

**Cherokee Nation Code Annotated**

**Title 10: Children**

**Chapter 3: Paternity**

**§ 113. Joinder of sexual partners as defendants—Genetic testing—Determination of paternity**

Cite as: 10 CNCA § 113

A. All persons who have had sexual intercourse with a woman during the possible time of conception of a child for whom paternity is not determined may be joined as defendants in an action to determine the paternity of the child.

B. When more than one defendant is named or joined in a paternity action, the Court shall order all defendants to appear. The Court shall order genetic testing of all defendants who are duly served, including defendants who fail to answer or appear. The Court may order the mother, the child, or other individuals necessary to make a determination of paternity to submit to genetic testing.

C. 1. When genetic testing indicates a probability of paternity greater than ninety-eight percent (98%) for a specific defendant pursuant to 10 CNCA § 121, the Court shall enter an order establishing that defendant as the father.

2. If a duly served defendant fails to answer, or to appear for hearing or genetic testing after being ordered to appear, and all other duly served defendants have been excluded as possible fathers by genetic testing, the Court shall enter an order establishing the defendant who failed to answer or appear as the father.

3. If one or more defendants fail to appear for genetic testing after being ordered to appear for testing, the Court may proceed to determine paternity and related issues based upon competent testimony and genetic test results, if any.

D. The Court has the authority to enforce a subpoena or order to appear or to submit to genetic testing, or any other order entered pursuant to this section.

E. After paternity is determined by the Court, the Court shall dismiss the paternity action against the other defendants.

F. No judgment shall be entered against the defendant who has not been properly served.

**Historical Data**

LA 11–05, eff. March 21, 2005.