



Council of the Cherokee Nation

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

Legislation Text

File #: 22-048, Version: 1

A LEGISLATIVE ACT CREATING TITLE 21, SECTION 1835.2 OF THE CHEROKEE NATION CODE ANNOTATED - RELATING TO OFFENSES AGAINST PROPERTY

BE IT ENACTED BY THE CHEROKEE NATION:

SECTION 1. TITLE AND CODIFICATION

This Act shall be known as the “**Cherokee Nation Trespassing Act**” and codified under Title 21 Section 1835.2 of the Cherokee Nation Code Annotated (CNCA).

SECTION 2. PURPOSE

The purpose of this Act is criminalize trespassing on tribal property after being forbidden.

SECTION 3. SUBSTANTIVE LAW

Title 21 of the Cherokee Nation Code Annotated shall be add the following new section:

CHAPTER 70

SECTION 1835.2

Criminal Trespass on tribal property after being forbidden

A. No person shall willfully enter or remain upon the premises, including buildings, grounds, parking lots, roads and walkways of any property owned, administered or operated by the Cherokee Nation or any of its subsidiaries or component units (“the property”) after having been forbidden, banned or excluded.

(1) Whenever possible, the person excluded or banned shall be notified orally and in writing. The No Trespass Notice or Notice of Exclusion shall contain the following (1) the reason for the banishment or exclusion, (2) the commencement of the banishment or exclusion and (3) the duration of the banishment or exclusion.

(a) When the person sought to be banned or excluded is present at the time the banishment or

exclusion is issued he/she shall sign an acknowledgment of the No Trespass Notice or Notice of Exclusion. In the event the person refuses to sign the No Trespass Notice or Notice of Exclusion, the person/entity issuing the banishment or exclusion shall note on the No Trespass Notice or Notice of Exclusion the person refused to sign.

(b) When the person sought to be banned or excluded is not present on the property at the time the banishment or exclusion is issued, a No Trespass Notice or Notice of Exclusion shall be mailed by certified mail to his or her last known address. Notice by certified mailing will be considered sufficient notice.

(i) In the event the certified mail is returned for reasons other than (1) "refusal to sign" and (2) for any situation in which the person refuses to accept the certified mail, notice must be given in person the first time the person returns to any Cherokee Nation "property" as set forth above.

(ii) In the event a person refuses to sign or accept the certified mail, the person will be held to have been properly served notice.

B. The crime of criminal trespass of a gaming facility occurs when a person enters a gaming facility or premises owned or operated by the Cherokee Nation or any of its subsidiaries including restaurants, hotels, conference spaces, grounds, parking lots, roadways and walkways after having been excluded or banned by the Office of Public Gaming, the gaming facility's management or other duly authorized representative or enters in violation of Cherokee Nation gaming laws or regulations. Criminal trespass of a gaming facility also includes the entering of any gaming facility owned or operated by the Cherokee Nation or any of its subsidiaries, including the casino, restaurants, hotel, conference space, grounds, parking lots, roadways and walkways by any person who has executed a self-exclusion during the time period of the self-exclusion.

C. Any person convicted of violating the foregoing provisions shall be guilty of a misdemeanor punishable by incarceration for no more than thirty (30) days or by a fine not to exceed one thousand dollars (\$1,000.00) or by both imprisonment and a fine.

D. The Nation will make reasonable efforts to continue to provide governmental services to individuals who have been forbidden, banned, or excluded from Nation property.

SECTION 4. PROVISIONS CUMULATIVE

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

SECTION 5. 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 6. EFFECTIVE DATE

The provisions of this Act shall become effective thirty (30) days from and after the date of its passage and approval.

SECTION 7. 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.