



Choctaw Nation of Oklahoma

CB- 60 -16

A COUNCIL BILL TO UNIFY THE COURTS OF THE CHOCTAW NATION IN THE JUDICIAL DEPARTMENT

IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION

ANTHONY DILLARD INTRODUCED THE FOLLOWING COUNCIL BILL

A COUNCIL BILL

WHEREAS, the Choctaw Nation ("Nation") has the authority, as a matter of inherent sovereignty and under its Constitution, to establish and operate courts with general civil and criminal jurisdiction; and

WHEREAS, this authority has been reaffirmed by the U.S. Courts of Appeals in *Muscogee (Creek) Nation v. Hodel*, 851 F.2d 1439 (D.C. Cir. 1988) and *Dry v. United States*, 235 F.3d 1249 (10th Cir. 2000); and

WHEREAS, the Tribal Council of the Nation ("Tribal Council"), exercising its inherent sovereign authority and its constitutional authority to enact legislation "for the general good of the Choctaw Nation and for the administration and regulation of the affairs of the Choctaw Nation," Article IX, § 4, established a Court of General Jurisdiction pursuant to CB-65-2009; and

WHEREAS, under CB-65-2009, the Court of General Jurisdiction replaced the former CFR Court of Indian Offenses, so that the Nation would thereafter have a Nation forum to adjudicate a broad range of disputes, as necessary to further Nation self-governance; and

WHEREAS, the Court of General Jurisdiction is authorized to exercise general civil and criminal jurisdiction over all tribal Indian Country as described in Article I, § 2 of the Constitution of the Choctaw Nation; and

WHEREAS, the Tribal Council has determined that the administration of justice and the general good of the Choctaw Nation would best be served through unifying and consolidating the Nation's courts, by having the Court of General Jurisdiction recognized and incorporated as a component court of the Judicial Department of the Nation; and

WHEREAS, within the Judicial Department, the Tribal Court of the Choctaw Nation, as provided for in Article XII of the Constitution ("Constitutional Court"), shall have supervisory authority over the Court of General Jurisdiction; and

WHEREAS, the Constitutional Court and the Court of General Jurisdiction together shall comprise the Judicial Department of the Nation, thereby simplifying, consolidating and coordinating the administration of justice.

THEREFORE, BE IT ENACTED, be it enacted that this Council Bill provides for the recognition and incorporation of the Court of General Jurisdiction as a component court within the Judicial Department of the Nation, pursuant to the terms, conditions and provisions of the attached "Act to Unify the Courts of the Choctaw Nation within the Judicial Department" ("Exhibit A"); and


BE IT FURTHER ENACTED it further enacted that upon the effective date of the Act, the Court of General Jurisdiction shall be recognized for all purposes as part of the Judicial Department of the Nation; and

BE IT FURTHER ENACTED that all orders or other actions of the Court of General Jurisdiction taken prior to the effect date of the Act are now, and shall continue to be, valid, binding and enforceable in accordance with their terms; and

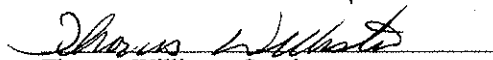
BE IT FURTHER ENACTED that the Act shall become effective upon approval by the Legislative, Judicial and Executive Departments, as set forth in the Act.

CERTIFICATION

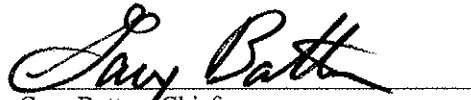
I, the undersigned, as speaker of the Tribal Council of the Choctaw Nation of Oklahoma, do hereby certify that the Tribal Council is composed of twelve (12) seats. Eight (8) members must be present to constitute a quorum. I further certify that eleven (11) members answered roll call and that a quorum was present at the Regular Session of the Tribal Council at Tuskahoma, Oklahoma on February 13, 2016. I further certify that the foregoing Council Bill CB- 60 -16 was adopted at such meeting by the affirmative vote of eleven (11) members, zero (0) negative votes, and zero (0) abstaining.



Anthony Dillard, Secretary
Choctaw Nation Tribal Council



Thomas Williston, Speaker
Choctaw Nation Tribal Council



Gary Batton, Chief
Choctaw Nation of Oklahoma

Date 2-16-16

Exhibit A
To CB-60-2016

**AN ACT TO UNIFY THE COURTS OF THE CHOCTAW NATION OF OKLAHOMA
WITHIN THE JUDICIAL DEPARTMENT**

SECTION 1.101: IN GENERAL

The Choctaw Nation ("Nation") has the authority, as a matter of inherent sovereignty and under the Constitution of the Choctaw Nation ("Constitution") to establish and operate courts with general civil and criminal jurisdiction, and this authority has been reaffirmed in *Muscogee (Creek) Nation v. Hodel*, 851 F.2d 1439 (D.C. Cir. 1988) and *Dry v. United States*, 235 F.3d 1249 (10th Cir. 2000). The Court of General Jurisdiction of the Choctaw Nation, established pursuant to CB-65-2009, exercises general civil and criminal jurisdiction over all Indian Country as described in Article I, Section 2 of the Constitution. To unify the Nation's administration of justice, upon the effective date of this Act, the Court of General Jurisdiction shall be recognized as a component court within the Judicial Department of the Choctaw Nation, which Department is described in Article XII of the Constitution.

Section 1.102: RECOGNITION OF THE COURT OF GENERAL JURISDICTION

Except as expressly provided otherwise in this Act, the composition, jurisdiction and other matters pertaining to the Court of General Jurisdiction that are in effect on the effective date of this Act, including those set forth in An Act Establishing a Court of General Jurisdiction for the Choctaw Nation of Oklahoma, as approved by CB-65-2009 ("2009 Act"), shall be preserved and shall remain fully effective. The Court of General Jurisdiction shall continue to operate through District Courts and an Appellate Division.

Section 1.103: RELATIONSHIP BETWEEN THE COURT OF GENERAL JURISDICTION AND THE CONSTITUTIONAL COURT

(a) The District Courts and Appellate Division of the Court of General Jurisdiction shall be inferior courts within the Judicial Department. The Court of General Jurisdiction shall have full civil and criminal jurisdiction over all Indian country as described in Article I, Section 2 of the Constitution. The Court of General Jurisdiction shall not have jurisdiction over matters arising under any provision of the Constitution, or any rule or regulation enacted by the Tribal Council.

(b) The Tribal Court established under Article XII of the Constitution ("Constitutional Court") shall have supervisory authority over the Court of General Jurisdiction. The Constitutional Court shall have discretionary authority to hear an appeal from any judgment from the Appellate Division of the Court of General Jurisdiction, under such rules as the Constitutional Court shall adopt, with the approval of the Tribal Council.

Section 1.104: MINIMUM QUALIFICATION OF JUDGES

All judges of the Court of General Jurisdiction who are in office on the effective date of this Act or who are appointed thereafter shall meet the minimum qualification of judges as set forth in the 2009 Act.

Section 1.105: TERMS OF OFFICE

All judges of the Court of General Jurisdiction who are in office on the effective date of this Act or who are appointed thereafter shall serve for terms as prescribed in the 2009 Act.

Section 1.106: DISQUALIFICATION, SUSPENSION, OR REMOVAL OF JUDGES

Disqualification, suspension, or removal of judges of the Court of General Jurisdiction shall continue to be governed by the 2009 Act.

Section 1.107: RATIFICATION OF ORDERS OF THE COURT OF GENERAL JURISDICTION

(a) This Act ratifies and confirms that all orders or other official acts of the Court of General Jurisdiction issued or taken prior to the effective date of this Act were valid, binding, and enforceable to the full extent of Nation law from the time they were issued or taken, and shall remain valid, binding, and enforceable to the full extent of Nation law after the effective date of this Act. Nothing in this Act shall be construed to provide the basis for any claim challenging the legality or effectiveness of any order or other official act of the Court of General Jurisdiction that was taken prior to the effective date of this Act, and neither the Court of General Jurisdiction nor the Constitutional Court shall have jurisdiction over any such claim.

(b) Any claim regarding the Constitutionality of this Act shall be brought in the Constitutional Court within sixty (60) days of the effective date of this Act. Any such claim not filed in the Constitutional Court within the prescribed time shall be forever barred, and no court shall have jurisdiction over any such claim.

Section 1.108: EFFECTIVE DATE

This Act shall be effective upon 1) approval by the Tribal Council, 2) the entering of an Order by the Constitutional Court accepting the Court of General Jurisdiction as a component of the Judicial Department consistent with the terms of this Act, and 3) the issuance of an Executive Order or Proclamation by the Chief of the Choctaw Nation, concurring in this Act.

[Certification]