

Cherokee Nation Code Annotated

Title 22: Criminal Procedure

Chapter 19: Bail

§ 1115.5. Appearance before Magistrate before bail set in certain cases

Cite as: 22 CNCA § 1115.5

Any person accused of or detained for any of the following offenses or conditions shall not be eligible for bail until the offender has been brought before a magistrate of the Cherokee Nation Court. The magistrate may prescribe conditions for release of the offender at such time:

1. A person arrested for an offense involving domestic violence such as strikes, shoves, kicks, or strangulation, or who otherwise touches a person or subjects him or her to physical contact, or is charged with a violation of a protection order, may not be admitted to bail until after an appearance before a Magistrate within thirty-six (36) hours of the arrest. Prior to the release of the person, the Magistrate shall review the facts of the arrest to determine whether the person is a threat to the alleged victim, is a threat to public safety, and is reasonably likely to appear in court.
2. Aggravated driving under the influence of an intoxicating substance, 47 CNCA § 11-902;
3. Any offense prohibited by the Oklahoma, federal and tribal Trafficking in Illegal Drug Acts, 21 CNCA § 2414 et seq.;
4. Any person having a violent felony conviction within the last ten (10) years;
5. Appeal bond;
6. Arson in the first degree, including attempts to commit arson in the first degree, 21 CNCA § 1401;
7. Assault and battery on a police officer, 21 CNCA § 649;
8. Bail jumping in any jurisdiction of the United States;
9. Bribery of a public official, 21 CNCA § 380;
10. Burglary in the first or second degree, 21 CNCA § 1431;
11. Distribution of a controlled dangerous substance, including the sale or possession of a controlled dangerous substance with intent to distribute or conspiracy to distribute, 21 CNCA § 2101;

12. Driving under the influence of intoxicating substance where property damage or personal injury occurs, 47 CNCA § 11–904;
13. Any person who engages in reckless conduct while possessing any firearm, 21 CNCA § 1289.11;
14. Sex offenses, 21 CNCA § 881 through 21 CNCA § 1111;
15. Kidnapping, 21 CNCA § 741;
16. Manufacture of a controlled dangerous substance, 21 CNCA § 2401;
17. Persons currently on pretrial release or probation or parole by any agency with proper jurisdiction who are arrested on a new offense;
18. Any person who unlawfully possesses, manufactures, sells, uses or delivers any explosive device, foul, poisonous, offensive, or injurious substance according to 21 CNCA § 1767.1;
19. Possession of a controlled dangerous substance on Schedule I or II of the Controlled Dangerous Substances Act, 21 CNCA § 2401;
20. Possession of a firearm or other offensive weapon during the commission of a crime, 21 CNCA § 1287;
21. Possession of a stolen vehicle;
22. Rape in the first degree, including attempts to commit rape in the first degree, 21 CNCA § 1111;
25. Rape in the second degree, including attempts to commit rape in the second degree, 21 CNCA § 1111;
26. Robbery by force or fear, 21 CNCA § 792;
27. Robbery with a firearm or dangerous weapon, including attempts to commit robbery with a firearm or dangerous weapon, 21 CNCA § 801;
28. Sexual assault or violent offenses against children, 21 CNCA § 852.1;
29. Shooting with intent to kill, 21 CNCA § 652;
30. Stalking or violation of a protective order from any court with proper jurisdiction;
31. Any person having two or more prior felony convictions.

Historical Data

LA 19-06, eff. August 13, 2006.