

Title 8 – Juveniles
Chapter 9 – Termination of Parental Rights

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Repealed or Superseded: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Youth Code, Ord. 40 (2/8/83), Enacting Res. 83-2-20, BIA (rescinded 5/5/83, approved 6/25/83) (repealing all previous youth ordinances).

8-09.010 Petition for Termination of Parental Rights.

A termination of parental rights hearing under this Section shall be initiated by a petition for termination of parental rights filed with the Court. The petition shall include:

- (A) The name, date of birth, residence, and tribal status of the youth who is the subject of the petition;
- (B) The names, dates of birth, residences, and tribal status, if known, of the youth's parent(s), guardian or custodian;
- (C) A citation to the specific section of this Title that gives the Court jurisdiction of the proceeding; and

- (D) A brief and concise statement of the facts and reasons supporting the request for termination of the parent-youth relationship.

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

8-09.020 Notice of Hearing to Terminate Parental Rights.

- (A) At least ten (10) days before the termination hearing, the Court shall provide a notice of hearing to:

- (1) The youth;
- (2) The youth's parent(s);
- (3) The youth's guardian or custodian, if any; and
- (4) Such other persons as the court deems appropriate.

- (B) A summons, which shall include the petition, shall be attached to the notice and delivered to all necessary parties in the same manner as provided for notice of Fact Finding Hearings.

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

8-09.030 Pretermination of Parental Rights Report.

The Family Services Representative shall prepare and present a written report to the Court and to all parties to the case at least ten (10) days before the termination of parental rights hearing. The report shall contain the findings and opinions of all professionals consulted, with their recommendations to the Court.

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

8-09.040 Hearing to Terminate Parental Rights.

A termination of parental rights hearing shall be held within thirty (30) days of receipt by the Court of a petition to terminate. The Court shall conduct the hearing for the purpose of reviewing a parent's voluntary termination of parental rights, or in cases of involuntary termination, determining whether parental rights should be terminated.

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

8-09.050 Involuntary Termination of Parental Rights.

The rights and responsibilities of the parent regarding the youth may be terminated for purposes of freeing a child for adoption or other permanent placement if the court finds by clear and convincing evidence:

- (A) That termination of the parent’s rights is in the best interest of the youth and of the tribal community;
- (B) That the Tribe made timely, reasonable efforts to provide family support services to the child and to the parents or guardian of the child that were designed to prevent out-of-home placement of the child or to enable the safe return of the child to the family home, when appropriate, if the child was in an out-of-home placement;
- (C) That the parent:
 - (1) has not remedied the conduct or conditions in the home that place the child at substantial risk of harm; or
 - (2) has failed, within a reasonable time, to remedy the conduct or conditions in the home that place the child in substantial risk so that returning the child to the parent would place the child at substantial risk of physical or mental injury; and
- (D) That the youth is or has been:
 - (1) Physically, sexually, or emotionally abused;
 - (2) Abandoned;
 - (3) Chronically neglected; or
 - (4) Dependent.

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

8-09.060 Voluntary Termination of Parental Rights.

Parental rights may be voluntarily terminated by a parent in writing, if signed by the parent in the presence and with approval of the Court. Consent of a parent to terminate his or her rights to a youth is not valid unless:

- (A) The parent has received counseling from an appropriate professional who has explained the consequences of terminating his or her rights, and where appropriate, has provided information regarding available services to help the parent care for the youth and has explored alternatives to termination;
- (B) Where any parent or Indian custodian voluntarily consents to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before the Tribal Judge and accompanied by the judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood; and
- (A) The consent was given at least ten (10) days after the birth of the youth. The Youth may be placed with the prospective adoptive parents or other care giver during the first ten (10) days after birth.

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

8-09.070 Enrollment Prior to Termination.

If a youth is not enrolled but is eligible for membership in an Indian Tribe, the Family Services Representative shall assist in making application for membership or enrollment of the youth. If an objection to enrollment or membership is filed, the Court shall set the matter for a hearing, notify the parent(s), and make a determination based on the best interest of the youth.

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

8-09.080 Disposition.

If parental rights to a youth are terminated, the Court shall:

- (A) Follow the guardianship or adoption procedures as laid out in this Title;
- (B) Place the youth with an extended family member; or
- (C) Place the youth in a foster care or shelter care facility that has been approved by the Tribe.

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