

Cherokee Nation Code Annotated

Title 10: Children

Chapter 51: Delinquent, Dependent and Neglected Children

Article I: Dependent and Delinquent Children

§ 1104. Summons—Contents—Service—Taking child into custody—Arrest warrant

Cite as: 10 CNCA § 1104

A. After a petition shall have been filed, unless the parties hereinafter named shall voluntarily appear, a summons shall be issued which shall recite briefly the nature of the proceeding with the phrase "as described more fully in the attached petition" and requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the Court at a time and place stated. The summons shall state the relief requested, and shall set forth the right of the child, parents and other interested parties to have an attorney present at the hearing on the petition.

B. The summons shall be served on the person who has actual custody of the child, and if the child has reached the age of twelve (12) years a copy shall be served on the child. If the person who has actual custody of the child shall be other than a parent or guardian of the child, a copy of the summons shall be served on the parent or guardian, or both, as hereinafter provided. A copy of the summons shall be served on each parent. If no parent or guardian can be found, a summons shall be served on such other person or persons as the Court shall designate. Provided that, upon a hearing the Court may find that no notice is required to a parent under the following circumstances:

1. The parent does not have custody of the child and has never established or has not maintained a substantial relationship with the child nor manifested a significant interest in the child for a period of not less than one (1) year preceding the filing of the petition; or
2. The parent does not have custody of the child and has willfully failed to contribute to the support of the child as provided in a decree of divorce or in some other court order during the year preceding the filing of the petition, or in the absence of such order, consistent with the parent's means and earning capacity.

Summons may be issued requiring the appearance of any other person whose presence is necessary.

C. If it subsequently appears that a person who should have been served was not served and has not entered an appearance, the Court shall immediately order the issuance of a summons which shall be served on said person.

D. If after a petition has been filed, it appears that the child is in such condition or surroundings that his welfare requires that his custody be immediately assumed by the Court, the Judge may immediately issue a detention order or warrant authorizing the taking of said child into custody.

E. In a delinquency proceeding, whenever a warrant for the arrest of a child shall issue, it shall state the offense the child is being charged with having committed; in a child in need of supervision proceeding, whenever a warrant for detention of a child shall issue, it shall state the reason for detention. Warrants for the arrest or detention of a child shall comport with all other requirements of issuance of arrest warrants for adult criminal offenders.