

An Act

Legislative Act 42-24

AN ACT AMENDING TITLE 51 OF THE CHEROKEE NATION CODE ANNOTATED

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This act shall be known as the “Cherokee Nation Marshal Technical and Conforming Amendment Act of 2024” and codified at Title 51, Chapter 7 of the Cherokee Nation Code Annotated.

Section 2. Purpose

The purpose of this Act is to provide technical amendments to the Cherokee Nation Marshal Act, consistent with Constitution of the Cherokee Nation.

Section 3. Legislative History

LA-17-07
LA-35-12

Section 4. Substantive Provisions

Title 51, Chapter 7 shall be amended as follows:

CHAPTER 7

MARSHAL SERVICE

§ 401. Short title

This act shall be known and may be cited as the Cherokee Nation Marshal Act.

§ 402. Purpose

The purpose of this act is to prescribe by law the duties and authority of the Cherokee Nation Office of Marshal as required by the Cherokee Nation Constitution drafted in 1999 and ratified in 2003. The Council recognizes the duties and powers delegated to the Office of the Marshal by said Constitution and finds that nothing herein shall be construed to diminish or abridge those duties and powers delegated to the Office of the Marshal by said Constitution.

§ 403. Definitions

- A. **"Administration"** means the Executive Branch of Cherokee Nation as provided for in Article VII of the Cherokee Nation Constitution.
- B. **"Agency"** means commissions, departments, government-owned companies, or other instrumentalities of Cherokee Nation.
- C. **"Council"** or **"Tribal Council"** means the Council of Cherokee Nation as provided for in Article VI of the Cherokee Nation Constitution.
- D. **"Deputy Marshal"** means a police officer, regardless of rank, employed by the Marshal Service and/or deputized by the Marshal.
- E. **"Government-owned company"** means an entity wholly-owned by Cherokee Nation or any agency, instrumentality, or subdivision thereof.
- F. **"Marshal"** or **"the Marshal"** means the **"Office of Marshal"** as created by the 1999 Cherokee Nation Constitution, Article VII, § 14.
- G. **"Marshal Service"** means the Executive Branch agency developed, managed, directed, and overseen by the Marshal with further such oversight by the Principal Chief as provided in the Constitution of the Cherokee Nation and this Act.
- H. **"Nation"** means Cherokee Nation.
- I. **"Person"** means an agency, individual, corporation, estate, trust, general partnership, limited partnership, limited liability company, association, or any other legal, commercial, government-owned company, or governmental entity.
- J. **"State"** means a state, territory, or possession of the United States, a federally-recognized Indian tribe, the District of Columbia or the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

§ 404. Appointment of Marshal

The Marshal shall be appointed by the Principal Chief and confirmed by the Council for a term of five (5) years. The Marshal shall be authorized to deputize law enforcement officers, as needed, for the effective enforcement of ~~tribal~~ applicable laws within the ~~jurisdiction of~~ Cherokee Nation Reservation. The Marshal shall be a Cherokee citizen possessing ~~at a minimum a degree from a four-year college or university and an additional~~ five years of experience in a supervisory capacity in law enforcement or equivalent combination of education and experience a related field.

§ 405. Duties and authority of the Office of the Marshal

- A. Pursuant to Article VII, Section 14 of the Cherokee Nation Constitution, the "duties and authority of the Marshal shall be prescribed by law." That section also empowers the

Marshal to "deputize such officers as necessary to carry out the law enforcement needs of the Cherokee Nation."

B. In addition to the duties prescribed by the Constitution, the duties and authority of the Office of the Marshal shall be to:

1. Plan, develop, implement and manage an overall law enforcement strategy for the effective enforcement of ~~tribal Cherokee Nation law.~~ Such additional duties shall include, but not be exclusive to, budgetary fiscal management; the creation of job duties, job requirements, and training requirements of employees; ~~as well as~~ the hiring, firing and disciplining of employees of the Office of the Marshal to effectively preserve and protect the peace, ~~protect~~ the people within the Nation's jurisdiction; ~~protect and~~ the property of Cherokee Nation ~~and its citizens properly living within the Nation's jurisdiction~~ Cherokee Nation Reservation, provided; ~~and~~
 - a. Consistent with the constitutional authority provided the Principal Chief, the "overall law enforcement strategy", as referenced in subsection (B)(1), shall be subject to approval of the Principal Chief and shall be summarized at least once per fiscal year within ninety (90) days of the commencement of the fiscal year, in a written report to the Principal Chief and which, upon his or her approval, shall be transmitted by the Principal Chief to the Speaker of the Council of the Cherokee Nation.
 - b. "Budgetary fiscal management", as referenced in subsection (B)(1) shall be consistent with all laws, policies, processes, and procedures required generally of Executive Branch departments as prescribed by the Principal Chief or his or her designee, including the Treasurer of the Cherokee Nation.
 - c. Any authority granted as it relates to "employees", as referenced in subsection (B)(1), including hiring, firing, and/or changes to an employee's terms and conditions of employment shall be subject to the policies, processes, and procedures as prescribed by the Principal Chief through Cherokee Nation Human Resources policies and procedures.
 - d. Nothing contained herein shall be construed to increase or diminish the constitutional authority granted to the Principal Chief or the Office of the Marshal, as a constitutional officer within the Executive Branch.
2. Deputize officers as needed to carry out the law enforcement activities of Cherokee Nation and authorize those deputies to carry firearms, wear prescribed uniforms, badges and credentials, execute or serve warrants, summons and other orders relating to a crime committed, investigate criminal offenses using all applicable laws and regulations, make an arrest with a warrant or without a warrant if the offense is committed in the deputy's presence or the offense is a

felony and the deputy has reasonable grounds to believe the person being arrested has committed the felony and perform any other law enforcement-related duty;

3. Attend upon the courts, obey the court's orders, to serve all summons and other processes which may be placed in his hands according to the tenor of the mandates therein contained, and to take all necessary and lawful measures in the execution of the judgment of the courts committed to him to execute and to arrest and cause to be tried, all persons who may be charged with criminal offenses and to provide for bailiff services and protection of the court;
4. Promulgate such rules, regulations, policies and procedures as the Marshal deems necessary to fulfill the duties of the Office and the rules of conduct of employees of the Marshal Service, which may include rules for conduct and corresponding disciplinary actions for breaches of conduct which are to be reviewed annually and kept compliant with new enforcement codes and case laws;
5. Provide Recommend to the Principal Chief a law enforcement strategy, requirements, standards, qualifications, compensation and budget that is compliant to Cherokee Nation laws and regulations and which meet or exceed prevailing standards for law enforcement professionals and law enforcement agency peers, including but not limited to that set forth under federal law, regulation and policy for law enforcement officers for the Bureau of Indian Affairs equal to or better than the codes and rules of 25 Code of Federal Regulations and 25 United States Code dealing with wages, firearms and, authority of tribal law enforcement officers; When an arrest shall be made of a person charged with a crime, the Marshal or Deputy shall notify the Judge having jurisdiction of the case of such arrest without delay; provided, that any accused person shall be allowed to give bail for his appearance at court at the time set for his trial by giving bond to the Court, the amount to be fixed by the Judge presiding in that case.
6. Conduct, in coordination with the Cherokee Nation Human Resources Department and the Principal Chief and consistent with paragraph 5, above, market study report with respect to compensation for Marshal Service staff on no less than a bi-annual basis, with said inaugural report due no later than December 31, 2025, which shall include in said inaugural report a "Special Addendum on Marshal Service Retirement," examining present and potential future retirement benefits for Marshal Service Staff that meets the purposes and policies of this Act, including paragraph 5, above.
7. Recommend to the Principal Chief that the Nation enter written agreements, renegotiate agreements, or withdraw from agreements with other law enforcement agencies and jurisdictions as the Marshal deems necessary to extend police protection for Cherokee Nation property and citizens across jurisdictional lines and shall perform all functions and duties as needed;

8. Board and care for prisoners of Cherokee Nation and negotiate and enter contracts therefor;
9. Coordinate investigations with the Cherokee Nation Office of Attorney General and other applicable federal and state prosecuting attorney's office to provide for effective enforcement of applicable laws;
10. Preserve the peace, protect the property of Cherokee Nation and the property of those living within the Nation's jurisdiction and protect the people within the Cherokee Nation's jurisdiction Reservation;
11. Maintain responsibility for and have charge over all Cherokee Nation police functions within the ~~jurisdiction of~~ Cherokee Nation Reservation to prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to the knowledge of the Marshal;
12. Designate an individual to act as Marshal in the absence of the Marshal so long as said designation does not exceed ~~six (6) months~~ one month, subject to the authority of the Principal Chief to designate an Acting Marshal pursuant to this Act;
13. Keep a complete office file of all cases and investigations handled by the Marshal Service on behalf of the Cherokee Nation;
14. Oversee the Security Department of the Executive Branch of the Nation, not to include those security departments operated by the Nation's government-owned companies;
15. Establish, oversee, regulate and license registered security officers and promulgate such rules, regulations and policies as necessary;
16. Perform all other duties and functions which may be prescribed ~~in other sections and titles of the Cherokee Nation Code~~ by Cherokee law, rule, or regulation.

§ 406. Vacancy in office of Marshal

A. In case of vacancy in the position of Marshal by reason of removal, death, resignation, or disability lasting for more than six (6) months, the Office of the Marshal shall be filled by appointment by the Principal Chief with confirmation by the Council. Such appointment shall serve out the term of the prior appointment; provided, however:

1. In the event of said vacancy in the Office of the Marshal, the Principal Chief is further authorized to declare such vacancy, in writing, and appoint an Acting Marshal for the period of the vacancy not to exceed one year from the declaration of vacancy. The Acting Marshal shall possess all of the constitutional and statutory qualifications required of, and all of the authority afforded to, the Office of the Marshal during the period of acting service, but shall possess the title "Acting Marshal of the Cherokee Nation."

§ 407. Compensation of Marshal

The compensation of the Marshal shall not be decreased during his or her term, except that the Principal Chief is authorized to set a new level of compensation for any acting Marshal under this Act or any Marshal confirmed to complete a term under this Act, consistent with Cherokee Nation Human Resources policies and procedures.

§ 408. Deputy Marshals—Delegation of authority

- A. Pursuant to Article VII, Section 14, of the Cherokee Nation Constitution, the Marshal is empowered "to deputize such officers as necessary to carry out the law enforcement needs of the Cherokee Nation." The Marshal may from time to time make such provisions as he or she considers appropriate authorizing the performance of any function of the Marshal by any other officer or employee of the Marshal Service.
- B. The Marshal is authorized to develop the organizational structure of the Marshal Service, including any special teams, squads or units as the Marshal deems necessary to perform the duties imposed upon the Marshal.

§ 409. References in Cherokee Nation Code to peace officers, etc.

All references in current statutes to peace officers, sheriffs, deputy sheriffs, marshals, policemen, or constables are hereby deemed references to the Marshal and those individuals deputized by the Marshal, and all references to the Director of the Marshal Service shall be deemed references to the Marshal.

§ 410. Reserve force Deputy Marshals

- A. The Marshal may appoint as many reserve force Deputy Marshals as are necessary to preserve the peace and dignity of the Cherokee Nation. A current list of each person holding such appointment shall be maintained by the Marshal and shall be available to the public.
- B. Reserve force Deputy Marshals may perform duties which encompass a particular act or a series of acts at the Marshal's discretion.
- C. The Marshal or a Deputy Marshal shall accompany a reserve force Deputy Marshal in the performance of all duties assigned to such reserve force Deputy Marshal unless such reserve force Deputy Marshal has completed the required one-hundred-sixty (160) hour basic police course. Such reserve force Deputy Marshals shall complete a one-hundred-sixty (160) hour basic police course within twelve (12) months after they have been commissioned as an individual reserve force Deputy Marshal.
- D. Reserve force Deputies may receive compensation for their services. The Marshal may pay reserve force Deputies for travel expenses. The Marshal Service may pay for additional training courses attended by reserve force Deputies.
- E. A reserve force Deputy Marshal shall be authorized to serve civil process.

Section 5. Provisions as cumulative

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

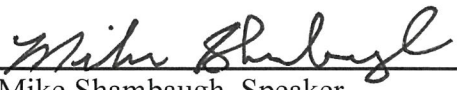
Section 6. Severability

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

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this Act shall take effect and be in full force immediately upon its passage and approval.

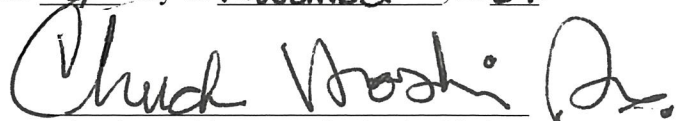
Enacted by the Council of the Cherokee Nation on the 12th day of November, 2024.


Mike Shambaugh, Speaker
Council of the Cherokee Nation

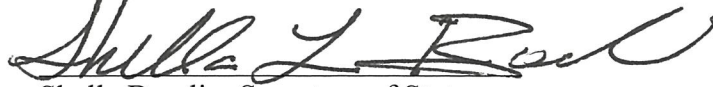
ATTEST:


Johnny Kidwell, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 15th day of November, 2024.


Chuck Hoskin, Jr., Principal Chief
Cherokee Nation

ATTEST:


Shella Bowlin, Secretary of State
Cherokee Nation

YEAS AND NAYS AS RECORDED:

Sasha Blackfox-Qualls	<u>Yea</u>	Melvina Shotpouch	<u>Yea</u>
Candessa Teehee	<u>Yea</u>	Kendra McGeady	<u>Yea</u>
Lisa Hall	<u>Yea</u>	Dora Smith Patzkowski	<u>Yea</u>
Mike Dobbins	<u>Yea</u>	Joe Deere	<u>Yea</u>
E.O. "Jr." Smith	<u>Yea</u>	Kevin Easley, Jr.	<u>Yea</u>
Daryl Legg	<u>Yea</u>	Danny Callison	<u>Yea</u>
Joshua Sam	<u>Yea</u>	Julia Coates	<u>Yea</u>
Codey Poindexter	<u>Yea</u>	Johnny Kidwell	<u>Yea</u>
Mike Shambaugh	<u>Yea</u>		

Cherokee Nation Act/Resolution Proposal Form

Act Resolution

ADMINISTRATIVE CLEARANCE

Dept/Program:

TITLE:

**AN ACT AMENDING TITLE 51 OF THE
CHEROKEE NATION CODE ANNOTATED**

Signature/Initial Date

Executive Director:

DEPARTMENT CONTACT: _____

RESOLUTION PRESENTER: _____

Signature/Initial Date

**Treasurer (Required:
Grants/Contracts/Budgets):**

COUNCIL SPONSOR: Mike Shambaugh, Kevin Easley, Johnny Jack
Kidwell, Candessa Tehee, Daryl Legg, Josh
Sam, Danny Callison, Codey Poindexter, Kendra
McGeady, Dora Smith-Patzkowski

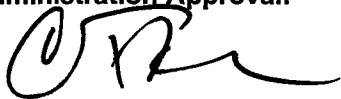
NARRATIVE:

Signature/Initial Date

Government Relations:

Signature/Initial Date

Administration Approval:



Signature/Initial Date

LEGISLATIVE CLEARANCE:

Legal & Legislative Coordinator:

Stoke 10/20/24

Signature/Initial Date

Standing Committee & Date:

Rules 11/2/24

Chairperson:

Shambaugh

Signature/Initial Date

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