

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

OCT 16 2026

Date: _____

ORDINANCE NO. 326 (2026)

*An ordinance amending the Juvenile Code
Chapter 7A-Article II of the Cherokee Code*

WHEREAS, it has been a longstanding policy and belief of the Tribe that a court system is an essential aspect of the Tribe's inherent sovereign authority, and the court should use all reasonable measures to assist juveniles and improve outcomes to achieve successful and productive lives as adults in the Cherokee community; and

WHEREAS, in Chapter 7A of the Cherokee Code, there is a need to allow for diversion alternatives instead of initiation of a petition alleging delinquency, to promote and facilitate the administration of justice and judicial efficiency, improve access to the Courts by the public it serves, and to protect the interests of the tribal community and the juveniles and their families appearing before the courts; and

WHEREAS, the Juvenile Code Chapter 7A of the Cherokee Code should be amended to establish specifically that the Tribal Council adopts a policy encouraging diversion opportunities for juveniles instead of filing formal delinquency petitions.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Annual Council assembled, at which a quorum is present, that Chapter 7A-Article II is amended as set forth in Exhibit A.

BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are rescinded, and that this ordinance shall become effective when ratified by the Principal Chief.

1 **Exhibit A.**

2 **Chapter 7A – Juvenile Code**

3 **Article II. SCREENING OF DELINQUENCY AND UNDISCIPLINED PETITIONS**

4 **Sec. 7A-7. Evaluation.**

5 (a) Upon finding of legal sufficiency, the intake counselor shall determine whether a
6 complaint should be filed as a petition, the juvenile diverted to a community
7 resource as set forth in subsection (b), or the case resolved without further
8 action.

9 The intake process shall include the following steps, if practicable:

- 10 (a) (1) Interviews with the complainant and the victim, if someone other
11 than the complainant;
12 (2) Interviews with persons known to have information about the juvenile
13 or family, which information is pertinent to the case;
14 (3) Interviews required by this section shall be conducted in person unless
15 it is necessary to conduct them by telephone.

16
17 (b) Informal Diversion Conference.

18 (1) The juvenile intake counselor may invite the juvenile and the juvenile's
19 parent(s), guardian, or custodian to attend an informal diversion
20 conference to consider alternatives to formal juvenile court proceedings
21 if:

- 22 a. The alleged facts, if true, would bring the matter within the
23 jurisdiction of the juvenile court;
24 b. An informal resolution of the matter would be in the best interest of
25 the juvenile and the Eastern Band of Cherokee Indians; and
26 c. The juvenile and the juvenile's parent(s), guardian, or custodian
27 voluntarily consent to an informal resolution of the matter. If the
28 juvenile and the juvenile's parent(s), guardian, or custodian do not
29 consent to an informal resolution of the matter, the intake
30 counselor shall proceed as set forth in Sec. 7A-8.

31 (2) Informal diversion shall not be offered to a juvenile previously adjudicated
32 a delinquent juvenile under 7A-49, adjudicated delinquent in any other
33 jurisdiction, or where jurisdiction of the juvenile has been transferred to
34 another Court as provided in Section 7A-38.

35 (3) Before the parties may agree to an informal resolution of the matter, the
36 juvenile shall admit the allegations and explain the circumstances

1 surrounding the offense in the juvenile's own words. If the parties cannot
2 reach an informal agreement, statements made by the juvenile in the
3 informal diversion conference shall not be used against the juvenile in
4 juvenile court.

5 ~~(3)~~(4) If an agreement is reached by the parties at the informal diversion
6 conference, the specific details of the agreement regarding any sanctions,
7 services, programs, restitution, or activities that will be required of the
8 juvenile and the juvenile's parent(s), guardian, or custodian shall be
9 written down and signed by all parties to the agreement. The services,
10 programs, or activities required shall not exceed six (6) months in duration.

11 (5) The intake counselor shall monitor the progress of the juvenile and the
12 juvenile's parent(s), guardian, or custodian, and their compliance with the
13 terms of the informal diversion agreement. If the juvenile and the juvenile's
14 parent(s), guardian, or custodian comply with all the terms of the informal
15 diversion agreement, the matter shall be closed, and no further action
16 shall be taken.

17 (6) If the juvenile or the juvenile's parent(s), guardian, or custodian fails to
18 comply with any of the terms of the informal diversion agreement, the
19 intake counselor shall hold another informal diversion conference or
20 proceed as set forth in Sec. 7A-8.

21
22 ~~(a)~~(c) Diversion Plans and Agreements

23 (1) The juvenile court counselor shall maintain diversion plans and
24 agreements entered into pursuant to this section to allow juvenile court
25 counselors to determine when a juvenile has had a complaint diverted
26 previously. Diversion plans and agreements are not public records and
27 shall be withheld from public inspection or examination. Diversion plans
28 and agreements shall be destroyed when the juvenile reaches the age of
29 18 years or when the juvenile is no longer under the jurisdiction of the
30 court, whichever is longer.

31 (2) The Clerk of Court shall not maintain a court file for cases that are diverted
32 under this section.

33
34 **Sec. 7A-8. - Evaluation decision.**

35 (a) The evaluation of a particular complaint shall be completed within 15 days, with
36 an extension of a maximum of 15 additional days at the discretion of the intake
37 counselor/court counselor. The intake counselor must decide within this time

1 period whether or not a complaint will be filed as a juvenile petition. If during this
2 time period, the intake counselor pursues the alternative of diversion, as set
3 forth in Section 7A-7, the 15 day time period is tolled. If the intake counselor
4 determines that a complaint should be filed as a petition, he shall assist the
5 complainant when necessary with the preparation and filing of the petition or
6 help with the preparation and filing of the petition, shall endorse on it the date
7 and the words "Approved for filing," shall sign it beneath such words, and shall
8 transmit it to the clerk. If the intake counselor determines that a petition should
9 not be filed, he shall immediately notify the complainant in writing with the
10 reasons for his decision and shall include notice of the complainant's right to
11 have the decision reviewed by the prosecutor. The intake counselor shall then
12 sign his name on the complaint beneath the words "Not approved."

- 13 (b) Any complaint not approved for filing as a juvenile petition shall be destroyed by the
14 intake counselor after holding the complaint for a temporary period to allow follow-
15 up and review.

16
17 **Section 7A-9 Referral and Followup: Rights of Victims of Delinquent Acts**

18 ~~The intake counselor may refer any case to an appropriate public or private resource~~
19 ~~or traffic court when applicable, unless the offense is one in which a petition is~~
20 ~~required. After making a referral, the intake counselor shall ascertain that the~~
21 ~~juvenile actually contacted or was seen by the resource to which he was referred.~~
22 ~~In the event that the juvenile does not contact or visit the community resource, the~~
23 ~~intake counselor may reconsider his decision to divert and may authorize the filing~~
24 ~~of a complaint as a petition within 60 days from the date of the referral. If the juvenile~~
25 ~~contacts or is seen by the resource, the intake counselor shall close the file.~~

- 26 (a) A victim of a juvenile offense shall be treated with dignity and respect by the
27 juvenile justice system.

- 28 (b) A victim has the following rights:

- 29 (1) The right to be given information about the offense, how the juvenile system
30 works, and the rights of victims by the juvenile intake counselor.
31 (2) Upon written request to the intake counselor, to reasonable, accurate, and
32 timely notice of court proceedings of the juvenile; to be present at those
33 proceedings of the juvenile; to receive information about the adjudication of
34 the juvenile and the disposition of the case.

- 1 (3) The right to apply for restitution and to receive restitution in a reasonably
2 timely manner, when ordered by the court or pursuant to a diversion contract.
3 (4) The right of a victim to reasonably confer with the Tribal Prosecutor's Office.
4 (c) No cause of action. Nothing in this section shall be construed to create a cause
5 of action for failure to comply with the requirements described in this section.

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8 *Submitted by: Sonya Wachacha, Secretary of Public Health & Human Services*
9 *Anita Lossiah, Director of Human Services*
10 *Chief Justice Bradley Letts*
11 *Michael McConnell, Attorney General*
12 *Carla Neadeau, CIPD, Chief of Police*
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