

Cherokee Nation Code Annotated

Title 10: Children

Chapter 3: Paternity

§ 110. Father's liability to support and educate child

Cite as: 10 CNCA § 110

A. An individual who has been legally determined to be the father of a child pursuant to 10 CNCA § 104, or an individual who has been judicially determined to be the father of a child is liable for the support and education of the child to the same extent as the father of a child born in wedlock.

B.

1. An action to enforce the obligation of support, maintenance, and education may be brought by the mother or custodian or guardian of the child, by the public authority chargeable with the support of the child, or by the child.

2. An action to determine paternity and to enforce this obligation may be brought any time before the eighteenth (18th) birthday of the child.

3. If paternity has been legally determined pursuant to 10 CNCA § 104, or judicially determined, Court-ordered child support is not subject to any statute of limitations and an action to enforce the obligation may be brought at any time and the support in question is owed until paid.

4. The father's obligation to support is terminated if the child is adopted.

5. The Court may order the payments made to the mother or custodian or guardian of the child, or to some other person, corporation or agency to administer under the supervision of the Court.

C. An individual who has been legally determined to be the father of a child pursuant to 10 CNCA § 104, or an individual who has been judicially or administratively determined to be the father of a child shall be ordered to pay all or a portion of the reasonable expenses of providing for the child provided that liability for support provided before the determination of paternity shall be imposed for two (2) years preceding the filing of the action, absent good cause to deviate. The amount to be paid by the father shall be determined by applying the child support guidelines for establishing current support and applying the amount of the reasonable expenses against the percentage derived from the guidelines. No interest shall be applied to this amount retroactively.

D. The amount of child support and other support including amounts provided for in 10 CNCA § 110(C) shall be ordered and reviewed in accordance with the child support guidelines provided in 43 CNCA § 507 *et seq.*

E.

1. When a civil or administrative action is filed to determine paternity of a minor child, an interested party may request the Court to enter a temporary order for support of the child pending a final determination of paternity. The application for temporary support shall set forth facts supporting the application and shall be verified by the party or entity seeking the order. The application and notice of hearing shall be served as in other civil cases.

2. After service of the application and opportunity for hearing, the Court shall enter a temporary order for support if the Court finds there is clear and convincing evidence of paternity, including, but not limited to:

a. a genetic test which establishes a rebuttable or conclusive presumption of paternity pursuant to 10 CNCA § 121;

b. a notarized written statement acknowledging paternity of the child executed by the putative father;

c. a presumption of paternity pursuant to 10 CNCA § 100 or 100.1; or

d. other evidence which establishes a high probability of paternity.

3. Temporary orders for support shall be established in accordance with the child support guidelines pursuant to 43 CNCA § 507 *et seq.* A temporary support order terminates when a final judgment is entered which establishes support or when the action is dismissed. A temporary support order shall not be retroactively modified, but it may be modified prospectively before final judgment upon motion of an interested party and a showing of facts supporting a modification.

Historical Data

LA 11–05, eff. March 21, 2005. Amended LA 30–06, eff. December 30, 2006; LA 20–07, eff. April 23, 2007; LA 08–11, eff. May 19, 2011; LA 04–17, eff. March 25, 2017.

2017 Legislation

LA 04–17, Section 2, provides:

"Section 2. Purpose. The purpose of the Act is to make technical amendments to the Cherokee Nation Paternity Code, codified at 10 CNCA § 100 et seq."