

Cherokee Nation Code Annotated

Title 10: Children

Chapter 51: Delinquent, Dependent and Neglected Children

Article I: Dependent and Delinquent Children

§ 1104.1. Filing petition when child taken into custody—Time—Order to remove child from home

Cite as: 10 CNCA § 1104.1

A. Where a child has been taken into custody under any provision of 10 CNCA § 1101 et seq., before a petition has been filed, a petition shall be filed and a summons issued within five (5) judicial days from the date of such assumption of custody, or custody of the child shall be relinquished to his parent, guardian or other legal custodian, unless otherwise provided for herein.

B. Where a child has been taken into custody and upon allegations of cruelty on the part of the parents, guardian or other person having custodial care of the child, the five- (5) day limitation herein shall not cause the child to be relinquished to such parent, guardian or other legal custodian. In all such cases, the Court shall determine whether the petition was filed within a reasonable time, except that a petition shall be filed within thirty (30) days of the child being taken into custody.

C. No order of the Court providing for the removal of an alleged or adjudicated deprived child from his home shall be entered unless the Court finds that the continuation of the child in his home is contrary to the welfare of the child. Said order shall include either:

1. a determination as to whether or not reasonable efforts have been made to prevent the need for the removal of the child from his home and, as appropriate, reasonable efforts have been made to provide for the return of the child to his home; or
2. a determination as to whether or not an absence of efforts to prevent the removal of the child from his home is reasonable under the circumstances, if such removal of the child from his home is due to an alleged emergency and is for the purpose of providing for the safety of the child.