



Council of the Cherokee Nation

Cherokee Nation Tribal
Council
17763 S. Muskogee Ave.
Tahlequah, OK 74464

Legislation Text

File #: LA-11-90, Version: 1

An Act

LEGISLATIVE ACT #11-90

AN ACT ESTABLISHING A CHEROKEE NATION DISTRICT COURT, JURISDICTION AND PROCEDURE

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Application and Purpose.

The purpose of this Act is to provide for the establishment of a Cherokee Nation District Court of general jurisdiction to hear cases and controversies arising under the Constitution, treaties and laws of the Cherokee Nation of Oklahoma. Decisions of the Cherokee Nation District Court will be subject to review by the Cherokee Nation Judicial Appeals Tribunal as the Court of final review.

Section 2. Composition.

The District Court of the 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 Tribal Council as needed for the orderly administration of justice.

Any member of the 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.

Section 3. 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.

Section 4. Oath or Affirmation of District Judge.

Any district judge or associate district judge shall, before entering upon the duties of office, 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 the Cherokee Nation and will, to the best of my ability, preserve, protect and defend the Constitution of the 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 the Cherokee Nation."

Section 5. Disability of Vacancy of 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.

Section 6. Salaries.

Salary for district judges and associate district judges shall be fixed by the Office of the Principal Chief with approval by the Tribal Council.

Section 7. Removal from Office

(a). Any district judge of the Cherokee Nation or the Tribal Council of the Cherokee Nation may recommend the removal of any district judge or associate district judge from office if, in the opinion of the district judge or tribal 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 Tribal Council, and the judge whom it has sought to remove from office shall be accorded an opportunity to appear before the Tribal 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 Tribal Council.

Section 8. 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 said clerkship may be combined with that of the Judicial Appeals Tribunal.

Section 9. District Court Office.

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

Section 10. Place and Terms of Tribunal Proceedings.

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

Section 11. District Court Deemed Always Open; Effective

Sessions.

(a). The District Court shall be deemed always open for the purpose of filing papers, issuing and returning process, and making motions and orders.

(b). Continued existence or expiration of a session of the District Court in no way effects the power of the District Court to do any act or take any proceeding.

Section 12. Judicial Conference.

District Judges and Associate District Judges shall attend and participate in the annual judicial conference called by the Chief Justice of the Judicial Appeals Tribunal.

Section 13. Jurisdiction - General

The District Court of the Cherokee Nation shall have general jurisdiction over:

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

(a) offenses committed by Indians, as defined by federal law, against all others, Indian and non-Indian;

(b) offenses committed by Indians, as defined by federal law, which are victimless;

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(2). Civil Causes of Action. All causes of action which arise within the territorial jurisdiction of the Cherokee Nation within the following categories:

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

(b) Where the Defendant is Indian, as defined by federal law.

(3). Domestic Relations. All cases involving the domestic relations of Indians, as provided by the federal Indian Child Welfare Act including child custody and adoption matter. Residence requirements shall be as provided in Indian Child Welfare Act.

(4). Miscellaneous. All other matters over which jurisdiction has heretofore vested in the Cherokee Nation District Court or which may hereafter be placed within the jurisdiction of said Court by resolution of the Tribal Council.

Section 14. Jurisdiction - Territorial.

The territorial jurisdiction of the Cherokee Nation District Court shall extend to and 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 the Cherokee Nation, and at such other locations within the United States which qualify as "Cherokee country."

Section 15. 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.

Section 16. 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 the orderly conduct of proceedings in said Court.

Adopted by the Cherokee Nation Tribal Council on this 13th day of NOVEMBER, 1990

YEAS AND NAYS AS RECORDED:

Amon Baker	YEA	Stann Hummingbird, Jr.	Absent
Sam Ed Bush	YEA	Robert McSpadden	YEA
Joe Byrd	YEA	Patsy Morton	YEA
Gary Chapman	ACTING CHAIRMAN	Jeff Muskrat	YEA
Sam Daugherty	YEA	Harold Phillips	YEA
James Eagle	YEA	Goodlow Proctor	YEA
Betty Buckhorn	YEA	Woodrow Proctor	YEA
Joe Grayson, Sr.	ARSENT		

John A Ketcher, President Cherokee Nation Council

Approved and signed by the Principal Chief this 13th day of NOVEMBER, 1990.

Wilma P. Mankf11er, Principal Chief Cherokee Nation of Oklahoma

Gary Chapman, Secretary/Treasurer