

# TABLED

CHEROKEE COUNCIL HOUSE  
CHEROKEE, NORTH CAROLINA

Date: MAR 02 2023

ORDINANCE NO. 532 (2023)

*An ordinance amending C.C. Article V Sexual Assault to correct the age to properly reflect the age of a minor and to better define sexual assault of a minor or ward.*

WHEREAS, the Cherokee Code already defines a minor as a "person under 18 years of age" in multiple locations; and

WHEREAS, to maintain consistency throughout the Cherokee Code it is important to update Article V; and

WHEREAS, the wording in C.C. 14-20.4 needed to be updated to clarify the age difference between the perpetrator and victim and to better define ward; and

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, C.C. Article V Sexual Assault, shall be amended to read as follows:

**Sec. 14-20.4. Sexual abuse of minor or a ward.**

A person shall be guilty of sexual abuse of a minor or a ward if he or she:

- (1) Engages in a sexual act with ~~another person~~ a minor who has attained the age of 13 years but has not attained the age of ~~18~~ 16 ~~and who and that person~~ is at least four years ~~younger than the person so engaging~~ older than the minor; or
- (2) Knowingly engages in a sexual act with another person who is in official detention ~~and~~ or under the legal custodial, supervisory or disciplinary authority of the person ~~or~~ person's employer so engaging.

**Sec. 14-20.9. Definitions.**

The following definitions apply to this article:

(1) The term "minor" means: any person under the age of 18 years.

(2) The term "sexual act" means:

- 36 a. Contact between the penis and the vulva or the penis and the anus, and for purposes  
37 of this subparagraph contact involving the penis occurs upon penetration, however  
38 slight;
- 39 b. Contact between the mouth and the penis, the mouth and the vulva, or the mouth and  
40 the anus;
- 41 c. The penetration, however slight, of the anal or genital opening of another by a hand  
42 or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or  
43 arouse or gratify the sexual desire of any person; or
- 44 d. The intentional touching, not through the clothing, of the genitalia of another person  
45 who has not attained the age of 18+6 years with an intent to abuse, humiliate, harass,  
46 degrade, or arouse or gratify the sexual desire of any person.
- 47 (23) The term "sexual contact" means the intentional touching, either directly or through the  
48 clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person  
49 with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual  
50 desire of any person.
- 51 (34) The term "serious bodily injury" means bodily injury that involves a substantial risk of  
52 death, unconsciousness, extreme physical pain, protracted and obvious disfigurement,  
53 or protracted loss or impairment of the function of a bodily member, organ, or mental  
54 faculty.
- 55 (45) The term "official detention" means:
- 56 a. Detention by a Tribal, federal or state officer or employee, or under the direction of a  
57 Tribal, federal or state officer or employee, following arrest for an offense; following  
58 surrender in lieu of arrest for an offense; following a charge or conviction of an  
59 offense, or an allegation or finding of juvenile delinquency; following commitment as  
60 a material witness; following civil commitment in lieu of criminal proceedings or  
61 pending resumption of criminal proceedings that are being held in abeyance, or  
62 pending extradition, deportation, or exclusion; or
- 63 b. Custody by a Tribal, federal or state officer or employee, or under the direction of a  
64 Tribal, federal or state officer or employee, for purposes incident to any detention  
65 described in subparagraph a. of this paragraph, including transportation, medical  
66 diagnosis or treatment, court appearance, work, and recreation; but does not include  
67 supervision or other control (other than custody during specified hours or days) after  
68 release on bail, probation, or parole, or after release following a finding of juvenile  
69 delinquency; and
- 70 (56) The term "state" means a state of the United States, the District of Columbia, and any  
71 commonwealth, possession, or territory of the United States

72           (7) The term “ward” means a person who is under legal guardianship or the legal custody,  
73           care and control of another person or institution

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75   BE IT FINALLY RESOLVED that all ordinances that are inconsistent with this ordinance are  
76                           rescinded, and that this ordinance shall become effective when ratified by the  
77                           Principal Chief.

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80   *Submitted by Jenna Wiggins, Human Services Director, Public Health and Human Services*