



KIOWA TRIBE

P.O. Box 369 • Carnegie, Oklahoma • 73015
Phone: (580) 654-2300 • Fax: (580) 654-1788
OFFICE OF THE LEGISLATURE

KIOWA TRIBE RESOLUTION NO. KL-CY-2018-022

TRIBAL MEMBER ACCESS TO JUSTICE ACT OF 2018

At a duly called Session of the Legislature of the Kiowa Tribe held this 8th day of September, 2018, the following Resolution and Law were adopted.

WHEREAS; On May 5, 2017, the U.S. Bureau of Indian Affairs (“BIA”) approved the new constitution for the Kiowa Tribe (“Constitution”) according to federal law;

WHEREAS; According to Article VI, Section 6(a) of the Constitution, the Legislature is vested with the authority to pass laws and resolutions; and,

WHEREAS; Article VIII of the Constitution establishes a new Judicial Branch of government for the Tribe including a Trial Court and Supreme Court that replaces the “CFR Court” operated by the BIA (“CFR Court”); and,

WHEREAS; The CFR Court is prohibited from hearing cases that involve an “election dispute” or “internal tribal government dispute”, which resulted in the Tribe experiencing intractable gridlock and government “meltdown” for at least three years prior to the approval of the new Constitution; and,

WHEREAS; Nearly every Indian Tribe in the United States operates its own court system as an exercise of their sovereignty and self-determination, and only sixteen tribes continue to allow the BIA to operate a CFR Court for them; and,

WHEREAS; More than fifteen (15) months has passed since the voters of the Tribe overwhelmingly approved the Constitution and the BIA continues to operate the CFR Court despite the overwhelming approval of the new Judicial Branch by the voters of the Tribe; and,

WHEREAS; The Legislative and Executive branches of government have taken important steps to support the implementation of the new Constitution and Judicial Branch including enacting a new Code of law, new Rules of Civil Procedure, new Judicial Code of Conduct, as well as installing a Chief Judge, three Supreme Court Justices, and a Court Clerk; and,

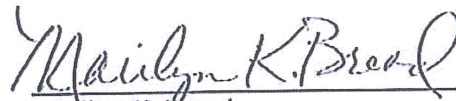
WHEREAS; The voters of the Tribe have also approved an Annual Budget that includes \$150,000 for the operation of the Judicial Branch including office space, equipment, and court personnel; and,

WHEREAS; The Legislature has determined that it is in the best interests of the Tribe to take all steps necessary to fully implement the will of the voters to ensure that the Judicial Branch of the Tribe is operational and provides professional services for the benefit of the People,

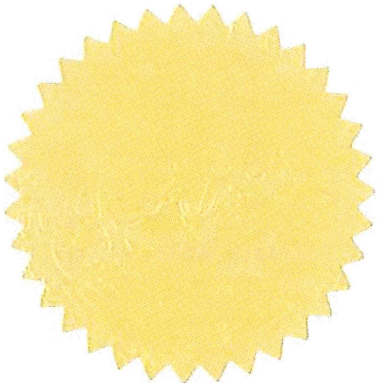
NOW THEREFORE IT BE IT RESOLVED; that the Legislature hereby enacts the attached law entitled, "Tribal Member Access To Justice Act of 2018".

CERTIFICATION

The foregoing resolution KL-CY-2018-022, was duly voted upon by the Legislature on Legislature Regular Session XVII on September 8, 2018, at a Session with a vote of (5) in favor and (1) opposed, (0) abstaining, and (1) absent, pursuant to the authority vested in the Legislature by the Constitution of the Kiowa Tribe.



Marilyn K. Bread
Speaker of the Legislature



LEGISLATURE - RESOLUTION NO.KL-CY-2018-022;

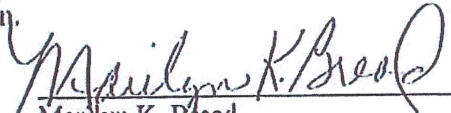
SPONSOR: Anita Onco-Johnson, District #5 Legislator

CO-SPONSOR(S): _____

LEGISLATORS	YES	NO	ABSTAIN	ABSENT
Marilyn Bread	X			
Charles Hines				X
Anita Onco Johnson	X			
Angela McCarthy	X			
Modina Waters	X			
Ben Wolf	X			
Mike Primus		X		

DELIVERY OF THE RESOLUTION AND LAW TO THE CHAIRMAN

Resolution No. KL-CY-2018-022 was presented to the Chairman of the Kiowa Tribe on the 26th day of September 2018, pursuant to the Article VI, Section 8(a)(iv) of the Constitution of the Kiowa Tribe, and will become effective after signature by the Chairman or veto override by the Legislature, and as otherwise required by the Constitution.


Marilyn K. Bread
Speaker of the Legislature

CHAIRMAN'S ACTION:

APPROVED

VETO - RETURNED TO LEGISLATURE WITH EXPLANATION:

On this ___ day of _____, 201__.

Chairman

Presented by the Chairman to the Legislature on the ___ day of _____, 201__.

LEGISLATURE'S ACTION:

Override of Chairman's veto:

YES

NO

LEGISLATORS	YES	NO	ABSTAIN	ABSENT
Marilyn Bread				
Charles Hines				
Anita Onco Johnson				
Angela McCarthy				
Modina Waters				
Ben Wolf				
(Vacant)				

CERTIFICATION

The foregoing resolution was duly voted upon by the Legislature on _____, 201__, at a meeting with a vote of _____ in favor and _____ opposed, and _____ abstaining pursuant to the authority vested in the Legislature by the Constitution of the Kiowa Tribe.

Speaker of the Legislature

Section 1.1 Short Title

This enactment shall be known as the, "Tribal Member Access To Justice Act of 2018" ("Act").

Section 1.2 Purpose.

The purpose of the Act is to take all steps necessary to fully implement the will of the voters to ensure that the Judicial Branch of the Tribe is operational and provides professional services for the benefit of the People.

Section 1.3 Findings.

- (a) On May 5, 2017, the U.S. Bureau of Indian Affairs ("BIA") approved the new constitution for the Kiowa Tribe ("Constitution") according to federal law;
- (b) According to Article VI, Section 6(a) of the Constitution, the Legislature is vested with the authority to pass laws and resolutions; and,
- (c) Article VIII of the Constitution establishes a new Judicial Branch of government for the Tribe including a Trial Court and Supreme Court that replaces the "CFR Court" operated by the BIA ("CFR Court"); and,
- (d) The CFR Court is prohibited from hearing any case that involves an "election dispute" or "internal tribal government dispute", which resulted in the Tribe experiencing intractable government gridlock for at least three years prior to the approval of the new Constitution; and,
- (e) Nearly every Indian Tribe in the United States operates its own court system as an exercise of its sovereignty and self-determination, and only sixteen tribes continue to allow the BIA to operate a CFR Court for them; and,
- (f) More than fifteen (15) months has passed since the voters of the Tribe overwhelmingly approved the new Constitution; however, the BIA continues to operate the CFR Court despite the decision of the voters of the Tribe; and,
- (g) The Legislative and Executive branches of government of the Tribe have taken important steps to support the implementation of the new Constitution and new Judicial Branch including enacting a new Code of law, new Rules of Civil Procedure, new Judicial Code of Conduct, as well as installing a Chief Judge, three Supreme Court Justices, and a Court Clerk; and,
- (h) The voters of the Tribe have also approved an Annual Budget and Budget Modification that includes \$150,000 for the operation of the Judicial Branch including funds for office space, equipment, and court personnel.

Section 1.4 Implementation of the New Constitution.

- (a) The Legislature hereby declares that, in addition to the Tribe's new BIA-approved Constitution, this Act shall serve as official notice to the BIA pursuant to 25 CFR §11.104(b) that the Tribe has established a court system in a Code, and has otherwise met all the requirements under federal regulations for the Tribe's judicial powers and functions to be exercised by the Tribe and not the BIA or its CFR Court.
- (b) The Legislature hereby designates the conference room and one office next to the conference room in the Tribe's headquarters in Carnegie, Oklahoma as the temporary courtroom and office for the Judicial Branch.
- (c) The Legislature hereby confirms that the voters of the Tribe have approved a budget for the Judicial Branch that permits the Judicial Branch to spend approved funds for "salaries, office space, equipment, supplies, consultants, legal counsel, and employees and/or contract services for clerks, bailiffs, prosecutors, public defenders, jail bed spaces, pro tempore judges, and related expenses necessary for the operation of the courts and the Judicial Branch of government".
- (d) The Legislature hereby authorizes the Judicial Branch to promptly prepare and/or obtain all necessary forms, equipment, recording systems, filing cabinets, and staff to immediately begin the operation of the Judicial Branch of government, and to promptly provide public notice of the initiation of the new Judicial Branch of government including the court's location, hours of operation, names of the court clerks, and contact information.
- (e) Due to the sixteen (16) months of delays in the implementation and operation of the Tribe's new court system approved by the voters in May 2017, and pursuant to Article VIII, Section 1(a) of the Constitution, the Legislature hereby creates a lower court of special jurisdiction called the "Internal Dispute Court" to hear and decide cases that federal regulations (25 CFR Part 11.118) do not allow the CFR Court to adjudicate without the Tribe's consent including such cases as an election dispute, a suit against the Tribe, and any internal tribal government dispute; provided, that if the Judicial Branch does not immediately accept the filing and adjudication of any case filed in the Internal Dispute Court after the enactment of this Act, then the Legislature hereby grants the Court of Indian Offenses jurisdiction to hear and decide cases involving an election dispute, a suit against the Tribe, or any internal tribal government dispute and the Legislature hereby expressly waives Sovereign Immunity pursuant to Article X of the Constitution for such purposes, until such time as the Tribe operates its Judicial

branch of government pursuant to the Constitution as defined in Article 10
Section 1; Sovereign Immunity.



Kiowa Tribe

P.O. Box 369 · Carnegie, Oklahoma · 73015
Phone: (580) 654-2300 · Fax: (580) 654-8714
KIOWA LEGISLATURE

INTER-OFFICE MEMORANDUM:

TO: Matthew Komalty, Chairman of the Kiowa Tribe
FROM: *Marilyn K. Bread*
Marilyn K. Bread, Speaker of the Kiowa Legislature District #3
DATE: Thursday, September 27, 2018
SUBJECT: APPROVAL OF RESOLUTIONS/BILLS OF THE KIOWA TRIBE,
LEGISLATIVE REGULAR SESSION XVII, SEPTEMBER 8, 2018.

The Kiowa Legislature held Regular Session XVII on September 8, 2018, as specified in the Kiowa Constitution. The Legislature approved Resolution/Bill KL-CY-2018-022, please see attachment for the Chairman's approval or veto.

1. Resolution KL-CY-2018-022; Tribal Members Access to Justice Act of 2018.

Should you have any other questions, please contact the Legislative Clerk at Ext. 6338. Thank you

Matthew M. Komalty

Received By: Signature

9.27 2018

Date

MATTHEW M. KOMALTY

Print Name



KIOWA TRIBE

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KIOWA LEGISLATURE

October 12, 2018

Matthew Komalty, Chairman
Kiowa Tribe
P.O. Box 369
Carnegie, Oklahoma 73015

Chairman Komalty:

The Kiowa Tribe Legislature held Legislative Session XVII, on September 8, 2018, and passed one (1) newly enactment of Kiowa Tribe Laws, by the Kiowa Legislature, as specified in the Kiowa Constitution. A copy of the approved law was forwarded to the Chairman's office and signed received by the Chairman on September 27, 2018.

1. Resolutions KL-CY-2018-022; Tribal Members Access to Justice Act of 2018.

The Kiowa Tribe Legislature is required to request and received back the resolution/laws by October 7, 2018, in accordance with the Kiowa Tribe Constitution **ARTICLE VII – EXECUTIVE BRANCH:** (f) The Chairman shall have the power to sign any enactment passed by the Legislature into law or to veto with written explanations any enactment passed by the Legislature within ten days of passage and presentment of a certified enactment from the Legislature to the Chairman; provided, that if the Chairman takes no action within ten days, the enactment shall become law in accordance with this Constitution.

Should you have any further questions, please direct them to the Kiowa Tribe Legislature,

Sincerely,

Marilyn K. Bread, Speaker
of the Kiowa Tribe Legislature

MKB/tdh

Cc: Kiowa Legislature

