

TITLE III - CRIMINAL OFFENSE CODE

CHAPTER 1. GENERAL PROVISIONS.

Sec. 101. Jurisdiction of the Chitimacha Tribe of Louisiana Over Persons Alleged to Have Committed Crimes and Offenses.

Unless expressly stated otherwise in this Title III of the Code, a person may be charged, tried, convicted, and sentenced under the criminal provisions of the Chitimacha Comprehensive Codes of Justice if the person is subject to the personal jurisdiction of the Chitimacha Tribal Court by virtue of the Chitimacha Tribe of Louisiana's sovereign authority and applicable federal law, and the person:

(a) Commits a crime or offense in whole or in part within the territorial jurisdiction of the Chitimacha Tribe of Louisiana; or

(b) Being outside the territorial jurisdiction of the Chitimacha Tribe of Louisiana, conspires with or aids and abets another to commit a crime or offense within the Chitimacha Tribe of Louisiana's territorial jurisdiction.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 101-A. Special Tribal Criminal Jurisdiction.

(a) Special Tribal Criminal Jurisdiction. The Tribe now exercises its inherent power, as recognized and affirmed in 25 U.S.C. § 1304 (Violence Against Women Act Reauthorization Act of 2022 ("VAWA '22")), to exercise Special Tribal Criminal Jurisdiction over non-Indians.

(b) The Tribe's Indian country. The Tribe's Special Tribal Criminal Jurisdiction applies to any person in the Tribe's Indian country and to offenses that fall into one or more of the following categories of Covered Crime. "Indian Country" means the definition given in 18 U.S.C. § 1511.

(c) Covered Crimes, Indian victim. The Tribe may exercise Special Tribal Criminal Jurisdiction over any non-Indian defendant whose victim is an Indian and who commits

any of the following Covered Crimes. “Indian” means the definition given in 25 U.S.C. § 1301(4).

- i. **Child Violence** is the use, threatened use, or attempted use of violence against a Child in violation of the Tribe’s criminal law. Child Violence includes, without limitation, the following offenses identified in this Title III when committed under the circumstances of this provision: Sections 301 (Murder), 304 (Causing or Aiding Suicide), 305 (Kidnapping), 307 (Rape), 308 (Sexual Assault), 313 (Indecent Behavior with a Juvenile), 314 (Solicitation of a Minor to Engage in Sexual Activity), 315 (Sex Trafficking), 320 (Simple Assault), 321 (Aggravated Assault – Severe Bodily Harm), 322 (Aggravated Assault – Dangerous Weapon), 323 (Aggravated Assault – Great Bodily Harm), 324 (Strangulation), 326 (Harassment and Stalking) of Chapter 3; Sections 532 (Child Abuse) and 535 (Cruelty to Juveniles) of Chapter 5; or, if the offense is committed against a Child who is a part of the offender’s family or household, Sections 607 (Domestic Violence).
- ii. **Dating Violence** is any violation of the Tribe’s criminal law when the crime is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, without limitation, the crimes ~~identified in Chapter 6 of this Title III~~ identified in Chapter 6 of this Title III, when the victim is an Intimate Partner, as defined Section 606, or when committed under the circumstances of this provision.
- iii. **Domestic Violence** is any violation of the Tribe’s criminal law that is committed by a spouse or intimate partner of the victim, as those terms are defined in Section 606(g) of this Title III. Domestic violence includes, without limitation, the crimes identified in Chapter 6 of this Title III, when committed under the circumstances in this provision.

- iv. **Sexual Violence** is any nonconsensual sexual act or contact in violation of the Tribe's criminal laws, including in any case in which the victim lacks the capacity to consent to the act. Sexual violence includes, without limitation, the crimes identified in Chapter 3 of this Title III, when committed under the circumstances in this provision.
- v. **Sex Trafficking** is conduct within the meaning of 18 U.S.C. § 1591(a),¹ including the offense of sex trafficking identified in Chapter 3, Section 315(a)(2), of this Title III.
- vi. **Stalking** is engaging in any course of conduct in violation of the Tribe's criminal law directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotion distress. Stalking includes, without limitation, the offenses that fall within the following parts of this Title III when committed under the circumstances in this provision: Chapter 3, including Section 326 (Harassment and Stalking); Chapter 4; and Chapter 5, Subchapter A, Subchapter B, or Section 522 of Subchapter E.
- vii. **Violation of a Protection Order** is an act that
- (1) occurs within the Tribe's Indian country, and
 - (2) violates the portion of a no contact order or protection order that:

¹18 U.S.C. § 1591(a) provides that whoever knowingly— (1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person; or (2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1), knowing, or, except where the act constituting the violation of paragraph (1) is advertising-- in reckless disregard of the fact, that means of force, threats of force, fraud, coercion described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

(a) prohibits or provides protection against violent or threatening acts of harassment against, sexual violence against, contact or communication with, or physical proximity to the person protected by the order;

(b) was issued against the defendant; and

(c) is consistent with 18 U.S.C. § 2265(b).²

Violation of a Protection Order includes, without limitation, the offenses identified in Sections 607 (Violation of No Contact Order) and 608 (Violation of Protection Order) of Chapter 6.

(d) **Covered Crimes, Indian or non-Indian victim.** The Tribe may exercise Special Tribal Criminal Jurisdiction over any non-Indian defendant, whether or not the victim is an Indian, who commits the following covered crimes:

i. **Assault of Tribal Justice Personnel** is any violation of the Tribe's criminal law that involves the use, attempted use, or threatened use of physical force against an individual authorized to act for, or on behalf of, the Tribe or serving the Tribe during, or because of, the performance or duties of that individual in:

(1) preventing, detecting, investigating, making arrests relating to, making apprehensions for, or prosecuting a covered crime;

(2) adjudicating, participating in the adjudication of, or supporting the adjudication of a covered crime;

(3) detaining, providing supervision for, or providing services for persons

² 18 U.S.C. § 2265(b) provides that a protection order issued by a State, tribal, or territorial court is consistent with this subsection if— (1) such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory; and (2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

charged with a covered crime; or

(4) incarcerating, supervising, providing treatment for, providing rehabilitation services for, or providing reentry services for persons convicted of a covered crime.

Assault of Tribal Justice Personnel includes, without limitation, the offenses that fall within the following parts of this Title III when committed under the circumstances in this provision: –Chapter 3, Subchapter A, Subchapter B, Subchapter C, Subchapter E, including Section 325A4 (~~Aggravated Assault – Public Official~~ Assault of Tribal Justice Personnel), and Subchapter F; and Sections 507 (Terroristic Threats), 518 (Resisting Arrest with Force or Violence), 519 (Resisting Arrest with Bodily Injury), and 521(b)(3) (Obstruction of Justice).

ii. **Obstruction of Justice** is any violation of the Tribe’s criminal law that involves interfering with the administration or due process of the laws of the Tribe, including any Tribal criminal proceeding or investigation of a crime. Obstruction of Justice includes, without limitation, the offenses that fall within the following parts of this Title III when committed under the circumstances in this provision: Section 3254 (Aggravated Assault – Public Official) of Chapter 3; and Chapter 5, Sections 507 (Terroristic Threats), 508 (Aiding Others in Terrorism), and Subchapter D.

(e) **Offenses not Enumerated; Penalty Proscribed.** Any person who violates the Tribe’s criminal law under circumstances that constitute the elements of any Covered Crime shall be subject to the Tribe’s Special Tribal Criminal Jurisdiction and, upon conviction, the penalty proscribed by the Tribe’s criminal law for the violation of the relevant offense, whether or not the particular offense is identified in this section as an example of a Covered Crime.

(f) No provision of this Section shall be interpreted to restrict a law enforcement officer’s duty to keep the peace, or to prohibit a law enforcement officer from detaining non-Indian offenders and turning them over to the proper authorities for prosecution.

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Sec. 102. Definitions.

For the purposes of this Title III, the following definitions shall apply:

(a) **Bodily harm.** “Bodily harm” means physical pain or injury, illness, or any impairment of physical condition.

(b) **Bodily injury.** “Bodily injury” means bodily harm for which medical attention is required.

(c) **Code.** “Code” means the Chitimacha Comprehensive Codes of Justice.

(d) **Conviction.** “Conviction” means any of the following obtained in a court of competent jurisdiction and accepted and recorded by the Chitimacha Tribal Court:

- (1) A plea of guilty;
- (2) A plea of no contest;
- (3) A verdict of guilty by a jury or a finding of guilty by the court after trial.

(e) **Crime.** “Crime” means conduct which is prohibited by the Chitimacha Comprehensive Codes of Justice or by any other duly enacted resolution or ordinance by the Chitimacha Tribal Council.

(f) **Dangerous weapon.** “Dangerous weapon” means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality that, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

(g) **Great bodily harm.** “Great bodily harm” means bodily harm or bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm or bodily injury.

(h) **Mental states.**

- (1) **“intentional”**. A defendant's state of mind is intentional or a defendant acts intentionally with respect to a result or to conduct if the defendant's conscious objective is to engage in such conduct or to cause such a result.
- (2) **“negligently”**. A defendant acts negligently or conduct is negligent if, with respect to a result or circumstance, a person should be aware of a substantial and unjustifiable risk that such a result will occur or that such a circumstance exists, and his or her conduct involves a significant deviation from the standard of care that a reasonable person would observe.
- (3) **“recklessly”**. A defendant acts recklessly or conduct is reckless if, with respect to a result or circumstance, a person consciously and unjustifiably disregards a substantial risk that such a result will occur or that such a circumstance exists, and the risk is of such a nature and degree that its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the situation.
- (4) **“knowingly”**. A defendant acts knowingly if, when he or she engages in the conduct, he or she knows or has a firm belief, unaccompanied by substantial doubt, that he or she is doing so whether or not it is his or her purpose to do so.

(i) **Minor**. Unless otherwise prescribed by this Code, “Minor” means a person under the age of eighteen (18) years. For the purposes of this Title III, a Child is a Minor.

(j) **Serious bodily harm**. “Serious bodily harm” means bodily harm or bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

(k) **Subsequent conviction, etc.** “Subsequent conviction” or “subsequent offense” means that prior to the commission of the violation, crime or offense charged, the alleged offender has been adjudicated guilty of a specified similar violation, crime, or offense by a court of competent jurisdiction.

(l) **Tribe.** “Tribe” means the Chitimacha Tribe of Louisiana.

(m) **Victim.** “Victim” means any person at whom the commission of a crime was directed or who suffered loss, damage or bodily harm as a result of the commission of the crime.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017;
[placeholder for adoption and effective dates](#))

Sec. 103. Criminal Offenses Based on Voluntary Conduct.

No person shall be convicted of an offense except based on conduct which includes a voluntary act or the omission to perform an act of which the defendant is physically capable. Unless otherwise provided in this Code with respect to a particular offense, an offense is established only if a person acts intentionally with respect to every element of the offense.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 104. Burden of Proof.

(a) The Chitimacha Tribe of Louisiana has the burden of proving each element of an offense beyond a reasonable doubt.

(b) Whenever the defendant introduces sufficient evidence of a defense to support a reasonable belief as to the existence of that defense, the Chitimacha Tribe of Louisiana has the burden of disproving such defense beyond a reasonable doubt unless this Code or another ordinance expressly requires the defendant to prove the defense by a preponderance of evidence.

(Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 105. Liability of Children and Minors.

Children under the age of seven (7) years are incapable of committing a crime. Unlawful acts committed by persons under the age of eighteen (18) years who are seven (7) years of age, or older, shall be addressed in accordance with the provisions of Title V of this Code.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 106. Ignorance or Mistake.

(a) Ignorance or mistake as to a matter of fact or law is a defense if:

- (1) the ignorance or mistake negates the necessary mental state required for the commission of an offense; or
- (2) the law provides that the state of mind established by such ignorance or mistake constitutes a defense.

(b) Whenever in this Code an offense depends on a child being less than twelve (12) years of age, it is no defense that the defendant did not know the child's age or reasonably believed the child to be older than twelve (12) years of age. When criminality depends on the child's being less than a critical age other than twelve (12) years of age, it is an affirmative defense for the defendant to prove that he reasonably believed the child to be above the critical age.

(Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 107. Intoxication.

(a) Intoxication is not a defense unless it negates an element of the offense.

(b) When negligence or recklessness is an element of the offense, self-induced intoxication is no defense.

(c) Intoxication does not, in itself, constitute a mental disease or defect within the meaning of Section 108.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 108. Mental Disease or Defect.

(a) A person is not responsible for criminal conduct if, at the time of such conduct, as a result of mental disease or defect, he or she lacks substantial capacity either to appreciate the wrongfulness of that conduct or to conform that conduct to the requirements of law.

(b) As used in this Section, the terms "**mental disease or defect**" do not include an abnormality manifested only by repeated criminal or otherwise anti-social conduct.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 109. Self-defense.

(a) The use of reasonable force is a defense when a person reasonably believes that such force is immediately necessary to protect himself or herself.

(b) A person is not justified in using force for the purpose of resisting arrest, execution of process, or other performance of duty by a public servant regardless of whether the conduct of the public servant is lawful; but clearly excessive force on the part of public servant may be resisted.

(c) A person is not justified in using force if the conduct of the person against whom force is used was provoked by the defendant himself with the intent to cause physical injury to that other person.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 110. Defense of Others.

The use of force in order to defend a third person is a defense if:

(a) the defendant reasonably believes that the person whom he seeks to protect would be justified in using such protective force; and

(b) the defendant has not, by provocation or otherwise, forfeited the right of self-defense; and

(c) the defendant reasonably believes that intervention is necessary for the protection of such other person.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 111. Defense of Property.

The use of force, other than deadly force, is a defense if the defendant reasonably believes that such force is necessary to prevent or terminate conduct which the defendant

reasonably believes the commission or attempted commission of which is a crime involving trespass, damage to or theft of property.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 112. Use of Deadly Force.

The use of deadly force is a defense only where the defendant reasonably believes that such force is necessary to protect himself, herself, or another person from death, great or serious bodily harm, kidnaping, a sexual act (as defined in Section 306) compelled by force or threat, or to prevent or terminate the commission or attempted commission of arson.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 113. Duress.

Duress is a defense only where the defendant reasonably believes that he or she is compelled to act by the threat of death or serious bodily harm such as would render a person of reasonable firmness incapable of resisting such threat.

Sec. 114. Entrapment.

Entrapment is a defense only where a law enforcement officer induces the defendant to commit an offense using persuasion or other means such as would cause a normally law-abiding person to commit the act or acts that are elements of the offense. Conduct merely affording the defendant an opportunity to commit the offense does not constitute entrapment.

CHAPTER 2. ANTICIPATORY CRIMES.

Sec. 201. Attempts.

(a) **Prohibited acts.** A person, with intent to commit a crime, does an act which is a substantial step toward, and more than preparation for, the commission of the crime, commits an attempt to commit that crime.

(b) **Impossibility of act.** An act may be an attempt notwithstanding the circumstances under which it was performed or the means employed to commit the crime

intended or the act itself were such that the commission of the crime was not possible, unless such impossibility would have been clearly evident to a person of normal understanding.

(c) **Defense.** It is a defense to a charge of attempt that the crime was not committed because the accused desisted voluntarily and in good faith abandoned the intention to commit the crime.

(d) **Penalty.** A person who attempts to commit a crime shall, upon conviction, be sentenced in the same manner as if that person had completed the crime.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 202. Criminal Complicity and Solicitation.

(a) **Prohibited acts.** A person may be convicted of an offense based upon the conduct of another person when:

- (1) acting with the state of mind sufficient for the commission of the offense, the defendant causes another person to engage in such conduct; or
- (2) with the intent that an offense be committed, the defendant solicits, request, commands, induces or intentionally aids another person to engage in such conduct.

(b) **Defense.** A person is not liable under this Section for the conduct of another if he terminates his complicity prior to the commission of the offense and gives timely warning to law enforcement authorities or otherwise makes proper effort to prevent the commission of the offense.

(c) **Penalty.** The penalty for being an accomplice to a crime is the same as the penalty for being a principal in the crime.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

CHAPTER 3. CRIMES AGAINST PERSONS.

Subchapter A. Homicide.

Sec. 301. Murder.

Whoever intentionally causes the death of another human being is guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 302. Manslaughter.

A person who recklessly causes the death of another human being is guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 303. Negligent Homicide.

A person who negligently causes the death of another human being is guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 304. Causing or Aiding Suicide.

A person who, by force, duress or deception, intentionally causes another person to commit or attempt to commit suicide, or aids or solicits another to commit or attempt to commit suicide is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter B. Kidnapping.

Sec. 305. Kidnapping.

(a) **Prohibited acts.** A person who does any of the following acts commits kidnaping:

- (1) removes another person against his or her will from his or her place of residence or business, or a substantial distance from the vicinity where he or she is located; or
- (2) confines another person for a substantial period against his or her will is guilty of kidnaping.

(b) **Penalty.** A person who commits kidnaping is guilty of a Felony and, upon conviction, may be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter C. Sexual Offenses.

Sec. 306. Definitions.

For the purposes of this Subchapter C, the following definitions shall apply:

(a) “Defendant” means the person alleged to have committed rape.

(b) “Coercion” means words or circumstances that cause the victim reasonably to fear that the defendant will inflict bodily harm upon, or hold in confinement, the victim or another, or force the victim to submit to a sexual act or contact, but proof of coercion does not require proof of a specific act or threat.

(c) “Consent” means a voluntary uncoerced manifestation of a present agreement to perform a particular sexual act with the defendant.

(d) “Force” means the infliction, attempted infliction, or threatened infliction by the defendant of bodily harm or commission or threat of any other crime by the actor against the victim or another, which causes the victim reasonably to believe that the actor has the present ability to execute the threat.

(e) “Intimate parts” includes the primary genital area, groin, inner thigh, buttocks, or breasts of a person.

(f) “Mentally incapacitated” means that a person under the influence of alcohol, a narcotic, anesthetic, or any other substance, administered to that person without the person’s agreement, who lacks the judgment to give a reasoned consent to a sexual act or contact.

(g) “Mentally impaired” means that a person, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give reasoned consent to a sexual act or contact.

(h) “Physically helpless” means that a victim is asleep or unconscious, unable to withhold consent or to withdraw because of a physical condition, or unable to communicate non-consent and the condition is known or reasonably should have been known by the actor.

(i) “Sexual act” or “sexual activity” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion however slight into the genital or anal openings of the victim’s body of any part of the defendant’s body or any object used by the defendant for this purpose, where the act is committed without the victim’s consent, except in those cases where consent is not a defense or is not an element of the offense.

(j) “Sexual contact” includes any of the following acts committed without the victim’s consent, except in those cases where consent is not a defense or is not an element of the offense, and committed with sexual or aggressive intent:

- (1) The intentional touching by the defendant of the victim’s intimate parts; or
- (2) The touching by the victim of the offender’s, the victim’s, or another’s intimate parts effected by coercion or the use of a position of authority, or by inducement if the victim is under twelve (12) years of age or mentally impaired; or
- (3) The touching by another of the victim’s intimate parts effected by coercion or use of authority; or
- (4) In any of the cases above, the touching of the clothing covering the immediate area of the intimate parts.

(k) “Victim” means the person or intended person against whom ~~a rape~~ an offense committed under this Chapter 3 is committed.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017; placeholder for adoption and effective date)

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Sec. 307. Rape.

(a) **Prohibited Acts.** A person who engages in a sexual act with another person, or who causes another person to engage in a sexual act, commits rape if:

- (1) the defendant coerces or forces the other person to submit to the sexual act; or
- (2) the defendant, or someone else with the defendant's knowledge, renders the other person mentally incapacitated for the purpose of engaging in a sexual act; or
- (3) the other person is physically helpless; or
- (4) the defendant knows that the other person submits because the other person falsely supposes the defendant to be someone else, unless the defendant is the spouse of the other person; or
- (5) the other person is under twelve (12) years of age. In this circumstance, neither mistake as to the other person's age nor consent to the act by the other person is a defense; or
- (6) the defendant knows that the other person is mentally impaired, unless the defendant is the spouse of the other person; or
- (7) the other person is in official custody or otherwise detained in a hospital, prison, or other similar institution and the defendant has supervisory or disciplinary authority over the detained person.

(b) **Penalty.** A person who commits rape is guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 308. Sexual Assault.

(a) **Prohibited acts.** A person commits sexual assault if that person intentionally has sexual contact with another or causes such other person to have sexual contact with the defendant, and:

- (1) the defendant coerces or forces the other person to submit to the sexual contact; or

- (2) the other person is under twelve (12) years of age. In this circumstance, neither mistake as to the other person's age nor consent to the act by the other person is a defense; or
- (3) the other person is in official custody or otherwise detained in a hospital, prison or other similar institution and the defendant has supervisory or disciplinary authority over the detained person.

(b) **Penalty.** A person who commits sexual assault is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 308A. Sexual Battery.

(a) Prohibited acts. A person commits sexual battery if that person intentionally touches any intimate parts of the victim using any instrumentality or any part of the body of the offender, directly or through clothing, or if the offender causes the touching of their own intimate parts by the victim using any instrumentality or any part of the body of the victim, directly or through clothing, when any of the following occur:

- (1) The offender acts without the consent of the victim.
- (2) The victim has not yet attained fifteen (15) years of age and is at least three (3) years younger than the offender.
- (3) The offender is seventeen (17) years of age or older and any of the following exist;
 - (i) The act is without consent of the victim, and the victim is prevented from resisting the act because either of the following conditions exist;
 - a. The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability.
 - b. The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.
 - (ii) The act is without consent of the victim, and the victim is sixty-five (65)

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years of age or older.

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(4) The provision of normal medical treatment or normal sanitary care shall not be construed as sexual battery.

(5) Lack of knowledge of the victim's age shall not be a defense.

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(b) Penalty. A person who commits sexual battery is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

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Sec. 309. Statutory Rape.

(a) **Prohibited acts.** A person eighteen (18) years of age or older who engages in a sexual act, with consent, with another person who is fourteen (14) years of age or older but less than sixteen (16) years of age, when the victim is not the spouse of the offender and when the difference between the age of the victim and the age of the offender is two (2) years or greater, commits statutory rape.

(b) **Penalty.** A person who commits statutory rape is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 310. Indecent Exposure.

(a) **Prohibited acts.** A person who exposes his or her genitals or other intimate parts under circumstances likely to cause affront or alarm commits indecent exposure.

(b) **Penalty.** A person who commits indecent exposure is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly. On a second or subsequent conviction under this Section, the offender shall be guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 311. Prostitution and Patronizing a Prostitute.

(a) **Prohibited acts.** A person commits prostitution or patronizing a prostitute if he or she:

- (1) is an inmate of a house of prostitution, manages a house of prostitution, or is otherwise engaged in sexual activity or contact as a business; or
- (2) solicits another person to hire a prostitute or commit an act of prostitution; or
- (3) loiters in view of any public place with the intent of being hired to engage in sexual activity or contact; or
- (4) hires a prostitute to engage in sexual activity or contact or enters or remains in a house of prostitution with intent to engage in sexual activity or contact; is guilty of prostitution or patronizing a prostitute.

(b) **Penalty.** A person who commits prostitution or patronizing a prostitute is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly, except that a person who patronizes a prostitute who is less than eighteen (18) years of age, irrespective of the patron's knowledge of the prostitute's age, is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 312. Bigamy.

(a) **Prohibited acts.** A person who marries another person while legally married to a second person commits bigamy.

(b) **Penalty.** A person who commits bigamy is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly.

(c) **Defense.** This Section shall not apply to a person whose spouse has been absent for five (5) successive years and is reasonably believed by the defendant to be dead.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 313. Indecent Behavior with a Juvenile.

A person who is eighteen (18) years of age or older and commits, with the intent to arouse or gratify the sexual desires of either the offender or the victim, a lewd or lascivious act upon the person or in the presence of a child under the age of seventeen (17), where there is an age difference of greater than two (2) years between the offender and the victim, is guilty of a Felony and, upon conviction, shall be sentenced accordingly. On a second conviction under this Section, the offender shall be guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly. Lack of knowledge of the person's age shall not be a defense.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 314. Solicitation of a Minor to Engage in Sexual Activity.

Whoever, being eighteen (18) years of age or older, commands, entreats, coerces, or attempts to persuade an individual under the age of fifteen (15) years to engage in a sexual act or contact with the intent to engage in such or similar conduct is guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 315. Sex Trafficking, Coercive Sex Trafficking, Aggravated Sex Trafficking.

(a) Prohibited acts.

(1) Trafficking by any means. Whoever commits the following conduct commits sex trafficking:

- i. knowingly receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to provide or aid in the provision of a sexual act, sexual contact, or the prostitution of that individual; or
- ii. receiving a profit or anything of value, whether tangible or intangible, knowing or having reason to know it is derived from an act described in clause (i) above.

(2) Trafficking by means of force, coercion, or deception. Whoever commits conduct that falls within the meaning of 18 U.S.C. § 1591(a) commits coercive sex trafficking.

(3) Aggravated Sex Trafficking. Whoever commits the following conduct commits aggravated sex trafficking:

i. The commission of sex trafficking within ten (10) years of being convicted of sex trafficking; or

ii. The commission of sex trafficking where the victim is a Child.

(b) Penalties.

(1) Whoever commits sex trafficking as proscribed by Section 315(a)(1) is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(2) Whoever commits coercive sex trafficking as proscribed by Section 315(a)(2) is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(3) Whoever commits aggravated sex trafficking as proscribed by Section 315(a)(3) is guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly.

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Subchapter D. Computer-Aided Sexual Offenses Involving Minors.

Sec. 316~~5~~. Definitions.

For the purposes of this Subchapter D alone, the following terms shall have the following definitions:

(a) “Access software provider” means a provider of software, including client or server software, or enabling tools that do any one or more of the following:

- (1) File, screen, allow, or disallow content.
- (2) Select, choose, analyze, or digest content.
- (3) Transmit, receive, display, forward, cache, search, organize, reorganize, or translate content.

(b) “Cable operator” means any person or group of persons who provides cable service over a cable system and directly, or through one or more affiliates, owns a significant interest in such cable system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

(c) “Coerce” shall include any of the following:

- (1) Causing or threatening to cause serious bodily injury.
- (2) Physically restraining or threatening to physically restrain another person.
- (3) Abduction or threatened abduction of an individual.
- (4) The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraining of an individual.
- (5) The abuse or threatened abuse of law or legal process.
- (6) Threatening to use or the use of debt bondage or fraud.

(d) “Debt bondage” means inducing an individual to provide commercial sexual activity in payment toward or satisfaction of a real or purported debt.

(e) “Distribute” means to issue, sell, give, provide, lend, mail, deliver, transfer, transmute, distribute, circulate, or disseminate by any means.

(f) “Electronic textual communication” means a textual communication made through the use of a computer on-line service, Internet service, or any other means of electronic communication, including but not limited to an Internet chat room, electronic mail, or online messaging service.

(g) “Interactive computer service” means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet and such systems operated or services offered by government, libraries, or educational institutions.

(h) “Pornography involving juveniles” is any photograph, videotape, film, or other reproduction, whether electronic or otherwise, of any sexual performance involving a child under the age of eighteen (18).

(i) “Produce” means to photograph, videotape, film, or otherwise reproduce pornography involving juveniles, or to solicit, promote, or coerce any child for the purpose of pornography involving juveniles.

(j) “Sexual conduct” means actual or simulated sexual intercourse, deviant sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or any lewd exhibition of the genitals or anus.

(k) “Sexual performance” means any performance or part thereof that includes actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse, or lewd exhibition of the genitals or anus.

(l) “Telecommunications service” means the offering of telecommunications for a fee directly to the public, regardless of the facilities used.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 3176. Pornography Involving Juveniles.

(a) **Prohibited acts.** It shall be unlawful for:

- (1) A person to produce, promote, advertise, distribute, possess, or possess with the intent to distribute pornography involving juveniles;
- (2) A parent, legal guardian, or custodian of a child to consent to the participation of the child in pornography involving juveniles.

(b) **Prima facie evidence.** The following shall be prima facie evidence of the intent to sell or distribute:

- (1) Possession of three or more similar photographs, images, films, videotapes, or other visual reproductions; or

- (2) Possession of three or more photographs, images, films, videotapes, or other visual reproductions and possession of any type of file sharing technology or software.

(c) **Defenses prohibited.** The following shall not serve as a defense to prosecution for a violation of this Section:

- (1) Lack of knowledge of the juvenile's age; or
- (2) The juvenile's consent to participating in the activity prohibited by this Section.

(d) **Penalty.**

- (1) **Possession.** Whoever intentionally possesses pornography involving juveniles is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly. On a second conviction under this Paragraph (1), the offender shall be guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly without the benefit of parole, probation, or suspension of the sentence.
- (2) **Distribution.** Whoever distributes or possesses with the intent to distribute pornography involving juveniles shall be guilty of a Felony and, upon conviction, shall be sentenced accordingly. On a second conviction under this Paragraph (2), the offender shall be guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly.
- (3) **Parent, guardian, or custodian consent.** Any parent, legal guardian, or custodian of a child who consents to the participation of the child in pornography involving juveniles shall be guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly.
- (4) **Production.** Whoever engages in the promotion, advertisement, or production of pornography involving juveniles shall be guilty of a Felony and, upon conviction, shall be sentenced accordingly. On a second conviction under this Paragraph (4), the offender shall be guilty of an

Enhanced Felony and, upon conviction, shall be sentenced accordingly without the benefit of parole, probation, or suspension of the sentence.

- (5) **Pornography involving juveniles under the age of thirteen.** Whoever commits the crime of pornography involving juveniles punishable by the penalties prescribed in Paragraphs (1), (2), (3), or (4) of this Subsection when the juvenile victim is under the age of thirteen (13) years and the offender is eighteen (18) years of age or older shall be guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly. On a second conviction under this Paragraph (5), the offender shall be guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly without the benefit of parole, probation, or suspension of the sentence.

(e) **Determining the age of the victim.** In prosecutions for violations of this Section, the trier of fact may determine, utilizing the following factors, whether the person displayed or depicted in any photograph, videotape, film, or other video reproduction introduced in evidence was under the age of eighteen (18) or thirteen (13) at the time of the filing or recording:

- (1) The general body growth, bone structure, and bone development of the person;
- (2) The development of pubic or body hair on the person;
- (3) The development of the person's sexual organs;
- (4) The context in which the person is placed or the age attributed to the person in any accompanying video, printed, or text material;
- (5) Available expert testimony and opinion as to the chronological age or degree of physical or mental maturity or development of the person;
- (6) Such other information, factors, and evidence available to the trier of fact which the court determines as relevant, probative, and reasonably reliable.

(f) **Inapplicability.** The provisions of this Section shall not apply to a provider of an interactive computer service, provider of a telecommunications service, or a cable operator as defined by the provisions of this Section.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 3187. Computer-Aided Solicitation of a Minor.

(a) **Prohibited acts.** Computer-aided solicitation of a minor is committed when:

- (1) A person eighteen (18) years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen (17) where there is an age difference of greater than two (2) years, or a person reasonably believed to have not yet attained the age of seventeen (17) and reasonably believed to be at least two (2) years younger, for the purpose of or with the intent to persuade, induce, entice, or coerce the person to engage or participate in sexual conduct, or with the intent to engage or participate in sexual conduct in the presence of the person who has not yet attained the age of seventeen (17), or person reasonably believed to have not yet attained the age of seventeen (17); or
- (2) A person eighteen (18) years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen where there is an age difference of greater than two (2) years, or a person reasonably believed to have not yet attained the age of seventeen (17) and reasonably believed to be at least two (2) years younger, for the purpose of or with the intent to arrange for any third party to engage in any of the conduct proscribed by the provisions of Paragraph (1) of this Subsection (a); or
- (3) The contact or communication subject to Paragraphs (1) or (2) of this Subsection (a) is initially made through electronic textual communication

and subsequent communication is made through the use of any other form of communication.

(b) **Defenses prohibited.** The following shall not serve as a defense to prosecution for a violation of this Section:

- (1) That the person reasonably believed to be under the age of seventeen (17) is a commissioned law enforcement officer or peace officer acting in his official capacity;
- (2) That the juvenile consented to participation in the activity prohibited by this Section.

(c) **Penalty.**

- (1) **Victim thirteen years or more.** Whoever violates the provisions of this Section when the victim is thirteen (13) years or more but has not attained the age of seventeen (17) shall be guilty of a Felony and, upon conviction, shall be sentenced accordingly. On a second conviction under this Paragraph (1), the offender shall be guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly.
- (2) **Victim under the age of thirteen.** Whoever violates the provisions of this Section when the victim is under thirteen (13) years of age shall be guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly. On a second conviction under this Paragraph (2), the offender shall be guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly without the benefit of parole, probation, or suspension of the sentence.
- (3) **Offender reasonably perceived age of victim.** Whoever violates the provisions of this Section, when the victim is a person reasonably believed to have not yet attained the age of seventeen (17), is guilty of a Felony and, upon conviction, shall be sentenced accordingly. On a second

conviction under this Paragraph (3), the offender shall be guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly.

- (4) **Sexual conduct involved.** If the computer-aided solicitation results in actual sexual conduct between the offender and victim and the difference between the age of the victim and the age of the offender is five (5) years or greater, the offender is guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly without the benefit of parole, probation, or suspension of the sentence.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter E. Assault and Related Offenses.

Sec. 3198. Assault Defined.

For the purpose of this Subchapter E, “assault” is:

- (a) an act done with intent to cause fear in another of immediate bodily harm or death; or
(b) the intentional infliction of or attempt to inflict bodily harm upon another.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 32019. Simple Assault.

(a) **Prohibited acts.** A person who does any of the following commits a simple assault:

- (1) commits an act with intent to cause fear in another of immediate bodily harm or death; or
(2) intentionally inflicts or attempts to inflict bodily harm upon another.

(b) **Penalty.** A person who commits simple assault is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 3210. Aggravated Assault – Severe Bodily Harm.

A person who assaults another with a dangerous weapon and inflicts severe bodily harm is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 3221. Aggravated Assault – Dangerous Weapon.

A person who assaults another with a dangerous weapon is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 3232. Aggravated Assault – Great Bodily Harm.

A person who assaults another and inflicts great bodily harm is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 324. Strangulation.

A person who intentionally impedes the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of the victim for the purpose of harming the victim or provoking fear in the victim is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

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Sec. 3253. Aggravated Assault – Public Official.

A person who assaults, resists, impedes, intimidates, or interferes with a commissioned law enforcement officer, tribal court judge, tribal court staff, tribal prosecutor, security guard, firefighter, medical emergency personnel, social worker, teacher, a Chitimacha Tribal Council member, or a Chitimacha Tribal Council member's immediate staff, when that official is engaged in the lawful performance of his or her duties, including when providing services to a

victim or a child, or on account of the performance of his or her duties commits an Aggravated Assault under this Section and is guilty of a Felony and, upon conviction, shall be sentenced accordingly, provided that a person who commits an Aggravated Assault under this Section and inflicts bodily injury must receive a minimum sentence of thirty (30) days in jail.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 325A. Assault of Tribal Justice Personnel.

A person who uses, attempts to use, or threatens to use physical force against a Tribal Justice Personnel is guilty of a felony, and upon conviction, shall be sentenced accordingly. For purpose of this Section, a Tribal Justice Personnel shall mean any individual authorized to act for, or on behalf of, the Tribe or serving the Tribe during, or because of, the performance or duties of that individual in any of the following activities:

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- (1) preventing, detecting, investigating, making arrests relating to, making apprehensions for, or prosecuting a crime;
- (2) adjudicating, participating in the adjudication of, or supporting the adjudication of a crime;
- (3) detaining, providing supervision for, or providing services for persons charged with a crime; or
- (4) incarcerating, supervising, providing treatment for, providing rehabilitation services for, or providing reentry services for persons convicted of a crime.

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Subchapter F. Abusive Conduct.

Sec. 3264. Harassment and Stalking.

(a) Prohibited Acts.

- i. A person who does any of the following commits harassment: knowingly and repeatedly commits unwanted or intrusive communications, acts, or gestures,

Commented [JP1]: Rearranged to accommodate a definition for stalking, which is a Covered Crime under VAWA 22. See Covered Crimes, Sec. 115.

including using a telephone, the Internet, a computer-aided device, cellular telephone, facsimile machine, video recorder, or any other similarly situated communication device, to repeatedly transmit images, writings, or sounds to another person for no lawful purpose; ~~or who~~ records images, writings, or sounds of another person for no lawful purpose; ~~or who~~ stalks, follows, peers or peeps into windows; ~~or who~~ commits any similar acts that are intended to adversely and unlawfully affect the safety, security, or privacy of another, regardless of the relationship between the offender and the victim, ~~is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.~~

ii. A person who engages in any conduct, including conduct identified in subdivision (a), directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress, commits stalking.

(a) Penalty. A person who commits Harassment or Stalking is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017;
placeholder for amended, adopted, effective dates)

Sec. 3275. Abuse of a Vulnerable Adult.

(a) **Definitions.** For the purposes of this Section, the following definitions shall apply:

(1) “Abuse” means an act against a vulnerable adult that constitutes a violation of or an attempt to violate:

(b) Assault as defined in Section 318 or Section 310 (Indecent Exposure);

(ii) Criminal sexual conduct in violation of Sections 307 (Rape), 308 (Sexual Assault), or 311 (Prostitution);

In addition, abuse means:

(c) Conduct which is not performed for any lawful or therapeutic purpose, which produces or could reasonably be expected to produce physical pain or injury or

emotional distress to a vulnerable adult, including hitting, slapping, biting, kicking, pinching or other similar conduct, or the use of repeated or malicious oral, written, or gestured language that would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening; or

(iv) The use of any deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult.

(2) “Caregiver” means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.

(3) “Financial exploit” means:

(d) Willfully using, withholding, or disposing of funds or property of a vulnerable adult; or

(ii) Forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult’s will to perform services for the profit or advantage of another.

(4) “Neglect” means a caregiver’s failure to supply a vulnerable adult with care or services, including food, clothing, shelter, health care, or supervision which is:

(e) Reasonable and necessary to obtain or maintain the vulnerable adult’s physical or mental health or safety considering the physical and mental capacity or dysfunction of the vulnerable adult; and

(ii) Which is not the result of an accident or therapeutic conduct.

(5) “Vulnerable adult” means any person eighteen (18) years or older who:

(f) Is a resident or inpatient of a facility or receives services from a licensed medical, therapeutic, or home care provider;

(ii) Regardless of residence or whether any type of service is received possesses an infirmity or other physical, mental, or emotional dysfunction that impairs the individual's ability to provide adequately for the individual's own care without assistance and because of the dysfunction or infirmity and the need for care or services, the individual ability to protect the individual's self from abuse, neglect, or financial exploit is impaired.

(b) **Prohibited acts.** A caregiver who knowingly and intentionally neglects, abuses, or financially exploits a vulnerable adult commits abuse of a vulnerable adult.

(c) **Affirmative defenses.** A caretaker who in good faith selects and depends on spiritual means or prayer for treatment or care of disease or remedial care of a vulnerable adult, this treatment or care is "health care" within the meaning of this Section.

(d) **Penalty.** A person who commits abuse of a vulnerable adult is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly, except that a person who commits an act that violates Subsection (a)(1)(ii) is guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

CHAPTER 4. CRIMES AGAINST PRIVATE PROPERTY.

Subchapter A. Arson.

Sec. 401. Arson.

(a) **Prohibited acts.** Except as specifically provided in this Section, a person who starts or maintains a fire or causes an explosion with intent to destroy or damage a building, occupied structure, motor vehicle, field, crop, or standing timber of another commits arson.

(b) **Exception.** A person who burns grass thatch or participates in a prescribed burn of timbered land is not guilty of arson.

€ **Penalty.** A person who commits arson is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter B. Burglary and Related Offenses.

Sec. 402. Burglary.

The person who enters a building or occupied structure, or a separately secured or occupied portion of a building or structure, with intent to commit a violent crime or crime related to theft therein is guilty of a Felony and, upon conviction, shall be sentenced accordingly, unless the premises are at the time open to the public or the defendant is licensed or privileged to enter.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 403. Criminal Trespass.

(a) **Prohibited acts.** A person who, knowing that he or she is not licensed or privileged to do so, does any of the following commits criminal trespass:

- (1) enters or surreptitiously remains in any building or occupied structure, or separately secured or occupied portion of a building or structure;
- (2) enters or remains in any place that belongs to another after being notified that he or she is forbidden to do so, either orally, in writing, or by a fence or other enclosure manifestly designed to exclude intruders; or
- (3) intentionally allows an animal to occupy or graze on the lands of another person.

(b) **Penalty.** A person who commits criminal trespass and enters or remains in any building or occupied structure is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly. Otherwise, a person who commits criminal trespass is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter C. Theft and Related Crimes.

Sec. 404. Theft.

(g) **Prohibited acts.** A person who does any of the following commits theft:

- (1) intentionally takes or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another with intent to deprive the owner thereof; or
- (2) intentionally obtains the property of another by misrepresentation or deception; or
- (3) intentionally obtains the property of another by threat of force; or
- (4) receives, retains or disposes of the property of another knowing that it has been stolen or believing that it has probably been stolen, unless the property is received, retained or disposed of with interest to restore it to the owner; or
- (5) comes into control of property of another that the defendant knows was lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient, and with intent to deprive the owner thereof, fails to take reasonable measures to restore the property to the person entitled to have it; or
- (6) intentionally obtains services, known by the defendant to be available only for compensation, by avoiding payment for the services, or, having control over the disposition of services of another to which he or she is not entitled, knowingly diverts those services to the defendant's own benefit or to the benefit of another not entitled thereto; or
- (7) intentionally disposes of, uses, or transfers any interest in property which has been entrusted to the defendant as a parent or guardian of a minor, or for any other reason, for other than the purpose or purposes for which the property was placed in trust; or
- (8) intentionally misbrands or alters the brand or mark on any livestock of another person is guilty of theft; or

- (9) intentionally takes or uses a movable which belongs to another, either without the other's consent, or by means of fraudulent conduct, practice, or representation, but without any intent to deprive the other of the movable permanently. A "movable" is property whose physical location can be changed.

(b) **Penalty.**

- (1) **Felony theft.** A person who commits theft where the amount exceeds Five Hundred Dollars (\$500.00) is guilty of a Felony and, upon conviction, shall be sentenced accordingly. On a second conviction under this Paragraph (1), the offender is guilty of a Felony and, upon conviction, shall be sentenced accordingly, provided that the convicted offender receives a minimum sentence of three (3) months in jail. On a third or subsequent conviction under this Paragraph (1), the offender shall be guilty of a Felony and, upon conviction, shall be sentenced accordingly, provided that the convicted offender receives a minimum sentence six (6) months in jail without the benefit of parole, probation, or suspension of sentence.
- (2) **Misdemeanor theft.** A person who commits theft where the amount is less than Five Hundred Dollars (\$500.00) is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly. On a second conviction under this Paragraph (2), the offender is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly, provided that the convicted offender receives a minimum sentence of forty-five (45) days in jail. On a third conviction under this Paragraph (2), the offender is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly, provided that the convicted offender receives three (3) months in jail without the benefit of parole, probation, or suspended sentence.

(Revised by Ordinance #3-98; Adopted: June 18, 1998; Effective: June 18, 1998; Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 405. Robbery.

(h) **Prohibited acts.** A person commits robbery if he or she, in the course of committing or attempting to commit a theft or while fleeing from the commission or attempted commission of a theft, does any of the following:

- (1) inflicts or attempts to inflict bodily injury upon another person; or
- (2) threatens or menaces another with immediate bodily injury is guilty of robbery.

(i) **Penalty.** A person who commits robbery is guilty of a Felony if the amount involved exceeds Five Hundred Dollars (\$500.00) and, upon conviction, shall be sentenced accordingly. Otherwise, a person who commits robbery is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #3-98; Adopted: June 18, 1998; Effective: June 18, 1998; Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 406. Criminal Mischief.

(j) **Penalty.** A person commits criminal mischief if he or she intentionally or recklessly does any of the following:

- (1) damages intangible property of another person; or
- (2) tampers with tangible property of another person so as to endanger person or property is guilty of criminal mischief.

(k) **Prohibited acts.** A person who commits criminal mischief is guilty of a Class A Misdemeanor if the defendant intentionally causes pecuniary loss in excess of One Hundred Dollars (\$100) and, upon conviction, shall be sentenced accordingly.

Otherwise, a person who commits criminal mischief is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 407. Issuing Bad Checks.

(a) **Prohibited acts.** A person who issues any check, draft or money order upon any bank or other depository knowing that there are not sufficient funds in his or her account to pay such check, draft or money order in full upon presentation commits issuing bad checks.

(b) **Penalty.** A person who commits issuing bad checks is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly. A person who receives a second or subsequent conviction for the act of issuing bad checks is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

€ **Limitation.** No person shall be prosecuted under this Section unless he or she has been notified in writing of the insufficiency of funds, has been given at least ten (10) days in which to make restitution, and has failed to make such restitution.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter D. Forgery and Related Crimes.

Sec. 408. Forgery.

(a) **Prohibited acts.** A person who, with intent to deceive or harm the Chitimacha Tribe of Louisiana or any other person, knowingly and falsely signs, executes, or alters a writing or written instrument or record so that it purports to have been made by another or by himself under an assumed fictitious name, or at another time, or with different provisions, or by authority of one who did not give such authority commits forgery.

(b) **Penalty.** A person who commits forgery where the amount involved exceeds Five Hundred Dollars (\$500.00) is guilty of a Felony and, upon conviction, shall be sentenced

accordingly. Otherwise, a person who commits forgery is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #3-98; Adopted: June 18, 1998; Effective: June 18, 1998; Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 409. Obtaining Signature by False Pretense.

Whoever, by false pretense, obtains the signature of another to a writing that is the subject of forgery under Section 408 is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

CHAPTER 5. CRIMES AGAINST THE PUBLIC ORDER.

Subchapter A. Explosives and Weapons Offenses.

Sec. 501. Carrying a Concealed Dangerous Weapon.

(a) **Prohibited acts.** A person commits carrying a concealed dangerous weapon if he or she carries, concealed about his or her person without specific governmental approval, a dangerous weapon (as defined by Section 102(f)).

(b) Penalty.

(1) Subject to Subsection (b)(2), a person who commits carrying a concealed dangerous weapon is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(2) A person who commits carrying a concealed dangerous weapon in a firearm-free zone is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(I) In addition to the penalties prescribed for such an offense, a person convicted of carrying a concealed dangerous weapon may be ordered by the Court to forfeit such weapon to the Chitimacha Tribal Police Department.

(Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 502. Possession of Explosives.

(a) **Prohibited acts.** A person who possesses, transports or controls any nitroglycerin, dynamite or other dangerous explosive, unless such explosive is possessed in the prosecution of or to effect a lawful purpose previously approved by the Chitimacha Tribal Council, commits possession of explosives.

(b) **Penalty.**

- (1) Subject to Subsection (b)(2), a person who commits possession of explosives is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.
- (2) A person who commits possession of explosives in a firearm-free zone is guilty of a Felony and, upon conviction, shall be sentenced accordingly.
- (3) In addition to the penalty prescribed for such an offense, a person convicted of possession of explosives may be ordered by the Chitimacha Tribal Court to forfeit such explosives to the Chitimacha Tribal Police Department.

(Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 503. Use of Dangerous Weapons by Children.

(m) **Prohibited acts.**

- (1) A parent, guardian, or other person having charge or custody of a minor under seventeen (17) years of age shall not knowingly allow such minor to carry or use in public a dangerous weapon.
- (2) A person who is under the age of seventeen (17) shall not knowingly possess a dangerous weapon.

(n) **Penalty.**

- (1) A person who commits use of a dangerous weapon by children in violation of Subsection (a)(1) is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly, except that a person so convicted who committed the offense in a firearm-free zone shall be guilty of a Felony and, upon conviction, shall be sentenced accordingly.
- (2) A person who commits use of a dangerous weapon by children in violation of Subsection (a)(2) is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly, except that a person so convicted who committed the offense in a firearm-free zone shall be guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(o) **Exclusion.** The provisions of this Section shall not apply where the person who is under the age of seventeen (17) is in the company and under the direct or indirect control of a parent, guardian, or other adult person.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 504. Unlawful Discharge of Firearms.

(a) **Prohibit acts.** A person who does any of the following acts commits unlawful discharge of firearms:

- (1) discharges a firearm in a careless or reckless manner so as to endanger a person or property within the Chitimacha Reservation;
- (2) discharges a firearm while located on the Chitimacha Reservation; or
- (3) discharges a firearm in a firearm-free zone.

(b) **Penalty.**

- (1) A person who commits unlawful discharge of firearms under Subsection (a)(1) or (a)(2) is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

- (2) A person who commits unlawful discharge of firearms under Subsection (a)(3) is guilty of a Felony and, upon conviction, shall be sentenced accordingly.
- (3) In addition to the penalty prescribed for such an offense, a person convicted of unlawful discharge of firearms may be ordered by the Chitimacha Tribal Court to forfeit such firearm to the Chitimacha Tribal Police Department.

(Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 505. Unlawful Possession of Firearms.

(a) **Prohibited acts.** A person other than a commissioned law enforcement officer engaged in official duties who does any of the following acts commits unlawful possession of firearms:

- (1) possesses, obtains, receives, sells or uses a short-barreled rifle (16" or less) or short-barreled shotgun (18" or less);
- (2) possesses or owns a firearm after having been convicted in any jurisdiction of a felony-level offense; or
- (3) possesses a firearm in a firearm-free zone, subject to the exclusions provided under Section 506E.

(b) **Penalty.**

- (1) A person who commits unlawful possession of firearms in violation of Subsections (a)(1) or (a)(2) is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.
- (2) A person who commits unlawful possession of firearms in violation of Subsections (a)(3) is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 506. Firearm-Free Zone.

(a) **Definitions.** For the purpose of this Section, the following definitions shall apply:

- (1) “School” means any institution designed for the teaching of students (or “pupils”) under the direction of Educators;
- (2) “School property” means all property used for school purposes, including but not limited to school playgrounds, as well as any building or area owned by the Chitimacha Tribe of Louisiana and used or operated as a playground or recreational facility and all parks and recreational areas administered by the Tribe; and
- (3) “Child day care center property” means property where children are cared for during the day by a person other than the child’s legal guardians, typically performed by someone outside the child’s immediate family.

(b) **Firearm-free zone.** For the purposes of Title III of this Code, “firearm-free zone” is an area inclusive of any school, school property, child day care center property, and within five hundred feet of any such location, and within a school bus or day care bus.

€ **Notice to the public.** The Chitimacha Tribal Police Department shall:

- (1) Publish a map clearly delineating the boundaries of each firearm-free zone in accordance with the specifications in Subsection (b). The firearm-free zone map shall be a public document and submitted to the Clerk of Court for the Chitimacha Tribal Court; and
- (2) Create signage that clearly communicates that an area is a firearm-free zone and that such zone extends to five hundred feet (500’) from the boundary of the area. Post the signs in a visible manner on or near each school and school property, on and in each school bus, on or near each child day care center property, and on and in each day care bus.

(d) **Prohibited acts and penalty.** A person who covers, defaces, alters, or destroys any sign or other marking identifying a firearm-free zone as provided in this

Section is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly.

€ **Properties excluded.** The provisions of this Section shall not apply to:

- (1) A government property devoted to law enforcement;
- (2) A commercial establishment which is permitted by law to have firearms or armed security; or
- (3) Private premises, including a home or vehicle, where a firearm is kept pursuant to law.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter B. Threats Made Against the Public Order.

Sec. 507. Terroristic Threats.

(a) **Prohibited acts.** A person who does any of the following commits terroristic threats:

- (1) Threatens 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 cause serious public inconvenience, or in reckless disregard of the risk of causing such terror or serious public inconvenience; or
- (2) Communicates to another with purpose to terrorize another or in reckless disregard of the risk of causing such terror, that explosives or an explosive device or any incendiary device is present at a named place or location, whether or not the same is in fact present.

(b) **Penalty.** A person who commits terroristic threats is guilty of a Felony and, upon conviction, may be sentenced accordingly.

(c) **Affirmative defense.** It shall be an affirmative defense that the person communicating the information provided for in Subsection (a) was not involved in the commission of a crime of violence or creation of a circumstance dangerous to human life and reasonably believed his actions were necessary to protect the welfare of the public.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 508. Aiding Others in Terrorism.

A person who raises, solicits, collects, or provides material support or resources with the intent that such will be used, in whole or in part, to plan, prepare, carry out, or aid in any act of terrorism or hinders the prosecution of terrorism, including harboring or concealing a person who is known or believed by the offender to have committed an act of terrorism or suppressing evidence which may aid in the discovery or apprehension of a person who is known or believed by the offender to have committed an act of terrorism, is guilty of a Felony and, upon conviction, may be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter C. Drugs and Related Offenses.

Sec. 509. Unlawful Production, Distribution, Intent to Distribute, Sale, Possession, or Use of Drugs.

(a) Definitions.

(1) "Drug" or "drugs" ~~shall include~~ means:

a. A "controlled substance" as defined by the Controlled Substances Act and 21 C.F.R Part 1308 ~~as of March 4, 2016;~~

~~(1) Gasoline, airplane glue, or any other similar noxious substance when inhaled for the purpose of producing intoxication; "Synthetic cannabinoids," which shall be defined as Composition of _____ schedules, which states:~~

~~Synthetic cannabinoids. Unless specifically excepted, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of a synthetic cannabinoid found to be in any of the following chemical groups, or any of those groups which contain any synthetic cannabinoid salts, isomers, salts of isomers, or nitrogen heterocyclic analogs, whenever the existence of such salts, isomers, salts of isomers, or nitrogen heterocyclic analogs is possible within the specific chemical groups:~~

~~b.~~

~~(i) Naphthylindoles:~~

~~Any compound containing a 3-(1-naphthoyl)indole structure, whether or not substituted in the indole ring to any extent or the naphthyl ring to any extent;~~

~~(ii) Naphthylmethylindeles:~~

~~Any compound containing a 1-H-indol-3-yl (1-naphthyl) methane structure, whether or not substituted in the indole ring to any extent or the naphthyl ring to any extent;~~

~~(iii) Naphthoylpyrroles:~~

~~Any compound containing a 3-(1-naphthoyl)pyrrole structure, whether or~~

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~~not substituted in the pyrrole ring to any extent or the naphthyl ring to any extent;~~

~~(iv) Naphthylmethylindenes:~~

~~Any compound containing a 1 (1 naphthylmethyl) indene structure, whether or not substituted in the indene ring to any extent or the naphthyl ring to any extent;~~

~~(v) Phenylacetylindoles:~~

~~Any compound containing a 3 phenylacetylindole structure, whether or not substituted in the indole ring to any extent or the phenyl ring to any extent;~~

~~(vi) Cyclohexylphenols:~~

~~Any compound containing a 2 (3 hydroxycyclohexyl) phenol structure, whether or not substituted in the cyclohexyl ring to any extent or the phenyl ring to any extent;~~

~~(vii) Benzoylindoles:~~

~~Any compound containing a 3 (benzoyl) indole structure, whether or not substituted in~~

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~~the indole ring to any extent or the phenyl ring to any extent;~~

~~(viii) Tetrahydrodibenzopyrans:~~

~~whether or not substituted in the tricyclic ring system except where contained in cannabis or cannabis resin;~~

~~(ix) Hexahydrodibenzopyrans:~~

~~whether or not substituted in the tricyclic ring system except where contained in cannabis or cannabis resin;~~

~~(x) Cyclopropanoylindoles:~~

~~Any compound containing a 3-(cyclopropanoyl)indole structure, whether or not substituted in the indole ring to any extent or the cyclopropyl ring to any extent;~~

~~(xi) Adamantoylindoles:~~

~~Any compound containing a 3-(1-adamantoyl)indole structure, whether or not further substituted in the indole ring to any extent or whether or not substituted in the adamantyl ring to any extent;~~

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~~(xii) Naphthylamidoindoles:~~

~~Any compound containing a N-(naphthyl) indole-3-carboxamide structure, whether or not further substituted in the indole ring to any extent or whether or not substituted in the naphthyl ring to any extent;~~

~~(xiii) Quinolinyndolecarboxylates:~~

~~Any compound containing a quinolin-8-yl-1H-indole-3-carboxylate structure, whether or not substituted in the indole ring to any extent or the quinoline ring to any extent;~~

~~(xiv) Adamantylamidoindoles:~~

~~Any compound containing a N-(adamantyl) indole-3-carboxamide structure, whether or not further substituted in the indole ring to any extent or whether or not substituted in the adamantyl ring to any extent;~~

~~(xv) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide;~~

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~~(xvi) N (1 amino 3, 3 dimethyl 1 oxobutan 2 yl) 1
pentyl 1H indole 3 carboxamide;~~

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~~(xvii) N (1 amino 3 methyl 1 oxobutan 2 yl) 1 (4
fluorobenzyl) 1H indazole
3 carboxamide;~~

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~~(xviii) N (1 amino 3 methyl 1 oxobutan 2 yl) 1 (5
fluoropentyl) 1H indazole
3 carboxamide;~~

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~~(xix) N (1 amino 3 methyl 1 oxobutan 2 yl) 1
pentyl 1H indazole 3
carboxamide;~~

~~(xx) (1 (5 fluoropentyl) 1H benzimidazol 2
yl) (naphthalen 1 yl) methanone;~~

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~~(xxi) (4 methylpiperazin 1 yl) (1 pentyl 1H indol
3 yl) methanone;~~

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~~(xxii) Naphthalen 1 yl 1 (4 fluorobenzyl) 1H
indole 3 carboxylate;~~

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~~(xxiii) N (1 amino 3, 3 dimethyl 1 oxobutan 2 yl) 1
(5 fluoropentyl) 1H indaz
ole 3 carboxamide;~~

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~~(xxiv) N (1 amino 3 methyl 1 oxobutan 2 yl) 1
(cyclohexylmethyl) 1H indole
1e 3 carboxamide;~~

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~~(xxv) N (1 amino 3,3 dimethyl 1 oxobutan 2 yl) 1
(5 fluoropentyl) 1H indole
3 carboxamide;~~

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~~(xxvi) N (1 amino 3 methyl 1 oxobutan 2 yl) 1 (5
fluoropentyl) 1H ndole 3
carboxamide;~~

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~~(xxvii) Naphthalen 1 yl 1 (5 fluoropentyl) 1H
indole 3 carboxylate; or~~

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~~(xxviii) N benzyl 1 pentyl 1H indole 3 carboxamide.~~

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c. (3)—"Legend drugs;" without a prescription: "legend drugs" are defined as any drug or drug product bearing on the label of the manufacturer or distributor, as required by the Federal Food and Drug Administration, the statement "Caution: Federal law prohibits dispensing without prescription."

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(2) "Drug" or "drugs" excludes:

- a. Products derived from "hemp," as that term is defined in 7 U.S.C. § 1639o, including cannabidiol or CBD products sold over the counter; and
- a-b. Medical marijuana, tetrahydrocannabinol or THC, or a chemical derivative of tetrahydrocannabinol or THC, when possessed and used in accordance with Louisiana's Therapeutic Use of Marijuana laws, La. R.S. § 40:1046.

(b) **Prohibited acts.** A person who knowingly produces, distributes, intends to distribute, sells, possesses or uses drugs, ~~including a controlled substance, marijuana, synthetic cannabinoids, legend drugs without a prescription, or any narcotic drug, including any substance containing opium, coca leaves, any opiate or any substance, compound or derivative thereof, any salt, compound, isomer derivative, or preparation thereof which is the chemical equivalent or identical with any of the substances referred to above, but not including the isoquinoline alkaloids of opium, or who shall inhale the fumes of any gasoline, airplane glue, or any other similar noxious substance for the purposes of producing intoxication~~ is guilty of the unlawful production, distribution, intent to distribute, sale, possession or use of drugs.

(c) **Penalty.**

- (1) **Production and distribution.** A person who commits unlawful production, distribution, intent to distribute or sale of drugs is guilty of a Felony and, upon conviction, shall be sentenced accordingly.
- (2) **Possession and use.**
 - (i) A person who commits unlawful possession or use of drugs is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly, provided that the drug possessed or used is marijuana.
 - (ii) A person who commits unlawful possession or use of drugs is guilty of a Felony and, upon conviction, shall be sentenced accordingly, provided that the drug possessed or used is any drug other than marijuana.
 - (iii) **Civil forfeiture.** Any drugs, drug paraphernalia and property used or obtained in the commission of any crime under this Section shall be subject to forfeiture as ordered by the Court.

(Revised by Ordinance #3-98; Adopted: June 18, 1998; Effective: June 18, 1998; Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017; placeholder for amended, adopted, effective dates)

Sec. 509-A. Unlawful Distribution, Sale, Possession and/or Use of Drug Paraphernalia.

(a) **Prohibited acts.** A person who knowingly, or under circumstances where one reasonably should know, sells, lends, gives, exchanges, or otherwise distributes, possesses or uses drug paraphernalia commits unlawful distribution, sale, possession, and/or use of drug paraphernalia.

(b) **Definition.** For the purposes of this Section, “**Drug Paraphernalia**” shall be defined as any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body ~~a controlled substance, possession of which is unlawful~~ drugs, as defined under in Section 509(a). It includes primarily intended or designed for ingesting, inhaling, or otherwise introducing ~~drugs~~ marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as:

- metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- water pipes;
- carburetion tubes and devices;
- smoking and carburetion masks;
- roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- miniature spoons with level capacities of one-tenth cubic centimeter or less;
- chamber pipes;
- carburetor pipes;
- electric pipes;
- air-driven pipes;
- chillums;
- bongs;

ice pipes or chillers;
wired cigarette papers, or;
cocaine free base kits.

(c) **Determining factors.** In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other legally relevant factors, the following:

- (1) Statements by the an owner or by anyone in control of the object concerning its use;
- (2) The proximity of the object to ~~controlled substances~~drugs;
- (3) The existence of any residue of ~~controlled substances~~drugs on the object;
- (4) instructions, oral or written, provided with the item concerning its use;
- (5) descriptive materials accompanying the item which explain or depict its use;
- (6) national and local advertising concerning its use;
- (7) the manner in which the item is displayed for sale;
- (8) whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (9) direct or circumstantial evidence of the ratio of sales of the item(s) to the total sales of the business enterprise;
- (10) the existence and scope of legitimate use of the item in the community;
and
- (11) expert testimony concerning its use.

(d) **Penalty.** A person who commits unlawful distribution, sale, possession and/or use of drug paraphernalia is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #3-98; Adopted: June 18, 1998; Effective: June 18, 1998; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017; placeholder for amended, adopted, effective dates)

Sec 509-B. Violation of Unlawful Production, Distribution, Intent to Distribute, Sale, Possession or Use of Drugs; Drug Free Zone.

(a) Prohibited acts.

- (1) Any person who violates a provision of Title III, Section 509, Unlawful production, distribution, intent to distribute, sale, possession or use of drugs on any property used for school purposes by any school, within two thousand feet (2,000') of any such property, or while on a school bus, shall, upon conviction, be punished in accordance.
- (2) Any person who violates a provision of Title III, Section 509, Unlawful production, distribution, intent to distribute, sale, possession or use of drugs while on property used as a drug treatment facility or within two thousand feet (2,000') of any such property, when included within an area marked as a drug free zone pursuant shall, upon conviction, be punished in accordance.
- (3) (a) Any person who violates a provision of Title III, Section 509, Unlawful production, distribution, intent to distribute, sale, possession or use of drugs while on any housing authority property, child day care center property, or within two thousand feet (2,000') of any such property, if the area is posted as a drug free zone, shall, upon conviction, be punished in accordance.

(b) In order for the provisions of this Section to apply to housing authority property, or child day care center property, the building must be posted as a drug free zone as provided herein. The design and posting of the signs shall be at the discretion of the entity that owns or has authority over the religious building, public housing authority property, or child day care center property. In order to post the area as a drug free zone, the signs shall be located in a visible manner on or near each housing authority

property, or child day care center property indicating that such area is a drug free zone, that such zone extends for a distance of two thousand feet (2,000'), and that a violation of Title III, Section 509, Unlawful production, distribution, intent to distribute, sale, possession or use of drugs will subject the offender to severe penalties under law.

(b) **Defense prohibited.** Lack of knowledge that the prohibited act occurred on or within two thousand feet (2,000') of school or drug treatment facility property shall not be a defense.

(c) **Definitions.** For purposes of this Section:

- (1) "School" means any institution designed for the teaching of students (or "pupils") under the direction of Educators.
- (2) "School property" means all property used for school purposes, including but not limited to school playgrounds, as well as any building or area owned by the Chitimacha Tribe of Louisiana and used or operated as a playground or recreational facility and all parks and recreational areas administered by the Tribe.
- (3) "Drug treatment facility" means all property used for diagnostic, treatment, and rehabilitative services to patients and their families with problems related to alcohol, drug, or substance abuse.
- (4) "Housing authority property" means all property owned or operated by a housing authority or agency created by The Chitimacha Tribe of Louisiana.
- (5) "Child day care center property" means property where children are cared for during the day by a person other than the child's legal guardians, typically performed by someone outside the child's immediate family.

(d) **Penalty.** A person who commits Violation of Unlawful Productions, Distribution, Intent to Distribute or Sale of Drugs in a Designated Drug Free Zone is guilty of an Enhanced Felony and, upon conviction, may be sentenced accordingly. A person who commits Unlawful

Possession or Use of Drugs in a Designated Drug Free Zone is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 509-C. Distribution to Persons Under Age Eighteen.

(a)(b) Prohibited acts.

- (1) A person who is twenty-five (25) years of age or older who violates Title III, Section 509 of this Code by distributing a drug to a person he or she knows is under eighteen (18) years of age is guilty of distribution to a person under age eighteen.
- (2) A person who is at least eighteen (18) years of age but under twenty-five (25) who violates Title III, Section 509 by distributing a drug to a person he or she knows is under eighteen (18) years of age commits distribution to a person under age eighteen under this Subsection(a)(2), provided that the drug recipient is at least three years (3) younger than the offender.

(b)(c) Penalty.

- (1) A person who commits distribution to a person under the age of eighteen (18) under Subsection (a)(1) is guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly.
- (2) A person who commits distribution to a person under the age of eighteen (18) under Subsection (a)(2) is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 509-D. Additional Penalties May be Imposed.

In addition to any penalties hereinabove provided, if the Chitimacha Tribe of Louisiana or any of its affiliated organizations pays expenses related to the care or medical services of the offender, the Chitimacha Tribe of Louisiana may seek restitution from any funds to be paid to the offender through annual per capita payments or minor's trust funds, now or in the future.

(Added by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 510. Falsification of Drug Tests.

(a) **Prohibited acts.** A person who does any of the following acts commits falsification of drug tests:

- (1) Submits to court-ordered drug testing, either after arrest for an offense and as a condition of pretrial release or after conviction of, or plea of guilty to, an offense and as a condition of probation, shall intentionally falsify or alter or attempt to falsify or alter the results of such a drug test by the substitution of urine or other samples or specimens or the use of any device in order to obscure or conceal the presence of a substance that the test is administered to detect; or
- (2) Knowingly deliver, possess with the intent to deliver, or manufacture with the intent to deliver a substance or device designed or intended solely to falsify or alter drug test results.

(b) **Penalty.** A person who commits falsification of drug test results is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter D. Offenses Involving Governmental Processes.

Sec. 511. Bribery.

(a) **Prohibited acts.** A person commits bribery if he or she intentionally offers, gives, or agrees to give another, or solicits, accepts, or agrees to accept from another, anything of value as consideration:

- (1) to influence the recipient's official action as a public servant; or
- (2) to induce the recipient's violation of a known legal duty as a public servant is guilty of bribery.

(b) **Penalty.** A person who commits bribery is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 512. Interfering with Elections.

(a) **Prohibited acts.** A person commits interfering with elections if he or she does any of the following:

- (1) coerces, threatens, injures or intimidates another person with respect to voting, qualifying to vote, qualifying or campaigning as or for a candidate for elective office, or qualifying or acting as an election official, in any primary, special, or general election of the Chitimacha Tribe of Louisiana;
- (2) in connection with any election of the Chitimacha Tribe of Louisiana, makes or induces any false voting registration;
- (3) in connection with any election of the Chitimacha Tribe of Louisiana, offers, gives, or agrees to give anything of pecuniary value to another person as consideration for the recipient's voting or withholding his or her vote or voting for or against any candidate or issue or for such conduct by another;
- (4) solicits, accepts, or agrees to accept anything of pecuniary value as consideration for conduct prohibited under Subsections (b) or (c); or
- (5) otherwise obstructs or interferes with the lawful conduct of an election of the Chitimacha Tribe of Louisiana or registration therefore.

(b) **Penalty.** A person who commits interfering with elections under Subsections (a)(1) through (4) is guilty of a Felony and, upon conviction, shall be sentenced accordingly. A person

who commits interfering with election under Section (a)(5) is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 513. Prohibited Campaigning.

A person who violations Title X, Chapter 6, Section 608 of the Code is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 514. Hindering Law Enforcement.

(a) **Prohibited acts.** A person commits hindering law enforcement if he or she knows that another person has or may have committed a criminal offense and intentionally interferes with, hinders, delays, or prevents the discovery, arrest, prosecution, conviction, or punishment of such other person by:

- (1) harboring or concealing such other person;
- (2) providing such other person with a weapon, money, transportation, disguise, or other means of avoiding discovery or apprehension;
- (3) warning such other person of impending discovery or apprehension, unless the warning is intended to induce such person to give himself up to a law enforcement officer;
- (4) giving false information or a false report to a law enforcement officer, knowing such information or report to be false, or
- (5) attempting to influence the deliberations of a jury; is guilty of hindering law enforcement.

(b) **Penalty.** A person who commits hindering law enforcement is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 515. Perjury.

(a) **Prohibited acts.** A person who, in any official proceeding of the Chitimacha Tribe of Louisiana, makes a false statement or interpretation under oath or equivalent affirmation, or swears or affirms the truth of a statement of interpretation previously made when the statement or interpretation is material and the defendant does not believe it to be true, commits perjury.

Falsification is “material” if it could have affected the course or outcome of the proceeding.

(b) **Penalty.** A person who commits perjury is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 516. Criminal Contempt.

(a) **Contempt power.** All courts of the Chitimacha Tribe of Louisiana have power to punish for contempt of their authority.

(b) **Prohibited acts.** A person commits criminal contempt by doing any of the following:

- (1) misbehavior of any person in the presence of the Chitimacha Tribal Court or so near thereto as to obstruct the administration of justice; or
- (2) disobedience or resistance to any process, order, subpoena, warrant or command of the Chitimacha Tribal Court.

(c) **Penalty.** A person who commits criminal contempt is guilty of a Class A Misdemeanor and, upon conviction, shall be convicted accordingly.

(Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 517. Resisting a Law Enforcement Officer.

(a) **Prohibited acts.** A person commits resisting a law enforcement officer if the person has reasonable grounds to believe that the victim is a law enforcement officer acting in the performance of his or her official duties and does any of the following:

- (1) refuses to give his or her name or provides false information regarding his or her identity; or
- (2) flees from a law enforcement officer.

(b) **Penalty.** A person who commits resisting a law enforcement officer is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly.

(c) **Legality of arrest irrelevant.** A person is guilty of resisting a law enforcement officer regardless of whether the arrest is lawful.

(d) **Affirmative defense.** It is a defense to a prosecution under this Section to resist force that is clearly excessive.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 518. Resisting Arrest with Force or Violence.

(a) **Prohibited acts.** A person commits resisting arrest with force or violence if the person has reasonable grounds to believe that the victim is a law enforcement officer acting in the performance of his or her official duties and the person does any of the following:

- (1) creates a substantial risk of bodily harm to a law enforcement officer; or
- (2) knowingly uses force or violence to resist the arrest.

(b) **Penalty.** A person who commits resisting arrest with force or violence is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(c) **Legality of arrest irrelevant.** A person is guilty of resisting arrest with force or violence regardless of whether the arrest is lawful.

(d) **Affirmative defense.** It is a defense to a prosecution under this Section to resist force that is clearly excessive.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 519. Resisting Arrest with Bodily Injury.

(a) **Prohibited acts.** A person commits resisting arrest with bodily injury if the person has reasonable grounds to believe that the victim is a law enforcement officer acting in the performance of his or her official duties and the person intentionally inflicts bodily injury upon a law enforcement officer after being told by a law enforcement officer that he or she is under arrest.

(b) **Penalty.** A person who commits resisting arrest with bodily injury is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(c) **Legality of arrest irrelevant.** A person is guilty of resisting arrest with bodily injury regardless of whether the arrest is lawful.

(d) **Affirmative defense.** It is a defense to a prosecution under this Section to resist force that is clearly excessive.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 520. Escape.

(a) **Prohibited acts.** A person who unlawfully removes himself or herself from official detention or fails to return to official detention following temporary leave granted for a specific purpose or limited period commits escape.

"Official detention" does not include supervision of probation or parole or constraint incidental to release on bail.

(b) **Penalty.** A person who commits escape is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 521. Obstruction of Justice.

(a) **"Tribal Justice Personnel"** means an individual authorized to act for, or on behalf of, the Tribe or serving the Tribe during, or because of, the performance or duties of that

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individual in:

- (1) preventing, detecting, investigating, making arrests relating to, making apprehensions for, or prosecuting a criminal offense;
- (2) adjudicating, participating in the adjudication of, or supporting the adjudication of a criminal offense;
- (3) detaining, providing supervision for, or providing services for persons charged with a criminal offense; or
- (4) incarcerating, supervising, providing treatment for, providing rehabilitation services for, or providing reentry services for persons convicted of a criminal offense.

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(b) **Prohibited acts.** Whoever intentionally does any of the following acts commits obstruction of justice:

- (1) obstructs, hinders, or prevents the lawful execution of any legal process, civil or criminal, or apprehension of another on a charge or conviction of a criminal offense;
- (2) obstructs, resists, or interferes with a law enforcement officer while the officer is engaged in the performance of official duties; or
- (3) by force or threat of force, endeavors to obstruct Tribal Justice Personnel who are lawfully engaged in the performance of their official duties for the purpose of deterring or interfering with the performance of those duties.

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Subchapter E. Disorderly Conduct and Related Offenses.

Sec. 5221. Disorderly Conduct.

(a) **Prohibited acts.** A person who, with intent to harass, alarm or annoy another person, or in reckless disregard of the fact that another person is harassed, annoyed or alarmed by his or her behavior, does any of the following acts commits disorderly conduct:

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

- (2) makes loud or disturbing noise after 10:00 p.m. unless in connection with a function previously authorized by the Chitimacha Tribal Council;
- (3) in a public place, uses abusive or obscene language, or makes an obscene gesture;
- (4) obstructs vehicular or pedestrian traffic, or the use of a public facility;
- (5) persistently follows another person in or about a public place or places;
- (6) solicits sexual activity, as defined in Section 306, while loitering in a public place;
- (7) creates a hazardous, physically offensive, or seriously alarming condition by an act which serves no legitimate purpose;
- (8) appears in an intoxicated condition; or
- (9) interrupts any lawful assembly of people.

(b) **Penalty.** A person who commits disorderly conduct is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 5221-A. Possession and/or Consumption of Alcohol in Designated Park/Recreational Areas Prohibited.

(a) **Prohibited acts.** A person who possesses and/or consumes alcohol within any designated park/recreational area on the Chitimacha Reservation commits possession and/or consumption of alcohol in a designated park/recreational area unless:

- (1) specific authorization for same has been obtained in accordance with Title XIV of this Code; or
- (2) in conjunction with an authorized tribal or community activity.

(b) **Penalty.** Any person violating a provision of this section shall be issued a citation for a “Civil Infraction,” for which the procedures contained within Title VII, Chapter 2, shall apply. An Indian who receives a second or subsequent conviction for possession and/or

consumption of alcohol in a designated part/recreational area is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #3-99; Adopted: October 21, 1999; Effective: October 21, 1999; Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 5232. Mistreatment of Animals.

(a) **Prohibited acts.** A person commits mistreatment of animals by:

- (1) intentionally, recklessly or negligently, unnecessarily or cruelly beating, mutilating, killing, torturing or abusing any animal, or causing same to be cruelly beaten, mutilated, killed, tortured or abused; or
- (2) failing to adequately house, feed, water or maintain and care for any animal or animals that the person owns, keeps, or is responsible for.

(b) **Penalty.**

- (1) Subjection to Subsection (b)(2), a person who commits mistreatment of animals is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.
- (2) A person who commits mistreatment of animals such that the conduct that forms the basis of their conviction results in the death of the animal and/or animals is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #13-93; Adopted: October 1, 1993; Effective: October 1, 1993; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter F. Gambling.

Sec. 5243. Illegal Gambling.

(a) **Title XII prohibitions and penalties.** The criminal offenses provided for in Title XII of this Code, including under Title XII, Chapter 4, Section 414, are now incorporated herein and shall be applied to determine whether a person has committed a criminal offense. A person who

commits a criminal offense under Title XII is guilty of the corresponding penalty prescribed by Title XII and, upon conviction, shall be sentenced accordingly.

(b) **Other prohibited acts.** In addition to the offenses provided for under Subsection (a), a person who does any of the following acts commits illegal gambling:

- (1) conducts a wagering pool or lottery for his or her own profit;
- (2) receives wagers for or on behalf of another person for his or her own profit;
- (3) alone or with others, owns, controls, manages, or finances a gambling business;
- (4) knowingly leases or otherwise permits a place to be regularly used to carry on a gambling business;
- (5) maintains a coin-operated gaming device for his or her own profit;
- (6) is under the age of twenty-one (21) and:
 - (i) plays casino games, gaming devices, or slot machines; or
 - (ii) enters any other designated gaming area licensed or operated under the laws of the Chitimacha Tribe of Louisiana or the laws of the State of Louisiana;

(c) **Penalty.** A person who commits illegal gambling is guilty of a Class A Misdemeanor and, upon conviction, may be sentenced accordingly.

(d) **Exclusions.** Illegal gambling does not include:

- (1) lawful contests of speed, strength, or endurance in which awards are made only to entrants or to the owners of entrants;
- (2) lawful business transactions; or
- (3) activities authorized by Title XII of this Code.

(Revised by Ordinance #2-96; Adopted: August 15, 1996; Effective: August 15, 1996; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter G. Exploitation of Children.

Sec. 5254. Contributing to the Delinquency of a Minor.

A person, including a parent or other person with lawful custody of a minor, who intentionally, negligently, or recklessly causes, encourages, contributes to or aids a minor in committing a delinquent act or status offense, is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 5265. Failure to Support a Dependent Person.

A person who knowingly fails to provide support he or she is legally obligated to provide to his or her child born in or out of wedlock or to another dependent is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly. A person who receives a second or subsequent conviction for violating this Section is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 5276. Failure to Send a Child to School.

(a) **Child defined.** For the purpose of this Section, a child is a person under the age of sixteen (16) years of age.

(b) **Prohibited acts.** A person who, without justification or excuse, fails to send a child under his or her care to school commits failure to send a child to school.

(c) **Penalty.** A person who commits failure to send a child to school is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly. A person who receives a second or subsequent conviction for failure to send a child to school is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 5287. Unlawful Possession of Intoxicating Beverages by Minors.

A person under the age at which persons are permitted by the law of Louisiana to possess intoxicating beverages who purchases or has in his or her possession any intoxicating beverage is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly. In addition to the penalty prescribed for such an offense, all alcoholic beverages possessed in violation of this Section will be forfeited to the Chitimacha Tribe of Louisiana, and disposed of in accordance with the order of the Court.

(Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 5298. Unlawful Sale of Intoxicating Beverages to Minors.

A person who knowingly sells or barter to any person who is under the age at which persons are permitted by the law of Louisiana to possess intoxicating beverages any intoxicating liquors or alcoholic beverages is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 53029. Unlawful Sale of Tobacco to Minors and Unlawful Possession of Tobacco by Minors.

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(a) A person who knowingly sells or barter any tobacco product, alternative nicotine products, or vapor product, as those terms are defined by Louisiana law and include dip, chew, cigarettes, cigars, non-combustible products containing nicotine, tobacco oil, tobacco vapor, and e-cigarettes, to any person who is under the age at which persons are permitted by the law of Louisiana to possess tobacco products, ~~any tobacco products, including dip, chew, cigarettes, tobacco oil, tobacco vapor, e cigarettes, or any similar product,~~ is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly.

(b) A person who is not, due to their age, permitted by the laws of Louisiana to possess a tobacco product, alternative nicotine product, or vapor product, as those terms are defined by Louisiana and include dip, chew, cigarettes, cigars, non-combustible products

containing nicotine, tobacco oil, tobacco vapor, and e-cigarettes, and who possesses any such product, is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly, unless said person possesses the tobacco product under any of the following circumstances:

- (1) When the person is under the age of eighteen (18) and is accompanied by a parent, spouse, or legal guardian who is twenty-one (21) years of age or older;
- (2) In private residences; or
- (3) When the tobacco product is handled during the course and scope of the person's employment and required in the performance of the person's duties.

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(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017; placeholder for amended, adopted, and effective dates)

Sec. 5310. Unlawful Possession or Consumption of Alcohol on School Property.

(a) **Definitions.** For the purposes of this Section, "school property" means all property or buildings used for elementary and secondary school purposes, including but not limited to school playgrounds.

(b) **Prohibited acts.** A person who intentionally possesses or consumes an alcoholic beverage on school property commits unlawful possession or consumption of alcohol on school property.

(c) **Penalty.** A person who commits unlawful possession or consumption of alcohol on school property is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 5321. Child Abuse.

Any person who abuses a child as defined in Title V, Section 103(f) of this Code is guilty of a Felony, except where the abuse involved any form of sexual activity or contact, as defined in Section 306, in which case the offender is guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #2-96; Adopted: August 15, 1996; Effective: August 15, 1996; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 5332. Abandonment of a Child.

Any person having the responsibility for the care and welfare of a child under eighteen (18) years of age who abandons that child as defined in Title V, Section 103(a) of this Code is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #2-96; Adopted: August 15, 1996; Effective: August 15, 1996; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 5343. Neglect of a Child.

Any person having the responsibility for the care and welfare of a child under eighteen (18) years of age who neglects that child as defined in Title V, Section 103(h) of this Code is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly. A person who receives a second or subsequent conviction for violation of this Section is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #2-96; Adopted: August 15, 1996; Effective: August 15, 1996; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 5354. Cruelty to Juveniles.

Any person, irrespective of that person's relationship with the juvenile, who commits an offense in violation of Sections 531 to 533 that causes serious bodily harm or serious neurological impairment to the victim shall be guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 5365. Juvenile Sexting.

(a) **Definitions.** For the purposes of this Section, the following definitions shall apply:

~~(4)~~(4) “Indecent visual depiction” means any photograph, videotape, film, or other reproduction of a person under the age of seventeen (17) years engaging in sexually explicit conduct, and includes data stored on any computer, telecommunication device, or other electronic storage media which is capable of conversion into a visual image.

~~(2)~~(5) “Sexually explicit conduct” means masturbation or lewd exhibition of the genitals, pubic hair, anus, vulva, or female breast nipples of a person under the age of seventeen (17) years.

~~(3)~~(6) “Telecommunication device” means an analog or digital electronic device which processes data, telephonic, video, or sound transmission as part of any system involved in the sending or receiving of voice, sound, data, or video transmissions.

~~(4)~~(7) “Transmit” means to give, distribute, transfer, transmute, circulate, or disseminate by use of a computer or telecommunication device.

(b) **Prohibited acts.** It shall be unlawful for a person under the age of seventeen (17) to:

- (1) Knowingly use a computer or telecommunications device to transmit an indecent visual depiction of himself or herself to another person;
- (2) Knowingly possess or transmit an indecent visual depiction that was transmitted by another under the age of seventeen (17) years in violation of paragraph (a)(1) of this Section.

(c) **Penalty.** A person who commits juvenile sexting is guilty of a Class B penalty and, upon conviction, shall be sentenced accordingly. A person who receives a second or subsequent conviction for the act of juvenile sexting is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter H. Curfew Violations.

Sec. 5376. Failure to Enforce Curfew.

Any parent, guardian or other person having custody of a child who permits such child to violate any of the provisions of the curfew established by Title V, Section 701 of this Code is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly. A person who receives a second or subsequent conviction for violating this Section is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #2-96; Adopted: August 15, 1996; Effective: August 15, 1996; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 5387. Nonresidents Curfew.

(a) **Prohibited acts.** Any nonresident of the Chitimacha Reservation who walks, runs, rides a bicycle, or loiters upon any street, highway, road, alley, or vacant premises on the Chitimacha Reservation between the hours of 10:15 p.m. and 5:00 a.m. of the following day commits a curfew violation.

(b) **Penalty.** Any person violating a provision of this section shall be issued a citation for a “Civil Infraction”, for which the procedures contained within Title VII, Chapter 2, shall apply. An Indian who receives a second or subsequent conviction for committing a curfew violation is guilty of a Class B Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter I. Driving While Under the Influence.

Sec. 5398. Driving While Under the Influence of Intoxicating Liquors or Drugs.

Title VII, Chapter 6, Sections 642 to 651 are incorporated herein and shall be applied to determine whether a person commits the offenses and must be sentenced to each offense's correlating penalties prescribed therein.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

CHAPTER 6. DOMESTIC VIOLENCE

Subchapter A. General Provisions.

Sec. 601. Purpose.

The purpose of this Chapter is to recognize domestic violence as severe crimes against society, the Chitimacha Tribe of Louisiana, and the family, and to assure the victim of domestic violence the maximum protections from further abuse that the law, and those who enforce it, can provide. It is the intent of the Chitimacha Tribal Council that the official response to domestic violence is to enforce the law to protect the victim and to hold the offender accountable, which communicates the Chitimacha Tribe of Louisiana's policy that violent behavior against intimate partners is not excused or tolerated. Rather, the Chitimacha Tribal Council values and seeks to nurture nonviolence and respect within families. This Chapter shall be interpreted and applied to give it the broadest possible scope to give effect to its purpose.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 602. General Jurisdiction.

The Tribe's jurisdiction shall be exercised pursuant to Titles I and III 1, Chapter 1, Section 106 of the Code, which includes full civil regulatory and adjudicatory jurisdiction, as recognized and affirmed in 18 U.S.C. § 2265 and 25 U.S.C. § 1304, to issue and enforce civil protection orders involving any person, including the violation of such orders alleged to have occurred outside the boundaries of the Chitimacha Reservation where such orders are entitled to recognition outside the Chitimacha Reservation as a matter of full faith and credit.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017;
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~~Sec. 603. Special Domestic Violence Jurisdiction.~~

Commented [JP2]: VAWA 13 provisions removed. VAWA 22 Special Tribal Criminal Jurisdiction Covered Crimes definitions are added above and STCJ procedural provisions are added in Title II Criminal Procedure.

~~(a) **Special domestic violence jurisdiction.** The Tribe now exercises its inherent power, as recognized and affirmed in 25 U.S.C. § 1304, to exercise “special domestic violence criminal jurisdiction” over non-Indians.~~

~~(b) **Defendants.** The Tribe may exercise special domestic violence criminal jurisdiction over a non-Indian defendant whose victim is an Indian and who:~~

~~(1) has sufficient ties to the Chitimacha Tribe of Louisiana; or~~

~~(2) is a spouse or intimate partner of the victim and the victim is:~~

~~(i) a member of the Chitimacha Tribe of Louisiana; or~~

~~(ii) a non-member Indian who resides within the Chitimacha Reservation; and~~

~~(3) Any person who violates a no contact order or domestic violence protection order within the Chitimacha Reservation.~~

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~~(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017; Revised by Ordinance #01-18; Adopted: March 1, 2018; Effective: March 1, 2018)~~

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~~Sec. 604. Criminal Conduct Applicable.~~

~~The Tribe shall exercise its jurisdiction under this Chapter for criminal conduct that falls into one or more of the following categories:~~

~~(a) **Domestic violence.** An act of domestic violence that occurs within the Chitimacha Reservation.~~

~~(b) **Violation of a no contact order or domestic violence protection order.** An act that:~~

~~(1) occurs within the Chitimacha Reservation; and~~

~~(2) violates the portion of a no contact order or domestic violence protection order that:~~

- ~~(i) prohibits or provides protection against violent or threatening acts of harassment against, sexual violence against, contact or communication with, or physical proximity to the person protected by the order;~~
- ~~(ii) was issued against the defendant; and~~
- ~~(iii) is consistent with 18 U.S.C. § 2265(b).~~

~~(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017; Revised by Ordinance #01-18; Adopted: March 1, 2018; Effective: March 1, 2018)~~

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~~**Sec. 605. Rights and Procedural Requirements.**~~

~~(a) Defendants prosecuted under this Chapter shall:~~

- ~~(1) be afforded the rights provided under the Code;~~
- ~~(2) have the privilege of the writ of habeas corpus, including pursuant to 25 U.S.C. §§ 1303 and 1304(e), to test the legality of his or her detention by order of the Chitimacha Tribal Court and may petition the Chitimacha Tribal Court to stay further detention pending the habeas proceeding;~~
- ~~(3) at the arraignment, be advised of the rights enumerated herein.~~

~~(b) Defendants subject to the Chitimacha Tribe of Louisiana's jurisdiction pursuant to Section 603(b) and accused of committing an act of domestic violence, violation of a no contact order, and/or violation of a domestic violence protection order shall:~~

- ~~(1) be entitled to a jury trial drawn from sources that reflect a fair cross section of the community and do not systematically exclude any distinctive group in the community, as provided for by Title II, Chapter 5, Sections 508 to 510 of the Code; and~~

~~(2) be entitled to each of the protections enumerated in Title III, Chapter 8,
Section 803 of the Code if a term of imprisonment of any length may be
imposed.~~

~~(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017; Revised
by Ordinance #01-18; Adopted: March 1, 2018; Effective: March 1, 2018)~~

Sec. 6036. Severability.

If any part, or parts, or the application of any part of this Chapter is held invalid, such holding shall not affect the validity of the remaining parts of this Chapter.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 6047. Non-waiver of Sovereign Immunity.

Nothing in this Chapter shall be deemed to constitute a waiver of the Chitimacha Tribe of Louisiana's inherent sovereign authority and correlating immunity from suit.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 6058. Savings.

This Chapter takes effect on the date approved by the Chitimacha Tribal Council and does not extinguish or modify any civil or criminal liability or enforcement of such penalty or forfeiture that existed on or prior to the effective date of this chapter and such law shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such civil or criminal action, enforcement of any penalty therefrom, forfeiture, or liability.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 605A. Liberal Construction.

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The provisions of this Code shall be liberally construed in order to further the purpose stated in Section 602,

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Sec. 6069. Definitions.

For the purposes of this Chapter, the following definitions shall apply:

(a) **“Bodily injury”** means any act, except one done in self-defense, that results in physical injury or sexual abuse.

(b) **“Emergency”** means a condition or circumstance in which any individual is, or reasonably believes themselves to be, in imminent danger of domestic violence or in which property is or is reasonably believed by the individual to be, in imminent danger of damage or destruction.

(c) **“Domestic violence”** means ~~the commission of any one of the following crimes engaging in any of the following acts~~ against a ~~S~~spouse, ~~I~~intimate partner, family member, or a member of the household:

~~(1) The act of inflicting bodily injury through the commission or attempted commission of Attempting to cause or causing physical harm, including, without limitation, by the commission of any of the Crimes Against Persons enumerated in Sections 305 (Kidnapping), 307 (Rape), 308 (Sexual Assault), 32019 (Simple Assault), 3210 (Aggravated Assault—Severe Bodily Harm), 3221 (Aggravated Assault—Dangerous Weapon), 323 (Aggravated Assault—Great Bodily Harm), 324 (Strangulation), 3264 (Harassment), 401 (Arson), or 405 (Robbery) of Title III Chapter 3 of this Code, or any other crime of violence as defined by 18 U.S.C. § 16;~~

~~(2) Attempting to cause or causing property damage or injury to a pet, including, without limitation, by the commission of any of the Crimes Against Private Property enumerated in Chapter 4 of this Code;~~

~~(3) Physically harming, attempting to physically harm, or placing a spouse, intimate partner, family member, or a member of the household in~~

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reasonable fear of physical harm to himself or herself. Reasonable fear —may be produced by any behavior which induces fear in the victim, including —harassment, stalking, **criminal trespass or** destruction of property, controlling the victim’s c—conduct by threat of force, or physical harm or threat of harm to members of the victim’s family, —of household, or pets, and including through the commission of any crime enumerated in this Code; and/or

(4) Preventing a victim from accessing victim or social services; and/or

~~(3)~~(5) All crimes involving threats, violence, assault, physical or sexual abuse and/or property crimes and those crimes listed under the Major Crimes Act, 18 U.S.C. § 1153 may be charged as domestic violence when committed against persons enumerated in this section, or for purposes of STCJ, when committed against a Spouse or Intimate partner.-

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~~(d) **“Domestic violence protective order”** means a temporary or permanent court order related to domestic violence, harassment, and/or sexual abuse, issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with, or physical proximity to another person. Protective order includes any temporary or final order issued in the civil or criminal context, whether obtained by filing an independent action or as an order awaiting further litigation in another proceeding, provided the order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.—~~

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~~(de) **“Domestic violence services”** means the Chitimacha Human Services Department or any other entity that either:~~

- ~~(1) provides housing, counseling, advocacy, or other similar services to a victim and his or her dependents; or~~
- ~~(2) refers a victim to other sources that provides housing, counseling, advocacy, or other similar services to victims of domestic violence and his or her dependents.~~

~~(f) **“Indian”** shall mean the definition given in 25 U.S.C. § 1301(4).—~~

~~(g) “Indian Country” shall mean the definition given in 18 U.S.C. § 1151.~~

~~(eh)~~ **“Law enforcement officer”** means any person employed or commissioned as a police officer or law enforcement officer by a government entity or law enforcement agency with the authority to make arrests on the Chitimacha Reservation.

~~(fi)~~ **“No contact order”** means an order made in conjunction with, or included within, bond or bail conditions for an individual charged with an offense under this Chapter that either prohibits or restricts such an individual’s contact with the protected party named in the order.

~~(j) “Probable cause” for arrest means that the law enforcement officer, acting as a person of reasonable caution, has reasonable grounds to believe that the person to be arrested has committed a crime as defined by this Chapter, based on all the facts known to the officer, including the officer’s personal observations, statements made by parties involved in the incident, statements made by witnesses, if any, and any other reliable information.~~

~~(k) “Reservation” means the Indian Country of the Chitimacha Tribe of Louisiana.~~

~~(gl)~~ **“Spouse” or “Intimate partner”** means a current or former spouse; persons who are or have been in a marital-like relationship; persons who have a child in common, regardless of whether they have been married or have lived together at any time, including where the victim or defendant is pregnant by the other; a person who is or has been in a social relationship of a dating, romantic, or intimate nature, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship; a person similarly situated to a spouse under the Tribe’s laws; and, for the purposes of the issuance of a ~~domestic violence protection~~ order, any other person with a sufficient relationship to the person committing domestic violence as determined by the court under Section ~~62630~~. A person’s sex, gender, or sexual orientation shall not be relied upon to determine whether a person is a spouse or intimate partner.

~~(h) “Protection order” means a temporary or permanent court order related to domestic violence, harassment, and/or sexual abuse, issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with, or physical proximity to another person. Protective order includes any temporary or final order issued in the civil or~~

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criminal context, whether obtained by filing an independent action or as an order awaiting further litigation in another proceeding, provided the order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

~~(m) "Sufficient ties to the Chitimacha Tribe of Louisiana" means a defendant who:~~

- ~~(1) Lives within the Chitimacha Reservation;~~
- ~~(2) Is employed by the Chitimacha Tribe of Louisiana; or~~
- ~~(3) Is a spouse or intimate partner of either:
 - ~~(i) A member of the Chitimacha Tribe of Louisiana; or~~
 - ~~(ii) A non-member Indian who resides within the exterior boundaries of the Chitimacha Reservation.—~~~~

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017; Revised by Ordinance #01-18; Adopted: March 1, 2018; Effective: March 1, 2018; placeholder for amended, adopted, effective dates)

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Subchapter B. Criminal Actions and Penalties.

Sec. ~~610607~~. Domestic Violence.

(a) **Prohibited acts.** A person who does any act of domestic violence commits the crime of domestic violence.

(b) **Penalty.**

- (1) A person who ~~commits~~ inflicts bodily injury through an act of domestic violence ~~as defined by Subsections 609~~ ~~(e)(1)~~ is guilty of an Enhanced Felony and, upon conviction, shall be ~~—~~ sentenced accordingly without the benefit of parole, probation, or ~~-~~suspended sentences.
- (2) A person who commits domestic violence as defined by Subsections 60~~69~~
~~(c)(2)~~ ~~or (e)(43)~~ is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

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- (3) A person who receives a second conviction for committing domestic ~~violence~~ as defined by Subsections 6069 (c)(2) ~~or (e)(34)~~ is guilty of a ~~Felony~~ and, upon conviction, shall be sentenced accordingly.
- (4) A person who receives a third or subsequent conviction for committing domestic violence as Subsections 6069 (c)(2) ~~or (e)(43)~~ is guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly without the benefit of parole, probation, or suspended sentences.
- (5) **Additional penalties.** The Chitimacha Tribal Court may require a person convicted of domestic violence, regardless of how many prior convictions the person has under this Chapter, to pay for and complete a counseling assessment with a focus on violence, controlling behavior, chemical dependency, and any other subject the Chitimacha Tribal Court deems appropriate.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 611608. Violation of No Contact Order.

(a) **Prohibited acts.** A person who knowingly violates a no contact order commits violation of a no contact order.

(b) **Penalty.**

- (1) **First offense.** A person who commits violation of a no contact order is guilty of a Class A Misdemeanor and, upon a first conviction, shall be sentenced accordingly.
- (2) **Second or subsequent offense.** A person who receives a second or subsequent conviction for committing violation of a no contact order is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(c) **Consent is not a defense.** A victim's consent is not a defense to prosecution under this Section.

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(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017; Revised by Ordinance #01-18; Adopted: March 1, 2018; Effective: March 1, 2018)

Sec. ~~60912~~. Violation of a Domestic Violence Protection Order.

~~(a)~~ **Prohibited acts.** A person who knowingly violates any ~~domestic violence~~ protection order commits violation of a ~~domestic violence~~ protection order.

~~(a)~~

(b) Penalty.

- (1) **First offense.** A person who commits violation of a ~~domestic violence~~ protection order is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.
- (2) **Second or subsequent offense.** A person who receives a second or subsequent conviction for committing violation of a ~~domestic violence~~ protection order is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(c) **Consent is not a defense.** The victim's consent is not a defense to prosecution under this Section.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter C. Powers and Duties of Law Enforcement.

Sec. ~~6103~~. Duties to Victims.

A law enforcement officer who responds to an allegation of domestic violence shall use all reasonable means to protect the victim and any family or household member, and prevent further violence, including, but not limited to:

- (a) Taking necessary actions to provide for the safety of the victim and any family members or witnesses, including arresting the alleged offender or dominant aggressor;

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(b) Transporting or obtaining transportation for the victim and any child to a place of safety;

(c) Assisting the victim in removing essential personal effects, at the victim's request;

(d) Assisting the victim and any child in obtaining medical treatment, including obtaining transportation to a medical facility;

(e) When a law enforcement officer responds to a domestic violence call, the officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the services provided by Domestic Violence Services and/or any other entity that provides services to victims of domestic violence, and give each person immediate notice of the legal rights and remedies available.

(f) Confiscating any weapon as provided within this Chapter; and/or

(g) Providing assistance in obtaining a temporary protection order or emergency no contact order.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 6114. Protecting Evidence.

(a) All law enforcement officers who investigate an allegation of domestic violence, whether or not an arrest is made, shall make a detailed written report of the alleged abuse and submit it to the prosecutor as soon as practicably possible.

(b) All law enforcement officers who respond to an allegation of a crime involving domestic violence shall take reasonable steps to collect and record sufficient evidence to enable the prosecutor to secure a conviction of the offender without the testimony of any victim. Reasonable steps include:

- (1) Photographing injuries to any victim, any damage to property, the location, and surroundings of the alleged incident;
- (2) Describing both the physical and emotional condition of the victim in detail;

- (3) Noting the identity of the witnesses to the incident and determining what they observed;
- (4) Identifying all persons present at the location at the time of the incident, including children, whether or not they witnessed the incident;
- (5) Recording any oral comments;
- (6) Gather a history of the relationship between the offender and a victim and the duration of that relationship;
- (7) Describing the scene of the alleged crime on first contact and other physical evidence; and
- (8) Gathering statements and interviewing responding medical personnel or following up with medical personnel if the victim is transported to a facility for medical treatment.

(c) A law enforcement officer who responds to an allegation of domestic violence shall:

- (1) encourage any victim to make an oral and written statement concerning the incident; and
- (2) ensure that the victim is made aware of the importance of preserving evidence of the incident.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 6125. Mandatory Arrest.

(a) A law enforcement officer shall, without unnecessary delay, arrest and charge a person with the appropriate crime if the officer has probable cause to believe that the person has committed or is committing the offense of domestic violence, even if a warrant has not been issued and the offense was committed outside the presence of the officer.

(b) The law enforcement officer shall make an arrest upon probable cause regardless of the express wishes of the victim, but those wishes should be noted in the officer's report.

(c) If a law enforcement officer receives a complaint alleging a crime involving domestic violence from two or more persons, the officer shall evaluate each person's account

separately to determine who was more likely to have been the predominant physical aggressor. In determining whether a person is the predominant physical aggressor, the officer shall not rely on who hit who first, nor shall the officer rely on the relative intoxication of either person, but shall consider all relevant factors underlying the incident, including:

- (1) Prior complaints of domestic violence;
- (2) The relative severity of the injuries inflicted on each person, or serious threats creating reasonable fear of bodily injury;
- (3) The likelihood of future injury to each person;
- (4) Witness accounts, if any; and
- (5) Whether one of the persons acted in self-defense.

(d) If the law enforcement officer determines that one person was the predominant aggressor, the officer need not arrest the other person alleged to have committed an offense.

(e) A law enforcement officer who does not make an arrest, or who arrests two (2) or more persons after investigating an alleged crime involving domestic violence, must include in the police report a detailed explanation of why the officer did not make an arrest or arrested two (2) or more parties.

(f) Persons arrested shall be held in custody pending arraignment.

(g) A law enforcement officer shall not threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage requests for intervention by law enforcement by any party.

(h) A law enforcement officer shall not consider the use or abuse of alcohol or controlled substance by either party in making a determination as to whether the crime of domestic violence has been committed.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 61~~35~~³⁶. Emergency Criminal No Contact Order.

~~(a)~~(c) A law enforcement officer shall have the authority to request from the Chitimacha Tribal Court an emergency criminal no contact order prohibiting contact with the victim,

including third party contact, on a form approved by the Chitimacha Tribal Court, if the officer has probable cause to believe that an emergency exists with respect to a crime involving domestic violence that has occurred or is imminent. The law enforcement officer and the Tribal Court shall use one of the following methods:

- (1) During a judicial day, the officer shall:
 - (i) at the time of booking, call from the jail the Tribal Court judge or a judicial officer designated by the Tribal Court judge to receive such reports and provide the judge with enough information for a finding of probable cause. If a finding of probable cause is made, the officer shall then sign the order on the judge's behalf and serve it on the defendant; or
 - (ii) once the arrest has been made, call from the scene the Tribal Court or a judicial officer designated by the Tribal Court judge to receive such reports and follow the same procedures prescribed in Subsection (a)(1)(i), providing the victim with a copy of the order at the scene if possible.
- (2) During nights and weekends, the officer shall:
 - (i) Call from jail at the time of booking a judicial officer designated by the Tribal Court judge to receive such reports and provide the Judicial Officer with enough information for a finding of probable cause. If a finding of probable cause is made, the officer shall then sign the order on the Tribal Court judge's behalf and serve it on the defendant;
 - (ii) Call from the scene once the arrest is made a judicial officer designated by the Chitimacha Tribal Court to receive such reports and follow the same procedures prescribed in Subsection (a)(2)(i);
or

- (iii) If there is no designated Judicial Officer available, from the jail at the time of booking commit to writing and transmit to the Chitimacha Tribal Court, electronically or otherwise, enough information for a finding of probable cause. The writing must be time-stamped. If a finding of probable cause is made, the officer shall then sign the order on the judge's behalf, time-stamp the order, and serve it on the defendant.
- (iv) An emergency criminal no contact order shall be effective until the defendant's arraignment or as vacated or amended by a Chitimacha Tribal Court order.
- (v) Upon issuance of such an order, the officer shall serve a copy on the offender and file the order with the Chitimacha Tribal Court by noon on the next judicial day. The officer shall also provide a copy of the order to the victim.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 6147. Mandatory Arrest for Violations of Domestic Violence Protection Orders or No Contact Orders.

If a law enforcement officer has probable cause to believe that a person has violated a valid domestic violence protection order or no contact order, whether deemed civil or criminal, or whether issued by the Chitimacha Tribal Court or another jurisdiction, the officer shall, without a warrant, arrest the alleged violator. The alleged violator shall be held without bail pending arraignment, at which time bail and conditions of release shall be established.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 6158. Authority to Seize and Hold Weapons.

Incident to arrest for a crime involving domestic violence, a law enforcement officer shall seize all weapons that are alleged to have been involved or were threatened to be used in the

commission of the crime, weapons that are in plain view of the officer, or weapons that are discovered pursuant to a consensual search, an officer safety pat-down, or a search incident to arrest as necessary for the protection of the officer or other persons. Weapons seized under this Section shall be held until judgment in the case is entered, at which time the weapon shall be disposed of as ordered by the Chitimacha Tribal Court.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. ~~6169~~. Violations of Conditions of Release.

If a law enforcement officer has probable cause to believe that a person has violated a condition of release from arrest or judgment in a domestic violence case, the officer shall, without a warrant, arrest the alleged perpetrator. The alleged violator shall be held without bail pending arraignment, at which time bail and conditions of release shall be established.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. ~~6170~~. Duty to Expedite Service of Protection Orders.

The Chitimacha Tribal Police Department shall serve orders of protection on an expedited basis, attempt to complete service within forty-eight (48) hours, and provide a declaration of such service to the Chitimacha Tribal Court by the next judicial day after which the order of protection is served.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. ~~6182~~. Law Enforcement Records on Domestic Violence.

(a) The Chitimacha Tribal Police Department shall maintain written records of arrests, incident reports, and initial contacts related to domestic violence in such a manner as to allow efficient tracking and identification of the records. However, the Chitimacha Tribal Police Department is not required to provide records of police contacts alleging incidents of domestic violence or related offenses to an alleged perpetrator. Such records may be obtained by Chitimacha Tribal Court order after notice to the prosecutor and a hearing. In ordering

disclosure, the Chitimacha Tribal Court may order that the victim's identity and location be redacted, and make other orders as necessary to protect the confidentiality and/or identity of a victim, victim's dependents, victim's immediate family, and/or any information regarding a witness.

(b) In addition, the Chitimacha Tribal Police Department shall enter and maintain the records required by La. RS 15:1229.1, such that victims and their family may initiate and receive the latest status report on an offender's case through the Louisiana Automated Victim Notification System, provided that the Louisiana Automated Victim Notification System, as established by La. RS 15:1229, or a functional equivalent, is operating. If the Louisiana Automated Victim Notification System is not operating, the Tribe's law enforcement shall maintain the records necessary to ensure the victim's rights provided under Section 629.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. ~~61922~~. Liability of Law Enforcement Officers.

A law enforcement officer or his or her legal adviser shall not be held liable in any civil action for an arrest based on probable cause, enforcement in good faith of any Chitimacha Tribal Court order, or any other action or omission made in good faith under this Chapter arising from an incident of alleged domestic violence or violations of one of the named criminal or civil protection orders identified within this Chapter.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter D. Tribal Court Procedures, Powers, and Duties.

~~Sec. 623. Determination of Jurisdiction.~~

~~(a) In addition to the procedures set forth in Title II of the Code, at the arraignment for a defendant arrested for a crime established under this Chapter, the judge shall make findings of fact and law that clearly state whether the Chitimacha Tribal Court has jurisdiction over the defendant. In doing so, the Chitimacha Tribal Court shall ascertain whether:~~

~~(1) The defendant resides on the Chitimacha Reservation;~~

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- ~~(2) The defendant is employed within the Chitimacha Reservation;~~
- ~~(3) The defendant is a spouse or intimate partner of an enrolled member of the Tribe;~~
- ~~(4) The defendant is a non member Indian who resides within the Chitimacha Reservation; and~~
- ~~(5) The victim is a member of the Tribe or a non member Indian who resides within the Chitimacha Reservation.~~

~~(b) In order to make the determination required under Subsection (a), the judge may receive any evidence relevant to the issue of whether the Chitimacha Tribal Court has jurisdiction over the defendant from any reliable sources as may be available.~~

~~(c) If the judge's findings establish the Chitimacha Tribal Court's jurisdiction, the determination shall identify whether the Chitimacha Tribal Court is exercising its general jurisdiction or special domestic violence jurisdiction pursuant to Section 603. The Chitimacha Tribal Court shall then proceed with the remainder of the procedures provided for by the Code, including those required under Section 605.~~

~~(d) If the judge determines that the Chitimacha Tribal Court does not have jurisdiction, the judge shall notify the law enforcement agency holding the defendant in custody, dismiss the Tribe's charges, and release the defendant to the appropriate jurisdiction.~~

~~(e) If the defendant exercises his or her right to remain silent, the judge may detain the defendant to determine jurisdiction without prejudice to the defendant's right to challenge jurisdiction at a later date. If the defendant is too intoxicated or impaired for the judge to conduct the inquiry under Subsection (a), the judge may order that the defendant appear before the Chitimacha Tribal Court on the following business day for the conclusion of the proceeding. Nothing herein shall prevent the judge from using evidence relevant to the inquiries regarding jurisdiction from any other reliable sources as may be available and making a determination based solely on those alternative sources.~~

~~(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017; Revised by Ordinance #01-18; Adopted: March 1, 2018; Effective: March 1, 2018)~~

Sec. 6204. Pre-trial and Release Conditions.

(a) **72-hour mandatory hold.** No person charged with a crime of domestic violence or violation of a ~~domestic violence~~ protection order shall be released from detention until after the expiration of seventy-two (72) hours from arrest, notwithstanding the ability to post a cash or surety bond.

(b) **Arraignment.** Any person charged with a crime of domestic violence shall be arraigned within seventy-two (72) hours of their arrest, at which time the Chitimacha Tribal Court shall establish bail and conditions of release.

(c) **Release conditions.** The Chitimacha Tribal Court shall consider the following factors when setting bail:

- (1) Whether the person has been charged with a crime of violence and the person has been recently convicted of another crime of violence, or the person has committed this offense while on probation or other release for another crime of violence;
- (2) Whether the person has been charged with obstructing justice by having threatened, injured, or intimidated a judge, witness, or juror, or has attempted such threat, injury or intimidation;
- (3) Whether there is a strong likelihood of flight to escape trial. This requires a documented history of such flight, or evidence or circumstances indicating that such flight is potential; and/or
- (4) Whether the person represents a danger to the community. This requires a pattern of behavior evidenced by past and present conduct and no conditions for release are available which would reasonably assure the safety of the community.

(d) **Notice when conditions of released are imposed.** If conditions of release are imposed, the Chitimacha Tribal Court shall:

- (1) Issue a written order for conditional release;

- (2) Immediately distribute a copy of the order to the prosecutor's office, the appropriate law enforcement agency, and the defendant; and
- (3) Provide the law enforcement agency with any available information about the location of the offender as is required to protect the safety of the victim.

(e) **Bail modification.** Nothing in this Section precludes a defendant from moving the Chitimacha Tribal Court to modify bail and/or conditions of release.

(f) **No contact order.** When any person is arrested for or charged with a crime of domestic violence, the Chitimacha Tribal Court may issue a no contact order prohibiting the defendant from having any contact with the victim or the victim's dependents or immediate family members. Such an order shall be entered at the first opportunity with no additional hearing required, subject to the following requirements:

- (1) The protected party that is the subject of a no contact order shall be provided with a certified copy of the order.
- (2) In issuing a no contact order, the Chitimacha Tribal Court shall consider whether the defendant should forfeit his or her firearms.
- (3) The Chitimacha Tribal Court shall not vacate a no contact order issued under this Section without notice to the prosecutor, the victim, and a hearing requested by either the prosecutor or the victim.

(h) **Special Tribal Criminal Jurisdiction.** When exercising its Special Tribal Criminal Jurisdiction over a non-Indian defendant as defined in Section 115 of Chapter 1, the Court shall abide by the provisions in Sections 901 (Rights and Procedural Requirements) and 902 (Determination of Jurisdiction) of Chapter 9 of Title II of this Code.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017; placeholder for amended, adopted, and effective dates)

Sec. 6215. Mediation and Alternative Justice Prohibited.

The Chitimacha Tribal Court shall not order parties into mediation or any type of alternative justice or dispute resolution process or program that would put the victim in the position of dealing directly or negotiating with the offender to resolve any issues related to a civil or criminal case that involves an act of domestic violence, even if the victim has the right to decline to participate.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 6226. Clerk of Court Record Maintenance.

The Clerk of Court shall enter and maintain the records required by La. R.S. 15:1229.1, such that victims and their family may initiate and receive the latest status report on an offender's case through the Louisiana Automated Victim Notification System, provided that the Louisiana Automated Victim Notification System, as established by La. R.S. 15:1229, or a functional equivalent, is operating. If the Louisiana Automated Victim Notification System is not operating, the Clerk of Court shall maintain the records necessary to ensure the victim's rights provided under Section 628.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter E. Duties of the Prosecutor.

Sec. 6237. Domestic Violence Identified in Charging Document.

The Tribe's prosecutor shall denote in the charging document that the defendant is being accused of a crime of domestic violence, violation of a no contact order, and/or violation of a ~~domestic violence~~ protection order.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 6248. Duties of the Tribe to the Victim.

(a) The Tribe's prosecutor must adhere to the following guidelines when prosecuting cases of domestic violence, the violation of a no contact order, or the violation of a ~~domestic violence~~ protection order:

- (1) The prosecutor should seek to ensure that the employment, economic, educational, physical and/or mental health and political status of the alleged offender and victim will not factor into the determinations regarding domestic violence crimes;
- (2) The prosecutor should seek to respectfully dissuade victims from withdrawing charges;
- (3) The prosecutor should seek to utilize advocates during every phase of criminal justice proceedings, provided that such advocates are available;
- (4) The prosecutor shall not dismiss a domestic violence case without prior consultation and review with the law enforcement officer involved in the case, and the extent that either is involved in the case, the advocate and/or a representative of Domestic Violence Services;
- (5) The prosecutor shall enter and maintain the records required by La. R.S. 15:1229.1, such that victims and their family may initiate and receive the latest status report on an offender's case through the Louisiana Automated Victim Notification System, provided that the Louisiana Automated Victim Notification System, as established by La. R.S. 15:1229, or a functional equivalent, is operating. If the Louisiana Automated Victim Notification System is not operating, the prosecutor shall maintain the records necessary to ensure the victim's rights under Section 6259.
- (6) If the alleged victim has cooperated with the prosecution and provided current contact information to the prosecutor, the prosecutor shall notify the alleged victim when the prosecutor declines to prosecute a case, or when the prosecutor dismisses the criminal charges, or when the prosecutor enters into a plea agreement;
- (7) The prosecutor will expedite proceedings with a minimum of continuances and shall consider the present residency of the victim as it relates to

continuances, especially if the victim has relocated off the Chitimacha Reservation for safety; and

- (8) The prosecutor shall obtain information from the victim regarding costs and losses sustained as a result of the defendant's act(s) of domestic violence and shall seek restitution for the victim.

(b) The prosecutor and/or the Domestic Violence Service shall make all reasonable efforts to notify the alleged victim of their rights provided for in Section 6259.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter F. Rights of Victims.

Sec. 6259. Rights of Victims.

All alleged victims shall have the following rights:

(a) The right to access a report on the status of an offender's case, including hearing dates, continuances, and updates on the pre and post-judgment status of an offender's case;

(b) The right to provide the Chitimacha Tribal Court with a victim-impact statement and assessment of the likelihood of future harm;

(c) The right to be present at sentencing and to address the Chitimacha Tribal Court at such time;

(d) If the alleged offender is eligible for probation, the right to advise the Chitimacha Tribal Court of conditions of probation required to assure the safety of the alleged victim; and

(e) If the domestic violence resulted in damage to or loss of property, or physical or mental injury to the victim or a member of the victim's household, the ability to ask the Chitimacha Tribal Court to order restitution for those losses.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter G. Civil Domestic Violence Orders for Protection.

Sec. 62360. Domestic Violence Protection Orders.

(a) **Commencement of the action.** An action for a domestic violence protection order commenced by a qualified application, as described in Subsection (b) of this Section, alleging the existence of domestic violence may be brought in Chitimacha Tribal Court by any person if the Chitimacha Tribal Court determines that the relationship between that person and the alleged offender is sufficient to warrant the issuance of a domestic violence protection order.

(b) **Qualified application.** A qualified application may be on a form created and provided by the Chitimacha Tribal Court or in another form. At a minimum, to be qualified, the form must identify the alleged perpetrator, allege that the applicant is in danger of abuse from the respondent and/or has been the victim of abuse committed by the respondent, and describe the nature of the abuse and the approximate dates of the abuse.

(c) **Hearing scheduled.** Upon receipt of the application, the Chitimacha Tribal Court shall order a hearing to be held within fourteen (14) days of the date the application was filed unless extended pursuant to Subsection (d) of this Section.

(d) **Service.** Service of the application and the order establishing the date of the hearing ordered pursuant to Subsection (c) of this Section shall be made upon the respondent at least seven (7) days prior to the scheduled hearing. Service shall be made by a law enforcement officer. If service cannot be made, the Chitimacha Tribal Court may set a new date for the hearing. Proof of service shall be filed with the Court after service is made and prior to the scheduled hearing date.

(e) **Relief.** Upon showing of actual or imminent domestic violence, the Chitimacha Tribal Court may enter a protection order after due notice and a hearing. The relief provided by the Chitimacha Tribal Court may include any or all of the following:

- (1) Prohibiting any party from having any contact or communication, direct or indirect, including by phone, email, text message, written letter, in-person or through third-person, with a petitioner, the petitioner's dependents or the petitioner's spouse or intimate partner;

- (2) Prohibiting the respondent from being within a specified distance from the petitioner, the petitioner's dependents, or the petitioner's spouse or intimate partner;
- (3) Prohibiting any party from threatening, molesting, or injuring any other person;
- (4) Excluding and/or prohibiting the respondent from a specified household, from the residence of another person against whom the domestic violence is occurring or from a domestic violence or domestic abuse care facility, where this exclusion is necessary to the physical or mental well-being of the applicant or other persons;
- (5) Prohibiting the individual from entering the petitioner's residence, school, business, or place of employment, or the children's school or daycare;
- (6) Prohibiting the individual from being in possession of a firearm and/or dangerous weapon;
- (7) Recommending or requiring counseling services with a domestic violence or abuse program or other agency that provides services that the Chitimacha Tribal Court deems appropriate. The Chitimacha Tribal Court may request a report from the designated agency within a time period established by the Chitimacha Tribal Court's order; and/or
- (8) Any other order the Chitimacha Tribal Court deems necessary or appropriate to ensure the safety of the petitioner's children or petitioner's spouse or intimate partner.

(f) **Amended order.** The Chitimacha Tribal Court may amend its order or agreement at any time upon a subsequent petition filed by either party.

(g) **Filing fee waived.** No filing fee shall be required for any individual who seeks a domestic violence protection order under this Section.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 62731. Ex Parte Temporary Domestic Violence Protection Orders.

(a) **Ex parte temporary order.** Where an application under Section ~~62630~~(a) alleges an immediate and present danger of domestic violence to the applicant based upon an allegation of a recent incident of domestic violence or threat of domestic violence, the Chitimacha Tribal Court, upon finding by a preponderance of the evidence that the petitioner is in immediate danger of domestic violence, may grant an ex parte temporary protection order, pending a full hearing, granting such relief as the Chitimacha Tribal Court deems proper.

(b) **Relief.** An ex parte temporary protection order may include any relief within the Chitimacha Tribal Court's authority to provide under Section ~~62630~~(e).

(c) **Duration.** An ex parte temporary protection order shall remain in effect for not more than thirty (30) days, unless otherwise terminated or amended by the Chitimacha Tribal Court.

(d) **Hearing.** A full hearing, as provided under Section ~~630626~~, shall be set for no later than fourteen (14) days from the issuance of the temporary order.

(e) **Service.** Law enforcement shall promptly personally serve the respondent with a copy of the order along with a copy of the application and notice of the date set for the hearing. If the respondent cannot be personally served within seven (7) days of issuance of the temporary order, law enforcement shall mail a copy of the order, return receipt requested, or deliver the temporary order, to the last known address of the respondent. Proof of service shall be filed with the Court.

(f) **Notice to appropriate law enforcement agency.** The Clerk of Court for the Chitimacha Tribal Court shall transmit a copy of each temporary protection order, or extension, modification, or termination thereof, by the close of the business day which the order was granted, to the law enforcement agency with jurisdiction over the residence of the applicant or over the residence at which the actual domestic violence, which is the subject of the temporary protection order, allegedly occurred or is likely to occur.

(g) **Filing fee waived.** No filing fee shall be required for any individual who seeks an

ex parte temporary protection order under this Section.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. ~~62832~~. Recognition and Enforcement of Foreign Protection Orders.

(a) **Full faith and credit.** Pursuant to 18 U.S.C. § 2265, the Chitimacha Tribal Court shall accord full faith and credit to an order for protection against domestic violence issued by a court of competent jurisdiction, provided that:

- (1) the court had jurisdiction over the parties and the matter; and
- (2) reasonable notice and opportunity to be heard was given to the person subject to the order, sufficient to protect that person's right to due process, to the extent required under 18 U.S.C. § 2265.

(b) **Foreign ex parte orders.** Ex parte foreign injunctions for protection are not eligible for enforcement under this Section unless notice and opportunity to be heard have been provided within the time required by the foreign state or tribal laws and, in any event, within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

(c) **Domestication.** Persons protected by a foreign protection order may domesticate the order according to the following procedures:

- (1) A protected person who has a valid foreign protection order may file that order by presenting a certified or otherwise authenticated copy of the foreign protection order with a Clerk of Court. Any out-of-state department, agency, or court responsible for maintaining protection order records may by facsimile or electronic transmission send a reproduction of the foreign protection order to the Clerk of Court as long as it contains a facsimile or digital signature by any person authorized to make such transmission.
- (2) There shall be a presumption in favor of validity where a protection order appears authentic on its face.

- (3) Filing of a protection order with a court and entry of the foreign protection order into any computer-based criminal intelligence information system available in the United States used by law enforcement agencies to list outstanding warrants are not prerequisites for enforcement of the foreign protection order.
- (4) The Chitimacha Tribal Court shall accept the filing of a foreign protection order without a fee or cost.
- (5) The Clerk of Court shall provide information to a person entitled to protection of the availability of domestic violence or other abuse services to victims.
- (6) The Clerk of Court shall assist the person entitled to protection in providing and committing to writing the information necessary to enforce the foreign protection order, including:
 - (i) The name of the person entitled to protection and any other protected parties;
 - (ii) The name and address of the person who is subject to the restraint provisions of the foreign protection order;
 - (iii) The date the foreign protection order was entered;
 - (iv) The date the foreign protection order expires;
 - (v) The source of law for the relief granted, including citations;
 - (vi) The judicial district and contact information of the court administration for the court in which the foreign protection order as originally entered;
 - (vii) The date of birth and description of the person subject to the restraint provisions of the foreign protection order;
 - (viii) Whether the person who is subject to the restraint provisions of the foreign protection order is believed to be armed and dangerous;

- (ix) Whether the person who is subject to the restraint provisions of the foreign protection order was served by that order, and if so, the method used to serve the order;
 - (x) The type and location of any other legal proceedings between the person who is subject to the restraint provisions and the person entitled to protection;
 - (xi) An inability to answer any of the above questions does not preclude the filing or enforcement of the foreign protection order.
- (7) The Clerk of Court shall provide the person entitled to protection with a copy bearing proof of filing with the Chitimacha Tribal Court.
- (8) The Tribal Court judge shall review all foreign protection orders filed with the Chitimacha Tribal Court and, upon review, may order a hearing for the sole purpose of ascertaining the validity of the foreign protection order.
- (9) Any assistance provided by the Clerk of Court under this Section does not constitute the practice of law. The Clerk of Court is not liable for any incomplete or incorrect information that he or she is provided.

(d) **Transmittal of filed foreign protection orders to law enforcement.** The Clerk of Court shall forward a copy of the foreign protection order that is filed under this Chapter on or before the next judicial day to the Chitimacha Tribal Police Department and surrounding Parish law enforcement agencies.

(e) **Enforcement.**

- (1) Subject to Subsection (b) and the limitations herein, law enforcement shall enforce a foreign order for protection against domestic violence as if they were entered by the Chitimacha Tribal Court, irrespective of the respondent's residence or the failure to domesticate the foreign order. Upon presentation of a foreign protection order by a protected person, the law enforcement officer shall assist in enforcing all of its terms, except

matters related to child custody, visitation, and support. A foreign protection order that includes terms regarding child custody, visitation, and/or support must be domesticated before those terms can be enforced.

- (2) Before enforcing a foreign order for protection, a law enforcement officer should, to the best of the officer's ability, confirm the identity of the parties present and review the order to determine that, on its face, it has not expired or is not otherwise inoperative. Enforcement shall not be a condition on the presentation of a certified or true copy of the protection order, provided that a conflicting certified copy is not presented by the respondent or the individual subject to the order.
- (3) A law enforcement officer shall use reasonable efforts to verify service of process.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Subchapter H. Firearms.

Sec. 62933. Domestic Violence Offender in Possession of a Firearm.

(a) **Prohibited acts.** A person who possesses a firearm commits domestic violence offender in possession of a firearm if that person:

- (1) Is subject to any court order from a court of competent jurisdiction that restrains such person from harassing, threatening, having contact or assaulting a spouse or intimate partner of family member or engaging in any other conduct that would place an intimate partner or family member in reasonable fear of physical harm to the intimate partner or family member, except that this Subsection shall apply only to those orders that:
 - (i) Were issued at a hearing at which such person was present and had the opportunity to participate or at a hearing of which such person had notice and the opportunity to be heard, whether or not that person was present;

- (ii) Include a finding that such person represents a credible threat to the physical safety of such victim, household, or family member; and
 - (iii) By its terms explicitly prohibits the use, attempted use or threatened use of physical force against such household or family member.
- (2) Has been convicted under the law of any state, territory, possession, tribe, or United States military tribunal of any crime involving domestic violence, as defined by the laws of the Code, which involved the use or attempted use of physical force, or the threatened use of physical force, or the threatened use of a dangerous weapon against a spouse or intimate partner.

(b) **Penalty.** A person who commits the crime of domestic violence offender in possession of a firearm is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

CHAPTER 7. HABITUAL OFFENDERS

Sec. 701. Habitual Offender Crime.

- (a) **Underlying crimes.** This Section applies to the following underlying crimes:
- (1) Sections 301 (Murder), 302 (Manslaughter), 303 (Negligent Homicide), 304 (Causing or Aiding Suicide), 305 (Kidnapping), 307 (Rape), 308 (Sexual Assault), 310 (Indecent Exposure), 313 (Indecent Behavior with a Juvenile), 314 (Solicitation of Minor to Engage in Sexual Activity), 316 (Pornography Involving Juveniles), 317 (Computer-Aided Solicitation of a Minor), 320 (Aggravated Assault – Severe Bodily Harm), 321 (Aggravated Assault – Dangerous Weapon), 322 (Aggravated Assault – Great Bodily Harm), 323 (Aggravated Assault – Public Official), 405

(Robbery), Sections 509 (Unlawful Production, Distribution, Intent to Distribute, Sale), 509-B (Violation of Unlawful Production, Distribution, Intent to Distribute; Drug Free Zone), or 509-C (Distribution to Persons Under Age Eighteen), 531 (Child Abuse), 534 (Cruelty to Juveniles), or 508 (Aiding Others in Terrorism), Sections 610 (Domestic Violence), 611 (Violation of a No Contact Order), or 612 (Violation of a Domestic Violence Protection Order) of Title III of the Code.

- (2) Any conviction of a law of the United States, or of another tribe, or of a state, reasonably equivalent to those identified in Subsection (a)(1).

(b) **Prohibited acts.** A person who receives a third or subsequent conviction of any one of the underlying crimes provided in Section 701(a), or any combination thereof, commits habitual violent crimes.

(c) **Penalty.**

- (1) Where any of the three underlying crimes constitute a Class A Misdemeanor, a person who commits a habitual offender crime for the first time is guilty of a Felony and, upon conviction, shall be sentenced accordingly. For every subsequent commission of an underlying crime provided in Section 701(a), the person is guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly without the benefit of parole, probation, or suspended sentences.
- (2) Where the underlying crime constitutes a Felony or Enhanced Felony, a person who commits a habitual offender crime is guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly without the benefit of parole, probation, or suspended sentence.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 702. Limitation.

No conviction may be used as a basis for a habitual offender crime unless it was imposed within ten (10) years of a conviction that could serve as a basis for the imposition of a penalty imposed under this Chapter.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

CHAPTER 8. PENALTIES AND LIMITATIONS

Sec. 801. Penalties.

(a) Crimes are divided into the following four (4) classes and, unless otherwise specified by the Code, each class is subject to the following penalties:

- (1) **Enhanced Felony**, for which a maximum penalty of imprisonment for three (3) years, a fine of up to Fifteen Thousand Dollars (\$15,000), or both, may be imposed.
- (2) **Felony**, for which a maximum penalty of imprisonment for one (1) year, a fine of Five Thousand Dollars (\$5,000), or both, may be imposed.
- (3) **Class A Misdemeanor**, for which a maximum penalty of imprisonment for six (6) months, a fine of up to One Thousand Dollars (\$1,000), or both, may be imposed.
- (4) **Class B Misdemeanor**, for which a maximum penalty of a Five Hundred Dollars (\$500.00) fine may be imposed.

(b) In addition to imposing a sentence as set forth above or as specifically provided in the Chitimacha Comprehensive Codes of Justice, the Chitimacha Tribal Court may order the person convicted to make reasonable restitution and/or apology to the victim(s) of the crime or offense.

(c) Any person violating a provision of this title, for which a penalty is not specifically provided, shall be guilty of a Class B Misdemeanor.

(Revised by Ordinance #3-98; Adopted: June 18, 1998; Effective: June 18, 1998; Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 802. Statutes of Limitations.

(a) **Crimes with no limitation.** There is no time limitation on instituting the prosecution of Sections 301 (Murder) or 307 (Rape).

(b) **Limitation for certain sex offenses involving a minor.** Provided that the crime involves a victim who is a minor, but regardless of whether the crime involves force, bodily injury, or death, the prosecution of the following crimes must be instituted within thirty (30) years of the date that the victim turns eighteen years old: Sections 308 (Sexual Assault), 310 (Indecent Exposure), 311 (Prostitution), 313 (Indecent Behavior with a Juvenile), 314 (Solicitation of a Minor), 316 (Pornography Involving Children), or 317 (Solicitation of a Minor).

(c) **Limitations for other offenses.** Subject to Subsections (a) and (b), no person shall be prosecuted, tried, or punished for an offense unless prosecution is initiated within the following periods of time after the offense is committed:

- (1) Five years for crimes subject to an Enhanced Felony penalty or a Felony penalty.
- (2) Two years for a crime subject to a Class A Misdemeanor penalty.
- (3) One year for a crime subject to a Class B Misdemeanor penalty.

(Revised by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 803. Enhanced Sentencing.

To impose a total term of imprisonment for more than one (1) year or a fine greater than Five Thousand Dollars (\$5,000.00), the Chitimacha Tribal Court shall:

(a) Grant the defendant all rights enumerated under the Code, including those provided for by 25 U.S.C. § 1302(a);

(b) Grant the defendant the effective assistance of counsel at least equal to that guaranteed by the United States Constitution, including the appointment of a public defender for any indigent defendant at no cost to the defendant. Defense attorneys shall be licensed to practice law by any jurisdiction in the United States that applies appropriate professional licensing standards and professional responsibility standards to its licensed attorneys;

(c) Provide the defendant prompt written notice of ~~Notify the defendant of~~ his or her right to file a writ of habeas corpus in Tribal Court and, subject to exhaustion of the remedies available in Tribal Court, including in federal court pursuant to 25 U.S.C. §§ 1303 and 1304(e);

(d) Ensure that the judge presiding over the criminal proceeding has sufficient legal training to preside over the criminal proceeding and is licensed to practice law by any jurisdiction in the United States;

(e) in coordination with the Tribe make publicly available the criminal laws, rules of evidence, and rules of criminal procedure prior to charging the defendant; and

(f) maintain a verbatim record of the criminal proceeding, with a copy of any and all such records available upon request and payment of any reasonable fee for production of the copy, provided that such a fee may be waived for an indigent defendant at the Chitimacha Tribal Court's discretion.

(Revised by Ordinance #01-15; Adopted: February 5, 2015; Effective: February 5, 2015; Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

CHAPTER 9. JUDICIAL AND PROSECUTORIAL IMMUNITY

Sec. 901. Judicial Immunity.

A Tribal Court judge shall be entitled to immunity from suit for any act performed in a judicial capacity, unless the act constitutes malice or corruption.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

Sec. 902. Prosecutorial Immunity.

A prosecutor for the Chitimacha Tribe of Louisiana shall be entitled to immunity from suit for his or her official acts, unless the act constitutes malice or corruption.

(Added by Ordinance #03-17; Adopted: January 12, 2017; Effective: February 1, 2017)

CHAPTER 10. CHITIMACHA VICTIM'S RIGHTS CODE

Sec. 1001. Definitions.

- (a) "Critical stage" means any judicial proceeding at which there is a disposition of the charged offense or a lesser offense, or a sentence imposed pursuant to that offense.
- (b) "Designated family member" means a duly appointed family member or legal guardian of a minor, homicide, or legally incompetent victim.
- (c) "Judicial proceeding" means any adversarial or contradictory proceeding held in open court.
- (d) "Registration" means the completion and submission of a Tribal Victim and Notification Form with the law enforcement agency investigating the offense of which the person is a victim, which shall include an address and telephone number at which the victim or designated family member may be notified. Such forms shall be promulgated by the Chitimacha Police Department, which may adopt the form specified in La. R.S. 46:1844(T) and issued by the Louisiana Commission on Law Enforcement in accordance with La. R.S. 46:1844(R), as those state may be amended over time. A form completed and submitted to a state law enforcement agency also constitutes Registration.
- (e) "Victim" means a person against whom any of the following offenses is allegedly committed:
 - (A) Title III, Chapter 3. Crimes Against Persons.
 - (i) Section 301. Murder;
 - (ii) Section 302. Manslaughter;
 - (iii) Section 303. Negligent Homicide;
 - (iv) Section 305. Kidnapping;
 - (v) Section 307. Rape;
 - (vi) Section 308. Sexual Assault;

- (vii) Section 309. Statutory Rape;
 - (viii) Section 310. Indecent Exposure ;
 - (ix) Section 313. Indecent Behavior with a Juvenile;
 - (x) Section 314. Solicitation of Minor to Engage in Sexual Activity;
 - (xi) Section 315. Sex Trafficking;
 - ~~(xii)~~ (xii) Section 3176. Pornography Involving Juveniles;
 - ~~(xiii)~~ (xiii) Section 3187. Computer-Aided Solicitation of a Minor;
 - ~~(xiv)~~ (xiv) Section 3204. Simple Assault;
 - ~~(xv)~~ (xv) Section 3210. Aggravated Assault – Severe Bodily Harm;
 - ~~(xvi)~~ (xvi) Section 3224. Aggravated Assault – Dangerous Weapon;
 - ~~(xvii)~~ (xvii) Section 3232. Aggravated Assault – Great Bodily Harm;
 - (xviii) Section 324. Strangulation;
 - ~~(xviii)~~ (xix) Section 3253. Aggravated Assault – Public Official;
 - ~~(xix)~~ (xx) Section 3264. Harassment and Stalking;
 - ~~(xx)~~ (xxi) Section 3275. Abuse of a Vulnerable Adult;
- (B) Title III, Chapter 4. Crimes Against Private Property.
- (i) Section 401. Arson;
 - (ii) Section 405. Robbery;
- (C) Title III, Chapter 5. Crimes Against the Public Order
- (i) Section 5324. Child Abuse;
 - (ii) Section 5332. Abandonment of a Child ;
 - (iii) Section 5343. Neglect of a Child;
 - (iv) Section 5354. Cruelty to Juveniles;
- (D) Title III, Chapter 6. Domestic Violence;
- (i) Section ~~610~~607. Domestic Violence;
 - (ii) Section ~~611~~608. Violation of a No Contact Order;
 - (iii) Section ~~612~~609. Violation of a ~~Domestic Violence~~-Protection Order;

(E) Title XV, Chapter 4, Penalties (for violation of Title XV), Section 401, subject to the limitation that the offense involves a dog bite.

- (f) “Victim Assistance Coordinator” means a person employed by the Tribe or an agency or department of the Tribe to fulfill the duties and obligations imposed on a Victim Assistance Coordinator under the provisions of this Title.
- (g) “Victim's family” includes a spouse, parent, child, stepchild, sibling, or legal representative of the victim, except when the person is in custody for an offense or is the defendant.
- (h) “Witness” means any person who has been or is expected to testify for the prosecution, or who, by reason of having relevant information, is subject to call or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet been commenced.

(Added by Ordinance #02-22; Adopted: March 24, 2022; Effective: March 24, 2022)

Sec. 1002. Services and Information Available to Victims and Witnesses.

- (a) Chitimacha Tribal Police shall ensure that victims and witnesses receive emergency and medical services as soon as possible, and shall offer social services and victim advocacy services as soon as possible. Chitimacha Tribal Police shall distribute the Tribal Victim and Notification Form when applicable.
- (b) A Victim Assistance Coordinator will be assigned to assist the victims and/or witness throughout the court process and until services are no longer required. The Victim Assistance Coordinator’s duties include coordinating services between the Chitimacha Police Department, Tribal Prosecutor, and officers of the Tribal Court, and the victim and/or designated family member. The Victim Assistance Coordinator’s duties are to not only facilitate the Tribe’s and Tribal officials’ compliance with the duties to victims provided herein, but also to ensure that the victim is aware of and may exercise those rights provided herein. Specific duties include providing:

- (1) Assistance at the scene of the crime, if practicable and consented to by the victim, to ensure that the victim and victim's household receive medical treatment and are safe.
 - (2) Notice, as soon as is practicable, of the victim's right to refuse to speak with the defendant's attorney or the attorney's representatives.
 - (3) Information regarding the alleged or convicted offender's dates of possible release from physical custody, escape, apprehension or otherwise.
 - (4) A process for the victim to provide a reentry statement to request that the inmate/suspect be subject to proximity or contact restrictions as part of the release of the inmate/suspect.
 - (5) Notification concerning an alleged or convicted offender's arrest, release on recognizance, posting of bond, release pending charges being filed, release due to rejection of charges by the Tribal Prosecutor, escape or re-apprehension.
 - (6) How to enroll in, access, and receive reports on the status of their offender's case from LAVNS. In addition, inform the victim about their right to request and receive notice of pre-judgment and post-judgment proceedings from the Tribal Prosecutor and Clerk of Court.
 - (7) Providing additional information on rights that a victim or designated family member have under this victim's rights policy, as well as the ways that those rights may be exercised.
 - (8) Acting on behalf of the victim or a designated family member, subject to the consent required and further limitations provided in Section 1002(c).
- (c) Upon the express written consent of the victim or a designated family member, the assigned Victim Assistance Coordinator may stand in for the victim or designated family member. Such written consent may be broad and encompass any act relevant to a proceeding or narrowly tailored to individual acts relevant to a proceeding. Upon receipt of such consent, the Victim Assistance Coordinator shall submit the consent to the Tribal Court, the Tribal Prosecutor, the Public Defender or defense attorney, and any other

necessary party. Accordingly, subject to the scope of such express written consent, the Victim Assistance Coordinator may perform any act that the victim or designated family member may perform, must receive any notice or information that the victim or designated family member is entitled to receive, and is otherwise entitled to exercise those rights afforded to the victim or designated family member under this Chapter; provided, however, that the Victim Assistance Coordinator's authority to act hereunder is subject to the following:

- (1) The Victim Assistance Coordinator may not speak on behalf of any witness that the defendant has the right to confront pursuant to the Indian Civil Rights Act, and in any other instance where the Victim Assistance Coordinator provides sworn testimony on behalf of a victim or designated family member, he or she may only speak to those facts that the victim or designated family member attests to in writing;
 - (2) In acting on behalf of the victim, the Victim Assistance Coordinator must act in the best interests of the victim and not any other entity, including the Tribe, Tribal Prosecutor, or Chitimacha Police Department.
 - (3) Nothing under this Section 1002(c) relieves a Tribal official or entity of any obligation to the Victim Rights Coordinator, as provided under this Chapter, that is not expressly contingent on the victim or designated family member's consent.
 - (4) The victim or a designated family member has the right to revoke, whether orally or in writing, any consent provided to the Victim Rights Coordinator to act on the victim or designated family member's behalf, which the Victim Rights Coordinator shall honor immediately. Further, the victim or a designated family member has the right to enroll in or discontinue the use of the Victim Rights Coordinator at any time during the court process.
- (d) The victim or designated family member, and the victim's attorney or assigned Victim Assistance Coordinator, if applicable, shall receive advance notification of judicial proceedings relating to the victim's case.

- (1) To appropriately carry out this task, the Tribal Prosecutor and the Clerk of Court must ensure that the required records are entered into the Louisiana Automated Victim Notification System (LAVNS) pursuant to La. R.S. 15:1229, so that the victim and their family may initiate and receive the latest status report on an offender's case.
- (2) If LAVNS is not available, the Tribal Prosecutor and Clerk of Court must ensure that a victim can stay up to date on the status of their offender's case. Accordingly, if the victim or designated family member requests notification, the Tribal Prosecutor and Clerk of Court must provide reasonable notice to the victim or designated family member of any judicial proceeding or post-sentencing action (including hearing dates, continuances, conditions of probation, or conditions of release) that implicates the victim's interests. The notice required pursuant to this subsection may be made by any method reasonably calculated to notify the victim or designated family member of the judicial proceeding in a timely manner.

(Added by Ordinance #02-22; Adopted: March 24, 2022; Effective: March 24, 2022)

Sec. 1003. Interviewing the Victim or Witness to a Crime.

- (a) The Tribal Prosecutor shall make reasonable efforts to interview the victim or a designated family member to determine the facts of the case, the facts supporting a claim for restitution (e.g., costs and losses sustained as a result of the defendant's conduct), and whether the victim or the family is requesting restitution. The time and manner of this interview is subject to the Tribal Prosecutor's sole discretion, provided that an interview is conducted before trial. Any evidence or statements gathered during the interview shall remain in the Tribal Prosecutor's custody and shall only be disclosed, in the discretion of the Tribal Prosecutor, to the extent necessary to support a criminal complaint.
- (b) The Chitimacha Tribal Police or, at the request of the Tribal Prosecutor, the Chitimacha Tribal Court, shall provide a private setting for all interviewing of victims of crime. Only

those persons directly and immediately related to the interviewing of the victim, such as a social worker, psychologist, or other professional, the victim advocate, or the employee of a victim service organization working in coordination with the victim advocate, may be present, unless the victim requests the exclusion of such persons from the interview, and, when appropriate, the parent or parent(s) of the victim.

- (c) The victim and the victim's family may refuse any requests for interviews with the attorney for the defendant or any employee or agent working for the attorney for the defendant or any representative of the defendant. If the victim is a minor, the parent or guardian of the victim may refuse to permit the victim to be interviewed by the attorney for the defendant or any employee of agent working for the attorney for the defendant. Before any victim may be subpoenaed to testify on behalf of a defendant at any pretrial hearing, the defendant shall show good cause at a hearing before the Tribal Court as to why the subpoena should be issued. Willful disregard of the rights of victims and witnesses as enumerated in this paragraph may be punishable in accordance with the laws of the Chitimacha Tribe or the inherent authority of the Tribal Court.

(Added by Ordinance #02-22; Adopted: March 24, 2022; Effective: March 24, 2022)

Sec. 1004. Victim's Involvement and Rights During Court Proceedings.

- (a) The Tribal Court shall provide, whenever possible, a secure waiting area during court proceedings which does not require victims, witnesses, or the victim's family members to be in close proximity to the defendant, or the defendant's family members or friends, and shall provide a secure waiting area in cases involving violent crimes. Upon request of the victim, victim's family, or witness, the Tribal Court shall also provide, whenever possible, designated seating in the courtroom for victims, victims' family and witnesses separate from the defendant, the defendant's family or witnesses for the defendant.
- (b) Speedy Disposition.

- (1) The victim's interest in a speedy disposition and prompt and final conclusion of a case after conviction and sentencing is critical. To this end, the Tribal Prosecutor will expedite proceedings with a minimum of continuances and shall consider the present residency of the victim as it relates to continuances, especially if the victim has relocated off the Chitimacha Reservation for safety.
 - (2) When ruling on a defense motion for continuance, the Tribal Court will consider the impact on the victim.
- (c) The victim and/or designated family member shall have the right to be present and heard at all critical stages of the proceedings.
- (1) At all critical stages of the prosecution, if the victim or designated family member completed registration and is present during the relevant proceeding, the Tribal Court must determine if the victim, designated family member, and/or counsel or advocate wishes to make a victim impact statement and shall permit such statement. If the victim is not present, the Tribal Court shall ascertain whether the victim or designated family member, in accordance with the predetermined rules, was notified of the hearing. If the notice was not made, the Tribal Court shall continue the proceedings until proper notification is issued.
 - (2) The victim and victim's family members shall have the right to make written and oral impact statements as follows:
 - (A) Any written statement by a victim shall be made available to the Tribal Prosecutor and defendant and shall be made part of the record. The statement may be submitted by the Tribal Prosecutor upon request of the victim or designated family member. Upon request of the victim or designated family member, any such written statement may be sealed by the Tribal Court after review by the parties.
 - (B) If the victim offers an oral statement, the hearing at which the oral statement is provided to the Tribal Court shall be subject to the limitations of relevance. In any case where the number of victim's family members exceeds three, the

Tribal Court may in its discretion limit the number of in-court statements that exceed three. The Tribal Court may otherwise reasonably restrict the oral statement in order to maintain courtroom decorum. The defendant must be present for the victim impact statement. Upon motion of the Tribal Prosecutor, the Tribal Court may hear such statement by camera or video conferencing.

- (C) The statement of the victim or the victim's family may:
- (i) Identify the victim of the offense;
 - (ii) Itemize the economic loss that has been or may be reasonably suffered by the victim as a result of the offense;
 - (iii) Identify any physical injury suffered by the victim as a result of the offense, along with its severity and permanence;
 - (iv) Describe any change in the victim's personal welfare or familial relationship as a result of the offense;
 - (v) Identify any request for medical or counseling services needed by the victim or the victim's family as a result of the offense;
 - (vi) Contain any other information related to the impact of the offense upon the victim or the victim's family that the Tribal Court requires;
 - (vii) If defendant is eligible for probation, contain any information which advises the Tribal Court on conditions of probation required to assure the safety of the victim; and
 - (viii) Contain any other information that the victim or victim's family wishes to share with the Tribal Court regarding the overall effect of the crime upon the victim and the victim's family.
- (3) Prior to the sentencing hearing, the Tribal Court shall provide the defendant (or counsel to the defendant, if applicable), the victim, and the Tribal Prosecutor with notice of the maximum and minimum sentence allowed by law. The Tribal Court shall allow the victim, or designated family member, and the prosecutor the opportunity to review any presentence investigative report that have been

prepared relating to the victim's case. The review of the presentence report shall be conducted under the supervision of the Tribal Court.

- (4) At the sentencing hearing, the Tribal Court shall afford the defendant (or counsel to the defendant, if applicable), the Tribal Prosecutor, and the victim or designated family member an opportunity to comment upon matters relating to the appropriate sentence. Before imposing sentence, the Tribal Court shall verify that the victim or designated family member was notified of the sentencing hearing and address the victim or designated family member personally, if the victim or designated family member is present at the sentencing hearing, to determine if the victim or designated family member wishes to present a written or oral impact statement pursuant to this rule.
- (d) Return of property to victim or family of victim. The Chitimacha Police Department shall expeditiously return any stolen or other personal property to victims or victims' families' when no longer needed as evidence, at no cost to the victims or their families.
- (e) There shall be no filing fees or costs required by the victim or a designated family member regarding the matter involving the victim.
- (f) It shall be the requirement of the Tribal Prosecutor and the Clerk of Court, at least two months before the release date, to notify the victim or a designated family member or witness, by certified mail, of any release of the offender. This shall also apply if the offender escapes custody, and another notice will be made upon capture. In addition, the Tribal Prosecutor and the Clerk of Court shall ensure the victim is notified of any appeal filed from a judgment in the offender's case.

(Added by Ordinance #02-22; Adopted: March 24, 2022; Effective: March 24, 2022)

Sec. 1005. Designated Family Member.

A designated family member may be appointed by either a majority of the victim's family members, upon a certification or affidavit submitted to the Chitimacha Police Department or Victim Assistance Coordinator, or in the absence of such familial appointment, by the

Chitimacha Tribal Court. A designated family member shall be afforded all of the rights accruing to victims under this Chapter 10. Upon a finding of good cause, the Tribal Prosecutor may allow more than one designated family member.

(Added by Ordinance #02-22; Adopted: March 24, 2022; Effective: March 24, 2022)

Sec. 1006. Confidentiality.

Any and all documentation or statements submitted to the Victim Services Coordinator, Chitimacha Police Department, Tribal Prosecutor, Clerk of Court, and all officers of the Tribal Court are subject to strict confidentiality, except in those limited instances where the Tribal Court orders that the document or statement be a part of the public judicial record or where applicable federal, state, or Tribal law requires the disclosure of the document or statement. Accordingly, subject to the exceptions provided herein, the Victim Services Coordinator, Chitimacha Police Department, Tribal Prosecutor, Clerk of Court, and all officers of the Tribal Court shall ensure that all such documents are kept and maintained in the strictest of confidence and used only for an authorized purpose.

(Added by Ordinance #02-22; Adopted: March 24, 2022; Effective: March 24, 2022)

Sec. 1007. Right and Duties Relative Domestic Violence Victims Unaltered.

Nothing in this Chapter 10 is intended to or shall be interpreted to eliminate, diminish, or modify the rights and procedural protections afforded to victims of domestic violence-based crimes under Chapter 6 of this Title. Accordingly, such victims shall be afforded the rights and procedural protections afforded under Chapters 10 and 6 of this Title.

(Added by Ordinance #02-22; Adopted: March 24, 2022; Effective: March 24, 2022)

Sec. 1008. Limitation on Duties Imposed on the Tribe.

The duties and obligations imposed on the Victim Services Coordinator under this Title shall not be interpreted as imposing an affirmative duty on the Tribe or its agencies and departments to employ any person. This Section does not relieve any Tribal official of their duty

to perform any obligation imposed under the Chitimacha Comprehensive Codes of Justice or under this Title that does not depend on a Victim Services Coordinator.

(Added by Ordinance #02-22; Adopted: March 24, 2022; Effective: March 24, 2022)