



Council of the Cherokee Nation

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

Legislation Text

File #: 21-045, Version: 2

A RESOLUTION AUTHORIZING MUNICIPAL AGREEMENTS FOR TRAFFIC AND MISDEMEANOR CITATIONS AND DONATIONS TO MUNICIPALITIES

WHEREAS, the Cherokee Nation since time immemorial has exercised the sovereign rights of self-government in behalf of the Cherokee people;

WHEREAS, the Cherokee Nation is a federally recognized Indian Nation with a historic and continual government to government relationship with the United States of America;

WHEREAS, following the decisions in *McGirt v. Oklahoma*, 140 S. Ct. 2452, 2456, 207 L. Ed. 2d 985 (2020), *Hogner v. State*, 2021 OK CR 4, and *Spears v. State*, 2021 OK CR 7, it is recognized that the State of Oklahoma does not have criminal jurisdiction over crimes (including traffic violations and misdemeanors) committed by Indians on the Cherokee Nation Reservation ("the Reservation"). This holding extends to political subdivisions of the State, including municipalities.

WHEREAS, the Cherokee Nation recognizes that in order to keep local communities within the Reservation safe, Cherokee Nation needs the community policing provided by local law enforcement who are properly cross-deputized with the Cherokee Nation Marshal Service.

WHEREAS, the Cherokee Nation recognizes that the fees and fines associated with traffic citations and misdemeanors provide revenue to help fund those local law enforcement agencies, including the administrative costs associated with the municipal court systems.

WHEREAS, the Cherokee Nation wishes to enter into written agreements with municipalities within the Reservation ("Agreements") that would allow the Cherokee Nation to donate a portion of the fees and fines associated with Cherokee Nation traffic and misdemeanor offenses in exchange for the municipalities to continue to provide community policing provided by local law enforcement who are properly cross-deputized with the Cherokee Nation Marshal Service.

WHEREAS, Cherokee Nation Constitution Article X Section 7 requires Council approval for any donation.

BE IT RESOLVED BY THE CHEROKEE NATION, the Cherokee Nation Tribal Council hereby authorizes the Principal Chief to enter into the aforementioned Agreements with municipalities within the Reservation regarding enforcement of Cherokee Nation traffic and misdemeanor offenses by local law enforcement who are properly cross-deputized with the Cherokee Nation Marshal Service.

BE IT FURTHER RESOLVED, Any Agreements pursuant to this Resolution shall address the following:

1. Payment to the Nation

- a. In order for municipalities to issue, process, and collect payment on citations for Cherokee Nation traffic and misdemeanor offenses, the municipality must enter an Agreement, pursuant to this Resolution, with the Cherokee Nation.
- b. The municipality must agree to submit all Cherokee Nation traffic and misdemeanor fees, as specified in the Agreement and Cherokee Nation statute, to the Cherokee Nation, along with accompanying records on a monthly basis.

2. Donations

- a. Cherokee Nation shall donate a portion of the fees and fines from traffic and misdemeanor citations, as specified in the Agreement, to municipalities who have entered an Agreement with the Cherokee Nation to provide funding to support community policing and administrative support for the issuance of said citations.
- b. The Agreement may allow the municipality to directly retain, upon collection from defendants, the donation from the Cherokee Nation as calculated under the Agreement; provided that all proper accounting records are timely submitted on a monthly basis.
- c. The donations are unrestricted and may be used by the municipality as their regular budgeting and expenditure laws allow.

3. Accounting and Record Keeping

- a. The Treasurer shall include in the annual report the portion of fees and fines donated to each municipality and the amount of fines and fees collected by the Cherokee Nation from each municipality.

4. Treatment of plea cases

- a. The municipality is authorized to accept payment in full for any traffic or misdemeanor citation and transmit the citation and an accompanying court minute or other record of payment to the Cherokee Nation District Court to be filed in the Cherokee Nation District Court.
- b. The municipality is authorized to enter and record pre-approved payment plans for any traffic or misdemeanor citation. Upon completion of the pre-approved payment plan, the municipality shall transmit the citation to the Cherokee Nation District Court to be filed with the Cherokee Nation District Court.

5. Treatment of non-plea cases

- a. For any citation in which the offender does not appear, does not pay in full, or fails to fulfill payment under a pre-approved payment plan, the citation should be referred to the Cherokee Nation for prosecution.

6. Prohibition of collection

- a. If a citation is not paid in full or timely payments are not made pursuant to a pre-approved payment plan, the municipality is prohibited from referring payment collection to any third party and shall instead refer the citation to the Office of the Cherokee Nation Attorney General for prosecution.

7. No effect on other agreements

- a. Nothing in this Resolution or subsequent agreements shall be construed to lessen or expand the authority of any law enforcement officer to issue citations, make arrests, or perform any other function pursuant to a valid cross-deputization agreement with the Cherokee Nation Marshal.