

An Act

Legislative Act 35-12

ACT RELATING TO THE CREATION, AND REGULATION OF ARMED SECURITY WITHIN THE CHEROKEE NATION

BE IT ENACTED BY THE CHEROKEE NATION:

Section (code section) 1. Title and Codification

This act shall be known as the Registered Security Officer Act and codified as Title 21 §§ 1272.1, and 1277; Cherokee Nation Firearms Act of 1971, 21 § 1289.8; and LA-17-07, Cherokee Nation Marshal Act, Title 51 § 63 of the Cherokee Nation Code Annotated.

Section 2. Purpose

The purpose of this act is to provide for the creation and regulation of armed security within the Cherokee nation. This act, known as Registered Security Officer Act, shall amend portions of Title 51 and Title 21 of the Cherokee Nation Code Annotated.

Section 3. Legislative History

Title 21 § 1272.1, Carrying weapons or firearms into establishments wherein beer and intoxicating liquor are consumed.

Title 21 § 1277, Public buildings and gatherings.

Cherokee Nation Firearms Act of 1971, § 1289.8.

LA-17-07, Cherokee Nation Marshal Act, Title 51 § 61 et seq.

Section 4. Definitions

For purposes of this Title:

Section 5.

Title 21 § 1272.1, shall be amended as follows:

§ 1272.1. Carrying weapons or firearms into establishments wherein beer and intoxicating liquor are consumed

It shall be unlawful for any person, except a peace officer, as defined in Title 51 C.N.C.A § 67~~Section 99 of this title~~, a registered security officer, ~~when in the county or counties of his employment or residence~~, or the owner or proprietor of the establishment being entered, to carry

into or to possess in any establishment where beer or alcoholic beverages are consumed any firearm or any of the weapons designated in Section 1272 of this title. Provided however, nothing in this act, Section 1271, shall be interpreted to authorize such peace officer or registered security officer in actual physical possession of a weapon to consume beer or alcoholic beverages, except in the authorized line of duty as an undercover officer.

Title 21 § 1277, shall be amended as follows:

§ 1277. Public buildings and gatherings

It shall be unlawful for any person, except a peace officer or a registered security officer, to carry into any church or religious assembly, any school room or other place where persons are assembled for public worship, for amusement, or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into any ballroom, or to any social party or social gathering, or to any election, or to any political convention, or to any other public assembly, any of the weapons designated in the first and second sections of this article, Sections 1271 and 1272.

Title 21 § 1289.8 shall be amended as follows:

§ 1289.8. Carrying concealed weapon

It shall be unlawful for any person, except a peace officer as defined in Title 51 C.N.C.A § 67 Section 99, or a registered security officer or a person employed by an armored car firm licensed by the Corporation Commission, to carry a concealed weapon other than permitted by this act.

Title 51 Cherokee Nation Code Annotated § 63 shall be amended as follows:

§ 63 Duties and Authority of the Office of the Marshal.

A. Pursuant to article VII, Section 14 of the Cherokee Nation Constitution, the “duties and the 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 law to include but not exclusive to budgetary fiscal management, job duties, job requirements, and training requirements of employees as well as the hiring, firing and disciplining of employees to effectively preserve the peace, protect the people within the Nation’s jurisdiction, protect the property of the Cherokee Nation and its citizens properly living within the Nation’s jurisdiction and;

2. Deputize officers as needed to carry out the law enforcement activities of the Cherokee nation and authorize those deputies to carry firearms, where prescribe uniform, baggage 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 deputies presents where the offense is a felony and the deputy has reasonable grounds to believe the person being arrested has committed a felony;

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 make 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 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 breach of conduct which are to be reviewed annually and kept compliant with new enforcement codes and case laws;

Provide a law enforcement strategy, requirements, standards, qualifications and budget that is compliant to Cherokee Nation laws and regulations and equal to or better than the codes and rules of 25 Code of Regulations and 25 United States Code Annotated 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;

5. Recommend to the Principal Chief that the Nation enter written agreements, negotiate agreements or withdraw from agreements with other law enforcement agencies and jurisdictions as the Marshal deems necessary to extend police protection for Nation property and citizens across jurisdictional lines and shall perform all functions and duties as needed;

6. Board and care for prisoners of the Cherokee Nation and to negotiate and enter contracts therefore;

7. Coordinate investigations with the Cherokee Nation Office of Attorney General and other applicable federal and state prosecuting attorney's offices to provide for effective enforcement of applicable laws;

8. Preserve the peace, protect the property of the Cherokee Nation and the property of those living within the Nation's jurisdiction and protect the people within the Nation's jurisdiction;

9. Maintain responsibility for and have charge over all National police functions within the jurisdiction of the Cherokee Nation to prevent and suppress all affrays, breaches of the peace, riots and insurrections which may come to the knowledge of the Marshal;

10. Designate an individual to act as Marshal in the absence of the Marshal so long as said designation does not exceed six (6) months;

11. Keep a complete office file of all cases and investigations handled by the Marshal Service on behalf of the Nation;

12. 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;

13. Establish, oversee, regulate and license registered security officers and promulgate such rules, regulations and polices as necessary;

14.13. Perform all other duties and functions which may be prescribed in other sections and titles of the Cherokee Nation Code.

Section 6. Provisions as cumulative

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

Section 7. 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.

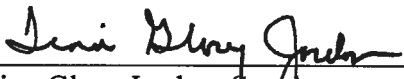
Section 8. Effective Date

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


Section 9. 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 17th day of September, 2012.


Tina Glory Jordan, Speaker
Council of the Cherokee Nation

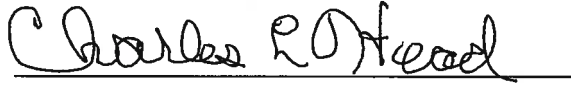
ATTEST:


Jodie Fishinghawk, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 19th day of September, 2012.


Bill John Baker, Principal Chief
Cherokee Nation

ATTEST:


Charles L. Head, Secretary of State
Cherokee Nation

YEAS AND NAYS AS RECORDED:

Tina Glory Jordan	<u>Yea</u>	Meredith A. Frailey	<u>Yea</u>
Joe Byrd	<u>Yea</u>	Dick Lay	<u>Yea</u>
David Walkingstick	<u>Yea</u>	Cara Cowan Watts	<u>Yea</u>
Jodie Fishinghawk	<u>Yea</u>	Buel Anglen	<u>Yea</u>
Janelle Lattimore Fullbright	<u>Yea</u>	Charles Hoskin, Jr.	<u>Yea</u>
David W. Thornton, Sr.	<u>Yea</u>	Julia Coates	<u>Yea</u>
Don Garvin	<u>Yea</u>	Jack D. Baker	<u>Yea</u>
Lee Keener	<u>Yea</u>	Curtis G. Snell	<u>Yea</u>
Frankie Hargis	<u>Yea</u>		

<u>ADMINISTRATIVE CLEARANCE</u>	
Dept./Program: Marshal Service	
Signature/Initial 	Date 8/16/12
Executive Director: Shannon Buhl	
Signature/Initial	Date
Treasurer: (Required: Grants/Contracts/Budgets)	
Signature/Initial	Date
Government Resources:	
Signature/Initial	Date
Administration Approval:	
	Date 8/17/12
Signature/Initial	Date
<u>LEGISLATIVE CLEARANCE:</u>	
Legal & Legislative Coordinator:	
	Date 8/20/12
Signature/Initial	Date
Standing Committee & Date:	
	Date 8/30/12
Chairperson:	
	Date
Signature/Initial	Date
Returned to Presenter:	
	Date

Cherokee Nation Act/Resolution Proposal Form

Act Resolution

TITLE:

DEPARTMENT CONTACT: Shannon Buhl

RESOLUTION PRESENTER: _____

COUNCIL SPONSOR: Jack D. Baker
Chuck Hoskin Jr.

NARRATIVE:

This Act will establish the ability for the Cherokee Nation to have armed security. The armed security commissions will be controlled by the Marshal. This meets the requirements of the Marshal Act. The security officers in question will have the ability to carry firearms to protect life and property. This does not give law enforcement authority to armed security. Sole law enforcement authority is still reserved for Marshals alone. This Act clears up areas of concern with CLEET as to our armed security at the casinos. The Marshal Service and CNE are in agreement that this is a needed Act.