

Cherokee Nation Code Annotated

Title 22: Criminal Procedure

Chapter 16: Judgment and Execution

§ 991B. Revocation in whole or in part of suspended sentence—Hearing—Review

Cite as: 22 CNCA § 991B

A. Whenever a sentence has been suspended by the Court after conviction of a person for any crime, the suspended sentence of said person may not be revoked, in whole or in part, for any cause unless a petition setting forth the grounds for such revocation is filed by the Prosecuting Attorney with the Clerk of the sentencing Court and competent evidence justifying the revocation of said suspended sentence is presented to the Court at a hearing to be held for that purpose within twenty (20) days after the **entry of the plea of not guilty to the petition, unless waived by both the Cherokee Nation and the defendant.**

B. 1. Where one of the grounds for revocation is the failure of the defendant to make restitution as ordered, Cherokee Nation or the Court Clerk shall forward to the Prosecuting Attorney all information pertaining to the defendant's failure to make timely restitution as ordered by the Court, and said Prosecuting Attorney shall file a petition setting forth the grounds for revocation.

2. The defendant ordered to make restitution can petition the Court at any time for remission or a change in the terms of the order of restitution if he undergoes a change of condition which materially affects his ability to comply with the Court's order.

3. At the hearing, if one of the grounds for the petition for revocation is the defendant's failure to make timely restitution as ordered by the Court, the Court will hear evidence and if it appears to the satisfaction of the Court from such evidence that the terms of the order of restitution create a manifest hardship on the defendant or his immediate family, cancel all or any part of the amount still due, or modify the terms or method of payment.

C. The Court may revoke a portion of the sentence and leave the remaining part not revoked, but suspended for the remainder of the term of the sentence, and under the provisions applying to it. The person whose suspended sentence is being considered for revocation at said hearing shall have the right to be represented by counsel, to present evidence in his own behalf and to be confronted by the witnesses against him. Any order of the Court revoking such suspended sentence, in whole or in part, shall be subject to review on appeal, as in other appeals of criminal cases.

Historical Data

LA 10-90, eff. November 13, 1990. Amended LA 08-21, eff. February 22, 2021.