

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
§ 1111.1. Rape by instrumentation

Cite as: 21 CNCA § 1111.1

A. Rape by instrumentation is an act in which any inanimate object or any part of the human body, not amounting to sexual intercourse is used in the carnal knowledge of another person without his or her consent and penetration of the anus or vagina occurs to that person.

B. Provided, further, that at least one of the circumstances specified in Section 1111 of this title has been met; further, where the victim is:

1. 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 conduct prohibited by this section of law with a person who is eighteen (18) years of age or older and is an employee of the same school system;

2. Under the legal custody or supervision of the Cherokee Nation, or a state or federal agency, county, municipal or a political subdivision and engages in conduct prohibited by this section with a tribal, federal, state, county, municipal or political subdivision employee or an employee of a contractor of the Nation, the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim, consent shall not be an element of the crime;

3. Nineteen (19) years of age or younger and in the legal custody of a state agency, federal agency or tribal court and engages in conduct prohibited by this section of law with a foster parent or foster parent applicant; or

4. A student at a secondary school, is concurrently enrolled at an institution of higher education, and engages in acts pursuant to this section with a perpetrator who is an employee of the institution of higher education of which the student 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.

C. 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 20-08, eff. January 12, 2009. Amended LA 07-21, eff. February 22, 2021. Amended LA 23-25, eff. September 15, 2025.