

The Cherokee Supreme Court

Eastern Band of Cherokee Indians
Qualla Boundary, Cherokee, North Carolina

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CHEROKEE SUPREME COURT
CHEROKEE, NC
2026 APR -8 AM 9:15

FILED

IN THE MATTER OF)	
A.L.,)	CSC-25-06
Petitioner.)	Opinion of the Court
)	
_____)	

On October 20, 2025, Petitioner filed a Petition for Writ of Certiorari with this Court seeking review of the trial court’s October 10, 2025, order denying Petitioner’s motion to dismiss a delinquent juvenile petition. This Court entered an Order allowing the Writ of Certiorari and Expedited Scheduling on November 4, 2025. The matter was heard in the Cherokee Supreme Court on January 15, 2026.

Justice BARRETT delivered the opinion of the Court, in which Chief Justice LETTS, and Justice HUNTER joined.

The issue in this case is whether the criminal court or the juvenile court has jurisdiction over cases alleging that a 16 or 17-year-old possessed or consumed alcohol, in violation of the Tribe’s prohibition against underage drinking found in Cherokee Code § 14-15.6. We hold that the juvenile court has jurisdiction to hear such matters and affirm the trial court’s order denying Petitioner’s motion to dismiss the delinquent juvenile petition.

I. Factual Background and Procedural History

The Petitioner in this case is A.L.,¹ born on April 22, 2008. On June 3, 2025, a juvenile petition was filed against Petitioner alleging that on April 27, 2025, when Petitioner was 17 years old, he possessed or consumed alcohol in violation of Cherokee Code § 14-15.6 (“C.C. § 14-15.6”), which prohibits possession or consumption of alcohol by a person under the age of twenty-one.

On July 28, 2025, Petitioner filed a motion to dismiss the juvenile petition, arguing that C.C. § 14-15.6 requires cases of underage drinking by 16-year-olds and 17-year-olds be heard in criminal court, not juvenile court. After hearing arguments on the motion, by order entered October 10, 2025, Chief Judge Beck denied the motion to dismiss and certified that the case presented a legal issue of first impression under Cherokee law. Chief Judge Beck also appointed Petitioner’s counsel to bring this appeal to the Cherokee Supreme Court.

Petitioner’s counsel filed a Petition for Writ of Certiorari on October 20, 2025; this Court agreed that the case presented an issue of first impression, whereupon a Writ of Certiorari was allowed and an expeditious hearing was conducted by the Cherokee Supreme Court due to the sensitive timing inherent in juvenile matters.

II. Appellate Jurisdiction

In our most recent opinion, *Carey v. Woodall*, we recognized that “the North Carolina Rules of Appellate Procedure shall control appeals in the Cherokee Supreme Court, henceforth.” *Carey*, __ Am. Tribal L. __, 2026 WL 824344, at *18 (Eastern

¹ Initials have been used to protect the identity of the minor child.

Cherokee S. Ct. Mar. 25, 2026). North Carolina Rule of Appellate Procedure 21(a)(1) provides that:

[t]he writ of certiorari may be issued in appropriate circumstances by either appellate court to permit review of the judgments and orders of trial tribunals when the right to prosecute an appeal has been lost by failure to take timely action, or when no right of appeal from an interlocutory order exists, or for review pursuant to N.C.G.S. § 15A-1422(c)(3) of an order of the trial court ruling on a motion for appropriate relief.

N.C. R. App. P. 21(a)(1) (2025).

Accordingly, the Court has jurisdiction to consider this interlocutory appeal pursuant to our allowance of Petitioner’s Petition for Writ of Certiorari.²

III. Standard of Review

“[W]e review the denial of a motion to dismiss *de novo*.” *E. Band of Cherokee Indians v. Long*, 17 Am. Tribal L. 358, 362 (Eastern Cherokee S. Ct. 2023). Further, statutory interpretation is a legal determination subject to *de novo* review. *Id.* at 363; *see also State v. Dudley*, 270 N.C. App. 771, 773, 842 S.E.2d 163, 164 (N.C. Ct. App. 2020) (holding that “[w]e review this statutory interpretation question *de novo*.”). “Under a *de novo* review, the court considers the matter anew and freely substitutes its own judgment for that of the lower tribunal.” *Roseman v. Roseman*, No. 25-01, 2025 WL 2754709, at *2 (Eastern Cherokee S. Ct. Sept. 29, 2025).³

² This case is justiciable. Under Cherokee law, Petitioner has standing to challenge the trial court order denying the motion to dismiss Petitioner’s own juvenile court proceeding. C.C. § 7-2(e).

³ A *de novo* review is a legal standard of review whereby the appellate court considers *legal* questions anew; it does not constitute a reweighing or a rehearing of the evidence.

IV. Question Presented

The question presented here is whether 16-year-olds and 17-year-olds who are accused of possessing or consuming alcohol in violation of the Tribe's prohibition against underage drinking will have their cases heard in criminal court or in juvenile court.

V. Discussion

This question arose after a 2015 amendment to the Juvenile Code increased the age for “delinquent juveniles”—the young people whose cases for violations of law must be heard in juvenile court rather than criminal court—from 16-years-old to 18-years-old. *See* C.C. § 7A-2(f) (defining a delinquent juvenile as “any juvenile who is less than 18 years of age who has committed a criminal offense or traffic offense under Tribal or federal laws, excluding minor traffic violations”); *see also* Ordinance 524 at *166 (striking through 16 and replacing it with 18).⁴ While this amendment raised the age for juvenile court from 16 to 18, the amendment neither mentioned nor modified the preexisting criminal statute governing underage drinking, Cherokee Code § 14-15.6.

When Cherokee Code § 14-15.6 (“the underage drinking statute”) was first enacted in 2001,⁵ cases involving 16-year-olds and 17-year-olds were not eligible for

⁴ This opinion does not address subsections (m) or (t) and is limited to the relevant provision here, subsection (f) of C.C. § 7A-2.

⁵ The provisions of C.C. § 14-15.6(b) were first enacted in 2001. Ordinance 871 (Dec. 13, 2001). Thereafter, these provisions were amended in 2004 to require repeat offenders to pay for their required substance abuse assessment, reflecting the final, current version of the statute. *See* Ordinance 350 (Nov. 3, 2004). For ease of reading, C.C. § 14-15.6 will be referred to as “the underage drinking statute” throughout this opinion.

juvenile court; those alleged offenders were subject to the jurisdiction of criminal court. C.C. § 14-15.6(b)(1). Rather than subjecting these young people to the same criminal penalties as older offenders, Tribal Council enacted specific limits on the sentences that 16 and 17-year-old offenders could receive in criminal court. *Id.* Further, the underage drinking statute specifically required that all underage drinking cases involving juveniles—which at that time were only cases involving persons less than 16-years-old—were subject to the jurisdiction of juvenile court. *Id.* § 14-15.6(b)(2).

In 2015, when the juvenile age for juvenile court cases was raised from “persons less than 16-years-old” to “persons less than 18-years-old,” two interpretations were possible: Did Tribal Council intend that underage drinking cases for 16-year-olds and 17-year-olds remain in criminal court with adult offenders, in accordance with the underage drinking statute? Or did Tribal Council intend that these cases be heard in juvenile court, in accordance with C.C. §7A-2(f) and Ordinance 524?

Petitioner argues that Tribal Council did not intend for underage drinking offenses by individuals under the age of 18 to be subject to the jurisdiction of juvenile court. Rather, Petitioner contends that such offenses remain subject to the jurisdiction of the criminal court. On the other hand, the Tribal Prosecutor contends that after the 2015 enactment of Ordinance 524, underage drinking offenses by 16-year-olds and 17-year-olds are properly subject to the jurisdiction of the juvenile court.

A. Statutory Interpretation by Courts Generally

Tribal Council did not mention the underage drinking statute in the 2015 ordinance that raised the juvenile age. Specifically, Tribal Council did not create an exception for underage drinking in the 2015 ordinance. *See generally* Ordinance 524 (making no exception). Nor did they specifically strike out the provisions of the underage drinking statute. *See* C.C. § 14-15.6(b)(1) (reflecting the current and final, 2004 version, of the statute).

The continuing development of the Cherokee Code, like other comprehensive collections of legislative enactments in any jurisdiction, is an intricate and complicated process. After a set of laws is enacted and codified, any new enactment can impact preexisting laws. Therefore, it is not unusual for ambiguities or inconsistencies in legislative enactments to arise.

When cases presenting an ambiguity or inconsistency between two laws are brought to the Cherokee Courts, Tribal Council has instructed our courts to “interpret and apply” the laws in the Cherokee Code. C.C. §§ 7-3(a), 7-4(a), 7-5(a). In other words, the Cherokee Courts have been ordered by Tribal Council to carefully review the Cherokee Code, interpret all relevant provisions, and then apply that interpretation to the cases that are presented in court. As this Court held long ago, it is appropriate that we “construe the ordinance in question. It is within our charge to interpret what the Tribal Council has enacted. It is not within our province to rewrite legislation as we think it should be; the choice of words is for the Council, not this

Court.” *Jacobson v. E. Band of Cherokee Indians*, No. CV05-101, 2006 WL 8435928, at *2 (Eastern Cherokee S. Ct. Nov. 29, 2006).

In order to properly interpret statutes, courts have developed certain guidelines and standards over the centuries, collectively referred to as “canons of construction.” See generally William S. Blatt, *The History of Statutory Interpretation: A Study in Form and Substance*, 6 *Cardozo L. Rev.* 799 (1985) (chronicling the historical development of the canons of construction); see also *Elec. Supply Co. of Durham, Inc. v. Swain Elec. Co.*, 328 N.C. 651, 656 (1991) (recognizing that “[i]n matters of statutory construction, our primary task is to ensure that the purpose of the legislature, the legislative intent, is accomplished” and that in ascertaining the legislative intent “we are guided by the structure of the statute and certain canons of statutory construction.”).

As these sources explain, the primary goal of these canons of construction is to ascertain and implement the legislature’s intent through its enactments. *Id.* Legislative intent is the ultimate authority, and determining legislative intent is so vitally important that “even the most basic general principles of statutory construction must yield to clear contrary evidence of legislative intent.” *Nat’l R. R. Passenger Corp. v. Nat’l Ass’n of R. R. Passengers*, 414 U.S. 453, 458 (1974).

Inevitably, trial judges *must* be the first to interpret and apply the law to the case presented; in cases such as this, where a party disagrees with that interpretation, the party may then appeal the ruling. In this case, the trial judge reviewed the Cherokee Code and determined that when Tribal Council raised the

juvenile age in 2015 through the enactment of Ordinance 524 and C.C. § 7A-2(f), Tribal Council expressed their intent that underage drinking cases involving 16-year-olds and 17-year-olds be heard in juvenile court, rather than criminal court.

In turn, the trial court determined that by enacting Ordinance 524—which, again, raised the juvenile age from those under 16 years old to those under 18 years old—Tribal Council “effectively amended” the underage drinking statute. Consequently, the trial court concluded that the case was properly before the juvenile court. Because this was a novel question that required interpretation of Cherokee law, the trial court acknowledged that the case presented a legal issue of “first impression.” The trial judge then appointed Petitioner’s counsel to bring this appeal to this Court.

B. The Legislative Enactments of the EBCI

Careful review of the legislative enactments at issue in this case is essential to understanding how the law must be interpreted and applied here.

i. The Underage Drinking Statute:

We look first to the criminal statute that has not been amended since 2004, which provides:

(1) Violation of this subsection (b) shall constitute a criminal offense. Persons who violate this subsection who are between 16 and 21 years of age shall be subject to the following:

a. *First offense.* Fifty dollar fine and costs. Defendant shall be placed on six to 12 months probation, with terms of probation to include 72 hours of community service work, and the defendant shall be ordered to obtain a substance abuse

assessment and complete any recommended treatment plan at the defendant's expense.

- b. *Second offense.* One hundred dollar fine and costs. Defendant shall be placed on six to 12 months probation, with terms of probation to include 96 hours of community service work, and the defendant shall be ordered to obtain a substance abuse assessment and complete any recommended treatment plan at the defendant's expense.
- c. *Third offense.* Two hundred fifty dollar fine and costs. Defendant shall be placed on six to 12 months probation, with terms of probation to include 120 hours of community service work, and the defendant shall be ordered to obtain a substance abuse assessment and complete any recommended treatment plan at the defendant's expense.
- d. *Subsequent offenses.* Imprisonment not to exceed six months and a \$500.00 fine, or both. Defendant shall be ordered to perform 240 hours of community service and obtain a substance abuse assessment and complete any recommended treatment plan at the defendant's expense.

- (2) Violation of this subsection (b) by a person who is under 16 years of age shall subject such person to the jurisdiction of the juvenile court and to the dispositional alternatives outlined in section 7A-53 of the Juvenile Code.

C.C. § 14-15.6(b).

Under this statute, underage drinking offenders between the ages of 16 and 21 had their cases heard in criminal court. However, if a person charged with underage drinking was a juvenile under the age of 16, their case proceeded to juvenile court.

Id.

- ii. The "Raise the Age" Law for Juveniles:

We turn next to Ordinance 524, enacted in 2015, which raised the juvenile age to 18-years-old. The pertinent Cherokee Code section is found on page 166 of

Ordinance 524. It simply states that, “unless the context clearly requires otherwise,” the following definition of delinquent juvenile will apply:

Sec. 7A-2. - Definitions.

(f) *Delinquent juvenile* shall mean any juvenile who is less than ~~16~~18 years of age who has committed a criminal offense under tribal or federal laws, including violation of the motor vehicle laws.

Ordinance 524 at *166 (July 9, 2015).

Ordinance 524 was not a stand-alone bill that raised the juvenile age; rather, the provision that amended the juvenile age was a relatively small part of a very long ordinance. The amendment to the juvenile age required only the aforementioned four lines of text in an ordinance that was 176 pages long. This important ordinance modified dozens of other sections of the Cherokee Code.

Development and drafting of this legislation resulted from a comprehensive review of the Tribe’s child welfare system, undertaken over a period of many months. *Id.* at *1. This ordinance was an immense work with many moving parts that modified the Cherokee Code to support tribal public health and the administration of social and child welfare services. *Id.* The Tribal Council considered, and ultimately adopted, this important legislation into the laws of the EBCI. *Id.*

The 2015 legislative enactment at issue here is straightforward. Ordinance 524 redefined “delinquent juvenile” for purposes of determining what criminal offenses were heard in juvenile court, rather than criminal court. *Id.* at *166. In doing so, Tribal Council unambiguously expressed its intent that juvenile court jurisdiction would now include violations of criminal offenses by 16-and 17-year-olds. *See* C.C. §

7A-2 (defining a delinquent juvenile as “any juvenile who is less than 18 years of age who has committed a criminal offense or traffic offense under Tribal or federal laws, excluding minor traffic violations.”); *see also* Ordinance 524 at *166 (same).

Petitioner argues that the words “[u]nless the context clearly requires otherwise” in C.C. § 7A-2 requires a finding that the underage drinking statute must prevail over Tribal Council’s 2015 statute that raised the juvenile age. Reliance on this argument is misplaced, as we find nothing in the pertinent statutory text—Ordinance 524—indicating a legislative intent for the underage drinking statute to govern this issue because the underage drinking statute was not referenced in Ordinance 524.⁶

The Court observes that a separate provision of the 2015 enactment more accurately reflects the legislative intent in adopting Ordinance 524 in 2015. Consistent with the provisions of C.C. § 117-138(d), Ordinance 524 includes a non-precatory enacting clause that provides in relevant part: “all prior ordinances and resolutions that are inconsistent with this ordinance are rescinded.” *Id.* at *2. That is to say, Ordinance 524—including its expanded definition of the term “delinquent juvenile”—should govern over any previously-enacted, inconsistent provisions in the Cherokee Code.

⁶ Despite Petitioner’s argument, there is no statutory context that “clearly requires” the underage drinking statute to have priority over the 2015 statute. *See Int’l Ass’n of Fire Fighters Loc. Union No. 5058 v. Gillette/Wright/Campbell Cnty. Fire Prot. Joint Powers Bd.*, 421 P.3d 1059, 1066 (Wyo. 2018) (construing the language “unless the context requires a different interpretation” narrowly, “not as an improper invitation to this Court to establish policy . . . based upon language that is absent from the statute.”); *Pima Fin. Serv. Corp. v. Selby*, 820 P.2d 1124, 1128 (Colo. App. 1991) (construing the language “unless the context otherwise requires” as a “common statutory admonition” that refers to the context in which the term is used in the statute’s substantive provisions).

C. *The Court Must “Interpret and Apply” These Legislative Enactments*

In interpreting and resolving conflicts between provisions of the Cherokee Code, consistent with the aforementioned “canons of construction,” we first must examine the “plain meaning” of the words used by Tribal Council to determine what the legislature intended. *Anders v. E. Band of Cherokee Indians Bd. of Elections*, 17 Am. Tribal L. 200, 204–05 (Eastern Cherokee S. Ct. 2021).

Here, a close reading of the underage drinking statute shows that underage drinking cases involving a 17-year-old are plainly intended to be heard in criminal court. Next, a close reading of the 2015 statute makes plain that criminal offenses by a 17-year-old should thereafter be heard in juvenile court, with no exception stated for underage drinking offenses. The plain meaning of these two Code provisions cannot be reconciled.

The next step in the analysis, consequently, is to evaluate these two Code provisions—which pertain to the same subject matter—as a whole in light of their intended purposes. A Latin phrase identifies this canon of construction, requiring courts to view all of the legislative enactments which are “*in pari materia*,”⁷ and then evaluate them together, trying to find them to be in harmony, in light of their intended purposes. 2A Shambie Singer & Norman J. Singer, Sutherland Statutes and

⁷ Black’s Law Dictionary defines *in pari materia* as “[o]n the same subject; relating to the same matter.” *In pari materia*, *Black’s Law Dictionary* (12th ed. 2024). See also *Welch v. E. Band of Cherokee Indians*, No. CV-06-390, 2007 WL 7079613, at *2 (Cherokee Ct. Jul. 16, 2007) (addressing a conflict between two statutes by applying *in pari materia* meaning to the conflicting jurisdictional statutes). The Court observes this trial court opinion for illustrative purposes, not for its precedential value.

Statutory Construction §§ 46.5, 51.2 (8th rev. ed. Nov. 2025) (acknowledging “*in pari materia*,” as a legal doctrine and that in applying it, “Courts try to construe conflicting statutes on the same subject harmoniously.”); *see also Sessions v. E. Band of Cherokee Indians Bd. of Elections*, 15 Am. Tribal L. 39, 43 (Eastern Cherokee S. Ct. 2017) (construing sections of the Cherokee Code in light of their statutory purposes).

The two enactments at issue here govern the same subject matter: how matters involving allegations of underage drinking by 16-year-olds and 17-year-olds are to proceed in the Cherokee Court. Unfortunately, there is no way to harmonize these provisions by reading them together in light of their statutory purposes. The first law clearly would require that Petitioner’s case be heard in criminal court; whereas the later enactment plainly requires that Petitioner’s case be heard in juvenile court. As these cases can only be heard before one court or the other, this canon of construction does not resolve the inconsistency.

Next, in instances such as the present case, where “plain meaning” and “*in pari materia*” evaluations do not resolve the issue, courts turn to other canons of construction to interpret and apply the conflicting enactments. In doing so, a fundamental canon of construction requires courts to assume that the legislature had full knowledge of its own previously enacted statutes when they pass new legislation. *See Singer & Singer* at § 51.2 (“Courts assume that a legislature always has in mind previous statutes relating to the same subject when it enacts a new provision.”).

When there is an irreconcilable conflict between legislative enactments, courts use temporal priority principles to resolve the inconsistency. This means that later

legislative enactments control over earlier enactments, unless there is a clear expression of contrary legislative intent. *Id.* (observing that “the newer provision controls as the latest legislative expression.”)⁸.

In addition, Tribal Council enjoys full legislative authority in this jurisdiction, subject only to the supreme law of the Charter and Governing Document. Charter and Governing Document § 23 (“The Tribal Council is hereby fully authorized and empowered to adopt laws and regulations for the general government of the Tribe . . . and is hereby vested with full power to enforce obedience to such laws and regulations as may be enacted.”); *Matter of Lambert*, 18 Am. Tribal L. 273, 280, 2025 WL 2218955, at *5. (Eastern Cherokee S. Ct. Aug. 5, 2025).

The Court applies both principles here, by trusting that Tribal Council had full knowledge of its prior enactments and by recognizing the full extent of Tribal Council’s legislative authority. Tribal Council had the power to make and amend Cherokee laws regarding underage drinking, and Tribal Council is presumed to have known of the existing underage drinking statute when they raised the juvenile age

⁸ Courts in other jurisdictions have interpreted statutes by this same approach in cases where an irreconcilable conflict exists between a later statute and an earlier one. *See Everytown for Gun Safety Support Fund v. Bureau of Alcohol, Tobacco, Firearms and Explosives*, 984 F.3d 30, 34 (2nd Cir. 2020) (“An earlier-enacted statutory requirement cannot prevent the ‘plain import’ or ‘fair implication’ of a later-enacted statute from taking effect.”) (quoting *Dorsey v. United States*, 567 U.S. 260, 275 (2012)); *In re Guess*, 324 N.C. 105, 107, 376 S.E.2d 8, 10 (N.C. 1989) (“It is a generally accepted rule that where there is an irreconcilable conflict between two statutes, the later statute controls as the last expression of legislative intent.”); *City of Dallas v. Emps.’ Ret. Fund of City of Dallas*, 687 S.W.3d 55, 61 (Tex. 2024) (internal quotation marks and citation omitted) (“If we can reasonably harmonize two seemingly inconsistent enactments of the same level of authority—like two constitutional provisions, two statutes, or two ordinances—we will do so. But as a matter of statutory construction, if statutes are irreconcilable, the statute latest in date of enactment prevails.”); *Jackson v. Mich. Corr. Comm’n*, 313 Mich. 352, 356 (Mich. 1946) (“If possible, the earlier and later statutes concerned in any case must be construed together and each given force and effect. However, if there is such repugnance that both cannot operate, then the last expression of the legislative will must control.”).

in 2015. Nothing in the text of Ordinance 524 indicates that Tribal Council exempted the underage drinking statute from the force and effect of the new law.⁹ Tribal Council did not create an exception so that underage drinking offenses by 16-year-olds and 17-year-olds would remain in criminal court. In deference to Tribal Council, as Ordinance 524 did not create this exception, it would not be appropriate for this Court to do so.

A clear statement of legislative intent in an operative clause of legislation can greatly assist the task of applying the canons of construction. After all, the primary goal of statutory interpretation is to determine what Tribal Council intended, and that intent is clearly stated in an operative provision of the enactment here: the enacting clause of Ordinance 524. As discussed above, Ordinance 524 was intended to supersede “prior ordinances and resolutions that are inconsistent” with the enactment. Ordinance 524 at *2. This is “clear contrary evidence of legislative intent” against inconsistent provisions of preexisting law remaining in effect after the enactment of Ordinance 524. *Nat’l R. R. Passenger Corp.*, 414 U.S. at 458. In other words, we observe that Tribal Council stated its intent in Ordinance 524: to eliminate Code provisions that are inconsistent with the new law, to the extent of the inconsistency.

⁹ If creating such an exception had been Tribal Council’s intent, they could have simply added the words “[e]xcept as provided in C.C. §14-15.6,” in the revised definition of a “delinquent juvenile.” When Tribal Council intends to make an exception that preserves a preexisting law from amendment, it does. Many provisions found in Ordinance 524 illustrate this fact, as it contained many exclusions for matters to be governed by another provision in the Cherokee Code, usually with the proviso “except as provided in” See Ordinance 524 at *7, *32, *73, *78.

As legislative intent was clearly expressed in Ordinance 524, we address only briefly two other canons of construction that were argued in this case. The first is stated as follows: “When two statutes apparently overlap, it is well established that the statute special and particular shall control over the statute general in nature, even if the general statute is more recent, *unless it clearly appears that the legislature intended the general statute to control.*” *Trs. of Rowan Tech. Coll. v. J. Hyatt Hammond Assocs., Inc.*, 313 N.C. 230, 238, 328 S.E.2d 274, 279 (1985) (citations omitted) (emphasis added). Again, as the Court finds that Tribal Council has expressed a contrary legislative intent here, this canon must yield.¹⁰

Finally, another canon of construction argued here was the rule of lenity, which requires courts to strictly construe ambiguous criminal statutes in the light most favorable to criminal defendants. *Singer & Singer* at § 59.4. In *Long*, this Court applied the rule of lenity and vacated a criminal conviction under an ambiguous criminal statute. 17 Am. Tribal L. at 366. Petitioner invoked the rule of lenity in challenging the trial court’s decision. However, there is no ambiguity presented in the criminal statute here. The issue presented is not how to construe the 2004 underage drinking statute. Instead, the question is whether it was superseded in 2015 by Ordinance 524. Thus, the rule of lenity is not applicable.¹¹

¹⁰ See *D.B. v. Cardall*, 826 F.3d 721, 736 (4th Cir. 2016) (“The general-specific rule of statutory construction, like other interpretive canons, can be overcome by sufficient indications of a contrary legislative intent.”).

¹¹ Like all matters of statutory interpretation, the rule of lenity is a pure question of law; it is not based upon facts determined on a case-by-case basis. See *Long*, 17 Am. Tribal L. at 366; *Williams v. Shelby Cnty. Bd. of Educ.*, 479 F. Supp. 3d 721, 725 (W.D. Tenn. 2020), *aff’d sub nom. Williams v. Shelby Cnty., Tennessee, Bd. of Educ.*, No. 22-5591, 2025 WL 1370082 (6th Cir. May 12, 2025) (“Statutory interpretation is a question of law . . . Statutory compliance, on the other hand, is a mixed question of

VI. Conclusion

For these reasons, we hold that the enactment of Ordinance 524, as codified in the Juvenile Code set forth in Chapter 7A of the Cherokee Code, must be read to have superseded the provisions of the underage drinking statute with respect to 16-year-olds and 17-year-olds charged with possession or consumption of alcohol. Specifically, we hold that by enacting Ordinance 524, Tribal Council itself effectively amended the underage drinking statute, C.C. § 14-15.6(b)(1), to exclude 16-year-olds and 17-year-olds from the criminal underage drinking law. As a result, cases for these young offenders are governed by the Juvenile Code, as determined by Tribal Council's 2015 legislation.

Clarity about this Court's holding is very important here. This opinion is not an effort to "rewrite" the Cherokee Code. Writing and rewriting the Cherokee Code is a legislative function reserved exclusively to Tribal Council. Charter and Governing Document § 23; *see also* Singer & Singer at § 22.2 (observing that "Legislatures have the exclusive power to amend."). Again, "[i]t is within [this Court's] charge to interpret what the Tribal Council has enacted. It is not within our province to rewrite legislation as we think it should be; the choice of words is for the Council, not this

law and fact."). Even if the rule of lenity applied to interpretation of these inconsistent Code provisions, it would require juvenile court statutes to take priority over criminal statutes, considering that the purpose of juvenile court is rehabilitation, treatment, and meeting the individual needs of the juvenile, in contrast to the purpose of criminal court, which is designed to punish offenders and provide general deterrence. C.C. § 7A-1, *See, e.g., Matter of Vinson*, 298 N.C. 640, 666, 260 S.E.2d 591, 607 (1979) ("[A] delinquent child is not a 'criminal.' The inference is that a juvenile's disposition is not intended to be a punishment but rather an attempt to rehabilitate him."); *see also Wallace W. v. Commonwealth*, 482 Mass. 789, 798 (2019) (rule of lenity did not favor criminal prosecution; juvenile must receive the benefit of the ambiguity as juvenile court statutes are liberally construed to give children guidance rather than punishment).


IN RE: A.L.

Court.” *Jacobson*, 2006 WL 8435928, at * 2. That said, Cherokee Courts are ordered by Tribal Council under the Cherokee Code to perform the judicial function. Critically, here, this requires the Courts to “interpret and apply” the laws adopted by Tribal Council. C.C. §§ 7-3(a), 7-4(a), 7-5(a).


In fulfilling the obligation imposed upon us by Tribal Council pursuant to C.C. §§ 7-3(a), 7-4(a), and 7-5(a), we have been asked to interpret two inconsistent legislative enactments. If the intent of Tribal Council was that the earlier criminal law should govern over the later enactment—placing 16 and 17-year-old offenders for this charge in the adult court receiving criminal punishment—it is for Tribal Council to clarify jurisdiction over this particular offense.

AFFIRMED AND REMANDED.


This is the 8th day of April, 2026.



Bradley B. Letts
Chief Justice



Robert Hunter (Apr 8, 2026 09:06:36 EDT)
Robert C. Hunter
Associate Justice



Sharon Tracey Barrett
Associate Justice by designation