statute of the Muscogee (Creek) Nation insofar as not prohibited by federal law. The Muscogee Courts shall

also have original jurisdiction over all Indians alleged to have committed an offense involving the theft, misappropriation or misuse of Muscogee (Creek) Nation property or funds, regardless of the geographical location of any specific act or omission involved or resulting in such theft, misappropriation or misuse. For purposes of criminal jurisdiction, an "Indian" refers to a person who is a member of the Muscogee (Creek) Nation; or a person who is a member of any other federally recognized tribe, including Native Hawaiians and Alaska Natives; or a person who possesses a CDIB; or a person eligible for membership in a federally recognized tribe.

D. Special Domestic Violence Criminal Jurisdiction. In addition to the general criminal jurisdiction over all Indians, in cases where the victim is Indian, the Muscogee (Creek) Nation shall exercise "Special Domestic Violence Criminal Jurisdiction" over all Non-Indian defendants alleged to have committed, in Muscogee (Creek) Nation Indian Country, a criminal offense involving acts of domestic violence, dating violence or violation of protection orders, who:

1. resides in Muscogee (Creek) Nation Indian Country;
2. or is employed in Muscogee (Creek) Nation Indian Country; or
3. is a spouse, intimate partner, or dating partner of –
  - a. a member of the Muscogee (Creek) Nation; or
  - b. an Indian who resides in Muscogee (Creek) Nation Indian Country.

DE. Suits Against the Muscogee (Creek) Nation. Nothing in this title shall be construed to be a waiver of the sovereign immunity for the Muscogee (Creek) Nation, its officers, employees, agents, or political subdivisions or to be a consent to any suit except as expressly stated in this subsection DE. The sovereign immunity of the Muscogee (Creek) Nation is hereby waived in all actions limited to injunctive, declaratory or equitable relief; provided that such waiver extends only to actions filed in the Muscogee (Creek) Nation courts and does not extend to any actions filed in a court of any other jurisdiction. The waiver of sovereign immunity in actions for injunctive, declaratory or equitable relief shall not be construed as granting a waiver for the purpose of obtaining any equitable relief requiring payment from, delivery of, or otherwise affecting funds in the Treasury of the Muscogee (Creek) Nation, or any real property, personal property or chattels of the Muscogee (Creek) Nation or any entities, agencies or political subdivisions of the Muscogee (Creek) Nation, or any funds belonging to, or owed to, owned by, held in trust for, administered by or under the control of the Muscogee (Creek) Nation or any entities, agencies or political subdivisions of the Muscogee (Creek) Nation, except interpleader actions in disputes arising between the Nation and its political subdivisions or the Nation and other parties where financial institutions are holders of disputed funds. Nothing in this subsection DE shall be construed as allowing any award of actual damages, punitive damages,

exemplary damages or any other type of damages against the Muscogee (Creek) Nation.

SUBCHAPTER 2. TRIBAL COURT PROCEEDINGS

§ 2-111. Formation of trial jury

~~A. A jury of the trial shall consist of six (6) persons, but the parties may agree to a number less than six (6).~~

~~B. All registered voters of the Muscogee (Creek) Nation, residing within the original 1867 territorial boundaries of the Muscogee (Creek) Nation, of sound mind and discretion, of good moral character, not judges, sheriffs or deputies, physicians, attorneys, ministers, jailers or law enforcement officers, shall be compelled to serve as jurors. Provided, however, persons over seventy (70) years of age and persons having custody of minor children may be excused.~~

~~C. Habitual drunkards, persons convicted of any felony, or persons who have served in any penitentiary shall not be eligible to serve as jurors.~~

~~D. Prospective trial jurors may be summoned by notifying each orally or by mail as to the time and place at which his attendance is required.~~

~~E. The District Court Judge shall question all jurors summoned for trial to determine if all are qualified to be empaneled to try the issue or issues before the Court. Attorneys and/or pro se litigants shall examine all jurors selected to try the issue or issues before the Court and may challenge any juror for cause. The dismissal of a juror for cause shall be made by the District Court Judge.~~

~~F. Each side shall be entitled to three (3) peremptory challenges.~~

~~G. For jury dockets, the District Court shall summon a jury panel of not less than twenty four (24) eligible jurors, to be paid twenty dollars (\$20.00) per day.~~

The formation of a trial jury shall be in accordance with Title 27, Appendix 1, Rule 13.

APPENDIX 1. RULES AND PROCEDURES OF THE  
MUSCOGEE (CREEK) NATION TRIBAL COURTS  
Rule 13. Selection of Jurors

Rule 13. Selection of Jurors

~~A. Adoption of plan. The following plan is hereby adopted by the District Court.~~

~~B. Applicability of plan. This plan is applicable to the Muscogee (Creek) Nation.~~

~~C. Policy. It is the policy of the Court that all litigants entitled to trial by jury shall have the right to jurors selected from a fair number of each of the communities that constitute the Muscogee (Creek) Nation of Oklahoma, and that all registered voters shall have the opportunity to be considered for service on juries, and shall be obligated to serve as jurors when summoned unless excused for valid reason by the Court.~~

**DA.** Supervision of jury selection. The District Court Clerk shall manage the jury selection process with the assistance of the District Court Judge. Until they have been qualified in open Court, the names of persons summoned for jury service shall not be made public unless the District Court shall otherwise direct. The contents of records or papers used by the District Court in connection with the jury selection process shall not be disclosed, except upon Order of the Court.

**EB.** Summons. The District Court Clerk shall issue summons directed to the persons so drawn for service by first class mail.

**FC.** Random selection of jurors from Election Board's voter registration database.

1. From Election Board's voter registration database. The Voter Registration Database represents a fair selection of the communities and districts within the Muscogee (Creek) Nation. The Election Board shall annually provide the District Court with a digital copy of the Voter Registration Database to be used in the Court's automated jury selection process. The District Court shall make a random selection of names via a reputable court management software. All expenses associated with the transfer of data for jury selection from the Election Board to the District Court shall be paid by the Judicial Branch.
2. From Muscogee (Creek) Nation employee database. The purpose of this subsection is to provide defendants charged with crimes designated as domestic, dating, or family violence an impartial jury that reflects a fair cross-section of the community and does not systematically exclude any distinctive group in the community, including non-Indians. Recognizing that the community of the Muscogee (Creek)



Nation includes individuals living or working on land owned or under the authority of the Nation, the District Court shall annually obtain a list of employees from all the Muscogee (Creek) Nation Human Resources Departments to be incorporated into the random selection process for the jury pools of defendants charged with crimes of domestic violence. All Muscogee (Creek) Nation Human Resources shall, upon request by the District Court Clerk, provide the District Court a list of employees to be incorporated into the random selection process for the jury pools of with crimes of domestic violence.

GD. Formation of trial jury. The formation of a trial jury shall be in accordance with Title 27, §2-111, subsections A thru E, of the Muscogee (Creek) Nation Code as follows:

1. A jury of trial shall consist of six (6) persons, but the parties may agree to a number less than six (6).
2. All registered voters of the Muscogee (Creek) Nation, of sound mind and character, residing within the original 1867 territorial boundaries of the Muscogee (Creek) Nation are eligible to be summoned for jury service. Additionally, all Muscogee (Creek) Nation employees are eligible to be summoned for jury service, of sound mind and discretion, of good moral character, not judges, sheriffs or deputies, physicians, attorneys, ministers, jailors, or law enforcement officers, shall be compelled to serve as jurors. Provided, however, persons over seventy (70) years of age or under eighteen (18) years of age and persons having custody of minor children may be excused.
3. The District Court Judge shall question all jurors summoned for trial to determine if all are qualified to be empaneled to try the issue or issues before the Court. Attorneys and/or pro se litigants shall be given an opportunity to examine all jurors selected to try the issue or issues before the Court and may challenge any juror for cause. No judges, law enforcement officers, attorneys, physicians or ministers shall be compelled to serve as jurors, additionally, persons over seventy (70) years of age or under eighteen (18) years of age may be excused. The dismissal of a juror for cause shall be made by the District Court Judge.
4. Each side shall be entitled to three (3) preemptory challenges.
35. Habitual drunkards, persons convicted of any felony, or persons who have served in any penitentiary shall not be eligible to serve as jurors.

46. Prospective trial jurors may be summoned by notifying each orally or by mail as to the time and place at which his attendance is required.
57. For jury dockets, the District Court shall summon a jury panel of not less than twenty-four (24) eligible jurors, to be paid twenty dollars (\$20.00) per day from the Court Fund until they shall be dismissed.

~~H. Excuses on individual request. Excuses on individual requests allowed by these Rules shall be in accordance with Title 27, §2-111 of the Muscogee (Creek) Nation Code.~~

**SECTION SIX. AMENDMENT.** This amendment shall be codified in Title 14, Chapter 1 and Chapter 2 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification said amendment and its inclusion in pocket parts of the Code of Laws of the Muscogee (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws and; (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following amendment, without further National Council approval:

**SECTION SEVEN. AMENDMENT.** The following Sub-Chapters and Sub-Sections of MCNCA Title 14, Chapters 1 and 2 are hereby amended to read as follows:

TITLE 14. CRIMES AND PUNISHMENTS  
CHAPTER 1. CRIMINAL PROCEDURE  
SUBCHAPTER 3. GENERAL PROCEDURAL PROVISIONS

§1-303. Rights of defendant

In all criminal proceedings, the defendant shall enjoy all applicable rights under the Indian Civil Rights Act of 1968 including but not limited to the following rights:

A. Representation. The defendant shall have the right to appear and represent himself; to be represented by an indigent Defense Attorney upon application and approval by the Court if found qualified for free representation; to be represented at his or her own expense by any attorney admitted to practice before the District Court.

B. Nature of charges. The defendant shall have the right to be informed of the nature of the charges against him and to have a written copy of the complaint containing all information required by Title 14, § 1-401 herein.

C. Testimony by defendant. The defendant shall have the right to testify in his or her own behalf, or to refuse to testify regarding the charge against him or her, provided, however, that once a defendant takes the stand to testify on any matter relevant to the immediate proceeding against him or her, he or she shall be deemed to have waived all right to refuse to testify in that immediate criminal proceeding. However, such a waiver in one distinct phase of the criminal trial process, such as a motion hearing, trial or sentencing hearing, shall not be deemed to constitute a waiver of defendant's right to remain silent in other distinct phases of the criminal trial process.

D. Confront witnesses. The defendant shall have the right to confront and cross-examine all witnesses against him, subject to evidentiary requirements in the Judicial Code or other applicable law of the Muscogee (Creek) Nation.

E. Subpoena. The defendant shall have the right to compel by subpoena the attendance of witnesses on his or her own behalf.

F. Speedy Trial. The defendant shall have the right to have a speedy public trial, ~~which shall be held within one hundred and eighty (180) days of the date of the defendant's arraignment if he or she has made bail and within ninety (90) of the date of the defendant's arraignment if he or she is incarcerated due to his or her failure or inability to make bail, unless the.~~ The defendant has waived may waive his or her right to a speedy trial, otherwise, said trial is to be held before an impartial judge or jury as provided in this Title or other applicable law of the Nation.

G. Appeal. The defendant shall have the right to appeal in all cases.

H. Right to Habeas Corpus. Every defendant has the privilege of the writ of habeas corpus to test the legality of his or her detention by order of the Muscogee (Creek) Nation and may petition the court to stay further detention pending the habeas proceeding.

1. The court may grant a stay if the court:

- a. finds that there is a substantial likelihood that the habeas corpus petition will be granted; and
- b. after giving each alleged victim in the matter an opportunity to be heard, finds by clear and convincing evidence that under the conditions imposed by the court, the petitioner is not likely to flee or pose a danger to any person or the community if released.

**Hj. Spouse's testimony.** The defendant shall have the right to prevent his or her present or former spouse from testifying against him concerning any matter which occurred during such marriage, except that:

1. The defendant's present or former spouse may testify against him in any case in which the offense charged is alleged to have been committed against the spouse or the immediate family, or the children of either the spouse or the defendant, or against the marital relationship; and
2. Any testimony by the spouse in the defendant's behalf will be deemed a waiver of this privilege.

**h. Double jeopardy.** The defendant shall have the right to not be twice put in jeopardy by the Nation for the same offense, provided that nothing herein shall be construed as prohibiting the prosecution in the Muscogee (Creek) Nation Courts of a defendant following a state or federal jeopardy.

#### **SUBCHAPTER 5. TRIAL**

##### **§ 1-501. Trial by jury or by Court**

**A.** All trials of offenses which are punishable by incarceration shall be by jury unless the defendant and the Muscogee (Creek) Nation waive trial by jury, in which case the proceeding shall be tried by the District Court without a jury. Jurors shall be selected and jury trials shall be conducted in accordance with the provisions governing juries contained in the Judicial Procedures Code of the Muscogee (Creek) Nation.

**B. Bifurcation of Trial.** In an effort to enable the trier of fact to make the most informed decisions while limiting prejudice to the Defendant. In cases in which the defendant's criminal record could effect the sentence if found guilty, the Court may allow for the case to be tried in two separate stages.

1. The first stage shall be solely for determining whether the Nation has proven if the defendant is guilty of the charge(s) alleged in the Criminal Complaint and Information. Except in cases in which a former conviction is an element of the offense charged, during the first stage, no reference shall be made nor evidence presented of prior offenses except as permitted by the rules of evidence. At the conclusion of this stage, the Judge shall instruct the jury to only determine whether the Nation has proven its case beyond a reasonable doubt; and