



NCA 11-113

CLASSIFICATION: #22. HEALTH AND SAFETY

A LAW OF THE MUSCOGEE (CREEK) NATION ENACTING REVISIONS TO THE SEX OFFENDER REGISTRATION CODE OF THE MUSCOGEE (CREEK) NATION AND CODIFYING SAID CODE IN TITLE 22 OF THE MUSCOGEE (CREEK) NATION CODE ANNOTATED

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

SECTION ONE. AMENDMENT. This amendment shall be codified in Title 22, Chapter 10, 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 Codification Committee 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 2003 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 TWO. AMENDMENT. MCNCA Title 22, §10-202 is hereby amended to read as follows:

§10-202. Covered Offenses

A. Tribal offenses. Offenses in Title 14, Chapter 2:

1. §2-317. indecent exposure
- 2. §2-318. false imprisonment when the victim is a minor**
- ~~23.~~ §2-321. video voyeurism
- ~~34.~~ §2-323. sex trafficking of children or by force, fraud, or coercion
- ~~45.~~ §2-324. aggravated sexual abuse
- ~~56.~~ §2-325. sexual abuse
- ~~67.~~ §2-326. sexual abuse of a minor or ward
- ~~78.~~ §2-327. abusive sexual contact
- ~~89.~~ §2-328. offenses resulting in death

- ~~910.~~ ~~§2-341~~**330.** sexual exploitation of children
- ~~4011.~~ ~~§2-342~~**331.** selling or buying of children
- ~~4112.~~ ~~§2-343~~**332.** Certain activities relating to material involving the sexual exploitation of minors
- ~~4213.~~ ~~§2-344~~**333.** Certain activities relating to material constituting or containing child pornography
- ~~4314.~~ ~~§2-346~~**335.** Misleading domain names on the Internet
- ~~4415.~~ ~~§2-347~~**336.** Misleading words or digital images on the Internet
- ~~4516.~~ ~~§2-350~~**339.** Transportation of a minor for illegal sexual activity
- ~~4617.~~ ~~§2-351~~**340.** Coercion and enticement
- ~~4718.~~ ~~§2-352~~**341.** Transportation for criminal sexual activity or an offense in another jurisdiction that has the same elements.
- 19. Any attempt or conspiracy to commit the above offenses.**

B. Federal Offenses. A conviction for, or a conviction for an attempt or conspiracy to commit, any of the following, and any other offense hereafter included in the definition of "sex offense" at 42 U.S.C. §16911(5), and any offence prosecuted under the Assimilative Crimes Act (18 U.S.C. §1152 or §1153):

- 1. 18 U.S.C. §1591 (sex trafficking of children),
- 2. 18 U.S.C. §1801 (video voyeurism of a minor),
- 3. 18 U.S.C. §2241 (aggravated sexual abuse),
- 4. 18 U.S.C. §2242 (sexual abuse)
- 5. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
- 6. 18 U.S.C. §2244 (abusive sexual contact),
- 7. 18 U.S.C. §2245 (offenses resulting in death),
- 8. 18 U.S.C. §2251 (sexual exploitation of children),
- 9. 18 U.S.C. §2251A (selling or buying of children)
- 10. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
- 11. 18 U.S.C. §2252A (material containing child pornography),
- 12. 18 U.S.C. §2252B (misleading domain names on the internet),
- 13. 18 U.S.C. §2252C (misleading words or digital images on the internet),
- 14. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the U.S.),
- 15. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
- 16. 18 U.S.C. §2422 (coercion and enticement of a minor for illegal sexual activity),

17. 18 U.S.C. §2423 (Transportation of Minors for Illegal Sexual Activity, Travel With the Intent to Engage in Illicit Sexual Conduct with a Minor, Engaging in Illicit Sexual Conduct in Foreign Places) (Mann Act),
18. 18 U.S.C. §2424 (failure to file factual statement about an alien individual),
19. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

C. Foreign Offenses. Any conviction for a sex offense involving any conduct listed in this Section that was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.

D. Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. 951 note).

E. Juvenile Offenses or Adjudications. Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than Title 14, Chapter 2, §2-324, Aggravated Sexual Abuse, the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. §2241 (a) and (b)) and committed by a minor who is 14 years of age or older at the time of the offense. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.

SECTION TWO. AMENDMENT. MCNCA Title 22, §10-301. is hereby amended to read as follows:

A. Tier 1 Sex Offenses. A "Tier 1" sex offense includes any sex offense, or an attempt or conspiracy to commit such an offense, that is not a "Tier 2" or "Tier 3" offense. It also includes an offense committed in another jurisdiction that would be a Tier 1 sex offense if committed within the Nation.

B. Tribal Offenses. Any sex offense covered by this Code where punishment was limited to one year in jail shall be considered a "Tier 1" sex offense.

C. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a "Tier 1" offense:

1. 18 U.S.C. §1801 (video voyeurism of a minor),
2. 18 U.S.C. §2252 (receipt or possession of child pornography),
3. 18 U.S.C. §2252A (receipt or possession of child pornography),
4. 18 U.S.C. §2252B (misleading domain names on the internet),
5. 18 U.S.C. §2252C (misleading words or digital images on the internet),
6. 18 U.S.C. §2422(a) (coercion to engage in prostitution),
7. 18 U.S.C. §2423(b) (travel with the intent to engage in illicit conduct),
8. 18 U.S.C. §2423(c) (engaging in illicit conduct in foreign places),
9. **18 U.S.C. §2423(d) arranging, inducing procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain.**
10. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), or
11. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

SECTION THREE. AMENDMENT. MCNCA Title 22, §10-302 is hereby amended to read as follows:

§10-302. Tier 2 Offenses

A. Muscogee (Creek) Nation Offenses. Any of the following sex offenses in Title 14, Chapter 2, **or an offense committed in another jurisdiction that is equivalent to the following,** shall be a "Tier 2" offense:

1. §2-323. Sex trafficking of children or by force, fraud, or coercion
2. §2-326. Sexual abuse of a minor or ward
3. §2-327. Abusive sexual contact, where the victim is 13 years of age or Older
4. §2-341**330**. Sexual exploitation of children
5. §2-342**331**. Selling or buying of children
6. §2-343**332**. Certain activities relating to material involving the sexual exploitation of minors.
7. §2-344**333**. Certain activities relating to material constituting or containing child pornography
8. §2-350**339**. Transportation of a minor for illegal sexual activity
9. §2-351**340**. B. Coercion and enticement of a minor
10. §2-352**341**. A. Transportation of minors to engage in illicit conduct

B. Recidivism and Felonies. Unless otherwise covered by Section 303., any second Tier 1 sex offense **for which a person has been convicted, or an attempt or conspiracy to commit such an offense,** is a "Tier 2" offense.

C. Offenses Involving Minors. A "Tier 2" offense includes any sex offense **for which a person has been convicted, or an attempt or conspiracy to commit such an offense,** that involves:

1. The use of minors in prostitution, including solicitations,
2. Enticing a minor to engage in criminal sexual activity,
3. **A non-forcible sexual act with a minor 16 or 17 years old,**
34. Sexual contact with a minor 13 years of age or older, whether directly or indirectly through the clothing, that involves the intimate parts of the body,
45. The use of a minor in a sexual performance, or
56. The production or distribution of child pornography.

D. Federal Offenses. Conviction for any of the following federal offenses, **or an attempt or conspiracy to commit such an offense,** shall be a "Tier 2" offense:

1. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
2. ~~18 U.S.C. §2243 (sexual abuse of a minor or ward),~~
32. 18 U.S.C. §2244 (abusive sexual contact where the victim is 13 years of age or older),
43. 18 U.S.C. §2251 (sexual exploitation of children),
54. 18 U.S.C. §2251A (selling or buying of children),
65. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
76. 18 U.S.C. §2252A (production or distribution of material containing child pornography),
87. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
98. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
109. 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution),
10. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct),
11. **18 U.S.C. §2423(d) (arranging, inducing, procuring or facilitating the travel in interstate commerce of a minor for the purpose of engaging in illicit conduct for financial gain),**

E. Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 302. A., B. or C. shall be considered a "Tier 2" offense.

SECTION FOUR. AMENDMENT. MCNCA Title 22, §10-303 is hereby amended to read as follows:

A. Recidivism and Felonies. Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction, or an attempt or conspiracy to commit such an offense, for a "Tier 2" sex offense, or has previously become a "Tier 2" sex offender, is a "Tier 3" offense.

B. Muscogee (Creek) Nation Offenses. A "Tier 3" offense includes any sex offense in Title 14, Chapter 2, Sections 2-319 (kidnapping), 2-324 (aggravated sexual abuse), 2-325 (sexual abuse), and where the victim is 12 years of age or younger, 2-327 (abusive sexual contact), or an attempt or conspiracy to commit such an offense.

C. Certain Federal Offenses. Conviction for any of the following federal offenses shall be a "Tier 3" offense:

1. 18 U.S.C. §2241 (aggravated sexual abuse),
2. 18 U.S.C. §2242 (sexual abuse),
3. 18 U.S.C. §2243 (sexual abuse of a minor or ward), or
34. Where the victim is 12 years of age or younger, 18 U.S.C. §2244 (abusive sexual contact).

D. Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 303. (A-), (B-) or (C-) shall be considered a "Tier 3" offense.

ENACTED by the Muscogee (Creek) National Council on this 18th day of June 2011.

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



Roger Barnett, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

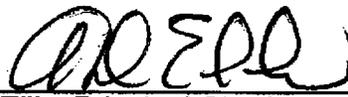
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of twenty-six members with **Nineteen** members attending this meeting on the **18th day of June, 2011** and that the above is in conformity with the provisions therein adopted by a vote of **18** in favor, **0** against, **0** abstentions, 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.



Terry A. Fish, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this 1 day of July, 2011, to the above Law, **NCA 11-113** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



A. D. Ellis, Principal Chief
Muscogee (Creek) Nation

