

Cherokee Nation Code Annotated

Title 10: Children

Chapter 51: Delinquent, Dependent and Neglected Children

Article I: Dependent and Delinquent Children

§ 1105. Service of summons—Time of hearing—Mental health examination—Report

Cite as: 10 CNCA § 1105

A. Service of summons shall be made as provided for service in civil actions or service may be made by certified mail to such person's last-known address, requesting a return receipt from the addressee only. Where the address of the person to be summoned is not known, or if the mailed summons is returned, the Court may order that notice of the hearing be published once in a newspaper of general circulation in the county. The Court may not hold the hearing until at least forty-eight (48) hours after the service of the summons, except with the consent of the parent or guardian; provided, however, that the Court may not hold the hearing until at least five (5) days after the date of mailing the summons, if the parent is not served within the state, except with the consent of the parent, or if notice is published, until at least ten (10) days after the date of publication; provided, further, that if one or more persons must be served by publication, and if it appears that the Court must order the child held in a place of detention in order to meet the requirement of this section with respect to the time for holding a hearing when a party can be served only by publication, the Court may advance the date of the hearing, with reasonable notice to the other persons who have been served or are properly and legally notified, to any date that the Court determines to be reasonable and may proceed with the action; but an order determining that a child is delinquent or in need of supervision or is deprived shall not become final until thirty (30) days after the date of the publication of the notice. Nothing contained herein shall prevent a Court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

B. Whenever a petition alleging a child to be a child in need of treatment is filed and the Court has ordered an inpatient mental health examination of the child, the hearing on the petition shall be set for not more than twenty (20) days after the inpatient admission of the child to a hospital or other mental health facility.

1. The report of a mental health examination of the child by an qualified mental health professional shall be attached to a petition alleging the child to be a child in need of treatment. If such report is not attached to the petition at the time it is filed, or if the Court finds the report to be inadequate to aid the Court in the adjudication or disposition of the case, the Court shall order a mental health examination of the child. A report of the

examination shall be submitted to the Court prior to a hearing on the petition, and the Court may order such other reports as it deems necessary in order to aid the Court in the adjudication or disposition of the case.

2. Any report of a mental health examination of a child alleged to be a child in need of treatment that recommends that the child be found to be eligible for inpatient mental health treatment shall be certified and shall be signed by qualified mental health professionals, at least one of whom shall be independent as defined by 10 CNCA § 1101.