

**A COUNCIL BILL AMENDING THE CHOCTAW NATION CRIMINAL PROCEDURE  
CODE**

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

**RONALD PERRY INTRODUCED THE FOLLOWING COUNCIL BILL**

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**A COUNCIL BILL**

**TO AMEND** the Choctaw Nation Criminal Procedure Code by amending Section 1083 to correct a typographical error in the section title.

**WHEREAS** Article IX, Section 4 of the Constitution of the Choctaw Nation of Oklahoma (the “Nation”) provides that the Tribal Council (the “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;

**WHEREAS**, the Council has previously adopted the Choctaw Nation Code of Criminal Procedure, which establishes the laws governing the conduct of criminal prosecution within the Choctaw Nation of Oklahoma Reservation; and

**WHEREAS** the Council finds it is in the best interest of the Nation to amend the Choctaw Nation Criminal Procedure Code as follows.

**THEREFORE BE IT ENACTED** by the Tribal Council of the Choctaw Nation of Oklahoma that the Choctaw Nation Criminal Procedure Code is amended to read as follows:

**SECTION 1. AMENDATORY** Section 1083 of the Choctaw Nation Criminal Procedure Code is amended to read as follows:

**Section 1083. Response by state Choctaw Nation – Disposition of application.**

- (a) Within thirty (30) days after the docketing of the application, or within any further time the court may fix, the Choctaw Nation shall respond by answer or by motion which may be supported by affidavits. In considering the application, the court shall take account of substance, regardless of defects of form. If the application is not accompanied by the record of the proceedings challenged therein, the respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application; or such records may be ordered by the court. The court may also allow depositions and affidavits for good cause shown.

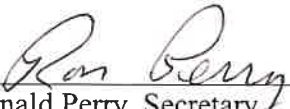
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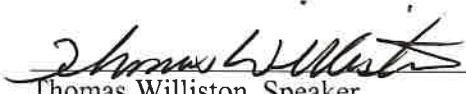
- (b) When a court is satisfied, on the basis of the application, the answer or motion of respondent, and the record, that the applicant is not entitled to post-conviction relief and no purpose would be served by any further proceedings, it may order the application dismissed or grant leave to file an amended application. Disposition on the pleadings and record is not proper if there exists a material issue of fact. The judge assigned to the case should not dispose of it on the basis of information within his personal knowledge not made a part of the record.
- (c) The court may grant a motion by either party for summary disposition of the application when it appears from the response and pleadings that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. An order disposing of an application without a hearing shall state the court's findings and conclusions regarding the issues presented.

SECTION 2. The amendment enacted in this Council Bill shall become 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 April 8, 2023. I further certify that the foregoing Council Bill CB- 62 -23 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 Patton, Chief  
 Choctaw Nation of Oklahoma

Date 4-11-23

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**Purpose/Need of Council Bill:** This bill amends the Choctaw Nation Criminal Procedure Code by amending Section 1083 to correct a typographical error in the section title that refers to “the state” rather than to “the Choctaw Nation.” This amendment will further the Nation’s strategic plan goals to allow the Nation to continue to exercise its sovereignty to the fullest extent possible.

**Title of Council Bill:** A COUNCIL BILL AMENDING THE CHOCTAW NATION CRIMINAL PROCEDURE CODE

**Agency:** Legal & Compliance

**Budget:** N/A

**Match Required:** N/A

**Request by Project Director:** Kara Bacon, Tribal Prosecutor; Brian Danker, Senior Executive Officer