

Cherokee Nation Code Annotated

Title 10: Children

Chapter 1A: Care and Custody

§ 29.1. Termination of parental rights—Petition—Notice—Hearing—Orders

Cite as: 10 CNCA § 29.1

A. Whenever the mother of a child born out of wedlock who has custody of the child executes a relinquishment for the purpose of adoption pursuant to the provisions of 10 CNCA § 28, the person or agency to whom such relinquishment is made shall file a petition with the District Court in which the relinquishment was executed for the termination of the parental rights of the persons entitled to notice pursuant to subsection (B) of this section unless such rights have been previously terminated or relinquished.

B. Persons entitled to notice, pursuant to this section, shall include:

1. any person adjudicated by a court to be the father of the child;
2. any person who is recorded on the child's birth certificate as the child's father;
3. any person who is openly living with the child and the child's mother at the time the proceeding is initiated or at the time the child was placed in the care of an authorized agency, and who is holding himself out to be the child's father;
4. any person who has been identified as the child's father by the mother in a sworn statement;
5. any person who was married to the child's mother within ten (10) months prior or subsequent to the birth of the child.

C. Notice and hearing pursuant to this section shall comply with the provisions of 10 CNCA § 1131. The notice shall also apprise such person of his legal rights and shall include a clear statement that failure to appear at the hearing shall constitute a denial of interest in the child which denial may result, without further notice of this proceeding or any subsequent proceeding, in the termination of his parental rights and the transfer of the child's care, custody, or guardianship or in the child's adoption.

D. A person may waive his right to notice under this section. Such waiver signed by such person, shall include a statement affirming that the person signing such waiver understands that said waiver shall constitute grounds for the termination of his parental rights pursuant to the provisions of this section and 10 CNCA § 60.6.

E. 1. At the hearing the Court may, if it is in the best interest of the child:

- a. accept a relinquishment or consent to adoption executed by the father or putative father of the child; or
 - b. determine that the consent of the father or putative father to the adoption of the child is not required and may terminate any parental rights which such father or putative father may have; or
 - c. terminate the parental rights of the father or putative father, pursuant to the provisions of this section or 10 CNCA § 1130; or
 - d. grant custody of the child to the father or putative father, if the Court determines such person to be the father of the child.
2. The Court shall terminate the rights of a father or putative father if he fails to appear at the hearing or has waived notice under this section.
- F. No order of the Court shall be vacated, annulled, or reversed upon the application of any person who was properly served with notice in accordance with this section but failed to appear or who waived notice pursuant to subsection (D) of this section.

History

Amended. LA 24–12, eff. July 24, 2012.