

TABLED

Cherokee Council House
Cherokee, North Carolina
AUG 06 2020

Date

ORDINANCE NO. 236 (2020)

Short Title: an ordinance adding a new section to Cherokee Code Chapter 14 to make it illegal to resist, delay or obstruct a law enforcement officer.

WHEREAS, Cherokee Code Chapter 14 contains the Tribe's criminal law; and

WHEREAS, Chapter 14 includes the crimes of obstructing justice (C.C. Sec. 14-70.17) and obstructing governmental functions (C.C. Sec. 70.14), but neither section adequately addresses the situation where a person resists, delays or obstructs a law enforcement officer who is carrying out lawful duties; and

WHEREAS, most jurisdictions make it a crime to "resist, delay or obstruct" a law enforcement officer who is attempting to perform the lawful duties of his or her office, but the Tribe does not; and

WHEREAS, because of this gap Tribal law, Tribal law enforcement officers and Tribal prosecutors do not have a legal tool that most would be very helpful in their efforts to enforce Tribal law including compliance with lawful police procedures, and to prosecute violations; and

WHEREAS, Cherokee Code Chapter 14 should be amended to make it illegal to resist, delay or obstruct a law enforcement officer who is carrying out his or her lawful duties.

NOW, THEREFORE, BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians assembled, at which a quorum is present, that Cherokee Code Chapter 14 shall be amended by adding a new section, identified as Sec. 14-70.27, to make it a crime to resist, delay or obstruct a law enforcement officer and to read as follows:

Sec. 14-70.27. – Resisting, Delaying, or Obstructing Officers.

(a) Any person who shall willfully and unlawfully resist, delay or obstruct a law enforcement officer in discharging or attempting to discharge a duty of the office, shall be guilty of a crime.

(b) Resisting, delaying, or obstructing a law enforcement officer shall be punishable by a fine not to exceed \$1,000.00, a term of imprisonment not to exceed six (6) months, or any combination of them.

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2 BE IT FINALLY ORDAINED that this ordinance shall be effective upon ratification by the
3 Principal Chief and any prior ordinance or part thereof that conflicts with this
4 ordinance is rescinded.

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7 *Submitted by: Office of the Attorney General*

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