

Cherokee Nation Code Annotated

Title 22: Criminal Procedure

Chapter 22: Insanity of Accused

§ 1175.6. Disposition orders

Cite as: 22 CNCA § 1175.6

A. Upon the finding by the jury or the Court as provided by 22 CNCA § 1175.5, the court shall issue the appropriate order regarding the person:

1. If the person is found to be competent, the criminal proceedings shall be resumed;
2. If the person is found to be incompetent, but capable of achieving competence with treatment, therapy, or training, the Court shall remand the person to Cherokee Nation, the Oklahoma Department of Mental Health and Substance Abuse Services, the Oklahoma Department of Human Services, other appropriate state agencies or a private care provider for appropriate treatment, therapy, or training;
3. If the person is found to be incompetent and not capable of achieving competency within a reasonable period of time, and a person requiring treatment as defined by 43A O.S., then the Court shall order treatment as if there had been a finding pursuant to 43A O.S. that the defendant was a mentally ill person requiring treatment, without any further proceedings, and shall suspend the criminal proceeding. Cherokee Nation, the Department of Mental Health and Substance Abuse Services or other agency providing treatment to the person or the institution wherein the person is confined or treated shall make periodic reports to the Court as to the competency of the defendant. If the agency or institution reports that the person appears to have achieved competency, the Court shall hold another competency hearing to determine if the person has achieved competency. If competency has been achieved, the criminal proceeding shall be resumed; and
4. If the person is found to be incompetent, and not capable of achieving competency within a reasonable period of time, but is not a person requiring treatment as defined by 43A O.S. and is not a threat to himself or society, the Court shall remand the person to Cherokee Nation or the Oklahoma Department of Human Services for assistance, subject to assistance from any other appropriate state agencies and shall suspend the criminal proceedings. Cherokee Nation or the Oklahoma Department of Human Services shall make periodic reports to the Court as to the status and activities of the person. If Cherokee Nation or the Oklahoma Department of Human Services reports that the person appears to have achieved competency, the Court shall hold another competency hearing to determine if the person has achieved competency. If competency has been achieved, the criminal proceeding shall be resumed.

B. Any person arrested and charged with a violent criminal offense, who is found to be incompetent by the Court and ordered into the custody of Cherokee Nation or the Oklahoma Department of Mental Health and Substance Abuse Services pursuant to paragraphs 2 or 3 of subsection (A) of this section, shall be placed in a maximum security ward of the mental health facility designated by Cherokee Nation or the Oklahoma Department of Mental Health and Substance Abuse Services until such time as said person is adjudicated to be competent or is adjudicated no longer determined to be a threat to any other person.

Historical Data

LA 10-90, eff. November 13, 1990.