

LEGISLATIVE SUMMARY SHEET

Tracking No. 0240-22

DATE: December 6, 2022

TITLE OF RESOLUTION: AN ACT RELATING TO THE LAW AND ORDER, AND NAA'BIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; AMENDING TITLE 17 OF THE NAVAJO NATION CODE

PURPOSE: The purpose of this legislation is approve amendments to the Navajo Nation's criminal statutes set forth in Title 17 of the Navajo Nation Code.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24TH NAVAJO NATION COUNCIL - Fourth Year, 2022
INTRODUCED BY

(Prime Sponsor)

OTTO TSO

TRACKING NO. 0240-22

AN ACT
RELATING TO THE LAW AND ORDER, AND NAA'BIK'ÍYÁTI'
COMMITTEES AND THE NAVAJO NATION COUNCIL; AMENDING TITLE
17 OF THE NAVAJO NATION CODE

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee was established as a standing committee of the Navajo Nation Council with the delegated responsibilities to “[t]o protect the rights and interests of the Navajo People by improving the quality and effectiveness of the justice system within the Navajo Nation” and to review and make recommendations to the Navajo Nation Council on proposed Navajo Nation Code amendments and enactments. 2 N.N.C. §§ 600(A), 600(C)(2) and 601(B)(14).
- B. The Naa'bik'íyáti' Committee was established as a standing committee of the Navajo Nation Council with the delegated responsibility to hear and act on proposed legislation that requires final action by the Navajo Nation Council shall be assigned to the Naa'bik'íyáti' Committee. 2 N.N.C. §§ 164(A)(9) and 700(A) (2).
- C. The Navajo Nation Council is the governing body of the Navajo Natin and must review and approve enactments or amendments of positive law, i.e., changes to the Navajo Nation Code. 2 N.N.C. § 102(A) and § 164(A).

SECTION TWO. FINDINGS

- A. For years, the Navajo Public and Navajo communities have pleaded with their Naat'áaniis to address the rampant violent crime on the Navajo Nation. Navajo elders are afraid for their own safety. Navajo parents are afraid for their children's safety. Navajo spouses are afraid for their spouse's safety. The list goes on.
- B. Persistent gaps in the Navajo Nation public safety system have created a culture where crime – especially violent crime – is actively increasing on the Navajo Nation. Repeat offenders break laws and reoffend with impunity because they know they are unlikely to be extensively punished.
- C. The most common criminal offenses reported on the Navajo Nation are violent assaults involving weapons and/or serious bodily injury, as well as rape.
- D. It should not be overlooked that alcohol and substance abuse underlie almost all violent crime on the Navajo Nation. Addressing illegal consumption of alcohol on the Navajo Nation is of the utmost importance to ensure our already over-burdened system functions as effectively as possible. It has been reported that approximately 55% of law enforcement's time and resources are expended on responding to public intoxication.
- E. These amendments, as set forth in attached **Exhibit A**, to the Navajo Nation's criminal statutes were developed during the 24th Navajo Nation Council through Work Groups led by the Law and Order Committee and the Chief Prosecutor. The amendments developed by former President Russell Begay's Executive Branch Work Group were incorporated, fully or in part, into the amendments set forth herein.
- F. The amendments set forth herein extend statutes of limitation for serious offenses, including sexual assault and crimes against children, so that law enforcement has sufficient time to prosecute. In addition, the legislation recommends mandatory minimum sentences and tiered sentencing for certain serious offenses to deter and promote accountability for repeat and violent offenders. It also proposes new offenses for bootlegging and possession or sale of drug paraphernalia, and implements a mandatory safety hold for public-intoxication offenders.

1 G. The Navajo Nation Department of Justice has reviewed the proposed amendments
2 and deemed them to be legally sufficient.

3 H. The Navajo Nation Council determines that the amendments to Title 17 of the Navajo
4 Nation Code, set forth herein at **Exhibit A**, are necessary and vital to ensure adequate
5 deterrence and punishment for violent and substance abuse-driven acts that threaten
6 Navajo families and Navajo communities. These amendments also prioritize victim's
7 rights and enhance protections for all crime victims and their families as they await
8 justice.

9
10 **SECTION THREE. AMENDMENTS TO TITLE 17**

11 The Navajo Nation hereby amends Title 17 of the Navajo Nation Code as set forth in
12 **Exhibit A** and incorporated herein.

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14 **SECTION FOUR. CODIFICATION**

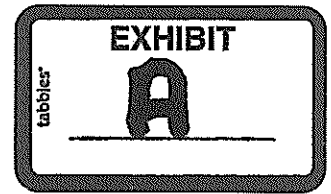
15 The provisions of this Act that amend or adopt new sections of the Navajo Nation Code
16 shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel
17 shall incorporate such amended provisions into the next codification or supplement of the
18 Navajo Nation Code.

19
20 **SECTION FIVE. SAVINGS CLAUSE**

21 Should any provision of this Act be determined invalid by the Navajo Nation Supreme
22 Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation
23 Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.

24
25 **SECTION SIX. EFFECTIVE DATE**

26 This Act shall become effective in accordance with 2 N.N.C. § 221(B).
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Title 17
Law and Order
Chapter 1. Enforcement of Criminal Code

§ 101. Responsibility

The Navajo Nation Office of the Prosecutor, Judicial Courts, and Peace Officers assumes responsibility for the enforcement of the Criminal Code, including such Amendments thereof and such additions thereto as may hereafter be enacted.

§ 102. Requirements to Become a Navajo Nation Peace Officer

A. All personnel assuming or exercising the power of arrest, search and seizure, or any person who is a law enforcement officer vested by law with a duty to maintain public order or make arrests whether that duty extends to all offenses or is limited to specific classes of offenses within the Navajo Nation must be qualified, trained, and certified as a peace officer of the Navajo Nation in accordance with the standards and Training Commission.

B. The provisions concerning the certification of peace officers of the Navajo Nation may be referred to as the "Navajo Nation Peace Officer Standards and Training Certification Act."

§ 103. Authority to enter into cooperative agreements with federal and state agencies

The President of the Navajo Nation is authorized to enter into cooperative arrangements and agreements with federal and state law enforcement agencies with the recommendation and approval of the Law and Order and Budget and Finance Committees for purposes of mutual assistance and definition of responsibilities.

§ 104. Authority to enter into cooperative agreements for incarceration of Navajo prisoners

The President of the Navajo Nation, with the advice and consent of the Law and ~~Order~~Order and Budget and Finance Committees of the Navajo Nation Council, is authorized to enter into agreements with federal, state, military and local authorities for the incarceration of Navajo prisoners in correctional facilities within the Navajo Nation.

Chapter 2. General Provisions
Subchapter 1. General

§ 201. Title and effective date

A. This Title shall be known as the “Navajo Nation Criminal Code”, and may be cited as 17 N.N.C. § 101 *et seq.*

B. The provisions of this Title shall become effective upon consideration and passage by the Navajo Nation Council and upon certification thereof. Prosecutions for offenses committed prior to the effective date shall be governed, prosecuted, and punished under the laws existing at the time such offenses were committed.

C. If any Section or application of any Section of the Navajo Nation Criminal Code is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

§ 202. Purpose

It is declared that the general purposes of this Code are:

A. To proscribe conduct that unjustifiably and inexcusably threatens or inflicts substantial harm to individual or public interests;

B. To give all persons entering into the territorial jurisdiction of the Navajo Nation Courts a fair warning of proscribed conduct and of the sentences authorized upon conviction;

C. To differentiate on reasonable grounds between serious and minor offenses and to prescribe proportionate penalties for each;

D. To protect the public interest of the Navajo Nation by defining the act or omission which constitutes each offense, and to apply the provisions of this title equally and impartially to all persons within the territorial jurisdiction of the Courts of the Navajo Nation.

§ 203. Territorial applicability

A. The Navajo Nation Courts shall have jurisdiction over any person who commits an offense by his or her own conduct if the conduct constituting any element of the offense or a result of such conduct occurs within the territorial jurisdiction of the Navajo Nation Courts as defined in 7 N.N.C. § 254, or such other dependent Indian communities as may hereafter be determined to be under the jurisdiction of the Navajo Nation and the Courts of the Navajo Nation. For purposes of determining jurisdiction for offenses involving electronic communications, an offense is committed within the Navajo Nation if an electronic communication device transmission either originates or is received in the Navajo Nation.

B. The Navajo Nation Courts shall also have jurisdiction over any member of the Navajo Nation who commits an offense against any other member of the Navajo Nation wherever the acts or conduct which constitutes the offense occurs. Under this circumstance, the

Navajo Nation shall not prosecute the offender if another tribal or state jurisdiction has already initiated prosecution.

§ 204. Civil prosecutions of non-Indians

A. Any non-Indian alleged to have committed any offense enumerated in this Title may be civilly prosecuted by the Office of the Prosecutor. In no event shall such a civil prosecution permit incarceration of a non-Indian or permit the imposition of a criminal fine against a non-Indian.

B. Procedure. Civil prosecutions under this Section shall be conducted in accordance with the Navajo Rules of Criminal Procedure, and the non-Indian civil defendant shall be afforded all the heightened protections available to a criminal defendant under those rules including, but not limited to, the beyond a reasonable doubt burden of proof.

C. Nothing in this Section shall be deemed to preclude exercise of criminal jurisdiction over any person who, by reason of assuming tribal relations with the Navajo people or being an “in law” or hadane, nihi zhaa aad, or relative as defined by Navajo common law, custom, or tradition, submits himself or herself to the criminal jurisdiction of the Navajo Nation.

D. Civil Penalties. Upon a finding that a non-Indian has committed any of the offenses enumerated in this Title, the Court may impose any of the following civil penalties in any combination deemed appropriate by the Court:

1. A civil fine (fines listed for offenses under Title 17 may serve as a guideline for the calculation of a civil fine, but the criminal fines are not binding upon the calculation of a civil fine);
2. Any civil forfeiture made appropriate by the penalty Sections of Title 17;
3. Restitution, or nályééh, consistent with the traditional principles of nályééh;
4. Exclusion from all lands subject to the territorial jurisdiction of the Navajo Nation courts.

§ 205. Time limitations

A. Except as otherwise provided in this Title, prosecution for other offenses must be commenced within ~~three~~ five years from the date of the act or conduct which constitutes the offense.

B. A prosecution is commenced ~~either when a complaint is filed or when an arrest warrant or other similar process is used.~~

§ 206. Proof

No person may be convicted of an offense unless each element of such offense is proved beyond a reasonable doubt. The innocence of the defendant is presumed.

§ 207. Double jeopardy

No person shall be put twice in jeopardy for the same crime. The defense of double jeopardy may not be waived and may be used by the accused at any stage of a criminal prosecution either before or after judgment. When a complaint charges different offenses and an appeal is granted to the defendant, he or she may not again be tried for an offense greater than the one for which he or she was originally convicted.

§ 208. Witness immunity; prosecutor investigations; District Court proceedings

A. Investigation Proceedings. When a prosecutor has probable cause to believe that an offense has occurred, he or she may require any witness who he or she believes has knowledge of material information to give a sworn statement regarding such offense. If such a witness has been asked to give a sworn statement to produce a record, document or other object in connection with such investigative proceedings, the district court may, upon the written or oral application of the prosecuting attorney, issue a written order granting use immunity and requiring the person to testify or to produce the record document or other object notwithstanding his or her privilege against self- incrimination. In any application for such an order, the prosecuting attorney shall state under oath that probable cause exists and that he or she believes such order is in the public interest based on the following factors:

1. The importance of the investigation or prosecution to effective enforcement of the criminal law;
2. The value of the person's testimony or information to the investigation or prosecution;
3. The likelihood of prompt and full compliance with a compulsion order and the effectiveness of available sanctions if there is no such compliance;
4. The person's relative culpability in connection with the offense or offenses being investigated or prosecuted and their history with respect to criminal activity;
5. The possibility of successfully prosecuting prior to compelling them to testify or produce information; and
6. The likelihood of adverse collateral consequences to the person if he or she testifies or provide information under a compulsion order.

B. The District Courts of the Navajo Nation may grant the application and issue a written order if it finds:

1. The testimony or record, document or other object may be necessary to the public interest; and
2. The person has refused, or is likely to refuse, to testify or produce the record, document or other object on the basis of his or her privilege against self-incrimination.

C. Court Proceedings. If a person has been or may be called to testify or produce a record, document or other objects in an official proceeding conducted under the authority of a district court, the district court may, upon the written application of the prosecutor issue an order granting use immunity to that person and requiring the person to testify or produce the record, document or other object notwithstanding his or her privilege against self-incrimination, if it finds:

1. The testimony or the record, document or other object may be necessary to the public interest; and
2. The person has refused, or is likely to refuse, to testify or to produce the record, document or other object on the basis of his or her privilege against self-incrimination.

§ 209. General definitions

In this Code, unless a different meaning plainly is required:

A. “Act” or “aAction” means a bodily movement whether voluntary or involuntary;

A.B. “Active custody” means that a person is in the custody of the Navajo Department of Corrections.

~~B. “Carrying a deadly weapon” means being armed with a deadly weapon by having it on the person or in close proximity thereto so that the weapon is readily accessible for use;~~

C. “Bodily injury” includes but is not limited to the following:

1. A cut, abrasion, bruise, burn, or disfigurement;
2. Physical pain

3. Illness;

4. Emotional distress; or

5. Impairment of the function of a bodily member, organ, or mental faculty;

D. "Conduct" means an action or omission and its accompanying state of mind, or, where relevant, a series of acts or omissions;

E. "Control" or ~~"to exercise control"~~ means to act so as to exclude others from using their property except on the defendant's own terms;

F. "Corrections officer" means an officer who is responsible for the custody, safety, security, and supervision of detainees in a prison or any other correctional facility. These officers are also responsible for the care, custody, and control of individuals, who have been arrested, awaiting trial, and have been sentenced to serve jail time in a correctional facility;

F.G. "Dangerous instrument" means anything that under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;

G.H. "Deadly weapon" means anything designed for lethal use or any instrument used in a lethal manner; the term includes a firearm, cross bow, knife, and axe;

H.I. "Deceit" means any of the following:

1. The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;
2. The assertion, as a fact, of that which is not true, by one who has no reasonable ground for believing it to be true;
3. The suppression of a fact, by one who is bound to disclose it, or who gives information of other facts which are likely to mislead for want of communication of that fact; or,
4. A promise made without any intention of performing it;

I.J. "Deface" means any unnecessary act of deforming or blighting any surface or place, whether by mechanical means such as a hatchet, knife or spray paint, or by other means, so as to detract substantially from its visual attractiveness ~~or utility;~~

J. ~~“Deprive” means to withhold the property interest of another either permanently or for so long a time period that the major portion of its economic value is lost, or to withhold it with the intent to restore it only upon payment of reward or other compensation, or to transfer or dispose of it so that it is unlikely to be recovered;~~

K. “Electronic Communication Device” means a computer, video recorder, digital camera, fax machine, telephone, wireless mobile telephone, pager, audio equipment, or any other device that can produce an electronically generated image, message, or signal.

L. “Explosive” means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite, nitroglycerine or other similar device or material ~~excluding fireworks or firecrackers;~~

M. “Facilitate” means to engage in conduct which knowingly provides another with the means or opportunity for the commission of an offense;

O. ~~“Firearm” means any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the Action of an explosive, except that it does not include an antique firearm or a firearm in permanently inoperable condition which is kept as a curio or museum piece or for educational purposes;~~

N. “Family member” means any individual who is a spouse, former spouse, household member, parent, child, legal guardian, present or former stepparent or stepchild(ren), or former in-law, or relative, to the second affinity which included aunts, uncles, nieces, nephews, cousins, grandparents, grandchildren; a current or former intimate or romantic partner; or an individual with whom one has or had a continued personal relationship, such as a current or former intimate partner.

O. “Family violence” means any criminal act as defined under Chapter 3, Subchapter 24 committed by a family member against another family member resulting in:

1. Physical harm, including bodily injury and sexual assault;

2. A threat causing imminent fear of bodily injury, including assault and sexual assault;

3. Emotional distress;

4. Stalking;

5. Harassment;

6. Electronic harassment;

7. Criminal trespass;

8. Criminal damage to property; or

9. Financial or economic loss; or

10. Threats to pets, livestock, or animals.

~~P.A. "Litter" means any rubbish, refuse, waste material, offal, paper, glass, cans, bottles, trash, debris or any foreign substance of whatever kind of description, including junked or abandoned vehicles, whether or not any of these items are of value;~~

P. "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device, or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile, or bullet, or any gas, vapor, or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances, including conducted electrical weapons;

Q. "Force" is any physical aggression or application or use of an instrument, device, or technique directed against a person to coerce or gain control of property;

R. "Furnish" means to sell, give, rent, loan or otherwise provide;

S. "House arrest" means court-ordered confinement in one's own home;

T. "Intoxicating substance" means any substance not intended for human consumption that produces an impaired state when misused, such as mouthwash, hand sanitizer, cologne, perfume, hairspray, cleaning agents, paint, gas, glue, and similar substances.

U. "Litter" means any rubbish, refuse, waste material, offal, paper, glass, cans, bottles, trash, debris or any foreign substance of whatever kind of description, including junked or abandoned vehicles, whether or not any of these items are of value;

V. "Loaded firearm" means a firearm designed to or converted to expel a projectile through an explosive, that has a cartridge, a detonator, or powder in the chamber, magazine or cylinder;

W. "Material misrepresentation" means pretense, promise, representation or statement of fact which is fraudulent and which, when used or communicated, is instrumental in causing the wrongful control or transfer of property or services; the pretense may be verbal or it may be a physical act;

Q-X. "Minor" means a person under eighteen (18) years of age;

Y. “Nályééh” means the traditional, Navajo common law process for open discussions of an offense and the Navajo values which apply to that offense, the mediation and assignment of liability under this process, and the use of reconciliation, restorative justice and reparation in place of fines and jailing;

R.Z. “Navajo Nation” means:

1. The Navajo Nation Council;
2. The President, Navajo Nation;
3. The Vice-President, Navajo Nation;
4. The Delegates to the Navajo Nation Council;
5. The Certified Chapters of the Navajo Nation;
6. The Grazing Committees of the Navajo Nation;
7. The Land Boards of the Navajo Nation;
8. The Executive Branch of the Navajo Nation government;
9. The Judicial Branch of the Navajo Nation government;
10. The Commissions of the Navajo Nation government;
11. The Committees of the Navajo Nation government;
12. The Legislative Branch of the Navajo Nation government;
13. The Enterprises of the Navajo Nation;
14. Navajo Community College;
15. The Kayenta Township and the Kayenta Township Commission;
16. Navajo Housing Authority;
17. Navajo Nation Gaming Enterprise;
18. Tribal Gaming Enterprises;
19. Institutions of higher learning of the Navajo Nation;
20. Any other entity that receives funding meant to benefit the Navajo Nation or Navajo people, including but not limited to Indian Self-Determination and Education Assistance Act (“638”) funds, Native American Housing Assistance and Self Determination Act (NAHASDA) funds, funds from private sources, and any other federal, state, or Navajo Nation funds;

AA. “Navajo Nation official” means any person who is an officer or employee of the Navajo Nation, including a peace officer, whether elected, appointed, or otherwise employed and any person participating as advisor, consultant, or otherwise in performing a Navajo Nation government function; the term does not include jurors or witnesses;

S.BB. Navajo Nation Police Department of the Division of Public Safety means law enforcement of the Navajo Nation, including Ramah Police;

CC. “Omission” means a failure to perform an act as to which a duty of performance is imposed by law;

T.DD. “Pattern of conduct” means any acts or behaviors which are regular or repeated;

U.EE. “Peace officer” means any person who is a law enforcement officer vested by law with a duty to maintain public order or make arrests, whether that duty extends to all offenses or is limited to specific classes of offenses or offenders;

V.FF. “Person”, “he”, “she”, and “actor” includes any natural person, and where relevant, a corporation, partnership or an unincorporated association, a government or a government authority;

W.GG. “Possess” means to have physical possession or otherwise to exercise dominion or control over property;

HH. “Property” means anything of value, tangible or intangible, public or private, real or personal, including documents evidencing value or ownership;

II. “Prostitution” means the engagement in or agreement or solicitation to engage in a sexual act with another person for monetary or personal gain;

JJ. “Restorative justice” in traditional Diné justice means to “restore” in conformity with justice principles that emphasizes repairing the harm caused by criminal behavior. A high level of accountability is required of an offender. Specifically, nályééh that restores the harmony amongst the person’s involved, their families and community. The Peacemaking Program is available to assist in determining nályééh by recommending alternative sentencing, compensation and helping to bring an offender back to their families and community. Compensation is not limited to money, but is inclusive of acts that will restore the person harmed;

X.KK. “Sadomasochistic abuse” means flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing apparel or shackled or bound or physically restrained;

Y. “Serious physical injury” means physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ;

LL. “Services” include labor, professional service, transportation, telephone, gas or electrical services, accommodation in hotels, restaurants, leased premises or elsewhere, admission to exhibitions and use of vehicles or other movable property;

MM. “Serious bodily injury” includes but is not limited to:

1. A substantial risk of death or loss of life;

2. Transmission of a fatal disease;
3. Protracted and obvious disfigurement;
4. Pregnancy or disease or injury resulting from sexual assault;
5. Extreme physical pain; or
6. Protracted loss or impairment of the function of a bodily member, organ or mental faculty;

NN. "Sexual contact" means any touching, directly, indirectly, or over the clothing, fondling, or manipulating of any part of the genitals, anus, groin, inner thigh, buttocks, or breast of any person, or of oneself as in masturbation, or for the intention of gratifying the sexual desire of any person;

OO. "Sexual act" means:

1. Contact and penetration, however slight, between the penis and the vulva or anus as in sexual intercourse; or
2. Contact between the mouth and penis or vulva or anus; or
3. Using a hand, finger or any object to penetrate, however slight, the anal or vaginal opening of another;

PP. "Spouse" means a person who is recognized as a husband or wife pursuant to 9 N.N.C. §1, as amended;

QQ. "Stalking" means a pattern of repeated, unwanted attention, harassment, or contact. It is a pattern of conduct that can include:

1. Following the victim;
2. Appearing at the victim's home or place of work;
3. Making unwanted and frightening contact with the victim through telecommunications technology, including but not limited to phone, texting, mail and/or email;
4. Harassing the victim through the Internet;

5. Making threats to harm the victim or the victim's children, relatives, friends, pets, or livestock;

6. Sending the victim unwanted gifts;

7. Intimidating the victim;

8. Vandalizing the victim's property; or

9. Securing personal information about the victim by accessing public records, hiring private investigators, using Internet search services, contacting friends, family, work or neighbors, or going through the victim's garbage;

Z.RR. "Statute" or "law" includes any resolution of the Navajo Nation Council and any local law or ordinance of a political subdivision of the Navajo Nation;

SS. "Tamper" means any act of interference;

AA.TT. "Threat" means a verbal or physical menace of imminent- harm to a person or property;

BB. "Navajo Nation official" means any person who is an officer or employee of the Navajo Nation government, including a peace officer, whether elected, appointed or otherwise employed and any person participating as advisor, consultant or otherwise in performing a Navajo Nation governmental function; the term does not include jurors or witnesses;

CC.UU. "Unlawful" means contrary to law or, where the context so requires, not permitted by law; it does not mean immoral;

VV. "Utility" means any enterprise entity, public or private, which provides gas, electric, steam water or communications services, as well as any common carrier on land, sea or air.

WW. "Victim" means a person directly or proximately harmed as a result of the commission of a crime. In the case of a victim who is a minor, incompetent, incapacitated, or deceased, the legal guardians of the victim or the representatives of the victim's estate, family members, or any other persons appointed as suitable by the court, may assume the victim's rights under this Title, but in no event shall the defendant be named as such guardian or representative;

XX. "Without consent" means:

1. The victim does not express, through words or actions, consent to engage in a sexual act or sexual contact, or the victim withdraws consent before or during a sexual act or sexual contact that the victim previously consented to;
2. The victim clearly refuses to consent to engage in a sexual act or sexual contact and a reasonable person would have understood the victim's words or actions as a refusal of consent to the sexual act or sexual conduct;
3. The victim is coerced by the immediate use or threatened use of force against a person or property; or
4. The victim is incompetent to consent by reason of mental disorder, drugs, alcohol, sleep or any other similar impairment of cognition unless at the time the defendant engaged in the conduct constituting the offense the defendant did not know and could not reasonably have known of the facts or conditions responsible for such incompetency to consent; or
5. The victim is intentionally deceived as to the nature of the act;
6. The victim is intentionally deceived to erroneously believe that the person is the victim's spouse; or
7. The victim is minor and thus not old enough to give valid consent

____ "Navajo Nation" means:

- ~~2. Navajo Nation Council;~~
- ~~3. The Speaker and Delegates of the Navajo Nation Council;~~
- ~~4. The President and Vice President of the Navajo Nation;~~
- ~~5. The Executive Branch of the Navajo Nation government;~~
- ~~6. The Legislative Branch of the Navajo Nation government;~~
- ~~7. The Judicial Branch of the Navajo Nation government;~~
- ~~8. Chapters, Townships and any other local government or political subdivision of the Navajo Nation;~~
- ~~9. The Commissions of the Navajo Nation Council;~~
- ~~10. The Grazing Committees of the Navajo Nation;~~
- ~~11. The Land Boards of the Navajo Nation;~~
- ~~12. The Farm Boards of the Navajo Nation;~~
- ~~13. Institutions of higher learning of the Navajo Nation;~~
- ~~14. Ramah Band of Navajo School Board;~~
- ~~15. The Enterprises of the Navajo Nation;~~
- ~~16. Any other entity that receives funding meant to benefit the Navajo Nation or Navajo People, including but not limited to Indian Self-Determination and Education Assistance Act ("638") funds, Native American Housing Assistance and Self-Determination Act (NAHASDA) funds, funds from private sources, and any other federal, state, or Navajo Nation Funds.~~

§ 210. Definitions--Culpable mental states

The following definitions apply with respect to an offense set forth in this title:

A. “Intentional”, “intentionally”. A person’s state of mind is intentional with respect to:

1. His or her conduct if it is his or her conscious objective or desire to engage in the conduct;
2. A result of his or her conduct if it is his or her conscious objective or desire to cause the result.

B. “Knowing”, “knowingly”. A person’s state of mind is knowing with respect to:

1. His or her conduct if he or she is aware of the nature of his or her conduct;
2. An existing circumstance if he or she is aware or believes that the circumstance exists;
3. A result of his or her conduct if he or she is aware or believes that his or her conduct is substantially certain to cause the result.

C. “Reckless”, “recklessly”. A person’s state of mind is reckless with respect to:

1. An existing circumstance if he or she is aware of a risk that the circumstance creates but disregards the risk;
2. A result of his or her conduct if he or she is aware of a risk that the result will occur but disregards the risk. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in such a situation.

D. “Negligent”, “negligently”. A person’s state of mind is negligent with respect to:

1. An existing circumstance if the person ought to be aware of a risk that the circumstance exists;
2. A result of his or her conduct if the person ought to be aware of a risk that the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would exercise in such a situation.

§ 211. Basis of criminal liability

The minimum requirement for criminal liability is the performance by a person of conduct which includes a voluntary act or the omission to perform a duty imposed by law which he or she is physically capable of performing.

§ 212. Culpability

A person shall not be guilty of an offense unless he or she acted intentionally, knowingly, recklessly, or negligently as the law may require with respect to each material element of the offense.

§ 213. Ignorance or Mistake

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

A. The ignorance or mistake negates the intent, knowledge, belief, recklessness, or negligence required to establish a material element of the offense; or

B. The law provides that the state of mind established by such ignorance or mistake constitutes a defense.

§ 214. Intoxication

A. Intoxication of the actor is not a defense unless it ~~negatives~~negates an element of the offense.

B. When recklessness is an element of the offense, if the actor, due to self-induced intoxication, is unaware of a risk of which he or she would have been aware had he or she not been intoxicated, such unawareness is immaterial.

§ 215. Entrapment

A. A person prosecuted for an offense shall be acquitted if he or she proves by a preponderance of evidence that his or her conduct occurred in response to an entrapment.

B. A public law enforcement official or a person acting in cooperation with such an official perpetuates an entrapment if for the purpose of obtaining evidence of the commission of an offense, he or she induces or encourages another person to engage in conduct constituting such offense by either:

1. Making knowingly false representations designed to induce the belief that such conduct is not prohibited; or
2. Employing methods of persuasion or inducement which create a substantial risk that such an offense will be committed by persons other than those who are previously disposed to commit it.

§ 216. Affirmative defenses

A. Duress. It is an affirmative defense that the actor engaged in the conduct charged to constitute an offense because he or she was coerced to do so by the use of, or a threat to use, unlawful force against his or her person or the person of another, which a person of reasonable firmness in his or her situation would have been unable to resist and the actor did not recklessly or negligently place himself or herself in a situation in which it was probable he or she would be subjected to duress.

B. Justification. Conduct which the actor believes to be necessary to avoid a harm or evil to himself or herself or to another is justified and is an affirmative defense provided that the harm or evil sought to be avoided by such conduct is no greater than that sought to be prevented by the law defining the offense charged and the act or did not recklessly or negligently bring about the situation requiring his or her conduct.

C. Public duty. Conduct is justified and an affirmative defense when it is required or authorized by law.

D. Protection of self, property, or other person. The use of reasonable force upon or toward another person is justified and an affirmative defense when the act or believes that such force is immediately necessary for the purpose of protecting himself or herself or a third person against the use of unlawful force by another person or to prevent or terminate an unlawful entry or other trespass upon land or the unlawful carrying away of tangible movable property.

E. Mental disease. A person is not responsible for criminal conduct, and it is an affirmative defense, 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 criminality of his or her conduct or to conform his or her conduct to the requirements of law.

§ 217. Accomplice liability

- A. A person may be charged with and convicted of an offense as an accomplice if he or she intentionally or knowingly solicits, counsels, commands, facilitates, aids, agrees to aid or attempts to aid in its commission, although he or she did not directly commit the crime and

although the principal who directly committed such offense has not been prosecuted or convicted, or has been convicted of a different offense.

A.B. Any person found guilty of accomplice liability to commit an offense may be sentenced to the penalty imposed for the underlying offense.

**Navajo Nation Code Annotated Title 17. Law and
Order Chapter 2. General Provisions
Subchapter 3. Sentencing**

§ 220. Policy~~Criteria~~

A. No person convicted of an offense pursuant to this Title shall be sentenced otherwise than in accordance with this Subchapter. The goals under this Subchapter shall be to serve the victims of crime, rehabilitate offenders, restore harmony, talk out problems, deter future crimes and protect the community. Sentencing under this Subchapter shall be consistent with these goals, restorative justice and other Navajo concepts of justice related to healing. ~~A sentence of incarceration is always considered an extraordinary measure under any offense enumerated in this Title and should be imposed only as a last alternative where a defendant is found to have caused serious injury to a victim or victims, or other serious circumstances warrant a jail sentence. All jail sentences must be supported by a written statement, by the Court, of reasons for imposition of a jail sentence.~~

B. Except as otherwise provided in sentencing of a specific offense under this Title, the court may suspend the imposition of sentence of a person who has been convicted of a crime, or may sentence him or her to alternative sentences, which may include any of the following or any combination thereof:

1. ~~P~~T~~o~~ pay a fine;
2. ~~B~~T~~o~~ be placed on probation;
3. Secure ~~T~~o rehabilitative treatment in accordance with an after-assessment, if applicable;
4. ~~B~~e~~T~~o imprisoned for a definite period within the term authorized;
5. ~~T~~o fine and probation or fine and imprisonment;
6. ~~5.~~Perform ~~T~~o community service;
7. ~~6.~~P~~T~~o pay full or partial restitution or nályééh.

~~8.7. R To restore harmony between victim and offender or between offender and community and at a victim's option, between a victim and offender;~~

~~9.8. Be To electronic monitoring; or placed on house arrest;~~

~~9. To p Pay costs or fees associated with imprisonment or punishment; or incarceration, electronic monitoring, and probation and parole services.~~

10. Be referred to Peacemaking Program (Hózhóóji Naat'áanii).

C. The court may, pursuant to its legal authority, decree a forfeiture of property, suspend or cancel a license, require full or partial restitution, remove a non-elected public servant or Navajo Nation government employee from office, or impose any other civil penalty, and such order or judgment may be included in the sentence. Any penalty imposed pursuant to this subsection shall require separate civil court proceedings with the standard of proof of beyond a reasonable doubt.

D. ~~At arraignment, Tthe Court~~ court shall inform a defendant person who is charged with a sex offense that if he or she is found guilty or pleads guilty or pleads no contest to the offense, the defendant person will be ordered to register for a minimum of fifteen (15) years with the Navajo Police Department as a convicted sex offender in any Navajo police district wherein he or she resides, works or goes to school pursuant to the Navajo Nation Sex Offender Registration and Notification Act.

~~Recidivism If a sex offender is subsequently convicted of the same or another sex offense under 17 N.N.C. § 436-449, 541, 557, and 558, he or she will be subject to serving a longer period of actual incarceration than he or she served for the previous conviction.~~

E. In no event may a mandatory jail sentence or mandatory fine be waived; provided, however in the event that a person is unable to pay a mandatory fine, the court may convert some or all of the fine to community service according to federal minimum wage standard.

§ 221. Sentencing considerations

A. Before imposing sentence, the court shall take into consideration the offender's prior record, family circumstances, employment status, and any other circumstances which will aid in imposing a just and fair sentence.

B. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and whether restitution or nályééh shall be paid to the victim(s) or the Navajo Nation.

C. The trial court may utilize the services of the Navajo Peacemaking Program and/or the Office of Probation and Parole to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker. The Office of Probation and Parole shall monitor the completion of the sentence.

D. The trial court may consider the imposition of a peace or security bond upon the ~~defendant~~person, including the pledges of family or clan sureties.

E. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

F. The trial court shall consider the ~~utility~~usefulness of labor or community service sentences, under the supervision of the Navajo Nation Division of Public Safety or a public or private organization, including the chapter in which the ~~defendant~~person resides.

G. The courts of the Navajo Nation shall establish a fund, to be collected from assessments against persons convicted of any offense under this Title and under Title 14, in addition to any fine to cover the cost of liability insurance for the community service programs.

H. Notwithstanding any other provision of this Section or Section 220, the trial court may impose any reasonable condition of sentence which strives to rehabilitate the ~~defendant~~person or serves the reasonable needs of the victims of crime and of society and is not inconsistent with the sentencing terms established for the offense or offenses which the ~~defendant~~person is determined to have committed.

§ 222. Fines

A. A person who has been convicted of an offense may be sentenced to pay a fine as designated for that offense.

B. Whether to impose a fine in a particular case, up to the authorized maximum, and the method of payment, shall remain within the discretion of the court.

C. The court is authorized to permit installment payments of any imposed fine taking into consideration ~~considering~~ the means or circumstances of the offender.

§ 223. Imprisonment

A person who has been convicted may be sentenced for a definite term not greater than one year (365 days) per offense, up to a maximum of nine years for one incident with multiple sentences.

§ 224. Probation

The court shall have the discretion except where prohibited by statute to suspend all or part of an offender's sentence and release the defendant on probation. The offender shall sign a probationary pledge, which may include the conditions be set forth by court.

§ 225. Multiple sentences

When multiple sentences of imprisonment are imposed on a defendant for more than one crime, such multiple sentences shall run concurrently or consecutively as the court determines at the time of the sentence, up to a maximum of nine years.

§ 226. De Minimis Infractions

A. The court may dismiss a prosecution if, having regard to the nature of the conduct charged to constitute an offense and the nature of the attendant circumstances, it finds that the defendant's conduct:

1. Constituted normally permissible conduct not inconsistent with the purpose of the law defining the offense; or
2. Did not actually cause or threaten the harm sought to be prevented by the law defining the offense or did so only to an extent too trivial to warrant the condemnation of conviction; or
3. Is so far removed from what would reasonably be considered a crime that it cannot reasonably be regarded as contemplated by the Navajo Nation Council in forbidding the offense.

B. The court shall not dismiss a prosecution under this Section without filing a written statement of its reasons.

§ 227. Civil Forfeiture

A. Any personal property of any person convicted of an offense under Chapter 3, Subchapter 10 or 12 is subject to forfeiture to the Navajo Nation if the following conditions are met:

1. There is proof, by a preponderance of the evidence, that the property was used in connection with the production, delivery, or possession of any alcoholic beverage, intoxicating substance, or controlled substance; and
2. The person has received notice of the proposed forfeiture by the Chief Prosecutor and been provided an opportunity to be heard on that issue before the

Office of Hearings and Appeals.

B. For the purposes of this Subsection, notice of a proposed forfeiture shall be deemed adequate if the forfeiture is alleged in a complaint for an offense under Chapter 3, Subchapter 10 or 12 and the property to be forfeited is described with particularity.

Subchapter 4. Victim's Rights

§230. Victim's Rights

A. A victim of a crime has a right to:

1. Be treated with fairness, respect, and dignity within the criminal justice system.
A-2. Have the criminal justice system respond in a prompt and effective manner, and has the right to:

1-a. Be protected from the accused perpetrator;

3-b. Participate in the criminal justice system by being present and heard;

c. Be accompanied by an advocate of that person's choice; meaning an individual, including a family member, who provides moral support to the victim, and who need not be a legal advocate;

4-d. Confer with the prosecution, after the crime against the victim(s) has been charged, before the trial or before any disposition of the case and to be informed of the disposition;

6-e. Be provided information about the sentencing and imprisonment of the accused perpetrator, and to read pre-sentence reports relating to the crime against the victims when they are available to the defendant(s);

f. Be notified of the perpetrator's release not less than 24 hours prior to his/her the perpetrator's release;

g. Be notified of a perpetrator's escape within 24 hours after the escape;

h. Be timely notified of court proceedings;

i. Within less than 48 hours of the crime being reported, be notified of that person's rights under this Section and be provided with information relating to how the case will move forward and the services available to the victim;

j. Receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury, and have orders enforced; Restitution and enforcement of orders;

k. Be free of intimidation, harassment, abuse, uninitiated contact; and

l. Request and utilize the services of an interpreter or translator if needed; and

m. To the presumption of the imposition of pre-trial release conditions in favor of protecting a victim, including but not limited to, a stay-away order, pursuant to Rule 15 of the Navajo Rules of Criminal Procedure.

B. A victim's exercise of any right granted by this Section shall not be grounds for dismissing any criminal proceeding, setting aside any conviction or sentence, or dismissing or denying a victim's filing of a petition for domestic violence abuse protection.

7.C. "Victim" has the meaning set forth in Section 209 of this Code, as amended.

D. Confidentiality for Victims.

1. A victim of domestic abuse may refuse to disclose and may request any volunteer or employee of a program for victims of domestic abuse from disclosing the content of oral communication and written records and reports concerning the victim.

2. This privilege may be waived only by the victim. It must be in writing and must identify what information may be disclosed, to whom, and for what purpose. Such a waiver is not valid after thirty (30) days or after the victim revokes the waiver.

3. This privilege does not relieve a person from a duty imposed under applicable law to report child abuse or neglect or from providing evidence about child abuse or neglect in court pursuant to proceedings under Title 9, Chapter 11, of the Navajo Nation Code.

4. These provisions on confidentiality for victims shall not prevent the disclosure of information compiled about incidents of domestic and family violence which protects the identity of the victim and family or household members of the victim.

E. The Navajo Nation may enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims by this Section, including the authority to extend any of these rights to juvenile proceedings.

F. The Office of the Prosecutor, the Department of Corrections, and the Police Department shall implement protocols and policies to implement the requirements of this Section, including but not limited to the notice requirements.

G. The enumeration in this Section of certain rights for victims shall not be construed to deny or disparage other rights granted by the Navajo Nation or retained by victims.

**Navajo Nation Code Annotated Title 17. Law and
Order Chapter 3. Offenses
Subchapter 1. Inchoate Offenses**

§ 301. Solicitation

A. Offense. A person commits solicitation if, with intent that another person engage in conduct constituting an offense, ~~he or she~~that person commands, entreats, induces, or otherwise endeavors to persuade ~~such the other~~ person to engage in such conduct.

B. Affirmative defense. It is an affirmative defense to a prosecution under this Section that, under circumstances manifesting a complete and voluntary renunciation of ~~his or her~~that person's criminal intent, the defendant made a reasonable effort to prevent the conduct or result which is the object of the solicitation.

C. Defense precluded. It is not a defense to a prosecution under this Section that the person solicited could not be convicted of the offense because ~~he or she~~that person lacked the state of mind required for the commission of the offense, because the person solicited was incompetent or irresponsible, or because ~~he or she~~that person was otherwise not subject to prosecution.

D. Sentence.

1. Any person found guilty of solicitation of any offense under Subchapter 2 of Chapter 3, Subchapter 7 of Chapter 3 or Subchapter 2 of Chapter 6 of this Title may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed five hundred dollars (\$500.00), or both, but in no case shall the penalty imposed be greater than the penalty imposed for the crime which was the object of solicitation.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

E. Statute of Limitations. A prosecution for solicitation may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against the Navajo Nation, prosecution may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 302. Conspiracy

A. Offense. A person commits conspiracy if, with the intent to promote or facilitate the commission of an offense, that person agrees with one or more persons that at least one of them will engage in conduct constituting the offense, and one of the parties commits an overt act in furtherance of the agreement.

B. Affirmative defense. It is an affirmative defense to a prosecution under this Section that the defendant, under circumstances manifesting a complete and voluntary renunciation of ~~his or her~~ that person's criminal intent, gave timely warning to law enforcement authorities or otherwise made a reasonable effort to prevent the conduct or result ~~which~~ that was the objective of the conspiracy.

C. Defense precluded. It is not a defense to prosecution under this Section that one or more of the persons with whom the defendant is alleged to have conspired has not been prosecuted or convicted, has been convicted of a different offense, or is immune from or otherwise not subject to prosecution.

D. Duration of conspiracy. Conspiracy is a continuing course of conduct which ends when the offense or offenses which are its object have been committed or when the agreement that they be committed is abandoned by the defendant.

E. Abandonment of conspiracy. A defendant may abandon a conspiratorial agreement and terminate ~~his or her~~ defendant's relationship with the conspiracy only if ~~he or she~~ the defendant clearly ceases to agree that the conspiratorial objective be committed, takes no further part in the conspiracy, and communicates ~~his or her~~ the desire to abandon the conspiracy to other members of the conspiracy.

F. Sentence.

1. Any person found guilty of conspiracy to commit an offense under Subchapter 2 or Subchapter 7 of Chapter 3 of this Title may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both, but in no case shall the penalty imposed be greater than the penalty imposed for the crime which was the object of the conspiracy.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

G. Statute of Limitations. A prosecution for conspiracy may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against the Navajo Nation, prosecution may be commenced at any time within ten (10) years from the date of discovery of the offense.

**Navajo Nation Code Annotated Title 17. Law and
Order Chapter 3. Offenses
Subchapter 2. Offenses Against Persons**

§ 303. Criminal homicide

A. Offense. A person commits criminal homicide if ~~he or she~~ that person intentionally or, knowingly, ~~recklessly, or with criminal negligence,~~ causes the death of another human being, including an unborn child. There shall be no cause of action for criminal homicide against a mother or a physician for the death of an unborn child caused by an abortion where the abortion was permitted by law and any required consent was lawfully given. ~~This sentence shall apply to any conviction for vehicular manslaughter under 14 N.N.C. § 703.~~

B. Sentence. Any person found guilty of criminal homicide may shall be sentenced to serve a mandatory imprisonment for a term of not to exceed less than 365 days, or and ordered to pay a fine not to exceed \$5,000 or both.

C. ~~five thousand dollars~~ Mandatory Sentence. The mandatory sentence for this offense shall be imprisonment in active custody for not less than 365 days and ordered to pay a fine not to exceed \$5,000, or both. The court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.

B.D. Statute of Limitations. A prosecution for criminal homicide may be commenced at any time after commission of the offense without limitation.

(\$5,000), or both. This sentence shall apply to any conviction for vehicular homicide under 14 N.N.C. § 703.

§ 303.01 Manslaughter

A. A. Offense. A person commits manslaughter if the person recklessly or negligently causes or contributes to the death of another, including via electronic communication device. This sentence shall apply to any conviction for vehicular homicide under 14 N.N.C. § 703.

A. Sentence. Any person found guilty of manslaughter shall be sentenced to imprisonment for a term of not less than 180 days and ordered to pay a fine of \$5,000, or both.

1. Any person found guilty of manslaughter may be sentenced to imprisonment for a term not to exceed 365 days, and/or ordered to pay a fine not to exceed five thousand dollars (\$5,000).

2. The trial court may sentence a person found guilty of manslaughter to attend rehabilitative therapy.

3. The trial court may order that restitution or nályééh be paid to the victim(s).

4. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

5. The trial court may impose a peace or security bond upon the defendant, including pledges of family or clan sureties.

Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of the bond or pledge.

~~0. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

B. Mandatory Sentence. The mandatory sentence for this offense shall be imprisonment in active custody for not less than 180 days, but not to exceed 365 days, and ordered to pay a fine of \$5,000, or both. The court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.

~~D. C. Statute of Limitations. A prosecution for manslaughter may be commenced at any time after commission of the offense without limitation.~~

§ 304. Kidnapping

A. Offense. A person commits kidnapping when ~~he or she~~that person intentionally or knowingly and without authority of law and against the will of the victim:

1. Detains or restrains another for any substantial period; or
2. Detains or restrains another in circumstances exposing ~~him or her~~the person restrained to risk of serious bodily injury; or
3. Holds another in involuntary servitude; or
4. Detains or restrains a minor without consent of ~~his or her~~the minor's parent or guardian.

B. Sentence. Any person found guilty of kidnapping may be sentenced to imprisonment for a term not to exceed 365 days, or ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.

§ 305. Aggravated Kidnapping

A. Offense. A person commits aggravated kidnapping if the person intentionally or knowingly, without authority of law and against the will of the victim, by any means and any manner, seizes, confines, detains, or transports the victim with intent:

1. To hold for ransom or reward, or as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct; or
2. To facilitate the commission, attempted commission, or flight after commission or attempted commission of an offense; or

3. To inflict bodily injury on or to terrorize the victim or another; or

4. To interfere with the performance of any governmental or political function; or

B. A detention or moving is deemed to be result of force, threat, or deceit if the victim is mentally incompetent or younger than sixteen (16) years and the detention or moving is accomplished without the effective consent of the victim's custodial parent, guardian, or person acting in loco parentis to the victim.

C. Sentence. Any person found guilty of aggravated kidnapping may be sentenced to imprisonment for a term not to exceed 365 days, or ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.

§ 306. ~~Child kidnapping~~Custodial Interference.

A. Offense. A person commits the crime of custodial interference, if that person knowingly takes or entices- ~~child kidnapping when the person intentionally or knowingly, without authority of law and against the will of the victim, by any means and in any manner, seizes, confines, detains, or transports a child under the age of 14 with the intent to keep or conceal the child from his or her parent, guardian, or other person having lawful custody or control of the child.~~

B. ~~A seizure, confinement, detention, or transportation is deemed to be against the will of the victim if the victim is younger than 14 years of age at the time of the offense, and the seizure, confinement, detention, or transportation, is without the effective consent of the victim's custodial parent, guardian, or person acting in loco parentis.~~

1. Any minor from the lawful custody of the minor's parent, legal guardian, or other lawful custodian; or
2. Any committed person from the lawful custody of the person's legal guardian or other lawful custodian.

~~C.B.~~ Sentence. Any person found guilty of ~~child kidnapping~~ custodial interference may be sentenced to imprisonment for a term not to exceed 365 ~~180~~ days, or ordered to pay a fine not to exceed five thousand ~~hundred~~ dollars (\$5,000), or both.

§ 307. ~~Arson~~Reckless Burning

A. Offense. A person is guilty of ~~arson if under circumstances not amounting to aggravated arson, he or she, by means of fire or explosives, unlawfully and intentionally damages~~ reckless burning if that person:-

1. ~~Any property with intention of defrauding an insurer; or~~ Recklessly starts a fire or causes an explosion which endangers human life, or damages the property of another;
or
2. ~~The property of another~~ Having started a fire, knowing that it is spreading, fails to take reasonable measures to put out or control the fire or fails to give a prompt fire alarm.

B. Sentence. Any person found guilty of ~~arson~~ reckless burning may be sentenced to imprisonment for a term not to exceed ~~180~~ 90 days, or ordered to pay a fine not to exceed ~~two thousand five hundred dollars (\$2,500),~~ or both.

§ 308. Aggravated ~~A~~arson

A. Offense. ~~A person is guilty of aggravated arson if by means of fire or explosives he or she intentionally and unlawfully damages;~~ commits arson if that person, by means of fire or explosives, unlawfully and intentionally injures another person or damages the property of another. Community property is considered to be the property of another.

~~0. A habitable structure; or~~

~~0. Any structure or vehicle when any person not a participant in the offense is in the structure or vehicle.~~

F.B. Sentence. Any person found guilty of ~~aggravated~~ arson may be sentenced to imprisonment for a term not to exceed 365 days, or ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both. If the offense is committed against the Navajo Nation, any person found guilty of arson shall be sentenced to imprisonment for a term not less than 180 days, or ordered to pay a fine not less than \$2,500, or both.

C. Mandatory Sentence. If the arson causes death of another person, or serious bodily injury, or substantial property loss, then the mandatory sentence for this offense shall be imprisonment on active custody for not less than 365 days, and a fine not to exceed \$5,000. The court shall not grant probation, pardon, parole, commutation, or suspension of a sentence or release on any other basis.

§ 309. Reckless burning

A. ~~A person is guilty of reckless burning if he or she:~~

- ~~1. Recklessly starts a fire or causes an explosion which endangers human life; or~~

~~2. Having started a fire, whether recklessly or not, and knowing that it is spreading and will endanger the life or property of another, either fails to take reasonable measures to put out or control the fire or fails to give a prompt fire alarm; or~~

~~3. Damages the property of another by reckless use of fire or causing an explosion.~~

~~B. Sentence.~~

~~1. Any person found guilty of reckless burning may be sentenced to imprisonment for a term not to exceed 90 days, or ordered to pay a fine not to exceed two thousand five hundred dollars (\$2,500), or both.~~

~~2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 310. Threatening

A. Offense. A person commits threatening if ~~he or she~~that person threatens by word or conduct to cause physical injury to the person ~~of another or causes serious damage to the property of another~~ with the intent to:

~~1. With the intent to t~~1. Terrorize, or in reckless disregard of the risk of terrorizing, another person; or

~~2. With intent to e~~2. Cause, or in reckless disregard of the risk of causing, serious public inconvenience, including but not limited to evacuation of a public ~~building or transportation facility or place.~~

B. Sentence._

Any person found guilty of threatening may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed ~~one thousand five hundred dollars~~ (\$1,500.00), or both.

~~1. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~2. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~3. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~4. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~5. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 310. Threatening of a Navajo Nation Official

A. Offense. A person commits threatening of a Navajo Nation official when that person knowingly threatens the life of, or threatens serious bodily harm to, any Navajo Nation official as defined in 17 N.N.C. § 209, who is performing a Navajo Nation governmental function:

1. With intent that the statement is to be taken as a threat, and with the apparent ability to carry out the threat by any means, and

2. The threat occurs while the Navajo Nation official is engaged in the performance of his or her official duties or the threat arises from carrying out those official duties.

B. Sentence. Any person found guilty of Threatening of a Navajo Nation official shall be sentenced to imprisonment for a term no less than 30 and not to exceed 60 days, or be ordered to pay a fine not to exceed \$1,500.00, or both.

§ 311. Reserved Unlawful imprisonment

~~Offense. A person commits unlawful imprisonment if without lawful authority he or she intentionally removes, detains, restrains, or confines the person of another without his or her consent.~~

~~B. Sentence.~~

~~1. Any person found guilty of unlawful imprisonment may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$1,000, or both.~~

~~2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~3. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~3. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~3. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 312. Reserved Interference with eCustody

~~A. — Offense. A person commits interference with custody if he or she intentionally or knowingly takes or entices any child under the age of from the custody of its parent, guardian or other lawful custodian, or any legally committed person from lawful custody, when he or she has no privilege to do so.~~

~~B. — Sentence.~~

~~0. — Any person found guilty of interference with custody may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$500, or both.~~

~~0. — The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~0. — The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~0. — The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~1. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~2. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 313. Contributing to the delinquency of a minor

A. Offense. A person commits contributing to the delinquency of a minor if ~~he or she~~that person knowingly assists, aids, encourages or advises a minor to commit an offense ~~as defined by the laws of the~~ under Navajo Nation, or federal, or state law.

B. Sentence. Any person found guilty of contributing to the delinquency of a minor may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$1,000, or both.

~~1. Any person found guilty of contributing to the delinquency of a minor may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$1,000, or both.~~

~~2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~2. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence; and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~2. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~2. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~2. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 314. Assault

A. Offense. A person commits assault if ~~he or she~~that person:

1. Intentionally or knowingly ~~A~~attempts to commit a battery upon ~~the person of~~ another person; or

2. By any unlawful act, ~~threat~~ or menacing conduct causes another person to reasonably believe that ~~he or she~~ that person is in danger of receiving an ~~immediate~~ imminent battery.

B. Sentence.

1. Any person found guilty of ~~assault~~ this offense may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed ~~two thousand five hundred dollars~~ (\$2,500), or both.
- ~~3.2.~~ Any person found guilty of this offense using a deadly weapon or attempting to conceal their identity, may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both

§ 314.01 Assault upon a Peace Officer or Correction Officer

A. Offense. A person commits assault upon a peace officer or correction officer, as defined in 17 N.N.C. § 209, if ~~he or she~~ that person:

1. Attempts to commit a battery upon the person of a peace officer or correction ~~engaged in the performance of his or her official duties~~; or
2. By any unlawful act, threat or menacing conduct causes a peace officer engaged in the performance of ~~his or her~~ the peace officer's official duties to believe that ~~he or she~~ the peace officer is in danger of receiving an immediate battery.

B. Mandatory Sentence. The mandatory sentence for this offense shall be imprisonment in active custody for not less than ~~ninety (90) days nor more than one hundred eighty (180) days~~ and ordered to pay a fine, or restitution in lieu of a fine, not to exceed ~~two thousand five hundred (\$2,500) dollars~~. This punishment shall not be suspended or be subject to probation or parole. Any person found guilty of this offense using a deadly weapon or attempting to conceal their identity, may be sentenced to imprisonment for a term not less than 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.

§314.02. Assault upon a Navajo Nation official

A. Offense. A person commits assault upon a Navajo Nation official, as defined in 17 N.N.C. § 209, who is performing a Navajo Nation governmental function, and that person:

1. Attempts to commit a battery upon a Navajo Nation official engaged in the performance of his or her official duties or the attempted battery arises from carrying out those official duties; or

2. By any unlawful act, threat or menacing conduct causes a Navajo Nation official engaged in the performance of his or her official duties to believe that the Navajo Nation official is in danger of receiving an immediate battery.
- B. Sentence. A person found guilty of Assault upon a Navajo Nation official shall be sentenced to imprisonment for a term no less than 30 days, or be ordered to pay a fine not to exceed \$1,500, or both.

§ 314.03 Resisting, evading or obstructing an officer

- A. Offense. A person commits resisting, evading, or obstructing an officer by:
 1. Knowingly obstructing, resisting or opposing any peace officer or any other duly authorized person serving or attempting to serve or execute any process or any rules or order of any of the courts or laws of the Navajo Nation or any other judicial writ or process;
 2. Intentionally fleeing, attempting to evade, or evading a peace officer;
 3. when the person committing the act of fleeing, attempting to evade, or evading has knowledge that the Peace Officer is attempting to apprehend or arrest the person;
 4. Engaging in passive resistance;
 5. Willfully refusing to bring a motor vehicle or a vehicle, as those terms are defined in Title 14 of the Navajo Nation Code, to a stop when given a visual or audible signal to stop, whether by hand, voice, emergency light, flashing light, siren or other signal, by a uniformed or plain clothes peace officer in an appropriately marked or unmarked police vehicle; or
 6. Resisting or abusing any judge, or peace officer in the lawful discharge of their duties.
- B. For the purpose of this section "passive resistance" means a non-violent physical act or failure to act that is intended to impede, hinder or delay the effecting of an arrest.
- C. Mandatory Sentence. The mandatory sentence for this offense shall be imprisonment in active custody for not less than twenty-four (24) consecutive hours, nor more than one hundred eighty (180) days and order to pay a fine or restitution in lieu of a fine, not to exceed two thousand five hundred (\$2,500) dollars. The court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release of any other basis.

§ 315. ~~Reserved~~ Aggravated assault

- A. ~~Offense. A person commits aggravated assault if he or she:~~
 0. ~~Unlawfully assaults or strikes at another with a deadly weapon; or~~
 0. ~~Commits assault by threatening or menacing another while wearing a mask, hood, robe or other covering upon the face or head, or while disguised in any manner, so as to conceal identity.~~

~~B. Sentence. Any person found guilty of aggravated assault may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.~~

§ 315.01 Reserved Aggravated Assault upon a Peace Officer

~~A. Offense. A person commits aggravated assault upon a peace officer, as defined in 17 N.N.C. § 209, if he or she:~~

~~1. Unlawfully assaults or strikes at a peace officer engaged in the performance of his or her official duties with a deadly weapon, or~~

~~2. Commits assault by threatening or menacing a peace officer engaged in the performance of his or her official duties while wearing a mask, hood, robe or other covering upon the face or head, or while disguised in any manner, so as to conceal identity.~~

~~Mandatory Sentence. The mandatory sentence for this offense, among other penalties that may be imposed, shall be imprisonment for a term of not less than one hundred eighty (180) days nor more than three hundred sixty five (365) days in active custody. There shall be no discretion in the imposition of the mandatory sentence under this section, and no portion of a mandatory sentence under this section shall be suspended or subject to probation or parole.~~

§ 316. Battery

~~A. Offense. A person commits battery if he or she that person unlawfully and intentionally strikes or applies force to the person of another person.~~

~~B. Sentence.~~

~~1. Any person found guilty of battery may be sentenced to imprisonment for a term not to exceed 365-180 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.~~

~~2. Any person found guilty of this offense while using a deadly weapon or causing serious bodily injury, may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.~~

~~B. Any person found guilty of this offense while using a deadly weapon or causing serious bodily injury, may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.~~

§ 316.01. Battery upon a Peace Officer or Correction Officer

A. ~~Offense. A person commits battery upon a peace officer, as defined in 17 N.N.C. § 209, or correction officer, if he or she that person unlawfully and intentionally strikes or applies force to the person of a peace officer or correction officer engaged in the performance of his or her the peace officer's or the correction officer's official duties.~~

B. Mandatory Sentence.

1. The mandatory sentence for this offense, among other penalties that may be imposed, shall be imprisonment for a term of not less than one hundred eighty (180) days nor more than three hundred sixty-five (365) days in active custody. There shall be no discretion in the imposition of the mandatory sentencing requirements of this section, and no portion of the mandatory sentence under this section shall be suspended or subject to probation or parole.
2. The mandatory sentence for this offense, when committed by a person using a deadly weapon or attempting to conceal their identity, is imprisonment for a term not less than 365 days, and a fine not to exceed \$5,000.
3. The mandatory sentences for this offense shall be imprisonment in active custody. The court shall not grant probation, pardon, parole, commutation, or suspension of a sentence or release on any other basis.

§ 316.02. Battery upon a Peace Officer or Correction Officer a Navajo Nation Official

A. Offense. A person commits battery upon a Navajo Nation official when that person unlawfully and intentionally strikes or applies force to the person of a Navajo Nation official, as defined in 17 N.N.C. § 209, who is performing a Navajo Nation governmental function and the battery occurs while the Navajo Nation official is engaged in the performance of his or her official duties or the battery arises from carrying out those official duties.

B. Sentence. A person found guilty of battery upon a Navajo Nation official shall be sentenced to imprisonment for a term no less than 60 days, or be ordered to pay a fine no less than \$2,500, or both.

§ 317. Reserved Aggravated battery

~~A. Offense. A person commits aggravated battery if he or she:~~

~~0. Unlawfully applies force to the person of another, or strikes the person with a deadly weapon; or~~

~~0. Intentionally or knowingly causes serious physical injury to the person of another.~~

~~B. Sentence. Any person found guilty of aggravated battery may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.~~

§ 317.01 Reserved ~~Aggravated battery upon a Peace Officer~~

~~A. Offense. A person commits aggravated battery upon a peace officer, as defined in 17 N.N.C.~~

~~§ 209, if he or she:~~

~~1. Unlawfully applies force to the person of a peace officer engaged in the performance of his or her official duties, or strikes the person of a peace officer engaged in the performance of his or her official duties with a deadly weapon; or~~

~~Intentionally or knowingly causes serious physical injury to the person of the peace officer engaged in the performance of his or her official duties.~~

~~A. Mandatory Sentence. The mandatory sentence for this offense, among other penalties that may be imposed, shall be imprisonment for a term of not less than three hundred sixty five (365) days in active custody. There shall be no discretion in the imposition of the mandatory sentencing requirements of this section, and no portion of the mandatory sentence under this section shall be suspended or subject to probation or parole.~~

§ 318 Stalking

A. Offense. A person commits stalking if that person or ~~his or her~~that person's agent intentionally or knowingly commits one or more of the following acts on two or more occasions that causes another to feel frightened, intimidated, or threatened:

1. Following another;
2. Appearing at another's residence, school, work place, motor vehicle, or any other place frequented by another;
3. Making unwanted or frightening contact with another through postal mail, Internet, or electronic communication, including but not limited to radio, fax, phone, texting, or email.
4. Making threats to harm another or another's children, relatives, friends, pets, or livestock.
5. Sending unwanted items to another;
6. Vandalizing another's property; or

7. Securing personal information about another by accessing public records, hiring private investigators, using Internet search services, contacting friends, family, work, or neighbors, or going through another's garbage.

B. Sentence.

1. Any individual found guilty of stalking may be sentenced to imprisonment not to exceed ~~one hundred eighty (180) days~~, and/or be ordered to pay a fine not less than \$500 and not to exceed ~~five thousand dollars (\$5,000)~~.

2. Upon a second or subsequent conviction, such person shall be sentenced to imprisonment for a term of not less than ~~one hundred eighty (180) days~~ and not to exceed ~~three hundred sixty five (365) days~~, and/or be ordered to pay a fine not less than ~~one thousand dollars (\$1,000)~~ and not to exceed ~~five thousand dollars (\$5,000)~~.

~~3. The trial court may order that restitution or nályééh be paid to the victim(s).~~

~~4. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the Peacemaker.~~

~~4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~5. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 319 Reserved Harassment

~~A. Offense. A person commits harassment when that person intentionally or knowingly causes emotional distress to another by repeatedly shaming, degrading, humiliating, placing in fear, or otherwise abusing personal dignity, including via electronic communication device.~~

~~A. Sentence.~~

~~0. An individual found guilty of harassment may be sentenced to imprisonment not to exceed sixty (60) days, and/or be ordered to pay a fine not less than one hundred dollars (\$100.00) and not to exceed two hundred fifty dollars (\$250.00).~~

~~1. Upon a second or subsequent conviction, such individual shall be sentenced to imprisonment for a term of not less than sixty (60) days and not to exceed one hundred eighty (180) days, and/or be ordered to pay a fine not less than two hundred fifty dollars (\$250.00) and not to exceed one thousand dollars (\$1,000).~~

~~2. The trial court may order that restitution or nályééh be paid to the victim(s).~~

~~3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~4. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~4. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 320. Unlawful carrying of a deadly weapon.

A. Offense. A person commits unlawful carrying of a deadly weapon if ~~he or she~~that person carries a loaded firearm or any other type of deadly weapon.

1. Within Navajo Nation public facilities;

2. Within any establishment that prohibits carrying of a deadly weapon;

3. While under the influence of an intoxicant or narcotic or while in the possession of a controlled substance or intoxicating liquor;

4. If under the age of 18;

5. While prohibited by order(s) of a court of any jurisdiction; or

6. When the firearm is concealed and the individuals does not have a valid permit to carry a concealed firearm issued by the Navajo Nation or any state or federal authority, or the person is acting out of compliance with the requirements of a valid permit. A person who carries or possesses a concealed firearm must present valid permit when requested by a peace officer.

B. Exceptions. Subsection (A)-(1)-(2) of this Section shall not apply to any of the following:

1. To peace officers in the lawful discharge of their duties;

2. To persons in a private motor vehicle or other means of conveyance, for lawful protection of the person's or another's person or property, while traveling and such

weapon is located in a closed trunk, luggage, or glove compartment of a motor vehicle;

3. ~~To a~~A person in ~~his or her~~that person's residence, or on real property belonging to such person as owner, lessee, tenant, or licensee;

4. ~~To a~~A person or persons ~~carrying or discharging a firearm using it~~ as an integral part of any traditional Navajo religious practice, ceremony, or service;

5. ~~To p~~Persons engaged in the hunting of game or predatory animals, fishing, harvesting, or gathering; or

~~5.6.~~Persons engaged in herding of livestock..

C. Sentence.

1. Any person found guilty of unlawful carrying of a deadly weapon may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$1,000, or both.

2. Upon a second or subsequent conviction such person shall be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$5,000, or both.

~~1. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~1. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~1. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~1. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~1. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 321. Unlawful use of a weapon

A. Offense. A person commits unlawful use of a weapon if ~~he or she~~that person:

1. Without lawful authority discharges a firearm within the proximity of a building, or into any building or vehicle so as to knowingly endanger a person or property;

~~2. Carries a firearm while under the influence of an intoxicant or narcotic; or~~

~~4.2. Handles or uses a firearm or other deadly weapon so as to knowingly or recklessly endanger the safety of another or that person's property.~~

B. Sentence. Any person found guilty of unlawful use of a weapon may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$2,500, or both.

~~1. Any person found guilty of unlawful use of a weapon may be sentenced to imprisonment for a term not to exceed 90 days, or be ordered to pay a fine not to exceed \$250, or both.~~

~~2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence; and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~4. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~4. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 322. Unlawful sale, possession or transportation of explosives

A. Offense. A person commits unlawful sale, possession or transportation of explosives if ~~he or she~~that person knowingly:

1. ~~Knowingly~~ sells or possesses any explosive, or causes such explosive to be transported, without having plainly marked in large letters in a conspicuous place on the box

or package containing such explosive, the name and explosive character thereof and the date of manufacture; or

2. Knowingly makes, buys, transports, or transfers any explosive either with intent to use such explosive to commit a crime or knowing that another intends to use it to commit a crime; or

2.3. Explodes, attempts to explode, or places any explosive with the intent to injure, intimidate, or terrify another, or to damage another's property or establishment.

B. Sentence.

1. Any person found guilty of unlawful sale, possession or transportation of explosives as set forth in subsection (A)(1) of this section may be sentenced to imprisonment for a term not to exceed 90 days, or be ordered to pay a fine not to exceed \$2,500, or both. Any person found guilty of unlawful sale, possession or transportation of explosives as set forth in (A) (2) of this section may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$500 or both.

2. Any person found guilty of unlawful sale, possession or transportation of explosives as set forth in (A)(2) of this section may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$2,500, or both.

1.3. Any person found guilty of unlawful sale, possession or transportation of explosives as set forth in (A)(3) of this section may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.

~~2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~4. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~5. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 323. Dangerous use of explosives

A. Offense. A person commits dangerous use of explosives if ~~he or she~~that person maliciously explodes, attempts to explode or places any explosive with the intent to injure, intimidate or terrify another, or to damage another's property.

B. Sentence.

1. Any person found guilty of dangerous use of explosives may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 324. Negligent use of explosives

A. Offense. A person commits negligent use of explosives if ~~he or she~~that person negligently explodes, attempts to explode or places any explosive in such a manner that as ~~to results~~ in injury to another or damage to the property of another, or by such action increases the probability of such injury or damage.

B. Sentence. Any person found guilty of negligent use of explosives may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$2,500, or both.

~~1. Any person found guilty of negligent use of explosives may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed~~

~~\$2,500, or both.~~

~~2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~4. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~4. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

C. Statute of Limitations. Prosecution for negligent use of explosives may be commenced at any time within three years after commission of the offense.

§ 325. Forfeiture of weapons and explosives

Upon the conviction of any person for the violation of any law of the Navajo Nation in which a deadly weapon, dangerous instrument or explosive was used, displayed or unlawfully possessed by such person, the court shall order the article forfeited to the Navajo Nation and destroyed.

Navajo Nation Code Annotated Title 17. Law and Order Chapter 3. Offenses

Subchapter 4. Theft and Related Offenses

§ 330. Theft

A. Offense. A person commits theft if, without lawful authority, that person intentionally or knowingly:

1. Takes, obtains or withholds, by any means for any length of time, from the possession of the owner or of any other person, any funds or other property; or

2. Converts to an unauthorized use services or property of another entrusted to the defendant for a limited, authorized use.

B. Sentence.

1. Any person found guilty of theft may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$1,000, or both. If the offense is committed against the Navajo Nation, any person found guilty of theft may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for theft may be commenced within ten (10) years after commission of the offense. If the offense is allegedly committed against the Navajo Nation, prosecution may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 331. Theft of services

A. Offense. A person commits theft of services if, without lawful authority, that person obtains services which such person knows are available only for compensation with the intent of avoiding payment for such services.

B. Sentence.

1. Any person found guilty of theft of services may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$1,000, or both. If the offense is committed against the Navajo Nation, any person found

guilty of theft of services may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court of may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for theft of services may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against the Navajo Nation, prosecution may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 332. Unauthorized use of automobiles or other vehicles

A. Offense. A person commits unauthorized use of automobiles or other vehicles if ~~he or she~~ that person intentionally or knowingly operates another's automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle, without the consent of the owner. The repossession of any such vehicle in violation of the provisions of 7 N.N.C. § 607 *et seq.* shall constitute a violation of this Section.

B. Sentence.

1. Any person found guilty of unauthorized use of automobiles or other vehicles may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$1,000, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 333. Receiving stolen property

A. Offense. A person commits the offense of receiving stolen property if that person purchases, receives, conceals, or aids in the concealing of any property of another knowing or having reason to know that such property was obtained by theft, extortion, fraud, or other means declared to be unlawful under the provisions of this title.

B. Sentence.

1. Any person found guilty of stolen property may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$1,000, or both. If offense is committed against the Navajo Nation, any person found guilty of receiving stolen property may be sentenced to imprisonment for a term not to exceed 365 days, or ordered to pay a fine not to exceed \$5,000, or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for receiving stolen property may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against the Navajo Nation, prosecution may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 334. Shoplifting

A. Offense. A person commits shoplifting if ~~he or she~~that person obtains the goods of another while in a mercantile establishment in which merchandise is displayed for sale by:

1. Willfully taking possession of any merchandise with the intention of converting it without paying for it;
2. Willfully concealing any merchandise with the intention of converting it without paying for it;
3. Willfully altering any label, price, tag or marking any merchandise with the intention of depriving the merchant of all or some part of the value of it;
4. Willfully transferring any merchandise from the container in or on which it is displayed to any other container with the intention of depriving the merchant of all or some part of the value of it.

B. Detention to effect recovery. A merchant, or ~~the merchant's~~his or her agent or employee, upon probable cause, may detain on the premises in a reasonable manner and for a reasonable time any person suspected of shoplifting as defined in Subsection (A) of this Section for questioning or summoning a law enforcement officer. In no event shall such detention exceed one (1) hour. Such detention shall not subject the merchant or ~~his or her~~the merchant's agent or employee to criminal or civil liability.

C. Sentence.

1. Any person found guilty of shoplifting goods valued at \$100 or over may be sentenced to imprisonment for a term not to exceed 90 days, or be ordered to pay a fine of up to \$500 but not to exceed the value of the goods taken, or both.
2. Any person found guilty of shoplifting goods valued under \$100 may be sentenced to imprisonment for a term not to exceed 30 days, or be ordered to pay a fine up to \$100 but not to exceed the value of the goods taken, or both.

3. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

4. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

5. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

6. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

7. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 335. Fraud

A. Offense. A person commits fraud if that person unlawfully obtains the property or funds of another by willful misrepresentation, deceit, false interpreting, or the use of false weights and measures, with the intent of depriving such other person of the property.

B. Sentence.

1. Any person found guilty of fraud shall may be sentenced to imprisonment for a term of 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for fraud may be commenced within ten (10) years from the date of discovery of the offense.

§ 336. Theft by extortion

A. Offense. A person commits theft by extortion if that person intentionally or knowingly obtains or seeks to obtain property by means of a threat to do in the future any of the following:

1. Cause physical injury to any other person;
2. Cause damage to property,
3. Accuse anyone of a crime or bring criminal charges against anyone;
4. Expose a secret or an asserted fact, whether true or false, tending to subject anyone to hatred, contempt or ridicule, or to impair ~~his or her~~ another person's credit or business; or
5. Take or withhold action as public servant or cause a public servant to take or withhold action.

B. Sentence.

1. Any person found guilty of theft by extortion pursuant to Sections 336(A)(1) or (5) may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for theft by extortion may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 337. Embezzlement against the Navajo Nation

A. Offense. A person commits embezzlement against the Navajo Nation if that person, without lawful authority, intentionally or knowingly converts to that person's use or the use of another any funds or property of the Navajo Nation entrusted to the defendant for a limited, authorized use.

B. Sentence.

1. Any person found guilty of embezzlement against the Navajo Nation may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district office of the Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for embezzlement against the Navajo Nation may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 338. Excessive pricing during declared state of emergency

A. Definitions. The following definitions are applicable in this Section.

1. "Average Price" means the average price at which the same or similar commodity was obtainable within the Navajo Nation and border towns during the last 30 days immediately prior to the declared state of emergency.
2. "Commodity" means any goods, services, materials, merchandise, supplies, equipment, resources, or other articles of commerce, and includes without limitation all services offered or provided or work performed or offered to be performed as an occupation or business to consumers and food, water, ice, pharmaceuticals, emergency supplies, chemicals, household building materials, and fuel necessary for consumption or use as a direct result of the emergency.
3. "Excessive price" means a price for a commodity or rental facility that exceeds by more than 10% the average price charged for that commodity or rental facility in the 30-day period immediately preceding declaration of a state of emergency.
4. "Person" shall include, but not be limited to, natural persons, corporations, partnerships, incorporated or unincorporated associations, and any other legal entity.
5. "Rental Facility" shall include, but not be limited to, any hotel, motel, boarding house, dwelling house, and self-storage facility offered for rent or lease.

B. Offense

1. Upon declaration of a state of emergency by the President of the Navajo Nation, and for 30 days after the cessation of the state of emergency, it is unlawful for any person to intentionally, knowingly or recklessly sell or rent any commodity or rental facility to any person at a price greater than ten percent (10%) above the average price of the same commodity or rental facility for the thirty days immediately preceding the declaration of a state of emergency.
2. Each instance of charging an excessive price under this Section constitutes a separate violation. Lack of notice or failure to receive notice of the declaration of a state of emergency shall not be a defense with respect to any violation of this Section.

C. Defenses

It is a defense if the increase in price is substantially attributable to additional costs that arose within the chain of distribution in connection with the sale of the commodity or rental facility, and:

1. The price for the commodity or rental facility does not exceed 10% above the cost of obtaining the commodity or rental facility; and,
2. The price for the commodity or rental facility does not exceed 10% above the person's customary markup.

D. Penalties

1. Any person convicted of violating this Section shall be ordered to pay a fine of not less than five hundred (\$500.00) dollars per offense.
2. Upon a showing of continuous and knowing or intentional violations, the Court shall sentence the offender:
 - a. To serve a term of not less than 30 days in jail. A court shall not grant probation, pardon, parole, commutation, or suspension of sentence or release on any other basis; and
 - b. To pay a fine of not less than two thousand five hundred (\$2,500) nor more than five thousand (\$5,000.00) dollars; and
 - c. Order the revocation of any license or certificate authorizing the offender to engage in business within the Navajo Nation.

E. Restitution

For any violation of this Section, and in addition to the sentence, the Court shall require the offender to pay actual damages or nályééh to the injured party.

**Navajo Nation Code Annotated Title 17. Law and
Order Chapter 3. Offenses
Subchapter 5. Forgery and Related Offenses**

§ 340. Forgery

- A. Offense.** A person commits forgery if, with intent to defraud, that person:
1. Falsely makes, completes or alters a written instrument; or
 2. Offers or presents, whether accepted or not, a forged instrument.

B. Sentence.

1. Any person found guilty of forgery may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for forgery may be commenced at any time within ten
(10) years from the date of discovery of the offense.

§ 341. Criminal simulation

A. Offense. A person commits criminal simulation if, with intent to defraud, ~~he or she~~ that person makes, alters, or presents or offers, whether accepted or not, any object so that it appears to have an antiquity, rarity, source, authorship or value that it does not in fact possess.

B. Sentence.

1. Any person found guilty of criminal simulation against the Navajo Nation may be sentenced to imprisonment for a term not to exceed 90 days, or be ordered to pay a fine not to exceed five hundred dollars (\$500), or both. If offense is committed against the Navajo Nation, any person found guilty of criminal simulation may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay fine not to exceed \$5,000, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for criminal simulation may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 342. Obtaining a signature by deception

A. Offense. A person commits obtaining a signature by deception if, with intent to defraud, ~~he or she~~that person obtains the signature of another person to a written instrument by knowingly misrepresenting or omitting any fact material to the instrument or transaction.

B. Sentence.

1. Any person found guilty of obtaining a signature by deception may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for obtaining a signature by deception may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 343. Criminal impersonation

A. Offense. A person commits criminal impersonation if that person intentionally assumes a false identity and:

1. Commits fraud against another;
2. Subjects another to arrest, detention, search or seizures, mistreatment, or dispossession;
3. Infringes upon the personal right of another; or
4. Denies or impedes another in the exercise or enjoyment of any right, privilege, power or immunity.

B. Sentence.

1. Any person found guilty of criminal impersonation may be sentenced to imprisonment for a term not to exceed 90 days, or be ordered to pay a fine not to exceed \$500, or both. If the offense is committed against the Navajo Nation, any person found guilty of criminal impersonation against the Navajo Nation or impersonates a Navajo Nation official, ~~he or she~~ that person may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for criminal impersonation may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 344. Misrepresentation of Navajo-produced goods or products

A. Offense. A person commits misrepresentation of Navajo-produced goods or products if that person intentionally or knowingly offers, displays for sale, or sells any good that falsely suggest it is made by a Navajo Indian.

B. Sentence.

1. Any person found guilty of misrepresentation of Navajo-produced goods or products may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$1,000, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for misrepresentation of Navajo-produced goods or product maybe commenced at any time within ten (10) years from the date of discovery of the offense.

**Navajo Nation Code Annotated Title 17. Law and
Order Chapter 3. Offenses
Subchapter 6. Trespass and Burglary**

§ 350. Criminal trespass

A. Offense. A person commits criminal trespass if ~~he or she~~that person intentionally and knowingly, and without consent or permission of the owner, user, or person in lawful possession thereof enters upon, remains or traverses upon private, allocated or allotted lands or other property not ~~his or her~~that person's own.

B. Sentence.

1. Any person found guilty of criminal trespass may be sentenced to imprisonment for a term not to exceed 30 days, or be ordered to pay a fine not to exceed \$100, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 351. Criminal entry

A. Offense. A person commits criminal entry if ~~he or she~~that person intentionally and knowingly, and without consent or permission of the owner, user, or person in lawful possession thereof:

1. Enters upon any lands or buildings whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with or obstructing any lawful business or occupation therein;
2. Refuses or fails to leave land, real property or structures of any kind belonging to or lawfully occupied by another, and not open to the general public, upon being requested to leave by a police officer, or the owner, user, or the person in lawful possession thereof;
3. Refuses or fails to leave a public building or a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a police officer, a regularly employed guard, watchman or custodian of the public agency owning or maintaining the building or property.

B. Sentence.

1. Any person found guilty of criminal entry may be sentenced to imprisonment for a term not to exceed 90 days, or be ordered to pay a fine not to exceed \$250, or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 352. Trespass with force or violence

- A. Offense. A person commits trespass with force or violence if ~~he or she~~ that person uses force or violence in entering upon or detaining lands, real property or structures of any kind belonging to, or lawfully occupied by another, except in cases and the manner allowed by law.

B. Sentence.

1. Any person found guilty of trespass with force or violence may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000) or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose of a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 353. Burglary

A. Offense. A person commits burglary if ~~he or she~~ that person enters or remains unlawfully in a residential or non-residential structure, or motor vehicle, with the intent of committing an offense therein.

B. Sentence.

1. Any person found guilty of burglary may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$2,500, or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order ~~that restitution or nályééh shall~~ to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

**Navajo Nation Code Annotated Title 17. Law and
Order Chapter 3. Offenses
Subchapter 7. Bribery and Related Offenses**

§ 360. Bribery in official and political matters

A. Offense. A person commits an offense pursuant to this Section if:

1. That person offers, confers, or agrees to confer any benefit upon a Navajo Nation official with the intention of influencing such Navajo Nation official's vote, opinion, judgment, exercise of discretion or other action in ~~his or her~~ that person's capacity as a Navajo Nation official; or
2. As Navajo Nation official, ~~he or she~~ that person solicits, accepts, or agrees to accept any benefit upon an agreement or understanding that ~~his or her~~ that person's vote, opinion, judgment, exercise of discretion or other action as a Navajo Nation official may thereby be influenced.

B. Sentence.

1. Any person found guilty of bribery in official and political matters may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for bribery in officials and political matters may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 361. Unlawful influence in official and political matters

A. Offense. A person commits unlawful influence in official and political matters if that person threatens by word or conduct to cause physical injury to or cause damage to the property of any Navajo Nation official or ~~his or her~~ that person's "family member" as defined in the Violence Against Family Act, 17 N.N.C. §535(D), with the intent of influencing such Navajo Nation official's vote, opinion, judgment, or exercise of discretion.

B. Sentence.

1. Any person found guilty of unlawful influence in official and political matters may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for unlawful influence in official and political matters may be commenced at any time ten (10) years from the date of discovery of the offense.

§ 362. Payment or receipt of Navajo Nation funds for services not rendered

A. Offense. A person commits an offense pursuant to this Section if that person knowingly makes or receives payment or causes payment to be made from Navajo Nation funds when such payment purports to be for wages, salary or remuneration for services which have not in fact been rendered.

B. Authorized expenditures. Nothing in this section shall be construed to prevent the payment of Navajo Nation funds where such payments are intended to cover lawful remuneration to Navajo Nation officials for vacation periods or absences from employment because of sickness, or for other lawful authorized purposes.

C. Sentence.

1. Any person found guilty of paying or receiving Navajo Nation funds for services not rendered may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

D. Statute of Limitations. A prosecution for payment or receipt of Navajo Nation funds for services not rendered may be commence at any time within ten (10) years from the date of discovery of the offense.

E. Forfeiture of Navajo Nation employment or office. Section 365 of this subchapter shall only apply to a violation of this offense if the amount of monetary damage to the Navajo Nation is one thousand dollars (\$1,000) or above.

§ 363. Making, authorizing, permitting, or receiving payment of Navajo Nation funds for products or services not rendered

A. Offense. A person commits an offense pursuant to this Section if that person knowingly or intentionally:

1. Makes, or causes, or permits to be made a material misrepresentation or forged signature upon any instrument for payment of Navajo Nation funds, including but not limited to an expense reimbursement form, purchase card (P-card) receipt, or invoice with the intent that instrument for payment be relied upon for the expenditure of Navajo Nation funds for products and services not rendered; or
2. Receives a payment of Navajo Nation funds for products or services not rendered.

B. Sentence.

1. Any person found guilty of this offense may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for this offense may be commenced at any time within ten (10) years from the date of discovery of the offense.

D. Forfeiture of Navajo Nation employment or office. Section 365 of this subchapter shall only apply to a violation of this offense if the amount of monetary damage to the Navajo Nation is one thousand dollars (\$1,000) or above.

§ 364. Abuse of office

A. Offense. A Navajo Nation official commits abuse of office if that person intentionally acts or purports to act in an official capacity, when that person knows or should have known that such conduct is unlawful, and:

1. Subjects another to arrest, detention, search or seizure, mistreatment, or dispossession;
2. Infringes upon the personal or property right of another; or
3. Denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity.
4. Commits fraud against another.

B. Sentence.

1. Any person found guilty of abuse of office may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000) or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for abuse of office may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 365. Forfeiture of Navajo Nation employment or office

Notwithstanding the provisions regarding sentencing of Chapter 2, Subchapter 2 of this Title, a Navajo Nation official convicted of violating any section of this Subchapter shall immediately forfeit any present or future employment with any Navajo Nation entity division, department, agency, program, or enterprise.

Navajo Nation Code Annotated Title 17. Law and Order Chapter 3. Offenses

Subchapter 8. Obstruction of Navajo Nation Administration

§ 370. Obstruction of justice

A Offense. A person commits obstruction of justice if: ~~with intent to hinder, prevent, or delay the discovery, apprehension, prosecution, conviction, or punishment of another for the commission of a crime that person:~~

1. with intent to hinder, prevent, or delay the discovery, apprehension, prosecution, conviction, or punishment of another for the commission of a crime that person:

~~1.a.~~ Harbors or conceals the offender;

~~2.b.~~ Provides the offender a weapon, transportation, disguise, or other means for avoiding discovery or apprehension;

~~3.c.~~ Warns the offender of impending discovery or apprehension;

~~4.d.~~ Conceals, destroys, or alters any evidence that might aid in the discovery, apprehension, prosecution, or conviction of the person;

~~5.e.~~ Obstructs by force, intimidation, or deception anyone from performing an act that might aid in the discovery, apprehension, prosecution, or conviction of the person; or

~~6.f.~~ Having knowledge that a law enforcement officer has been authorized or has applied for authorization to intercept a wire, electronic, or oral communication, gives notice or attempts to give notice of the possible interception to any person.

2. The person intentionally prevents or attempts to prevent a person known to be a peace

officer, acting under color of such peace officer's official authority, from effecting an arrest.

B Sentence.

1. Any person found guilty of obstruction of justice may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C Statute of Limitations. A prosecution for obstruction of justice may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 370A. [Repealed]

§ 371. Refusing to aid an officer

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~ that person, upon a reasonable command by a peace officer, intentionally or knowingly refuses or fails to aid such officer in:

1. Effectuating or securing an arrest;
2. Preventing the commission by another of an offense as defined in this Title.

B. A person who complies with this Section by aiding a peace officer shall not be held liable to any person for civil damages resulting therefrom, provided ~~he or she~~ that person acted reasonably under the circumstances known to him or her at the time.

C. Sentence.

1. Any person found guilty of refusing to aid an officer may be sentenced to imprisonment for a term not to exceed 80 hours of community service work, or be ordered to pay a fine not to exceed \$100, or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 372. Rescue from lawful custody

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~ that person intentionally and without lawful authority rescues or attempts to rescue any person in lawful custody or confinement.

B. Sentence.

1. Any person found guilty of rescue from lawful custody may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$500, or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 373. Escape from lawful custody

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~ that person escapes or attempts to escape from lawful custody or confinement.

B. Sentence.

1. Any person found guilty of escape from lawful custody may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$500, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose or community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 374. Tampering with a government record

A. Offense. A person commits tampering with a government record if ~~he or she~~that person intentionally or knowingly and without proper authority:

1. Makes or completes a government record or true copy thereof or alters or makes a false entry in a written instrument which is a government record or a true copy thereof;
2. Presents or uses a government record or a copy thereof, knowing that it has been falsely made, completed or altered or that a false entry has been made therein, with intent that is to be taken as genuine;
3. Records, registers or files or offers for recordation, registration or filing in a governmental office or agency a written statement which has been falsely made, completed or altered or in which a false entry has been made or which contains a false statement or false information;
4. Destroys, mutilates, conceals, removes or otherwise impairs the availability of any government record;
5. Refuses to deliver a government record in ~~his or her~~that person's possession upon proper request of a Navajo Nation official entitled to receive such record for examination or other purposes.

B. Government record, for purposes of this Section, means a protected record or public record as defined in the Navajo Nation Privacy Act, 2 N.N.C. §81 *et seq.* as well as all records created, issued, received or retained by any governmental office, department, division, branch or section.

C. Sentence.

1. Any person found guilty of tampering with a government record may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed (\$5,000), or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

D. Statute of Limitations. A prosecution for tampering with a government record may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 375. Malicious criminal prosecution

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~that person maliciously causes or attempts to cause a criminal charge to be preferred or prosecuted against an innocent person, knowing such person to be innocent.

B. Sentence.

Any person found guilty of malicious criminal prosecution may be sentenced to imprisonment for a term not to exceed 90 days, or be ordered to pay a fine not to exceed \$1,000, or both.

1. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).

2. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

3. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

4. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

5. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 376. Falsification

A. Offense. A person commits falsification by knowingly:

1. Falsifying, concealing or covering up a material fact, or making any false, fictitious or fraudulent statements or representations, or making or using any false writing or document knowing the same to contain any false, fictitious or fraudulent statement in connection with any matter within the jurisdiction of the Navajo Nation.
2. Making any false statement or providing any false documents to any prosecutor, special prosecutor or their investigator or agents, or any peace officer, when the person knows the statement or document to be false.
3. Making any statement which ~~he or she~~ that person knows to be false in regard to a material issue to any Navajo Nation official in connection with an application for any benefit, privilege, contract, agreement, or license.

B. Sentence.

1. Any person found guilty of falsification may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for falsification may be commenced within ten (10) years from the date of discovery of the offense.

§ 377. Unauthorized Practice of Law

A. Offense. The unauthorized practice of law is committed when, without being an active member in good standing of the Navajo Nation Bar Association, a person:

1. Provides legal representation before the Courts of the Navajo Nation, any quasi-judicial, administrative, or legislative body to another person; or
2. Provides legal services within the Navajo Nation or to another person within the Navajo Nation, including but not limited to, the rendering of legal advice to another person, the drafting or completion of legal pleadings for another person, or the legal interpretation of documents for another person.

B. Exception. The acts set forth in Subsection (A) shall not be considered the unauthorized practice of law when:

1. Legal representation is provided to another person in accord with Navajo Nation Court rules allowing association of lawyers unlicensed in the Navajo Nation with a member of the Navajo Nation Bar Association.
2. A Navajo Nation peace officer, having issued a civil citation pursuant to Title 14, Civil Traffic, presents and represents the Navajo Nation in court regarding that citation.
3. A law student, or law advocacy student, provides legal representation or services when the law student or law advocacy student is supervised by a person who is in good standing with the Navajo Nation Bar Association.
- 3.4. A paralegal or legal secretary assists with drafting legal pleadings to be signed by a person licensed with the Navajo Nation Bar Association.

B.C. Sentence. Any person found guilty of unlawful practice of law may be sentenced to imprisonment for a term not to exceed 90 days, or be ordered to pay a fine not to exceed \$1,000, or both.

~~1. Any person found guilty of unlawful practice of law may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.~~

~~2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~3. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~4. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~5. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

**Navajo Nation Code Annotated Title 17. Law and
Order Chapter 3. Offenses
Subchapter 9. Criminal Damage to Property**

§ 380. Criminal damage

A. Offense. A person commits criminal damage if ~~he or she~~that person intentionally or recklessly:

1. Defaces or damages tangible property of another person;
2. Tamper with tangible property of another person so as to substantially impair its function or value;
3. Tamper with the tangible property of a utility;
4. Defaces or damages tangible property of the Navajo Nation, of a political campaign or any public property.

B. Sentence.

1. Any person found guilty of criminal damage involving property damage of less than \$100 worth may be sentenced to perform up to 40 hours of community service work, or be ordered to pay a fine not to exceed \$100, or both.
2. Any person found guilty of criminal damage involving property damage of more than \$100 worth may be sentenced to perform up to 80 hours of community service work, or be ordered to pay a fine not to exceed \$500, or both.
3. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).
4. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

5. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

6. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

7. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Restitution. The court, in addition to or in lieu of the sentence, may require the offender to pay actual damages to the injured party.

§ 381. Littering

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~ that person throws, places, drops, or disposes of any litter, destructive or injurious material upon lands within the territorial jurisdiction of the Navajo Nation which is not a lawful waste disposal site or receptacle for the disposal of litter.

B. Sentence.

1. Any person found guilty of a first offense of littering may be sentenced to imprisonment for a term not to exceed 30 days, or be ordered to pay a fine not to exceed \$100, or both. In lieu of imprisonment or fine the court may sentence any person found guilty of a first offense of littering to perform not less than 40 hours nor more than 80 hours picking up and clearing litter from the highways, roads, or public places of the Navajo Nation.

2. Any person found guilty of a second or subsequent offense of littering may be sentenced to imprisonment for a term not to exceed 60 days, or be ordered to pay a fine not to exceed \$500, or both. In lieu of imprisonment or fine, the court may sentence any person found guilty of a second or subsequent offense of littering to perform not less than 80 hours or more than 160 hours picking up and clearing litter from the highways, roads or public places of the Navajo Nation.

§ 382. [Repealed]

§ 383. Desecration of religious or traditional artifacts

A. Any person, group of persons, organization, association, or church, who desecrates or unlawfully destroys any religious artifact or traditional relic belonging to another person, group of persons, organization, association or church, or aids, abets or facilitates such

deseccration or unlawful destruction shall be deemed guilty of an offense, and upon conviction thereof, may be sentenced to imprisonment for a period not in excess of 365 days for a natural person, or shall be fined an amount not to exceed five thousand dollars (\$5,000), or both.

1. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
2. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
3. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
4. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
5. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

B. Each act of desecration or unlawful destruction shall constitute a separate offense.

**Navajo Nation Code Annotated Title 17. Law and
Order Chapter 3. Offenses
Subchapter 10. Controlled Substances**

§ 390. Definitions

The following definitions apply in this Subchapter:

A. "Alcoholic beverage" means any fermented liquor such as wine, beer, or distilled spirit, that contains ethyl alcohol, or ethanol, as an intoxicating agent.

~~A.~~ B. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine or substances from which cocaine or ecgonine may be synthesized or made.

C. "Controlled substance" means a drug or other substance, or immediate precursor, including:

1. Opioid or coca leaves, or any compound, salt, derivative, mixture or preparation thereof, including the following:

- | | |
|-----------------------------------|-----------------------------|
| <u>a. Acetorphine;</u> | <u>s. Metopon;</u> |
| <u>b. Acetyldihydrocodeine;</u> | <u>t. Morphine;</u> |
| <u>c. Benylmorphine;</u> | <u>u. Morphine</u> |
| <u>d. Codeine;</u> | <u>methylobromide;</u> |
| <u>e. Codeine methylbromide;</u> | <u>v. Morphine</u> |
| <u>f. Codeine-n-oxide;</u> | <u>methylsulfonate;</u> |
| <u>g. Cyprenorphine;</u> | <u>w. Morphine-n-oxide;</u> |
| <u>h. Desomorphine;</u> | <u>x. Myrophine;</u> |
| <u>i. Dihydromorphine;</u> | <u>y. Nalorphine;</u> |
| <u>j. Drotebanol;</u> | <u>z. Nicocodeine;</u> |
| <u>k. Ethylmorphine;</u> | <u>aa. Nicomorphine;</u> |
| <u>l. Etorphine;</u> | <u>bb. Normorphine;</u> |
| <u>m. Heroin;</u> | <u>cc. Oxycodone;</u> |
| <u>n. Hydrocodone;</u> | <u>dd. Oxymorphone;</u> |
| <u>o. Hydromorphinol;</u> | <u>ee. Pholocodine;</u> |
| <u>p. Hydromorphone;</u> | <u>ff. Thebacon;</u> |
| <u>q. Methyl-desorphine;</u> | <u>gg. Thebaine;</u> |
| <u>r. Methyl-dihydromorphine;</u> | <u>hh.</u> |
| <u>Cocaine.</u> | |

2. Any material, compound, mixture or preparation that contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers:

- a. Lysergic acid diethylamide;
- b. Mescaline;
- c. Psilocybin;
- d. Psilocyn;
- e. Hashish;
- f. Peyote;
- g. 4-bromo-2, 5-dimethoxyamphetamine;
- h. Bufotenine;
- i. Diethyltryptamine;
- j. 2, 5-dimethoxyamphetamine;
- k. Dimethyltryptamine;
- l. 5-methoxy-3, 4-methylenedioxyamphetamine;
- m. 4-methyl-2, 5-dimethoxyamphetamine;
- n. Ibogaine;
- o. Lysergic acid amide;

- p. Methoxymethylenedioxyamphetamine (MMDA);
- q. Methylenedioxyamphetamine (MDA);
- r. 3, 4-metyulenedioxyamphetamine;
- s. 3, 4-methylenedioxy-n-ethylamphetamine;
- t. N-ethyl-3-piperidyl benzilate (JB-318);
- u. N-hydroxy-3, 4-methylenedioxyamphetamine;
- v. N-methyl-3-piperidyl bezilate (JB-336);
- w. N-(1-phenylcyclohexyl) ethylamine (PCE);
- x. Nabilone;
- y. 1-(1-phenylcyclohexyl) pyrrolidine (PHP);
- z. 1-(1-(2-thienyl)-cyclohexyl) pyrrolidine;
- aa. Para-methoxamphetamine (PMA);
- bb. Synhexyl;
- cc. Trimethoxyamphetamine.

3. Any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, isomers, and salts of isomers having a potential for abuse associated with a stimulant effect on the central nervous system:

- a. Amphetamine;
- b. Benzphetamine;
- c. Cathine ((+)-norpsuedoephedrine);
- d. Clorphenetermine;
- e. Clortermine.
- f. Diethylpropion;
- g. Fencamfamin;
- h. Fenethylline;
- i. Fenproporex;
- j. Mazindol;
- k. Mefenorex;
- l. Methamphetamine;
- m. 4-methylaminorex;
- n. Methylphenidate;
- o. N-ethylamphetamine;
- p. N, N-dimethylamphetamine;
- q. Pemoline;
- r. Phendimetrazine;
- s. Phenmetrazine;
- t. Pipradol;
- u. Propylhexedrine;
- v. Pyrovalerone;
- w. Spa ((-)-1-dimethylamino-1,2-diphenylethane).

4. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

a. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, unless specifically excepted;

- | | |
|-----------------------------------|----------------------------------|
| <u>b. Alprazolam;</u> | <u>ff. Lormetazepam;</u> |
| <u>c. Bromazepam;</u> | <u>gg. Lysergic acid;</u> |
| <u>d. Camazepam;</u> | <u>hh. Metabutamate;</u> |
| <u>e. Chloral betaine;</u> | <u>ii. Mecloqualone;</u> |
| <u>f. Chloral hydrate;</u> | <u>jj. Medazepam;</u> |
| <u>g. Chlordiazepoxide;</u> | <u>kk. Meprobamate;</u> |
| <u>h. Chlorhexadol;</u> | <u>ll. Methaqualone;</u> |
| <u>i. Clobazam;</u> | <u>mm. Methylprylon;</u> |
| <u>j. Clonazepam;</u> | <u>nn. Midazolam;</u> |
| <u>k. Clorazepate;</u> | <u>oo. Nimetazepam;</u> |
| <u>l. Clotiazepam;</u> | <u>pp. Nitrazepam;</u> |
| <u>m. Cloxazolam;</u> | <u>qq. Nordiazepam;</u> |
| <u>n. Delorazepam;</u> | <u>rr. Oxazepam;</u> |
| <u>o. Diazepam;</u> | <u>ss. Oxazolam;</u> |
| <u>p. Estazolam;</u> | <u>tt. Paraldehyde;</u> |
| <u>q. Ethchlorvynol;</u> | <u>uu. Petrichloral;</u> |
| <u>r. Ethinamate;</u> | <u>vv. Phencyclidine;</u> |
| <u>s. Ethyl loflazepate;</u> | <u>ww. Pinazepam;</u> |
| <u>t. Fenfluramine;</u> | <u>xx. Praxepam;</u> |
| <u>u. Fludiazepam;</u> | <u>yy. Scopolamine;</u> |
| <u>v. Flunitrazepam;</u> | <u>zz. Sulfondiethylmethane;</u> |
| <u>w. Flurazepam;</u> | <u>aaa. Sulfoethylmethane;</u> |
| <u>x. Gamma hydroxy butyrate;</u> | <u>bbb. Sulfomethane;</u> |
| <u>y. Glutethimide;</u> | <u>ccc. Quazepam;</u> |
| <u>z. Halazepam;</u> | <u>ddd. Temazepam;</u> |
| <u>aa. Haloxazolam;</u> | <u>eee. Tetrazepam;</u> |
| <u>bb. Ketamine;</u> | <u>fff. Tiletamine;</u> |
| <u>cc. Ketazolam;</u> | <u>ggg. Triazolam;</u> |
| <u>dd. Loprazolam;</u> | <u>hhh. Zolazepam.</u> |
| <u>ee. Lorazepam;</u> | |

5. Narcotic drugs, including the following, whether of natural or synthetic origin and any substance neither chemically nor physically distinguishable from them:

I

a. Acetyl-alpha-methylfentanyl;
b. Acetylmethadol;
c. Alfentanil;
d. Allyprodine;
e. Alphacetylmethadol;
f. Alphameprodine;
g. Alphamethadol;
h. Alphamethylfentanyl;
i. Alphamethylofentanyl;
j. Alphaprodine;
k. Anileridine;
l. Benzethidine;
m. Benzylfentanyl;
n. Betacetylmethadol;
o. Betahydroxyfentanyl;
p. Betahydroxy-3-methylfentanyl;
q. Betameprodine;
r. Betamethadol;
s. Betaprodine;
t. Bezitramide;
u. Buprenorphine and its salts;
v. Cafentanil;
w. Clonitazene;
x. Detropoxyphenone;
y. Dextromoramide;
z. Dextrorphan;
aa. Diampromide;
bb. Diethylthiambutene;
cc. Difenoxin;
dd. Dihydrocodeine;
ee. Dimenoxadol;
ff. Dimepheptanol;
gg. Dimnethylthiambutene;
hh. Dioxaphetyl butyrate;
ii. Diphenoxylate;
jj. Dipipanone;
kk. Ethylmethyliambutene;
ll. Etonitazene;
mm. Etoxeridine;
nn. Fentanyl;
oo. Furethidine;
pp. Hydroxypethidine;
qq. Isoamidone (isomethadone);
rr. Isonipecaine;
ss. Ketobemidone;

tt. Levomethorphan;
uu. Levomoramide;
vv. Levophenacymorphan;
ww. Levorphanol;
xx. Metazocine;
yy. Methadone;
zz. 3-methylfentanyl;
aaa. 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP);
bbb. 3-Methylthiofentanyl;
ccc. Morpheridine;
ddd. Noracymethadol;
eee. Norlevorphanol;
fff. Normethadone;
gg. Norpipanone;
hhh. Paraflourofentanyl;
iii. Pentazocine;
jjj. Phenadoxone;
kkk. Phenampromide;
lll. Phenazocine;
mmm. 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine (PEPAP)
nnn. Phenomorphan;
ooo. Phenoperidine;
ppp. Piminodine;
qqq. Piritramide;
rrr. Prohepatazine;
sss. Properidine;
ttt. Propiram;
uuu. Racemethorphan;
vvv. Racemoramide;
www. Racemorphan;
xxx. Sufentanil;
yyy. Thenylfentanyl;
zzz. Thiofentanyl;
aaaa. Tilidine;
bbbb. Trimeperidine.

D. “Delivery” means the actual or constructive transfer of possession of a controlled substance, alcohol, or intoxicating substance to another with or without consideration, whether or not there is an agency relationship.

B.E._____ “Marijuana” means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, containing any amount of the delta-9 tetrahydrocannabinol. Such term excludes any part of the plant Cannabis sativa L., whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3

percent on a dry weight basis produced or delivered in accordance with an industrial hemp regulatory system approved by the Navajo Nation Council or pursuant to the pilot project created by CJN-24-19 and any extensions.

F. ~~“Opium” includes morphine, codeine and heroin, and any compound, manufacture, salt, derivative, mixture or preparation of opium, but does not include apomorphine or any of its salts. means any drug or other substance having an addiction forming or addiction sustaining capacity similar to morphine or being capable of conversion into a drug having such addiction forming or addiction-sustaining capacity.~~

G.G. ~~“Production” includes the manufacture, planting, cultivation, growing or harvesting.~~

§ 391. Possession of ~~marijuana~~ controlled substances

A. Offense. A person commits ~~an~~ the offense of possession of controlled substances pursuant to this Section if ~~he or she~~ that person possesses any substances identified in § 390(C)(1)-(5). ~~above amount of marijuana.~~

B. Defenses.

1. It is a defense to a prosecution under this Section that the controlled substance was obtained directly from or pursuant to a valid prescription issued by a medical practitioner acting in the course of that person’s professional practice.
2. It is a defense to a prosecution under this Section relating to peyote (more commonly known as azee’) that the possession of azee’ is by an enrolled member of a federally recognized Indian tribe for bona fide ceremonial purposes in connection with nahaghá. The person must present a valid Native American Church membership card when requested by a peace officer.

B.C. Sentence.

1. ~~Any person found guilty possession of a controlled substance of a first offense of violating this Section by possessing one ounce or less of marijuana may be sentenced to 90 days imprisonment perform up to twenty hours of community service work, or be ordered to pay a fine not to exceed \$1000, or both.~~
2. ~~Any person found guilty of a second or subsequent offense of possession of a controlled substance violating this Section by possessing one ounce or less of marijuana may be sentenced up to 365 days imprisonment to perform up to forty hours of community service work, or be ordered to pay a fine not to exceed \$2500, or both. The term of imprisonment may be suspended in lieu of completion of a rehabilitation program.~~
3. ~~Any person found guilty of violating this Section by possessing more than one ounce but less than one pound of marijuana may be sentenced to perform up to eighty hours of community service work, or be ordered to pay a fine not to exceed \$2,500, or both.~~

~~4. Any person found guilty of violating this Section by possessing more than one pound of marijuana may be sentenced imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.~~

~~C. Procedure.~~

~~1. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~2. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~2. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~3. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~3. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 392. Production, or delivery of marijuana or sale of a controlled substance

A. Offense. A person commits an offense of the production, delivery, or sale of a controlled substance, if he or she that person intentionally or knowingly produces, delivers, or sells a controlled substance pursuant to this Section if he or she intentionally or knowingly produces, delivers, or possesses marijuana with intent to deliver such marijuana to another.

B. Defenses. It is a defense to a prosecution under this Section relating to peyote (more commonly known as azeé') that the production, delivery, or sale of azeé' is by an enrolled member of a federally recognized Indian tribe for bona fide ceremonial purposes in connection with nahaghá. The person must present a valid Native American Church membership card when requested by a peace officer.

A. "Deliver" or "delivery" means the actual or constructive transfer of possession of marijuana to another with or without consideration, whether or not there is an agency relationship.

C. Sentence. Any person found guilty of producing, selling or delivering marijuana a controlled substance may shall be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.

§ 393. Reserved Delivery of marijuana to minors

A. Offense. A person commits an offense pursuant to this Section if he or she is at least 18 years of age, and delivers marijuana to a person under 18 years of age.

~~B. "Deliver" or "delivery" means the actual or constructive transfer of possession of marijuana, with or without consideration, whether or not there is any agency relationship.~~

~~C. Sentence. Any person found guilty of delivering marijuana to minors shall be sentenced to imprisonment for a term of 365 days, and to pay a fine not to exceed five thousand dollars (\$5,000).~~

§ 394. Reserved Possession or sale of controlled substances

~~A. Offense. A person commits an offense pursuant to this section if he or she possesses, manufactures, transports, sells, uses, trades or delivers:~~

~~3. Opium or coca leaves, or any compound, manufacture, salt, derivative, mixture or preparation thereof, apomorphine and its salts excepted, and including the following:~~

- ~~— Acetorphine;~~
- ~~— Acetyldihydrocodeine;~~
- ~~— Benylmorphine;~~
- ~~a. Codeine;~~
- ~~a. Codeine methylbromide;~~
- ~~a. Codeine n oxide;~~
- ~~a. Cyprenorphine;~~
- ~~a. Desomorphine;~~
- ~~a. Dihydromorphine;~~
- ~~b. Drotebanol;~~
- ~~b. Ethylmorphine;~~
- ~~b. Etorphine;~~
- ~~b. Heroin;~~
- ~~b. Hydrocodone;~~
- ~~b. Hydromorphinol;~~
- ~~b. Hydromorphone;~~
- ~~b. Methyldesorphine;~~
- ~~b. Methyldihydromorphine;~~
- ~~b. Metopon;~~
- ~~b. Morphine;~~
- ~~b. Morphine methylbromide;~~
- ~~b. Morphine methylsulfonate;~~
- ~~b. Morphine n oxide;~~
- ~~b. Myrophine;~~
- ~~e. Nalorphine;~~
- ~~e. Nicocodeine;~~
- ~~e. Nicomorphine;~~
- ~~e. Normorphine;~~
- ~~e. Oxycodone;~~
- ~~e. Oxymorphone;~~
- ~~e. Pholcodine;~~

- d. ~~Thebacon;~~
- e. ~~Thebaine;~~
- f. ~~Cocaine.~~

1. ~~Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers:~~

- f. ~~Lysergie acid diethylamide;~~
- f. ~~Mescaline;~~
- f. ~~Psilocybin;~~
- f. ~~Psilocyn;~~
- f. ~~Hashish;~~
- f. ~~Peyote;~~
- f. ~~4 bromo 2, 5 dimethoxyamphetamine;~~
- f. ~~Bufotenine;~~
- f. ~~Diethyltryptamine;~~
- g. ~~2, 5 dimethoxyamphetamine;~~
- g. ~~Dimethyltryptamine;~~
- g. ~~5 methoxy 3, 4 methylenedioxyamphetamine;~~
- g. ~~4 methyl 2, 5 dimethoxyamphetamine;~~
- g. ~~Ibogaine;~~
- g. ~~Lysergie acid amide;~~
- g. ~~Methoxymethylenedioxyamphetamine (MMDA);~~
- g. ~~Methylenedioxyamphetamine (MDA);~~
- g. ~~3, 4 metyulenedioxymethamphetamine;~~
- g. ~~3, 4 methylenedioxy n ethylamphetamine;~~
- g. ~~N ethyl 3 piperidyl benzilate (JB 318);~~
- g. ~~N hydroxy 3, 4 methylenedioxyamphetamine;~~
- g. ~~N methyl 3 piperidyl bezilate (JB 336);~~
- g. ~~N (1 phenylcyclohexyl) ethylamine (PCE);~~
- g. ~~Nabilone;~~
- g. ~~1 (1 phenylcyclohexyl) pyrrolidine (PHP);~~
- g. ~~1 (1 (2 thienyl) cyclohexyl) pyrrolidine~~
- g. ~~Para methoxyamphetamine (PMA);~~
- g. ~~Synhexyl;~~
- g. ~~Trimethoxyamphetamine.~~

1. ~~Marijuana as defined in § 390.~~

1. ~~Any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, isomers, and salts of isomers having a potential for abuse associated with a stimulant effect on the central nervous system:~~

- g. ~~Amphetamine;~~
- g. ~~Benzphetamine;~~
- g. ~~Cathine ((+) norpsuedoephedrine);~~

- ~~h. Clorpheniramine;~~
- ~~i. Clorteramine;~~
- ~~i. Diethylpropion;~~
- ~~i. Fencamfamin;~~
- ~~i. Fenethylline;~~
- ~~i. Fenproporex;~~
- ~~i. Mazindol;~~
- ~~i. Mefenorex;~~
- ~~i. Methamphetamine;~~
- ~~i. 4-methylaminorex;~~
- ~~i. Methylphenidate;~~
- ~~i. N-ethylamphetamine;~~
- ~~i. N,N-dimethylamphetamine;~~
- ~~i. Pemoline;~~
- ~~i. Phendimetrazine;~~
- ~~i. Phenmetrazine;~~
- ~~i. Pipradol;~~
- ~~i. Propylhexedrine;~~
- ~~j. Pyrovalerone;~~
- ~~j. Spä ((-) 1-dimethylamino-1,2-diphenylethane).~~

~~1. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:~~

- ~~j. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, unless specifically excepted;~~
- ~~j. Alprazolam;~~
- ~~j. Bromazepam;~~
- ~~j. Camazepam;~~
- ~~j. Chloral betaine;~~
- ~~j. Chloral hydrate;~~
- ~~j. Chlordiazepoxide;~~
- ~~j. Chlorhexadol;~~
- ~~j. Clobazam;~~
- ~~j. Clonazepam;~~
- ~~j. Clorazepate;~~
- ~~j. Clotiazepam;~~
- ~~j. Cloxazolam;~~
- ~~k. Delorazepam;~~
- ~~k. Diazepam;~~
- ~~k. Estazolam;~~
- ~~k. Ethchlorvynol;~~
- ~~k. Ethinamate;~~
- ~~k. Ethyl loflazepate;~~
- ~~k. Fenfluramine;~~

~~l. Fludiazepam;~~
~~m. Flunitrazepam;~~
~~n. Flurazepam;~~
~~n. Gamma-hydroxy butyrate;~~
~~n. Glutethimide;~~
~~n. Halazepam;~~
~~n. Haloxazolam;~~
~~o. Ketamine;~~
~~o. Ketazolam;~~
~~o. Loprazolam;~~
~~o. Lorazepam;~~
~~o. Lormetazepam;~~
~~o. Lysergic acid;~~
~~o. Metabutamate;~~
~~ii. Mecloqualone;~~
~~jj. Medazepam;~~
~~jj. Meprobamate~~
~~jj. Methaqualone;~~
~~mm. Methylprylon;~~
~~mm. Midazolam;~~
~~mm. Nimetazepam;~~
~~mm. Nitrazepam;~~
~~mm. Nordiazepam;~~
~~mm. Oxazepam;~~
~~mm. Oxazolam;~~
~~mm. Paraldehyde;~~
~~mm. Petrichloral;~~
~~vv. Phencyclidine;~~
~~ww. Pinazepam;~~
~~xx. Praxepam;~~
~~xx. Scopolamine;~~
~~xx. Sulfondiethylmethane;~~
~~aaa. Sulfoethylmethane;~~
~~bbb. Sulfomethane;~~
~~ccc. Quazepam;~~
~~ddd. Temazepam;~~
~~eee. Tetrazepam;~~
~~fff. Tiletamine;~~
~~ggg. Triazolam;~~
~~hhh. Zolazepam.~~

~~1. Narcotic drugs, including the following, whether of natural or synthetic origin and any substance neither chemically or physically distinguishable from them:~~

~~o. Acetyl alpha-methylfentanyl;~~
~~o. Acetylmethadol;~~

p.— Alfentanil;
 p.— Allyprodine;
 p.— Alphacetylmethadol;
 p.— Alphameprodine;
 p.— Alphamethadol;
 p.— Alphamethylfentanyl;
 p.— Alphamethyliofentanyl;
 p.— Alphaprodine;
 p.— Amidone (methadone);
 p.— Anileridine;
 p.— Benzethidine;
 p.— Benzylfentanyl;
 p.— Betacetylmethadol;
 p.— Betahydroxyfentanyl;
 p.— Betahydroxy-3-methylfentanyl;
 p.— Betameprodine;
 p.— Betamethadol;
 p.— Betaprodine;
 p.— Bezitramide;
 p.— Buprenorphine and its salts;
 p.— Cafentanil;
 p.— Clonitazene;
 p.— Detropropoxyphene;
 p.— Diampromide;
 q.— Diethylthiambutene;
 q.— Difenoxin;
 q.— Dihydrocodeine;
 q.— Dimenoxadol;
 q.— Dimepheptanol;
 q.— Dimnethylthiambutene;
 q.— Dioxaphetyl butyrate;
 q.— Diphenoxylate;
 ii.— Dipipanone;
 kk.— Ethylmethyliambutene;
 kk.— Etonitazene;
 kk.— Etixeridine;
 kk.— Fentanyl;
 kk.— Furethidine;
 kk.— Hydroxypethidine;
 jj.— Isoamidone (isomethadone);
 jj.— Isonipeccaine;
 jj.— Ketobemidone;
 jj.— Levomethorphan;
 jj.— Levoaramide;
 kk.— Levophenacetylmorphan;
 vv.— Levorphanol;

~~ww. Metazocine;~~
~~xx. 3 methylfentanyl;~~
~~yy. 1 methyl 4 phenyl 4 propionoxypiperidine (MPPP);~~
~~yy. 3 Methylthiofentanyl;~~
~~aaa. Morpheridine;~~
~~bbb. Noraacymethadol;~~
~~ccc. Norlevorphanol;~~
~~ddd. Normethadone;~~
~~eee. Norpipanone;~~
~~fff. Paraflourofentanyl;~~
~~ggg. Pentazocine;~~
~~hhh. Phenadoxone;~~
~~ii. Phenampromide;~~
~~jjj. Phenazocine;~~
~~kkk. 1 (2 phenethyl) 4 phenyl 4 acetoxypiperidine (PEPAP);~~
~~lll. Phenomorphan;~~
~~mm Phenoperidine;~~
~~mm Piminodine;~~
~~ooo. Piritramide;~~
~~ppp. Prohepatazine;~~
~~qqq. Properidine;~~
~~rrr Propiram;~~
~~sss. Racemethorphan;~~
~~ttt. Racemoramide;~~
~~uuu Racemorphan;~~
~~vvv Sufentanil;~~
~~www. Thenylfentanyl;~~
~~xxx. Thiofentanyl;~~
~~yyy Tilidine;~~
~~zzz. Trimeperidine.~~

~~A. Defense. It is a defense to a prosecution under this section that the controlled substance or narcotic was obtained directly from or pursuant to a valid prescription or order issued by a practitioner acting in the course of his or her professional practice.~~

~~A. Peyote. The listing of peyote (more commonly known as azee') in Subsection A does not apply to the use of azee' by an enrolled member of an Indian tribe for bona fide ceremonial purposes in connection with nahaghá. Individuals who use, possess, or transport azee' for use in nahaghá are exempt from this prohibition. Azee' is lawful on the Navajo Nation.~~

~~A. Sentence.~~

~~1. Any person found guilty of possession or sale of controlled substances may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars \$5,000, or both.~~

~~2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~3. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~3. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~3. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

~~A. Rehabilitation. At the discretion of the court, any person found guilty of violating this section, and found to be addicted to a controlled substance, may be ordered to receive rehabilitative treatment pursuant to 17 N.N.C. § 220.~~

§ 395. Forfeiture and destruction of controlled substances

A. Upon the conviction of any person based upon violation of this Subchapter, the court shall order the marijuana, controlled substance or narcotic forfeited to the Navajo Nation and destroyed or otherwise disposed of.

B. A record of the place where such controlled substance or narcotic was seized, the kinds and quantities of the substance or narcotic so destroyed, and the time, place and manner of destruction shall be kept, and a return under oath reporting such destruction shall be made to the court by the officer who destroys such controlled substance or narcotic.

C. The handling and disposition of azeé' seized pursuant to this subchapter shall be regulated by administrative order of a district court judge of the Navajo Nation Courts, taking into consideration and accommodating the ceremonial use of azeé' and following the guidance of the leaders of those who participate in such ceremony.

§ 396. Civil Forfeiture

A. Civil Forfeiture. Any personal or real property, including leases and permits, of any person found liable for an offense under Chapter 3, Subchapter 10 is subject to forfeiture to the Navajo Nation if the following conditions are met:

1. There is proof, beyond a reasonable doubt, that the property was used in connection with the possession, manufacture, transportation, sale, use, trade or delivery of any controlled substance; and

2. The person liable for an offense has received notice of the proposed forfeiture by the Office of the Prosecutor and been provided an opportunity to be heard on that issue before the District Court.

a. For the purposes of civil forfeiture in this Subsection, notice of a proposed forfeiture shall be deemed adequate if the forfeiture is alleged in a complaint for an offense under Chapter 3, Subchapter 10, and the property to be forfeited is described with particularity.

C. Forfeiture of Navajo Nation employment or office

1. Navajo Nation official convicted of violating any offense within this Subchapter shall immediately forfeit any present or future employment or elected office with any Navajo Nation entity, division, department, agency, program or enterprise.

Navajo Nation Code Annotated Title 17. Law and Order

Chapter 3. Offenses

Subchapter 11. Reserved

Navajo Nation Code Annotated Title 17. Law and Order

Chapter 3. Offenses

Subchapter 12. Intoxicating Liquors

§ 410. Possession of alcoholic beverage

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~that person intentionally or knowingly possesses an alcoholic beverage(s), ~~or transports any beer, ale, wine, whiskey or any other beverage or any other intoxicating substance which produces intoxication, and such alcoholic beverage or intoxicating substance is intended for his or her personal use.~~

B. Sentence.

1. Any person found guilty of possession of an alcoholic beverage ~~violating this Section~~ may for a first offense be ordered to up to 90 days imprisonment, or pay a fine not to exceed five hundred dollars (\$500.00, or both).

2. Upon subsequent conviction of possession of alcoholic beverage ~~violating this Section~~ within a period of 180 days of any previous conviction based upon violation of this Section, ~~he or she~~that person may be ordered to up to 180 days imprisonment, or pay a fine not to exceed one thousand dollars (\$1000.00, or both).

~~C. Rehabilitation. At the discretion of the court, any person found guilty of violating this Section, and found to be addicted to alcohol or other intoxicating substances, may be ordered to receive rehabilitative treatment pursuant to Section 220 of this Title.~~

§ 411. ~~Manufacture or delivery of liquor~~Bootlegging

A. Offense. A person commits ~~an~~the offense of bootlegging pursuant to this Section if he or she ~~that person~~ intentionally or knowingly sells, transports, trades or manufactures alcoholic beverages, ~~delivers, or possesses, with intent to deliver, any beer, ale, wine, whiskey, or any other beverage or other intoxicating substance which produces intoxication.~~

B. “Deliver” or “delivery” ~~means the actual or constructive transfer of possession of any alcoholic beverage or intoxicating substance as described above, with or without consideration, whether or not there is an agency relationship.~~

~~C.~~B. Presumption. The possession of 12 or more bottles of beverages with an alcohol content of ten percent (10%) or greater, or the possession of 24 or more bottles or cans of beverages with an alcohol content of less than ten percent (10%) shall give rise to the rebuttable presumption that the person possessed such quantity of alcoholic beverages intending to deliver the same.

C. Defenses. It is a defense to a prosecution under this Section if the alcoholic beverages are intended for scientific, sacramental, medicinal, or mechanical purposes.

D. Sentence.

1. Upon a first offense. ~~A~~any person found guilty of bootlegging violating this Section may be sentenced to imprisonment for a term not to exceed 180 days, ~~365 days,~~ or be ordered to pay a fine not to exceed ~~five thousand dollars (\$5,000),~~ or both.

2. Upon a subsequent conviction of bootlegging for a second offense, a person may be sentenced to imprisonment not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.

~~3.~~3. Upon conviction of bootlegging for a third or subsequent offense, a person shall be sentenced to a mandatory term of imprisonment in active custody not to exceed 365 days. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).

~~2.~~ The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

~~3. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~4. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~5. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

~~E. Tort liability. Any person who directly gives, sells, or otherwise provides liquor or any alcoholic beverage to any other person shall be strictly liable for any personal injuries, property damage, means of support to any third person (or to the spouse, child or parent of that third person), or to a person who may bring an action for wrongful death where:~~

~~1. The person who obtained the liquor or alcoholic beverage consumed the same;~~

~~1. The consumption of the liquor or alcoholic beverage was a proximate cause of the injury, death or property damage.~~

~~For the purposes of this Subsection, if it is found that the person who obtained the liquor or alcoholic beverage causes injuries or property damage as a result of the consumption of the liquor or alcoholic beverage within a reasonable period of time following his or her first obtaining the liquor or alcoholic beverage, it shall create a rebuttable presumption that the person consumed the liquor or alcoholic beverage provided to him or her by the person who gave, sold or otherwise provided the liquor or alcoholic beverage.~~

~~If a person having rights or liabilities under this Subsection dies, the rights or liabilities provided by this Subsection survive to or against that person's estate.~~

~~An action based upon a cause of action under this Subsection shall be commenced within five (5) years after the date of injury or property damage.~~

~~Nothing in this Subsection precludes any cause of action or additional recovery against the person causing the injury.~~

~~E. Civil forfeiture. Any personal or real property of any person found liable for an offense under this Section, whether criminally or civilly, is subject to forfeiture to the Navajo Nation if the following conditions are met:~~

~~1. A person is found to have committed an offense under this Section;~~

~~1. There is proof, by at least a preponderance of the evidence, that the property was used in connection with the manufacture, delivery, possession, or transfer of any liquor or alcoholic beverage;~~

~~2. The person liable for an offense under this Section has received notice of the proposed forfeiture and provided an opportunity to be heard on that issue.~~

~~For the purposes of this Subsection, notice of a proposed forfeiture shall be deemed adequate if the forfeiture is alleged in a complaint for an offense under this Section and the property to be forfeited is described with particularity.~~

§ 412. Exceptions to Intoxicating Substances and Alcoholic Beverages

~~A. It shall not be unlawful for any person to sell, manufacture, deliver or transport intoxicating liquor if such liquor is intended for scientific, sacramental, medicinal or mechanical purposes.~~ Alcoholic beverages or intoxicating substances may be transported for lawful commercial purposes through the territorial jurisdiction of the Navajo Nation, as set forth in 17 N.N.C. § 203, in unbroken packages or in containers with unbroken federal tax stamps.

~~B. For the purposes of this Subchapter, "Navajo Indian Country" does not include rights-of-way when intoxicating liquor is being transported through Navajo Indian Country in unbroken packages or in containers with unbroken federal tax stamps.~~

~~C.B. It shall not be unlawful for any person, Indian, or non-Indian, Any person may to sell, deliver, transport or consume intoxicating liquor in that part of the Navajo National~~ alcoholic beverages covered by pursuant to the Antelope Point Resort and Marina Business Site Lease provided that:

1. The transportation, sale, delivery and consumption of alcoholic beverages is in conformity with applicable Navajo Nation and state regulatory liquor laws only as specifically permitted by federal law; and
2. All sales of alcoholic beverages be at prices no less than the prices charged for similar products in adjoining areas of the State of Arizona.

The Navajo Tax Commission is hereby authorized to approve such rules and regulations as are necessary and appropriate to ensure the proper transportation, sale, delivery and consumption of alcoholic beverages within the area of the Antelope Point Business Site Lease.

~~D.C. It shall not be unlawful for any person, Indian, or non-Indian, Any person may sell, deliver, transport, or consume intoxicating liquor or alcoholic beverages to sell, deliver, transport or consume intoxicating liquor within a Navajo Nation Gaming Enterprise property provided that:~~

1. The host Navajo Nation chapter approves the sale of the alcoholic beverages; and
2. The transportation, sale, delivery and consumption of alcoholic beverages is in conformity with the applicable state gaming compact and with applicable Navajo Nation and state regulatory liquor laws, only as specifically permitted by federal law.

The Navajo Tax Commission is hereby authorized to approve such rules and regulations as are necessary and appropriate to ensure the proper transportation, sale, delivery and consumption of alcoholic beverages.

A. ~~Intoxicating substance” means any substance not intended for human consumption that produces an impaired state when, such as mouthwash, hand sanitizer, cologne, perfume, hairspray, cleaning agents, paint, gas, glue.~~

Navajo Nation Code Annotated Title 17. Law and Order

Chapter 3. Offenses

Subchapter 13. Gambling

§ 420. Definitions

The following definitions are applicable in this Subchapter:

A. “Gambling” means taking or risking something of value upon the outcome of a contest of chance or a future contingent event, not under ~~his or her~~that person’s control or influence, upon an agreement or understanding that ~~he or she~~that person will receive something of value in the event of a certain outcome. Gambling does not include playing of an electromechanical pinball machine. Gambling does not include any authorized bingo, raffles, or lotteries conducted by religious, charitable, or non-profit organizations for the purpose of raising funds.

B. “Unlawful gambling” means any gambling activity not specifically authorized by law. Unlawful gambling does not include lotteries when engaged and conducted under license by the Navajo Nation for purposes of fostering economic initiatives of the Navajo Nation government.

C. “Gambling device” means any device, machine, paraphernalia or equipment which is used or usable in the playing phases of any unlawful gambling activity, whether such activity consists of gambling between persons or gambling by persons involving the playing of a machine. “Gambling device” does not mean within this definition electromechanical pinball machines specially designed, constructed, set-up and kept to be played for amusement. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums or property of any kind for scores, combinations or free games obtained in playing such pinball machine in which such person has an interest as owner, operator, keeper or otherwise.

D. These terms shall not include any traditional forms of Navajo gambling, including but not limited to shoe games, horse racing, foot racing, Navajo ten and five card games, rodeo calcutta, stick games, chicken pull and pow wows.

§ 421. Promotion of unlawful gambling

A. Offense. A person commits promotion of unlawful gambling if ~~he or she~~that person derives or intends to derive an economic benefit other than personal winnings from gambling and:

1. Induces or aids another to engage in gambling; or
2. Knowingly invests in, finances, owns, controls, supervises, manages, or participates in any gambling.

B. Exceptions. It shall not be unlawful for any "Gaming Facility Operator" as defined by the Navajo Gaming Ordinance 5 N.N.C. § 2001 *et seq.* ~~person to engage in gaming~~ the activities constituting this offense within the Tóhajiilee Chapter of the Navajo Nation and a Navajo Nation certified chapter that approves gaming within the chapter such as Shiprock Chapter, Manuelito Chapter, Tóhajiilee Chapter, Nahata Dzil Chapter, Leupp Chapter and Tsé Daak'áán Chapter, if done pursuant to a gaming compact entered into between the Navajo Nation and the applicable states, the requirements of the Navajo Gaming Ordinance.

C. Sentence. Any person found guilty of violating this Section shall forfeit to the Navajo Nation any and all proceeds and devices obtained through the activities constituting this offense and may be ordered to pay a fine not to exceed \$1,000.

§ 422. Possession of an unlawful gambling device

A. Offense. A person commits possession of an unlawful gambling device if, with knowledge of the character thereof, ~~he or she~~ that person manufactures, sells, transports, places or possesses, or conducts or negotiates a transaction affecting or designed to affect ownership, custody, or use of, a slot machine or any other gambling device knowing it is to be used in promoting unlawful gambling.

B. Exceptions. It shall not be unlawful for any person to engage in the activities constituting this offense within the Tóhajiilee Chapter of the Navajo Nation and a Navajo Nation certified chapter that approves gaming within the chapter such as Shiprock Chapter, Manuelito Chapter, Tóhajiilee Chapter, Nahata Dzil Chapter, Leupp Chapter and Tsé Daak'áán Chapter, if done pursuant to a gaming compact entered into between the Navajo Nation and the applicable states.

C. Sentence. Any person found guilty of possession of a gambling device shall forfeit to the Navajo Nation any and all proceeds and devices obtained through the activities constituting this offense and may be ordered to pay a fine not to exceed \$1,000.

§ 423. Forfeiture of gambling device

Any unlawful gambling device or slot machine which is manufactured, transferred, possessed or used in violation of Section 422 of this Title shall be forfeited and destroyed when so ordered by a court of the Navajo Nation.

Navajo Nation Code Annotated Title 17. Law and Order

Chapter 3. Offenses

Subchapter 14. Prostitution Reserved

§ 430. Definitions Reserved

The following definitions are ~~applicable in this Subchapter:~~

A. ~~“Sexual conduct” means sexual contact, sexual intercourse and oral sexual contact.~~

B. ~~“Sexual contact” means any direct or indirect fondling or manipulating of any part of the genitals, anus, or female breast.~~

§ 431. Prostitution Reserved

A. ~~Offense. A person commits an offense pursuant to this Section if he or she engages in or agrees or offers to engage in sexual conduct with another person under a fee arrangement.~~

A. ~~Sentence.~~

~~1. Any person found guilty of engaging in sexual conduct with another person under a fee arrangement may be ordered to pay a fine not to exceed \$1,000.~~

~~1. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~1. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~1. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~1. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~1. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 432. Promotion of prostitution

A. ~~Offense. A person, either alone or in association with others, commits promotion or prostitution if he or she~~that person ~~knowingly finances, compels, manages, supervises or controls either alone or in association with others, prostitution activity.~~

B. ~~Sentence.~~

1. Any person found guilty of promoting prostitution may be sentenced to imprisonment for a term not to exceed ~~180~~365 days, or be ordered to pay a fine not to exceed ~~\$5~~1,000, or both.

~~1.2. Any person found guilty of promoting prostitution of a minor, shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of \$5000, and shall be ordered to register with the Navajo Police Department as a convicted sex offender pursuant to the Navajo Nation Sex Offender Registration and Notification Act, as amended. The court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any basis.~~

~~2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~3. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~3. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~3. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

C. Statute of Limitations. A prosecution for promotion of prostitution may be commenced at any time within five years after commission of the offense. When prosecution of promotion of prostitution concerns a minor the statute of limitations shall be commenced after the commission of the offense, with no limitations.

§ 433. Definitions Voyeurism

A. Offense. A person commits voyeurism if that person intentionally views, photographs, videotapes, or otherwise records another person's genitals, anus, groin, inner thigh, buttocks, or breast, or image of a person or portion of a human body, or a sexual act of another person without that person's consent, and does so under circumstances in which the other person has a reasonable expectation of privacy, or attempts to do any of the foregoing.

B. Sentence.

1. Any person found guilty of voyeurism shall for the first offense be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$2,500, or both.

2. Upon a second or subsequent conviction such person shall be sentenced to imprisonment for a term not less than 180 days, or be ordered to pay a fine of not less than \$2,500, or both.

~~A-C.~~ Statue of Limitations. A prosecution for voyeurism may be commenced within five years after commission of the offense; provided, however, a prosecution for voyeurism against a minor may be commenced at any time after commission of the offense without limitation.

- ~~A. "Disclose" means display, distribute, publish, advertise or offer, or otherwise make available to another person.~~
- ~~B. "Disclosed Electronically" means delivery to an electronic mail address, mobile device, tablet, or other electronic communication device and includes disclosure on the Internet.~~
- ~~C. "Displays publicly" means exposing, placing, posting, exhibiting or in any fashion displaying an item in such a manner that it may be seen by normal vision from or within a public location.~~
- ~~D. "Electronic communication device" means a computer, video recorder, digital camera, fax machine, telephone, wireless mobile telephone, pager, audio equipment or any other device that can produce an electronically generated image, message or signal.~~
- ~~E. "Furnishes" means to sell, give, rent, loan or otherwise provide.~~
- ~~F. "Harm" means physical injury, financial injury, or serious emotional distress.~~
- ~~G. "Image" means photograph, videotape, film, or digital recording.~~
- ~~H. "Minor" means a person under eighteen (18) years of age.~~
- ~~I. "Nude," "Nudity," or "state of nudity" means any of the following:~~
- ~~1. The appearance of a human anus, genitals, or female breast below a point immediately above the top of the areola.~~
 - ~~2. A state of dress that fails to opaquely cover a human anus, genitals, or femail breast below a point immediately above the top of the areola.~~
- ~~J. "Prostitution" means, for purposes of this Subchapter, when a person uses a minor to engage in a sexual act or sexual contact with another for the monetary or personal gain of the person so using the minor.~~

§ 434. Solicitation of a minor for prostitution

A. Offense. A person commits solicitation of a minor for prostitution if, with intent that a minor engage in prostitution, ~~he or she~~that person commands, induces, requests, or otherwise endeavors to ~~persuade such minor or agrees to~~ engage in prostitution of a minor.

B. Sentence.

1. Any person found guilty of solicitation of a minor for prostitution shall be sentenced to imprisonment for a term not ~~to exceed~~less than 180 days or be ordered to pay a fine not to

exceed ~~twenty-five hundred dollars (\$2,500) or both~~ and shall be ordered to register as a convicted sex offender with the Navajo Police Department pursuant to the Navajo Nation Sex Offender Registration and Notification Act.

2. Mandatory Sentence. The mandatory sentence for any subsequent conviction for this offense shall be imprisonment in active custody for not less ~~Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than~~ 365 days, shall be ordered to pay a fine of not less than one thousand dollars (~~\$1,500~~), and shall continue to be ordered to register with the Navajo Police Department as a convicted sex offender pursuant to the Navajo Nation Sex Offender Registration and Notification Act. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.

C. Statute of Limitations. A prosecution for solicitation of a minor for prostitution may be commenced at any time after commission of the offense without limitation.

§ 435. Solicitation involving a minor in sexual contact or a sexual act

A. Offense. A person commits solicitation involving a minor in sexual contact or a sexual act if, with intent to involve the minor to engage in sexual contact or a sexual Act, ~~he or she~~ that person commands, requests, or otherwise endeavors to persuade the minor to engage in the sexual contact or sexual act.

B. Sentence.

1. Any person found guilty of solicitation to involve a minor in sexual contact or a sexual act shall be sentenced to imprisonment for a term not to ~~exceed~~ less than 180 days, ~~shall or~~ be ordered to pay a fine not to ~~exceed twenty-five hundred dollars (\$2,500) or both~~ and shall be ordered to register as a convicted sex offender with the Navajo Police Department, pursuant to the Navajo Nation Sex Offender Registration and Notification Act.

2. Mandatory Sentence. The mandatory sentence for any subsequent conviction for this offense shall be imprisonment in active custody for not less ~~Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than~~ 365 days, shall be ordered to pay a fine of not less than ~~one thousand dollars (\$2,500)~~ and shall continue to be ordered to register with the Navajo Police Department pursuant to the Navajo Nation Sex Offender Registration and Notification Act. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.

C. Statute of Limitations. A prosecution for solicitation involving a minor in a sexual contact or a sexual act may be commenced at any time after commission of the offense without limitation.

§ 436. ~~Conspiracy to coerce a minor to engage in sexual contact~~ Furnishing sexual materials to minors.

A. Offense. A person commits furnishing sexual materials to minors if knowing or having good reason to know the content of the material furnished, that person intentionally or knowingly furnishes to a minor:

1. Any picture, photograph, drawing, sculpture, motion picture, film, electronic or other visual representation or image of a person or portion of a human body that depicts sexual contact or sexual act or sadomasochistic abuse; or

2. Any book magazine, paperback, pamphlet or other written or printed matter, electronic medium however reproduced or any sound recording which depicts or narrates accounts of sexual contact or sexual act or sadomasochistic abuse.

B. Affirmative defense. It shall be an affirmative defense that the sexual content of the materials constituting the allegation is merely an incidental part of an otherwise non-offending whole and serves a legitimate purpose.

C. Destruction of the materials upon conviction. Upon the conviction of any person for a violation of this Section, the materials which were the subject of the conviction shall be forfeited and destroyed.

D. Sentence.

1. Any person found guilty of this offense shall be sentenced to imprisonment for a term not to exceed 180 days or be ordered to pay a fine not to exceed five hundred dollars (\$500) or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department pursuant to the Navajo Nation Sex Offender Registration and Notification Act.

2. Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than one thousand dollars (\$1,000), and shall be ordered to register with the Navajo Police Department. The court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.

~~A. Offense. A person commits conspiracy to coerce a minor to engage in sexual contact or a sexual act if he or she intentionally or knowingly promotes or facilitates the sexual contact or sexual act involving a minor and he or she agrees with one or more persons that at least one of them will engage in conduct constituting the sexual contact or sexual act, and one of the parties commits an overt act in furtherance of the agreement.~~

~~B. Affirmative defense. It is an affirmative defense if the defendant gave a complete and voluntary renunciation of the act to co-conspirators and the victim prior to the commission of the act, and there was an effort to prevent the sexual contact or sexual act by giving timely warning to law enforcement.~~

~~C. Defense precluded. It is not a defense that one or more of the persons with whom the defendant is alleged to have conspired has not been prosecuted or convicted, has been convicted of a different offense, or is immune from or otherwise not subject to prosecution.~~

~~D. Duration of conspiracy. Conspiracy is a continuing course of conduct which ends when the offense which is its object has been committed or when the agreement that it be committed is abandoned by the defendant.~~

~~D. Abandonment of conspiracy. A defendant may abandon a conspiratorial agreement and terminate his or her relationship with the conspiracy only if he or she clearly ceases to agree that the conspiratorial objective be committed, takes no further part in the conspiracy, and communicates his or her desire to abandon the conspiracy to other members of the conspiracy.~~

~~D. Sentence.~~

~~0. Any person found guilty of conspiracy to coerce a minor to engage in sexual contact or a sexual act shall be sentenced to imprisonment for a term not to exceed 180 days or be ordered to pay a fine not to exceed twenty five hundred dollars (\$2,500) or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department.~~

~~1. Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than one thousand dollars (\$1000), and shall be ordered to register with the Navajo Police Department. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

§ 437. Kidnapping with intent to commit sexual contact or a sexual act Public Sexual Indecency

A. Offense. A person commits public sexual indecency if that person intentionally or knowingly, in public view:

1. Engages in a sexual act, or sexual contact; or
2. Exposes genitals, buttocks, or breasts in a sexual manner.

B. Sentence.

1. Any person found guilty of public sexual indecency shall be sentenced to imprisonment for a term not less than 30 days and not to exceed 180 days; may or be ordered to pay a fine not to exceed \$1,000.

2. Upon conviction that includes a sexual act or sexual contact shall be ordered to register as a sex offender with the Navajo Police Department pursuant to the Navajo Nation Sex Offender Registration and Notification Act.

~~A. A person commits kidnapping if the person intentionally or knowingly against the will of a victim, including a minor, by any means of any manner seizes, confines, detains, or transports the victim with the intent to commit sexual contact or a sexual act.~~

~~B. A seizing, confining, detaining or transporting is deemed to be the result of force, threat, or deceit if the victim is a minor or is mentally incompetent, and the seizing, confining, detaining or transporting is deemed to be accomplished without consent of the victim's or minor's parent or guardian.~~

~~C. Sentence.~~

~~1. Any person found guilty of this offense shall be sentenced to imprisonment for a term not to exceed 365 days or be ordered to pay a fine not to exceed five thousand dollars (\$5,000) or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department.~~

~~2. Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than twenty five hundred dollars (\$2,500), and shall be ordered to register with the Navajo Police Department. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

§ 438. Furnishing sexual materials to minors Sexual Assault

A. Offense. A person commits sexual assault if that person intentionally or knowingly engages in sexual contact or a sexual act with any person without the consent of that person.

B. Sentence. Any person found guilty of sexual assault shall be sentenced to imprisonment for a term not less than 180 days, and be ordered to pay a fine not less than \$2,500 and not to exceed \$5,000, and shall be ordered to register as a convicted sex offender with the Navajo Police Department pursuant to the Navajo Nation Sex Offender Registration and Notification Act.

~~Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than twenty five hundred dollars (\$2,500), and shall be ordered to register with the Navajo Police Department. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

Affirmative defense. It is an affirmative defense to a prosecution that the victim's lack of consent is based on incapacity to consent because he or she was 16 or 17 years of age.

~~A. Offense. A person commits furnishing sexual materials to minors if knowing or having good reason to know the content of the material furnished, he or she intentionally or knowingly furnishes to a minor.~~

~~1. Any picture, photograph, drawing, sculpture, motion picture, film, electronic or other visual representation or image of a person or portion of a human body that depicts sexual contact or sexual act or sadomasochistic abuse; or~~

~~2.1 Any book, magazine, paperback, pamphlet or other written or printed matter, electronic medium however reproduced or any sound recording which depicts or narrates accounts of sexual contact or sexual act or sadomasochistic abuse.~~

~~A. Affirmative defense. It shall be an affirmative defense that the sexual content of the materials constituting the allegation is merely an incidental part of an otherwise non-offending whole and serves a legitimate purpose.~~

~~A. Destruction of the materials upon conviction. Upon the conviction of any person for a violation of this Section, the materials which were the subject of the conviction shall be forfeited and destroyed.~~

~~A. Sentence.~~

~~2.1 Any person found guilty of this offense shall be sentenced to imprisonment for a term not to exceed 180 days or be ordered to pay a fine not to exceed five hundred dollars (\$500) or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department.~~

~~2.1 Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than one thousand dollars (\$1,000), and shall be ordered to register with the Navajo Police Department. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

§ 439. Displaying sexual materials to minors as a part of a person's business_ **Aggravated Sexual Assault**

A. Offense. A person commits aggravated sexual assault if that person intentionally or knowingly commits or attempts to commit a sexual act on another without consent or commits or attempts to commit a sexual assault on another and;

1. Causes bodily injury to the victim; or
2. Uses or threatens to use a deadly weapon; or
3. Compels, or attempts to compel, the victim to submit to sexual contact or -sexual assault by threat of kidnapping, death, or serious bodily injury to be inflicted imminently upon any person.

B. Mandatory Sentence. The mandatory sentence for any conviction for an offense under this section shall be imprisonment in active custody for not less than 180 days and not more than 365 days, and be ordered to pay a fine not less than \$2,500 and not to exceed \$5,000, and shall be ordered to

register as a convicted sex offender with the Navajo Police Department pursuant to the Navajo Nation Sex Offender Registration and Notification Act. The court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.

~~A. Offense. A person commits displaying sexual materials to minors if, being the owner, operator or manager of the business or acting in managerial capacity thereof, he or she intentionally, knowingly or recklessly permits a minor who is not accompanied by his or her parent or guardian to enter or remain on the premises, if in that part of the premises where the minor is so permitted to be, there is visibly displayed:~~

~~1. Any picture, photograph, drawing, sculpture, film, electronic or other visual representation or image of a person or portion of the human body that depicts sexual contact or sexual act or sadomasochistic abuse; or~~

~~B. Any book, magazine, paperback, pamphlet or other written or printed matter, electronic medium however reproduced, that reveals a person or portion of the human body that depicts sexual contact or sexual act or sadomasochistic abuse. Affirmative defense. It shall be an affirmative defense that the sexual character of the materials constituting the allegation is merely an incidental part of an otherwise non-offending whole and serves a legitimate purpose.~~

~~Destruction of the materials upon conviction. Upon the conviction of any person for a violation of this Section, the materials which were the subject of the conviction shall be forfeited and destroyed.~~

~~C. Sentence.~~

~~0. Any person found guilty of this offense shall be sentenced to imprisonment for a term not to exceed 180 days or be ordered to pay a fine not to exceed five hundred dollars (\$500) or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department.~~

~~0. Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than one thousand dollars (\$1,000), and shall be ordered to register with the Navajo Police Department. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

§ 440. Public sexual indecency Sexual Act or Sexual Contact with a Minor

~~A. Offense. A person commits public sexual indecency if he or she intentionally or knowingly, in public view, engages in:~~

~~1. A sexual act; or~~

~~1. Sexual contact.~~

~~B.A. Sentence.~~

~~0.1 Any person found guilty of public sexual indecency shall be sentenced to imprisonment for a term not to exceed 180 days or be ordered to pay a fine not to exceed five hundred dollars (\$500) or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department.~~

~~0.1 Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than one thousand dollars (\$1,000), and shall be ordered to register with the Navajo Police Department. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

A. Offense. A person, eighteen years or older, commits sex with a minor, if that person has sexual contact or engages in a sexual act with a minor who not that person's spouse.

B. Affirmative Defense. It is an affirmative defense to prosecution if the age difference between the defendant and the victim is not more than three years.

C. Sentence.

1. Any person found guilty of sexual act or sexual contact with a minor shall be sentenced to imprisonment for a term not to exceed 180 days, and be ordered to pay a fine not to exceed \$2,500, and shall be ordered to register as a convicted sex offender with the Navajo Police Department pursuant to the Navajo Nation Sex Offender Registration and Notification Act.

2. Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than \$2,500, and shall continue to be registered with the Navajo Police Department as a convicted sex offender pursuant to the Navajo Nation Sex Offender Registration and Notification Act. The court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any basis.

3. Mandatory Sentence. The sentences in this section are mandatory. The court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.

D. Statute of Limitations. A prosecution for sexual act or sexual contact with a minor may be commenced at any time after commission of the offense without limitation.

§ 441. Sexual assault Sexual exploitation of a minor through electronic communication device.

~~A. Offense. A person commits sexual assault if he or she intentionally or knowingly engages in sexual contact or a sexual act with any person without the consent of that person.~~

~~B. Sentence.~~

~~1. Any person found guilty of sexual assault shall be sentenced to imprisonment for a term not to exceed 180 days or be ordered to pay a fine not to exceed five thousand dollars (\$5,000) or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department.~~

~~2. Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than twenty five hundred dollars (\$2,500), and shall be ordered to register with the Navajo Police Department. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

~~C. Affirmative defense. It is an affirmative defense to a prosecution that the victim's lack of consent is based on incapacity to consent because he or she was 16 or 17 years of age.~~

A. Offense. A person, 18 years or older, commits sexual exploitation of a minor through electronic communication device if that person knowingly:

1. Invites or entices the minor to expose or touch the minor's own or another person's intimate parts while communicating with the minor via an electronic communication device; or
2. Observes any part of the minor's genitals, anus, buttocks, breasts or other intimate parts while communicating with the minor via an electronic communication device; or
3. Exposes that person's own genitals, anus, buttocks, breasts or other intimate parts to the minor while communicating with the minor via an electronic communication device.

B. Jurisdiction. For purposes of determining jurisdiction, sexual exploitation of a minor through an electronic communication device, is committed within the Navajo Nation, if an electronic communication device transmission either originates or is received in the Navajo Nation.

C. Affirmative Defense. It is not a defense that the intended victim is a certified peace officer posing as a minor or another person posing as a minor who is assisting law enforcement.

D. Sentence.

1. Any person found guilty of this offense shall be sentenced to imprisonment for a term not to exceed 90 days, shall be ordered to pay a fine not to exceed \$2,500, and shall be ordered to register as a convicted sex offender with the Navajo Police Department pursuant to the Navajo Nation Sex Offender Registration and Notification Act.

3. Upon any subsequent conviction of this offense, a person shall be sentenced to a mandatory imprisonment of not less than 180 days, shall be ordered to pay a fine of not less than \$5,000, and shall continue to be registered with the Navajo Police Department as a convicted sex offender pursuant to the Navajo Nation Sex Offender Registration and Notification Act.

4. The sentences in this section are mandatory. The court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any basis.

E. Statute of Limitations. A prosecution for sexual exploitation of a minor through electronic communication device may be commenced at any time after commission of the offense without limitation.

§ 441A. Aggravated sexual assault

~~A. Offense. A person commits aggravated sexual assault if he or she that person intentionally or knowingly in the course of committing sexual assault or attempted sexual assault:~~

~~1. Causes bodily injury to the victim;~~

~~2.1. Uses or threatens the victim by use of a deadly weapon;~~

~~2.1. Compels, or attempts to compel, the victim to submit to sexual assault by threat of kidnapping, death, or serious bodily injury to be inflicted imminently upon any person.~~

~~B.A. Sentence.~~

~~0.1. A person found guilty of aggravated sexual assault shall be sentenced to imprisonment for a term not to exceed 365 days or be ordered to pay a fine not to exceed five thousand dollars (\$5,000) or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department.~~

~~0.1. Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than twenty five hundred dollars (\$2,500), and shall be ordered to register with the Navajo~~

~~Police Department. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

§ 442. Seduction Luring a minor by electronic communication device

A. Offense. A person commits seduction if he or she has sexual contact or engages in a sexual act with another person, not his or her spouse, if the other person is less than 16 years old.

~~A. Affirmative defense. It is an affirmative defense to prosecution if the age difference between the defendant and the victim is not more than three years provided the victim is at least 16 years of age at the time of the offense.~~

~~A. Sentence.~~

~~1. Any person found guilty of seduction shall be sentenced to imprisonment for a term not to exceed 180 days or be ordered to pay a fine not to exceed one thousand dollars (\$1,000) or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department.~~

~~1. Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than two thousand dollars (\$2,000), and shall be ordered to register with the Navajo Police Department. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

A. Offense. A person, 18 years or older, commits luring a minor by electronic communication device when that person knowingly uses an electronic communication device to:

1. Initiate contact with a minor or an individual the person believes to be a minor; and
2. Attempts to solicit, lure, or entice the minor or an individual the person believes to be a minor to engage in sexual contact or a sexual act involving the person and the minor.

B. Jurisdiction. For purposes of determining jurisdiction, luring a minor by electronic communication device is committed within the Navajo Nation, if an electronic communication device transmission either originates or is received in the Navajo Nation.

C. Affirmative Defense. It is an affirmative defense to prosecution if the age difference between the defendant and the victim is not more than three years.

D. No Defense. It is not a defense that the intended victim is a certified peace officer posing as a minor or another person posing as a minor who is assisting law enforcement.

E. Sentence.

1. Any person found guilty of this offense shall be sentenced to imprisonment for a term not less than 90 days, shall be ordered to pay a fine not to exceed \$2,500 and shall be ordered to register as a convicted sex offender with the Navajo Police Department pursuant to the Navajo Nation Sex Offender Registration and Notification Act.
2. Upon any subsequent conviction of this offense, a person shall be sentenced to a mandatory imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than \$5,000, and shall be ordered to register with the Navajo Police Department pursuant to the Navajo Nation Sex Offender Registration and Notification Act. The court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any basis.

E. Statute of Limitations. A prosecution for luring a minor by electronic communication device may be commenced at any time after commission of the offense without limitation.

§ 443. Possession of child pornography~~Sexual exploitation of a minor through electronic communication device~~

A. Offense. A person commits possession of child pornography, if that person knowingly possesses, views, or controls one or more books, magazines, periodicals, films, video tapes, computer generated images, or other material which contain any visual depiction of a graphic or simulated lascivious exhibition of the anus, genitals, or pubic area of a minor, or of a minor engaging in sexual contact or an actual or simulated sexual act.

B. Sentence.

1. Any person found guilty of this offense shall be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$2,500, or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department pursuant to the Navajo Nation Sex Offender Registration and Notification Act.

2. Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than \$5,000, and shall continue to be registered as a convicted sex offender with the Navajo Police Department. The court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any basis.

D. Statute of Limitations. A prosecution for possession of child pornography may be commenced at any time after commission of the offense without limitation.

~~A. Offense. A person commits internet sexual exploitation of a minor if he or she knowingly, invites or entices the minor through the use of an electronic communication device to:~~

~~1. Expose or touch the minor's own or another person's intimate parts while communicating with the minor via an electronic communication device; or~~

~~2. Observe the minor's intimate parts while communicating with the minor via an electronic communication device.~~

~~B. Jurisdiction. For purposes of determining jurisdiction, internet sexual exploitation of a minor is committed within the Navajo Nation if an electronic communication device transmission either originates or is received in the Navajo Nation.~~

~~B. Affirmative defense. It shall not be an affirmative defense to this Section that the minor was actually a law enforcement officer or an undercover operative working with a law enforcement agency posing as a minor~~

~~B. Sentence.~~

~~0. Any person found guilty of this offense shall be sentenced to imprisonment for a term not to exceed 365 days or be ordered to pay a fine not to exceed five thousand dollars (\$5,000) or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department.~~

~~1. Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than twenty-five hundred dollars (\$2,500), and shall be ordered to register with the Navajo Police Department. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

§ 444. Luring a minor by electronic communication device Incest

~~A. Offense. A person commits luring a minor by electronic communication device when the person knowingly uses or attempts to use an electronic communication device to:~~

- ~~1. Initiate contact with a minor or an individual the person believes to be a minor; and~~
- ~~2. Immediately after initiating contact, by any electronic communication device, solicits, seduces, lures, or entices, or attempts to solicit, seduce, lure, or entice the minor or an individual the person believes to be a minor to engage in sexual contact or a sexual act involving the person and the minor.~~

~~A. Jurisdiction. For purposes of determining jurisdiction, luring a minor by electronic communication device is committed within the Navajo Nation if an electronic communication device transmission either originates or is received in the Navajo Nation.~~

~~A. Affirmative defense. It shall not be an affirmative defense to this Section that a law enforcement officer or an undercover operative working with a law enforcement agency was involved in the detection or investigation of the offense.~~

~~A. Sentence.~~

~~2. Any person found guilty of this offense shall be sentenced to imprisonment for a term not to exceed 365 days or be ordered to pay a fine not to exceed five thousand dollars (\$5,000) or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department.~~

~~2. Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than twenty-five hundred dollars (\$2,500), and shall be ordered to register with the Navajo Police Department. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

A. Offense. A person commits incest, if that person knowingly and with consent engages in sexual contact or a sexual act with another who is related to the person by whole or half-blood, as an ancestor or descendant, a brother or sister, or an uncle, niece, aunt, nephew or first cousin.

B. Sentence.

1. Any person found guilty of incest shall be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$2,500, or both.

2. Upon any subsequent conviction of incest, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than \$5,000, or both.

§ 445. Possession of child pornographySexual contact or a sexual act with a minor

A. Offense. A person commits sexual contact or a sexual act with a minor, if that person intentionally or knowingly engages in sexual contact or a sexual act with a minor.

B. Sentence.

1. Any person found guilty of sexual contact or a sexual act with a minor shall be sentenced to imprisonment for a term not less than 180 days, shall be ordered to pay a fine not to exceed \$5,000, and shall be ordered to register as a convicted sex offender with the Navajo Police Department pursuant to the Navajo Nation Sex Offender Registration and Notification Act.
2. When the minor is the child, step-child, foster child or ward of the person committing the offense, the sentence shall be imprisonment for a term not less than 365 days, shall be ordered to pay a fine not less than \$5,000, and be ordered to register as a convicted sex offender with the Navajo Police Department pursuant to the Navajo Nation Sex Offender Registration and Notification Act.

C. Statute of Limitations. A prosecution for sexual contact or sexual act with a minor may be commenced within three years after the minor reaches eighteen.

~~A. Offense. Any person who knowingly possesses one or more books, magazines, periodicals, films, videotapes, computer-generated images, or other matter which contain any visual depiction of a minor engaging in sexual conduct or a sexual act is guilty of possession of child pornography.~~

~~B. Affirmative defense. It shall be an affirmative defense to this section that the person reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.~~

~~C. Sentence.~~

~~D. Any person found guilty of this offense shall be sentenced to imprisonment for a term not to exceed 365 days or be ordered to pay a fine not to exceed five thousand dollars (\$5,000) or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department.~~

~~E. Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than twenty-five hundred dollars (\$2,500), and shall be ordered to register with the Navajo Police Department. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

§ 446. Incest

A. ~~Offense. A person commits incest if he or she knowingly engages in sexual contact or a sexual act with another who is related to the person by whole or half blood, as an ancestor or descendant, a brother or sister, or an uncle, niece, aunt, nephew or first cousin.~~

~~A. Sentence.~~

~~1. Any person found guilty of incest shall be sentenced to imprisonment for a term not to exceed 365 days or be ordered to pay a fine not to exceed five thousand dollars (\$5,000) or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department.~~

~~2. Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than twenty five hundred dollars (\$2,500), and shall be ordered to register with the Navajo Police Department. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

~~§ 447. Sexual contact or sexual act with a foster child or stepchild~~

~~A. Offense. A person commits sexual contact or a sexual act with a foster child or step child if he or she intentionally or knowingly engages in sexual contact or a sexual act with his or her foster child or step child who is under 18 years of age.~~

~~A. Sentence.~~

~~0. Any person found guilty of this offense shall be sentenced to imprisonment for a term not to exceed 365 days or be ordered to pay a fine not to exceed five thousand dollars (\$5,000) or both and shall be ordered to register as a convicted sex offender with the Navajo Police Department.~~

~~0. Upon any subsequent conviction of this offense, a person shall be sentenced to imprisonment of not less than 365 days, shall be ordered to pay a fine of not less than twenty five hundred dollars (\$2,500), and shall be ordered to register with the Navajo Police Department. The district court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

~~§ 448. Unlawful distribution of sexual images depicting states of nudity or specific sexual activities~~

~~B. Offense. It is unlawful for a person to intentionally disclose a sexual image of another person who is identifiable from the image itself or from information displayed in connection with the image if all of the following apply:~~

~~1. The person in the image is depicting in a state of nudity or is engaged in specific sexual activities;~~

~~1. The depicted person has a reasonable expectation of privacy, evidence that a person has sent an image to another person using electronic device does not, on its own, remove the person's reasonable expectation of privacy for that image; and~~

~~1. The sexual image is disclosed with the intent to harm, harass, intimidate, threaten or coerce the depicted person.~~

~~B. Exceptions. Section 448(A)(1-3) does not apply to any of the following:~~

~~1. Reporting to law enforcement the unlawful conduct of Section 448(A)(1-3) of another person.~~

~~1. Lawful and common practices of law enforcement: criminal reporting, legal proceedings or medical treatment.~~

~~1. Images involving voluntary exposure in a public or commercial setting.~~

~~1. This is not a tier 1 sex offense and registration as a sex offender is not required pursuant to the Sex Offender Registration and Notification Act, 17 N.N.C. §§ 2103 and 2105.~~

~~B. Sentence:~~

~~1. Any person found guilty of unlawful distribution of sexual images may be sentenced to imprisonment for a term not to exceed three hundred sixty five (365) days, ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both. If a person is found guilty, the court shall order the removal of the unlawfully distributed sexual images.~~

~~1. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order restitution or nályééh shall be paid to the victim(s).~~

~~1. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~1. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~1. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the surety of the consequences of breach of the bond or pledge.~~

~~1. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

Navajo Nation Code Annotated Title 17. Law and Order
Chapter 3. Offenses
Subchapter 16. Offenses Against the Family

§ 450. Definition

~~The following definition is applicable to this Subchapter:~~

~~“Sexual contact” and “sexual act” have the same meaning as those terms are defined in Section 435 in Subchapter 15 of this Title.~~

§ 451. Bigamy

~~A. A. Offense. A person commits bigamy if he or she that person intentionally or knowingly marries or purports to marry another person at a time when either is lawfully married.~~

~~B. Sentence. Any person found guilty of bigamy may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$1,000, or both.~~

~~1. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~2. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~2. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~2. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~2. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 452. Adultery

~~A. Offense. A person commits adultery if he or she intentionally or knowingly:~~

~~2. If married, engages in sexual intercourse with one other than his or her spouse; or~~

~~2. If unmarried, engages in sexual intercourse with a married person.~~

~~A. No prosecution for adultery shall be commenced except upon complaint of the husband or wife not committing the offense.~~

~~A. Sentence.~~

~~1. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~2. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~2. The trial court may impose consider a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~2. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~2. The trial court may impose community service sentences to be served under the supervision of an organization or an individual designated by the court.~~

~~§ 453. Reserved~~

§ 454451. Abandonment of a child

~~B.A. _____ Offense. A person commits abandonment of a child if, as a parent, guardian or other person having custody of a child, he or she that person intentionally or knowingly abandons-leaves a child under 18 years of age without adequate care, parental supervision, or both, and does not demonstrate an intent to resume providing such adequate care and/or parental supervision.~~

~~C.B. _____ Sentence.~~

~~1. Any person found guilty of abandonment of a child may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$1,02,500, or both.~~

~~2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be may order restitution or nályééh to be paid to the victim(s).~~

~~3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 455452. Persistent nonsupport

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~that person ~~intentionally knowingly~~ and persistently fails to provide food, shelter, clothing, medical attention, financial support or other necessary care which ~~he or she~~that person can provide and is legally obliged to provide to a spouse, child or other dependent.

B. Sentence.

1. Any person found guilty of persistent nonsupport of a child may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$2,500, or both.

~~1-2.~~The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).~~

~~2-3.~~The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

~~3-4.~~The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

~~4-5.~~Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

~~5-6.~~The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Payment of actual damages. In addition to or in lieu of the sentence described above, the court at its discretion may require the defendant to pay actual damages, plus reasonable interest and costs of collection, for the benefit of the spouse, child or other dependent.

§ 456453. Endangering the welfare of a minor

A. Offense. A parent, guardian or any other person, who is over the age of 18 years, commits endangering the welfare of a minor if ~~he or she~~that person intentionally or knowingly contributes, encourages or causes a person under 18 years of age ~~minor to~~:

1. ~~To be~~Be subjected to the infliction of physical or mental injury including failing to maintain reasonable care and treatment thereof; or

2. ~~To be~~Be habitually truant from school or a runaway from a parent or guardian or otherwise incorrigible; or

3. ~~To live~~Live in a home, which by reason of neglect, cruelty, or depravity, is an unfit place.

4. Be physically present during the commission of a crime.

~~B. Construction to be given this Section. This Section shall be liberally construed in favor of the Navajo Nation for the protection of the minor from neglect or omission of parental duty toward the child, and also to protect children of the Navajo Nation from the effects of the improper conduct, acts or bad example of any person which may be calculated to cause, encourage or contribute to the adverse welfare of minors, although such person is in no way related to the minor.~~

~~D. Any person having cause to believe that a minor has received physical injury as a result of unusual or unreasonable physical abuse or neglect should report or cause reports to be made in accordance with the provisions of this Section.~~

~~F. An oral report should be made as soon as possible by telephone or otherwise and may be followed by a report in writing to the local Navajo Nation Police unit. Such report should contain the name and address of the minor, if known by the person making the report, and any other information the person making the report believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator.~~

~~H.B.~~ Any person or institution making report in good faith pursuant to this Section shall ~~may~~ have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed. Any person or institution making a report in good faith pursuant to this Section shall ~~and may~~ have the same immunity with respect to participation in any proceeding resulting from such report.

~~I.C.~~ Sentence. Any person found guilty of endangering the welfare of a minor may be sentenced to a term of imprisonment not to exceed 180 days, or be ordered to pay a fine not to exceed \$2,500 or both.

~~1. Any person found guilty of endangering the welfare of a minor may be sentenced to a term of imprisonment not to exceed 90 days, or be ordered to pay a fine not to exceed \$500, or both.~~

~~2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

~~3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

~~3. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

~~4. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

~~5. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

**Navajo Nation Code Annotated Title 17. Law and Order
Chapter 3. Offenses
Subchapter 17. [Reserved]**

**Navajo Nation Code Annotated Title 17. Law and Order
Chapter 3. Offenses
Subchapter 18. Interference with Judicial Proceedings**

§ 470. Definitions

The following definitions are applicable in this Subchapter:

- A. “Benefit” means any present or future gain or advantage to a beneficiary or to a third person pursuant to the desire or consent of the beneficiary.
- B. “Juror” means any person who is a member of any impaneled jury and includes any person who has been drawn or summoned to attend as a prospective juror.
- C. “Judicial proceeding” means a proceeding before the Navajo Nation Supreme Court or any district court of the Navajo Nation.
- D. “Testimony” includes oral or written statements, documents or any other material that may be offered by a witness in an official proceeding.
- E. “Witness” means a person who has been or who may be called to give testimony.

§ 471. Influencing a witness

A. Offense. A person commits influencing a witness if that person threatens or intimidates a witness, or offers, confers or agrees to confer any benefit upon a witness in any judicial proceeding, with intent to:

- 1. Influence the testimony of that witness; or
- 2. Induce that witness to avoid legal process summoning the witness to testify; or
- 3. Induce that witness to abstain from providing testimony in any judicial proceeding to which the witness has been legally summoned.

B. Sentence.

1. Any person found guilty of violating this section may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
2. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
3. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
4. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
5. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for influencing a witness may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 472. Witness soliciting or accepting a bribe

A. Offense. A witness in an judicial proceeding, commits this offense if the witness intentionally or knowingly solicits, accepts or agrees to accept any benefit upon an agreement or understanding that:

1. The testimony of the witness will thereby be influenced; or
2. The witness will avoid legal process summoning the witness to testify; or
3. The witness will abstain from providing testimony in any judicial proceeding to which ~~he or she~~ the witness has been legally summoned.

B. Sentence.

1. Any witness soliciting or accepting a bribe may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for witness soliciting or accepting a bribe may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 473. Influencing a juror

A. Offense. A person influences a juror if that person threatens or intimidates a juror or offers, confers, or agrees to confer a benefit upon a juror with the intent to influence the juror's vote, opinion, decision or other action as a juror.

B. Sentence.

1. Any person found guilty of influencing a juror may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for influencing a juror may be commenced at any ~~time within~~ time within ten (10) years from the date of discovery of the offense.

§ 474. Juror soliciting or accepting a bribe

A. Offense. A juror solicits or accepts a bribe if the juror intentionally or knowingly solicits, accepts or agrees to accept any benefit upon an agreement or understanding that ~~his or her~~ that person's vote, opinion, decision or other action as a juror may thereby be influenced.

B. Sentence.

1. Any juror found guilty of soliciting or accepting a bribe may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s)

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for juror soliciting or accepting a bribe may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 475. Jury tampering

A. Offense. A person commits jury tampering if that person, with intent to influence a juror's vote, opinion, decision or other action in a case, directly or indirectly, communicates with a juror other than as part of the normal proceedings of the case.

B. Sentence.

1. Any person found guilty of jury tampering may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose or community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for jury tampering may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 476. Tampering with evidence

A. Offense. A person commits tampering with evidence if that person acts with intent to interfere with an apprehension, investigation, or conviction in a judicial proceeding and:

1. Destroys, mutilates, alters, conceals or removes evidence with the intent to impair its verity or availability;
2. Makes, produces or offers any false evidence; or
3. Prevents the production of evidence by an act of force, intimidation or deception against any person.

B. Sentence.

1. Any person found guilty of tampering with evidence may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed \$5,000, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for tampering within evidence may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 477. Interfering with judicial proceedings

A. Offense. A person interferes with a judicial proceeding if intentionally or knowingly:

1. Engages in disorderly or insolent behavior during the session of a court which directly tends to interrupt the proceedings or impairs the respect due to its authority after being instructed by the court to cease;

2. Disobeys or resists the lawful order, process or other mandate of a court;

3. Refuses to be sworn as a witness in any court proceeding;

4. Refuses to serve as a juror; or

5. Fails inexcusably to attend a trial at which that person has been chosen to serve as a juror.

B. Sentence.

1. Any person found guilty of interfering with judicial proceedings may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$1,000, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~shall order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Statute of Limitations. A prosecution for interfering with judicial proceedings may be commenced at any time within ten (10) years from the date of discovery of the offense.

§ 478. Simulating legal process

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~ that person intentionally or knowingly sends or delivers to another any document purporting to be an order or other document that simulates civil or criminal process, including process which is otherwise proper but which is not authorized by the laws of the Navajo Nation.

B. Sentence.

1. Any person found guilty of simulating legal process may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$1000, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 479. Perjury

A. Offense. Perjury consists of making a false statement under oath or affirmation, material to the issue or matter involved in the course of any judicial, administrative, legislative or other official proceeding, knowing such statement to be untrue. Whoever procures another to commit any perjury is guilty of subornation of perjury.

B. Sentence.

1. Any person found guilty of violating this Section may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.

**Navajo Nation Code Annotated Title 17. Law and Order
Chapter 3. Offenses**

Subchapter 19. Offenses Against the Public Order

§ 480. Definitions

The following definitions are applicable in this Subchapter:

A. "Public" means affecting or likely to affect a substantial group of persons.

B. "Public place" means a place to which the public or a substantial group of persons has access and includes but is not limited to highways, schools, parks, places of business, playgrounds and hallways, lobbies and other portion of motels or hotels not constituting rooms or apartments designed for actual residence. A public place shall include the immediate area, both inside and outside a structure, wherein traditional Navajo religious practices, ceremonies, or services are being held; provided, however, that this Section shall not be construed to authorize the attendance at or participation in such practice, ceremony, or service by any person not otherwise authorized to do so.

§ 481. Unlawful assembly

A. Offense. A person commits unlawful assembly if being present at any assembly of five or more other persons that either has or develops the purpose to engage in conduct constituting a riot as defined in 17 N.N.C. § 482, ~~he or she~~that person knowingly remains there and refuses to obey an official order to disperse.

B. Sentence.

1. Any person found guilty of unlawful assembly may be ordered to pay a fine not to exceed \$250.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 482. Riot

- A. Offense. A person commits riot if, with five or more other persons acting together, ~~if he or she~~that person intentionally, knowingly or recklessly uses force or violence or threatens to use force or violence, if accompanied by ~~immediate~~imminent power of execution, which disturbs the public peace.
- B. Sentence. Any person found guilty of rioting may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$2,500, or both.
 - ~~1. Any person found guilty of rioting may be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed one thousand dollars (\$1000.00), or both.~~
 - ~~3. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~
 - ~~5. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~
 - ~~7. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~
 - ~~9. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~
 - ~~11.1. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 483. Disorderly conduct

- A. Offense. A person commits disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or with knowledge of doing so, or recklessly creating a risk thereof, ~~he or she~~that person:
 1. Engages in fighting, or provokes a fight in a ~~Public or Private~~ place; or

2. ~~In a public place~~ Uses abusive or offensive language or gestures to any person present in a manner likely to provoke immediate-imminent physical retaliation by such person; or
3. Makes any protracted commotion, utterance or display with the intent of preventing the transaction of the business of a lawful meeting, gathering or procession; or
4. Makes unreasonable noise in a public place.

B. Sentence.

1. Any person found guilty of a first offense of disorderly conduct may be ordered to imprisonment not to exceed 30 days, or pay a fine not to exceed \$100, or both.
2. Any person found guilty of a second offense of disorderly conduct within one year may be ordered imprisonment not to exceed 60 days, or to pay a fine not to exceed \$250, or both.
3. Any person found guilty of a third or subsequent offense of disorderly conduct within one year may be ordered to imprisonment not to exceed 90 days, attend rehabilitative services and pay a fine not to exceed \$2,500, or both.
4. ~~The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~
5. ~~The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~
6. ~~The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~
6. ~~Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~
6. ~~The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 484. Obstructing a highway or other public thoroughfare

A. Offense. A person commits obstructing a highway or other public thoroughfare when, having no legal privilege to do so, ~~he or she~~ that person, alone or with other persons, intentionally, knowingly or recklessly interferes with the passage of any highway or public thoroughfare by creating an unreasonable inconvenience or hazard.

B. Sentence.

1. Any person found guilty of obstructing a highway or other public thoroughfare may be ordered to pay a fine not to exceed \$500, jail sentence not to exceed 90 days, or both perform up to eighty hours of community service work.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 485. False reporting

A. Offense. A person commits false reporting if ~~he or she~~ that person initiates or circulates a report of a bombing, fire, offense or other emergency knowing that the report is false or baseless and intending or knowing:

1. That it will cause action of any sort by an official or volunteer agency organized to deal with emergencies; or
2. That it will place a person in fear of imminent serious bodily injury; or
3. That it will prevent or interrupt the occupation of any building, room, place of assembly, public place or means of transportation.

B. Sentence.

1. Any person found guilty of false reporting may be sentenced to imprisonment for a term not to exceed ~~30~~ 90 days, or be ordered to pay a fine not to exceed ~~\$500~~ 1,000, or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 486. Criminal nuisance

A. Offense. A person commits criminal nuisance if:

1. By ~~his or her~~ that person's conduct, activity, or behavior, whether by act or omission, which is either inherently unlawful or unreasonable under the circumstances, ~~he or she~~ that person knowingly, negligently, or recklessly creates, allows, facilitates, encourages, or maintains any condition, situation, incident, or occurrence that poses a risk to the safety, health, or well-being of any person(s) or the general public; or
2. ~~He or she~~ That person knowingly, negligently, or recklessly engages in, facilitates, or encourages in any manner, ~~any conduct~~ any conduct, activity, or behavior, whether by act or omission, that poses a risk to the safety, health, or well being of any person(s) in the general public; or
3. ~~He or she~~ That person knowingly, negligently, or recklessly allows a dog or other animal to run at large, and while running at large such dog or other animal lunges at, chases, or attacks in any manner, any other person and such person suffers any physical or mental injury and/or death.
 - a. At the discretion of the Navajo Nation Prosecutor, a criminal nuisance violation under this § 486 (A)(3) may be charged against each and every person who allowed the dog or animal to run at large, or charged against each and every owner of the dog or animal, or charges may be brought against both.
 - b. At the discretion of the Navajo Nation Prosecutor, a separate violation under this § 486 (A)(3) may be charged for each separate incident or occurrence resulting in any injury and/or death suffered by any person other than the alleged offender, and a separate violation may be charged for each person, other than the alleged offender, who suffers any injury and/or death as a result of such incident or occurrence.

- c. Teasing or provocation of the dog or animal in any manner by any person(s) shall not be a defense under this § 486 (A)(3), and shall not mitigate any penalty imposed for conviction under this §486 (A)(3).
- d. At the discretion of the Navajo Nation Prosecutor, a criminal nuisance violation under this § 486 (A)(3) may be charged in lieu of, or in addition to, the civil offenses established in 13 N.N.C. §§ 1702-1715, and the imposition of both civil and criminal penalties may be requested.
- e. Any dog or other animal running at large that any Navajo Nation Peace Officer determines has physically inflicted any physical or mental injury or death upon any person(s), or that the Officer in ~~his/her~~ in the Officer's discretion considers to be a risk to the health, safety, or welfare of any person(s) or the general public, may be immediately captured, contained, restrained, muzzled, and/or destroyed by the Officer. The cost for impoundment and care, and/or the destruction and disposal, of such dog or animal shall be charged to the person(s) convicted under this §486 (A)(3).
- f. For purposes of this § 486 (A)(3), "running at large" means that the dog or other animal is found or observed off the property of its owner and is not under the immediate and secure control of its owner or other designated person age 12 years or older, by chain or other tether, leash, fence, kennel, crate, or other adequate method. A dog or animal within any automobile or other vehicle of its owner or designee age 12 or older, shall be deemed upon/within the owner's or designee's property.

B. Sentence.

- ~~1. Any person found guilty of criminal nuisance may be sentenced to a term of imprisonment not to exceed 30 days, or be ordered to pay a fine not to exceed \$1000, or both.~~
- 1. Except as set forth below in Sections B(7)-(9), any person found guilty of a first offense of criminal nuisance may be ordered to imprisonment not to exceed 60 days, or pay a fine not to exceed \$1000, or both. Any person found guilty of a second offense of criminal nuisance within 365 days may be ordered to imprisonment not to exceed 90 days, or pay a fine not to exceed \$2500, or both. Any person found guilty of a third or subsequent offense of criminal nuisance within 365 days may be ordered to imprisonment not to exceed 180 days, attend rehabilitative services and pay a fine not to exceed \$5000, or both.
- 2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.
7. The punishment for each separate violation resulting in a conviction under § 486 (A)(3) shall be: (1) a term of imprisonment not less than 30 days and not more than 365 days; or (2) a fine not less than one-thousand-dollars (\$1,000) and not more than five-thousand-dollars (\$5,000); or (3) the trial court may impose both punishments concurrently. The minimum sentencing provisions in § 486 (B)(7), (8), and (9) herein shall be imposed by the trial court notwithstanding §§ 486 (B)(1-6), and notwithstanding any civil fines provided for in 13 N.N.C. §§ 1702-1715. For two or more violations resulting in convictions, the terms of imprisonment shall be imposed consecutively and fines shall be imposed cumulatively.
8. Those convicted under § 486 (A)(3) shall pay restitution for any costs incurred by the victim(s) as a result of any physical or mental injury and/or death suffered. This restitution payment shall not shield the person convicted from liability for civil fines under 13 N.N.C. §§ 1702-1715 or civil damages in any statutory or common-law civil action.
9. Those convicted under § 486 (A)(3) shall pay, in the event of death of the victim, restitution for any and all costs incurred on behalf of the deceased, including but not limited to, funeral and burial expenses. This restitution shall not shield the person convicted from liability for civil fines under 13 N.N.C. §§ 1702-1715 or civil damages in any statutory or common-law civil action.

§ 487. Abuse of a human corpse

A. Offense. A person commits ~~an~~ the offense of abuse of a human corpse ~~pursuant to this Section~~ if without legal privilege ~~he or she~~ that person intentionally or knowingly physically abuses either by damaging or dismembering or by committing sexual penetration or intercourse upon, disinters, removes or carries away, or performs an autopsy not authorized pursuant to 17 N.N.C. § 1852 ~~3~~ upon, a human corpse.

B. Sentence. Any person found guilty of abusing a human corpse may be sentenced to imprisonment for a term not to exceed ~~180~~ 365 days, or be ordered to pay a fine not to exceed ~~two thousand five hundred dollars (\$2,500)~~ \$5,000, or both. If the offense involves sexual penetration or intercourse upon a human corpse, the person committing the offense shall register with the Navajo

Police Department as a convicted sex offender pursuant to the Navajo Nation Sex Offender Registration and Notification Act.

§ 488. Public intoxication

A. Offense. A person commits ~~an~~ the offense of public intoxication pursuant to this Section if ~~he or she~~ that person appears in a public place under the influence of alcoholic beverages, intoxicating substances, marijuana, or controlled substances which use of or possession of is prohibited under 17 N.N.C. § 394, not therapeutically administered, to the degree that ~~he or she~~ that person is unable to care for ~~his or her~~ that person's own safety.

B. Safety detention. Any person arrested for public intoxication may be held in a detention facility of the Navajo Nation Department of Public Safety for ~~not more than 24-72~~ hours after arrest booking.

C. Sentence.

1. Any person found guilty of a first offense of public intoxication may be ordered to imprisonment not to exceed 60 days, or to attend rehabilitative therapy or pay a fine not to exceed \$1000, or both.

2. Any person found guilty of a second offense of public intoxication within ~~one year~~ 365 days may be ordered to ~~attend rehabilitative therapy or pay a fine~~ imprisonment not to exceed 90 days, or to pay a fine not to exceed \$2,500, or both.

3. Any person found guilty of a third or subsequent offense of public intoxication within ~~one year~~ 365 days may be ordered to imprisonment not to exceed 180 days, attend rehabilitative services and therapy or pay a fine not to exceed \$5,000, or both.

4. ~~The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

5. ~~The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

5. ~~The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

5. ~~Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

5. ~~The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 489. Inhalation of toxic vapors

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~that person inhales the vapors or fumes of paint, gas, glue, or any other toxic product for the purpose of becoming intoxicated. For the purposes of this section, the term "toxic product" includes adhesives, aerosols, bath salts, and cleaning agents, food products, gases, chemicals, solvents, and similar items.

B. Safety detention. A person arrested for inhalation of toxic vapors may be held in a detention facility of the Navajo Nation Department of Public Safety for not more than 24 hours after arrest.

C. Sentence.

1. Any person found guilty of inhalation of toxic vapors may be ordered to imprisonment attend rehabilitative therapy, or perform a term of community service not to exceed eighty hours 60 days and to pay a fine up to \$500, and to attend rehabilitative therapy or perform a term of community service not to exceed eighty-eight hours, or both.

2. ~~The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

3. ~~The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

4. ~~The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

4. ~~Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

4. ~~The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

Navajo Nation Code Annotated Title 17. Law and Order Chapter 3. Offenses Subchapter 20. Robbery

§ 490. Definitions

~~The following definitions apply in this Subchapter:~~

D. ~~"Force" is any physical aggression directed against a person as a means of gaining control of property.~~

D. ~~"Threat" means a verbal or physical menace of imminent physical harm to a person.~~

A. ~~“Dangerous instrument” is defined in 17 N.N.C. § 209 (E).~~

B. ~~“Deadly weapon” is defined in 17 N.N.C. § 209 (F).~~

C. ~~“Property” is defined in 17 N.N.C. § 209 (T).~~

D. ~~“In the course of committing” means all the defendant’s acts beginning with the initiation and extending through the flight from a robbery.~~

§ 491. Robbery

A. Offense. A person commits robbery if in the course of committing theft, ~~he or she~~that person threatens ~~or uses immediate-imminent force or uses force~~ against any person with intent either to coerce surrender of property or to forestall resistance to ~~his or her~~that person’s taking or retaining of property.

A. Sentence.

~~2.~~B. Any person found guilty of robbery may be sentenced to imprisonment for a term not to exceed ~~365~~180 days, or be ordered to pay a fine not to exceed ~~five thousand dollars (\$5,000)~~\$2,500, or both.

4. ~~The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order that restitution or nályééh shall be paid to the victim(s).~~

6. ~~The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.~~

8. ~~The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.~~

10. ~~Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.~~

12. ~~The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.~~

§ 492. Armed robbery

A. Offense. A person commits armed robbery if in the course of committing robbery as defined in 17 N.N.C. § 491, ~~he or she~~that person or an accomplice:

1. Is armed with a deadly weapon; or
2. Uses or threatens to use a deadly weapon or dangerous instrument.

~~B. Sentence. Any person found guilty of armed robbery may be sentenced to imprisonment for a term not to exceed 365 days, or and to pay a fine not to exceed five thousand dollars (\$5,000), or both. The mandatory sentence for this offense shall be imprisonment in active custody for not less than 180 days, not to exceed 365 days, and a fine not to exceed \$5,000. The court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis.~~

Navajo Nation Code Annotated Title 17. Law and Order

Chapter 3. Offenses

Subchapter 21. Fish and Wildlife Violations

§ 500. Definitions

The following definitions are applicable to this Subchapter:

A. "Taking" means the hunting, capturing, killing in any manner or the attempt to hunt, capture or kill in any manner, any game animal and quadruped, game bird and fowl, or game fish herein defined.

B. "Game fish". The following are game fish:

1. All of the family Salmonidae (trout);
2. All of the family Esocidae (pike);
3. All of the family Ictaluridae (catfish);
4. All introduced species of the family Serranidae (sea bass and white bass);
5. All of the family Centrarchidae (sunfish, crappie and bass);
6. All of the family Percidae (walleye, pike and perch);
7. All introduced species of the family Pomadasyidae (sargo); and
8. All introduced species of the family Sciaenidae (corvina, barirdiella and redfish).

C. "Game bird". The following are game birds:

1. All of the family Anatidae (waterfowl);
2. All of the family Tetraonidae (grouse and ptarmigans);
3. All of the family Phasianidae (quail, partridges and pheasants);

4. All of the family Meleagridae (wild turkeys) except for the domestic strains of turkeys;
5. All of the family Scolopacidae (shorebirds, snipe, sandpipers and curlews); and
6. All of the family Columbidae (wild pigeons and doves), except for the domestic strains of pigeons.

D. "Game animals". The following mammals are game animals:

1. All of the family Tayassuidae (javelina);
2. All of the family Antilocapridae (American pronghorn);
3. All of the family Cervidae (elk and deer);
4. All of the family Ursidae (bear);
5. All of the species concolor (cougar) of the genus Felis and family Felidae; and
6. All of the genus Ovis (bighorn sheep) except for the domestic species of sheep.

E. "Songbirds". The following species and varieties of birds are songbirds: Any songbird, or birds whose principal food consists of insects, comprising all the species and varieties of birds, represented by the several families of bluebirds, including the western and mountain bluebirds; also bobolinks, catbirds, chickadees, cuckoos, which includes the chaparral bird or roadrunner (*geococcyx novo mexicanus*), flickers, flycatchers, grosbeaks, hummingbirds, kinglets, martins, meadowlarks, nighthawks, or bull bats, nuthatches, orioles, robins, shrikes, swallows, swifts, tanagers, titmice, thrushes, vireos, warblers, waxwings, whippoorwills, woodpeckers, wrens, and all other perching birds which feed entirely or chiefly on insects.

F. "Fur-bearing animals". The following mammals are fur-bearing animals:

1. All of the genus *Lynx rufus* (bobcats and lynx);
2. All of the genus *Castor* (beavers);
3. All of the family Procyonidae (raccoons);
4. All of the genus *Vulpes* (red fox, gray fox, swift fox);
5. All of the species *Ondatra zibethica* (muskrat);
6. All of the genus *Mustela* (weasels);
7. All of the genus *Mephitis* (skunks);

8. All of the species *Taxidea taxus* (badgers)

9. All of the family *Dedilphiidae* (opossums).

G. "Small game animals". The following mammals are small game animals:

1. All of the genus *Sciurus* (squirrels)

2. All of the genus *Eutamias* (chipmunks);

3. All of the genus *Lepus* and *Sylvilagus* (rabbits).

H. "Endangered species" means any species of fish or wildlife whose prospects of survival or recruitment within the Navajo Nation are in jeopardy or are likely within the foreseeable future to become so, due to any of the following factors:

1. The present or threatened destruction, modification or curtailment of its habitat;

2. Overutilization for scientific, commercial or sporting purposes;

3. The effect of disease or predation;

4. Other natural or man-made factors affecting its prospects of survival or recruitment within the Navajo Nation; or

5. Any combination of the foregoing factors. The term may also include any species or subspecies of fish or wildlife appearing on the United States list of endangered native and foreign fish and wildlife as set forth in Section 4 of the Endangered Species Act of 1973 [FN1] as endangered or threatened species provided that the Resources Committee of the Navajo Nation Council adopts such lists in whole or in part.

[FN1]

16 U.S.C. § 1534.

§ 501. Unlawful taking of fish or game

A. Offense. A person commits unlawful taking of fish or game if ~~he or she~~that person takes any game fish, game bird or game animal, and:

1. Such taking occurs in a location not permitted by law or regulations; or

2. The person taking such game fish, game bird or game animal is without a permit or with an improper permit; or

3. Such taking occurs during a time of day not permitted by law or regulation; or

4. Such taking occurs in a manner not permitted by law or regulations; or
5. Such taking is in excess of the permitted number; or
6. Such taking occurs out of season.

B. Sentence. Any person found guilty of unlawful taking of fish or game may be sentenced as follows:

1. For the unlawful taking of game fish, a person may be ordered to pay a fine not to exceed one thousand dollars (\$1,000).
2. For the unlawful taking of game birds, a person may be ordered to pay a fine not to exceed two thousand dollars (\$2,000).
3. For the unlawful taking of game animals, a person may be ordered to pay a fine not to exceed five thousand dollars (\$5,000).

§ 502. Unlawful possession of fish or game

A. Offense. A person commits an offense pursuant to this Section if without lawful authority ~~he or she~~that person possesses, trades or barter, offers for sale, sells, offers to purchase or purchases within the territorial jurisdiction of the Navajo Nation and the Navajo Nation Courts, all or any part of any game animal, game bird or game fish taken within said jurisdiction.

B. Sentence. Any person found guilty of unlawful possession of fish or game may be sentenced as follows:

1. For the unlawful possession of game fish a person may be ordered to pay a fine not to exceed one thousand dollars (\$1,000).
2. For the unlawful possession of game birds a person may be ordered to pay a fine not to exceed two thousand dollars (\$2,000).
3. For the unlawful possession of game animals a person may be ordered to pay a fine not to exceed five thousand dollars (\$5,000).

§ 503. Unlawful taking of songbirds

A. Offense. A person commits an offense pursuant to this Section if without lawful authority ~~he or she~~that person takes any songbird, or bird whose principal food consists of insects.

B. Sentence. Any person found guilty of unlawful taking of songbirds be sentenced to imprisonment for a term not to exceed 30 days, or may be ordered to pay a fine not to exceed one thousand dollars (\$1,000).

C. The Director of the Fish and Wildlife Department of the Navajo Nation shall assist any person in securing permits from the Secretary of the Interior for the taking and possession of songbirds. Applications shall be processed without charge to any person for the following purposes:

1. Indian religious and ceremonial purposes;
2. Scientific purposes in accordance with the rules and regulations of the Resources Committee of the Navajo Nation Council.

§ 504. Unlawful taking or possession of fur-bearing animals

A. Offense. A person commits an offense pursuant to this Section if without lawful authority ~~he or she~~that person takes any fur-bearing animals.

B. Sentence. Any person found guilty of unlawful taking or possession of fur-bearing animals may be ordered to pay a fine not to exceed one thousand dollars (\$1,000).

C. The Director of the Fish and Wildlife Department of the Navajo Nation may issue permits to allow any person to take or possess any fur-bearing animal protected by this Section. Permits shall be granted upon application and without charge for the following purposes:

1. Indian religious and ceremonial purposes;
2. Scientific purposes in accordance with the rules and regulations of the Resources Committee of the Navajo Nation Council.

§ 505. Unlawful taking or possession of Bald or Golden Eagles

A. Offense. A person commits an offense pursuant to this Section if without lawful authority ~~he or she~~that person takes or possesses any Bald or Golden Eagles.

B. Sentence. Any person found guilty of unlawful taking or possession of Bald or Golden Eagles may be ordered to pay a fine not to exceed five thousand dollars (\$5,000).

§ 506. Unlawful taking and possession of hawks, vultures and owls

A. A person commits an offense pursuant to this Section if without lawful authority ~~he or she~~that person takes or possesses any bird of the order falconiformes, comprising all of the species and

varieties of birds represented by the several families of vultures and hawks, and all of the order strigiformes, comprising all of the species and varieties of owls.

B. Sentence. Any person found guilty of unlawful taking or possession of hawks, vultures, or owls may be ordered to pay a fine not to exceed five thousand dollars (\$5,000).

C. The Director of the Fish and Wildlife Department of the Navajo Nation shall assist any person in securing permits from the Secretary of the Interior for the taking and possession of any bird protected by this Section. Applications shall be processed without charge to any person for the following purposes:

1. Indian religious and ceremonial purposes;
2. Scientific purposes in accordance with the rules and regulations of the Resources Committee of the Navajo Nation Council.

§ 507. Endangered species

A. On the basis of investigations concerning wildlife, and other available scientific and commercial data, and after consultation with wildlife agencies in surrounding states, appropriate federal agencies, and other interested persons and organizations, not later than one year after the effective date of this criminal code, the Resources Committee of the Navajo Nation Council shall by regulation develop a list of those species and subspecies of wildlife indigenous to the Navajo Nation which are determined to be endangered within the Navajo Nation giving their common and scientific names by species and subspecies.

B. The Director of the Fish and Wildlife Department shall conduct a review of the Navajo Nation list of endangered species biennially, commencing within two years of the effective date of this criminal code, and may present to the Resources Committee of the Navajo Nation Council recommendations for appropriate additions to or deletions from the list.

C. Except as otherwise provided in this criminal code, it is unlawful for any person to take, possess, transport, export, process, sell or offer for sale or ship any species or subspecies of wildlife appearing on any of the following lists:

1. The list of wildlife indigenous to the Navajo Nation determined to be endangered within the Navajo Nation as set forth by regulations of the Resources Committee of the Navajo Nation Council.
2. The United States lists of endangered native and foreign fish and wildlife, as set forth in Section 4 of the Endangered Species Act of 1973 [FN1] as endangered or threatened species, but only to the extent that such lists are adopted for this purpose by regulations of the Resources Committee of the Navajo Nation Council.

D. Any species or subspecies of wildlife appearing on any of the foregoing lists, transported into the Navajo Nation from a state of the United States and destined for a point beyond the Navajo

Nation may be transported across the Navajo Nation without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of a state of the United States or otherwise in accordance with the laws of a state of the United States.

E. Sentence. Any person found guilty of unlawful taking of endangered species may be ordered to pay a fine not to exceed five thousand dollars (\$5,000).

[FN1]

16 U.S.C. § 1534.

§ 508. Unlawful taking and possession of small game animals

A. Offense. A person commits an offense pursuant to this Section if without lawful authority ~~he or she~~that person takes any small game animals.

B. Sentence. Any person found guilty of unlawful taking or possession of small game animals may be ordered to pay a fine not to exceed one thousand dollars (\$1,000).

C. The Director of the Fish and Wildlife Department of the Navajo Nation may issue permits to allow any person to take or possess any small game animal protected by this Section. Permits shall be granted upon application and without charge for the following purposes:

1. Indian religious and ceremonial purposes;
2. Scientific purposes in accordance with the rules and regulations of the Resources Committee of the Navajo Nation Council.

§ 509. Destruction of posted signs or structures

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~that person destroys, attempts to destroy, or defaces any sign or marker posted or any structure designed for the purpose of regulating and managing any animal, fish or fowl protected by this title.

B. Sentence. Any person found guilty of destruction of posted signs or structures may be ordered to pay a fine not to exceed one hundred dollars (\$100.00).

§ 510. Enforcement of fish and wildlife laws

A. The Director of the Fish and Wildlife Department, each Wildlife Enforcement Officer, each Navajo Nation Ranger and each member of the Navajo Division of Law Enforcement commissioned shall enforce the provisions of this Title and shall:

1. Seize any game or fish held in violation of this Chapter;

2. With or without warrant, arrest any person whom ~~he or she~~that person knows to be guilty of a violation of this Chapter; and

3. Open, enter and examine all camps, wagons, cars, tents, packs, boxes, barrels and packages where ~~he or she~~that person has reason to believe any game or fish taken or held in violation of this Chapter is to be found, and seize it.

B. Any warrant for the arrest of a person shall be issued upon sworn complaint, the same as in other criminal cases, and any search warrant shall issue upon a written showing of probable cause supported by oath or affirmation, describing the places to be searched or the papers or things to be seized.

C. Wildlife Enforcement Officers may, under the direction of the Fish and Wildlife Department of the Navajo Nation and the Director establish from time to time, as needed for the proper functioning of the Fish and Wildlife Department, checking stations at points along established roads.

§ 511. Forfeiture

Any person found guilty of an offense pursuant to this Subchapter shall forfeit any fish or game as may be found in his or her possession to the court for the use of any Indian institution.

§ 512. Authority to establish fees and regulations

The Resources Committee of the Navajo Nation Council shall have the authority to establish fees and regulations for hunting and fishing Activities.

Navajo Nation Code Annotated Title 17. Law and Order

Chapter 3. Offenses

Subchapter 22. Forests and Woodlands Violations

§ 520. Definitions

The following definitions are applicable to this Subchapter:

A. "Harvest" means to cut, take, damage, remove, or transport any living or dead tree or product thereof, or any attempt to commit such act;

B. "Valid permit" means a tree cutting, forest products use or transportation permit issued and signed by an authorized Forest Officer, on which there is no evidence of tampering, mutilation or other such acts that may change the permit.

C. "Authorized contract" or "authorized agreement" means an existing contract or agreement which meets the following conditions:

1. Procedures for obtaining contracts and agreements as defined by the Code of Federal Regulations, Title 25, Part 163: General Forest Regulations, have been followed and approved;

2. The contract or agreement has been reviewed and approved by the Resources Committee of the Navajo Nation Council.

D. "Timber harvest standards" means a body of guidelines, recommended by the Navajo Forest Manager and approved by the Resources Committee of the Navajo Nation Council, which governs the harvest of forest products under contracts and agreements;

E. "Forest road" means a road wholly or partly within or adjacent to and serving a part of the Navajo forests or woodlands;

F. "Forest trail" means a trail wholly or partly within or adjacent to and serving a part of the Navajo forests or woodlands;

G. "Forest officer" means an employee of the Navajo Forestry Department or Bureau of Indian Affairs Branch of Forestry;

H. "Navajo forest" includes all lands covered with ponderosa pine, Douglas fir, aspen, cork bark fir, Colorado blue spruce, or Engelmann spruce in some combination which together comprises a crown closure of greater than seven percent (7%). Meadows and openings within these lands are also considered within the forest;

I. "Navajo woodland" includes all lands covered with oak, piñon, and/or juniper in some combination which together comprises a crown closure of greater than seven percent (7%). Meadows and openings surrounded by these lands are also considered within the woodland;

J. "Person" means any natural person, corporation, company, partnership, trust, firm, or association of persons;

K. "Unauthorized livestock" means any cattle, sheep, goat, hog, or equine which is not authorized by permit to be upon the land on which the livestock is located; provided, that non-commercial pack and saddle stock used by recreationists, travelers, and other forest and woodland users for occasional trips are exempt.

L. "Forest product" means any tree or shrub, in whole or in part, dead or alive, including but not limited to the stem, branches, and leaves, which was produced on the Navajo forests or woodlands.

§ 521. Resisting or obstructing a forest officer

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~that person intentionally or knowingly obstructs, impairs, hinders or resists any forest officer or Navajo Nation Ranger engaged in the lawful exercise of ~~his or her~~that person's official duties.

B. Sentence.

1. Any person found guilty of resisting or obstructing a forest officer may be ordered to perform up to eighty hours of community service work, or be ordered to pay a fine not to exceed \$1000, or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

§ 522. Damage to geologic and man-made improvements on Navajo forests or woodlands

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~that person intentionally, recklessly, or negligently:

1. Mutilates, defaces, removes, disturbs, injures or destroys any geologic feature or formation.

2. Destroys, injures, defaces, or removes any sign, marker, post, container, table, fireplace, or other property placed in Navajo forests or woodlands for management purposes.

3. Sentence. Any person found guilty of violating the provisions of this Section may be ordered to pay a fine not to exceed two thousand five hundred dollars (\$2,500).

B. Restitution. The court, in addition to or in lieu of the sentence, may require the offender to pay the Navajo Nation for the actual damages or restoration costs of the injured property.

§ 523. Fire violations

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~that person intentionally, recklessly or negligently:

1. Throws or places any burning, glowing or ignited substance within Navajo forests or woodlands which may start a fire;
2. Causes timber, trees, brush, slash or grass to burn, except as authorized by permit issued by BIA Forestry or their delegated agency;
3. Leaves a fire within Navajo forests or woodlands without completely extinguishing it;
4. Allows a fire to get out of control within Navajo forests or woodlands;
5. Within Navajo forests or woodlands, builds a campfire in a dangerous place, or during windy weather without confining it;
6. Operates equipment within the Navajo forest without approved fire safety and spark arresting devices.

B. Sentence.

1. Any person found guilty of violating the provisions of this Section may be ordered to perform up to eighty hours of community service work or pay a fine not to exceed five thousand dollars (\$5,000), or both.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Restitution. The court, in addition to or in lieu of the sentence, may require the offender to pay the Navajo Nation the full cost of suppression of the fire and/or the fair market value of the timber and improvements destroyed or damaged as a result of the fire.

§ 525. Unauthorized harvesting of timber or forest product

A. Offense. A person commits an offense pursuant to this Section if, after approval of regulations, ~~he or she~~that person intentionally or knowingly:

1. Cuts, kills, destroys, chops, boxes, injures or otherwise damages, or harvests any timber, tree or other forest product, except as authorized pursuant to valid permit, approved contract, or Tribal regulation;
2. Harvests any tree pursuant to a valid permit or approved contract before a forest officer has marked it or has otherwise designated it for harvest;
3. Removes any timber or other forest product cut pursuant to a valid permit or approved contract, except to a location designated for scaling, or removes any timber or forest product from a location designated for scaling before it has been scaled, measured, counted, or otherwise inventoried by a forest officer;
4. Stamps, marks with paint, or otherwise identifies any tree or other forest product in a manner similar to that employed by a forest officer to mark or designate a tree or forest product for harvest or removal;
5. Fails to comply with permit requirements or timber harvest standards;
6. Sells or trades any forest product without a valid permit authorizing the commercial sale of the product.

B. Sentence.

1. Any person found guilty of violating the provisions of this Section may be ordered to perform up to eighty hours of community service work or pay a fine not to exceed two thousand five hundred dollars (\$2,500), or both, and order to forfeit the subject timber or forest product.
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Restitution. The court, in addition to or in lieu of the penalty, may require the offender to pay the Navajo Nation the fair market value of the damaged property and/or restoration costs.

§ 526. Unauthorized occupancy and use of Navajo forest lands

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~ that person intentionally or knowingly:

1. Constructs or maintains any road, trail, structure, fence, enclosure, or other improvement upon Navajo forests or woodlands without proper authorization;

2. Abandons a motor vehicle, animal or personal property within Navajo forests or woodlands.

B. Sentence.

1. Any person found guilty of violating the provisions of this Section may be ordered to pay a fine not to exceed two thousand five hundred dollars (\$2,500).

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~ may order restitution or nályééh to be paid to the victim(s).

3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.

4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.

5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Removal costs. The court, in addition to or in lieu of the sentence, may order the offender to remove the unauthorized improvements or to pay the Navajo Nation the full costs of removal.

§ 527. Unauthorized use of motor vehicles

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~that person intentionally or knowingly:

1. Fails to stop a motor vehicle when directed to do so by a forest officer;
2. Blocks, restricts, or otherwise interferes with the use of a road or trail within Navajo forests or woodlands;
3. Operates any motor vehicle off of established roads in a manner which damages or unreasonably disturbs Navajo forests or woodlands or any Navajo vegetative resource.

B. Sentence.

1. Any person found guilty of violating the provisions of this Section may be ordered to pay a fine not to exceed one thousand dollars (\$1,000).
2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and ~~may order that restitution or nályééh shall be~~may order restitution or nályééh to be paid to the victim(s).
3. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
4. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
6. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.

C. Restitution. The court, in addition to or in lieu of the sentence, may require the offender to pay the Navajo Nation the full cost of restoration of the damaged resource.

§ 528. Special closures or use restrictions

A. Offense. A person commits an offense pursuant to this Section if ~~he or she~~that person intentionally or knowingly violates any order issued by the Navajo Division of Resources temporarily closing or restricting the use of Navajo forests or woodlands for the following reasons:

1. Smoking of cigarettes, pipes, cigars, or any other material in areas designated by the order;

2. Use of firearms and/or fireworks in the designated areas;
3. Use of chainsaws, tractors, trucks, and other equipment during designated hours and/or in designated areas;
4. Building, maintaining, attending, or using a fire, in the designated areas;
5. Utilizing or otherwise going upon Navajo forests or woodlands closed by order.

B. Sentence. Any person found guilty of violating the provisions of this Section may be ordered to pay a fine not to exceed two thousand five hundred dollars (\$2,500).

§ 529. Enforcement of Navajo forests and woodlands laws and regulations

The Navajo Nation Forest Manager, each commissioned forest officer, each Navajo Nation Ranger and each commissioned officer of the Navajo Division of Public Safety are authorized and directed to enforce the provisions of this Subchapter.

Navajo Nation Code Annotated Title 17. Law and Order

Chapter 3. Offenses

Subchapter 23. Curfew Violations

§ 530. Definitions

The following definitions apply in this Subchapter:

A. "Abroad" shall mean when a child is in any place in or out-of-doors other than ~~his/her~~the child's usual place of abode. However, no child shall be considered "abroad" in any of the following circumstances:

1. When accompanied by a parent or guardian; or
2. When returning home without delay or loitering from a community, school or other activity attended with permission or ~~his/her~~the child's parent or guardian; or
- 4.~~3.~~ During an emergency.

B. "Child" shall mean any person who has not reached ~~his/her~~his or her eighteenth birthday.

C. "Curfew hours" shall mean for a child who has not reached ~~his/her~~his or her eighteenth birthday, between the hours or 10:00 p.m. through 6:00 a.m. on Sunday through Thursday, and 12:00 a.m. through 6:00 a.m. on Friday and Saturday.

D. "Emergency" shall mean an unforeseen circumstance or a combination of circumstances or the resulting state thereof that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life, or damage to or loss of property.

E. "Establishment" shall mean any place or business to which the public is invited, including but not limited to, any place of amusement, entertainment or traditional ceremony.

F. "Guardian" shall mean a person who is:

1. Assigned by a court of law, other than a parent, having the duty and authority to provide care and control of a child; or
2. At least 18 years of age and authorized by a parent to have the care and custody of a child.

G. "Operator" shall mean any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

H. "Parent" shall mean a person who is a natural or adoptive parent but does not include any person whose parental rights have been terminated.

I. "Public place" shall mean any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

J. "Remain" shall mean to:

1. Linger or stay; or
2. Fail to leave the premises when requested to do so by a police officer or the owner, operator, or other persons in control of the premises.

K. "Serious bodily injury" shall mean bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

§ 531. Curfew

A. A parent or guardian of a child commits an offense whenever:

1. The child is found or remains abroad in any public place or on the premises of any establishment within the territorial jurisdiction of the Navajo Nation during curfew hours as defined by Section 530 of this Subchapter; or

2. The parent or guardian fails or refuses to take such child into custody after such demand is made upon him/her by a law enforcement officer who has taken custody of said child for committing an offense pursuant to Section 531 of this Subchapter.

B. A child, who has not reached ~~his/her~~ the child's eighteenth birthday, commits an offense if ~~he/she~~ the child is found or remains abroad in any public place or on the premises of any establishment within the territorial jurisdiction of the Navajo Nation during curfew hours as defined by Section 530(C) of this Subchapter.

C. The owner, operator or any employee of an establishment commits an offense whenever a child is found or remains abroad upon the premises of the establishment during curfew hours as defined by Section 530(C) of this Subchapter.

D. Sentence.

1. Any Indian, other than a child who is found guilty of committing an offense under this Subchapter may be sentenced to perform up to eighty hours of community service work, or be ordered to pay a fine not to exceed one thousand dollars (\$1,000.00), or both.

2. Any Indian child who commits an offense under Section 531(B) or (C) of this Subchapter shall be deemed to have committed a delinquent act and may be deemed a delinquent child pursuant to 9 N.N.C. § 1001 *et seq.*

3. Any non-Indian child or non-Indian parent of guardian of a child who commits an offense under Section 531 or this Subchapter may be excluded from the territorial jurisdiction of the Navajo Nation pursuant to 17 N.N.C. § 1901 *et seq.*, or be ordered to pay a civil penalty not to exceed one thousand dollars (\$1,000.00), or both.

§ 532. Damages to or destruction of property by child; parents and guardian liable; costs and attorney's fees; provisions for damages and restitution.

A. Notwithstanding the provisions of 9 N.N.C. § 1120(A), any person may recover damages, pursuant to applicable laws, in a civil action in a court or tribunal of competent jurisdiction, from the parent or guardian or a child upon proof by clear and convincing evidence that the child maliciously or willfully injured a person(s) or damaged or destroyed property, real or personal, belonging to the person bringing the action.

B. Recovery of damages under this Section is limited to actual damages proved in the action, court costs, and, in the discretion of the court, reasonable attorney's fees to be fixed by the court or tribunal.

C. Nothing contained in this Section limits the discretion of the court to issue an order requiring damages or restitution to be paid by a child who has been found to be within the provisions of the Navajo Nation Children's Code.

Navajo Nation Code Annotated Title 17. Law and Order
Chapter 3. Offenses
Subchapter 24. Violence Against Family Act

§ 534. Purpose

The purpose of this act is to provide for the safety and protection of family members from violence. The act embodies the intent of the legislature: that the criminal justice system shall respond to family members with fairness, compassion and in a prompt and effective manner; to recognize that family violence is contrary to the traditional Navajo way of life and is a violation of fundamental human rights; and that the criminal justice system shall be utilized to impose consequences upon individuals for behaviors that violate traditional Navajo values, such as *K'e* and *Hozho*.

§ 535. Definitions Reserved

~~The following definitions are applicable to this subchapter:~~

~~A. "Advocate" means any individual, including a family member who provides support for the victim. This individual is not a legal advocate.~~

~~B. "Bodily injury" includes but is not limited to the following:~~

~~1. A cut, abrasion, bruise, burn, or disfigurement~~

~~2. Physical pain;~~

~~3. Illness; or~~

~~— Impairment of the function of a bodily member, organ, or mental faculty.~~

~~B. "Deadly Weapon" means any instrument capable of being used in a lethal manner or to cause serious bodily injury, including but not limited to a firearm, cross bow, knife, axe, etc.~~

~~C.A. "Family member" means an individual who is a spouse, former spouse, household member, parent, legal guardian, present or former stepparent or stepchild(ren), or former in-law, or relative to the second affinity which included aunts, uncles, nieces, nephews, cousins, grandparents, grandchildren, or an individual with whom one has a continued personal relationship.~~

~~D.A. "Family violence" means any criminal act as defined under this subchapter committed by a family member against another family member resulting in:~~

~~0.1. Physical harm, including bodily injury and sexual assault;~~

~~0.1. A physical threat causing imminent fear of bodily injury, including assault and sexual assault;~~

- ~~1. Emotional distress;~~
- ~~1. Stalking;~~
- ~~1. Harassment;~~
- ~~1. Electronic harassment;~~
- ~~1. Criminal trespass;~~
- ~~1. Criminal damage to property; or~~
- ~~1. Financial or economic loss.~~

~~"Family violence court order" means a Court order issued pursuant to this subchapter or the Domestic Abuse Protection Act, 9 N.N.C. § 1601, et seq.~~

~~E. "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, including tasers, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances.~~

~~E. "Law Enforcement Officer" means a duly commissioned peace officer, sheriff, or deputy sheriff.~~

~~E. "Repeatedly" means more than one time.~~

~~E. "Pattern of conduct" means any acts or behaviors which are intentional, regular or repeated.~~

~~E. "Serious bodily injury" means the following but is not limited to:~~

- ~~0. A substantial risk of death or loss of life of an individual or transmission of fatal disease;~~
- ~~0. Protracted and obvious disfigurement;~~
- ~~0. Pregnancy or disease or injury resulting from a sexual assault;~~
- ~~0. Extreme physical pain; or~~
- ~~0. Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.~~

~~E. "Sexual contact" means any direct or indirect touching, fondling, manipulating of any part of the genitals, anus, breasts or other intimate parts of the individual.~~

~~E. "Spouse" means wife or husband, including common law and traditional.~~

~~E. "Stalking" means a pattern of repeated, unwanted attention, harassment and contact. It is a pattern of conduct that can include:~~

~~0. Following the victim;~~

~~0. Appearing at the victim's home or place of work;~~

~~0. Making unwanted and frightening contact with the victim through telecommunications technology, including but not limited to phone, texting, mail and/or email;~~

~~0. Harassing the victim through the Internet;~~

~~0. Making threats to harm the victim, the victim's children, relatives, friends, pets or livestock;~~

~~0. Sending the victim unwanted gifts;~~

~~0. Intimidating the victim;~~

~~0. Vandalizing the victim's property; or~~

~~0. Securing personal information about the victim by accessing public records, hiring private investigators, using Internet search services, contacting friends, family, work or neighbors, or going through the victim's garbage.~~

~~E. "Victim" for purposes of this subchapter means any individual who meets the definition of "family member" herein and is subjected to a criminal act.~~

54. § 536. Reserved

§ 537. Mandatory Arrest

~~A. When a law enforcement peace officer has probable cause to believe that an individual has committed a crime involving family violence in or outside the presence of a law enforcement peace officer, the individual shall be arrested without a warrant and held for a mandatory period of 36 hours. The officer may request the individual be held until arraignment or without bond through the Office of Prosecutor.~~

~~B. Supporting evidence for probable cause may include:~~

~~0. Statements of the victims, witnesses and/or alleged offender;~~

~~1. Physical appearance, condition and/or demeanor of any individuals present, including the victim, children or household members;~~

~~1. Physical condition of the premises;~~

~~1. Complaints by neighbors; or~~

~~1. Other forms of documentation such as use of camera, video, etc.~~

~~B. Any individual arrested pursuant to any offenses in this subchapter shall be detained for no more than thirty six (36) hours, unless there be issued a commitment bearing the signature of a duly qualified judge of the court of the Navajo Nation. An individual arrested on a Friday, Saturday, Sunday, or a day before a holiday, who, having been given an opportunity within thirty six (36) hours after arrest to be released on bail does not provide bail, may be held in custody pending commitment for a reasonable additional period not to exceed eight (8) hours following the opening of Court on the next day it is in session. There shall be issued for each individual held for trial, a temporary commitment and, for each individual held after sentence, a final commitment on the prescribed forms.~~

§ 538. Alternative Sentencing

Notwithstanding any other provision of this subchapter or Section 220 of this Title, the trial court may impose any reasonable condition of sentence which strives to rehabilitate the defendant or serves the reasonable needs of the victims of crime and of society, and is not inconsistent with the sentencing terms established for the offense or offenses which the defendant is determined to have committed. Section 221 of this Title shall apply to all provisions within the subchapter. The victim and family must be given an opportunity to write a victim impact statement and make a statement before sentence.

§ 539. Stalking (Repealed; moved to §318)

§ 540. Harassment (Repealed; moved to § 319)

§ 541. Sexual assault of a family member Reserved

~~A. An individual commits sexual assault of a family member by intentionally or knowingly engaging in sexual contact, including sexual intercourse, with the family member without his/her consent.~~

~~A. Any individual found guilty of sexual assault shall be sentenced to imprisonment for a term not less than one hundred twenty (120) days and not to exceed three hundred sixty five (365) days;~~

~~and/or be ordered to pay a fine not less than fifteen hundred dollars (\$1,500.00) and not to exceed five thousand dollars (\$5,000.00).~~

~~B. An individual convicted under this subsection shall register as a sex offender under applicable laws.~~

§ 542. Unlawful imprisonment of a family member

A. Offense. ~~An individual person~~ commits unlawful imprisonment, ~~if of a family member when,~~ without lawful authority, ~~that person he/she~~ intentionally detains, restrains, or confines a family member without consent or under threat of violence to that family member.

B. Sentence.

1. ~~An individual person~~ found guilty of unlawful imprisonment ~~of a family member~~ may be sentenced to imprisonment for a term not to exceed ~~one hundred eighty (180) days,~~ and/or be ordered to pay a fine not less than ~~five hundred dollars (\$2,500.00) and not to exceed one thousand dollars (\$1,000.00~~ or both

2. Upon a second or subsequent conviction of this offense, such person shall be sentenced to imprisonment for a term of not less than ~~one hundred eighty (180) days~~ and not to exceed ~~three hundred sixty five (365) days,~~ and/or be ordered to pay a fine not less than ~~two thousand dollars (\$2,000.00)~~ \$2,500 and not to exceed ~~five thousand dollars (\$5,000).~~

C. Statute of Limitations. A prosecution for unlawful imprisonment of a family member may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against a minor, prosecution may be commenced at any time after commission of the offense without limitation.

§ 543. Aggravated assault of a family member

~~A. A. Offense.~~ ~~An individual person~~ commits aggravated assault of a family member ~~when he/she~~ if that person intentionally or knowingly assaults or strikes at a family member with a deadly weapon and/or attempts to cause grave bodily injury

B. Sentence. Any ~~individual person~~ found guilty of aggravated assault of a family member may be sentenced to imprisonment for a term not to exceed ~~one hundred eighty (180)~~ 365 days and ~~not to exceed three hundred sixty five (365) days,~~ and/or be ordered to pay a fine not less than ~~two thousand five hundred dollars (\$2,500.00) and not to exceed five thousand dollars (\$5,000.00)~~ or both.

C. Statute of Limitations. A prosecution of aggravated assault of a family member may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against a minor, prosecution may be commenced at any time after commission of the offense without limitation.

§ 544. Battery of a family member

A. Offense. ~~An individual person~~ commits battery of a family member if ~~he/she~~that person unlawfully and intentionally strikes or applies force to a family member.

B. Sentence.

1. Any individual person found guilty of first offense of battery of a family member may be sentenced ordered to imprisonment for a term not to exceed three hundred sixty five (365) 180 days, and/or be ordered to pay a fine not to exceed five thousand dollars (\$5,000.00).\$2,500 or both.
2. Any person found guilty of a second or subsequent offense of a battery of a family member may be ordered to imprisonment not to exceed 365 days, attend rehabilitative services and pay a fine not to exceed \$5000, or both.

C. Statute of Limitations. A prosecution for battery of a family member may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against a minor, prosecution may be commenced at any time after commission of the offense without limitation.

§ 545. Aggravated battery against a family member

A. ~~An individual person~~ commits aggravated battery against a family member if ~~he/she~~unlawfully that person:

1. Unlawfully ~~Applies~~ force or strikes a family member with a deadly weapon; or
2. Intentionally or knowingly ~~Causes~~ serious bodily injury to another family member.

B. Sentence. ~~An individual found guilty of aggravated battery against a family member shall be sentenced to mandatory imprisonment for a term not to exceed three hundred sixty five (365) days, and/or be ordered to pay a fine of not less than one thousand dollars (\$1,000.00) and not to exceed five thousand dollars (\$5,000.00).~~

C. Statute of Limitations. A prosecution for aggravated battery against a family member may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against a minor, prosecution may be commenced at any time after commission of the offense without limitation.

§ 546. Possession of a firearm

A. Offense.

1. ~~An individual person~~ commits possession of a firearm when that ~~individual person~~ has been convicted of an offense under this subchapter and/or a valid protection order issued

against ~~that person him/her~~ under the Domestic Abuse Protection Act or similar order by another jurisdiction; and if ~~he/she~~ that person possesses any firearm.

2. This section shall not apply to ~~law enforcement peace~~ officers, unless convicted under this subchapter or found to have violated the Domestic Abuse Protection Act utilizing a firearm.

B. Sentence.

1. Any ~~individual person~~ found guilty of possession of a firearm may be sentenced to imprisonment for a term not to exceed ~~one hundred eighty (180) days~~, and/or be ordered to pay a fine not less than ~~five hundred dollars (\$500.00)~~ and not to exceed ~~one thousand dollars (\$1,000.00)~~.

2. Upon a second or subsequent conviction such ~~individual person~~ shall be sentenced to imprisonment for a term of not less than ~~one hundred eighty (180) days~~ and not to exceed ~~three hundred sixty five (365) days~~, and/or be ordered to pay a fine not less than ~~one thousand dollars (\$1,000.00)~~ \$2,500 and not to exceed ~~five thousand dollars (\$5,000.00)~~, or both.

- C. Statute of Limitations. Prosecution for possession of a firearm may be commence at any time within ten (10) years after commission of the offense.

§ 547. Trespass with force or violence against a family member

A. Offense. ~~An individual person~~ commits trespass with force or violence against a family member if ~~he/she~~ that person uses force or violence to enter the residence, property, vehicle or facility occupied by the family member.

B. Sentence.

1. Any ~~individual person~~ found guilty of trespass with force or violence ~~against a family member~~ may be sentenced to imprisonment for a term not to exceed ~~one hundred eighty (180)~~ 365 days, and/or be ordered to pay a fine not less than ~~five hundred dollars (\$500.00)~~ and not to exceed ~~one thousand dollars (\$1,000.00)~~ or both.

2. Upon a second or subsequent conviction such ~~individual person~~ shall be sentenced to imprisonment for a term of not less than ~~one hundred eighty (180) days~~ and not to exceed ~~three hundred sixty five (365) days~~, and/or be ordered to pay a fine not less than ~~one thousand dollars (\$1,000.00)~~ and not to exceed ~~two thousand dollars (\$2,000.00)~~ \$5,000, or both.

- C. Statute of Limitations. A prosecution for trespass with force or violence against a family member may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against a minor, prosecution may be commenced at any time after commission of the offense without limitation.

§ 548. Burglary against a family member

A. Offense. ~~An individual person~~ commits burglary against a family member if ~~he/she that~~ person enters or remains unlawfully in a residential or non-residential structure, or motor vehicle of a family member, with the intent of committing any offense and/or in violation of a valid court order.

B. Sentence.

1. Any ~~individual person~~ found guilty of burglary against a family member may be sentenced to imprisonment for a term no less than ~~one hundred eighty (180) days~~, and/or be ordered to pay a fine not less than ~~two hundred fifty dollars (\$2,500.00)~~, or both and not to exceed five hundred dollars (\$500.00).

2. Upon a second or subsequent conviction, such ~~individual person~~ shall be sentenced to imprisonment for a term of not less than ~~one hundred eighty (180) days~~ and not to exceed ~~three hundred sixty five (365) days~~, and/or be ordered to pay a fine not less than ~~five hundred dollars (\$500.00)~~ \$2,500 and not to exceed ~~one thousand five hundred dollars (\$1,500.00)~~ \$5,000, or both.

C. Statute of Limitations. A prosecution for burglary against a family member may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against a minor, prosecution may be commenced at any time after commission of the offense without limitation.

§ 549. Threatening a family member

A. Offense. ~~An individual person~~ commits the offense of threatening a family member if ~~he/she that~~ person threatens by word or conduct to cause physical injury to a family member or cause serious damage to the property of a family member, or threatens to cause harm to pets, livestock or animals:

1. With the intent to terrorize; or
2. In reckless disregard of the risk of terrorizing a family member.

B. Sentence.

1. Any ~~individual person~~ found guilty of threatening a family member may be sentenced to imprisonment for a term not to exceed ~~one hundred eighty (180) days~~, and/or be ordered to pay a fine not less than ~~two hundred fifty dollars (\$250.00)~~ and not to exceed five hundred dollars ~~(\$500.00)~~ \$2,500.

2. Upon a second or subsequent conviction such ~~individual person~~ shall be sentenced to imprisonment for a term of not less than ~~one hundred eighty (180) days~~ and not to exceed

~~three hundred sixty five (365) days, and/or be ordered to pay a fine not less than five hundred dollars (\$500.00) \$2,500 and not to exceed one thousand five hundred dollars (\$1,500.00) \$5,000, or both.~~

- C. Statute of Limitations. A prosecution for threatening a family member may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against a minor, prosecution may be commenced at any time after commission of the offense without limitation.

§ 550. Custodial interference by a Family Member

A. Offense. An individual family member commits custodial interference if he/she that person intentionally or knowingly, takes or entices away a minor child or fails to return that child without good cause and with the intent to deprive permanently or for a protracted time from the custody of his/ or her parent, guardian, or lawful custodian.

B. Sentence.

1. Any ~~individual person~~ found guilty of custodial interference may be sentenced to imprisonment for a term not to exceed ~~one hundred eighty (180) days, and/or be ordered to pay a fine not less than two hundred fifty dollars (\$250.00) and not to exceed five hundred dollars (\$500.00) \$2,500.~~

2. Upon a second or subsequent conviction such ~~individual person~~ shall be sentenced to imprisonment for a term of not less than ~~one hundred eighty (180) days and not to exceed three hundred sixty five (365) days, and/or be ordered to pay a fine not less than five hundred dollars (\$500.00) \$2,500 and not to exceed one thousand five hundred dollars (\$1,500.00) \$5,000, or both.~~

- C. Statute of Limitations. A prosecution for custodial interference by a family member may be commenced at any time within ten (10) years after commission of the offense.

§ 551. Unlawful use of a weapon against a family member

A. Offense. An individual person commits unlawful use of a weapon against a family member when he/she during a domestic violence incident that person:

1. Intentionally, knowingly or recklessly handles or discharges a deadly weapon endangering the safety of his/ or her family member and/or his/ or her the family member's property, including pets, animals, or livestock; or

2. Carries a deadly weapon while under the influence of alcoholic beverage, intoxicating substance, or controlled substance or drugs.

B. Sentence.

~~1.—The mandatory sentence for this offense shall be imprisonment in active custody for not less than 180 days and a fine not less than \$2,500 and not to exceed \$5,000. The court shall not grant probation, pardon, parole, commutation or suspension of a sentence or release on any other basis. An individual found guilty of unlawful use of a weapon against a family member may be sentenced to imprisonment for a term not to exceed one hundred eighty (180) days, and/or be ordered to pay a fine not to exceed two thousand five hundred dollars (\$2,500.00).~~

~~2.—~~

~~3.1. Upon a second or subsequent conviction such person shall be sentenced to imprisonment for a term of not less than one hundred eighty (180) days and not to exceed three hundred sixty five (365) days, and/or be ordered to pay a fine not to exceed five thousand dollars (\$5,000.00).~~

C. Statute of Limitations. A prosecution for unlawful use of a weapon against a family member may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against a minor, prosecution may be commenced at any time after commission of the offense without limitation.

§ 552. Criminal entry involving a family ~~violence~~member

A. Offense. ~~An individual person~~ commits criminal entry involving a family ~~violence~~member when ~~he/she that person~~ intentionally, knowingly or recklessly:

1. Enters upon any property occupied by a family member ~~to cause damage to the property or to interfere with or obstruct any business or occupation therein; or~~

2. Refuses or fails to leave such property upon being requested to leave by a law ~~enforcement~~peace officer, owner, user, or family member.

B. Sentence.

1. Any ~~individual person~~ found guilty of criminal entry involving family ~~violence~~ may be sentenced to imprisonment for a term not to exceed ~~sixty (60) 180~~ days, and/or be ordered to pay a fine not to exceed ~~five hundred dollars (\$500.00) \$5,000, or both.~~

2. Upon a second or subsequent conviction such individual shall be sentenced to imprisonment for a term of not less than ~~sixty (60) 180~~ days and not to exceed ~~one hundred eighty (180) 365~~ days, and/or be ordered to pay a fine not less than \$2,500 and not to exceed ~~one thousand dollars (\$1,000.00) \$5,000, or both~~

C. Statute of Limitations. A prosecution for criminal entry involving a family member may be commenced at any time within ten (10) years after commission of the offense.

§ 553. Criminal damage involving a family ~~violence~~member

A. Offense. ~~An individual person~~ commits criminal damage involving a family member ~~violence when he/she that person~~ intentionally, recklessly or knowingly:

1. Defaces or damages tangible property of a family member; or
2. Tamper with tangible property of a family member so as to substantially impair its function or value.
3. It is not a defense that the property is considered community property.

B. Sentence.

1. Any ~~individual person~~ found guilty of criminal damage involving family violence may be sentenced to imprisonment for a term not to exceed ~~one hundred eighty (180) days, and/or be ordered to pay a fine not to exceed five hundred dollars (\$500.00)~~ \$2,500, or both.

2. Upon a second or subsequent conviction such ~~individual person~~ shall be sentenced to imprisonment for a term of not less than ~~one hundred eighty (180) days and not to exceed three hundred sixty five (365) days, and/or be ordered to pay a fine not less than five hundred dollars (\$500.00)~~ \$2,500 and not to exceed ~~one thousand five hundred dollars (\$1,500.00)~~ \$5,000 or both.

3. Restitution/Nályééh. The ~~Court~~ court, in addition to or in lieu of the sentence described in subsection (B) (1) and (2) above, may require the offender to pay actual damages for the benefit of the injured party.

C. Statute of Limitations. A prosecution for criminal damage involving a family member may be commenced at any time within ten (10) years after commission of the offense.

§ 554. Violation of a family violence court order

A. Offense. ~~An individual person~~ commits an offense pursuant to this subchapter when ~~he/she that person-~~ intentionally, knowingly, or recklessly disobeys or resists any family violence court order, process, or other mandate of a court entered against him or her.

B. Sentence.

1. Any ~~individual person~~ found guilty of a violation of a family violence court order may be sentenced to imprisonment for a term not to exceed ~~one hundred eighty (180) days, and/or be ordered to pay a fine not less than five hundred dollars (\$500.00) and not to exceed one thousand five hundred dollars (\$1,500.00)~~ \$2,500 or both.

2. Upon a second or subsequent conviction such ~~individual person~~ shall be sentenced to imprisonment for a term of not less than ~~one hundred eighty (180) days and not to exceed three hundred sixty five (365) days, and/or be ordered to pay a fine not less than one~~

~~thousand five hundred dollars (\$1,500.00)~~ \$2,500 and not to exceed ~~five thousand dollars (\$5,000.00)~~, or both.

3. The court shall recognize family violence court orders from other jurisdictions pursuant to this subchapter full faith and credit within the Navajo Nation and other jurisdictions.

C. Statute of Limitations. A prosecution for violation of a family violence court order may be commenced at any time within ten (10) years after commission of the offense.

§ 555. Robbery of a family member

A. Offense. ~~An individual person~~ commits robbery of a family member when, in the course of committing a theft ~~he/she~~that person causes a family member to give up property through the use of coercion, threats and/or ~~immediate-imminent~~ physical force.

B. Sentence.

1. ~~Any individual person~~ found guilty of robbery of a family member may be sentenced to imprisonment for a term of not less than ~~one hundred eighty to exceed (180)~~ days, and/or be ordered to pay a fine not to exceed ~~two thousand five hundred dollars (\$2,500.00, or both).~~

2. Upon a second or subsequent conviction such individual shall be sentenced to imprisonment for a term of not less than one hundred eighty (180) days and not to exceed ~~three hundred sixty-five (365) days, and/or~~ be ordered to pay a fine not to exceed ~~five thousand dollars (\$5,000.00), or both.~~

C. Statute of Limitations. A prosecution for robbery of a family member may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against a minor, prosecution may be commenced at any time after commission of the offense without limitation.

§ 556. Conspiracy against a family member

A. Offense. ~~An individual person~~ commits conspiracy against a family member when with knowledge to promote or facilitate the commission of an offense pursuant to this subchapter, ~~he/she~~that person agrees with one or more persons that at least one of them will engage in conduct constituting family violence, and one of the parties commits and overt act in furtherance of the agreement.

B. Sentence.

1. Any ~~individual person~~ found guilty of conspiracy against a family member may be sentenced to imprisonment for a term not to exceed ~~ninety (90) 180 days, and/or~~ be ordered to pay a fine of not less than ~~two hundred fifty dollars (\$250.00)~~ and not to exceed ~~five hundred dollars (\$500.00)~~ \$2,500 or both.

2. Upon a second or subsequent conviction such ~~individual person~~ shall be sentenced to imprisonment for a term of not less than ~~one hundred eighty (180) days~~ and not to exceed ~~three hundred sixty five (365) days~~, and/or be ordered to pay a fine not less than ~~five hundred dollars (\$500.00)~~ \$2,500 and not to exceed ~~one thousand five hundred dollars (\$1500.00)~~ \$5,000, or both.

- C. Statute of Limitations. A prosecution for conspiracy against a family member may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against a minor, prosecution may be commenced at any time after commission of the offense without limitation.

§ 557. Solicitation against a family member

A. Offense. ~~An individual person~~ commits solicitation against a family member when ~~he/she that person~~ commands, entreats, induces, or otherwise endeavors to persuade another person to engage in unlawful conduct against a family member.

B. Affirmative defense. It is an affirmative defense to a prosecution under this section that, under circumstances manifesting a complete and voluntary renunciation of his or her criminal intent, the defendant made a reasonable effort to prevent the conduct or result which is the object of the solicitation.

C. Defense precluded. It is not a defense to a prosecution under this section that the person solicited could not be convicted of the offense because ~~he/she that person~~ lacked the state of mind required for the commission of the offense, because the person solicited was incompetent or irresponsible, or because ~~he/she that person~~ was otherwise not subject to prosecution.

D. Sentence.

1. Any ~~individual person~~ found guilty of solicitation ~~against the family member~~ may be sentenced to imprisonment for a term not less than ~~thirty (30) days~~ and not to exceed ~~sixty (60) 90 days~~, and/or be ordered to pay a fine not to exceed ~~two hundred fifty dollars (\$250.00)~~ \$1,000, or both.

2. Upon a second or subsequent conviction such ~~individual person~~ shall be sentenced to imprisonment for a term not less than ~~sixty (60) 90 days~~ and not to exceed ~~one hundred eighty (180) days~~, and/or be ordered to pay a fine not to exceed ~~one thousand dollars (\$1000.00)~~ \$2,500, or both.

- E. Statute of Limitations. A prosecution for solicitation against a family member may be commenced at any time within ten (10) years after commission of the offense. If the offense is allegedly committed against a minor, prosecution may be commenced at any time after commission of the offense without limitation.

§ 558. Aggravated Solicitation of a Minor Family Member

A. Offense. ~~An individual person~~ commits aggravated solicitation of a minor family member when ~~he/she-that person~~ knowingly causes a minor to engage in conduct constituting an offense pursuant to this subchapter, and/or ~~he/she-that person~~ commands, demands or coerces a minor to engage in such conduct. ~~Subsections 557 (B) and (C) shall apply to this section.~~

B. Affirmative defense. It is an affirmative defense to a prosecution under this section that, under circumstances manifesting a complete and voluntary renunciation of ~~his or her~~the defendant's criminal intent, the defendant made a reasonable effort to prevent the conduct or result which is the object of the solicitation.

C. Defense precluded. It is not a defense to a prosecution under this section that the person solicited could not be convicted of the offense because ~~he or she~~that person lacked the state of mind required for the commission of the offense, because the person solicited was incompetent or irresponsible, or because that person was otherwise not subject to prosecution.

~~B.D.~~ Sentence.

1. Any ~~individual person~~ found guilty of aggravated solicitation of a minor family member may be sentenced to imprisonment for a term not less than ~~sixty (18060)~~ days, and not to exceed ~~ninety (90)~~ days, and/or be ordered to pay a fine not to exceed ~~five hundred dollars (\$500.00)~~, or both.

2. Upon a second or subsequent conviction such ~~individual person~~ shall be sentenced to imprisonment for a term of not less than ~~one hundred eighty (180)~~ days and not to exceed ~~three hundred sixty five (365)~~ days, and/or be ordered to pay a fine not to exceed ~~two thousand five hundred dollars~~less than (\$2,500.00).

§ 559. Arson Against a Family Member

A. Offense. ~~An individual person~~ commits arson against a family member when ~~he/she-that person~~ intentionally, knowingly or recklessly sets fire, or attempts to set fire to a family member is dwelling/residence, vehicle and/or property.

B. Sentence.

1. The mandatory sentence for this offense shall be ~~Any person found guilty of arson against a family member may be sentenced to imprisonment in active custody for a term not less than one hundred eighty (180) days, and/or be ordered to pay a fine not less than two hundred fifty dollars (\$250.00) \$2,500 and not to exceed five hundred dollars (\$500.00) \$5,000. The court shall not grant probation, pardon parole, commutation or suspension of a sentence or release on any other basis.~~

2. ~~Upon a second or subsequent conviction such individual shall be sentenced to imprisonment for a term of not less than one hundred eighty (180) days and not to exceed~~

~~three hundred sixty five (365) days, and/or be ordered to pay a fine not less than five hundred dollars (\$500.00) and not to exceed one thousand five hundred dollars (\$1,500.00).~~

2. Restitution/Nályééh. The court, in addition to or in lieu of the sentence described in subsection (B) (1) and (2) above, may require the offender to pay actual damages for the benefit of the injured party.

- C. Statute of Limitations. A prosecution for arson against a family member may be commenced at any time after commission of the offense. If the offense is allegedly committed against a minor, prosecution may be commenced at any time after commission of the offense without limitation.

Navajo Nation Code Annotated Title 17. Law and Order
Chapter 3. Offenses
Subchapter 25. Unauthorized Recording

§ 601. Short title

17 N.N.C. §§ 601-608 may be cited as the Navajo Nation Unauthorized Recording Act of 2009.

§ 602. Definitions

As used in the Navajo Nation Unauthorized Recording Act:

A. “Audiovisual recording” means a recording on which images, including images accompanied by sound, are recorded or otherwise stored, including motion picture film, video cassette, video tape, video disc, other recording mediums or a copy that duplicates in whole or in part the original, but does not include recordings produced by an individual for personal use that are commercially distributed for profit.

B. “Fixed” means embodied in a recording or other tangible medium of expression, by or under the authority of the owner, so that the matter embodied is sufficiently permanent or stable to permit it to be perceived, reproduced or otherwise communicated for a period of more than transitory duration.

C. “Live performance” means a recitation, rendering or playing of a series of images, musical, spoken or other sounds, or a combination of images and sounds.

D. “Manufacturer” means any person who actually transfers or causes the transfer of a recording, or assembles and transfers any product containing any recording as a component thereof, but does not include the manufacturer of a cartridge or casing for the recording.

E. “Owner” means a person who owns the sounds or images fixed in a master phonograph record, master disc, master tape, master film or other recording on which sound or image is or can be

recorded and from which the transferred recorded sounds or images are directly or indirectly derived.

F. "Person" means any individual, firm, partnership, corporation, association or other entity.

G. "Recording" means a tangible medium on which sounds, images or both are recorded or otherwise stored, including an original phonograph record, disc, tape, audio cassette or videocassette, wire, film or other medium now existing or developed later on which sounds, images or both are or can be recorded or otherwise stored, or a copy or reproduction that duplicates in whole or in part the original.

H. "Tangible medium of expression" means the material object on which sounds, images or a combination of both are fixed by any method now known or later developed, and from which the sounds, images or combination of both can be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device.

I. "Transfer" means to duplicate a recording from one tangible medium or expression to another recording.

§ 603. Unauthorized recording

A. It is unlawful for any person to:

1. Knowingly transfer for sale or cause to be transferred any recording with intent to sell it or cause it to be sold or use it or cause it to be used for commercial advantage or private financial gain without the consent of the owner;
2. Transport within the Navajo Nation for commercial advantage or private financial gain a recording with the knowledge that the sounds have transferred without the consent of the owner; or
3. Advertise or offer for sale, sell, rent or cause the sale, resale or rental of or possess for one or more of these purposes any recording that the person knows has been transferred without the consent of the owner.

B. Sentence. Any person violating the provisions of this Section shall be sentenced to imprisonment for a term not to exceed 365 days, or ordered to pay a fine not to exceed \$5,000, or both.

§ 604. Mislabeling of recordings

A. It is unlawful for any person for commercial advantage or private, financial gain to advertise, offer for sale or resale, sell, resell, lease or possess for any of these purposes any recording that the person knows does not contain the true name of the manufacturer in a prominent place on the cover, jacket or label of the recording.

B. Sentence. Any person violating the provisions of this Section shall be sentenced to imprisonment for a term not to exceed 365 days, or ordered to pay a fine not to exceed \$5,000, or both.

§ 605. Unauthorized recording of live performances; penalties

A. It is unlawful for any person for commercial advantage or private financial gain to advertise, offer for sale, sell, rent, transport, cause the sale, resale, rental or transportation of or possess for one or more of these purposes a recording of a live performance that has been recorded or fixed without the consent of the owner.

B. Sentence. Any person violating the provisions of this Section shall be sentenced to imprisonment for a term not to exceed 365 days, or ordered to pay a fine not to exceed \$5,000, or both.

C. In the absence of a written agreement or law to the contrary, the performer of a live performance is presumed to own the rights to record or fix those sounds.

D. For the purposes of this Section, a person who is authorized to maintain custody and control over business records that reflect whether the owner of the live performance consented to having the live performance recorded or fixed is a competent witness in a proceeding regarding the issue of consent.

§ 606. Construction

Nothing in the Unauthorized Recording Act shall enlarge or diminish the rights of parties in private litigation.

§ 607. Exemptions

The provisions of the Navajo Nation Unauthorized Recording Act do not apply to:

A. Any radio or television broadcaster who transfers any recording as part of, or in connection with, a radio or television broadcast transmission or for archival preservation;

B. Any recording defined as a public record of any court, legislative body or proceedings of a public body, whether or not a fee is charged or collected for copies; or

C. Any person who transfers a recording for his personal use or educational use and who does not derive any commercial advantage or private financial gain from the transfer; or

D. Any recording of traditional Navajo ceremonial songs that has been recorded with the consent of a Navajo traditional religious practitioner for traditional religious purposes and not for entertainment purposes; or

E. Any recording of a song within the public domain.

§ 608. Forfeitures; property subject

The following are subject to forfeiture:

- A. All equipment, devices or articles that have been produced, reproduced, manufactured, distributed, dispensed or acquired in violation of the Navajo Nation Unauthorized Recording Act;
- B. All devices, materials, products and equipment of any kind that are used or intended for use in producing, reproducing, manufacturing, processing, delivering, importing or exporting any item set forth in, and in violation of, the Navajo Nation Unauthorized Recording Act;
- C. All books, business records, materials and other data that are used, or intended for use, in violation of the Navajo Nation Unauthorized Recording Act; and
- D. Money or negotiable instruments that are the fruit or instrumentality of the crime.

Navajo Nation Code Annotated Title 17. Law and Order
Chapter 3. Offenses
Subchapter 26. Law Against Human Trafficking

§ 650. Title

The Law may be cited as the Navajo Nation Law against Human Trafficking.

§ 651. Authority

Navajo Nation court shall exercise jurisdiction for crimes covered by this subchapter over all persons, including non-Indians, when a federal law enforcement agency or a federal court declines or does not exercise jurisdiction to prosecute the crime.

§ 652. Definitions

- A. "Coercion" for the purposes of human trafficking means:
 - 1. causing or threatening to cause harm to any person;
 - 2. using or threatening to use physical force against any person;
 - 3. abusing or threatening to abuse the law or legal process;
 - 4. threatening to report the immigration status of any person to governmental authorities; or

5. knowingly destroying, concealing, removing, confiscating or retaining any actual or purported governmental document of any person;

B. "Commercial sexual activity" means any sexual act or sexually explicit exhibition for which anything of value is given, promised to or received by a person.

§ 653. Human Trafficking

A. Offense. A person commits human trafficking if ~~he or she~~that person knowingly;

1. recruits, solicits, entices, transports or obtains by any means another person with the intent or knowledge that force, fraud or coercion will be used to subject that person to provide labor, services or to engage in commercial sexual activity; or

2. recruits, solicits, entices, transports or obtains by any other means a person under the age of eighteen (18) years with the intent or knowledge that the person will be caused to engage in commercial sexual activity; or

3. benefits, financially or by receiving anything of value, from the labor, services or commercial sexual activity of another person with the knowledge that force, fraud or coercion was used to obtain the labor, services or commercial sexual activity.

B. Sentence.

1. A person found guilty of human trafficking may be sentenced to imprisonment for a term not to exceed three hundred and sixty-five (365) days and a fine up to five thousand dollars (\$5,000) or both.

2. Additionally, a trial court may order that restitution or nályééh be paid to the victim(s).

C. Unit of Prosecution. Prosecution for human trafficking shall not prevent prosecution under any other provision of law when violations of other provisions may be prosecuted from the same circumstances.

D. Immunity of Victim(s). In a prosecution for human trafficking, a victim shall not be charged with accessory to the crime of human trafficking or with prostitution under 17 N.N.C. §431.

§ 664. Cooperation

A. Law enforcement, labor and other relevant agencies shall, as appropriate, cooperate with one another to prevent and prosecute trafficking crimes and to protect the victims of trafficking in persons, without prejudice to the victims' right to privacy, by exchanging and sharing information and participating in training programs, in order, among other things.

1. To identify victims and traffickers;

2. To identify (the type of) travel documents used to cross the border for the purpose of trafficking in persons;
3. To identify the means and methods used by criminal groups for the purpose of trafficking in persons;
4. To identify best practices on all aspects of preventing and combating trafficking in persons;
5. To provide assistance and protection to victims, witnesses and victim witnesses.

B. In the development and implementation of policies, programs and measures to prevent and combat trafficking in persons and to assist and protect its victims, tribal agencies shall cooperate, as appropriate, with non-governmental organizations, other civil society institutions and international organizations.

Navajo Nation Code Annotated Title 17. Law and Order
Chapter 5. Procedures
Subchapter 1. General Provisions

§ 1801. Complaints generally

No complaint filed in any Court of the Navajo Nation shall be valid unless it shall bear the signature of a prosecutor employed by the Navajo Office of the Prosecutor.

§ 1802. Complaints of traffic violations

A. In cases involving traffic violations, the arresting officer shall issue to the defendant a traffic ticket (uniform traffic citation) and such ticket shall serve as a valid complaint in the courts of the Navajo Nation, upon being properly filed. No other complaint need be filed in such case.

B. A traffic ticket signed by the arresting officer acting in his or her official capacity, and properly filed, is a valid complaint. The signature on a traffic ticket of the arresting officer need not be witnessed, notwithstanding the provision of 17 N.N.C. § 1801 that all complaints be witnessed.

§ 1803. Warrants to apprehend

Every judge of a Court of the Navajo Nation shall have the authority to issue warrants to apprehend, such warrants to issue at the discretion of the court only after a written complaint shall have been filed, bearing the signature of the prosecutor. Service of such warrants shall be made by a duly qualified officer of the Navajo Nation Department of Public Safety. No warrant to apprehend shall be valid unless it shall bear the signature of a duly qualified judge of the Court of the Navajo Nation.

§ 1804. Arrests

No member of the Navajo police shall arrest any person for any offense defined by Chapter 3 of this title or by federal law, except when such offense shall occur in the presence of the arresting officer, or he or she shall have probable cause that the person arrested has committed an offense or the officer shall have a warrant commanding him or her to apprehend such person.

§ 1805. Detention; commitments

A. Detentions Generally. No person shall be detained, jailed or imprisoned under any law of the Navajo Nation for a longer period than 36 hours, unless there be issued a commitment bearing the signature of a duly qualified judge of the Court of the Navajo Nation; provided, however, that an person arrested on a Friday, Saturday, Sunday, or a day before a holiday, who, having been given an opportunity within 36 hours after arrest to be released on bail does not provide bail, may be held in custody pending commitment for a reasonable additional period not to exceed eight hours following the opening of court on the next day it is in session. There shall be issued for each person held for trial, a temporary commitment and, for each person held after sentence, a final commitment on the prescribed forms. This section shall not apply to safety detentions pursuant to 17 N.N.C. § 488(B) and 17 N.N.C. § 489(B).

~~A.B.~~ Safety Detentions. Persons detained for a safety detention shall be detained, jailed or imprisoned pursuant to 17 N.N.C. § 488(B) and 17 N.N.C. § 489(B).

§ 1806. {Repealed}

§ 1807. Bail

A. Every person arrested for an alleged offense against the Navajo Nation shall, within a period not to exceed 18 hours from the time of commitment, be given an opportunity to be released on bail.

B. Bail may be by bail agreement, as defined herein, by cash bond, as provided herein, or by recognizance, as provided in 17 N.N.C. § 1816.

§ 1808. Bail agreement

One or two reliable members of the Navajo Nation may execute an agreement in compliance with a form approved by the Chief Justice of the Navajo Nation Supreme Court as provided for this purpose. The agreement shall prescribe civil penalties, in an amount which shall not exceed the sum of five thousand dollars (\$5,000) per signatory, which shall become immediately due and owing to the Navajo Nation upon the accused's unexcused failure to appear at the time for hearing or trial. The bail agreement shall be executed before and endorsed by a judge or clerk of District Court of the Navajo Nation, or if the court is not in session, before and endorsed by a Navajo police officer authorized to admit to bail by the Director of the Department of Law Enforcement. Bail agreements executed by an authorized officer shall be promptly filed with the Clerk of the District

Court of the Navajo Nation of the Judicial District where the complaint against the bailed person is filed.

§ 1809. Cash bail bonds

A. Each of the judges of the District Court of the Navajo Nation are authorized to establish, in each case, the sum to be required as cash bail bond, provided that in no case shall the bond required exceed the maximum fine specified by applicable law for the offense for which the accused has been charged. A majority of the judges of the District Court of the Navajo Nation, with the concurrence of the Chief Justice of the Supreme Court, are authorized to establish, promulgate, and amend a schedule stating the amount of the cash bond required for the various offenses. Officers of the Navajo Nation Police Department authorized by the Director of the Department of Law Enforcement to admit persons to bail shall, at times when they are so authorized, admit any person to bail who deposits with the officer the amount of cash required on the schedule as a bond for the offense with which the person is charged.

B. Any police officers clerk of the court, or judge who admits any person to bail upon their payment of the amount of the cash bail deposit required, shall immediately thereupon complete a serially numbered cash bail receipt and shall distribute one copy thereof to the person admitted to bail, and shall retain one copy thereof himself or herself. One copy shall be distributed to the court, or to the Police Department, if a court clerk or a judge admits a person to bail. One copy shall also be distributed to the Controller of the Navajo Nation. Copies of the receipt to be distributed to the court and to the Controller, and the cash deposit shall be delivered either immediately to the clerk of the court or if the bail deposit be accepted by a police officer, immediately on the first following day the court is in session. Voided receipts shall be likewise distributed.

C. The clerk of the court shall transfer all money received as a bail bond deposit, with the Controller's copy of the receipts, to the Controller of the Navajo Nation, at least weekly. The Controller shall hold all such monies in a special account.

§ 1810. Forfeiture; application of deposit to fines; refund

The cash deposit for bail of any accused who fails to meet any conditions of bail shall be forfeited, unless a judge of the District Court, for good cause shown, orders otherwise. Cash bail deposits of any person who pleads guilty, or is found guilty upon trial, shall be applied toward payment of any fine imposed, and any deposit in excess thereof shall be refunded. If the accused is found not guilty, or the case is dismissed, or the bail deposit has not been fully applied to any fine imposed, the court, by the clerk, shall issue a warrant to the Controller, stating the amount of the refund due, which the Controller shall pay upon presentation. The court clerk shall transmit a copy of said warrant to the Controller's Office. The warrant shall be void one year after the date of issuance, if not presented.

§ 1811. Disposition of unclaimed or forfeited bail

No forfeiture of bail may be set aside at any time later than 15 days, including Sundays and holidays, following the date of such forfeiture. The clerk of the court shall, upon the expiration of such time, transmit notice of such forfeiture to the Controller. The Controller shall redeposit all monies deposited as bail which are forfeited or unclaimed within a year of the date of issuance of a warrant for refund to the credit of the General Fund. All or part of cash bail deposits applied toward any fine levied shall be redeposited in accounts wherein fine monies are deposited.

§ 1812. Conditions of bond; refusal to release

A. The judges and Navajo police officers authorized to admit persons to bail are authorized to refuse to admit persons to bail, in any one of these following circumstances:

1. When the judge or officer has reason to believe that the person is unable to care for his or her personal safety or will be a danger to the public.
2. When the judge or officer has reason to believe that the person will pose a danger to any other person or to the community.
3. When the judge or officer has reason to believe that the person will leave the lands subject to the jurisdiction of the Navajo Nation and fail to appear.
4. When the person charged has allegedly done or committed acts as part of the same design or transaction upon which the alleged offense against the Navajo Nation is charged which would in the officer's or the judge's belief constitute a felonious offense, which shall be for the purposes of this Section, an offense under 18 U.S.C. § 1153.

B. No judge or officer shall be held liable for refusal to admit to bail pursuant to this Section, except upon a finding by the court that there existed no basis for refusal to admit to bail, and upon proof that the refusal to admit to bail was the result of willful malice.

C. Any officer who refuses to admit a person to bail shall immediately bring such person before a judge of the District Court of the Navajo Nation at the first opportunity to do so. The officer shall thereupon show cause why he or she refused to admit the person to bail. The judge thereupon may order the person held without bail, or admitted to bail. Any such order shall be appealable to the Supreme Court of the Navajo Nation and the Supreme Court shall give any such appeal absolute priority.

§ 1813. Conditions of date of appearance

The judges of the District Court of the Navajo Nation are hereby authorized to impose conditions of a date of appearance and such other conditions upon bail as are necessary or proper.

§ 1814. Notice of date of appearance

Officers admitting persons to bail shall inform them in writing that, if they fail to receive notice of a date of appearance within 15 days, they should inquire of the court or the police as to their hearing date. The judges of the District Courts of the Navajo Nation are authorized to forfeit the bail of any person failing to meet the conditions thereof, and to cause warrants to issue for the return of such person. No person shall, in any single case, be admitted to bail after such person has failed to meet prior bail conditions in the same case.

§ 1815. Admission of persons to bail

The Director of the Department of Law Enforcement is authorized and directed to authorize officers to admit persons to bail, during those times when the District Court of the Navajo Nation is not in session. The Director of the Department of Law Enforcement is further directed to assure that an officer authorized to admit persons to bail be on duty at each jail facility during said times.

§ 1816. Release on recognizance; warrant on failure to appear for trial

Any judge or clerk of the Court of the Navajo Nation, or any Navajo police officer duly authorized to admit to bail, may, in his or her discretion, release any person arrested for an offense on such person's own recognizance. If any Indian so released does not appear for trial at the time and place specified, the judge may issue a warrant to apprehend such person, and thereafter such person shall not be released prior to trial except by written order signed by a judge of the Court of the Navajo Nation.

§ 1817. {Repealed}

§ 1818. Probation

A. The Court of the Navajo Nation may in its discretion suspend any sentence imposed and allow the offender his or her freedom on probation upon his or her signing a pledge of good conduct during the period of the sentence upon the form provided therefor.

B. Any person who shall violate his or her probation pledge shall be required to serve the original sentence.

C. The Courts of the Navajo Nation may establish a program to merge the functions of probation and peace making to promote the rehabilitation of offenders and serve the interest of victims and the program may charge participants reasonable fee or assessment for serious services and expend such funds for probation and peace making functions.

D. Individuals who are convicted of any offense may be sentenced to a term of probation not to exceed two years and individuals convicted of multiple offenses may be sentenced to a term of probation not to exceed five years.

§ 1819. Parole

A. Any person committed by a Court of the Navajo Nation who shall have without misconduct served one-half the sentence imposed by such court may be eligible to parole. Parole shall be granted only by a judge of the Court of the Navajo Nation where the prisoner was convicted after hearing of the issue and upon the signing of the form provided therefor. The Court shall file findings of fact and conclusions of law stating its reasons for granting or denying parole.

B. Any person who shall violate any of the provisions of such parole shall be punished by being required to serve the whole of the original sentence.

§ 1820. Search and arrest by state officers prohibited except by agreement

No state, county, or municipal law enforcement officers may search or arrest any Indian within the territorial jurisdiction of the Navajo Nation absent a duly approved cross-commission or deputation agreement.

Navajo Nation Code Annotated Title 17. Law and Order

Chapter 5. Procedures

Subchapter 3. Medical Examiners; Investigation of Deaths

§ 1851. Establishment of the Navajo Department of Medical Examiners

There is established within the Navajo Nation Division of Public Safety in the Executive branch of the government of the Navajo Nation, the Navajo Department of Medical Examiners.

§ 1852. Investigation of deaths—Generally

A. The Navajo Nation Department of Medical Examiners shall, within the Navajo Nation, investigate all deaths occurring under suspicious circumstances, including violent and unexplained deaths. The Chief Medical Examiner, other medical examiners, and medicolegal investigators within the Navajo Nation Department of Medical Examiners are authorized to make determinations and issue certificates of death, among other duties and responsibilities within its Plan of Operation.

B. The Navajo Nation Department of Medical Examiners is authorized to respond to the scene of the death and shall prescribe procedures for taking possession of a dead body following a death subject to investigation under this Section and for obtaining all medicolegal facts relevant to the medical cause of death. The dead body shall not be disturbed unless the Chief Medical Examiner or his/her designee grants permission to do so.

C. All medicolegal investigations must be conducted in a manner that respects the culture, tradition, and beliefs of the Navajo Nation.

D. As needed, the Navajo Nation Department of Medical Examiners may engage medical examiners or offices of medical examination on short term basis to respond to unexpected surges in the need for medicolegal investigations.

§ 1853. Notification and Reporting of Deaths

A. Any person subject to the jurisdiction of the Navajo Nation must promptly notify the Navajo Nation Police Department of any death or dead body.

B. The Navajo Police Department shall promptly notify the Navajo Nation Department of medical Examiners of any death subject to investigation under this Act.

§ 1854. Exhumations for Death Investigations

A. When the Navajo Department of Medical Examiners concludes that the cause of death cannot be determined without an exhumation of the body, the Chief Medical Examiner, other medical examiners, medicolegal investigators, through a Navajo Nation prosecutor or other legal counsel, may petition the district court of the Navajo Nation to order an exhumation. Hearings on such petitions shall be held on an expedited schedule upon showing of exigent circumstances including medical or Public Safety necessity.

B. The immediate family of the decedent shall be served with a copy of the petition and shall be allowed to file objections, if their identity and whereabouts can be ascertained and their participation is consistent with the requirements of medical or Public Safety necessity. The petitioner must show what reasonable, good faith efforts have been made to locate and serve the decedent's immediate family.

C. The district Court may order an exhumation if it finds that:

1. The cause of death cannot be determined without an exhumation;
2. An exhumation is required for Public Safety or Medical Necessities; and
3. No less invasive means are available to determine cause of death or meet the medical or Public Safety necessity.

D. The Navajo Nation Navajo Department of medical Examiners shall prescribe means for exhumation that are minimally invasive under the circumstances and carry out the reburial following the autopsy. The Department of Medical Examiners may call upon the Navajo Nation Police for assistance in exhumation and reburial.

§ 1855. Records and Reports

A. The Chief Medical Examiner shall be responsible for maintaining complete and thorough records and files that are properly indexed and searchable. At a minimum, the record of every deceased person whose death is investigated shall contain:

1. The name, date of birth, and census number of the deceased (if known);
2. The place where the body was found;
3. The date, cause and manner of death;
4. The inventory of the property found on the deceased and the current disposition of that property;
5. Any and all other relevant information and reports of the Navajo Department of Medical Examiners concerning the death; and
6. A death certificate.

B. The records and reports generated and maintained by the Navajo Department of Medical Examiners shall be:

1. promptly delivered to the appropriate Navajo Nation law enforcement agency upon completion; and
2. open to the inspection of the Navajo Nation Law Enforcement Agencies, the Navajo Nation Office of the Prosecutor, the Federal Bureau of Investigations, and the United States Attorney's office, and any other law enforcement agency or official with a legitimate interest.

C. The records maintained by the Navajo Department of Medical Examiners, or reproductions certified by the Chief Medical Examiners, are admissible as evidence in any Navajo Nation court.

D. Notwithstanding the Navajo Nation Privacy Act, the following persons and entities shall have conditional access to the records of the Navajo Department of Medical Examiners:

1. All federal, state, and/or tribal law enforcement or prosecutor's office for purposes of criminal prosecution.
2. The executor or representative of the decedent's estate.
3. Next of kin.
4. Insurance companies handling claims for decedent's family.
5. Hospitals, health clinics, and/or medical/treatment facilities that provided treatment to deceased for purposes of updating their medical records.

E. The Navajo Department of Medical Examiners is authorized to access confidential medical records (including, but not limited to, records of substance use and abuse) and any relevant information from physicians, hospitals, nursing homes, residential care facilities, and all other

health care providers subject to the jurisdiction of the Navajo Nation. Any violation could result in penalties under 2 N.N.C. §§ 91 and 92.

Navajo Nation Code Annotated Title 17. Law and Order
Chapter 5. Procedures

Subchapter 5. Exclusion of Persons from Navajo Nation Land

§ 1901. Exclusionary process

A. The President of the Navajo Nation, or in his or her absence the Vice-President of the Navajo Nation, is empowered to close any or all of the Navajo Nation to nonmembers whenever the presence of such nonmembers would constitute a danger to life or property. The exclusion order may permit certain named individuals (or classes of individuals) to remain and may provide for a procedure whereby individuals or classes of individuals may seek entry or reentry to closed areas. No such closure may continue for more than 30 days without concurrence by the ~~Government Services~~Law and Order Committee of the Navajo Nation Council.

B. A nonmember of the Navajo Nation may be excluded from the Navajo Nation after an exclusion hearing and the entry of an exclusion order, or, in cases involving danger to the public health or safety, pending such a hearing, on order of a District Court Judge of the Navajo Nation. Such interim exclusion of the nonmember from the Navajo Nation shall only be ordered in cases involving the public health and safety, and threats to Navajo Nation sovereignty, and for a period no longer than necessary for an exclusion hearing to be held.

~~B.C.~~ A nonmember may be excluded when the nonmember is accused of conduct prohibited under Navajo Nation, state, or federal law, including traffic offense.

~~C.D.~~ An Order of Exclusion may be entered when the nonmember either admits in an excursion proceeding or is found by a preponderance of the evidence presented in an exclusion proceeding to have engaged in any of the following acts:

~~1. When the nonmember is accused of conduct, including traffic offenses, within the Navajo Nation which would be punishable under the laws of the Navajo Nation or the United States if committed by a member of the Navajo Nation, and such nonmember either admits such conduct in the exclusion proceeding, or is found by a preponderance of the evidence in the exclusion proceeding to have committed the act in question; or~~

~~2. When the nonmember either admits in an exclusion proceeding or is found by a preponderance of the evidence presented in an exclusion proceeding to have engaged in any of the following acts:~~

a. Unauthorized prospecting, mining, collecting or gathering of or for oil, gas, coal, uranium, sand, gravel and other minerals, water, petrified wood, antiquities or artifacts or human remains; or

- b. Entry into any Navajo home without the consent of the occupants; or
- c. Interference with or unauthorized photographing of any Navajo traditional ceremony or other religious ceremony; or
- d. Unauthorized trading or peddling; or
- e. Violating Recruiting Navajo labor without permission of the Office of Navajo Nation Labor Relations labor law or business regulatory law; or
- f. Unauthorized entering of an area of the Navajo Nation that is restricted by the Navajo Nation by official action~~closed to nonmembers~~; or
- g. Removing any from the Navajo child or adult under Nation of any member of the Navajo Nation under the age of 18, or under guardianship from the Navajo Nation, except by Order of the court~~Courts order of the Navajo Nation or in conjunction with a nonsectarian non-religious~~ program administered by the Navajo Nation or the Bureau of Indian Affairs; or
- h. Unauthorized timber cutting or plant gathering for commercial purposes; or
- i. Unauthorized surveying; or
- j. Unauthorized research or testing; or Damaging property of any resident of the Navajo Nation or using such property without permission.
- k. Damaging property of any resident of the Navajo Nation or using such property or customary use areas without permission; or Violation of any section of the Navajo Nation code providing for exclusion as a remedy for such violation.
- l. Conviction of sex offense that requires registration with the Navajo Police Department and is assigned as a Tier 3 sex offense; or
- ~~l.m.~~ Violation of any section of the Navajo Nation Code or Navajo Nation Council Resolution.

E. An exclusion order entered by a Court of the Navajo Nation shall either be for a definite period, or may, under appropriate circumstances, be permanent. A person excluded may petition the Court for modification of an exclusion order at any time. An exclusion under Subchapter 12 shall be permanent and not subject to modification.

F. This process shall be governed under the Rules for Exclusion Proceedings adopted to implement this subsection.

G. Petitions under this section may be made, verified and filed only by the officers or officials of the Navajo Nation who are filing a petition within the scope of their office or employment. Such officials include Navajo tribal officers, law enforcement officers, tribal attorneys, public health officials and other concerned with the enforcement of Navajo public health, safety and welfare laws.

§ 1902. Court jurisdiction

- A. The Courts of the Navajo Nation are vested with civil jurisdiction over all persons with respect to exclusion of nonmembers of the Navajo Nation from the Navajo Nation.
- B. The Chief Justice of the Navajo Nation with the advice and consent of the Judiciary Committee of the Navajo Nation Council, is empowered to adopt such rules as are deemed appropriate for exclusion proceedings.

Navajo Nation Code Annotated Title 17. Law and Order Chapter 5. Procedures Subchapter 7. Extradition Statutes and Federal Detainer Statute

§ 1951. Extradition Statute-Policy Statement

- A. The Navajo Nation desires to strengthen the mutual respect of governing sovereigns and seeks to reinforce the essential government-to-government relationships between the Navajo Nation, other tribal nations and state governments through this extradition protocol.
- B. Pursuant to the Treaty of 1868, the Navajo Nation possesses paramount power over its land and citizens and as a responsible government has an obligation to turn over “bad men” to the proper authorities. All Indians accused of violating criminal laws of other tribal nations or state governments are subject to this protocol.
- C. Consistent with the long-standing federal policy of tribal self-determination and self- government, other tribal nations and state governments and all their instrumentalities must comply with this extradition protocol, which is an expression of the Navajo Nation’s inherent right to self- government.

§ 1952. Hearing; release

No Indian, whether an adult or juvenile, may be removed from the Navajo Nation by state or other tribal nation law enforcement except pursuant to the procedures set forth in this extradition statute. No Indian, whether an adult or juvenile, shall be released by Navajo Nation officials to state or other tribal nation jurisdiction, except pursuant to the procedures as set forth in this extradition statute.

§ 1953. Indians Committing Crime under State or other Tribal Nation Law- Apprehension within Navajo Nation

- A. Whenever the President of the Navajo Nation or the Vice President of the Navajo Nation, if delegated by the President, is informed and believes that an Indian, whether an adult or juvenile, has committed a crime or juvenile delinquency offense under state or other tribal nation law and is present within the Navajo Nation,

upon extradition request by a state or other tribal nation law enforcement agency, the President or Vice President may order any Navajo police officer to apprehend such person, and deliver him or her to proper authorities and in accordance with this extradition statute.

- B. Any Indian who was arrested as a result of fresh pursuit may be removed from the Nation if authorized by and pursuant to a duly-approved cross-commission or mutual aid agreement.
- C. No waiver of extradition of an Indian required by a state or other tribal nation will be effective to authorized removal of that Indian from the Navajo Nation. Any removal of an Indian from the Navajo Nation must be in accordance with this extradition statute.

§ 1954. Right to Legal Counsel and Extradition Hearing

Any Indian, whether an adult or juvenile, arrested pending extradition and prior to being delivered to state or other tribal nation custody, shall immediately be informed by personnel of the Navajo Division of Public Safety of his or her right to legal counsel in English and Navajo. Such person, whether with or without legal counsel's advice and prior to being delivered to state or other tribal nation custody, may exercise his or her right to waive or demand an extradition hearing. Waiver of the right to a hearing must be made knowingly, intelligently, and voluntarily. When requested, without regard to indigency, the Office of Navajo Public Defender or other Navajo Nation Bar Association-licensed counsel is empowered to provide legal advice on the person's rights.

§ 1955. Notice to Court or Prosecutor

If an Indian with a pending Navajo criminal charge or delinquency offense is extradited to state or other tribal nation authorities under this extradition statute, or is removed outside of such procedures in the Office of the Chief Prosecutor has been informed under Subsection B of this Section, the Office of the Prosecutor shall provide written notice to the Navajo District or Family Court prior to the next hearing in that person's case.

When a Navajo Nation criminal investigator, police officer, or corrections officer knows or is informed that an Indian has been removed by state or other tribal nation law enforcement from the Navajo Nation without following the extradition statute, he or she shall immediately inform the Office of the Chief Prosecutor.

§ 1956. Extradition Hearing; release

If any Indian sought for extradition demands a hearing, the Office of the Prosecutor shall file a petition for extradition in the nearest Navajo Nation District Court, to which the person shall be taken by the Navajo Division of Public Safety. There the judge shall hold a hearing, and if it appears that there is no probable cause to believe the Indian committed the crime or juvenile delinquency offense with which he or she is charged, or if it appears that the Indian will not receive a fair trial in the state or other tribal nation court, the judge shall order the Indian released from custody.

§ 1957. Office of the Prosecutor

The Office of the Prosecutor of the Navajo Nation shall represent the interest of the Navajo Nation at the hearing authorized under Section 1956.

§ 1958. Rules of Procedure for Extradition

The President of the Navajo Nation and the Navajo Nation Supreme Court shall promulgate rules of procedure for extradition with the concurrence of the Law and Order Committee of the Navajo Nation Council. Such rules shall set out the procedure for the Office of the Prosecutor, the President of the Navajo Nation, the Office of Navajo Public Defender, the Navajo Division of Public Safety, and the Navajo Nation Courts to follow in processing requests for extradition provided that such rules are not inconsistent with this extradition statute or with 7 N.N.C. § 607.

§ 1959. Civil Fine for Violation of Extradition Statute

Any Navajo government official who knowingly violates any section of this extradition statute may be subject to a civil fine of up to \$2,500. Any Indian who is subjected to removal from the jurisdiction of the Navajo Nation in violation of any section of this extradition statute shall have the right to file a petition alleging a violation with or without the concurrence of the Chief Prosecutor. Any petition alleging a knowing violation of this extradition statute, whether filed by the Chief Prosecutor or a person subjected to removal, shall name the Navajo government official in his or her individual capacity, and the sovereign immunity of the Navajo Nation shall not apply.

§ 1960. Reserved

§ 1961. Reserved

§ 1962. Federal Detainer Statute-Policy Statement

This federal detainer statute seeks to implement policy and procedures that will meet the common goals between the Navajo Nation and the federal government of maintaining public safety on the Navajo Nation, of observing the right to due process for persons charged with federal and Navajo crimes, of keeping violent offenders out of Navajo communities, and of protecting those responsible for enforcing criminal laws. The policy and procedures set out in this statute reflect that there are certain crimes that can be prosecuted concurrently under Navajo Nation law and under 18 U.S.C. §§ 1151 and 1152 and other federal laws concerning generally applicable federal offenses.

§ 1963. Federal Detainer Form

If a Navajo Nation law enforcement officer, including those possessing a Special Law Enforcement Commission, makes an arrest, he or she shall arrest an Indian under Navajo Nation law and take him or her into Navajo Nation custody, if there is probable cause that a Navajo Nation offense has occurred. Once the Indian is in Navajo Nation custody, federal

law enforcement may request transfer of the Indian to federal custody by submitting to the director of Navajo Department of Corrections, or his or her designee, a detainer request form providing the name of the requesting federal agency; the request date; the name of the inmate who is the subject of the detainer request; that inmate's date of birth; social security number, if known; and photograph or other reliable identifiers; the requesting agency's investigation number; the federal criminal case number; the code number(s) and a brief description of the felony charge(s); and the name, badge number and contact numbers for the requesting agent or officer, and a copy of the federal arrest warrant and charging document (indictment or complaint).

§ 1964. Federal Detainer Procedures

Upon receipt of a request for detainer, the Director of the Navajo Department of Corrections, or his or her designee, shall place a copy of the request in the inmate's file, with a cover sheet alerting any Corrections personnel that a detainer hold is in place over that inmate, and that the inmate is not to be released from Corrections custody except pursuant to the federal detainer statute. Upon acceptance of the detainer, Corrections personnel shall contact the federal agent identified in the detainer request form and inform the agent that the inmate is ready for transfer of custody. If the inmate waives his or her right to a hearing pursuant to Section 1965, federal custody must be affected by 5 p.m. the next business day, after notice by the Department of Corrections, by a federal agent or by a Navajo Division of Public Safety criminal investigator or police officer who has federal officer status by virtue of a BIA Special Law Enforcement Commission. The federal custodian will transport the inmate off the Navajo Nation and into United States Marshal Service custody for a prompt initial appearance before a federal Magistrate Judge.

If an inmate requests a detainer hearing, and the transfer is authorized, federal officials must take custody by 5 p.m. the next business day after the Navajo District Court Judge's order authorizing transfer of custody.

§ 1965. Right to Legal Counsel and Detainer Hearing

Upon submission of a federal detainer request, the inmate shall be given written notice of such request. Corrections personnel shall immediately inform the inmate of his or her right to legal counsel in English and Navajo. With or without such legal counsel, an inmate may exercise his or her right to waive or demand a detainer hearing. Waiver of the right to a hearing must be made knowingly, intelligently, and voluntarily. When requested, without regard to indigency, the Office of Navajo Public Defender or other Navajo Nation Bar Association-licensed counsel is empowered to provide legal advice on the person's rights.

If the inmate demands a hearing, the Office of the Prosecutor shall file a Petition for Detainer in the nearest Navajo Nation District Court, to which the person shall be taken by the Navajo Division of Public Safety. The Office of the Prosecutor of the Navajo Nation shall represent the interests of the Navajo Nation at a detainer hearing. A properly authenticated Juvenile Information, Returned Grand Jury Indictment or Criminal Complaint authorized by a federal judge shall be proof of probable cause.

§ 1966. Prosecutor Discretion

If tribal charges are pending against an inmate for whom a detainer request has been submitted or who has been transferred to federal custody, the Office of the Prosecutor shall have discretion to file for dismissal of the pending tribal charges against the inmate.

Navajo Nation Code Annotated Title 17. Law and Order Chapter 5. Procedures Subchapter 8. Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings

§ 1970. Definitions

In this article, unless the context otherwise requires:

- A. “Witness” includes a person whose testimony is desired in any proceeding or investigation by a grand jury or prosecutor or in a criminal action, prosecution or proceeding.
- B. “State” includes any territory of the United States and the District of Columbia, or the Navajo Nation.
- C. “Summons” includes a subpoena, order or other notice requiring the appearance of a witness.

§ 1971. Summoning witness in the Navajo Nation to testify in another state

- A. If a judge of a court of record in any state certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within the Navajo Nation is a material witness in such prosecution, or grand jury investigation, and that his or her presence will be required for specified number of days, upon presentation of such certificate to any judge of a court of record in the district in which such person is, such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for a hearing.
- B. If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, will give to him or her protection from arrest and the service of civil and criminal process, he or she shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.
- C. If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his or her attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him or her for the hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability may, in lieu of issuing subpoena

or summons, order that the witness be forthwith taken into custody and delivered to an officer of the requesting state.

- D. If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and five dollars (\$5.00) for each day that he or she is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he or she shall be punished in the manner provided for the punishment of a witness who disobeys a summons issued from a District Court of the Navajo Nation.

§ 1972. Witness from another state summoned to testify in the Navajo Nation

- A. If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or prosecutors investigations commenced or about to commence, in this jurisdiction, is a material witness in a prosecution pending in a district court of the Navajo Nation, or in prosecutorial investigation which as commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. This certificate shall be presented to a judge or a court of record in the county in which the witness is found.
- B. If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of the Navajo Nation to assure his or her attendance in the Navajo Nation, such judge may direct that the witness be forthwith brought before him or her; and the judge being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof, may order that the witness be forthwith taken into custody and delivered to an officer of the Navajo Nation, which order shall be sufficient authority to the officer to take the witness into custody and hold him or her unless and until he or she may be released by bail, recognizance or order of the judge issuing the certificate.
- C. If the witness is summoned to attend and testify in the Navajo Nation he or she shall be tendered the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and five dollars (\$5.00) for each day that he or she is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within the Navajo Nation a longer period of time than the period mentioned in the certificate unless otherwise ordered by the court. If such witness, after coming into the Navajo Nation, fails without good cause to attend and testify as directed in the summons, he or she shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in the Navajo Nation.

§ 1973. Exemption from arrest and service of process

- A. If a person comes into the Navajo Nation in obedience to a summons directing him or her to attend and testify in the Navajo Nation he or she shall not while in the Navajo Nation pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his or her entrance into the Navajo Nation under the summons.
- B. If a person passes through the Navajo Nation while going to another state in obedience to a summons to attend and testify in that state or while returning therefrom, he or she shall not while so passing through the

Navajo Nation be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his or her entrance into the Navajo Nation under the summons.

§ 1974. Uniformity of interpretation

This Article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it.

Navajo Nation Code Annotated Title 17. Law and Order Chapter 5. Procedures Subchapter 9. Search and Seizure

§ 2001. Unlawful search or seizure; trespass

No police officer shall search or seize any property without a warrant unless he or she shall know, or have reasonable cause to believe, that the person in possession of such property is engaged in the commission of an offense under Chapter 3 of this Title. Unlawful search or seizure will be deemed trespass and punished in accordance with 17 N.N.C. §§ 350 or 351.

§ 2002. Warrants--issuance; complaint

Every judge of the courts of the Navajo Nation shall have the authority to issue warrants for search and seizure of the premises and property of any person under the jurisdiction of such court. However, no warrant of search and seizure shall issue except upon a duly signed and written application based upon reliable information or belief and charging the commission of some offense against the Navajo Nation.

§ 2003. Contents

No warrant for search and seizure shall be valid unless it contains the name or description of the person or property to be searched, describes the articles or property to be seized and bears the signature of a duly qualified judge of the Court of the Navajo Nation.

§ 2004. Service

Service of warrants of search and seizure shall be made only by officers of the Navajo Nation police.

Navajo Nation Code Annotated Title 17. Law and Order Chapter 5. Procedures Subchapter 10. Sex Offender Registration and Notification Act of 2012

§ 2100. Title

This Act shall be known as the Navajo Nation Sex Offender Registration and Notification Act of 2012 (“the Act”).

§ 2101. Purpose

By implementing this Act, the Navajo Nation Acts to protect the public, particularly children, from sex offenders by requiring the registration of convicted sex offenders and notification to the community of such convicted sex offenders in accordance with this Act and Title I of the Adam Walsh Child Protection and Safety Act of 2006, 42 U.S.C. § 16901 *et seq.* (“Title I”). This Act shall be interpreted to carry out the terms and conditions of the Act as presently written or as may be hereafter amended.

§ 2102. Definitions

The Definitions below apply to this Act only.

- A. Act. The Act is the Navajo Nation Sex Offender Registration and Notification Act of 2012.
- B. Alford plea. A plea whereby a defendant does not admit the act but admits that the prosecution could likely prove the charge, and a court will pronounce the defendant guilty upon such a plea.
- C. Business days. Refers to working days excluding Saturdays, Sundays and holidays.
- D. Convicted, for purposes of this act, means,
 - 1. An adult who has been found guilty, or has pled guilty, or has entered a plea of no contest or has entered an Alford plea to a sex offense as defined by this Act and Title I; or
 - 2. A juvenile offender who:
 - a. Is prosecuted as an adult and found guilty or has pled guilty or has entered a plea of no contest or who has entered an Alford plea to a sex offense; or
 - b. Was 14 years or older at the time of the offense and who has been adjudicated of a sex offense comparable to or more severe than sexual assault at 17 N.N.C. § 443 or an attempt or conspiracy to commit such an offense.
- E. Dru Sjodin National Sex Offender Public Website. A public website that is maintained by the Attorney General of the U.S. Department of Justice that includes information about convicted sex offenders.
- F. Failure to register. When a sex offender is required to initially register with the Navajo Police Department and he or she does not register within the required of time period.
- G. Goes to school. Means an individual is enrolled in and attends a private or public secondary school, a vocational or professional school or an institution of higher education.

- H. Incarceration. Refers to being lawfully detained, pursuant to a conviction, in a tribal or local detention facility, a federal, state, military, foreign, private or contract facility or those under “house arrest” for a sex offense for which registration is required.
- I. Initial registration. When a sex offender registers for the first time with Navajo Police Department within the required time lines.
- J. Jurisdiction. Means an Indian tribe, a state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands and the United States Virgin Islands.
- K. Maintains registration. Means a convicted sex offender coming in person to register according to the timeline of their ~~year~~ tier of his or her ~~that person's~~ sex offense; for example, registering in person every year if the person is convicted of a tier I sex offense.
- L. Minor. An individual who has not attained the age of 18 years.
- M. Navajo Indian Country. The territory of the Navajo Nation as defined by 7 N.N.C. § 254.
- N. Navajo Nation Sex Offender Registry for the Public (“NNSORP”). A public website that contains information for the public about convicted sex offenders who reside, work, or go to school within Navajo Indian Country.
- O. Registers. Means the initial registration of a convicted sex offender who is convicted by a Navajo district court or who comes into Navajo Indian Country to reside, work or go to school.
- P. Resides. Means living in a place which one considers “home” or where one habitually lives or sleeps.
- Q. Retroactivity or retroactive. Sex offender registration requirements apply to individuals who were convicted of sex offenses prior to 2006 provided they meet the criteria set out in Section 2117.
- R. Sex Offender. A person convicted of any sex offense that requires registration as a convicted sex offender under this Act or under Title I as defined herein.
- S. Navajo Police Department Registry of Sex Offenders (“NPDR”). A website registry of convicted sex offenders who reside, work, or go to school within Navajo Indian Country and which is maintained by the Navajo Police Department. NPDR is restricted solely to the Navajo Police Department and to other law enforcement agencies as required by law.
- T. Sex offense for which one is required to register. A sex offense which, if convicted of, requires the sex offender to register under this Act or under Title I as defined herein.
- U. Title I. Title I of the Adam Walsh Child Protection and Safety Act of 2006, Public Law 109- 248, 42 U.S.C. § 16901 et seq., is a federal statute that requires the registration of all sex offenders who are convicted of a sex offense(s) for which Title I requires registration and requires notification of the presence of sex offenders in a community.

- V. Tier classification. Title I classifies sex offenses into 3 tiers: Tier 1, Tier 2, and Tier 3. The tier classifications are based on the nature of the sex offense, the length of incarceration, and whether an individual has been previously convicted of a sex offense that requires registration.
- W. Updates registration. Means a convicted sex offender comes in person within three (3) business days to inform the Navajo Police Department that a change has occurred in one or more of ~~his or her~~ that person's required registration information.
- X. Works. Means an individual is employed full-time, part-time, seasonally or temporarily for compensation by an employer; is self-employed; or is a volunteer, intern, extern or in some like capacity for which no compensation is paid.

§ 2103. Sex offenses that require registration under this Act and under Title I

A. An individual is required to register as a convicted sex offender only if ~~he or she~~ that person is convicted of a sex offense(s) enumerated under this Act or under Title I.

B. Sex offenses that require registration are the following tribal, state, local, military or foreign sex offenses:

1. Navajo Nation offenses. The sex offenses are enumerated at 17 N.N.C. §§ ~~436-449~~ 432-445, and 487.
2. Conviction of Navajo Nation offenses as enumerated in the Violence Against Family Act at 17 N.N.C. §§ ~~541, 557, and 558~~, if such unlawful Act conduct involves a sex offense as provided in the Subchapter, shall also require sex offender registration with the Navajo Police Department.
3. Navajo Nation juvenile offenses. The sex offenses at 17 N.N.C. §§ ~~438, 439, 440, 436 and 437~~ and 440 and 448 if committed by a minor who is 14 years of age or older at the time of the offense.
4. Non-Navajo Nation juvenile offenses. Any sex offense or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than sexual assault at 17 N.N.C. § ~~441~~ 13 and committed by a minor who is 14 years of age or older at the time of the offense.
5. Other Indian tribal sex offenses. Sex offenses identified by an Indian tribe for which, if convicted, registration by that tribe is required.
6. Federal offenses. The federal sex offenses enumerated under Title 18 of the U.S. Code such as, but not limited to, 18 U.S.C. § 1591 (sex trafficking of children), 18 U.S.C. § 1801 (video voyeurism of a minor), 18 U.S.C. § 2241 (aggravated sexual abuse), 18 U.S.C. § 2242 (sexual abuse), 18 U.S.C. § 2243 (sexual abuse of a minor or ward), and 18 U.S.C. § 2244 (abusive sexual contact).
7. State offenses. Sex offenses identified by a State for which registration as a convicted sex offender by that state is required.

8. Military offenses. Sex offenses that are specified by the Secretary of Defense under 10 U.S.C. § 951.

9. Foreign offenses. Any conviction for a sex offense that was obtained in Canada, the United Kingdom, Australia, New Zealand or by any other foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary, generally or vigorously, enforced the right to a fair trial in that country during the year in which the conviction was obtained.

C. Every convicted sex offender who is required to register with the Navajo Police Department must comply with the registration requirements and will be subject to the notification provisions of this Act and of Title I if ~~he or she~~that person resides, works or goes to school within Navajo Indian Country.

§ 2104. Classification of sex offenses by tier

A. Navajo Nation shall apply the tiering classification adopted by Title I to the sex offenses enumerated at 17 N.N.C. § § 436-449, 541, 557, and 558

B. The Navajo Nation shall apply the Title I tiering classification to all convicted sex offenders who must register upon entering Navajo Indian Country, as defined at 7 N.N.C. § 254 (A), to reside, work or go to school.

§ 2105. Sex offenses by Tiers 1, 2 and 3

A. Tier 1 sex offense

1. Any sex offense under 17 N.N.C. § § 435-449 and 541 shall be considered a Tier 1 sex offense. Sections 557-558 of Title 17 are also Tier 1 sex offenses if the conviction involved a sex offense.

2. Any sex offense which is classified as Tier 1 by the Title I guideline shall, for purposes of this Act, be classified as a Tier 1 sex offense by the Navajo Police Department.

B. Tier 2 sex offense

Any sex offense for which registration is required is classified as Tier 2 by the Title I guidelines shall, for the purposes of this Act, be classified as a Tier 2 sex offense by the Navajo Police Department.

C. Tier 3 sex offense

Any sex offense for which registration is required and is classified as Tier 3 by the Title I guidelines shall, for the purposes of this Act, be classified as a Tier 3 sex offense by the Navajo Police Department. Non-Navajo Tier 3 sex offenders shall be banned from Navajo Indian Country.

§ 2106. Initial registration, maintaining and updating registration

A. Initial registration refers to the first time a convicted sex offender comes in person to register with the Navajo Police Department whether from conviction by a Navajo district court or by another jurisdiction.

B. Maintaining registration refers to a convicted sex offender coming in person to the Navajo Police Department in accordance with the time line required for the tier classification of ~~his or her~~that person's sex offense.

C. Updating registration refers to a convicted sex offender coming in person to inform the Navajo Police Department within three (3) business days of any change in ~~his or her~~that person's required registration information. The convicted sex offender shall immediately notify the Navajo Police Department if ~~he or she~~that person will travel outside of Navajo Indian Country for more than seven (7) calendar days including international travel.

§ 2107. Frequency and duration of registration

A. Frequency of registration. A convicted sex offender must periodically register according to a time line based on the tier classification of the sex offense. The frequency interval begins from the date of sentencing if incarceration is not part of the sentence or from the date of release from incarceration.

1. A Tier 1 offense requires registration in person every year.
2. A Tier 2 offense requires registration in person every six (6) months.
3. A Tier 3 offense requires registration in person every three (3) months.

B. Duration of registration. A convicted sex offender must register for the entire period required by the tier classification of the sex offense. The registration period begins from the date of sentencing if incarceration is not part of the sentence or from the date of release from incarceration.

1. A Tier 1 offense requires registration in person for fifteen (15) years.
2. A Tier 2 offense requires registration in person for twenty-five (25) years.
3. A Tier 3 offense requires registration in person for life.

§ 2108. Information required for registration

A. A convicted sex offender who is required to register shall provide to the Navajo Police Department the following information for ~~his or her~~that person's initial registration:

1. Full primary name and any nicknames, aliases and pseudonyms regardless of the context in which they may be used.
2. Actual date of birth and any other date of birth used by the convicted sex offender.

3. A general description of the convicted sex offender's physical appearance including any identifying marks such as but not limited to scars, moles, birthmarks, or tattoos.
4. Navajo Nation census number, Certificate of Indian Blood and Navajo Identification Card of which the Navajo Police Department will make a photocopy.
5. Valid social security number and any other social security number the sex offender used in the past whether valid or otherwise.
6. Landline telephone number(s), cellular telephone number(s), and any and all Voice over IP telephone number(s).
7. Valid driver's license or other identification cards such as passports or immigration documents of which the Navajo Police Department will make a photocopy.
8. License plate number(s), registration number(s) and description of any vehicle(s) including aircraft and watercraft owned and operated or occasionally driven by the convicted sex offender and any permanent or frequent location where any vehicle, aircraft or watercraft is kept.
9. Residence address at each place a sex offender resides or will reside, and if a street address is not available, a description of the location of the residence(s).
10. Name and address or physical location of temporary lodging if the sex offender does not reside in a permanent residence.
11. Name of employer, if any; place of employment including if self-employed; place where ~~he or she~~ that person volunteers, is an intern or extern or works in any other capacity; and the telephone number(s) and address(es) of the employer(s).
12. Name and address of the school where the sex offender is or will be a student.
13. Internet names including all email addresses, instant message addresses and identifiers, and any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings including but not limited to social network identifications, Twitter accounts, video posting site identifications such as YouTube.
14. Professional licenses that authorize the sex offender to engage in an occupation or a profession or to carry out a trade or business.
15. If any international travel will be done by the sex offender, ~~he or she~~ that person shall provide notice of destination to the Navajo Police Department at least twenty-one (21) days prior to travel.

B. The Navajo Police Department shall obtain and process the following information for all convicted sex offenders who are required to register as follows:

1. Photographs of the sex offenders.
2. Fingerprints that shall be submitted to the Integrated Automated Fingerprint Identification System (IAFIS)
3. Palm prints that shall be submitted to the FBI Next Generation Identification Program.
4. DNA sample from either the Combined DNA Index System (CODIS) or, if from the sex offender, a DNA sample that shall be submitted to the appropriate state DNA laboratory or to the FBI Laboratory for submission of such DNA sample into CODIS.
5. The statutory language that describes the criminal offense(s) for which the sex offender was convicted and is required to register.
6. Criminal history of the sex offender that includes dates of all arrests; dates of all convictions; ~~his or her~~ that person's status of parole, probation or supervised release; ~~his or her~~ that person's sex offender registration status; and any outstanding arrest warrants.

§ 2109. Initial registration of a convicted sex offender and notice to register

A. Every sex offender convicted of a sex offense by the Navajo district court shall initially register with the Navajo Police Department within the following time lines:

1. Within three (3) business days prior to ~~his or her~~ that person's release from a Navajo corrections facility and shall be so informed by Navajo corrections officers; or
2. Within three (3) business days of having been sentenced by a Navajo district court and which sentence includes or does not include incarceration and shall be so informed as follows.
 - a. When an individual is charged with a sex offense that, if convicted of, would require sex offender registration, the individual will be so informed at arraignment by a Navajo district court judge.
 - b. When an individual has been convicted of a sex offense that would require sex offender registration, the Navajo district court judge shall so inform the individual at the time of conviction and the sex offender registration requirement shall be included in the judgment and sentence.

B. Every sex offender convicted of a sex offense that requires registration by another jurisdiction and who has come into Navajo Indian Country to reside, work or go to school shall initially register with the Navajo Police Department within three (3) business days of coming into Navajo Indian Country.

C. Every convicted sex offender shall appear in person to register in the Navajo police district wherein ~~he or she~~that person resides, works or goes to school. When a sex offender comes to register and the Navajo police officer who would conduct the registration is not available to do so, other Navajo Police Department personnel will obtain the sex offender's name, physical address, mailing address, and telephone number on a sign-in sheet. Registration by one police district will automatically make the sex offender's information available to all Navajo police districts.

D. Every convicted sex offender shall bring with him or her all the documentation required for ~~his or her~~that person's initial registration as enumerated in 17 N.N.C. § 2108(A).

E. The Navajo Police Department shall obtain information on the sex offender that is enumerated at 17 N.N.C. § 2108(B).

F. The Navajo police officer conducting the registration:

1. Shall verify that the documentation delivered by the convicted sex offender is documentation about that individual.

2. Shall explain the Sex Offender Registration and Notification Act of 2012 Acknowledgment Form to the sex offender and shall obtain ~~his or her~~that person's signature which verifies that the sex offender understands the purpose, procedures and requirements of registration. The Navajo police officer will provide the explanation in Navajo as necessary.

3. Will record all necessary information, take photographs, fingerprints, palm prints, DNA samples and any other records as required by Title I and 17 N.N.C. § 2108.

4. Will explain the frequency and duration of registration to the sex offender and that ~~he or she~~that person must appear in person at each registration.

5. Will provide verbal and written notice to the sex offender that the Navajo Police Department will conduct periodic verification of ~~his or her~~that person's residence or temporary lodging.

6. Shall immediately transmit registration information through the SORNA Exchange Portal to law enforcement agencies of other jurisdictions where a sex offender may be required to register and to the National Clearing Information Center (NCIC)/National Sex Offender Registry (NSOR).

G. The Navajo Police Department:

1. Shall maintain current registration information on each convicted sex offender who resides, works, or goes to school within Navajo Indian Country in the Navajo Nation Sex Offender Registry of Sex Offender (NPDR) website.

2. Shall notify through various media all public entities such as, but not limited to, Navajo Head Start and other schools, housing areas, Navajo chapters, hospitals and clinics, business areas and government offices.
3. Will periodically verify the residence or temporary lodging of each registered sex offender.
4. Shall immediately notify the U.S. Marshals Service and any other jurisdiction where the sex offender is registered or is required to register of necessary information including failure to register, absconding and a convicted sex offender's international travel.
5. Shall designate for full time duty two (2) Navajo police officers in each police district to implement the sex offender registration program, shall train these police officers in sex offender registration, and shall designate dedicated office space, equipment, and police vehicles for use by the sex offender registration program. The full time duty will be at least three consecutive days of the work week.

§ 2110. Requirements to maintain an update registration

A. A convicted sex offender must maintain ~~his or her~~that person's registration in accordance with the tier level of the sex offense for which ~~he or she~~that person has been convicted as follows:

1. Tier 1- every year for 15 years; and
2. Tier 2 - every 6 months for 25 years; and
3. Tier 3 - every 3 months for life; and

B. The Navajo Police Department shall take a photograph of the convicted sex offender annually from the date of initial registration unless a change in the sex offender's physical appearance requires an updated photograph. A convicted sex offender must appear in person to maintain registration at the Navajo police district office where ~~he or she~~that person is registered.

C. A convicted sex offender must update ~~his or her~~that person's registration within the three (3) business days whenever any required registration information under 17 N.N.C. § 2108 changes including significant changes in physical appearance. The convicted sex offender must appear in person to update registration at the Navajo police district office where ~~he or she~~that person is registered.

§ 2111. Reduction of Period to Register

A. A sex offender who was convicted of a Tier I sex offense may have ~~his or her~~that person's registration period reduced from fifteen (15) years to ten (10) years if ~~he or she~~that person has complied with registration requirements and has maintained a clean record for ten (10)

consecutive years beginning from date of release from incarceration or from the date of sentencing if no imposed incarceration.

B. A sex offender who was a juvenile adjudicated of a Tier 3 sex offense by another jurisdiction may have ~~his or her~~that person's registration period reduced from life to twenty-five (25) years if ~~he or she~~that person has complied with registration requirements and has maintained a clean record for twenty-five (25) consecutive years beginning from date of release from incarceration.

C. For purposes of this Section, a sex offender has a clean record if ~~he or she~~that person has:

1. Not been convicted of any offense for which incarceration for more than 1 year may be imposed,
2. Not been convicted of any sex offense
3. Successfully completed, and with no revocation, any period of supervised release, probation, or parole, and
4. Successfully completed a certified sex offender treatment program.

§ 2112. Penalty for failure to register or for absconding

A. Offense. A convicted Indian sex offender who is required to register under this Act and who:

1. Does not initially register with the Navajo Police Department within statutory time lines shall be found guilty of failure to register, or
2. Initially registered with the Navajo Police Department but subsequently has failed to maintain or update registration shall be found guilty of absconding.

B. Sentence. Any convicted Indian sex offender found guilty of failure to register or of absconding shall be sentenced to incarceration for a term not to exceed 365 days, shall register with the Navajo Police Department within three (3) business days prior to release from incarceration, and thereafter shall maintain registration in accordance with the tier level of the sex offense for which ~~he or she~~that person was convicted.

C. A non-Indian convicted sex offender who fails to register or who absconds will be arrested and placed into federal custody for consideration for federal prosecution.

§ 2113. Procedures when a convicted sex offender does not register within statutory time lines

A. When a sex offender fails to initially register with the Navajo Police Department, the Navajo Police Department will immediately:

1. Notify U.S. Marshals Service, the FBI, and the NCIC Wanted Person File and appropriate state authorities; and

2. Attempt to locate the sex offender within Navajo Indian Country.
- B. When a sex offender absconds, the Navajo Police Department will immediately:
1. Update the NNSORP and NPDR registries to show that the sex offender has absconded; and
 2. Notify U.S. Marshals Service, the FBI, and the NCIC Wanted Person File and appropriate state authorities; and
 3. Attempt to locate the sex offender within Navajo Indian Country.
- C. If the sex offender is located and is:
1. Indian, the Navajo police officer will arrest and book him or her into a Navajo corrections facility and will file a complaint in a Navajo district court for failure to register or for absconding. The Navajo police officer may request, through the Office of the Prosecutor, that the sex offender be denied bail pending arraignment.
 2. Non-Indian, a Navajo police officer who is federally-commissioned will arrest him or her and place him or her in federal custody for consideration for federal prosecution. If the Navajo police officer is not federally-commissioned, the officer will coordinate with U.S. Marshals Service to arrest and place the non-Indian sex offender into federal custody for consideration for federal prosecution.
- D. If the sex offender is not located and is:
1. Indian, the Navajo police officer will immediately request that the Office of the Prosecutor file an application for an arrest warrant. Upon transmittal of the arrest warrant to police dispatch, the Navajo Police Department will attempt to locate the sex offender. When apprehended, the sex offender will be arrested and booked in a Navajo corrections facility. The Navajo police officer may request, through the Office of the Prosecutor, that the sex offender be denied bail pending arraignment.
 2. Non-Indian, the Navajo police officer will immediately notify U.S. Marshals Service which will assist in locating him or her. When the non-Indian sex offender is located, a Navajo police officer who is federally-commissioned or a U.S. marshal will arrest the sex offender and place him or her in federal custody for consideration for federal prosecution.

§ 2114. The Navajo Nation Sex Offender Registry for the Public (NNSORP)

The Navajo Police Department shall operate and maintain a public website that shall provide information about convicted sex offenders who reside, work or go to school within Navajo Indian Country.

A. The information shall be maintained in a digitized format and by an electronic database in a form capable of electronic transmission that will automatically update changes in registration information.

B. NNSORP shall be capable of field search capabilities necessary for full participation in the Dru Sjodin National Sex Offender Public Website including the capability to conduct searches by name, country, city and/or town, and zip code and/or geographic radius and that will enable the public to request e-mail notices relating to sex offender information.

C. NNSORP shall include instructions on how a registered sex offender may seek correction of information that ~~he or she~~that person contends is erroneous.

D. The information contained in NNSORP shall not be used to injure, harass, or commit a crime against any convicted sex offender named in NNSORP. Any such Action may result in civil or criminal penalties.

E. NNSORP shall contain at least the following information on every convicted sex offender:

1. Name including all aliases;
2. A current photograph;
3. A physical description;
4. License plate number and description of ~~his or her~~that person's vehicle.
5. Residential address, physical address, or physical location of temporary lodging;
6. Address of the place where ~~he or she~~that person works;
7. Address of the place where ~~he or she~~that person goes to school;
8. Sex offense(s) for which ~~he or she~~that person is currently required to register.
9. All sex offenses for which ~~he or she~~that person has been convicted; and
10. Information that the he or she person did not initially register or has not maintained or updated ~~his or her~~that person's registration.

§ 2115. Navajo Police Department Registry of Sex Offenders ("NPDR")

The Navajo Police Department shall operate and maintain a website that will provide information about convicted sex offenders who reside, work or go to school within Navajo Indian Country.

A. The information in NPDR shall be maintained in a digitized format and by an electronic database in a form capable of electronic transmission that will automatically update changes in registration information.

B. Only the Navajo Police Department may access NPDR and information contained in NPDR may be disseminated to other law enforcement agencies as required by applicable law. NPDR shall not be accessible by the public.

C. The following information, in addition to Section 2108(B), about convicted sex offenders shall be restricted to NPDR:

1. Social security number;
2. Internet identifiers;
3. Any travel and immigration documents;
4. The identity of the victim of the sex offense for which the sex offender is required to register; and
5. If a sex offender is under a witness protection program, the Navajo Police Department may honor the request of the U.S. Marshals Service or other agency responsible for witness protection by not including the original identity of the offender in NNSORP.

§ 2116. Community Notification

Whenever a sex offender registers or maintains or updates ~~his or her~~ that person's information, the Navajo Police Department shall:

A. Immediately update information posted on the Navajo Nation Sex Offender Registry for the Public.

B. Immediately notify any agency, department, or program within Navajo Indian Country that is responsible for criminal investigation, prosecution, child welfare services or sex offender supervision.

C. Immediately notify child protection agencies including agencies responsible for conducting employment-related background checks under Section 3 of the National Child Protection Act of 1993 (42 U.S.C. § 5119a).

D. Timely notify all entities whose constituents include children and youth such as, but not limited to, schools, Navajo chapters, housing areas, and businesses.

§ 2117. Retroactivity.

A. A sex offender who was convicted of a sex offense by any jurisdiction prior to July 2006 shall be required to register if ~~he or she~~that person resides, works, or goes to school within Navajo Indian Country, and is either:

1. On probation or parole for a sex offense conviction prior to July 2006; or
2. Re-enters any criminal justice system through a non-sex offense felony conviction after July 2006.

B. For sex offenders who meet the criteria set out in Subsection A, the Navajo Police Department will rely only on the normal method of background checks and available criminal history for information on any prior sex offense conviction(s).

C. A sex offender who meets the criteria set out in Subsection A may be credited time toward ~~his or her~~that person's required registration period based on the date of ~~his or her~~that person's sentence imposed without incarceration or the date of ~~his or her~~that person's release from incarceration for the prior to July 2006 sex offense conviction.

§ 2118. Sovereign immunity and good faith immunity

A. Nothing under this Act shall be construed as a waiver, implied or express, of the sovereign immunity of the Navajo Nation, its departments, agencies, employees or agents.

B. Any Navajo Nation agency, official, employee, or agent acting under good faith of this Act shall be immune from any liability arising out of such actions.

Navajo Nation Code Annotated Title 17. Law and Order

Chapter 7. Facilities

§ 2201. Plans and construction; authority

The President of the Navajo Nation, with approval of the Public Safety Committee is authorized to approve plans for and cause to be constructed law and order facilities, giving employment preference to Navajo workers in all positions for which they qualified.

§ 2202. Construction sites; approval

The Public Safety Committee of the Navajo Nation Council, shall approve all construction sites as authorized by 17 N.N.C. § 2201. In so doing, it shall give due consideration to each community's needs, as to where these facilities will best serve the needs of the majority of the people in the area, and, wherever possible, it shall incorporate such facilities with other Navajo Nation-owned improvements in the vicinity.

**Navajo Nation Code Annotated Title 17.
Law and Order Chapter 9. [Deleted]
17 NAVAJO CODE Ch. 9, Deleted**

**Navajo Nation Code Annotated Title 17. Law and Order
Chapter 11. Fire Prevention
Subchapter 1. General**

§ 2701. Closing of areas

- A. Upon the advice of the Navajo Forestry Department, the President of the Navajo Nation may order any area of Navajo Nation land closed to entry by the general public because of the danger of fire.
- B. Such order shall not prohibit persons who regularly reside within the closed area from going to and from their homes and continuing such of their ordinary activities as do not constitute an unreasonable fire hazard.
- C. Such order shall not prohibit officers and employees of the United States or of the Navajo Nation from entering such closed areas in the performance of their official duties.
- D. Such order shall not prohibit lessees, licensees, or permittees of the Navajo Nation and their officers and agents from entering such closed areas for the purpose of going to or from their leased, licensed or permitted premises.
- E. Such order shall not prohibit grantees of rights-of-way from entering such closed areas for the purpose of necessary maintenance of their right-of-way; but such order may prohibit or restrict the use of any road right of way by the general public.

§ 2702. Campfires and smoking prohibited

Campfires shall be absolutely prohibited within any area closed to entry by the general public by order of the President. Smoking shall be prohibited in such areas, except inside substantial buildings.

§ 2703. Posting of closed areas

Whenever an area is closed to entry by the general public by order of the President of the Navajo Nation, signs so stating, and stating that campfires and smoking are prohibited in such area, shall be posted in a conspicuous place on each road and trail entering the closed area. The validity of any order issued by the President of the Navajo Nation closing an area of Navajo Nation land from entry by the general public, however, shall not be affected if such signs are not posted.

§ 2704. Removal of unauthorized persons from closed areas

A. It shall be the duty of any Navajo police officer or any employee of the Forestry Department to warn any unauthorized person found in a closed area to leave the closed area at once; and if such person does not comply with such warning without delay, to report such fact to the Chief of Police or any Captain of the Navajo Police.

B. If such person is an Indian, the Chief of Police or Captain shall apply to the District Court of the Navajo Nation for a warrant to apprehend such person. If such person is not an Indian, the Chief or Captain shall apply to the President of the Navajo Nation for an order for the physical removal of such person pursuant to the provisions of 17 N.N.C. § 1901.

C. Where the activities of such person as reported to the Captain or Chief appear to such officer to constitute an unusually grave fire hazard so that irreparable damage to the property of the Navajo Nation will probably occur as a result of the delay, necessary to obtain a warrant to apprehend or order for physical removal, the Chief or Captain may arrest or remove such person without a warrant or order.

D. Where any non-Indian is removed without an order from the President of the Navajo Nation, the officer effecting such removal shall report it as soon as possible to the Chief of Police, who shall report such removal to the President of the Navajo Nation for such further action, under the provisions of 17 N.N.C. § 1901, as the President of the Navajo Nation may deem advisable.

§ 2705. Penalties

A. Any person who shall violate 17 N.N.C. § 2702, or having been warned to leave a closed area pursuant to 17 N.N.C. § 2704 shall willfully fail or refuse so to leave, shall be deemed guilty of an offense and, upon conviction thereof, ordered to perform up to eighty hours of community service work or to pay a fine of not more than \$500, or both.

B. Any non-member who shall violate this Chapter may be excluded from Navajo Nation land pursuant to the provisions of 17 N.N.C. § 1901 *et seq.*

Navajo Nation Code Annotated Title 17. Law and Order Chapter 11. Fire Prevention Subchapter 2. Navajo Nation Fireworks Code

§ 2730. Title and establishment

This enactment shall establish and shall be known as the Navajo Nation Fireworks Code.

§ 2731. Purpose

Insofar as it is practicable, it is the intent and purpose of this Act to regulate the manufacture, possession, sale and use of fireworks within the exterior boundaries of the Navajo Nation. With this enactment, it is hereby declared by the Navajo Nation that possession, manufacture, sale and use of fireworks is against the public health, safety, and welfare of the people of the Navajo Nation, when performed outside of these regulations.

§ 2732. Definitions

A. “Fireworks” mean any combustible or explosive composition, or any substance or combination of substances, or device prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridge toy pistols, toy cannons, toy canes or toy guns in which explosives are used, firecrackers, torpedos, sky-rockets, Roman candles, Daygo bombs, sparklers or other devices of like construction and any devices containing an explosive substance, except that the term “fireworks” shall not include any auto flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap and toy pistols, toy canes, toy guns or other devices for use of such caps, if constructed so that the hand cannot come into direct contact with the cap when in place of explosive.

B. “Person” means individual, firm, corporation, employee, or agent.

§ 2733. Manufacture, possession, sale or use of fireworks

It shall be unlawful within the exterior boundaries of the Navajo Nation for any person to manufacture, attempt to manufacture, possess, store, offer or expose for sale, sell, use or explode any fireworks, except as provided for in Section 2735, of this Code, and other applicable Navajo Nation and federal laws.

§ 2734. Illegal and prohibited fireworks

Manufacture, possession, sale and use of the following types of fireworks are strictly prohibited and in violation of this Code:

- A. Cherry Bomb. Red in color--1" in diameter.
- B. Silver Salute. Silver in color--2" in length.
- C. M-80. Red in color--approximately 1" length.

§ 2735. Exemptions, permits, and bonds

- A. Exemptions. Nothing in this Code shall be construed to prohibit:

1. Public Exhibition shows. A permit shall be required for all such supervised public displays of fireworks by a jurisdiction, fair association, amusement or other organization, or by any artisans in the pursuit of their trade. Every such use or display shall be handled by a competent operator approved by the Navajo Nation Fire Chief, and shall be of such character and location, not to be hazardous to any property or person.
 2. Manufacture. Nothing in this Code shall be construed to prohibit a resident manufacturer, jobber, dealer to manufacture, sell (at wholesale only), any fireworks, provided such fireworks are intended for direct shipment out of the Navajo Nation; for supervised displays on the Navajo Nation, or any other uses permitted in Subsection (A)(3) below.
 3. Other legitimate uses of fireworks as specifically provided for in accordance with this Code and other applicable federal regulations, such uses including but not limited to wildlife management, agricultural, athletic or sport, blasting or other legitimate industrial purposes on the Navajo Nation. All such use must be properly permitted by the Navajo Nation Fire Department.
- B. Permits. Application for a Fireworks Permit shall be made to the Navajo Nation Fire Department offices at least five working days prior to the proposed date of display or use. For manufacture, or wholesale, applicant shall furnish a valid copy of a Business Permit issued by the Business Regulatory Department, prior to said Fireworks Permit application being accepted by the Fire Chief. After such privilege is granted, it shall be valid only for 48 hours prior to, and 48 hours following the date of display.
- C. Bond. Upon application, the Permittee shall furnish proof of a bond or certificate of insurance in an amount deemed adequate by the Navajo Nation Fire Department to satisfy claims for all personal or property damages arising out of any act or omission on the part of such person in connection with the activities permitted.
- D. Unfired Fireworks. All such fireworks which are unfired upon expiration of the valid Fireworks Permit, shall be disposed of in a method which is safe for the type of fireworks remaining, under the supervision of the Navajo Nation Fire Department.

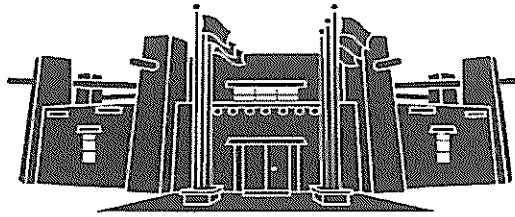
§ 2736. Enforcement authority

- A. The Navajo Nation Fire Chief shall have the power to carry out the intent and purposes of this Code; and further, the Navajo Nation Fire Department, commissioned Peace Officers of the Navajo Nation shall be charged with the enforcement of all of the provisions of this Code.
- B. Seizures. The Navajo Nation Fire Department, or any of the aforementioned commissioned Police and Peace Officers, shall seize, remove, or cause to be removed at the expense of the owner, all stocks of fireworks or combustible offered or exposed for sale, stored or possessed in violation of this Code.

§ 2737. Violations of Code

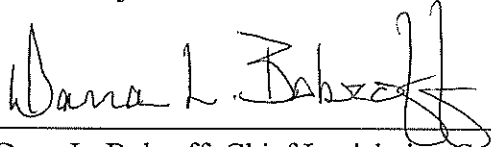
Any person who is determined to be in violation of the provisions of this Code or the provisions of any ordinance complying with this Code, may be sentenced to perform up to 40 hours of community service work, or be ordered to pay a fine not to exceed \$100, or both, and as follows:

1. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and may order ~~that~~ restitution or nályééh ~~shall to~~ be paid to the victim(s).
2. The trial court may utilize the services of the Navajo Peacemaking Program to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
3. The trial court may impose a peace or security bond upon the defendant, including the pledges of family or clan sureties.
4. Upon the imposition of a bond or security pledges, the District Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
5. The trial court may impose community service sentences, to be served under the supervision of an organization or an individual designated by the court.



MEMORANDUM

TO: Honorable Eugenia Charles-Newton (Sponsor)
Honorable Otto Tso, Speaker (Co-Sponsor)
24th Navajo Nation Council

FROM: 
Dana L. Bobroff, Chief Legislative Counsel
Office of Legislative Counsel

DATE: December 6, 2022

SUBJECT: **AN ACT RELATING TO THE LAW AND ORDER, AND NAA'BIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; AMENDING TITLE 17 OF THE NAVAJO NATION CODE**

I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

Please ensure that his particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.