

Cherokee Nation Code Annotated

Title 22: Criminal Procedure

Chapter 2: Prevention of Public Offenses

§ 60.3. Emergency ex parte order—Hearing

Cite as: 22 CNCA § 60.3

a. If a plaintiff requests an emergency ex parte order pursuant to 22 CNCA § 60.2, the Court shall hold an ex parte hearing on the same day the petition is filed, if the court finds sufficient grounds within the scope of the Protection from Domestic Abuse Act stated in the petition to hold such a hearing. The court may, for good cause shown at the hearing, issue any emergency ex parte order that it finds necessary to protect the victim from immediate and present danger of domestic abuse, stalking, or harassment. The emergency ex parte order shall be in effect until after the full hearing is conducted. Provided, if the defendant, after having been served, does not appear at the hearing, the emergency ex parte order shall remain in effect until the defendant is served with the permanent order. If the terms of the permanent order are the same as those in the emergency order, or are less restrictive, then it is not necessary to serve the defendant with the permanent order. The District Court shall develop a standard form for emergency ex parte protective orders.

b. An emergency ex parte protective order authorized by this section shall include the name, sex, race, date of birth of the defendant, and the dates of issue and expiration of the protective order.

c. If a plaintiff requests an emergency temporary ex parte order of protection as provided by 22 CNCA § 40.3.A. the judge who is notified of the request by a peace officer may issue such order verbally to the officer or in writing when there is reasonable cause to believe that the order, is necessary to protect the victim from immediate and present danger of domestic abuse. When the order is issued verbally the judge shall direct the officer to complete and sign a statement attesting to the order. The emergency temporary ex parte order shall be in effect until noon on the next day the court is open for business or the court date that was assigned by the court during the approval of the order. Emergency temporary ex parte orders shall be heard within fourteen (14) days after issuance.

d. If an action for divorce, separate maintenance, guardianship, adoption or any other proceeding involving custody or visitation has been filed and is pending in the district court, the hearing on the petition for a final protective order shall be transferred and held in the same county in which the action for divorce, separate maintenance, guardianship, adoption or any other proceeding involving custody or visitation is pending.

Historical Data

LA 10–90, eff. November 13, 1990. Amended LA 12–18, eff. June 13, 2018. Amended LA 31–22, eff. September 22, 2022.