



Legislation Text

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AN ACT AMENDING CHEROKEE NATION CODE ANNOTATED, TITLE 10, SECTION 5(A)-(C) - GRANDPARENTAL VISITATION RIGHTS

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This act shall be known as the **Strengthening Support for Cherokee Children Act** of 2023 and codified as (Title 10)(Section 5) of the Cherokee Nation Code Annotated.

Section 2. Purpose

Section 3. Legislative History

CNCA Title 10 Section 5

Section 4. Definitions

For purposes of this Title:

Section 5. Substantive Provisions

A. Pursuant to the provisions of this section, any grandparent **or former court appointed custodian** of an unmarried minor child shall have reasonable rights of visitation to the child if the district court deems it to be in the best interest of the child.

1. The right of visitation to any grandparent **or former court appointed guardian** of an unmarried minor child shall be granted only so far as that right is authorized and provided by order of the District Court. Visitation may be subject to supervision as directed by the Court.

2. Except as otherwise provided by paragraphs 5 and 6 of this subsection, if a child is born

out of wedlock, the parents of the father of such child shall not have the right of visitation authorized by this section unless such father has been judicially determined to be the father of the child.

3. If one natural parent is deceased and the surviving natural parent remarries, any subsequent adoption proceedings shall not terminate any Court-granted grandparental rights belonging to the parents of the deceased natural parent unless said termination of visitation rights is ordered by the Court after opportunity to be heard, and the District Court determines it to be in the best interest of the child.

4. Except as otherwise provided by paragraphs 5 and 6 of this subsection, if the parental rights of one or both parents have been terminated, any person who is the parent of the person whose parental rights have been terminated **or who has previously served as a court appointed guardian of the child** may be given reasonable rights of visitation if the Court determines it to be in the best interest of the child.

5. If the child has been born out of wedlock and the parental rights of the father of the child have been terminated, the parents of the father of such child shall not have a right of visitation authorized by this section to such child unless:

- a. the father of such child has been judicially determined to be the father of the child;
- b. the Court determines that a previous grandparental relationship existed between the grandparents and the child; and
- c. the Court determines such visitation rights to be in the best interest of the child.

6. If the child is born out of wedlock and the parental rights of the mother of the child have been terminated, the parents of the mother of such child shall not have a right of visitation authorized by this section to such child unless:

- a. the Court determines that a previous grandparental relationship existed between the grandparents and the child; and
- b. the Court determines such visitation rights to be in the best interest of the child.

7. For the purposes of paragraphs 5 and 6 of this subsection, the District Court shall not grant to the grandparents **or a former court appointed custodian** of an unmarried minor child, visitation rights to that child:

- a. subsequent to the adoption of the child, provided however, any subsequent adoption proceedings shall not terminate any prior Court-granted grandparental **or former custodian** visitation rights unless said termination of visitation rights is ordered by the Court after opportunity to be heard and the District Court determines it to be in the best interest of the child, or
- b. if the child had been placed for adoption prior to attaining six (6) months of age.

B. The District Court is vested with jurisdiction to issue orders granting grandparental **or former custodian** visitation rights and enforce such visitation rights, upon the filing of a verified application for such visitation rights or enforcement thereof. Notice as ordered by the Court shall be given to the person or parent having custody of said child.

C. Any transportation costs or other costs arising from any visitation ordered pursuant to this section shall be paid by the grandparent or grandparents **or former custodian** requesting such visitation.

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 or 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/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.

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.