

Cherokee Nation Code Annotated

Title 21: Crimes and Punishments

Part VII. Crimes Against Property

Chapter 70: Other Offenses Against Property Rights

§ 2001. Unlawful proceeds--Transaction with counsel--Banking transaction--Penalties

Cite as: 21 CNCA § 2001

A. It is unlawful for any person knowingly or intentionally to receive or acquire proceeds and to conceal such proceeds, or engage in transactions involving such proceeds, known to be derived from a specified unlawful activity, as defined in subsection F of this section. This subsection does not apply to any transaction between an individual and the counsel of the individual necessary to preserve the right to representation of the individual, as guaranteed by the Constitution of the Cherokee Nation and by the Sixth Amendment of the United States Constitution. However, this exception does not create any presumption against or prohibition of the right of the Nation to seek and obtain forfeiture of any proceeds derived from a violation of the laws of the Cherokee Nation.

B. It is unlawful for any person knowingly or intentionally to give, sell, transfer, trade, invest, conceal, transport, or maintain an interest in or otherwise make available anything of value which that person knows is intended to be used for the purpose of committing or furthering the commission of a specified unlawful activity, as defined in subsection F of this section.

C. It is unlawful for any person knowingly or intentionally to direct plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds known to be derived from a specified unlawful activity, as defined in subsection F of this section.

D. It is unlawful for any person knowingly or intentionally to conduct a financial transaction involving proceeds derived from a specified unlawful activity, as defined in subsection F of this section. when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds known to be derived from a violation of the laws of the Cherokee Nation, or to avoid a transaction reporting requirement under state or federal law.

E. Notwithstanding any other provision of this section, it shall be lawful for an organization engaged in the business of banking to receive deposits and payments, to pay checks and other withdrawals, and to process any other financial transaction for its customers in the ordinary course of business if it has no actual knowledge of any violation of the laws of the Cherokee Nation by that customer. If an organization engaged in the business of banking, acting in good faith and without actual knowledge of any violation of the laws of the Cherokee Nation by its customer, acquires a security interest or statutory lien with respect

to a customer's funds, that customer's funds which are subject to the security interest or lien shall not be subject to forfeiture action, to the extent of the amount of that customer's indebtedness to the banking organization.

F. For purposes of this section, "specified unlawful activity" means an act or omission, including any initiatory, preparatory, or completed offense or omission that is punishable as a misdemeanor or felony under the laws of Cherokee Nation, or if the act occurred outside the Cherokee Nation would be punishable as a misdemeanor or felony under the laws of the state in which it occurred and under the laws of the Cherokee Nation.

G. Any person convicted of violating any of the provisions of this section is guilty of:

1. A misdemeanor, if the violation involves Two Thousand Five Hundred Dollars (\$2,500.00) or less;
2. A felony, punishable by imprisonment for not more than three (3) years or by imposition of a fine in an amount not to exceed Fifteen Thousand Dollars (\$15,000.00).

H. In addition to any criminal penalty, a person who violates any provision of this section shall be subject to a civil penalty of three (3) times the value of the property involved in the transaction.

Historical Data

LA 29-21, eff. June 18, 2021.