



NCA 22-039

CLASSIFICATION: #22. HEALTH AND SAFETY

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING TITLE 22, § 2-102, ENTITLED “PROPERTY SUBJECT TO FORFEITURE”, REQUIRING OWNER/CUSTODIAN REIMBURSEMENT OF COSTS TO THE MUSCOGEE (CREEK) NATION RELATED TO THE CARE OF ANIMALS SEIZED DUE TO ALLEGATIONS OF ANIMAL CRUELTY, REQUIREMENT OF A BOND AND/OR CIVIL FORFEITURE

Be it enacted by the National Council of the Muscogee (Creek) Nation:

SECTION ONE. FINDINGS. The National Council finds that:

A. The Muscogee (Creek) Nation (“MCN”) has a direct interest (legal, moral and ethical) regarding acts of animal cruelty occurring upon the historic reservation lands of the MCN.

B. Animal cruelty is a felony under the laws of the MCN. MCNCA Title 14, § 2-427. Each act of cruelty is punishable by imprisonment of up to three (3) years and/or a fine of not more than Fifteen Thousand Dollars (\$15,000.00).

C. Animal cruelty became a violation of federal law with the passage of **The Preventing Animal Cruelty and Torture Act (PACT)**.

D. The decisions of the United States Supreme Court in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020) and *Sharp v. Murphy*, 140 S. Ct. 2412 (2020) (ratifying that the land within the 1866 borders of the Muscogee (Creek) Nation remains Indian country today) has dramatically increased the need to expand the scope of criminal laws within the MCN for enforcement by the MCN Lighthouse Police and for prosecution by the Office of the Attorney General in the District Court of the MCN.

E. The conditions which lead to the seizure of neglected, abused and/or deprived animals often occurs because the owner(s)/custodian(s) has no financial ability or the capacity to humanely care for such animal(s). The seizure of endangered animals by the MCN has shifted the financial burden for veterinary care (including euthanasia), food and shelter of such animal(s) to the MCN.

F. Animal seizure cases often involve the rescue of large numbers of animals, such as in the case of puppy mills, and/or large animals including cattle and horses who require immediate veterinary care and long term needs.

G. The owner(s)/custodian(s) of neglected, deprived or abused animal(s) are being unjustly enriched while the MCN provides for the costs of seizure, veterinary needs, food and shelter of such animals during the pendency of criminal charges against the owner(s)/custodians for alleged acts of animal cruelty.

H. Owner(s)/custodian(s) of seized animals are often unlikely to have the financial ability to repay the MCN through court ordered restitution required at the conclusion of a criminal proceeding.

I. Owner(s)/custodian(s) of seized animals should have the continuing financial responsibility of providing for the ongoing medical needs and daily care of their seized animals.

J. Seized animals are unlike any other form of property. Their value is often intrinsic and the cost of care is continual during their lifetime. While seized animals that were subjected to cruelty at the hands of their owner(s)/custodian(s) enjoy improved living environments while protected by the MCN, their lives would be greatly improved outside of institutional care.

K. The existing forfeiture laws of the MCN are inadequate to address the needs of vulnerable animals. MCNCA Title 22, § 2-102 – **Public Safety – Property Subject to Forfeiture**, requires amendment to address the ongoing cost of care of animals seized due to acts of animal cruelty.

L. Forfeited animals should be given the opportunity to live in dignity under the care of a responsible owner.

M. Specific terms and conditions should be presented to owner(s)/custodian(s) of seized animals by which such persons may maintain legal custody of the seized animals at the sole expense of the owner(s)/custodian(s), providing for the past and future reasonable and necessary care of the seized animals, and continuing until the animals are returned or ownership is forfeited. Terms and conditions may also include that such owner(s)/custodian(s) shall not acquire, care for or possess any other animals during the pendency of this or any related case.

N. Amending Title 22 regarding property subject to forfeiture is analogous to federal law and state law (18 U.S.C. §981 – **Civil Forfeiture**, and Title 21 O.S. §1680.4 – **Custody of Abused or Neglected Animals – Bond Euthanasia**).

SECTION TWO. PURPOSE. The purpose of this Act is to authorize the amendment of MCNCA Title 22, § 2-102, to include a paragraph “C”, which provides for the requirement of payment of expenses, bond and/or civil forfeiture of animals seized due to cruelty by the owner(s) or custodian(s).

SECTION THREE. AMENDMENT. This amendment shall be codified in Title 22, Chapter 2, Entitled "PUBLIC SAFETY", Section 2-102(C) of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of 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:

C. Any person who by their actions or inactions causes any animal(s) to be seized due to allegations of animal cruelty as defined by the Muscogee (Creek) Nation Code of Offenses or assimilated laws within the historic reservation boundaries of the Muscogee (Creek) Nation, in addition to any other penalties at law, subject to the following provisions, said owner(s)/custodian(s) shall be required to reimburse the Muscogee (Creek) Nation for all reasonable and necessary costs of seizure, veterinary care, food and shelter related expenses of the seized animal(s), the requirement to post a bond to cover such costs incurred by the Muscogee (Creek) Nation, and/or the animal(s) shall be subject to forfeiture.

- 1. The District Court of the Muscogee (Creek) Nation is authorized to set specific terms and conditions by which the owner(s)/custodian(s) of any seized animal(s) may maintain legal custody of the animal(s) at the sole expense of the owner(s)/custodian(s), providing for the past and future cost of care of the seized animal(s) while in the custody of the Muscogee (Creek) Nation.**
- 2. Such terms and conditions may also include that such owner(s)/custodian(s) be prohibited from acquiring or possessing any other animal(s), of any kind, during the pendency of this or any related court proceeding.**
- 3. The owner(s)/custodian(s) of the seized animal(s) shall be required to reimburse the Muscogee (Creek) Nation of all expenses incurred in the seizure and up to a date certain as determined by the Court and to be paid within thirty (30) days from the date of the Court's order, and that the owner(s)/custodian(s) further be required to pay for the ongoing reasonable and necessary care of the seized animal(s) as and when such costs become due. Costs of care shall include, but not be limited to veterinary care, feed and board. Should the owner(s)/custodian(s) fail to comply with the Court's order of reimbursement, ongoing costs or bond, the Muscogee (Creek) Nation may be awarded an ongoing lien interest in the animal(s) and be permitted to immediately execute upon that lien by either the sale or other disposition of the animal(s), or, in the**

- alternative, provide that the owner/custodian be in violation of the Court's order, that the custody agreement of the animal(s) provide for and result in immediate forfeiture of the animal(s) to the MCN.
4. Owner(s)/custodian(s) may be required to post a security bond within seventy-two (72) hours of the Court's order in an amount determined by the Court sufficient to reimburse the Muscogee (Creek) Nation for all past and anticipated future reasonable and necessary costs incurred by the Muscogee (Creek) Nation for the care of the animal(s) from and including the date of the seizure. Reasonable and necessary costs should include, but not be limited to, veterinary care, medical care, feed and boarding of the animal(s). The bond shall be placed with the Clerk of the Court of the Muscogee (Creek) Nation. The Muscogee (Creek) Nation shall provide an accounting of expenses to the Court for posting of a subsequent bond at any time. When all expenses covered by the bond are exhausted and a subsequent bond not timely posted the animal(s) shall be forfeited to the Muscogee (Creek) Nation. Should the District Court order the animal(s) be returned to the owner(s)/custodian(s) funds not used for the care of the animal(s) shall be returned.
 5. Nothing herein shall prevent the Muscogee (Creek) Nation's euthanasia of a seized animal(s) at any time as determined necessary by a licensed veterinarian.
 6. Forfeiture of any animal(s) under this section does not preclude requiring the owner(s)/custodian(s) to pay restitution to the Muscogee (Creek) Nation for the care of the seized animal(s) while in the physical custody of the Muscogee (Creek) Nation.
 7. Seized animals may be held as evidence until a forfeiture has been declared or a release ordered.
 8. Reasonable notice of intended forfeiture proceedings shall be given all known owner(s)/custodian(s) of the seized animal(s) and to known parties of interest.
 9. Animals forfeited under this section may be disposed of at the discretion and direction of the Court. Disposition may include transfer of custody and ownership of any seized animal(s) to any organization created for the protection of animals for the eventual adoption of such animal(s).
 10. Any proceeds from the sale of any seized animal(s) shall be distributed in conformance with paragraph "B" of this Section.

SECTION FOUR. EFFECTIVE DATE. This Act shall become effective immediately upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution.

ENACTED by the Muscogee (Creek) National Council on this 5th day of April, 2022.

IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



William Lowe, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

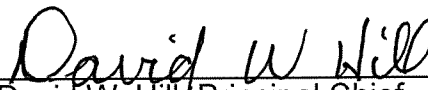
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with **Sixteen** members attending this meeting on the **5th** day of **April, 2022** and that the above is in conformity with the provisions therein adopted by a vote of **15** in favor, **0** against and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



Alicia Stroble, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 11th day of April, 2022 to the above Law, **NCA 22-039** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



David W. Hill, Principal Chief
Muscogee (Creek) Nation

