

Cherokee Nation Code Annotated
Title 22: Criminal Procedure
Chapter 16: Judgment and Execution
§ 982. Presentence investigation
Cite as: 22 CNCA § 982

Whenever a person is convicted of a crime, the Court may, before imposing sentence to commit any criminal to incarceration, order a presentence investigation to be made by the Nation and defendant. The Nation and the defendant shall thereupon inquire into the circumstances of the offense, and the criminal record, social history and present condition of the convicted person; and shall make a report of such investigation to the Court, including a recommendation as to appropriate sentence, and specifically a recommendation for or against probation. Such reports must be presented to the Judge so requesting, within a reasonable time, and upon the failure to so present the same, the Judge may proceed with sentencing. Whenever, in the opinion of the Court, it is desirable, the investigation shall include a physical and mental examination of the convicted person. The reports so received shall not be referred to, or be considered, in any appeal proceedings. Before imposing sentence, the Court may advise the defendant or his counsel and the Prosecuting Attorney of the factual contents and the conclusions of any presentence investigation or psychiatric examination and afford fair opportunity, if the defendant so requests, to controvert them. If either the defendant or the Prosecuting Attorney desires, such hearing shall be ordered by the Court providing either party an opportunity to offer evidence proving or disproving any finding contained in such report, which shall be a hearing in mitigation or aggravation of punishment.

If the Prosecuting Attorney and the defendant desire to waive such presentence investigation and report, both shall execute a suitable waiver subject to approval of the Court, whereupon the Judge shall proceed with the sentencing.

Historical Data

LA 10–90, eff. November 13, 1990.