



Council of the Cherokee Nation

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

Legislation Text

File #: 12-107, **Version:** 2

AN ACT RELATING TO DRUG TESTING FOR ELECTED OFFICIALS

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This act shall be known as the “Elected Officials Drug Testing Act of 2012” and codified as Title 19 and Section 51 of the Cherokee Nation Code Annotated.

Section 2. Purpose

The purpose of this Act is to require Elected Officials of the Cherokee Nation to undergo random drug testing for prohibited drugs and to set forth possible ramifications for failure of such test or refusal to allow administration of such tests.

Section 3. Legislative History

Article VI, Section 7 of the Cherokee Nation Constitution

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.

Article V of the Cherokee Nation Constitution-Distribution of Powers

The powers of the government of the Cherokee nation shall be divided into three (3) separate branches: Legislative, Executive and Judicial; and except as provided in this Constitution, the Legislative, Executive and Judicial branches of government shall be separate and distinct and no branch shall exercise the powers properly belonging to either of the others.

Section 4. Definitions

For purposes of this Title:

Prohibited drugs: means marijuana (THC metabolic), opiates (heroin, morphine), cocaine, phencyclidine (PCP), methamphetamines, oxycodone, amphetamines, barbiturates, and methadone or any other illegal drugs.

Elected Officials: means any elected or duly appointed officials from the Cherokee Nation, including the Principal Chief, Deputy Chief, and Tribal Council Members.

Section 5. Substantive Provisions

A. Elected officials shall submit to random drug testing.

B. An initial drug screening will be conducted within thirty (30) days of the effective date of the policy being adopted and randomly thereafter not to exceed more than one time per year.

C. If any of the elected officials are suffering from life threatening illnesses, have just recovered from medical procedures or surgeries, are receiving treatments for certain conditions, or take daily prescription drugs for chronic health issues such as high blood pressure, heart disease and diabetes, they shall provide documentation, from their physician, to the drug testing laboratory or company so any positives for those drugs will not affect the purposes of this act. This documentation shall remain confidential and not subject to the Cherokee Nation Freedom of Information Act.

D. The Council of the Cherokee Nation, which is the legislative branch of government, shall determine whether they will use an independent drug testing vendor or the one currently used for Cherokee Nation Employee Drug Testing and will develop policies for the random drug testing since they are not present at the council house on a daily basis.

E. The Chief, Deputy Chief, Cabinet members and Chief Appointees, which is the executive branch of the government, shall determine whether they will use an independent drug testing vendor or the one currently used for Cherokee Nation Employee Drug Testing and will develop policies for their random drug testing.

F. The executive and legislative branch drug testing shall be separate from each other.

G. Anyone with a life threatening, potentially terminal illness is exempt from drug testing due to the number of medications that are required for treatment, survival, and extension of life, which also includes experimental drugs and treatments.

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.