

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

§ 1123. Lewd or indecent proposals or acts as to child under eighteen

Cite as: 21 CNCA § 1123

A. It is a felony for any person to knowingly and intentionally:

1. make any oral, written, or electronically or computer-generated lewd or indecent proposal to any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, for the child to have unlawful sexual relations or sexual intercourse with any person; or
2. look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law; or
3. ask, invite, entice, or persuade any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, to go alone with any person to a secluded, remote, or secret place, with the unlawful and willful intent and purpose then and there to commit any crime against public decency and morality, as defined by law, with the child; or
4. in any manner lewdly or lasciviously look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any indecent manner or in any manner relating to sexual matters or sexual interest; or
5. in a lewd or lascivious manner and for the purposes of sexual gratification:
 - a. urinate or defecate upon a child under sixteen (16) years of age, or force or require a child to defecate or urinate upon the body or private parts of another, or for the purpose of sexual gratification;
 - b. ejaculate upon or in the presence of a child;
 - c. cause, expose, force or require a child to look upon the body or private parts of another person;
 - d. force or require any child under sixteen (16) years of age or other individual the person believes to be a child under sixteen (16) years of age to view any obscene materials, child pornography or materials deemed harmful to minors as such terms are defined by 21 CNCA § 1024.1 and 21 CNCA § 1040.75;

e. cause, expose, force or require a child to look upon sexual acts performed in the presence of the child; or

f. force or require a child to touch or feel the body or private parts of said child or another person.

Any person convicted of any violation of this subsection shall be guilty of a felony punishable by a term of imprisonment not to exceed three (3) years or by imposition of a fine in an amount not the exceed Fifteen Thousand Dollars (\$15,000), or by both such fine an imprisonment. Any person convicted of a subsequent violation of this subsection shall be guilty of a felony punishable as provided in this subsection and shall not be eligible for probation, suspended or deferred sentence.

B. Without the consent of that person;

1. When committed by a Cherokee Nation, state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the Cherokee Nation, state, a county, a municipality, or political subdivision upon a person who is under the legal custody, supervision or authority of a Cherokee Nation or state agency, a county, a municipality or a political subdivision, or the subcontractor or employee of a subcontractor of the contractor of the state or federal government, a county, a municipality, or a political subdivision;

2. When committed upon a person who is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or in the legal custody or supervision of any public or private elementary or secondary school, or technology center school, by a person who is eighteen (18) years of age or older and is an employee of a school system; or

3. When committed upon a person who is nineteen (19) years of age or younger and is in the legal custody of a Cherokee Nation, a federal agency, a state agency, or a tribal court, by a foster parent or foster parent applicant: or

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

As used in this subsection, "employee of an institution of higher education" 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.

As used in this subsection, "employee of a school system" means a teacher, principal or other duly appointed person employed by a school system or an employee of a firm contracting with a school system.

C. No person shall in any manner lewdly or lasciviously:

1. Look upon, touch, maul, or feel the body or private parts of any human corpse in any indecent manner relating to sexual matters or sexual interest; or

2. Urinate, defecate or ejaculate upon any human corpse.

D. Any person convicted of a violation of subsection B or C of this section shall be deemed guilty of a felony, punishable by a term of imprisonment not to exceed three (3) years or by imposition of a fine in an amount not the exceed Fifteen Thousand Dollars (\$15,000), or by both such fine an imprisonment.

E. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense pursuant to this section shall not constitute a defense to a prosecution under this section.

F. 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 is in addition to the actual imprisonment.

G. Any parent or person responsible for the child's health, safety or welfare who violates subsection A, B or C of this section when the victim is at least sixteen (16) years of age but less than eighteen (18) years of age, upon conviction, shall be guilty of a felony. For purposes of this section, "person responsible for a child's health, safety or welfare" shall include, but not be limited to:

- a. a parent,

- b. a legal guardian,

- c. custodian,

- d. a foster parent,

- e. a person eighteen (18) years of age or older with whom the child's parent cohabitates,

- f. any other adult residing in the home of the child,

g. an agent or employee of a public or private residential home, institution, facility or day treatment program, or

h. an owner, operator or employee of a child care facility.

H. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense pursuant to this section shall not constitute a defense to a prosecution under this section.

Historical Data

LA 10-90, eff. November 13, 1990. Amended LA 20-08, eff. January 12, 2009. Amended LA 09-12, eff. May 23, 2013. Amended LA 07-21, eff. February 22, 2021. Amended LA 23-25, eff. September 15, 2025.