

Cherokee Nation Code Annotated

Title 10: Children

Chapter 51: Delinquent, Dependent and Neglected Children

Article III: Area Children's Detention Centers

§ 1404.1. Juvenile Offender Victim Restitution Work Program

Cite as: 10 CNCA § 1404.1

There is hereby created a program of juvenile crime victim restitution to be administered by Cherokee Nation. The program shall be known as the "Juvenile Offender Victim Restitution Work Program".

1. Cherokee Nation shall promulgate rules and regulations necessary for the implementation of the provisions of this act.
2. The programs developed under the provisions of this act shall provide restitution to a victim by requiring the child to work or provide a service for the victim, or to make monetary restitution to the victim from money earned from such a program. The supervised work or service program shall not deprive the child of schooling which is appropriate to his age, need, and specific rehabilitative goals. Provided, such program shall not prohibit the child from fulfilling his restitution obligation through jobs he has found, by performing volunteer services for the community, or by doing work for the victim.
3. Agreements for participation in the programs under this act may include restitution not in excess of actual damages caused by the child which shall be paid from the net earnings of the child received through participation in a constructive program of service or education acceptable to the child, the victim, Cherokee Nation, the prosecuting attorney and/or the District Court. During the course of such service, the child shall be paid no less than the federal minimum wage. In considering such agreement, Cherokee Nation, the Prosecuting Attorney and/or the District Court shall take into account the child's age, physical and mental capacity. The service shall be designed to relate to the child a sense of responsibility for the injuries caused to the person or property of another. If a petition has not been filed, the prosecuting attorney shall approve the nature of the work, the number of hours to be spent performing the assigned tasks and shall further specify that as part of a plan of treatment and rehabilitation, that fifty percent (50%) or more of the child's net earnings be used for restitution in order to provide positive reinforcement for the work performed. If a petition has been filed, the District Court may approve the nature of the work, the number of hours to be spent performing the assigned tasks and may further specify that as part of a plan of treatment and rehabilitation, that fifty percent (50%) or more of the child's net earnings be used for restitution.

4. Cherokee Nation may subsidize the employment of a child for the purposes of participation in a work program as provided by this section.

5. Any person, entity or political subdivision who is an employer of children or recipient of services either of which are under an agreement with the Juvenile Offender Victim Restitution Work Program shall not be liable for ordinary negligence for:

a. Damage to the property of the child or injury to the child except as to the liability established by the Workers' Compensation Act, 85 CNCA § 1 et seq., if the child is covered thereunder; or

b. Damage to any property or injury to any person; which results from the services of the child pursuant to this act.