



NCA 22-075

CLASSIFICATION: #27. JUDICIAL PROCEDURES

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 27, CHAPTER 1, ENTITLED "AUTHORITIES, JURISDICTION, AND APPLICABLE LAW" BY ADOPTING THE STANDARDS, RIGHTS AND RESPONSIBILITIES DEFINED BY *THE AMERICANS WITH DISABILITIES ACT OF 1990*, *THE ADA AMENDMENTS ACT OF 2008*, AND *THE REHABILITATION ACT OF 1973*, REQUIRING THAT ALL SERVICES OFFERED BY THE MUSCOGEE (CREEK) NATION ARE ACCESSIBLE TO ITS CITIZENS WITH DISABILITIES

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

SECTION ONE. FINDINGS. The National Council finds that:

A. The lives of Muscogee (Creek) Nation ("Nation") citizens who have disabilities would be greatly improved if the Nation would fully and openly comply with the *Americans with Disabilities Act of 1990* (hereafter, the "ADA"), the *ADA Amendments Act of 2008* ("ADAAA"), and the *Rehabilitation Act of 1973* ("RA").

B. The Nation therefore wishes to adopt and adhere to the prohibitions against discrimination, the standards, rights, and responsibilities enumerated within the ADA, ADAAA, and the RA; however, the Nation expressly declines to subject itself to federal or state oversight or enforcement.

C. Oversight of the Nation's compliance with the ADA, ADAAA, and RA will be addressed in subsequent legislation.

D. The Nation acknowledges its responsibilities to its citizens with disabilities and accepts its duty be responsive to their needs.

E. The Nation is obligated to comply with certain federal laws as adopted by law of the Nation. No other statutes or laws of the United States shall be applied by the Nation, unless expressly made applicable by the laws of the Muscogee (Creek) Nation as enacted by the National Council. *MCNCA Title 27, § 1-103(B)*.

F. The protections created by the ADA, ADAAA and RA apply to individuals who meet the ADA's definition of a disability, but also applies, in certain circumstances, to parents who have an association with an individual known to have a disability, and those who are coerced or subjected to retaliation for assisting people with disabilities who are themselves asserting their rights under the ADA.

G. The ADA has defined a person as has having a disability, if:

1. He or she has a physical or mental impairment that substantially limits one or more of his or her major life activities;
2. He or she has a history or record of such an impairment; or
3. He or she is perceived by another as having such an impairment.

H. The MCN acknowledges the need to adopt and adhere to the prohibitions against discrimination, standards, rights, and responsibilities enumerated within all five titles of the ADA, as amended by the ADAAA, and as expanded by the RA, which generally include:

1. Employment (Title I). Prohibiting discrimination and requiring reasonable accommodations;
2. Public Services (Title II). Provides that governments cannot deny services, participation, activities, and requires that public transportation must be accessible;
3. Public Accommodations (Title III). Provides that public accommodations [such as housing] must comply with basic nondiscrimination requirements that prohibit exclusion, segregation, and unequal treatment. New construction and modifications must be accessible, and provides for removal of barriers if readily achievable;
4. Telecommunications Relay Services (Title IV). The *Telecommunications Act of 1996* covers telephone and television access for people with hearing and speech disabilities, such as TTYs and similar devices. Title IV was expanded by the ADAAA to include the *Fair Housing Act*, the *Air Carrier Access Act of 1986*, the *Voting Accessibility for the Elderly and Handicapped Act of 1984*, the *National Voter Registration Act of 1993*, the *Civil Rights of Institutionalized Persons Act*, the *Individuals with Disabilities Education Act*, the *Rehabilitation Act of 1973* (Sections 501 – 504 and 508), and the *Architectural Barriers Act of 1968*; and
5. Miscellaneous (Title V). Provides a prohibition against coercing, threatening, or retaliating against persons with disabilities or those who attempt to aid people with disabilities.

I. The Nation's compliance with the prohibitions against discrimination, standards, rights, and responsibilities enumerated within the ADA, ADAAA, and RA is in the best interests of the Nation's citizens, is a matter of public welfare, public safety, well-being, and ensures the Nation's citizens with disabilities access to all services provided by the Nation.

J. Codification will secure the Nation's outreach and accessibility to services for its homeless, veterans, physically challenged and those citizens suffering with disease or are mentally ill.

K. Codification of this law will demonstrate the Nation's commitment to its most vulnerable citizens who have disabilities, including those who serve as caretakers, and will require each department within the Nation to review its policies and procedures, and to bring them into compliance with the ADA, ADAAA, and RA.

L. Codification of this law adopts the prohibitions against discrimination, standards, rights, and responsibilities enumerated within the ADA, ADAAA, and RA only, expressly rejecting subjecting the Nation to federal or state enforcement, compliance, or any other remedies.

M. The passage of this law does not subject the Nation or its citizens to the jurisdiction of any other entity, including, but not limited to any state agency or court, the Federal justice system, the Federal Communications Commission, the U.S. Department of Labor (including the Office of Federal Contract Compliance Programs and the Civil Rights Center), the U.S. Equal Employment Opportunity Commission, the U.S. Department of Transportation, the U.S. Department of Justice, the U.S. Department of Education, the U.S. Department of Health and Human Services, and the Architectural and Transportation Barriers Compliance Board.

SECTION TWO. PURPOSE. The purpose of this law is to authorize expansion of the Nation's Code of Laws to adopt the prohibitions against discrimination, standards, rights, and responsibilities enumerated within the *Americans with Disabilities Act of 1990*, the *ADA Amendments Act of 2008*, and the *Rehabilitation Act of 1973*.

SECTION THREE. AMENDMENT. This amendment shall be codified in Title 27, 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 in the Nation's 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 Nation's 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.

TITLE 27

CHAPTER 1. AUTHORITIES, JURISDICTION, AND APPLICABLE LAW

§ 1-103. Law applicable

B. Federal Law. The Muscogee (Creek) Nation Courts shall apply the Federal Indian Civil Rights Act, 25 U.S.C. § 1301 et seq. No other statutes and laws of the United States shall be applied by the Muscogee (Creek) Nation courts unless: (1) expressly made applicable by law of the Muscogee (Creek) Nation enacted by the National Council or (2) expressly made applicable by an agreement to which the Muscogee (Creek) Nation is a party and which has been approved by the National Council, or (3) expressly required to be applied by the Muscogee (Creek) Nation courts in specific circumstances by compact made between the Muscogee (Creek) Nation and the United States pursuant to the Indian Self-Determination and Education Assistance Act of 1978, as amended, with the approval of the National Council or (4) expressly made applicable to Indian Tribes by duly enacted federal statute.

1. Adoption of federal law prohibiting discrimination against citizens with disabilities:

- a. **The Muscogee (Creek) Nation hereby adopts the prohibitions against discrimination, standards, rights and responsibilities enumerated within the *Americans with Disabilities Act of 1990*, the *ADA Amendments Act of 2008*, and the *Rehabilitation Act of 1973*, prohibiting disability discrimination.**
- b. **Any existing law of the Nation shall hereafter be invalid if inconsistent with the prohibitions against discrimination, standards, rights and responsibilities enumerated within the *Americans with Disabilities Act of 1990*, the *ADA Amendments Act of 2008* and/or the *Rehabilitation Act of 1973*.**

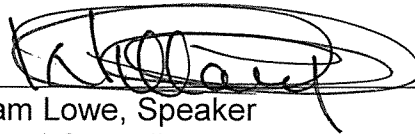
2. Nothing in this Section:

- a. **Shall serve as a waiver of the sovereignty of the Muscogee (Creek) Nation; and**
- b. **Shall permit state or federal oversight or enforcement of the *Americans with Disabilities Act of 1990*, the *ADA Amendments Act of 2008*, and the *Rehabilitation Act of 1973*, prohibiting disability discrimination. This law shall not subject the Nation or its citizens to the jurisdiction of the any state or federal government nor any of its agencies or courts, including those agencies empowered with state or federal enforcement of these Acts.**

SECTION FOUR. 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 **27TH** day of **August, 2022.**

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



William Lowe, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

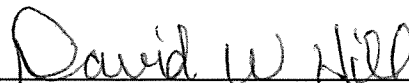
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with **Sixteen** members attending this meeting on the **27th** day of **August, 2022** and that the above is in conformity with the provisions therein adopted by a vote of **15** in favor, **0** 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.



Alicia Stroble, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 31st day of August, **2022** to the above Law, **NCA 22-075** 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

