

An Act

Legislative Act 03-24

AN ACT AMENDING TITLE 20 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 “Special Judge Act” and codified at Title 20, Chapter 2 of the Cherokee Nation Code Annotated.

Section 2. Purpose

The purpose of this Act is to create the position of Special Judge within the District Court of the Cherokee Nation.

Section 3. Legislative History

LA-11-90

Section 4. Substantive Provisions

Title 20, Chapter 2 shall be amended as follows:

§ 12. Composition

B.A. _____ The District Court of Cherokee Nation shall be composed of one (1) or more District Judges and Associate District Judges to be appointed by the Principal Chief and confirmed by the Council as needed for the orderly administration of justice.

C.B. _____ The Presiding District Court Judge of the Cherokee Nation may designate special judges, as needed, to hear and decide matters as assigned by the Presiding District Court Judge.

D.C. _____ Any citizen of Cherokee Nation who is a member in good standing of a state bar association who has never been convicted of a felony shall be eligible for appointment as District Judge or designation as a Special Judge.

§ 13. Terms of District Judges

District Judges and Associate District Judges shall be appointed for a term of four (4) years. Previous appointment and service by a District Judge shall not disqualify the Judge for continued appointment and service.

§ 14. Oath ~~of District Judge~~

Any District Judge or Associate District Judge shall, before ~~entering upon the duties of office~~beginning their duties, take and subscribe to the following oath or affirmation: "I, _____, do solemnly swear, or affirm, that I will faithfully execute the duties of District Judge of Cherokee Nation and will, to the best of my ability, preserve, protect and defend the Constitutions of Cherokee Nation and the United States of America. I swear or affirm further that I will do everything within my power to promote the culture, heritage and traditions of Cherokee Nation."

§ 15. Disability or vacancy in office of District Judge

Whenever a District Judge or Associate District Judge is unable to perform his duties of office or the office is vacant, his powers and duties shall devolve upon the Associate District Judge next in seniority who is able to act, until such disability is removed or another District Judge is appointed and duly qualified.

§ 16. Salaries—Travel expenses—Disciplinary action

Salary for District Judges, ~~and~~ Associate District Judges, and Special Judges shall be fixed by the Office of the Principal Chief with approval by the Council. District Court Judges and Associate District Court Judges shall be considered a special class of employees for travel purposes. District Court Judges and Associate District Court Judges are exempt from any disciplinary action through the Human Resource Department Policy and Procedures. Such Judges may only be disciplined or removed under the provision of the Constitution of Cherokee Nation or applicable statute.

§ 17. Removal from office

A. Any District Judge of the Cherokee Nation or the Council of Cherokee Nation may recommend the removal of any District Judge from office if, in the opinion of the District Judge or the Council, there is reasonable cause to believe a Judge to be guilty of malfeasance or misfeasance of office, neglect of duty, mental or physical incompetence to perform his duties of office, or the Judge has been convicted of a felony in state or federal court since entering upon duty or a crime under Cherokee law which if committed under the laws of Oklahoma would be a felony.

B. Such recommendation shall be presented promptly to the Council, and the Judge whom it has sought to remove from office shall be accorded an opportunity to appear before the Council and present evidence in his own defense. Thereafter, such Judge may be removed from office by a two-thirds (2/3) vote of the Council.

§ 18. Clerk

The Office of the Principal Chief shall select a Clerk of the District Court to manage and otherwise maintain the business office of the District Court, and such clerkship may be combined with that of the Supreme Court.

§ 19. ~~Reserved~~ Special Judges—Designation

A “Notice of Intent to Designate Special Judge” shall be submitted to the Principal Chief, the Speaker of the Council of the Cherokee Nation, and the Chief Justice of the Cherokee Nation Supreme Court. Such Notice shall be submitted thirty (30) days prior to the effective date of any such designation. Any special judge designated in accordance with this Chapter shall serve at the pleasure of the Presiding District Court Judge.

§ 20. District Court Office

The District Court of Cherokee Nation shall maintain an office at the seat of government. The purpose of said office is to conduct the regular business affairs of the District Court.

§ 21. Place and terms of District Court proceedings

The District Court shall hold Court at the seat of government or at such other place as deemed necessary for the orderly administration of justice. Terms of Court shall be set by the District Judges.

§ 22. District Court deemed always open—Effect of sessions

A. The District Court shall be deemed always open for the purpose of filing papers, issuing and returning process and making motion and orders.

B. Continued existence or expiration of a session of the District Court in no way affects the power of the District Court to do any act or take any proceeding.

§ 23. Judicial Conference

District Judges and Associate District Judges shall attend and participate in the annual Judicial Conference called by the Chief Justice of the Supreme Court.

§ 24. Jurisdiction—Generally

The District Court of Cherokee Nation shall have general jurisdiction and is vested with original jurisdiction, not otherwise reserved to the Supreme Court, to hear and resolve disputes arising under the laws or Constitution of Cherokee Nation in both law and equity, whether criminal or civil in nature. Such actions shall include, but are not limited to, the following:

A1. Crimes. All violations of the Criminal Code of Cherokee Nation committed within its territorial jurisdiction within the following categories:

1a. Offenses committed by Indians, as defined by federal law, against all others,

Indian and
non-Indian; and

2b. Offenses committed by Indians, as defined by federal law, which are
victimless.

B2. Civil causes of action. All causes of action which arise within the territorial
jurisdiction of Cherokee Nation within the following categories:

1a. Between all parties, Indian and non-Indian, who by their actions have
submitted themselves to the jurisdiction of said Court; and

2b. Where the defendant is Indian, as defined by federal law.

C3. Domestic relations. All cases involving the domestic relations of Indians including
child custody and adoption matters.

D4. Child support enforcement.

1a. All child support cases arising in Cherokee Nation Indian country regardless
of whether the parties are Indian or non-Indian.

2b. All child support cases arising on fee land within the jurisdictional
boundaries of Cherokee Nation if the child in question is an enrolled citizen of
Cherokee Nation or is eligible for enrollment as a citizen of Cherokee Nation
except that the petitioning party may request that the matter be heard in state
district court.

3e. At the request of the custodial parent or entity, all child support cases arising
on fee land outside the jurisdictional boundaries of Cherokee Nation where the
noncustodial parent is a citizen of Cherokee Nation.

4d. All child support cases presented to Cherokee Nation by the IV–D agencies
of states or other tribes if Cherokee Nation District Court has personal
jurisdiction over the noncustodial parent or the employer of the noncustodial
parent.

E5. Miscellaneous. All other matters over which jurisdiction has heretofore vested in
Cherokee Nation District Court or which may hereafter be placed within the jurisdiction
of said Court by enactment of the Council.

§ 25. Jurisdiction—Territorial

The territorial jurisdiction of Cherokee Nation District Court shall extend to include all "Indian
country" also known as "Cherokee country" within the fourteen- (14) county area of
northeastern Oklahoma as defined by the Treaties of 1828, 1833 and 1835 and the Patent of
1838 between the United States of America and Cherokee Nation, and at such other locations
within the United States which qualify as "Cherokee country."

§ 26. Writs or orders

The District Court shall have the power to issue any writs or orders necessary and proper to complete the exercise of its jurisdiction.

§ 27. Rules

The District Court shall have the power to adopt all such rules as are necessary for the proper and complete exercise of its jurisdiction and for orderly conduct of proceedings in the court.

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.

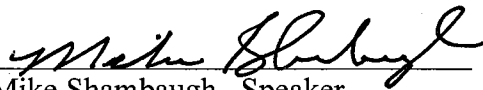
Section 7. Effective Date

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.

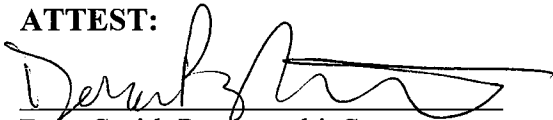
Section 8. Self-Help Contributions

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.

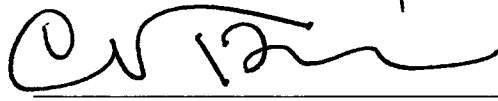
Enacted by the Council of the Cherokee Nation on the 22nd day of January, 2024.


Mike Shambaugh, Speaker
Council of the Cherokee Nation

ATTEST:


Dora Smith Patzkowski, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 23rd day of January, 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>	Victoria Vazquez	<u>Absent</u>
Lisa Hall	<u>Yea</u>	Dora Smith Patzkowski	<u>Yea</u>
Mike Dobbins	<u>Absent</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 20 OF THE CHEROKEE NATION CODE ANNOTATED

Signature/Initial Date

Executive Director:

DEPARTMENT CONTACT: Chuck Hoskin Jr.

RESOLUTION PRESENTER: Taralee Montgomery

Signature/Initial Date

Treasurer (Required: Grants/Contracts/Budgets):

COUNCIL SPONSOR: Mike Shambaugh, Victoria Vazquez, Daryl Legg, EO Smith, Kevin Easley, Candessa Tehee

Signature/Initial Date

Government Relations:

NARRATIVE:
The purpose of this Act is to create the position of Special Judge within the District Court of the Cherokee Nation.

Signature/Initial Date

Administration Approval:

[Signature] 1/19/24

Signature/Initial Date

LEGISLATIVE CLEARANCE:

Legal & Legislative Coordinator:

[Signature] 1/19/24

Signature/Initial Date

Standing Committee & Date:

[Signature] 1/25/24

Chairperson:

[Signature]

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