

VIII. MUSCOGEE (CREEK) NATION (Oklahoma)

Codification No. 26: Judicial Branch /Courts: Ordinance Establishing a Family Drug Court Pilot Project, Creating a Family Drug Court Implementation Team and Authorizing the Adoption and Implementation of Family Drug Court Rules, Policies, and Procedures.

Codification No. 27: Judicial Procedures: An Ordinance of the Muscogee (Creek) Nation Amending NCA 98-77 to Establish a Permanent Family Drug Court Program



NCA 98-77

CODIFICATION #26. JUDICIAL BRANCH/COURTS

AN ORDINANCE OF THE MUSCOGEE (CREEK) NATION ESTABLISHING A FAMILY DRUG COURT PILOT PROJECT, CREATING A FAMILY DRUG COURT IMPLEMENTATION TEAM AND AUTHORIZING THE ADOPTION AND IMPLEMENTATION OF FAMILY DRUG COURT RULES, POLICIES, AND PROCEDURES

Section 100. Be It Enacted by the Muscogee Nation in Council Assembled:

Section 101. Findings: The National Council Finds That:

1. The Muscogee Nation currently has both a criminal code and a juvenile code governing criminal and juvenile actions arising within the jurisdictional boundaries of the Muscogee Nation.
2. Drug and/or alcohol abuse is a commonly recurring factor in a substantial number, if not the majority, of juvenile cases within the Nation's Children and Family Services Administration as well as in adult criminal cases.
3. The Nation's current programs and services designed to address family problems and conditions are often inadequate where such problems and conditions are the result, in whole or in part, of chronic drug and/or alcohol abuse.
4. There is a need to reduce the incidence of drug and alcohol abuse within the Muscogee Nation and to create and implement a program integrating alcohol and drug treatment and other rehabilitative services and resources within the Nation's judicial system.
5. With funding provided in 1996 from a grant funded in 1996 by the U.S. Department of Justice, the Nation formed a family drug court planning team whose members have been meeting since February 1997 to discuss and plan a family drug court program within the Muscogee (Creek) Nation judicial system. The members of the family drug court planning team have also participated in both national and state drug court training sessions to assist them in developing a drug court program.
6. The family drug court planning team members studied the problems of chronic alcohol and drug abuse and its effects on families and have recommended the establishment of a Family Drug Court Pilot Project as the initial substantive step in creating a program specifically designed to address the cycle of alcohol and drug abuse and the disintegration of families within Muscogee Nation caused by such abuse.
7. The Muscogee Nation was recently awarded a drug court implementation grant by the U.S. Department of Justice to

assist with funding the implementation of a family drug court program within the Nation's criminal and juvenile justice system.

8. It is in the best interests of the Muscogee Nation and its Indian families to implement a Family Drug Court Pilot Project pursuant to the federal drug court grant awarded by the Department of Justice.

Section 102. Purpose:

The purpose of this Act is to provide for and establish a Family Drug Court Pilot Project within the Muscogee Nation's judicial system, to authorize the members of a family drug court implementation team to prepare policies, procedures, inter-agency departmental protocols and standards for the Family Drug Court Pilot Project, and to authorize the Administration to seek other funding sources to assist in the development of a Family Drug Court Pilot Project.

Section 103. Family Drug Court Pilot Project; Court Authority and Rules; Family Drug Court Implementation Team:

- A. There is hereby established a Family Drug Court Pilot Project within the Muscogee Nation's judicial system.
- B. The judge of the Muscogee (Creek) Nation District Court is hereby authorized to order and/or impose sanctions and incentives for participants who enter into the Family Drug Court Pilot Project program. The Court's powers and authority hereunder shall include, but are not limited to, the following:
 - (1) approving and enforcing treatment plans;
 - (2) holding participants in direct or indirect contempt of court for willful violations of the Court's orders, including Court-ordered treatment plans;
 - (3) imposing fines and/or costs;
 - (4) ordering the performance of community service;
 - (5) ordering participants to receive mandatory inpatient/outpatient drug or alcohol treatment or counseling;
 - (6) ordering random and/or periodic urinalysis testing;
 - (7) placement of child(ren) in the legal and/or physical custody of Children and Family Services Administration and/or other persons;
 - (8) authorizing increased or restricted contact with other family members or increased or restricted supervised visitation with child(ren);
 - (9) extending, accelerating, and/or terminating treatment plan(s) and/or ordering that non-compliant participants be discharged from the Family Drug Court program;
 - (10) where a participant in the program has materially and/or repetitively violated the terms of his or her court-ordered treatment plan, ordering that the participant be placed in confinement for a period not to exceed 5 days for each violation, but only after the Court expressly finds that the participant's violation of the plan was willful and that other sanctions or incentives are inadequate; and

- (11) imposing any other condition, standard, requirement, treatment, service, training or activity which the Court deems appropriate under the facts and circumstances of the case in the exercise of the court's sound discretion.

The District Court may, in its discretion, adopt written rules and procedures for the conduct of hearings and proceedings within the Family Drug Court program and the administration of cases therein, provided that copies of such rules and procedures shall be public documents and made available to all persons participating in the Family Drug Court Program and, upon request to any citizen or attorneys admitted to the Muscogee (Creek) Nation Bar Association.

- C. There is hereby established the Family Drug Court Implementation Team, which shall consist of at least one representative from each of the following agencies or departments of Muscogee Nation: Office of the Attorney General, Children and Family Services Administration (hereinafter "CFSA"), Muscogee Nation Behavioral Health and/or Employee Health Department, Lighthorse Police, and such other person or persons as may be designated by the Principal Chief. The Speaker of the National Council may appoint one member of the National Council to attend Implementation Team meetings in an ex-officio capacity.
- D. The Family Drug Court Implementation Team is hereby authorized to develop policies, procedures, and inter-agency/departmental protocols and standards for use in the operation of the Family Drug Court Pilot Project, as well as standardized forms and other documents to be used in the program. In developing the foregoing, the Team shall consult with their respective agencies, the judicial branch, attorneys who provide indigent defense services, and other outside agencies.
- E. The CFSA shall be primarily responsible for managing and coordinating services and activities under the individual treatment plans, provided that in drafting and formulating individual treatment plans, CFSA shall consult with other agencies participating in the program in accordance with the inter-agency protocols and standards adopted pursuant to Subsection D of this Section.
- F. Muscogee Nation Behavioral Health shall be the primary service provider for alcohol and drug abuse assessments, testing, counseling, and treatment services to be provided under the individual treatment plans, provided that Muscogee Nation Behavioral Health shall coordinate its services with other agencies participating in the program in accordance with the inter-agency protocols and standards adopted pursuant to Subsection D of this Section.
- G. The Principal Chief or his designee is authorized to seek and apply to other funding or sources for the purpose of implementing a Family Drug Court program within the Muscogee (Creek) Nation justice system.

Section 104. Cooperative Agreements:

The Principal Chief, with the assistance of the Attorney General, is

hereby authorized to negotiate and enter into on behalf of the Muscogee (Creek) Nation appropriate cooperative agreements with state and local governments for integrating and/or coordinating the Muscogee (Creek) Nation Family Drug Court Pilot Project with agencies of such other governments.

Section 105. Expiration:

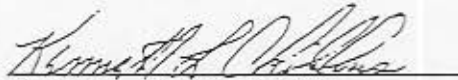
The Family Drug Court Pilot Project shall expire twenty-four months after the date on which this ordinance is enacted, after which date no additional cases shall be taken into the Family Drug Court Pilot Project program without further legislation creating a permanent Family Drug Court or extending the Pilot Project authorized herein; provided, that any cases in the program still pending at the end of said 24-month period shall continue to be administered to completion in accordance with this ordinance.

Section 106. Severability:

The provisions of this ordinance shall be considered severable such that if any provision shall be held invalid by a court of competent jurisdiction, all other provisions shall continue to be valid and given full force and effect.

ENACTED by the Muscogee (Creek) National Council on this 29th day of August 1998.

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


Kenneth L. Childers, 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-six members attending this meeting on the 29th day of August 1998, and that the above is in conformity with the provisions therein adopted by a vote of 24 in favor, 0 against, 0 abstentions, and that said Ordinance has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.


Ruthie A. Burgess, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this 3rd day of September, 1998, to the above Ordinance, NCA 98-77, authorizing it to become an Ordinance under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.


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



NCA 00-32

CODIFICATION #27. JUDICIAL PROCEDURES

AN ORDINANCE OF THE MUSCOGEE (CREEK) NATION AMENDING NCA 98-77 TO ESTABLISH A PERMANENT FAMILY DRUG COURT PROGRAM

Section 100. Be it Enacted by the Muscogee (Creek) Nation in Council Assembled:

Section 101. Findings: The National Council Finds That:

- A. On August 29, 1998, the National Council adopted NCA 98-77 that established a Family Drug Court Pilot Project, created a Family Drug Court Implementation Team and authorized the adoption and implementation of Family Drug Court Rules, policies and procedures.
- B. Section 105 of NCA 98-77 created an expiration date for the Family Drug Court Pilot Project which was to occur twenty-four months after the date on which said ordinance was enacted.
- C. In June 1999, the Family Drug Court Pilot Project began accepting participants and providing a specialized court docket in which to provide treatment, supervision, case management, and accountability for Family Drug Court participants.
- D. The Family Drug Court Implementation Team has executed a Memorandum of Understanding between the respective agencies involved, drafted policies and procedures to govern the Family Drug Court Program, and developed standardized forms and orders to be used by said Program. The Family Drug Court Implementation Team meets regularly and is encouraged by the operation of the Family Drug Court Program and the level of cooperation between the participating agencies.
- E. There is a need to continue the operation of the Family Drug Court Program beyond the expiration date of the Family Drug Court Pilot Project and to enhance the resources and services provided to Family Drug Court participants and their families.
- F. It is in the best interests of the Muscogee (Creek) Nation and its Indian families to establish a permanent Family Drug Court Program and to pursue funding sources to assist in the continuation of the Family Drug Court Program.

Section 102. Purpose:

The purpose of this Act is to provide for and establish a permanent Family Drug Court Program within the Muscogee (Creek) Nation's judicial system by repealing the expiration date of the Family Drug Court Pilot Project program, by amending NCA 98-77 to rename the "Family Drug Court Pilot" program as the "Family Drug Court Program" and to otherwise carry out the authorities, functions, and responsibilities of said Program pursuant to NCA 98-77.

Section 103. Amendment:

In all instances where the term "Family Drug Court Pilot Project" appears in NCA 98-77, said term shall be substituted for the term "Family Drug Court Program."

Section 104. Amendment:

Section 104 of NCA 98-77 which is titled "Cooperative Agreements" shall be amended by adding the following language to the end of the existing Section 104:

"In addition, the Principal Chief, with the assistance of the Attorney General, is hereby authorized to negotiate and enter into on behalf of the Muscogee (Creek) Nation appropriate cooperative agreements/contracts with substance abuse treatment facilities, local jails and/or detention facilities, and other agencies in order to provide more comprehensive treatment and sanctions services for the Family Drug Court Program."

Section 105. Amendment:


Section 105 of NCA 98-77 which is titled "Expiration" shall be deleted.

Section 106. Severability:

The provisions of this ordinance shall be considered severable such that if any provision shall be held invalid by a court of competent jurisdiction, all other provisions shall continue to be valid and given full force and effect.

ENACTED by the Muscogee (Creek) National Council on this 26th day of February 2000.

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-four members attending this meeting on the 26th day of February 2000, and that the above is in conformity with the provisions therein adopted by a vote of 23 in favor, 0 against, 0 abstentions, and that said Ordinance has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



Lisa Deere, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this 7 day of March, 2000, to the above Ordinance, NCA 00-32, authorizing it to become an Ordinance under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



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



