

Cherokee Nation Code Annotated
Title 10A: Cherokee Nation Juvenile Code
Article 2
Chapter 2: Custody and Court Proceedings
§ 2-2-102. Personal jurisdiction
Cite as: 10A CNCA § 2-2-102

A. 1. Upon the filing of a petition alleging the child to be in need of supervision, or upon the assumption of custody pursuant to Section 2-2-101 of this title, the Cherokee Nation District Court shall have jurisdiction within the boundaries of the Cherokee Nation reservation where a child:

- a. resides,
- b. is found, or
- c. is alleged to be or is found to be in need of supervision.

2. The court shall have jurisdiction over any parent, legal custodian, legal guardian, stepparent of the child, or any adult person living in the home of the child regardless of where the parent, legal custodian, legal guardian, stepparent, or adult person living in the home of the child is found and who appears in court or has been properly served with a summons pursuant to Section 2-2-107 of this title.

3. When jurisdiction has been obtained over a child who is or is alleged to be in need of supervision, such may be retained until the child becomes eighteen (18) years of age.

4. For the convenience of the parties and in the interest of justice, a proceeding under the Cherokee Nation Juvenile Code, Article 2 of this title, may be transferred to another tribal or state district court. However, prior to transferring a case to a different court, the court shall contact the judge in the other court to confirm that the judge will accept the transfer.

B. 1. Upon the filing of a petition alleging the child to be delinquent or upon the assumption of custody pursuant to Section 2-2-101 of this title, the Cherokee Nation District Court where the delinquent act occurred within the boundaries of the Cherokee Nation Reservation, shall have jurisdiction of the child and over any parent, legal custodian, legal guardian, stepparent of the child or any adult person living in the home of the child regardless of where the parent, legal custodian, legal guardian, stepparent, or adult person living in the home of the child is found and who appears in court or has been properly served with a summons pursuant to Section 2-2-107 of this title.

2. When jurisdiction has been obtained over a child who is or is alleged to be a delinquent, jurisdiction may be retained until the child becomes nineteen (19) years of age upon the court's own motion, motion by the Attorney General or motion by the Department of Juvenile Justice, as provided in Section 2-7-504 of this title.

3. The juvenile proceeding may be filed before the child becomes eighteen (18) years of age; within one (1) year after the date of the eighteenth birthday of the child if the underlying act would constitute a felony if committed by an adult; or within six (6) months after the date of the eighteenth birthday if the underlying act would constitute a misdemeanor if committed by an adult.

C. The district court in which a petition is filed or the district court in which custody has been assumed pursuant to the provisions of Section 2-2-101 of this title may retain jurisdiction of a delinquent child in such proceeding notwithstanding the fact that the child is subject to the jurisdiction of another district court within the state. Any adjudication and disposition made by the court in which said petition is filed shall control over prior orders in regard to the child.

D. Except as otherwise provided in the Cherokee Nation Juvenile Code, a child who is charged with having violated any state statute or municipal ordinance, other than those enumerated in Section 2-5-101, 2-5-205 or 2-5-206 of this title, shall not be tried in a criminal action but in a juvenile proceeding.

E. If, during the pendency of a criminal charge against any person, it shall be ascertained that the person was a child at the time of committing the alleged offense, the district court or municipal court shall transfer the case, together with all the papers, documents and testimony connected therewith, to the juvenile division of the district court. The division making the transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile division, to that division itself, or release the child to the custody of a suitable person to be brought before the juvenile division.

F. Nothing in this act shall be construed to prevent the exercise of concurrent jurisdiction by another division of the district court.

Historical Data

LA 11-21, eff. March 15, 2021.