



Council of the Cherokee Nation

Cherokee Nation Tribal
Council
17763 S. Muskogee Ave.
Tahlequah, OK 74464

Legislation Details (With Text)

File #: 21-037 **Version:** 1 **Name:** CNCA 22 AMEND TO EXPAND DOMESTIC ABUSE REPORTING

Type: Legislative Act **Status:** Passed

File created: 4/12/2021 **In control:** TRIBAL COUNCIL

On agenda: 4/29/2021 **Final action:** 5/20/2021

Enactment date: 5/17/2021 **Enactment #:** LA-20-21

Title: AN ACT AMENDING TITLE 22 OF THE CHEROKEE NATION CODE ANNOTATED AND DECLARING AN EMERGENCY

Sponsors: Keith Austin, Joe Deere, Janees Taylor, Victoria Vazquez, Mike Shambaugh

Indexes: Criminal Procedure, domestic violence

Code sections: Title 22 - Criminal Procedure

Attachments: 1. LA-20-21.PDF

Date	Ver.	Action By	Action	Result
5/20/2021	1	OFFICE OF THE CHIEF	Signed	
5/17/2021	1	TRIBAL COUNCIL	Approved	Pass
4/29/2021	1	RULES COMMITTEE	Approved and Forwarded to Council	Pass

AN ACT AMENDING TITLE 22 OF THE CHEROKEE NATION CODE ANNOTATED AND DECLARING AN EMERGENCY

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This act amends Title 22 of the Cherokee Nation Code Annotated and shall be codified at Title 22, Section 60.1 of the Cherokee Nation Code Annotated.

Section 2. Purpose

The purpose of this Act is to expand the Domestic Abuse Reporting Act to provide greater protection against domestic violence within the Cherokee Nation.

Section 3. Legislative History

- L
- L
- L
- L
- L

L
L
L

Section 4. Amendments

Title 22 shall be amended as follows:

§ 60.1. Definitions

As used in this act and in the Domestic Abuse Reporting Act:

1. “Dating relationship” means an intimate association, a courtship, or an engagement relationship. Such relationships may be commonly characterized by affectionate or sexual involvement. For purposes of this act, a casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship;
2. “Domestic abuse” means any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who is currently or was previously an intimate partner or family or household member;
 - a. ~~causing or attempting to cause serious physical harm; or~~
 - b. ~~threatening another with imminent serious physical harm; and~~
 - c. ~~includes but is not limited to: Assault, as defined by 21 CNCA § 641; battery, as defined by 21 CNCA § 642; rape, as defined by 21 CNCA § 111; and aggravated assault and battery, pursuant to 21 CNCA § 646.~~
3. “Family or household members” means
 - a. parents, including grandparents, stepparents, adoptive parents and foster parents,
 - b. children, including grandchildren, stepchildren, adopted children and foster children, and

- c. persons otherwise related by blood or marriage living in the same household;
4. “Foreign protective order” means any valid order of protection issued by a court of another state or a tribal court;
5. “Harassment” means a knowing and willful course or pattern of conduct by a family or household member or an individual who is or has been involved in a dating relationship with the person, directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial distress to the person. “Harassment” shall include, but not be limited to, harassing or obscene telephone calls in violation of 21 CNCA § 1172 and fear of death or bodily injury;
6. “Intimate partner” means:
 - a. current or former spouses,
 - b. persons who are or were in a dating relationship,
 - c. persons who are the biological parents of the same child, regardless of their marital status or whether they have lived together at any time, and
 - d. persons who currently or formerly lived together in an intimate way, primarily characterized by affectionate or sexual involvement. A sexual relationship may be an indicator that a person is an intimate partner, but is never a necessary condition;
7. “Mutual protective order” means a final protective order or orders issued to both a plaintiff who has filed a petition for a protective order and a defendant included as the defendant in the plaintiff’s petition restraining the parties from committing domestic violence, stalking, harassment or rape against each other. If both parties allege domestic abuse, violence, stalking, harassment or rape against each other, the parties shall do so by separate petition pursuant to Section 60.4 of this title;
8. “Rape” means rape and rape by instrumentation in violation of 21 CNCA §§ 1111 and 1111.1;

9. “Stalking” means the willful, malicious, and repeated following or harassment of a person by an adult, emancipated minor, or minor thirteen (13) years of age or older, in a manner that would cause a reasonable person to feel frightened, intimidated, threatened, harassed, or molested and actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed or molested. Stalking also means a course of conduct composed of a series of two or more separate acts over a period of time, however short, evidencing a continuity of purpose or unconsented contact with a person that is initiated or continued without the consent of the individual or in disregard of the expressed desire of the individual that the contact be avoided or discontinued. Unconsented contact or course of conduct includes, but is not limited to:

- a. following or appearing within the sight of that individual,
- b. approaching or confronting that individual in a public place or on private property,
- c. appearing at the workplace or residence of that individual,
- d. entering onto or remaining on property owned, leased or occupied by that individual,
- e. contacting that individual by telephone,
- f. sending mail or electronic communications to that individual, or
- g. placing an object on, or delivering an object to, property owned, leased or occupied by that individual; and

10. “Victim support person” means a person affiliated with a domestic violence, sexual assault or adult human sex trafficking program, certified by the Attorney General or operating under a tribal government, who provides support and assistance for a person who files a petition under the this act.

Section 5. Provisions as cumulative

The provisions of this act shall be cumulative to existing law.

Section 6. Severability

The provisions of this act are severable and if any part of provision hereof shall be held void, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

Section 7. Effective Date/Emergency Declared

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this act shall take effect and be in full force after its passage and approval.

Section 8. Self-Help Contributions

To the extent that this Act involves programs or services to citizens of the Nation or others, self-help contributions shall be required, unless specifically prohibited by the funding agency, or a waiver is granted due to physical or mental incapacity of the participant to contribute.