

BILL NUMBER NCA 22-039

TO BE INTRODUCED INTO THE MUSCOGEE (CREEK) NATIONAL COUNCIL

April 1, 2022
(DATE OF INTRODUCTION)

INTRODUCED BY: William Lowe

SPONSOR(S): William Lowe

COMMITTEE ON: Committee As A Whole

CLASSIFICATION: 22-Health and Safety

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING TITLE 22, § 2-102, ENTITLED “PROPERTY SUBJECT TO FORFEITURE”, REQUIRING OWNER/CUSTODIAN REIMBURSEMENT OF COSTS TO THE MUSCOGEE (CREEK) NATION RELATED TO THE CARE OF ANIMALS SEIZED DUE TO ALLEGATIONS OF ANIMAL CRUELTY, REQUIREMENT OF A BOND AND/OR CIVIL FORFEITURE

Be it enacted by the National Council of the Muscogee (Creek) Nation:

SECTION ONE. FINDINGS. The National Council finds that:

A. The Muscogee (Creek) Nation (“MCN”) has a direct interest (legal, moral and ethical) regarding acts of animal cruelty occurring upon the historic reservation lands of the MCN.

B. Animal cruelty is a felony under the laws of the MCN. MCNCA Title 14, § 2-427. Each act of cruelty is punishable by imprisonment of up to three (3) years and/or a fine of not more than Fifteen Thousand Dollars (\$15,000.00).

C. Animal cruelty became a violation of federal law with the passage of **The Preventing Animal Cruelty and Torture Act (PACT)**.

D. The decisions of the United States Supreme Court in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020) and *Sharp v. Murphy*, 140 S. Ct. 2412 (2020) (ratifying that the land within the 1866 borders of the Muscogee (Creek) Nation remains Indian country today) has dramatically increased the need to expand the scope of criminal laws within the MCN for enforcement by the MCN Lighthouse Police and for prosecution by the Office of the Attorney General in the District Court of the MCN.

E. The conditions which lead to the seizure of neglected, abused and/or deprived animals often occurs because the owner(s)/custodian(s) has no financial ability or the capacity to humanely care for such animal(s). The seizure of endangered animals

1 by the MCN has shifted the financial burden for veterinary care (including euthanasia),
2 food and shelter of such animal(s) to the MCN.

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4 F. Animal seizure cases often involve the rescue of large numbers of animals,
5 such as in the case of puppy mills, and/or large animals including cattle and horses who
6 require immediate veterinary care and long term needs.

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8 G. The owner(s)/custodian(s) of neglected, deprived or abused animal(s) are
9 being unjustly enriched while the MCN provides for the costs of seizure, veterinary needs,
10 food and shelter of such animals during the pendency of criminal charges against the
11 owner(s)/custodians for alleged acts of animal cruelty.

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13 H. Owner(s)/custodian(s) of seized animals are often unlikely to have the
14 financial ability to repay the MCN through court ordered restitution required at the
15 conclusion of a criminal proceeding.

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17 I. Owner(s)/custodian(s) of seized animals should have the continuing
18 financial responsibility of providing for the ongoing medical needs and daily care of their
19 seized animals.

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21 J. Seized animals are unlike any other form of property. Their value is often
22 intrinsic and the cost of care is continual during their lifetime. While seized animals that
23 were subjected to cruelty at the hands of their owner(s)/custodian(s) enjoy improved living
24 environments while protected by the MCN, their lives would be greatly improved outside
25 of institutional care.

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27 K. The existing forfeiture laws of the MCN are inadequate to address the needs
28 of vulnerable animals. MCNCA Title 22, § 2-102 – **Public Safety – Property Subject to**
29 **Forfeiture**, requires amendment to address the ongoing cost of care of animals seized
30 due to acts of animal cruelty.

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32 L. Forfeited animals should be given the opportunity to live in dignity under the
33 care of a responsible owner.

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35 M. Specific terms and conditions should be presented to owner(s)/custodian(s)
36 of seized animals by which such persons may maintain legal custody of the seized
37 animals at the sole expense of the owner(s)/custodian(s), providing for the past and future
38 reasonable and necessary care of the seized animals, and continuing until the animals
39 are returned or ownership is forfeited. Terms and conditions may also include that such
40 owner(s)/custodian(s) shall not acquire, care for or possess any other animals during the
41 pendency of this or any related case.

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43 N. Amending Title 22 regarding property subject to forfeiture is analogous to
44 federal law and state law (18 U.S.C. §981 – **Civil Forfeiture**, and Title 21 O.S. §1680.4
45 – **Custody of Abused or Neglected Animals – Bond Euthanasia**).

1 **SECTION TWO. PURPOSE.** The purpose of this Act is to authorize the amendment of
2 MCNCA Title 22, § 2-102, to include a paragraph “C”, which provides for the requirement
3 of payment of expenses, bond and/or civil forfeiture of animals seized due to cruelty by
4 the owner(s) or custodian(s).
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6 **SECTION THREE. AMENDMENT.** This amendment shall be codified in Title 22, Chapter
7 2, Entitled “PUBLIC SAFETY”, Section 2-102(C) of the Code of Laws of the Muscogee
8 (Creek) Nation; provided that for purposes of codification of said amendment and its
9 inclusion in pocket parts of the Code of Laws of the Muscogee (Creek) Nation, the
10 Attorney General is hereby authorized: (1) to approve any changes related to the manner
11 in which sections, articles, chapters and sub-chapters are designated consistent with the
12 format in the Code of Laws published in 2010 by West Publishing Company; (2) to include
13 footnoted references to the legislative history in said pocket parts to the Code of Laws;
14 and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical
15 errors in the following amendment, without further National Council approval:
16

17 **C. Any person who by their actions or inactions causes any animal(s) to**
18 **be seized due to allegations of animal cruelty as defined by the Muscogee (Creek)**
19 **Nation Code of Offenses or assimilated laws within the historic reservation**
20 **boundaries of the Muscogee (Creek) Nation, in addition to any other penalties at**
21 **law, subject to the following provisions, said owner(s)/custodian(s) shall be**
22 **required to reimburse the Muscogee (Creek) Nation for all reasonable and**
23 **necessary costs of seizure, veterinary care, food and shelter related expenses of**
24 **the seized animal(s), the requirement to post a bond to cover such costs incurred**
25 **by the Muscogee (Creek) Nation, and/or the animal(s) shall be subject to forfeiture.**
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- 28 1. **The District Court of the Muscogee (Creek) Nation is authorized to**
29 **set specific terms and conditions by which the**
30 **owner(s)/custodian(s) of any seized animal(s) may maintain legal**
31 **custody of the animal(s) at the sole expense of the**
32 **owner(s)/custodian(s), providing for the past and future cost of**
33 **care of the seized animal(s) while in the custody of the Muscogee**
34 **(Creek) Nation.**
 - 35 2. **Such terms and conditions may also include that such**
36 **owner(s)/custodian(s) be prohibited from acquiring or possessing**
37 **any other animal(s), of any kind, during the pendency of this or any**
38 **related court proceeding.**
 - 39 3. **The owner(s)/custodian(s) of the seized animal(s) shall be required**
40 **to reimburse the Muscogee (Creek) Nation of all expenses incurred**
41 **in the seizure and up to a date certain as determined by the Court**
42 **and to be paid within thirty (30) days from the date of the Court’s**
43 **order, and that the owner(s)/custodian(s) further be required to pay**
44 **for the ongoing reasonable and necessary care of the seized**
45 **animal(s) as and when such costs become due. Costs of care shall**
46 **include, but not be limited to veterinary care, feed and board.**
Should the owner(s)/custodian(s) fail to comply with the Court’s

1 order of reimbursement, ongoing costs or bond, the Muscogee
2 (Creek) Nation may be awarded an ongoing lien interest in the
3 animal(s) and be permitted to immediately execute upon that lien
4 by either the sale or other disposition of the animal(s), or, in the
5 alternative, provide that the owner/custodian be in violation of the
6 Court's order, that the custody agreement of the animal(s) provide
7 for and result in immediate forfeiture of the animal(s) to the MCN.

- 8 4. Owner(s)/custodian(s) may be required to post a security bond
9 within seventy-two (72) hours of the Court's order in an amount
10 determined by the Court sufficient to reimburse the Muscogee
11 (Creek) Nation for all past and anticipated future reasonable and
12 necessary costs incurred by the Muscogee (Creek) Nation for the
13 care of the animal(s) from and including the date of the seizure.
14 Reasonable and necessary costs should include, but not be limited
15 to, veterinary care, medical care, feed and boarding of the
16 animal(s). The bond shall be placed with the Clerk of the Court of
17 the Muscogee (Creek) Nation. The Muscogee (Creek) Nation shall
18 provide an accounting of expenses to the Court for posting of a
19 subsequent bond at any time. When all expenses covered by the
20 bond are exhausted and a subsequent bond not timely posted the
21 animal(s) shall be forfeited to the Muscogee (Creek) Nation. Should
22 the District Court order the animal(s) be returned to the
23 owner(s)/custodian(s) funds not used for the care of the animal(s)
24 shall be returned.
- 25 5. Nothing herein shall prevent the Muscogee (Creek) Nation's
26 ethanasia of a seized animal(s) at any time as determined
27 necessary by a licensed veterinarian.
- 28 6. Forfeiture of any animal(s) under this section does not preclude
29 requiring the owner(s)/custodian(s) to pay restitution to the
30 Muscogee (Creek) Nation for the care of the seized animal(s) while
31 in the physical custody of the Muscogee (Creek) Nation.
- 32 7. Seized animals may be held as evidence until a forfeiture has been
33 declared or a release ordered.
- 34 8. Reasonable notice of intended forfeiture proceedings shall be
35 given all known owner(s)/custodian(s) of the seized animal(s) and
36 to known parties of interest.
- 37 9. Animals forfeited under this section may be disposed of at the
38 discretion and direction of the Court. Disposition may include
39 transfer of custody and ownership of any seized animal(s) to any
40 organization created for the protection of animals for the eventual
41 adoption of such animal(s).
- 42 10. Any proceeds from the sale of any seized animal(s) shall be
43 distributed in conformance with paragraph "B" of this Section.
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1 **SECTION FOUR. EFFECTIVE DATE.** This Act shall become effective immediately
2 upon proper approval and execution in accordance with the requirements of the
3 Muscogee (Creek) Nation Constitution.

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