

Cherokee Nation Code Annotated

Title 10: Children

Chapter 51: Delinquent, Dependent and Neglected Children

Article I: Dependent and Delinquent Children

§ 1120. Examination of child by physician or mental health professional—Order for care—Expense—Emergency—Investigation

Cite as: 10 CNCA § 1120

A. After a petition under the provisions of this title has been filed, the Court may order the child to be examined and evaluated by a physician or qualified mental health professional to aid the Court in making the proper disposition concerning the child.

B. The report of an examination and evaluation of the child by a qualified mental health professional may be attached to a petition alleging a child to be a child in need of treatment at the time it is filed. If such report is not attached to the petition or if the Court finds the report to be inadequate to aid in the adjudication and disposition of the case, after a petition is filed alleging a child to be a child in need of treatment, the Court shall order the child to be examined and evaluated by a qualified mental health professional to aid the Court in making the proper adjudication and disposition of the child. The mental health professional shall submit a report of the examination and evaluation to the Court prior to the adjudicatory hearing and shall submit such other reports as the Court may order to aid the Court in the disposition of the case.

1. Whenever possible, the Court shall order the examination and evaluation to be conducted on an outpatient basis in or near the community in which the child resides at the time of such order. When an inpatient evaluation is required, the Court shall order the examination and evaluation to be conducted in the mental health facility nearest to the place where the child resides at the time of such order and which is approved by Cherokee Nation or the Commissioner of Mental Health and Substance Abuse Services as an appropriate facility for the inpatient examination and evaluation of a child alleged to be a child in need of treatment.

2. Whenever it appears that a child who is in the custody of Cherokee Nation as a deprived or delinquent child or a child in need of supervision may also be a child in need of treatment, Cherokee Nation shall arrange for the examination and evaluation of the child by a qualified mental health professional in order to determine if a petition alleging the child to be a child in need of treatment is warranted. The examination and evaluation shall, whenever possible, be conducted on an outpatient basis in or near the community in which the child is residing; if an inpatient examination and evaluation is required, it shall be

conducted in the mental health facility appropriate for such inpatient evaluation and examination nearest to the community in which the child is residing.

3. Whenever, pursuant to the filing of a petition alleging a child to be a child in need of treatment, the Court receives a report of the inpatient examination and evaluation of the child by a qualified mental health professional, the Court shall immediately set a date for a hearing on the petition. Said hearing shall be within ten (10) judicial days following the receipt of the report by the Court.

C. Whenever a child concerning whom a petition has been filed appears to be in need of nursing, medical or surgical care, the Court may order the parent or other person responsible for the care and support of the child to provide such care in a hospital or otherwise. If the parent or other person fails to provide such care, the Court may, after due notice, enter an order therefor, and the expense thereof, when approved by the Court, shall be a charge upon the Nation, but the Court may adjudge that the person having the duty under the law to support the child pay part or all of the expenses of such care. In an emergency the Court may, when health or condition of the child may require it, cause the child to be placed in a public hospital or institution for treatment or special care, or in a private hospital or institution which will receive the child for like purpose, and consent to emergency treatment or surgery.

D. After adjudication and at the request of a judge in any juvenile proceeding, Cherokee Nation shall investigate the home conditions and environment of the child and the financial ability, occupation and earning capacity of the parent, legal guardian or custodian of the child. Upon request by the Court of a state, Cherokee Nation may conduct a similar investigation.