

Cherokee Nation Code Annotated

Title 11: Citizenship

Chapter 4: Tribal Citizenship

§ 34. Relinquishment

Cite as: 11 CNCA § 34

A. Any citizen or sponsor of a citizen of Cherokee Nation may request a tribal citizenship relinquishment form, which shall be furnished directly to the citizen or sponsor by the Registrar. Provided, however, if the person whose citizenship is to be relinquished is a minor child, the sponsor, in addition to the requirements of 11 CNCA § 3(O), must also be that minor child's biological parent or adoptive parent. A sponsor who is not a minor child's biological parent or adoptive parent shall have no authority to act on such minor child's behalf in the relinquishment of the minor's tribal citizenship. The request for a tribal citizenship relinquishment form shall be made in person or in a writing signed by the citizen or the citizen's sponsor and delivered to the Registrar.

B. The Office of the Attorney General of Cherokee Nation is hereby authorized to prepare the tribal citizenship relinquishment form and any other necessary forms, which shall be consistent with the provisions of this section, to be used in connection with the relinquishment of tribal citizenship.

C. Upon receipt of a request pursuant to subsection (A) of this section, the Registrar shall issue to the citizen or sponsor a tribal citizenship relinquishment form. Provided, however, prior to issuing the form the Registrar shall enter thereon the name of the citizen, the citizen's registry number, the sponsor's name (if any) and the date of issuance of the form. No tribal citizenship relinquishment form may be used to relinquish the citizenship of any person other than that of the citizen whose name and registry number is entered on the relinquishment form by the Registrar.

D. The tribal citizen or sponsor shall complete and sign the tribal citizenship relinquishment form before a notary public, and file the notarized form with the Clerk of the District Court of Cherokee Nation, who shall open a civil case styled "In re the relinquishment of citizenship of ____, a Tribal Citizen," without charging a filing fee, and shall assign the case a number. The relinquishment case so opened shall be set for an initial hearing on a date not more than thirty (30) days after the date of filing of the notarized form. The court clerk shall cause notice of the initial hearing to be delivered to the citizen at the time of filing or subsequently by first-class mail. Notice of the hearing shall also be mailed to the Cherokee Nation Department of Justice.

E. At the initial hearing, the tribal citizen or sponsor shall be placed under oath, and the Court or the Nation's attorney shall inquire of the citizen or sponsor who is relinquishing citizenship:

1. in any case where the tribal citizen whose citizenship is being relinquished is a minor, whether the sponsor is the biological parent or adoptive parent of the minor citizen and is otherwise qualified to act as a sponsor under 11 CNCA § 3(O); whether the minor citizen is currently the subject of a deprived child, juvenile delinquency, adoption or other proceeding involving the custody of the minor; and whether any person with parental or custodial rights to the child disputes the relinquishment or who, if unaware of the relinquishment proceeding, would likely dispute the relinquishment if he or she were aware of same;
2. whether the tribal citizen or sponsor is aware that by relinquishing tribal citizenship, all benefits and privileges to which the citizen is entitled as a consequence of being a citizen will be forfeited upon the effective date of relinquishment of citizenship; and
3. if the person whose citizenship is being relinquished is eighteen (18) years of age or older or will be of such age by the time the relinquishment form will be submitted to the Registrar pursuant to subsection (A) of this section, whether the tribal citizen or sponsor is aware that said person will not be eligible to re-enroll as a tribal citizen for a period of five (5) years following the effective date of the relinquishment.

F. At the conclusion of the initial hearing, the Court shall issue a written order authorizing the citizen or sponsor to submit the tribal citizen relinquishment form to the Registrar unless, based on the citizen's or sponsor's testimony, the Court finds:

1. in any case where the person whose citizenship is to be relinquished is a minor, that the person acting as a sponsor is not the child's biological parent or adoptive parent or is not qualified to act as a sponsor under the provisions of 11 CNCA § 3(O); that the minor citizen is the subject of a deprived child, juvenile delinquency, adoption or other custodial proceeding pending in any court; or that another person with parental or custodial rights with regard to the minor citizen disputes the relinquishment or, if such other person is unaware of the relinquishment request, he or she would likely dispute the relinquishment if he or she were aware of same; or
2. that the citizen or sponsor indicates that he or she had been unaware of the consequences of relinquishment and requests of the Court additional time in order to reconsider the decision to relinquish, in which event the Court shall reschedule the hearing for a later date to determine whether the citizen or sponsor wishes to proceed with relinquishment. If at the rescheduled hearing the citizen or sponsor thereafter indicates

that he or she no longer wants to relinquish citizenship, or fails to appear at the rescheduled hearing without first requesting a continuance, the Court shall dismiss the action without prejudice. Otherwise, the Court shall issue an order authorizing submission of the relinquishment form to the Registrar in accordance with this section.

G. If at the conclusion of the initial hearing the Court finds that the person whose citizenship is to be relinquished is a minor child and that the person seeking the relinquishment of the minor child's citizenship is not the child's biological parent or adoptive parent or is not otherwise qualified to act as the child's sponsor, the Court shall issue an order dismissing the case without prejudice. If the Court finds that the person is qualified to act as the minor child's sponsor but that the minor is the subject of a deprived child, juvenile delinquency, adoption or other custodial proceeding, or that another person has parental or custodial rights with regard to the child and disputes or would likely dispute the relinquishment, the Court shall schedule another hearing no more than thirty (30) days after the initial hearing and shall require that notice of same be given to all persons known to the Court to have parental or custodial rights with regard to the minor citizen. All such persons, including the Nation through its attorneys, may appear at the subsequent hearing and present evidence and testimony of witnesses on the issue of whether or not relinquishment of tribal citizenship would be in the best interest of the minor citizen. Within fifteen (15) days after the conclusion of the subsequent hearing the Court shall issue its order and decision on whether relinquishment would be in the best interests of the minor citizen. The party seeking to have the child's citizenship relinquished shall have the burden of proving such by a preponderance of the evidence.

H. All Cherokee Nation District Court hearings required under this section involving minor citizens, and the Court files associated therewith, shall be confidential and closed to the public as in other juvenile cases; provided, copies of any court order authorizing or denying relinquishment shall be made available to the Registrar for filing in the minor child's citizenship records in accordance with this section but shall not otherwise be subject to public disclosure under this or any other law of Cherokee Nation. The Registrar shall not reproduce, release or disclose the contents of any such order to any person except as expressly authorized by order of Cherokee Nation District Court or Supreme Court.

I. If after any hearing authorized by this section the Court, having determined that the relinquishment process should proceed, issues an order allowing the citizen or sponsor to submit the tribal citizenship relinquishment form to the Registrar, the citizen or sponsor must, within sixty (60) days following the issuance of the order, deliver certified copies of the order and the notarized relinquishment form to the Registrar, which copies shall be made available to the citizen or sponsor by the court clerk without charge. Upon timely

receipt of the certified copies of the Court's order and the relinquishment form, the Registrar shall stamp both with the date on which they were received by the Registrar and place them in the tribal citizen's file. The Registrar shall not accept the relinquishment form without the certified copy of the Court's order authorizing relinquishment to proceed. The relinquishment of the person's tribal citizenship shall become effective sixty (60) days after the date on which the certified copies of the Court's order and tribal citizenship relinquishment form were delivered to the Registrar in accordance with this subsection, unless prior to the expiration of said sixty- (60) day period the Registrar receives a written request from the citizen or sponsor that the tribal citizenship relinquishment form be revoked or withdrawn. If a written request by the tribal citizen or sponsor to revoke or withdraw his or her tribal citizenship relinquishment form is delivered to the Registrar prior to the expiration of the sixty- (60) day period, the tribal citizenship relinquishment form shall be deemed withdrawn and the person's status as a tribal citizen shall continue as if the relinquishment form had never been received by the Registrar.

J. Except as provided in subsections (K) and (M) of this section, any person who has relinquished his or her tribal citizenship may re-enroll at any time as a tribal citizen pursuant to 11 CNCA §§ 11, 12, 13 and 14.

K. Any person who relinquishes his or her own tribal citizenship in accordance with the provisions of this section shall be ineligible to re-enroll as a tribal citizen for a period of five (5) years following the effective date of his or her relinquishment of tribal citizenship if, but only if:

1. the certified copies of the notarized tribal citizenship relinquishment form and the Court's order authorizing relinquishment to proceed were received by the Registrar on or after the effective date of the Tribal Citizenship Relinquishment and Technical Amendments Act of 2002, LA 16-02; and
2. the tribal citizen whose citizenship was relinquished was eighteen (18) years of age or older on the date on which the certified copies of said relinquishment form and order were received by the Registrar.

Upon the expiration of said five- (5) year period following the effective date of his or her relinquishment, such person shall be eligible to re-enroll as a citizen in accordance with the provisions of this Title; provided, however, no person subject to the five- (5) year ineligibility period of this subsection shall be eligible to re-enroll as a citizen if, at any time after the effective date of his or her relinquishment, the person was convicted of a felony or of any crime involving moral turpitude under the laws of any federally-recognized Indian tribe, state or the United States; and provided further that in addition to all other requirements for enrollment under this Title, any person subject to the five- (5) year

ineligibility period of this subsection who thereafter seeks to re-enroll as a tribal citizen must also execute an affidavit affirming under oath that at no time subsequent to the effective date of his or her relinquishment had he or she been convicted of any such felony or crime of moral turpitude. Said affidavit must be presented to the Registrar together with the application to re-enroll.

L. The provisions of subsection (K) of this section shall not apply to any person who was under the age of eighteen (18) years of age at the time his or her tribal citizenship relinquishment form was received by the Registrar or whose citizenship was relinquished through a sponsor, or to any person, regardless of age, whose tribal citizenship relinquishment form or other document requesting or declaring his or her relinquishment of tribal citizenship was received by the Registrar prior to the effective date of the Tribal Citizenship Relinquishment and Technical Amendments Act of 2002, LA 16-02.

M. Any person who relinquished his or her citizenship but, as of the effective date of the Tribal Citizenship Relinquishment and Technical Amendments Act of 2002, L.A. 16-02, had not re-enrolled as a citizen, may apply for re-enrollment by delivering to the Registrar a completed application to re-enroll no later than two hundred seventy (270) days following the effective date of said Act. Any such person who fails to deliver to the Registrar a completed application to re-enroll prior to the expiration of said two hundred seventy- (270) day period following the effective date of the Tribal Citizenship Relinquishment and Technical Amendments Act of 2002 shall be ineligible to re-enroll as a citizen for the remainder of the five- (5) year period commencing on the effective date of said act. Provided, however, the re-enrollment ineligibility period of this subsection shall not apply to any person who was at the time of his or her relinquishment less than eighteen (18) years of age or whose relinquishment was procured through a sponsor. For the purposes of this subsection, the term "**completed application**" means an application to re-enroll as a citizen that substantially complies with the provisions of 11 CNCA §§ 11, 12, 13 and 14 and is submitted to the Registrar simultaneously with all documentation required by 11 CNCA § 14. No later than thirty (30) days after the effective date of LA 16-02, the Registrar shall cause notice of the provisions of this subsection (M) to be sent by first-class mail to the last known address of all persons who are subject to the re-enrollment ineligibility period of this subsection. The Registrar shall also cause notice of this subsection to be published in the next issue of the *Cherokee Phoenix* and *Indian Advocate* published after the effective date of said LA 16-02.

N. Commencing on the effective date of the Tribal Citizenship Relinquishment and Technical Amendments Act of 2002 (LA 16-02), all tribal citizenship relinquishment forms shall include the following language above the signature line:

NOTICE: THE RELINQUISHMENT OF YOUR TRIBAL CITIZENSHIP HAS SERIOUS CONSEQUENCES

I, THE UNDERSIGNED, UNDERSTAND THAT ANY PERSON 18 YEARS OF AGE OR OLDER WHO RELINQUISHES HIS OR HER TRIBAL CITIZENSHIP DOES THEREBY ALSO WAIVE THE RIGHT TO RE-ENROLL AS A CITIZEN OF CHEROKEE NATION FOR A PERIOD OF FIVE YEARS FOLLOWING THE EFFECTIVE DATE OF THE CITIZENSHIP RELINQUISHMENT.

I UNDERSTAND THAT BY RELINQUISHING MY TRIBAL CITIZENSHIP I WILL LOSE ALL BENEFITS THAT I MAY BE ENTITLED TO BY VIRTUE OF MY STATUS AS A CITIZEN OF CHEROKEE NATION.

I UNDERSTAND THAT THIS RELINQUISHMENT OF TRIBAL CITIZENSHIP WILL BECOME EFFECTIVE 60 DAYS AFTER THE DATE ON WHICH THIS RELINQUISHMENT FORM IS RECEIVED BY THE REGISTRAR UNLESS, BEFORE THE END OF THAT 60-DAY PERIOD, I DELIVER TO THE REGISTRAR A WRITTEN REQUEST TO REVOKE OR WITHDRAW THIS RELINQUISHMENT FORM.

Historical Data

LA 6-92, eff. September 12, 1992. Amended LA 2-93, eff. August 11, 1993; LA 16-02, eff. May 21, 2002; LA 20-05, eff. May 19, 2005.