

## TITLE 10 - CRIMINAL OFFENSES

### CHAPTER SEVEN STREET GANG PREVENTION

#### Section 701. Definitions

For purposes of this Street Gang Prevention Act (Title 10, Chapter Seven and Title 11, Chapter Eight) the following terms shall be defined as follows:

(a) **Street Gang** - means any ongoing organization, association, or group of five (5) or more persons, whether or not a legal entity, that either promotes, sponsors, assists in, participates in or as a condition of membership or continued membership, the commission of any criminal act(s).

(b) **Encourage** - in addition to the usual meaning of the word, shall include a wilful and intentional failure to prevent an act or acts of delinquency on the part of a minor when the person accused shall have been able to do so.

(c) **Person** - shall include all persons, without regards to their legal or kinship relationship to a minor, as well as legal or corporate entities.

(d) **Minor or child** - shall include male or female persons who are under the age of eighteen (18) years at the time of commission of the alleged offense.

(e) **Member** - means any member, associate, recruit, agent or person affiliated with or acting in furtherance or support of a street gang.

#### Section 702. Display of Gang Signs

(a) It shall be unlawful within the Tribal jurisdiction for any person to publicly use or display hand signs, signals, or graffiti, commonly known as “gang signs,” “placards, or “tags” with the intent to:

(1) threaten, disturb, or alarm another person, or;

(2) with the intent to invite, cause aid, abet, or encourage violent or physical encounters, or;

(3) indicate, illustrate, notify, or acknowledge membership or participation in a street gang.

(b) Display of gang signs shall be punishable by a fine not to exceed One Hundred

Dollars (\$100.00), or by a term of imprisonment in the Tribal jail not to exceed Ten (10) Days, or both.

**Section 703. Unlawful Gang Assembly**

(a) It shall be unlawful for Two (2) or more persons to assemble together with the intent to engage in or encourage street gang activity.

(b) Unlawful gang assembly shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00), or by a term of imprisonment in the Tribal jail not to exceed Ten (10) Days, or both.

**Section 704. Encouraging Street Gang Activity**

(a) It shall be unlawful for any person to knowingly or willingly cause, aid, abet, or encourage any minor to commit or participate in committing an act which would violate this Chapter if committed by an adult.

(b) Encouraging street gang activity shall be punishable by the maximum penalties allowed for conviction of the offense(s) violated by the minor.

**Section 705. Participation in Street Gang Activity**

No member of any Street Gang shall conduct or participate in, directly or indirectly, the affairs of the Street Gang through committing, encouraging, planning, soliciting, aiding or assisting activities or actions prohibited by the Sac and Fox Code Title 10 - Criminal Offenses, or activity prohibited within the Sac and Fox Indian Country pursuant to Federal law.

(b) Participation in street gang activity shall be punishable by a fine not to exceed Two Thousand Five Hundred Dollars (\$2500.00), or by a term of imprisonment in the Tribal jail not to exceed Four (4) Months, or both.

(c) Any person convicted of violating any provision of this Section, through which he derived pecuniary value, or by which he caused personal injury, or property damage or other loss, may be ordered to pay a civil fine that does not exceed three times the gross value gained or three times the gross loss caused, whichever is greater, plus court costs and the costs of investigation and prosecution reasonably incurred, less the value of any property ordered forfeited pursuant to the Street Gang Prevention and Registration Act. The district court shall hold a separate hearing to determine the amount of the fines authorized by the provisions of this subsection.

**Section 706. Recruiting Participation in Street Gang Activity**

(a) It shall be unlawful for any person to knowingly or willingly cause, aid, abet, encourage, solicit or recruit any adult or minor person to participate, join, or associate with any criminal street gang, or any gang member for the purposes of committing any criminal act.

(b) Recruiting minor participation in street gang activity shall be punishable by a fine not to exceed Five Thousand Dollars (\$5000.00), by a term of imprisonment in the Tribal jail not to exceed Nine (9) Months, or Banishment from the Tribal jurisdiction for a period of not more than Five (5) Years, or a combination of fines, imprisonment and banishment.

## TITLE 11 - CRIMINAL PROCEDURE

### CHAPTER NINE STREET GANG REGISTRATION

#### **Section 901. Street Gang Registration**

(a) No Street Gang as described in Title 10, Section 701, nor any of its members shall take any action nor transact any business in this Nation, in any manner or by any means, until it shall have paid to the Sac and Fox Police Department the annual fees prescribed in this title and shall have annually filed with the Police Department:

(1) A listing of the tribal, state, foreign and any local Oklahoma jurisdictions in which it operates or carries out activities;

(2) A statement executed by an authorized official or officer of the street gang and acknowledged in accordance with the provisions for affidavits under the Civil Procedure Code, setting forth:

(A) the name of the street gang and its local and national officers with their addresses;

(B) the mailing address of the street gang's principal place of activity, wherever located;

(C) the name, including any aliases or nicknames which they are commonly known by, and address of its members who are or will be within this Nation during the year for which it is registered or supposed to be registered, if any;

(D) the activities it proposes to carry out in the Nation.

(b) The Sac and Fox Police Department upon payment of the fees prescribed in Section 902 of this Chapter, shall issue Identification Cards for each member listed in subsection 901(a)(2)(C) above, under the hand and signature the Sac and Fox Chief of Police, evidencing the filing of the statement and fees required by the provisions this chapter.

(c) Upon the addition or change in status of any member who will be with-in the Nation's jurisdiction the street gang shall so inform the Police Department with the updated information as required by this Section and pay any additional fees as required.

(c) street gang shall comply with all laws and regulations of the Sac and Fox Nation, the

federal government and any state laws that may apply to it or its members while within the jurisdiction of the Sac and Fox Nation.

**Section 902. Registration Fee**

The fees for registration of street gangs may be adjusted from time to time by the Business Committee of the Sac and Fox Nation, but shall not be less than:

- (a) Two Thousand Five Hundred Dollars (\$2500.00) for registration of a Street Gang;
- (b) Fifty Dollars (\$50.00) for each street gang member identification card issued.

**Section 903. Identification Card**

A street gang and its members, upon receiving their Street Gang Identification Card from the Police Department, shall be required to carry the I.D. at all times while within the Nation's jurisdiction and produce it upon request of the Sac and Fox Police and any other law enforcement official authorized by tribal or federal law to operate with in the Nation's jurisdiction. Failure to do so shall subject the member to the restrictions, penalties and liabilities now or hereafter imposed upon a street gang or organization pursuant to the laws of this Nation for failure to comply with this Act.

**Section 904. Violations and Penalties**

(a) Any street gang operating or carrying out any activities of any kind in this Nation without having complied with any provision of the Street Gang Prevention Act, shall be civilly fined not less than Five Hundred Dollars (\$500.00) nor more than Ten Thousand Dollars (\$10,000.00) for each such offense. Any member of any street gang that shall commit any gang activity in this Nation for any street gang without complying with any provision of the Street Gang Prevention Act, shall be fined not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1000.00) for each such offense. Each day of non-compliance shall be considered a separate violation.

(b) Civil citations shall be issued by any authorized law enforcement officer within the Nation's jurisdiction, with a hearing held on the citation by the Police Department within 21 days of issuance of the citation.

(c) If any street gang fails to file or cause to be filed a certificate as provided for in Section 701 of this title or fails to pay to the Police Department any additional fees shown to be due by the certificate provided for in Section 801 of this title, the street gang, its members or agents:

(1) may be ousted from this jurisdiction by the Sac and Fox Police and its certificate revoked and canceled. Before such revocation the Sac and Fox Chief of Police shall give not less than thirty (30) days' notice sent by mail duly addressed to such street gang at its principal place of business or last address shown on the records of the Sac and Fox Police Department the Sac and Fox Chief of Police's intent to revoke the street gang's authority to transact business in this jurisdiction and that a hearing may be requested within 15 days of such notice if the street gang or its members wish to contest such revocation; and

(2) after notice and any hearing required in paragraph (1) above, shall be subject to a penalty and shall forfeit to the jurisdiction for each day it fails to comply with the provisions of this subsection, the sum of Two Hundred Fifty Dollars (\$250.00) nor more than Ten Thousand Dollars (\$10,000.00) per day for each such offense.

(d) All fines and penalties provided for by this section may be recovered in a suit brought by the Attorney General, in the name of the Nation, against the street gang or its agents or members, in the district court. Fines and penalties received or collected pursuant to this section by the Attorney General as a result of an action brought in the name of the Nation by the Attorney General, shall be paid into the Tribal Treasury provided that twenty-five percent (25%) thereof shall be deposited in the Tribal Police Department Funds.

#### **Section 905. Civil Seizure of Property used in Violation of Act**

(a) All property, used to assist the street gang or its members in operating or carrying out activities within the jurisdiction in violation of this Act or while not being registered as required by Section 901 of this Chapter, which is:

(1) found in the possession, custody, or control of any person, for the purpose of assisting, furthering violation of this Act or transporting the perpetrator, for the purpose of violating the provisions of this Act, or with intent to avoid apprehension for violations hereunder, and

(2) any automobile, truck, conveyance, or other vehicle whatsoever used in violating this Act, whether by or for transporting the respondent, or other purposes, and

(3) all cash, weapons, cell phones, computers, paraphernalia, mechanical, electronic or digital equipment or other tangible personal property incident to violating this Act,

found on or in the control of the street gang or its members or any person assisting in knowing violation of this Act, may, upon probable cause be seized by any authorized law enforcement officer, without process. The same shall be, from the time of such seizure, forfeited to the Sac and Fox Nation, and a proper proceeding filed to maintain such seizure and prosecute the

forfeiture as herein provided.

(b) Any and all such vehicles and property seized pursuant to this Section shall be listed and appraised by the officer making such seizure and the property turned over to the Police Department and a receipt made. The officer making the seizure shall promptly file a written report to the Court Clerk and Attorney General, showing the name of the officer making the seizure, the place where and the person from whom the property was seized, and an inventory and appraisal thereof, at the estimated usual and ordinary retail price of such articles received, and the reason for seizure, to the best of the officer's knowledge.

(1) Unless the seized property is being held as evidence for an ongoing criminal action, the Attorney General shall within thirty (30) days of seizure file in the District Court forfeiture proceedings in the name of the Sac and Fox Nation, as plaintiff, and in the name of the owner or person in possession, as defendant, if known, and if unknown in the name of the property seized. The clerk of the court shall issue summons to the owner or person in whose possession such property was found, directing the owner or person to answer within ten (10) days.

(A) If by a preponderance of the evidence the property is found to have been used in violation of or assisting in violating this Act, the property shall be declared forfeited by the Court and ordered sold, destroyed, or forfeited to the Nation for use by the Nation upon showing such would be the best use of such property, as appropriate.

(B) If the property is shown to belong to a third party not involved in, nor assisting or aware of the property's use in violating this Act and that the property will not likely be used in further violation of this Act, the seized property shall be returned to the third party owner.

Notice of the sale shall be posted in three public places in the Nation not less than ten (10) days before the date of sale.

(2) The proceeds of the sale shall be deposited with the Court Clerk who shall, after reimbursing any costs to the Nation of seizure and sale, remit any remaining amount one-half to the account of the Sac and Fox Police Department, one-quarter to any law enforcement agency that assisted in the seizure of the property, and any remaining balance to the Victim's Fund.

(c) The seizure of property shall not be credited to the person from whom it was seized and shall not relieve the person from any prosecution, payment of any fines or penalties, or compliance with other court orders provided for under the Street Gang Prevention and Registration Act.

**Section 906. Service of Process on Street Gangs**

A. If any street gang shall transact business in this Nation without having registered in accordance with the provisions of Section 901 of this title, service on the street gang may be made by serving the Sac and Fox Secretary as its agent who shall cause to be posted such notice in three public locations within the Nation, or in any manner provided for in Chapter Two of Title 6 of the Sac and Fox Codes.

**Section 907. Rules and Regulations**

The Sac and Fox Chief of Police is authorized to promulgate rules and regulations to implement the Street Gang Prevention Act. Any such rules and regulations shall be effective upon filing with the Tribal Secretary and Court Clerk.