

Cherokee Nation Code Annotated

Title 10: Children

Chapter 51: Delinquent, Dependent and Neglected Children

Article I: Dependent and Delinquent Children

§ 1116.1. Review of order removing child from custody of lawful parents

Cite as: 10 CNCA § 1116.1

A. Any disposition order removing a deprived child from the custody of its lawful parent or parents shall be reviewed by the Court at least once every six (6) months until such time as the child is returned to the custody of said parent or parents and the conditions which caused the child to be adjudicated deprived have been corrected or the parental rights of said parent or parents are terminated and a final adoption decreed. The provisions of this section shall also apply to a child who has been removed from the home of the lawful parent or parents of the child after the child has been returned to that home until such time as the Court orders the case closed.

B. 1. The legal custodian of a child who has been removed from the custody of its lawful parent or parents shall cause to be prepared for each review hearing required herein a written report concerning each child who is the subject of such review.

2. Said report shall include but not be limited to a summary of the physical, mental, and emotional condition of the child, the conditions existing in the home or institution where the child has been placed, and the child's adjustment thereto, a report on the child's progress in school and visitation exercised by the lawful parents of such child.

3. If Cherokee Nation is the legal custodian of the child, the report also shall include any efforts on the part of the parent or parents to correct the conditions which caused the child to be adjudicated deprived. The report shall specifically recommend, giving reasons therefor, whether or not the parental rights of the parent or parents of the child should be terminated and the child placed for adoption, whether or not the child should remain in the home or if placed outside the home of the child's lawful parents, whether or not the child should remain outside the home or be returned to the home from which the child was removed. If it is determined that the child should be placed for adoption, foster parents may be considered eligible to adopt the child.

C. At each such review hearing, the Court shall specifically inquire as to the nature and extent of services being provided the child and parent or parents of the child and shall direct additional services be provided if necessary to protect the child from further physical, mental, or emotional harm.

In any review order, the Court shall further make a determination:

1. as to whether or not reasonable efforts have been made to provide for the return of the child to the child's own home. If reasonable efforts have failed or are not feasible, the Court shall make a finding that the efforts to reunite the family have failed, or are not feasible, and reasonable efforts are being made to secure an alternate permanent placement for the child; and

2. where appropriate, when the child is age sixteen (16) or older, that services are being provided that will assist the child in making the transition from foster care to independent living.

D. The attorney representing a child whose case is being reviewed may submit a report to the Court for presentation at the review hearing to assist the Court in reviewing the placement or status of the child. The legal custodian shall not deny to a child the right of access to counsel and shall facilitate such access.

E. Cherokee Nation may not move any child from one foster home or institution to another, if the child has already been moved once since the last court hearing, without first obtaining the approval of the Court following a hearing into the reasons and necessity for moving the child. However, Cherokee Nation may move any child due to an emergency, in which case a hearing shall be conducted, if requested in writing, within ten (10) days following the moving of the child concerning the reasons and necessity for moving the child. Cherokee Nation shall notify the attorney of the child, if any, whenever the placement of the child is changed and shall inform said attorney regarding the location of the child.

F. The case of every deprived child removed by court order from the custody of its lawful parent or parents shall be reviewed as provided for in this section.

G. Cherokee Nation shall place siblings together in the same placement unless conditions prohibit such placement. In the event siblings cannot be placed together Cherokee Nation shall at hearing show cause as to why siblings cannot be placed together.