

felony, he, being over eighteen years of age, engages in conduct which provides such person with means or opportunity for the commission thereof and which in fact aids such person to commit a felony.

Criminal facilitation in the third degree is a felony.

423 CRIMINAL FACILITATION IN THE SECOND DEGREE

A Native American is guilty of criminal facilitation in the second degree when, believing it probable that he is rendering aid to a person who intends to commit a class A felony, he engages in conduct which provides such person with means or opportunity for the commission thereof and which in fact aids such person to commit such class A felony.

Criminal facilitation in the second degree is a felony.

424 CRIMINAL FACILITATION IN THE FIRST DEGREE

A Native American is guilty of criminal facilitation in the first degree when, believing it probable that he is rendering aid to a person under sixteen years of age who intends to engage in conduct that would constitute a class A felony, he, being over eighteen years of age, engages in conduct which provides such person with means or opportunity for the commission thereof and which in fact aids such person to commit such a class A felony.

Criminal facilitation in the first degree is a felony.

425 CRIMINAL FACILITATION; NO DEFENSE

It is no defense to a prosecution for criminal facilitation that:

1. The Native American facilitated was not guilty of the underlying felony owing to criminal irresponsibility or other legal incapacity or exemption, or to unawareness of the criminal nature of the conduct in question or to other factors precluding the mental state required for the commission of such felony; or
2. The Native American person facilitated has not been prosecuted for or convicted of the underlying felony, or has previously been acquitted thereof; or
3. The defendant himself is not guilty of the felony which he facilitated because he did not act with the intent or other culpable mental state required for the commission thereof.

426 CRIMINAL FACILITATION; CORROBORATION

A Native American shall not be convicted of criminal facilitation upon the testimony of a person who has committed the felony charged to have been facilitated unless such testimony be corroborated by such other evidence as tends to connect the defendant with such facilitation.

D. OFFENSES AGAINST THE PERSON INVOLVING PHYSICAL INJURY, SEXUAL CONDUCT, RESTRAINT AND INTIMIDATION

427 ASSAULT IN THE THIRD DEGREE

A Native American is guilty of assault in the third degree when:

1. With intent to cause physical injury to another person, he causes such injury to such person or to a third person; or
2. He recklessly causes physical injury to another person; or
3. With criminal negligence, he causes physical injury to another person by means of a deadly weapon or a dangerous instrument.

Assault in the third degree is a misdemeanor.

428 VEHICULAR ASSAULT IN THE SECOND DEGREE

A Native American is guilty of vehicular assault in the second degree when:

1. With criminal negligence he causes serious physical injury to another person and either
2. causes such serious physical injury by operation of a vehicle while intoxicated.

Vehicular assault in the second degree is a felony.

429 VEHICULAR ASSAULT IN THE FIRST DEGREE

A Native American is guilty of vehicular assault in the first degree when he:

1. commits the crime of vehicular assault in the second degree as defined in section 428, and
2. commits such crime while knowing or having reason to know that his license or his privilege of operating a motor vehicle or his privilege of obtaining a license is suspended or revoked.

Vehicular assault in the first degree is a felony.

430 ASSAULT IN THE SECOND DEGREE

A Native American is guilty of assault in the second degree when:

1. With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person; or
2. With intent to cause physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument; or
3. With intent to prevent a peace officer, police officer, a fireman, including a fireman acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such fireman, or an emergency medical service paramedic or emergency medical service technician, from performing a lawful duty, he causes physical injury to such peace officer, police officer, fireman, paramedic or technician; or
4. He recklessly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or

5. For a purpose other than lawful medical or therapeutic treatment, he intentionally causes stupor, unconsciousness or other physical impairment or injury to another person by administering to him, without his consent, a drug, substance or preparation capable of producing the same; or
6. In the course of and in furtherance of the commission or attempted commission of a felony, he or another participant if there be any, causes physical injury to a person other than one of the participants; or
7. Having been charged with or convicted of a crime and while confined in a correctional facility, pursuant to such charge or conviction, with intent to cause physical injury to another person, he causes such injury to such person or to a third person; or
8. Being eighteen years old or more and with intent to cause physical injury to a person less than eleven years old, the defendant recklessly causes serious physical injury to such person.

Assault in the second degree is a felony.

431 ASSAULT IN THE FIRST DEGREE

A Native American is guilty of assault in the first degree when:

1. With intent to cause serious injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument; or
2. With intent to disfigure another person seriously and permanently, or to destroy, amputate or disable permanently a member or organ of his body, he causes such injury to such person or to a third person; or
3. Under circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes serious physical injury to another person; or
4. In the course of and in furtherance of the commission or attempted commission of a felony or of immediate flight therefrom, he, or another participant if there be any, causes serious physical injury to a person other than one of the participants.

Assault in the first degree is a felony.

432 AGGRAVATED ASSAULT UPON A POLICE OFFICER OR A PEACE OFFICER

A Native American is guilty of aggravated assault upon a police officer or a peace officer when, with intent to cause serious physical injury to a person whom he knows or reasonably should know to be a police officer engaged in the course of performing his official duties, he causes such injury by means of a deadly weapon when such weapon is a firearm.

Aggravated assault upon a police officer or a peace officer is a felony.

433 AGGRAVATED ASSAULT UPON A PERSON LESS THAN ELEVEN YEARS OLD

A Native American is guilty of aggravated assault upon a person less than eleven years old when being

eighteen years old or more the defendant commits the crime of assault in the third degree upon a person less than eleven years old and has been previously convicted of such crime upon a person less than eleven years old within the preceding three years.

Aggravated assault upon a person less than eleven years old is a felony.

434 MENACING IN THE FIRST DEGREE

A Native American is guilty of menacing in the first degree when he or she commits the crime of menacing in the second degree and has been previously convicted of the crime of menacing in the second degree within the preceding ten years.

Menacing in the first degree is a felony.

435 MENACING IN THE SECOND DEGREE

A Native American is guilty of menacing in the second degree when:

1. He or she intentionally places or attempts to place another person in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon, dangerous instrument or what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or
2. He or she repeatedly follows a person or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place another person in reasonable fear of physical injury, serious physical injury or death.

Menacing in the second degree is a misdemeanor.

436 MENACING IN THE THIRD DEGREE

A Native American is guilty of menacing in the third degree when, by physical menace, he or she intentionally places or attempts to place another person in fear of death, imminent serious physical injury or physical injury.

Menacing in the third degree is a misdemeanor.

437 HAZING IN THE FIRST DEGREE

A Native American is guilty of hazing in the first degree when, in the course of another person's initiation into or affiliation with any organization, he intentionally or recklessly engages in conduct which creates a substantial risk of physical injury to such other person or a third person and thereby causes such injury.

Hazing in the first degree is a misdemeanor.

438 HAZING IN THE SECOND DEGREE

A Native American is guilty of hazing in the second degree when, in the course of another person's initiation or affiliation with any organization, he intentionally or recklessly engages in conduct which creates a substantial risk of physical injury to such other person or a third person.

Hazing in the second degree is a violation.

439 RECKLESS ENDANGERMENT IN THE SECOND DEGREE

A Native American is guilty of reckless endangerment in the second degree when he recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.

Reckless endangerment in the second degree is a misdemeanor.

440 RECKLESS ENDANGERMENT IN THE FIRST DEGREE

A Native American is guilty of reckless endangerment in the first degree when, under circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person.

Reckless endangerment in the first degree is a felony.

441 PROMOTING A SUICIDE ATTEMPT

A Native American is guilty of promoting a suicide attempt when he intentionally causes or aids another person to attempt suicide.

Promoting a suicide attempt is a felony.

442 PROMOTING A SUICIDE ATTEMPT; WHEN PUNISHABLE AS ATTEMPT TO COMMIT MURDER

A Native American who engages in conduct constituting both the offense of promoting a suicide attempt and the offense of attempt to commit murder may not be convicted on attempt to commit murder unless he causes or aids the suicide attempt by the use of duress or deception.

443 HOMICIDE DEFINED

Homicide means conduct which causes the death of a person or an unborn child with which a female has been pregnant for more than twenty-four weeks under circumstances constituting murder, manslaughter in the first degree, manslaughter in the second degree, criminally negligent homicide, abortion in the first degree or self-abortion in the first degree.

444 HOMICIDE, ABORTION AND RELATED OFFENSES; DEFINITION OF TERMS

The following definitions are applicable to this article:

1. "Person," when referring to the victim of a homicide, means a human being who has been born and is alive.

2. "Abortional act" means an act committed upon or with respect to a female, whether by another person or by the female herself, whether she is pregnant or not, whether directly upon her body or by the administering, taking or prescription of drugs or in any other manner, with intent to cause a miscarriage of such female.
3. "Justifiable abortional act." An abortional act is justifiable when committed upon a female with her consent by a duly licensed physician acting (a) under a reasonable belief that such is necessary to preserve her life, or, (b) within twenty-four weeks from the commencement of her pregnancy. A pregnant female's commission of an abortional act upon herself is justifiable when she acts upon the advice of a duly licensed physician (1) that such act is necessary to preserve her life, or, (2) within twenty-four weeks from the commencement of her pregnancy. The submission by a female to an abortional act is justifiable when she believes that it is being committed by a duly licensed physician, acting under a reasonable belief that such act is necessary to preserve her life, or within twenty-four weeks from the commencement of her pregnancy.

445 CRIMINALLY NEGLIGENT HOMICIDE

A Native American is guilty of criminally negligent homicide when, with criminal negligence, he causes the death of another person.

Criminally negligent homicide is a felony.

446 VEHICULAR MANSLAUGHTER IN THE SECOND DEGREE

A Native American is guilty of vehicular manslaughter in the second degree when he:

1. commits the crime of criminally negligent homicide as defined in section 445, and either
2. causes the death of such other person by operation of a vehicle, or by operation of a vessel.
3. causes the death of such other person by operation of a motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds which contains flammable gas, radioactive materials or explosives is the cause of such death, by operation of a snowmobile, or by operation of an all-terrain vehicle.

Vehicular manslaughter in the second degree is a felony.

447 VEHICULAR MANSLAUGHTER IN THE FIRST DEGREE

A Native American is guilty of vehicular manslaughter in the first degree when he:

1. commits a the crime of vehicular manslaughter in the second degree as defined in section 446, and
2. commits such crime while knowing or having reason to know that his license or his privilege of operating a motor vehicle or his privilege of obtaining a license is suspended or revoked.

Vehicular manslaughter in the first degree is a felony.

448 MANSLAUGHTER IN THE SECOND DEGREE

A Native American is guilty of manslaughter in the second degree when:

1. He recklessly causes the death of another person; or
2. He commits upon a female an abortifacient act which causes her death, unless such abortifacient act is justifiable pursuant to subdivision three of section 444; or
3. He intentionally causes or aids another person to commit suicide.

Manslaughter in the second degree is a felony.

449 MANSLAUGHTER IN THE FIRST DEGREE

A Native American is guilty of manslaughter in the first degree when:

1. With intent to cause serious physical injury to another person, he causes the death of such person or of a third person; or
2. With intent to cause the death of another person, he causes the death of such person or of a third person under circumstances which do not constitute murder because he acts under the influence of extreme emotional disturbance, as defined paragraph (a) of subdivision one of Section 450. The fact that homicide was committed under the influence of extreme emotional disturbance constitutes a mitigating circumstance reducing murder to manslaughter in the first degree and need not be proved in any prosecution initiated under this subdivision; or
3. He commits upon a female pregnant for more than twenty-four weeks an abortifacient act which causes her death unless such abortifacient act is justifiable pursuant to subdivision three to Section 444; or
4. Being eighteen years old or more and with intent to cause physical injury to a person less than eleven years old, the defendant recklessly engages in conduct which creates a grave risk of serious physical injury to such person and thereby causes the death of such person.

Manslaughter in the first degree is a felony.

450 MURDER IN THE SECOND DEGREE

A Native American is guilty of murder in the second degree when:

1. With intent to cause death of another person, he causes the death of such person or of a third person; or except that in any prosecution under this subdivision, it is an affirmative defense that:
 - A. The defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of,

manslaughter in the first degree or any other crime; or

- B. The defendant's conduct consisted of causing or aiding, without the use of duress or deception, another person to commit suicide. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the second degree or any other crime; or
- 2. Under circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes the death of another person; or
 - 3. Acting either alone or with one or more other persons, he commits or attempts to commit robbery, burglary, kidnapping, arson, rape in the first degree, sodomy in the first degree, sexual abuse in the first degree, aggravated sexual abuse, escape in the first degree, or escape in the second degree, and, in the course of and in furtherance of such crime or of immediate flight therefrom, he, or another participant, if there be any, causes the death of a person other than one of the participants; except that in any prosecution under this subdivision, in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:
 - A. Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and
 - B. Was not armed with a deadly weapon, or any instrument, article or substance readily capable of causing death or serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons; and
 - C. Had no reasonable ground to believe that any other participant was armed with such a weapon, instrument, article or substance; and
 - D. Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury; or
 - 4. Under circumstances evincing a depraved indifference to human life, and being eighteen years old or more the defendant recklessly engages in conduct which creates a grave risk of serious physical injury or death to another person less than eleven years old and thereby causes the death of such person.

Murder in the second degree is a felony.

451 MURDER IN THE FIRST DEGREE

A Native American is guilty of murder in the first degree when:

- 1. With intent to cause the death of another person, he causes the death of such person; and
 - A. Either:
 - (i) the victim was a police officer who was killed in the course of performing his official duties, and the defendant knew or reasonably should have known that the victim was a police officer;

or

(ii) the victim was an employee of a correctional facility who was killed in the course of performing his official duties, and the defendant knew or reasonably should have known that the victim was an employee of a correctional facility; or

B. The defendant was more than eighteen years old at the time of the commission of the crime.

2. In any prosecution under subdivision one, it is an affirmative defense that:

A. The defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant situation under the circumstances as the defendant believed them to be. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the first degree or any other crime except murder in the second degree; or

B. The defendant's conduct consisted of causing or aiding, without the use of duress or deception, another person to commit suicide. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the second degree or any other crime except murder in the second degree.

Murder in the first degree is a felony.

452 ABORTION IN THE SECOND DEGREE

A Native American is guilty of abortion in the second degree when he commits an abortifacient act upon a female, unless such abortifacient act is justifiable pursuant to subdivision three of Section 444.

Abortion in the second degree is a felony.

453 ABORTION IN THE FIRST DEGREE

A Native American is guilty of abortion in the first degree when he commits upon a female pregnant for more than twenty-four weeks an abortifacient act which causes the miscarriage of such female, unless such abortifacient act is justifiable pursuant to subdivision three of Section 444.

Abortion in the first degree is a felony.

454 SELF-ABORTION IN THE SECOND DEGREE

A Native American female is guilty of self-abortion in the second degree when, being pregnant; she commits or submits to an abortifacient act upon herself, unless such abortifacient act is justifiable pursuant to subdivision three of Section 444.

Self-abortion in the second degree is a misdemeanor.

455 SELF-ABORTION IN THE FIRST DEGREE

A Native American female is guilty of self-abortion in the first degree when, being pregnant for more than twenty-four weeks; she commits or submits to an abortifacient act upon herself which causes her miscarriage, unless such abortifacient act is justifiable pursuant to subdivision three of Section 444.

Self-abortion in the first degree is a misdemeanor.

456 ISSUING ABORTIFACIENT ARTICLES

A Native American is guilty of issuing abortifacient articles when he manufactures, sells or delivers any instrument, article, medicine, drug or substance with intent that the same be used in unlawfully procuring the miscarriage of a female.

Issuing abortifacient articles is a misdemeanor.

457 SEX OFFENSES; DEFINITION OF TERMS

The following definitions are applicable to this chapter:

1. "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight.
2. "Deviate sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and penis, or the mouth and the vulva.
3. "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing.
4. "Female" means any female person who is not married to the actor. For the purposes of this chapter "not married" means:
 - A. the lack of an existing relationship of husband and wife between the female and the actor which is recognized by law, or
 - B. the existence of the relationship of husband and wife between the actor and the female which is recognized by law at the time the actor commits an offense proscribed by this chapter by means of forcible compulsion against the female, and the female and actor are living apart at such time pursuant to a valid and effective:
 - (i) order issued by a court of competent jurisdiction which by its terms or in its effect requires such living apart or
 - (ii) decree or judgment of separation, or
 - (iii) written agreement of separation subscribed by them and

acknowledged in the form required to entitle a deed to be recorded which contains provisions specifically indicating that the actor may be guilty of the commission of a crime for engaging in conduct which constitutes an offense proscribed by this chapter against and without the consent of the female.

5. "Mentally defective" means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct.
6. "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent
7. "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to act.
8. "Forcible compulsion" means to compel by either:
 - A. use of physical force; or
 - B. a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped.
9. "Foreign object" means any instrument or article which, when inserted in the vagina, urethra, penis or rectum, is capable of causing physical injury.

458 SEX OFFENSES; LACK OF CONSENT

1. Whether or not specifically stated, it is an element of every offense defined in this article, except the offense of consensual sodomy, that the sexual act was committed without consent of the victim.
2. Lack of consent results from:
 - A. Forcible compulsion; or
 - B. Incapacity to consent; or
 - C. Where the offense charged is sexual abuse, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct.
3. A person is deemed incapable of consent when he is:
 - A. less than seventeen years old; or
 - B. mentally defective; or
 - C. mentally incapacitated; or

D. physically helpless.

459 SEX OFFENSES; DEFENSE

In any prosecution under this Code in which the victim's lack of consent is based solely upon his capacity to consent because he was mentally defective, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant, at the time he engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent.

460 SEX OFFENSES; CORROBORATION

A Native American shall not be convicted of consensual sodomy, or an attempt to commit the same, or of any offense defined in this chapter of which lack of consent is an element but results solely from incapacity to consent because of the victim's mental defect, or mental incapacity, or an attempt to commit the same, solely on the testimony of the victim, unsupported by other evidence tending to:

1. Establish that an attempt was made to engage the victim in sexual intercourse, deviate sexual intercourse, or sexual contact, as the case may be, at the time of the occurrence; and
2. Connect the defendant with the commission of the offense or attempted offense.

461 SEXUAL MISCONDUCT

A Native American is guilty of sexual misconduct when:

1. Being a male, he engages in sexual intercourse with a female without her consent; or
2. He engages in deviate sexual intercourse with another person without the latter's consent; or
3. He engages in sexual conduct with an animal or a dead human body.

Sexual misconduct is a misdemeanor.

462 RAPE IN THE THIRD DEGREE

A Native American is guilty of rape in the third degree when:

1. He or she engages in sexual intercourse with another person to whom the actor is not married who is incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Being twenty-one years old or more, he or she engages in sexual intercourse with another person to whom the actor is not married less than seventeen years old.

Rape in the third degree is a felony.

463 RAPE IN THE SECOND DEGREE

A Native American is guilty of rape in the second degree when, being eighteen years old or more, he or she engages in sexual intercourse with another person to whom the actor is not married less than fourteen years

old.

Rape in the second degree is a felony.

464 RAPE IN THE FIRST DEGREE

A Native American male is guilty of rape in the first degree when he engages in sexual intercourse with a female:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old.

Rape in the first degree is a felony.

466 SODOMY IN THE THIRD DEGREE

A Native American is guilty of sodomy in the third degree when:

1. He engages in deviate sexual intercourse with a person who is incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Being twenty-one years old or more, he engages in deviate sexual intercourse with a person less than seventeen years old.

Sodomy in the third degree is a felony.

467 SODOMY IN THE SECOND DEGREE

A Native American is guilty of sodomy in the second degree when, being eighteen years old or more, he engages in deviate sexual intercourse with another person less than fourteen years old.

Sodomy in the second degree is a felony.

468 SODOMY IN THE FIRST DEGREE

A Native American is guilty of sodomy in the first degree when he engages in deviate sexual intercourse with another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old.

Sodomy in the first degree is a felony.

469 SEXUAL ABUSE IN THE THIRD DEGREE

A Native American is guilty of sexual abuse in the third degree when he subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person.

Sexual abuse in the third degree is a misdemeanor.

470 SEXUAL ABUSER IN THE SECOND DEGREE

A Native American is guilty of sexual abuse in the second degree when he subjects another person to sexual contact and when such other person is:

1. Incapable of consent by reason of some factor other than being less than seventeen years old;
or
2. Less than fourteen years old.

Sexual abuse in the second degree is a misdemeanor.

471 SEXUAL ABUSE IN THE FIRST DEGREE

A Native American is guilty of sexual abuse in the first degree when he subjects another person to sexual contact:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old.

Sexual abuse in the first degree is a felony.

472 AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE

1. A Native American is guilty of aggravated sexual abuse in the second degree when he inserts a finger in the vagina, urethra, penis, or rectum of another person causing physical injury to such person:
 - A. By forcible compulsion; or
 - B. When the other person is incapable of consent by reason of being physically helpless; or
 - C. When the other person is less than eleven years old.
2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the second degree is a felony.

473 AGGRAVATED SEXUAL ABUSE IN THE FIRST DEGREE

1. A Native American is guilty of aggravated sexual abuse in the first degree when he inserts a foreign object in the vagina, urethra, penis, or rectum of another person causing physical injury to such person:
 - A. By forcible compulsion; or
 - B. When the other person is incapable of consent by reason of being physically helpless; or
 - C. When the other person is less than eleven years old.
2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the first degree is a felony.

474 UNLAWFUL IMPRISONMENT, KIDNAPPING AND CUSTODIAL INTERFERENCE; DEFINITIONS OF TERMS

The following definitions are applicable to this chapter:

1. "Restrain" means to restrict a person's movements intentionally and unlawfully in such manner as to interfere substantially with his liberty by moving him from one place to another, or by confining him either in the place where the restriction commences or in a place to which he has been moved, without consent and with knowledge that the restriction is unlawful. A person is so moved or confined "without consent" when such is accomplished by (a) physical force, intimidation or deception, or (b) any means whatever, including acquiescence of the victim, if he is a child less than sixteen years old or an incompetent person and the parent, guardian or other person or institution having lawful control or custody of him has not acquiesced in the movement of confinement.
2. "Abduct" means to restrain a person with intent to prevent his liberation by either (a) secreting or holding him in a place where he is not likely to be found, or (b) using or threatening to use deadly physical force.
3. "Relative" means a parent, ancestor, brother, sister, uncle or aunt.

475 UNLAWFUL IMPRISONMENT IN THE SECOND DEGREE

A Native American is guilty of unlawful imprisonment in the second degree when he restrains another person.

Unlawful imprisonment in the second degree is a class A misdemeanor.

476 UNLAWFUL IMPRISONMENT IN THE FIRST DEGREE

A Native American is guilty of unlawful imprisonment in the first degree when he restrains another person under circumstances which expose the latter to a risk of serious physical injury.

Unlawful imprisonment in the first degree is a class E felony.

477 UNLAWFUL IMPRISONMENT; DEFENSE

In any prosecution for unlawful imprisonment, it is an affirmative defense that (a) the person restrained was a child less than sixteen years old, and (b) the defendant was a relative of such child, and (c) his sole purpose was to assume control of such child.

478 KIDNAPPING IN THE SECOND DEGREE

A Native American is guilty of kidnapping in the second degree when he abducts another person.

Kidnapping in the second degree is a class B felony.

479 KIDNAPPING IN THE FIRST DEGREE

A Native American is guilty of kidnapping in the first degree when he abducts another person and when:

1. His intent is to compel a third person to pay or deliver money or property as ransom, or to engage in other particular conduct, or to refrain from engaging in particular conduct; or
2. He restrains the person abducted for a period of more than twelve hours with intent to:
 - A. Inflict physical injury upon him or violate or abuse him sexually; or
 - B. Accomplish or advance the commission of a felony; or
 - C. Terrorize him or a third person; or
 - D. Interfere with the performance of a governmental or political function; or
3. The person abducted dies during the abduction or before he is able to return or to be returned to safety. Such death shall be presumed, in a case where

such person was less than sixteen years old or an incompetent person at the time of the abduction, from evidence that his parents, guardians or other lawful custodians did not see or hear from him following the termination of the abduction and prior to trial and received no reliable information during such period persuasively indicating that he was alive. In all other cases, such death shall be presumed from evidence that a person whom the person abducted would have been extremely likely to visit or communicate with during the specified period were he alive and free to do so did not see or hear from him during such period and received no reliable information during such period persuasively indicating that he was alive.

Kidnapping in the first degree is a class A-1 felony.

480 KIDNAPPING; DEFENSE

In any prosecution for kidnapping, it is an affirmative defense that (a) the defendant was a relative of the person abducted, and (b) his sole purpose was to assume control of such person.

481 CUSTODIAL INTERFERENCE IN THE SECOND DEGREE

A Native American is guilty of custodial interference in the second degree when:

1. Being a relative of a child less than sixteen years old, intending to hold such child permanently or for a protracted period, and knowing that he has no legal right to do so, he takes or entices such child from his lawful custodian; or
2. Knowing that he has no legal right to do so, he takes or entices from lawful custody any incompetent person or other person entrusted by authority of law to the custody of another person or institution.

Custodial interference in the second degree is a class A misdemeanor.

482 CUSTODIAL INTERFERENCE IN THE FIRST DEGREE

A Native American is guilty of custodian inference in the first degree when he commits the crime of custodial interference in the second degree.

1. With intent to permanently remove the victim from Nation jurisdiction, he removes such person from the jurisdiction of the Nation; or
2. Under circumstances which expose the victim to a risk that his safety will be endangered or his health materially impaired.

It shall be an affirmative defense to a prosecution under subdivision one of this section that the victim had been abandoned or that the taking was necessary in an emergency to protect the victim because he has been subjected to or threatened with mistreatment or abuse.

Custodial interference in the first degree is a class E felony.

483 COERCION IN THE SECOND DEGREE

A Native American is guilty of coercion in the second degree when he compels or induces a person to engage in conduct which the latter has a legal right to abstain from engaging in, or to abstain from engaging in conduct in which he has a legal right to engage, by means of instilling in him a fear that, if the demand is not complied with, the actor or another will:

1. Cause physical injury to a person; or
2. Cause damage to property; or
3. Engage in other conduct constituting a crime; or
4. Accuse some person of a crime or cause criminal charges to be instituted against him; or

5. Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or
6. Cause a strike, boycott or other collective labor group action injurious to some person's business; except that such a threat shall not be deemed coercive when the act or omission compelled is for the benefit of the group in whose interest the actor purports to act; or
7. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
8. Use or abuse his position as a public servant by performing some act within or related to his official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or
9. Perform any other act which would not in itself materially benefit the actor but which is calculated to harm another person materially with respect to his health, safety, business, calling, career, financial condition, reputation or personal relationships.

Coercion in the second degree is a class A misdemeanor.

484 COERCION IN THE FIRST DEGREE

A Native American is guilty of coercion in the first degree when he commits the crime of coercion in the second degree, and when:

1. He commits such crime by instilling in the victim a fear that he will cause physical injury to a person or cause damage to property; or
2. He thereby compels or induces the victim to:
 - A. Commit or attempt to commit a felony; or
 - B. Cause or attempt to cause physical injury to a person; or
 - C. Violate his duty as a public servant.

Coercion in the first degree is a class D felony.

485 COERCION; NO DEFENSE

The crimes of (a) coercion and attempt to commit coercion, and (b) bribe receiving by a labor official and bribe receiving by a public servant are not mutually exclusive, and it is no defense to a prosecution for coercion or an attempt to commit coercion that, by reason of the same conduct, the defendant also committed one of such specified crimes of bribe receiving.

486 COERCION; DEFENSE

In any prosecution for coercion committed by instilling in the victim a fear that he or another person would be charged with a crime, it is an affirmative defense that the defendant reasonably believed the threatened charge to be true and that his sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge.