

Cherokee Nation Code Annotated

Title 22: Criminal Procedure

Chapter 19: Bail

**§ 1115.6. Consideration of certain victims' safety prior to release of defendant on bond
—Emergency protective, restraining orders and condition of release**

Cite as: 22 CNCA § 1115.6

A. The Court shall make findings on the record while considering the safety of any and all alleged victims of domestic violence and considers, acts including but not limited to, stalking, harassment, sexual assault, or forcible sodomy where the defendant is alleged to have violated a protective order, committed domestic assault and battery, stalked, sexually assaulted, or forcibly sodomized the alleged victim or victims prior to the release of the alleged defendant from custody on bond. The Court after consideration and to ensure the safety of the alleged victim or victims, may issue an emergency protective order. The Court may also issue to the alleged victim or victims, an order restraining the alleged defendant from any activity or action from which they may be restrained. The protective order shall remain in effect until either a plea has been accepted, sentencing has occurred in the case, the case has been dismissed, or until further order of the Court dismissing the protective order.

B. The conditions of release may include, but need not be limited to, enjoining the person from threatening to commit or committing acts of domestic violence against the alleged victim, prohibiting the person from telephoning, contacting, or otherwise communicating with the alleged victim with the intent to harass, either directly or indirectly; ordering the person to stay away from the home of the alleged victim, when the person and alleged victim are not residents of the same home, and ordering the person to stay away from any other location where the alleged victim is likely to be; prohibiting the person from possessing a firearm or other weapon specified by the court, except when such weapon is necessary for employment as a peace officer or military personnel; and issuing any other or modification of orders above required to protect the safety of the alleged victim or to ensure the appearance of the person in court.

C. If conditions of release are imposed, the Magistrate shall issue a written order for conditional release, immediately distribute a copy of the order to the law enforcement agency having custody and the arrested or charged person, place information pertaining to the order in the domestic violence protection order registry, and provided the law enforcement agency with any available information concerning the location of the alleged victim in a manner that protects the safety of the victim.

Historical Data

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