

Cherokee Nation Code Annotated

Title 57: Prisons and Reformatories

Chapter 1: Sex Offender Registration and Notification

§ 15. Penalties

Cite as: 57 CNCA § 15

A. Except as otherwise specifically provided, any person required to register pursuant to the provisions of the Sex Offender Registration and Notification Act who violates any provision of said act shall, upon conviction, be guilty of a crime. Any person convicted of a violation of this section shall be punished pursuant to 21 CNCA § 10. Any non-Indian shall be subject to civil exclusion from the Cherokee Nation. Any non-Indian individual found to be in violation of this section shall be subject to a civil action for exclusion from Cherokee Nation Indian Country. Such action shall be commenced by the Office of the Attorney General by filing a petition for exclusion in the District Court. The individual shall be excluded upon a written finding, by the District Court, after notice and an opportunity to be heard being provided to the defendant, by clear and convincing evidence, that: (1) the individual is non-Indian; (2) the individual is required to register pursuant to the Sex Offender Registration and Notification Act; and (3) the individual is residing on Cherokee Nation Indian Country in violation of this subsection. The individual shall remove himself or herself from Cherokee Nation Indian Country no less than thirty (30) days from the entry of the District Court's order that he or she is in violation of this subsection or be in contempt of court. Any individual found to be in contempt of court under this section may be removed from Cherokee Nation Indian Country by the Marshal Service. Any individual ordered to be excluded from Cherokee Nation Indian Country under this subsection shall be required to notify the Marshal Service of the other jurisdiction in which the individual intends to reside upon leaving Cherokee Nation Indian Country, and the Marshal Service shall notify such other jurisdiction of the intended relocation.

B. A sex offender who works, whether for compensation or as a volunteer, at any business, school, day care center, park, playground, or other place where children regularly congregate, commits a crime punishable pursuant to 21 CNCA § 10.

C. Any person who misuses public records information relating to a sex offender to secure a payment from such an offender, who knowingly distributes or publishes false information relating to such an offender which the person misrepresents as being public records information, or who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on websites or provided through other means of

communication, commits a crime punishable by up to six (6) months of imprisonment or a One Thousand Dollars (\$1,000.00) fine or both.

D. An arrest on charges of failure to register, the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register when the sex offender has been provided and advised of his or her statutory obligation to register under 57 CNCA § 12. A sex offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sex offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sex offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register. Registration following such arrest, service, or arraignment is not a defense and does not relieve the sex offender of criminal liability for the failure to register.

E. Any person who has reason to believe that a sex offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, his or her noncompliance with the requirements of this section:

1. withholds information from, or does not notify, the law enforcement agency about the sex offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sex offender;
2. harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sex offender;
3. conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sex offender; or
4. provides information to the law enforcement agency regarding the sex offender which the person knows to be false information,

commits a crime punishable pursuant to 21 CNCA § 10. This subsection does not apply if the sex offender is incarcerated in or is in the custody of a state or tribal correctional facility, a private correctional facility, a local jail, or a federal correctional facility.

Historical Data

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