

Committee: Rules
Date: 5-18-12 Committee Date: 5-31-12

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M. Frailey, D. Lay, C. Hoskin Jr., C. Cowan Watts, B. Anglen,
L. Keener, J. Coates, J. D. Baker

An Act

Legislative Act 21-12

AN ACT AMENDING LEGISLATIVE ACT 06-98 RELATING TO THE GOVERNMENTAL RECORDS OF THE CHEROKEE NATION DECLARING AN EMERGENCY

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification:

This Legislative Act amends the "Act Relating to the Governmental Records of the Cherokee Nation" Legislative Act 06-98 and codified under Title 19 of the Cherokee Nation Code Annotated ("CNCA").

Section 2. Purpose:

The purpose of this Act is to provide for open access to each member of the Council of the Cherokee Nation ("**Council**") to all "records" as defined in the Act prepared in the discharge of governmental duties of the "Cherokee Government" as defined below, and to provide procedures under which the Council and its members shall obtain such records.

Section 3. Legislative History:

Legislative Act 06-98

Article VI Section 7 of the Cherokee Nation Constitution states:

"The Council shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation, which shall not be contrary to the provisions of this Constitution. The style of all bills shall be: "Be It Enacted By The Cherokee Nation". The style of all resolutions shall be "Be It Resolved By The Cherokee Nation".

Section 4. Definitions:

"Cherokee Government" -- collectively, the Cherokee Nation, its elected officials, officers, employees, agents and contractors, or any of the Nation's agencies, commissions, boards, corporations and their subsidiaries, or other entities, and their elected officials, officers, directors, employees, members, agents and contractors.

"Records" -- all documents, including but not limited to any book, paper, photograph, microfilm, data files created by or used with computer software, computer tape, disk, and record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of the Cherokee Government. "Records" does not mean computer software or nongovernmental personal effects.

Section 5. Substantive Provisions:

A. Requests for records shall be in writing and addressed to the ~~Principal Chief or his designated officer~~ Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request. The request shall identify with particularity the agency(ies) or other entity(ies) and/or the matter(s) which are the subject of the request. Said requests shall be delivered to the legislative aide of the Council, who shall enter said request in the records of the Council and shall deliver it to the ~~Principal Chief or his designee~~ Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request on the same or the following working day.

B. The ~~Principal Chief~~ Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request shall cause the records requested to be produced within six (6) working days of the receipt of such request at no cost to the Council Member(s). If it is not possible to produce the requested record during the prescribed time limit, the ~~Principal Chief~~ Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request shall, within the prescribed time limit, provide a written explanation to the Legislative Aid and Council Member(s) as to why the requested record cannot be made available. If the record cannot be made available at a later date, the ~~Chief~~ Director, CEO, or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request will include a statement as to when the record will be provided to the Council Member(s). In no event shall the total time to produce be extended beyond sixteen (16) working days from the date of the receipt of the initial request.

C. The Director, CEO or Supervisor of the Department, Agency, Entity or Principal Chief that is the subject of the request shall provide the requested records to the requesting council member and the Council's legislative aide so that the response is made a part of the records of the council. The legislative aide shall also provide a copy of all requested records to the Principal Chief and Speaker of the Council.

Section 6. Provisions as cumulative:

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

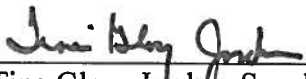
Section 7. Severability:

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. Emergency Declared:

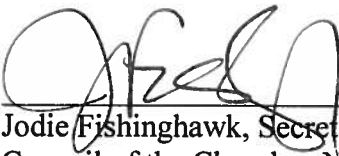
It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this act shall take effect and be in full force after its passage and approval.

Enacted by the Council of the Cherokee Nation on the 11th day of June, 2012.



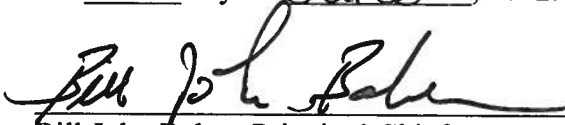
Tina Glory Jordan, Speaker
Council of the Cherokee Nation

ATTEST:



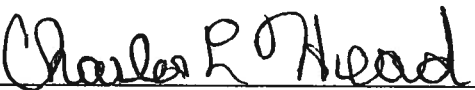
Jodie Fishinhawk, Secretary
Council of the Cherokee Nation

Approved and signed by the Acting Principal Chief this 13th day of June, 2012.



Bill John Baker, Principal Chief
Cherokee Nation

ATTEST:



Charles 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 Fishinhawk	<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>		