

TITLE TEN - CRIMINAL OFFENSES

CHAPTER 2 CRIMES AGAINST PERSONS

Section 201. Assault

(a) It shall be unlawful to willfully attempt or offer with force or violence to do a corporal hurt to another.

(b) Assault shall be a class I Misdemeanor.

[History: PUBLIC LAW #SF-85-62, June 21, 1985. As amended by: SF-87-59 May 28, 1987; SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

Section 202. Verbal Or Written Assault

(a) It shall be unlawful to threaten verbally or in writing to commit any offense involving violence with apparent ability to do so:

(1) With intent to terrorize another or place such other in fear of imminent serious bodily injury or

(2) To cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public inconvenience.

(b) Verbal or written assault shall be Class II Misdemeanor..

[History: PUBLIC LAW #SF-85-62, June 21, 1985. As amended by: SF-87-59 May 28, 1987; SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

Section 203. Battery or Assault and Battery

(a) It shall be unlawful to willfully use of force or violence upon the person of another.

(b) Battery or Assault and Battery shall be a Class III Misdemeanor.

[History: PUBLIC LAW #SF-85-62, June 21, 1985. As amended by: SF-87-59 May 28, 1987; SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

TITLE TEN - CRIMINAL OFFENSES

Section 204. Assault, Battery, or Assault and Battery with Dangerous Weapon

(a) It shall be unlawful to, with intent to do bodily harm and without justifiable or excusable cause, commit any assault, battery, or assault and battery upon the person of another with any sharp or dangerous weapon, or, without such cause, shoot at another with any kind of firearm, air gun, conductive energy weapon or other means whatever, with intent to injure any person, although without the intent to kill such person or to commit any crime punishable by banishment.

(b) Assault, battery, or assault and battery with dangerous weapon upon is a Class I Felony, and / or by banishment for a period not exceeding five (5) years, or a combination of imprisonment, fines and banishment.

[History: PUBLIC LAW #SF-85-62, June 21, 1985. As amended by: SF-87-59 May 28, 1987; SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

Section 205. Aggravated Assault and Battery

(a) An assault and battery becomes aggravated when committed under any of the following circumstances:

(1) When great bodily injury is inflicted upon the person assaulted; or

(2) When committed by a person of robust health or strength upon one who is aged, decrepit, or incapacitated.

(3) When committed for a second or more time against the same person within a 10 year period.

(b) For purposes of this section "great bodily injury" means bone fracture, protracted and obvious disfigurement, protracted loss or impairment of the function of a body part, organ or mental faculty, or substantial risk of death.

(c) Aggravated assault and battery shall be a Class II Felony, by banishment for a period not less than One (1) year nor exceeding Ten (10) years, or a combination of imprisonment, fines and banishment.

[History: PUBLIC LAW SF-09-204, March 31, 2009; #SF-15-24, December 11, 2014.]

Section 206. Criminally Negligent Assault or Battery

TITLE TEN - CRIMINAL OFFENSES

A person is guilty of criminally negligent assault or negligent battery when, with criminal negligence, they;

- (a) Negligently cause bodily injury to another with a weapon; or
- (b) Recklessly endanger another by an act or omission to act which threatens to cause serious bodily injury to another, whether or not such harm actually occurs.
- (c) Negligent Assault or Battery shall be a Class II Misdemeanor.

[History: PUBLIC LAW SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

Section 207. Domestic Abuse

(a) Any person who commits any assault or battery against a Protected Person as defined by the Sac and Fox Nation's Domestic Abuse Act shall be guilty of Domestic Abuse.

(b) The Sac and Fox Nation may (regardless of any other source of jurisdiction), pursuant to the federal special domestic violence criminal statutes, 25 U.S.C. 1304, exercise jurisdiction over a non-Indian defendant if the defendant -

- (i) resides in the Indian country of the Sac and Fox Nation;
- (ii) is employed in the Indian country of the Sac and Fox Nation; or
- (iii) is a spouse, intimate partner, or dating partner of
 - (I) a member of the Sac and Fox Nation; or
 - (II) an Indian who resides in the Indian country of the Sac and Fox Nation.

(c) Domestic Abuse based upon a conviction for assault shall be a Class III Misdemeanor. Domestic Abuse involving Verbal or Written Assault, or a Battery shall be a Class I Felony. A conviction for a second or subsequent offense shall be a Class II Felony, or by banishment for a period exceeding Three (3) years, or a combination of imprisonment, fines and banishment.

[History: PUBLIC LAW SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

Section 207.1. Domestic Abuse of a Pregnant Woman

TITLE TEN - CRIMINAL OFFENSES

domestic abuse committed against a pregnant woman with knowledge of the pregnancy by the person so convicted shall be a Class II Felony, punishable by imprisonment in jail for not less than Forty-five (45) , or by banishment for a period not less than Six (6) months nor exceeding Five (5) years, or a combination of imprisonment, fines and banishment.

(a) A second or subsequent offense of domestic abuse against a pregnant woman with knowledge of the pregnancy shall be a Class II Felony, punishable by imprisonment for not less than Six (6) months, and banishment for a period not less than One (1) year nor exceeding Ten (10) years, or a combination of imprisonment, fines and banishment.

(b) domestic abuse committed against a pregnant woman with knowledge of the pregnancy and a miscarriage occurs or injury to the unborn child occurs shall be guilty of a Class II Felony, punishable by imprisonment for not less than Six months (6) months, and banishment for not less than five (5) years and not more than life, or a combination of imprisonment, fines and banishment.

[History: PUBLIC LAW #SF-15-24, December 11, 2014.]

Section 207.2. Aggravated Domestic Abuse

(a) Any person convicted of domestic abuse as defined in sections 207 or 207.1 of this Chapter that results in great bodily injury to the victim shall be guilty of Aggravated Domestic Abuse and be a Class II Felony and subject to banishment of not less than Three (3) months nor exceeding Three (3) years, or a combination of imprisonment, fines and banishment.

For purposes of this subsection, "great bodily injury" means bone fracture, protracted and obvious disfigurement, protracted loss or impairment of the function of a body part, organ or mental faculty, or substantial risk of death.

[History: PUBLIC LAW #SF-15-24, December 11, 2014.]

Section 207.3. Domestic Abuse in the Presence of Child

Any person convicted of domestic abuse pursuant to sections 207 or 207.2 of this Chapter that was committed in the presence of a child shall have a mandatory imprisonment in jail for not less than thirty (30) days.

(a) As used in section of this Chapter, "in the presence of a child" means in the physical presence of a child; or having knowledge that a child is present and may see or hear an act of domestic violence. For the purposes of this section, "child" may be any child whether or not related to the victim or the defendant.

TITLE TEN - CRIMINAL OFFENSES

[History: PUBLIC LAW #SF-15-24, December 11, 2014.]

Section 207.4. Banishment for Domestic Abuse

For the purposes of sections 207, 207.1 or 207.3 of this Chapter, any prior conviction for assault or battery against a Protected Person as defined by the Nation's Domestic Abuse Act, shall constitute a sufficient basis for a banishable criminal charge regardless of whether that conviction was rendered in the Sac and Fox Nation, or in another tribe, state or federal court.

Section 207.5. Domestic Abuse by Strangulation

(a) Any person who commits any assault or battery by strangulation or attempted strangulation against a Protected Person as defined in the Nation's Domestic Abuse Act shall, upon conviction, be guilty of a Class II Felony and shall be punished by a minimum imprisonment in the tribal jail for a period of not less than three (3) months. Upon a second or subsequent conviction, the defendant shall be punished by a minimum imprisonment in the tribal jail for a period of not less than six (6) months, or by both such fine and imprisonment and be subject to banishment for not more than Five (5) years.

(b) As used in this subsection, "strangulation" means a form of asphyxia characterized by closure of the blood vessels or air passages of the neck as a result of external pressure on the neck.

[History: PUBLIC LAW #SF-15-24, December 11, 2014.]

Section 207.6. Domestic Abuse Criminal Procedures

(a) The District Court of the Nation and any judge thereof shall be immune from any liability or prosecution for issuing an order that requires a defendant to:

- (1) Attend a treatment program for domestic abuse;
- (2) Attend counseling or treatment services ordered as part of any suspended or deferred sentence or probation; and
- (3) Attend, complete, and be evaluated before and after attendance by a treatment program.

(b) There shall be no charge of fees or costs to any victim of domestic violence, stalking, or sexual assault in connection with the prosecution of a domestic violence,

TITLE TEN - CRIMINAL OFFENSES

stalking, or sexual assault offense.

(c) Presentence Report. In the course of prosecuting any charge of domestic abuse, stalking, harassment, rape, or violation of a protective order, the prosecutor shall provide the court, prior to sentencing or any plea agreement, any other available history of past convictions of the defendant within the last ten (10) years relating to domestic abuse, stalking, harassment, rape, violation of a protective order, or any other violent crimes, misdemeanor or felony convictions.

(d) Any plea of nolo contendere, guilty or finding of guilt for a violation of section 207, 207.1, 207.4, and 207.5 of this section shall constitute a conviction of the offense for the purpose of this act or any other criminal statute under which the existence of a prior conviction is relevant.

[History: PUBLIC LAW #SF-15-24, December 11, 2014.]

Section 207.7. Sentencing and/or Probation for Domestic Abuse

(a) For every conviction of domestic abuse, the court shall:

(1) Specifically order as a condition of a suspended sentence or probation that a defendant participate in counseling or undergo treatment to bring about the cessation of domestic abuse as specified in paragraph 2 of this subsection;

(2) (A) The court shall require the defendant to participate in counseling or undergo treatment for domestic abuse by an individual licensed practitioner or a domestic abuse treatment program approved by the Nation's Domestic Abuse Program. If the defendant is ordered to participate in a domestic abuse counseling or treatment program, the order shall require the defendant to attend the program for a minimum of Twelve (12) weeks, complete the program, and be evaluated before and after attendance of the program by a program counselor or a private counselor. Two unexcused absences in succession or five unexcused absences from any court-ordered domestic abuse counseling or treatment program shall be prima facie evidence of the violation of the conditions of probation for the Attorney General to seek acceleration or revocation of any probation entered by the court.

(B) A program for anger management, couples counseling, or family and marital counseling shall not solely qualify for the counseling or treatment requirement for domestic abuse pursuant to this subsection. The counseling may be ordered in addition to counseling specifically for the treatment of domestic abuse or per evaluation as set forth below. If, after sufficient evaluation and attendance at required counseling sessions, the domestic violence treatment program or licensed professional determines that the defendant does not evaluate as a perpetrator of domestic violence

TITLE TEN - CRIMINAL OFFENSES

or does evaluate as a perpetrator of domestic violence and should complete other programs of treatment simultaneously or prior to domestic violence treatment, including but not limited to programs related to the mental health, apparent substance or alcohol abuse or inability or refusal to manage anger, the defendant shall be ordered to complete the counseling as per the recommendations of the domestic violence treatment program or licensed professional;

(3) The court shall set:

(A) a review hearing no more than sixty (60) days after the defendant is ordered to participate in a domestic abuse counseling program or undergo treatment for domestic abuse to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements.

(B) a second review hearing after the completion of the counseling or treatment to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements. The court shall retain continuing jurisdiction over the defendant during the course of ordered counseling through the final review hearing;

(4) The court may set subsequent or other review hearings as the court determines necessary to assure the defendant attends and fully complies with the provisions of this subsection and the domestic abuse counseling or treatment requirements;

(5) At any review hearing, if the defendant is not satisfactorily attending individual counseling or a domestic abuse counseling or treatment program or is not in compliance with any domestic abuse counseling or treatment requirements, the court may order the defendant to further or continue counseling, treatment, or other necessary services. The court may revoke all or any part of a suspended sentence, deferred sentence, or probation and subject the defendant to any or all remaining portions of the original sentence;

(6) At the first review hearing, the court shall require the defendant to appear in court. Thereafter, for any subsequent review hearings, the court may accept a report on the progress of the defendant from individual counseling, domestic abuse counseling, or the treatment program. There shall be no requirement for the victim to attend review hearings; and

The defendant may be required to pay all or part of the cost of the counseling or treatment, in the discretion of the court.

[History: PUBLIC LAW #SF-15-24, December 11, 2014.]

Section 207.8. Violation of a Protective Order

TITLE TEN - CRIMINAL OFFENSES

(a) Any person who knowingly violates a validly issued Protective Order shall be guilty of Criminal Violation of a Protective Order. A Protective Order shall be valid if it was issued pursuant to the Sac and Fox Nation's Domestic Abuse Code, or by any other jurisdiction when such jurisdiction's order complies with the Violence Against Women Act or the requirements of 18 U.S.C. Section 2265 or where such foreign Protective Order otherwise complied with the requirements of Due Process.

(b) Criminal Violation of a Protective Order shall be a Class I Felony

[History: PUBLIC LAW #SF-15-24, December 11, 2014.]

Section 208. Definitions

(a) "Police officer", "police" or "peace officer" means any duly appointed person who is charged with the responsibility of maintaining public order, safety, and health by the enforcement of all laws, ordinances or orders of the Sac and Fox Nation or any of its political subdivisions and who is authorized to bear arms in execution of his responsibilities, including reserve officers, and tribal, federal and state law enforcement officers who are commissioned pursuant to an agreement with the Nation or authorized pursuant to federal law to so act within the Nation's jurisdiction.

(b) "Corrections personnel" means any person, employed, contracted by or duly appointed by the Nation or by a political subdivision, who has direct contact with inmates of a jail or correctional facility, and includes but is not limited to, personnel in job classifications requiring direct contact with inmates, persons providing vocational-technical training to inmates, education personnel who have direct contact with inmates because of education programs for inmates, and persons employed or duly appointed by the jails to supervise inmates or to provide medical treatment or meals to inmates of jails.

(c) "Police dog" means any dog used by a law enforcement agency of this Nation, a political subdivision of this Nation or a tribal or state law enforcement officer who is commissioned pursuant to a cross-deputization agreement with the Nation, which is especially trained for law enforcement work and is subject to the control of a dog handler.

(d) "Police horse" means any horse which is used by a law enforcement agency of this Nation, a political subdivision of this Nation or a tribal or state law enforcement officer who is commissioned pursuant to a cross-deputization agreement with the Nation for law enforcement work.

(e) "Dog handler" means any police officer or peace officer who has successfully

TITLE TEN - CRIMINAL OFFENSES

completed training in the handling of a police dog as established by the policy or standard of the law enforcement agency employing said officer.

[History: Public Law SF-09-204, March 31, 2009.]

]

Section 208.1. Assault, Battery or Assault and Battery upon Police Officer

(a) Every person who, without justifiable or excusable cause, knowingly commits any assault upon the person of a police officer, or corrections personnel, while said officer is in the performance of his duties is guilty of a Class I Felony.

(b) Every person who, without justifiable or excusable cause knowingly commits battery or assault and battery upon the person of a police officer, or corrections personnel, while said officer is in the performance of his duties, upon conviction, shall be guilty of a Class II Felony.

[History: PUBLIC LAW SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

Section 208.2. Aggravated Assault and Battery upon Police Officer

(a) Every person who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of a police officer, or corrections personnel as defined in Section 208 of this title, while said officer is in the performance of his duties shall upon conviction thereof be guilty of a Class II Felony, which shall be punishable by imprisonment in jail for a period of not less than Forty-five (45) days.

(b) This section shall not supersede any other act or acts, but shall be cumulative thereto.

[History: PUBLIC LAW SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

Section 208.3. Assault and Battery upon Pow-wow Judges, Athletic Referees, Etc.

Every person who, without justifiable or excusable cause and with intent to do bodily harm, commits any assault, battery, or assault and battery upon the person of a referee, umpire, timekeeper, coach, official, or any person having authority in connection with any amateur or professional athletic contest or rodeo, or a judge, official or committee member of a Pow-wow due to their status related to such event, is guilty of a Class I Felony, or banishment from all such events for a period not to exceed five (5) years, or by a combination

TITLE TEN - CRIMINAL OFFENSES

of such fine, imprisonment and banishment.

[History: PUBLIC LAW SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

Section 208.4. Assault or Battery upon Social Services or Juvenile Detention Center Employee or Contractor

(a) Any person age sixteen and over subject to a review, investigation on going case or custody of the Social Services or Child Welfare Departments who, without justifiable or excusable cause, knowingly commits any assault, battery, or assault and battery upon the person of a of Social Services or Child Welfare Departments employee, or a person contracting with the Department(s) to provide services, while the employee or contractor is in the performance of his or her duties or because of the person's status as an employee of Social Services or Child Welfare shall, upon conviction thereof, be guilty of a crime.

(b) Any juvenile aged sixteen (16) and over in the custody of the Juvenile Detention Center who, without justifiable or excusable cause, knowingly commits any assault, battery or assault and battery upon the person of a Juvenile Detention Center employee while said employee is in the performance of his or her duties shall, upon conviction thereof, be guilty of a crime.

(c) Violation of this section is a Class I Felony punishable by imprisonment in jail not less than Forty-Five (45) days, a fine of not less than Five Hundred Dollars (\$500.00), or by banishment for not more than one (1) year, or by a combination of such fine, imprisonment or banishment. Provided, any defendant under this Section under the age of eighteen (18) may be reverse certified by the Attorney General as a juvenile and be prosecuted as a juvenile delinquent.

[History: PUBLIC LAW SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

Section 208.5. Assault and Battery upon Emergency Medical Care Providers

(a) Every person who, without justifiable or excusable cause and with intent to do bodily harm, commits any assault, battery or assault and battery upon the person of an emergency medical care provider who is performing medical care duties, upon conviction, is guilty of a Class I Felony punishable by imprisonment in jail of not less than Thirty (30) days.

(b) As used in this section, "emergency medical care provider" means doctors, residents, interns, nurses, nurses' aides, ambulance attendants and operators, paramedics, emergency medical technicians, and members of a medical, dental clinic or hospital security

TITLE TEN - CRIMINAL OFFENSES

force.

[History: PUBLIC LAW SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

Section 208.6. Aggravated Assault and Battery or Assault with Firearm or Other Dangerous Weapon upon Emergency Medical Technician or Other Emergency Medical Care Provider

Every person who, without justifiable or excusable cause and with intent to do bodily harm, commits any aggravated assault and battery or any assault with a firearm or other deadly weapon upon the person of an emergency medical technician or other emergency medical care provider, upon conviction, is guilty of a Class II Felony punishable by imprisonment in jail for not less than Forty-five (45) days, or by banishment for not more than one (1) year, or by a combination of such fine, imprisonment or banishment.

[History: PUBLIC LAW SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

Section 208.7. Assault or Battery or Assault and Battery upon Tribal Official, Court Witness or Juror

(a) Every person who commits any assault upon any Tribal Officer including the Business Committee, Election Committee, Grievance Committee, officer of the District or Supreme Court including but not limited to judges, bailiffs, court reporters, court clerks or deputy court clerks, or upon any court witnesses or juror, because of said person's service in such capacity, shall be guilty of a Class I Felony.

(b) Every person who commits any battery or assault and battery upon any Tribal Officer including the Business Committee, Election Committee, Grievance Committee, officer of the district or Supreme court including but not limited to judges, bailiffs, court reporters, court clerks or deputy court clerks, or upon any court witnesses or juror, because of said person's service in such capacity, shall be guilty of a Class II Felony punishable by imprisonment for not less than Ninety (90) days.

[History: PUBLIC LAW SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

TITLE TEN - CRIMINAL OFFENSES

Section 208.8. Persons in Custody--placing Body Wastes or Fluids upon Government Employee or Contractor

Every person in the custody of the Nation, Department or Agency of the Nation or a contractor of the Nation who throws, transfers or in any manner places feces, urine, semen, saliva or blood upon the person of an employee or officer of the Nation, Department or Agency of the Nation or a contractor of the Nation upon conviction thereof, be guilty of a Class III Misdemeanor.

[History: PUBLIC LAW SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

Section 209. Harming or Killing a Police Dog or Police Horse

(a) No person shall willfully torture, torment, beat, mutilate, injure, disable, otherwise mistreat, or kill a police dog or police horse owned, or the service of which is employed, by a law enforcement agency of the Nation or political subdivision of the Nation.

(b) No person shall willfully interfere with the lawful performance of any police dog or police horse.

(c) Except as provided in subsection (d) of this section, any person convicted of violating any of the provisions of this section shall be guilty of a Class II Misdemeanor.

(d) Any person who knowingly and willfully and without lawful cause or justification violates the provisions of this section, during the commission of a crime, shall be guilty of a Class III Misdemeanor.

[History: PUBLIC LAW SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

Section 209.1. Harming, Mistreating or Killing Service Animal--willful Interference with Service Animal's Performance--permitting Animal to Fight, Injure or Kill Service Animal

(a) No person shall willfully harm, including torture, torment, beat, mutilate, injure, disable, or otherwise mistreat or kill a service animal that is used for the benefit of any handicapped person in this jurisdiction.

(b) No person including, but not limited to, any department or agency of the Nation, shall willfully interfere with the lawful performance of any service animal used for the benefit of any handicapped person within the Nation.

TITLE TEN - CRIMINAL OFFENSES

(c) Except as provided in subsection (d) of this section, any person convicted of violating any of the provisions of this section shall be guilty of a Class III Misdemeanor.

(d) Any person who knowingly and willfully and without lawful cause or justification violates the provisions of this section, during the commission of a crime, shall be guilty of a Class I Felony.

(e) Any person who encourages, permits or allows an animal owned or kept by such person to fight, injure, disable or kill a service animal used for the benefit of any handicapped person within this Nation, or to interfere with a service animal in any place where the service animal resides or is performing, shall, upon conviction, be guilty of a crime punishable as provided in Sub-section (c) of this section.

(1) In addition to the penalty imposed, the court shall order the violator to make civil restitution to the owner of the service animal for actual costs and expenses incurred as a direct result of any injury, disability or death caused to the service animal, including but not limited to costs of replacing and training any new service animal when a service animal is killed, disabled or unable to perform due to injury. For purpose of this subsection, when a person informs the owner of an animal that the animal is a threat and requests the owner to control or contain the animal and the owner disregards the request, the owner shall be deemed to have encouraged, permitted or allowed any resulting injury to or interference with a service animal. This sub-section may be civilly enforced regardless of prosecution and conviction under the above styled criminal offense.

(f) As used in this section, "service animal" means an animal that is trained for the purpose of guiding or assisting a disabled person who has a sensory, mental, or physical impairment.

[History: PUBLIC LAW SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

Section 210. Touching Assistive Device with Intent to Harass

Every person who, without justifiable or excusable cause and with intent to harass, touches any assistive device of another person, shall upon conviction, be guilty of a Class II Misdemeanor.

As used in this section, "assistive device" means any device that enables a person with a disability to communicate, see, hear, or maneuver.

[History: PUBLIC LAW SF-09-204, March 31, 2009; SF-15-24, December 11, 2014.]

TITLE TEN - CRIMINAL OFFENSES

Section 211. Homicide in the First Degree

(a) It shall be unlawful to:

(1) Purposely, knowingly and wrongfully with the malice aforethought cause the death of another human being, or

(2) Cause the death of another human being due to the commission or attempted commission of a felony or offense punishable by banishment.

(b) Homicide in the first degree shall be Class II Felony; or by banishment for a period not less than ten years nor more than life; or any combination of the above.

[History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59 May 28, 1987, amended by SF-15-24, December 11, 2014.]

Section 212. Homicide In The Second Degree

(a) It shall be unlawful to:

(1) Recklessly or negligently with disregard of the possible consequence of ones conduct to cause the death of another human being; or

(2) Cause the death of another human being by operating a motor vehicle in a reckless, negligent, or careless manner, or while under the influence of an alcoholic beverage, intoxicating liquor, a controlled substance, or any drug, to a degree which renders the person incapable of safely driving a vehicle.

(i) a blood alcohol content in excess of .10 shall create a rebuttable presumption that the person was under the influence of an alcoholic beverage.

(ii) for purposes of this section, a motor vehicle is any self-propelled vehicle and includes, but is not limited to, any automobile, truck, van, motorcycle, train, engine, watercraft, aircraft or snowmobile.

(3) Cause the death of a human being due to the commission of any criminal offense.

(b) Homicide in the second degree shall be Class II Felony; or by banishment for a period not less than one year nor more than twenty years; or any combination of the above.

TITLE TEN - CRIMINAL OFFENSES

[History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59 May 28, 1987, amended by SF-15-24, December 11, 2014.]

Section 213. Causing A Suicide

- (a) It shall be unlawful to intentionally cause a suicide by force, duress, or deception.
- (b) Causing a suicide shall be Class II Felony, or by banishment for a period of not less than one year nor more than twenty years or any combination of the above.

(History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59 May 28, 1987, amended by SF-15-24, December 11, 2014.)

Section 214. Soliciting A Suicide

- (a) It shall be unlawful to intentionally solicit another to attempt or commit suicide.
- (b) Punishment
 - (1) soliciting a suicide shall be a Class I Felony, if the defendant's conduct has actually caused or contributed substantially to a suicide, or attempted suicide:
 - (2) Otherwise, soliciting a suicide is a Class II Misdemeanor.

[History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59 May 28, 1987, amended by SF-15-24, December 11, 2014.]

Section 215 Obscenity, Threats, or Harassment by Telephone or Other Electronic Communication.

- A. It shall be unlawful for a person who, by means of a telecommunication or other electronic communication device, willfully either:
 - 1. Makes any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent;
 - 2. Makes a telecommunication or other electronic communication with intent to terrify, intimidate or harass, or threaten to inflict injury or physical harm to any person or property of that person;

TITLE TEN - CRIMINAL OFFENSES

3. Makes a telecommunication or other electronic communication, whether or not conversation ensues, with intent to put the party called in fear of physical harm or death;
4. Makes a telecommunication or other electronic communication, whether or not conversation ensues, without disclosing the identity of the person making the call or communication and with intent to annoy, abuse, threaten, or harass any person at the called number;
5. Knowingly permits any telecommunication or other electronic communication under the control of the person to be used for any purpose prohibited by this section; and
6. In conspiracy or concerted action with other persons, makes repeated calls or electronic communications or simultaneous calls or electronic communications solely to harass any person at the called number(s).

B. As used in this section, "telecommunication" and "electronic communication" mean any type of telephonic, electronic or radio communications, or transmission of signs, signals, data, writings, images and sounds or intelligence of any nature by telephone, including cellular telephones, wire, cable, radio, electromagnetic, photoelectronic or photo-optical system or the creation, display, management, storage, processing, transmission or distribution of images, text, voice, video or data by wire, cable or wireless means, including the Internet. The term includes:

1. A communication initiated by telephone whether through land line, cell, digital or voice over internet, regardless of whether such communication is voice or voice and / or video, and;
2. A communication made to by electronic mail, instant message, network call, or facsimile machine, pager, computer, internet or other social media.

C. Use of a telephone or other electronic communications facility under this section shall include all use made of such a facility between the points of origin and reception. Any offense under this section is a continuing offense and shall be deemed to have been committed at either the place of origin or the place of reception.

D. Except as provided in subsection E of this section, any person who is convicted of the provisions of subsection A of this section, shall be guilty of a Class II misdemeanor.

E. Any person who is convicted of a second offense under this section shall be guilty of a Class I Felony.

[History: PUBLIC LAW #SF-15-24, December 11, 2014.]

TITLE TEN - CRIMINAL OFFENSES

Section 216. Stalking

A. Any person who willfully, maliciously, and repeatedly follows or harasses another person in a manner that:

1. Would cause a reasonable person or a member of the immediate family of that person as defined in subsection F of this section to feel frightened, intimidated, threatened, harassed, or molested; and
2. Actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed, or molested,

upon conviction, shall be guilty of the crime of stalking, which is a Class III misdemeanor.

B. Any person who violates the provisions of subsection A of this section when:

1. There is a permanent or temporary restraining order, a protective order, an emergency *ex parte* protective order, or an injunction in effect prohibiting the behavior described in subsection A of this section against the same party, when the person violating the provisions of subsection A of this section has actual notice of the issuance of such order or injunction; or
2. Said person is on probation or parole, a condition of which prohibits the behavior described in subsection A of this section against the same party or under the conditions of a community or alternative punishment; or
3. Said person, within ten (10) years preceding the violation of subsection A of this section, completed the execution of sentence for a conviction of a crime involving the use or threat of violence against the same party, or against any member of the immediate family of such party,

upon conviction, shall be guilty of a Class I Felony and / or punishable by Banishment for not more than 5 years, or by a combination of such fine, imprisonment and banishment.

C. Any person who commits a second act of stalking within ten (10) years of the completion of sentence for a prior conviction under subsection A of this section, upon conviction thereof, shall be guilty of a Class II Felony and / or punishable by Banishment for not more than 10 years, or by a combination of such fine, imprisonment and banishment.

D. Any person who commits an act of stalking within ten (10) years of the completion of execution of sentence for a prior conviction under subsection B or C of this section, shall, upon conviction thereof, be guilty of a Class II Felony and in addition to imprisonment and fines shall be banished for not less than three (3) years and not more than ten (10) years, or by

TITLE TEN - CRIMINAL OFFENSES

a combination of such fine, imprisonment and banishment.

E. Evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact, as defined in subsection F of this section, with the victim after having been requested by the victim to discontinue the same or any other form of unconsented contact, and to refrain from any further unconsented contact with the victim, shall give rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

F. For purposes of this section:

1. "Harasses" means a pattern or course of conduct directed toward another individual that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable person to suffer emotional distress, and that actually causes emotional distress to the victim. Harassment shall include harassing or obscene phone calls as prohibited by Section 215 of this title.;

2. "Course of conduct" means a pattern of conduct composed of a series of two (2) or more separate acts over a period of time, however short, evidencing a continuity of purpose.;

3. "Emotional distress" means significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling;

4. "Unconsented contact" means any contact with another individual that is initiated or continued without the consent of the individual, or in disregard of that individual's expressed desire that the contact be avoided or discontinued. .
Unconsented contact includes but is not limited to any of the following:

a. following or appearing within the sight of that individual,

b. approaching or confronting that individual in a public place or on private property,

c. appearing at the workplace or residence of that individual,

d. entering onto or remaining on property owned, leased, or occupied by that individual,

e. contacting that individual by telephone, text messages, or other social media,

TITLE TEN - CRIMINAL OFFENSES

f. sending mail, electronic, digital or other communications to that individual, and

g. placing an object on, or delivering an object to, property owned, leased, or occupied by that individual; and

h. harming, threatening or unconsented taking of that individual's pets.

5. "Member of the immediate family", for the purposes of this section, means any spouse, parent, child, person related within the third degree of consanguinity or affinity or any other person who regularly resides in the household or who regularly resided in the household within the prior year.

[History: PUBLIC LAW #SF-15-24, December 11, 2014.]

Section 217. Peeping Tom / Loitering About to Watch Occupants

(a) Every person who hides, waits or otherwise loiters in the vicinity of any private dwelling house, apartment building, any other place of residence, or in the vicinity of any locker room, dressing room, restroom or any other place where a person has a right to a reasonable expectation of privacy, with the unlawful and willful intent to watch, gaze, or look upon any person in a clandestine manner, shall, upon conviction, be guilty of a Class II Misdemeanor.

(b) Every person who uses photographic, electronic, digital or video equipment in a clandestine manner for any illegal, illegitimate, prurient, lewd or lascivious purpose with unlawful and willful intent to view, watch, gaze or look upon any person without the knowledge and consent of such person when the person viewed is in a place where there is a right to a reasonable expectation of privacy, or who publishes or distributes any image obtained from such act, shall, upon conviction, be guilty of a Class I Felony.

(c) Every person who uses photographic, electronic, digital or video equipment in a clandestine manner for any illegal, illegitimate, prurient, lewd or lascivious purpose with the unlawful and willful intent to view, watch, gaze or look upon any person and capture an image of a private area of a person without the knowledge and consent of such person and knowingly does so under circumstances in which a reasonable person would believe that the private area of the person would not be visible to the public, regardless of whether the person is in a public or private place shall, upon conviction, be guilty of a Class II Felony.

(d) As used in this section, the phrase "private area of the person" means the naked or undergarment-clad genitals, pubic area, buttocks, or any portion of the areola of the female breast of that individual.

TITLE TEN - CRIMINAL OFFENSES

[History: PUBLIC LAW #SF-15-24, December 11, 2014.]

Sections 218 - 220. Reserved

Section 221. Kidnapping

(a) It shall be unlawful to intentionally and wrongfully remove another from his place of residence, business, or from the vicinity where he is found, or to unlawfully confine or conceal another for a substantial period, with any of the following purposes:

- (1) To hold for ransom or reward, or as a shield or hostage; or
- (2) To facilitate commission of any offense or flight thereafter; or
- (3) To inflict bodily injury on or to terrorize the victim or another; or
- (4) To interfere with the performance of any Tribal governmental or political function.

(b) A removal, restraint, or confinement is wrongful within the meaning of this Code if it is accomplished by force, threat or deception, or, in the case of a victim under the age of fourteen or incompetent, if it is accomplished without the consent of a parent, guardian or other person responsible for general supervision of his welfare.

(c) Kidnapping shall be a Class II Felony; or by banishment for a period not less than five years nor more than ten years if the kidnapping resulted in bodily injury; or by banishment for a period not less than five years nor more than life in the case of a second or subsequent conviction for kidnapping or if death resulted; or any combination of the above.

[History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59 May 28, 1987, amended by SF-15-24, December 11, 2014.]

Section 222. False Imprisonment

(a) It shall be unlawful to knowingly and wrongfully restrain or imprison another so as to interfere with their liberty. Each period of imprisonment in excess of forty-eight (48) hours shall constitute a separate offense of False Imprisonment.

(b) False imprisonment shall be a Class II Misdemeanor, unless the detention occurs under circumstances which expose the victim to a risk of serious bodily injury or if the imprisonment last more than twelve (12) hours, in which case the offense shall be a Class I Felony.

TITLE TEN - CRIMINAL OFFENSES

[History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59 May 28, 1987, amended by SF-15-24, December 11, 2014.]

Section 223. Custodial Interference

(a) It shall be unlawful to:

(1) Take, entice, conceal, or detain a child under the age of sixteen from his parent, guardian or other lawful custodian, knowing he has no legal right to do so, and

(i) with the intent to hold the child for period substantially longer than any visitation or custody period previously awarded by a court of competent jurisdiction; or

(ii) with the intent to deprive another person of their lawful visitation or custody rights; or

(2) Intentionally take, entice or detain an incompetent or other person who has been committed by authority of law to the custody of another person or institution from the other person or institution, without good cause and with knowledge that there is no legal right to do so.

(b) Custodial interference shall be a Class II Misdemeanor.

[History: PUBLIC LAW #SF-85-62, June 21, 1985, amended by SF-15-24, December 11, 2014.]

Section 224. Criminal Coercion

(a) It shall be unlawful to intentionally and wrongfully restrict another's freedom of action to his detriment, by threatening to:

(1) Commit any criminal offense; or

(2) Accuse anyone wrongfully of a criminal offense; or

(3) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business reputation; or

(4) Unlawfully take or withhold action as an official, or cause an official to take or withhold action.

TITLE TEN - CRIMINAL OFFENSES

(b) It is an affirmative defense to prosecution based on this section, except for subsection (1) above, that the actor believed the accusation or secret to be true or the proposed official action justified and that his purpose was limited to compelling the other in a lawful manner to behave in a way reasonably related to the circumstances which were the subject of the accusation, exposure, or proposed official action; for example, as by refraining from further misbehavior, making good a wrong done, refraining from taking any action or responsibility for which the actor believes the other disqualified.

(c) Criminal coercion shall be Class II Felony.

[History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59 May 28, 1987, amended by SF-15-24, December 11, 2014.]

Sections 225. Robbery

(a) It shall be unlawful to take anything of value from the person of another or from the immediate control of another by use of force or violence, with the intent to permanently deprive the owner thereof.

(b) Robbery shall be a Class I Felony; or, a Class II Felony when any person is seriously injured as a result of a violation of this section, and banishment for a period not less than one year nor more than five years may be imposed.

[History: (former Section 241, PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59 May 28, 1987, as renumbered by SF-09-____, April ____, 2009, amended by SF-15-24, December 11, 2014.)]

Sections 226-229. Reserved