

Cherokee Nation Code Annotated

Title 21: Crimes and Punishments

Part III. Crimes Against the Person

Chapter 30: Miscellaneous Offenses Against the Person

**§ 846. Mandatory reporting of physical abuse or birth of chemically-dependent child—
Investigations—Spiritual treatment exemption—Appointment of attorney for child**

Cite as: 21 CNCA § 846

A. Every physician or surgeon, including doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, examining, attending or treating a child under the age of eighteen (18) years and every registered nurse examining, attending or treating such a child in the absence of a physician or surgeon, every teacher of any child under the age of eighteen (18) years, and every other person having reason to believe that a child under the age of eighteen (18) years has had physical injury or injuries inflicted upon him or her by other than accidental means where the injury appears to have been caused as a result of physical abuse or neglect, shall report the matter promptly to Cherokee Nation and the county office of the Department of Human Services in the county wherein the suspected injury occurred. Every physician or surgeon, including doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional attending the birth of a child who appears to be a child born in a condition of dependence on a controlled dangerous substance shall promptly report the matter to Cherokee Nation and the county office of the Department of Human Services in the county in which such birth occurred. Provided it shall be a crime for any person to knowingly and willfully fail to promptly report any incident as provided above. If the report is not made in writing in the first instance, it shall be reduced to writing by the maker thereof as soon as maybe after it is initially made by telephone or otherwise and shall contain the names and addresses of the child and his or her parents or other persons responsible for his or her care, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, the nature and extent of the child's dependence on a controlled dangerous substance and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons responsible therefor if such information or any part thereof is known to the person making the report.

Cherokee Nation and the county office receiving any report as herein provided shall investigate said report in accordance with priority guidelines established by Cherokee Nation and the Department of Human Services and if the county office finds evidence of abuse and neglect forward its findings to the prosecutor together with its recommendation as to disposition. In addition, a copy of the findings shall be sent to the Child Welfare

Division of the Department of Human Services which shall be responsible for maintaining a permanent central registry, suitably cross-indexed, of all such reported findings. Any information contained in the central registry shall be available to any county office and to any prosecutor's office or public law enforcement agency investigating a report of suspected child abuse or neglect. The Department of Human Services may promulgate rules and regulations in furtherance of the provisions of this section.

All records concerning child abuse shall be confidential and shall be open to inspection only to persons duly authorized by the Nation, State of Oklahoma or United States in connection with the performance of their official duties. It shall be unlawful and a crime for the Commission, or any employee working under the direction of the Department of Human Services, any other public officer or employee, or any Court-Appointed Special Advocate to furnish or permit to be taken off of the records any information therein contained for commercial, political or any other unauthorized purpose.

No provision of this section shall be construed to mean that a child has been abused or neglected because said child's parent, guardian or custodian in good faith selects and depends upon spiritual means or prayer for the treatment or cure of disease or remedial care of such child.

B. In every case filed under 21 CNCA § 843, the Judge of the District Court shall appoint an attorney-at-law to appear for and represent a child who is the alleged subject of child abuse in such case if the prosecutor has a conflict of interest.

The attorney may be allowed a reasonable fee for such services to be paid from the Court Fund to be fixed by the District Court. The attorney shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian made pursuant to this section. The attorney shall be charged with the representation of the child's best interests. To that end, he shall make such further investigation that he deems necessary to ascertain the facts, to interview witnesses, examine and cross-examine witnesses at the preliminary hearing and trial, make recommendations to the Court and participate further in the proceedings to the degree appropriate for adequately representing the child. A Court-Appointed Special Advocate as defined by 10 CNCA § 1109 may be appointed to represent a child who is the alleged subject of child abuse or neglect. The Court-Appointed Special Advocate shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian made pursuant to this section.

Historical Data

LA 10-90, eff. November 13, 1990.