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OPINION OF THE CHEROKEE NATION ATTORNEY GENERAL

Question Submitted by: Sharon Swepston, Tax Commission Director

Opinion Number: 2016-CNAG-03

Date Decided: December 9, 2016

You have asked the Office of the Attorney General for an opinion as to whether the Cherokee Nation Tax Commission may recognize validly-issued civil unions, same-sex marriages and same-sex domestic partnerships from other jurisdictions for the purpose of tagging a vehicle in light of the prohibition against same-sex marriage under the Cherokee Nation Marriage and Family Act. In effect, you ask the following question:

> ***Whether the Cherokee Nation constitution guarantees a Cherokee citizen the benefit or protection of the laws of the Cherokee Nation regardless of whether a citizen has entered into a same-sex or opposite-sex marriage.***

For the reasons discussed below, it is the official opinion of the Attorney General that the Cherokee Nation Constitution protects the fundamental right to marry, establish a family, raise children and enjoy the full protection of the Nation's marital laws. The Nation may not deny the issuance of a marriage license to two persons, or refuse to recognize their marriage based solely upon the sex of the persons in the marriage union. Therefore, Section 1 of the Cherokee Nation Marriage and Family Act ("Act"), which defines marriage as "a civil contract between one man and one woman," is unconstitutional. Likewise, Section 3 of the Act, which prohibits marriage "between parties of the same gender," is also unconstitutional.

Accordingly, Section 1 and Section 3 of the Act are null and void until a differing opinion or order is entered by a Cherokee Nation Court, pursuant to Section 105(B)(4) of the Attorney General Act. In addition, because the Cherokee Constitution affords all Cherokee citizens the right to marry, regardless of sexual orientation, the Cherokee Nation and its entities must recognize validly-issued civil unions, same-sex marriages and same-sex domestic partnerships from other jurisdictions for the purpose of services, programs, benefits, or some variation thereof.

INTRODUCTION

The magnitude of the question presented is not lost on this office. In addition to contributing to the stability and continuation of Cherokee society, the exclusive commitment of two individuals to each other certainly fosters love and mutual support between the couple. Many Cherokees hold deep-seated religious, moral, and ethical convictions that marriage should be limited to one man and one woman, whereas, many other Cherokees hold equally strong convictions that homosexual couples should be treated the same as heterosexual couples. Neither view dictates our answer, nor guides our analysis. The only concern is whether the same-sex marriage ban under Cherokee law can constitutionally operate to deny benefits to Cherokee citizens based upon the same. It is against this backdrop that we begin our analysis.

BACKGROUND

The question presented arises from a service the Nation offers to its citizens. As a sovereign, federally-recognized Indian tribe, the Nation has the power and authority to issue motor vehicle license tags to its enrolled citizens pursuant to the Cherokee Nation Motor Vehicle Licensing and Tax Code ("Code"), 68 C.N.C.A. §§ 1301 *et seq.* The Cherokee Nation Tax Commission ("Commission") is vested with the power, authority and duty to administer and enforce the Code.[1] In order to register a vehicle with the Nation, the owner must complete an application, as well as provide the following documents: a valid certificate of title to the vehicle in the name of the applicant; a valid Oklahoma driver's license; proof of liability insurance policy; proof of address; and evidence that the owner is a tribal citizen.[2]

On occasion, an owner will have all the requisite documents but the Commission is unable to register the vehicle because the owner's name is not the same on all the documents. For

[1] 68 C.N.C.A. § 1351 (2014).
[2] *Id.* at § 1351(B) (2014).

example, a recently-married woman may have her married name on her driver's license but still have her maiden name listed on her tribal citizenship card. When this occurs, the Commission will require the owner to provide a legal document linking the two names together. For a recently-married individual, the Commission will accept a valid marriage certificate. The issue before us today arose when a recently-married individual offered a marriage certificate issued to her and a person of the same-sex as offer proof of her identity. Upon receipt, the Commission was unsure whether it could accept the same-sex marriage certificate in light of the Cherokee law expressly defining marriage "[a]s a civil contract between *one man* and *one woman*."[3]

ANALYSIS AND DISCUSSION

The question presents a constitutional question never addressed by this Office or any Court in the Cherokee Nation – whether the Tribal Council's decision to exclude same-sex couples from marriage violates the Cherokee Constitution. We conclude that it does. Both the Due Process Clause and Equal Protection Clause of the Cherokee Constitution affirm the dignity of all individuals and demands that every citizen be treated equally under the law.

I. Perpetual Partnership and Marriage in the Cherokee Nation

Before addressing the principles and precedents that govern our answer, it is appropriate to note the history of perpetual partnership and marriage in the Cherokee Nation. The history of marriage among the Cherokees is one of both continuity and change. While Cherokees have always recognized some form of perpetual partnership, changes - such as intermarrying with non-Cherokees and the acculturation of Anglo-American values - contributed to the evolution of marriage. However, despite the many traditional and more-recent rules and regulations regarding marriage, none created an out-right prohibition against marrying a partner of the sex-same until the passage of the Cherokee Nation Marriage and Family Act of 2004.

a. Perpetual partnerships in traditional Cherokee society.

Prior to European contact and the advent of the Cherokee syllabary, Cherokee traditions, including those regarding partnership and marriage, were passed down orally. Because of this, there are no known *written* accounts of Cherokee marriage norms and customs prior to the seventeenth century. Nonetheless, oral history teaches that since time immemorial Cherokees

[3] 43 C.N.C.A. §1 (2014) (emphasis added).

have recognized perpetual partnerships akin to marriage that are unique[4] to Cherokee society.[5] For instance, in traditional Cherokee society the basic unit of kinship was the clan. All members of the clan descend from the same individual, and although blood connection may have been long forgotten by the time of European contact, "this relationship seem[ed] to be as binding as the ties of consanguinity."[6] Because of this, "children belonging to the same clan [could] never, under penalty of death, intermarry" and young people were discouraged from marrying into their father's clan as well.[7] And, since clan affiliation was inherited through the mother's line, clan members were encouraged to marry into either the maternal grandfather's clan or paternal grandfather's clan.[8]

Oral history also teaches that the Cherokee and Euro-American worldviews differed dramatically regarding appropriate gender roles, marriage, sexuality, and spiritual beliefs. Indeed, while the majority of Cherokees subscribed to culturally defined gender roles,[9] evidence suggests a tradition of homosexuality or alternative sexuality among a minority of Cherokees. Though such traditions are infrequently recorded, in his papers, John Howard Payne[10] describes

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[4] In 1774, English trader, James Adair, wrote

> "The Cheerake are an exception to all civilized or savage nations, in having no laws against adultery; they have been a considerable while under petticoat-government, and allow their women full liberty to plant their brows with horns as oft as they please, without fear of punishment. On this account their marriages are ill observed, and of a short continuance; like the Amazons, they divorce their sighing bed-fellows at their pleasure, and fail not to execute their authority, when their fancy directs them to a more agreeable choice."

James Adair, HISTORY OF THE AMERICAN INDIANS 146-47 (London: Edward & Charles Dilly, 1775) ("Cheerake" in original).

[5] According to Cherokee tribal theology, two of the world's first inhabitants were a hunter name Kana'ti and his *wife*, Selu. James Mooney, HISTORY, MYTHS AND SACRED FORMULAS OF THE CHEROKEES, *Kana'ti and Selu – The Origin of Game and Corn*, 242-249 and *The Hunter and Selu*, 323-324 (Washington D.C.: Government Printing Office, 1900).

[6] J.P. Evans, "Sketches of Cherokee Characteristics," *Journal of Cherokee Studies* 4, 10 (1979).

[7] Narcissa Owen, A CHEROKEE WOMAN'S AMERICAN: MEMOIRS OF NARCISSA OWEN, 1831-1907, 10 (K.L. Kilcup, Ed. Univ. Press of Florida, 2005).

[8] Marcelina Reed, SEVEN CLANS OF THE CHEROKEE SOCIETY 10 (Cherokee Publications, 1993).

[9] Historically, Cherokees adhered to the gender roles embodied in the tribal theology of Kana'ti and Selu. Men were hunters and responsible for providing the family with meat, whereas, women were the farmers, cooks, and "chief manufacturers" in addition to being the primary caregiver for the children. Theda Purdue, CHEROKEE WOMEN 23 (Univ. of Neb. Press, Lincoln & London, 1998).

[10] In the 1830s, John Howard Payne, a respected author visited the Cherokee Nation as the guest of then-Chief John Ross. During his time in the Cherokee Nation, Payne visited with Cherokee

a ceremony that bonded two people of the same sex together for life. The relationship described in some respects would seem to parallel a modern day same-sex marriage in the depth of its commitment, its permanence, and its recognition by the other members of the tribe:

> About ten days after the Great New Moon Festival, came the fifth of the series of Great Festivals, entitled Ah-tawh-hung-nah, that is, Propitiation or Cementation Festival, the arrangements introductory to which were as follows:
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> Soon after the people had withdrawn from the Great New Moon Festival, probably not more than a day, or so, after, the seven prime Counsel[l]ors convened at the National Heptagon; for the purpose of appointing, in seven nights, the peculiarly significant and solemn Ah-tawh-hung-nah. At this festival it was that the [intense] devotional feeling was evinced by the ancient Cherokee; and paramount adoration given to the source of all their blessings. It was on this festival that the mystical hymn was specially [chanted]; that which was called the Yowah Hymn; and is named in another part of our work, where the deep reverence of the Cherokee for the Great Ye-ho-waah, to whom it was specially consecrated, is also described.
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> To ascertain the precise signification of the Cherokee title for this festival is by no means easy. It is derived from a peculiar bond between Indians of the same tribe, which is alluded to elsewhere in these pages. This can only be described in our language as a vow of eternal brotherhood. It sprang from a passionate friendship between young men, prompting them mutually to a solemn act of devotedness to each other. They plighted it public[]ly, at an appointed time and place, by the silent interchange of garment after garment, until each was clad in the other's dress; each, then considered that he had given himself to the other; they from that hour were one and indivisible. The alliance embraced whatever is implied in peace, reconcilement, friendship, brotherly affection, and much more than either or all. When the two were thus uniting, it was said of them, Ah-nah-tawh-hanoh-kah, - they are about to make friendship, and the union itself was called Ah-tah-hoongh-nah, friends made; whence the festival now under review takes its title. It has been conjectured to signify the state which unites the creature on earth with the Creator Who Dwells Above. The nature and dignity of this Festival may be further gathered from the title added for particular occasion to the Great High Priest who always officiated on it; and was then termed Oonah-wheeh-sayh-nunghee, One Who Renews Heart and Body, the purifier from all defilements, spiritual and corporeal. While attending to the ceremonies of this festival, it was said of him Tee-kawtlah-hee-seehah.[11]

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elders in hope of memorializing the myths, religious practices, traditional foods, and many other aspects of Cherokee life.

[11] John Howard Payne and Daniel S. Butrick, THE PAYNE-BUTRICK PAPERS, Vol. 1, 44-45 (W.L. Anderson, J.L. Brown, and A.F. Rogers Ed., Lincoln: Univ. of Nebraska Press, 2010) (internal citations omitted).

The precise meaning of this ceremony becomes clearer upon translation of the Cherokee word *ah-tah-hoongh-nah*. According to at least one Cherokee language consultant, *ah-tah-hoongh-nah* today translates to *ag-ta-hv-na* which means, "one has turned around" whereas another language consultant interprets the words to mean "peace is about to happen amongst them."[12] The formal acceptance alternative sexuality in traditional Cherokee society is further supported by Charles C. Trowbridge's[13] notes on the Cherokees. In his manuscripts he states: "There were among them formerly, men who assumed the dress & performed all the duties of women & who lives whole lives in this manner; but they can give no reason for this singular fact."[14]

b. Formalization and recognition of marriage under Cherokee law.

Following contact, the Cherokees adopted a republican form of government with a written Constitution and laws. From 1828 to 1834, the *Cherokee Phoenix* published the laws and public documents of the Cherokee Nation, as well as "the manners and customs of the Cherokees, and their progress in Education, Religion and the arts of civilized life."[15] Upon review, our Office has found no law or news article that mentions same-sex behavior, much less same-sex marriage. There is at least one law addressing Cherokee marriage, but it concerns Cherokee women intermarrying with white men.[16] There are also articles discussing intermarriage,[17] recounting weddings,[18] and marriage announcements[19] but again, the focus is on heterosexual relationships.

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[12] *Id.* at Vol. 1, 345 Note 81.
[13] In 1823, General Lewis Cass, governor of the Michigan Territory, commissioned Charles C. Trowbridge to investigate the Indians. His mission was to obtain the answers to a list of questions pertaining to the Cherokees devised by General Cass.
[14] Payne and Butrick, *supra* note 11, Vol. 1, at 345 Note 81.
[15] Elias Boudinott, "Prospectus," CHEROKEE PHOENIX, Vol. 1 No. 2, 3 (Feb. 21, 1828), available online at http://www.wcu.edu/library/DigitalCollections/CherokeePhoenix/Vol1/no02/pg3col2b.htm.
[16] "Cherokee Laws," CHEROKEE PHOENIX, Vol. 1 No. 6, 1 (March 27, 1828), available online at http://www.wcu.edu/library/DigitalCollections/CherokeePhoenix/Vol1/no06/pg1col1a.htm.
[17] Socrates, "Intermarriages," CHEROKEE PHOENIX, Vol. 1 No. 6, 2 (March 27, 1828), available online at http://www.wcu.edu/library/DigitalCollections/CherokeePhoenix/Vol1/no06/pg2col4a.htm.
[18] Waterhunter, "The Wedding," CHEROKEE PHOENIX, Vol. 1 No. 13, 2 (May 21, 1828), available online at http://www.wcu.edu/library/DigitalCollections/CherokeePhoenix/Vol1/no13/pg2col5b.htm.

Likewise, there was no mention of same-sex behavior including the prohibition thereof in the laws passed from 1839 to 1867.[20] This is significant since the National Council did pass other laws relating to marriage.[21] Most notably, the National Council did enact a law *prohibiting* Cherokees by blood from marrying "any person of color," "under the penalty of such corporeal punishment as the courts may deem it necessary and proper to inflict, and which shall not exceed fifty stripes for every such offense."[22] Then, in 1855, the National Council authorized and empowered "all regular ministers of the gospel, of every denomination . . . and judges of this Nation . . . to solemnize the rites of matrimony according to the rites and ceremonies of their respective churches"[23] and further deemed all such marriages lawful.

c. Modern Cherokee laws regarding marriage.

Although the nineteenth century marriage statutes referred to "husband and wife," there was neither a prohibition against an individual marrying someone of the same sex nor does the statute expressly define marriage, whether solemnized by a minister or a judge, between a man and a woman. Indeed, it was not until 2004 that the Nation pronounced that "marriage" is between a man and a woman.

Prior to 2004, Cherokee marriage laws were gender-neutral. Marriage was defined as "a civil contract, to which the consent of the parties, capable of law contracting, is essential."[24] In addition, every person who attained the age of eighteen or a minor who obtained consent of his or her mother, father, or guardian was capable of contracting marriage.[25] The only limit on who may *not* marry applied to those whose spouse was still living; who were nearer kin than first cousins; and those who were "insane or idiotic."[26]

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[19] CHEROKEE PHOENIX, Vol. 2 No. 33, 2 (Nov. 25, 1829), available online at http://www.wcu.edu/library/DigitalCollections/CherokeePhoenix/Vol2/no33/pg3col4b.htm.
[20] *See* LAWS OF THE CHEROKEE NATION PASSED DURING THE YEARS 1839 TO 1867 (Missouri Democrat Print, 1868).
[21] *Id.* at 48, An Act Respecting Divorce (Nov. 5, 1859); *Id.* at 104-06, An Act Regulating Intermarriages With White Men (Nov. 19, 1866).
[22] *Id.* at 22, An Act to Prevent Amalgamation With Colored Persons (Sept. 19, 1839).
[23] *Id.* at 55, An Act In Regards to Marriage and Estates (Oct. 24, 1855).
[24] 43 CNCA § 1 (1993) (amended 2004).
[25] 43 CNCA § 2 (1993) (amended 2004).
[26] 43 CNCA § 3 (1993) (amended 2004).

In 2004, the Tribal Council made sweeping reforms[27] to the Cherokee marriage laws. In addition to criminalizing both adultery and bigamy, the Council also redefined "marriage" "[a]s a civil contract between *one man* and *one woman*."[28] The Council further limited who may not marry by adding "not between parties of the same gender" to the list in Section 3. The Council did not however enact any provisions regarding the legitimacy of same-sex marriages, civil unions, or domestic partnerships from other jurisdictions.[29] To date, the Council has not amended any of the provisions enacted in 2004. As a consequence, the prohibition against same-sex marriage remains intact today.

II. Constitutionality of the Same-Sex Marriage Ban

The Cherokee Nation Constitution represents the supreme written will of the Cherokee people regarding the framework of their government.[30] Where the constitution asserts a certain right, or lays down a certain principle of law, it speaks for the entire Cherokee people as their supreme law, and it is paramount authority for all that is done in pursuance of its provisions.[31] In interpreting the provisions of the constitution, this Office seeks to give effect to the intent of its framers and to the Cherokee people as they would have understood it at the time of ratification.[32]

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[27] The reforms came after the then-General Counsel for the Nation concluded that the "current Cherokee statutes should be construed as only allowing the registration of marriage certificates reflecting the marriage of husband and wife, that is, of a man and woman." Opinion of Julian Fite, Cherokee Nation General Counsel, to Chad Smith, Principal Chief of the Cherokee Nation 5 (June 10, 2004) (on file with Office of the Attorney General). Mr. Fite further concluded, with support from Oklahoma law *only*, that his opinion to then-Principal Chief Chad Smith "should be given the force of law within the Cherokee Nation unless overturned by a court of competent jurisdiction." *Id.* at 1. This conclusion was not and cannot be supported by the Cherokee Nation's Constitution or laws. The only opinions that are given the force and effect of law until overturned by a Cherokee Court are those opinions issued by an Attorney General appointed by the Principal Chief and confirmed by the Tribal Council pursuant to Article VII, § 13 of the Cherokee Constitution. As such, though titled an *opinion*, the document is actually a legal memorandum written from an attorney (Mr. Fite) to his client (Principal Chief Smith) and has no force or effect of law.

[28] 43 C.N.C.A. §1 (2014) (emphasis added).

[29] 43 C.N.C.A. § 8 (2014).

[30] *See DeMoss v. Jones, et al.*, JAT 96-01-K, at 6-7 (*citing* 16 Am. Jur. 2d, Constitutional Law §), available at http://www.cherokeecourts.org/Portals/73/Documents/Supreme_Court/Opinions/JAT-96-01%2027-ORDER%209-23-98.pdf.

[31] *Id.*

[32] *Id.* at 7.

a. Constitutional protection of the right to marry.

The protection of individual liberty and equality is enshrined in the Cherokee Constitution. The Bill of Rights unequivocally articulates the foundational principals of liberty and equality for all Cherokee citizens. Article III, Section 1 provides that "*equal protection*, shall be afforded under the laws of the Cherokee Nation." In addition, Article III, Section 3 provides that "the Cherokee Nation shall not deprive any person of life, *liberty* or property without due process of law . . .." When read together, Article III, Sections 1 and 3 embody a guarantee that the Cherokee government will not interfere with, and indeed will protect, individual liberty including one's choice and behavior over which the majority may not exercise control to the detriment of a select minority.

Protection of individual liberty necessarily requires respect for an individual's choice of family. Marriage is "one of the vital personal rights essential to the orderly pursuit of happiness of free men [and women]."[33] "[B]ecause 'it fulfills yearnings for security, safe haven, and connection that express our common humanity, civil marriage is an esteemed institution, and the decision whether and whom to marry is among life's momentous acts of self-definition.'"[34] As such, it is beyond question that the right to marry is central and within the rights of liberty that embodies the kind of fundamental personal choice safeguarded under the Cherokee Constitution.

b. Unconstitutionality of the same-sex marriage ban.

Pursuant to Article VI, Section 7, the Tribal Council "shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation, which shall not be contrary to the provisions of [the] Constitution." While laws passed by the Tribal Council should be given "great deference"[35] and where possible, their constitutionality should be upheld, "any enactment of the Council is subject to review to insure that the same is not contrary to the Constitution."[36] In this instance, sections 1 and 3 of Cherokee Nation Marriage and Family Act of 2004, which define marriage as "a civil contract between one man and one woman" and

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[33] *Loving v. Virginia*, 388 U.S. 1, 12 (1967).
[34] *Obergefell v. Hodges*, 135 S.Ct. 2584, 2590, 192 L.Ed 609 (2015) (*citing Goodridge v. Dept. of Pub. Health*, 440 Mass. 309, 322 (Mass. 2003)).
[35] *Watts v. Smith and Cherokee Nation Tribal Council*, SC 10-05, 3, available at http://www.cherokeecourts.org/Portals/73/Documents/Supreme_Court/Opinions/SC-10-05%2011-Opinion%2011-18-10.pdf.
[36] *Id.*

prohibit marriage "between parties of the same gender," respectively, are contrary to both the Equal Protection and Due Process clauses of the Cherokee Constitution.

The constitutional concepts of equal protection and due process frequently overlap, as they do here, in matters implicating marriage, family, life, and the upbringing of children. The rights secured by equal protection and those implicit in liberty may rest on different principles, yet "recognizing that new insights and societal understandings can reveal unjustified inequality within fundamental institutions that once passed unnoticed and unchallenged."[37] Equal protection requires us to consider whether the classification drawn by statutes, in this instance, sexual orientation, constitutes arbitrary and unfair discrimination.

There can be no doubt that the same-sex marriage ban rests solely upon distinctions drawn according to sexual orientation. The right to marry without the freedom to marry the person of one's choice is no right at all. The history of perpetual partnerships and marriage among Cherokees supports the conclusion that Cherokee citizens have a fundamental right not only to choose a spouse but also, with mutual consent, to join together and form a household irrespective of sexual orientation. Certainly, the Cherokee government's intrusion into these core decisions undoubtedly imposes inexcusable shame on individual Cherokees. Indeed,

> There is no difference between same- and opposite-sex couples with respect to this principle. Yet by virtue of their exclusion from that institution, same-sex couples are denied the constellation of benefits that the States have linked to marriage. This harm results in more than just material burdens. Same-sex couples are consigned to an instability many opposite-sex couples would deem intolerable in their own lives. As the State itself makes marriage all the more precious by the significance it attaches to it, exclusion from that status has the effect of teaching that gays and lesbians are unequal in important respects. It demeans gays and lesbians for the State to lock them out of a central institution of the Nation's society. Same-sex couples, too, may aspire to the transcendent purposes of marriage and seek fulfillment in its highest meaning.[38]

In this instance, the Tribal Council enacted a law that not only unjustifiably and arbitrarily created two classes of Cherokee citizens – heterosexual couples and homosexual couples – but one that also denies same-sex couples the same benefits automatically afforded to couples of the opposite sex. The prohibition against two persons of the same sex marrying burdens the liberty of those individuals, as well as offends the fundamental precepts of equality.

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[37] *Obergefell,* 135 S.Ct. at 2590.
[38] *Obergefell*, 135 S.Ct. at 2601-02.

The equal protection and due process provisions of the Cherokee Constitution prohibit this baseless infringement on the fundamental right to marry.

III. Recognition of Validly-issued Civil Unions, Same-Sex Marriages and Same-Sex Domestic Partnerships from Other Jurisdictions

The refusal to recognize a validly-issued same-sex marriage, union, or partnership from another jurisdiction causes considerable and ongoing harm for Cherokee citizens. Without such recognition, Cherokee citizens may be denied governmental services and programs, such as registering a vehicle with the Tax Commission, which have already lead to inconsistency and uncertainty among the Nation's various departments and offices. Since the Cherokee Constitution affords the same marriage rights to same-sex couples as it does opposite sex couples, the justifications for refusing to recognize validly-issued civil unions, same-sex marriages and same-sex domestic partnerships from other jurisdictions is undermined. As a consequence, there is no lawful basis for the Cherokee Nation, its officers or its employees to refuse to recognize lawful marriage from another jurisdiction merely because it is between persons of the same gender.

CONCLUSION

Based upon the foregoing, it the opinion of the Attorney General that the Cherokee Nation Constitution protects the fundamental right to marry, establish a family, raise children and enjoy the full protection of the Nation's marital laws. The Constitution affords these rights to all Cherokee citizens, regardless of sexual orientation and the Cherokee Nation, or any subdivision thereof, must recognize validly-issued civil unions, same-sex marriages and same-sex domestic partnerships from other jurisdictions for purposes of administering services, programs, benefits, or any variation thereof.

Accordingly, Title 43, § 1 which defines marriage as "a civil contract between one man and one woman" and Title 43, § 3, which prohibits marriage "between parties of the same gender" are unconstitutional. Thus, pursuant to Section 105(B)(4) of the Attorney General Act, Section 1 and Section 3 of the Act are null and void until a differing opinion or order is entered by a Cherokee Nation Court.

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