



NCA 07-075

CLASSIFICATION: #16. EXECUTIVE BRANCH

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 16, § 3-106, REGARDING RETENTION OF FILES BY THE ATTORNEY GENERAL'S OFFICE

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

SECTION ONE. AMENDMENT. MCNCA Title 16, §3-106.M, is hereby amended to add a new subsection S to read as follows:

§ 3-106. Powers and Duties


The duties of the Attorney General as the Chief Law Office of the Muscogee (Creek) Nation shall be:

M. To keep ~~a complete office all files of all cases and investigations~~ handled by him on behalf of the Muscogee (Creek) Nation for a period of eight (8) years from the date of closure; provided that some files may be kept longer at the Attorney General's discretion.

SECTION TWO. 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 31st day of March 2007.

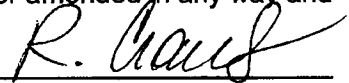
IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



George Tiger, 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 twenty-six members with **Twenty-Four** members attending this meeting on the **31st day of March 2007**, and that the above is in conformity with the provisions therein adopted by a vote of **20** in favor, **2** against, **0** abstentions, (one Representative out of seat at time of casting of vote) and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



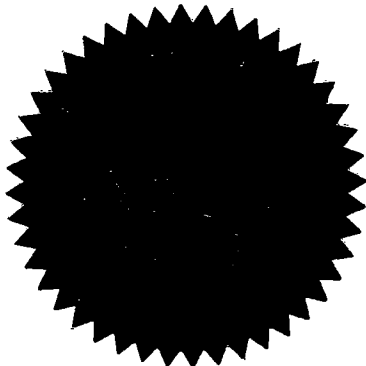
Rebecca Crowels, Acting Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this 9 day of April, 2007, to the above Law, **NCA 07-075**, authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



A. D. Ellis, Principal Chief
Muscogee (Creek) Nation





NCA 07-075

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SECTION ONE. AMENDMENT. MCNCA Title 16, §3-106.M, is hereby amended to add a new subsection S to read as follows:

§ 3-106. Powers and Duties

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M. To keep all files handled by him on behalf of the Muscogee (Creek) Nation for a period of eight (8) years from the date of closure; provided that some files may be kept longer at the Attorney General's discretion.

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

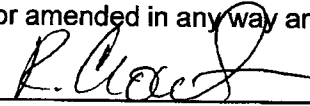
ENACTED by the Muscogee (Creek) National Council on this 31st day of March 2007.

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

George Tiger, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

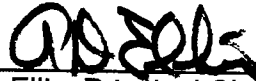
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of twenty-six members with **Twenty-Four** members attending this meeting on the **31st day of March 2007**, and that the above is in conformity with the provisions therein adopted by a vote of **20** in favor, **2** against, **0** abstentions (one Representative out of seat at time of casting of vote), 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.



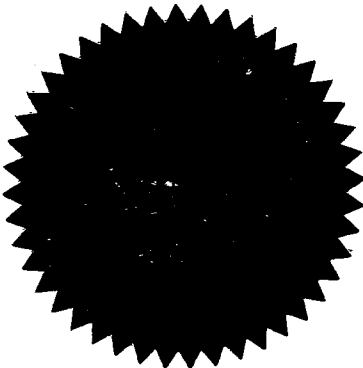
Rebecca Crowels, Acting Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this 9 day of April, 2007, to the above Law, **NCA 07-075**, authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



A. D. Ellis, Principal Chief
Muscogee (Creek) Nation





NCA 02-033

CLASSIFICATION: #2. Attorneys and Tribal Bar

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING NCA 89-19 (AN ORDINANCE OF THE MUSCOGEE (CREEK) NATION ESTABLISHING THE OFFICE OF THE ATTORNEY GENERAL WITHIN THE GOVERNMENT STRUCTURE OF THE MUSCOGEE (CREEK) NATION)

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

SECTION ONE. AMENDMENT. NCA 89-19, § 103 G., is hereby amended to read as follows:

Section 103 POWERS AND DUTIES

G. To assist the National Council's Legislative Research Specialist or designee in writing drafts of bills and resolutions only upon the written request from the Speaker or Second Speaker of the National Council.


ENACTED by the Muscogee (Creek) National Council on this 23rd day of March 2002.

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


Wilbur Gouge, 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 twenty-six members with **Twenty-three** members attending this meeting on the 23rd day of **March 2002**, and that the above is in conformity with the provisions therein adopted by a vote of **14** in favor, **8** against, **0** abstentions, 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.

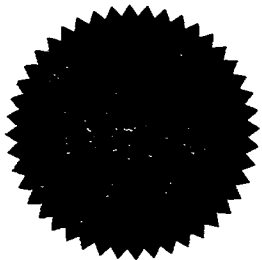

Jennifer Edwards, Acting Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this 7 day of April, 2002, to the above Law, **NCA 02-033**, authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation



R. Perry Beaver, Principal Chief
Muscogee (Creek) Nation



PASSED BY VETO OVERRIDE
ON FEB 25, 1989.



NCA 89-19

**AN ORDINANCE OF THE MUSCOGEE (CREEK) NATION ESTABLISHING THE
OFFICE OF THE ATTORNEY GENERAL WITHIN THE GOVERNMENT STRUCTURE OF
THE MUSCOGEE (CREEK) NATION**

Section 100. Be it enacted by the Muscogee Nation in Council
Assembled:

Section 101. Findings:

There is a need to define the roles and responsibilities of the Office of Justice.

A. National Council authority to establish the Office of the Attorney General is found in the Constitution of the Muscogee (Creek) Nation at Article VI, Section 7(i).

Section 102. A. There is hereby established the Office of Attorney General within the Government Structure of the Muscogee (Creek) Nation, the head of which shall be the Attorney General, appointed by the Principal chief and confirmed by the National Council for the term of his/her contract, and removable by Ordinance.

B. The Attorney General shall be considered an appointed office of the Muscogee (Creek) Nation and shall be required to take an oath to uphold the Constitution of the Muscogee (Creek) Nation.

Section 103. POWERS AND DUTIES

The duties of the Attorney General as the Chief Law Officer of the Muscogee (Creek) Nation shall be:

(a) To appear for the Muscogee (Creek) Nation and prosecute and defend all actions and proceedings, civil or criminal, in the District and Supreme Court and/or in which the Muscogee (Creek) Nation is interested as a party.

(b) To appear at the request of the Chief, the Legislature, or either branch thereof, and prosecute and defend in any court or before any commission, board or officers, any cause or proceeding, civil or criminal, in which the Muscogee (Creek) Nation may be a party or interested; and when so appearing in any such cause or proceeding, he may, if he deems it advisable and to the best interest of the Muscogee (Creek) Nation take and assume control of the prosecution or defense of the Muscogee (Creek) Nation's interest therein.

(c) To consult with and advise officers when requested by them, in all matters pertaining

CODIFIED AT
TITLE 16, § 3-106

to the duties of their offices, when said officers shall furnish the Attorney General with a written opinion supported by citation of authorities upon the matter submitted.

(d) To give his opinion in writing upon all questions of law submitted to him by the Legislature, or by any officer, board, commission or department, provided that the Attorney General shall not furnish opinions to any but tribal attorneys, the Legislature, or any other tribal official, board, commission or department, and to them only upon matters in which they are officially interested.

(e) At the request of the Chief, Tribal Auditor and Inspector, Tribal Treasurer, or the Legislature, to prosecute any official bond or any contract in which the Muscogee (Creek) Nation is interested, upon a breach thereof, and to prosecute or defend for the Muscogee (Creek) Nation all actions, civil or criminal, relating to any matter connected with either of their Departments.

(f) Whenever requested by any Tribal officer, board or commission, to prepare proper drafts for contracts, forms and other writings which may be wanted for the use of the Muscogee (Creek) Nation.

~~(g) To prepare drafts of bills and resolutions for individual members of the Legislature upon their written request stating the gist of the bill or resolution desired.~~

(h) To enforce the proper application of monies appropriated by the Legislature and to prosecute breaches of trust in the administration of such funds.

(i) To institute actions to recover tribal monies illegally expended, to recover tribal property and to prevent the illegal use of any tribal property, upon the request of the Chief or the Legislature.

(j) To pay into the Tribal Treasury, immediately upon its receipt, all monies received by him belonging to the Muscogee (Creek) Nation.

(k) To keep and file copies of all opinions, contracts, forms and letters of the office, and to keep an index of all opinions, contracts, and forms according to subject and section of the law construed or applied.

(l) To keep a register or docket of all actions, demands, and investigations prosecuted, defended or conducted by him in behalf of the Muscogee (Creek) Nation. Said register or docket shall give the style of the case or investigation, where pending, court number, officer number, the gist of the matter, result and the names of the assistants who

*amended by NCA 02-033
April 1, 2002*

G. To assist the National Council's Legislative Research Specialist or designee in writing drafts of bills and resolutions only upon the written request from the Speaker or Second Speaker of the National Council.

*amended by NCA 07-075
Apr 19, 2007 ←*

handled the matter.

- (m) To keep ~~all complete office files of all cases and investigations~~ ^{all} handled by him on behalf of the Muscogee (Creek) Nation ~~for a period of 8 years from date of closure; provided that some files may be kept longer at the Attorney General's discretion.~~
- (n) To report to the Legislature whenever requested upon any business relating to the duties of his office.
- (o) To institute civil actions against members of any tribal board or commission for failure of such members to perform their duties as prescribed by the Ordinances and the Constitution and to prosecute members of any tribal board as prescribed by the Ordinances and the Constitution and to prosecute members of any tribal board or commission for violation of the criminal laws of the Muscogee (Creek) Nation where such violations have occurred in connection with the performance of such members' official duties.
- (p) To respond to any request for an opinion of his office, submitted by a member of the Legislature, regardless of subject matter, by written opinion determinative of the law regarding such subject matter.
- (q) To convene special grand juries in such manner and for such purposes as provided by law; provided, such grand juries are composed of citizens from each of the districts on a pro rata basis by district.
- (r) To investigate any report by the Tribal Auditor and Inspector filed with him pursuant to Ordinances of the Muscogee (Creek) Nation and prosecute all actions, civil or criminal, relating to such reports or any irregularities or derelictions in the management of public funds or property which are violations of the laws of the Muscogee (Creek) Nation.

Section 104. Opinions of Attorney General - Publication and distribution - Surplus publication - Attorney General's Revolving Fund

- A. The Attorney General shall annually publish all of the written opinions which he promulgates in connection with the interpretation of the laws of the Muscogee (Creek) Nation. One copy of the bound volume shall be provided to each member of the Legislature, the Principal Chief, and members of the Judicial Branch.
- B. The Attorney General is hereby authorized to sell any surplus bound volumes and requested individual copies of opinions to help cover the cost of the publication, postal charges and other necessary expenses and proceeds of such sales shall be deposited into the fund herein established.

- C. There is hereby created in the Tribal Treasury a revolving fund for the Attorney General, to be designated to the Attorney General's Revolving Fund. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received from the sale of copies of surplus bound volumes and requested individual copies of opinions and such other monies as are provided for by law. Expenditures from said funds shall be made upon warrants issued by the Tribal Treasury against claims filed as prescribed by law with the Director of Finance for approval and payment.

Section 105. Tribal Officer or Employee - Legal Defense Services

- A. In the event an action is brought against an employee, who for the purposes of this act shall be an elected or appointed tribal officer or employee of any tribal office, institution, agency, board or commission of any branch of tribal government in any civil action or special proceeding in the courts of the Muscogee (Creek) Nation, or of the United States, by reason of any act done or omitted in good faith in the course of his employment, it is the duty of the Attorney General or staff attorney of such person's agency where the agency is authorized by law to be represented in his behalf. Such written request shall be made within fifteen (15) days after service of summons on the employee and a copy of the request shall be transmitted by the employee to the head of his agency and the Attorney General.
- B. The Attorney General or a designated legal officer shall not represent a tribal employee if that employee did not perform a statutorily required duty and such duty is a basis of the civil action or special proceeding.
- C. The Attorney General may direct an appropriate legal officer including a staff attorney of an agency authorized by law to be represented in court by a member of its own permanent legal staff to appear and defend such action. The Attorney may intervene in any such action or proceeding and appear on behalf of the Muscogee (Creek) Nation, or any of its officers or employees, where he deems the Muscogee (Creek) Nation to have an interest in the subject matter of the litigation.
- D. The Attorney General shall determine the method of preparation and presentation of such defense. The Attorney General or other legal officer under his direction shall not be held civilly liable for the exercise of such discretion.

- E. The employee named in the action may employ private counsel at his own expense to assist in his defense.
- F. Any officer or employee who acts outside of the scope of his official authority shall be liable in damages in the same manner as any private citizen.
- G. When an original action seeking either a writ of mandamus or prohibition against a Tribal Judge, the Attorney General shall represent such judicial officer if, and only if, directed to do so, in writing, by the Chief Justice of the Tribal Supreme Court, upon Chief Justice's finding that such representation is necessary to protect either the function or integrity of the judiciary. Such finding by the Chief Justice shall be final and binding.

Section 106. Qualifications

The position of the Attorney General shall be filled with a person who is a member in good standing with the Oklahoma Bar Association, the Muscogee (Creek) Nation Bar Association, with preferences given to those full citizens of the Muscogee (Creek) Nation.

Section 107. Policy

The position of the Attorney General shall be a contractual position subject to approval of the Principal Chief, the National Council, and the U.S. Department of Interior, Bureau of Indian Affairs.

Section 108. Budget Request

The Attorney General shall prepare a timely budget request and recommendation be submitted to the Principal Chief, who shall in turn complete a budget review, identify appropriate funding resources, make necessary modifications, and submit an appropriations BILL to the National Council for their review, modification and/or approval.

The appropriations BILL shall include a detailed line item budget utilizing the following format:

OFFICE OF THE ATTORNEY GENERAL

FY-_____

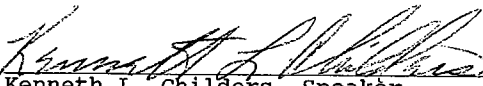
- A. Use of Funds
 - 1. Personnel
 - 2. Fringe Benefits
 - 3. Travel
 - 4. Equipment
 - 5. Supplies
 - 6. Contractual
 - 7. Construction
 - 8. Other
 - 9. Total Direct Cost
 - 10. Indirect Cost
 - 11. Total Costs

- B. Source of Funds
 - 1. Source
 - 2. Amount

- C. Beginning and Ending Fiscal Year

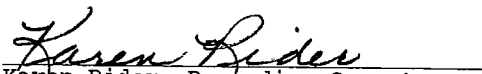
Enacted by the Muscogee (Creek) National Council on this 11th day of February, 1989.

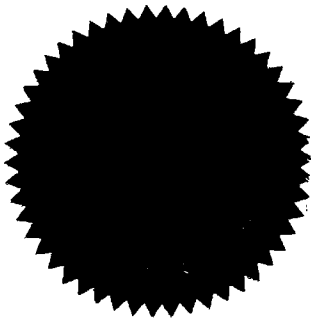
IN WITNESS WHEREOF, the Presiding Officer of the Muscogee (Creek) National Council has hereto attached his signature.


Kenneth L. Childers, Speaker
National Council
Muscogee Nation

CERTIFICATION

I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council, comprised of twenty-six members with 12 members attending this meeting on the 11th day of February, 1989, and that the above is in conformity with the provisions therein adopted by a vote of 13 in Favor; 3 Against; -0- Abstentions; and the above is the signature of the Speaker of the National Council.


Karen Rider, Recording Secretary
National Council
Muscogee Nation



I, the Principal Chief of the Muscogee (Creek) Nation hereby
affix my signature this _____ day of _____, 1989, to
the above Ordinance, NCA 89-19, authorizing it to become an
Ordinance under Article VI, Section VI, of the Constitution of
the Muscogee (Creek) Nation.

APPROVAL

Claude A. Cox, Principal Chief
Muscogee (Creek) Nation