



The Navajo Nation **DR. BUU NYGREN** **PRESIDENT**
Yideeskáądi Nitsáhákees **RICHELLE MONTOYA** **VICE PRESIDENT**

September 6, 2023

Honorable Crystalyne Curley, Speaker
Navajo Nation Council
Post Office Box 3390
Window Rock, AZ 86515

RE: CAU-77-23 *An Action Relating to Law and Order and Naabik'iyáti Committees and the Navajo Nation Council; Enacting the "Navajo Nation Victim's Rights Act of 2023"; Amending Title 17 of the Navajo Nation Code*

Dear Speaker Curley,

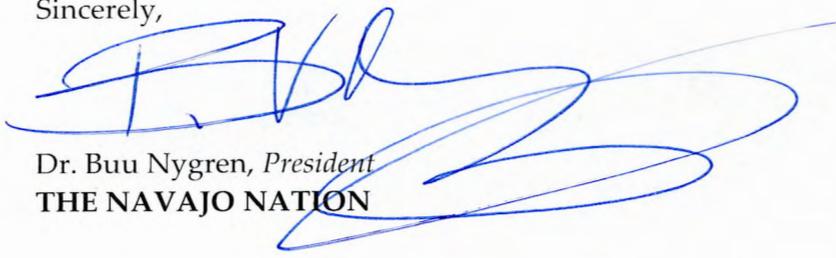
I am pleased to sign into law the Navajo Nation Victim's Rights Act of 2023. The Navajo Nation Victim Rights Act of 2023 amends Title 17 of the Navajo Nation Code by expanding the rights of victims and their families.

Specifically, the Act ensures that victims of crimes are treated with ké, fairness, respect and dignity within the Navajo criminal justice system. Through the Act, victims will receive adequate support, proper notice, and vital resources. Additionally, the Act enhances victim privacy and broadens protections for victims of crimes.

As the first Navajo Nation President to have an employee in my office dedicated to the Missing and Murdered Indigenous Relatives crisis, I strongly support this Act and further efforts to continue to improve and strengthen our Navajo Nation systems to protect the Navajo people.

Finally, I thank the many people who have been working for many years to make this Act a reality. Your steadfastness and commitment will benefit future generations of Navajo People

Sincerely,



Dr. Buu Nygren, *President*
THE NAVAJO NATION

RESOLUTION OF THE
 NAVAJO NATION COUNCIL
 25th NAVAJO NATION COUNCIL - FIRST YEAR, 2023

AN ACT

RELATING TO THE LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ENACTING THE "NAVAJO NATION VICTIM'S RIGHTS ACT OF 2023"; AMENDING TITLE 17 OF THE NAVAJO NATION CODE

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee was established as a standing committee of the Navajo Nation Council with the delegated responsibilities to "[t]o protect the rights and interests of the Navajo People by improving the quality and effectiveness of the justice system within the Navajo Nation" and to review and make recommendations to the Navajo Nation Council on proposed Navajo Nation Code amendments and enactments. 2 N.N.C. §§ 600(A), 600(C)(2) and 601(B)(14).
- B. The Naabik'íyáti' Committee was established as a standing committee of the Navajo Nation Council with the delegated responsibility to hear and act on proposed legislation that requires final action by the Navajo Nation Council. 2 N.N.C. §§ 164(A)(9) and 700(A)(2).
- C. The Navajo Nation Council is the governing body of the Navajo Nation and must review and approve enactments or amendments of positive law, i.e., changes to the Navajo Nation Code. 2 N.N.C. § 102(A) and § 164(A).

SECTION TWO. PURPOSE

The Navajo Nation Victim's Rights Act of 2023 ("2023 Act") is established to provide awareness to victims of crimes of their rights and the protections and support available to them. The rights and protections set forth in the 2023 Act extend beyond basic emergency needs by providing victims safety and support through statutory requirements and awareness. Through advocacy and awareness, victims are provided healing throughout the legal process as they move towards restoring Ké.

SECTION THREE. FINDINGS

- A. The most common criminal offenses reported on the Navajo Nation are violent assaults involving weapons and/or serious bodily injury, including sexual assault and rape.

- B. While the Navajo Nation's criminal statutes reference "victim" within the description of offenses, the Navajo Nation Code does not include supporting victim's rights. The 2023 Act set forth herein adopt specific provisions directly supporting and expanding victim's rights.
- C. The 2023 Act's amendments, to the Navajo Nation's criminal statutes were developed during the 24th Navajo Nation Council through Work Groups led by the Law and Order Committee and the Chief Prosecutor. The amendments developed by former President Russell Begaye's Executive Branch Work Group during the 23rd Navajo Nation Council were incorporated, fully or in part, into the 2023 Act.
- D. In addition, the Naabik'iyáti' Committee Sexual Assault and Prevention Workgroup took a holistic approach by including concerns and suggestions from advocates, officers, and the community in their recommendations to the 2023 Act's Victim's Rights and Advocacy Services section.
- E. The Navajo Nation Department of Justice reviewed the proposed amendments developed during the 24th Navajo Nation Council that are included in the 2023 Act and deemed them to be legally sufficient.
- F. The 25th Navajo Nation Council determines that the Navajo Nation Victim's Rights Act of 2023's amendments to Title 17 of the Navajo Nation Code are necessary and vital to prioritize victim's rights and enhance protections for all crime victims and their families as they await justice, as well as to ensure adequate deterrence and punishment for violent acts that threaten Navajo families and Navajo communities.

SECTION FOUR. ENACTMENT

The Navajo Nation Council hereby enacts the "Navajo Nation Victim's Rights Act of 2023" and amends Title 17 of the Navajo Nation Code as follows:

**Title 17. Law and Order
Chapter 1. Enforcement of Criminal Code**

§ 209. General definitions

CC. "Support Advocate" means a person who is employed or volunteers to provide information, referrals, resources, and direct support to the victim. This can include community-based advocates or systems-based advocates. This individual is not a legal advocate;

DD. "Victim" means a person directly or proximately harmed as a result of the commission of a crime. In the case of a victim who is a minor, incompetent, incapacitated, or deceased, the legal guardians of the victim or the representatives of the victim's estate, family members, or any other persons appointed as suitable by the court, may assume the victim's rights under this Title, but in no event shall the defendant be named as such guardian or representative;

Chapter 2. General Provision
Subchapter 4. Victim's Rights

~~§-536~~ § 230. Victim's Rights

A. A victim of a crime has the following rights and must be provided notice of their right(s) to the following: family violence has a right to:

1. To be treated with fairness, respect, and dignity within the criminal justice system;

2. He or she has the right to To have the criminal justice system respond in a prompt and effective manner; He or she has the right to:

3. To Be reasonably protected from the accused individual; which may include a separate waiting area or other safeguards to minimize the victim's contact with defendant, defendant's relatives, and defense witness during court proceedings;

4. To Participate in the criminal justice system by being present and heard at all court hearings; including proceedings involving release, plea, sentencing, or any arole proceeding;

5. To bBe accompanied by an Support Aadvocate of their his or her choice; as defined under § 209, or an individual or family member, who provides moral support to the victim;

6. To confer with the prosecution, after the crime against the victim(s) has been charged, before the trial or before

any disposition of the case and to be informed of the disposition;

4.7. To bBe provided information about the sentencing and imprisonment of the accused individual defendant, and to read pre-sentence reports at the Office of the Prosecutor;

8. To provide a victim impact statement to the court, which the court is required to consider in making sentencing determinations and restoring Ké;

5- 9. To bBe notified of the offender's defendant's release from custody no less than 24 hours prior to his-or-her such release;

10. To be notified of a defendant's known escape within 24 hours after the escape;

11. To be timely notified of court proceedings;

6- 12. To bBe timely notified of his or her rights of their rights under this Section within less than 48 hours of the crime being reported and be provided with information relating to how the case will move forward, services, and resources that are available. at the time the crime occurs;

7- 13. To receive prompt restitution from the person, or persons, convicted of the criminal conduct that caused the victim's loss or injury, and have restitution orders enforced; Restitution and enforcement orders;

8- 14. To bBe free of intimidation, harassment, abuse, and uninitiated contact from the accused or individuals in close relation to the accused; and

9- 15. To request and utilize the services of aAn interpreter or translator if needed;

16. To the presumption of the imposition of pre-trial release conditions in favor of protecting a victim, including but not limited to, a stay-away order, pursuant to Rule 15 of the Navajo Rule of Criminal Procedure; and

17. To have the Court fees for a Protection Order waived in cases where a crime has been charged involving the victim.

B. A victim's exercise of any right granted by this Section shall not be grounds for dismissing any criminal proceeding, setting aside any conviction or sentence, or dismissing or

denying a victim's filing of a petition for domestic violence abuse protection.

C. "Victim" has the meaning set forth in Section 209 of this Code.

B.D. Victims/Advocate Privilege Confidentiality for victims.

1. In any proceeding under this code, a victim of domestic abuse violence or sexual assault may refuse to disclose, and may request any volunteer or employee of a program for victims of domestic abuse to refrain prevent a Support Advocate from disclosing, the content of oral communication and confidential communications between the victim and Support Advocate, including, but not limited to, written records and reports concerning the victim.
2. This The victim/advocate privilege may be waived only by the victim. It must be in writing through a writing signed by the victim and must identify what information may be disclosed, to whom, and for what purpose. Such a waiver is not valid after thirty (30) days or after the victim revokes the waiver.
3. This The victim/advocate privilege does not relieve a person or advocate from a duty imposed under applicable law mandatory duty to report child abuse or neglect or from providing evidence about child abuse or neglect in court pursuant to proceedings under Title 9, Chapter 11, of the Navajo Nation Code.
4. These provisions on confidentiality for victims The victim/advocate privilege shall not prevent the disclosure of information compiled about incidents of domestic and family violence which protects the identity of the victim and family or household members of the victim.

E. The Office of the Prosecutor, the Department of Corrections, and the Police Department shall implement protocols and policies to implement the requirements of this Section, including but not limited to the notice requirements.

F. The enumeration in this Section of certain rights for victims shall not be construed to deny or disparage other rights granted by the Navajo Nation or retained by victims.

§ 433. Definitions

Q. "Without consent" means:

1. The victim does not express, through words or actions, consent to engage in a sexual act or sexual contact, or the victim withdraws consent before or during a sexual act or sexual contact that the victim previously consented to; or
2. The victim clearly refuses to consent to engage in a sexual act or sexual contact and a reasonable person would have understood the victim's words or actions as a refusal of consent to the sexual act or sexual contact; or
- ~~1-~~ 3. The victim is coerced by the immediate use or threatened use of force against a person or property; or
- ~~2-~~ 4. The victim is incompetent to consent by reason of mental disorder, drugs, alcohol, sleep or any other similar impairment of cognition unless at the time the defendant engaged in the conduct constituting the offense the defendant did not know and could not reasonably have known of the facts or conditions responsible for such incompetency to consent; or
- ~~3-~~ 5. The victim is intentionally deceived as to the nature of the act; or
- ~~4-~~ 6. The victim is intentionally deceived to erroneously believe that the person is the victim's spouse; or
- ~~5-~~ 7. The victim is a minor and thus not old enough to give valid consent.

SECTION FIVE. CODIFICATION

The provisions of this Act that amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions into the next codification or supplement of the Navajo Nation Code.

SECTION SIX. SAVINGS CLAUSE

Should any provision of this Act be determined invalid by the Navajo Nation Supreme Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.

SECTION SEVEN. EFFECTIVE DATE

This Act shall become effective in accordance with 2 N.N.C. § 221(B).

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the 25th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 16 in Favor, and 00 Opposed, on this 25th day of August 2023.



Honorable Crystalyne Curley, Speaker
25th Navajo Nation Council

8/30/23

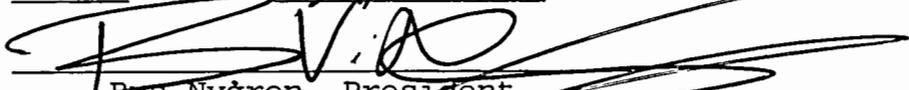
DATE

Motion: Honorable Vince R. James
Second: Honorable Shaandiin Parrish

Speaker Crystalyne Curley not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

- 1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this 6 day of September, 2023.


Buu Nygren, President
Navajo Nation

- 2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this _____ day of _____, 2023 for the reason(s) expressed in the attached letter to the Speaker.

Buu Nygren, President
Navajo Nation

NAVAJO NATION

228

8/25/2023
03:32:51 PM

Navajo Nation Council Special Session

Amd# to Amd#

New Business: Item F.

PASSED

MOT James, V
SEC Parrish, S

Legislation 0053-23: Enacting
the Victim's Rights Act of 2023
Amending . . .

Yeas : 16

Nays : 0

Excused : 5

Not Voting : 2

Yea : 16

Arviso, S
Aseret, L
Begay, H
Begay, N

Charles-Newton, E
Crotty, A
Damon, S
Daniels, H

James, V
Johnson, C
Notah, N
Parrish, S

Slater, C
Tolth, G
Tso, O
Yanito, C

Nay : 0

Excused : 5

Claw, S
Nez, A

Nez, R

Simpson, D

Yazzie, C

Not Voting : 2

Simonson, G

Jesus, B

Presiding Speaker: Curley, C