



## NCA 22-048

### CLASSIFICATION: #14. CRIMES AND PUNISHMENTS

### A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING TITLE 14, CHAPTER 2, SUBCHAPTER 1 OF THE CRIMINAL OFFENSES CODE OF LAWS OF THE MUSCOGEE (CREEK) NATION AND AUTHORIZING THE CREATION OF SECTION 2-114 – A SUPPLEMENTAL CRIMES ACT

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

**SECTION ONE. FINDINGS.** The National Council finds that:

A. Title 27, § 1-103 (C)(1) of the Muscogee (Creek) Nation (“MCN”) Code Annotated permits the Muscogee (Creek) National Council to authorize supplementation of the MCN Criminal Code of Laws.

B. Since the establishment of a single Muscogee (Creek) Nation District Court (“District Court”) in 1981, the legal issues and complexities facing the Muscogee (Creek) Nation (“MCN”) has changed and evolved. The progress of the MCN and its citizens over the past three decades has placed new demands upon our law enforcement and criminal justice system. The MCN Lighthorse Police and District Court, in order to protect all citizens residing within the MCN, require subject matter jurisdiction to deter and prosecute criminal misconduct occurring within the reservation boundaries of the MCN.

C. The MCN Criminal Offenses Code of Laws listed in Title 14 of the Muscogee (Creek) Nation Code Annotated has not undergone significant revision since 2010.

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 Lighthorse Police and for prosecution in the District Court of the MCN.

E. Following the U.S. Supreme Court’s decisions in *Murphy* and *McGirt*, criminal acts have occurred upon the reservation lands of the MCN which were not previously proscribed under the MCN Criminal Code of Laws.

F. The MCN Lighthorse Police must be permitted to interact with city, county, state, other tribal and federal law enforcement agencies in a coordinated effort to enforce compatible laws so that criminal misconduct which jeopardizes public safety within the reservation lands of the MCN does not go undeterred, unprosecuted and unpunished.

G. The MCN has a duty to evolve its laws in order to protect the rights of victims of crimes and provide for the safety of the citizens of the MCN and others living within the reservation boundaries of the MCN, as well as provide for the orderly administration of justice.

H. The existing criminal laws of the MCN are inadequate to address all acts of criminal misconduct which are recognized by other jurisdictions that are now occurring within the reservation boundaries of the MCN.

I. Codification of a MCN Supplemental Crimes Act is consistent with federal law. 18 U.S.C.A. § 13.

J. Supplementing the MCN Criminal Code of Laws does not subject the MCN or its citizens to the jurisdiction of those governmental entities existing within the reservation boundaries of the MCN.

K. Any criminal code provision supplementing the MCN Criminal Code of Laws will not be enforced where in conflict with or violative of either MCN tribal or federal law.

L. All supplemented code provisions shall be interpreted such that wherever the name of such governmental entity existing within the reservation boundaries of the MCN is identified by name it shall be interpreted and construed as if originally appearing the "Muscogee (Creek) Nation".

**SECTION TWO. PURPOSE.** The purpose of this Act is to authorize the temporary expansion of the MCN's Criminal Code of Laws by supplementing its existing criminal code with those of the governmental entities located within the reservation boundaries of the MCN. Nothing in this law: i) shall serve as a waiver of the sovereignty of the MCN; ii) shall subject the MCN or its citizens to the jurisdiction of any state or municipal law; or iii) requires the mandatory enforcement or prosecution of the supplemented criminal law(s). The temporary supplementation of the MCN Criminal Code of Laws shall continue until such time as the MCN's criminal code shall be updated. Any supplemental law shall not be valid and enforceable if inconsistent with the any law of the MCN or federal law.

**SECTION THREE. AMENDMENT.** This amendment (supplementation of laws) shall be codified in Title 14, Chapter 2, Subchapter 1, as Section 2-114 of the Criminal 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 designed consistent with the format in the MCN Criminal 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 MCN Criminal 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.

TITLE 14

CHAPTER 2. CRIMINAL OFFENSES

SUBCHAPTER 1. GENERAL; PURPOSE; PUNISHMENTS

§2-114. Supplemental Crimes Act

A. This Act authorizes the temporary supplementation of the MCN Criminal Code of Laws.

B. The criminal offenses in this Chapter are hereby supplemented by including also as a criminal offense of the Muscogee (Creek) Nation any criminal offense prescribed by the statutes of those governmental entities existing within the reservation boundaries of the MCN that were in effect as of January 1, 2021. Unless otherwise prescribed by subsequent legislation, no criminal statute effective after January 1, 2021, shall apply as a criminal offense of the Muscogee (Creek) Nation. The criminal complaint and all related charging documents based on a supplemented criminal statute(s) shall cite to this Section (Title 14, Section 2-114) as the legal basis for applying said statute in the courts of the Muscogee (Creek) Nation.

C. Any Federal or State court ruling interpreting any supplemented criminal statute shall not be binding in the courts of the Muscogee (Creek) Nation.

D. Nothing in this Act shall alter any existing laws of the Muscogee (Creek) Nation regarding criminal procedures, Rules of Evidence, range of punishment for felony and misdemeanor offenses, and any other procedural rules, as well as the Defendant's rights and privileges recognized under the enacted laws of the MCN.

E. Further, nothing in this Act:

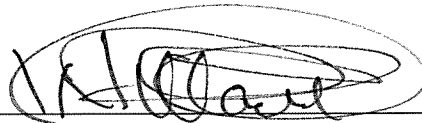
1. Shall serve as a waiver of the sovereign rights and immunities of the Muscogee (Creek) Nation;
2. Shall subject the Muscogee (Creek) Nation nor any of its citizens to the jurisdiction of any state law or municipality;
3. State and federal statutes and case law will not be binding on the MCN;
4. Such supplementation of laws shall continue until such time as the laws of Muscogee (Creek) Nation shall be updated and this provision amended or repealed;

5. Nothing herein compels the mandatory enforcement or prosecution of such supplemented law(s); and
6. Any such supplemented law shall not be valid or enforceable if inconsistent with any law of the Muscogee (Creek) Nation or federal law.

**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 14<sup>th</sup> day of April, 2022.

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



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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 14<sup>th</sup> 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.



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Alicia Stroble, Recording Secretary  
Muscogee (Creek) National Council

**APPROVAL**

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 14<sup>th</sup> day of April, 2022 to the above Law, **NCA 22-048** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.

*David W. Hill*

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

