

Cherokee Nation Code Annotated
Title 22: Criminal Procedure
Chapter 16: Judgment and Execution
§ 991C. Deferred judgment procedure
Cite as: 22 CNCA § 991C

A. Upon a verdict or plea of guilty or upon a plea of nolo contendere, but before a judgment of guilt, the Court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place the defendant on probation under the supervision of the Court, the Attorney General of the Cherokee Nation, a private supervision provider or other Cherokee Nation department under such conditions of probation as may be prescribed by the Court. The Court shall first consider restitution, administered in accordance with the provisions pertaining thereto, among the various conditions of probation it may prescribe. The Court may also consider ordering the defendant to

1. Pay court costs;
2. Pay an assessment in lieu of any fine authorized by law for the offense;
3. Pay any other assessment or cost authorized by law;
4. Engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the defendant;
5. County jail confinement for a period not to exceed ninety (90) days or the maximum amount of jail time provided for the offense, if it is less than ninety (90) days;
6. Pay an amount as reimbursement for reasonable attorney fees, to be paid into the court fund, if a court-appointed attorney has been provided to the defendant;
7. Be supervised in the community for a period not to exceed eighteen (18) months, unless a petition alleging violation of any condition of deferred judgment is filed during the period of supervision. As a condition of any supervision, the defendant shall be required to pay a supervision fee of Forty Dollars (\$40.00) per month. The supervision fee shall be waived in whole or part by the supervisory agency when the accused is indigent. No person shall be denied supervision based solely on the inability of the person to pay a fee;
8. Pay into the court fund a monthly amount not exceeding Forty Dollars (\$40.00) per month during any period during which the proceedings are deferred when the defendant is not to be supervised in the community. The total amount to be paid into the court fund shall be

established by the court and shall not exceed the amount of the maximum fine authorized by law for the offense;

9. Make other reparations to the community or victim as required and deemed appropriate by the court;

10. Order any conditions which can be imposed for a suspended sentence pursuant to paragraph 1 of subsection A of Section 991A of this title; or

11. Any combination of the above provisions.

Further, the Court may, in the case of a person before the Court for an offense contained in 47 C.N.C.A. sections 11-902 through 11-904, require such person to participate in one or all of the following:

1. An alcohol and drug substance abuse course, pursuant to 47 CNCA § 11–902.2 and 47 CNCA § 11–902.3;

2. A victims' impact panel program approved by the Cherokee Nation and to pay a fee to the victims' impact panel program to offset the cost of participation by the defendant; and/or

3. To install, at the expense of the person, an ignition interlock device upon every motor vehicle operated by such person.

B. Upon completion of the probation term, which probation term under this procedure shall not exceed five (5) years, the defendant shall be discharged without a court judgment of guilt, and the verdict or plea of guilty or plea of nolo contendere shall be expunged from the record and said charge shall be dismissed with prejudice to any further action.

C. Upon violation of the conditions of probation, the Court may enter a judgment of guilt and proceed as provided in 22 CNCA § 991A.

D. The deferred judgment procedure described in this section shall only apply to defendants not having been previously convicted of a crime under the laws of Cherokee Nation which if committed under the laws of the State of Oklahoma would be a felony.

E. The deferred judgment procedure described in this section shall not apply to defendants found guilty or who plead guilty or nolo contendere to a sex offense requiring the defendant to register pursuant to the Sex Offenders Registration and Notification Act, 57 CNCA § 1 et seq.

Historical Data

LA 10-90, eff. November 13, 1990. Amended LA 28-06, eff. December 20, 2006. Amended LA 21-08, eff. November 12, 2008. Amended LA 08-21, eff. February 22, 2021.