



Title IV – Criminal Procedure Code

Alabama-Coushatta Tribe of Texas Comprehensive Codes of Justice

**Adopted and Codified as Title IV- Criminal Procedure Code of the A-C, C.C.J. on
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Title IV- Criminal Procedure Code is comprised of all Tribal statutes relevant to the Rules of Criminal Procedure applicable to the Tribal trial and appellate courts.

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Title IV– Criminal Procedure Code/C.C.J.**CHAPTER I. CRIMINAL PROCEDURE CODE****Sec. 101 Definitions**

(A) In this section, the following terms shall mean:

(1) **Arraignment.** Proceeding in which the accused is brought before the court, the court reads the charges, and the accused pleads guilty or not guilty to the charges against him or her.

(2) **Bail.** An amount of money set by the Judge which must be posted by a defendant in order to gain his release until trial, or appellate proceedings; the amount of bail is set at such amount as to reasonably insure that the defendant comes to Court when he is required.

(3) **Bail Bond.** Cash, some type of surety arrangement, or other type of security posted by a defendant to meet the bail set by the Judge as prerequisite to defendant's release from custody until a trial or appellate proceedings.

(4) **Civil Infraction.** An act or omission for which a sentence of incarceration is not authorized.

(5) **Code.** The Criminal Procedure Code of the Alabama-Coushatta Tribe of Texas.

(6) **Complaint.** A written statement of the essential facts constituting the offense(s) charged.

(7) **Complainant.** Any person signing a complaint alleging a violation of the Code.

(8) **Court.** The Alabama-Coushatta Tribe of Texas Tribal Court.

(9) **Crime.** An act or omission for which a sentence of incarceration is authorized.

(10) **Individual Rights.** Those rights set forth in 25 U.S.C. § 1302 as construed by Federal Courts of controlling jurisdiction.

(11) **Motions.** Requests, either written or oral, made to the Court for an order.

(12) **Offense.** A criminal offense set forth in Title VIII of the Comprehensive Judicial Code.

(13) **Officer.** Officer of the Alabama-Coushatta Tribe of Texas Police Department authorized to enforce the Alabama-Coushatta Tribe of Texas Criminal Code and other Codes.

(14) **Personal Recognizance.** A promise by a defendant to appear at trial or appellate proceeding upon which promise the Judge orders defendant's release from custody.

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(15) Probable Cause. “A reasonable amount of suspicion, supported by circumstances sufficiently strong to justify a **prudent and cautious person's** belief that certain facts are **probably** true.”

(16) Public Servant. A public servant is a person who is serving the Tribal government, State of Texas, or Federal government, or any of their political subdivisions as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.

(17) Serious Physical Injury. A physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

(18) Summons. A notice to appear before the Court.

(19) Summons and Complaint. A single document containing all the requisites of both a summons and complaint.

(20) Violation. A criminal violation set forth in Title VIII of the Comprehensive Judicial Code.

(21) Warrant, Arrest/Search. Document issued by the Court expressly authorizing and directing an officer to execute an arrest or conduct a search of specifically delineated premises.

Sec. 102 Establishment of Court

Pursuant to Article XIII of the Constitution of the Alabama-Coushatta Tribe of Texas, there is established for the Alabama-Coushatta Tribe of Texas, a Court known as the Alabama-Coushatta Tribal Court.

Sec. 103 Jurisdiction

The trial division of the Alabama-Coushatta Tribal Court is vested with jurisdiction to enforce all provisions of this Code, as amended from time to time, against any person violating the Criminal Offenses and Criminal Violations of the Tribe within the boundaries of the Alabama Coushatta Tribe of Texas Reservation who is under the jurisdiction of the Tribal Court.

Title IV– Criminal Procedure Code/C.C.J.**Sec. 104 Judges**

(A) Appointment. The Tribal Council of the Alabama-Coushatta Tribe of Texas shall appoint a Chief Judge of the Trial Division of the Tribal Court. The Tribal Council may appoint as many Associate Judges as needed. All Judges will be appointed to serve for a term of four (4) years, and all Judges are eligible for re-appointment at the end of each term of office.

(B) Eligibility.

(1) Any person who has graduated from an accredited law school and is an active member of any state bar may be eligible to serve as a Judge of the Alabama-Coushatta Tribal Court.

(2) No candidate shall ever have been convicted of a felony or, within one year past, of misdemeanor involving moral turpitude. An eligible candidate must be of high moral character and physically sound.

(C) Conflict of Interest. No Judge shall be qualified to act as such in any case wherein said Judge has any vested interest or wherein any relative by marriage or blood in the first or second degree is a party.

(D) Unlawful Interference. No member of the Alabama-Coushatta Tribal Council shall attempt to use said member's position to influence any decision of the Court.

Sec. 105 Court Personnel

(A) Tribal Court Administrator. The Tribal Administrator will hire a Tribal Court Administrator who will be responsible for hiring and firing all court personnel, except for the Trial Court Judges, planning and administering the court budget and for oversight of all court record keeping and reporting.

(B) The Tribal Court Administrator, in consultation with the Chief Judge of the Trial Division, shall appoint a person to be Clerk of the Court and, as such, to undertake all administrative duties of the Court as directed by the Tribal Court Administrator, including but not limited to maintaining court records with the utmost care and security, collecting fees and fines authorized under this Code; issuing marriage licenses, issuing jury summonses and providing general information to tribal members about the functions of the tribal courts.

(C) Bailiffs. Officers of the Alabama-Coushatta Tribal Police Department, on direction of the Chief of Police, shall serve as Bailiff when the Court is in session. As such, they shall be responsible for preserving the peace and decorum of the Court Room while the Court is in session and undertaking other responsibilities as ordered by the presiding Judge.

Title IV– Criminal Procedure Code/C.C.J.**Sec. 106 Appearance of Attorneys**

The Chief Judge of the Trial Division of the Alabama-Coushatta Tribal Court shall establish minimum standards of education, experience, familiarity with tribal laws and customs, conduct and moral character for attorneys wishing to represent clients before the Alabama-Coushatta Tribal Courts. At a minimum, any attorney appearing before the Tribal Court must be licensed to practice before a Federal District Court in at least one Federal District or licensed to practice in the highest court of any state. No attorney shall be qualified to appear before the Tribal Court until said attorney has met the standards established by the Chief Judge of the Trial Division.

Sec. 107 Tribal Prosecutor

The Tribal Council of the Alabama-Coushatta Tribe of Texas shall appoint a Tribal Prosecutor to serve as prosecutor for the Tribe. The Tribal Council may appoint as many Assistant Tribal Prosecutors as needed.

Sec. 108 Tribal Public Defenders

The Tribal Council of the Alabama-Coushatta Tribe of Texas shall appoint a Tribal Public Defender to represent all defendants who are unable to retain an attorney to represent them in any manner in which a defendant is charged with an offense found in Title VIII- Criminal Offenses and Violations Code of the A-C, C.C.J.

Sec. 109 The Complaint

(A) All prosecutions for violations of the offense or violations contained in Title VIII – Criminal Offenses and Violations Code of the A-C, C.C.J. shall be commenced by the filing of a Complaint. All Complaints must be signed by an officer of the Alabama-Coushatta Tribal Police Department or the Tribal Prosecutor. Immediately after service, all Complaints shall be filed with Court.

(B) The Complaint shall:

- (1)** Be in writing and in the name of the Alabama-Coushatta Tribe of Texas;
- (2)** State the name of the accused, if known, and if not known, designate the accused by description so the accused can be identified with reasonable certainty;
- (3)** Bear the signature of the arresting officer or Tribal Prosecutor;
- (4)** State the name and section number of the offense or violation charged;
- (5)** State the facts constituting the offense or violation in ordinary and precise language, and in such manner as to enable a person of common

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understanding to know what conduct is alleged to constitute the offense or violation; and

(6) State the time and place of offense as definitely as can be done.

Sec. 110 Summons

A summons may be issued by the Judge following the filing of a Complaint when the Complaint alleges that an offense or violation has been committed by the accused. The summons shall contain the name of the accused and shall direct the accused to appear before the Court at a stated date, time and place.

Sec. 111 Summons and Complaint

A Summons and Complaint may be issued by an officer for an offense or violation which was committed in his presence, or if not committed in his presence, when he has probable cause for believing that the offense or violation was committed in fact by the accused. A copy of the summons and complaint so issued shall be filed immediately with the Court before which appearance is required. A second copy shall be supplied to the prosecutor.

Sec. 112 Service of Summons and Summons and Complaint

A Summons and/or Complaint issued pursuant to these rules shall be served on the accused personally or by registered mail with return receipt requested by an officer. Service and proof of service shall be documented and provided to the appropriate court.

Sec. 113 Arrest by Warrant on Complaint

(A) In lieu of a summons, an arrest warrant may be issued by the Judge at this discretion following the filing of a Complaint charging an offense set forth in Title VIII of the Comprehensive Judicial Code by an officer or the Tribal Prosecutor.

(B) When an accused is arrested under a warrant, the accused shall be taken without unnecessary delay before the Judge who issued the warrant and at such time a copy of the Complaint and warrant shall be given to him. Also, at such time, the Judge shall either:

(1) Set bail or release the accused on personal recognizance and give a summons to the accused; or

(2) Order the accused held in custody and to proceed without unnecessary delay with arraignment according to Sec. 117.

Sec. 114 Arrest Without Warrant

(A) A law enforcement officer may make an arrest without a warrant if the officer has probable cause to believe that the person has committed an offense set forth in

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Title VIII – Criminal Offenses and Violations Code of the A-C, C.C.J. , or for any other federal or state criminal offense committed in the officer's presence, or if there is probable cause to believe the person has violated a protective order.

(B) A law enforcement officer may arrest a person without a warrant when the officer is notified by another law enforcement officer of any other jurisdiction that there exists a duly issued warrant for the arrest of a person charged with a crime committed within the officer's jurisdiction.

Sec. 115 Arrest by Warrant on Failure to Appear

If an accused, on which a summons has been served pursuant to this Code, fails to appear in person or by counsel at the place and time specified therein, a bench warrant may be issued by the Judge for the arrest of the accused.

Sec. 116 Execution of Warrant

A warrant issued according to this Code shall be executed by an officer within the boundaries of the Alabama-Coushatta Tribe of Texas Territories.

Sec. 117 Arraignment

(A) An arraignment shall be conducted in open Court on the defendant's first appearance in Court unless defendant is granted a continuance to seek assistance of counsel to determine which plea to enter, or for other good or sufficient reason. The Judge shall advise each defendant of his right to have the arraignment continued on his request for good cause which may be made at any time prior to pleading guilty or not guilty. If no such request is made, the Judge may proceed with the arraignment in accordance with this rule.

(B) Except for good cause shown, or at the request of the defendant, the Tribal Court shall hold an arraignment hearing for any defendant in custody during the first seventy-two (72) hours of custody, excluding holidays recognized by the Tribal government, Saturdays, and Sundays. Failure to hold an arraignment hearing within the required time shall result in the release of the defendant.

(C) The defendant may appear in person or by legal counsel.

(D) Before defendant is called on to plead guilty or not guilty, the following proceedings shall be conducted by the Judge:

(1) The complaint shall be read to the defendant or the substance of the charge in the complaint shall be stated to him;

(2) The defendant shall be given a copy of the complaint or summons and complaint, if one has not been previously served;

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(3) The defendant shall be advised of the maximum penalty which the Judge may impose in event of conviction; and

(4) The judge shall inform the defendant of defendant's rights, which shall include, but not be limited to, the following:

(a) The right to counsel and the right to a reasonable continuance to obtain legal counsel;

(b) The right to be informed of the charges against defendant;

(c) The right to have the Court compel the witnesses against defendant to appear and testify;

(d) The right to cross-examine and question the witnesses against defendant;

(e) The right to call witnesses in defendant's own behalf and to have the Court issue subpoenas within its jurisdictional limits notifying the witnesses to appear;

(f) The right to a speedy trial (180 days if the defendant is accused of a felony; 90 days if the defendant is accused of a misdemeanor punishable by imprisonment for more than 180 days; 60 days if the defendant is accused of a misdemeanor punishable by imprisonment of 180 days or less, or punishable by a fine only);

(g) The right to a public trial;

(h) At trial, the right to testify or not to testify in defendant's own behalf, because defendant has the privilege against self-incrimination;

(i) If found guilty, the right to appeal;

(j) The right to file a writ of habeas corpus in the United States District Court if defendant believes defendant's right have been violated;

(k) The right to be released on bail or on his own recognizance pending trial; and

(l) The reading of any or all of these rights may be expressly waived by a defendant represented by legal counsel.

Sec. 118 Pleas

(A) A defendant, personally or by legal counsel, may plead guilty or not guilty.

(B) **Plea of Not Guilty.** If defendant pleads not guilty, the Judge shall:

(1) Set the date and time for trial, or for further proceedings; and

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(2) Advise the defendant of defendant's right to bail if the defendant is still in custody on arrest with or without warrant. If bail has not yet been set, the Judge shall set bail.

(C) Plea of Guilty. The Court shall not accept the plea of guilty without first addressing the defendant personally and determining that the plea is made voluntarily, with the understanding of the nature of the charge, explaining fully to the defendant the defendant's right to trial, right to counsel, and the maximum penalty possible for the offense(s) charged. The Judge shall not enter a judgment on a plea of guilty unless the Judge is satisfied that the defendant is pleading guilty because the defendant, in fact, committed the offense of which defendant is charged. On acceptance of a plea of guilty, the Judge may sentence immediately or at a later date.

Sec. 119 Bail

(A) Entitlement. Every defendant shall be entitled to bail. Bail shall be set by the Judge. Bail is allowable pending appearance before the Trial Court or, if after conviction, during the appeal process in a case involving non-violent offenses. Bail shall be set at the close of arraignment, unless exceptional circumstance requires it being set at an earlier proceeding.

(B) Amount. A defendant shall be entitled to have bail set in an amount which in the judgment of the Judge is necessary and sufficient to insure the defendant's presence at future Court proceedings at which defendant's presence is required.

(C) Form of Bail Bond and Place of Deposit. A defendant allowed bail shall execute a bond for his appearance in Court on a designated day, and from day to day thereafter as the Judge may deem appropriate. The bail bond may be in the form of cash, some type of surety arrangement, or other kind of security as may be acceptable in the judgment of the Clerk of the Court. A personal recognizance bond may be allowed by the Judge at the Judge's discretion in lieu of cash, surety or other kind of security bond. The bond shall be made and deposited in the office of the Clerk of the Court.

(D) Disposition of Bail.

(1) Forfeiture. If there is a breach of a condition of a bond, the Judge shall declare a forfeiture of the bail.

(a) Setting Aside. The Judge may direct that a forfeiture be set aside, on such conditions as the Judge may impose, if it appears that justice does not require the enforcement of the forfeiture.

(b) Enforcement. By entering into a bond, each obligor, whether defendant or surety, submits to the jurisdiction of the Court. An obligor's liability under the bond may be enforced, without the necessity of an independent action. The Judge shall order

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the issuance of a citation directed to the obligor to show cause why judgment should not be entered against him forthwith and execution issued thereon. Said citation shall be served personally or by registered mail on the obligor at the address given in the bond. Hearing on the citation shall be held not less than twenty days after service. The defendant and the prosecutor shall be given notice of the hearing. At the conclusion of the hearing, a judgment and execution shall issue thereon as on other judgments. Judgment may be for Contempt of Court and bail posted may also be forfeited.

(2) Exoneration of the Obligor. The obligor shall be exonerated when the condition of the bond has been satisfied; or, when forfeiture has been declared, the amount of forfeiture has been paid; or on surrender of the defendant into custody before judgment on an order to show cause and on payment of all costs occasioned thereby.

(3) Continuation of Bond. In the discretion of the Judge and with the consent of surety, the same bond may be continued until the final disposition of the case on appeal in a case involving a non-violent offense. Otherwise, the defendant shall be detained during the pendency of the appeal.

Sec. 120 Motions During Arraignment

(A) Defenses and Objections which may be passed by Motion. Any defense or objection which is capable of determination without the trial of the general issue may be raised during arraignment.

(B) Defenses and Objections which must be raised. The following defenses and objections must be raised by motion during arraignment:

(1) Generally, defenses and objections based on defects in the institution of the prosecution or in the complaint including but not limited to:

(a) Motions to dismiss for defective complaint (other than it fails to show jurisdiction in the Court or to change an offense) defective warrant, defective service, or unnecessary delay in arraignment; and

(b) Motion to disqualify the Judge.

(C) Disqualification of Judge. Whenever a party to any proceeding believes that the Judge has a personal bias or prejudice either against him or in favor of an adverse party, the party may move to disqualify the Judge. The moving party must state the facts and reasons for the party's belief that prejudice or bias exists. A party may make only one such motion in any case and that motion must be made in good faith.

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(D) Waiver of Defenses or Objections required to be raised. Failure to present any defense or objection required to be raised during arraignment constitutes a waiver of such defense or objection, but the Judge for cause shown may grant relief from the waiver.

(E) Notice of Lack of Jurisdiction or Defect in Complaint by Court. Lack of Jurisdiction or failure of the complaint to charge an offense or civil infraction may be noticed by the Judge at any time pending final disposition of the case.

(F) Time and Manner of Making Motion. Motions under this Code shall be made orally and before any plea is entered by the defendant, and shall be supported by reasons, therefore, also orally made. The Judge may require that a motion and reasons, therefore, be put in writing.

(G) Hearing on Motion. Motions under this Code shall be determined by the Judge during arraignment proceedings, unless the Judge orders that it is taken under advisement and deferred for determination at a later date.

Sec. 121 Joinder of Defendants or Offenses at Trial

During arraignment, or at any time during the pendency of a criminal matter, the Judge may order two or more defendants to be tried together if the offenses and defendants could have been joined in a single complaint. The joinder, if ordered, must occur at least fifteen (15) days prior to trial, and notice shall be given to defendant forthwith.

Sec. 122 Pretrial Motions

(A) Generally. Any defense or objection which is capable of determination without the trial of the general issue and which is not required to be raised during arraignment may be raised by pretrial motion.

(B) Specifically. Pretrial motions include, but are not limited to the following:

(1) Motion for continuance of trial date;

(2) Motion to dismiss complaint for lack of jurisdiction or for failure to charge an offense;

(3) Motion for relief from prejudicial joinder. If it appears the Defendant or his case is prejudiced by a joinder of offenses or of defendants in a complaint by such joinder for trial together, the Judge may order separate trials of courts, grant a severance of defendants or provide whatever other relief justice requires. In ruling on a motion by defendant for severance, the Judge may order the prosecutor to deliver to him for inspection privately in his chambers, any statements or confession made by defendants with the prosecutor intends to introduce in evidence at the trial;

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(4) Motion for pretrial conference. At any time after the filing of the complaint, the Court, on motion of any party or on its own motion, may order one or more conferences to consider such matters as will promote a fair and expeditious trial. At the conclusion of a conference(s), the Judge shall prepare and file a memorandum of the matters agreed on; and

(5) Motions in Limine. A motion in limine to either suppress evidence or to admit evidence.

(C) Time and Manner of Making and Opposing Motions. Motions made under this Code shall be written and supported by reasons therefore, and shall be filed not later than fifteen (15) days before the trial date. Such motions shall be served on the opposing party simultaneously with filing thereof. Response in opposition to such motions shall be made in writing and supported by reasons therefore, and shall be filed not later than five (5) days before the trial date. Responses in opposition shall be served simultaneously with the filing thereof. The Judge, at his discretion, may direct that any motion be made orally.

(D) Determination of Motions. The Judge may enter judgment on pretrial motions solely on papers filed, or he may set a date and time for a hearing on the pretrial motions.

Sec. 123 Disclosure

(A) Disclosure of Evidence by Prosecution, Information Subject to Disclosure.

(1) Statement of Defendant. On request of a defendant the Tribal Prosecutor shall permit the defendant to inspect and copy or photograph the following:

(a) Any relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody or control of the Prosecutor, the existence of which is known, or by the exercise of due diligence may become known, to the Prosecutor; and

(b) The substance of any oral statement which the Prosecutor intends to offer in evidence at the trial made by the defendant whether before or after arrest in response to interrogation by any person then known to the defendant to be a Tribal agent.

(2) Defendant's Prior Record. On request of the defendant, the Tribal Prosecutor shall furnish to the defendant such copy of his prior criminal record, if any, as is within the possession, custody or current control of the Prosecutor, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the Prosecutor.

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(3) Documents and Tangible Objects. On request of the defendant the Tribal Prosecutor shall permit a defendant to inspect any copy or photograph books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof which are within the possession, custody or control of the Prosecutor, and which are relevant or likely to lead to the discovery of relevant evidence in the preparation of defendant's defense or are intended for use by the Prosecutor as evidence in chief at the trial, or were obtained from or belong to the defendant.

(4) Reports and Examinations and Tests. On request of a defendant the Tribal Prosecutor shall permit the defendant to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments, or copies thereof, which are within the possession, custody or control of the Prosecutor, the existence of which is known, or by the exercise of due diligence may become known, to the Prosecutor, and which are relevant or likely to lead to the discovery of relevant evidence to the preparation of the defense or are intended for use by the Prosecutor as evidence in chief at the trial.

(5) Information Not Subject to Disclosure. Except as provided in subsection (A) (1), (2) and (4) or by other rule, this rule does not authorize the discovery or inspection of reports, memoranda or other internal Tribal documents made by the Prosecutor or other Tribal agents in connection with the investigation or prosecution of the case, or of statements made by witnesses or prospective witnesses.

(B) Disclosure of Evidence by Defense, Information Subject to Disclosure.

(1) Documents and Tangible Objects. If the defendant requests disclosures under subsection (A) (3) or (4) of this Code, on compliance with such request by the Tribal Prosecutor, the defendant, shall permit the Prosecutor to inspect and copy or photograph books, papers, documents, photographs, tangible objects, or copies or portions thereof, which are within the possession, custody or control of the defendant and which the defendant intends to introduce as evidence in defendant's case in chief at the trial.

(2) Reports of Examinations and Tests. If the defendant requests disclosure under subdivision (A)(3) or (4) of this Code, he shall permit the Prosecutor to inspect and copy or photograph any test results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce as evidence in case in chief at the trial or which were prepared by a

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witness whom the defendant intends to call at the trial when the results or reports relate to his testimony.

(3) Information Not Subject to Disclosure. Except as to scientific or medical reports, this subdivision does not authorize the discovery or inspection of reports, memoranda, or other internal defense documents made by the defendant, or his attorneys or agents in connection with the investigation or defense of the case, statements made by the defendant in connection to his defense, or by witnesses, or by prospective witnesses, to the defendant, his agents or attorneys made in connection with the defense.

Sec. 124 Subpoena

(A) Attendance of Witnesses, Form, Issuance. A subpoena shall be issued by the Judge or by the clerk under authority of the Judge. It shall state the name of the Court and the title, if any of the proceedings, and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein, or to provide documents at the time and place specified.

(B) Service. A subpoena may be served by a Tribal Police Officer. Service of a subpoena shall be made by delivering a copy thereof to the person ordered to appear.

(C) Proof of Service. Proof of Service of a subpoena shall be made by the person who served the subpoena in accordance with Sec. 124(B). If the person to be served cannot be located, the person who attempted to serve the subpoena shall file a statement of attempt to service which shall describe his efforts at service.

(D) Contempt. Failure by a person without adequate excuse to obey a subpoena served upon him may be deemed in contempt of the Court from which the subpoena issued.

Sec. 125 Trial Procedure**(A) Right to Trial.**

(1) In cases involving a violation of the violations set forth in Title VIII-Criminal Offenses and Violations Code of the A-C, C.C.J., the defendant shall have a trial by the Court in accordance with these rules.

(2) In cases involving a violation of the offenses set forth in Title VIII – Criminal Offenses and Violations Code of the A-C, C.C.J., the defendant shall have a trial by jury, unless defendant unambiguously waives that right. In that case, a bench trial will be held.

(3) The prosecution has the burden of proving beyond a reasonable doubt that the defendant is guilty of the violation(s) or offense(s) as charged.

(B) Number of Jurors. Juries for criminal trial shall consist of six (6) jurors and one (1) alternate. The verdict must be unanimous.

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(C) Oath. When a jury has been selected, the judge shall administer to the jurors the following oath: “You and each of you do solemnly swear or affirm that you will well and truly try the issues relative to the cause now on trial according to the law and the evidence under the pains and penalty of perjury.”

(D) Juror Eligibility. To be eligible to serve as a juror, a person must be an enrolled member of the Alabama-Coushatta Tribe of Texas and/or an employee of the Alabama-Coushatta Tribe of Texas or its enterprises. A juror must be eighteen (18) years of age or older, never have been convicted in any court of a felony, and must not at the time the list is made, or at the time of trial, be holding the office of Tribal Judge, Tribal Police Officer, or Tribal Council member, nor be a witness or a party in the matter before the court.

(E) Juror List. Jurors for trial shall be selected from a list of eligible jurors prepared from the Alabama-Coushatta Tribal Census Roll and non-member and employee statistics. The list of eligible jurors will be provided by Tribal Council, or a designee thereof, and submitted to the Tribal Court Administrator no later than December 15th of each year.

(F) Selection of Panel. Not less than twenty (20) days before the date set for the beginning of a jury trial, the Chief Judge of the Trial Division shall draw from the master jury list, at random, 24 names as potential jurors. The clerk of the court shall then issue and cause to be served upon each person who was selected a jury duty summons.

(G) Jury Summons. The jury summons shall notify the person being summoned to appear in court on the date set for the beginning of the trial, one hour before the time set for the trial.

(H) Failure to Appear. Failure of a person served with a jury summons to appear shall constitute contempt of court and the summons shall contain a warning to that effect.

(I) Excuses from Jury Service. A person for whom jury service would be a severe hardship may be excused from service by the judge, but such excuse from jury duty shall be disfavored.

(J) Removal for Cause. After the prospective jury panel has been seated, the judge shall examine each prospective juror as to their qualifications, and excuse any who appear to be biased, prejudiced, unable to fairly and effectively perform the duties of a juror or otherwise not qualified to serve as a juror. The judge shall permit the prosecution and defense to similarly examine and ask for the removal of jurors for cause, without any limit to the number of jurors so challenged or removed, except that all such challenges must be made in good faith. The judge shall excuse any juror he or she believes to be unqualified.

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(K) Peremptory Challenges. After the Judge has ruled on any challenges for cause, the prosecution and defense each shall have the right to remove any two persons from the jury without stating any reason. The defense shall exercise its initial peremptory challenge first, and the parties shall alternately remove jurors, or waive their turn to do so, until they have exhausted their peremptory challenges.

(L) The Seating of the Jury. Following the exercise of the parties' peremptory challenges, the clerk of the court shall read aloud the first six names on the list and those persons shall be jurors for the trial. The clerk shall also read aloud the seventh name on the list, and that person shall be an alternate juror for the trial. The alternate juror shall act in all respects as a juror, except that he or she shall not participate nor vote during jury deliberation unless one of the other jurors has been excused by the judge during the course of the trial.

(M) Opening Statements. Both parties shall have the right to make an opening statement to summarize for the Court the facts, evidence and arguments each will present and rely on during trial. The prosecution shall present its statement first and the defense shall have the option of making its opening statement at that time or after the prosecution has completed the presentation of its case. Either side may waive the opening statement.

(N) Presentation of the Prosecution's Case. On the completion of the opening statements, the prosecution shall present to the Court, all of the evidence and testimony of witnesses on the prosecution's side of the case.

(O) Presentation of the Defendant's Case. On the completion of the presentation of the prosecution's case and after making any appropriate motions, the defense shall present to the Court all the evidence in accordance and testimony of witnesses for the defendant's case.

(P) Rebuttal Case. At the conclusion of the defendant's case, the prosecution can present evidence to refute evidence presented by the defendant. This may include only evidence not presented in the prosecution's case-in-chief, or a new witness who contradicts the defendant's witnesses.

(Q) Reopening Case. After the presentation of both sides of the case either side may ask that the case be reopened to allow the presentation of evidence or testimony that was inadvertently omitted, unavailable or non-existent earlier in the trial. Whether such evidence or testimony will be received is in the discretion of the Court.

(R) Closing Arguments. After the presentation of both sides of the case, both parties shall have the right to make closing arguments in which they may interpret the facts and argue the law and generally summarizes the case as they interpret it. Either side may waive their right to making closing arguments.

(S) Objections. Objections may be made by either party to test the validity of any procedural, substantive, or evidentiary matter before the Court during any hearing or

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trial. All objections shall be made at the time the objectionable matter arises and the specific grants therefore shall be stated. The Court shall either rule immediately on the objection or take the matter under advisement for a later ruling in its discretion.

Sec. 126 Motions at Trial

Either party may make motions, all of which shall be oral unless otherwise directed by the Court throughout the course of the trial. Both parties shall have the opportunity to argue their respective positions on any motion(s) made. The motions that can be made include but are not limited to the following:

(A) Motion for a Directed Verdict. At the close of the prosecutor’s case, the defense may move that the Court direct a verdict of not guilty. Defendant’s motion shall be granted only if the prosecution has failed to present a prima facie case of defendant’s guilt.

(B) Motions for Exclusion of Witnesses. A motion to exclude all witnesses who have not yet testified may be made by either party or done by the Court on its own initiative, prior to the time any witness has testified to insure that the testimony of all witnesses is his own independent recollection of the facts and that he does not adopt the testimony of a prior witness. It shall be within the discretion of the Court to grant or deny a motion to exclude witnesses made by either party.

(C) Motion for Mistrial. A motion for mistrial can be made at any time during the trial and can be granted in the Court’s discretion. A party may make a motion for a mistrial when any action by any person other than the moving party, has the effect of prejudicing the outcome of the trial to the point that such prejudice could only be overcome by holding a new trial.

(D) Motion for a Judicial Notice. Either party may, during the presentation of its case, move the Court to take judicial notice of matters which by their nature, are not properly the subject of testimony or which are universally regarded as established by common notoriety. Granting or denying the motion shall be within the discretion of the Court.

(E) Motion for a New Trial. The defendant may make a motion for a new trial after a verdict of guilty has been rendered against him. The motion must specifically allege the errors made by the Court during the trial which forms the basis for the motion. The motion shall be granted or denied as justice dictates.

(F) Motion to Dismiss for Unnecessary Delay in Prosecution. A motion to dismiss for unnecessary delay in prosecution may be made by the defendant prior to the commencement of the trial proceedings and shall be granted if any unreasonable amount of time has elapsed since the defendant was arraigned and if the delay was not requested or acquiesced in by the defendant.

(G) Motion to Exclude Evidence. A motion to exclude evidence may be made during the course of a trial when an opposing party introduces evidence that is inadmissible under these rules.

Sec. 127 Evidence

(A) All evidence which the Court deems proper and necessary for reaching a true and just verdict or which is in accordance with Tribal customs and traditions shall be deemed subject to rules governing the permissible scope of search and seizure. In reaching a decision on the admissibility of any evidence, the Court may avail itself of any materials, books or documents prior to rule.

(B) The testimony of witnesses shall be given orally unless the witness, for good reason presented to the Court, is or will be unable to appear personally in Court, in which case arrangements shall be made by the party calling the witness, for both parties to simultaneously question the witness under oath for purposes of obtaining a written statement for presentation to the Court at trial. Before either party relies or comments on a written statement so taken at trial, it shall be presented to the Court and he shall strike out any questions, answers or statements he deems improper. Any witness testifying in Court or being questioned for purposes of a written statement shall be subject to direct examination by the party who called him as a witness, cross-examination by the opposing party, redirect examination by the party who called him and re-cross examination by the opposing party.

(C) The defendant cannot be compelled to testify as a witness. If the defendant invokes this privilege and does not testify, the Court shall not consider such action as an indication of evidence of guilt. If the defendant voluntarily testifies he shall be subject to direct, cross, redirect, and re-cross examination, the same as any other witness.

(D) Evidence obtained by unlawful search and seizure is inadmissible. Lawful searches and seizures may be made in accordance with the following subsections.

(1) Permissible Objects of Search and Seizure. The following are subject to search and seizure:

- (a)** Evidence of or information concerning the commission of a criminal offense;
- (b)** Contraband, the fruits of the crime, or things otherwise criminally possessed;
- (c)** Property that has been used, to commit or conceal the commission of an offense; and
- (d)** A person for whose arrest there is probable cause or who is unlawfully held in concealment.

Sec. 128 Issuance of Search Warrant

(A) A search warrant may be issued only by a Trial Judge.

(B) Application for a search warrant may be made only by a tribal attorney or by any tribal police officer.

(C) The application shall consist of a proposed warrant in conformance with Sec. 128, and shall be supported by one or more affidavits particularly setting forth the facts and circumstances tending to show that such things are in the places, or in the possession of individuals, to be searched. If an affidavit is based in whole or in part on hearsay, the affiant shall set forth facts bearing on any unnamed informants reliability and shall disclose, as far as possible, the means by which the information was obtained.

(D) Hearing. Before acting on the application, the Judge may examine under oath the affiants, the applicant and any witnesses he may produce, and may himself call such witnesses as he considers necessary to a decision. He shall make and keep a record of any testimony taken before him. The record shall be admissible as evidence on any motion to suppress.

(E) If the Judge finds that the application meets the requirements of Sec. 128, and that, on the basis of the record made before him, there is probable cause to believe that the search will discover things specified in the application and subject to seizure), he shall issue a search warrant. If he does not so find, the Judge shall deny the application.

(F) Until the warrant is executed, the proceedings upon application for a search warrant shall be conducted with secrecy appropriate to the circumstances.

(G) Contents of Search Warrant.

(1) A search warrant shall be dated and shall be addressed to an officer authorized by law to execute search warrants.

(2) The warrant shall state, or describe with particularity:

(3) The identity of the Judge issuing the warrant and the date the warrant was issued;

(4) The name of the person to be searched, or the location and designation of the premises or places to be searched in as much detail as practicable;

(5) The things constituting the object of the search and authorized to be seized; and

(6) The period of time, not to exceed five (5) days, after execution of the warrant except as otherwise provided, within which the warrant is to be returned to the issuing authority. If the warrant is not returned within five (5) days it is null and void and a new warrant must be applied for.

Title IV– Criminal Procedure Code/C.C.J.**(H) Execution of Warrant.**

(1) A search warrant may be executed only within the period and at the times authorized by the warrant and only by a tribal police officer. A tribal police officer charged with its execution may be accompanied by such other persons as may be reasonably necessary for the successful execution of the warrant with all practicable safety.

(2) The executing officer shall, before entering the premises, give appropriate notice of his identify, authority and purpose to the person to be searched, or to the person in apparent control of the premises to be searched, as the case may be.

(3) Before undertaking any search and seizure pursuant to the warrant, the executing officer shall read and give a copy of the warrant to the person to be searched. If the premises are unoccupied or there is no one in apparent control, the officer shall leave a copy of the warrant suitably affixed to the premises.

(4) The scope of search shall be only such as is authorized by the warrant and is reasonably necessary to discover the persons or things specified therein. Upon discovery of the persons or things so specified, the officer shall take possession or custody of them and search no further pursuant to the authority of the warrant. If in the course of the search the officer discovers things, not specified in the warrant, which he has probable cause to believe to be subject to seizure under Sec. 127(D)(1), which he did not have probable cause to expect to find, he shall also take possession of the things discovered.

(5) Promptly upon completion of the search, the officer shall make a list of the things seized, and shall deliver a receipt embodying the list to the person from whose possession they are taken, or the person in apparent control of the premises or vehicle from which they are taken. If the vehicle or premises are unoccupied or there is no one present in apparent control, the executing officer shall leave the receipt suitably affixed to the vehicle or premises.

(6) Use of Force in Executing Warrants. The executing officer and other officers accompanying and assisting him may use the degree of force, short of deadly physical force, against persons, or to effect an entry, or to open containers, as is reasonably necessary for the execution of the search warrant with all practicable safety.

(I) Return of the Warrant.

(1) If a search warrant is not executed within the time specified by the warrant, the officer shall forthwith return the warrant to the issuing Judge.

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(2) An officer who has executed a search warrant shall, as soon as is reasonably possible and in no event later than the date specified in the warrant, return the warrant to the issuing Judge together with a signed list of things seized and setting forth the date and time of the search.

(3) Subject to the provisions of subsection (D) herein, the issuing Judge shall file the warrant and list returned to him, with the record of the proceedings on the application.

(4) If the issuing Judge does not have jurisdiction to inquire into the offense in respect to which the warrant was issued or the offense apparently disclosed by the things seized, the Judge shall transmit the warrant and the record of proceedings for its issuance, together with the documents submitted on the return, to the clerk of the appropriate court having jurisdiction to inquire into such offense.

(J) Handling and Disposition of Things Seized.

(1) The provisions of subsections (b), (c), and (d) of this section apply to all cases of seizure except for a seizure made under a search warrant.

(a) If an officer makes an arrest in connection with the seizure, he shall, as soon thereafter as is reasonably possible, make a written list of the things seized and furnish a copy of the list to the defendant.

(b) If no claim to rightful possession has been established the court shall order that the things be delivered to the officials having responsibility under the applicable laws for selling, destroying or otherwise disposing of contraband, forfeited for unclaimed goods in official custody.

(c) If things seized in connection with an arrest are not needed for evidentiary purposes, and if a person having a rightful claim establishes his identity and right to possession beyond a reasonable doubt to the satisfaction of the seizing officer the office may summarily return the things seized to their rightful possessor. If the things seized are perishable and it is not possible to return them to the rightful possessor, the seizing officer may dispose of the items as justice and the necessities of the case require.

(2) Motion for Return or Restoration of Things Seized.

(a) After actual notice of any seizure, the Court in its discretion may allow:

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- i. An individual's things from whose person, property or premises have been seized may move the appropriate court to return things seized to the person or premises from which they were seized.
 - ii. Any other person claiming rightful possession of the things seized may move the appropriate court to restore the things seized to the movant.
- (b)** The appropriate court to consider such motion is:
- i. The court having ultimate trial jurisdiction over any crime charged in connection with the seizure; or
 - ii. If no crime is charged in connection with the seizure, the court to which the warrant was returned; or
 - iii. If the seizure was not made under a warrant and no crime is charged in connection with the seizure, any court having authority to issue search warrants in the county in which the seizure was made.
- (c)** A motion for the return or restoration of things seized shall be based on the ground that the movant has a valid claim to rightful possession thereof, because:
- i. The things had been stolen or otherwise converted, and the movant is the owner or rightful possessor; or
 - ii. The things seized were not in fact subject to seizure; or
 - iii. The movant, by license or otherwise, is lawfully entitled to possess things otherwise subject to seizure; or
 - iv. Although the things seized were subject to seizure, the movant is or will be entitled to their return or restoration upon the court's determination that they are no longer needed for evidentiary purposes; or
 - v. The parties in the case have stipulated that the things seized may be returned to the movant.
- (3) Postponement of Return or Restoration; Appellate Review.**
- (a)** In granting a motion for return or restoration of things seized, the court shall postpone execution of the order until such time as the things in question need no longer remain available for evidentiary use.
 - (b)** An order granting a motion for return or restoration of things seized shall be reviewable on appeal in regular course. An order denying such a motion shall be reviewable on appeal

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upon certification by the court having custody of the things in question that they are no longer needed for evidentiary purposes.

(4) Disputed Possession Rights.

(a) If, upon consideration of a motion for return or restoration of things seized, it appears to the court that the things should be returned or restored, but there is a substantial question whether they should be returned to the person from whose possession they were seized or to some other person, or a substantial question among several claimants to rightful possession, the court may:

- i.** Return the things to the person from whose possession they were seized; or
- ii.** Impound the things seized and set a further hearing, assuring that all persons with a possible possessory interest in the things in question receive due notice and an opportunity to be heard; and
- iii.** Upon completion of the hearing provided for in subsection (ii), enter an order for the return or restoration of the things seized.
- iv.** If there is no substantial question whether the things should be returned to the person from whose possession they were seized, they must be returned to the person upon the release of the defendant from custody.
- v.** Instead of conducting the hearing provided for in subsection (ii) and returning or restoring the property, the court in its discretion, may leave the several claimants to appropriate civil process for the determination of the claims.

Sec. 129 Verdict

(A) On the completion of the closing arguments, the Court or jury shall render its verdict.

(B) The Court or the jury shall render a verdict of guilty if it believes the defendant to be guilty beyond a reasonable doubt, otherwise it shall render a verdict of not guilty. The Court shall have the option of rendering a verdict immediately after closing arguments or taking the case under advisement and ruling on it at a later date. The jury

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shall begin deliberations under the supervision of the Judge and will render its verdict if it cannot reach a unanimous decision. If the jury is unable to render a unanimous decision, it shall so inform the Judge. The Judge may instruct the jury to continue its deliberations in an effort to reach a unanimous decision until such time as the judge determines that it is impossible for the jury to reach such a decision. In such an event, the Judge shall declare a mistrial.

(C) If a verdict of not guilty is rendered by the Court or the jury, judgment shall be rendered immediately and the defendant shall be immediately released from custody.

(D) If a verdict of guilty is rendered by the Court or the jury, the Judge shall so advise the defendant in open Court, set a date for sentencing, and enter a judgment of guilty in the Court's records.

Sec. 130 Sentencing Procedure

(A) On the date set for sentencing the defendant shall appear before the Trial Court and sentence shall be pronounced.

(B) The Judge may, in its discretion, order a pre-sentence investigation report inquiring in the characteristics, attitude, circumstances, needs, and potential of the defendant, his criminal and social history, circumstances of the offense and any other information pertinent to sentencing.

(C) A pre-sentencing investigation, if ordered, shall be available to defendant and he shall have an opportunity to rebut the contents thereof and offer information in addition thereto prior to sentencing.

(D) On an order by the Court for a pre-sentence investigation, such an investigation shall be undertaken by the clerk of the court. Said Report shall be completed and submitted to the Court within the time period established by the Court.

Sec. 131 Presence of the Defendant

The defendant shall be present in person at all proceedings in his case unless the Judge directs that defendant may appear by counsel for all or certain proceedings.

Sec. 132 Contempt of Court

(A) Any person or persons found guilty of any of the following acts shall be adjudged to be in Contempt of Court and shall be punished as the Court may direct:

(1) Disorderly, contemptuous, or insolent behavior toward the Judge while holding Court, tending to interrupt the due course of a trial or other judicial proceeding;

(2) A breach of the peace, boisterous conduct, or violent disturbance in the presence of the Judge, or in the immediate vicinity of the Court held by

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him, tending to interrupt the due course of a trial or other judicial proceeding;

- (3) Disobedience or resistance to the carrying out of a lawful order or process made or issued by the Judge;
- (4) Disobedience to a subpoena duly serviced, or refusing to be sworn in or to answer as a witness; and
- (5) Rescuing or interfering with any person or property in the custody of a police officer.

(B) When a contempt is committed in the immediate view and presence of the Judge, it may be punished summarily. To that end, an order must be made reciting the facts as they occurred, and adjudging that the person proceeded against is thereby guilty of the contempt, and that he be punished as therein prescribed.

(C) When a contempt is not committed in the immediate view and presence of the Judge, a warrant of arrest may be issued by such Judge, whereupon the person who is charged may be forthwith arrested and brought before the Judge at which time the accused must be given an opportunity to be heard in his defense or excuse of his action or actions. The Judge may thereupon convict or discharge him of the charge.

Sec. 133 Time

(A) **Computation.** In computing any period of time, the date of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a Tribal holiday. When a period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and Tribal holidays shall be excluded in the computation.

(B) **Enlargement.** The Judge may for cause shown at any time in its discretion, with or without motion, order the period enlarged if the request is made before the expiration of the period originally prescribed or as extended by a previous order. If a request is made after the expiration of the prescribed period, the Judge may permit the act to be done if failure to act is in the opinion of the Judge excusable.

Sec. 134 Service and Filing of Papers

(A) **Service.** Any written document filed with the Court by a party shall be served on the other party.

(B) **Service, How Made.** Service when required shall be made on the defendant or his counsel by delivering to the defendant or his counsel, in person or by registered mail, a copy of the document to be served.

(C) **Service, by Whom Made.** Service shall be made by a tribal police officer except where otherwise prescribed in these rules.

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(D) Proof of Service. Proof of service shall be made by the person serving a document by filing promptly after completion of service, a sworn signed statement containing the name of the person served, the document served, and the date, time and place served.

(E) Territorial Limits. Service may be made anywhere within the boundaries of the Alabama-Coushatta Tribe of Texas.

(F) Notice of Orders. Immediately upon the entry of an order of the Judge made on written pretrial motion, the clerk shall mail to each party, a notice thereof and shall make a note in the docket of the mailing. Email may be allowed with the written permission of the receiving party.

(G) Filing. Filing shall be accomplished by delivering the original and one copy of a document to the clerk who shall stamp it with the date. All papers required to be served shall be filed with the Court.

Sec. 135 Court Reporter and Transcripts

All trials shall be recorded. Any party wishing a transcript of the trial shall bear the costs thereof.

Sec. 136 Court Records and Files

All Court records and files shall be in the custody of the Clerk of the Court under the discretion and supervision of the Chief Judge of the Trial Division.

Sec. 137 Dismissal of Action by Court or Prosecution

(A) By the Court. Whenever, in the opinion of the presiding Judge, the plaintiff has failed to state a cause of action, a non-justifiable action is presented or other such basic defect exists rendering judicial action improper, he may, on his own motion, dismiss said action with or without prejudice.

(B) By the Prosecution. The prosecution in any criminal proceeding, with the concurrence of the arresting officer, may recommend to the Court, that a case be dismissed; provided that good cause exists for said recommendation.

Sec. 138 Findings of Fact, Conclusions of Law

(A) Whenever deemed necessary by a presiding Judge for purposes of effecting his judgment in a case, he shall prepare or direct the preparation of findings of fact, conclusions of law and a memorandum opinion.

(B) In every case wherein an appeal is taken, findings of fact, conclusions of law and a memorandum opinion shall be prepared.

Sec. 139 Calendars and Dockets

The Clerk of the Court shall be responsible for controlling the calendar and dockets of the Court under such system as shall be established by the Judges of the Alabama-Coushatta Tribal Court.

Sec. 140 Filing Fees

Filing fees shall be established by the Trial Court in an amount they deem proper. Said amount may be reviewed and revised periodically.

Sec. 141 Procedures for Appeal

(A) Grounds for Appeal. A party may appeal a final order of the Alabama-Coushatta Tribal Court to the Alabama-Coushatta Court of Appeals on an allegation, made in good faith, that an error was made by the Alabama-Coushatta Tribal Court that prejudiced the outcome of the proceedings before that Court or that an error was made by that Court in the interpretation of law.

(B) Notice of Appeal. The party wishing to appeal shall file a notice of appeal with both Courts within ten (10) working days after the decision being appealed is rendered.

Sec. 142 Record on Appeal

(A) Record on Appeal. The record on appeal shall consist of the transcript of proceedings in the Alabama-Coushatta Tribal Court and all documents, exhibits, motions, briefs, and memoranda filed therein in that case along with all rulings, opinions, findings of fact, and conclusions of law issued by the Court therein.

(B) Transcript, Cost. Any party requesting a transcript of the proceedings before the Alabama-Coushatta Tribal Court shall bear the cost thereof.

Sec. 143 Briefing and Argument

(A) Schedule. The Alabama-Coushatta Court of Appeals, on receipt of the notice of appeal, shall establish a briefing and argument schedule.

(B) Length of Argument. The Alabama-Coushatta Court of Appeals shall determine and inform the parties in each case of the amount of time in which the arguments are to be presented.

Sec. 143 Briefs

(A) Form. All briefs shall be neatly typed on white 8 ½" x 11" paper. The first page shall contain the name of the Court, the name of the case and the docket number, along with the names, addresses and telephone numbers of the attorneys involved, if any.

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(B) Number and Sequence. The parties shall file the following briefs in the following sequence in accordance with the briefing schedule established by the Court:

- (1) First.** Defendant’s Opening Brief;
- (2) Second.** Prosecution’s Answering Brief; and
- (3) Third.** Defendant’s Reply Brief.

Sec. 144 **Decisions**

On the completion of the briefing schedule, receipt of the record on appeal and the hearing of arguments in the case, the Alabama-Coushatta Court of Appeals shall render a written decision which such concurring and dissenting opinions as the Judge shall deem necessary and a copy of that decision shall be sent to the parties.



Title VIII – Criminal Offenses and Violations Code

Alabama-Coushatta Tribe of Texas Comprehensive Codes of Justice

**Adopted and Codified as Title VIII- Criminal Offenses and Violations Code of the A-C,
C.C.J. on November 24, 2014, by Tribal Council Resolution #2014-86, Revised on
November 10, 2015. By Tribal Council Resolution #2015-63**

*Title VIII- Criminal Offenses and Violations Code is comprised of all Tribal statutes relevant to
Criminal Offense and Violations applicable within the jurisdiction of Alabama-Coushatta Tribe
of Texas*

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Title VIII- Criminal Offenses and Violations Code/C.C.J.**CHAPTER 1. CRIMINAL OFFENSES****Sec. 101 Maximum Fines and Sentences of Imprisonment**

A person convicted of any Criminal Offense found in Chapter I may be sentenced as follows:

Type of Offense	Maximum Allowable Sentence
(A) Felony	Up to three (3) years in prison, or a fine of up to \$15,000, or both, if the defendant has been previously convicted of the same or a comparable offense by a jurisdiction in the United States; or is being prosecuted for an offense comparable to an offense that would be punishable by more than one (1) year of imprisonment if prosecuted by the United States or any of the States. The authority to impose such a sentence is found in 25 U.S.C. §§ 1302(b)(1) or (2) and 1304.
(B) Class A Misdemeanor	Up to one (1) year in prison, or a fine of up to \$5,000.00, or both. The authority to impose such a sentence is found in 25 U.S.C. §§ 1302(b) and 1304.
(C) Class B Misdemeanor	Up to six (6) months in prison, or a fine of up to \$2,500, or both. The authority to impose such a sentence is found in 25 U.S.C. §§ 1302(b) and 1304.
(D) Class C Misdemeanor	Unless stated in the specific violation, up to three (3) months in prison, or a fine of up to \$1,000, or both. The authority to impose such a sentence is found in 25 U.S.C. §§ 1302(b) and 1304.

Sec. 102 Assault

- (A)** A person commits the offense of assault if said person:
- (1)** With the intent to commit any felony listed in 18 U.S.C. § 1153(a), assaults another person by striking; or
 - (2)** With the intent to do bodily injury, assaults another person with a dangerous weapon; or

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- (3) With the intent to do bodily harm, assaults by striking a spouse, intimate partner, a dating partner; or
- (4) Knowingly or recklessly causes bodily injury to another person by striking; or
- (5) Knowingly or recklessly strikes another person without causing bodily injury; or

(B) As used in this Section:

- (1) **“Striking”** shall mean any act of making bodily contact with the person of another including, but not limited to, hitting, beating, wounding, strangling or suffocating.
- (2) **“Bodily injury”** means a cut, abrasion, bruise, burn, disfigurement, physical pain, impairment or the function of a bodily member or organ, or any other injury to the body, no matter how temporary.
- (3) **“Dangerous weapon”** shall mean an instrument capable of inflicting death or serious bodily injury.

(C) Assault is a felony if committed in violation of paragraph (A)(1), (2) and (3) of this Section. Assault is a **Class A misdemeanor** if committed in violation of paragraph (A)(4) of this Section. Assault is a **Class B misdemeanor** if committed in violation of paragraph (A)(5) of this Section. If a defendant has been previously convicted of a violation of paragraphs (A)(4), (A)(5), or (A)(6) or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Sec. 103 Reckless Endangerment

(A) A person commits the offense of reckless endangerment by recklessly engaging in conduct which places or may place another person in danger of death or serious bodily injury.

(B) Recklessness and danger shall be presumed where a person knowingly points a firearm at or in the direction of another person, whether or not the actor believed the firearm to be loaded.

(C) Reckless endangerment is a **Class A misdemeanor**. If a defendant has been previously convicted of Reckless Endangerment or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Title VIII- Criminal Offenses and Violations Code/C.C.J.**Sec. 104 Terroristic Threats**

(A) A person commits the offense of terroristic threats by threatening to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly or facility of public transportation, or otherwise to cause serious public inconvenience or in reckless disregard of the risk of causing such terror or inconvenience.

(B) Terroristic threats is a **Class B misdemeanor**.

Sec. 105 Unlawful Restraint

(A) A person commits the offense of unlawful restraint by knowingly:

(1) Restraining another unlawfully in circumstances exposing the other person to risk of serious bodily injury; or

(2) Holds another in a condition of involuntary servitude.

(B) “**Serious bodily injury**” shall mean bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a body member, organ or mental faculty.

(C) Unlawful restraint is a **Class A misdemeanor**. If a defendant has been previously convicted of unlawful restraint or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Sec. 106 False Imprisonment

(A) A person commits the offense of false imprisonment by knowingly restraining another unlawfully so as to interfere substantially with the other person’s liberty.

(B) False imprisonment is a **Class B misdemeanor**.

Sec. 107 Interference with Custody

(A) A person commits the offense of interference with custody by knowingly or recklessly taking or enticing any child under the age of eighteen (18) from the custody of the child’s parent, guardian or other lawful custodian, when the person has no privilege or legal right to do so.

(B) A person commits the offense of interference with custody of a committed person by knowingly or recklessly taking or enticing any committed person away from lawful custody when the person does not have the privilege or legal right to do so.

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(C) **“Committed person”** shall mean, in addition to anyone committed under judicial warrant, any orphan, neglected or delinquent child, mentally defective or insane person, or other dependent or incompetent person entrusted to another’s custody by or through a recognized social agency or otherwise by authority of law.

(D) Interference with either the custody of a child or committed person is a **Class A misdemeanor**.

Sec. 108 Enticing a Child

(A) A person commits the offense of enticing a child if, with the intent to interfere with the lawful custody of a child younger than eighteen (18) years, he knowingly entices, persuades, or takes the child from the custody of the parent or guardian or person standing in the stead of the parent or guardian of such child.

Sec. 109 Criminal Coercion

(A) A person commits the offense of criminal coercion by, with purpose to unlawfully restrict another’s freedom of action to the other person’s detriment, threatens to:

- (1) Commit any criminal offense; or
- (2) Accuse anyone of a criminal offense; or
- (3) Take or withhold action as an official, or cause an official to take or withhold action.

(B) Criminal coercion is a **Class A misdemeanor**. If a defendant has been previously convicted of interference with criminal coercion, or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Sec. 110 Sexual Assault

(A) A person commits the offense of sexual assault by having sexual contact with another person, if:

- (1) Said person knows that the conduct is offensive to the other person; or
- (2) Said person knows that the other person suffers from a mental disease or defect which renders the other person incapable of appraising the nature or the other person’s conduct; or
- (3) Said person knows that the other person is unaware that a sexual act is being committed; or
- (4) Said person has substantially impaired the other person’s power to appraise or control the other person’s conduct, by administering or

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employing without the other's knowledge drugs, intoxicants or other means for the purpose of preventing resistance; or

(5) The other person is less than seventeen (17) years old and the actor is at least three (3) years older than the other person; or

(6) The other person is in custody of law or detained in a hospital or other institute and the actor has supervisory or disciplinary authority over the other person.

(B) Sexual contact means any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the defendant for the purpose of arousing or gratifying sexual desire, or for the purpose of abusing, humiliating, harassing, or degrading the victim.

(C) Sexual or intimate parts mean the sexual organ, anus, breast, groin or buttocks of any person.

(D) It is an exception to a violation of (A)(5) of this Section if the sexual contact is consensual and the minor is between the ages of fourteen (14) and seventeen (17) and the defendant is no more than three (3) years older than the minor when the sexual contact occurs.

(E) Sexual assault is a **felony**.

Sec. 111 Indecent Exposure

(A) A person commits the offense of indecent exposure by exposing his anus or any part of his genitals with intent to arouse or gratify the sexual desire of any person, and he is reckless about whether another is present who will be offended or alarmed by his act.

(B) If the other person present is 16 years or older, the violation is a Class B misdemeanor.

(C) If the other person present is 15 years or younger, the violation is a felony.

(D) An offense under this Section is a **Class B misdemeanor**.

Sec. 112 Criminal Mischief

(A) A person commits the offense of criminal mischief by:

1. Damaging tangible property of another purposely, recklessly, or by negligence in the employment of fire, explosives, or other dangerous means; or

2. Purposely or recklessly tampers with tangible property of another so as to endanger person or property; or

3. Purposely or recklessly causes another to suffer pecuniary loss by deception or threat.

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(B) Criminal mischief is a **Class A misdemeanor** if the defendant purposely causes pecuniary loss in excess of \$500, or a **Class B misdemeanor** if defendant purposely or recklessly causes pecuniary loss in excess of \$100. Otherwise, criminal mischief is a **Class C misdemeanor**. If a defendant has been previously convicted or criminal mischief involving a pecuniary loss in excess of \$500 or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Sec. 113 Criminal Trespass

(A) A person commits the offense of criminal trespass if, knowing that said person is not licensed or privileged to do so, said person enters or surreptitiously remains in any building or occupied structure.

(B) A person commits the offense of criminal trespass if, knowing that said person is not licensed or privileged to do so, said person enters or remains in any place as to which notice against trespass is given by:

- (1)** Actual communication to the actor; or
- (2)** Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
- (3)** Fencing or other enclosure manifestly designed to exclude intruders.

(C) An offense under paragraph (A) of this Section constitutes a **Class A misdemeanor** if it is committed at night. Otherwise, it is a **Class B misdemeanor**. An offense under paragraph (B) of this Section is a **Class B misdemeanor** if the offender defies an order to leave personally communicated to the offender by the owner of the premises or other authorized person. Otherwise, it is a **Class C misdemeanor**. If a defendant has been previously convicted of a violation of paragraph (A) of this Section or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Sec. 114 Theft

(A) A person who, without permission of the owner, commits the offense of theft by possessing or exercising unlawful control over property not said person's own or under said person's control with the purpose to deprive the owner thereof or who unlawfully transfers property of another or any interest therein with the purpose to benefit said person or another not entitled thereto.

(B) Theft is a **Class A misdemeanor** if the value of the property involved is in excess of \$500, or a **Class B misdemeanor** if the value of the property is in excess of \$100. Otherwise, theft is a **Class C misdemeanor**. If a defendant has been previously convicted of theft involving property valued in excess of \$500 or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

Title VIII- Criminal Offenses and Violations Code/C.C.J.**Sec. 115 Robbery**

(A) A person commits the offense of robbery if, in the course of committing theft under Sec. 114 and with intent to obtain or maintain control of the property, he:

- (1) Intentionally, knowingly, or recklessly causes bodily injury to another; or
- (2) Intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

(B) A violation of this section is a **Class A misdemeanor**.

Sec. 116 Aggravated Robbery

(A) A person commits the offense of aggravated robbery if he commits robbery as defined in Sec. 115, and he:

- (1) Causes serious bodily injury to another;
- (2) Uses or exhibits a deadly weapon; or
 - (a) Causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death, if the other person is fifty-five (55) years of age or is a vulnerable adult as defined as Sec. 132(E);

(B) An offense under this section is a **felony**.

Sec. 117 Burglary

(A) A person commits the offense of burglary if, without the effective consent of the owner, the person:

- (1) Enters a habitation, or a building (or any portion of a building) not then open to the public, with intent to commit a felony, theft, or an assault; or
- (2) Remains concealed, with intent to commit a felony, theft, or an assault, in a building or habitation; or
- (3) Enters a building or habitation and commits or attempts to commit a felony, theft, or an assault.

(B) For purposes of this section, “enter” means to intrude:

- (1) Any part of the body; or
- (2) Any physical object connected with the body.

(C) An offense under this section is a **felony**.

Sec. 118 Burglary of Vehicles

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(A) A person commits the offense of burglary of vehicles if, without the effective consent of the owner, he breaks into or enters a vehicle or any part of a vehicle with intent to commit any felony or theft.

(B) For purposes of this section, “enter” means to introduce:

(1) Any part of the body; or

(2) Any physical object connected with the body.

(C) A violation of this section is a **Class B misdemeanor**.

Sec. 119 Receiving Stolen Property

(A) A person commits the offense of receiving stolen property by purposely receiving, retaining, or disposing of property of another knowing that it has been stolen, or believing that it has probably been stolen. It is an exception if the property is received, retained, or disposed with purpose to restore it to the owner.

(B) *Receiving* means acquiring possession, control or title, or lending on the security of the property.

(C) Receiving stolen property is a **Class A misdemeanor** if the value of the property involved is in excess of \$500, or a **Class B misdemeanor** if the value of the property involved is in excess of \$100. Otherwise, theft is a **Class C misdemeanor**. If defendant has been previously convicted of receiving stolen property valued in excess of \$500 or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Sec. 120 Embezzlement

(A) A person commits the offense of embezzlement by having lawful custody of property not said person’s own, appropriates the property to said person’s own use, with intent to deprive the owner thereof.

(B) If the actor is a public official, acting within their official capacity, violation of subsection (A) is a **felony**.

(C) Embezzlement is a **Class A misdemeanor** if the value of the property involved is in excess of \$500 or is tribal funds in any value. Embezzlement is a **Class B misdemeanor** if the value of the property is in excess of \$100. Otherwise, embezzlement is a **Class C misdemeanor**. If a defendant has been previously convicted of embezzlement involving either property in excess of \$500 or tribal funds or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Sec. 121 Fraud

(A) A person commits the offense of fraud by willful misrepresentation or deceit, or by false interpreting, or by the use of false weights or measures obtains any money or other property.

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(B) Fraud is a **Class A misdemeanor** if the value of the property involved is in excess of \$500, or a **Class B misdemeanor** if the value of the property involved is in excess of \$100. Otherwise, theft is a **Class C misdemeanor**. If a defendant has been previously convicted of theft involving property valued in excess of \$500 or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Sec. 122 Forgery

(A) A person commits the offense of forgery by, with purpose to defraud or injure anyone, or with knowledge that said person is facilitating fraud or injury to be perpetrated by anyone, said person:

- (1)** Alters, makes, completes, authenticates, issues or transfers any writing of another without the other's authority; or
- (2)** Utters any writing which said person knows to be forged in a manner above specified.

(B) "**Writing**" includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege, or identification.

(C) Forgery is a **felony** if committed by a public official acting in their official capacity. Forgery is a **Class A misdemeanor** if the forged writing purports to be an official tribal document or is presented to any tribal department or Court. Otherwise, forgery is a **Class B misdemeanor**. If a defendant has been previously convicted of forgery involving a forged writing purporting to be an official tribal document or which was presented to a tribal department or Court or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

Sec. 123 Extortion

(A) A person commits the offense of extortion by willfully making false charges against another person or by any other means whatsoever, extorts or attempts to extort any monies, goods, property, or anything else of any value from another.

(B) Extortion is a **felony** if committed by a public official acting in their official capacity. Extortion is a **Class A misdemeanor** if the value of the money, goods, property or item involved is in excess of \$500, or a **Class B misdemeanor** if the value of money, goods, property or item involved is in excess of \$100. Otherwise, extortion is a **Class C misdemeanor**. If a defendant has been previously convicted of extortion involving money, goods, property or item valued in excess of \$500 or a comparable offense in excess of \$500

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or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Sec. 124 Unauthorized Use Of Automobiles And Other Vehicles

(A) A person commits the offense of unauthorized use of automobiles and other vehicles by operating another person's automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle without consent of the owner.

(B) It is an affirmative defense to prosecution under this section that the actor reasonably believed that the owner had previously consented to the operation.

(C) Unauthorized use of an automobile or other vehicle is a **Class B misdemeanor**.

Sec. 125 Tampering with Records

(A) A person commits the offense of tampering with records by, knowing that said person has no privilege to do so, said person falsifies, destroys, removes or conceals any writing or record, with purpose to deceive or injure anyone or to conceal any wrongdoing.

(B) Tampering with records by a public official acting in their official capacity is a felony. Otherwise, tampering with records is a **Class B misdemeanor**.

Sec. 126 Bad Checks

(A) A person commits the offense of bad checks by issuing or passing a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(B) For the purposes of this section, an issuer is presumed to know that the check or order would not be honored, if:

(1) The issuer had no account with the drawee at the time the check or order was issued; or

(2) Payment was refused by the drawee for lack of funds, on presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal.

(C) Issuing bad checks is a **Class C misdemeanor**.

Sec. 127 Unauthorized Use of Credit Cards

(A) A person commits the offense of unauthorized use of credit cards by using a credit card for the purpose of obtaining property or services with knowledge that:

(1) The card is stolen or forged; or

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- (2) The card has been revoked or cancelled; or
- (3) For any other reason said person's use of the card is unauthorized by the issuer.

(B) **"Credit card"** shall mean a writing or other evidence of an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

(C) Unauthorized use of a credit card is a **Class C misdemeanor**.

Sec. 128 Defrauding Secured Creditors

(A) A person commits the offense of defrauding secured creditors by destroying, concealing, encumbering, transferring or otherwise dealing with property subject to a security interest with purpose to hinder that interest.

(B) Defrauding secured creditors is a **Class C misdemeanor**.

Sec. 129 Neglect of Children

(A) A person commits the offense of neglect of children if:

- (1) A parent, guardian, or other person supervising the welfare of a child under eighteen (18) knowingly endangers the child's welfare by violating a duty of care, protection or support.
- (2) A parent, guardian, or other person supervising the welfare of a child under eighteen (18) neglects or refuses to send the child to school.

(B) Neglect of children in violation of paragraph (A)(1) of this Section is a **Class A misdemeanor**. Neglect of children in violation of paragraph (A)(2) of this Section is a **Class B misdemeanor**. If a defendant has been previously convicted of a violation of paragraph (A)(1) of this Section or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Sec. 130 Domestic Violence

(A) A person commits the offense of domestic violence by inflicting physical harm, strangulation, bodily injury, or sexual assault, or inflicting the fear of imminent physical harm, bodily injury, or sexual assault on a family member.

(B) For purposes of this section, a family member is any of the following:

- (1) A spouse;
- (2) A former spouse;
- (3) A person related by blood;
- (4) A person related by existing or prior marriage;
- (5) A person who resides or resided with the defendant;
- (6) A person with whom the defendant has a child in common; or

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(7) A person with whom the defendant is or was in a dating or intimate relationship.

(C) **“Sexual Assault”** means the sexual exploitation, forcible penetration, or an act of sexual contact on the body of another person, male or female, without his or her consent.

(D) **“Strangulation”** means intentionally and knowingly or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person’s throat or neck or by blocking the person’s nose or mouth.

(E) If the defendant inflicts actual physical harm, bodily injury or sexual assault on the victim, then domestic violence is a **felony**. If there is no actual physical harm, bodily injury or sexual assault on the victim, then domestic violence is a **Class A misdemeanor**, except where the defendant has been previously convicted of domestic violence or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Sec. 131 Interference with Emergency Telephone

(A) A person commits the offense of interference with emergency telephone if the said person knowingly prevents or interferes with another individual’s ability to place an emergency telephone call or to request assistance in an emergency from a law enforcement agency, medical facility, or other agency or entity the primary purpose of which is to provide of the safety of individuals.

Sec. 132 Child Or Vulnerable Adult Abuse

(A) A person commits the offense of child or vulnerable adult abuse by:

(1) Intentionally or knowingly causing a child or vulnerable adult to suffer physical injury; or

(2) Having the care or custody of a child or vulnerable adult, causes or permits the person or health of the child or vulnerable adult to suffer physical injury or who causes or permits a child or vulnerable adult to be placed in a situation where the person or health of the child or vulnerable adult is endangered.

(B) For the purposes of this Section, **“abuse”** shall mean intentional infliction of physical harm, injury caused by negligent acts or omissions, unlawful imprisonment, sexual abuse, or sexual assault.

(C) **“Child”** shall mean an individual who is under eighteen years of age.

(D) **“Physical injury”** shall mean the impairment of physical condition and includes any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition,

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dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition that imperils health or welfare.

(E) “Vulnerable adult” shall mean an individual who is eighteen (18) years of age or older and who is unable to protect himself from abuse, neglect or exploitation by others because of a mental or physical impairment.

(F) “Endanger” shall mean placing a child or vulnerable adult in a potentially harmful situation, either through intentional actions or negligence.

(G) Child or vulnerable adult abuse is a **Class A misdemeanor**. If a defendant has been previously convicted of child or vulnerable adult abuse or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a **felony**.

Sec. 133 Failure to Report Child or Vulnerable Adult Abuse or Neglect

(A) Any person having cause to suspect that either an individual as defined in Section 132 (C), (E) or elderly, defined as fifty-five (55) years of age or older, has been abused or neglected shall immediately report the suspected abuse or neglect to either the Tribal Police Department or the Tribal Social Services Department.

(B) Any person who in good faith makes a report pursuant to this Section or who testifies in any judicial proceeding arising from such report shall be immune from any civil or criminal liability because of such report or testimony.

(C) In addition to the obligation to report suspected abuse or neglect of a child or vulnerable adult, a professional shall also have an obligation to report any reasonable suspicion that a child or vulnerable adult may be abused or neglected in the future. A professional may not delegate to or rely on another person to make the report.

(D) “Professional” shall mean any of the following persons:

- (1)** Physician;
- (2)** Nurse;
- (3)** Dentist;
- (4)** Optometrist;
- (5)** Any other medical worker;
- (6)** Any mental health professional;
- (7)** School principal;
- (8)** School teacher;
- (9)** Other school official;
- (10)** Social worker;
- (11)** Head Start worker;
- (12)** Child day care worker;

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- (13) Recreational worker;
- (14) Youth Programs;
- (15) Law Enforcement official or peace officer;
- (16) Judge;
- (17) Court staff;
- (18) Peacemaker; and
- (19) Attorneys, but only when doing so does not violate the attorney-client privilege

(E) Failure to report suspected abuse or neglect of a child or a vulnerable adult is a **Class B misdemeanor**. The failure of a professional to make a report under paragraphs (A) or (C) of this Section is a **Class A misdemeanor**. If a defendant is a professional and has been previously convicted of a violation of paragraphs (A) or (C) of this Section or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Sec. 134 Persistent Non-Support

(A) A person commits the offense of persistent non-support by persistently failing to provide support which said person can provide and which said person knows said person is legally obligated to provide to a spouse, child or other dependent.

(B) Persistent non-support is a **Class B misdemeanor**. If a defendant has been previously convicted of persistent non-support or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

(C) If a person attempts to fulfill their support obligation by violating Section 122(A), such violation will be a **Class A misdemeanor**.

Sec. 135 Bribery

(A) A person commits the offense of bribery by offering, conferring, or agreeing to confer upon another, or solicits, accepts or agrees to accept from another any of the following:

- (1) Any pecuniary benefit as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion as a public servant, party official or voter; or
- (2) Any benefit as consideration for the recipient's decision, vote, recommendation or other exercise of official discretion in a judicial or administrative proceeding; or

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(3) Any benefit as consideration for a violation of a known legal duty as a public servant or party official.

(B) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way, whether because the other person had not yet assumed office, or lacked jurisdiction, or for any other reason.

(C) Bribery in violation of paragraph (1) or (2) of this Section is a **Class B misdemeanor**. Bribery in violation of paragraph (3) of this Section is a **Class A misdemeanor**. If a defendant has been previously convicted of bribery or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Sec. 136 Threats and Other Improper Influence in Official or Political Matters

(A) A person commits the offense of threats and other improper influence in official or political matters by:

(1) Threatening unlawful harm to any person with purpose to influence the other person's decision, vote or other exercise of discretion as a public servant, party official or voter; or

(2) Threatening harm to any public servant with purpose to influence the public servant's decision, opinion, recommendation, vote or other exercise of discretion in a judicial or administrative proceeding; or

(3) Threatening harm to any public servant with purpose to influence the public servant's decision, opinion, recommendation, vote or other exercise of discretion in a judicial or administrative proceeding; or

(B) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way, whether because the other person had not yet assumed office, lacked jurisdiction, or for any other reason.

(C) Threatening and other improper influence in official or political matter is a **Class A misdemeanor**. If a defendant has been previously convicted of threats and other improper influence in official or political matters or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Title VIII- Criminal Offenses and Violations Code/C.C.J.**Sec. 137 Retaliation for Past Official Action**

(A) A person commits the offense of retaliation for past official action by harming another by any unlawful act in retaliation for anything lawfully done by the latter in the capacity of public servant.

(B) Retaliation for past official action is a **Class A misdemeanor**. If a defendant has been previously convicted of retaliation for past official action or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a **felony**.

Sec. 138 Perjury

(A) A person commits the offense of perjury by in any official proceeding said person makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of a statement previously made, when the statement is material and said person does not believe it to be true.

(B) No person shall be guilty of an offense under this section if said person retracted the falsification in the course of the proceeding in which it was made before it became manifest that the falsification was or would be exposed and before the falsification substantially affected the proceeding.

(C) No person shall be convicted of an offense under this section where proof of falsity rests solely on contradiction by testimony of a single person other than the defendant.

(D) Perjury is a **Class B misdemeanor**.

Sec. 139 False Alarms

(A) A person commits the offense of false alarms by knowingly causing a false alarm of fire or other emergency to be transmitted to, or within any organization, official or volunteer, for dealing with emergencies involving danger to life or property.

(B) False alarms is a **Class B misdemeanor**.

Sec. 140 False Reporting

(A) A person commits the offense of false reporting by:

(1) Knowingly giving false information to any law enforcement officer with the purpose to implicate another; or

(2) Reporting to law enforcement authorities an offense or other incident within their concern knowing that it did not occur; or

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(3) Pretending to furnish such authorities with information relating to an offense or incident when said person knows said person has no information relating to such offense or incident.

(B) False reporting is a **Class B misdemeanor**. If a defendant has been previously convicted of false reporting or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a **felony**.

Sec. 141 Impersonating a Public Servant

(A) A person commits the offense of impersonating a public servant by falsely pretending to hold a position in the public service with purpose to induce another to submit to such pretended official authority or otherwise to act in reliance on that pretense to the other person's prejudice.

(B) Impersonating a public servant is a **Class B misdemeanor**.

Sec. 142 Disobedience to Lawful Order of Court

(A) A person commits the offense of disobedience to lawful order of a court by willfully disobeying any order, subpoena, summons, warrant or command duly issued, made or given by either the trial or appellate divisions of the Tribal Court or any officer thereof.

(B) Disobedience to lawful order of a court is a **Class C misdemeanor**.

Sec. 143 Resisting Arrest

(A) A person commits the offense of resisting arrest if, for the purpose of preventing a public servant from effecting a lawful arrest or discharging any other duty, said person creates a substantial risk of bodily injury to the public servant or anyone else, or employs means justifying or requiring substantial force to overcome the resistance.

(B) Resisting arrest is a **Class B misdemeanor**. If a defendant has been previously convicted of resisting arrest or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a **felony**.

Sec. 144 Obstructing Justice

(A) A person commits the offense of obstruction of justice by, knowingly hinders the apprehension, prosecution, conviction or punishment of another for a crime, said person harbors or conceals another person, provides a weapon, transportation, disguise or other means of escape, warns the other of impending discovery, or volunteers false information to a law enforcement officer.

(B) Obstruction of justice is a **Class A misdemeanor**. If a defendant has been previously convicted of obstruction of justice or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a **felony**.

Title VIII- Criminal Offenses and Violations Code/C.C.J.**Sec. 145 Escape or Evasion**

(A) A person commits the offense of escape if he intentionally flees from a person he knows is a peace officer attempting lawfully to arrest or detain him. A violation of this subsection is a **Class B misdemeanor**.

(B) Escape is a **Class A misdemeanor** if the actor uses a vehicle while the actor is in flight. Escape is a felony if another suffers physical injury as a result of the person's attempt to evade. If a defendant has been previously convicted of escape or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a **felony**.

Sec. 146 Bail Jumping

(A) A person set at liberty by court order, with or without bail, on condition that said person will subsequently appear at a specific time or place, commits the offense of bail jumping if, without lawful excuse, said person fails to appear at that time and place.

(B) Bail jumping is a **Class C misdemeanor**.

Sec. 147 Flight to Avoid Prosecution or Judicial Process

(A) A person commits the offense of flight to avoid prosecution or judicial process by absenting the territory over which the Tribal Court exercises jurisdiction for the purpose of avoiding arrest, prosecution or other judicial process shall be guilty of a **felony**.

(B) Flight to avoid prosecution or judicial process is a **Class C misdemeanor**.

Sec. 148 Witness Tampering

(A) A person commits the offense of witness tampering if, believing that an official proceeding or investigation is pending or about to be instituted, said person attempts to induce or otherwise cause a witness or information to:

- (1) Testify to inform falsely; or
- (2) Withhold any testimony, information, document or thing; or
- (3) Elude legal process summoning the witness to supply evidence; or
- (4) Absent the witness from any proceeding or investigation to which the witness has been legally summoned.

(B) Witness tampering is a **Class A misdemeanor**. If a defendant has been previously convicted of witness tampering or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a **felony**.

Title VIII- Criminal Offenses and Violations Code/C.C.J.**Sec. 149 Tampering With or Fabricating Physical Evidence**

(A) A person commits the offense of tampering with or fabricating physical evidence if, believing that an official proceeding or investigation is pending or about to be instituted, said person:

(1) Alters, destroys, conceals, or removes any record, document or thing with purpose to impair its verity or availability in such proceeding or investigation; or

(2) Makes, presents or uses any record, document or thing knowing it to be false and with the purpose to mislead a public servant who is or may be engaged in such proceeding or investigation.

(B) Tampering with or fabricating physical evidence is a **Class B misdemeanor**. If defendant is a public servant, tampering with or fabricating physical evidence is a **felony**.

Sec. 150 Riot; Failure to Disperse

(A) A person commits the offense of riot if said person participates with two or more others in a course of disorderly conduct:

(1) With purpose to commit or facilitate the commission of a felony or misdemeanor; or

(2) With purpose to prevent or coerce official action; or

(3) When the actor or any other participant to the knowledge of the actor uses or plans to use a firearm or other deadly weapon.

(B) A person commits the offense of failure to disperse if, where three or more persons are participating in a course of disorderly conduct likely to cause substantial harm or serious inconvenience, a person who refuses or knowingly fails to obey an order of a law enforcement offer to disperse.

(C) Riot is a **Class B misdemeanor**. Failure to disperse is a **Class C misdemeanor**.

Sec. 151 Harassment

(A) A person commits the offense of harassment if, with purpose to harass another, said person:

(1) Makes a telephone call without purpose or legitimate communication; or

(2) Insults, taunts or challenges another in a manner likely to provoke violent or disorderly response; or

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- (3) Makes repeated communications anonymously or at extremely inconvenient hours, or in offensively coarse language; or
- (4) Subjects another to an offensive touching;
- (5) Engages in cyber bullying through social media or texting; or
- (6) Engages in any other course of alarming conduct serving no legitimate purpose.

(B) Harassment is a **Class B misdemeanor**.

Sec. 152 Firearms on Tribal Lands

(A) No person shall carry any firearm in or within fifty (50) feet of any building or structure on lands owned or controlled by the Alabama-Coushatta Tribe of Texas, with the exception of private residences located on tribal lands, and provided that this regulation shall not apply to duly authorized tribal, federal, state or local law enforcement officers or to any tribal, federal, state or local government employee authorized to carry firearms in the course of their public employment.

(B) A violation of this section is a **Class B misdemeanor**.¹

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Sec. 153 Cruelty to Animals

(A) A person commits the offense of cruelty to animals if said person purposely or recklessly:

- (1) Subjects any animal in said person's custody to cruel neglect; or
- (2) Subjects any animal to cruel mistreatment; or
- (3) Kills or injures any animal belonging to another without legal privilege or consent of the owner; or
- (4) Causes one animal to fight with another.

(B) Cruelty to animals is a **Class B misdemeanor**.

Sec. 154 Abuse of Office

(A) A person commits the offense of abuse of office by acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity if, knowing said person's conduct is illegal, said person:

¹ Sec. 152 - Revised on November 10, 2015, by Tribal Council Resolution #2015-63

² Original Sec. 153 - Driving Under the Influence omitted on November 10, 2015, by Tribal Council Resolution #2015-63

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(1) Subjects another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien or other infringement of personal or property rights; or

(2) Denies or impedes another in the exercise or enjoyment of any right, privilege, power or immunity.

(B) Abuse of office is a **Class A misdemeanor**. If a defendant has been previously convicted of abuse of office or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a **felony**.

Sec. 155 Abuse of Psychotoxic Chemical Solvents

(A) A person commits the offense of abuse of psychotoxic chemical solvents by:

(1) Intentionally smelling or inhaling the fumes of any psychotoxic chemical solvent or possessing, purchasing, or attempting to possess or purchase any psychotoxic chemical solvent, for the purpose of causing intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system; or

(2) Selling, giving away, dispensing, or distributing, or offering to sell, give away, dispense or distribute, any psychotoxic chemical solvent knowing or believing that the purchaser or another person intends to use the solvent in violation of this section.

(B) This section does not apply to inhalation of anesthesia for medical or dental purposes.

(C) As used in this section, “psychotoxic chemical solvent” means any glue, gasoline, paint, hair spray, Lysol, or other substance containing one or more of the following chemical compounds:

(1) Acetone and acetate;

(2) Benzene;

(3) Butyl-alcohol;

(4) Methyl ethyl;

(5) Peptone;

(6) Pentachlorophenol;

(7) Petroleum ether; or

(8) Any other chemical substance the inhalation of whose fumes or vapors can cause intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system.

(D) The statement listing the contents of a substance packaged in a container by the manufacturer or producer thereof is rebuttable proof of the contents of the substance

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without further expert testimony if it reasonably appears that the substance in the container is the same substance placed therein by the manufacturer or producer.

(E) Abuse of psychotoxic chemical solvents is a **Class C misdemeanor**.

(F) Psychotoxic chemical solvents kept or used in violation of this section are declared contraband. Upon proof of a violation, these solvents must be forfeited to the Federal government by order of the court, following public notice and an opportunity for any person claiming an interest in the solvents to be heard.

Sec. 156 Possession of a Controlled Substance

(A) A person commits the offense of possession of a controlled substance by knowingly or intentionally possessing any controlled substance listed in 21 CFR Part 1308, as amended, unless:

- (1)** The Controlled Substances Act or Drug Enforcement Agency regulations specifically authorizes possession of the substance;
- (2)** The substance or preparation is excluded or exempted by 21 CFR 1308.21 through 1308.35, as amended; or
- (3)** The provisions of 42 U.S.C. 1996a (regarding traditional Indian religious use of peyote) apply.

(B) Possession of a controlled substance is a **Class A misdemeanor**. If a defendant has been previously convicted of possession of a controlled substance or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a felony.

(C) Any controlled substance involved in violation of this section is declared to be contraband. On proof of a violation of this section, the controlled substance must be forfeited to the Federal Government by order of the court, after public notice and an opportunity for any person claiming an interest in the substance to be heard.

(D) Any personal property used to transport, conceal, manufacture, cultivate, or distribute a controlled substance in violation of this section is subject to forfeiture to the Alabama-Coushatta Tribe of Texas by order of the court on proof of this use, following public notice and opportunity for any person claiming an interest in the property to be heard.

Sec. 157 Prostitution or Solicitation

(A) A person commits the offense of prostitution or solicitation by knowingly:

- (1)** Offering to engage, agreeing to engage, or engaging in sexual conduct for a fee; or

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(2) Soliciting another in a public place to engage in sexual conduct for hire.

(B) Prostitution or solicitation is a **Class C misdemeanor**.

Sec. 158 Contempt of Court

(A) A person commits the offense of contempt of court, if said person:

(1) Intentionally fails to maintain the respect due the Tribal Court; or

(2) Intentionally engages in any offensive conduct in the Tribal Court.

(B) Contempt of Court is a **Class C misdemeanor**.

Sec. 159 Aiding and Abetting

(A) A person commits the offense of aiding and abetting, if, with the intent to promote or facilitate the act or conduct constituting the commission of the offense, said person aids, abets or advises another person in planning or committing the offense.

(B) A person shall not be convicted of aiding and abetting if the principle offender is not found guilty of the underlying crime.

(C) A person convicted of the offense of aiding and abetting shall be subject to the same sentence as provided for the underlying crime.

Sec. 160 Conspiracy

(A) A person commits the offense of criminal conspiracy, if with the intent to promote or facilitate the commission of another offense, said person:

(1) agrees with another person or persons that they, or one or more of them, will engage in conduct which constitutes such other offense or an attempt to commit such other offense; or

(2) agrees to aid such other person or persons in planning and commission or such other offense or of an attempt to commit such other offense.

(B) Factual or legal impossibility of committing the other offense is not a defense to a charge of criminal attempt, if the other offense would have been committed had the attendant circumstances been as the actor believed them to be.

(C) A person convicted of conspiracy shall be subject to the same punishments that specified for the offense which was the subject of the conspiracy. However, the penalty shall not exceed the maximum specified for the offense which was the subject of the conspiracy, whether or not such other offense was committed.

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(B) A violation of this section may be punishable by up to a **\$250.00 civil fine for the first offense or up to \$500.00 for each subsequent offense plus restitution.**

Sec. 202 Simple Assault

(A) A person commits the violation of simple assault if said person:

(1) Knowingly or recklessly makes physical contact with another without their consent.

(B) A violation of this section may be punishable by up to a **\$250.00 fine for the first offense or up to \$500.00 for each subsequent offense.**

Sec. 203 Disorderly Conduct

(A) A person commits the violation of disorderly conduct if, with purpose to cause public inconvenience, annoyance or alarm or recklessly creating a risk thereof, said person:

(1) Engages in fighting or threatening, or in violent or tumultuous behavior;

(2) Makes unreasonable noise or an offensively coarse utterance, gesture or display, or addresses abusive language to any person present or in a public place;

(3) Creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor;

(4) Discharges a firearm on or across a public roadway; or

(5) Appears in a public place while intoxicated to the degree that the person may endanger the person or another.

(B) **Public** means affecting or likely to affect persons in a place to which the public has access; among the places included are highways, schools, prisons, apartments, places of business or amusement, or any neighborhood.

(C) A violation of this section may be punishable by up to a **\$250.00 fine for the first offense or up to \$500.00 for each subsequent offense.**

Sec. 204 Petty Theft

(A) A person commits the violation of petty theft who, without permission of the owner and the intent to deprive the owner thereof, takes, shoplifts, possesses or exercises unlawful control over property valued under \$50.00.

(B) A violation of this section may be punishable by up to a **\$250.00 fine for the first offense or up to \$250.00 for each subsequent offense.**

Sec. 205 Maintaining a Public Nuisance

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(A) A person commits the violation of maintaining a public nuisance who permits said person's property to fall into such condition as to injure or endanger the safety, health, comfort, or property of said person's neighbors or surrounding community.

(B) A violation of this section may be punishable by up to a **\$250.00 fine for the first offense or up to \$500.00 for each subsequent offense.**

(C) The Tribe may abate a declared public nuisance by conducting reasonable removal, repair, rehabilitation or demolition of the condition causing the violation. All costs incurred by the Tribe in conducting these reasonable removals, repairs, rehabilitations, or demolitions may be chargeable against the maintainer of the Public Nuisance.

(D) Absent an imminent health or safety concern, a person found liable under this section shall have fourteen (14) days after being found liable to abate the public nuisance before the Tribe may bring forth another action under this section or before the Tribe itself may undertake abatement measures. This fourteen (14) day time period may be enlarged at the time of judgment if it is deemed by the Court that more than fourteen (14) days is reasonably necessary to abate the public nuisance. Where an imminent health or safety concern exists, the Court shall take all necessary steps in its discretion to protect the health and safety of the Tribal community. This includes the discretion to authorize the Tribe to immediately conduct reasonable removal, repair, rehabilitation or demolition of the declared public nuisance at the time it finds the person liable for maintaining said nuisance, and the authority to mandate that all persons and animals vacate the premises while the proceeding is pending.

Sec. 206 Littering

A person commits the violation of littering if the person:

(A) Knowingly deposits in any manner litter on any public or private property or in any public or private waters, having no permission to do so; or

(B) Negligently deposits in any manner glass or other dangerously pointed or edged objects on or adjacent to water to which the public has lawful access for bathing, swimming, or fishing, or upon a public highway, or within the right of way thereof; or

(C) Discharges sewage, oil products or litter into a river, inland lake, or stream; or

(D) Drops or permits to be dropped or thrown upon any roadway any destructive or injurious material and does not immediately remove the same or cause it to be removed.

(E) **"Litter"** means rubbish, refuse, waste material, garbage, dead animals or fowl, offal, paper, glass, cans, bottles, trash, scrap metal, debris or any foreign substance of whatever kind and description, and whether or not it has value.

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(F) This section shall only apply to litter totaling less than fifteen (15) pounds or thirteen (13) gallons.

(G) A violation of this section may be punishable by up to a **\$250.00 fine for the first offense or up to \$500.00 for each subsequent offense.**

(H) The Tribe may abate litter by conducting timely reasonable removal of the condition causing the violation. All costs incurred by the Tribe in conducting these reasonable removals may be chargeable against the person found to be in violation under this section.

Sec. 207 Possession of Drug Paraphernalia

A person commits the violation of possession of drug paraphernalia if the person:

(A) Knowingly or intentionally uses or possesses with intent to use drug paraphernalia or instruments to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance absent the required permit or license from the tribal, state or federal agency responsible for regulating the controlled substance, or to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

(B) A violation of this section may be punishable by up to a **\$250.00 fine for the first offense or up to \$500.00 for each subsequent offense.**

Sec. 208 Wrongful Possession of Cough Syrup and Other Dangerous Intoxicants

A person commits the violation of wrongful possession of cough syrup and other dangerous intoxicants if the person:

(A) Possesses cough syrup or another dangerous intoxicant with the intent to cause intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system by smelling, inhaling or drinking the intoxicant in a manner that is different than its directed use and for a non-medical purpose.

(B) **“Dangerous Intoxicants”** shall mean:

(1) Any volatile organic solvent, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent; or

(2) Any aerosol propellant; or

(3) Any fluorocarbon refrigerant; or

(4) Any anesthetic gas.

(C) This section does not apply to inhalation of anesthesia for medical or dental purposes, or the use of intoxicants used for legitimate medical purposes when taken as directed.

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(D) A violation of this section may be punishable by up to a **\$250.00 fine for the first offense or up to \$500.00 for each subsequent offense.**

Sec. 209 Failure to Identify to Peace Officer

(A) A person commits the violation of failure to identify to a peace officer if said person, while not having a warrant outstanding, intentionally refuses to give, or falsely gives his name, residence address, or date of birth to a peace officer who has lawfully arrested the person and requested the information.

(B) A violation of this section may be punishable by up to a **\$250.00 fine for the first offense or up to \$500.00 for each subsequent offense.**

Sec. 210 Failure to Appear or Pay Fine

(A) A person commits the violation of failure to appear to pay a fine if said person intentionally or knowingly fails to appear for a Court date after being served with such notice, or willfully disobeys any order, subpoena, summons, warrant or command duly issued, including the timely paying of fines, fees, restitution, or the completion of community service or other ordered requirements of sentencing, made or given by either the trial or appellate divisions of the Alabama-Coushatta Tribal Court or any officer thereof;

(B) A violation of this section may be punishable by up to a **\$250.00 fine for the first offense or up to \$500.00 for each subsequent offense;**

(C) The Court may in its discretion excuse a failure to appear for good cause shown or extend the deadline for payment of fines where the person with good cause shown requests said extension before the payment is due.

Sec. 211 Prevented Execution of Civil Process

(A) A person commits the violation of prevention of the execution of civil process by intentionally or knowingly, through words or physical action, preventing the execution of any process in a civil cause.

(B) It is an exception to the application of this section that the actor evaded service of process by avoiding detection.

(C) A violation of this section may be punishable by up to a **\$250.00 fine for the first offense or up to \$500.00 for each subsequent offense.**

Sec. 212 Open Container

(A) A person commits the violation of open container by knowingly possessing an open container in a public place or the passenger area of a motor vehicle or boating vessel that is located on a public highway or public waterway, regardless of whether the motor vehicle or boating vessel is stopped or parked. Possession by a person of one or more open containers in a single episode is a single offense.

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(B) "Open container" means a bottle, can, or other receptacle that contains any amount of alcoholic beverage and that is open, that has been opened, that has a broken seal, or the contents of which are partially removed.

(C) "Passenger area of a motor vehicle or boating vessel" means the area designed for the seating of the operator and passengers of the vehicle or vessel. The term does not include:

- (1)** A glove compartment or similar storage container that is locked;
- (2)** The trunk of a vehicle; or
- (3)** The area behind the last upright seat of the vehicle, if the vehicle does not have a trunk.

(D) "Public highway" shall mean the entire width between and immediately adjacent to the boundary lines of any public road, street, highway, or other publicly maintained way if any part is open for public use for the purpose of motor vehicle travel. The term includes the right-of-way of a public highway.

(E) A violation of this section may be punishable by up to a **\$250.00 fine for the first offense and up to \$500.00 for all subsequent offenses.**

Sec. 213 Minor in Possession of Alcoholic Beverage

(A) Except as provided in Subsection (B) of this section, a person under the age of 21 commits the violation of minor in possession of an alcoholic beverage if said person possesses an alcoholic beverage.

(B) A minor may possess an alcoholic beverage:

- (1)** While in the course and scope of the minor's employment if the minor is an employee of a licensee or permittee and the employment is not prohibited by this code;
- (2)** If the minor is in the visible presence of his adult parent, guardian, or spouse, or other adult to whom the minor has been committed by a court; or
- (3)** If the minor is under the immediate supervision of a commissioned peace officer engaged in enforcing the provisions of this code.

(C) Subsection (A) does not apply to a minor who:

- (1)** Requested emergency medical assistance in response to the possible alcohol overdose of the minor or another person;
- (2)** Was the first person to make a request for medical assistance under Subdivision (1); and
- (3)** If the minor requested emergency medical assistance for the possible alcohol overdose of another person:
 - (a)** Remained on the scene until the medical assistance arrived; and

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(b) Cooperated with medical assistance and law enforcement personnel.

(D) A violation of this section may be punishable by up to a **\$250.00 fine for the first offense and up to \$500.00 for any subsequent offenses.**

Sec. 214 Minor in Possession of Tobacco Product

(A) A person commits the violation of minor in possession of tobacco product by:

(1) Possesses, purchases, consumes, or accepts a cigarette or tobacco product; or

(2) Falsely represents himself or herself to be eighteen (18) years of age or older by displaying proof of age that is false, fraudulent, or not actually proof of the individual's own age in order to obtain possession of, purchase, or receive a cigarette or tobacco product.

(B) It is an exception to the application of this section that the individual possessed the product in the presence of:

(1) An adult parent, a guardian; or

(2) An employer of the individual, if possession or receipt of the product is required in the performance of the employee's duties as an employee.

(C) A violation of this section may be punishable by up to a **\$250.00 fine for the first offense and up to \$500.00 for any subsequent offenses.**

Sec. 215 Discharging Firearms, Air Guns

(A) A person commits the violation of discharging firearms or air guns by willfully discharge any type of firearms, air rifle, hunting bow or archery bow within five hundred (500) feet of any inhabited building, home or in any place where the discharging of any of these weapons places any person in danger of injury.

(B) It is an exception to the application of this Section if discharge of the weapon is in a designated archery or rifle range, or is an area designated for hunting.

(C) A violation of this Section may be punishable by up to a **\$250.00 fine for the first offense and up to \$500.00 for all subsequent offenses.**

Sec. 216 Discharging Fireworks

(A) A person commits the violation of discharging fireworks by discharging any fireworks of an explosive or burning nature in any public building, private building, Tribal common area, Tribal forested area, or along any public highway on the Tribe's Reservation.

(B) **"Public highway"** shall mean the width between and immediately adjacent to the boundary lines of any public road, street, highway or other publicly maintained way

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if any part is open for public use for the purpose of motor vehicle travel. The term includes the right-of-way of a public highway.

(C) A violation of this Section may be punishable by up to a **\$250.00 fine for the first offense and up to \$500.00 for all subsequent offenses.**

Sec. 217 Extinguishing Campfire

(A) A person commits the violation of failing to extinguish a campfire by building a campfire in any Tribal forested area and failing to totally extinguish such campfire before leaving the area where the campfire is located.

(B) A violation of this Section may be punishable by up to a **\$250.00 fine for the first offense and up to \$500.00 for all subsequent offenses.**

Sec. 218 Polluting Lakes and Streams

(A) A person commits the violation of polluting lakes and streams by throwing or discharging a pollutant into any lake or stream on the Tribe's Reservation.

(B) **"Pollutant"** shall mean dredge, spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, wrecked or discarded equipment, rock, sand, cellular dirt, industrial waste, municipal waste, and agricultural waste.

(C) A violation of this Section may be punishable by up to a **\$250.00 fine for the first offense and up to \$500.00 for all subsequent offenses.**

Sec. 219 Assimilation of Texas Class C Misdemeanors

Unless inconsistent with any other provision contained herein, whoever within the territories of the Alabama-Coushatta Tribe of Texas is found in violation of any act or omission committed or omitted that would be punishable as a Class C misdemeanor in the State of Texas shall be liable for a like offense subject to **civil punishment not to exceed \$500.00**