

Cherokee Nation Code Annotated

Title 57: Prisons and Reformatories

Chapter 1: Sex Offender Registration and Notification

§ 6. Designation as sex offender—Determination of offender's tier level

Cite as: 57 CNCA § 6

A. When an offender who meets the sex offender criteria described in 57 CNCA § 4 is before the Court for sentencing for a current offense, regardless of whether or not the individual is sentenced to a term of incarceration, receives a suspended sentence or any probationary term, including a deferred sentence imposed in violation of 22 CNCA § 991c, the Court must, as near as possible to the time of pronouncing the judgment and sentence, hold a separate civil hearing to designate the individual as a sex offender to whom this act applies. At the designation hearing, the Court shall:

1. Designate the person as a sex offender;
2. Make a determination of the tier level pursuant to 57 CNCA § 5 and assign to the person a tier level of I, II, or III;
3. Notify the person of the obligation to register as a sex offender as provided for in 57 CNCA § 7;
4. Notify the Marshal Service of the order of designation within twenty-four (24) hours. The Marshal Service shall ensure that the sex offender's fingerprints and palm prints are taken and registration information is collected within seventy-two (72) hours after receipt of the Court's written sex offender designation and findings; and
5. Notify the individual of the requirements of registration and community and public notification requirements under this act.

B. If the offender is sentenced to a term of imprisonment or supervision, a copy of the Court's written sex offender finding must be submitted to the facility where the offender will be incarcerated.

C. The Clerk of the Court that convicts and sentences a sex offender for the offense or offenses requiring registration under this act shall forward to the Marshal Service a certified copy of any order entered by the Court imposing any special condition or restriction on the sex offender which restricts or prohibits access to the victim or to minors.

D. If any person or agency obtains information which indicates that an individual who lives, works, or attends school in Cherokee Nation Indian Country, or who has received a conviction for a crime in Cherokee Nation Indian Country enumerated in 57 CNCA § 4 prior

to the passage of this act, meets the sex offender criteria but that no jurisdiction, including Cherokee Nation, has made a written finding that the offender is a sex offender, such person or agency shall notify the Attorney General's Office. The Attorney General's Office shall file a civil petition with the District Court of Cherokee Nation requesting that the individual be designated as a sex offender. The Court shall hold a hearing to determine if the offender's criminal record meets the sex offender criteria of this act. If the Court finds that the offender meets the sex offender criteria because the offender has received a conviction for a violation of a law or laws enumerated in or similar to those listed in 57 CNCA § 4, the Court shall:

1. Designate the person as a sex offender;
2. Make a determination of the tier level of the person pursuant to 57 CNCA § 5 and assign to the person a tier level of I, II, or III;
3. Make a determination as to the remaining duration of registration for any Tier I or Tier II offender calculating the beginning of registration from the date of the individual's conviction for those who were not subject to incarceration for the offense or based on the release from custody for those subject to incarceration for the offense and providing;
4. Notify the person of the obligation to register as a sex offender as provided for in 57 CNCA § 7;
5. Notify the Marshal Service of the order of designation within twenty-four (24) hours. The Marshal Service shall ensure that the sex offender's fingerprints and palm prints are taken and registration information is collected within seventy-two (72) hours after receipt of the Court's written sex offender designation and findings; and
6. Notify the individual of the requirements of registration and community and public notification requirements under this act.

If the Attorney General's Office fails to establish that an offender meets the sex offender criteria under this section, and the Court does not make a written finding that an offender is a sex offender, the offender is not required to register with the Marshal Service as a sex offender. The Marshal Service, the Attorney General's Office, or any other law enforcement agency shall not administratively designate an offender as a sex offender without a written finding from the Court that the offender is a sex offender. The Cherokee Nation Marshal Service and Attorney General's Office shall make every effort to register all such offenders as soon as practicable; for such offenders who are currently incarcerated, under supervision or otherwise remaining in the criminal justice system within Cherokee Nation as quickly as possible and shall attempt to register such Tier III offenders within ninety (90)

days of, such Tier II offenders within six (6) months of, and such Tier I offenders within one (1) year of the passage of this Act.

E. A person who resides, works, or attends school in Cherokee Nation Indian Country and who has not been designated as a sex offender by Cherokee Nation District Court but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in any federal, state, military, tribal or other jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person was a resident of that jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sex offender, shall register in the manner provided in this act and shall be subject to community and public notification as provided in this act. A person who meets the criteria of this subsection is subject to the requirements and penalty provisions of this act until the person provides the Marshal Service with an order issued by the court or government entity that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the federal, military, tribal, state, or other jurisdiction in which the order was issued, which states that such designation has been removed or demonstrates to the Marshal Service that such designation, if not imposed by a court, has been removed by operation of law or court order in the federal, military, state, tribal or other jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sex offender under the laws of Cherokee Nation.

Historical Data

LA 22-08, eff. October 15, 2008. Amended LA 08-12, eff. March 23, 2012.