

Cherokee Nation Code Annotated

Title 12: Civil Procedure

Chapter 5: Civil Protective Order

§ 514. Procedures for issuance of temporary and permanent protective orders

Cite as: 12 CNCA § 514

A. If the Court has a reasonable belief that the petitioner or the person on whose behalf the petition is filed is the victim of an act of interpersonal or domestic violence committed by the respondent, the Court shall immediately grant a temporary ex parte protective order based upon the facts contained within the verified statement or affidavit.

B. Within fourteen (14) days of the issuance of a temporary ex parte protective order, excluding holidays and weekends, unless by agreement, a hearing shall be held to determine whether the order should extend for an additional period of time, made permanent or modified in any respect.

C. Service must be made upon the respondent at least five (5) days prior to the hearing. If service cannot be made, the Court may set a new date.

D. Service shall be pursuant to the procedure set forth in Cherokee Nation Code Annotated and the District Court Rules.

E. The Court may issue protection to both parties only if each party has completed a petition pursuant to the provisions of this Code and the Court, after a hearing, has made specific written findings of fact that both parties committed acts of domestic violence and that neither party acted in self-defense. The order must clearly define the responsibilities and restrictions placed upon each party so that a law enforcement officer may readily determine which party has violated the order if a violation is alleged to have occurred.

F. Any protective order granted pursuant to this chapter shall be forwarded by the Court to the Cherokee Nation Marshal Service dispatcher within twenty-four (24) hours of issuance. In the case of a temporary emergency ex parte protective order issued in accordance with 12 CNCA § 518 or a temporary ex parte protective order, it shall be filed immediately upon issuance. The Marshal's Office shall make information available to each officer as to the existence and status of every protective order issued under this chapter.

Historical Data

LA 33-05, eff. November 12, 2005.