

## **C. ATTEMPT**

### **418 ATTEMPT TO COMMIT A CRIME**

A Native American is guilty of an attempt to commit a crime when, with intent to commit a crime, he engages in conduct which tends to effect the commission of such crime.

### **419 ATTEMPT TO COMMIT A CRIME; PUNISHMENT**

An attempt to commit a crime is a:

1. A felony when the crime attempted is a felony.
2. A misdemeanor when the crime attempted is a misdemeanor.

### **420 ATTEMPT TO COMMIT A CRIME; NO DEFENSE**

If the conduct in which a person engages otherwise constitutes an attempt to commit a crime it is no defense to a prosecution for such attempt that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission, if such crime could have been committed had the attendance circumstances been as such person believed them to be.

### **421 CRIMINAL FACILITATION IN THE FOURTH DEGREE**

A Native American is guilty of criminal facilitation in the fourth degree when, believing it probable that he is rendering aid:

1. to a Native American who intends to commit a crime, 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 a felony; or
2. to a Native American under sixteen years of age who intends to engage in conduct which would constitute a crime, 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 crime.

Criminal facilitation in the fourth degree is a misdemeanor.

### **422 CRIMINAL FACILITATION IN THE THIRD DEGREE**

A Native American is guilty of criminal facilitation in the third 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 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