

Cherokee Nation Code Annotated

Title 57: Prisons and Reformatories

Chapter 1: Sex Offender Registration and Notification

§ 2. Purpose—Findings—Legislative intent

Cite as: 57 CNCA § 2

A. The Council finds that repeat sex offenders, sexual offenders who use physical violence or duress, and sex offenders who prey on children, the elderly, and the mentally impaired are sex offenders who present an extreme threat to the public safety and pose a high risk of re-offending after release from custody. The Council further finds that the privacy interest of persons adjudicated guilty of these crimes is less important than the Nation's compelling interest in public safety. Sex offenders are extremely likely to use physical violence and to repeat their offenses, and most sex offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society at large, while incalculable, extremely high. The Council also finds that federal crime statistics show that one out of every three Native American women is raped in her lifetime. Moreover, Native American women experience 7 sexual assaults per 1,000, compared with 4 per 1,000 among Blacks, 3 per 1,000 among Caucasians, 2 per 1,000 among Hispanics, and 1 per 1,000 among Asian-American women.

B. The high level of threat that a sex offender presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the Nation with sufficient justification to implement a strategy that includes:

1. Requiring the registration of sex offenders, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public.
2. Providing for community and public notification concerning the presence of sex offenders.
3. Prohibiting sex offenders from working with children or the elderly, either for compensation or as a volunteer.

C. The Nation has a compelling interest in protecting the public from sex offenders and in protecting children and the elderly from predatory sexual activity, and there is sufficient justification for requiring sex offenders to register and for requiring community and public notification of the presence of sex offenders. Further, the Nation's control over internal relations is effected by the presence of sex offenders within the community and the

regulation of such individuals is necessary to protect the health and welfare of the Nation's citizens.

D. It is the purpose of the Council that, upon the court's written finding in a civil proceeding that an individual is a sex offender with a relationship to the community, in order to protect the public, it is necessary that the sex offender be registered with the Marshal Service and that members of the community and the public be notified of the sex offender's presence in the community. The designation of a person as a sex offender is neither a sentence nor a punishment but simply a status designation.

E. By adopting the simple remedy of providing information regarding convictions for sex offenses to the public, the Nation assists communities in being better able to protect themselves through their increased awareness.

F. It is the intent of the Council to address the problem of sex offenders by;

1. Requiring sex offenders to register with the Marshal, as provided in this Act; and
2. Requiring community and public notification of the presence of a sex offender, as provided in this Act.

G. The Council further declares that it is the policy of the Nation to require the exchange, in accordance with this Act, of relevant information about sex offenders among public agencies and officials and to authorize the release in accordance with this Act of necessary and relevant information about sex offenders to members of the general public as a means of assuring public protection and that the exchange or release of that information is not punitive.

H. It is also the intent of the legislature to address the mandate of the United States that Indian tribes comply with federal law requiring tribal registration of sex offenders living, working, or attending school within their jurisdictions or to lose tribal jurisdiction over such registration to the state should the tribe fail to comply, as provided in Section 127 of the Adam Walsh Act (PL 109–248, July 27, 2006). The regulation of sex offenders thereby directly effects the political integrity of the Nation and regulation of such individuals directly effects tribal self-government.

I. The Cherokee Nation Marshal Service is authorized hereby to contract or enter any memorandum of understanding or agreement with any other agency of any government or with private contractors to complete any of the duties assigned by this Act to the Marshal Service, or as necessary to comply with the federal Adam Walsh Act (PL–109–248, July 27, 2006). In any case where such a contract or agreement requires a waiver of sovereign immunity by the Cherokee Nation, the

Principal Chief is hereby authorized to sign such waiver without seeking a resolution from the Cherokee Nation Council.

Historical Data

LA 22-08, eff. October 15, 2008. Amended LA 08-12, eff. March 23, 2012.