

**LEGISLATIVE**

**RESOLUTION NO. L-AS-2012-03**

**ABSENTEE-SHAWNEE TRIBE OF OKLAHOMA**

**REGULAR EXECUTIVE COMMITTEE MEETING**

**MAY 23, 2012**

**A RESOLUTION DULY PROPOSED BY THE EXECUTIVE COMMITTEE OF THE ABSENTEE SHAWNEE TRIBE OF OKLAHOMA AMENDING THE ABSENTEE SHAWNEE TRIBE OF INDIANS OF OKLAHOMA TRIBAL CRIMINAL CODE CHAPTERS 1 AND 2 AS PROVIDED FOR IN THE ATTACHMENT "EXHIBIT A", EFFECTIVE IMMEDIATELY.**

**WHEREAS,** the Absentee-Shawnee Tribe of Oklahoma is a federally recognized Indian Tribe exercising all inherent sovereign rights from time immemorial; and

**WHEREAS,** the Absentee Shawnee Tribe of Oklahoma has a Constitution approved by the Department of the Interior, last amended in May, 2011, and

**WHEREAS,** the Executive Committee of the Absentee Shawnee Tribe of Oklahoma is empowered by the Constitution to speak and otherwise conduct business in the name of, and on behalf of, the Absentee Shawnee Tribe of Oklahoma, and

**WHEREAS,** the authorities granted by this Resolution shall be continuing until and unless amended, repealed, superseded, rescinded or nullified by separate action of this body, and,

**WHEREAS,** it is the responsibility of the Executive Committee to uphold its constitutional responsibility to the Tribe and its membership as the highest priority; and

**WHEREAS,** from time to time it is necessary to amend laws and ordinances to reflect the best interests of the Tribe and the Executive Committee believes it to be in the best interest of the Tribe for the Criminal Code to be amended; and

**NOW THEREFORE BE IT RESOLVED,** that the Absentee Shawnee Tribe of Oklahoma amends the Absentee Shawnee Tribe of Indians of Oklahoma Tribal Criminal Code Chapters 1 and 2 as provided for in the attachment "Exhibit A", effective immediately.

**CERTIFICATION**

We, George Blanchard, Governor and Teri Reed, Secretary of the Absentee Shawnee Tribe of Oklahoma, do hereby certify this Resolution No. L-AS-2012-03 to be a true and exact copy as approved by the Executive Committee of the Absentee Shawnee Tribe of Oklahoma at a duly called meeting held on May 23, 2012, there being a quorum present, by vote of 3 in favor, 0 opposed, and 0 abstentions, as follows: Lt. Governor Gibson: Absent, Secretary Reed: Yes, Treasurer Deere: Yes, Representative Gibson: Yes, Governor Blanchard's vote, if required, NA.

  
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**GEORGE BLANCHARD, Governor**

  
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**TERI REED, Secretary**



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# CRIMINAL OFFENSES

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## TABLE OF CONTENTS

- 1 Short Title
- 2 Application

### CHAPTER ONE CRIMES AGAINST PROPERTY

- 101 Arson In The First Degree
- 102 Arson In The Second Degree
- 103 Arson In The Third Degree
- 104 Criminal Mischief
- 105-109 Reserved
- 110 Burglary
- 111 Breaking And Entering
- 112 Criminal Trespass
- 113-119 Reserved
- 120 Larceny
- 121 Extortion
- 122 False Pretenses
- 123 Embezzlement
- 124 Receiving Stolen Property
- 125 Theft Of Property Lost, Mislaid Or Delivered By Mistake
- 126 Theft Of Services
- 127 Unauthorized Use Of A Vehicle
- 128 Theft of a Motor Vehicle
- 129-135 Reserved
- 136 Forgery
- 137 Criminal Simulation
- 138 Fraudulent Handling Of Recordable Instruments
- 139 Tampering With Records
- 140 Bad Checks
- 141 Fraudulent Use Of A Credit Card
- 147 Deceptive Business Practices

148 Defrauding Creditors  
149 Securing Execution Of Documents By Deception  
150 Criminal Usury  
151 Unlawful Dealing With Property By A Fiduciary  
152 Making A False Credit Report

CHAPTER TWO  
CRIMES AGAINST PERSONS

201 Assault In The First Degree  
202 Assault In The Second Degree  
203 Assault in the Third Degree  
204 Mayhem  
205 Verbal Or Written Assault  
206 Domestic Assault and Battery  
207-210 Reserved  
211 Homicide in the First Degree  
212 Homicide In The Second Degree  
213 Causing A Suicide  
214 Aiding Or Soliciting A Suicide  
215-220 Reserved  
221 Kidnapping  
222 False Imprisonment  
223 Custodial Interference  
224 Criminal Coercion  
225-230 Reserved  
231 Rape in the First Degree  
232 Rape In The Second Degree  
233 Rape by Instrumentation  
234 Deviate Sexual Intercourse  
235 Sexual Assault  
236-240 Reserved  
241 Robbery

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**Section 1.           Short Title**

This Title may be cited as the Tribal Criminal Code.

**Section 2.           Application**

- a.     This Title shall apply to all Indian persons violating its provisions within the territorial jurisdiction of the Tribe, provided, that the provisions of Chapter Four of this Title shall apply to all members of the Tribe and all Indian residents of the jurisdiction of the Tribe where ever such violation may occur, if such violation has any actual or intended effect upon the political integrity or political or economic security of the Tribe.
  
- b.     This Title shall apply to non-Indians to the extent not inconsistent with federal law and to the extent that any person found to have violated any provision of this Title may be banished from the jurisdiction of the Tribe for a period of not more than ten years, or for such longer term as may be imposed by the Section violated, in a civil proceeding brought by the Tribal Prosecutor. The non-Indian, in such cases, shall have all the procedural rights of a criminal defendant, and such cases shall be tried by the rules of criminal procedure.

**Section 3.           Purpose**

This title specifies the classes of persons who are deemed capable of crimes, and liable to punishment therefore. This title defines the nature of the various crimes and prescribes the kind and measure of punishment to be inflicted for each. The manner of prosecuting and convicting criminals is regulated by the code of criminal procedure.

**Section 4.           Definition of a Crime**

- a.     A crime or public offense is an act or omission forbidden by law, and to which is annexed, upon conviction, one or more of the following punishments:
  1.     Imprisonment;
  2.     Fine;

3. Community Service;

4 Disqualification to hold and enjoy any office of honor, trust, or profit, under this Tribe.

- b. No act or omission shall be deemed criminal or punishable except as prescribed or authorized by this Title.

**Section 5. Infliction of Punishment**

The punishments prescribed by this Title can be inflicted only upon a legal conviction in a court having jurisdiction.

**Section 6. Acts punishable in different ways**

- a. If there be in any provision in the laws of this Tribe making any specific act or omission criminal and providing the punishment therefore, and there be in this title another provision or section making the same act or omission a criminal offense or prescribing the punishment therefore, that offense and the punishment thereof, shall be governed by the special provisions and not by the provisions of this title.
- b. An act or omission which is made punishable in different ways by different provisions of this title alone, may be punished under any provision in this title.
- c. In no case can a criminal act or omission be punished under more than one section of law; and an acquittal or conviction and sentence under one section of law, bars the prosecution for the same act or omission under any other section of law.
- d. Notwithstanding any provision of law to the contrary, any offense, including traffic offenses, in violation of the laws of this tribe which is not otherwise punishable by a term of imprisonment or confinement shall be punishable by a term of imprisonment not to exceed one day in the discretion of the court, in addition to any fine prescribed by law.

**Section 7. Acts punishable in foreign jurisdictions**

An act or omission declared punishable by this chapter is not less so because it is also punishable under the laws of another tribe, territory, or state unless the contrary is expressly declared in this chapter.

**Section 8.                    Acts also punishable by contempt**

A criminal act is not less punishable as a crime because it is also declared to be punishable as a contempt.

**Section 9.                    Imprisonment or fines as mitigation**

Where it is made to appear, at the time of passing sentence upon a person convicted, that such a person has already paid a fine or suffered a term of imprisonment equal to that which is required by the this Code, the court authorized to pass sentence may mitigate the punishment to be imposed, in its discretion

**CHAPTER ONE**

**CRIMES AGAINST PROPERTY**

**Section 101.                Arson in the First Degree**

- a. It shall be unlawful to knowingly and willfully start a fire, burn, or by the use of any explosive device, accelerant, ignition device, heat-producing device, substance or while manufacturing or attempting to manufacture a controlled dangerous substance act or causes to be burned or destroyed, or aids, counsels or procures the burning or destruction with the purpose of:
  - 1) Destroying or damaging any building, dwelling, occupied structure or other property of another where the value of the building, dwelling or occupied structure or other property exceeds One Thousand Dollars (\$1,000.00) in value; or
  - 2) Destroying or damaging any property including automobiles, trucks, trailers, motorcycles, boats, standing farm crops, pasture lands, forest lands, or any other property not herein specifically named, whether property of himself or another, in order to collect insurance proceeds from the destroyed or damaged property.
- b. Arson in the First degree shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00) but not less than Two Hundred Fifty Dollars (\$250.00); by imprisonment in the Tribal jail for a term not to exceed one (1) year, but not less than three (3) months; or any combination of the above sentences.

**Section 102.           Arson in the Second Degree**

- a. It shall be unlawful to knowingly or recklessly, carelessly, or negligently, without regard to the consequences start a fire, burn, or use any explosive device, accelerant, ignition device, heat-producing device, substance or while manufacturing or attempting to manufacture a controlled dangerous substance act or causes to be burned or destroyed, or aids, counsels or procures the burning or destruction which:
  - 1) Endangers human life or safety; or
  - 2) Damages or destroys the property, including automobiles, trucks, trailers, motorcycles, boats, standing farm crops, pasture lands, forest lands, or any other property not herein specifically named, of another.
- b. Arson in the Second degree shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00) but not less than Two Hundred Fifty Dollars (\$250.00) or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

**Section 103.           Arson in the Third Degree**

- a. It shall be unlawful after having started any fire, even though started safely for a lawful purpose, to fail to either:
  - 1) Take reasonable measures to put out or control the fire, or;
  - 2) To give prompt alarm, if the fire is spreading in such manner that it may endanger the life or property of another.
- b. Arson in the third degree shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00) but not less than Two Hundred Fifty Dollars (\$250.00) or by imprisonment in the Tribal jail for a period not to exceed three (3) months, or both.

**Section 104:           Arson in the Fourth Degree**

- a. The placing or distributing of any flammable, explosive or combustible material or substance or any device in any building or property mentioned in Sections 101, 102 or 103 of this Title, in an arrangement or preparation with intent to eventually willfully and maliciously set fire to or burn or to procure the setting fire to or



burning of same, shall for the purposes of this section constitute an attempt to burn such building or property, and shall be guilty of arson in the fourth degree,

- b. Upon conviction arson in the fourth degree, the defendant shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00) but not less than Two Hundred Fifty Dollars (\$250.00), or by imprisonment in the Tribal jail for a period of not more than one (1) year, or both.

**Section 105:           Penalty for Endangering Life and Emergency Service Personnel**

- a. Any person violating any of the provisions of Sections 101, 102, 103 or 104 of this Title who during such violation endangers any human life, including all emergency service personnel, shall be guilty of endangering life and emergency service personnel.
- b. Upon conviction for endangering life and emergency service personnel, the defendant shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00) but not less than Two Hundred Fifty Dollars (\$250.00), or by imprisonment in the Tribal jail for a period not more than one (1) year, or both.

**Section 106.           Criminal Mischief**

- a. It shall be unlawful to:
  - 1) Willfully and knowingly damage or destroy any property with the intent to defraud an insurer;
  - 2) Willfully and knowingly tamper with the property of another so as to recklessly endanger the safety of another, or recklessly cause any damage to any property or utility service;
  - 3) Willfully and knowingly damage, destroy, maim, or deface any domestic animal property of another;
  - 4) Purposely or recklessly throw, shoot or propel a missile or other object upon or against a motor vehicle, airplane, boat, locomotive or train;
  - 5) Purposely or recklessly dig up, remove, displace, break, or otherwise injure or destroy any public highway or bridge, or any private way laid out by authority of law, or bridge upon such way;
  - 6) Purposely or recklessly throw, drop, deposit, or otherwise place any litter from a vehicle upon highways, roads, or public property;

- 7) Willfully and knowingly deface, steal or possess any road sign or marker posted by any city, state or county;
  - 8) Willfully and knowingly obstruct or plow up, or cause to be obstructed or plowed up, any public highway or public street of any town, except by order of the road supervisors for the purpose of working the same, or injure any bridge on the public highway;
  - 9) Willfully and knowingly divert any of the waters from any irrigation ditch, canal, waterline or conduit, in this state, or to interfere in any manner whatever with any irrigation ditch, canal, waterline or conduit, without first having obtained the permission of the owner of such ditch, canal, waterline or conduit, or of the person or persons lawfully in charge thereof;
  - 10) Deliberately place, throw, drop, dump, deposit, or discard any garbage, trash, waste, rubbish, refuse, debris, or other deleterious substance on any public property or on any private property of another without consent of the property owner;
  - 11) Willfully and knowingly cut down or destroy any kind of wood or timber, standing or growing upon the lands of another; or, drive or ride through, into, or across any cultivated hedge or tree row, or any grove of ornamental trees or orchard of fruit trees growing upon the land of another, or in any other manner injuring the same; or
  - 12) Willfully and knowingly carry away any kind of wood or timber that has been cut down, and is lying on lands of another or knock off, pick, destroy, or carry away any apples, peaches, pears, plums, grapes, or other fruit, melons, or flowers of any tree, shrub, bush, or vine.
- b. Criminal mischief shall be punishable by a fine of not more than Three Hundred Dollars (\$300.00), or by imprisonment in the Tribal jail for not more than three (3) months, or both.

**Section 107-109. Reserved**

**Section 110. Burglary**

- a. It shall be unlawful to break into by any force whatsoever and enter in any manner any dwelling, building, office, room, apartment, tenement, shop warehouse, store, mill, barn, stable, garage, tent, vessel, railroad car, airplane, motor vehicle, trailer, or semitrailer, mobile home, or any similar enclosed structure of another without

consent with the intent to steal or commit any offense punishable by imprisonment.

- b. Burglary shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00) but not less than Two Hundred and Fifty Dollars (\$250.00); by imprisonment in the Tribal jail for not less than three (3) months but not more than one (1) year; or by any combination of the above sentences.

**Section 111.           Breaking And Entering**

- a. It shall be unlawful to break into by any force whatsoever and enter in any manner any dwelling, building, office, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, garage, tent, vessel, railroad car, airplane, motor vehicle trailer or semitrailer, mobile home, trunk, drawer, box, coin operated machine, or similar structure, object, or device of another without consent with the intent to:
  - 1) Cause annoyance or injury to any person therein;
  - 2) Cause damage to any property therein;
  - 3) Commit any offense therein;
  - 4) Steal; or
  - 5) Cause, or does actually cause, whether intentionally or recklessly, another to fear for the safety of themselves or of another.
- b. Breaking and Entering shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00) but not less than Two Hundred Fifty Dollars (\$250.00), by imprisonment in the Tribal jail for a period not more than three (3) months, or both.

**Section 112.           Criminal Trespass**

- a. It shall be unlawful to enter onto or remain upon the property of another if notice against entry or notice to leave the property had been given by:
  - 1) Personal communication by the owner or someone having authority to act for the owner, or
  - 2) Fencing, other than barbed wire or similar field fences except as hereafter provided, or other enclosure obviously designed to exclude intruders, or

- 3) Posting of signs prohibiting entry reasonable designed to come to the attention of intruders.
- b. Criminal Trespass shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed three (3) months, or both.
  - c. It is a complete affirmative defense to the offense of criminal trespass that:
    - 1) The property was open to the public upon entry and upon being ordered to leave the person did so without undue delay, or
    - 2) Even though not open to the public, the person did not substantially interfere with the use of the property or damage of any property, and upon being ordered to leave the person did so without undue delay.
  - d. On rural lands fenced with barbed wire or other types of fencing normally meant to enclose or exclude domestic animals, signs prohibiting entry or use at least six (6) inches by eight (8) inches placed upon or in plain sight next to such fence not more than one hundred fifty (150) feet apart shall create a rebuttable presumption that reasonable notice against entry or entry for certain purposes had been given.

**Sections 113-119. Reserved**

**Section 120. Larceny**

- a. It shall be unlawful to take or carry away any tangible or intangible personal property by fraud or stealth with the intent to deprive the owners thereof.
- b. For the purposes of this section, property shall include, but is not limited to:
  - 1) personal property;
  - 2) commercially owned, or otherwise business owned property;
  - 3) Any domestic animal or other livestock;
  - 4) Any crude oil or gasoline, or any product thereof, from any pipe, pipeline, tank, tank car, or other receptacle or container;
  - 5) Any governmentally owned property, whether it be in the form of machinery, documents or equipment;
  - 6) Any copper wire, copper cable, or copper tubing; and

- 7) Any natural rock material quarried for the purpose of obtaining blocks or slabs that meet specifications as to size and shape including, but not be limited to, granite, limestone, marble, sandstone or slate.
- c. Any person who pumps gasoline into the gasoline tank of a vehicle and leaves the premises where the gasoline was pumped without making payment for the gasoline shall be guilty of larceny.
- d. Larceny shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

**Section 121. Extortion**

- a. It shall be unlawful to take, receive, or control the use or disposition of property of another with the intent to deprive him of the possession or use thereof by threatening to:
  - 1) Cause bodily harm to any person, or
  - 2) Commit any offense, or
  - 3) Accuse another of a crime, or
  - 4) Unlawfully injure or destroy any property, or
  - 5) Expose any personal information or secret not public knowledge tending to expose any person to hatred, contempt, or ridicule, or to impair his business or reputation, except by institution of legal proceedings to recover the debt demanded or proper reports to bonafide credit agencies, or;
  - 6) Unlawfully take or withhold official action.
- b. Every person who, with intent to extort any money or other property from another, sends to any person any letter or other writing, whether subscribed or not, expressing or implying, or adapted to imply, any threat, such as is specified in the second section of this article, is punishable in the same manner as if such money or property were actually obtained by means of such threat.
- c. Extortion shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

**Section 122.            False Pretenses**

- a.     It shall be unlawful to obtain, take, or receive any property of another by means of a trick or deception, or false or fraudulent representation, statement, or pretense with the intent to deprive the owner thereof.
- b.     False Pretenses shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

**Section 123.            Embezzlement**

- a.     It shall be unlawful to wrongfully or fraudulently appropriate, convert, or use, for a person's own use or the use of another, any property of another with which the person has been entrusted.
- b.     The fact that the accused intended to restore the property embezzled is not a defense.
- c.     Restoration of the property embezzled shall not result in mitigation of punishment for embezzlement, unless the property is returned prior to charges being brought against the accused.
- d.     Embezzlement shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

**Section 124.            Receiving Stolen Property**

- a.     It shall be unlawful to possess, receive, buy, conceal or aid in concealing any personal property that has been stolen, embezzled, obtained by false pretense or robbery or otherwise obtained from its true owner in violation of this Title with the intent to deprive the true owner thereof.
- b.     Every person who, without making reasonable inquiry, buys, receives, conceals, withholds, or aids in concealing or withholding any property which has been stolen, embezzled, obtained by false pretense or robbery, or otherwise feloniously obtained, under such circumstances as should cause such person to make reasonable inquiry to ascertain that the person from whom such property was bought or received had the legal right to sell or deliver it shall be presumed to have bought or received such property knowing it to have been so stolen or wrongfully obtained. This presumption may, however, be rebutted by proof.

- c. Receiving stolen property shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

**Section 125.            Theft of Property Lost, Mislaid or Delivered By Mistake**

- a. It shall be unlawful to fail to take reasonable measures to restore property to a person entitled thereto, with the intent to deprive the owner thereof, when it is known or reasonable suspected that the property has been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient.
- b. Theft of property lost, mislaid, or delivered by mistake shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.
- c. If the value of the property exceeds One Thousand Dollars (\$1,000.00), a sentence of banishment for a period not to exceed ten (10) years may be imposed in addition to the punishment authorized above.

**Section 126.            Theft of Services**

- a. It shall be unlawful to obtain services known to be available only for compensation by deception, threat, force or any other means with the intent to avoid due payment therefore.
- b. Theft of services shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.
- c. If the value of the service rendered exceeds One Thousand Dollars (\$1,000.00), a sentence of banishment for a period not to exceed ten (10) years may be imposed in addition to the punishment authorized above.

**Section 127.            Unauthorized Use of a Vehicle**

- a. It shall be unlawful to take, drive, or operate another's motor vehicle, motorcycle, bicycle, or wheeled conveyance without the consent of the owner, with the intent to temporarily deprive the owner of its use or possession.
- b. Unauthorized use of a vehicle shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

- c. If the vehicle sustains damages while in the custody, possession, or under the control of the person violating this section, the violator shall be required to make double restitution of the amount of the actual damage to the vehicle.

**Section 128.            Theft of a Motor Vehicle**

- a. It shall be unlawful to steal an automobile, motorcycle or other automotive driven vehicle, construction equipment or farm equipment, with the intent to permanently deprive the owner of its use or possession.
- b. Theft of an automobile, motorcycle or other automotive driven vehicle, construction equipment or farm equipment shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), but not less than Two hundred-fifty Dollars (\$250.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.
- c. If the vehicle sustains damages while in the custody, possession, or under the control of the person violating this section, the violator shall be required to make double the restitution of the amount of the actual damage to the vehicle.

**Sections 129-135.    Reserved**

**Section 136.            Forgery**

- a. It shall be unlawful to forge, counterfeit or alter any writing of another without his authority, or to make, complete, execute, authenticate, issue or transfer any writing so that it purports to be the act of another who did not authorize that act, with the intent to defraud or injure anyone.
- b. "Writing" includes any printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, money, and other symbols of value, right, privilege, or identification.
- c. Forgery shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

**Section 137.            Criminal Simulation**

- a. It shall be unlawful to make, alter or utter or attempt to circulate or sell as genuine any object so that it appears to have value because of antiquity, rarity, source, or authorship which it does not possess, with intent to defraud anyone.



- b. Criminal simulation shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

**Section 138. Fraudulent Handling of Recordable Instruments**

- a. It shall be unlawful to falsify, destroy, remove or conceal any will, deed, codicil, mortgage, security instrument, record of any judgment in a court of record, enrollment of any decree of a court of equity, the return of any officer, court or tribunal to any process of any court, Tribal resolution, any Tribal record, for which the law provides public recording, or to knowingly record a false or forged instrument, with the intent to deceive or injure anyone, or to conceal wrong doing.
- b) Fraudulent handling of recordable instruments shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

**Section 139. Tampering With Records**

- a. It shall be unlawful to falsify, destroy, remove, or conceal any writing or record, with the intent to deceive or injure anyone or to conceal any wrong doing.
- b. Tampering with records shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or by both fine and imprisonment.

**Section 140. Bad Checks**

- a. It shall be unlawful to make, draw, utter, deliver, issue or pass a check or similar order or draft, including those converted to electronic fund transfer, for the payment of money, for the purpose of obtaining any money, property, or other thing of value or paying for any services, rent, wages or salary, knowing or believing that it will not be honored by the drawee.
- b. Bad checks shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both. Restitution shall be required.

**Section 141. Fraudulent Use of a Credit Card**

- a. It shall be unlawful to use a credit card or debit card for the purpose of obtaining property or services with knowledge that:

- 1) The card was stolen: or
  - 2) The card has been revoked or canceled; or
  - 3) For any other reason whose use of the credit card is unauthorized by either the issuer or the person to whom the card has been issued.
- b. Fraudulent use of a credit card shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one year, or both. Restitution shall be required.

**Section 142.            Taking or Receiving of a Credit Card**

- a. A person who takes a credit card or debit card from the person, possession, custody or control of another without the owner's consent, or who, with knowledge that it has been so taken, receives the credit card or debit card with intent to use it or to sell it, or to transfer it to a person other than the issuer or the owner, is guilty of card theft.
- b. Taking a credit card or a debit card without consent includes obtaining it by the crime of larceny, larceny by trick, larceny by the bailee, embezzlement or obtaining property by false pretense, false promise, extortion or in any manner taking without the consent of the cardholder or issuer.
- c. A person who has in his possession or under his control any credit card or debit card obtained under subsection (b) of this section is presumed to have violated this section.
- d. A person convicted under this section shall be punished shall by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

**Section 143.            Receiving or Holding a Lost or Mislaid Credit Card**

- a. A person who receives, holds or conceals a credit card or a debit card which has been lost or mislaid under circumstances which give him knowledge or cause to inquire as to the true owner and appropriates it to his use or the use of another not entitled thereto is guilty of Receiving or Holding a Lost or Mislaid Card and shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

**Section 144.**

**Selling or Buying of a Credit Card**

- a. A person other than the issuer who sells a credit card or debit card or a person who buys a credit card or a debit card from a person other than the issuer is guilty under this section and is subject to a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

**Section 145.**

**False Making of a Credit Card**

- a. A person, with intent to defraud (1) a purported issuer, (2) a person or organization providing money, goods, services or anything else of value, or (3) any other person, who falsely makes or falsely embosses a purported credit card or debit card or utters such a credit card or debit card is guilty under this section and is subject to a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.
- b. A person other than the purported issuer who possesses any credit card or debit card which is falsely made or falsely embossed is presumed to have violated this section.
- c. A person "falsely makes" a credit card or debit card when he makes or draws, in whole or in part, a device or instrument which purports to be the credit card or debit card of a named issuer but which is not such a credit card or debit card because the issuer did not authorize the making or drawing, or when he alters a credit card or debit card which was validly issued.
- d. A person "falsely embosses" a credit card or debit card when, without the authorization of the named issuer, he completes a credit card or debit card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card or debit card before it can be used by a cardholder.

**Section 146.**

**Signing a Credit Card**

- a. A person other than the cardholder or a person authorized by him who, with intent to defraud (1) the issuer, (2) a person or organization providing money, goods, services or anything else of value, or (3) any other person, signs a credit card or debit card violates this section and is subject to a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

- b. When a person, other than the cardholder or a person authorized by cardholder, possesses any credit card or debit card which is signed or not signed, such possession shall be a crime under this section and subject to a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

**Section 147.**

**Deceptive Business Practices**

- a. It shall be unlawful to, in the course of business, intentionally:
- 1) Use or possess for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity; or
  - 2) Sell, barter, ship or deliver, pledge, offer, give in payment or expose for sale less than the represented quality or quantity of any commodity or service; or
  - 3) Take or attempt to take more than the represented quantity of any commodity or service when as buyer he furnishes the weight or measure; or
  - 4) Mark or stamp false or short weight, or false tare on any cask or package; or
  - 5) Place or conceal in any bag, bale, box, barrel or other package of goods usually sold by weight any other item for the purpose of increasing the weight of such package; or
  - 6) Sell, barter, ship or deliver, pledge, offer, give in payment or expose for sale adulterated or mislabeled commodities:
    - i. "adulterated" means varying from the standard of composition or quality prescribed by law or commercial usage; or
    - ii. "mislabeled" means varying from the standard of truth or disclosure in labeling prescribed by law or commercial usage; or
  - 7) Make a substantial false or misleading statement in any advertisement addressed to the public or a substantial segment thereof for the purpose of promoting the purchase, sale, distribution, increase consumption, or acquisition an interest in property or services; or
  - 8) Make a false or misleading written statement for the purpose of obtaining property or credit; or

- 9) Make a false or misleading written statement for the purpose of promoting the sales of securities, or omit information required by law to be disclosed in written documents relating to securities.
- b. Deceptive business practice shall be punishable by a fine not to exceed Five Thousand Fifty Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed three (3) months, or both.
- c. It is an affirmative defense to deceptive business practice that the defendant's conduct was not knowingly or recklessly deceptive.

**Section 148.            Defrauding Creditors**

- a. It shall be unlawful to:
  - 1) Destroy, remove, conceal, encumber, transfer, or otherwise deal with property subject to a security interest with the intent to hinder enforcement of that interest; or
  - 2) Deal with property with the intent to defeat or obstruct the operation of any law relating to administration of property for the benefit of creditors; or knowingly falsify any writing or record relating to the property; or knowingly misrepresent or refuse to disclose to a person entitled to administer property for the benefit of creditors, the existence, amount or location of the property, or any other information which the actor could be legally required to furnish in relation to such administration.
- b. Defrauding creditors shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by imprisonment in the Tribal jail for a term not to exceed three (3) months, or both.

**Section 149.            Securing Execution of Documents by Deception**

- a. It shall be unlawful to, with intent to cheat or defraud another, designedly, by color or aid of any false token or writing, or other false pretense, cause another to execute any instrument affecting or likely to affect the pecuniary interest of any person.
- b. Securing execution of documents by deception shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by imprisonment in the Tribal jail for a term not to exceed three (3) months, or both.

**Section 150.            Criminal Usury**

- a. It shall be unlawful to intentionally provide financing or make loans at a rate of interest higher than the following:
  - 1) If the amount to which the interest applies is less than One Hundred Dollars (\$100.00) or the period of the loan or financing is less than one year, or both, the rate of interest shall not exceed a 24% per annum simple interest rate.
  - 2) If the amount to which the interest applies is greater than One Hundred Dollars or the period of the loan or financing is greater than one year, or both, the rate of interest shall not exceed an 18% per annum simple interest rate.
- b. Criminal usury shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by imprisonment in the Tribal jail for a term not to exceed three (3) months, or both. The victim shall be entitled to restitution for double the actual amount of interest which was actually paid and cancellation of all interest owing for the term of the financing.

**Section 151. Unlawful Dealing with Property by a Fiduciary**

- a. It shall be unlawful to knowingly deal with property that has been entrusted to one in a fiduciary capacity, or property of the Tribal government or of a financial institution, in a manner which is known to be a violation of his fiduciary duty, or which involves a substantial risk or loss to the owner or to a person for whose benefit the property was entrusted.
- b. As used in this section, "fiduciary" includes an agent, employee, trustee, guardian, custodian, administrator, executor, conservator, receiver, lawyer, physician, accountant, appraiser, other professional advisor, officer, director, partner, manager, other participant in the direction of the affairs of a corporation or association, or any person carrying on fiduciary.
- c. Unlawful dealing with property by a fiduciary shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in the Tribal jail for a term not to exceed one (1) year, or both.

**Section 152. Making a False Credit Report**

- a. It shall be unlawful to knowingly make a materially false or misleading statement to obtain property or credit for oneself or another or to keep some other person from obtaining credit.

- b. Making a false credit report shall be punishable by a fine not Two Hundred Fifty Dollars (\$250.00), or by imprisonment in the Tribal term not to exceed three (3) months, or both.

## CHAPTER 2

### CRIMES AGAINST PERSONS

**Section 201.           Assault In The First Degree**

- a. It shall be unlawful to wrongfully, purposely, knowingly, or recklessly under circumstances manifesting indifference to the value of human life, to:
  - 1) Attempt to cause or cause serious bodily injury to another;
  - 2) To use a deadly weapon with the intent to cause serious bodily injury, or with the intent to produce fear of imminent serious bodily injury with the apparent ability to do so.
- b. Assault in the first degree shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year, or by both.

**Section 202.           Assault In The Second Degree**

- a. It shall be unlawful to wrongfully, purposely, knowingly, or recklessly:
  - 1) Attempt to cause or cause bodily injury to another; or
  - 2) Negligently cause bodily injury to another with a weapon; or
  - 3) Attempt by a show of force or violence to put another in fear of imminent bodily injury with the apparent ability to do so; or
  - 4) Recklessly endanger another by an act or omission to act which threatens to cause serious bodily injury to another, whether or not such harm actually occurs.
- b. Assault in the second degree shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year, or both.

**Section 203.            Assault in the Third Degree**

- a. Assault in the third degree occurs when committed under any of the following circumstances:
  - 1) When great bodily injury is inflicted upon the person assaulted; or
  - 2) When committed by a person of robust health or strength upon one who is aged, decrepit, or incapacitated.
- b. For purposes of this section "great bodily injury" means bone fracture, protracted and obvious disfigurement, protracted loss or impairment of the function of a body part, organ or mental faculty, or substantial risk of death.
- c. Assault in the third degree shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year, or both.

**Section 204.            Mayhem**

- a. It shall be unlawful to wrongfully, purposely, or knowingly deprive a human being of a member of his body or render it useless or seriously diminishes physical vigor, or to cut out or disable the tongue, put out an eye or eyes, or slit the nose, ear or lip of another or otherwise disfigure the personal appearance of another.
- b. Mayhem shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year, or both.

**Section 205.            Verbal or Written Assault**

- a. It shall be unlawful to threaten verbally or in writing to commit any offense involving violence with apparent ability to do so and:
  - 1) With the intent to terrorize another or place another in fear of imminent serious bodily injury or
  - 2) To cause evacuation of a building, place of assembly or transportation, or to otherwise to cause serious public inconvenience.



- b. Verbal or written assault shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year, or both.

**Section 206.           Domestic Assault and Battery**

- a. It shall be unlawful for any person to commit an act of physical harm, bodily injury, emotional abuse, stalking, harassment, sexual assault or threaten imminent physical harm, bodily injury or sexual assault against another adult, emancipated minor or a minor child thirteen (13) years or older who are family or household members or who are or were in a dating relationship, as defined in the Domestic Violence Code of the Absentee-Shawnee Tribe of Oklahoma.
- b. Conviction of domestic assault and battery shall be punishable by confinement in the Tribal jail for a period of time not to exceed One (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both.

**Sections 207-210.   Reserved**

**Section 211.           Homicide in the First Degree**

- a. It shall be unlawful to:
  - 1) Purposely, knowingly and wrongfully with the malice aforethought cause the death of another human being. Malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof; or
  - 2) Cause the death of another human being due to the commission or attempted commission of a felony.
- b. Homicide in the first degree shall be punishable by a fine of Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year; or by both.

**Section 212.           Homicide In The Second Degree**

- a. It shall be unlawful to:
  - 1) Recklessly or negligently with disregard of the possible consequence of one's conduct to cause the death of another human being; or

- 2) Cause the death of another human being by operating a motor vehicle in a reckless, negligent, or careless manner, or while under the influence of an alcoholic beverage, intoxicating liquor, a controlled substance, or any drug, to a degree which renders the person incapable of safely driving a vehicle.
  - i. a blood alcohol content in excess of .10 shall create a rebuttable presumption that the person was under the influence of an alcoholic beverage.
  - ii. for purposes of this section, a motor vehicle is any self-propelled vehicle and includes, but is not limited to, any automobile, truck, van, motorcycle, train, engine, watercraft, aircraft or snow mobile.
- 3) Cause the death of a human being due to the commission of any criminal offense.
  - b. Homicide in the second degree shall be punishable by a fine of Five Thousand Dollars (\$5,000.00), or by term of imprisonment in the Tribal jail not to exceed one (1) year; or by both.

**Section 213. Causing A Suicide**

- a. It shall be unlawful to intentionally cause a suicide by force, duress, or deception.
- b) Causing a suicide shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year, or by both.

**Section 214. Aiding or Soliciting A Suicide**

- a. It shall be unlawful to intentionally aid, advise, encourage, abet, assist or solicit another to attempt or to commit suicide.
- b. It shall be unlawful to willfully furnishes another person with any deadly weapon or poisonous drug, knowing that such person intends to use such weapon or drug in taking his own life, if such person thereafter employs such instrument or drug in taking his own life
- c. It is no defense to a prosecution for aiding suicide that the person who committed or attempted to commit the suicide was not a person deemed capable of committing crime (i.e. incapacitated).
- d. Punishment

- 1) Aiding or soliciting a suicide shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year, or both, if the defendant's conduct has actually caused or contributed substantially to a suicide, or attempted suicide.
- 2) Otherwise, aiding or soliciting a suicide is punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three (3) months, or both.

**Sections 215-220.                    Reserved**

**Section 221.                        Kidnapping**

- a. It shall be unlawful to intentionally and wrongfully remove another against his will from his place of residence, business, or from the vicinity where he is found, or to unlawfully confine or conceal another against his will for a substantial period, with any of the following purposes:
  - 1) To hold for ransom or reward, or as a shield or hostage; or
  - 2) To facilitate commission of any offense or flight thereafter; or
  - 3) To inflict bodily injury on or to terrorize the victim or another; or
  - 4) To interfere with the performance of any Tribal governmental or political function.
- b. A removal, restraint, or confinement is wrongful within the meaning of this Code if it is accomplished by force, threat or deception, or, in the case of a person under the age of fourteen or incompetent, if it is accomplished without the consent of a parent, guardian other person responsible for general supervision of his welfare.
- c. Kidnapping shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year; or by both.

**Section 222.                        False Imprisonment**

- a. It shall be unlawful to knowingly and wrongfully restrain or imprison another so as to interfere with his liberty.

- b. False imprisonment shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three (3) months, or both, unless the detention occurs under circumstances which expose the victim to a risk of serious bodily injury, in which case the offense shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year, or both.

**Section 223. Custodial Interference**

- a. It shall be unlawful to wrongfully:
  - 1) Take, entice, conceal, or detain a child under the age of sixteen from his parent, guardian or other lawful custodian, knowing he has no legal right to do so, and
    - i. with the intent to hold the child for period substantially longer than any visitation or custody period previously awarded by a court of competent jurisdiction; or
    - ii. with the intent to deprive another person of their lawful visitation or custody rights; or
  - 2) Intentionally take, entice or detain an incompetent or other person who has been committed by authority of law to the custody of another person or institution from the other person or institution, without good cause and with knowledge that there is no legal right to do so.
- b. Custodial interference shall be punishable by a fine not to exceed Three Hundred Dollars (\$300.00) or by a term of imprisonment in the Tribal jail not to exceed three (3) months or both.

**Section 224. Criminal Coercion**

- a. It shall be unlawful to intentionally and wrongfully restrict another's freedom of action to his detriment, by threatening to:
  - 1) Commit any criminal offense; or
  - 2) Accuse anyone wrongfully of a criminal offense; or
  - 3) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business reputation; or

- 4) Unlawfully take or withhold action as an official, or cause an official to take or withhold action.
- b. It is an affirmative defense to prosecution based on this section, except for subsection (1) above, that the actor believed the accusation or secret to be true or the proposed official action justified and that his purpose was limited to compelling the other in a lawful manner to behave in a way reasonably related to the circumstances which were the subject of the accusation, exposure, or proposed official action; for example, as by refraining from further misbehavior, making good a wrong done, refraining from taking any action or responsibility for which the actor believes the other disqualified.
- c. Criminal coercion shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year, or both.

**Sections 225-230.                    Reserved**

**Section 231.                        Rape in the First Degree**

- a. It shall be unlawful to intentionally and wrongfully:
  - 1) Compel another to submit to sexual intercourse involving vaginal or anal penetration by force or by the threat of imminent death, serious bodily injury, extreme pain, or kidnapping to be inflicted on that person or anyone else; or
  - 2) Engage in sexual intercourse involving vaginal or anal penetration with a person under the age of fourteen, regardless of consent.
- b. The essential guilt of rape, except with the consent of a male or female over fourteen (14) years of age, consists in the outrage to the person and feelings of the victim. Any sexual penetration, however slight, is sufficient to complete the crime.
- c. Rape in the first degree shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year; or by both.

**Section 232.                        Rape in the Second Degree**

- a. It shall be unlawful to intentionally and wrongfully:

- 1) Compel another to submit to sexual intercourse involving vaginal or anal penetration by any threat that would prevent resistance by a person of ordinary resolution; or
  - 2) Engage in sexual intercourse involving vaginal or anal penetration with another whose power to appraise or control their conduct has been substantially impaired by the administration or employment of drugs or other intoxicants, without their knowledge, and for the purpose of preventing resistance; or
  - 3) Engage in sexual intercourse involving vaginal or anal penetration with a person with the knowledge that the person suffers from a mental disease or defect which renders that person incapable of appraising the nature of their conduct; or
  - 4) Engage in sexual intercourse involving vaginal or anal penetration with a person who is unconscious or with a person who is unaware, or with a person who submits because they falsely suppose that the person is their spouse; or
  - 5) Engage in sexual intercourse involving vaginal or anal penetration with a person under the age of sixteen but over the age of fourteen, regardless of consent, the perpetrator being at least four years older than the victim.
- b. The essential guilt of rape, except with the consent of a male or female over fourteen (14) years of age, consists in the outrage to the person and feelings of the victim. Any sexual penetration, however slight, is sufficient to complete the crime.
- c. Rape in the second degree shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00); or by a term of imprisonment in the Tribal jail not to exceed one (1) year; or by both.

**Section 233.**

**Rape by Instrumentation**

- a. Rape by instrumentation is an act within in which any inanimate object or any part of the human body, not amounting to sexual intercourse is used in the carnal knowledge of another person without his or her consent and penetration of the anus or vagina occurs to that person.
- b. The essential guilt of rape by instrumentation, except with the consent of a male or female over fourteen (14) years of age, consists in the outrage to the person and feelings of the victim. Any sexual penetration, however slight, is sufficient to complete the crime.

- c. Rape by instrumentation shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year; or by both.

**Section 234.**

**Deviate Sexual Intercourse**

- a. It shall be unlawful to engage in deviate sexual intercourse, defined as sexual intercourse per os or per anum between human beings who are not husband and wife, or any form of sexual intercourse with an animal, and it shall be unlawful to cause another to engage in deviate sexual intercourse if:
  - 1) That person is compelled to participate by any threat that would prevent resistance by a person of ordinary resolution; or
  - 2) That person is compelled to participate by force or by threat of imminent death, serious bodily injury, extreme pain or kidnapping, to be inflicted on anyone; or
  - 3) The other person's power to appraise or control his conduct has been substantially impaired by the administration or employment of drugs or other intoxicants, without his knowledge, and for the purpose of preventing resistance; or
  - 4) The offender has knowledge that the other person suffers from a mental disease or defect which renders him incapable of appraising the nature of this conduct or the offender has knowledge that the other person is unconscious or submits because he is unaware that a sexual act is being committed upon him; or
- b. Deviate sexual intercourse shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year, or both.

**Section 235.**

**Sexual Assault**

- a. It shall be unlawful to intentionally, wrongfully, and without consent subject another to any sexual contact:
  - 1) With knowledge that the conduct is offensive to the other person; or
  - 2) With knowledge that the other person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct; or

- 3) With knowledge that the other person is unaware that a sexual act is being committed; or
  - 4) After having substantially impaired the other person's power to appraise or control his conduct by administering or employing without the other's knowledge drugs, intoxicants, or other means for the purpose of preventing resistance; or
  - 5) If that person is less than fourteen years old regardless of consent; or
  - 6) If that person is less than sixteen years old and the actor is at least four years older than the person regardless of consent; or
  - 7) If that person is less than twenty-one years old and the actor is his parent, guardian or otherwise responsible for general supervision of his welfare regardless of consent; or
  - 8) If that person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over him regardless of consent.
- b. Sexual contact is any touching of the sexual or other intimate parts of the person of another or otherwise taking indecent liberties with another for the purpose of arousing or gratifying sexual desire of either party.
- c. Sexual assault shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by a term of imprisonment in the Tribal jail not to exceed one (1) year, or both.

**Sections 236-240.                    Reserved**

**Section 241.                        Robbery**

- a. It shall be unlawful to take anything of value from the person of another or from the immediate control of another by use of force or fear, with the intent to permanently deprive the owner thereof. The taking of property from the person of another is not robbery, when it clearly appears that the taking was fully completed without his knowledge.



- b. To constitute robbery, the force or fear must be employed either to obtain or retain possession of the property, or to prevent or overcome resistance to the taking. If employed merely as a means of escape, it does not constitute robbery. The degree of force and the value of the property is immaterial.
- c. The fear which constitutes robbery may be either:
  - 1. The fear of an unlawful injury, immediate or future, to the person or property of the person robbed or of any relative of his, or member of his family; or,
  - 2. The fear of an immediate and unlawful injury to the person or property of anyone in the company of the person robbed, at the time of the robbery.
- d. Robbery shall be punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00); or by a term of imprisonment in the Tribal jail not to exceed one year; or by both.
- e. Any person or persons who, with the use of any firearms or any other dangerous weapons, whether the firearm is loaded or not, or who uses a blank or imitation firearm capable of raising in the mind of the one threatened with such device a fear that it is a real firearm, attempts to rob or robs any person or persons, or who robs or attempts to rob any place of business, residence or banking institution or any other place inhabited or attended by any person or persons at any time, either day or night, shall be guilty of armed robbery, upon conviction therefore, shall suffer punishment of a fine not to exceed Five Thousand Dollars (\$5,000.00); or by a term of imprisonment in the Tribal jail not to exceed one (1) year; or by both. Upon conviction, the firearm shall be forfeited.