

Cherokee Nation Code Annotated
Title 10A: Cherokee Nation Juvenile Code
Article 2
Chapter 2: Custody and Court Proceedings
§ 2-2-107. Summons--Warrant--Service
Cite as: 10A CNCA § 2-2-107

A. After a petition shall have been filed, unless the parties provided for in this section shall voluntarily appear, a summons shall be issued which shall recite briefly the nature of the proceeding with the phrase "as described more fully in the attached petition" and requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the court at a time and place stated. The summons shall state the relief requested, and shall set forth the right of the child, parents and other interested parties to have an attorney present at the hearing on the petition.

B. The summons shall be served on the person who has actual custody of the child, and if the child has reached the age of twelve (12) years, a copy shall be served on the child. If the person who has actual custody of the child shall be other than a parent or guardian of the child, a copy of the summons shall be served on the parent or guardian, or both. A copy of the summons shall be served on a custodial parent, guardian or next friend. If no parent or guardian can be found, a summons shall be served on such other person or persons as the court shall designate. Summons may be issued requiring the appearance of any other person whose presence is necessary.

C. If it subsequently appears that a person who should have been served was not served and has not entered an appearance, the court shall immediately order the issuance of a summons which shall be served on said person.

D. Service of summons shall be made as provided for service in civil actions.

1. The court shall not hold the hearing until at least forty-eight (48) hours after the service of the summons, except with the consent of the parent or guardian of the child.

2. If the parent of the child is not served within the Nation, the court shall not hold the hearing until at least five (5) days after the date of mailing the summons, except with the consent of the parent.

E. If after a petition has been filed, it appears that the child is in such condition or surroundings that the welfare of the child requires that custody be immediately assumed by the court, the judge may immediately issue a detention order or warrant authorizing the

taking of said child into emergency custody. Any such child shall not be considered to be in the custody of the Department of Juvenile Justice.

F. In a delinquency proceeding, whenever a warrant for the arrest of a child shall issue, it shall state the offense the child is being charged with having committed. Warrants for the arrest or detention of a child shall comport with all other requirements of issuance of arrest warrants for adult criminal offenders.

G. In case the summons cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual or that the welfare of the child requires that the child should be brought into the custody of the court, a warrant may be issued against the parent or guardian or against the child. Nothing in this section shall be construed to authorize placement of a child in secure detention who is not eligible for secure detention pursuant to Section 2-3-101 of this title.

Historical Data

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