



Legislation Text

File #: 18-027, Version: 2

AN ACT AMENDING TITLE 12 OF THE CHEROKEE NATION CODE ANNOTATED BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This act shall be known as an Amendment to the Civil Protective Order Act and codified in Title 12 § 503 of the Cherokee Nation Code Annotated.

Section 2. Purpose

Congress has clarified with the reauthorization of the Violence Against Women Act (VAWA) of 2013, that tribal courts have full jurisdiction over all parties to a protective order if the protection order arose in Indian Country or if the order was issued within the authority of the Indian tribe per [18 U.S.C. 2265\(e\)](http://www.law.cornell.edu/uscode/text/18/2265(e)). [<http://www.law.cornell.edu/uscode/text/18/2265>](http://www.law.cornell.edu/uscode/text/18/2265) This act expands the civil jurisdiction over civil protective orders to include non-Indians who have protective orders issued against them by an citizen of a federally recognized tribe.

Section 3. Legislative History

12 CNCA §503
LA 33-05

Section 4. Definitions

For purposes of this Title:

Section 5.

Title 12 § 503, shall be amended as follows:

§ 503. Jurisdiction for civil protective orders

~~A. Exclusive jurisdiction. The Cherokee Nation District Court shall exercise exclusive jurisdiction:~~

~~1. Upon any restricted individual Indian allotment within Cherokee Nation Tribal Jurisdiction Service Area.~~

~~2. Under any other established theory of exclusive jurisdiction.~~

~~B. Concurrent jurisdiction. The Cherokee Nation District Court may exercise concurrent jurisdiction:~~

~~1. When the respondent is a citizen or member of a federally recognized tribe and is domiciled or found within the exterior reservation boundaries of the original patent to Cherokee Nation; and~~

~~2. Over Indian Country within the exterior boundaries of Cherokee Nation Tribal Jurisdiction Service Area.~~

~~3. When any act of domestic violence occurs either:~~

~~a. upon lands owned by Cherokee Nation;~~

~~b. upon lands within a dependent Indian community or developed by the Housing Authority of Cherokee Nation;~~

- ~~c. upon lands within the exterior reservation boundaries of the original patent of Cherokee Nation.~~
- 4. ~~When the Court is being asked to recognize and enforce a valid protective order of another court of competent jurisdiction; and~~
- 5. ~~Over any proceedings for protective orders until such time as an alternative choice of forum shall have been decided.~~
- A. The Cherokee Nation District Court shall have full civil jurisdiction to issue and enforce protection orders if:
 - 1. an act of domestic violence has occurred within the territorial boundaries of the Cherokee Nation; or
 - 2. if the order was issued within the authority of the Cherokee Nation in accordance with the Cherokee Nation Code Annotated.
- B. Jurisdiction is not authorized over parties who are both are non-Indian.
- C. The Cherokee Nation District Court shall have the authority to enforce any orders by:
 - 1. civil contempt proceedings;
 - 2. excluding violators from Indian land;
 - 3. and to use other appropriate mechanisms, in matters arising anywhere within the jurisdiction of the Cherokee Nation or otherwise within the authority of the Cherokee Nation and according to Cherokee Nation law.
- D. A protection order issued by any other tribal or state jurisdiction in accordance with 18 U.S.C. § 2265 shall be enforceable by the Cherokee Nation District Court and Cherokee Nation Marshal Service.
- E. Cherokee Nation District Court shall have continuing jurisdiction over any proceedings for protective orders until such time as an alternative choice of forum shall have been decided.

~~CE.~~ Courts shall construe this section liberally to exercise maximum jurisdiction.

~~DE.~~ This section is not exclusive of the situations in which the Court may exercise jurisdiction.

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. Effective Date

The provisions of this act shall become effective thirty (30) days from and after the date of 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.