



Poarch Creek Indians
Tribal Council Ordinance

TCO 2013-01

**ORDINANCE AMENDING THE
TRIBAL SEX OFFENDER REGISTRATION CODE**

WHEREAS, the Poarch Band of Creek Indians is a federally recognized Tribe organized pursuant to 25 C.F.R. 83;

WHEREAS, the Constitution of the Poarch Band of Creek Indians authorizes its Tribal Council to enact, amend or repeal an ordinance;

WHEREAS, in accordance with § 2-3-1(B) of Title 2 of the Legislative Code, this Ordinance is introduced by Tribal Council motion at the regularly scheduled official meeting January 24, 2013;

WHEREAS, the Tribe previously elected to become a registration jurisdiction pursuant to the Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L. 109-248), 42 U.S.C. §16911 *et. seq.*, as amended;

WHEREAS, on April 7, 2011, TCO 2011-003 enacted Title 38 Tribal Sex Offender Registration Code.

WHEREAS, the SORNA Substantial Implementation Review by Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, has identified the following three revisions needed to the Tribal Sex Offender Registration Code:

- 1) Including provisions of a 21-day advanced notice requirement by sex offenders prior to international travel;
- 2) Correcting the mis-tiering of 18 U.S.C. 2243 (sexual abuse of a minor or ward) from a Tier 2 offense to a Tier 3 offense; and
- 3) Requiring Tribal Court to notify sex offenders of their obligation to register prior to entering a plea of guilty.

NOW THEREFORE BE IT ORDAINED that the Tribal Council hereby amends Sections 38-2-3(d) and 38-2-4(d); adopts 38-3-2; and amends 38-4-17(b) of Title 38 of the Tribal Code as follows:

§ 38-2-3 Tier 2 Offenses

(d) Certain Federal Offenses

Conviction for any of the following federal offenses shall be considered a conviction for a Tier 2 offense:

- (1) 18 U.S.C. §2244 (Abusive sexual contact, where the victim is 13 years of age or older);
- (2) 18 U.S.C. §2251 (sexual exploitation of children);
- (3) 18 U.S.C. §2251A (selling or buying of children);
- (4) 18 U.S.C. §2252 (material involving the sexual exploitation of a minor);
- (5) 18 U.S.C. §2252A (production or distribution of material containing child pornography);

- (6) 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
- (7) 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity);
- (8) 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution); or
- (9) 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

§ 38-2-4 Tier 3 Offenses

(d) Certain Federal Offenses

Conviction for any of the following federal offenses shall be considered conviction for a Tier 3 offense:

- (1) 18 U.S.C. §2243 (sexual abuse of a minor or ward);
- (2) 18 U.S.C. §2241 (aggravated sexual abuse);
- (3) 18 U.S.C. §2242 (sexual abuse); or
- (4) 18 U.S.C. §2244 when the victim is 12 years of age or younger (abusive sexual contact).

§ 38-3-2 Notice of Registration Requirement Prior to “Guilty Plea”

The Tribal Court shall notify Sex Offenders of their obligation to register prior to entering a plea of guilty for any qualifying offenses.

§ 38-4-17 Temporary Lodging

(b) Travel Abroad

In the event the Sex Offender will be traveling outside of the United States, the covered Sex Offender shall notify the Public Safety Department at least twenty-one (21) days prior to leaving the United States, and the Public Safety Department or designee shall Immediately provide this information to U. S. Marshals Service and any other jurisdiction where the Sex Offender is registered.

APPROVAL

I, the Chairman of the Poarch Band of Creek Indians, hereby affix my signature to the ordinance authorizing it to become official this 21st day of February, 2013.



Buford L. Rolin, Chairman
Poarch Band of Creek Indians

CERTIFICATION

I, the Secretary of the Poarch Band of Creek Indians, certify that the foregoing is a true extract from the minutes of the Tribal Council meeting of the Poarch Band of Creek Indians, comprised of nine members with 9 in attendance on the 21st day of February, 2013, and that the above is in conformity with the provisions therein adopted by a vote of 9 in favor, and 0 against, 0 abstentions.

A handwritten signature in black ink, appearing to read "David W. Gehman", with a horizontal line drawn underneath it.

David W. Gehman, Secretary
Poarch Band of Creek Indians