

Cherokee Nation Code Annotated
Title 22: Criminal Procedure
Chapter 2: Prevention of Public Offenses
§ 40. Definitions
Cite as: 22 CNCA § 40

As used in 22 CNCA §§ 40.1 through 40.6H:

1. "Domestic violence" means the occurrence of one or more of the following acts between family or household members or persons involved in a dating relationship:
 - a. Causing or attempting to cause physical harm;
 - b. Threatening another with physical harm; or
 - c. Violating of any other domestic violence laws of the Cherokee Nation.
2. "Family or household members" means spouses, ex-spouses, parents, children, persons otherwise related by blood, marriage, or adoption, or persons living in the same household or who formerly shared the same residence. This shall include the elderly and handicapped disabled;
3. "Forcible sodomy" means the act of forcing another person to engage in the detestable and abominable crime against nature pursuant to 21 CNCA §§ 886 and 887;
4. "Rape" means an act of sexual intercourse accomplished with a person pursuant to 21 CNCA §§ 1111, 1111.1 and 1114.
5. "Dating relationship" means an intimate association, a courtship, or an engagement relationship. Such relationships may be commonly characterized by affectionate or sexual involvement. For purposes of this act, a casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship;
6. "Protection Order" means
 - a. any injunction, restraining order or other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person; and
 - b. any temporary or final order issued by a civil or criminal court, whether obtained by a filing and independent action or as a pendent lite order in another proceeding, if the civil or criminal court order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

7. "Domestic abuse" means any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who is currently or was previously an intimate partner or family or household member; the occurrence of one or more of the following acts between family or household members:

a. causing or attempting to cause serious physical harm; or

b. threatening another with imminent serious physical harm; and

c. includes but is not limited to: Assault, as defined by 21 CNCA § 641; battery, as defined by 21 CNCA § 642; rape, as defined by 21 CNCA § 1111; and aggravated assault and battery, pursuant to 21 CNCA § 646.

8. "Foreign protective order" means any valid order of protection issued by a court of another state or a tribal court.

Historical Data

LA 10–90, eff. November 13, 1990. Amended LA 12–18, eff. June 13, 2018. Amended LA 52–21, eff. December 13, 2021.