



NCA 22-113

CLASSIFICATION: #14. CRIMES AND PUNISHMENTS

A LAW OF THE MUSCOGEE (CREEK) NATION ENACTING THE “MUSCOGEE (CREEK) NATION VICTIM PROTECTION AND JURISDICTION EXPANSION ACT” TO IMPLEMENT THE SPECIAL TRIBAL CRIMINAL JURISDICTION PROVISIONS IN THE VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION ACT OF 2022 AND AMENDING MCNCA TITLE 6 “CHILDREN AND FAMILY RELATIONS,” MCNCA TITLE 14 “CRIMES AND PUNISHMENT,” AND MCNCA TITLE 27 “JUDICIAL PROCEDURES”

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 has taken a strong stand against violent crime on the Muscogee (Creek) Reservation.

B. On March 16, 2022, the President of the United States signed the Violence Against Women Act Reauthorization Act of 2022 (VAWA), amending 25 U.S.C. § 1304, returning to tribes a portion of their authority over criminal acts committed in Indian country by non-Indians for the crimes of assault of Tribal justice personnel, child violence, dating violence, domestic violence, obstruction of justice, sexual violence, sex trafficking, stalking and violations of protection orders.

C. The jurisdictional provisions under VAWA 2022 are referred to as the Special Tribal Criminal Jurisdiction provisions and will take effect October 1, 2022. The Muscogee (Creek) Nation finds implementation of the Special Tribal Criminal Jurisdiction authority within the Muscogee (Creek) Reservation to be essential to the safety and protection of all individuals who live and work within the Reservation.

D. By updating the jurisdictional reach of the Muscogee (Creek) Nation, the Nation will be able to move towards the enforcement and prosecution for crimes committed by non-Indians described in Part (B) above. The Muscogee (Creek) Nation finds it necessary to amend and modify certain provisions of the Nation’s Code of Laws in order to fully implement the Special Tribal Criminal Jurisdiction starting October 1, 2022.

SECTION TWO. SHORT TITLE. This Act shall be designated as the “Muscogee (Creek) Nation Victim Protection and Jurisdiction Expansion Act.”

SECTION THREE. AMENDMENT. These amendments shall be codified in Title 6, Chapter 3 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 FOUR. AMENDMENT. MCNCA Title 6, Chapter 3, § 3-103.K entitled “Definitions” is hereby amended to read to read as follows:

§ 3-103. Definitions

The following words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

A. “Alternative method” means a method by which a child witness testifies which does not include all of the following:

1. having the child testify in person in an open forum;
2. having the child testify in the presence and full view of the finder of fact and Judge; and
3. allowing all of the parties to be present, to participate, and to view and be viewed by the child.

B. “Crimes involving domestic or family violence” are as defined in Title 6, §3-301.

C. “Criminal proceeding” means a trial or hearing before a court in the prosecution of a person charged with violating a criminal law of the Nation or in a juvenile delinquency proceeding involving conduct that if engaged in by an adult would constitute a violation of a criminal law of the Nation.

D. “Cross-deputization agreement” means an agreement between the Nation, the Bureau of Indian Affairs (BIA) and/or any city, county or state governmental entity, by which the Lighthorse Police are authorized to act as law enforcement officers to enforce the law of such other governmental entity with regard to crimes arising in the Muscogee (Creek) Nation territorial jurisdiction that are subject to that entity’s criminal jurisdiction as described in Title 6, § 3-202, and by which such other governmental entity’s law enforcement officers are authorized to enforce the law of the Muscogee (Creek) Nation and/or federal law with regard to crimes arising in the Muscogee (Creek) Nation territorial

jurisdiction that are subject to Muscogee (Creek) Nation jurisdiction or federal jurisdiction as described in Title 6, § 3-302.

E. "Dating Violence" means crimes under § 3-301 of this subchapter committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim characterized by the expectation of affectional involvement and shall be adjudged by the District Court upon consideration of factors such as the length of time of the relationship, the type of relationship, the frequency of interaction between the parties and if the relationship has been terminated by either party, and the length of time since the termination of the relationship. This term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context. Provided that a "first date" shall not automatically be excluded provided that other characteristics of a social relationship of a romantic or intimate nature are present.

F. "Domestic Violence" means crimes under § 3-301 of this subchapter committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the victim.

G. "Family or household Members" means:

1. Persons who are or have been related by blood, marriage or adoption;
2. Minor children who are part of the household; or
3. Persons who reside or have resided together in the past who have never been intimate partners.

H. "Family Violence" means the same or similar acts committed in Domestic Violence, but directed towards a Family or Household member instead of an intimate partner.

I. "Foreign protection order" means a protection order issued by any issuing court except the Muscogee (Creek) Nation District Court.

J. "Harassment" means a knowing and willful course or pattern of conduct by an adult, emancipated minor, or minor thirteen (13) years of age or older, directed at a specific person which seriously harms or annoys the person, and which serves no legitimate purpose. The course of conduct shall be such as would cause a reasonable person to suffer emotional distress, and shall actually cause substantial distress to the person. "Harassment" shall include, but not be limited to, harassing or obscene telephone calls.

K. "Indian" means a person who is a member of the Muscogee (Creek) Nation; or a person who is a member of any other federally recognized Indian Tribe, including

Native Hawaiians and Alaska Natives; or a person who possesses a Certificate of Degree of Indian Blood; or a person eligible for membership in a federally recognized tribe who under oath confirms to the District Court that he/she is Indian.

L. "Issuing Court" means a court that has issued a protection order, and includes a court of any Tribe, the United States, a state of the United States, the District of Columbia, or a commonwealth, territory, or possession of the United States, or any foreign court which has adequate due process protection.

M. "Lighthouse Police" means law enforcement officers of the Muscogee (Creek) Nation.

N. "Mandatory Arrest" means that a police officer shall arrest if there is probable cause to believe the person to be arrested has committed an offense as defined by this Chapter even though the arrest may be against the expressed wishes of the victim.

O. "Noncriminal proceeding" means a trial or hearing before a court, other than a criminal proceeding.

P. "Other authorized law enforcement officer" means, for purposes of this Act, any federal, city, county, or state law enforcement officer who is authorized to enforce a Muscogee (Creek) Nation law or federal law under authority of a commission received pursuant to a Cross-Deputization Agreement as defined in subsection B of this section.

Q. "Perpetrator" means the person alleged to have committed an act of dating, domestic or family violence. The perpetrator may also be referred to as a "defendant" in a criminal case or "respondent" in a civil case.

R. "Prosecutor" shall mean the Prosecutor of the Muscogee (Creek) Nation charged with the duty of enforcing the criminal laws of the Nation.

S. "Protection Order" means any injunction, restraining order or other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to another person and/or their domesticated animals and includes any temporary or final order issued by a civil or criminal court, whether obtained by filing an independent action or as a pendent lite order in another proceeding, if the civil or criminal order was issued in response to a complaint, petition, or motion filed by, or on behalf of a person seeking protection.

T. "Spouse or intimate partner" includes: (1)(a) a spouse or former spouse, persons who share a child in common, and persons who cohabit or have cohabited as a spouse; or (b) persons who are or have been in a social relationship of a romantic or intimate nature, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship; and (2)

any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides.

U. “Stalking” means the willful, malicious, and repeated following of a person by an adult, emancipated minor, or minor thirteen (13) years of age or older, with the intent of placing the person in reasonable fear of death or great bodily injury.

V. “Territorial jurisdiction” means the Muscogee (Creek) Nation territorial jurisdiction as defined by the Judicial Code of the Muscogee (Creek) Nation in Title 27 of the code of laws of the Muscogee (Creek) Nation.

W. “Violation of protection order” means: (1) any violation within the Muscogee (Creek) Nation territorial jurisdiction of a protection order issued by the District Court; and (2) where applicable, any violation within the Muscogee (Creek) Nation territorial jurisdiction of a foreign protection order.

SECTION FIVE. AMENDMENT. These amendments shall be codified in Title 6, Chapter 3 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 SIX. AMENDMENT. MCNCA Title 6, Chapter 3, § 3-302 entitled “Criminal jurisdiction over crimes involving domestic or family violence” is hereby amended to read as follows:

§ 3-302. Criminal jurisdiction over crimes involving domestic, dating, or family violence

A. Muscogee (Creek) Nation jurisdiction. The Muscogee (Creek) Nation shall have criminal jurisdiction for the enforcement of a **Covered Crime, as defined by Section 2-114.E of Title 14, including, but not limited to a** crime involving domestic, dating or family violence that occurs in the Muscogee (Creek) Nation territorial jurisdiction pursuant to Title 27, §1-102 of the Muscogee (Creek) Nation Code of Laws.

B. Federal jurisdiction. The Muscogee (Creek) Nation recognizes that the United States possesses criminal jurisdiction over the following:

1. The enforcement of certain felony offenses as defined by 18 U.S.C. §1153 and any provisions of VAWA granting Federal Courts jurisdiction over crimes involving domestic or family violence or dating violence in Indian country.

C. Construction. Nothing herein shall be construed as limiting the authority of the Muscogee (Creek) Nation to take any of the following actions in the Muscogee (Creek) Nation territorial jurisdiction:

1. Lighthorse police enforcement of state or federal criminal laws against a non-Indian offender pursuant to a cross-deputization agreement;
2. Lighthorse arrest of a non-Indian offender, detention and referral to appropriate authorities for violation of a foreign protection order in the Muscogee (Creek) Nation territorial jurisdiction when the foreign protection order was issued against a non-Indian offender, pursuant to 18 U.S.C. § 2265; or
3. Civil enforcement related to a violation of a protection order. The Muscogee (Creek) Nation shall have full civil jurisdiction to issue and enforce protection orders involving any person, including the authority to enforce any order through civil contempt proceedings, to exclude violators from Indian land, and to use other appropriate mechanisms, in matters arising anywhere in Muscogee (Creek) Nation Indian country or otherwise within the authority of the Muscogee (Creek) Nation, regardless of the Indian or non-Indian status of the offender and the victim.
 - a. Each violation of a provision of this Code shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to, the issuance of a fine of up to Ten Thousand Dollars (\$10,000.00), forfeitures, and/or civil contempt.
 - b. A civil action brought under this paragraph may be filed in the Muscogee (Creek) Nation District Court by the Nation or any person harmed by a person's violation of this Code.

SECTION SEVEN. AMENDMENT. These amendments shall be codified in Title 14, Chapter 1 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 EIGHT. AMENDMENT. MCNCA Title 14, Chapter 1, § 1-303 entitled “Rights of defendant” is hereby amended to read as follows:

§ 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:

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. The defendant 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.
2. **After a defendant has been sentenced by the Muscogee Court, the defendant may file a petition for a writ of habeas corpus in a court of the United States as provided under 25 U.S.C. § 1303, provided the defendant has exhausted all applicable remedies in the Muscogee Courts at the Trial and Appellate court levels.**
3. **Every defendant who is detained in jail or arraigned by the Muscogee Court shall be informed of their federal habeas rights, including the right to stay detention, by being given a written copy of 25 U.S.C. § 1303 and 25 U.S.C. § 1304.**

I. 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.

J. 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.

K. Rights applicable in Special Tribal Criminal Jurisdiction proceedings. In a criminal proceeding in which the Nation exercises Special Tribal Criminal Jurisdiction, the Nation shall provide the defendant:

1. all applicable rights under the Indian Civil Rights Act, 25 U.S.C. § 1301, et seq.;
2. if a term of imprisonment of any length may be imposed, the Nation shall:
 - a. provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the U.S. Constitution;
 - b. at the expense of the Nation, provide an indigent defendant the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States, including any tribal government, that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys;
 - c. require that the judge presiding over the criminal proceeding has sufficient legal training to preside over criminal proceedings and is licensed to practice law by any jurisdiction in the United States, including any tribal government.
 - d. prior to charging the defendant, make publicly available the criminal laws (including regulations and interpretive documents), rules of evidence, and rules of criminal procedure (including rules governing the recusal of judges in appropriate circumstances) of the Nation; and
 - e. maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding.
3. the right to a trial by an impartial jury that is drawn from sources that reflect a fair cross section of the community and do not systematically exclude any distinctive group in the community, including non-Indians; and
4. all other rights whose protection is necessary under the U.S. Constitution in order for Congress to recognize and affirm the inherent power of the Nation to exercise Special Tribal Criminal Jurisdiction over the defendant.

SECTION NINE. NEW LAW. The following new law shall be codified in Title 14, 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:

§ 2-114. Definitions: Special Tribal Criminal Jurisdiction. In this Code, the following words and phrases shall have the following meanings for purposes of exercising criminal jurisdiction over non-Indians for violations that occur within the territorial jurisdiction of the Muscogee (Creek) Nation as authorized under Section 1-102.D of Title 27:

A. "Assault of Tribal Justice Personnel" means any violation of the criminal law of the Nation that involves the use, attempted use, or threatened use of physical force against an individual authorized to act for, or on behalf of, the Nation, or serving the Nation during, or because of, the performance or duties of that individual in:

1. preventing, detecting, investigating, making arrests relating to, making apprehensions for, or prosecuting a Covered Crime;
2. adjudicating, participating in the adjudication of, or supporting the adjudication of a Covered Crime;
3. detaining, providing supervision for, or providing services for persons charged with a Covered Crime;
4. incarcerating, supervising, providing treatment for, providing rehabilitation services for, or providing reentry services for persons convicted of a Covered Crime.

B. "Child Violence" means the use, threatened use, or attempted use of violence against a child proscribed by the criminal laws of the Nation. For purposes of this definition, the term "child" means a person who has not attained the lessor of:

1. the age of 18; and
2. except in the case of sexual abuse, the age otherwise defined by the criminal laws of the Nation.

C. "Coercion" means:

1. threats of serious harm to or physical restraint against any person;
2. any scheme, plan, or pattern intended to cause a person to believe that failure to perform any act would result in serious harm to or physical restraint against any person, or;
3. the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any matter or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.
4. For purposes of this definition, the term "serious harm" means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all

the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.

D. "Commercial Sex Act" means any sex act, on account of which anything of value is given to or received by any person.

E. "Covered Crime" means the following crimes within the criminal laws of the Nation:

1. Assault of Tribal Justice Personnel;
2. Child Violence;
3. Dating Violence;
4. Domestic Violence;
5. Obstruction of Justice;
6. Sexual Violence;
7. Sex Trafficking;
8. Stalking; and
9. Violation of a Protection Order.

F. "Dating Violence" means any violation of the criminal laws of the Nation committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

G. "Domestic Violence" means any violation of the criminal laws of the Nation committed by:

1. a current or former spouse or intimate partner of the victim;
2. a person with whom the victim shares a child in common;
3. a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or;
4. a person similarly situated to a spouse of the victim under the domestic or family violence laws of the Nation.

H. "Obstruction of Justice" means any violation of the criminal laws of the Nation that involves interfering with the administration or due process of the laws of the Nation, including any Tribal criminal proceeding or investigation of a crime.

I. "Sex Trafficking" is when a person knowingly:

1. recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person; or

2. benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph 1 of this definition, knowing, or, except where the act constituting the violation of paragraph 1 of this definition is advertising, in reckless disregard of the fact, that means of force, threats of force, fraud, coercion, or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as a felony.

J. "Sexual Violence" mean any nonconsensual sexual act or contact proscribed by the criminal laws of the Nation, including in any case in which the victim lacks the capacity to consent to the act.

K. "Special Tribal Criminal Jurisdiction" means the inherent criminal jurisdiction that the Nation may exercise over any person for a Covered Crime that occurs in the Indian country of the Nation and consistent with 25 U.S.C. § 1301, *et seq.*

L. "Stalking" means engaging in a course of conduct directed at a specific person proscribed by the criminal laws of the Nation that would cause a reasonable person:

1. to fear for the person's safety or the safety of others; or
2. to suffer substantial emotional distress.

M. "Violation of a Protection Order" mean an act that:

1. occurs in the Indian country of the Nation; and
2. violates a provision of a protection order that:
 - a. prohibits or provides protection against violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person;
 - b. was issued against the defendant;
 - c. is enforceable by the Nation; and
 - d. is consistent with 18 U.S.C. § 2265(b).

SECTION TEN. AMENDMENT. These amendments shall be codified in Title 27, Chapter 1 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 ELEVEN. AMENDMENT. MCNCA Title 27, Chapter 1, §1-102 entitled “Jurisdiction” is hereby amended to read as follows:

§ 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 Tribal Criminal Jurisdiction.**

- 1. In addition to the general criminal jurisdiction over all Indians, the Muscogee (Creek) Nation shall have jurisdiction to enforce all provisions of the Code against a non-Indian who has committed a Covered Crime, as defined by Section 2-114.E of Title 14, against an Indian victim within the Nation's territorial jurisdiction; provided, however, for purposes of prosecuting a non-Indian for Obstruction of Justice or Assault of Tribal Justice Personnel crimes, the victim need not be Indian.**
- 2. In a criminal proceeding in which the Nation exercises Special Tribal Criminal Jurisdiction, the Nation shall provide to the defendant all rights provided in Section 1-303 of Title 14.**

~~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:~~

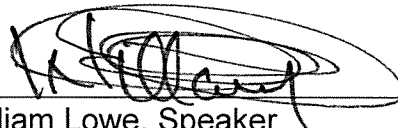
- ~~1. ——— resides in Muscogee (Creek) Nation Indian Country;~~
- ~~2. ——— or is employed in Muscogee (Creek) Nation Indian Country; or~~
- ~~3. ——— is a spouse, intimate partner, or dating partner of ———~~
 - ~~a. ——— a member of the Muscogee (Creek) Nation; or~~
 - ~~b. ——— an Indian who resides in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

E. 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 E. 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 E 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.

SECTION TWELVE. EFFECTIVE DATE. This Act shall become effective **October 1, 2022**, 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 **28TH** day of **September, 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 **28th** day of **September, 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

Alicia Stroble, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this **30th** day of **September, 2022** to the above Law, **NCA 22-113** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.

David W Hill

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

