

TITLE THREE

JUVENILES

Chapter 1 - General Provisions

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CHAPTER ONE

GENERAL PROVISIONS

3-1-1 PURPOSE AND CONSTRUCTION--It is the purpose of this Juvenile Code to provide each child coming before the Tribal Juvenile Court such care, guidance and control, preferably in his own home as will serve his welfare and the best interests of the Rosebud Sioux Tribe of the Rosebud Reservation; to preserve and strengthen family ties; to preserve and strengthen the child's cultural and Tribal identity; to secure for any child removed from his home that care, guidance, and control as nearly equivalent to that which he should have been given by his parents to help him develop into a responsible, well-adjusted adult; to improve any conditions or home environment which may be contributing to his delinquency; and at the same time, to protect the peace and security of the community and its individual residents from juvenile violence or law breaking.

3-1-2 DEFINITIONS

1. "Abused Child" - a child found to be suffering abuse of a physical, emotional, nutritional, sexual or exploitive nature. The following serve as guidelines to the Court dependent upon proof of parental and/or legal guardianship action which has resulted in serious harm to the child.

(1) *A Physically Abused Child* - is one found to be in one or more of the following situations:

- (a) Beatings;
- (b) Unusual or inappropriate punishments (does the punishment fit the crime?);
- (c) A child with multiple injuries; and/or
- (d) A child who is knocked unconscious by a parent or guardian.

(2) *An Emotionally Abused Child* - is one found to be in one or more of the following situations, dependent upon proof of parental or legal guardian action which has resulted in serious harm to the child.

- (a) A child whose parents fail to love, listen, guide or pay attention to;
- (b) A child who receives no moral, spiritual, or intellectual instruction from his parents;
- (c) A child who is separated or isolated from other members of the family (locked in locked out);
- (d) A rejected child;
- (e) A child whose parents have unrealistic expectations for him;
- (f) A child whose parents or others verbally harass, tease, swear at and/or ridicule him;
- (g) A child whose parents have failed to provide the child's basic needs for food, shelter and clothing;
- (h) A child whose health is endangered by exposure to alcohol, drugs, tobacco; and/or
- (i) A child whose home life-style is dangerous (e.g., excessive drinking, excessive numbers of people in the house, no food, etc.).

(3) *A Sexually Abused Child* - is one who is found to be in one or more of the following situations, dependent on proof of parental/legal guardian action which has resulted in serious harm to the child:

- (a) An unconsenting minor involved in sexual activity with an adult;
 - (b) Any child (boy or girl) under age sixteen (16) who is involved in sexual activity with an adult (male or female);
 - (c) Any child forced to perform sexual services in exchange for debts or favors; and/or
 - (d) Any unconsenting child who is forced to perform sexual acts by other minors.
- (4) *A Nutritionally Abused Child* - is one found to be in one or more of the following situations:
- (a) A child whose parents provide inadequate or inappropriate foods (e.g., alcohol, excessive junk foods, etc.); and/or
 - (b) A child whose parents misuse benefits intended for the child including selling or squandering food stamps, commodities, or BIA grocery orders.
2. "Act" - means the Indian Child Welfare Act, Public Law 95-608.
3. "Adjudication" - means a finding by the Court, stated in the decree, that the facts alleged in the petition have been proven.
4. "Adult" - means any person who has reached his/her eighteenth (18th) birthday.
5. "BIA" - means the Bureau of Indian Affairs.
6. "Child" - means a minor who is enrolled in or eligible for enrollment in the Rosebud Sioux Tribe, or any other Indian on the Reservation, who is less than eighteen (18) years of age, or any person still subject to the continuing jurisdiction of the Tribal Juvenile Court.
7. "Child Custody Proceeding" - means any voluntary or involuntary administrative or judicial action which may result in the removal (temporary or permanent) of a child from its parent(s), the child being an enrolled member of the Rosebud Sioux Tribe (or eligible for enrollment) or who lives within or near the original boundaries of the Rosebud Indian Reservation.
8. "Minor in Need of Care" - is a child found to be in one or more of the following situations:
- (1) A child who is habitually truant;
 - (2) A child who violates the curfew;
 - (3) A child who is unamenable to parental control or is incorrigible;
 - (4) A child who is found to be that described in subsections 1,12, 13, and 26 of this section;
 - (5) A child who is a habitual runaway; and/or
 - (6) A child who habitually so departs himself so as to injure or endanger the health or well-being of himself or others.

9. "Child Placement Agency" - means any agency licensed by the Tribe or the State of South Dakota to receive children for placement or adoption; the Administration of Child Welfare, the BIA Branch of Social Services, the South Dakota Department of Social Services, or any agency receiving children for placement or adoption in another State, which agency is licensed or approved as required by law.

10. "Community Expert Witness" - means an individual recognized by the Juvenile Judge of the Rosebud Sioux Tribal Court as an expert in Tribal customs as they pertain to family organization and child rearing practices.

11. "Court" - means the Tribal Juvenile Court of the Rosebud Sioux Tribe unless the Tribal Court or some other Court is clearly intended.

12. "Delinquent Child" - means any child under the age of eighteen (18) years within the jurisdiction of the Court who violates any of the offenses enumerated in the Rosebud Sioux Tribe Law and Order Code.

13. "Dependent Child" - is a child found to be in one or more of the following situations:

- (1) A child who is homeless or destitute or without proper support or care; and/or
- (2) A child who lacks proper care by reasons of the mental or physical condition of the parent(s), guardian, or custodian.

14. "Deprivation of Custody" - means transfer of legal custody by the Court from a parent or parents or a previous custodians to another person, agency, or institution

15. "Detention" - means the temporary care in the Juvenile Center of children who require secure custody, in physical restricting facilities pending Court disposition or transfer to another jurisdiction

16. "Diversion" - means any informal probationary status whose focus is to help a juvenile keep out of trouble without formal Court action. Diversion covers any juvenile brought before the Court because of his own misconduct but not formally adjudicated.

17. "Extended Family" - means any person related by blood or marriage to the family or any individual who is viewed by the family as a relative or in accordance with customs of the Rosebud Sioux Tribe. In situations where the relationship is not formally established by blood or marriage, the relationship must be attested to by two (2) reliable witnesses.

18. "Foster care" - means the placement of a child with another family for a temporary period of time.

19. "Guardian" - means the guardian of the person and not a guardian of property or estate.

20. "Guardian Ad Litem" - means an individual appointed by the Court to represent the best interests of the child in an advocacy role.

21. "Guardian of the Person" - includes, among other things, the authority to consent to marriage to enlistment in the armed forces, and to consent to major medical, surgical, or psychiatric treatment.

"Guardian of the Person" also includes legal custody, if legal custody is not vested in another person, agency or institution.

22. "Judge" - means the Juvenile Judge of the Rosebud Sioux Tribe.

23. "Lay Expert Witness" - means an individual without extensive professional training, but who does have extensive experience in the delivery of child and family services to the Rosebud Sioux Tribal community.

24. "Legal Custody" - means subject to any limitations which may be imposed by the Juvenile Court, a relationship embodying the following rights and duties:

(1) The rights to physical custody of a child:

- (a) Temporary Custody;
- (b) Permanent Custody;
- (c) Change of Custody;
- (d) Child Support; and or
- (e) Visitation Rights.

(2) The right and duty to protect, train, discipline and financially support a child.

(3) The duty to provide a child with food, clothing, shelter, education, and ordinary medical care;

(4) The right to determine where and with whom a child shall live.

(5) The right, in an emergency, to authorize surgery or other extraordinary care.

25. "Minor Parent" - means any parent under age eighteen (18).

26. "Neglected Child" - is a child found to be in one or more of the following situations:

(1) A child whose parent(s), guardian, or custodian fail or refuse to provide necessary subsistence, education, or medical care, or any other care necessary for his health and well-being while capable of doing so;

(2) A child who lacks adequate parental control by reasons of the fault or habits of his parent(s), guardian, or custodian.

- (3) A child, under ten (10) years of age, who is left without competent supervision overnight for other than emergency reasons;
- (4) A child exposed to physically dangerous situations as a result of parental negligence;
- (5) A child, under ten (10) years of age who is left alone or unsupervised in a care while its parent is in a bar;
- (6) A child, under eighteen (18) years of age who accompanies its parent(s) into a bar where he is unsupervised or uncared for;
- (7) A child left with an irresponsible babysitter (e.g., babysitter is intoxicated, too young, etc.).
- (8) A child under eighteen (18) years of age is allowed access to alcoholic beverages and/or drugs;
- (9) A child who is twelve (12) years of age or under and has more than ten (10) unexcused absences from school in one quarter;
- (10) A child who is not dressed adequately for weather conditions;
- (11) A child who is allowed to be out and unsupervised after curfew.

27. "Open Adoption"--means those adoptive placements made through the Court when most, but not all parental rights, have been terminated. Open adoption allows the Court to insure that an older child who has established bonds of affection with its natural parents, while at the same time become part of another family.

28. "Qualified Expert Witness"--means a professional person having a substantial educational background in the area of his or her specialty and extensive knowledge of the prevailing social and cultural standards and child rearing practices of the Rosebud Sioux Tribe.

29. "Probation"--means legal status of a child created by Court Order following an adjudication based on a violation of the Law and Order Code of the Rosebud Sioux Tribe, where the child is permitted to remain in its home under prescribed conditions and under supervision by a probation officer designated by the Court subject to return to Court for violation of any of the conditions prescribed.

30. "Protective Supervision"--means a legal status created by Court Order following adjudication of neglect or dependency where the child is permitted to remain in its own home, and supervision and assistance to correct the neglect or dependency is provided by the Child Protection Program or other agency designated by the Court.

31. "Residual Parental Rights and Duties"--means those rights and duties remaining with the parents after legal custody or guardianship, or both, have been vested in another person or agency, including but not limited to, the responsibility for support, the right to consent to adoption, the right

to determine the child's religious affiliation, and the right to reasonable visitation, unless restricted by the Court. If no guardian has been appointed, residual parental rights and duties are, the right to consent to marriage, to enlistment in the Armed Forces, and consent to major medical, surgical, or psychiatric treatment.

32. "Standard Adoption"--means those adoptive placements occurring after all parental rights and obligations have been terminated by the Court.

33. "Termination of Parental Rights"--means permanent elimination of all parental duties, including residual parental rights and duties by Court Order, unless otherwise decreed by the Court. The Court may, in its discretion, terminate parental rights while at the same time restricting adoptive placement to a family willing to allow the child continued contact with their natural parents.

34. "Parents"--means any biological parent(s) of any Indian child, or person who has lawfully adopted an Indian child, including ecagwaya placement.

35. "Shelter"--means the temporary care of children in foster care families or foster group care facilities pending Court disposition or transfer to another jurisdiction.

36. "State"--means the State of South Dakota.

37. "Tribe"--means the Rosebud Sioux Tribe.

38. "Reservation"--means the Rosebud Indian Reservation, as established by the Treaty of 1867.

3-1-3 PROCEDURES ESTABLISHED--All procedures and provisions established herein, shall be construed and applied so as to provide due process of law to both children and adults subject to this Juvenile Code.

(1) Due process shall include the right to legal representation in accordance with the Tribal Code.

(2) Due process in any proceeding for termination about appeal in accordance with the Tribal Code.

3-1-4 JURISDICTION

A. Original Jurisdiction-Except as otherwise specifically provided, the Juvenile Court shall have original jurisdiction over any Indian child domiciled or residing upon or found upon the Reservation, or who has been transferred to the Juvenile Court under the Indian Child Welfare Act, and over all persons having care, custody, or control of such children in the following situations:

(1) Concerning any child who has violated any Tribal, local, or municipal ordinance, within the jurisdiction of the Rosebud Sioux Tribe;

- (2) Concerning any child who is a neglected or dependent child, as defined elsewhere in this Code;
- (3) Concerning any child who:
 - (a) Being subject to compulsory school attendance, is habitually truant from school, or is defiant of persistent efforts by parents or school authorities; or
 - (b) Habitually disobeys the reasonable and lawful demands of his parent(s), guardian, or other custodian and is ungovernable and beyond their control to such an extent as to clearly endanger his own welfare or the welfare of others;
 - (c) Violates the curfew provision of this code.
- (4) Proceedings to terminate the legal parent-child relationship including terminations of residual parental rights and duties;
- (5) For the judicial consent to marriage, employment, or enlistment of a child into the Armed Forces, and to emergency medical or surgical treatment of the child who is under the custody of the Court.
- (6) The Juvenile Court shall also have original jurisdiction of the following proceedings which shall be governed by the laws relating thereto without regard to the other provisions of this Juvenile Code:
 - (a) Proceedings for the adoption of a child;
 - (b) Proceedings for the commitment of a mentally retarded or mentally ill child;
 - (c) All proceedings to determine the custody of or to appoint a legal guardian or custodian of the person if a child;
 - (d) All proceedings to determine visitation rights and child support actions;
 - (e) All proceedings for contributing to the delinquency of a minor.
- (7) All definitions elsewhere in this Juvenile Code shall apply to any non-Indian under the age of eighteen (18) years who may be within the jurisdiction of the Tribe.

B. *Transfer of Cases*

If, during the pendency of a criminal or quasi-criminal proceeding in the Tribal Court, including a preliminary hearing, it shall be ascertained that the person charged was less than eighteen (18) years of age at the time of committing the alleged offense, the Court shall transfer the case to the Tribal Juvenile Court, together with all the papers, documents, and transcripts of any testimony connected therewith. The Tribal Court shall order the person to be taken forthwith to the Tribal Juvenile Court or to the Juvenile Center, or shall release him to the custody of his parent(s) or guardian or other person legally responsible for him, to be brought before the Tribal Juvenile Court at a time designated by it. The Juvenile Court shall then proceed as provided herein.

C. *Transfer*

Exercise of jurisdiction over a child on probation or under protective supervision, or of a child who is otherwise under the continuing jurisdiction of the Court, may be transferred by the Court to a Court of another jurisdiction if the Court consents; or to any Court with proper jurisdiction over the child in a pending action.

D. *Felony Cases*

If the petition in the case of a child fourteen (14) years of age or older alleges that he committed an act which would constitute a felony or a serious misdemeanor if committed by an adult, and *if* the Court, after full investigation and hearing, finds that it would be contrary to the best interests of the child or of the public, or of the Tribe, to retain jurisdiction, the Court may enter an Order certifying to that effect, and directing that the child be held for criminal proceedings in the Tribal Court. The provisions of this Juvenile Code relating to Court procedures in children's cases shall, to the extent they are pertinent, be applicable to such hearings held under this Section.

E. *Jurisdiction Over Adults*

- (1) In any criminal case in which the offense is one designated for the protection of children, and the Tribal Court certifies the case to the Juvenile Court for disposition, in such cases, trial of the adult in Juvenile Court shall be handled according to the Rosebud Sioux Tribal rules of Criminal Procedure, and the Court may sentence the convicted adult in any manner available to the Tribal Court. Certification of such cases shall occur only when it is made to appear to the Tribal Court that some interest of the Juvenile Court in a matter pending before it will be served thereby;
- (2) In any case in which a child has come within the jurisdiction of the Juvenile Court, that Court shall have authority to exercise jurisdiction over adults to the extent necessary or reasonably believed to be necessary to make a proper disposition of each case, including authority to punish for content committed either in or out of the Court's presence.

F. *Continuance of Jurisdiction*

Jurisdiction obtained by the Court of a child through adjudication under this Juvenile Code shall continue for the purposes of this Code until he becomes eighteen (18) years of age, unless terminated prior thereto. The Court, may at its discretion, continue jurisdiction after eighteen (18) years of age when such continuance best serves the interests of both the child and the Tribe.

G. *Termination of Jurisdiction*

The continuing jurisdiction of the Court shall terminate:

- (1) Upon order of the Court which may be made at any time; or
- (2) Upon transfer of proceedings in felony cases under this Juvenile Code. The continuing jurisdiction of the Court is not terminated by marriage; or
- (3) Upon the child's eighteenth (18) birthday unless otherwise ordered by the Court. When a person eighteen (18) years of age or older who is under the continuing jurisdiction of the Juvenile Code pursuant to this Code violates any Tribal, Federal, State or local law, the Tribal Juvenile Court shall have concurrent jurisdiction of the Court having jurisdiction of the new offense.

H. *Jurisdiction Provided Under the Indian Child Welfare Act*

- (1) Policy: It is the policy of the Indian Child Welfare Act of maintain the relationship between Indian children and the Tribal and cultural communities which they were born or to which they are otherwise tied. The Rosebud Sioux tribe, through this Juvenile Code, commits itself to assuming jurisdiction over all those Indian children, members of or eligible for enrollment in the Tribe, who are involved in custody proceedings outside the territorial jurisdiction of the Juvenile Court; and for whom a return to the jurisdiction of the Tribe is appropriate.
- (2) Notice of Hearing to the Rosebud Sioux Tribe: Whenever an involuntary child custody proceeding is initiated which may result in the removal (permanent or temporary) of a child (who is a member of or eligible for enrollment in the Rosebud Sioux Tribe) from his parent(s) or guardian, or Indian custodian, the petitioners shall notify the Juvenile Court Judge of the Rosebud Sioux Tribe by registered mail with return receipt requested.
- (3) Guidelines to the Court for Acceptance or Refusal of Transfer Under the Indian Child Welfare Act:
 - (a) Reasons for Accepting Transfer:
 - (i) Child has strong ties with Reservation and/or extended family;
 - (ii) Eligible for enrollment or is enrolled in the Rosebud Sioux Tribe;
 - (iii) Child has recently moved from the Reservation;
 - (iv) Child has been abandoned;

- (v) Parents requested that child be returned and raised on the Reservation;
- (vi) Child desires to return to the Reservation;
- (vii) Child's on-reservation family is stable and strong;
- (viii) The reservation has resources available to meet the needs of the child.

(b) Reasons for Refusing Transfer:

- (i) Child is of mixed marriage where primary family ties and/or identity are with the non-member;
- (ii) Child is old enough to reason and does not want to return to the Reservation;
- (iii) Child has no ties with the Reservation
- (iv) Child has multiple problems, for which there are no possible on-reservation programs or resources;
- (v) When either parent contests the transfer;
- (vi) Child not eligible for enrollment or enrolled.

3-1-5 POWERS AND DUTIES

A. Powers and Duties of the Tribal Court - The Tribal Juvenile Court shall have the same power and duties as provided for other Tribal Courts in this Law and Order Code.

3-1-6 JUDGES

A. Rules and Regulations - All rules and regulations pertaining to Judges in the Rosebud Sioux Tribal Law and Order Code shall be applicable to the Judge of the Juvenile Court.

B. Cooperation with Other Agencies-The Judge of the Tribal Juvenile Court may cooperate with the Federal Government in any program for training personnel employed or preparing for employment in the Tribal Juvenile Court, and may receive and expend funds from Federal or State sources or from private donations for such purposes. The Judge of the Tribal Juvenile Court may contract with public or non-profit institutions of higher learning for the training of such personnel; may conduct short-term training courses of its own, and may hire experts on a temporary basis for such purpose; and may cooperate with Federal and State agencies in personnel training programs.

C. Placement of Children

- (1) In making any decisions to place children in homes or institutions other than with one or both of the natural parents of the child; the Court shall, in all cases in which such action would not obviously be contrary to the child's best interest, determine whether or not there are relatives, friends, or other persons living on the Reservation who would be willing and able to provide a suitable temporary or permanent living environment for the child. The Court shall give considerations to and due regard for Tribal or family customs relative to the raising of children and shall endeavor to place all children requiring such in homes with cultural backgrounds similar to that which the child would have enjoyed if properly raised by its natural parent(s).

- (2) In order to enable the Court to place children in a manner consistent with the foregoing subsection, whenever possible, the Court shall utilize the Indian Child Welfare Act as its principal guideline in the recruitment of Indian families suitable for child placements and willing to accept and care for children placed on either a permanent or temporary basis, or both. The Court shall, if necessary, determine the fitness of a home into which a child is to be placed, at or immediately prior to the time such placement is made.
- (3) The Judge may contract, on behalf of the Tribe, with agencies or departments of the Federal Government, or with agencies or departments of the State of South Dakota or of other States, for the care and placement of children whose status is adjudicated under this code.

3-1-7 OTHER OFFICER APPOINTMENTS, SALARIES AND DUTIES --The Juvenile Judge with advice from the Court Administrator shall appoint such Children's Court Counselors, Presenting Officers, Probation Officers and Clerks as may be required to carry out the work of the Court.

A. Children's Court Counselor

- (1) The Court Counselor must have an educational background and/or prior experience in the field of delivering social services to youth;
- (2) The Court Counselor must have an educational background and/or prior experience in the field of delivering social services to youth;
- (3) The Court Counselor shall not be employed as or perform the duties of a Prosecutor, Presenting Officer or Law Enforcement Official;
- (4) The Court Counselor shall not testify against any minor in any proceeding under this Code or any adjudicatory proceeding;
- (5) Duties:
 - (a) Make investigations as provided in this Code or as designated by the Court, including but not limited to, Post-Preliminary Investigations and Recommendations and Social Studies;
 - (b) Make reports to the Court as provided in this Code or as directed by the Court including, but not limited to, Predispositional Reports and Pretermination Reports;
 - (c) Conduct Informal Adjustment Hearings and Informal Reviews;
 - (d) Place a minor in detention or shelter care as provided in this Code; and
 - (e) Perform such other duties in connection with the care, custody or transportation of minors as the Courts may require.

B. Presenting Officer

- (1) The Presenting Officer's qualifications shall be the same as the qualifications for the official who acts as Prosecutor for the Tribal Court;
- (2) Duties:
 - (a) File Petitions with the Court as provided in this Code;
 - (b) Represent the Tribe in all proceedings under this Code; and
 - (c) Perform such other duties as the Court may order.

C. Clerk of Court

Duties for this office are the same for the Juvenile Court as prescribed under the Tribal Code for the Tribal Court.

D. Compensation

The compensation and terms of employment of all employees in the Tribal Juvenile Court shall be fixed by the policies of the Tribal Council and Administration.

3-1-8 COURT

A. Sessions

Court sessions shall be held within the Reservation at the Tribal Court and at such times as the Judge shall direct.

B. Court Facilities

Suitable Courtrooms shall be provided by the Judicial Committee of the Tribal Council for the hearing of cases, and office space, equipment, and supplies for the use of the Judge, officers and employees of the Court.

CHAPTER TWO

ADULTS

3-2-1 PROCEDURES APPLICABLE

Except when specific procedures are otherwise specified in this Juvenile Code, all matters concerning adults or the rights of any adult which come before the Juvenile Court need not be handled according to procedures established for the Tribal Court, but may be handled in an informal manner as in juvenile cases, provided however, that the Court shall see to it that due process standards are observed.

3-2-2 CONSENT TO JURISDICTION BY PERSONS LIVING OFF THE RESERVATION

Any adult living off the Reservation who obtains custody of a child from the Juvenile Court either personally or as the result of an association with an agency or institution to which such placement has been awarded, shall be deemed to have consented to the jurisdiction of the Rosebud Sioux Tribal Juvenile Court for all purposes or actions in any way related to such custody of the child subject thereto. In every placement through the Court, both custody and on-going jurisdiction shall remain with the Juvenile Court of the Tribe.

CHAPTER THREE

PROCEDURE.

3-3-1 RULES OF PROCEDURES--The rules and forms governing practice and procedures and policies shall be adopted and followed in the Tribal Juvenile Court, subject to the approval of the Tribal Court. Copies of such rules and forms shall be made available for public inspection by the Clerk of the Juvenile Court.

3-3-2 COMMENCEMENT OF ACTIONS

- (1) Except as otherwise provided hereafter, proceedings in children's cases before the Juvenile Court are commenced by petition. All proceedings in Juvenile Court shall be closed to the public.
- (2) In the case of violation of motor vehicle or boating laws or ordinances, or fish and game laws and ordinances, a petition shall not be required. The issuance of a traffic or other citation or summons shall be sufficient to invoke the jurisdiction of the Juvenile Court. Unless the Court shall otherwise order, no preliminary investigation shall be required in such cases.
- (3) Whenever the Court is petitioned by a police officer or any other person alleging that a child is or appears to be within the Court's jurisdiction, the Clerk of Court shall notify the probation officer or other designated person who shall make a preliminary inquiry to determine whether the interests of the public, the Tribe, or the child require that further action be taken. The report on the preliminary investigation shall be filed with the Court without unnecessary delay.
- (4) The Court may, by rule, provide that police reports or reports by other social services related agencies having contact with or custody or supervision over a child, may be filed with the Court in lieu of a preliminary investigation; in which case, further preliminary investigation; in which case, further preliminary investigation as provided herein shall not be required unless otherwise specifically ordered.
- (5) As an alternative to filing a petition, the Court may, with the assistance of the Court Counselor or other designated individuals, make such non-judicial or informal adjustments of the case as is practicable without a petition and proceedings thereunder. Such adjustments shall be made only in cases in which the facts are admitted and established prima facie jurisdiction in the Tribal Juvenile Court, and further provided, that consent is obtained from the parent(s) or other custodians and also from the child, if in the Court's opinion, he is of suitable age and discretion. Efforts to effect an informal adjustment may not extend for a period of more than six (6) months without the permission of the Judge of the Juvenile Court, who may extend such intervention.

3-3-3 PETITIONS-CONSENT--The Petition shall set forth in simple and brief language the facts which bring the child within the jurisdiction of the Court, as provided in this Code. The Petition shall further state:

- (1) The name, age, and residence of the child;
- (2) The names and residence of his parent(s);
- (3) The name and residence of his guardian, if there is one;
- (4) The name and address of the nearest known relative, if no parent or guardian is known;
- (5) The name and residence of the person having physical custody of the child.

3-3-4 VERIFICATION OF PETITION--The statements of the Petition may be made upon information and belief and the Petition shall be verified.

3-3-5 PETITION--The Petition may be prepared and filed by the Presenting Officer, Probation Officer, Police Officer, parent, guardian, or a representative of the Tribal Social Services, BIA Social Services, South Dakota Department of Social Services or other Tribally recognized agency or concerned individual with knowledge of the facts. All petitions shall be screened by the Presenting Officer or Prosecutor. At any time after a petition is filed, the Court may make an Order for Temporary Custody of the child.

3-3-6 EXAMINATIONS--The Court may, upon such conditions of notice and hearing, if any, as it deems best, order that a child concerning whom a petition has been filed shall be examined by a physician, surgeon, psychiatrist, or psychologist, and may place the child in a hospital or other facility for such examination. The Court may also order an examination of a parent or guardian whose ability to care for the child is at issue if the Court finds from the evidence presented at the hearing that the parent(s)' or guardian's physical, mental, or emotional condition may be a factor in causing the neglect, dependency, or delinquency of the child. Such an examination may be ordered only for purposes of custody disposition and with the consent of the parent or guardian.

3-3-7 PETITIONS-DISMISSAL--The Court may dismiss a petition at any stage of the proceeding.

3-3-8 PROFESSIONAL AND TRIBAL ATTORNEYS--Tribal and professional attorneys who have met the requirements of the Tribal Code may appear in any proceeding before the Tribal Juvenile Court. When a person is entitled to be represented by an attorney of his choice and at his own expense in the Tribal Juvenile Court, he shall be so advised by the Judge at the commencement of any proceedings before such Court.

3-3-9 SUMMONS-WHEN REQUIRED--After a petition is filed and after such further investigation as the Court may direct, the Court shall promptly issue a summons. No summons is required as to any person who appears voluntarily or who files a written waiver of service with the Clerk of Courts at or prior to the hearing.

3-3-10 SUMMONS-CONTENT-REQUIREMENT--The summons shall contain the name of the Court, the title of the proceedings, and (except for a summons published in a newspaper by Court Order), a brief statement of the substance of the allegations in the Petition. A published summons shall simply state that a proceeding concerning the child is pending the Court and that adjudication will be made. The summons shall require the person or persons who have physical custody of the child to appear

personally and bring the child before the Court at a time and place stated. If the person so summoned is not the parent(s), or guardian of the child, then a summons shall also be issued to the parent or parents or guardian, as the case may be, notifying them of the pendency of the case and of the time and place set for the hearing. No summons need to be issued to a parent(s) whose parental rights have been terminated.

3-3-11 SUMMONS-OTHER PERSONS--Summons may be issued to any person within the jurisdiction of the Court requiring the appearance of any person whose presence the Court deems necessary.

3-3-12 IMMEDIATE CUSTODY OF CHILD--If it appears, from an affidavit or a sworn statement presented to the Judge, that the welfare of the child or protection of the public requires that the child be placed in detention or shelter care, when a petition is filed, the Judge may endorse upon the summons an order that an officer serving the summons shall at once take the child into custody or may issue a separate emergency custody or detention order for placement in a facility or with an agent as designated by the Court.

3-3-13 EMERGENCY CUSTODY OF CHILD--If it appears that a child is in danger for whatever reason if the Court is unavailable to issue a custody order; any officer of the Court including a Police Officer, or Court Counselor, may make an emergency removal of a child, if such removal is deemed necessary for the welfare of that child. Such removals shall be done on an emergency basis only. The Officer, or Counselor who makes an emergency removal of a child shall submit a written report on the incident, along with a petition for custody order before the end of the next working day of the Court.

3-3-14 EMERGENCY MEDICAL TREATMENT--Upon sworn testimony of one or more reputable physicians, the Court may order emergency medical or surgical treatment which is immediately necessary for a child concerning whom a petition has been filed; pending the service of summons and petition upon his parent(s), guardian, or custodian.

3-3-15 COMPULSORY ATTENDANCE OF WITNESSES--A parent or guardian shall be entitled to the issuance of compulsory process for the attendance of witnesses on his own behalf or on behalf of the child. A guardian ad litem or probation officer shall be entitled to compulsory process for the attendance of witnesses on behalf of the children or on behalf of the Tribe.

3-3-16 MANNER OF SERVICE-BY WHOM SERVED

- (1) Service of Summons or Process and the petition shall be made by a Tribal Court Process Server but upon request of the Court, such service may be made by any other peace officer, or by another suitable person selected by the Court.
- (2) Service of Summons and petition may be made by delivering a copy to the person summoned; provided, however, that parents of a child living together at their usual place of abode may be both served personally by delivering to either parent, copies of the Summons and petition; one copy for each parent;
- (3) If the Judge is satisfied that personal service of the Summons and petition is impractical under the circumstances, he may order service by registered mail, with return receipt requested to be signed by the addressee only, to be addressed to the last known ad-

dress of the person to be served. Service shall be complete upon return to the Court of the signed receipt.

3-3-17 SUBSTITUTED SERVICE-JURISDICTION--If the parent(s) or guardian required to be summoned under this chapter, cannot be found within the jurisdiction of the Court, the fact of their child's presence within the Reservation shall confer jurisdiction on the Court in proceedings in children's cases under this Code as to any absent parent or guardian, provided that due notice has been given in one of the following manners:

- (1) If the address of the parent or guardian is unknown, by sending a copy of Summons and petition by registered mail with return receipt requested to be signed by the addressee only, or by personal service outside the Reservation. Service by registered mail shall be complete upon return to the Court of the signed receipt.
- (2) If the address of whereabouts of the parent(s) or guardian outside the Reservation cannot, after diligent inquiry, be ascertained, by publishing a Summons in a newspaper having general circulation on the Reservation. The Summons shall be published once a week for three (3) successive weeks. Service shall be complete on the last day of the publication.

3-3-18 SERVICE-TIME REQUIRED--In the case of service on the Reservation, service completed no less than forty-eight (48) hours before the time set in the Summons for appearance of the person served, shall be sufficient to confer jurisdiction. In the case of service outside the Reservation, service completed no less than five (5) days before the time set in the Summons for appearance of the person served, shall be sufficient to confer jurisdiction.

3-3-19 SEARCH AND SEIZURE WARRANTS--If it appears to the Court upon an affidavit sworn to by a Police Officer or any other person, and upon the examination of other witnesses, if required by the Court, that there is probable cause to believe that a child is being detained or ill-treated in any place within the jurisdiction of the Court, the Court may issue a warrant authorizing a duly authorized Police Officer or Probation Officer to search for the child. Upon serving such warrant upon the person in possession of the premises specified in the warrant, the Officer making the search may enter the house or premises, if necessary by force, in order to take the child to the Court or to the place of detention or shelter designated by the Court in accordance with Section 3-3-21 hereof.

3-3-20 INVESTIGATION AND HEARINGS

A. *Social Investigations*

Whenever practicable, the Court shall require that a social investigation be made and a report be submitted to the Court in writing in all cases under Section 3-1-4 of this Code in which a petition has been filed, except violation of traffic, fish and game and boating laws and ordinances.

B. *Social Investigations-Scope*

The investigations shall cover the child's home environment, history, and associations, the present condition of the child and family, and recommendations as to the child's future care. In cases involving the duty of support, the study shall include such matters as earnings, assets, financial obligations and employment. Investigations shall be made by qualified expert witnesses, as determined by the Court.

C. *Proceedings - Civil in Nature*

Proceedings in children's cases shall be regarded as civil proceedings, with the Court exercising equitable power. Children's cases under Section 3-1-4 of this Code shall be handled separate from adult cases under 3-1-4F hereof.

D. *Conduct of Hearings - Informal in Manner*

Hearings in children's cases shall be before the Court without a jury and may be conducted in an informal manner. The general public shall be excluded and only such persons shall be admitted whom the Judge finds have a direct and legitimate interest in the case of work of the Court. The child or one of his parents may be separately interviewed at any time at the discretion of the Court. The hearings may be continued from time to time, at a date specified by the Court.

E. *Hearings - Record*

A verbatim record by either stenographic or electrical or mechanical recording device shall be taken in all cases processed through the Juvenile Court. The Court may dispense with such record at its discretion, but no sooner than sixty (60) days after the time for appeal has expired. In no event shall a record be dispensed with if a case is to be further reviewed by the Court.

F. *Records - Use in Other Courts*

Neither the record in the Tribal Juvenile Court nor any evidence given therein shall be released for use in any proceeding in any other Court. No child shall be charged with any crime nor be convicted in any other Tribal Court, except as provided in Section 3-1-4D of this Code.

G. *Hearings - Guardian Ad Litem*

The Court may, if in the best interests of the child, appoint a Guardian Ad Litem who shall represent the Tribe in the interests of a child in any proceedings in a child's care, or within another Court's jurisdiction.

H. *Hearings - Evidence*

For the purpose of determining proper disposition of the child, and for the purpose of establishing the fact of neglect or dependency, written reports and other material relating to the child's mental, physical, and social history and condition must be received in evidence; and must be considered by the Court along with other evidence, but

the Court may require that the person who wrote the report or prepared the material appear as a witness if he is reasonably available.

I. *Consolidation of Procedures*

When more than one child is involved in a home situation which may be found to constitute neglect, dependency, or when more than one child is alleged to be involved in the same law violation, the proceedings may be consolidated, except that separate hearings may be held with respect to disposition.

J. *Amendment of Pleadings - Continuances*

When it appears, during the course of any proceeding in a child's case that the evidence presented points to material facts not alleged in the Petition, the Court may proceed to consider forthwith the additional or different matters raised by the evidence. In such event, the Court, on motion of any interested party, or on its own motion, shall direct that the Petition be amended to conform to the evidence. The Court shall grant such continuances as justice may require.

K. *Special Rules of Procedure - Traffic, Fish and Game, and Boating Ordinances*

The Court may adopt special rules of procedure to govern proceedings involving violations by children of traffic laws or ordinances, and violations of fish and game, and boating laws and ordinances.

L. *Presence of Parents - Protection of Child*

The Court shall endeavor to insure the presence at the hearing, of one or both parents, or of the guardian of the child. If neither is present, the Court may appoint a guardian ad litem to protect the interests of the child. A guardian ad litem may also be appointed whenever necessary for the welfare of the child; whether or not a parent or guardian is present.

M. *Grounds for Re-Hearing*

A parent, guardian, custodian, relative or friend of any child whose status has been adjudicated under this Code, or any adult affected by a decree in a child's proceeding hereunder, may, at any time, petition the Court for a new hearing on the ground that new evidence which was not known or could not, with due diligence, have been made available at the original hearing, and which might affect the decree, has been discovered. If it appears to the Court that there is such evidence which might affect the decree, it shall order a new hearing and enter such decree and make such disposition of the case as is warranted by all the facts and circumstances and the best interests of the child.

N. *Maintenance of Order During Hearings*

Upon request of the Court, the Chief of the Tribal Police or his Deputy or other Officer shall aid the Court in maintaining order during any hearing.

3-3-21 ARREST AND DETENTION OF CHILDREN

A. A child may be taken into custody by any Police Officer or Probation Officer without Order of the Court in the following situations.

- (1) When, in the presence of the Officer, the child has violated a Tribal, State, Federal or local law or ordinance;
- (2) When there are reasonable grounds to believe that he has committed an act which, if committed by an adult, would be a felony, or an offense under the Rosebud Sioux Tribal Code; and there is reasonable cause to believe that such child, before a warrant or other Court Order can be obtained may:
 - (a) Flee the jurisdiction of the Court or conceal himself to avoid arrest;
 - (b) Destroy or conceal evidence of the commission of an offense; and/or
 - (c) Injure or annoy another person or damage property belonging to another person.
- (3) When he is seriously endangered by his surroundings, and immediate removal appears to be necessary for his protection;
- (4) When there are reasonable grounds to believe that he has run away from his parents, guardian, or custodian.

B. *Citizen's Arrest of Child*

A private citizen may take a child into custody if the circumstances are such that he could make a citizens' arrest if an adult were involved. Taking a child into custody under this Section shall not be deemed an arrest.

C. *Notification of Parents - Release of Child*

When an officer takes a child into custody, he shall immediately notify a parent or an adult person with whom the child lives if not the parent, or the custodian. Such notification shall be made by contacting the person(s) or custodian personally or through the assistance of other Officers or persons unless notification can be and is, in fact, made by phone. If a parent or custodian cannot, after due diligence, be found or contacted, then such notice shall be given to the nearest relative or to an adult person who is well acquainted with the child. The parent or person notified shall be told why the child has been taken into custody where the child is being held. The child shall then be released to the care of his parents or other responsible adult unless his immediate welfare or the protection of the community requires that he be detained. Before the child is released, the parent or other person to whom the child is released may be required by the person holding the child to sign a written promise, on forms supplied by the Court, to bring the child to the Court at a time set by or to be set by the Court.

D. *Detention of Child*

A child shall not be detained by the Tribal Police or at the police station any longer than is necessary to obtain his name, age, residence, and other identifying information and to contact his parents, guardian, or custodian. If he is not thereupon released as provided in the preceeding section, he must be taken without unnecessary delay to the Court or the Juvenile Center or shelter designated by the Court.

E. *Detention in Jail*

When it is absolutely necessary and in the best interest of a child and/or the community for a youngster to be placed in the jail prior authorization must be granted by the Judge. In no case should a juvenile under the age of sixteen (16) years be placed in jail; except that when a group of juveniles over sixteen (16) years of age are arrested and are intoxicated, juveniles may be held overnight to dry out in the jail. Strict supervision must be provided in cells, separate from adults. Written notice shall be provided to the Court that the juvenile have been held in jail and why.

F. *Detention - Report to Court*

The Officer or other person who takes a child to a detention or shelter facility must notify the Court at the earliest opportunity that the child has been taken into custody and where he was taken. The Officer or other person shall also promptly file with the Court a brief written report stating the occurrences or facts which bring the child into the jurisdiction of the Tribal Juvenile Court and given the reasons by the child was not released.

G. *Restriction on Detention*

No child shall be placed or kept in a detention or shelter facility pending court proceedings unless, it is unsafe for the child or the public to leave him in the custody of his parent(s), guardian, or custodian, or unless the Judge has reason to believe the child will not appear for his hearing.

H. *Detention - Discretion of Judge*

After immediate investigation by a duly authorized Officer of the Court, the Judge or other authorized Officer shall, upon written promise to bring the child to Court at a set time or without restriction, order the release of the child to his parent(s), guardian, or custodian, if it is found that he can be safely left in their care. If it is found that it is not safe to release the child, the Judge or authorized Officer may order that the child be held in the Juvenile Center or be placed in another appropriate facility, subject to further order of the Court.

I. *The Following Guidelines Shall be Maintained for Detention:*

- (1) During the working hours when a child is in need of detention placement the Court will hold an information detention hearing to determine the need and appropriateness of such placement before placement occurs. If the Judge finds such

placement to be appropriate under the guidelines established in Section 13G and 13H, an Order shall be issued for placement.

- (2) When a child is placed at the Juvenile Detention Center during the night, on a weekend, or on a holiday, the Juvenile Judge will hold an informal hearing before the end of the next working day to determine the appropriateness of continued placement.
- (3) No child shall be held in any Juvenile Detention Center for more than thirty (30) days unless a short term treatment plan has been developed and so ordered by the Court for a period not to exceed ninety (90) days from the date of original entry into the Center. Longer commitments to the Center are at the discretion of the Court, and will have as their focus, rehabilitation and reintegration into the community.
- (4) No child under the age of twelve (12) years shall be confined to the Juvenile Detention Center and no juvenile over the age of eighteen (18) years shall be placed at the Center, except in exceptional situations and then only at the discretion of the Judge before placement.
- (5) In situations where a juvenile is not being charged with a crime; but is in need of temporary placement, the Judge, in his discretion, may order placement at the Center if the juvenile is at least fourteen (14) years of age and for a period not to exceed thirty (30) days. In so doing, the Court shall also order the appropriate agency to develop plans for alternate living arrangements for the child and submit weekly progress reports to the Court.

J. *Primary Consideration - Welfare of the Child*

- (1) In placing a child under the guardianship or legal custody of an institution, the Court shall give primary consideration to the welfare of the child, and whenever practical, may take into consideration the religious preferences of the child and his parent and shall consider the factors set forth in Section H and I preceeding.
- (2) No child found to come within the jurisdiction of the Court shall be committed to, or placed in, an institution or facility established for the care and rehabilitation of delinquent children, unless such child is found delinquent for the commission of any act that would be a crime or offense if committed by an adult or unless said child has once before, within a period of six (6) months, been found to be within the jurisdiction of the Court.

K. *Establishment of Conditions by the Court*

In support of a decree under Section 13A of this Code, the Court may make an order setting forth reasonable conditions to be complied with by the parents, the child, his custodian, or other person who has been made a party to the proceedings, including, but not limited to, restrictions on visitations by the parent(s), restrictions on the child's associates, occupation, and other activities and requirements, to be observed by the parent(s) or custodian.

L. *Hospitalization of Child*

With respect to a child within the jurisdiction of the Court, under this Section, the Court may order hospitalization in an authorized hospital if the Court finds, upon due notice to the parents or guardian and a special hearing conducted in accordance with any applicable laws and regulations, that the child is:

- (1) Mentally ill;
- (2) Because of his illness, likely to injure himself or others if allowed to remain at liberty, or is in need of custody, care or treatment in a mental hospital.

M. *Commitment*

The Court may make an order committing a child within its jurisdiction to an authorized agency if the child has been found mentally deficient in accordance with applicable laws and regulations.

N. *Termination of Parental Rights*

The Court may terminate all parental rights whether it be voluntary or involuntary.

O. *Other Disposition of Cases*

The Court may make any other reasonable Orders which are the best interests of the child or are required for the protection of the public, except that no child may be committed to prison; nor any child under sixteen (16) years of age, to jail upon adjudication under this Code. The Court may combine several of the above listed modes of disposition where they are compatible.

P. *Review of Cases*

An Order under this Chapter for the placement of a child with an individual or an agency shall include a date set for review of the case by the Court with a new date to be set upon each review. As a guide, when extended custody is maintained over juveniles, reviews should be submitted to the Court at least every three (3) months.

3-3-22 DISPOSITION OF CASES

A. *Findings of Jurisdictional Facts (Disposition of Case)*

When a child is found to come within the provisions of 3-1-4 of this Code, the Court shall so adjudicate and make findings of facts upon which it bases its jurisdiction over the child and shall enter its decree. Upon such adjudication, the Court may make the following dispositions by Court Order:

- (1) Place the child on probation or under protective supervision in his own home, upon conditions determined by the Court;
- (2) Place the child in the legal custody of a relative or suitable person, with or without probation or protective supervision;
- (3) Vest placement rights over the child in the Rosebud Sioux Tribal Court, BIA Social Services or a child placement agency as defined therein, for placement in a foster home or other facility, not including the South Dakota Training School or any similiar institutions;
- (4) Commit the child to an authorized Government boarding school, or training or corrective institutions authorized to receive Indian children, except that a child found to come within the Court's jurisdiction solely on the grounds of neglect or dependency under this Code may not be committed to any school or similiar institution with or without the State except for reasons of delinquency and/or status offenses;
- (5) The Court may committ the child to an institution or facility for short-term confinement, for the purpose of evaluation, in accordance with accepted standards for the care and treatment of delinquent children;
- (6) Place the child in an approved Indian Boarding School, on a ranch, a forestry camp, or other camp or a similiar facility, for the care and for work, if possible, provided that the person, agency or association operating the facility has been approved by the Tribal Judge or has complied otherwise with all applicable Tribal laws;
- (7) If the Court has assurance that the responsibility to make payments will rest on the child, and not his parent(s), guardian, or custodian, in order that the child be required to make restitution for damages and loss caused by his wrongful acts and may impose fines at its discretion;
- (8) Arrange for employment or work programs, to enable children to fulfill their obligations under Section, and for other purposes which are deemed desireable by the Court;
- (9) In cases of violations of traffic laws or ordinances, the Court may, in addition to any other disposition, restrain the child from driving for such period of time as the Court deems necessary and may take possession of the child's driver's liscence;
- (10) Order that the child be examined or treated by a physician, surgeon, or psychologist, or that he receives other special care, and for such purposes may place the child in a hospital or other suitable facility;
- (11) Appoint a guardian for the child where it appears necessary to do so in the interests of the child, and may appoint a public or private institution or agency in which placement of the child is vested, as such guardian.

B. *Review of Cases*

- (1) The period for review of cases shall be no longer than six (6) months.
- (2) In any case where a child has been referred to a licensed social service agency for adoptive placement and has not been placed within a one (1) year period of time, the Court may transfer placement rights to another agency.
- (3) In any case situation where paternal rights have not been terminated and a child continues under the care of a social service agency, that agency will be required to submit, at least every three (3) months, or at times specified by the Court, a report indicating that services have been offered to the child's family and describing the reasons for continued out-of-home placement.

3-3-23 JUDGMENTS AND ORDERS

A. *Judgment*

No Judgment, Order, or Decree of the Tribal Juvenile Court shall operate after the child becomes eighteen (18) years of age unless the Court deems that it is in the best interest of the individual or the Tribe to discontinue its jurisdiction.

B. *Orders - Termination - Renewals*

An Order vesting placement of a child in an individual agency, or institution shall be for an indeterminate period, but shall not remain in force longer than two (2) years from the date it is entered unless, within the two (2) year period, the Court, after notice to the parties and a hearing, shall have reviewed the Order and found its renewal necessary to safeguard the welfare of the child or the public interest, in which case, the Order shall be extended for a two year period. The findings of the Court and the reasons therefore shall be entered into the record with a Review Order or with the Order Denying Renewal.

C. *Orders - Modification*

The Court may modify or set aside any Order or Decree made by it; but no modification or an Order placing a child on probation shall be made upon an alleged violation of the terms of probation, until there has been a hearing after due notice to all persons concerned. Notice and a hearing shall also be required in any other case in which the effect of modifying or setting aside an Order, may be to deprive a parent of the legal custody of the child, to place the child in a child care facility or agency, or to transfer the child from one institution or agency to another; except that transfer from one foster home to another may be effected without notice and hearing.

D. *Orders of Termination - Notice*

Notice of an Order terminating probation or protective supervision shall be given to the parents, guardian, or custodian, and where appropriate, to the child.

E. *Court Adjudication - Not Criminal in Nature*

An adjudication by the Tribal Juvenile Court that a child is within its jurisdiction under 3-1-4 of this Code shall not be deemed a conviction of a crime.

3-3-24 SUPPORT OF CHILDREN

A. *By Parents*

When placement of a child is vested by the Court in an individual agency other than his parents or Government boarding schools, the Court may at the initial hearing or any subsequent proceeding inquire into the ability of the parents or any other person who may be obligated, to support the child and to pay any other expenses of the child, including the expenses of medical, psychiatric, or psychological examination or treatment, provided under Order of the Court. The Court may, after due notice and a hearing on the matter, require the parent(s) or other person to pay the whole, or part of such support and expenses, depending upon their financial resources and other demands on their funds. The amount so required to be paid shall be paid at such intervals as the Court may direct, and unless otherwise ordered, payment is to be made to the Clerk of the Tribal Court for transmission to the person or agency having placement of the child or to whom compensation is due. The Clerk of Court shall have authority to receive periodic payments toward the care and maintenance of the child, such as social security payments made in the name of or for the benefit of the child.

B. *Procedure for Payment*

No Court Order issued under the preceding section against a parent or other person shall be entered unless Summons has been served, a voluntary appearance is made, or a waiver of service is given. The Summons shall specify that a hearing with respect to the financial support of the child will be held.

C. *Enforcement of Support Orders*

- (1) An Order entered under A and B of this Section against a parent or other person may be enforced by contempt proceedings, and shall also have the effect of a civil judgment at law. In addition to other remedies, the Court may issue an Order to any employee, trustee, financial agency, or other person, firm, or corporation, indebted to the parent or parents, or indebted to any other person ordered to make payments under this Code, to withhold and pay over to the Clerk of Court, money due or to become due in excess of the lesser of the following:
 - (a) The amount ordered to be paid by the Court under A and B of this Section; or
 - (b) One-fourth ($\frac{1}{4}$) of the amount due or becoming due the parent or other person at each regular or usual pay-day or day of disbursement.

- (2) A copy of such Order shall, if possible, be served on the adjudged liable party and the indebted party may request a hearing to determine the propriety of the Order.

D. *Support from Other Sources*

If the Court finds that the parent(s) are unable to pay for full or partial support, examination, treatment, and other expenses of the child, and that no other provision for payment of such support has been made, or if the parent(s) or other person obligated to pay under Court Order issued under this Chapter, have failed to make such payments, or if Summons could not be served upon the parent(s) or other persons under 3-3-24B, the Court shall request the Tribal Social Services or any other Tribal or public agency or department of the United States, or the State with funds available for such purposes to pay for such support and other expenses, and if such department of agency consents, it shall be so ordered by the Court.

E. *Payment Directly to Agency - Report to the Court - Visits*

Payments for child support may be made to a non-governmental agency in whom the Court vests legal custody, provided that the agency shall make periodic reports to the Court concerning the care and treatment the child is receiving and his response to such treatment. Such reports shall be made at such interval as the Court may direct and shall be made with respect to each child at least every three (3) months. The agency shall also afford an opportunity for a representative of the Court to visit the child as frequently as the Court deems necessary.

3-3-25 APPEALS

A. *Procedures of Appeal*

An appeal to the Tribal Appeals Court may be taken from any Order, Decree, or Judgment of the Tribal Juvenile Court. Such appeal shall be taken in the same manner in which appeals are taken from Judgments or Decrees of the Tribal Court. Except as provided elsewhere in this Code, the appeal must be taken within thirty (30) days from the entry of the Order, Decree, or Judgment appealed from.

B. *Stay Pending Appeal*

Unless the Court stays its Order, the pendency of an appeal shall not stay the Order or Decree appealed from in a child's case. Where the Order or Decree appealed from directs a change of legal custody of a child, the appeal shall be heard and decided at the earliest practical time. The name of the child will not appear on the record of appeal.

3-3-26 MISCELLANEOUS PROVISIONS

A. *Disobedience - Contempt*

Any person who willfully violates or refuses to obey any Order of the Court, may be

proceeded against for contempt of Court. In the case of a juvenile on probation, disobedience of the rules of probation shall be grounds to terminate the probation.

B. *Payment of Fines, Penalties, etc.*

Except as otherwise provided by law, penalties and forfeitures imposed and collected by the Court shall be disbursed in the same manner in which they are disbursed in Tribal Court.

C. *Filing Fees - Witness Fees, etc., by Whom Payable*

The Court shall assess a filing fee for all petitions or applications in all actions excluding Minor-In-Need-Of-Care, Juvenile Offender, and Criminal Complaint actions. Said filing fee may be waived upon a showing to the Juvenile Court of Petitioner's/Applicant's indigency.

D. *Records Kept - Accessibility*

The Court shall keep records as may be required by the Judge. Records in children's cases shall be withheld from public inspection, but the Court records shall be open to inspection by the parents or guardians. With the consent of the Judge, the attorneys involved in the proceedings and agencies to which placement or supervision of a child has been transferred may also have access to the records.

E. *Juvenile Court Records*

Except as provided in 3-3-26D, the Court records shall be sealed and may be opened only at the discretion of the Judge and only upon a Petition to the Juvenile Court, indicating the reasons for opening the records.