

# An Act

## Legislative Act 30-06

### A LEGISLATIVE ACT AMENDING TITLE 10 OF THE CHEROKEE NATION CODE ANNOTATED – PATERNITY; AMENDING SECTIONS 110 AND 117

#### BE IT ENACTED BY THE CHEROKEE NATION:

#### SECTION 1. TITLE AND CODIFICATION

This act shall amend the "Paternity Act of 2005" and codified as Title 10, Sections 100 *et seq.*, by adding Sections 105.1 and 113.1 and by amending Sections 110 and 117.

#### SECTION 2. PURPOSE

The purpose of this legislative act is to add Section 105.1 to require service on the Cherokee Nation Registrar for paternity actions which affect the rolls of the Cherokee Nation; amend Section 110 to prohibit assessment for birthing costs as an expense owed by the father of a child when birthing services are provided by the Indian Health Service; to add Section 113.1 to prohibit the use of default paternity orders as the basis for enrollment of a child in the Cherokee Nation; and to amend Section 117 by adding Subsection 117(C) to allow a male who acknowledged paternity prior to attaining the age of 18 to challenge that acknowledgement prior to attaining the age of 19.

#### SECTION 3. LEGISLATIVE HISTORY

LA 11-05 March 21, 2005

#### SECTION 4. SUBSTANTIVE PROVISIONS OF LAW

10 CNCA 105.1

In all actions to determine the paternity of a child, or of a person younger than age 19 in accordance with Subsection 104(E) of this title, that would affect the citizenship rolls of the Cherokee Nation, notice must be served on the Cherokee Nation Registrar at least thirty (30) days prior to the date of the hearing on the petition. Proof of that notice must be filed with the District Court prior to any hearing on the petition for determination of paternity. However, this section shall not apply to paternity actions brought by the Cherokee Nation.

10 CNCA §110(C)(1)

1. An individual who has been legally determined to be the father of a child pursuant to Section 104 of this title, or an individual who has been judicially or administratively determined to be the father of a child shall be ordered to pay all or a portion of the costs of the birth and the reasonable expenses of providing for the child, provided that liability for support provided before the determination of paternity shall be imposed for five (5) years preceding the filing of the action. Provided, no birthing costs shall be assessed to the father if birthing services were provided by Indian Health Services unless Federal law or regulations provide otherwise.

10 CNCA §113.1

Any administrative or court order of any jurisdiction determining the paternity of a child which is entered due to the failure to appear or answer by the alleged father and in which no presumption of paternity exists in accordance with Sections 100 or 100.1 of this title, and which is not support by genetic testing meeting the requirements of §121 of this title, shall not be used as the sole basis for eligibility for citizenship in the Cherokee Nation.

10 CNCA §117(C)

A person signing an affidavit of paternity prior to attaining the age of 18 years shall be allowed to challenged said affidavit in Cherokee Nation District Court. A petition challenging the paternity affidavit must be filed by the person who acknowledged paternity prior to his nineteenth birthday. A challenge must be supported by DNA testing and the standard for proving paternity shall be the same as that found in Section 121 of this Title.

**SECTION 5. PROVISIONS AS CUMULATIVE**

The provisions of this act shall be cumulative to existing law.

**SECTION 6. SEVERABILITY**

The provisions of this act are severable and if any part of provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.


**SECTION 7. EFFECTIVE DATE**

The provisions of this act shall become effective thirty (30) days from and after the date of its passage and approval.


**SECTION 8. SELF-HELP CONTRIBUTIONS**

To the extent that this Act involves programs or services to citizens of the Nation or others, self-help contributions shall be required, unless specifically prohibited by the funding agency, or a waiver is granted due to physical or mental incapacity of the participant to contribute.


Enacted by the Council of the Cherokee Nation on the 13<sup>th</sup> day of November, 2006.

  
Meredith A. Frailey, Speaker  
Council of the Cherokee Nation

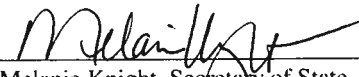
ATTEST:

  
Don Garvin, Secretary  
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 20<sup>th</sup> day of NOVEMBER, 2006.

  
Chadwick Smith, Principal Chief  
Cherokee Nation

ATTEST:

  
Melanic Knight, Secretary of State  
Cherokee Nation

**YEAS AND NAYS AS RECORDED:**

Audra Smoke-Conner	<u>YEA</u>	Meredith A. Frailey	<u>YEA</u>
Bill John Baker	<u>YEA</u>	John F. Keener	<u>YEA</u>
Joe Crittenden	<u>YEA</u>	Cara Cowan Watts	<u>YEA</u>
Jackie Bob Martin	<u>YEA</u>	Buel Anglen	<u>YEA</u>
Phyllis Yargee	<u>YEA</u>	William G. Johnson	<u>YEA</u>
David W. Thornton, Sr.	<u>YEA</u>	Charles "Chuck" Hoskin	<u>YEA</u>
Don Garvin	<u>YEA</u>	Taylor Keen	<u>YEA</u>
Linda Hughes-O'Leary	<u>YEA</u>	Jack D. Baker	<u>YEA</u>
Melvina Shotpouch	<u>YEA</u>		

# Cherokee Nation Act/Resolution Proposal Form

**ADMINISTRATIVE CLEARANCE:**

Program/Project Manager:

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Signature \_\_\_\_\_ Date \_\_\_\_\_

Department Director:

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Signature \_\_\_\_\_ Date \_\_\_\_\_

Group Leader:

*Diane Hammons*

Signature \_\_\_\_\_ Date \_\_\_\_\_

Finance Approval (if needed):

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Signature \_\_\_\_\_ Date \_\_\_\_\_

Government Resources Group:

*Yvita M. Austin 10/13/06*

Signature \_\_\_\_\_ Date \_\_\_\_\_

Administration Approval:

*M. McMillen 10/16/06*

Signature \_\_\_\_\_ Date \_\_\_\_\_

Act

Resolution

**TITLE:** A Legislative Act Amending Title 10 of the Cherokee Nation Code Annotated – Paternity; Amending Section 110 and 117

Department Contact: Diane Hammons/Richard Osburn

Resolution Presenter: Diane Hammons

Council Sponsor: Cara Cowan Watts

**NARRATIVE:**

*(See Attached Outline for Information Needed)*

The purpose of this legislative act is to add Section 105.1 to require service on the Cherokee Nation Registrar for paternity actions which affect the rolls of the Cherokee Nation; amend Section 110 to prohibit assessment for birthing costs as an expense owed by the father of a child when birthing services are provided by the Indian Health Service; to add Section 113.1 to prohibit the use of default paternity orders as the basis for enrollment of a child in the Cherokee Nation; and to amend Section 117 by adding Subsection 117(C) to allow a male who acknowledged paternity prior to attaining the age of 18 to challenge that acknowledgement prior to attaining the age of 19.

**LEGISLATIVE CLEARANCE**

Legislative Aide:

*SB* 10/16/06

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

Standing Committee:

*Kules*

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10/26/06

Next Meeting Date

Chairperson:

*MF*

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

Returned to Presenter: \_\_\_\_\_

Date

