

**A COUNCIL BILL AMENDING THE CHOCTAW NATION  
CRIMINAL PROCEDURE CODE**

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**IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION**

**RONALD PERRY INTRODUCED THE FOLLOWING COUNCIL BILL**

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**A COUNCIL BILL**

**TO AMEND** the Choctaw Nation Criminal Procedure Code; creating the Healing To Wellness Court Program Act (HTW); amending section 982a by changing the term “section” to “subsection”; changing the term “inmate” to “defendant”; adding subsection C related to modifications of sentences; setting forth the standard length of sentences; allowing for the Department of Criminal Justice to give credits towards the reduction of sentences; allowing for the Department of Criminal Justice to remove credits; mandating that no person convicted of violent offenses be eligible to serve less than 85% of the sentence imposed; defining violent offenses; allowing the Tribal Prosecutor to contest the early release of an inmate; and setting the process to which an early release is contested.

**WHEREAS**, in accordance with Article IX, Section 4 of the Constitution of the Choctaw Nation of Oklahoma, the Tribal Council (the “Council”) shall enact legislation, rules, and regulations not inconsistent with the Constitution for the general good of the Choctaw Nation and for the administration and regulation of the affairs of the Choctaw Nation; and

**WHEREAS**, the Council has previously adopted the Choctaw Nation Criminal Procedure Code, which provides the procedures to be followed in criminal cases in the courts of the Choctaw Nation of Oklahoma; and

**WHEREAS**, the Nation, as a sovereign nation, possesses the right to define the procedures to be followed in its courts;

**WHEREAS**, in accordance with Article IX, Section 4 of the Constitution of the Choctaw Nation of Oklahoma, the Tribal Council (the “Council”) shall enact legislation, rules, and regulations not inconsistent with the Constitution for the general good of the Choctaw Nation and for the administration and regulation of the affairs of the Choctaw Nation; and

**WHEREAS**, the Council finds it is in the best interest of the Nation to adopt the proposed amendments to the Choctaw Nation Criminal Procedure Code as listed below, to revise and clarify the procedures governing modification of sentences.

**WHEREAS**, there is currently no provision governing how a sentence of imprisonment is to be calculated, or how an inmate shall earn credit towards the completion of a sentence; and

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**THEREFORE BE IT ENACTED**, by the Tribal Council of the Choctaw Nation of Oklahoma, that this bill be cited as approval to amend Sections 471, 472, 473 474, 475, 476, 477, 478, 479, 480, 481, 982a, and 984 of the Choctaw Nation Criminal Procedure Code to read as follows:

SECTION 1. NEW LAW Section 471 of the Choctaw Nation Criminal Procedure Code is enacted to read as follows:

**SECTION 471 - HEALING TO WELLNESS COURT PROGRAM ACT**

Sections 471 through 481 of the Choctaw Nation Criminal Procedure Code shall be known and may be cited as the "Healing to Wellness Court Act" or "the Act." The purpose of the Healing to Wellness Court Act is to establish for the Choctaw Nation of Oklahoma an alternative wellness court known as the "Atuya Healing to Wellness Court" to help tribal members break the generational cycle of abuse, addiction or other conditions that impact their wellbeing and to promote public safety by reducing recidivism rates of drug and alcohol offenses.

SECTION 2. NEW LAW Section 472 of the Choctaw Nation Criminal Procedure Code is enacted to read as follows:

**SECTION 472 – DEFINITIONS**

1. The terms "healing to wellness court", "HTW Court", "HTW Court program" or "program" shall mean a structured judicial intervention process for substance abuse treatment of eligible offenders which consists of a separate judicial processing system differing in practice and design from the traditional adversarial criminal prosecution and trial system of the Choctaw Nation District Court. HTW Court dockets may be expanded to offer mental health, domestic violence or other conditions that may be a focus of clinical attention.

2. "District Court" shall mean the Choctaw Nation District Court.

3. "HTW Implementation Team" shall mean the team consisting of a judge to preside over the HTW Court judicial process, a prosecuting attorney from the Tribal Prosecutor's office, a defense attorney/public defender, a HTW Case Manager, and other persons designated by the HTW Implementation Team who shall have appropriate understanding of the goals of the program and of the appropriate treatment methods for the various conditions and who shall participate in the operation of the HTW Court program.

4. "HTW Case Manager" shall mean the individual hired to maintain the accurate and timely records and documentation for the HTW Court program, investigate the acceptance of an individual into the HTW Court program, facilitate communication between HTW Court Implementation Team members and partner agencies, ensure that policies and procedures are

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followed and performing general oversight of HTW case processes, at the direction of the HTW Court judge.

5. "Offender" shall mean a person applying for acceptance into the HTW Court program.

6. "Participant" shall mean a person accepted into the HTW Court program.

7. "Violent Offense" shall include, but is not limited to, crimes for assault, battery, assault and battery with a dangerous or deadly weapon, any crime with an intent to kill, murder, kidnapping, burglary in the first degree, child abuse, rape, sodomy, lewd or indecent proposition or lewd acts with a child, use of a firearm or weapon to commit or attempt to commit a felony, arson, human trafficking, or any other crime deemed as violent by the HTW Court judge.

SECTION 3. NEW LAW Section 473 of the Choctaw Nation Criminal Procedure Code is enacted to read as follows:

**SECTION 473 - IMPLEMENTATION OF A HEALING TO WELLNESS COURT PROGRAM**

A. The District Court is eligible to establish a HTW Court pursuant to the provisions of this Act, subject to availability of funds.

B. The District Court is hereby authorized to develop policies, procedures, and standards for use in the operation of the HTW Court, as well as standardized forms and other documents to be used in the HTW Court, consistent with the provisions of this Act.

C. Nothing in the Act shall be construed to require the HTW Court to consider and accept every offender with a treatable condition or addiction, even if the controlling offense is eligible for consideration in the program. Traditional prosecution shall be required where an offender is not accepted into the HTW Court program.

D. The assignment of any person to the HTW Court Implementation Team shall not preclude the assigned person from performing other duties required in the course of their office or employment with the Choctaw Nation.

E. The Presiding District Court Judge shall designate one or more judges to preside over cases assigned to the HTW Court. Judicial immunity shall extend to any duty required by law to be performed by a judge of a HTW Court.

F. Any criminal case which has been filed and processed in the traditional manner shall be cross-referenced to a HTW Court file by the District Court Clerk if the case is subsequently assigned to the HTW Court program. The originating criminal case file shall remain open to public inspection, unless sealed by a District Court judge. The HTW Court judge shall determine what information or pleadings are to be retained in the HTW Court case file, which shall be closed to public inspection.

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SECTION 4. NEW LAW Section 474 of the Choctaw Nation Criminal Procedure Code is enacted to read as follows:

**SECTION 474 - POWERS AND AUTHORITY OF THE HTW COURT**

A. The judge of the HTW Court is hereby authorized to order and/or impose sanctions and incentives for participants who enter the HTW Court program. The HTW Court's powers and authority hereunder shall include, but are not limited to, the following:

1. Creating, approving, and enforcing treatment plans;
2. Holding participants in direct or indirect contempt of court for willful violations of the HTW Court's orders, including court-ordered treatment plans;
3. Imposing fines and/or costs;
4. Ordering the performance of community service;
5. Ordering participation in Choctaw traditional or cultural practices;
6. Ordering participants to receive mandatory inpatient/outpatient drug or alcohol treatment or counseling;
7. Ordering a participant to maintain employment and/or obtain job training;
8. Ordering random and/or periodic urinalysis, hair follicle, or other testing for substances;
9. Authorizing increased or restricted contact with family members, friends, or acquaintances and setting curfews;
10. Extending, accelerating, and/or terminating treatment plan(s) and/or ordering that non-compliance participants be discharged from the HTW Court;
11. Where a participant in the program has materially and/or repetitively violated the terms of his or her HTW Court-ordered treatment plan, ordering that the participant be placed in confinement for a period not to exceed 5 days for each violation, but only after the HTW Court judge expressly finds that the participant's violation of the plan was willful and that other sanctions or incentives are inadequate; and
12. Imposing any other condition, standard, requirement, treatment, service, training, or activity which the HTW Court deems appropriate under the facts and circumstances of the case in the exercise of the court's sound discretion.

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B. The HTW Court program shall be required to keep reliable data on recidivism, relapse, revocations, sanctions imposed, incentives given and graduation rates.

SECTION 5. NEW LAW Section 475 of the Choctaw Nation Criminal Procedure Code is enacted to read as follows:

**SECTION 475 - COOPERATIVE AND CONTRACTUAL AGREEMENTS**

A. The HTW Court may request assistance from Choctaw Nation Behavioral Health or any other Choctaw Nation department in obtaining the necessary treatment or other services which will assure maximum opportunity for successful treatment, education and rehabilitation for offenders admitted to the program. All participating departments are directed to coordinate with each other and cooperate in assisting the District Court in establishing and maintaining a HTW Court program. The Presiding District Court Judge is hereby authorized to negotiate and enter into cooperative agreements with Choctaw Nation Departments for integrating and/or coordinating services for the HTW Court program.

B. In the event the Presiding District Court Judge determines that it is in the best interest of the HTW Court program to contract with service providers outside the Choctaw Nation in order to effectuate the goals of the HTW Court or to hire its own service providers, the District Court may enter into and execute necessary contracts with such providers, subject to funding availability.

SECTION 6. NEW LAW Section 476 of the Choctaw Nation Criminal Procedure Code is enacted to read as follows:

**SECTION 476 - HEALING TO WELLNESS COURT PROGRAM ELIGIBILITY AND REQUEST FOR ADMITTANCE**

A. The opportunity for review of an offender for admittance into the HTW Court program shall occur at any time prior the sentencing of the offender, including sentencing on a petition to revoke a suspended sentence or any probation violation.

B. The following are grounds for potential eligibility into the HTW Court Program:

1. The offender is not currently charged with a Violent Offense in the District Court of the Choctaw Nation, provided the HTW Court judge may waive this requirement with the consent of the Tribal Prosecutor if the HTW Court judge believes that the defendant will likely respond to rehabilitative treatment despite the violent nature of the offense; provided, no offender charged with a Violent Offense shall be eligible for HTW Court if the Tribal Prosecutor does not consent to their participation;

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2. The offender has no prior felony conviction in the Choctaw Nation or any state for a domestic violence offense within the last ten (10) years, except as may be allowed in a domestic violence treatment program authorized by the HTW Court program. An offender admitted to the HTW Court program for a crime which requires the offender to attend a batterers' intervention program shall be required to undergo such treatment as a condition of HTW Court program.
  3. The offender is a member of the Choctaw Nation of Oklahoma or is otherwise subject to the jurisdiction of the Choctaw Nation District Court, and
  4. The offender:
    - a. admits to or appears to have a substance abuse addiction,
    - b. has a drug and alcohol assessment performed by personnel certified by the Oklahoma Department of Mental Health and Substance Abuse Services or the Choctaw Nation Behavioral Health Department, and
    - c. is willing and able to consent to enter into the HTW Court program.
- C. An offender or their counsel may complete an eligibility form that shall ask questions sufficient to determine the information set forth above in subsection B and shall also describe the HTW Court program for which the offender may be eligible including, but not limited to:
1. A description of the HTW Court process and investigation;
  2. A general explanation of the roles and authority of the supervising staff, the prosecuting attorney, the defense attorney, the treatment providers, the offender, and the judge(s) presiding over the cases in the HTW Court program;
  3. A clear statement that the HTW Court judge may decide after a hearing not to consider the offender for the HTW Court program and in that event the offender will be prosecuted in the traditional manner;
  4. A statement that the offender is required, before consideration in the program, to enter a guilty plea as part of a written plea agreement;
  5. A statement that the plea agreement will specify the offense to which the guilty plea will be entered and will state any penalty to be imposed for the offense, both in the event of a successful completion of the HTW Court program, and in the event of a failure to complete the program;
  6. A statement that the offender must voluntarily agree to:
    - a. waive the right to a speedy trial,
    - b. waive the right to a preliminary hearing, if applicable,

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- c. the terms and conditions of a treatment plan, and
  - d. sign a performance contract with the HTW Court program;
7. A statement that during participation in the HTW Court program should the offender:
- a. fail to comply with the terms of the agreements or the HTW Court program,
  - b. be convicted of a misdemeanor offense which reflects a propensity for violence,
  - c. commit a Violent Offense, or
  - d. be convicted of any felony offense,

the offender may be required, after a court hearing, to be revoked from the HTW Court program and sentenced without trial pursuant to the punishment provisions of the negotiated plea agreement; and

8. An explanation of the criminal record retention and disposition resulting from participation in the HTW Court program following successful completion of the program.

SECTION 7. NEW LAW Section 477 of the Choctaw Nation Criminal Procedure Code is enacted to read as follows:

**SECTION 477 - PROCESS FOR ACCEPTANCE INTO THE HTW COURT PROGRAM**

A. Upon the submission of an eligibility form as set forth in Section 476, the HTW Court shall notify the prosecuting attorney with the Tribal Prosecutor's Office, the offender and/or the offender's attorney of the request for admission and shall conduct an initial hearing for consideration of admittance of an offender into the HTW Court program. At the initial hearing, the District Court shall determine whether:

- 1. The offender meets the eligibility requirements set forth in Section 476;
- 2. Any statutory preclusion, other prohibition, or program limitation exists and is applicable to considering the offender for the program.

B. The prosecuting attorney may object to the consideration of an offender for the HTW Court program at the initial hearing. Upon any objection of the prosecuting attorney, an eligible Offender or his/her counsel may advocate for acceptance into the HTW Court Program over the prosecuting attorney's objection. The District Court Judge shall consider argument of both parties and make a determination on the offender's acceptance into the Program. The District Court Judge's decision upon acceptance into the Program is final. Upon denial for consideration

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in the HTW Court program at the initial hearing, the criminal case shall proceed in the traditional manner on the District Court's criminal docket. A denial of consideration of the offender for the program shall not preclude any future consideration of the offender for the HTW Court program with the approval of the prosecuting attorney.

C. If the offender voluntarily consents to be considered for the HTW Court program and has signed and filed the required forms requesting consideration, and no objection has been made by the prosecuting attorney, the District Court Judge may refer the offender for a HTW Court investigation to be conducted by the HTW Court's Case Manager, as set forth herein.

D. The HTW Court shall adopt standards and protocols for its investigation into the eligibility of an offender to the HTW Court Program, including but not limited to consideration of the offender's age and physical condition, employment and military service records, education background, community and family relations, prior and current drug and alcohol use, mental health and medical treatment history, demonstrable motivation, and any other mitigating or aggravating factors.

E. The HTW Case Manager shall conduct the investigation into the offender's eligibility utilizing the HTW Court's adopted standards and protocols, including a personal or telephonic/video interview with the offender, and shall prepare a written recommendation as to whether the offender should be accepted into the HTW Court program. If acceptance is recommended, the HTW Case Manager shall also make a recommendation for the treatment program or programs that are available in the jurisdiction and which would benefit the offender. The HTW Case Manager's written investigation findings and recommendations for program placement shall be reported to the HTW Court judge, the prosecuting attorney, the offender, and the defense attorney at least ten (10) days prior to the next scheduled hearing.

F. The prosecuting attorney and the defense attorney for the offender shall independently review the findings and recommendations of the HTW Case Manager's report. For an offender to be eligible for consideration in the program, both the prosecuting attorney and the defense attorney shall negotiate and agree to the terms of the written plea agreement with all punishment provisions specified prior to the scheduled hearing date for determining final eligibility. The punishment provisions of the written plea agreement shall emphasize reparation to any victims, the community, and the Nation, if applicable.

G. The HTW Court shall then conduct a final hearing to make a determination as to whether the offender should be accepted into the HTW Court program. At the hearing to determine final eligibility for the HTW Court program, the HTW Court judge shall deny admission into the HTW Court program when the offender does not meet the presumptive eligibility criteria of the program or the offender is inappropriate for admission to the program. The decision of the HTW Court judge for or against eligibility and admission shall be final.

H. If accepted into the HTW Court program, the offender shall be required to execute at the final admission hearing the following court documents:

1. Waiver of the offender's rights to speedy trial;



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2. A written plea agreement which sets forth the offense charged, the penalty to be imposed for the offense in the event of a breach of the agreement and the penalty to be imposed, if any, in the event of a successful completion of the treatment program;
3. A written treatment plan which is subject to modification at any time during the program; and
4. A written performance contract requiring the offender to enter the treatment program as directed by the court and participate until completion, withdrawal or removal by the court.
5. Waiver of liability form.
6. Any other paperwork deemed necessary by the HTW Court judge.

I. If admission into the HTW Court program is denied, the criminal case shall be returned to the traditional District Court criminal docket and shall proceed as provided for any other criminal case.

J. At the time an offender is admitted to the HTW Court program, any bail or undertaking on behalf of the offender shall be exonerated.

K. The denial of an offender's request for admittance into the HTW Court is not an appealable order.

SECTION 8. NEW LAW Section 478 of the Choctaw Nation Criminal Procedure Code is enacted to read as follows:

**SECTION 478 – EVIDENCE**

The rules of evidence implemented by the Choctaw Nation shall not apply in HTW Court proceedings. Any information obtained, used or disclosed by or to the HTW Implementation Team regarding a participant's drug and/or alcohol use or the treatment of any participant in the HTW Court shall not be used as evidence against the participant in any other proceeding in the District Court.

SECTION 9. NEW LAW Section 479 of the Choctaw Nation Criminal Procedure Code is enacted to read as follows:

**SECTION 479 – OPERATIONS, PROGRESS REPORTS, REVIEWS AND REVOCATION**

A. The designated HTW Court judge shall make all judicial decisions concerning any case assigned to the HTW Court docket or program. The judge shall require progress reports and a periodic review of each participant during his or her period of participation in the HTW Court program or for purposes of collecting costs and fees after completion of the treatment portion of the program. Reports from the treatment providers and the supervising staff shall be presented to the HTW Court judge as specified by the treatment plan or as ordered by the court.

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B. The HTW Court judge may establish a regular schedule for progress hearings for any participant in the HTW Court program. All hearings in the HTW Court shall be closed to the public, unless otherwise ordered by the HTW Court judge. The prosecuting attorney shall not be required to attend regular progress hearings, but shall be required to be present upon the motion of any party to a HTW Court case.

C. The treatment provider(s), the supervising staff, and any member of the HTW Implementation Team shall be allowed access to all information in the participant's HTW Court case file and all information presented to the judge at any periodic review or progress hearing.

D. The HTW court judge shall recognize relapses and restarts in the program which are considered to be part of the rehabilitation and recovery process. The judge shall accomplish monitoring and offender accountability by ordering progressively increasing sanctions or providing incentives, rather than removing the offender from the program when relapse occurs, except when the offender's conduct requires revocation from the program. Any revocation from the drug court program shall require notice to the offender and other participating parties in the case and a revocation hearing. At the revocation hearing, if the offender is found to have violated the conditions of the plea agreement or performance contract and disciplinary sanctions have been insufficient to gain compliance, the offender shall be revoked from the program and sentenced for the offense as provided in the plea agreement.

E. Upon recommendation from the HTW Implementation Team that the participant's participation in the HTW Court should be revoked, the Tribal Prosecutor shall file a petition showing probable cause for termination. Grounds for termination include;

1. Committing a Violent Offense;
2. Abandonment of the HTW Court program;
3. Non-compliance with HTW Court program requirements or treatment plan;
4. Any disrespectful, threatening, abusive or violent verbal/physical behavior.

The HTW Court judge shall set a hearing for the revocation and a copy of the Petition and notice for hearing shall be served upon the participant and his counsel. At the hearing, the participant shall have the opportunity to appear, be represented by counsel, present evidence on his or her behalf, and present and question witnesses. If the HTW Court judge determines after the hearing that the participant violated the terms of the HTW program by a preponderance of the evidence, the participant shall be revoked from the HTW Court program. The HTW Court shall enter an order transferring the matter to the District Court Judge assigned to the participant's criminal case for him/her to impose the sentence that would have originally been imposed. Revocation from the HTW Court is not subject to appeal.

F. Upon the participant's request or request of the Implementation Team after consultation with the participant's treatment provider, the HTW Court judge may consider modification of a participant's treatment plan, if such modification is deemed by the HTW Court judge to be in the best interest of the participant.

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G. The HTW Court judge shall be prohibited from amending the written plea agreement after an offender has been admitted to the HTW Court program.

H. In the event of revocation proceedings, either party may request that the HTW Court judge recuse from the case. In that event, the HTW Court judge shall recuse, and the Presiding Judge of the District Court shall appoint another judge to hear the revocation proceeding. In the event a judge other than the HTW Court judge accepted the plea of the offender and ordered participation in the HTW Court, that judge may be assigned to hear the proceedings, and shall not be disqualified from hearing said proceedings by his prior participation in the case.

SECTION 10. NEW LAW Section 480 of the Choctaw Nation Criminal Procedure Code is enacted to read as follows:

**SECTION 480 – VOLUNTARY NON-CRIMINAL CASE REFERRALS**

Nothing about the provisions of this Act shall preclude the HTW Court from accepting into the HTW Court program voluntary participants with no pending charges before the District Court, but who are suffering from the negative effects of use or abuse of alcohol or other substances or from mental health conditions. The HTW Court shall prepare separate rules and conditions for voluntary acceptance and participation into the HTW Court program.

**SECTION 481 - SUCCESSFUL COMPLETION OF THE HTW COURT PROGRAM**

A. When a participant has successfully completed the HTW Court program, the criminal case against the participant shall be:

1. Dismissed or the sentence deferred for a period not to exceed two (2) years if the offense was a first felony offense; or
2. If the participant has a prior felony conviction, the disposition shall be as specified in the written plea agreement.

B. The final disposition order for a HTW Court case shall be filed with the District Court judge assigned to the case and shall indicate the sentence specified in the written plea agreement. A copy of the final disposition order for the HTW Court case shall also be filed in the original criminal case file under the control of the court clerk which is open to the public for inspection. Original criminal case files which are under the control of the court clerk and which are subsequently assigned to the HTW Court program shall be marked with a pending notation until a final disposition order is entered in the HTW Court case. After a participant completes the program, the HTW Court case file shall be sealed by the HTW Court judge and may be destroyed after ten (10) years. The prosecuting attorney shall have access to sealed HTW Court case files without a court order.

C. A record pertaining to an offense resulting in a successful completion of a HTW Court program shall not, without the participant's consent in writing, be used in any way which could result in the denial of any employee benefit.

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D. When the participant has successfully completed the HTW Court program, the HTW Court judge shall have the discretion to expressly waive all or part of the court costs and fees, if applicable, and fines associated with the criminal case.

SECTION 12. AMENDATORY Section 982a of the Choctaw Nation Criminal Procedure Code is amended to read as follows:

**SECTION 982a – JUDICIAL REVIEW**

A. Any time within twelve (12) months after the initial sentence is imposed or within twelve (12) months after probation has been revoked, the court imposing sentence or revocation of probation may modify such sentence or revocation by directing that another sentence be imposed, if the court is satisfied that the best interests of the public will not be jeopardized; provided, however, the court shall not impose a deferred sentence.

Any application for sentence modification that is filed and ruled upon beyond twelve (12) months must be approved by the prosecuting attorney who shall provide written notice to any victims in the case which is being considered for modification. This subsection shall not apply to convicted felons who have been in confinement in any tribal, state, or federal prison system for any previous felony conviction during the ten-year period preceding the date that the sentence this subsection applies to was imposed. Further, without the consent of the prosecuting attorney, this section shall not apply to sentences imposed pursuant to a plea agreement or jury verdict.

B. If the court considers modification of the sentence or revocation of probation, a hearing shall be made in open court. The clerk of the court imposing sentence or revocation of probation shall give notice of the judicial review hearing to the ~~defendant inmate~~, the ~~defendant's inmate's~~ legal counsel, and the prosecuting attorney. Such notice shall be mailed at least twenty-one (21) days prior to the hearing date and shall include any written information to be considered at the judicial review hearing.

C. Notwithstanding any other provision of this section, the sentence of any defendant may be modified at any time by the Court upon the consent of the prosecuting attorney and the Department of Criminal Justice. No sentence may be so modified outside the time limitations set forth in subsections A and C of this section unless both the prosecuting attorney and the Department of Criminal Justice consent to such action. Any hearing as to such a modification shall be held as set forth in subsection B of this section.

D. If an appeal is taken from the original sentence or from a revocation of probation which results in a modification of the sentence or modification to the revocation of probation of the defendant, such sentence may be further modified in the manner described in subsection A of this section

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within twelve (12) months after the receipt by the clerk of the district court of the mandate from the Court of Appeals.

SECTION 13. NEW LAW Section 984 of the Choctaw Nation Criminal Procedure Code is enacted to read as follows:

**SECTION 984 – Service of Sentence**

A. Except as may be otherwise provided by law, every inmate sentenced to a term of imprisonment shall serve each day of that sentence, which shall not be reduced except as provided by law.

B. The Department of Criminal Justice is hereby authorized to give credit towards reduction of the term of imprisonment to inmates pursuant to this section. Said credits shall be awarded based on factors including, but not limited to, rehabilitation, obtaining job skills and educational enhancement, participation in and completion of alcohol/chemical abuse programs, incentives for inmates to accept work assignments and jobs, work attendance and productivity, conduct record, participation in programs, cooperative general behavior, and appearance. The Department is hereby authorized and directed to develop a written policy and procedure whereby inmates may earn such credits, and such credits shall be awarded at the discretion of the Department as outlined in said policy.

C. If an inmate is subject to misconduct, nonperformance or disciplinary action, credits may be removed according to the policies and procedures developed by the Department. Credits removed for misconduct, nonperformance or disciplinary action may be restored as provided by Department policy, if any.

D. In no event shall any person convicted of a violent offense, an attempt to commit a violent offense, or solicitation or conspiracy to commit a violent offense, be eligible for credits which have the effect of reducing the length of the sentence to less than eighty-five percent (85%) of the sentence imposed. For the purposes of this section, “violent offense” shall include the following:

1. Murder in the first degree, as defined by Section 700 of the Choctaw Nation Criminal Code.
2. Murder in the second degree, as defined by Section 700 of the Choctaw Nation Criminal Code.
3. Manslaughter in the first degree, as defined by Section 701 of the Choctaw Nation Criminal Code.
4. Manslaughter in the second degree, as defined by Section 701 of the Choctaw Nation Criminal Code.
5. Poisoning with intent to kill, as defined by Section 651 of the Choctaw Nation Criminal Code.

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6. Shooting with intent to kill, as defined by Section 652 of the Choctaw Nation Criminal Code.
7. Use of a vehicle to facilitate use of a firearm, crossbow or other weapon, as defined by Section 652 of the Choctaw Nation Criminal Code.
8. Assault, battery, or assault and battery with a deadly weapon or by other means likely to produce death or great bodily harm, as defined by Section 652 of the Choctaw Nation Criminal Code.
9. Assault, battery, or assault and battery with a dangerous weapon, as defined by Section 645 of the Choctaw Nation Criminal Code.
10. Aggravated assault and battery, as defined by Section 646 of the Choctaw Nation Criminal Code, when committed against a tribal, municipal, state or federal law enforcement officer.
11. Assault with intent to kill, as defined by Section 653 of the Choctaw Nation Criminal Code.
12. Assault with intent to commit a felony, as defined by Section 681 of the Choctaw Nation Criminal Code.
13. Maiming, as defined by Section 741 of the Choctaw Nation Criminal Code.
14. Robbery in the first degree, as defined by Section 797 of the Choctaw Nation Criminal Code.
15. Robbery in the second degree, as defined by Section 797 of the Choctaw Nation Criminal Code.
16. Robbery with a dangerous weapon, firearm, or imitation firearm, as defined by Section 800 of the Choctaw Nation Criminal Code.
17. Rape or rape by instrumentation in the first degree, as defined by Section 1104 of the Choctaw Nation Criminal Code.
18. Rape or rape by instrumentation in the second degree, as defined by Section 1104 of the Choctaw Nation Criminal Code.
19. Sexual Violence, as defined by Section 1106 of the Choctaw Nation Criminal Code.
20. Sexual battery or unconsented sexual contact, as defined by Section 1116 or 1121 of the Choctaw Nation Criminal Code.
21. Arson in the first degree, as defined by Section 1401 of the Choctaw Nation Criminal Code.
22. Burglary in the first degree, as defined by Section 1431 of the Choctaw Nation Criminal Code.
23. Burglary with explosives, as defined by Section 1441 of the Choctaw Nation Criminal Code.

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24. Any felony act involving an explosive or incendiary device, as defined by Sections 849 and 1764 of the Choctaw Nation Criminal Code.
25. Any act of child abuse, child neglect, child sexual abuse, child sexual exploitation, or enabling of any of those crimes, as defined by Section 843 of the Choctaw Nation Criminal Code.
26. Forcible sodomy, as defined by Section 888 of the Choctaw Nation Criminal Code.
27. Any violation of Sections 1020 through 1040.15 of the Choctaw Nation Criminal Code involving child pornography, as defined by Section 1024.1 of the Code.
28. Abuse of a vulnerable adult, as defined by Section 842 of the Choctaw Nation Criminal Code.
29. Aggravated assault and battery, as defined by Section 646 of the Choctaw Nation Criminal Code.
30. Human trafficking, as defined by Section 744 of the Choctaw Nation Criminal Code.
31. Kidnapping, as defined by Sections 741 and 742 of the Choctaw Nation Criminal Code.
32. Use of firearm or other offensive weapon when committing a felony, as defined by Section 1287 of the Choctaw Nation Criminal Code.
33. Pointing firearms or any deadly weapon, as defined by Section 1289.16 of the Choctaw Nation Criminal Code.
34. Feloniously discharging a firearm or other deadly weapon, as defined by Section 1289.17A of the Choctaw Nation Criminal Code.
35. Rioting, as defined by Section 1311 of the Choctaw Nation Criminal Code.
36. Incitement to riot, as defined by Section 1320.2 of the Choctaw Nation Criminal Code.
37. Endangering human life during arson, as defined by Section 1405 of the Choctaw Nation Criminal Code.
38. Injuring or burning public building, as defined by Section 349 of the Choctaw Nation Criminal Code.
39. Extortion, as defined by Section 1481 of the Choctaw Nation Criminal Code.
40. Prisoner placing bodily fluid on government employee, as defined by Section 650.9 of the Choctaw Nation Criminal Code.
41. Any act of domestic abuse, when such is a felony, as defined by Section 644 of the Choctaw Nation Criminal Code.
42. Stalking, when such is a felony, as defined by Section 1173 of the Choctaw Nation Criminal Code.

**A COUNCIL BILL AMENDING THE CHOCTAW NATION  
CRIMINAL PROCEDURE CODE**

43. Violation of a protective order, when such is a felony, as defined by Section 60.8 of the Choctaw Nation Criminal Procedure Code.

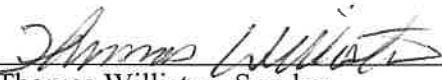
E. In calculating and applying said credits, the Department of Criminal Justice shall comply with the policies and procedures created pursuant to this section. The Tribal Prosecutor shall have the right to contest any release of any inmate until one (1) year after said inmate is released, on the basis that the Department did not comply with said policies in calculating and applying any credits. Said matter shall be presented upon petition filed in the case in which the inmate was sentenced and shall be heard and ruled on by the court which sentenced the inmate. Any aggrieved party shall have the right to appeal such a decision pursuant to the procedures of the Uniform Post-Conviction Procedures Act, Section 1080 *et seq.* of the Choctaw Nation Criminal Procedure Code.

**BE IT FURTHER ENACTED**, by the Tribal Council of the Choctaw Nation of Oklahoma, that the amendments to the Choctaw Nation of Oklahoma Code of Criminal Procedure contained herein are effective immediately.

**CERTIFICATION**

*I, the undersigned, as speaker of the Tribal Council of the Choctaw Nation of Oklahoma, do hereby certify that the Tribal Council is composed of twelve (12) seats. Eight (8) members must be present to constitute a quorum. I further certify that Eleven (11) members answered roll call and that a quorum was present at the Regular Session of the Tribal Council at Tuskahoma, Oklahoma on August 10, 2024. I further certify that the foregoing Council Bill CB- 96 -24 was adopted at such meeting by the affirmative vote of Eleven (11) members, Zero (0) negative votes, and Zero (0) abstaining.*

  
\_\_\_\_\_  
Ronald Perry, Secretary  
Choctaw Nation Tribal Council

  
\_\_\_\_\_  
Thomas Williston, Speaker  
Choctaw Nation Tribal Council

  
\_\_\_\_\_  
Gary Patton, Chief  
Choctaw Nation of Oklahoma

Date 8-12-24



**A COUNCIL BILL AMENDING THE CHOCTAW NATION  
CRIMINAL PROCEDURE CODE**

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**Purpose/Need of Council Bill:** Amends the Choctaw Nation Criminal Procedure Code; creating the Healing To Wellness Court Program Act (HTW); amending section 982a by changing the term "section" to "subsection"; changing the term "inmate" to "defendant"; adding subsection C related to modifications of sentences; setting forth the standard length of sentences; allowing for the Department of Criminal Justice to give credits towards the reduction of sentences; allowing for the Department of Criminal Justice to remove credits; mandating that no person convicted of violent offenses be eligible to serve less than 85% of the sentence imposed; defining violent offenses; allowing the Tribal Prosecutor to contest the early release of an inmate; and setting the process to which an early release is contested. This bill furthers the strategic objective of exercising tribal sovereignty.

**Title of Council Bill:** A COUNCIL BILL AMENDING THE CHOCTAW NATION CRIMINAL PROCEDURE CODE

**Agency:** Legal & Compliance

**Budget:** N/A

**Match Required:** N/A

**Request by Project Director:** Michael Haggerty, Lead Prosecutor, Brian Danker, SEO of Legal & Compliance