

It is no defense to a prosecution pursuant to subsection three of this section that the child acted as the agent or representative of another person or that the defendant dealt with the child as such.

Unlawfully dealing with a child in the second degree is a misdemeanor.

**O. SEX OFFENDER REGISTRATION**

**901 PENALTY FOR FAILURE TO REGISTER**

Any sex offender required to register or to verify who fails to register or verify in the manner and within the time periods required by the Oneida Indian Nation shall be guilty of a felony and shall be subject to the following:

1. First failure to register, a mandatory minimum 1 month incarceration period (or probation) and a fine imposed by the court.
2. Second failure to register, a mandatory minimum 6 month incarceration period and a fine imposed by the court
3. All subsequent failures to register, a mandatory minimum incarceration period greater than 6 months and a fine imposed by the court.

Any such failure to register may also be the basis for revocation of parole or the basis for revocation of probation.

**902 AFFIRMATIVE DEFENSE**

In the prosecution for a violation under section 901 above, it is an affirmative defense that—

1. Uncontrollable circumstances prevented the individual from complying;
2. The individual did not contribute to the creation of such circumstances in reckless disregard of the requirement to comply; and
3. The individual complied as soon as such circumstances ceased to exist.

## **PROVISIONS RELATING TO ANIMALS**

### **903 CRUELTY TO ANIMALS**

A Native American is guilty of cruelty to animals when, with no justifiable purpose, he or she:

1. intentionally kills or
2. intentionally causes serious physical injury to a companion animal.

Nothing contained in this section shall be construed to prohibit or interfere in any way with anyone lawfully engaged in hunting, trapping, or fishing, the dispatch of rabid or diseased animals, or the dispatch of animals posing a threat to human safety or other animals, where such action is otherwise legally authorized, or any properly conducted scientific tests, experiments, or investigations involving the use of living animals, performed or conducted in laboratories or institutions approved for such purposes by a body duly authorized to approve such use.

Cruelty to Animals is a misdemeanor.

### **904 AGGRAVATED CRUELTY TO ANIMALS**

A Native American is guilty of aggravated cruelty to animals when, with no justifiable purpose, he or she

1. intentionally kills or
2. intentionally causes serious physical injury to a companion animal with aggravated cruelty.

For purposes of this section, “aggravated cruelty” shall mean conduct which: (i) is intended to cause extreme physical pain; or (ii) is done or carried out in an especially depraved or sadistic manner.

Nothing contained in this section shall be construed to prohibit or interfere in any way with anyone lawfully engaged in hunting, trapping, or fishing, the dispatch of rabid or diseased animals, or the dispatch of animals posing a threat to human safety or other animals, where such action is otherwise legally authorized, or any properly conducted scientific tests, experiments, or investigations involving the use of living animals, performed or conducted in laboratories or institutions approved for such purposes by a body duly authorized to approve such use.

Aggravated cruelty to animals is a felony.