

Cherokee Nation Code Annotated

Title 10A: Cherokee Nation Juvenile Code

Article 2

Chapter 5: Treatment of Serious Acts

§ 2-5-212. Delinquent or youthful offender in custody of Department of Juvenile Justice--Placement options--Office duties and authority--Rights of delinquent or youthful offender

Cite as: 10A CNCA § 2-5-212

A. Whenever a youthful offender is committed to the custody of the Department of Juvenile Justice, the Department of Juvenile Justice may:

1. Place the youthful offender in a secure facility or other institution or facility maintained by the state for delinquents or youthful offenders;
2. Place the youthful offender in a group home or community residential facility for delinquents or youthful offenders;
3. Place the youthful offender under community supervision prior to or after a period of placement in one or more of the facilities referred to in paragraphs 1 and 2 of this subsection. The Department of Juvenile Justice may place a youthful offender in his or her own home, or an independent living or other similar living arrangement within the community of the residence of the youthful offender only upon the approval of the court; provided, the court shall not prohibit the reintegration of the youthful offender into the community except upon finding that the youthful offender has not reasonably completed the rehabilitation plan objectives established as preconditions for reintegration into the community or that the public would not be adequately protected if the youthful offender is reintegrated into the community; or
4. Place the youthful offender in a sanction program if the youthful offender fails to comply with a written plan of rehabilitation or fails substantially to achieve reasonable treatment objectives while in community or other nonsecure programs.

B. Placement of the youthful offender pursuant to this section or any other provision of law shall be the responsibility of the Department of Juvenile Justice and shall occur as soon as reasonably possible but not more than forty-five (45) days following the filing and adoption of the written rehabilitation plan as provided in Section 2-5-210 of this title. This placement time period may be extended upon the declaration of an emergency by the Board of Juvenile Affairs. For the purposes of this section, "emergency" means any situation that places the health, safety and well-being of the residents or staff in imminent peril. The court shall not have authority to require specific placement of a youthful offender in a time

frame which would require the removal of any other juvenile or youthful offender from such placement.

C. The Department of Juvenile Justice shall be responsible for the care and control of a youthful offender placed in the custody of the Department of Juvenile Justice, and shall have the duty and the authority to provide food, clothing, shelter, ordinary medical care, education, discipline and in an emergency to authorize surgery or other extraordinary care. The medical care, surgery and extraordinary care shall be charged to the appropriate agency where the youthful offender qualifies for the care under law, rule, regulation or administrative order or decision. Nothing in this section shall abrogate the right of a youthful offender to any benefits provided through public funds nor the parent's statutory duty or responsibility to provide said necessities; further, no person, agency or institution shall be liable in a civil suit for damages for authorizing or not authorizing surgery or extraordinary care in an emergency, as determined by competent medical authority. A youthful offender placed in the custody of the Department of Juvenile Justice who has attained eighteen (18) years of age or older may authorize and consent to the medical care sought on behalf of the youthful offender by the Department of Juvenile Justice and to be provided to the youthful offender by a qualified health care professional. No state employee shall be liable for the costs of any medical care or behavioral health services provided to any child in the custody of the Department of Juvenile Justice.

D. A youthful offender in the custody of the Department of Juvenile Justice shall:

1. Be entitled to the rights afforded juvenile delinquents pertaining to any due process afforded delinquents in regard to movement from a nonsecure to a secure placement; and
2. As appropriate to the age and circumstances of the youthful offender, be provided education, employment, and employment skills and vocational and technical or higher education services, apprenticeship programs and similar opportunities.

E. The Department of Juvenile Justice shall have standing to seek review, including appellate review, of any order directing the Department of Juvenile Justice to take any action with regard to a youthful offender placed in the custody or under the supervision of the Department of Juvenile Justice.

Historical Data

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