

Cherokee Nation Code Annotated

Title 22: Criminal Procedure

Chapter 16: Judgment and Execution

§ 991A-4. Community service sentencing program—Eligible offenders—Presentence investigation—Recommendation and imposition of sentence—Earned credits—Notice of completion—Immunity from tort liability

Cite as: 22 CNCA § 991A-4

A. There is hereby created the "Community Service Sentencing Program". The purpose of the program shall be to provide an alternative to incarceration for nonviolent crime offenders who would normally be sentenced to incarceration in a penal institution.

B. Any eligible offender may be sentenced, at the discretion of the Judge, to a community service sentencing program pursuant to the provisions of this section. For purposes of this section, **"eligible offender"** shall mean any person who:

1. Has not previously been convicted of two or more felonies;
2. Has been convicted of a nonviolent crime offense which shall be defined as any crime offense except assault and battery with a dangerous weapon, aggravated assault and battery on a law officer, poisoning with intent to kill, shooting with intent to kill, assault with intent to kill, assault with intent to commit a crime, murder in the first degree, murder in the second degree, manslaughter in the first degree, manslaughter in the second degree, kidnapping, burglary in the first degree, kidnapping for extortion, maiming, robbery, child beating, wiring any equipment, vehicle, or structure with explosives, forcible sodomy, rape in the first degree or rape by instrumentation, lewd or indecent proposition or lewd or indecent act with a child under sixteen (16) years of age, use of a firearm or offensive weapon to commit or attempt to commit a crime, pointing firearms, rioting or arson in the first degree;
3. Has properly completed and executed all necessary documents; and
4. Is not otherwise ineligible by law or court rule.

C. Cherokee Nation shall administer the program. Cherokee Nation shall recommend an assignment of the offender to any one or combination of the following areas:

1. Community service, with or without compensation;
2. Education, vocational-technical education or literacy programs;
3. Substance abuse treatment programs;

4. Periodic testing for the presence of controlled substances;
 5. Psychological counseling or psychiatric treatment;
 6. Medical treatment;
 7. Restitution;
 8. Confinement in a penal institution for a period not to exceed the maximum incarceration found in 25 U.S.C. § 1823(7)¹, night or weekend incarceration pursuant to the provisions of 22 CNCA § 991A-2;
 9. Probation or conditional probation.
- D. The Judge shall consider the criminal history of the offender, the nature of the offender's criminal conduct, the employment and family history of the offender and any other factors he deems relevant when sentencing persons to the program.
- E. Cherokee Nation, all counties and municipalities of the State of Oklahoma and all nonprofit or educational organizations or institutions participating in the Program are hereby immune from liability for torts committed by or against any offender participating in the Program to the extent specified in 57 O.S. §§ 227 and 228.
- F. Any offender participating in the program shall be advised of the provisions of this section and shall, in writing, acknowledge that he has been advised of and understands the provisions of the program.

Historical Data

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

¹ See 25 U.S.C. § 1302(a)(7).