

Cherokee Nation Code Annotated
Title 21: Crimes and Punishments
Part III. Crimes Against the Person
Chapter 30: Miscellaneous Offenses Against the Person
§ 843. Abuse of children—Penalties

Cite as: 21 CNCA § 843

A. For the purposes of this section:

1. **"Abuse"** means harm or threatened harm to a child's health, safety or welfare by a person responsible for the child's health, safety or welfare, including sexual abuse and sexual exploitation.
2. **"Child"** means any unmarried person under the age of eighteen (18) years.
3. **"Harm or threatened harm to a child's health or safety"** includes, but is not limited to:
 - a. nonaccidental physical or mental injury;
 - b. sexual abuse;
 - c. sexual exploitation;
 - d. neglect;
 - e. failure or omission to provide protection from harm or threatened harm; or
 - f. abandonment.
4. **"Neglect"** means abandonment, or failure or omission to provide any of the following:
 - a. adequate food, clothing, shelter, medical care, or supervision; or
 - b. special care made necessary by the physical or mental condition of the child.
5. **"Person responsible for a child's health, safety or welfare"** includes a parent, a legal guardian, a custodian, a foster parent, a person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child, an agent or employee of a public or private residential home, institution, facility or day treatment program, or an owner, operator, or employee of a child care facility.
6. **"Sexual abuse"** includes, but is not limited to, rape, incest and lewd or indecent acts or proposals made to a child, as defined by law, by a person responsible for the child's health, safety or welfare regardless of the age or consent of the child.

7. **"Sexual exploitation"** includes, but is not limited to, allowing, permitting, or encouraging a child to engage in prostitution, as defined by law, by a person responsible for the child's health, safety or welfare or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic photographing, filming, or depicting of a child in those acts as defined by the law, by a person responsible for the child's health, safety or welfare.

B. Any parent or other person who shall willfully or maliciously engage in child abuse shall, upon conviction, be guilty of a felony, punishable by imprisonment for a period of not more than three (3) years, or by a fine not to exceed Fifteen Thousand Dollars (\$15,000.00), or by both such fine and imprisonment. As used in this subsection, **"child abuse"** means the willful or malicious abuse, as defined by paragraph 1 of subsection (A) of this section, of a child under eighteen (18) years of age by another, or the act of willfully or maliciously injuring, torturing or maiming a child under eighteen (18) years of age by another.

C. Any parent or other person who shall willfully or maliciously engage in enabling child abuse shall, upon conviction, be punished pursuant to 21 CNCA § 10. As used in this subsection, **"enabling child abuse"** means the causing, procuring or permitting of a willful or malicious act of child abuse, as defined by paragraph 1 of subsection (A) of this section, of a child under eighteen (18) years of age by another. As used in this subsection, **"permit"** means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of abuse as proscribed by this subsection.

D. Any parent or other person who shall willfully or maliciously engage in child neglect shall, upon conviction, be punished pursuant to 21 CNCA § 10. As used in this subsection, **"child neglect"** means the willful or malicious neglect, as defined by paragraph 3 of subsection (A) of this section, of a child under eighteen (18) years of age by another.

E. Any parent or other person who shall willfully or maliciously engage in enabling child neglect shall, upon conviction, be punished pursuant to 21 CNCA § 10. As used in this subsection, **"enabling child neglect"** means the causing, procuring or permitting of a willful or malicious act of child neglect, as defined by paragraph 3 of subsection (A) of this section, of a child under eighteen (18) years of age by another. As used in this subsection, **"permit"** means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of neglect as proscribed by this subsection.

F. Any parent or other person who shall willfully or maliciously engage in child sexual abuse shall, upon conviction, be punished pursuant to 21 CNCA § 10, provided that such sentence must include a term of imprisonment. As used in this section, **"child sexual**

abuse" means the willful or malicious sexual abuse, as defined by paragraph 6 of subsection (A) of this section, of a child under eighteen (18) years of age by another.

G. Any parent or other person who shall willfully or maliciously engage in sexual abuse to a child under twelve (12) years of age shall, upon conviction, be punished pursuant to 21 CNCA § 10, provided that such sentence must include a term of imprisonment.

H. Any parent or other person who shall willfully or maliciously engage in enabling child sexual abuse shall, upon conviction, be punished pursuant to 21 CNCA § 10, provided that such sentence must include a term of imprisonment. As used in this subsection, "**enabling child sexual abuse**" means the causing, procuring or permitting of a willful or malicious act of child sexual abuse, as defined by paragraph 6 of subsection (A) of this section, of a child under the age of eighteen (18) by another. As used in this subsection, "**permit**" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of sexual abuse as proscribed by this subsection.

I. Any parent or other person who shall willfully or maliciously engage in child sexual exploitation shall, upon conviction, be punished pursuant to 21 CNCA § 10, provided that such sentence must include a term of imprisonment. As used in this subsection, "**child sexual exploitation**" means the willful or malicious sexual exploitation, as defined by paragraph 7 of subsection (A) of this section, of a child under eighteen (18) years of age by another.

J. Any parent or other person who shall willfully or maliciously engage in sexual exploitation of a child under twelve (12) years of age shall, upon conviction, be punished pursuant to 21 CNCA § 10, provided that such sentence must include a term of imprisonment.

K. Any parent or other person who shall willfully or maliciously engage in enabling child sexual exploitation shall, upon conviction, be punished pursuant to 21 CNCA § 10, provided that such sentence must include a term of imprisonment. As used in this subsection, "**enabling child sexual exploitation**" means the causing, procuring or permitting of a willful or malicious act of child sexual exploitation, as defined by paragraph 7 of subsection (A) of this section, of a child under eighteen (18) years of age by another. As used in this subsection, "**permit**" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of sexual exploitation as proscribed by this subsection.

L. Notwithstanding any other provision of law, any parent or other person convicted of rape or lewd molestation of a child under fourteen (14) years of age subsequent to a previous

conviction, in any court of competent jurisdiction, for any offense of forcible anal or oral sodomy, rape, or lewd molestation of a child under fourteen (14) years of age shall be punished, punishable pursuant to 21 CNCA § 10, provided that such sentence must include a term of imprisonment.

M. Any person convicted of violating the provisions of subsections (F) through (L) of this section shall be required to register as a sex offender pursuant to 57 CNCA § 1 et seq. The jury, if any, shall be advised that the mandatory sex offender registration is a civil remedy that shall be in addition to the actual imprisonment.

N. Consent shall not be a defense for any violation of this section.

Historical Data

LA 10–90, eff. November 13, 1990. Amended LA 20–08, eff. January 12, 2009. Amended LA 09–12, eff. May 23, 2012. Amended LA 28-20, eff. December 14, 2020.