

Cherokee Nation Code Annotated

Title 21: Crimes and Punishments

Part IV. Crimes Against Decency and Morality

Chapter 45: Rape, Abduction, Carnal Abuse of Children and Seduction

§ 1111. Rape defined

Cite as: 21 CNCA § 1111

A. Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished under any of the following circumstances:

1. Where the victim is under eighteen (18) years of age;
2. Where the victim is incapable through mental illness or any other unsoundness of mind, whether temporary or permanent, or giving legal consent;
3. Where force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person;
4. Where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit;
5. Where the victim is unconscious of the nature of the act and this fact is known to the accused; or
6. Where the victim submits to sexual intercourse under the belief that the person committing the act is a spouse, and this belief is induced by artifice, pretense, or concealment practiced by the accused or by the accused in collusion with the spouse with intent to induce that belief. In all cases of collusion between the accused and the spouse to accomplish such act, both the spouse and the accused, upon conviction, shall be deemed guilty of rape.
7. Where the victim is under the legal custody or supervision of the Cherokee Nation, other tribal, state, municipal, governmental subdivision, or federal agency and engages in sexual intercourse with an employee or an employee of a contractor of the Cherokee Nation, other tribal, state, municipal, governmental subdivision, or federal employee that exercises authority over the victim;
8. Where the victim is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in sexual intercourse with a person who is eighteen (18) years of age or older and is an employee, contractor, or subcontractor of the same school system;

9. Where the victim is nineteen (19) years of age or younger and is in the legal custody of a state agency, federal agency or tribal court and engages in sexual intercourse with a foster parent or foster parent applicant; or

10. Where the victim is a student at a secondary school, is concurrently enrolled at an institution of higher education, and engages in acts pursuant to this subsection with a perpetrator who is an employee of the institution of higher education of which the victim is enrolled. "Employee of an institution of higher education", for purposes of this section, means faculty, adjunct faculty, instructors, volunteers, or an employee of a business contracting with an institution of higher education who may exercise, at any time, institutional authority over the victim. Employee of an institution of higher education shall not include an enrolled student who is not more than three (3) years of age or older than the concurrently enrolled student and who is employed or volunteering, in any capacity, for the institution of higher education.

11. Where the victim is at least sixteen (16) years of age but less than eighteen (18) years of age and the perpetrator of the crime is a person 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,
- g. an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes, or
- h. an owner, operator or employee of a child care facility.

B. Any person in violation of the 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 shall be in addition to the actual imprisonment.

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 07-21, eff. February 22, 2021. Amended LA 23-25, eff. September 15, 2025.