

BILL NUMBER NCA 24-018

TO BE INTRODUCED INTO THE MUSCOGEE (CREEK) NATIONAL COUNCIL

February 6, 2024
(DATE OF INTRODUCTION)

INTRODUCED BY: Dode Barnett

SPONSOR(S): Dode Barnett

COMMITTEE ON: Business, Finance & Justice

CLASSIFICATION: 6-Children and Family Relations

**A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 6, § 2-104
ENTITLED "Who may marry"**

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

SECTION ONE. FINDINGS. The National Council finds that:

A. Article 2, Section 2 of the Constitution of the Muskogee Creek Nation states "This Constitution shall not abridge the rights and privileges of individual citizens of the Muscogee (Creek) Nation enjoyed as citizens of the State of Oklahoma and of the United States of America."

B. In a fair and equitable society all citizens have equal rights and protections under the law. The current law does not provide equity to all citizens who wish to marry.

C. The United Nations has found the right to marry is a basic human right that should not be denied in developed Nations.

D. Marriage is a source of stability to Muskogee Creek families. There is a need to amend current law, as it denies the constitutional right of same sex couples to marry.

SECTION TWO. AMENDMENT. This amendment shall be codified in Title 6, § 2-104, 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 designated consistent with the format in the 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 Code of Laws; and (3) to note in said pocket parts any editorial

1 correction of minor clerical or grammatical errors in the following amendment, without
2 further National Council approval:
3

4 **§ 2-104. Who may marry**
5

6 A. Persons aged eighteen years and older. Any unmarried person of the age
7 of eighteen (18) or upwards and not otherwise disqualified is capable of contracting and
8 consenting to marriage with a person of the opposite sex.
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10 B. Persons under age of eighteen years. No person under the age of eighteen
11 (18) years shall enter into the marriage relation, nor shall the Court Clerk issue any
12 marriage license pursuant to Title 6 §§ 2-105 and 2-109, unless one of the following
13 requirements is met:
14

- 15 1. The parent or guardian of such underage applicant expressly gives
16 consent and authority for the marriage in the presence of the Court
17 Clerk; or
- 18 2. The parent or guardian of such underage applicant executes a written
19 consent to the marriage that is acknowledged in person before the Court
20 Clerk; or
- 21 3. The written and verified consent of a parent or guardian is presented to
22 the Court Clerk with an accompanying medical certificate of a duly
23 licensed medical doctor or osteopath, acknowledged in the manner
24 provided by law for the acknowledgement of deeds, stating that such
25 parent or guardian is unable by reason of health or incapacity to be
26 present in person; or
- 27 4. The written consent of a parent or guardian on active duty with the
28 Armed Forces of the United States is presented to the Court Clerk,
29 acknowledged in the manner provided by law for acknowledgement of
30 deeds by military personnel authorized to administer oaths,
31 accompanied by a certificate executed by a commissioned officer in
32 command of said applicant, to the effect that said parent or guardian is
33 on active duty in the Armed Forces of the United States; or
- 34 5. The affidavits of three (3) reputable persons are presented to the Court
35 Clerk, stating that both parents of said minor are deceased, or mentally
36 incompetent, or their whereabouts are unknown to the minor, and that
37 no guardian has theretofore been appointed for said minor, in which
38 case the District Trial Court Judge may in his or her discretion consent
39 to said marriage in the same manner as in all cases in which consent
40 may be given by a parent or guardian and with the same effect.
41

42 C. Retention of documents used for marriage license to a minor. Any certificate
43 and written permission considered for purposes of issuance of a marriage license to a
44 minor shall be retained by the official issuing the marriage license.
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1 D. Persons under the age of sixteen. Every person under the age of sixteen
2 (16) years is expressly forbidden and prohibited from entering into the marriage relation.
3

4 E. Authorization of marriage of minors under certain circumstances. This
5 section shall not be construed to prevent the District Trial Court Judge from authorizing
6 the marriage of persons under the ages herein mentioned, in settlement of suits for
7 seduction or paternity; and the District Trial Court Judge may also authorize the marriage
8 of persons under the ages herein mentioned when the unmarried female is pregnant, or
9 has given birth to an illegitimate child, whether, or not any suits for seduction or paternity
10 have been brought; provided that no Court shall authorize marriage for any male under
11 the age of sixteen (16) or any female under the age of sixteen (16) when the unmarried
12 female is pregnant unless at least one (1) parent of each minor, or the guardian or
13 custodian of such child, is present before the Court and has an opportunity to present
14 evidence in the event such parent, guardian, or custodian objects to the issuance of a
15 marriage license, and if they are not present said parent, guardian, or custodian may be
16 given notice of the hearing at the discretion of the Court.
17

18 F. Incestuous marriage prohibited. No marriage may be authorized when such
19 marriage would be incestuous under this chapter.
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21 ~~G. Same gender marriage prohibited. A marriage between persons of the~~
22 ~~same gender performed in another Indian Nation or state shall not be recognized as valid~~
23 ~~and binding in the Muscogee (Creek) Nation.~~
24

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