



SAC AND FOX NATION

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FILED

DATE 11/18/2023

SECRETARY

SAC & FOX NATION

Lana J. Butler

FILED
IN THE DISTRICT COURT
2023 JAN 19 A 11:32

RESOLUTION SF-23-07

SAC AND FOX NATION
REGULAR BUSINESS COMMITTEE MEETING
SAC AND FOX RESERVATION
STROUD, OKLAHOMA

OCTOBER 18, 2022

A RESOLUTION ENACTING CERTAIN AMENDMENTS TO TITLE 10 CRIMINAL OFFENSES CHAPTER 2A SEXUAL ABUSE OF THE SAC AND FOX NATION CODE OF LAWS ENHANCING AND ESTABLISHING RIGHTS FOR VICTIMS OF CRIME.

WHEREAS, the Business Committee of the Sac and Fox Nation met in Regular meeting on the 18th day of October 2022, there being a quorum present, and

WHEREAS, the Business Committee is authorized to transact business and act on behalf of the Nation pursuant to the Constitution and Laws of the Sac and Fox Nation, and

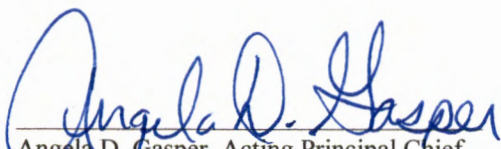
WHEREAS, the Sac and Fox Nation supports the amendments to Title 10 Criminal Offenses Chapter 2a Sexual Abuse of the Sac and Fox Nation Code of Laws.

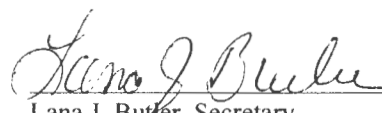
NOW, THEREFORE BE IT RESOLVED THAT the Business Committee of the Sac and Fox Nation does hereby amend the Sac and Fox Nation Code of Laws Title 10 Criminal Offenses Chapter 2a Sexual Abuse, as attached hereto:

FURTHER, THEREFORE BE IT RESOLVED THAT this resolution and amendment shall be effective upon the filing of the resolution with the Office of the Secretary and the Office of the Court Clerks of the Sac and Fox Nation.

CERTIFICATION

WE, Angela D. Gasper, Acting Principal Chief, and Lana J. Butler, Secretary of the Sac and Fox Nation, do hereby certify that Resolution SF-23-07 to be a true and exact resolution as approved by the Business Committee in a Regular meeting at the Sac and Fox Reservation, Stroud, Oklahoma on the 18th day of October 2022, by a vote of: Angela-Yes, Lana-Yes, Carla-Yes, Robert-Absent.


Angela D. Gasper, Acting Principal Chief
Sac and Fox Nation


Lana J. Butler, Secretary
Sac and Fox Nation



SUB-CHAPTER 2a. SEXUAL ABUSE

Section 230. Definitions for Sub-chapter 2a

As used in this sub-chapter:

(1) “commercial sex act” means any sex act, on account of which anything of value is given to or received by any person.

(2) “coercion” means –

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person;
or

(C) the abuse or threatened abuse of law or the legal process.

(3) “illicit sexual conduct” means

(A) a sexual act with a person under 18 years of age that would be in violation of SFN Title 10, Sub-chapter 2a (Sexual Abuse); or

(B) any commercial sex act with a person under 18 years of age.

(4) “prison” means a correctional, detention, penal or jail facility;

(5) “prior sex offense conviction” means a conviction for an offense–

(A) under this sub-chapter; or

(B) under Federal, another Indian Tribal or State law for an offense consisting of conduct that would have been an offense under this sub-chapter if the conduct had occurred within the jurisdiction of the Sac and Fox Nation;

(6) “sexual act” means –

sexual conduct involving penetration by any instrument or object of any orifice of another;

(7) “sexual contact” means the intentional touching, either directly or through the clothing, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

(8) “serious bodily injury” means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty;

Section 231. Aggravated Sexual Abuse

(a) It shall be unlawful to knowingly cause another to engage in a sexual act:

(1) By force or by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping; or

(2) By knowingly

(A) rendering another person unconscious; or

(B) administering by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct.(b) With children. -It shall be unlawful to engage in a sexual act with another person who has not attained the age of 12 years, or knowingly engages in a sexual act under the circumstances described in subsections (a) and (b) with another person who has attained the age of 12 years but has not attained the age of 16 years (and is at least 4 years younger than the person so engaging). The Nation need not prove that the defendant knew the age of the victim.

(c) Aggravated sexual abuse shall be a Class II Felony..

232. Sexual Abuse

(a) It shall be unlawful for any person to engage in a sexual act with another

(1) by threatening or placing that other person in fear, including with a victim who is the spouse of the perpetrator; or

(2) by engaging in a sexual act with another person if that other person is

(A) incapable of appraising the nature of the conduct, whether temporary or permanent, including where the perpetrator intoxicated the victim as a means of forcing the victim to submit to a sexual act; or

(B) incapable of declining participation in, or communicating unwillingness to engage in, that sexual act.

(b) Sexual abuse shall be a Class II Felony..

Section 233. Sexual Abuse of a Child Under 16 or Ward

(a) Of a minor. --It shall be unlawful to engage in a sexual act with another person who—

(1) is under the age of 12 years, regardless of whether the perpetrator knew the age of the victim; or

(2) has attained the age of 12 years but has not attained the age of 16 years and is at least four years younger than the person so engaging. For a defense to this subsection (2), the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the other person had attained the age of 16 years.

(b) Of a ward. --It shall be unlawful to engage in a sexual act with another person who is—

(1) in detention and under the custodial, supervisory, or disciplinary authority of the person so engaging; or

(2) is at least sixteen (16) years of age, but less than eighteen (18) years of age and the perpetrator of the crime is responsible for the child's health, safety, or welfare.

“Person responsible for a child’s health, safety, or welfare” shall include, but not be limited to:

- (A) a parent,
- (B) a legal guardian,
- (C) custodian,
- (D) a foster parent,
- (E) a person eighteen (18) years of age or older with whom the child’s parent cohabitates,
- (F) any other adult residing in the home of the child, institution, or other facility or an owner, operator, or employee of a childcare facility.

(c) Sexual Abuse of a Child Under 16 or Ward shall be a Class II Felony.

Section 234. Abusive Sexual Contact

(a) Sexual conduct. It shall be unlawful to engage in or cause sexual contact with or by a person that would be a violation of Sections 231, 232, 233 or 234 if the sexual contact had been a sexual act.

(b) it shall be unlawful to engage in sexual contact with another person without that other person's permission.

(c) Abusive Sexual Contact shall a Class I Felony.

(d) It shall be a Class II Felony if the abusive sexual contact is with an individual who has not attained the age of 12 years.

Section 235. Sex Trafficking

(a) It shall be unlawful to knowingly recruit, entice, harbor, transport, provide, or obtain a person to engage in a commercial sex act., .

(b) Sex trafficking of an adult shall be a Class I Felony.

(c) Sex trafficking of a minor shall be a Class II Felony.

Section 236. Sexual Abuse by Coercion and Enticement

(a) It shall be unlawful to knowingly persuade, induce, entice, or coerce any individual to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense.

(b) Violation of this Section when the victim is an adult shall be a Class I Felony.

(c) Violation of this Section when the victim is a minor shall be a Class II Felony.

Section 237. Transportation of Minors

(a) It shall be unlawful to knowingly transport an individual who has not attained the age of 18 years with intent to perform any sexual activity for which any person can be charged with a criminal offense.

(b) It shall be unlawful to travel for the purpose of engaging in any illicit sexual conduct with a person who has not attained the age of 18 years or to perform any sexual activity with a person who has not attained the age of 18 years for which any person can be charged with a criminal offense.

(c) Violation of this Section shall be a Class I Felony. If the victim is under 14, violation of this Section shall be a Class II Felony.**Section 238. Lewd or Indecent Proposals or Acts to Child Under 16**

(a) It shall be unlawful for any person to knowingly and intentionally:

(1) Make any proposal to any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, for the child to perform a sexual act, have sexual contact or sexual relations with any person; or

(2) Ask, invite, entice, or persuade any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, to go with any person to a secluded, remote, secret or private place, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire, or perform a sexual act or have sexual contact with or of any person;

(b) Any person convicted of any violation of this subsection shall be guilty of a Class I Felony.

Section 239. Sexual Communication with a Child Under 16

(a) It is unlawful for any person to facilitate, encourage, offer, or solicit illicit sexual conduct, sexual act(s) or sexual contact(s) with a child under 16 years of age, or other individual the person believes to be under 16 years of age, by use of any technology, or to engage in any communication for sexual or prurient interest with any minor, or other individual the person believes to be a minor, by use of any technology.

(b) It shall be unlawful to knowingly provide access to prohibited communication with a child under 16, or other individual the person believes to be under 16 years of age, for purposes of illicit sexual conduct. "Provide access to" shall include, but is not limited to transmitting, printing, publishing, reproducing, buying, selling, receiving, exchanging, or disseminating any information, notice, statement, website, address, phone number, social media accounts, internet accounts, names, email addresses, usernames, physical characteristics or other descriptive or identifying information of a child under 16 years of age or an individual the person believes to be under 16 years of age.

(c) For purposes of any criminal prosecution pursuant to any violation of this section, the person violating the provisions of this section shall be deemed to be within the jurisdiction of this Nation by the fact of accessing any computer, cellular phone or other computer-related or satellite-operated device within the jurisdiction of the Sac and Fox Nation.

(d) Sexual communication with a child under 16 shall be a Class II Felony..

Section 240. Sexual Battery of a Child Under 16

(a) It shall be unlawful to conduct sexual behavior in the presence of a child under sixteen (16) years of age with an intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person.

(b) It shall be unlawful to force or require any child under sixteen (16) years of age or other individual the person believes to be a child under sixteen (16) years of age, to view any sexual acts or pornographic materials.

(c) Any person convicted of any violation of this subsection shall be guilty of a Class II Felony.

Section 241. Deviate Sexual Intercourse

(a) It shall be unlawful to engage in any form of sexual act with an animal.

(b) Deviate sexual intercourse shall be guilty of a Class III Misdemeanor.

Section 242. Mandatory Restitution

(a) In general. In addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

(b) Scope and nature of order.

(1) Directions. The order of restitution under this section shall direct the defendant to pay to the victim the full amount of the victim's losses as determined by the court pursuant to paragraph (2).

(2) For purposes of this subsection, the term "full amount of the victim's losses" includes any costs incurred by the victim for

- (A) medical services relating to physical, psychiatric, or psychological care;
- (B) physical and occupational therapy or rehabilitation;
- (C) necessary transportation, temporary housing, and childcare expenses;
- (D) lost income;
- (E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and
- (F) any other losses suffered by the victim as a proximate result of the offense.

(3) The issuance of a restitution order under this section is mandatory and the court may not decline to issue an order under this section because of the economic circumstances of the defendant; or the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

Section 243. Undercover Operations

The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense pursuant to the subchapter shall not constitute a defense to a prosecution under this section.

Section 244. Evidence of Sexual History Inadmissible

(a) No evidence concerning sexual acts of the victim is admissible in prosecutions under this subchapter except evidence of the victim's past sexual acts with the offender or to show physical evidence of sexual abuse was from a sexual act with another person.

(b) If the defendant proposes for any purpose to offer evidence described in paragraph a, the trial judge shall order a hearing out of the presence of the jury to determine whether the proposed evidence is admissible.