

**SISSETON-WAHPETON SIOUX TRIBE  
CHAPTER 40  
FOSTER HOME**

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**40-01-01 LICENSING AUTHORITY**

The Tribal Child Protection Program may license foster homes and group homes.

**40-02-01 AUTHORITY TO PLACE-OUT OR BOARD-OUT CHILDREN**

**40-02-02** The Tribal Child Protection Program is hereby empowered to place out and board out children.

**40-02-03** No person, agency, association, corporation, institution, society or other organization, except the Tribal Child Protection Program may:

1. Place a child or negotiate or act as intermediary for the placement of a child in a foster home; or
2. Offer or hold himself out as able to place a child in a foster home.

**40-02-04** No person, agency, association, corporation, institution, society, or other organization shall receive, board, or keep, with or without transfer of legal custody, any child to provide care and maintenance for that child unless a license to operate a foster home is obtained from the Tribal Child Protection Program, as provided in Chapter 40, Section 40-07-01 through 40-07-04.

**40-02-05** This Section shall not restrict or limit the right of a parent, legal guardian, or relative within the second degree, as defined in Chapter 43, Section 43-02-11, to place out or board a child with a relative or close friend.

**40-03-01 RULES GOVERNING FOSTER HOMES**

**40-03-02** The Tribal Child Protection Program shall prescribe rules establishing minimum requirements for the issuance of licenses to and establishing standards for the operation of foster homes. These rules shall be designated to protect the health, safety, and welfare of the children in the care of all licensees.

**40-03-03** The Tribal Child Protection Program shall prescribe application forms to be used by all applicants for licenses from it.

**40-03-04** The Tribal Child Protection Program shall prescribe the form and content of records to be kept and information to be reported by persons licensed by it.

**40-04-01 PLACEMENT OF CHILDREN IN FOSTER HOMES**

**40-04-02** The Court shall have the power to modify any decisions of the Tribal Child Protection Program.

**40-04-03** If the Juvenile Court or the Tribal Child Protection Program places a child in a foster home, it shall enter into a written agreement with the head of such home, which agreement shall provide that the Tribal Child Protection Program shall have access at all reasonable times to the child and the home, and that the child shall be released to the Tribal Child Protection Program whenever, in its opinion, the best interests of the child require it.

**40-05-01 VISITATION, INSPECTION, AND SUPERVISION**

The Tribal Child Protection Program is authorized to visit and inspect, in its discretion, each foster home licensed by it, where children are received, boarded, or kept, and for such purpose shall be given unrestricted access at reasonable times to the premises described in the license. Every licensed home shall, if practicable, be visited by the Tribal Child Protection Program at least four (4) times each year.

**40-06-01 PROHIBITING PLACING-OUT OR BOARDING-OUT**

Whenever the Juvenile Court shall decide that any disposition of a child under this title has been made for purposes of gain, or without due inquiry as to the character and reputation of a person with whom such child is placed, or in such manner that such child is subjected to cruel and improper treatment, or neglect, or immoral surroundings, it may issue an order prohibiting the Tribal Child Protection Program from thereafter placing out or boarding out any child. No such order shall be issued until after an opportunity to be heard before the Court and reasonable notice has been given, with a copy of the charge. A full record of the proceedings and decision on such hearing shall be kept by the Court. Any such order issued by the Court may be revoked by said Court.

**40-07-01 LICENSE TO BOARD CHILDREN**

**40-07-02** Application for a license to receive, board, or keep any child shall be made in writing to the Manager of the Tribal Child Protection Program in the form and manner prescribed by the Tribal Child Protection Program.

**40-07-03** After receipt of an application for a license, an authorized agent or employee of the Tribal Child Protection Program shall visit and inspect the premises for which such license is requested, make such further inquiry and investigation as the Tribal Child Protection Program may direct and file with the Tribal Child Protection Program a written report.

**40-07-04** If it appears from such inquiry and report that the applicant maintains a good home suitable for the care of children, in accordance with the rules and regulations of the Tribal Child Protection Program and the minimum requirements for a license adopted by the Tribal Child Protection Program, the Manager of the Tribal Child Protection Program shall cause such license, to receive, board and keep a child under the age of twenty-one (21) years, to be issued in such manners as the Tribal Child Protection Program may provide.

**40-07-05** No license shall be transferable.

**40-08-01 REVOCATION OF LICENSE**

Licenses may be revoked for cause by the Tribal Child Protection Program when the licensee has substantially and intentionally violated any provisions of this subchapter or of the rules of the Tribal Child Protection Program adopted pursuant to Chapter 40, Section 40-03-01 through 40-03-03; or when the licensee fails to meet the minimum requirements for a license. The Tribal Child Protection Program shall give the licensee written notice of any revocation and of the grounds for revocation.

**40-09-01 APPEAL PROCEDURE**

Any person aggrieved by the Tribal Child Protection Program's refusal or failure to issue a license or by its revocation of a license has the right to an administrative hearing by the Tribal Child Protection Program. Judicial review of the Tribal Child Protection Program's decision may be provided in Chapter 40, Section 40-11-01.

#### **40-10-01 ORDERS OF REMOVAL**

Whenever the Juvenile Court shall find a child:

1. Placed out or boarded out in a home which is unsuitable or has no license; or
2. Cared for under a license but neglected or without suitable care or protection;

It may order its removal within thirty (30) days by the Tribal Child Protection Program which placed in. If such child is not removed within the specified time, the matter may be brought before the Juvenile Court for disposition.

#### **40-11-01 REVIEW OF ORDERS**

Any person, agency, association, corporation, institution, society or other organization aggrieved by decisions of the Juvenile Court or Tribal Child Protection Program in making any order pursuant to the provisions of this title, may institute a proceeding in the Tribal Court having jurisdiction.

#### **40-12-01 FINDING FOSTER HOMES**

Persons authorized by the Tribal Child Protection Program shall periodically review reservation homes for availability and suitability as foster homes. Contact will then be initiated with selected families to explore their interest in becoming foster parents.

#### **40-13-01 SUITABILITY OF POTENTIAL FOSTER HOMES**

The Tribal Child Protection Program shall, whenever possible, aid potential foster parents, whose homes do not meet the minimum requirements of the Tribal Child Protection Program, in meeting the minimum requirements for a license.

#### **40-14-01 PENALTY FOR VIOLATION**

Any person, agency, association, corporation, institution, society or other organization who violates the provisions of this title may be fined not more than five hundred dollars (\$500.00), or six (6) months imprisonment, or both, with costs.

**40-15-01 INJUNCTION**

The Tribal Court shall have jurisdiction to prevent and restrain by injunction violations of the provisions of this title. It shall be the duty of the Juvenile Judge, upon request of the Tribal Child Protection Program, to institute action for such injunction under Chapter 33, Section 33-05-01 through 33-05-04.

**40-16-01 SEVERABILITY**

If any clause, sentence, paragraph, section, or part of this code shall, for any reason be adjudicated by any Court of competent jurisdiction, to be invalid or unconstitutional, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgement shall have been rendered.

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**Chapter 40 - Foster Home Code**

**Adopted:** 02/06/85

**Amended:** 03/11/98

**40-01-01 Foster Home Licensed**

**License authorizing agency changed from Tribal Human Services Board to Tribal Child Protection Program.**

**Group home licensing added.**

**Adopted**  
02/06/85

**Amendments**  
03/11/98

40-01-01

*Sub-title of "Foster Homes Licensed" was changed to "Licensing authority".*

40-01-02

*Licensing authority was changed from "Tribal Human Services Board" to "Child Protection Program" and group homes were added.*

40-02-03

*Deleted "Roberts County Welfare Board authorized by a Court of Record".*

40-17-01

*Amendment section was added.*