



NCA 21-044

CLASSIFICATION: #26. JUDICIAL BRANCH/COURTS

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 26 ENTITLED "JUDICIAL BRANCH/COURTS" AND AUTHORIZING THE CREATION OF A CHIEF DISTRICT COURT JUDGE

Be it enacted by the National Council of the Muscogee (Creek) Nation:

SECTION ONE. FINDINGS. The National Council finds that:

A. Article VII Section 1 of the Constitution of the Muscogee (Creek) Nation (hereafter, "Nation") vests all judicial power in one Supreme Court and in such inferior courts as the National Council may from time to time ordain.

B. Since the establishment of a single Muscogee (Creek) Nation District Court ("District Court") in 1981, the legal issues and complexities facing the Nation has changed and evolved. The progress of the Nation and its citizens over the past three decades has placed new demands upon our court system.

C. The District Court has a duty to also evolve in order to protect the due process rights of defendants, protect the rights of victims of crimes and provide for the safety of the citizens of the MCN, as well as provide for the orderly administration of justice.

D. The decision of the United States Supreme Court in *McGirt v. Oklahoma*, No. 18-9526 (U.S.) and *Sharp v. Murphy*, No. 17-1107 (U.S.) (ratifying that the land within the 1866 borders of the Muscogee (Creek) Nation remains Indian country today) has dramatically increased the case load upon the District Court.

E. A full-time Chief Judge is necessary to hear emergency requests, handle case administration, provide for timely approval of search warrants and arrest warrants and preside over the part-time District Court Judges.

SECTION TWO. PURPOSE. The purpose of this Act is to amend Title 26, Chapter 2 and authorize the creation of the full-time position of Chief Judge of the District Court. All statutory or case law references to the Chief Judge shall be synonymous with Presiding Judge unless indicated otherwise.

SECTION THREE. AMENDMENT. These amendments shall be codified in Title 26, of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said amendment and its inclusion in pocket parts of the Code of Laws of the Muscogee (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designed consistent with the format of the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following amendment, without further National Council approval.

SECTION FOUR. AMENDMENT. MCNCA Title 26, §2-102 is hereby amended to read as follows:

SUBCHAPTER 1. CRIMINAL, CIVIL AND. FAMILY DIVISIONS

§ 2-102. The District Trial Court Civil Division of the Muscogee (Creek) Nation shall have jurisdiction over all civil cases, at law and at equity, including traffic tickets that are civil in nature, ~~but shall not have jurisdiction of cases that are within the jurisdiction of the Family District Trial Court.~~

SECTION FIVE. AMENDMENT. MCNCA Title 26, §2-201 is hereby amended to read as follows:

§ 2-201. District Trial Court Judges

A. **Chief Judge. The position of Chief Judge of the District Trial Court is created.**

~~A. B.~~ The District Trial Court Judges are hereby created as Officers of the District Trial Court and ~~one shall be designated as the Administrative Officer of the District Trial Courts collectively. Three separate District Trial Court Judges are preferred to be appointed to the District Trial Courts established under the law; however two District Trial Court Judges shall hold office at all times.~~ **Each District Trial Court judge shall be assigned to a single Trial Court Division by duly enacted Tribal Resolution; however, any District Court judge may preside over matters in any of the Trial Court Divisions as deemed necessary by the Chief Judge of the District Court.**

B. **C.** Qualifications. Each District Trial Court Judge shall be a full citizen of the Muscogee (Creek) Nation, unless this requirement is specifically waived by a two-thirds (2/3) vote of the full National Council, and possess the following educational and professional qualifications:

1. Must be a graduate of an accredited law school;

2. A member of the Muscogee (Creek) Nation Bar Association;
3. A member of a state bar association and admitted or be eligible to practice law before the federal courts in Oklahoma;
4. Shall have a minimum of four (4) years active trial and law practice experience;
5. Shall be required to maintain a minimum of twelve (12) hours of continuing legal education each year, one (1) hour of which must be legal ethics.
- 6. The Chief Judge shall have a minimum of four (4) years of prior full or part-time judicial experience in either tribal, state or federal courts.**

€. **D.** Nomination/Term. Tribal Court Judges shall be nominated by the Principal Chief and confirmed by the National Council by Tribal Resolution. All nominations rejected by the full National Council at a Regular Council meeting shall be replaced by a new nomination within thirty (30) days. **The term of office for the Chief Judge shall be six (6) years from the date of taking the oath of office. Part-time** District Trial Court Judges will be appointed to serve staggered terms to ensure that there will always be a seated judge. To establish staggered terms, the term of the first District Trial Court Judge shall begin upon confirmation and shall continue until December 31, 2013, the term of the second District Trial Court Judge shall begin upon confirmation and shall continue until December 31, 2014, and the term of the third District Trial Court Judge shall begin upon confirmation and shall continue until December 31, 2015. Thereafter, all successive terms of appointment for a **part-time** District Trial Court Judge shall run for four (4) years which expire on December 31 of the respective years. If a District Trial Court Judge is nominated following the death, incapacitation, resignation or removal of a District Trial Court Judge, the newly confirmed Judge shall serve out the remainder of the original term.

Đ. **E.** Compensation. **The Chief Judge shall be compensated in an annual salary range from \$153,000 to \$180,000, depending upon experience. The Chief Judge may elect to participate in fringe benefits provided to Judicial Branch employees. Compensation shall have F.I.C.A. and federal income taxes withheld in the same manner as any other employee.**

Each District Trial Court Judge shall be compensated in the amount of \$150.00 per hour with a maximum of \$3,500 **\$9,000.00** per month. ~~plus expenses, with the exception of the Administrative Officer of the Court. The Judge designated as the Administrative Officer shall be compensated in the amount of \$4,175.00 per month for administrative duties of the Court. Total Judges salaries shall not exceed that amount appropriated by the National Council without further National Council approval and/or appropriation. In the event a trial is expected to exceed a period of time that is extraordinary in duration, an exception to the monthly judges' salary limitation is hereby authorized. Compensation~~

shall have F.I.C.A and federal income taxes withheld in the same manner as any other employee.

E. F. Removal. Pursuant to Article XII Section 8, the grounds for recall of a judicial officer shall be established by the Muscogee (Creek) Nation Supreme Court.

G. Duties of Chief Judge. The Chief Judge shall serve as the Chief Administrative Officer of the District Court. If the Chief Judge is absent, he/she shall designate an Acting Presiding Judge to act with the full authority of the Chief Judge in their absence. The Chief Judge, among those duties prescribed by the Supreme Court, shall create written district court rules and enter administrative orders as necessary, subject to the approval of the Supreme Court. The Chief Judge's responsibilities within the District Court shall include, but not be limited to setting dockets, making judicial assignments, setting jury terms, assigning use of courtrooms and providing for rules of private process servers. In the absence of the assigned judge, the Chief Judge may hear ex parte emergency orders and hear emergency requests for writs.

SECTION SIX. AMENDMENT. MCNCA Title 26, § 2-303 is hereby amended to read as follows:

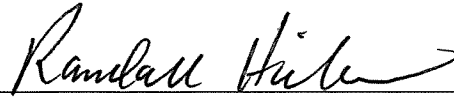
§ 2-303. Public Defenders

The District Court shall be allowed to engage in contracts for Public Defenders to represent individuals who are unable to employ counsel including but not limited to: criminal defendants; children; mothers, fathers and custodial relatives in deprived juvenile cases; and others in need of counsel as the court determines due process requires. If there are no contracted Public Defenders available to represent such individuals, whether due to conflict or other reasons, the District Trial Court Judges shall be allowed to hire or appoint Public Defenders to represent such individuals. ~~criminal defendants who are unable to employ counsel, children, mothers and fathers, custodial relatives, and others in need of counsel. All members of the Muscogee (Creek) Nation Bar Association shall have the opportunity to be listed and considered for Public Defenders appointments by informing the Court Clerk of the desire to accept such appointments.~~

SECTION SEVEN. EFFECTIVE DATE. This Act shall become effective immediately upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution

ENACTED by the Muscogee (Creek) National Council on this **24th** day of **April, 2021.**

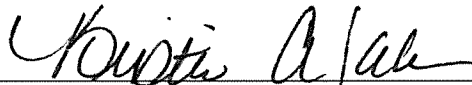
IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



Randall Hicks, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

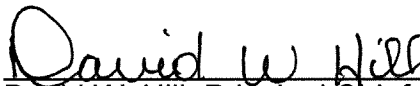
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with **Sixteen** members attending this meeting on the **24th** day of **April, 2021** and that the above is in conformity with the provisions therein adopted by a vote of **14** in favor, **1** against and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



Kristie A. Jackson, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 7th day of May, 2021 to the above Law, **NCA 21-044** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



David W. Hill, Principal Chief
Muscogee (Creek) Nation





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C. The District Court has a duty to also evolve in order to protect the due process rights of defendants, protect the rights of victims of crimes and provide for the safety of the citizens of the MCN, as well as provide for the orderly administration of justice.

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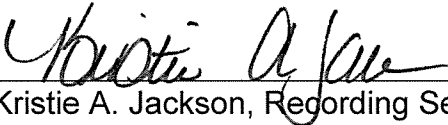
IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



Randall Hicks, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with **Sixteen** members attending this meeting on the **24th** day of **April, 2021** and that the above is in conformity with the provisions therein adopted by a vote of **14** in favor, **1** against and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



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David W. Hill, Principal Chief
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