

Cherokee Nation Code Annotated

Title 21: Crimes and Punishments

Part II. Crimes Against Public Justice

Chapter 19: Other Crimes Against Public Justice

§ 567.1. Indirect contempt for failure to pay child support—Purge fee

Cite as: 21 CNCA § 567.1

When a person is found guilty of indirect contempt of court for failure to pay child support, day care expenses or unreimbursed medical, dental, orthodontic, psychological, optometric, or any other physical or mental health expenses, that person may purge the contempt by:

1. Making all future payments for child support, day care expenses and unreimbursed medical, dental, orthodontic, psychological, optometric, or any other physical or mental health expenses as required by the current order for child support; and
2. a. paying the full amount of the arrearage, or some portion thereof, as a lump sum if the Court determines the contemnor has the financial ability to do so; and
b. if the full amount of the arrearage is not paid in a lump sum, then by making additional monthly payments in an amount equal to one-half of the current monthly child support obligation, exclusive of day care expenses.

All payments made pursuant to this subdivision (2)(b) shall be applied to reduce the amount of child support arrearage which was the subject of the contempt action. Payments made in accordance with the provisions of this subdivision (2)(b) shall bear interest as set forth in 43 CNCA § 511(C) and 43 CNCA § 513.

3. The total amount of the payments required to be made pursuant to subdivisions (1) and (2)(b) above shall not exceed forty percent (40%) of the contemnor's current gross monthly income. For purposes of this subdivision, the contemnor's gross income shall be determined in accordance with the provisions of 43 O.S. § 118(2) and (3) as incorporated by reference in the Cherokee Nation Code Annotated at 43 CNCA § 514. If the total amount of the payments required to be made pursuant to subdivisions (1) and (2)(b) above exceeds forty percent (40%) of the contemnor's gross monthly income, then the amount required to be paid under subdivision (2)(b) above shall be reduced such that the total payments required under subdivision (1) and (2)(b) shall equal forty percent (40%) of the contemnor's gross monthly income. If application of this subdivision (3) creates a payout schedule which exceeds three (3) years then the terms and provisions of 43 CNCA § 511(B) shall apply.

4. The payments required to be made pursuant to this section shall continue until the child support arrearage, which was the subject of the contempt action has been paid in full, at which time the contempt shall be deemed purged.

5. If a contemnor is committed to the custody of the sheriff to serve the sentence imposed by the Court, the contemnor may thereafter only be discharged from the custody of the sheriff:

a. upon payment in full of the adjudicated arrearage; or

b. upon serving the full sentence: or

c. upon the making of a subsequent agreement by the parties as to payment of the arrearages, which agreement has been approved by the Court and entry of a court order that the contemnor be released from the custody of the sheriff with the balance of the sentence to be conditionally suspended, subject to performance of the terms of the agreement and the provisions of the court order for release. Persons incarcerated pursuant to the provisions of this section shall not be entitled to credit for good time, blood time, trustee time, or any other credit for time served. Persons incarcerated pursuant to the provisions of this section shall serve flat time in all cases.

Historical Data

LA 9—07, eff. March 21, 2007.