



# Council of the Cherokee Nation

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

## Legislation Text

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File #: 21-095, Version: 1

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### **AN ACT AMENDING TITLE 26 SECTION 78(A) OF THE CHEROKEE NATION CODE ANNOTATED TO CHANGE THE LAST DAY THE ELECTION COMMISSION SHALL ACCEPT PERSONAL DELIVERY OF ABSENTEE BALLOTS AND TO CLARIFY THIS CHANGE IN THE AS PREVIOUSLY ENACTED UNDER LA-22-20**

**BE IT ENACTED BY THE CHEROKEE NATION:**

#### **Section 1. Title and Codification**

This Act codifies certain amendments to Title 26 § 78(A) of the Cherokee Nation Code Annotated to change the last day the Election Commission shall accept personal delivery of absentee ballots, as previously amended under LA-22-20.

#### **Section 2. Findings**

The Council of the Cherokee Nation finds that an emergency exists within the Cherokee Nation, that Title 26 § 78(A) of the Cherokee Nation Code Annotated was previously amended under LA-22-20 to change the last day the Election Commission shall accept personal delivery of absentee ballots, but such amendments were misinterpreted by the Election Commission during the 2021 Cherokee Nation elections leading to confusion.

#### **Section 3. Purpose**

The purpose of this Act is to amend Title 26 § 78(A) of the Cherokee Nation Code Annotated to change the last day the Election Commission shall accept personal delivery of absentee ballots as provided herein. This amendment is to further clarify that legislative intent should always be considered by the Election Commission when attempting to legally interpret the legislation of this Council. Further, changes to existing provisions of the Cherokee Nation Code will always be provided by underlined new language and stricken-through for deleted language.

#### **Section 4. Legislative History**

Article VI, Section 7 of the Cherokee Nation Constitution states that the Council shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation.

Source. LA 06-10, eff. February 23, 2010.

History

Amended. LA 26-14, eff. October 25, 2014.

Amended. LA 46-12, eff. December 17, 2012.

Amended. LA 04-14, eff. February 19, 2014.

Amended. LA 12-16, eff. May 18, 2016.

Amended. LA 22-20, eff. October 13, 2020

Amended. LA 24-20, eff. October 13, 2020.

## **Section 5. Substantive Provisions**

### **§ 78. Return of absentee ballots**

A. A voter shall mark his ballot in permanent black or blue ball point ink; seal the ballot in the secrecy envelope; fill out completely and sign the affidavit on the front of the affidavit envelope: (i) in the presence of a notary public; or (ii) in the presence of one (1) witness of legal age and enclose a copy of a government issued photo identification. The affidavit envelope must be: (a) notarized and the notary seal affixed to the affidavit; or (b) signed by the one (1) witness of legal age and included an enclosed copy of a government issued photo identification to be counted; and return the documents inside the postage paid return envelope via the United States mail to the Election Commission. Only those absentee ballots which are mailed to the Election Commission and which reach the Election Commission post office box in Tahlequah, Oklahoma, no later than 7:00 p.m. on Election Day shall be counted; provided that personal delivery of an absentee ballot shall be accepted during in person absentee voting as provided in § 62(D) and on ~~the Thursday before Friday the day before election~~ and election day from 7:00 a.m. to 7:00 p.m., only if the voter or person designated by the voter delivers the ballot to the Election Commission Office. Voting in person at a precinct by a voter who has requested an absentee ballot shall be permitted, however, that voter must cast a challenged ballot to allow the Commission to determine whether an absentee ballot was cast. In the event that a valid absentee ballot was returned by the voter, the challenged ballot will not be counted. In the event that a valid absentee ballot was not returned by a voter, the challenged ballot will be counted.

B. The Election Commission is authorized and directed to reach agreements with the appropriate jurisdictions to ensure free notarization of the ballots to the greatest extent possible.

## **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.