

Cherokee Nation Code Annotated

Title 22: Criminal Procedure

Chapter 4: Proceedings After Commitment

§ 305.1. Deferred Prosecution for Felonies and Misdemeanors

Cite as: 22 CNCA § 305.1

A. Before the filing of an information against a person accused of committing a crime, the Cherokee Nation, through the Office of the Attorney General, may agree with an accused to defer the filing of a criminal information for a period not to exceed three (3) years.

B. The Cherokee Nation may include any person in a deferred prosecution program if it is in the best interests of the accused and not contrary to the public interest. The Office of the Attorney General may consider the following factors when considering whether to include an accused in the deferred prosecution program. The factors are:

1. Whether the Cherokee Nation has sufficient evidence to achieve conviction;
2. The nature of the offense with priority given to first offenders and nonviolent crimes;
3. Any special characteristics of the accused;
4. Whether the accused will cooperate and benefit from a deferred prosecution program;
5. Whether available programs are appropriate to the accused person's needs;
6. Whether the services for the accused are more readily available from the community or from the corrections system;
7. Whether the accused constitutes a substantial danger to others;
8. The impact of the deferred prosecution on the community;
9. The recommendations of the law enforcement agency involved in the case;
10. The opinions of the victim; and
11. Any mitigating or aggravating circumstances.

Historical Data

LA 08-21, eff. February 22, 2021.