

An Act

Amended See
LA 16-02

LEGISLATIVE ACT NO. 2-93

ACT RELATING TO
The Process of Enrolling As
A Member of the Cherokee Nation;
Amending Certain Sections of Legislative Act 6-92;
Adding New Items; And
Declaring An Emergency

BE IT ENACTED BY THE CHEROKEE NATION that

Subsections (f) and (m) of Section 4 of the Cherokee Nation Membership Act, Legislative Act 6-92, are amended as herein provided, except that all other provisions of Section 4 shall remain unchanged, and in full force and effect.

Subsection (f) is hereby amended to read as follows:

- (f) Direct Ancestors means those persons who are the biological parents, grandparents, great-grandparents, etc., through whom enrollment rights are claimed. Collateral relations such as brothers, sisters, nieces, nephews, cousins, etc., are not direct ancestors. Direct Descendent means a person who is the biological child, grandchild, great-grandchild, etc., of a Direct Ancestor who is or was an Original Enrollee.

Subsection (m) is hereby amended to read as follows:

- (m) Sponsor means a person who is acting on behalf of a minor or an incompetent adult in (i) submitting an application for Tribal Membership, (ii) requesting the release of records or information pursuant to §18 of this Act, (iii) requesting and submitting a Tribal Relinquishment Application Form pursuant to §19 of this Act, or (iv) any other dealings with the Registrar which relate in any respect to Tribal Membership, and who is, at the time of the application or request--

(1) in the case of a minor, a biological parent of such minor whose parental rights relating to the minor have not been terminated by a court of law, or a duly-appointed legal guardian, adoptive parent, child welfare social worker, or other representative with power and authority over the care, custody and welfare of such minor; or

(2) in the case of an incompetent adult, a duly-appointed legal guardian or other representative with power and authority over the affairs, care, custody and welfare of such incompetent adult; or

(3) in the case of either a minor or an incompetent adult, an adult person determined by the Registrar to have express authority to act on behalf of the minor or incompetent adult from a person who is qualified to be a Sponsor under paragraphs (1) or (2) of this subsection.

The Registrar may require any person purporting to be the Sponsor of a minor or incompetent adult to furnish any and all documents, written or oral statements, affidavits, or court records which, at the discretion of the Registrar, may be necessary to demonstrate that the person is qualified to act as a Sponsor pursuant to this subsection (m). Provided, however, the Tribal Membership of any person who otherwise meets the requirements of membership in the Cherokee Nation and has been enrolled on the Cherokee Register pursuant to this Act shall not be revoked or rendered invalid for the reason that his or her application for Tribal Membership was submitted by a person not qualified to act as a Sponsor under this Section.

A new Section of the Cherokee Nation Membership Act is hereby enacted as follows:

Section 5A. Temporary Automatic Membership of Newborn Children

(a) This §5A is enacted as an amendment to the Cherokee Nation Membership Act for the specific purpose of protecting the rights of the Cherokee Nation under the Indian Child Welfare Act, 25 USC §§1901, et seq.

(b) Notwithstanding any provisions of this Act to the contrary, every newborn child who is a Direct Descendent of an Original Enrollee shall be automatically admitted as a member of the Cherokee Nation for a period of 240 days following the birth of the child. No request or application for Tribal Membership or other documentation need be submitted or delivered to the Registrar as a prerequisite to the temporary Tribal Membership of a child under this Section. Such temporary Tribal Membership shall be effective automatically from and after the birth of the child for all purposes although the name of the child is not entered on the Cherokee Register.

(c) The temporary Tribal Membership granted to a child pursuant to subsection (a) of this Section shall automatically expire without notice to the child or to the Sponsor or any other interested person, at the end of the 240-day period following the child's birth. Any member whose temporary Tribal Membership has expired pursuant to this Section may apply for membership pursuant to §§5, 6, 7 and 8 of this Act.

(d) The Registrar may, at the request of Cherokee Nation Children's Services, on his own initiative or pursuant to §7(c) of this Act, determine whether or not a child qualifies for temporary Tribal Membership pursuant to this Section. A determination by the Registrar that such child does not so qualify may be appealed by a Sponsor in accordance with Sections 9 through 15, inclusive, of this Act.

Section 18 of the Cherokee Nation Membership Act is hereby amended as follows:

Section 18. Release of Tribal Membership Information

- (a) All requests for copies of, or information contained in, records relating to Tribal Membership shall be made in writing and on a form prepared for that purpose by the Registrar.
- (b) The Registrar is hereby authorized and directed to prepare one or more forms to be used for all requests for the release of copies of Tribal Membership records or information.
- (c) Only a member of the Cherokee Nation or the Sponsor of a member may request copies of Tribal Membership records or information. Upon a request for such records or information by a member or a Sponsor, the Registrar shall issue to the member or Sponsor an Authorization Form. Provided, however, prior to issuing the Form the Registrar shall enter thereon the name of the member, the member's Registry Number, the Sponsor's name (if any), and the date of issuance of the Form. No Authorization Form issued pursuant to this Section may be used to obtain information or records relating to any member other than the member whose name and Registry Number is entered on the Form by the Registrar.
- (d) Whenever authority to release information or records cannot be obtained from the tribal member or Sponsor, the Principal Chief or the Principal Chief's designee may authorize the release of such records or information to any person if the Principal Chief or the designee determines that the release of same would be appropriate under the circumstances of the request.
- (e) Nothing in this Section shall prevent the Registrar from releasing copies of records or information pursuant to a bona fide request from a law enforcement official.
- (f) Listings, statistics, and labels from the tribal membership database must be approved by the Principal Chief or designee. The receiving of such requests are routed through the Registrar, who obtains the Chief's approval, and coordinates with other departments to facilitate the request.

Section 19 of the Cherokee Nation Membership Act is hereby amended as follows:

Section 19. Relinquishment

- (a) Any member of the Cherokee Nation may apply for relinquishment of Tribal membership on an Application Form furnished directly to the member by the Registrar. The request for a Tribal Relinquishment Application Form shall be made in person or in writing and signed by the member or the member's Sponsor and delivered to the Registrar.
- (b) The Registrar is hereby authorized to prepare one or more forms, consistent with this Section, which shall be used for the relinquishment of Tribal Membership.
- (c) Upon receipt of a request pursuant to subsection (a) of this Section, the Registrar shall issue to the member or

Sponsor a Tribal Relinquishment Application Form. Provided, however, prior to issuing the Form the Registrar shall enter thereon the name of the member, the member's Registry Number, the Sponsor's name (if any) and the date of issuance of the Form. No Tribal Relinquishment Application Form may be used by any member other than the member whose name and Registry Number is entered on the Form by the Registrar.

(d) The tribal member or Sponsor shall complete and sign the Tribal Relinquishment Application Form before a notary public and deliver the notarized Form to the Registrar.

(e) The Registrar shall hold the notarized Tribal Relinquishment Application Form for a period of not less than 180 days before taking any action on said Application. If at the expiration of said 180-day period the member or member's Sponsor has not contacted the Registrar and revoked the application, the Registrar shall confirm that the Form has been properly executed and notarized. The Registrar shall thereafter send a letter acknowledging the Application for relinquishment of Tribal Membership, stating when it was received and that it has been placed on permanent record as evidence that membership in the Cherokee Nation was freely and voluntarily relinquished.

(f) Upon a showing of good cause by the member or Sponsor applying for relinquishment of Tribal Membership, the Registrar shall have discretion to shorten the time period before acting on an Application provided for in subsection (e) of this Section.

(g) Nothing in this Section shall prevent a person who has relinquished membership hereunder from reapplying for Tribal Membership pursuant to §§5, 6, 7 and 8 of this Act.

A new Section of the Cherokee Nation Membership Act is hereby enacted as follows:

Section 20. Criminal activity with respect to Tribal Membership

A. A person who knowingly buys or barter the tribal membership card from another tribal member for whatever purposes may be subject to criminal prosecution. The penalty upon conviction of the offense specified in this Subsection shall be no longer than one year imprisonment, or a fine of no more than \$5,000, or both.

B. A person who knowingly sells or barter his or her tribal membership card to another tribal member or person for whatever purposes may be subject to criminal prosecution. The penalty upon conviction of the offense specified in this Subsection shall be no longer than one year imprisonment, or a fine of no more than \$5,000, or both.

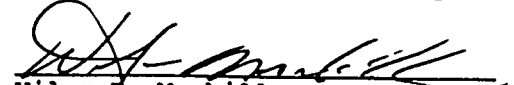
C. In addition to the foregoing sanctions, any person who knowingly buys, sells, or barter the tribal membership card to or from another person for whatever purposes may be subject to a civil penalty as hereinafter provided. The penalty for violating this Subsection shall be a fine of no more than \$5,000.

D. Any person who knowingly uses, or allows another person to use, any Cherokee Nation Tribal Membership card, Cherokee Nation Registry Number, or Cherokee Roll Number, for the purpose of defrauding the Cherokee Nation or the United States, or for any other fraudulent purpose, may be subject to criminal prosecution. The penalty upon conviction of the offense specified in this Subsection shall be no longer than one year imprisonment, no greater than a \$5,000 fine, or both.

Passed by the Cherokee Nation Tribal Council on the 12th day of July, 1993.

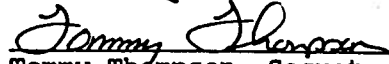

John A. Ketcher, President
Cherokee Nation Council

Approved and signed by the Principal Chief of this 12TH day of JULY, 1993.


Wilma P. Mankiller
Principal Chief
Cherokee Nation

ATTEST:


Troy Wayne Poteete, Secretary
Cherokee Nation Tribal Council


Tommy Thompson, Secretary-Treasurer
Cherokee Nation

YEAS AND NAYS AS RECORDED:

Don Crittenden
Sam Ed Bush
Joe Byrd
Mige Glory
Paula Holder
Harold DeMoss
Greg Pitcher

YEA
YEA
YEA
YEA
YEA
YEA
YEA

James Garland Eagle
Harold Phillips
Troy Wayne Poteete
Barbara Mitchell
Melvina Shotpouch
William Smoke
Maudie Bazille

YEA
YEA
YEA
YEA
YEA
YEA
YEA