

**TO AMEND THE CHOCTAW NATION CHILDREN'S CODE**

**IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION**

**RONALD PERRY INTRODUCED THE FOLLOWING COUNCIL BILL**

**A COUNCIL BILL**

**TO AMEND** the Choctaw Nation Children's Code to clarify and align the code with the spirit of the Indian Child Welfare Act, 25 U.S.C. § 1901 et seq., and to maintain tribal sovereignty.

**WHEREAS**, Article IX, Section 4 of the Constitution of the Choctaw Nation of Oklahoma states that the Tribal Council shall enact legislation, rules and regulations not inconsistent with the Constitution for the general good of the Choctaw Nation and for the administration and regulation of the affairs of the Choctaw Nation (the "Council");

**WHEREAS**, since the passage of the Choctaw Nation Children's Code, the Tribal Prosecutor's Office has identified and proposes certain needed amendments to better protect American Indian children and the sovereignty of the Choctaw Nation of Oklahoma; and

**WHEREAS**, the Council finds it is in the best interest of the Nation to adopt the proposed amendments to the Choctaw Nation Children's Code as listed below.

**THEREFORE BE IT ENACTED**, by the Tribal Council of the Choctaw Nation of Oklahoma, that this bill be cited as approval to amend Section 1-1-102 by adding the following subsections H and I:

H. Nothing in this Code shall be construed to provide any rights to any foster parent or other party that have not been licensed by the Choctaw Nation Children and Family Services Foster Care Unit and recognized by the Choctaw Nation District Court as a party to the cause or action.

I. State child custody orders involving Choctaw Nation children may be recognized by the Court only after a full independent review of such state Court proceeding has determined:

1. The state court had jurisdiction over the Choctaw child;
  2. The provisions of the Indian Child Welfare Act, 25 U.S.C. § 1901 et seq., were properly followed;
  3. Due process was provided to all interested persons participating in the state proceeding;
- and
4. The state court proceeding did not violate the public policies, customs, or common law of the Choctaw Nation.

5. Due to the vital interest of the Choctaw Nation in its children and those children who may become members of the Choctaw Nation, the statutes, regulations, public policies, customs and common law of the Choctaw Nation shall control in any proceeding in tribal court involving a Choctaw child.

**THEREFORE BE IT ENACTED**, by the Tribal Council of the Choctaw Nation of Oklahoma, that this bill be cited as approval to amend Section 1-1-103, by adding a new subsection B and renumbering subsequent sections so that Subsection B now reads:

B. For purpose of the transfer hearing, only the Choctaw Nation, represented through the Office of the Tribal Prosecutor, and parents of the child shall be entitled to present evidence.

**THEREFORE BE IT ENACTED**, by the Tribal Council of the Choctaw Nation of Oklahoma, that this bill be cited as approval to amend Section 1-1-102, subsection 76, "Foster Parent" as follows:

"Foster Parent" means a person, including a relative of the child, licensed by the Choctaw Nation Children and Family Services Foster Care Unit to provide temporary care for children in the legal custody of the Choctaw Nation of Oklahoma.

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BE IT FURTHER ENACTED, by the Tribal Council of the Choctaw Nation of Oklahoma that these amendments to the Choctaw Nation Children's Code are effective immediately.

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 twelve ( 12 ) members answered roll call and that a quorum was present at the Regular Session of the Tribal Council at Tuskahoma, Oklahoma on January 8, 2022. I further certify that the foregoing Council Bill CB- 91 -22 was adopted at such meeting by the affirmative vote of twelve (12) members, zero (0) negative votes, and zero (0) abstaining.

  
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Ronald Perry, Secretary  
Choctaw Nation Tribal Council

  
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Thomas Williston, Speaker  
Choctaw Nation Tribal Council

  
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Gary Batton, Chief  
Choctaw Nation of Oklahoma

Date 1-12-22

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**Purpose/Need of Council Bill:** This bill proposes amendments to the existing Choctaw Nation Children's Code. The amendment proposes adding the definition of "Foster Parent." The new definition of "Foster Parent" allows the Nation the exclusive right to license foster parents. The amendment further allows the District Court of the Nation to recognize custody orders from state courts when the District Court has determined certain elements have been met by the state court. Finally, this amendment allows for a transfer hearing to be conducted in an efficient manner by only allowing parents of the child and the Tribal Prosecutor to present evidence at a hearing for transfer.

**Title of Council Bill:** TO AMEND THE CHOCTAW NATION CHILDREN'S CODE

**Agency:** Legal & Compliance

**Budget:** N/A

**Match Required:** N/A

**Request by Project Director:** Kara Bacon, Lead Prosecutor;