

Title 8 – Juveniles
Chapter 5 – Child Protection; Duty to Report

Sec.

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Legislative History

Enacted:

Juvenile Code, Ord. 170 (6/30/03), BIA (7/3/03).

Repealed or Superseded:

Juvenile Code, Ord. 68 (12/89), Enacting Res. 89-12-98 (repealing Ord. 40 and all other previous youth ordinances).

Youth Code, Ord. 40 (2/8/83), Enacting Res. 83-2-20, BIA (rescinded 5/5/83, approved 6/25/83) (repealing all previous youth ordinances).

8-05.010 Required Reporting of Youths Suspected of Being in Need of Care.

All persons who have reason to believe that a youth is in need of care shall report the abuse or neglect to tribal law enforcement and C.P.S. (State Child Protective Services). Persons reporting may remain anonymous except for those listed in Section 8-05.020.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-05.020 Persons Required to Report Youths Suspected of Being in Need of Care.

The following persons are required to report that a youth is in need of care and are subject to penalties for failure to report:

- (A) Nurse, physician, dentist, and other medical personnel;

- (B) School principal, teacher, teacher's aide, and other school personnel;
- (C) Child care staff (including foster parents and guardians);
- (D) Mental health staff;
- (E) Social services staff;
- (F) Law enforcement officer; and
- (G) Court personnel.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-05.030 Contents of the Report.

The report shall include:

- (A) The name, age and address of the youth who is the subject of the report, if known; and
- (B) A plain, and concise statement of the facts upon which the report is based, including the date, time and location at which the alleged acts occurred.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-05.040 Immunity from Liability.

With the exception of the alleged perpetrator, all persons or agencies reporting, in good faith, known or suspected instances of abuse or neglect shall be immune from civil liability and criminal prosecution.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-05.050 Penalty for Failure to Report Youths Suspected of Being in Need of Care.

Those persons listed in Section 8-05.020 who knowingly fail to report or willfully prevent someone else from doing so shall be subject to a civil fine of up to five hundred dollars (\$500.00) and up to one hundred (100) hours of community service for the benefit of the Swinomish Indian Tribal Community.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-05.060 Receipt of Report by Enforcement Officers.

- (A) Upon receiving a report that a youth is in need of care, the enforcement officer shall immediately investigate the report and determine whether further action is necessary. Based on the investigation, the enforcement officer shall complete a detailed written report and send a copy to the Family Services Representative within one working day of the investigation.
- (B) If the enforcement officer reasonably believes the youth is in immediate and serious danger from his or her surroundings and removal is necessary for the youth's safety or well being, the officer shall take the youth into custody. If there is sufficient time and a Youth Court judge or judicial officer is available, the enforcement officer shall first request an emergency custody order as provided under this Title.
- (C) An enforcement officer who takes a youth into custody shall take the following steps unless otherwise directed by an emergency custody order:
 - (1) Under appropriate circumstances, release the youth to the youth's parent(s), guardian or custodian and issue verbal counsel or warning;
 - (2) Immediately notify the Family Services Representative and request direction as to how best to proceed; or
 - (3) If the Family Services Representative is not available, the officer may place the youth:
 - (a) With a responsible family member;
 - (b) With a responsible community member; or
 - (c) In a foster home or other facility approved by the Tribe for emergency shelter care; and
 - (4) If the youth is not released to the parent, guardian, or custodian, immediate and continuing efforts shall be made by both the enforcement officer and the Family Services Representative to notify the youth's parent(s), guardian or custodian as to the circumstances surrounding the youth's custody. The location of the placement shall not be disclosed if necessary for the protection of the youth.

- (D) If a youth is taken into custody under this Chapter and it is unlikely that he or she will be released to his or her parent(s), guardian or custodian within forty-eight (48) hours, a Request for Preliminary Inquiry shall be filed by the Presenting Officer or an enforcement officer.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-05.070 Receipt of Report by Family Services Representative.

Upon receiving a report that a youth is in need of care the Family Services Representative shall:

- (A) Determine whether further action is necessary;
- (B) If circumstances require, the Family Services Representative may request an enforcement officer and/or other appropriate agency to conduct an investigation; and
- (C) Coordinate communication between appropriate agencies (such as law enforcement and Child Protective Services) to develop, implement, and follow-up on a plan of action.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-05.080 Presenting Officer - Response to Investigation.

Upon completion of the investigation the presenting officer may proceed as follows:

- (A) If the presenting officer agrees with the Family Services Representative that no further action is appropriate or necessary to protect the child, the youth shall be released immediately if in custody;
- (B) File a request for a mediation conference; or
- (C) File a petition for a preliminary inquiry or fact-finding hearing.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).