

**TO BECOME EFFECTIVE UPON FURTHER ACTION OF THE TRIBAL COUNCIL  
(Resolution CHO 20-032)**

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**TITLE III  
CRIMINAL OFFENSES**

**TO BECOME EFFECTIVE UPON FURTHER ACTION OF THE TRIBAL COUNCIL  
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**CHAPTER 1. GENERAL CRIMINAL PROVISIONS**

**§3-1-1 Construction of Criminal Code**

In criminal cases where no provision of the Tribal Code is applicable, the Tribal common law, as recognized by the Mississippi Band of Choctaw Indians, shall govern.

**§3-1-2 Application of Code**

This Criminal Code has no application to crimes committed prior to its effective date. A crime is committed prior to the effective date of the Criminal Code if any of the essential elements of the crime occurred before that date. Prosecutions for prior crimes shall be governed, prosecuted and punished under the laws existing at the time such crimes were committed.

**§3-1-3 Classified Crimes Defined**

~~A crime is a Class A Felony offense if it is so designated by law or if upon conviction thereof a sentence of imprisonment for a term of up to six (6) months and/or a fine of five hundred dollars (\$500.00) is authorized.~~

~~A crime is a Class B Misdemeanor offense if it is so designated by law or if upon conviction thereof a sentence of imprisonment not to exceed three (3) months and/or a fine not to exceed two hundred fifty dollars (\$250.00) is authorized.~~

~~A crime is a Class C Misdemeanor offense if it is so designated by law or if upon conviction thereof a sentence of imprisonment not to exceed thirty (30) days and/or a fine not to exceed one hundred dollars (\$100.00) is authorized.~~

Misdemeanors

Any offense not defined as a felony shall be subject to a term of imprisonment of not more than 1 year or a fine of up to \$5,000, or both.

Felonies

A. Any offense expressly defined as a felony shall be subject to a term of imprisonment of not more than 3 years or a fine of up to \$15,000, or both. A total term of imprisonment for any criminal proceeding shall not exceed 9 years.

B. A defendant shall not be subject to felony prosecution unless the defendant:

1. has been previously convicted of the same or comparable offense by any jurisdiction in the United States, including tribes; or

2. is being prosecuted for an offense comparable to an offense that would be punishable by more than 1 years of imprisonment if prosecuted by the United States or any of the States.

**§3-1-4 Time Limitation for Commencing Prosecution**

No person shall be prosecuted, tried or punished in the Choctaw Tribal Court for any crime under

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1 the Choctaw Tribal Code unless the complaint is filed within two (2) years from the time the crime  
2 was committed or from the date the crime is known to have been committed.  
3

4 **§3-1-5 Tolling of Time Limitation for Prosecution of Crimes**

5  
6 If after any crime has been committed the defendant shall conceal himself, or shall flee from or go  
7 out of the jurisdiction of the Mississippi Band of Choctaw Indians, the prosecution for such crime  
8 may be commenced within the time prescribed in §3-1-4 of the tribal code, after the defendant  
9 ceases to conceal himself or returns to the lands of the Mississippi Band of Choctaw Indians.

10  
11 The prosecution for a major crime listed in the Major Crimes Act, 18 U.S.C. §1153 may be  
12 commenced within the time prescribed in §3-1-4 of the tribal code, ~~after the United States Attorney~~  
13 ~~has declined to prosecute the defendant under the federal law and has notified the Tribe in writing.~~

14  
15 **§3-1-6 Offenses Against Children; Tolling of Statute of Limitations**

16  
17 The applicable time period for commencing prosecution pursuant to §3-1-4 of the tribal code, shall  
18 not commence to run for an alleged violation Abuse of a Child, Child Neglect or Criminal Sexual

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1 Penetration or Sexual Assault until the violation is reported to a law enforcement agency or the  
2 victim attains the age of eighteen (18), whichever occurs first sexual exploitation of children.  
3  
4

5 **CHAPTER 2. INITIATORY CRIMES**

6  
7 **§3-2-1 Attempt**

8  
9 A person is guilty of an attempt to commit an offense if, acting with the kind of culpability  
10 otherwise required for the commission of the offense, he engages in conduct constituting a  
11 substantial step toward commission of the offense, but going beyond mere preparation.  
12

13 Conduct does not constitute a substantial step toward the commission of an offense unless it is  
14 strongly corroborative of the actor's intent to commit the offense.  
15

16 No defense to the offense of attempt shall arise:

- 17  
18 (1) because the offense attempted was actually committed; or  
19  
20 (2) due to the factual or legal impossibility of consummating the intended offense if the  
21 offense could have been committed had the circumstances been as the actor believed them  
22 to be.  
23

24 The punishment for attempt shall be for a period or for an amount not greater than is prescribed for the  
25 actual commission of the offense attempted.

26 ~~Except as otherwise provided in the tribal code, attempt shall be:~~

- 27  
28 (1) ~~a Class A Felony or B offense, if the attempted offense was a Class~~  
~~A Felony offense;~~  
(2) ~~a Class B Misdemeanor or C offense, if the attempted offense was a Class~~  
~~B Misdemeanor offense; or~~  
(3) ~~a Class C Misdemeanor offense, if the attempted offense was a Class~~  
~~C Misdemeanor offense.~~

29 **§3-2-2 Criminal Conspiracy**

30 A person is guilty of criminal conspiracy when he, intending that conduct constituting a crime or  
31 offense be performed, agrees with one or more persons to engage in or cause the performance of  
32 such conduct and any one of them commits an overt act in pursuance of the conspiracy; ~~except that~~  
33 ~~where the offense is a Class A Felony offense the~~ Proof of an overt act is not required- for the  
34 commission of a felony conspiracy.  
35

36 The punishment for conspiracy shall be for a period or for an amount not greater than is prescribed for  
37 the actual commission of the offense conspired.

38 ~~Except as otherwise provided in the tribal code, criminal conspiracy shall be:~~

- 39  
40 (1) ~~a Class A Felony offense, if an overt act in pursuance of conspiracy to commit a Class~~  
~~A Felony offense is actually perpetrated by any of the conspirators;~~  
41  
42 (2) ~~a Class A Felony or B offense, if no overt act in pursuance of conspiracy to commit a~~  
~~Class A Felony offense was actually perpetrated by any of the conspirators;~~  
43  
44

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- ~~(3) — a Class BMisdemeanor or C offense, if the conspiracy was to commit a Class BMisdemeanor offense; and~~
- ~~(4) — a Class CMisdemeanor offense, if the conspiracy was to commit a Class CMisdemeanor offense.~~

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1 | **§3-2-3           Solicitation**

2  
3       A person is guilty of solicitation when he, intending that another person commit an offense, entices,  
4       advises, incites, orders or otherwise encourages such other person to commit an offense.

5  
6       The punishment for solicitation shall be for a period or for an amount not greater than is prescribed for  
7       the actual commission of the offense solicited.

8       ~~Except as otherwise provided in the tribal code, solicitation shall be:~~

9  
10       ~~(1) — a Class AFelony offense, if the solicitation actually results in the commission of a~~  
11       ~~Class AFelony offense, otherwise a Class BMisdemeanor offense, if the solicitation is~~  
12       ~~toward the commission of a Class AFelony offense;~~

13  
14       ~~(2) — a Class BMisdemeanor offense, if the solicitation actually results in the commission~~  
15       ~~of a Class BMisdemeanor offense, otherwise a Class CMisdemeanor offense, if the~~  
16       ~~solicitation is toward the commission of a Class BMisdemeanor offense; and~~

17  
18       ~~(3) — no offense, if the solicitation results or is toward the commission of a Class CMisdemeanor~~  
19       ~~offense.~~

20  
21  
22 | **CHAPTER 3. CRIMES AGAINST PERSONS**

23  
24 | **§3-3-1           Abduction**

25  
26       Any person who shall knowingly restrain another person unlawfully so as to interfere substantially  
27       with his liberty or knowingly and recklessly takes or entices a child under sixteen (16) from the  
28       custody of their parent, guardian or other person without consent and without proper legal authority  
29       ~~or other lawful custodian, when he lacks lawful permission to do so,~~ shall be guilty of abduction, a  
30       felony offense.

31  
32       ~~Abduction is a felony Class AFelony offense.~~

33  
34 | **§3-3-2           Assault**

35  
36       Any person who shall willfully attempt to commit a battery or intentionally place another in  
37       apprehension of receiving an immediate battery or threaten bodily harm to another person through  
38       unlawful force or violence shall be guilty of simple assault, a misdemeanor offense.

39  
40       ~~Assault is a Class CMisdemeanor offense.~~

41  
42 | **§3-3-3           Battery**

43  
44       Any person who shall unlawfully strike or apply force to another person or otherwise inflict any  
45       bodily injury or who shall by offering violence cause another to harm himself shall be guilty of  
46       battery, a misdemeanor offense.

47  
48       ~~Battery is a Class BMisdemeanor offense.~~

49  
50 | **§3-3-4           Aggravated Assault**

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Any person who:

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- 1 | (1) attempts to cause serious bodily injury to another or causes such injury purposely,  
2 | knowingly or recklessly under circumstances manifesting extreme indifference to the  
3 | value of human life; or  
4 |  
5 | (2) intentionally or knowingly uses a deadly weapon to put another in fear of imminent  
6 | serious bodily injury without just cause or provocation shall be guilty of aggravated  
7 | assault.  
8 |

9 | For purposes of this Title, the term serious bodily injury means, injury that involves a substantial risk of  
10 | death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or protracted loss  
11 | or impairment of the function of a bodily member, organ or mental faculty.  
12 |

13 | Aggravated assault is a ~~felony~~ Class A Felony offense.  
14 |

15 | **§3-3-5 Aggravated Battery**

16 |  
17 | Any person who shall ~~knowingly~~ unlawfully or intentionally inflict any injury to another person  
18 | causing ~~great~~ serious bodily ~~injury~~ harm or does so with a deadly weapon or does so in any  
19 | manner whereby ~~great bodily harm~~ serious bodily injury or death can be inflicted shall be  
20 | guilty of aggravated battery.  
21 |

22 | Aggravated battery is a ~~felony~~ Class A Felony offense.  
23 |

24 | **§3-3-6 Bigamy**

25 |  
26 | Any person who, being married to another, marries any other person, shall be guilty of an offense,  
27 | provided that no person shall be guilty thereof who believes that the prior spouse is dead or whose  
28 | original spouse shall have been absent for seven (7) successive years, without being known to be  
29 | living, or if the original marriage has been dissolved, pronounced void or annulled by the decree of  
30 | a court of competent jurisdiction.  
31 |

32 | Bigamy is a ~~misdemeanor~~ Class B Misdemeanor offense.  
33 |

34 | **§3-3-7 Assisting Suicide**

35 |  
36 | Any person who shall willfully advise, encourage, abet or assist another person in the taking of his  
37 | own life or attempting to take his own life shall be guilty of assisting suicide.  
38 |

39 | Assisting suicide shall be a ~~felony~~ Class A Felony offense.  
40 |

41 | **§3-3-8 Abuse of a Child**

42 |  
43 | Abuse of a child consists of a person knowingly, intentionally or negligently causing a child to be:  
44 |

- 45 | (1) placed in a situation that may endanger the child's life or health;  
46 |  
47 | (2) tortured, cruelly confined or cruelly punished;  
48 |  
49 | (3) emotionally abused or placed in situations resulting in emotional harm; or  
50 |

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1 (4) exposed to the inclemency of the weather.  
2

3 | Whoever commits abuse of a child which does not result in the child's death or ~~serious~~ great bodily  
4 | ~~injury~~harm is guilty of a ~~misdemeanor~~Class-B Misdemeanor offense. If the abuse results in  
5 | ~~serious~~great bodily ~~injury~~harm or death to the child, it is a f e l o n y ~~Class-A Felony~~ offense. As  
6 | used in this section, a "child" is a person who is less than eighteen (18) years of age.



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- 1 (c) masturbation;  
2  
3 (d) sadomasochistic abuse for the purpose of sexual stimulation; or  
4  
5 (e) lewd and sexually explicit exhibition with a focus on the genitals or pubic area of  
6 any person for the purpose of sexual stimulation.  
7  
8 (2) “Visual or print medium” means:  
9  
10 (a) any film, photograph, negative, slide, computer diskette, videotape, videodisc or  
11 any computer or electronically generated imagery; or  
12  
13 (b) any book, magazine or other form of publication of photographic reproduction  
14 containing or incorporating any film, photograph, negative, slide, computer  
15 diskette, videotape, videodisc or any computer generated or electronically  
16 generated imagery.  
17  
18 (3) “Performed publicly” means performed in a place which is open to or used by the public.  
19  
20 (4) “Manufacture” means the production, processing, copying by any means printing,  
21 packaging or repackaging of any visual or print medium depicting any prohibited sexual  
22 act or simulation of such an act if one or more of the participants in that act is a child  
23 under eighteen (18) years of age.  
24

25 **§3-3-12 Sexual Exploitation of Children by Prostitution**

26  
27 Any person knowingly receiving any pecuniary profit as a result of a child under the age of  
28 eighteen (18) engaging in a prohibited sexual act with another is guilty of a ~~Class A~~Felony offense.  
29

30 Any person hiring or offering to hire a child under the age of eighteen (18) to engage in any  
31 prohibited sexual act is guilty of a ~~Class A~~Felony offense.  
32

33 Any parent, legal guardian or person having custody or control of a child under eighteen (18) years  
34 of age who knowingly permits that child to engage in or to assist any other person to engage in any  
35 prohibited sexual act or simulation of such an act for the purpose of producing any visual or print  
36 medium depicting such an act is guilty of a ~~Class A~~Felony offense.  
37

38 **§3-3-13**

39 **§3-3-14**

40 **§3-3-15**

41 **§3-3-16**

42  
43 **§3-3-17 Alcoholic Beverages to Minors**

44  
45 It is unlawful for a person to:

- 46  
47 (1) sell, serve or give alcoholic beverages to a minor or permit a minor to consume alcoholic  
48 beverages;  
49 (2) buy alcoholic beverages for or procure the sale or service of alcoholic beverages to a  
50 minor;  
51 (3) deliver alcoholic beverages to a minor; or

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1 (4) aid or assist a minor to buy, procure or be served with alcoholic beverages.  
2

3 As used in this section, a “minor” means a person under twenty-one (21) years of age. Any person  
4 violating this section is guilty of a ~~Class-B~~Misdemeanor offense.  
5

6 **§3-3-18**

7  
8 **§3-3-19 Harassment**

9 A person is guilty of harassment if he with knowledge, or pursues a pattern of conduct intended to  
10 annoy, alarm or terrorize another and he:  
11

- 12 (1) makes more than one (1) telephone call that serves no lawful purpose;  
13  
14 (2) insults, taunts or challenges another in a manner likely to provoke a violent or disorderly  
15 response;  
16  
17 (3) makes repeated communications anonymously or at extremely inconvenient hours, or in  
18 offensively coarse language; or  
19  
20 (4) engages in any other course of conduct serving no legitimate purpose of the actor which he  
21 knows tends to seriously annoy or alarm another.  
22

23 Harassment is a ~~Class-C~~Misdemeanor offense.  
24

25 **§3-3-20 Use of Telephone to Terrify, Intimidate, Threaten, Harass, Annoy or Offend**

26  
27 It shall be unlawful for any person, with intent to terrify, intimidate, threaten, harass, annoy or  
28 offend, to telephone another and use any obscene, lewd or profane language or suggest any lewd,  
29 criminal or lascivious act, or threaten to inflict injury or physical harm to the person or property of  
30 any person. It shall also be unlawful for any person to attempt by telephone to extort money or  
31 other thing of value from any other person, or to otherwise disturb by repeated anonymous  
32 telephone calls the peace, quiet or right of privacy of any other person at the place where the  
33 telephone call or calls were received, or to maliciously make a telephone call, whether or not  
34 conversation ensues, with intent to annoy or disturb another, or to disrupt the telecommunications  
35 of another.  
36

37 The use of obscene, lewd or profane language or the making of a threat or statement as set forth in  
38 this section shall be prima facie evidence of intent to terrify, intimidate, threaten, harass, annoy or  
39 offend.  
40

41 Any offense committed by use of a telephone as set forth in this section shall be deemed to have  
42 been committed at either the place where the telephone call or calls originated or at the place where  
43 the telephone call or calls were received.  
44

45 Violation of this section is a ~~Class-B~~Misdemeanor offense.  
46

47 **§3-3-21 Incest**

48  
49 A person is guilty of incest if he knowingly marries or cohabitates or has sexual intercourse or  
50 sexual contact with a person he knows to be an ancestor or descendent, brother, sister, aunt, uncle,  
51 nephew, niece or first cousin, any of whom are of the whole or half blood, without regard to

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1 | legitimacy, adoption or step-parenting/step-child relationship.

2 |  
3 | **Incest is a Felony offense**

4 |  
5 | **§3-3-22 Indecent Exposure**

6 |  
7 | A person is guilty of indecent exposure if he knowingly and intentionally exposes his primary  
8 | genital area, buttocks or breasts to public view under circumstances likely to cause affront or alarm.  
9 | As used in this section “primary genital area” means the mons pubis, penis, testicles, mons veneris,  
10 | vulva or vagina.

11 |  
12 | Indecent exposure is a ~~Class-B~~Misdemeanor offense.

13 |  
14 | **§3-3-23 Kidnapping**

15 |  
16 | A person is guilty of kidnapping if he unlawfully removes, restrains, transports or confines another  
17 | person by force, intimidation or deception with intent that the person be held for any of the  
18 | following purposes:

- 19 |  
20 | (1) to hold for ransom or reward, or as a shield or hostage;  
21 |  
22 | (2) to facilitate commission of any offense or flight thereafter;  
23 |  
24 | (3) to inflict bodily injury on or to terrorize the victim or another; or  
25 |  
26 | (4) to interfere with the performance of any Tribal, governmental, or political function.

27 |  
28 | A removal, restraint, transportation or confinement is unlawful within the meaning of this section if  
29 | it is accomplished by force, threat or deception or in the case of a person under the age of fourteen  
30 | (14) or an incompetent, if it is accomplished without the consent of a parent, guardian or other  
31 | person responsible for general supervision of his welfare.

32 |  
33 | Kidnapping is a ~~Class-A~~Felony offense.

34 |  
35 | **§3-3-24 Mayhem**

36 |  
37 | A person is guilty of mayhem if he intentionally or knowingly causes physical injury and deprives a  
38 | human being of a member of his body or disables or renders it useless.

39 |  
40 | Mayhem is a ~~Class-A~~Felony offense.

41 |  
42 | **§3-3-25 Manslaughter**

43 |  
44 | Manslaughter is the unlawful killing of a human being without malice. It is of two kinds:

- 45 |  
46 | (1) voluntary manslaughter consists of a manslaughter committed upon a sudden quarrel or in  
47 | the sudden heat of passion caused by an adequate provocation.  
48 |  
49 | (2) involuntary manslaughter consists of the commission of a unlawful act which under  
50 | federal law would not amount to a felony which might produce death or a lawful act  
51 | conducted in an unlawful manner, or without due caution and circumspection, of a lawful  
52 | act which might produce death.

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1  
2 Voluntary and involuntary manslaughter ~~are~~ is a Class A Felony offenses.  
3

4 **§3-3-26 Murder**

5 Murder is unlawful killing of a human being with malice aforethought. Every murder perpetrated  
6 by poison, lying in wait or any other kind of willful, deliberate, malicious and premeditated killing;  
7 or committed in the perpetration of or attempt to perpetrate, any arson, rape, burglary or robbery; or  
8 perpetrated from a premeditated design unlawfully and maliciously to effect the death of any  
9 human being other than him who is killed, is murder in the first degree.

10  
11 Any other murder with malice shall be murder in the second degree.

12  
13 Murder in the first degree is a Class A Felony offense, for which no suspension of sentence,  
14 probation or parole shall be granted, and the maximum fine and incarceration shall be imposed.

15  
16 Murder in the second degree is a Class A Felony offense for which no suspension of sentence,  
17 probation, or parole shall be granted and the maximum period of incarceration shall be imposed.  
18

19 **§3-3-27 Robbery**

20  
21 A person is guilty of robbery if, in the course of committing a theft, he:

- 22  
23 (1) inflicts serious bodily injury upon another;  
24  
25 (2) threatens another with, or purposely puts him in fear of immediate serious bodily injury; or  
26  
27 (3) commits or threatens to commit a Class A Felony or Class B Misdemeanor offense.  
28

29 An act shall be deemed “in the course of committing a theft” if it occurs in an attempt to commit a  
30 theft or in flight after the attempt or commission of a theft.  
31

32 **§3-3-28 Rape**

33  
34 (1) Rape is the unlawful and intentional causing of a person to engage in sexual intercourse,  
35 cunnilingus, fellatio or anal intercourse of the causing of penetration, to any extent and  
36 with any object, of the genital or anal openings of another, whether or not there is any  
37 emission.  
38

39 (2) Rape consists of all sexual penetration perpetrated by  
40  
41 (a) the use of force or coercion that results in personal injury or great mental anguish  
42 to the victim, or  
43  
44 (b) a person in a position of authority over an inmate confined in a correctional  
45 facility or jail when the perpetrator is in a position of authority over the inmate.  
46

47 (3) For purposes of this section “force or coercion” means:

- 48  
49 (a) the use of physical force or physical violence including the use of deadly  
50 weapons;  
51  
52 (b) the use of threats to use physical violence or physical force against the victim or

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- 1 another when the victim believes that there is a present ability to execute the  
2 threats;  
3
- 4 (c) the use of threats, including threats of physical punishment, kidnapping, extortion  
5 or retaliation directed against the victim or another when the victim believes that  
6 there is an ability to execute the threats;  
7
- 8 (d) the perpetration of criminal sexual penetration or criminal sexual contact when  
9 the perpetrator knows or has reason to know that the victim is unconscious,  
10 asleep or otherwise physically helpless or suffers from a mental condition that  
11 renders the victim incapable of understanding the nature or consequences of the  
12 act; or  
13
- 14 (e) the perpetration of criminal sexual penetration or criminal sexual contact by a  
15 psychotherapist on his patient, with or without the patient's consent, during the  
16 course of psychotherapy or within a period of one year following the termination  
17 of psychotherapy;  
18
- 19 Physical or verbal resistance of the victim is not an element of force or coercion.  
20
- 21 (4) "Great Mental Anguish" means psychological or emotional damage that requires  
22 psychiatric or psychological treatment or care, either on an inpatient or outpatient basis,  
23 and is characterized by extreme behavioral change or severe physical symptoms.  
24
- 25 (5) "Personal Injury" means bodily injury to a lesser degree than great bodily harm and  
26 includes, but is not limited to, disfigurement, mental anguish, chronic or recurrent pain,  
27 pregnancy or disease or injury to a sexual or reproductive organ;  
28
- 29 (6) "Position of Authority" means that position occupied by a parent, relative, household  
30 member, teacher, employer, correctional faculty officer, when the perpetrator is in a  
31 position over authority of inmate or other person who, by reason of that position, is able to  
32 exercise undue influence over a victim.  
33
- 34 (7) "Psychotherapist" means a person who is or purports to be a:  
35
- 36 (a) licensed physician who practices psychotherapy;  
37
- 38 (b) licensed psychologist;  
39
- 40 (c) licensed social worker;  
41
- 42 (d) licensed nurse;  
43
- 44 (e) counselor;  
45
- 46 (f) substance abuse counselor;  
47
- 48 (g) psychiatric technician;  
49
- 50 (h) mental health worker;  
51
- 52 (i) marriage and family therapist;  
53

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- 1 (j) hypnotherapist; or  
2  
3 (k) minister, priest, rabbi or other similar functionary of a religious organization  
4 acting in his role as a pastoral counselor.  
5

6 (8) "Psychotherapy" means professional treatment or assessment of a mental or an emotional  
7 illness, symptom or condition.  
8

9 Rape is a ~~Class A~~Felony offense.  
10

11 **§3-3-29 Sexual Assault**

12 A person is guilty of sexual assault if that person subjects another to any sexual contact:  
13

- 14 (1) with the knowledge that the conduct is offensive to the other person;  
15  
16 (2) with knowledge that the other person suffers from a mental disease or defect which  
17 renders the other person incapable of appraising the nature of the conduct;  
18  
19 (3) with knowledge that the other person is unaware that a sexual act is being committed; or  
20  
21 (4) with knowledge that the other person's power to appraise or control the conduct is  
22 substantially impaired due to the excessive use or consumption of drugs, intoxicants, or  
23 other means of preventing resistance.  
24  
25

26 Sexual contact is any touching of the sexual or other intimate parts of the person of another or  
27 otherwise taking indecent liberties with another for the purpose of arousing or gratifying sexual  
28 desire of either party.  
29

30 Sexual assault is a ~~Class A~~Felony offense.  
31

32 **§3-3-30 Sodomy – Crimes Against Nature**

33 Any person who engages in unnatural carnal copulation with another person of the same or  
34 opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to  
35 complete the offense.  
36

37 Sodomy is a ~~Class A~~Felony offense.  
38  
39

40 **§3-3-31 Criminal Sexual Penetration of a Minor**

- 41 (1) Criminal sexual penetration of a minor is the unlawful and intentional causing of a minor to  
42 engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of  
43 penetration, to any extent and with any object, of the genital or anal openings of another,  
44 whether or not there is any emission.  
45  
46 (2) Criminal sexual penetration does not include medically indicated procedures.  
47 (3) Criminal sexual penetration consists of all sexual penetration perpetrated:  
48 (a) on a minor of either sex where the minor has not attained the age of sixteen (16); or  
49 (b) by the use of force or coercion that results in personal injury to the victim; or  
50 (c) by the use of force or coercion when the perpetrator is aided or abetted by one or  
51 more persons; or  
52 (d) when the perpetrator is armed with a deadly weapon.

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1  
2 (4) A person is guilty of criminal sexual penetration of a minor if he or she engages in criminal  
3 sexual penetration with a minor sixteen (16) years of age but less than eighteen (18) years of  
4 age if the person is in a position of trust or authority over the child including without limitation  
5 the child's teacher, counselor, physician, psychiatrist, psychologist, minister, priest, physical  
6 therapist, chiropractor, foster parent, legal guardian, parent, stepparent, aunt, uncle, scout  
7 leader or coach.

8  
9 Criminal sexual penetration of a minor is a ~~Class A~~ Felony offense.

10  
11 **§3-3-32 Venereal Disease – Infecting Another**

12  
13 Any person who knows or has reason to believe that he is infected with a sexually transmitted  
14 disease and knowingly and willfully infects another person with a sexually transmitted disease shall  
15 be guilty of an offense under this section

16  
17 Infecting another with venereal disease is a ~~Class C~~ Misdemeanor offense.

18  
19 **§3-3-33 Sexually Transmitted Diseases; Testing of Persons Convicted of Certain Sexual**  
20 **Offenses**

21  
22 A test designed to identify any sexually transmitted disease may be performed on an offender  
23 convicted pursuant to tribal law of any sexual criminal offense:

- 24  
25 (1) involving contact between the penis and the vulva;  
26  
27 (2) involving contact between the penis and anus;  
28  
29 (3) involving contact between the mouth and penis;  
30  
31 (4) involving contact between the mouth and vulva;  
32  
33 (5) involving contact between the mouth and anus; or  
34  
35 (6) when the court determines from the facts of the case that there was a transmission or  
36 likelihood of transmission of bodily fluids from the offender to the victim of the criminal  
37 offense.

38  
39 When consent to perform a test on an offender cannot be obtained, the victim of a criminal offense  
40 under this section may petition the court to order that a test be performed on the offender. When  
41 the victim of the criminal offense is a minor or an incompetent, the parent or legal guardian of the  
42 victim may petition the court to order that a test be performed on the offender. The court shall  
43 order and the test shall be administered to the offender within ten (10) days after the petition is filed  
44 by the victim, his parent or guardian. The results of the test shall be disclosed only to the offender  
45 and to the victim or the victim's parent or legal guardian.

46  
47 **§3-3-34**

48  
49 **§3-3-35 Stalking**

50  
51 Stalking consists of a person knowingly pursuing a pattern of conduct that would cause a  
52 reasonable person to feel frightened, intimidated or threatened. The alleged stalker must intend to

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1 place another person in reasonable apprehension of death, bodily harm, sexual assault, confinement  
2 or restraint or the alleged stalker must intend to cause a reasonable person to fear for his safety or  
3 the safety of a household member. In furtherance of the stalking, the alleged stalker must commit  
4 one or more of the following acts on more than one occasion:

- 5  
6 (1) following another person, in a place other than the residence of the alleged stalker;  
7  
8 (2) placing another person under surveillance by being present outside that person's residence,  
9 school, workplace or motor vehicle or any other place frequented by that person, other  
10 than the residence of the alleged stalker; or  
11  
12 (3) harassing another person.

13  
14 As used in this section, "household member" means a spouse, former spouse, family member,  
15 including a relative, parent, present or former step-parent, present or former in-law, child or a  
16 person with whom the victim has had a continuing personal relationship. Cohabitation is not  
17 necessary to be deemed a household member for the purposes of this section.

18  
19 Whoever commits stalking is guilty of a ~~Class C~~Misdemeanor offense.

20  
21 In addition to any punishment provided pursuant to the provisions of this section, the court shall  
22 order a person convicted of stalking to participate in and complete a program of professional  
23 counseling at his own expense.

24  
25 **§3-3-36**

26  
27 **CHAPTER 4. CRIMES AGAINST PROPERTY**

28  
29 **§3-4-1 Advertisements, Pulling Down**

30  
31 Any person who shall, without proper authorization, pull down or deface any sign or advertisement  
32 authorized by law shall be guilty of an offense under this section.

33  
34 Violation of this section is a misdemeanor~~Class C Misdemeanor~~ offense.

35  
36 **§3-4-2 Criminal Damage to Property**

37  
38 Criminal damage to property consists of intentionally damaging any real or personal property of  
39 another without the consent of the owner of the property.

40  
41 Whoever commits criminal damage to property is guilty of a misdemeanor~~Class C Misdemeanor~~  
42 offense, except that when the damage to the property amounts to more than one thousand dollars  
43 (\$1,000), he is guilty of a felony~~Class A Felony~~ offense.

44  
45 **§3-4-3 Arson**

46 Arson consists of maliciously or willfully starting a fire or causing an explosion with the purpose of  
47 destroying or damaging any building, occupied structure or property of another, or bridge, utility  
48 line, fence or sign; or with the purpose of destroying or damaging any property, whether the  
49 person's own or another's, to collect insurance for such loss.

50  
51 When the value of the property destroyed or damaged is one thousand~~hundred~~ dollars (\$1,000) or

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1 | less it is a ~~Class C Misdemeanor~~ misdemeanor offense.

2 |  
3 | ~~When the value of the property destroyed or damaged is over one hundred dollars (\$100) but not~~  
4 | ~~more than one thousand dollars (\$1,000) it is a misdemeanor ~~Class B Misdemeanor~~ offense.~~

5 |  
6 | When the value of the property destroyed or damaged exceeds one thousand dollars (\$1,000) it is a  
7 | felony ~~Class A Felony~~ offense.

8 |  
9 | Negligent arson consists of recklessly starting a fire or causing an explosion, whether on the  
10 | person's property or another's, and thereby directly causing the death or bodily injury of another; or  
11 | damaging or destroying a building or occupied structure of another. Whoever commits negligent  
12 | arson is guilty of a ~~Class C Misdemeanor~~ misdemeanor offense.

13 |  
14 | As used in this section, "occupied structure" includes a boat, trailer, car, airplane, vehicle, structure  
15 | or place adapted for the transportation or storage of property or for overnight accommodations of  
16 | persons or for carrying on business therein, whether or not a person is actually present.

17 |  
18 | **§3-4-4 Burglary**

19 |  
20 | Burglary consists of the unauthorized entry of any vehicle, watercraft, aircraft, dwelling or other  
21 | structure, movable or immovable, with the intent to commit any crime or theft therein. Any person  
22 | who commits burglary is guilty of a felony ~~Class A Felony~~ offense.

23 |  
24 | **§3-4-5 Aggravated Burglary**

25 |  
26 | Aggravated burglary consists of the unauthorized entry of any vehicle, watercraft, aircraft, dwelling  
27 | or other structure, movable or immovable, occupied or unoccupied with intent to commit any crime  
28 | or theft therein and the person:

- 29 |  
30 | (1) is armed with a deadly weapon;  
31 |  
32 | (2) after entering, arms himself with a deadly weapon; or  
33 |  
34 | (3) commits a battery upon any person while in, entering or leaving such place.

35 |  
36 | Whoever commits aggravated burglary is guilty of a felony ~~Class A Felony~~ offense.

37 | **§3-4-6 Criminal Mischief**

38 | A person is guilty of criminal mischief if:

- 39 |  
40 | (1) he intentionally and unlawfully tampers with the property of another and thereby:  
41 |  
42 | (a) recklessly endangers human life; or  
43 |  
44 | (b) recklessly causes or threatens a substantial interruption or impairment of any  
45 | public utility service; or  
46 |  
47 | (2) intentionally damages, or defaces property of another or injures the livestock or domestic  
48 | animal of another;  
49 |  
50 | (3) purposely or recklessly shoots or propels a missile or other object against a motor vehicle,  
51 | bus, aircraft, boat or other mechanized equipment, whether moving or standing.

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1  
2 Criminal mischief is a ~~misdemeanor~~Class B Misdemeanor offense.

3  
4 **§3-4-7 Criminal Trespass – Buildings**

5  
6 Any person who shall enter or secretly remain in any building or occupied structure, or separately  
7 secured or occupied portion thereof, knowing that he is not licensed or privileged to do so, whether  
8 by day or night, shall be guilty of an offense under this section.

9  
10 Criminal trespass to buildings is a ~~misdemeanor~~Class B Misdemeanor offense.

11  
12 **§3-4-8 Criminal Trespass – Lands**

13  
14 Any person who shall enter or remain upon any lands to which notice against trespass is given by  
15 actual communication to such person, or by posting in a manner reasonably likely to come to the  
16 attention of intruders, or by fencing or other enclosure manifestly designed to exclude intruders,  
17 shall be guilty of an offense under this section.

18  
19 Criminal trespass to lands is a ~~misdemeanor~~Class C Misdemeanor offense.

20  
21 **§3-4-9 Cruelty to Animals**

22  
23 Any person who shall kill, torture, mistreat, mutilate, injure or abandon any animal shall be guilty  
24 of an offense under this section.

25  
26 Cruelty to animals is a ~~Class B~~Misdemeanor offense.

27  
28 **§3-4-10 Cutting Fence**

29  
30 Any person who shall willfully cut the wire of a fence belonging to another person without his  
31 consent shall be guilty of an offense under this section.

32  
33 The offense of fence cutting is a ~~Class C~~Misdemeanor offense.

34  
35 **§3-4-11 Cutting Green Timber Without a Permit**

36  
37 Any person who without first securing a permit from the Mississippi Band of Choctaw Indians cuts  
38 any standing green timber for commercial purposes on Tribal land shall be guilty of an offense  
39 under this section.

40  
41 The offense of cutting green timber without a permit is a ~~Class B~~Misdemeanor offense.

42  
43 **§3-4-12 Fire, Failure to Control or Report**

44  
45 Any person who knows that a fire is endangering life or property of another and fails to take  
46 reasonable measures to put out or control the fire when he can do so without substantial risk to  
47 himself or, in any event, fails to give a prompt fire alarm or if he is under an official, contractual or  
48 other legal duty to prevent or combat the fire, or if the fire was started, lawfully, by him or with his  
49 assent or on property in his custody or control, shall be guilty of an offense under this section.

50  
51 Failure to control or report a fire is a ~~Class C~~Misdemeanor offense.

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1     **§3-4-13           Firing Timber**

2  
3           Any person who shall willfully set on fire any timber, woods, meadow, marsh, field or prairie, not  
4           his own, shall be guilty of an offense under this section.

5  
6           The offense of firing timber is a ~~Class-B~~Misdemeanor offense.

7  
8     **§3-4-14           Injury to Government Property**

9  
10          Any person who by any means shall willfully or mischievously injure, destroy or deface any  
11          building or other property of the Mississippi Band of Choctaw Indians or of the United States  
12          Government or deface or write upon any walls or shall injure the grounds appurtenant thereto or the  
13          trees, fences, soil or pavement thereof shall be guilty of an offense under this section.

14  
15          Injury to Government Property is a ~~Class-C~~Misdemeanor offense.

16  
17     **§3-4-15           Maintaining a Public Nuisance**

18  
19          Any person who shall act in such a manner, or permit his property to fall into such condition as to  
20          injure or endanger the safety, health, comfort or property of his neighbors, shall be guilty of  
21          maintaining a public nuisance.

22  
23          Maintaining a public nuisance is a ~~Class-C~~Misdemeanor offense.

24  
25     **§3-4-16           Misbranding**

26  
27          Any person who shall knowingly and willfully misbrand, alter or deface any brand or mark  
28          intended to designate ownership of any livestock of another without the consent of the owner and  
29          with the intent to deprive the owner of his property shall be guilty of the offense of misbranding.

30  
31          Misbranding is a ~~Class-C~~Misdemeanor offense.

32  
33     **§3-4-17           Theft**

34  
35          Except as otherwise provided in this Title, any person who shall take, or exercise unlawful control  
36          over, the moveable property of another with the purpose to deprive the other thereof or who  
37          unlawfully transfers immovable property of another or any interest therein with the purpose to  
38          benefit himself or another not entitled thereto shall be guilty of the offense of theft.

39          Theft offenses shall be punishable in accordance with the Gradation and General Provisions; Theft  
40          Offenses.

41  
42     **§3-4-18           Receiving Stolen Property**

43  
44          Any person who shall receive or conceal or aid in receiving or concealing any property, knowing or  
45          having good reason to believe the same to be stolen, embezzled, or obtained by fraud or false  
46          pretense, theft or burglary, shall be guilty of the offense of receiving stolen property.

47  
48          Receiving stolen property shall be a ~~Class-A~~Felony offense if the value of the stolen property is  
49          greater than ~~one thousandtwo hundred fifty~~ dollars (~~\$1,000250.00~~) and a ~~Class-B~~Misdemeanor  
50          offense if the stolen property is less than ~~one thousandtwo hundred fifty dollars~~ (~~\$1,000250.00~~).

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**§3-4-19 Theft Offenses; Gradation and General Provisions**

Accusations of theft brought under any section of this chapter or any other chapter of this title may at any stage of the proceedings prior to the rendition of a verdict be amended to conform to the evidence so as to charge any other theft offense including embezzlement or receiving stolen property, notwithstanding that a different manner of taking is charged in the complaint and subject only to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief where the defense would be otherwise prejudiced by lack of a fair notice or by surprise.

Possession of property recently stolen, when no satisfactory explanation of such possession is made, shall be deemed prima facie evidence that the person in possession stole the property.

Theft of property or service under any provision of this title unless otherwise stated shall be punishable as follows:

- (1) if the value of the property or services involved is more than ~~one thousand two hundred fifty~~ dollars (\$~~1,000~~~~250.00~~), the offense is a ~~Class A~~Felony offense;
- (2) if the value of the property or services involved is less than ~~one thousand two hundred fifty~~ dollars (\$~~1,000~~~~250.00~~), the offense is a ~~Class B~~Misdemeanor offense;

Value of property or services for purposes of this section means the price at which the property could ordinarily be bought or sold at the time of the alleged criminal act.

**§3-4-20 Unauthorized Use of Another's Vehicle**

Any person who, having acquired the consent of the owner or other person having lawful possession of any automobile, truck or other motor to the limited use thereof, willfully fails or refuses without just cause to return said vehicle, or used said vehicle for purposes other than that for which it was acquired, but without intent to permanently deprive the owner, is guilty of an offense under this section.

The offense of unauthorized use of another's vehicle is a ~~Class B~~Misdemeanor offense unless the actor affirmatively shows that the vehicle was returned undamaged and immediately upon being notified to do so, in which case it is a ~~Class C~~Misdemeanor offense.

The Court shall order any person convicted under this section who causes damage to any motor vehicle to pay restitution to the owner or owners of any such motor vehicle.

**§3-4-21 Taking Possession of or Taking Away a Motor Vehicle**

Any person who shall willfully and without authority, take possession of or take away a motor vehicle belonging to another, and any person who knowingly shall aid and abet in such taking possession or taking away, is guilty of this offense.

Taking possession of a motor vehicle is a ~~Class A~~Felony offense.

Any person convicted under this section who causes damage to any motor vehicle shall be ordered by the court to pay restitution to the owner of any such motor vehicle.

This section shall not apply to the enforcement of a security interest in a motor vehicle.

**§3-4-22 Carjacking; Attempted Carjacking; Armed Carjacking**

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1  
2 Whoever shall knowingly or recklessly by force or violence, whether against resistance or by  
3 sudden or stealthy seizure or snatching, or by putting in fear, or attempting to do so, or by any other  
4 means take a motor vehicle from another person's immediate actual possession shall be guilty of  
5 carjacking.

6  
7 Carjacking is a ~~Class A~~Felony offense.

8  
9 A person who is convicted of attempted carjacking shall receive the same punishment as the person  
10 who is convicted of carjacking.

11  
12 Whoever commits the offense of carjacking while armed with or having readily available any pistol  
13 or other firearm or imitation thereof or other dangerous or deadly weapon, including a sawed-off  
14 shotgun, shotgun, machine gun, rifle, dirk, Bowie knife, butcher knife, switchblade, razor,  
15 blackjack, billy, or metallic or other false knuckles, or any object capable of inflicting death or  
16 serious bodily harm, shall be guilty of armed carjacking.

17  
18 Armed carjacking is a ~~Class A~~Felony offense.

19  
20 Any person who is convicted of attempted armed carjacking shall receive the same punishment as  
21 the person who is convicted of armed carjacking.

22  
23 **CHAPTER 5. CRIMES AFFECTING COMMERCE AND TRADE**

24  
25 **§3-5-1           Bad Checks**

26  
27 It is unlawful for any person to issue in exchange for anything of value, with intent to defraud, any  
28 check, draft or order for the payment of money, knowing at the time of the issuing that the offender  
29 has insufficient funds in or credit with the bank.

30  
31 Any person violating this section is guilty of a ~~Class C~~Misdemeanor offense when the amount of the  
32 check, draft or order of the total amount of the checks, drafts or orders is less than one  
33 thousand~~twenty five~~ dollars (\$1,000~~25~~.00).

34 ~~Any person violating this section is guilty of a Class B Misdemeanor offense when the amount of the~~  
35 ~~check, draft or order or the total amount of the checks, drafts or order is more than twenty five~~  
36 ~~dollars (\$25.00) but less than five hundred dollars (\$500.00).~~

37  
38 Any person violating this section is guilty of a ~~Class A~~Felony offense when the amount of the check,  
39 draft or order or the total amount of the checks, drafts and orders is greater than one  
40 thousand~~five hundred~~ dollars (\$1,0~~500~~.00).

41  
42 This section does not apply to:

- 43
- (1) Any check where the payee or holder knows or has been expressly notified prior to the drawing of the check that the drawer did not have on deposit or to his credit with the drawee sufficient funds to insure payment on its presentation; or
  - (2) Any post-dated check.

44  
45 **§3-5-2           Embezzlement**

Any person who shall, having lawful custody of property not his own, appropriate the same to his

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1 own use with intent to deprive the owner thereof, is guilty of the offense of embezzlement. Each  
2 separate incident of embezzlement constitutes a separate and distinct offense.

3  
4 As used in this section, embezzlement shall include the spending of a minor's funds by a parent or  
5 guardian for other than the purpose for which the funds were placed in the custody of the parent or  
6 guardian.

7  
8 Whoever commits embezzlement when the value of the property embezzled is less than one  
9 thousand~~five hundred two hundred fifty~~ dollars (\$~~1,0500250~~.00) is guilty of a ~~Class~~  
10 ~~B~~Misdemeanor offense and if the value of the property embezzled is over one thousand~~five~~  
11 ~~hundred two hundred fifty~~ dollars (\$~~1,0500250~~.00) is guilty of a ~~Class A~~Felony offense.

12  
13 **§3-5-3 Forgery**

14  
15 Forgery consists of:

- 16  
17 (1) falsely making or altering any signature to or any part of, any writing purporting to have  
18 any legal efficacy with intent to injure or defraud; or  
19  
20 (2) knowingly issuing or transferring a forged writing with intent to injure or defraud.

21 Forgery is guilty of a ~~Class B~~Misdemeanor offense.

22 **§3-5-4 Counterfeiting; Making or Possessing Counterfeit Dies for Coins**

23  
24 It shall be unlawful for any person to knowingly, with intent to defraud, pass, utter,  
25 publish, or sell, or attempt to pass, utter, publish, or sell, or with like intent bring onto  
26 the Choctaw Indian Reservation, or keep in possession or conceal any falsely made,  
27 forged, counterfeited, or altered obligation or other security of the United States.  
28 Violation of this statute is a felony offense.

29 ~~Whoever, without lawful authority:~~

- 30  
31 ~~(1) makes any die, hub, or mold, or any part thereof, either of steel or plaster, or any other~~  
32 ~~substance, in likeness or similitude as to the design or the inscription thereon, of any die,~~  
33 ~~hub, or mold designated for the coining or making of any of the genuine gold, silver,~~  
34 ~~nickel, bronze, copper or other coins coined at the mints of the United States; or~~

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~~(2) — possesses any such die, hub, or mold, or any part thereof, or permits the same to be used for or in aid of the counterfeiting of any such coins of the United States is guilty of a Class A Felony offense.~~

**§3-5-5 Possession of Counterfeit Gold or Silver Coin with Intention to Utter**

It shall be unlawful for any person to have in his possession any counterfeit or any gold or silver coin, knowing the same to be counterfeited, with intent to defraud or injure, by uttering the same, as true or false, or by causing the same to be so uttered. Any person violating this section is guilty of a ~~Class A~~ Felony offense.

**§3-5-6 Fraud**

A person is guilty of fraud if, by willful misrepresentation or deceit, or by fraudulent conduct, practices or representations he obtains any money or other property from another.

A person deceives if he purposely:

- (1) creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;
- (2) prevents another from acquiring information which would affect his judgment of a transaction;
- (3) fails to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or
- (4) fails to disclose a lien, adverse claim or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid or is not a matter of official record.

The term "deceive" does not, however, include matters having no pecuniary significance, or mere puffing by statements unlikely to deceive ordinary persons in the group addressed.

The offense of fraud shall be punishable in accordance with the section titled Gradation and General Provisions of Theft Offenses.

**§3-5-7 Theft of Telecommunications Service**

It is unlawful for any person to:

- (1) obtain or attempt to obtain telecommunications service by trick, artifice, deception, use of any illegal device or decoder or other fraudulent means without authorization of the provider;
- (2) assist or instruct any person to obtain or attempt to obtain any telecommunications service without authorization of the provider;

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- 1  
2 (3) make or attempt to make or assist any person to make or maintain a telecommunications  
3 service connection whether physical, electrical, mechanical, acoustical or by other means,  
4 with any cables, wires, components or other devices used for the distribution of  
5 telecommunications service without authorization of the provider; or  
6  
7 (4) make or maintain any modification or alteration to any device that was installed with the  
8 authorization of the provider for the purpose of intercepting or receiving any  
9 telecommunications service without authorization of the provider.

10  
11 Definitions:

- 12  
13 (1) "Provider" means a person that offers telecommunication service for lawful compensation.  
14  
15 (2) "Telecommunication service" means any audio, video, data or programming offered for a  
16 fee or other consideration to facilitate the origination, transmission, emission or reception  
17 of signs, signals, data, writings, images, sounds or intelligence of any nature delivered by  
18 telephone or telephone service, including cellular or other wireless telephones, cable  
19 television service, wire, radio, electromagnetic, photo-electronic or photo-optical  
20 equipment, coaxial or fiber optic cable, terrestrial microwave, television broadcast or  
21 satellite transmission.  
22

23 Any person who violates this section is guilty of a ~~Class B~~Misdemeanor offense.

24  
25 **§3-5-8 Fraudulent Use of A Credit Card**

26  
27 A person is guilty of the fraudulent use of a credit card if he uses a credit card for the purpose of  
28 obtaining property or services with knowledge that:

- 29  
30 (1) the card is stolen;  
31  
32 (2) the card has been revoked, canceled or is invalid; or  
33  
34 (3) the use of the credit card is unauthorized by either the issuer or the person to whom the  
35 card has been issued.  
36

37 "Credit card" means an instrument or device, whether known as a credit card, credit plate, charge  
38 card or by any other name, issued with or without fee by an issuer for the use of the cardholder in  
39 obtaining money, goods, services, or anything else of value, either on credit or in consideration of  
40 undertaking or guarantees by the issuer of the payment of a check drawn by the cardholder.  
41

42 Fraudulent use of a credit card is a ~~Class A~~Felony offense.

43  
44 § 3-5-9 Obtaining a Drug Unlawfully

45  
46 A. A person commits the crime of obtaining a drug unlawfully if he obtains or procures the  
47 administration of a narcotic or dangerous drug by:

48  
49 1.. The forgery or alteration of a prescription or any official written order;

50  
51 2. The concealment of a material fact;  
52

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1 3. Falsely representing himself to be a person authorized by law to obtain narcotic or  
2 dangerous drugs; or

3 4. Any other form or fraud

4  
5 B. Violation of this section is a misdemeanor offense.

6  
7  
8 **CHAPTER 6. CRIMES AGAINST THE SOCIAL ORDER**

9  
10 **§3-6-1 False Alarms**

11  
12 Any person who knowingly causes a false alarm of fire or other emergency to be transmitted to any  
13 official or volunteer or transmitted within any organization dealing with emergencies involving  
14 danger to life and property is guilty of ~~an offense under this section~~ misdemeanor.  
15

16 ~~A False Alarm is a Class B offense.~~

17  
18 **§3-6-2 Discharging Firearms or Any Weapon With Projectile**

19  
20 Any person who discharges ~~fires~~ a firearm ~~gun~~ or any other weapon with a projectile ~~within a~~  
21 ~~hundred (100) yards of a residence or occupied building or structure or in any other place on the~~  
22 ~~Reservation with careless disregard for human life is guilty of an offense under this section within~~  
23 one hundred (100) yards of a dwelling or building, not including abandoned or vacated buildings on  
24 public lands during hunting seasons, without the permission of the owner or lessees thereof is guilty  
25 of a misdemeanor.

26  
27 ~~Discharging a Firearm is a Class B offense.~~

28  
29 **§3-6-3 Flags – Desecration Thereof**

30  
31 Any person who in any manner shall publicly mutilate, deface or defile, any official flag, color or  
32 ensign of the United States or the Mississippi Band of Choctaw Indians is guilty of ~~an offense~~  
33 ~~under this section~~ misdemeanor.

34  
35 ~~Flag Desecration is a Class B offense.~~

36  
37 **§3-6-4 Bootlegging/Manufacture of Alcoholic Beverage**

38  
39 Any person who shall within the limits of the Choctaw Indian Reservation manufacture, sell, barter,  
40 manufacture, or transport for sale or barter upon the Choctaw Indian Reservation, any alcoholic  
41 beverage intended for the personal use or consumption of himself or others is guilty of a  
42 misdemeanor ~~n offense under this section.~~

43  
44 These provisions shall not be applicable to any individual, partnership, corporation, association or  
45 other legal entity possessing a valid license or permit from the Mississippi State Tax Commission  
46 and the proper Tribal licensing authority under this section of Tribal Ordinance No. 16-T.

47  
48 ~~It is a Class B offense for any person to sell, barter, manufacture or transport for sale or barter any~~  
49 ~~alcoholic beverage in violation of this section.~~

50  
51 **§3-6-5 Littering**

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1 Littering consists of discarding refuse:  
2

3 (1) on public property in any manner other than by placing the refuse in a receptacle provided  
4 for the purpose by the responsible governmental authorities or otherwise in accordance  
5 with lawful direction; or  
6

7 (2) on private property not owned or lawfully occupied or controlled by the person, except  
8 with the consent of the owner, lessee or occupant thereof.  
9

10 Whoever commits littering is guilty of a misdemeanor~~Class B offense~~. The use of uniform  
11 traffic citations is authorized for the enforcement of this section. The court may to the extent  
12 permitted by law, as a condition to suspension of any other penalty provided by law, require a  
13 person who commits littering to pick up and remove from any public place or any private property,  
14 with prior permission of the legal owner, any litter deposited thereon.

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1 Any jail sentence imposed pursuant to this section may be suspended, in the discretion of the  
2 magistrate or judge, upon conditions that the offender assist in litter clean-up in the jurisdiction for  
3 a period not to exceed the length of the suspended sentence.

4  
5 For purposes of this section, “refuse” means any article or substance:

6  
7 (1) which is commonly discarded as waste; or

8  
9 (2) which, if discarded on the ground, will create or contribute to an unsanitary, offensive or  
10 unsightly condition.

11  
12 Refuse includes also, but is not limited to, the following items or class of items: waste food; waste  
13 paper and paper products; cans, bottles or other containers; junked household furnishings and  
14 equipment; junked parts or bodies of automobiles and other metallic junk or scrap; portions or  
15 carcasses of dead animals; and collections of ashes, dirt, yard trimmings or other rubbish.

16  
17 **§3-6-6 Marijuana – Simple Possession**

18  
19 Any person who shall have possession of one ounce or less of or use any Cannabis Indica or any  
20 mixture or compound thereof or any cigarettes, cigars or other commodities intended for smoking  
21 in which there is a mixture containing one ounce or less of Cannabis Indica or any mixture or  
22 compound thereof is guilty of the offense of simple possession of marijuana under this section.

23  
24 The offense of simple possession of marijuana is a ~~Class B offense~~ misdemeanor.

25  
26 “Marijuana” means all parts of the plant Cannabis, including any and all varieties, species and  
27 subspecies of the genus Cannabis, whether growing or not, the seeds thereof and every compound,  
28 manufacture, salt, derivative, mixture or preparation of the plant or its seeds. It does not include the  
29 mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated from marijuana,  
30 fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound,  
31 manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or case, or the  
32 sterilized seed of the plant that is incapable of germination.

33  
34 **§3-6-7 Marijuana – Sale, Manufacture & Possession Over 1 Ounce**

35  
36 Any person who shall plant, grow, cultivate, keep for sale, sell, barter, give or have possession of  
37 more than one ounce of Cannabis Indica or any mixture or compound thereof or any cigarettes,  
38 cigars or other commodities intended for smoking in which there is a mixture containing more than  
39 one ounce of Cannabis Indica or any mixture or compound thereof is guilty of an offense under this  
40 section.

41  
42 Violation of this section is a ~~Class A offense~~ felony.

43  
44 **§3-6-8 Narcotics and Dangerous Drugs; Possession/Selling of Drug Paraphernalia**

45  
46 A. Any person who without lawful authority knowingly possesses, sells, trades, transports, gives  
47 away, uses or manufactures:

48  
49 (1) any opium, cocaine, coca leaves, morphine, codeine, heroin or any derivative thereof;

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- 1           (2) any drugs known as hallucinogens, psychotomimetics, desleptics or psychedelics  
2 including lysergic acid diethylamide (LSD), mescaline, psilocybin, dimethyltryptamine  
3 (DMT) and methydimethoxy methyl-phenyl-ethylamine (STP);~~or~~  
4
- 5           (3) any drug scheduled as a “controlled substance” under the provisions of Title 21, Chapter  
6 13 of the United State Code as amended to the date of the offense ~~is guilty of an offense~~  
7 ~~under this section; or~~  
8
- 9           (4) Any Narcotic Drug: “Narcotic drug” means any of the following, whether produced  
10 directly or indirectly by extraction from substances of vegetable origin or independently  
11 by means of chemical synthesis or by a combination of extraction and chemical synthesis:  
12
- 13           (5) opium and opiate and any salt, compound, derivative or preparation of opium or opiate;  
14
- 15           (6) any salt, compound, isomer, derivative or preparation that is a chemical equivalent of any  
16 of the substances referred to in Paragraph (1) of this subsection, except the isoquinoline  
17 alkaloids of opium;  
18
- 19           (7) opium poppy and poppy straw, including all parts of the plant of the species Papaver  
20 somniferum L. except its seeds; or  
21
- 22           (8) coca leaves and any salt, compound, derivative or preparation of coca leaves, any salt,  
23 compound, isomer, derivative or preparation that is a chemical equivalent of any of these  
24 substances except decocainized coca leaves or extractions of coca leaves that do not  
25 contain cocaine or ecgonine  
26
- 27           (9) synthetic cannabinoids.-  
28

29 ~~Violation of this section is a Class A offense~~ is guilty of a felony.  
30

31 **B. Possession of Drug Paraphernalia.**  
32

- 33           (1) A person who possesses or uses drug paraphernalia to plant, propagate,  
34 cultivate, grow, harvest, manufacture, compound, convert, produce,  
35 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject,  
36 ingest, inhale or otherwise introduce into the human body marijuana or a  
37 controlled substance is guilty of a misdemeanor.  
38
- 39           (2) In determining whether an object is drug paraphernalia, a court or other  
40 authority shall consider, in addition to all other logically relevant factors,  
41 the following:  
42
- 43           a. Statements by an owner or by anyone in control of the object  
44 concerning its use.  
45           b. Prior convictions, if any, of an owner, or of anyone in control of the  
46 object, under any state, tribal, or federal law relating to marijuana or  
47 any controlled substance.  
48           c. The proximity of the object, in time and space, to a direct violation of  
49 this chapter.  
50           d. The proximity of the object to marijuana or a controlled substance.  
51           e. The existence of any residue of marijuana or a controlled substance on  
52 the object.  
53           f. Direct or circumstantial evidence of the intent of an owner, or of

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1                    anyone in control of the object, to deliver it to persons whom he knows,  
2                    or should reasonably know, intend to use the object to facilitate a  
3                    violation of this chapter.

4                    g. The existence and scope of legitimate uses for the object in the  
5                    community.

6                    h. Expert testimony concerning its use.

7  
8  
9                    **§3-6-9                    Prostitution**

10  
11                    Prostitution consists of any person who knowingly engages or offers to engage in an act of sexual  
12                    activity with another person for a fee or who pays or offers or agrees to pay another person a fee for  
13                    the purpose of engaging in an act of sexual activity.

14  
15                    For purposes of this section the term “sexual activity” means sexual intercourse or any sexual act  
16                    involving the genitals of one person and the genitals, mouth or anus of another person, regardless of  
17                    the sex of either participant.

18  
19                    Prostitution is a ~~Class A offense~~felony.

20  
21                    **§3-6-10                    Patronizing Prostitutes**

22                    Patronizing prostitutes consists of:

23  
24  
25                    (1) entering or remaining in a house of prostitution or any other place where prostitution is  
26                    practiced, encouraged or allowed with intent to engage in a sexual act with a prostitute; or

27  
28                    (2) knowingly hiring or offering to hire a prostitute, or one believed by the offender to be  
29                    a prostitute, to engage in a sexual act with the actor or another.

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1 Patronizing prostitutes is a ~~Class A offense~~ felony.

2  
3 §3-6-11 Recklessly Endangering Another

4  
5 Any person who recklessly engages in conduct which places or may place another in danger of  
6 death or serious bodily injury shall be guilty of an ~~offense under this section.~~

7  
8 Recklessly endangering is a ~~Class B offense~~ misdemeanor.

9  
10 §3-6-12 Removal of Landmarks

11  
12 Any person who shall willfully remove, alter or destroy any boundary marker or other landmark  
13 erected by the Mississippi Band of Choctaw Indians or the United States Government within the  
14 limits of the Choctaw Indian Reservation shall be guilty of an ~~offense under this section.~~

15  
16 Removal of landmarks is a ~~Class C offense~~ misdemeanor.

17  
18 §3-6-13 Failing to Disclose Facts or Change of Circumstances to Obtain Public  
19 Assistance

20  
21 Any person who knowingly fails to disclose any material facts known to be necessary to  
22 determine eligibility for public assistance or knowingly failing to disclose a change in  
23 circumstances for the purpose of obtaining or continuing to receive public assistance to which  
24 he is not entitled or in amounts greater than that to which he is entitled shall be guilty ~~under this~~  
25 ~~section.~~

26  
27 When the value of the assistance wrongfully received is one hundred dollars (\$100.00) or less it is a  
28 ~~Class C offense.~~

29  
30 When the value of the assistance wrongfully received is more than one hundred dollars (\$100.00)  
31 ~~but not more than two hundred fifty dollars (\$250.00) it is a Class B offense of a misdemeanor.~~

32  
33 When the value of the assistance wrongfully received is more than two hundred fifty dollars  
34 (\$250.00) it is a felony ~~Class A offense.~~

35  
36 §3-6-14 Misappropriating Public Assistance

37  
38 Any Tribal ~~public~~ officer or Tribal ~~public~~ employee who fraudulently misappropriates, attempts to  
39 misappropriate or aids and abets in the misappropriation of food stamp coupons, WIC checks  
40 pertaining to the special supplemental food program for women, infants and children, food stamps  
41 or medical identification cards, public assistance benefits or funds received in exchange for food  
42 stamp coupons, shall be guilty under this section of a ~~public offense.~~

43  
44 When the value of the thing misappropriated is one hundred dollars (\$100.00) or less it is a ~~Class C~~  
45 ~~offense.~~

46  
47 When the value of the thing misappropriated is more than one hundred dollars (\$100.00) but not  
48 ~~more than two hundred fifty dollars (\$250.00) it is a Class B offense a misdemeanor.~~

49  
50 When the value of the thing misappropriated is more than two hundred fifty dollars (\$250.00) ~~but~~  
51 ~~not more than two thousand five hundred dollars (\$2,500.00) it is a felony ~~Class A offense.~~~~

**TO BECOME EFFECTIVE UPON FURTHER ACTION OF THE TRIBAL COUNCIL  
(Resolution CHO 20-032)**

1  
2 §3-6-15 Making or Permitting a False Claim for Reimbursement for Public Assistance  
3 Services

4  
5 Any person who knowingly makes, causes to be made or permits to be made a claim for  
6 reimbursement for service provided to a recipient of public assistance for services not rendered or  
7 making a false material statement or forged signature upon any claim for services, with intent that  
8 the claim shall be relied upon for the expenditure of public money shall be guilty ~~under this section~~  
9 of an offense.

10  
11 ~~Making or permitting a false claim for reimbursement for public assistance services is a Class A~~  
12 ~~offense of a felony.~~

13  
14 §3-6-16 Falsely Obtaining Services, Food, Entertainment or Accommodations;  
15 Probable Cause; Immunity; Penalty

16  
17 Any person who falsely obtains ~~services or accommodations consists of any person obtaining~~  
18 services, food, entertainment or accommodations without paying and with the intent to cheat or  
19 defraud the owner or person supplying such services, food, entertainment, or accommodations is  
20 guilty of a misdemeanor; however, ~~w~~When the value of the service, food, entertainment or  
21 accommodations furnished is more than one thousand ~~two hundred fifty~~ dollars (\$1,000~~250.00~~) it is a  
22 felony ~~Class A offense.~~

23  
24 Any law enforcement officer may arrest without warrant any person when the officer ~~he~~ has  
25 probable cause to believe the person has committed the crime of falsely obtaining services, food,  
26 entertainment, or accommodations ~~or shall be guilty of an offense under this section of~~  
27 accommodations as defined in this section. Any merchant, owner or proprietor who causes such an  
28 arrest shall not be criminally or civilly liable if he has actual knowledge that the person so  
29 arrested has committed the crime of falsely obtaining services, food, entertainment, or  
30 accommodations.

31  
32 ~~When the value of the service, food, entertainment or accommodations furnished is less than one~~  
33 ~~hundred dollars (\$100.00) it is a Class C offense;~~

34  
35 ~~When the value of the service, food, entertainment or accommodations furnished is more than one~~  
36 ~~hundred dollars (\$100.00) but not more than two hundred fifty dollars (\$250.00) it is a Class B~~  
37 ~~offense;~~

38  
39 ~~When the value of the service, food, entertainment or accommodations furnished is more than two~~  
40 ~~hundred fifty dollars (\$250.00) it is a Class A offense.~~

41  
42 §3-6-17 Carrying a Concealed Deadly Weapon

43  
44 Any person who shall go about in public places with a deadly weapon concealed in whole or in part  
45 upon his person or in his possession shall be ~~deemed~~ guilty of a misdemeanor ~~this offense~~. For  
46 purposes of this title, a “deadly weapon” is defined as any firearm, whether loaded or unloaded;  
47 or any weapon which is capable of producing death or great bodily harm, including but not  
48 restricted to any type of daggers, brass knuckles, switchblade knives, Bowie knives, poniards,  
49 butcher knives, dirk knives and all such weapons with which dangerous cuts can be given, or with  
50 which dangerous thrusts can be inflicted, including swordcanes, and any kind of sharp pointed  
51 canes, also slingshots, slung shots, bludgeons; or any other weapons with which dangerous wounds  
52 can be inflicted.

**TO BECOME EFFECTIVE UPON FURTHER ACTION OF THE TRIBAL COUNCIL  
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1  
2  
3  
4  
5  
6  
7  
8

Any person found in violation of this ~~subsection 1 of this section~~ shall have said weapon seized by the arresting officer, and such weapon, upon conviction of the person charged, shall be disposed of as ordered by the court.

This section does not apply to any law enforcement officer including without limitation, Tribal, State, County, Federal, or local officers acting in their official capacity.

**TO BECOME EFFECTIVE UPON FURTHER ACTION OF THE TRIBAL COUNCIL  
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~~Carrying a concealed weapon is a Class B offense.~~

**§3-6-18 Unlawful Carrying of a Deadly Weapon on School Premises**

Any person who carries a deadly weapon on school premises except by:

- (1) a peace officer;
- (2) a school security personnel;
- (3) a student, instructor or other school-authorized personnel engaged in Army, Navy, Marine Corps or Air Force Reserve Officer Training Corps Programs or state-authorized hunter safety training instruction; or
- (4) a person conducting or participating in a school-approved program, class or other activity involving the carrying of a deadly weapon shall be guilty of ~~an offense under this section~~ felony.

As used in this section, “school premises” means:

- (a) the buildings and grounds, including playgrounds, playing fields and parking areas and any school bus of any elementary, secondary, junior high or high school in or on which school or school-related activities are being operated; or
- (b) any other public buildings or grounds, including playing fields and parking areas that are not school property, in or on which school-related and sanctioned activities are being performed.

~~Carrying of a deadly weapon on school premises is a Class A offense.~~

**§3-6-19 Negligent Use of a Deadly Weapon**

Any person who:

- (1) discharges a firearm into any building or vehicle or so as to knowingly endanger a person or his property;
- (2) carries a firearm while under the influence of an intoxicant or narcotic;
- (3) endangers the safety of another by handling or using a firearm or other deadly weapon in a negligent manner is guilty of a felony. ~~or~~
- ~~(4) discharges a firearm within one hundred (100) yards of a dwelling or building, not including abandoned or vacated buildings on public lands during hunting seasons, without the permission of the owner or lessees thereof is guilty of a misdemeanor or an offense under this section.~~

The provisions of subsections (1) and (3) ~~and (4)~~ of this section shall not apply to a peace officer or other public employee who is required or authorized by law to carry or use a firearm in the course of his employment and who carries, handles, uses or discharges a firearm while lawfully engaged in carrying out the duties of his office or employment.

**TO BECOME EFFECTIVE UPON FURTHER ACTION OF THE TRIBAL COUNCIL  
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1        The exceptions from criminal liability- provided- for in Subsection 2 of this section shall not  
2        preclude or affect civil liability for the same conduct.

3  
4        Negligent use of a deadly weapon is a Class A offense.

5  
6        **§3-6-20                    Possession of Alcoholic Beverages**

7  
8        It is unlawful for any person to keep or have in- his possession any vinous, alcoholic, malt,  
9        intoxicating or spirituous liquor, or intoxicating bitters or drinks or any other liquor or beverage  
10       which, if drunk, will produce intoxication.

11  
12       Possession of alcoholic beverages is a misdemeanor~~Class C offense.~~

13  
14       This section shall not be applicable to business sales or give-aways conducted by the employees of  
15       any licensed gaming entity on Tribal trust lands designated by the Tribal Council as resort areas.

16  
17       **§3-6-21                    Intoxication**

18  
19       It shall be unlawful for any person to be found in a drunken or intoxicated condition anywhere  
20       within the limits of this jurisdiction,~~a person shall upon conviction be deemed guilty of a Class C~~  
21       ~~offense.~~ For purposes of this section, an adult shall be presumed to be intoxicated who displays  
22       behavior consistent with being in a drunken or intoxicated condition or if he submits to a  
23       breathalyzer test and his blood alcohol content test is equal to or greater than one eighth~~tenth~~  
24       of one percent (.08~~10~~~~%).~~ A minor shall be presumed to be intoxicated if he submits to a  
25       breathalyzer test and his blood alcohol content test is equal or greater than two one hundredths of  
26       one percent (.02%).

27  
28       Intoxication is a ~~Class C offense~~ misdemeanor.

29  
30       **§3-6-22                    Inhalation of Noxious Fumes**

31  
32       Any person who engages in the deliberate inhalation of noxious fumes for the purpose of producing  
33       an intoxicated or other unnatural state of mind, such as results from inhaling the fumes from glue,  
34       gasoline, aerosol propellant, or other substances, shall be guilty of a misdemeanor~~inhalation of~~  
35       ~~noxious fumes.~~

36  
37       Inhalation of noxious fumes is a Class C offense.

38  
39       **§3-6-23                    Disruption of Government Business**

40  
41       It shall be unlawful for any person or group of persons to willfully and knowingly enter and remain  
42       in or upon the floor of the Office of the Tribal Chief, the Tribal Council Hall, the office of any duly  
43       elected member of the Tribal Council, or any such temporary offices or meeting places of the  
44       officers described above, or any posted or cordoned-off, or otherwise restricted area of a building or  
45       grounds at which the Tribal Chief or Tribal Council members are or will be temporarily visiting,  
46       with the intent to impede or disrupt the orderly conduct of governmental business or official  
47       functions, to engage in disorderly or disruptive conduct, or otherwise impair the due respect of the  
48       authority of such officers in or within proximity to any buildings or grounds so designated.

49  
50       Disruption of government business is a ~~Class A offense~~ felony.

**TO BECOME EFFECTIVE UPON FURTHER ACTION OF THE TRIBAL COUNCIL  
(Resolution CHO 20-032)**

1     §3-6-24           Cohabitation of Minors

2             It shall be unlawful for any person eighteen (18) years of age or older to permit, in the person's  
3             place of residence or the residence of another person, a person under eighteen (18) years of age to  
4             cohabit with another person not his spouse.

5  
6             It shall be unlawful for any person eighteen (18) years of age or older to cohabit with another  
7             person under eighteen (18) years of age and not the person's spouse.

8  
9             Cohabitation of minors is a ~~Class A offense~~felony.

10  
11  
12     §3-6-25           Owning or Possessing of Dangerous Dog Breeds<sup>1</sup>

13  
14             Any person who knowingly owns, keeps, harbors, or possesses a dangerous dog breed shall be  
15             guilty under this section of a misdemeanor ~~an offense~~. Such animal shall be surrendered  
16             to law enforcement personnel or shall be seized.

17  
18             A dangerous dog breed shall be defined as a:  
19             dog that belongs to a breed commonly known as a pit bull dog.

20  
21             It shall be a defense to this section if the individual is authorized by Tribal Resolution and in  
22             furtherance of those duties as prescribed.

23  
24             ~~Violation of this section is a Class B offense.~~

25  
26     §3-6-26           Curfew Violation

27  
28             (1)     It shall be unlawful for any person to be on public; tribal government property; between  
29             the hours of 10:00 p.m. and 5:00 a.m. Sunday through Thursday or between the hours of  
30             12:00 a.m. and 5:00 am Friday (Saturday morning) or Saturday (Sunday morning) unless  
31             he or she is in attendance at an organized school, church, or tribal function or working at  
32             their place of employment with the permission of their supervisor.

33  
34             (2)     For purposes of this section, public tribal government property is defined as, but not  
35             limited to, property containing buildings, structural improvements, ballfields, or courts,  
36             pavilions, facility buildings, swimming- pool areas, playground- facilities- or any other  
37             similar tribal property. Persons who are actively engaged in hunting or fishing activities  
38             are not subject to this curfew.

39  
40             Curfew Violation is a ~~Class C offense~~misdemeanor.

41  
42     §3-6-27           Criminal Defamation

43  
44             A person is guilty of criminal defamation if he knowingly and with malicious intent communicates  
45             to any person orally or in writing in any media including without limitation, electronic media any  
46             information which he knows or should know to be false and knows that the information tends to  
47             impeach the honesty, integrity, virtue or reputation, or publish the natural defects of a person ~~one~~  
48             who is alive, and thereby expose that person ~~him~~ to public hatred, contempt or ridicule. An  
49             injurious publication is presumed to have been malicious if no justification or motive for making it  
50             is shown by way of defense.

51  
52             It shall be a defense to criminal defamation that the person making the publication was at the time

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1 engaged in the formal broadcast or publication of news by some public means or media of  
2 communication and in good faith believed he was reporting a newsworthy event with a basis in  
3 truth.

4  
5 Criminal defamation is a ~~Class C offense~~ misdemeanor.

6  
7 **§3-6-28 Possession and Distribution of Tobacco Products**

8  
9 No person under the age of eighteen (18) shall have in his possession any tobacco products or shall  
10 procure or attempt to procure any tobacco products for his own use or for use by any other person.

11  
12 No person shall knowingly sell, offer to sell, barter or give any tobacco product to another person under  
13 the age of eighteen (18).

14  
15 Violation of this section is a ~~Class B offense~~ misdemeanor.

16  
17 **§3-6-29 Presenting False Evidence of Age or Identity for Tobacco Products**

18  
19 No person under the age of eighteen (18) shall present any written, printed or photostatic evidence of  
20 age or identity that is false for the purpose of procuring or attempting to procure any tobacco  
21 products.

22  
23 Violation of this section is a ~~Class C offense~~ misdemeanor.

24  
25 **§3-6-30 Distribution of Tobacco Products as Free Samples Prohibited**

26  
27 A person who sells, distributes, promotes or advertises tobacco products shall not provide free  
28 samples of tobacco products to a person under the age of eighteen (18). Any person who violates this  
29 section is guilty of a ~~Class B offense~~ misdemeanor.

30  
31 **§3-6-31 Presenting False Evidence of Age or Identity for Alcohol Beverages**

32  
33 A minor who presents to any person, employee, agent or lessee licensed to distribute alcohol ~~to~~ any  
34 written, printed or photostatic evidence of age or identity that is false, for the purpose of procuring or  
35 attempting to procure any alcoholic beverages, is guilty of a ~~Class B offense~~ misdemeanor.

36  
37 **§3-6-32 Disorderly Conduct**

38  
39 A person is guilty of disorderly conduct if he intentionally or knowingly:

- 40  
41 (1) uses violent, abusive, indecent, profane, or vulgar language, and the language by its very  
42 utterance tends to incite an immediate breach of the peace;  
43  
44 (2) makes an offensive gesture or display in a public place, or to someone in a public place and  
45 the gesture or display tends to incite an immediate breach of peace;  
46  
47 (3) creates, by chemical means, a noxious and unreasonable odor in a public place;  
48  
49 (4) makes unreasonable noise in a public place or near a private residence that he has no right to  
50 occupy.

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Disorderly conduct is a ~~Class C offense~~ misdemeanor.

**§3-6-33 Failure to Send Children to School**

A parent, guardian or custodian of a compulsory-school-age child shall cause such child to enroll in and attend a Bureau of Indian Affairs (“BIA”) funded school, public school or legitimate nonpublic school for the period of time that such child is of compulsory-school-age except:

(1) when a compulsory-school-age child is physically, mentally or emotionally incapable of attending school as determined by the appropriate school official based upon sufficient medical documentation;

(2) when a compulsory-school-age child is being educated in a legitimate home instruction program approved by the Tribe or the State of Mississippi;

(3) when a waiver of school attendance requirements is granted by the Chief pursuant to Resolution CHO 70-96. Parents, guardians or custodians of compulsory-age-children who obtain a waiver and who fail to comply with the requirements in Resolution CHO 70-96 may be subject to prosecution under this section; or

(4) if the child has been expelled from his or her school. The parent, guardian or custodian of the compulsory-school-age child shall immediately enroll such child in another school or obtain a waiver pursuant to Resolution CHO 70-96.

Any parent, guardian or custodian of a compulsory-school-age child who refuses or willfully fails to enroll or send such child to school shall be guilty of ~~failure to send children to school, a Class C offense~~ a misdemeanor.

“Compulsory-school-age child” means a child who has attained the age of five (5) by September 1 of the calendar year and who has not attained the age of eighteen (18) years on or before September 1 of the calendar year.

Any terms not specifically defined in this section or any school policies and procedures not contained in this section shall be interpreted or applied in accordance with the Parent-Student Handbook or School Policy Handbooks of the appropriate schools ~~of~~ where the student is attending.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CHAPTER 6. CRIMES AGAINST THE SOCIAL ORDER**

**§3-6-1 False Alarms**

~~Any person who knowingly causes a false alarm of fire or other emergency to be transmitted to any official or volunteer or transmitted within any organization dealing with emergencies involving danger to life and property is guilty of an offense under this section.~~

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~~A False Alarm is a Class B Misdemeanor offense.~~

~~§3-6-2 **Discharging Firearms**~~

~~Any person who fires a gun within a hundred (100) yards of a residence or occupied building or structure or in any other place on the Reservation with careless disregard for human life is guilty of an offense under this section.~~

~~Discharging a Firearm is a Class B Misdemeanor offense.~~

~~§3-6-3 **Flags - Desecration Thereof**~~

~~Any person who in any manner shall publicly mutilate, deface or defile, any official flag, color or ensign of the United States or the Mississippi Band of Choctaw Indians is guilty of an offense under this section.~~

~~Flag Desecration is a Class B Misdemeanor offense.~~

~~§3-6-4 **Bootlegging/Manufacture of Alcoholic Beverage**~~

~~Any person who shall within the limits of the Choctaw Indian Reservation manufacture, sell, barter, manufacture, or transport for sale or barter upon the Choctaw Indian Reservation, any alcoholic beverage intended for the personal use or consumption of himself or others is guilty of an offense under this section.~~

~~These provisions shall not be applicable to any individual, partnership, corporation, association or other legal entity possessing a valid license or permit from the Mississippi State Tax Commission and the proper Tribal licensing authority under this section of Tribal Ordinance No. 16-T.~~

~~It is a Class B Misdemeanor offense for any person to sell, barter, manufacture or transport for sale or barter any alcoholic beverage in violation of this section.~~

~~§3-6-5 **Littering**~~

~~Littering consists of discarding refuse:~~

~~(1) on public property in any manner other than by placing the refuse in a receptacle provided for the purpose by the responsible governmental authorities or otherwise in accordance with lawful direction; or~~

~~(2) on private property not owned or lawfully occupied or controlled by the person, except with the consent of the owner, lessee or occupant thereof.~~

~~Whoever commits littering is guilty of a Class B Misdemeanor offense. The use of uniform traffic citations is authorized for the enforcement of this section. The court may to the extent permitted by law, as a condition to suspension of any other penalty provided by law, require a person who commits littering to pick up and remove from any public place or any private property, with prior permission of the legal owner, any litter deposited thereon.~~

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1        ~~Any jail sentence imposed pursuant to this section may be suspended, in the discretion of the~~  
2        ~~magistrate or judge, upon conditions that the offender assist in litter clean-up in the jurisdiction for~~  
3        ~~a period not to exceed the length of the suspended sentence.~~

4  
5        ~~For purposes of this section, "refuse" means any article or substance:~~

6  
7        ~~(1) — which is commonly discarded as waste; or~~

8  
9        ~~(2) — which, if discarded on the ground, will create or contribute to an unsanitary, offensive or—~~  
10        ~~unsightly condition.~~

11  
12        ~~Refuse includes also, but is not limited to, the following items or class of items: waste food; waste~~  
13        ~~paper and paper products; cans, bottles or other containers; junked household furnishings and~~  
14        ~~equipment; junked parts or bodies of automobiles and other metallic junk or scrap; portions or~~  
15        ~~carcasses of dead animals; and collections of ashes, dirt, yard trimmings or other rubbish.~~

16  
17        ~~§3-6-6 — Marijuana Simple Possession~~

18  
19        ~~Any person who shall have possession of one ounce or less of or use any Cannabis Indica or any~~  
20        ~~mixture or compound thereof or any cigarettes, cigars or other commodities intended for smoking~~  
21        ~~in which there is a mixture containing one ounce or less of Cannabis Indica or any mixture or~~  
22        ~~compound thereof is guilty of the offense of simple possession of marijuana under this section.~~

23  
24        ~~The offense of simple possession of marijuana is a Class B Misdemeanor offense.~~

25  
26        ~~"Marijuana" means all parts of the plant Cannabis, including any and all varieties, species and~~  
27        ~~subspecies of the genus Cannabis, whether growing or not, the seeds thereof and every compound,~~  
28        ~~manufacture, salt, derivative, mixture or preparation of the plant or its seeds. It does not include the~~  
29        ~~mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated from marijuana,~~  
30        ~~fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound,~~  
31        ~~manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or case, or the~~  
32        ~~sterilized seed of the plant that is incapable of germination.~~

33  
34        ~~§3-6-7 — Marijuana Sale, Manufacture & Possession Over 1 Ounce~~

35  
36        ~~Any person who shall plant, grow, cultivate, keep for sale, sell, barter, give or have possession of~~  
37        ~~more than one ounce of Cannabis Indica or any mixture or compound thereof or any cigarettes,~~  
38        ~~cigars or other commodities intended for smoking in which there is a mixture containing more than~~  
39        ~~one ounce of Cannabis Indica or any mixture or compound thereof is guilty of an offense under this~~  
40        ~~section.~~

41  
42        ~~Violation of this section is a Class A Felony offense.~~

43  
44        ~~§3-6-8 — Narcotics and Dangerous Drugs~~

45  
46        ~~Any person who without lawful authority knowingly possesses, sells, trades, transports, gives away,~~  
47        ~~uses or manufactures:~~

48  
49        ~~(1) — any opium, cocaine, coca leaves, morphine, codeine, heroin or any derivative thereof;~~

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- 1                   ~~(2) — any drugs known as hallucinogens, psychotomimetics, desleptics or psychedelics~~  
2                   ~~including lysergic acid diethylamide (LSD), mescaline, psilocybin, dimethyltryptamine~~  
3                   ~~(DMT) and methydimethoxy methyl-phenyl-ethylamine (STP); or~~  
4  
5                   ~~(3) — any drug scheduled as a “controlled substance” under the provisions of Title 21, Chapter~~  
6                   ~~13 of the United State Code as amended to the date of the offense is guilty of an offense~~  
7                   ~~under this section; or~~  
8  
9                   ~~(4) — Any Narcotic Drug: “Narcotic drug” means any of the following, whether produced~~  
10                   ~~directly or indirectly by extraction from substances of vegetable origin or independently~~  
11                   ~~by means of chemical synthesis or by a combination of extraction and chemical synthesis:~~  
12  
13                   ~~(5) — opium and opiate and any salt, compound, derivative or preparation of opium or opiate;~~  
14  
15                   ~~(6) — any salt, compound, isomer, derivative or preparation that is a chemical equivalent of any~~  
16                   ~~of the substances referred to in Paragraph (1) of this subsection, except the isoquinoline~~  
17                   ~~alkaloids of opium;~~  
18  
19                   ~~(7) — opium poppy and poppy straw, including all parts of the plant of the species Papaver~~  
20                   ~~somniferum L. except its seeds; or~~  
21  
22                   ~~(8) — coca leaves and any salt, compound, derivative or preparation of coca leaves, any salt,~~  
23                   ~~compound, isomer, derivative or preparation that is a chemical equivalent of any of these~~  
24                   ~~substances except decocainized coca leaves or extractions of coca leaves that do not~~  
25                   ~~contain cocaine or ecgonine.~~

26  
27                   ~~Violation of this section is a Class A Felony offense.~~

28  
29                   ~~§3-6-9 — Prostitution~~

30  
31                   ~~Prostitution consists of any person who knowingly engages or offers to engage in an act of sexual~~  
32                   ~~activity with another person for a fee or who pays or offers or agrees to pay another person a fee for~~  
33                   ~~the purpose of engaging in an act of sexual activity.~~

34  
35                   ~~For purposes of this section the term “sexual activity” means sexual intercourse or any sexual act~~  
36                   ~~involving the genitals of one person and the genitals, mouth or anus of another person, regardless of~~  
37                   ~~the sex of either participant.~~

38  
39                   ~~Prostitution is a Class A Felony offense.~~

40  
41                   ~~§3-6-10 — Patronizing Prostitutes~~

42  
43                   ~~Patronizing prostitutes consists of:~~

- 44  
45                   ~~(1) — entering or remaining in a house of prostitution or any other place where prostitution is~~  
46                   ~~practiced, encouraged or allowed with intent to engage in a sexual act with a prostitute; or~~  
47  
48                   ~~(2) — knowingly hiring or offering to hire a prostitute, or one believed by the offeror to be a~~  
49                   ~~prostitute, to engage in a sexual act with the actor or another.~~

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1 Patronizing prostitutes is a Class A Felony offense.

2  
3 ~~§3-6-11~~ ~~Recklessly Endangering Another~~

4  
5 Any person who recklessly engages in conduct which places or may place another in danger of  
6 death or serious bodily injury shall be guilty of an offense under this section.

7  
8 Recklessly endangering is a Class B Misdemeanor offense.

9  
10 ~~§3-6-12~~ ~~Removal of Landmarks~~

11  
12 Any person who shall willfully remove, alter or destroy any boundary marker or other landmark  
13 erected by the Mississippi Band of Choctaw Indians or the United States Government within the  
14 limits of the Choctaw Indian Reservation shall be guilty of an offense under this section.

15  
16 Removal of landmarks is a Class C Misdemeanor offense.

17  
18 ~~§3-6-13~~ ~~Failing to Disclose Facts or Change of Circumstances to Obtain Public~~  
19 ~~Assistance~~

20  
21 Any person knowingly fails to disclose any material facts known to be necessary to determine  
22 eligibility for public assistance or knowingly failing to disclose a change in circumstances for the  
23 purpose of obtaining or continuing to receive public assistance to which he is not entitled or in  
24 amounts greater than that to which he is entitled shall be guilty under this section.

25  
26 When the value of the assistance wrongfully received is one hundred dollars (\$100.00) or less it is a  
27 Class C Misdemeanor offense.

28  
29 When the value of the assistance wrongfully received is more than one hundred dollars (\$100.00)  
30 but not more than two hundred fifty dollars (\$250.00) it is a Class B Misdemeanor offense.

31  
32 When the value of the assistance wrongfully received is more than two hundred fifty dollars  
33 (\$250.00) it is a Class A Felony offense.

34  
35 ~~§3-6-14~~ ~~Misappropriating Public Assistance~~

36  
37 Any tribal public officer or public tribal employee who fraudulently misappropriates, attempts to  
38 misappropriate or aids and abets in the misappropriation of food stamp coupons, WIC checks  
39 pertaining to the special supplemental food program for women, infants and children, food stamps  
40 or medical identification cards, public assistance benefits or funds received in exchange for food  
41 stamp coupons, shall be guilty under this section of a public offense.

42  
43 When the value of the thing misappropriated is one hundred dollars (\$100.00) or less it is a Class  
44 C Misdemeanor offense.

45  
46 When the value of the thing misappropriated is more than one hundred dollars (\$100.00) but not  
47 more than two hundred fifty dollars (\$250.00) it is a Class B Misdemeanor offense.

48  
49 When the value of the thing misappropriated is more than two hundred fifty dollars (\$250.00) but  
50 not more than two thousand five hundred dollars (\$2,500.00) it is a Class A Felony offense.

**TO BECOME EFFECTIVE UPON FURTHER ACTION OF THE TRIBAL COUNCIL  
(Resolution CHO 20-032)**

~~§3-6-15~~ ~~————~~ ~~Making or Permitting a False Claim for Reimbursement for Public Assistance—  
Services~~

~~Any person who knowingly makes, causes to be made or permits to be made a claim for reimbursement for service provided to a recipient of public assistance for services not rendered or making a false material statement or forged signature upon any claim for services, with intent that the claim shall be relied upon for the expenditure of public money shall be guilty under this section of an offense.~~

~~Making or permitting a false claim for reimbursement for public assistance services is a Class A Felony offense.~~

~~§3-6-16~~ ~~————~~ ~~Falsely Obtaining Services or Accommodations; Probable Cause; Immunity;—  
Penalty~~

~~Any person who falsely obtains services or accommodations consists of any person obtaining service, food, entertainment or accommodations without paying with the intent to cheat or defraud the owner or person supplying such service, food, entertainment or accommodations.~~

~~Any law enforcement officer may arrest without warrant any person he has probable cause to believe has committed the crime of falsely obtaining services or shall be guilty of an offense under this section of accommodations as defined in this section. Any merchant, owner or proprietor who causes such an arrest shall not be criminally or civilly liable if he has actual knowledge that the person so arrested has committed the crime of falsely obtaining services or accommodations.~~

~~When the value of the service, food, entertainment or accommodations furnished is less than one hundred dollars (\$100.00) it is a Class C Misdemeanor offense;~~

~~When the value of the service, food, entertainment or accommodations furnished is more than one hundred dollars (\$100.00) but not more than two hundred fifty dollars (\$250.00) it is a Class B Misdemeanor offense;~~

~~When the value of the service, food, entertainment or accommodations furnished is more than two hundred fifty dollars (\$250.00) it is a Class A Felony offense.~~

~~§3-6-17~~ ~~————~~ ~~Carrying a Concealed Deadly Weapon~~

~~Any person who shall go about in public places with a deadly weapon concealed in whole or in part upon his person or in his possession shall be deemed guilty of this offense. For purposes of this title, a “deadly weapon” is defined as any firearm, whether loaded or unloaded; or any weapon which is capable of producing death or great bodily harm, including but not restricted to any type of daggers, brass knuckles, switchblade knives, Bowie knives, poniards, butcher knives, dirk knives and all such weapons with which dangerous cuts can be given, or with which dangerous thrusts can be inflicted, including swordcanes, and any kind of sharp pointed canes, also slingshots, slung shots, bludgeons; or any other weapons with which dangerous wounds can be inflicted.~~

~~Any person found in violation of subsection 1 of this section shall have said weapon seized by the arresting officer and such weapon upon conviction of the person charged shall be disposed of as ordered by the court.~~

**TO BECOME EFFECTIVE UPON FURTHER ACTION OF THE TRIBAL COUNCIL  
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1  
2 Carrying a concealed weapon is a Class B Misdemeanor offense.

3  
4 ~~§3-6-18~~ **Unlawful Carrying of a Deadly Weapon on School Premises**

5  
6 Any person who carries a deadly weapon on school premises except by:

- 7  
8 (1) ~~a peace officer;~~  
9  
10 (2) ~~a school security personnel;~~  
11  
12 (3) ~~a student, instructor or other school authorized personnel engaged in Army, Navy, Marine~~  
13 ~~Corps or Air Force Reserve Officer Training Corps Programs or state authorized hunter~~  
14 ~~safety training instruction; or~~  
15  
16 (4) ~~a person conducting or participating in a school approved program, class or other activity~~  
17 ~~involving the carrying of a deadly weapon shall be guilty of an offense under this section.~~

18  
19 As used in this section, "school premises" means:

- 20  
21 (a) ~~the buildings and grounds, including playgrounds, playing fields and parking~~  
22 ~~areas and any school bus of any elementary, secondary, junior high or high~~  
23 ~~school in or on which school or school related activities are being operated; or~~  
24  
25 (b) ~~any other public buildings or grounds, including playing fields and parking areas~~  
26 ~~that are not school property, in or on which school related and sanctioned~~  
27 ~~activities are being performed.~~

28  
29 Carrying of a deadly weapon on school premises is a Class A Felony offense.

30  
31 ~~§3-6-19~~ **Negligent Use of a Deadly Weapon**

32  
33 Any person who:

- 34  
35 (1) ~~discharges a firearm into any building or vehicle or so as to knowingly endanger a person~~  
36 ~~or his property;~~  
37  
38 (2) ~~carries a firearm while under the influence of an intoxicant or narcotic;~~  
39  
40 (3) ~~endangers the safety of another by handling or using a firearm or other deadly weapon in a~~  
41 ~~negligent manner; or~~  
42  
43 (4) ~~discharges a firearm within one hundred (100) yards of a dwelling or building, not~~  
44 ~~including abandoned or vacated buildings on public lands during hunting seasons, without~~  
45 ~~the permission of the owner or lessees thereof is guilty of an offense under this section.~~

46  
47 The provisions of subsections (1), (3) and (4) of this section shall not apply to a peace officer or  
48 other public employee who is required or authorized by law to carry or use a firearm in the course  
49 of his employment and who carries, handles, uses or discharges a firearm while lawfully engaged in  
50 carrying out the duties of his office or employment.

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1  
2 The exceptions from criminal liability provided for in Subsection 2 of this section shall not  
3 preclude or affect civil liability for the same conduct.

4  
5 Negligent use of a deadly weapon is a Class A Felony offense.

6  
7 **§3-6-20 — Possession of Alcoholic Beverages**

8  
9 It is unlawful for any person to keep or have in his possession any vinous, alcoholic, malt,  
10 intoxicating or spirituous liquor, or intoxicating bitters or drinks or any other liquor or beverage  
11 which, if drunk, will produce intoxication.

12  
13 Possession of alcoholic beverages is a Class C Misdemeanor offense.

14  
15 This section shall not be applicable to business sales or give-aways conducted by the employees of  
16 any licensed gaming entity on Tribal trust lands designated by the Tribal Council as resort areas.

17  
18 **§3-6-21 — Intoxication**

19  
20 It shall be unlawful for any person to be found in a drunken or intoxicated condition anywhere  
21 within the limits of this jurisdiction, a person shall upon conviction be deemed guilty of a Class  
22 C Misdemeanor offense. For purposes of this section, an adult shall be presumed to be intoxicated if  
23 he submits to a breathalyzer test and his blood alcohol content test is equal to or greater than  
24 one tenth of one percent (.10%). A minor shall be presumed to be intoxicated if he submits to a  
25 breathalyzer test and his blood alcohol content test is equal or greater than two one hundredths of  
26 one percent (02%).

27  
28 Intoxication is a Class C Misdemeanor offense.

29  
30 **§3-6-22 — Inhalation of Noxious Fumes**

31  
32 Any person who engages in the deliberate inhalation of noxious fumes for the purpose of producing  
33 an intoxicated or other unnatural state of mind, such as results from inhaling the fumes from glue,  
34 gasoline, aerosol propellant, or other substances, shall be guilty of inhalation of noxious fumes.

35  
36 Inhalation of noxious fumes is a Class C Misdemeanor offense.

37  
38 **§3-6-23 — Disruption of Government Business**

39  
40 It shall be unlawful for any person or group of persons to willfully and knowingly enter and remain  
41 in or upon the floor of the Office of the Tribal Chief, the Tribal Council Hall, the office of any duly  
42 elected member of the Tribal Council, or any such temporary offices or meeting places of the  
43 officers described above, or any posted or cordoned off, or otherwise restricted area of a building or  
44 grounds at which the Tribal Chief or Tribal Council members are or will be temporarily visiting,  
45 with the intent to impede or disrupt the orderly conduct of governmental business or official  
46 functions, to engage in disorderly or disruptive conduct, or otherwise impair the due respect of the  
47 authority of such officers in or within proximity to any buildings or grounds so designated.

48  
49 Disruption of government business is a Class A Felony offense.

50  
51 **§3-6-24 — Cohabitation of Minors**

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1  
2 It shall be unlawful for any person eighteen (18) years of age or older to permit, in the person's  
3 place of residence, a person under eighteen (18) years of age to cohabit with another person not his  
4 spouse.

5  
6 It shall be unlawful for any person eighteen (18) years of age or older to cohabit with another  
7 person under eighteen (18) years of age not the person's spouse.

8  
9 Cohabitation of minors is a Class A Felony offense.

10  
11  
12 ~~§3-6-25~~ **Owning or Possessing of Dangerous Dog Breeds<sup>1</sup>**

13  
14 Any person who knowingly owns, keeps, harbors, or possesses a dangerous dog breed shall be  
15 guilty under this section of an offense. Such animal shall be surrendered to law enforcement  
16 personnel or shall be seized.

17  
18 A dangerous dog breed shall be defined as:

- 19 a. ~~dog that belongs to a breed commonly known as a pit bull dog.~~

20  
21 It shall be a defense to this section if the individual is authorized by Tribal Resolution and in  
22 furtherance of those duties as prescribed.

23  
24 Violation of this section is a Class B Misdemeanor offense.

25  
26 ~~§3-6-26~~ **Curfew Violation**

27  
28 (1) ~~It shall be unlawful for any person to be on public, tribal government property, between~~  
29 ~~the hours of 10:00 p.m. and 5:00 a.m. Sunday through Thursday or between the hours of~~  
30 ~~12:00 a.m. and 5:00 am Friday (Saturday morning) or Saturday (Sunday morning) unless~~  
31 ~~he or she is in attendance at an organized school, church, or tribal function or working at~~  
32 ~~their place of employment with the permission of their supervisor.~~

33  
34 (2) ~~For purposes of this section, public tribal government property is defined as, but not~~  
35 ~~limited to, property containing buildings, structural improvements, ballfields, or courts,~~  
36 ~~pavilions, facility buildings, swimming pool areas, playground facilities or any other~~  
37 ~~similar tribal property. Persons who are actively engaged in hunting or fishing activities~~  
38 ~~are not subject to this curfew.~~

39  
40 Curfew Violation is a Class C Misdemeanor offense.

41  
42 ~~§3-6-27~~ **Criminal Defamation**

43  
44 A person is guilty of criminal defamation if he knowingly and with malicious intent communicates  
45 to any person orally or in writing any information which he knows or should know to be false and  
46 knows that the information tends to impeach the honesty, integrity, virtue or reputation, or publish  
47 the natural defects of one who is alive, and thereby expose him to public hatred, contempt or  
48 ridicule. An injurious publication is presumed to have been malicious if no justification or motive  
49 for making it is shown by way of defense.

50  
51 It shall be a defense to criminal defamation that the person making the publication was at the time  
52 engaged in the formal broadcast or publication of news by some public means or media of

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~~communication and in good faith believed he was reporting a newsworthy event with a basis in truth.~~

~~Criminal defamation is a Class CMisdemeanor offense.~~

~~§3-6-28 — Possession and Distribution of Tobacco Products~~

~~No person under the age of eighteen (18) shall have in his possession any tobacco products or shall procure or attempt to procure any tobacco products for his own use or for use by any other person.~~

~~No person shall knowingly sell, offer to sell, barter or give any tobacco product to another person under the age of eighteen (18).~~

~~Violation of this section is a Class BMisdemeanor offense.~~

~~§3-6-29 — Presenting False Evidence of Age or Identity for Tobacco Products~~

~~No person under the age of eighteen (18) shall present any written, printed or photostatic evidence of age or identity that is false for the purpose of procuring or attempting to procure any tobacco products.—~~

~~Violation of this section is a Class CMisdemeanor offense.~~

~~§3-6-30 — Distribution of Tobacco Products as Free Samples Prohibited~~

~~A person who sells, distributes, promotes or advertises tobacco products shall not provide free samples of tobacco products to a person under the age of eighteen (18). Any person who violates this section is guilty of a Class BMisdemeanor offense.~~

~~§3-6-31 — Presenting False Evidence of Age or Identity for Alcohol Beverages~~

~~A minor who presents to any person, employee, agent or lessee licensed to distribute alcohol to any written, printed or photostatic evidence of age or identity that is false, for the purpose of procuring or attempting to procure any alcoholic beverages, is guilty of a Class BMisdemeanor offense.——~~

~~§3-6-32 — Disorderly Conduct~~

~~A person is guilty of disorderly conduct if he intentionally or knowingly:~~

- ~~(1) — uses violent, abusive, indecent, profane, or vulgar language, and the language by its very utterance tends to incite an immediate breach of the peace;~~
- ~~(2) — makes an offensive gesture or display in a public place, or to someone in a public place and the gesture or display tends to incite an immediate breach of peace;~~
- ~~(3) — creates, by chemical means, a noxious and unreasonable odor in a public place;~~
- ~~(4) — makes unreasonable noise in a public place or near a private residence that he has no right to occupy.~~

~~Disorderly conduct is a Class CMisdemeanor offense.~~

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~~§3-6-33 — Failure to Send Children to School~~

~~A parent, guardian or custodian of a compulsory school age child shall cause such child to enroll in and attend a Bureau of Indian Affairs (“BIA”) funded school, public school or legitimate nonpublic school for the period of time that such child is of compulsory school age except:~~

~~(1) — when a compulsory school age child is physically, mentally or emotionally incapable of attending school as determined by the appropriate school official based upon sufficient medical documentation;~~

~~(2) — when a compulsory school age child is being educated in a legitimate home instruction program approved by the Tribe or the State of Mississippi;~~

~~(3) — when a waiver of school attendance requirements is granted by the Chief pursuant to Resolution CHO 70-96. Parents, guardians or custodians of compulsory age children who obtain a waiver and who fail to comply with the requirements in Resolution CHO 70-96 may be subject to prosecution under this section; or~~

~~(4) — if the child has been expelled from his or her school. The parent, guardian or custodian of the compulsory school age child shall immediately enroll such child in another school or obtain a waiver pursuant to Resolution CHO 70-96.~~

~~Any parent, guardian or custodian of a compulsory school age child who refuses or willfully fails to enroll or send such child to school shall be guilty of failure to send children to school, a Class C Misdemeanor offense.~~

~~Compulsory school age child means a child who has attained the age of five (5) by September 1 of the calendar year and who has not attained the age of eighteen (18) years on or before September 1 of the calendar year.~~

~~Any terms not specifically defined in this section or school policies and procedures not contained in this section shall be interpreted or applied in accordance with the Parent Student Handbook or School Policy Handbooks of the appropriate schools of where the student is attending.—~~

**CHAPTER 7. CRIMES RELATING TO PUBLIC OFFICE**

**§3-7-1 Abuse of Office**

Any person who shall subject another to arrest, detention, search, seizure, mistreatment, dispossession, or shall deny or impede another in the exercise of enjoyment of any right, privilege, power, or immunity, by acting or purporting to act in an official capacity on behalf of the Mississippi Band of Choctaw Indians or the United States government, or taking advantage of such actual or purported capacity knowing that his conduct is illegal, shall be guilty of an offense under this section.

Abuse of office is a ~~Class B~~ Misdemeanor offense.

**§3-7-2 Bribery**

Any person who shall give or offer to give any money, services or other gain or advantage to

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1 another person with corrupt intent to influence such person in the discharge of his public duties or  
2 conduct and any person who shall accept, solicit or attempt to solicit any bribe shall be guilty of the  
3 offense of bribery.

4  
5 Bribery is a ~~Class B~~Misdemeanor offense.

6  
7 **§3-7-3 Extortion**

8  
9 Any person who compels or induces another person to deliver property or anything of value to  
10 himself or to a third person by threatening that the actor or another will:

- 11  
12 (1) cause physical injury to some person;  
13  
14 (2) cause damage to property;  
15  
16 (3) accuse some person of a crime or cause criminal charges to be brought against some  
17 person;  
18  
19 (4) publicize an asserted fact, whether true or false, tending to subject some person to hatred,  
20 contempt, disgrace, or ridicule; or  
21  
22 (5) kidnap the person threatened or another person shall be guilty of the offense of extortion.

23 Extortion is a ~~Class B~~Misdemeanor offense.

24 **§3-7-4 Misusing Public Money**

25  
26 A person is guilty of “misusing public money” if, being a public servant or other person charged  
27 with the receipt, safekeeping, transfer or disbursement of public monies, he:

- 28  
29 (1) without lawful authority appropriates the money or any portion of it to his own use or the  
30 use of another;  
31  
32 (2) loans the money or any portion thereof without lawful authority;  
33  
34 (3) fails to keep the money in his possession until lawfully disbursed or paid out;  
35  
36 (4) deposits the money in a bank or with a person not lawfully authorized to receive such;  
37  
38 (5) knowingly keeps any false account, or makes a false entry or erasure in any document of  
39 or relating to the money;  
40  
41 (6) fraudulently alters, falsifies, conceals, destroys, or obliterates any such account;  
42  
43 (7) knowingly refuses or omits to pay over on lawful demand by competent authority any  
44 public monies in his hands;  
45  
46 (8) knowingly omits to transfer money when transfer is required by proper authority;  
47  
48 (9) makes a profit for himself or another not lawfully entitled to such, or in an unlawful  
49 manner, out of public monies;  
50  
51 (10) fails to pay over to the proper account or authority any fines, forfeitures, or fees received

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1                   by him; or  
2

- 3           (11)   handles public money in a reckless manner as a result of which a risk of loss of such  
4                   money is significant.  
5

6           “Public money” includes all money, bonds, and evidence of indebtedness or their equivalent,  
7           belonging to, or received or held by the Tribe or any other government, or any agency, authority,  
8           commission or other operation within this jurisdiction providing a service or benefit for the public.  
9

10          Misusing public money is a ~~Class A~~Felony offense.  
11

12       **§3-7-5                   Retaliation for Official Action**  
13

14          A person is guilty of retaliation for official action if he harms any person by any unlawful act in  
15          retaliation for anything lawfully done by another person in his capacity as a public servant.  
16

17          Retaliation for official action is a ~~Class B~~Misdemeanor offense.  
18

19       **§3-7-6                   Threat or Intimidation**  
20

21          Any person who, directly or indirectly, utters or addresses any threat of unlawful harm to any other  
22          person with the purpose to influence his decision, opinion, recommendation, vote or other exercise  
23          of discretion as a public servant or voter or to influence a public official to violate any public duty  
24          shall be guilty of an offense under this section.  
25

26          Threat or intimidation is a ~~Class A~~Felony offense.  
27

28       **§3-7-7                   Unsworn Falsification**  
29

30          Any person who shall, with the purpose of misleading a public servant in the performance of an  
31          official function, make a false written statement which he does not believe to be true or submits any  
32          writing which he knows to be forged, altered or otherwise lacking in authenticity shall be guilty of  
33          an offense under this section.  
34

35          Unsworn falsification is a ~~Class B~~Misdemeanor offense.  
36

37       **§3-7-8                   Tribal Government and Tribal Entities: Records, Documents, Papers:  
38                   Unauthorized Disclosure, Theft, Unauthorized Copies, Concealment, or  
39                   Destruction Thereof**  
40

41          The unauthorized disclosure, stealing, unauthorized copying and/or carrying away, or fraudulently  
42          withdrawing, concealing or taking away or destroying any record, document, paper, etc., whether  
43          the same be paper or computer record, deposited with the Tribal government of the Mississippi  
44          Band of Choctaw Indians, any of its agencies, or any Tribally-owned entity, whether owned in  
45          whole or in part by the Mississippi Band of Choctaw Indians, shall be larceny without reference to  
46          the value of the document, record, paper, etc., so disclosed, carried away, or destroyed. Such  
47          offense is a ~~Class A~~Felony offense.  
48  
49

50       **CHAPTER 8. CRIMES RELATING TO JUDICIAL ADMINISTRATION**  
51

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1     **§3-8-1           Bail Jumping**

2  
3           Any person who if, having been released on bail or on his own recognizance by court order or other  
4           lawful authority upon condition that he subsequently appear on a charge of an offense, he fails  
5           without just cause to appear in person or in the case where a ~~Class-B~~Misdemeanor or ~~Class~~  
6           ~~E~~Misdemeanor offense is charged, by counsel at the time and place which have been lawfully  
7           designated for his appearance shall be guilty of an offense under this section.

8  
9           Bail jumping is a ~~Class-B~~Misdemeanor offense.

10  
11     **§3-8-2           Disobedience to Lawful Order of Court**

12  
13           Any person who shall willfully disobey any order, subpoena, summons, warrant or command duly  
14           issued, made or given by any Court of the Mississippi Band of Choctaw Indians or any judge  
15           thereof will be guilty of an offense under this section.

16  
17           Disobedience to lawful order of court is a ~~Class-B~~Misdemeanor offense.

18  
19     **§3-8-3           Escape**

20  
21           Any person who shall unlawfully remove himself from official detention or fail to return to official  
22           detention following temporary leave granted for a specific purpose or limited period (excluding  
23           probation, parole, release on bail) shall be guilty of escape.

24  
25           Escape is a ~~Class-B~~Misdemeanor offense.

26  
27     **§3-8-4           False Arrest**

28  
29           Any person who shall willfully and knowingly make, or cause to be made, the unlawful arrest,  
30           detention or imprisonment of another shall be guilty of false arrest.

31  
32           False arrest is a ~~Class-C~~Misdemeanor offense.

33  
34     **§3-8-5           Flight to Avoid Prosecution or Judicial Process**

35  
36           Any person who shall absent himself from the Choctaw Indian Reservation for the purpose of  
37           avoiding arrest, prosecution or other judicial process shall be guilty of an offense under this section.

38  
39           Flight to avoid prosecution or judicial process is a ~~Class-B~~Misdemeanor offense.

40  
41     **§3-8-6           Obstructing Justice**

42  
43           Any person who with the purpose of hindering the apprehension, prosecution, conviction or  
44           punishment of another for a crime, shall harbor or conceal another, provide a weapon,  
45           transportation or other means of escape, warn another of impending discovery or give false  
46           information to a police officer concerning the whereabouts of a person sought, shall be guilty of  
47           obstructing justice.

48  
49           Obstructing justice is a ~~Class-B~~Misdemeanor offense.

50  
51     **§3-8-7           Perjury**

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1 Any person who shall willfully and deliberately, in any judicial proceeding in any Court of the  
2 Mississippi Band of Choctaw Indians, falsely swear or interpret, or shall make a sworn statement or  
3 affidavit knowing the same to be untrue, or shall induce or procure an affidavit another same to be  
4 untrue, shall be guilty of perjury under this section.

5  
6 Perjury is a ~~Class-B~~Misdemeanor offense.

7  
8 **§3-8-8 Resisting Lawful Arrest or Process**

9  
10 Any person who shall willfully and knowingly, by force or violence, resist or assist another person  
11 to resist a lawful arrest, or the serving or execution of any legal process, shall be guilty of an  
12 offense under this section.

13  
14 Resisting lawful arrest or process is a ~~Class-B~~Misdemeanor or C offense.

15  
16 **§3-8-9 Witness Tampering; Destruction of Evidence**

17  
18 Any person who shall, believing that an official proceeding or investigation is pending or about to  
19 be instituted, attempt to induce a witness to testify or inform falsely or avoid process or absent  
20 himself from any proceeding or investigation for which he has been legally summoned or who shall  
21 alter, destroy or conceal any document or thing to impair its authenticity or availability in such  
22 proceeding or investigation or attempt to or influence any juror's determinations outside of formal  
23 court proceedings and deliberations or any judge presiding in the case shall be guilty of an offense  
24 under this section.

25  
26 A person commits the crime of tampering with physical evidence if, with intent that is be used,  
27 introduced, rejected or unavailable in an official proceeding which is then pending or to the  
28 knowledge of such person is about to be instituted; he

29  
30 1. destroys, mutilates, alters, conceals or removes physical evidence impairing its veracity or  
31 availability; or

32  
33 2. knowingly makes, produces or offers any false physical evidence; or

34  
35 3. prevents the production of physical evidence by an act of force, intimidation or deception  
36 against any person.

37  
38 Witness Tampering; Destruction of Evidence is a ~~Class-B~~Misdemeanor offense.

39  
40 **§3-8-10 Refusing to Aid an Officer**

41  
42 All persons must aid arresting officers when commanded. Any person who shall neglect or refuse  
43 when called upon by any Tribal police or a police officer to assist in a nonviolent situation after the  
44 arrest of any person charged with of convicted or any offense or in securing such offender when  
45 apprehended, or in transporting such offender to the nearest place of confinement shall be deemed  
46 guilty of an offense.

47  
48 Refusing to aid an officer is a ~~Class-B~~Misdemeanor offense.

49  
50 **§3-8-11 Assault on a Peace Officer, ~~or~~ Judicial Officer, or First Responder**

51  
52 A person commits the offense of assault on a Peace Officer, ~~or~~ Judicial Officer, or First

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1 | Responder if the person purposely or knowingly causes:

- 2 |
- 3 |       1. bodily injury on a Peace officer, ~~or~~ Judicial Officer, or First Responder who is acting
- 4 |       in the course of their duties,
- 5 |       2. reasonable apprehension of serious bodily injury by use of a weapon in a peace
- 6 |       officer, ~~r~~ ~~or~~ judicial officer, First Responder who is acting in the course of their duties;
- 7 |       3. bodily injury with a weapon to a peace officer, ~~or~~ judicial officer, or First Responder
- 8 |       who is acting in the course of their duties; or
- 9 |       4. serious bodily injury to a peace officer, ~~or~~ judicial officer, or First Responder who is
- 10 |       acting in the course of their duties.

11 |

12 | A “peace officer” for the purposes of this subsection shall include any person sworn or unsworn

13 | who is responsible for the enforcement of the tribal code, or the care and custody of adult or

14 | juvenile offenders.

15 |

16 | A “judicial officer” for the purposes of this subsection shall include any judge, clerk, bailiff,

17 | probation officer, court services staff member, member of the Office of the Attorney General,

18 | prosecutor, or social service worker.

19 |

20 | A “first responder” for the purposes of this subsection shall include any emergency medical

21 | technician(“EMT”), firefighter, or security officer.

22 |

23 | Violation of this section shall be a ~~class A felony~~ offense. Violation of subsection (1) shall result

24 | in a minimum of thirty (30) days to serve in detention. Violation of subsections (2-4) shall result

25 | in a mandatory six (6) months to serve in detention.

26 |

27 | **§3-8-12 Failure to Comply with requests or commands of law enforcement**

28 | **officers or emergency responders**

29 |

30 | (1) Whoever, with intent to provoke a breach of the peace, or under such circumstances

31 | as may lead to a breach of the peace, or which may cause or occasion a breach of the

32 | peace, fails or refuses to promptly comply with or obey a request, command, or order of a

33 | law enforcement officer, first responder or other emergency personnel, while performing

34 | their customary duties to:

35 |

36 |       (a) Move or absent himself and any vehicle or object subject to his control

37 |       from the immediate vicinity where the request, command or order is given,

38 |       or

39 |

40 |       (b) Arise, if lying or sitting down, and move to a point designated by said

41 |       officer outside the immediate area of, or which is affected by the

42 |       occurrences at, the place of issuing such order, command or request, or

43 |

44 |       (c) Refrain from lying down or sitting down at, or in the immediate vicinity of,

45 |       the place where said order, request or command is given, or

46 |

47 |       (d) Refrain from obstructing, with his body or any part thereof, or in any

48 |       manner, the lawful movement or passage of any vehicle, or

49 |

50 |       (e) Refrain from placing, or permitting, or cooperating with another to place,

51 |       his body or any part thereof, in front of or behind any vehicle, in such

52 |       manner as to interfere with, or prevent its movement or block its path in



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1 of the following sentences or a combination of such sentences:  
2

- 3 (1) to payment of a fine;  
4  
5 (2) to probation and/or suspension of sentence on such terms and conditions as the court may  
6 direct; or  
7  
8 (3) to imprisonment or confinement.  
9

10 A court shall also have the authority to order a person adjudged guilty of an offense to pay any or  
11 all of the following amounts or do the following acts:  
12

- 13 (1) pay court costs;  
14  
15 (2) pay any civil penalty provided by law; or  
16  
17 (3) pay money damages, surrender property, or perform any other act for the benefit of any  
18 person or party injured personally or his property by the person adjudged guilty provided  
19 such injuries are fairly attributable to the act or failure to act constituting the offense for  
20 which guilt was adjudged.  
21

22 This section shall not deprive a court of authority to cite for contempt, cancel or suspend a license,  
23 forfeit property or do any other act or make any other order authorized by law.  
24

25 §3-9-4 MISDEMEANORS  
26

27 Any offense not defined as a felony shall be subject to a term of imprisonment of not more than  
28 one (1) year or a fine of up to \$5,000, or both.  
29

30 §3-9-5 FELONIES

- 31 A. Any offense expressly defined as a felony shall be subject to a term of  
32 imprisonment of not more than 3 years or a fine of \$15,000, or both. A total term or  
33 imprisonment for any criminal proceeding shall not exceed 9 years.  
34  
35 B. A defendant shall not be subject to felony prosecution unless the defendant:  
36  
37 1. has been previously convicted of the same or a comparable offense by any  
38 jurisdiction in the United States, including tribes; or  
39  
40 2. is being prosecuted for an offense comparable to an offense that would be  
41 punishable by more than 1 year of imprisonment if prosecuted by the United States or  
42 any of the States.  
43

44 §3-9-6 MERITORIOUS DEDUCTIONS

- 45 A. To earn meritorious deductions from a sentence of incarceration, a  
46 prisoner confined in a correctional facility designated by the Court must  
47 be an active participant in programs recommended for the prisoner by the  
48 Court and approved by the Administrator of the correctional facility.  
49 Meritorious deductions shall not exceed six hours credit for every twenty-

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four hours served.

B. A prisoner is not eligible to earn meritorious deductions if the prisoner:

a. Disobeys an order to perform labor;

b. Is in disciplinary segregation, or;

c. Is not an active participant in programs recommended and approved

for the prisoner by the classification supervisor.

C. After having earned meritorious deduction hours, a prisoner may be penalized by losing all or part of any deduction if they commit serious acts of misconduct, insubordination, or refusal to conform to jail rules and regulations. A determination if this penalty is appropriate is within the discretion of the Administrator of the correctional facility.

§3-9-7 Payment of Fines and Other Monies

Fines shall be paid by cash, or money order, or with the consent of the court, may be worked off by performing approved labor for the Tribe, at the hourly rate equal to the current federal minimum wage.

The court may, upon request of a defendant or upon its own motion, allow any fines or other required payments to be paid in installments and on conditions tailored to the means of the defendant.

The imposition of incarceration should not be imposed as an automatic alternative to payment of a fine or other money, but rather a court should, upon default to pay a fine or other money as required, examine the reason for the default, and may, if justice requires, impose an additional sentence of incarceration of no more than one (1) day of incarceration for each twenty-five dollars (\$25.00) of the required money left unpaid.

The methods available for collecting a civil judgment shall be available to collect any unpaid money upon order of the court following a failure to make any required payment and ascertainment of a reason therefore.

When justice requires, the court may waive a fine or any unpaid portion thereof or any other monies required to be paid, or may modify the terms and conditions of payment.

No indigent defendant shall be incarcerated solely on account of his inability to pay a money fine. No alternative sentence offering a choice of a jail term or payment of monetary fine shall be entered against an indigent defendant.

§3-9-8~~7~~ Guilty Plea or Pleas of No Contest

If a plea of guilty or a plea of no contest is made by the defendant, the judge shall make inquiry

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1 of the complaining witnesses, arresting officers or the individuals having knowledge of the  
2 pertinent facts as to the circumstances surrounding the commission of the offense charged, and the  
3 previous record of the defendant. The judge shall also make inquiry concerning the health of the  
4 defendant, his family status, the defendant's income, the defendant's record of employment, and all  
5 such other matters as may assist the judge in reaching a conclusion on which to base the  
6 imposition of a fair and just sentence.

7  
8 **CHAPTER 9. CRIMINAL SENTENCING AND PUNISHMENT**

9  
10 **~~§3-9-1 Sentencing in General~~**

11  
12 ~~A person adjudged guilty of an offense under this Tribal Code shall be sentenced in accordance~~  
13 ~~with this chapter.~~

14  
15 ~~Penal laws enacted or adopted after the effective date of this Tribal Code shall be classified for~~  
16 ~~sentencing purposes in accordance with the provisions of this chapter.~~

17  
18 **~~§3-9-2 Designation of Offenses~~**

19  
20 ~~Offenses are designated as Class A Felony offenses, Class B Misdemeanor offenses, and Class~~  
21 ~~C Misdemeanor offenses. Where so designated, a given offense may fall into two (2) or more~~  
22 ~~possible classes, depending on the nature and seriousness of the actual offense committed.~~

23  
24 **~~§3-9-3 General Principles~~**

25 ~~The sentence imposed in each case should call for the minimum amount of custody or confinement~~  
26 ~~which is consistent with the protection of the public, the gravity of the offense, and the~~  
27 ~~rehabilitative needs of the defendant.~~

28  
29 **~~§3-9-4 Sentences and Combinations of Sentences; Civil Penalties~~**

30  
31 ~~A court may, as provided in this chapter, sentence a person adjudged guilty of an offense to any one~~  
32 ~~of the following sentences or a combination of such sentences:~~

- 33  
34 ~~(1) to payment of a fine;~~  
35  
36 ~~(2) to probation and/or suspension of sentence on such terms and conditions as the court may~~  
37 ~~direct; or~~  
38  
39 ~~(3) to imprisonment or confinement, either full or part time.~~

40  
41 ~~A court shall also have the authority to order a person adjudged guilty of an offense to pay any or~~  
42 ~~all of the following amounts or do the following acts:~~

- 43  
44 ~~(1) pay court costs not to exceed twenty five dollars (\$25);~~  
45  
46 ~~(2) pay any civil penalty provided by law; or~~  
47  
48 ~~(3) pay money damages, surrender property, or perform any other act for the benefit of any~~  
49 ~~person or party injured personally or his property by the person adjudged guilty provided~~  
50 ~~such injuries are fairly attributable to the act or failure to act constituting the offense for~~  
51 ~~which guilt was adjudged.~~  
52

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1 This section shall not deprive a court of authority to cite for contempt, cancel or suspend a license,  
2 forfeit property or do any other act or make any other order authorized by law.

3  
4 ~~§3-9-5~~ ~~Maximum Fines and Sentences of Imprisonment~~

5 A person convicted of an offense may be sentenced as follows:

- 6  
7  
8 (1) ~~if the offense is a Class A Felony offense, to a term of imprisonment not to exceed six (6)~~  
9 ~~months and to a fine not to exceed five hundred dollars (\$500);~~  
10  
11 (2) ~~if the offense is a Class B Misdemeanor offense, to a term of imprisonment not to~~  
12 ~~exceed three (3) months and to a fine not to exceed two hundred fifty dollars (\$250);~~  
13  
14 (3) ~~if the offense is a Class C Misdemeanor offense, to a term of imprisonment not to exceed~~  
15 ~~thirty (30) days and to a fine not to exceed one hundred dollars (\$100).~~

16  
17 The terms of imprisonment listed above apply only to full-time incarceration in the Tribal or some  
18 other jail or penitentiary and do not apply to full or part-time residence or confinement in a medical  
19 or rehabilitative facility as a condition of probation or parole or as otherwise ordered by the court.

20  
21 The fines listed above may be imposed in addition to any amounts ordered paid as restitution, civil  
22 penalties or court cost.

23  
24 ~~§3-9-6~~ ~~Payment of Fines and Other Monies~~

25  
26 Fines shall be paid by cash, or money order, or with the consent of the court, may be worked off by  
27 performing approved labor for the Tribe, at the rate of five dollars (\$5.00) per day, or as otherwise  
28 established by the Tribal Council.

29  
30 The court may, upon request of a defendant or upon its own motion, allow that any fines or other  
31 required payments be paid in installments and on conditions tailored to the means of the defendant.

32  
33 The imposition of incarceration should not be imposed as an automatic alternative to payment of a  
34 fine or other money, but rather a court should, upon default to pay a fine or other money as  
35 required, examine the reason for the default, and may, if justice requires, impose an additional  
36 sentence of incarceration of no more than one (1) day of incarceration for each five dollars (\$5.00)  
37 of the required money left unpaid.

38  
39 The methods available for collecting a civil judgment shall be available to collect any unpaid  
40 money upon order of the court following a failure to make any required payment and ascertainment  
41 of a reason therefore.

42  
43 When justice requires, the court may revoke a fine or any unpaid portion thereof or any other  
44 monies required to be paid, or may modify the terms and conditions of payment.

45  
46 No indigent defendant shall be incarcerated solely on account of his inability to pay a money fine.  
47 No alternative sentence offering a choice of a jail term or payment of monetary fine shall be entered  
48 against an indigent defendant.

49  
50 ~~§3-9-7~~ ~~Guilty Pleas~~

51  
52 If a plea of guilty is made by the defendant, the judge shall make inquiry of the complaining  
53 witnesses, arresting officers or the individuals having knowledge of the pertinent facts as to the

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~~circumstances surrounding the commission of the offense charged, and the previous record of the defendant. The judge shall also make inquiry concerning the health of the defendant, his family status, the defendant's income, the defendant's record of employment, and all such other matters as may assist the judge in reaching a conclusion on which to base the imposition of a fair and just sentence. A maximum sentence shall be imposed only in aggravated cases and in those involving repeated violations of the law.~~

**CHAPTER 10. CRIMES INVOLVING DOMESTIC VIOLENCE**

**§3-10-1 Purpose**

- (1) The Crimes involving Domestic Violence Chapter shall be construed to promote the following:
  - (a) that violence against family members is not in keeping with Choctaw values. It is the expectation that the criminal justice system and other service providers respond to victims of domestic violence with fairness, compassion and in a prompt and effective manner. The goal of this Chapter is to provide victims of domestic violence with safety and protection;
  - (b) it is also the goal to utilize the criminal justice system in setting standards of behavior within the family that are consistent with Choctaw values and as such, the criminal justice system will be utilized to impose consequences upon offenders for behavior that violates Choctaw values that hold the family sacred. These consequences are meant as responses that will allow offenders the opportunity to make positive changes in their behavior and understand that violence is never an acceptable choice; or
  - (c) the prevention of future violence in all families through prevention and public education programs that promote cultural teachings and Choctaw values so as to nurture non-violence within Choctaw families and respect for Choctaw men and women alike.
- (2) [The provisions of Title XXIII, the “Mississippi Band of Choctaw Indians’ Protection from Domestic Abuse Law” shall be applied in conjunction with the provisions of this Chapter.](#)

**§3-10-2 Definitions**

As used in this chapter, unless context otherwise requires:

- (1) “Abuse/Domestic Violence” means the occurrence of one or more of the following acts between family or household members who reside together or who formerly resided together, but does not include acts of self-defense:
  - (a) attempting to cause or intentionally, knowingly or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon;
  - (b) placing, by physical menace or threat, another in fear of serious bodily injury;
  - (c) causing a family or household member to engage involuntarily in sexual activity by force, threat of force, or duress;
  - (d) criminal sexual conduct committed against a minor in violation of this chapter; or

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- (e) intentionally, knowingly or recklessly causing damage in excess of one thousand~~e hundred~~ dollars (\$1,000.00) to the property of family or household members.
- (2) “Family” or “household” members include:
  - (a) adults who are current or former spouses;
  - (b) adults or minors who live together or who have lived together;
  - (c) adults or minors who are related or formerly related by marriage as recognized by state statute or common law.
  - (d) minor children of a person in a relationship that is subsection a through c above.
- (3) “Program for batterers” means a specialized behavioral modification or counseling program that accepts both court-ordered participants and voluntary participants who have battered or abused a family or household member.
- (4) “Program for victims of domestic violence” means a specialized program for victims of domestic violence and their children that includes but is not limited to advocacy, shelter, crisis intervention, supportive services and referrals.
- (5) “Crime involving domestic violence” means when a family or household member commits an act of abuse or domestic violence as defined in this chapter against another family or household member and said act is committed in conjunction with or is an underlying element of one or more of the following crimes:
  - (a) Crimes Against Persons:
    - (1) Abduction, §3-3-1;
    - (2) Assault, §3-3-2;
    - (3) Battery, §3-3-3;
    - (4) Aggravated Assault, §3-3-4;
    - (5) Aggravated Battery, §3-3-5;
    - (6) Harassment, §3-3-19;
    - (7) Use of Telephone to Terrify, Intimidate, Threaten, Harass, Annoy, or Offend, §3-3-20;
    - (8) Sexual Assault, §3-3-29; or
    - (9) Stalking, §3-3-35
  - (b) Crimes Against Property:
    - (1) Criminal Damage to Property, §3-4-2;



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1 domestic violence or take precedence over the crime of domestic violence. The fact that  
2 the perpetrator was under the influence at the time of the offense shall not be utilized by  
3 law enforcement, prosecution or the court to mitigate the severity of the violence.  
4 Voluntary intoxication, which is available as a legal defense only in cases involving  
5 specific intent crimes, shall not be available as a defense to a perpetrator, nor shall it be  
6 utilized to lessen the consequences to the perpetrator.  
7

8 (6) “Deadly weapon” means any firearm, whether loaded or unloaded or any weapon which is  
9 capable of producing death or serious bodily injury, including but not restricted to knives  
10 and all such weapons with which dangerous cuts can be given, or with which dangerous  
11 thrusts can be inflicted, or any other objects with which serious bodily injury can be  
12 inflicted.  
13

14 (7) “Serious bodily injury” means an injury to the person which creates a high probability of  
15 death or which causes serious disfigurement; or which results in permanent or protracted  
16 loss or impairment of the function of any member or organ of the body.  
17

18 (8) “Spouse” means a husband or wife within a marriage which is recognized by the Choctaw  
19 Tribal Code.  
20

21 **§3-10-3 Penalties; Protective Orders, Consent Agreements, Conditions of Release and**  
22 **Probation**

23  
24 ~~(1) Violation of a protective order or a court approved consent agreement known to the~~  
25 ~~defendant shall be a Class A Offense. Likewise, a Class A offense shall be charged for~~  
26 ~~any violation of any criminal court order, including but not limited to orders containing~~  
27 ~~conditions of release or conditions of probation imposed upon the defendant for a crime~~  
28 ~~involving domestic violence. Such conditions of release or probation are not limited to but~~  
29 ~~may include the following:~~  
30

31 (a) enjoin the defendant from threatening to commit or committing acts of domestic  
32 violence against the petitioner or other family or household members;  
33

34 (b) prohibit the defendant from harassing, annoying, telephoning, contacting or  
35 otherwise communicating verbally, or in writing with the petitioner directly or  
36 indirectly through family members, relations by marriage, friends and co-  
37 workers;  
38

39 (c) remove or exclude the defendant from the residence of the petitioner;  
40

41 (d) require the defendant to stay away from the residence, school, place of  
42 employment or a specified place frequented regularly by the petitioner and any  
43 named family member or household member;  
44

45 (e) prohibit or not prohibit the defendant from using or possessing a firearm within  
46 the discretion of the court unless a firearm has been used in the commission of  
47 the act;  
48

49 (f) require the defendant to attend a program for batterers or some other counseling  
50 and/or treatment program;

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- (g) direct the defendant to pay restitution to the victim; or
- (h) impose any other condition necessary to protect the victim of domestic violence and any designated family or household member or to rehabilitate the defendant.

~~(2) Violation of any of the above condition ordered by the court carries a maximum penalty of six (6) months in jail or imposition of a fine of five hundred dollars (\$500.00), or both.~~

~~(3)~~(2) The petitioner to whom a protective order has been is granted cannot be arrested for violation of an order that has been issued for the purpose of protecting the petitioner unless the order specifically prohibited the petitioner from making contact with the defendant.

**§3-10-4 Duties of Law Enforcement Officer to Victim of Domestic Violence**

- (1) A law enforcement officer who responds to an allegation of domestic violence shall use all reasonable means to protect the victim and others present from further violence and have a duty to arrest upon finding probable cause to believe that domestic violence has occurred. Such means of protection include but are not limited to:
  - (a) taking the action necessary to provide for the safety of all the victims and any family or household member;
  - (b) confiscating any weapon involved in the alleged act(s) of domestic violence;
  - (c) obtaining from any available service provider transportation for the victim and any child or children to a shelter or any other place of safety;
  - (d) assisting the victim and any child or children in removing essential personal effects; or
  - (e) assisting the victim and any child or children in obtaining medical treatment, including transportation to a medical facility.

**§3-10-5 Mandatory Arrest for Crimes Involving Domestic Violence**

A law enforcement officer shall arrest a person with or without a warrant when he has probable cause to believe that the person has, within twenty-four (24) hours of such arrest, knowingly committed any crime involving domestic violence as defined in §3-10-2(1) and (5), regardless of whether the alleged act occurred in the presence of the law enforcement officer.

Any arrest made pursuant to subsection (1) of this section shall be designated as a crime involving domestic violence on all police and court documents.

**§3-10-6 Mandatory Arrest for Certain Violations of Orders for Protection, Court-Approved Consent Agreements or Criminal Court Orders**

- (1) A police officer shall arrest, without a warrant and take into custody a person whom the police officer has probable cause to believe has violated one of the following orders of the court, if the existence of the order can be verified by the officer. If probable cause has

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1           been established and an arrest is not made within twenty-four (24) hours, the police officer  
2           shall file with the Court an affidavit requesting a warrant to apprehend.

3  
4           (a)       Protective Order

5  
6           (b)       Court-Approved Consent Agreement

7  
8           (c)       Any criminal court order issued against the defendant for a crime involving  
9           domestic violence, including but not limited to conditions of release or probation.

10  
11           (2)       Violation of any of the above orders carries a maximum penalty of ~~one six (16) year months~~  
12           in jail or imposition of a fine of ~~up to five hundred dollars (\$1,0500.00)~~ or both.

13  
14   **§3-10-7           Authority of Law Enforcement Officer to Seize Weapons**

15  
16           (1)       Incident to an arrest for a crime involving domestic violence, a law enforcement officer  
17           shall:

18  
19           (a)       seize all weapons that are alleged to have been involved or threatened to be used  
20           in the commission of a crime; or

21  
22           (b)       seize a weapon that is in plain view or which is located during a search  
23           authorized by a person entitled to consent to the search. The seizure of weapons  
24           is without regard to ownership of the weapons; weapons owned by a third party  
25           are subject to confiscation when officers conclude that the weapon must be  
26           confiscated to protect law enforcement, victims of domestic violence or others.

27  
28   **§3-10-8           Possession of a Firearm While Subject to an Order of Protection**

29  
30           It is illegal for a person to possess a firearm while subject to a court order restraining such person  
31           from harassing, stalking, threatening or otherwise inflicting emotional or physical abuse upon a  
32           family or household member provided that the protection order was issued following an evidentiary  
33           hearing where the defendant had notice and an opportunity to appear. The protection order must  
34           also include a specific finding that the defendant represents a credible threat to the physical safety  
35           of the victim, or must include an explicit prohibition against the use of force that would reasonably  
36           be expected to cause injury.

37  
38   **§3-10-9           Possession of a Firearm after Conviction of a Crime Involving Domestic  
39           Violence**

40  
41           It is illegal to possess a firearm ~~for a period of two (2) years~~ following a conviction of a  
42           qualifying crime involving felony or misdemeanor domestic violence that contains an  
43           element of physical force or attempted physical force or the threatened or actual use of a firearm. A  
44           qualifying crime involving domestic violence must have as an element the use of physical  
45           force resulting in serious bodily injury, or the use or threatened use of a firearm.

46  
47           ~~(1) — If the underlying charge is a misdemeanor, the penalty shall be for a~~  
48           misdemeanor. If the underlying charge is a felony, the penalty shall be for a felony.

49  
50           ~~(2) — Upon any second or subsequent conviction of a qualifying crime of domestic violence, the~~  
51           ~~offender shall be prohibited from possessing a firearm for a period of five (5) years~~  
52           ~~following the date of the second or subsequent conviction.~~

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2    §3-10-10       Official Use Exemption

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- (1) The restrictions of §3-10-8 do not apply to firearms issued by governmental agencies to a law enforcement officer or military personnel so long as the officer or military personnel is on duty. Personal firearms do not fall within this exemption nor may these persons possess officially issued firearms when off duty.
- (2) The official use exemption does not apply to §3-10-9. This means that law enforcement officers or military personnel who have been convicted of a qualifying crime involving domestic violence will not be able to possess or receive firearms for any purpose, including the performance of official duties.

**§3-10-11 Immunity of Officers for Arrests in Domestic Violence Incidents**

- (1) A law enforcement officer shall not be held liable in any civil or criminal action for an arrest based on probable cause, enforcement in good faith of a court order or any other action or omission in good faith under this chapter arising from an alleged domestic violence incident brought by any authorized party, or an arrest made in good faith without a warrant when the officer has probable cause to believe that the person has within twenty-four (24) hours of such arrest knowingly violated the provision of a facially valid protective order, court-approved consent agreement or a criminal court order issued by any recognizable court of law.
- (2) The Attorney General or a special prosecutor shall not be held liable in any civil action for his order of an arrest based on probable cause, enforcement in good faith of a court order or any other action or omission in good faith under this chapter arising from an alleged domestic violence incident brought by any authorized party, or an arrest made in good faith without a warrant when the Attorney General or special prosecutor has probable cause to believe that the person has within twenty-four (24) hours of such arrest knowingly violated the provision of a facially valid protective order, court-approved consent agreement or a criminal court order issued by any recognizable court of law.

**§3-10-12 Conditions of Release**

- (1) There shall be a mandatory minimum “holding” period of ~~thirty-six~~<sup>twenty-four</sup> (36<sup>24</sup>) hours prior to the release of a defendant charged with a crime involving domestic violence if said crime resulted in bodily injury or serious bodily injury to the victim, or threat of serious bodily injury to the victim:
  - (a) if the defendant is not arrested for a crime of domestic violence within seventy-two (72) hours of the alleged incident, the judge may in his discretion waive the twenty-four (24) hour holding period so long as the judge determines from the totality of the circumstances that the victim is not in immediate danger of bodily injury, serious bodily injury or threat of serious bodily injury from the perpetrator; or
  - (b) within the twenty-four (24) hour holding period, bail may be set by a Tribal judge via telephone. Bail may also be set by a Tribal judge at the time of the arraignment. The defendant, however, shall not be released prior to the expiration of twenty-four (24) hours from the time of arrest, notwithstanding the defendant’s ability to meet the bond requirement.

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- (2) Before releasing a person arrested for or charged with a crime involving domestic violence or a violation of an order for protection, court-approved consent agreement or criminal court order involving domestic violence, the court may impose conditions of release or bail on the alleged assailant to protect the alleged victim of domestic violence and to ensure the appearance of the person at a subsequent court proceeding. The conditions may include:
- (a) an order enjoining the person from threatening to commit or committing acts of domestic violence against the alleged victim or other family or household member;
  - (b) an order prohibiting the person from harassing, annoying, telephoning, contacting or otherwise communicating with the alleged victim, either directly or indirectly through family, relations by marriage, friends or co-workers;
  - (c) an order directing the person to vacate or stay away from the home of the alleged victim and/or child and to stay away from any location where the victim is likely to be;
  - (d) an order prohibiting the person from using or possessing a firearm or other weapon specified by the court;
  - (e) an order prohibiting the person from possession or consumption of alcohol or controlled substances; or
  - (f) any other order required to protect the safety of the alleged victim and to ensure the appearance of the person in court.
- (3) If conditions of release are imposed, the Clerk of Court or Detention Officer shall:
- (a) issue a written order for conditional release;
  - (b) immediately distribute a copy of the order to Law and Order and the Family Violence and Victim's Services Office; or
  - (c) provide Law and Order with any available information concerning the location of the perpetrator in a manner that protects the safety of the victim.
- (4) The Clerk of Court or Detention Officer shall provide a copy of the conditions to the arrested or charged person upon his release. Failure to provide the person with a copy of the conditions of release does not invalidate the conditions if the arrested or charged person has notice of the conditions.
- (5) If conditions of release are imposed without a hearing, the arrested or charged person may request a prompt hearing before the court to review the conditions. Upon such a request, the court shall hold a prompt hearing to review the conditions.

**§3-10-13 Written Procedures for Prosecution of Domestic Violence**

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1           Within one hundred twenty (120) days following the enactment of this chapter, the Attorney  
2           General shall develop and submit to the Choctaw Tribal Council for approval, written policies for  
3           the prosecution of crimes involving domestic violence to ensure the effective prosecution of said  
4           crimes.

5  
6       **§3-10-14           Record of Dismissal Required in Court File**

7  
8           When a court dismisses criminal charges or a prosecutor moves to dismiss charges against a  
9           defendant accused of a crime involving domestic violence, the specific reasons for the dismissal  
10          must be recorded in the court file through Order of the Court; Immediately forward a copy of the  
11          order for dismissal. The prosecutor shall indicate the specific reason why any witnesses are  
12          unavailable and the reasons the case cannot be prosecuted. The Clerk of Court shall immediately  
13          forward a copy of the dismissal to the Office of the Family Violence and Victim's Services  
14          Program. The Family Violence & Victim's Services Program shall then notify the victim of the  
15          dismissal.

16  
17       **§3-10-15           Referral of Domestic Violence Cases to Peacemaker Court**

18  
19           At any time after the filing of a criminal complaint or the filing of a petition for a protective order,  
20           the judge may solely within his discretion, depending on the nature of the case, refer  
21           misdemeanor~~the~~ domestic violence cases to the Peacemaker Court for an alternative resolution or  
22           disposition. The Peacemaker Judge shall with due diligence attempt to resolve the case referred for  
23           resolution. If the Peacemaker Judge believes that in all likelihood the matter cannot be resolved  
24           through the peacemaking process, the judge shall within twenty (20) days of the filing of the  
25           transfer order refer the case back to the criminal court for prosecution.

26  
27       **§3-10-16           Spousal Privileges Inapplicable in Criminal Proceedings Involving Domestic**  
28                               **Violence**

29  
30           The following evidentiary privileges do not apply in a criminal proceeding in which a spouse or  
31           other family or household member is the victim of an alleged crime involving domestic violence  
32           perpetrated by the other spouse:

- 33  
34                           (a)       the privilege of confidential communication between spouses; or  
35  
36                           (b)       the testimonial privilege of spouses.

37  
38       **§3-10-17           Advocate-Victim Privilege Applicable in Cases Involving Domestic Violence**

39  
40           (1)       Except as otherwise provided in subsection (2) below, a victim of domestic violence may  
41           refuse to disclose, and may prevent an advocate from disclosing, confidential oral  
42           communication between the victim and the advocate and written records and reports  
43           concerning the victim if the privilege is claimed by:

- 44  
45                           (a)       the victim; or  
46  
47                           (b)       the person who was the advocate at the time of the confidential communication,  
48           except that the advocate may not claim the privilege if there is no victim in  
49           existence or if the privilege has been waived by the victim.

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1 (2) The privilege does not relieve a person from any duty imposed in the mandatory reporting  
2 of child abuse or neglect. A person may not claim the privilege when providing evidence  
3 in proceedings concerning child abuse or neglect.  
4

5 (3) As used in this subsection, “advocate” means an employee of or volunteer for a program  
6 for victims of domestic violence who:  
7

8 (a) has a primary function of rendering advice, counseling or assistance to victims of  
9 domestic violence; supervising the employees or volunteers of the program; or  
10 administering the program; or  
11

12 (b) works under the direction of a supervisor of the program, supervises employees  
13 or volunteers or administers the program.  
14

15 **§3-10-18 Conditions of Probation for a Perpetrator Convicted of a Crime Involving**  
16 **Domestic Violence**  
17

18 (1) Before placing a perpetrator who is convicted of a crime involving domestic violence on  
19 probation, the court shall consider the safety and protection of the victim of domestic  
20 violence.  
21

22 (2) The court may condition the granting of probation to a perpetrator in compliance with one  
23 or more orders of the court, including but not limited to:  
24

25 (a) enjoining the perpetrator from threatening to commit or committing acts of  
26 domestic violence against the victim or other family or household member;  
27

28 (b) prohibiting the perpetrator from harassing, annoying, telephoning or contacting,  
29 or otherwise communicating with the victim, directly or indirectly through  
30 family, relations by marriage, friends or co-workers;  
31

32 (c) requiring the perpetrator to stay away from the residence, school, place of  
33 employment or a specified place frequented regularly by the victim and any  
34 designated family or household member;  
35

36 (d) prohibiting the perpetrator from possessing or consuming alcohol or controlled  
37 substances;  
38

39 (e) prohibiting the perpetrator from possessing a firearm or other specified weapon;  
40

41 ~~(f)~~ directing the perpetrator to surrender any weapons owned or possessed by the  
42 perpetrator;  
43

44 (f) directing the perpetrator to participate in and complete to the satisfaction of the  
45 court, a program for batterers, treatment for alcohol or substance abuse, or  
46 psychiatric or psychological treatment or any other program or service deemed  
47 applicable by the Domestic Violence Program or Probation Officer; or complete an  
48 assessment and/or treatment plan as determined by Choctaw Behavioral Health  
49

~~(g)~~;

50 ~~(h)~~(g) directing the perpetrator to pay restitution to the victim; or  
51

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1 |                    ~~(h)~~ imposing any other condition necessary to protect the victim of domestic  
2 |                    violence and any designated family or household member or to rehabilitate the  
3 |                    perpetrator.  
4 |

5 |   **§3-10-19           Required Written Policies and Procedures**

6 |  
7 |           (1)   ~~Within one hundred twenty (120) days of the enactment of this chapter, Law and~~  
8 |           ~~Order~~ Department of Public Safety shall develop and submit to the Choctaw Tribal  
9 |           Council for approval, written policies concerning:  
10 |

- 11 |           (a)   the effective response of the agency to cases involving domestic violence;  
12 |  
13 |           (b)   enforcement of all applicable Choctaw Tribal Code statutes concerning domestic  
14 |           violence;  
15 |  
16 |           (c)   protection and safety of the victims of domestic violence and other family and  
17 |           household members;  
18 |  
19 |           (d)   the method or process for sanctions against officers or officials who fail to follow  
20 |           or enforce official protocols;  
21 |  
22 |           (e)   coordination with hospitals and programs for victims of domestic violence; or  
23 |  
24 |           (f)   mandatory training of officers in the handling of domestic violence offenses and  
25 |           the enforcement of domestic violence laws.  
26 |

27 |   **§3-10-20           Role of the Court; Sentencing; Probation Conditions**

28 |  
29 |           (1)   In responding to the crime of domestic violence, the court shall:  
30 |  
31 |           (a)   First Offense: If the alleged offender pleads guilty or is found guilty, the judge  
32 |           may order any sentence available to him generally for each crime listed in §3-10-  
33 |           2(5). In addition, every conviction of domestic violence shall require the  
34 |           defendant to complete a program for batterers, if offered at the time of  
35 |           sentencing. If a program for batterers is not offered at the time of sentencing, the  
36 |           judge shall order the defendant to participate in any counseling or treatment  
37 |           program available to the court that, in the judge's discretion, will bring about a  
38 |           cessation of domestic abuse.  
39 |

40 |                   In the event the offender does not comply with the program for batterers or  
41 |                   any other condition or order imposed by the court, the court shall find the  
42 |                   offender in contempt of court and shall impose a minimum ten (10) days,  
43 |                   maximum six (6) months in jail along with the service of any suspended  
44 |                   sentence that may have been imposed in a previous hearing. A finding of  
45 |                   contempt and service of jail time does not release the offender from any of the  
46 |                   conditions originally imposed, including but not limited to participation in a  
47 |                   program for batterers which shall be required during the offender's incarceration,  
48 |                   if feasible, and shall continue upon his release until such time as the offender has  
49 |                   completed the program.

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1 (b) Second or Subsequent Offense: If the alleged offender pleads guilty or is found  
2 guilty of a second or subsequent offense involving domestic violence occurring  
3 within five (5) years of a previous offense involving domestic violence, the  
4 offender shall be sentenced to a minimum of thirty (30) days in jail with six (6)  
5 months to one (1) year probation and/or any maximum sentencing, fine,  
6 rehabilitation and community service remedies available to the court. In  
7 addition, the judge may order the offender to participate in and complete a  
8 program for batterers regardless of whether the offender has participated in or  
9 completed the program as fulfillment of requirements from a previous court  
10 order.

11 ~~(b)~~(c) Upon a third conviction of misdemeanor domestic violence under this section or a  
12 substantially similar law of a State, of the United States, or of a federally  
13 recognized Native American tribe, whether against the same or another victim, the  
14 defendant shall be guilty of a felony and sentenced to a term of imprisonment up to  
15 three (3) years and up to fifteen~~five~~ thousand (\$15,000) or both. In determining the  
16 number of prior misdemeanor domestic violence convictions for purpose of  
17 imposing punishment under this section, the court shall disregard any conviction  
18 occurring more than seven (7) years before the misdemeanor domestic violence  
19 offense in question.

20  
21 **§3-10-21 Juveniles**

- 22  
23 (1) Any juvenile committing a crime involving domestic violence as defined in §3-10-2(1)  
24 and (5) shall be subject to prosecution by the Youth Court.  
25  
26 (2) Sentencing involving juveniles shall be at the discretion of the Youth Court Judge.  
27  
28 (3) A program for batterers which focuses specifically on juvenile offenders may be  
29 implemented by the Family Violence and Victim’s Services Program or any other Tribal  
30 agency and made available for the Youth Court Judges to incorporate into the  
31 disposition of cases involving domestic violence if, in the discretion of the Youth Court  
32 Judge, the need for such program exists.  
33  
34

35 **CHAPTER 11. CRIMES INVOLVING GAMING**

36  
37 **§3-11-1 Definitions**

38  
39 As used in this chapter, unless the context requires otherwise:

- 40  
41 (1) “Associated equipment” means any equipment or mechanical, electromechanical, or  
42 electronic contrivance, component or machine used remotely or directly in connection  
43 with gaming or with any game that would not otherwise be classified as a gaming device,  
44 including dice, playing cards, links which connect to progressive slot machines, equipment  
45 which affects the proper reporting of gross revenue, computerized systems of betting at a  
46 race book or sports pool, computerized systems for monitoring slot machines and devices  
47 for weighing or counting money;  
48  
49 (2) “Commission” means the Choctaw Gaming Commission;  
50  
51 (3) “Establishment” means any premises wherein or whereon any licensed Tribal gaming is  
52 done;

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- (4) “Game or gambling game,” except as otherwise provided by law, means any game played with cards, dice or any mechanical, electromechanical or electronic device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fan-tan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck (dai shu),

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1 wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker, panguingui, slot  
2 machine or any other game or device approved by the Commission;

3  
4 (5) “Gaming or gambling” means to deal, operate, carry on, conduct, maintain or expose for  
5 play any game as defined in subsection 4;

6  
7 (6) “Gaming equipment” means any mechanical, electromechanical or electronic contrivance,  
8 component or machine used in connection with gaming or any game which affects the  
9 result of a wager by determining win or loss. The term includes a system for processing  
10 information which can alter the normal criteria of random selection, which affects the  
11 operation of any game or which determines the outcome of a game. The term does not  
12 include a system or device which affects a game solely by stopping its operation so that  
13 the outcome remains undetermined;

14  
15 (7) “License” means a gaming license or a manufacturer’s, seller’s or distributor’s license  
16 issued by the Commission;

17  
18 (8) “Licensee” means any person to whom a valid license has been issued; or

19  
20 (9) “Person” means any association, corporation, firm, partnership, trust or other form of  
21 business association as well as a natural person.

22  
23 (10) “Premises” means land, together with all buildings, improvements and personal property  
24 located thereon.

25  
26 (11) “Paraphernalia for manufacturing slugs” means the equipment, products and materials that  
27 are intended for use or designed for use in manufacturing, producing, fabricating,  
28 preparing, testing, analyzing, packaging, storing or concealing a counterfeit facsimile of  
29 the chips or tokens approved by the Commission or lawful coins of the United States, the  
30 use of which is unlawful pursuant to subsection §3-11-6(2) of this section. The term  
31 includes, but is not limited to:

32  
33 (a) metal or metal alloys;

34  
35 (b) molds, forms or similar equipment capable of producing a likeness of a gaming  
36 token or United States coin;

37  
38 (c) melting pots or other receptacles; or

39  
40 (d) tongs, trimming tools or other similar equipment.

41  
42 **§3-11-2 Cheating in General**

43  
44 It is unlawful for a person to cheat at any gambling game.

45  
46 **§3-11-3 Authorized Games**

47  
48 It is unlawful for a person to engage in or participate in a game or in gaming not authorized or  
49 provided for in the Tribal-State Compact for Regulation of Class III gaming on the Mississippi  
50 Band of Choctaw Indians’ Reservation in Mississippi or regulations issued by the Commission.

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**§3-11-4            Gaming Offenses**

It is unlawful for any person:

- (1) to alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;
- (2) to place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or that is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome;
- (3) to claim, collect or take, or attempt to claim, collect or take money or anything of value in or from a gambling game, with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;
- (4) knowingly to entice or induce another to go to any place where a gambling game is being conducted or operated in violation of the provisions of the CTC Title XV or the regulations issued by the Commission, with the intent that the other person play or participate in the gambling game;
- (5) to place or increase a bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet;
- (6) to reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including pinching bets; or
- (7) to manipulate, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to, varying the pull of the handle of a slot machine, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

**§3-11-5            Devices**

It is unlawful for any person at an establishment to use or possess with the intent to use, any device to assist in:

- (1) projecting the outcome of the game;
- (2) keeping track of the cards played;
- (3) analyzing the probability of the occurrence of an event relating to the game; or
- (4) analyzing the strategy for playing or betting to be used in the game, except as permitted by the Commission.

**§3-11-6            Chips and Tokens**

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It is unlawful for any licensee, licensee’s employee or other person to use counterfeit chips in a gambling game.

It is unlawful for any person, in playing or using any gambling game designed to be played with, receive or be operated by chips or tokens approved by the Commission or by lawful coins of the United States of America:

- (1) knowingly to use other than chips or tokens approved by the Commission or lawful coins, legal tender of the United States of America, or to use coins not of the same denominations as the coins intended to be used in that gambling game; or
- (2) to use any device or means to violate the provisions of this chapter.

It is unlawful for any person to have on his person or in his possession on or off the premises of any establishment any device intended by such person to be used to violate the provisions of this chapter.

It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his employment within an establishment, to have on his person or in his possession on or off the premises of any licensed gaming establishment any key or device known to have been designed for the purpose of and suitable for opening, entering or affecting the operation of any gambling game, drop box or any electronic or mechanical device connected thereto, or for removing money or other contents there from.

It is unlawful for any person to have on his person or in his possession any paraphernalia for manufacturing slugs. Possession of more than one of the devices, equipment, products or materials described in this section permits a rebuttable inference that the possessor intended to use them for cheating.

**§3-11-7 Manufacturing, Selling, Altering, or Marking**

It is unlawful to manufacture, sell or distribute any cards, chips, dice, game or device that is intended to be used to violate any provision of this chapter.

It is unlawful to mark, alter or otherwise modify any associated equipment or gaming device in a manner that:

- (1) affects the result of a wager by determining win or loss; or
- (2) alters the normal criteria of random selection, which affects the operation of a game or which determines the outcome of a game.

It is unlawful for any person to instruct another in cheating or in the use of any device for that purpose, with the knowledge or intent that the information or use so conveyed may be employed to violate any provision of this chapter.

**§3-11-8 Penalties**

A violation of any of the provisions of §3-11-2 through §3-11-7 shall be a ~~Class A~~Felony offense.

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2 In addition to any other penalty provided in this chapter, any person who attempts, or two or more  
3 persons who conspire, to violate any provisions of §3-9-2 through §3-9-7 of this chapter shall be  
4 punished by imposing the penalty provided in subsection (1) of this section, whether or not he  
5 personally played any gambling game or used any prohibited device and whether or not the crime is  
6 completed.

7  
8 **§3-11-9 Questioning**

9  
10 If any person shall commit or attempt to commit a violation of any provision of §3-11-2 through  
11 §3-11-7, any officer, employee or agent of a licensee, or a contractor hired by a licensee to provide  
12 security services, acting in good faith and upon probable cause based upon reasonable grounds  
13 therefore, may question such person in a reasonable manner for the purpose of ascertaining  
14 whether or not such person should be charged with a violation of this chapter. The questioning of a  
15 person by an officer, employee or agent of a licensee or by a contractor hired by a licensee to  
16 provide security services shall not render the licensee, its officer, its employee or its agent, or a law  
17 enforcement officer, civilly liable for slander, false arrest, false imprisonment, malicious  
18 prosecution, unlawful detention or otherwise in any case where the licensee's officer, employee or  
19 agent, or the contractor hired by the licensee to provide security services, is acting in good faith and  
20 upon reasonable grounds to believe that the person questioned is committing or attempting to  
21 commit a violation of §3-9-2 through §3-9-7.  
22  
23

24 **CHAPTER 12. CRIMES RELATING TO PARADES, PROCESSIONS AND PUBLIC**  
25 **DEMONSTRATIONS**

26  
27 **§3-12-1 Parades, Processions and Public Demonstrations**

- 28  
29 (1) Permit Required, Applications, Granting:
- 30  
31 (a) it shall be unlawful to organize or hold, or to assist in organizing or holding or to  
32 take part or participate in, any parade or procession or other public demonstration  
33 on the streets, public ways or the lands of the Mississippi Band of Choctaw  
34 Indians, unless a permit therefore has been secured from the Director of the  
35 Department of Law and Order;
- 36  
37 (b) to secure such permit, written application shall be made by at least three (3)  
38 members of the Tribe to the Director, setting forth the probable number of  
39 persons, vehicles and animals which will be engaged in such parade, processions  
40 or other public demonstration, proof of one-time liability insurance coverage in  
41 the amount of five hundred thousand (\$500,000) and the route along the streets,  
42 other public ways or lands over, along or on which it is desired to have or hold  
43 such parade, procession or other public demonstration; or
- 44  
45 (c) the Director of Law and Order shall grant a written permit for such parade,  
46 procession or other public demonstration, prescribing the streets, other public  
47 ways or lands which may be used therefore, after determining that the safety of  
48 the public in the use of the site would not thereby be endangered.

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- 1 (2) Time Restrictions: No permit shall be granted under this section for a parade, procession  
2 or other public demonstration to begin after 8 o'clock p.m., except parades or processions  
3 held in connection with school-approved activities, such as homecoming parades.  
4
- 5 (3) Conduct of Participants: Participants in such parades, processions or other public  
6 demonstrations shall conduct themselves in the following manner:  
7
- 8 (a) all persons walking or riding shall be unarmed and without explosives of any  
9 kind and those walking will line up no more than four abreast in the right-hand  
10 lane of traffic in units of a hundred (100) or less, with an interval of fifteen (15)  
11 feet being maintained between units. All persons not in formation will not be  
12 covered by the permit;  
13
- 14 (b) all traffic directions at intersections along the route of march and directions of  
15 police officers will be obeyed;  
16
- 17 (c) all persons covered by the permit will adhere strictly to the designated route;  
18
- 19 (d) all persons covered by the permit must assemble at the prescribed area and  
20 accompany the march only on the sidewalks or streets designated in the permit  
21 and in formation;  
22
- 23 (e) no such parade, procession or public demonstration shall obstruct the entrance to  
24 any business on the lands of the Mississippi Band of Choctaw Indians, any Tribal  
25 or other governmental agency or prevent the access of any persons thereto; or  
26
- 27 (f) no person shall permit children under the age of eighteen (18) to participate in  
28 such parade, procession or public demonstration without the permission of a  
29 parent or guardian of the child.  
30
- 31 (4) Review of Application Upon Denial: If an application for a permit is denied, after the  
32 filing of a proper application therefore, the applicant shall have the right to have the  
33 Choctaw Tribal Council consider the application immediately, and to pass on whether the  
34 requested permit should be issued or not, by filing with the Tribal Chief a written request  
35 for a review of the action of the Director of the Department of Law and Order with respect  
36 to the application. Such review shall be held within five (5) days after the filing of such  
37 request. The Director and the applicant shall have the right to appear before Tribal  
38 Council and to present proof in support of the application for the permit and the denial of  
39 the permit. The Tribal Council shall, without delay, pass on the question of whether the  
40 permit should be issued or not, and should it be of the opinion that such permit should be  
41 issued, the same shall be issued forthwith.  
42
- 43 (5) Violations, Penalty: Any person found guilty of violating the provisions of this section  
44 shall be guilty of a ~~Class C Misdemeanor~~ offense and subject to a term of imprisonment  
45 not to exceed ~~one thirty (30) year days~~ and to a fine not to exceed one ~~thousand hundred~~  
46 dollars (\$1,000.00). Each day any violation of this section continues, it will constitute a  
47 separate offense.\*  
48  
49

**CHAPTER 13. COMPUTER CRIMES**

§3-13-1 Definitions

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(Resolution CHO 20-032)**

1  
2 For the purposes of this chapter, the following words shall have the meanings ascribed herein  
3 unless the context clearly requires otherwise:  
4

- 5 (1) “Access” means to program, to execute programs on, to communicate with, store data in,  
6 retrieve data from or otherwise make use of any resources, including data or programs, of  
7 a computer, computer system or computer network;  
8
- 9 (2) “Computer” means an electronic, magnetic, optical or other high-speed data processing  
10 device or system performing logical arithmetic and storage functions and includes any  
11 property, data storage facility or communications facility directly related to or operating in  
12 conjunction with such device or system. Computer shall not include an automated  
13 typewriter or typesetter, a machine designed solely for word processing which contains no  
14 data base intelligence or a portable hand-held calculator nor shall computer include any  
15 other device which contains components similar to those in computers but in which the  
16 components have the sole function of controlling the device for the single purpose for  
17 which the device is intended; thus the controlled device is a processor of data or is a  
18 storage of intelligence in which case it too is excluded;  
19
- 20 (3) “Computer network” means a set of related, remotely connected devices and  
21 communication facilities including at least one (1) computer system with the capability to  
22 transmit data through communication facilities;  
23
- 24 (4) “Computer program” means an ordered set of data representing coded instructions or  
25 statements that when executed by a computer cause the computer to process data;  
26
- 27 (5) “Computer software” means a set of computer programs, procedures and associated  
28 documentation concerned with operation of a computer system;  
29
- 30 (6) “Computer system” means a set of functionally related, connected or unconnected,  
31 computer equipment, devices or computer software;  
32
- 33 (7) “Computer services” means providing access to or service or data from a computer, a  
34 computer system or a computer network and includes the actual data processing;  
35
- 36 (8) “Financial instrument” means any check, draft, money order, certificate of deposit, letter  
37 of credit, bill of exchange, credit card or marketable security;  
38
- 39 (9) “Intellectual property” means data, computer programs, computer software, trade secrets,  
40 copyrighted materials and confidential or proprietary information in any form or medium  
41 when such is stored in, produced by or intended for use or storage with or in a computer, a  
42 computer system or computer network;  
43
- 44 (10) “Property” means financial instruments, electronically stored or produced data and  
45 computer programs, whether in machine readable or human readable form;  
46
- 47 (11) “Proper” means includes:  
48 (a) discovery by independent invention;

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- (b) discovery by “reverse engineering”; that is, by starting with the known product and working backward to find the method by which it was developed. The acquisition of the known product must be by lawful means;
- (c) discovery under license or authority of the owner;
- (d) observation of the property in public use or on public display; or
- (e) discovery in published literature.

(12) “Use” means to make use of, to convert to one’s service, to avail oneself of or to employ. In the context of this act, “use” includes to instruct, communicate with, store data in or retrieve data from or otherwise utilize the logical arithmetic or memory functions of a computer.

**§3-13-2 Computer Fraud**

Computer fraud is the accessing or causing to be accessed of any computer, computer system, computer network or any part thereof with the intent to:

- (1) defraud; or
- (2) Obtain money, property or services by means of false or fraudulent conduct, practices or representations; or through the false or fraudulent alteration, deletion or insertion of programs or data.

Computer Fraud is a ~~Class A~~[Felony](#) offense.

**§3-13-3 Offense Against Computer Users**

An offense against computer users is the intentional:

- (1) denial to an authorized user, without consent, of the full and effective use of or access to a computer, a computer system, a computer network or computer services; or
- (2) use or disclosure to another, without consent, of the numbers, codes, passwords or other means of access to a computer, a computer system, a computer network or computer services.

An offense against Computer Users is a ~~Class A~~[Felony](#) offense.

**§3-13-4 Offense Against Computer Equipment**

An offense against computer equipment or supplies is the intentional modification or destruction, without consent, of computer equipment or supplies used or intended to be used in a computer, computer system or computer network.

An offense against computer equipment or supplies is a ~~Class A~~[Felony](#) offense.

**§3-13-5 Offense Against Intellectual Property**

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1  
2 An offense against intellectual property is the intentional:

- 3  
4 (1) destruction, insertion or modification, without consent, of intellectual property; or  
5  
6 (2) disclosure, use, copying, taking or accessing, without consent, of intellectual property.

7 An offense against intellectual property shall be guilty of a ~~Class A~~[Felony](#) offense.

8 The provisions of this section shall not apply to the disclosure, use, copying, taking or accessing by  
9 proper means as defined in this chapter.

10  
11 **§3-13-6 Venue**

12  
13 For the purposes of venue under the provisions of this chapter, any violation of this chapter shall be  
14 considered to have been committed within the Choctaw Indian Reservation or if the offense is  
15 committed by a non-Indian:

- 16  
17 (1) in the county in which any act was performed in furtherance of any transaction violating  
18 this chapter; or  
19  
20 (2) in the county from which, to which or through which any access to a computer, computer  
21 system or computer network was made, whether by wire, electromagnetic waves,  
22 microwaves or any other means of communication.

23  
24 **§3-13-7 Effect on Other Offenses**

25  
26 The criminal offenses created by this chapter shall not be deemed to supersede, or repeal any other  
27 criminal offense.  
28

29 **CHAPTER 14. CASTLE DOCTRINE ACT**

30  
31 **§3-14-1 Defenses and Immunities**

- 32  
33 (1) In addition to all other defenses now or hereinafter found in the Tribal Code and/or  
34 recognized by the common law of the Tribe, a person is justified in using defensive force  
35 that is intended or likely to cause death or great bodily harm to another if the person  
36 reasonably believes it is necessary to do so to prevent death or great bodily harm to  
37 himself or herself or another. The defensive force described in this subsection shall not be  
38 considered “unlawful”.  
39  
40 (2) A person who uses defensive force that is intended or likely to cause death or great bodily  
41 harm to another is presumed to reasonably believe such force is necessary to prevent death  
42 or great bodily harm to himself or herself or another if:  
43  
44 (a) The person against whom the defensive force was used either:  
45  
46 i. Was in the process of unlawfully and forcefully entering, a dwelling,  
47 residence, occupied vehicle, business, place of employment or the immediate  
48 premises of any of the foregoing or

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- ii. Had unlawfully or forcefully entered a dwelling, residence, occupied vehicle, business, place of employment or the immediate premises of any of the foregoing; or
- iii. Had removed or was attempting to remove another person against that person's will from the dwelling, residence, occupied vehicle, business, place of employment or the immediate premises of any of the foregoing when the other person had the legal right to be there;

and

(b) The person who used defensive force knew or had reason to believe that the forcible entry or unlawful and forcible act was occurring or had occurred.

(3) The presumption stated in subsection 2 shall not apply, however, if:

- (a) The person against whom the defensive force is used has the right to be in or is a lawful resident of the dwelling, residence, vehicle, business, place of employment or the immediate premises of any of the foregoing; or
- (b) The person or persons sought to be removed is a child, grandchild, or is otherwise in the lawful custody or under the lawful guardianship of the person against whom the defensive force is used; or
- (c) The person who uses defensive force is engaged in a criminal activity constituting a felony under state or federal law or is using the dwelling, residence, vehicle, business, place of employment or the immediate premises of the foregoing to further a criminal activity constituting a felony under state or federal law; or
- (d) The person against whom defensive force is used is a Protective Services Unit Officer or a Law Enforcement Officer who enters or attempts to enter a dwelling, residence, vehicle, business, place of employment or the immediate premises of the foregoing in the performance of his or her official duties and the officer identified himself or herself in accordance with applicable law, or the person using force knew or reasonably should have known that the person entering or attempting to enter was a Protective Service Unit Officer or Law Enforcement Officer acting in the performance of his or her official duties.

(4) A person who is justified in using defensive force that is intended or likely to cause death or great bodily harm to another, as defined in subsections 1, 2 and 3 of this section, has no duty to retreat and has the right to stand his or her ground and meet force with force, including defensive force that is intended or likely to cause death or great bodily harm to another. No fact finder shall be permitted to consider the failure to retreat of a person defined in this subsection as evidence that the person's use of force was unnecessary, excessive or unreasonable.

(5) A person who is justified in using defensive force that is intended or likely to cause death or great bodily harm to another, as defined in subsections 1, 2 and 3 of this section, is immune from criminal prosecution and from civil action(s) or civil liability for the use of such force.

(6) A law enforcement agency may use standard procedures for investigating the use of defensive force as described in subsections 1, 2 and 3 of this section, but the agency may not arrest the person for using the defensive force unless it determines that there is

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1                   probable cause to believe that the force that was used was not justified, as described in  
2                   subsections 1, 2 and 3 of this section, or was otherwise unlawful.

3  
4                   (7)       The court shall award reasonable attorney’s fees, court costs, compensation for loss of  
5                   income, and all expenses incurred by the defendant in defense of any civil action brought  
6                   by a plaintiff if the court finds that the defendant is immune from prosecution as provided  
7                   for in subsection 5 of this section. A defendant who has previously been adjudicated “not  
8                   guilty” of any crime by reason of immunity as provided for in subsection 5 of this section  
9                   shall be immune from any civil action for damages arising from the same conduct.

10                   (8)       For purposes of this section, the following terms shall have the following meaning:

- 11  
12                   (a)       “Dwelling” means a building or conveyance of any kind, including any attached  
13                   porch, whether the building or conveyance is temporary or permanent, mobile or  
14                   immobile, which has a roof over it, including a tent, and is designed to be occupied by  
15                   people lodging therein at night.  
16                   (b)       “Residence” means dwelling in which a person resides either temporarily or  
17                   permanently or is visiting as an invited guest.  
18                   (c)       “Vehicle” means a conveyance of any kind, whether or not motorized, which is  
19                   designed to transport people or property.  
20