

**TRIBAL COUNCIL
(AT LARGE)**

Nola Taken Alive

Charles Walker

Avis Little Eagle

Kory McLaughlin

Warren Hawk

Jesse McLaughlin

Ira Taken Alive
Vice Chairman



Mike Faith
Chairman

Susan Agard
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John Pretty Bear
Cannonball District

Brandon Mauai
Long Soldier District

Wayne Looking Back
Wakpala District

Delray Demery
Kenel District

Joe White Mountain Jr.
Bear Soldier District

Caroline Thompson
Rock Creek District

Verdell Bobtail Bear
Running Antelope District

Samuel B. Harrison
Porcupine District

PLEASE POST

NOTICE TO PUBLIC

On June 8, 2021 the Standing Rock Sioux Tribal Council approved to post **Title VI, Children's Code** of the Standing Rock Sioux Tribal Code of Justice for ten (10) days. Pursuant to Title XIX of the Code of Justice, any interested persons may submit comments on proposed amendments on **Title VI, Children's Code** which the person believes should be amended.

Members of the Judicial Committee, In-House Counsel and counsel retained by the Tribal Court for Code of Justice revisions will accept oral, written and electronic comments until June 25, 2021. You may submit your electronic comments to the following:

Spirit Grey Bull – sgreybull@standingrock.org

If you are receiving this Notice and attachments in your role as District Officer, please post a copy at your local district offices and ensure it is available to other District Officers and District Members. In addition, please have copies available to distribute upon request.

Please note you can also access these proposed amendments to **Title VI, Children's Code** on the Tribe's website at www.standingrock.org. From the home page, click on Titles, followed by Proposed Changes, and find the link to **Title VI, Children's Code**.

Dated this 15th of June.

CONCURRED:


Mike Faith, Chairman
Standing Rock Sioux Tribe

REGULAR TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: June 8, 2021

P A G E : 23

MOTION #47 IS CONTINUED.

MOTION CARRIED 4 – EXCUSED

JUDICIAL COMMITTEE – Delray Demery reporting.
May 18, 2021 [REGULAR]

#48. MOTION WAS MADE BY SUSAN AGARD, SECONDED BY VERDELL BOBTAIL BEAR, TO APPROVE TO POST THE AMENDED TITLE VI, CHILDREN'S CODE, FOR TEN (10) DAYS AND PROVIDE TO DISTRICT COUNCILS FOR PUBLIC INSPECTION AND COMMENT.

ROLL CALL VOTE: FAITH, JR., MIKE – NOT VOTING

BOBTAIL BEAR, Verdell	YES	AGARD, Susan	YES
DEMERY, Delray	YES	HAWK, Warren	YES
HARRISON, Samuel "Ben"	EX.	LITTLE EAGLE, Avis	YES
LOOKING BACK, Wayne	YES	MCLAUGHLIN, Jesse	EX.
MAUAI, Brandon	YES	MCLAUGHLIN, Kory	EX.
PRETTY BEAR, John	YES	TAKEN ALIVE, Ira [Chairing]	N.V.
THOMPSON, Caroline	YES	TAKEN ALIVE, Nola	YES
WHITE MOUNTAIN, Jr., Joseph	YES	WALKER, Charles	EX.

VOTE: YES – 11 NO – 0 NOT VOTING – 2

MOTION CARRIED 4 – EXCUSED

#49. MOTION WAS MADE BY SUSAN AGARD, SECONDED BY VERDELL BOBTAIL BEAR, TO APPROVE OF DEFERRED REVENUE FROM FY20 JTAC SOCIAL CULTURAL FUND 4083 IN THE AMOUNT OF \$256,687.26 TO BE USED IN FY21.

ROLL CALL VOTE: FAITH, JR., MIKE – NOT VOTING

BOBTAIL BEAR, Verdell	YES	AGARD, Susan	YES
DEMERY, Delray	YES	HAWK, Warren	YES
HARRISON, Samuel "Ben"	EX.	LITTLE EAGLE, Avis	YES
LOOKING BACK, Wayne	YES	MCLAUGHLIN, Jesse	EX.
MAUAI, Brandon	YES	MCLAUGHLIN, Kory	EX.
PRETTY BEAR, John	YES	TAKEN ALIVE, Ira	YES
THOMPSON, Caroline	YES	TAKEN ALIVE, Nola	YES
WHITE MOUNTAIN, Jr., Joseph	YES	WALKER, Charles	EX.

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TITLE VI
CHILDREN’S CODE

Chapter 1 – Administrative Provisions

6-101. Title.

Title VI, Chapters 1-15 of the Standing Rock Sioux Tribe Code of Justice shall be known as the “Children’s Code”.

6-102. Amendment or Repeal.

This Title shall supersede all prior versions of Title VI and replaces Title VI of the Standing Rock Tribal Code of Justice, with said provisions being repealed by passage of this Title.

6-103. Purpose.

The purpose of this Code is to ensure the safety and well-being of children and unborn children residing within the boundaries of the Standing Rock Sioux Reservation. This Chapter shall be liberally construed to effectuate the following purposes:

1. To protect children and unborn children and to preserve the unity of the family by strengthening family life through assisting parents and expectant mothers of unborn children, whenever appropriate, in fulfilling their responsibilities as parents or expectant mothers;
2. To provide child welfare services to children and families that are in harmony with the traditions, laws, and cultural values of the Tribe;
3. To secure to each child coming before the Tribal Court the care, guidance, and control that will serve the child’s best interests and welfare, and the best interests of the Standing Rock Sioux Tribe;
4. To provide fair and impartial investigative and judicial procedures through which children and all other interested parties are afforded their constitutional rights;
5. To encourage the parent(s), guardian or custodian of a child to provide a proper home environment for the child, and assist the family in making changes or improvements in the home environment where necessary to protect the health, safety, and development of all children;
6. To recognize that unborn children have certain basic needs which must be provided for, including the need to develop physically to their potential and the need to be free from physical harm and exposure to drugs or alcohol in utero;
7. In order to ensure that the needs of the unborn child are provided for, the court may determine that it is in the best interests of the unborn child for the expectant mother to be ordered to receive appropriate services or treatment, consistent with any applicable law relating to the rights of the expectant mother;

8. To ensure that children are protected against the harmful effects resulting from the absence of parents or parent substitutes, from the inability, other than financial inability, of parents or parent substitutes to provide care and protection for their children and from the destructive behavior of parents or parent substitutes in providing care and protection for their children;
9. To ensure that children are provided good substitute parental care in the event of absence, temporary or permanent inability, other than financial inability, or unfitness of parents to care for their children;
10. To divert children and unborn children from formal proceedings under this chapter to the extent that this is consistent with protection of children, unborn children and the public safety;
11. To assure that children pending adoptive homes will be placed in the best homes available and protected from adoption by persons unfit to have responsibility for raising children;
12. To promote the adoption of children into safe and stable families rather than allowing children to remain in the impermanence of foster care;
13. To allow for the termination of parental rights at the earliest possible time after rehabilitation and reunification efforts are discontinued in accordance with this Chapter and when termination of parental rights is in the best interest of the child;
14. To reaffirm that the duty of a parent to support and maintain his or her child continues during any period in which the child may be removed from the custody of the parent;
15. To recognize and acknowledge the tribal customs and traditions of the Standing Rock Sioux Tribe with regard to child-rearing;
16. To secure to any child removed from his or her home, the care, guidance, and control as near to that which the child should have been given by his or her parents to help the child develop into a well-adjusted, responsible adult;
17. To foster cooperative intergovernmental relations regarding the welfare of children residing on the Standing Rock Sioux Reservation; and,
18. To ensure that off-reservation courts return Tribal children to the reservation when required or requested.

6-104. Authority.

The Standing Rock Sioux Tribal Council enacts this Title and its respective chapters pursuant to its authority under the amended Constitution of the Standing Rock Sioux Tribe, Article IV, Section 1(c) and 1(o) and the powers granted pursuant to Standing Rock Sioux Tribe Code of Justice Section 19-206(c)(5) and (6).

6-105. Sovereign Immunity.

There is nothing contained in this Title that shall be construed as a waiver of sovereign immunity, in any respects.

Chapter 2 - Definitions

6-201. Interpretation.

All terms used under this Code shall be interpreted broadly to encourage the jurisdiction of the Standing Rock Sioux Tribal Court over children who come under the protection of this Code and to help the Tribal Court act to protect the best interests of children and their families. This Code shall be interpreted in light of Standing Rock Sioux tribal laws, customs, and traditional child-rearing practices. Terms not specifically defined in this Code shall be interpreted according to their normal usage, or as defined in the Indian Child Welfare Act, 25 USC " 1901 et seq., as appropriate. Additional terms may be defined within its respective chapters within this Code.

6-202. Abandon.

When a parent leaves a child without adequate communication or fails to support a child and there is no indication of the parent's willingness to assume his/her parental role(s) for a period exceeding thirty (30) days.

6-203. Acknowledged Father.

A man who has established a father-child relationship by signing an acknowledgment of paternity or has acknowledged paternity under oath with the intent to establish paternity.

6-204. Adoptee.

The individual, child who is adopted or is to be adopted.

6-205. Adoptive Parent.

The person establishing or seeking to establish a permanent parent-child relationship with a child who is not his/her biological child.

6-206. Adult.

Any person who is eighteen (18) years of age or older or who has been married or otherwise emancipated.

6-207. Aggravated Circumstance.

Any factor involved in the commission of an act of abuse or neglect that increases its enormity or adds to its injurious consequences, included, but not limited to, abandonment, torture, chronic abuse, or sexual assault. Aggravated circumstances shall include, but are not limited to, that the parent or parents have:

1. Committed murder of another child of his/hers; or
2. committed voluntary manslaughter of another child of his/hers; or
3. aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; or

4. committed a felony assault that results in serious bodily injury to the child or another of children; or
5. had his/her parental rights to a sibling of the subject child terminated involuntarily.

6-208. Alleged Father.

A man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined.

6-209. Best Interests of the Child.

As determined by the Children's Court from an application and consideration of the following factors:

1. The emotional ties between the parties involved and the child and the capacity and disposition of the parties involved to give the child love and guidance;
2. The ability of the parties to provide the child with food, clothing, medical care or other remedial care recognized;
3. The length of time the child has lived in a stable, nurturing environment, and the desirability of maintaining continuity;
4. The permanency, as a family unit, of the existing or proposed custodial home;
5. Moral fitness of the parties involved;
6. Home, school, and community record of the child;
7. The reasonable preference of the child may be considered if the Court considers the child to be of sufficient age and maturity;
8. The willingness and ability of each of the parties to facilitate and encourage a close, positive, and continuing parent-child relationship between the child and the other parent or the child and the parents to the extent such relationship does not pose a risk of harm to the child;
9. Domestic or family violence, if any; and,
10. The capability and willingness to instill the child with the culture, values, and traditions of the Standing Rock Sioux Tribe and other native American culture and values.

6-210. Birth Parent.

The biological parents listed on the child's birth certificate, enrollment application, or adjudicated as the birth parent by law.

6-211. Child.

Any enrolled, eligible for enrollment, or Indian as defined under Federal Law under eighteen (18) years of age. A child conceived but not born is deemed an existing person so far as may be necessary for its interests and welfare to be protected in the event of its subsequent birth.

6-212. Child-In-Need-Of-Protection.

A child who:

1. Has no parent, guardian, or custodian available and willing to care for him or her;
2. Has not been provided with adequate food, clothing, shelter, medical care, education, or supervision by his parent, guardian or custodian necessary for his health and well-being, taking into account any special physical or mental needs of the Child, except that the poverty of the parents or guardian shall not constitute the sole reason for removing the Child;
3. Has a parent, guardian or custodian who knowingly, intentionally or negligently subjected the Child to cruel and inhumane treatment or placed the Child in a situation that seriously endangers his or her life or health;
4. Has been sexually abused by the parent, guardian or custodian, or other household member;
5. Has been abused or neglected by the parent, guardian or custodian, or other household member;
6. Has committed delinquent acts or status offenses as a result of pressure, guidance or approval by the parent, guardian or custodian;
7. Has been exposed to continued alcohol use and/or abuse to such a degree that the well-being of the child is being affected;
8. Is in need of treatment and whose parents, guardian, or other custodian has refused to participate in treatment as ordered by the court;
9. Has been allowed to be chronically truant or suffered other inattention of educational needs
10. Has a parent who possesses difficulties in caring for a child due to child's behavior and/or resistance.

6-213. Children's Court.

The Standing Rock Tribal Court when exercising jurisdiction under this Title.

6-214. Child Protection Services.

The program that provides protection for children who are deprived, neglected, or abused.

6-215. Curfew Violations.

A child who stays out past the designated hours as follows has committed a curfew violation:

1. During the school year, Sunday through Thursday:
 - i. Between 10:00 p.m. and 6:00 a.m. for children who are fourteen (14) years of age or younger;
 - ii. Between 11:00 p.m. and 6:00 a.m. for children aged fifteen (15), sixteen (16), and seventeen (17);
2. During the summer months:
 - i. Between 12:00 a.m. and 6:00 a.m. for children aged fifteen (15), sixteen (16), and seventeen (17).

6-216. Custodian.

Any person, other than a parent, to whom a Court of competent jurisdiction has granted legal custody of a Child and vests the following rights and responsibilities:

1. The right to have physical custody of the Child shall be determined by the Court; if physical custody is not with the person having legal custody;
2. The rights and the duties to protect, educate, and discipline the Child all in the Child's best interest; and
3. The responsibility to provide the Child with adequate food, shelter, education, ordinary medical care and other basic needs, according to court order. In an emergency situation, a custodian shall have the authority to consent to surgery as well as any other emergency medical care needs.

6-217. Customary Adoption.

A traditional Tribal practice recognized by the community and the Tribe which gives a Child a permanent parent-child relationship with someone other than the child's birth parent(s) where the birth parent(s) rights have been terminated or suspended

6-218. Days.

Business days and excludes all observed holidays including Tribal holidays and weekends

6-219. Delinquent Act.

An act, which, if committed by an adult is designated a crime under Title IV, Crimes or Title XI, Highways of the Standing Rock Sioux Tribal Code of Justice or other applicable Tribal ordinance(s).

6-220. Delinquent Child.

A child who has been adjudicated by the Court to have committed a delinquent act

6-221. Deprived Child.

A child who has been abused/neglected by a parent(s), guardian(s), or custodian(s).

6-222. Disposition.

The final determination of a matter (as a case or motion) by the Court after an adjudication or trial has been heard.

6-223. Disposition Hearing.

A hearing in which the Court must determine placement treatment and/or services for the family and the child.

6-224. Domicile.

The permanent residence of a person. The determination of a person's domicile and residence shall be in accordance with Tribal law and custom. The domicile of a child is presumed to be that of a child's custodial parent or legal custodian unless proven otherwise.

6-225. Emotional Abuse.

Harm or damage to a child's psychological or intellectual functioning. This includes, and is not limited to, confinement, isolation, verbal assault, humiliation, intimidation, infantilization, or other treatment that may diminish the sense of identity, dignity, and self-worth.

6-226. Extended Family.

Includes any person who's a child's brother, sister, step-parent, grandparent, aunt, uncle, first or second cousin, niece or nephew, brother-in-law or sister-in-law, or any person or relationship as recognized by Tribal custom or tradition.

6-227. Foster Home.

A facility licensed or certified by any federal, tribal or state organization, that is eligible for payments for providing specialized care to children

6-228. Guardian.

A person or organization, other than a parent, appointed by the Tribal Court or a court of competent jurisdiction to provide care, control, and supervision of a child.

6-229. Guardian Ad Litem.

An adult appointed by the Court to represent the best interests of the Child in any proceeding involving the Child

6-230. Indian Custodian.

Any Indian person who has legal custody of an Indian Child under tribal law or custom or under state law, to whom temporary physical care, custody, and control has been transferred by the parent of such child

6-231. Juvenile Advocate.

Legal representation for children and juvenile defendants in juvenile court proceedings who is responsible for conducting investigation on behalf of juvenile clients and working closely with other departments and agencies to ensure proper representation of the Child.

6-232. Minor.

A person who is:

1. Under eighteen (18) years of age;
2. Eighteen (18) years of age or older but under the age of twenty-one (21) concerning whom proceedings are commenced in Children's Court prior to his or her eighteenth (18th) birthday;
3. Eighteen (18) years of age or older but under the age of twenty-one (21) who is under the continuing jurisdiction of the Children's Court;
4. One who has been conceived but not born.

6-233. Neglect.

The failure of a parent, guardian, or custodian to provide a child with the necessities of life, food, clothing, shelter, education, or medical care, or supervision for the health and well-being of the child.

6-234. Parent.

A natural or adoptive parent whose parental rights have not been legally terminated. Parent does not include the unwed father whose paternity has not been acknowledged or adjudicated

6-235. Permanency Hearing.

A hearing to determine a permanent placement for a child who is in foster care based on the progress or lack of progress by the parent, guardian, or custodian on his/her court-ordered case plan.

6-236. Permanency Plan.

A written document that includes the specific steps needed to pursue the identified permanency goal for the child as determined at the monthly permanency planning meetings. The

permanency plan must be made within 12 months from the date the child was deemed to have entered foster care and at least once every twelve months thereafter for as long as the child remains in foster care.

6-237. Physical Custody.

Actual custody of a child.

6-238. Presenting Officer.

Attorney or advocate that represents the Tribe in all proceedings under this Title.

6-239. Protective Supervision.

A legal status created by Court order whereby the child is under the protective supervision of the court.

6-240. Reasonable Efforts.

The Good faith efforts made to prevent removal of a child from his or her home, to keep a family together, or to reunite a family includes the following:

1. The services CPS made available to the family before assuming legal custody of the child and how the services related to the needs of the family;
2. A meeting with the parents, extended family, and other relevant persons to discuss the family problems that led to intervention and possible corrective actions, including placement of the child;
3. Placing the child with a relative or non-relative known to the child; and
4. Whether the efforts to eliminate the need for CPS to assume legal custody of the child were reasonable, including, but not limited to, whether services were reasonably available and timely, reasonably adequate to address the needs of the family, reasonably adequate to protect the child and realistic under the circumstance, and whether the efforts to place the child in a familiar environment were reasonable.

6-241. Reasonable Efforts Not Required.

When one of the following eight aggravating circumstances are present, reasonable efforts to prevent removal or to reunify a family are not required:

1. The parent has subjected the child or another child while residing in the parent's domicile to one or more of the following aggravated circumstances:
 - i. Severe or repeated abuse;
 - ii. Severe or repeated neglect;
 - iii. Sexual abuse;
 - iv. Acts that the Judge may find constitute torture; or,
 - v. Abandonment.

2. The parent has been convicted of or pleaded guilty or nolo contendere to murder of another child, or an equivalent offense, in this jurisdiction or another;
3. The parent has been convicted of or pleaded guilty or nolo contendere to aiding, abetting, attempting, or soliciting, or conspiring to commit murder or voluntary manslaughter of the child or another child while residing in the parent's domicile, or an equivalent offense, in this jurisdiction or another;
4. The parent has been convicted, pleaded guilty to, or nolo contendere to physical abuse of a child that resulted in the death or admission to the hospital for inpatient care of that child.
5. The parental rights of the parent to another child of the parent have been terminated involuntarily;
6. The parent has a diagnosable condition unlikely to change within a reasonable time, including, but not limited to mental deficiency, mental illness, or extreme physical incapacity, and the condition makes the parent unable or unlikely to provide minimally acceptable care of the child; or,
7. Other circumstances exist that the court finds make continuation or implementation of reasonable efforts to preserve or reunify the family inconsistent with the best interests of the child.

6-242. Relative.

A parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, step-uncle, step-aunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce, or any person or relationship as recognized by Tribal custom or tradition.

6-243. Tribal Court.

Standing Rock Sioux Tribal Court

6-244. Tribal Land or Reservation.

Any lands within the exterior boundaries of the Standing Rock Reservation as defined by the Act of March 2, 1889 (25 Stat. L. 888).

6-245. Truancy.

A child who has unexcused absences for five (5) days within ten (10) school days or ten (10) days within any ninety (90) school day period within a school year.

Chapter 3 - Jurisdiction

6-301. Jurisdiction of the Court.

The Tribal Court has exclusive original personal, subject matter, and territorial jurisdiction of all proceedings involving children under this Code, wherein:

1. The child is domiciled on or resides within the exterior boundaries of the Standing Rock Sioux reservation for thirty (30) days prior to the commencement of an action under this Code;
2. The child, within thirty (30) days before the filing of the proceeding, had been domiciled on the Standing Rock Sioux reservation with his parent, guardian or custodial and the child is absent from the reservation because of his removal by a person claiming his custody or for other reasons, and a parent, or person who has assumed parental role, continues to live on the reservation;
3. The child is a ward of the Court;
4. The child is physically present within the exterior boundaries of the Standing Rock Sioux reservation and the child has been abandoned;
5. The Court has assumed jurisdiction because:
 - i. The child and his parents, or the child and at least one contestant, having a significant connection with the reservation and there is available to the Children's Court substantial evidence concerning the child's present or future care, protection, cultural heritage, and personal relationships.
 - ii. The child is physically present on the Standing Rock Sioux reservation and:
 - iii. The child has been abandoned; or,
 - iv. It is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse.
6. The child is not physically present within the exterior boundaries of the Standing Rock Sioux Reservation but his present placement was made pursuant to an order from the Standing Rock Children's Code.

6-302. Jurisdiction over Parents, Adults, and Guardians and Parties.

In order to fulfill the purposes of this Code, the Court shall have jurisdiction over parents, guardians, legal custodians and other parties to the proceeding and shall have the authority to make such orders for parents, guardians, legal custodians, and parties that are necessary to protect the safety and welfare of a child before the Court pursuant to this Code.

6-303. Retention of Jurisdiction.

When jurisdiction has been obtained by the Children's Court under this Title, jurisdiction shall continue until terminated by order of the Court or, until the child has reached the age of majority,

if an action commenced prior to the child having reached the age of 18, whichever is later. The Children's Court shall have continuing jurisdiction over a delinquent child who is in custody and over proceedings when a child has violated the terms of their probation or post-release supervision. The Children's Court shall also retain jurisdiction over the parent, guardian, or custodian of a child pursuant to any action commenced under this Title

6-304. Concurrent Jurisdiction.

When state or other tribal courts have jurisdiction over any of the matters provided for in this Code, the Court shall have concurrent jurisdiction over the same matters, to the extent consistent with Tribal and federal law.

6-305. Jurisdictional Agreement (Relations with Other Agencies).

The Tribe may enter into intertribal and tribal-state agreements regarding jurisdiction over child custody proceedings either on a case by case or general basis as it deems appropriate and necessary to protect the best interests of Standing Rock Sioux Tribe children and other children protected under the agreement

6-306. Consolidation of Cases.

When more than one child from at least one of the same parents is involved in the same situation that may later be found to involve abuse or neglect, the Court may consolidate the proceedings, except that the Court may choose to hold separate dispositional hearings for the children if appropriate and in the best interests of the children

6-307. Full Faith and Credit and/or Comity.

Notwithstanding any other provision of law, the Court shall give full faith and credit and/or comity to the public acts, records, and judicial decrees applicable to child custody proceedings of any court of competent jurisdiction to the same extent that such court gives reciprocal recognition to the public acts, records, and judicial decrees of the Standing Rock Tribal Court

Chapter 4 – Tribal Court

6-401. Establishment of the Court.

1. There is hereby established for the Standing Rock Sioux Tribe of the Standing Rock reservation a court known as the Standing Rock Sioux Tribal Children's Court. The Children's Court shall constitute a subdivision of the Standing Rock Sioux Tribal Court, as set forth in Title I of the Code of Justice.
2. Appeals from Children's Court shall be subject to the provision of Title I of the Standing Rock Tribal Court of Justice.

6-402. Disqualification of Judge.

In the event that a Tribal Judge is unable to hear and determine a matter due to absence, illness, or conflict of interest, the Chief Judge shall have authority to appoint a substitute judge.

6-403. Transfer of Proceeding to Tribal Court.

1. For good cause shown and by clear and convincing evidence, the Children's Court shall have discretion to transfer a proceeding to the jurisdiction of the Tribal Court or to an appropriate federal, tribal, or state court having jurisdiction if:
 - a. The child or the child's parent, guardian, or custodian requests such a transfer;
 - b. If the child is fourteen (14) years of age or old and is alleged to have committed a delinquent act arising to the level of a felony offense in adult court under Title IV; and/or
 - c. The interests of justice or the best interest of the child require a transfer.
2. The following factors shall be considered when determining whether to transfer proceedings to Tribal Court:
 - a. The nature and seriousness of the offense with which the child is charged;
 - b. The nature and condition of the child, as evidenced by his age, mental, and physical condition;
 - c. The past record of delinquencies of the child;
 - d. Court efforts at rehabilitation of the child;
 - e. The parent's/guardian's effort at supervision of the child, and/or involvement in rehabilitation;
 - f. Whether the child has consented to the transfer for the purposes of requesting a jury trial.
3. The Court shall hold a transfer hearing within fifteen (15) days of receipt of the petition to transfer proceedings to Tribal Court.
4. The child, parent(s), guardian, or custodian and representative shall be present at the hearing. The hearing shall be separate from other proceedings and shall be private and closed to the public.
5. Upon transfer of proceedings to Tribal Court, the procedure utilized shall be as provided in Title III of the Standing Rock Sioux Tribal Code of Justice.

Chapter 5 – Traditional Law

6-501. Purpose.

The purpose of this chapter is to provide the traditional laws that shall be incorporated and govern any decisions considered by the Children's Court under this Title.

6-502. Oyate Ta Wooke – Traditional Laws.

Oyate Ta Wooke, the traditional laws, incorporates familial practices retained, sometimes even unknowingly, by the Standing Rock Sioux people. These practices are rooted in our history and our language, and they arose over a long period of time or as gifts from Wakan Tanka to aid in harmonious living with each other and our natural world.

6-503. Traditional Law Governing Decisions Affecting Children.

The following traditional law shall be considered and reinforced where the future of a child is decided or influenced, including in processes governed by this Title. Approximate English translations are provided but the Lakota term shall govern.

1. Wocekiya (“faithfulness”) - to believe in and pray to Tunkasila, or Wakan Tanka – the Great Spirit – as the supreme being and power, and as the creator of all that is. Wakan Tanka gave the people seven sacred ceremonies as means of cleansing themselves and seeking guidance and direction from the Great Spirit. The ceremonies, in the order they were given to the people, are: (i) Inipi (purification); (ii) Hanbleceyapi (seeking a vision); (iii) Wiwangwacipi (Sun dance); (iv) Hunkayapi (making of relatives); (v) Nagi Gluhapi (keeping of the spirit); (vi) Isnati Awicalowanpi (womanhood ceremony); (vii) Tapa Wankayeyapi (throwing of the ball).
2. Wa’ohola (“respect”) - for self, high power, family, community, beliefs, and decisions of others and life.
3. Waonsila (“compassion”) - to look after the wellbeing of others, and to share one’s knowledge and materials so that others may prosper.
4. Wowicake (“honesty and truth”) - with yourself, higher power, and others with sincerity.
5. Wawokiya (“generosity”) - helping without expecting anything in return; giving and living from the heart.
6. Wah’wala (“humility”) - we have a spirit, we are equals with others, no better or less than others.
7. Woksape (“wisdom”) - to be sound in mind and to acquire the knowledge necessary to make proper and effective decisions for the wellbeing of the people, especially the youth.

6-504. Lena Tuwepi he/hwo (Traditional Lakota Definitions).

The following Lakota terms shall be defined as follows:

1. Oyate (“people”): The Lakota People
2. Tiospaye (“extended family”): the root of the Lakota social structure. Tiospaye comprise of the immediate family families of brothers and sisters, their descendants, and relatives adopted through formal ceremony.

3. Tiwahe (“family”): A family unit resulting from a union or partnering (hasanipi) of a man and woman to raise children and to live according to the laws, ceremonies, and customs of the people.
4. Wakanyeja (“child”): a sacred gift from Tunkasila, or Wakan Tanka- the Great Spirit- conceived by the union of a man and a woman. Spirits conduct ceremonies in Magiyata (the “spirit world”) to prepare for the child's entry into earth. Children are given a vision or role for their life on earth. Children are pure and have special powers until around the age of puberty.

6-505. Wotakuye: Lakota Kinship.

1. Background, Tiospaye, and Tiwahe
The root of Lakota social structure is tiospaye – extended family. Tiospaye comprise of tiwahe – immediate families, as well as individuals adopted through formal ceremony. Equality is a prevailing principle of tiospaye life. Responsibilities are dispersed throughout the tiospaye and no one is above the laws. Social classes do not exist, and leaders maintain prominence only insofar as they carry out the wishes of the people. Historically, tiospaye were self-sufficient and life revolved around them. However, federal policies and initiatives that accompanied reservation life promoted the assimilation of the Lakota into mainstream Anglo-American culture and have led to a loss of some of the strengths of the tiospaye lifestyle.

Among the strengths of traditional tiospaye life and the strong emphasis on kinship was that children never really became orphans. Upon birth, they had many mothers, fathers, brothers, and sisters. Thus, even though children might lose their natural parents, relatives stepped forward and assumed parental responsibilities. Furthermore, kinship customs minimized violence, conflicts, and disputes with tiospaye. Few individuals would consider causing trouble among the people, knowing of the consequences they would face from disrespecting relatives. Kinship customs in the historical tiospaye, with few exceptions, promoted a peaceful and harmonious life.

2. Awareness of Tradition Necessary for Service Protection
Acculturation and assimilation occurred in the contact between the western Europeans and the Oyate of the Oceti Sakowin. As a result, contemporary reservation life represents a blend of Anglo-American ethos and traditional Lakota values. Everyone has adopted Anglo ways to a certain extent, but some have done so more than others. Moreover, institutions that serve the people operate primarily on Western European methods and concepts. Programs that impose these ways on the people, especially traditional people, encounter numerous obstacles. The people resent being subjected to practices that contradict their way of life. Hence programs are not as effective as they should be in delivering services to the people.
Since about the late 1960s, the people have been reviving their traditions. They are positioning themselves to take back control over their lives. In order to survive and to be

effective, programs that serve the people need to revise and adapt their methods to the traditional ways of the people. To do so, however, organizational stakeholders must first seek knowledge about the traditional way of life.

In traditional tiospaye life, kinship determines how people talk to one another, how they interact, and how they behave around one another. Central to the work of the programs that serve the people is to understand how traditional Lakota communicate. How effective service providers are in helping the children, tiwahe, and tiospaye depends on how effectively they communicate with them. Thus, programs must understand traditional Lakota kinship and its rules for communication and interaction. The programs must incorporate kinship customs into the services they provide and the means of providing these services. Programs that reinforce traditional customs will be far more effective than those that impose contradictory standards and practices.

Kinship also holds strict rules for how traditional Lakota address one another and how they interact. Traditional Lakota refer to their relationship, rather than by their given names. Among certain relatives, respect is heightened to the point where special customs are observed. One such custom applies to the relationship between a son-in-law and his mother-in-law, and between a daughter-in-law and her father-in-law. A son-in-law does not communicate directly with his mother-in-law. Furthermore, they avoid direct eye contact with each other, refrain from being in close proximity to one another, and shun being alone together. The same relationship applies between a daughter-in-law and her father-in-law.

6-506. Elders.

The first consideration in traditional kinship is age. We often hear “respect your elders.” Elders hold a special place and status in traditional Lakota society. They are revered for their knowledge and wisdom, which they have acquired through lifelong experiences and learning. They are looked upon as the foundation of tiospaye life because they provide the guidance and direction needed by the people to endure from generation to generation.

Children are taught at an early age to respect their elders. They are also taught to know and to help their relatives. Those teachings have a practical application of precluding inter-marriages, but are mainly in keeping with the natural laws of respect and generosity. Elders are teachers and counselors in traditional Lakota life. Children are often sent to them for Wowahokunkiye – lecturing or teaching. This is done particularly when children misbehave or need help. Elders are also called upon to help keep peace and harmony within the tiospaye.

In interactions among tiospaye members, preference is always given to elders. For example, in asking for assistance from a tiwahe or tiospaye, we ordinarily work through the eldest members. We may ask the younger people, but, in most cases, they would need to confer with the elders anyway before our request is either granted or denied. Furthermore, in gathering such as meetings, preference is always given to the eldest individuals present.

Elders are called upon for the wocekiya – prayer and woksape – words of wisdom, which always come first in a meeting. Elders always speak first, eat before others, and are made to feel

comfortable until the gathering in concluded. If younger people are going to precede elders in any way, such as speaking, it must be done with the permission or acknowledgement of the elders. In traditional Lakota society, we always give preference to individuals who are older than we are regardless of our relationship to them.

6-507. Addressing Relatives.

Males and females use different terms in some cases to refer to the same relative. For example, a male and female have a cousin Jake. The male would refer to him as Tahansi or Tahansi Jake. The female would refer to him as Sicesi or Sicesi Jake. We must distinguish between male and female kinship terms in referring to our relatives. Otherwise, we might embarrass ourselves and our relatives by using a term reserved for the opposite gender. This is one of the reasons we are taught at an early age to know our relatives. We need to know them in order to refer to them and to address them in the proper way. By using proper kinship terms in addressing our relatives, we command a great deal of respect from them. Children and young people who address their relative by the appropriate kinship term are admired because they reflect a proper upbringing.

6-508. Making Relatives.

Tiospaye kinship also goes beyond bloodlines. Individuals are adopted into tiospaye through formal ceremony. Waliyacin means the prelude to the making of relatives; it means that individuals and their families make a commitment to being related, which begins the necessary preparations for formal ceremony. The ceremony for making relatives is Hunkayapi. Individuals may also choose, however, to make relatives such as taking on a sister, call the ceremony is called Sa Wicayapi. Ceremonies for making relatives are purposeful and elaborate. Spirituality is at the root of making relatives; individuals commit themselves before their tiwahe and tiospaye, and before Wakan Tanka, to be related from that time on.

6-509. Wakanyeja Ta Wowasake.

1. All children have the rights set out in subsection (2), and all decisions concerning children shall be made in consideration and furtherance of these rights. By definition, these rights are in the best interest of the children.
2. All children have the right to:
 - a. A mother (Ina); and
 - b. A father (Ate); and
 - c. Identify with the traditional way of life (Lakol wicoh ‘an) and
 - d. Learn and speak his or her language (Lakol Iyapi); and
 - e. A Family (Tiwahe na tiospaye); and
 - f. Know their relatives (Wotakuye); and
 - g. Know the traditional laws, customs, and ceremonies of the people; and

- h. Live according to and practice the traditional laws, customs, and ceremonies that govern the people

6-510. Tiwahe na Tiospaye Ta Wowasake (Traditional Family Rights)

1. Largely because of their primary role in taking care of the children, tiwahe and tiospaye groups also have certain rights as set in subsection (2). By definition, these rights are in the best interest of the tiwahe and tiospaye, and in turn they are therefore in the best interest of the children for whom the groups care.
2. Tiwahe and tiospaye have a right and corresponding responsibilities:
 - a. Wiconzani- to make choices and decisions to live a healthy and prosperous life according to the traditional laws, customs and ceremonies;
 - b. Igluhapi- to make choices and decisions to establish economic, political, educational and cultural self-sufficiency, and to maintain privacy according to traditional laws, customs, and ceremonies;
 - c. Wooke Gluhapi- to live and function according to the traditional laws, customs and ceremonies; and to protect and nurture such laws, customs and ceremonies;
 - d. Woitanacan- to select and designate leaders to serve the people and to promote the common good according to the traditional laws, customs and ceremonies; and Woilake- to select and designate such official officers and workers as the tiospaye deem necessary to serve the people and to promote the common good according to the traditional laws, customs, and ceremonies.

Chapter 6 – Rights of the Parties

6-601. Parties in a Children’s Court Proceeding.

1. The parties to all proceedings conducted pursuant to this Title shall be:
 1. The child;
 2. The parents, guardians, or custodians;
 3. The Tribe;
 4. The CPS Program;
 5. The ICWA program;
 6. The guardian ad litem; and
 7. Any other person the Court finds necessary for the proper resolution of the matter.
82. A member of the ~~extended family, upon a motion and determination by the Children’s Court that the interests of the minor will be best protected by allowing such participation.~~ Tiospaye who requests to attend a hearing and has a significant connection with the child may ~~attend and~~ participate in a proceeding.

6-602. Basic Rights.

In all proceedings conducted, the child and the child’s parent, guardian, or custodian shall have the following basic rights:

1. To obtain counsel at their own expense or utilization of the Public Defender's Office;
2. To be present at all stages of the proceedings
3. To introduce evidence, to be heard in their own behalf, and to examine witnesses. Notwithstanding the foregoing, the court may, at its own discretion or upon motion by a Child's parent or guardian, temporarily exclude a Child from the proceedings if the court determines that exposure to the specific testimony or evidence in question may cause significant harm to the relationship between the Child and the parent or guardian;
4. To deny the allegations in the Petition. If denied, the Court shall schedule a final hearing and may continue with the placement of the child.
5. To exclude the general public from all proceedings, except persons whose presence is requested by a party or the Court. A person admitted to a Tribal Court proceeding shall not divulge information identifying the Child or the family involved in the proceeding, the nature of the proceeding, or the result of the proceeding.

6-603. Due Process Rights.

In all proceedings conducted, the parties shall have the right to due process, including:

1. The right to adequate notice of all proceedings, and the opportunity to be heard before an unbiased finder of fact;
2. The right to discovery;
3. The right to testify, the right to subpoena witnesses, and the right to introduce evidence on the party's own behalf;
4. The right to cross-examine witnesses, except in such cases as the provisions of this title expressly permit the use of hearsay testimony; and
5. The right to findings that are based solely upon evidence properly admitted in hearings before the Children's Court.

6-604. Right to Counsel.

1. Where counsel has not already been appointed or retained to represent the child, the Children Court may appoint the Juvenile Advocate, Guardian Ad Litem, or other qualified and competent counsel, to represent the child at the child's first appearance before the Court.
2. Prior to the child's first appearance before the Children's Court, the Public Defender's Office, the Juvenile Advocate and/or Guardian Ad Litem shall be authorized to represent the child, without formal appointment by the Court, in any proceedings in which the child has a right to counsel under the provisions of this title.
3. Any tribal agency, department, authority, institution, school, or health care provider shall permit counsel of record for the child to inspect and copy, without the consent of the child or the child's parent, guardian, or legal custodian, any records relating to the child involved in the case.

6-605. Interpreter.

In any proceeding under this Code, an interpreter shall be available for a parent, guardian, custodian, or any other person acting as parent who does not fully understand the English language. Said interpreter shall interpret, after taking an oath to faithfully and truly interpret in a language that the parent, guardian, custodian, or any person acting as parent understands

6-606. Child's Testimony by Video.

The Court may, within its discretion, permit a child to testify by videoconferencing, or may take other steps to protect the child in proceedings conducted pursuant to this Title, where necessary to protect the best interests of the child.

6-607. Record of the Court – Confidentiality.

1. A record of all hearings under this Code shall be made and preserved.
2. Except by an Order of the Children's Court entered in accordance with the provisions of subsection (4), all records and files pertaining to any proceedings conducted pursuant to the provisions of this Title, including but not limited to law enforcement records and court files, shall be confidential and shall not be open to inspection to any but the following:
 - a. The child,
 - b. The counsel for the child;
 - c. The child's parent, guardian or custodian, except as provided in subsection (4);
 - d. The child's guardian ad litem;
 - e. The Presenting Officer.
 - f. The Juvenile Officer;
 - g. The Indian Child welfare worker, when necessary;
 - h. The Tribal social worker assigned to the case;
 - i. The victim in a delinquency proceeding, upon written request from the victim and approval from the Court;
 - j. State or Tribal agencies, upon finding of good cause and upon request to the Court, after a hearing to which the child, the child's attorney or guardian ad litem, and the child's parent or guardianship have been provided with proper notice and an opportunity to be heard.
3. The Children's Court may enter an order providing that specific records and files pertaining to proceedings conducted pursuant to the provisions of this title shall not be open to inspection by the child's parent, guardian or custodian, following:
 - a. A hearing on the matter, at which the child shall be represented by counsel and the child's parent, guardian or custodian shall have the right to be represented by counsel; and

- b. A finding by the Children's Court that such inspection would jeopardize the mental or physical welfare of the child.
4. All records and files pertaining to any child who is subject to the provisions of this Title shall be kept separate from records and files pertaining to adults.
5. The full name, picture, place of residence, or any other identifying information concerning any child, parent, guardian or custodian, or any person appearing as a witness in any proceedings held pursuant to the provisions of this Title, shall not be published in any newspaper, newsletter, electronic publication, or internet site, and shall not be given for any other publicity, except when the Court must publish notice of hearing in a paper of general circulation according to the civil procedures. In that instance, only the child's initials shall be published
6. Any person who violates any provisions of this section shall be ordered to appear before the Children's Court to show cause why they should be held in contempt.

6-608. Records – Expungement.

All records and files pertaining to any proceedings conducted pursuant to the provisions of this Title, including but not limited to law enforcement records and court files, shall be sealed until the child reaches eighteen (18) years of age. When a child attains his or her eighteenth (18th) birthday, the Chief Judge of the Tribal Court shall order the juvenile clerk of the Court to expunge all records, except records pertaining to adoption petitions.

6-609. Medical Examination.

The Court may order a medical examination for any child involved in any proceeding under this Code.

Chapter 7 – Rules and Procedures

6-701. Rules – Generally.

Proceedings before the Children's Court shall be governed by the Standing Rock Sioux Code of Justice Civil Procedure and Evidence, to the extent that such rules are not in conflict with the provisions of this Title.

6-702. Filing Fees.

There shall be no fee for filing a Petition under this Title, nor shall any tribal officer charge any fee for the service of process or for the officer's attendance in Children's Court in any child custody proceeding. This section does not apply for Petitions pertaining to termination and adoption.

6-703. Findings by the Children's Court.

Wherever the Children's Court is required to make findings under the provisions of this Title, and the standard of proof for such findings is not specified under the provisions of this Title or other applicable law, the burden of proof for such findings shall be a preponderance of the evidence.

6-704. Closed Hearings.

All hearings conducted in the Children's Court shall be closed to the public.

6-705. Hearings – Continuances.

1. The time limit within which any hearing is required to be held under the provisions of this Title may be extended only if the Children's Court grants a continuance pursuant to this Section.
2. Continuances shall be granted only upon a showing of good cause and only for that period of time shown to be necessary by the moving party.
3. If the child is detained in a secure juvenile detention facility, no continuance may be granted without the child's consent.
4. If a continuance is granted, a new hearing date must be scheduled as soon as possible with notice of rescheduled hearing to be provided to the parties prior to the new hearing date.

6-706. Use of Disposition and Evidence in Other Proceedings.

Neither the adjudication nor disposition of any child in an action under the Children's Court, nor any evidence admitted in a hearing before the Children's Court, shall be admissible as evidence against the child in any proceeding in another court, including the Tribal Court.

Chapter 8 – Delinquent Children

6-801. Purpose.

The purpose of this chapter is to set out rules and proceedings for adjudication of a minor child as a delinquent child.

6-802. Definitions.

For the purposes of this Chapter, the following terms shall be construed as follows:
Reasonable Efforts – telephone and personal contacts at the home, place of employment, or other locations the person to be notified is known to frequent.

6-803. Taking a Delinquent Child into Custody.

1. Any law enforcement officer may take an alleged delinquent child into custody if:

- a. The child commits a delinquent act, pursuant to the Standing Rock Sioux Code of Justice or this Title, in the presence of the officer;
 - b. The officer has probable cause to believe a delinquent act has been committed by the child being detained; or
 - c. An appropriate custody order or warrant has been issued by the Court authorizing the taking of the minor child.
2. The law enforcement officer must make reasonable efforts to notify the parent, guardian, or custodian immediately after an alleged delinquent child is placed in detention or shelter care and notify the parent, guardian, or custodian regarding:
 - a. The reason the child was taken into custody; and
 - b. The location where the child has been placed.
3. The law enforcement officer taking the child into detention must notify the Presenting Officer, in writing and within twenty-four (24) hours, of:
 - a. The date, time, and circumstances of the law enforcement officer's contact with the child;
 - b. The reason the child was taken into custody;
 - c. To whom the child was released, or where the child was placed, and
 - d. Any services or resources to which the law enforcement officer referred the child's parent, guardian, or custodian in accordance with the provisions of this title.
4. The child shall be brought before the Children's Court at the next regular session.

6-804. Failure to Appear.

In all delinquency proceedings conducted pursuant to this Chapter:

1. If a child fails to appear before the Children's Court after being so ordered:
 - a. Upon a first or subsequent failure to appear, the Children's Court may:
 - i. Issue a new summons; and
 - ii. Issue a warning to the child and parent/legal guardian regarding the potential consequence of a subsequent failure to appear.
 - b. Upon a second or subsequent failure to appear, the Children's Court may:
 - i. Forward to the Presenting Officer for review under Chapter 11 of this Code ; and
 - ii. Following a hearing on the matter, impose additional or modified conditions of release or.
 - iii. Issue a pick-up and hold Order and bring the juvenile forward at the next available court date.

2. If the child's parent, guardian, or custodian fails to appear before the Children's Court after being so ordered, or fails to bring the child before the Children's Court after being so ordered:
 - a. Upon a first or subsequent failure to appear, the Children's Court may:
 - i. Issue a new summons; and,
 - ii. Issue a warning to the child's parent, guardian, or custodian regarding the potential consequences of a subsequent failure to appear.
 - b. Upon a second or subsequent failure to appear, the Children's Court may:
 - i. Issue a bench warrant directing that the child's parent, guardian, or custodian be brought before the Children's Court to show cause why they would not be subject to sanctions; and
 - ii. Absent a showing of good cause for failure to appear, impose upon the child's parent, guardian, or custodian a fine of up to \$100.
 - c. Upon a third or subsequent failure to appear, the Presenting Officer may refer the proceeding to the Prosecutor's Office for criminal contempt in accordance with Title IV, Chapter 904 against the child's parent, guardian, or custodian.
3. If a fine is imposed upon the child's parent, guardian, or custodian, the Children's Court shall:
 - a. Consider the ability of the child's parent, guardian, or custodian to pay any fine to be imposed;
 - b. Not impose a fine that would cause undue hardship for the child's parent, guardian, custodian, or family; and
 - c. Consider alternative disposition such as community services in lieu of imposing a fine.

6-805. Interrogation after Petition is Filed.

1. An interrogation occurs when a law enforcement officer or other official asks a child a question, or subjects a child to any words or action, that the law enforcement officer or other official knows or should know is reasonably likely to elicit an incriminating response.
2. A custodial interrogation is any interrogation during which a reasonable person of the child's age and in the child's position would consider himself or herself to be unable to terminate the encounter.
3. No child shall be subject to custodial interrogation, unless the child's parent, guardian, or custodian, or counsel for the child, is present.
4. Prior to interrogating a child on a custodial interrogation, the law enforcement officer or other official shall advise the child, in language the child will easily understand:
 - a. The child has the right to remain silent, and anything the child says may be used against the child in court;

- b. That the child has the right to have his or her parent, guardian or custodian present during any questioning;
 - c. That the child has the right:
 - i. To be represented by counsel;
 - ii. To consult with counsel prior to any questioning; and,
 - iii. To have counsel present during any questioning.
5. Prior to initiating or resuming the interrogation of any child, the law enforcement officer or other official shall again advise the child as required by this section:
- a. If there has been any lapse in time since the prior advisement, including but not limited to circumstances in which the interrogation is resumed or reinitiated after ceasing or being interrupted for any reason; or
 - b. If the law enforcement officer or other official is not the person who most recently advised the child as required by subsection (a), and:
 - i. The law enforcement officer or other official was not present during the prior advisement; or
 - ii. The child was unaware that the law enforcement officer or other official was present during the prior advisement.

6-806. Delinquency Petition.

- 1. All Petitions shall be referred to the Presenting Officer.
- 2. Upon receipt of an Affidavit from Law Enforcement, Child Protection Services, or any other investigative agency, the Presenting Officer may conduct a preliminary investigation and review the merits of the Affidavit and support documents.
- 3. The Presenting Officer shall be required to file with the Clerk of the Children's Court, a petition to have any child subject to the jurisdiction of the Court declared a delinquent child.
- 4. The Petition shall include the following:
 - a. The name, address, and telephone number of the petitioner;
 - b. The name of the child;
 - c. The name of the child's parent, guardian, or custodian, if known;
 - d. The reason(s) why the petitioner believes the child is a delinquent child;
 - e. A citation of the specific criminal statute or other law or ordinance that the child is alleged to have violated, if known;
 - f. Plain and concise statement of facts on which the allegations are based, including:
 - 1. The date and time;
 - 2. The location at which the alleged facts occurred;

- g. Affidavit from the Juvenile Officer attesting to the actions taken by the Juvenile Officer to avoid the intervention of the Children's Court and its recommendation that delinquency proceedings be initiated.
 - h. Any available supporting evidence, including affidavits or written statements from social workers, childcare professionals, or members of the community.
- 5. The Presenting Officer may conduct an informal conference with the child, child's parent, guardian, or custodian, and counsel for the child to assist in making its determination regarding the merits of the allegations. The informal conference shall be treated as a non-adversarial effort to resolve the issues presented by the child's alleged conduct, without the intervention of the Children's Court and to assist the Presenting Officer in his/her determination as to whether the alleged facts are sufficient to support the filing of a delinquency petition and to identify and discuss services, intervention, agreements or other alternatives that would render the filing of a delinquency petition unnecessary. Statements made by the child during the informal conference shall be inadmissible in any subsequent hearing or proceeding as evidence that the child committed a delinquent act.
- 6. Following the Presenting Officer's review and investigation of the allegations, the Presenting Officer shall:
 - a. Take no further action if the Presenting Officer concludes that:
 - i. The alleged facts are insufficient to support the filing of a delinquency petition or the submission of a request for supervision and therefore, the matter shall be dismissed; or,
 - ii. The best interests of neither the child nor the community require that further action be taken, and the matter shall be dismissed.
 - iii. If the child is in custody, immediate release of the child upon filing of a dismissal of the petition.
 - b. Initiate delinquency proceeding by filing a Petition if the Presenting Officer has determined that:
 - i. The alleged facts are sufficient to support the submission of a request for supervision;
 - ii. The best interests of either the child or the community require the intervention of the Children's Court; and,
 - iii. The best interests of both the child and the community may be adequately addressed through child-in-need-of-services proceedings.
- 7. Upon the filing of the Petition, the Children's Court shall issue a written summons, to be served upon:
 - a. The child;
 - b. The child's parent, guardian, or custodian; and
 - c. Any other person whose presence the Children's Court deems necessary for the initial hearing.

6-807. Delinquency Petition – Time for Filing and Pre-trial Detainment hearing.

When the child was taken into custody, the delinquency petition shall be filed:

1. Within one (1) business day if the child has not been released. The child must be brought before the Children's Court for a pre-trial detainment hearing. At the hearing following the filing of the Petition, the Children's Court must determine whether the child will be released or put on a detainment order, with notice provided to the child's parent, guardian or custodian and recording of the hearing; or
2. Within ten (10) days after the detention hearing, if the child has been released on conditions

6-808. Detainment Orders.

A Children's Court may issue a written order that a law enforcement officer shall take a child into immediate custody if:

1. The Children's Court finds, based on a filed affidavit or sworn testimony before the Children's Court, that there is probable cause to believe:
 - a. The child has violated prior conditions of release imposed by the Children's Court;
 - b. The child has committed a delinquent act or has violated a disposition order entered by the Children's Court and:
 - i. The child will leave the jurisdiction of the Court; or,
 - ii. The child will commit other delinquent acts or harm to the health and welfare of themselves, other person(s), or property.
- 2.
3. All detainment orders issued shall specify:
 - a. That the child is to be brought immediately before the Children's Court; or,
 - b. That the child is to be returned to the custody of the child's parent, guardian, or custodian.

6-809. Grounds for Detention.

A child shall not be detained unless:

1. There is probable cause that a delinquent act has been committed and the child has committed the delinquent act;
2. No less restrictive alternative will suffice, and,
3. There is probable cause to believe that:
 - a. The child will leave the jurisdiction of the Court;
 - b. The child will commit other delinquent acts or harm to the health, welfare, or safety of themselves, other person(s), or property; or,

- c. The child is under the influence of alcohol, drugs or inhalants that the child shall not be released until Preliminary Breath Test is .000.
4. The detentionment order specifies the grounds for detentionment.

6-810. Considerations for Delinquent Child Under Care and Custody of Title IV-E

This section shall apply only to any child who has been deemed as a delinquent child or under the care, custody, and/or receiving benefits under Title IV-E of the Social Security Act to ensure compliance with the Adoption and Safe Families Act.

1. Before entering an order authorizing detention, the Children's Court shall determine, on a case-by-case basis:
 - a. Whether continuation in the home of the child's parent, guardian, or custodian is contrary to the child's health, safety, and welfare; and
 - b. Whether there are available services that would prevent or eliminate the need for detention.
2. If the child can be returned to the custody of the child's parent, guardian or custodian through the provision of services to prevent or eliminate the need for removal, the Children's Court shall release the child to his or her parent, guardian or custodian, and order that those services be provided.
3. If the child cannot be returned to the custody of the child's parent, guardian or custodian, the presenting officer shall, as soon as possible, provide referrals for services to enable the child's parent, guardian, or custodian to obtain any assistance that may be needed to effectively provide the care and control necessary for the child to return to the home.
4. Upon entering an order authorizing detention, and in no event later than sixty (60) days following the child's removal from the home of the child's parent, guardian or custodian, the Children's Court shall determine whether reasonable efforts have been made to safely maintain the child in the home.
5. Upon making the determinations required by this section, the Children's Court shall enter written findings of fact referencing any and all evidence relied upon in reaching its decision.

6-811. Less Restrictive Alternatives to Detention.

Before ordering that a child be detained, the law enforcement officer, presenting officer, juvenile officer, or Children's Court shall consider, and may impose, the least restrictive alternatives to detention that is consistent with the best interests of the child and the safety of the community, such as:

1. Compliance with Tribal law;
2. A Court-imposed curfew;
3. Electronic home monitoring or similar means of monitoring the child's whereabouts;
4. Community supervision; and
5. Other types of conditional or supervised release.

Whenever the Children's Court orders the detention of a child, the order shall include a statement of the Children's Court's reasons for rejecting the less restrictive alternatives. '

6-812. Place of Detention or Shelter Care.

A child alleged to be a delinquent child may be detained, pending a court hearing, in either a private family home, or facility approved by the Tribe or Tribal Court.

6-813. Release of a Child from Custody.

A child must be released from custody immediately following the next regular court session, unless otherwise ordered by the Court. When releasing the child from custody, the presenting officer shall:

1. Release said child to his parent, guardian, or custodian unless detention or shelter care is appropriate;
2. When the guardian or custodian cannot be located by the next regular court session, file a Petition for abuse, neglect, deprivation, or abandonment, pursuant to Section 10 of this Title placing the child in the custody of a relative, social services, or other agency approved by the Tribe, pending further disposition of the matter; or,
3. If the child is in need of medical attention, release said child to a medical facility or otherwise obtain such medical attention prior to proceeding in accordance with other provisions of this Chapter.
4. Provide the child and the child's parent, guardian, or custodian the contact information for the child and any social, community, or tribal services or resources that may be appropriate for addressing the needs of the child and the child's parent, guardian, or custodian.

6-814. Conditions of Disposition Agreement.

The conditions of a disposition agreement may include any of the following:

1. Referral of the child or the child's parent, guardian or custodian to social, community, or tribal services or resources appropriate for addressing the needs of the child and the child's parent, guardian or custodian;
2. Participation in tribal peacemaking or other extrajudicial alternatives for resolving conflicts or disputes;
3. Participation by the child in cultural, educational, or other programs or activities aimed at rehabilitation, community involvement, or competency development, or which are otherwise appropriate for addressing the child's needs;
4. Participation by the child or the child's parent, guardian or custodian in an educational or counseling program designed to deter delinquent acts or other conduct or conditions which would be harmful to the child or the community;

5. Participation by the child's parent, guardian or custodian in an educational or counseling program designed to contribute to their ability to care for and supervise the child, including but not limited to parenting classes;
6. A requirement that the child or the child's parent, guardian or custodian undergo medical, psychological, or psychiatric examination or treatment;
7. A requirement that the child pay restitution;
8. A requirement that the child perform community service;
9. A requirement that the child maintain satisfactory school attendance, or otherwise pursue a course of study designed to lead to achieving a high school diploma or the equivalent;
10. Participation by the child in structured after-school, evening, or other court-approved programs appropriate for addressing the needs of the child and providing for the safety of the community; and,
11. Other reasonable conditions aimed at:
 - a. Holding the child accountable for his/her actions;
 - b. Providing for the safety and protection of the community; or
 - c. Promoting the development of competencies that will enable the child to become a responsible and productive member of the community.

6-815. Notice to Children's Court.

The Presenting Officer shall immediately file written notice in the Children's Court whenever:

1. The Children's Court has entered a detention order, or any order imposing restrictions or other conditions or obligations upon the child in connection with the matter; and
2. The Presenting Officer determines that:
 - a. No further action shall be taken in the matter;
 - b. The matter should proceed by way of a diversion agreement; or
3. Upon the filing of the written notice, the Children's Court shall enter a written order releasing the child from any detention, restrictions or other conditions or obligations previously imposed in connection with the matter and if the child is being detained, the child shall be released as soon as practical after the entry of the order of release.

6-816. Initial Hearing – Time Limit.

The initial hearing shall be held:

1. Within seventy-two (72) hours or by the next regular Court session from the filing of the delinquency petition, if the child was taken into custody and has not been released; or
2. Within ten (10) business days of the filing of the delinquency petition, if the child was not taken into custody or has been released.

6-817. Initial Hearing – Procedure.

1. At the initial hearing, the Children’s Court shall advise the child and his/her parent or legal guardian, in language the child will easily understand, of the following:
 - a. The nature and purpose of the proceedings;
 - b. The content of the delinquency petition;
 - c. The possible consequences, if the child is found to have committed a delinquent act;
 - d. The right to counsel at their own expense or utilization of the Public Defender’s Office if the offense charged would be a felony if committed by an adult;
 - e. The privilege against self-incrimination;
 - f. The right to an adjudication in accordance with the provision of this Chapter;
 - g. The right to cross-examine witnesses;
 - h. The right to testify, the right to subpoena witnesses, and the right to introduce evidence on the child’s own behalf;
 - i. The right to appeal any final order of the Children’s Court.
2. At the hearing, the child shall enter a plea to either admit or deny the allegations in the delinquency petition.
3. If the child admits to the allegations, a disposition hearing shall be immediately held.
4. If the child denies the allegations, an adjudication hearing shall be held within sixty (60) days, regardless of whether the child is in custody.
5. The Presenting Officer may consider diversion and/or deferral alternatives for the matter including, deferral of the child to the healing to wellness program, chemical and mental health evaluation, or other appropriate programs.

6-818. Adjudication Hearing.

The final adjudication shall be held within thirty (30) days if the child is detained and sixty (60) days of the filing of the Petition if the child is not detained, unless further extended by the Court.

6-819. Adjudication Hearing – Burden of Proof.

The burden of proof in proving the allegations of the delinquency petition is beyond a reasonable doubt.

6-820. Court Issued Subpoenas.

- The Court shall serve prior written notice of the date, time, and place of the final hearing upon:
- a. Any person authorized to represent the child;
 - b. The child’s parent, guardian, or custodian;

- c. Any person or witnesses identified by the Presenting Officer or the child within ten (10) days from the initial hearing; and
- d. Such witnesses the court deems necessary.

Notices shall be served in person, or by certified mail, return receipt requested. The Court shall issue subpoenas to any person(s) the Court believes necessary for the proper adjudication of the matter. The subpoena shall be served personally by a law enforcement officer or designated official of the Court.

Service of a subpoena shall be made by delivering a copy of it to the person named or by leaving a copy at their place of residence or business with any adult who also resides or works there and the adult signs and indicates job title, if at the place of work; or, by certified mail, return receipt requested. Subpoenas must be issued and served at least five (5) days prior to the hearing.

6-821. Adjudication Hearing Procedure.

- 1. The presenting officer shall present the matter to the Court.
- 2. The child and the child's parents(s) or guardian must be physically present at the adjudication hearing.
- 3. The child or his authorized representative, and the parent, guardian or custodian, may summon or produce such witnesses and relevant evidence as they may desire, and may be represented by counsel at their own expense.
- 4. On the Court's motion, or motion of the presenting officer, the child, his parent, guardian, custodian, or authorized representative, the Court may continue the hearing for good cause. If the child is being detained, a hearing will be held to determine whether continued detainment is necessary or if the child may be released pending the adjudication hearing.
- 5. If the Court shall find, after final hearing, that there is evidence beyond a reasonable doubt that the child is a delinquent child, the Court shall determine the proper disposition of the child. The disposition shall be made immediately following the adjudication, unless the parties or the Court requests a separate hearing to determine the proper disposition. If a separation disposition hearing is requested, proper notice shall be given to all parties.

6-822. Disposition Hearing.

The disposition hearing shall be made immediately following the adjudication hearing, if the Court declares the child is a delinquent child. If the parties request a separate hearing after the adjudication hearing, the disposition hearing must be held within ten (10) business days of the adjudication hearing if the child was taken into custody and not released or thirty (30) business days of the adjudication hearing if the child was not taken into custody.

6-823. Factors for Disposition Hearing.

In all cases, the Children's Court shall enter the least restrictive order appropriate considering:

- 1. The nature and seriousness of the delinquent act;

2. The circumstances, age, mental and physical condition of the child;
3. The child's culpability, as indicated by the circumstances of the particular case;
4. The placement and services available for rehabilitation; and
5. The child's past record of delinquency, if any.

6-824. Disposition Orders.

If the Children's Court finds the child is delinquent, the Children's Court may enter:

1. A written order deferring disposition for a period not to exceed six (6) months and setting forth:
 - a. Particular conditions to be fulfilled by the child and the child's parent, guardian, or custodian during the deferral period; and
 - b. The ending date of the deferral period.
2. A written order including any of the following, as best suited to the needs of the child and safety of the community:
 - a. An order permitting the child to remain with his or her parent, guardian or custodian, subject to such conditions and limitations as the Children's Court may prescribe;
 - b. An order requiring the child or the child's parent, guardian or custodian to participate in an educational or counseling program designed to deter delinquent acts or other conduct or conditions presenting a threat to the welfare of the child or the community;
 - c. An order requiring the child's parent, guardian or custodian to participate in an educational or counseling program designed to contribute to their ability to care for and supervise the child, including but not limited to parenting classes;
 - d. An order requiring the child or the child's parent, guardian or custodian to undergo a medical, psychological, or psychiatric evaluation;
 - e. An order requiring the child or the child's parent, guardian or custodian to undergo medical, psychological, or psychiatric treatment, where such treatment is:
 - i. Recommended by a qualified medical, psychological, or psychiatric professional; and
 - ii. Necessary to:
 - i. Address conditions that contributed to the child's adjudication; or
 - ii. Allow the child to remain with or be returned to the custody of the child's parent, guardian, or custodian.
 - f. An order requiring the child to pay restitution;
 - g. An order requiring the child to perform community service;

- h. An order requiring the child to attend structured afterschool, evening, educational, vocational or other court-approved programs appropriate for meeting the needs of the child and providing for the safety of the community;
 - i. An order prohibiting the child from driving a motor vehicle for a period not to exceed the date on which the child reaches eighteen (18) years of age;
 - j. An order placing the child in the temporary legal custody of a relative or other responsible adult, subject to such conditions and limitations as the Children's Court may prescribe;
 - k. An order providing for supervised or conditional release;
 - l. An order providing for the detention or other out-of-home placement of the child.
3. All disposition orders shall provide for periodic review hearings to monitor the child's compliance of the disposition orders.

6-825. Disposition Orders – Review and Modification.

- 1. The Children's Court shall conduct review hearings of any disposition orders:
 - a. At least once every six (6) months, if the child is not detained or in an out-of-home placement;
 - b. At least once every thirty (30) days, if the child is detained in a secure juvenile detention facility;
 - c. At least once every thirty (30) days, if the child is in an out-of-home placement other than detention in a secure juvenile detention facility.
- 2. Upon motion of any party, the Children's Court may modify its disposition orders if the Children's Court finds by clear and convincing evidence that such modification or extension is necessary to accomplish the purposes of the orders to be modified.
- 3. In making the determination to grant a modification, the Children's Court may consider:
 - a. The extent to which the child and the child's parent, guardian or custodian have complied with any disposition orders previously entered by the Children's Court;
 - b. Evidence that the child has committed a subsequent delinquent act;
 - c. Changes in treatment or other recommendations relied upon by the Juvenile Court in entering the orders to be modified; and
 - d. Any other material changes in the circumstances of the child or the child's family, parent, guardian or custodian.
- 4. An order extending the disposition order shall not exceed six (6) months from the expiration of the prior order, and in no event shall the duration of the disposition order be extended:
 - a. For longer than reasonably necessary to accomplish the purpose of the order;
 - b. Beyond a total of three (3) years; or

- c. Past the date on which the child shall reach twenty-one (21) years of age.

Chapter 9 – Status Offender

6-901. Purpose.

The purpose of this chapter is to set out rules and proceedings for adjudication of a minor child as a status offender.

6-902. Definitions.

For the purposes of this Chapter, the following terms shall be defined as follows:

1. Consumption or Possession of Alcohol, Drugs, or Inhalant – a child, under the age of eighteen (18), who consumes or has in his/her possession alcoholic beverages, drugs, or inhalants for unlawful purposes.
2. Runaway:
 - a. A child who, without good cause, and without the consent of his or her parent, guardian, or custodian, is intentionally absent from the child's home or legal residence:
 - i. With the intent to abandon the child's home or legal residence;
 - ii. For a period of more than 12 hours;
 - iii. Outside of curfew hours;
 - iv. In circumstances presenting an imminent threat to the child's physical safety.
 - b. A child who has intentionally abandoned a placement order by the Children's Court or another court having jurisdiction over the child.

6-903. Petition.

1. Any person may submit to the Standing Rock Tribal Children's Court a petition to have any child subject to the jurisdiction of the Court declared a status offender.
2. The Petition shall include the following:
 - a. The name, physical and mailing address, and telephone number of the petitioner;
 - b. The name of the child;
 - c. The name of the child's parent, guardian, or custodian, if known;
 - d. The reason(s) why the petitioner believes the child is a status offender; and
 - e. Any available supporting evidence, including affidavits or written statements from social workers, childcare professionals, or members of the community.
3. All petitions shall be referred to the presenting officer for screening. The presenting officer shall recommend:

- a. The petition be dismissed for lack of merit;
- b. Further proceedings begin pursuant to the petition.

6-904. Taking a Status Offender into Custody.

- 1. Should the presenting officer have probable cause to believe a child is a status offender, the presenting officer may recommend that an order be issued by the Children's Court directing that an alleged status offender be taken into custody and placed in detention or shelter care.
- 2. A child shall not be detained for status offenses unless the parent, guardian, or custodian cannot be located, or the presenting officer makes a determination that detention would be in the best interest of the child.
- 3. In no event shall a status offender be kept in custody for more than seventy-two (72) hours, unless ordered by the Court, in writing, to be detained longer.

6-905. Temporary Detention for Status Offenders.

- 1. A child alleged to be a status offender or may be detained, pending a court hearing, in the following places:
 - a. A foster care facility on the reservation license or approved by the Tribe;
 - b. A detention facility on the reservation approved by the Tribe; or,
 - c. A private family home on the reservation approved by the Tribe.
- 2. Criteria for detention or shelter exists if the Court, Juvenile Officer, or Presenting Officer determines that there is reasonable cause to believe that:
 - a. The child is likely to suffer physical or severe emotional harm if released to the parent, guardian, or custodian;
 - b. The child may leave the jurisdiction of the Court; or the child may commit other status offenses.

6-906. Release of Child from Custody.

- 1. Law Enforcement Officer – a law enforcement officer taking an alleged status offender into custody shall:
 - a. Release the child to his parent, guardian, or custodian and notify the court counselor or child advocate of such release; provided however, that any child taken into custody shall not be released until that child registers .000 on the Preliminary Breath Test (PBT);
 - b. Deliver the child to the detention or shelter care; or
 - c. Deliver the child to a medical facility if the child is believed to be in need of prompt medical attention and/or treatment.

2. The presenting officer, immediately, upon delivery of the alleged status offender, shall review the need for detention or shelter care and shall:
 - a. Release said child to his parent, guardian, or custodian unless detention or shelter care is appropriate pursuant to section 6-904 of this Code; and
 - b. In all cases the child shall be released to his parent, guardian, or custodian within seventy-two (72) hours of the time taken into custody, unless ordered, in writing, to be held longer by the court.
 - c. Petition the Court to order placement of the child in the custody of CPS when the legal guardian or custodian cannot be located pending further disposition.

6-907. Adjudication and Disposition Hearings.

The initial hearing, adjudication, and disposition shall proceed as set forth in Chapter 8 of this Title.

6-908. Disposition Orders.

If the Children's Court finds the child is a status offender, the Children's Court may enter:

1. A written order deferring disposition for a period not to exceed six (6) months and setting forth:
 - a. Particular conditions to be fulfilled by the child and the child's parent, guardian, or custodian during the deferral period; and
 - b. The ending date of the deferral period.
2. A written order including any of the following, as best suited to the needs of the child and safety of the community:
 - a. An order permitting the child to remain with his or her parent, guardian or custodian, subject to such conditions and limitations as the Children's Court may prescribe;
 - b. An order requiring the child or the child's parent, guardian or custodian to participate in an educational or counseling program designed to deter status offenses or other conduct or conditions presenting a threat to the welfare of the child or the community;
 - c. An order requiring the child's parent, guardian or custodian to participate in an educational or counseling program designed to contribute to their ability to care for and supervise the child, including but not limited to parenting classes;
 - d. An order requiring the child or the child's parent, guardian or custodian to undergo medical, psychological, or psychiatric treatment, where such treatment is:
 - i. Recommended by a qualified medical, psychological, or psychiatric professional; and
 - ii. Necessary to:
 - i. Address conditions that contributed to the child's adjudication; or

- ii. Allow the child to remain with or be returned to the custody of the child's parent, guardian, or custodian.
 - e. An order requiring the child to pay restitution;
 - f. An order requiring the child to perform community service;
 - g. An order requiring the child to attend structured afterschool, evening, educational, vocational or other court-approved programs appropriate for meeting the needs of the child and providing for the safety of the community;
 - h. An order prohibiting the child from driving a motor vehicle for a period not to exceed the date on which the child reaches eighteen (18) years of age;
 - i. An order placing the child in the temporary legal custody of a relative or other responsible adult, subject to such conditions and limitations as the Children's Court may prescribe;
 - j. An order providing for supervised or conditional release;
 - k. An order providing for the detention or other out-of-home placement of the child.
3. All disposition orders shall provide for periodic review hearings to monitor the child's compliance of the disposition orders.

6-909. Exceptions.

A status offender may not be committed to a residential facility unless it has been determined by treating professionals based upon an evaluation that it is in the child's best interest to do so.

Chapter 10- Truancy

6-1001. Compulsory School Attendance.

1. Every child under eighteen (18) years of age residing or domiciled on the Standing Rock Sioux Reservation shall attend a public or tribal school full-time when school is in session, unless:
- a. The child is attending a private school certified by the state of North Dakota or South Dakota;
 - b. The child is receiving home-based instruction;
 - c. The superintendent of the school district in which the child resides has excused the child from attendance because the child:
 - i. Is physically or mentally unable to attend school;
 - ii. Is detained in a secure juvenile detention facility or other correctional facility;
 - iii. Has been temporarily excused upon the request of the child's parent, guardian, or custodian for purposes agreed upon by the school authorities and the parent; or

- iv. Is sixteen (16) years of age or older and has already met graduation requirements in accordance with state board of education rules and regulations; or
 - v. Has been excused from in-school attendance due to illness, weather conditions or declared emergencies.
- 2. The parent, guardian, or custodian of any Indian child under eighteen (18) years of age residing or domiciled on the Standing Rock Sioux Reservation shall ensure that the child complies with the requirements set forth in subsection (1).
- 3. For the purposes of this chapter, instruction shall be home-based if:
 - a. The instruction consists of planned and supervised instructional and related educational activities established by the state board of education rules and regulations; and
 - b. Such instruction is provided by a parent who is:
 - i. Instructing his or her child, under the supervision of a person certified for such instruction by the state of North Dakota or South Dakota; or
 - ii. Deemed sufficiently qualified to provide home-based instruction by the superintendent of the school district in which the child resides.

6-1002. Informal Truancy Proceedings.

Upon receiving notice from the school that a child is truant, the Presenting Officer shall:

- a. Immediately notify the child's parent, guardian, or custodian, in writing or by telephone;
- b. Inform the child's parent, guardian, or custodian of the potential consequences of additional unexcused absences; and
- c. Within five (5) business days, conduct an attendance review conference with the child, the child's parent, guardian, or custodian, and a representative from the school.

6-1003. Attendance Review Conference.

The purpose of the attendance review shall be:

- a. To review the causes for the child's unexcused absences; and
- b. To discuss steps to improve the child's school attendance.

At the end of the attendance review conference, the Presenting Officer and/or the school representative shall, together with the child and the child's parent, guardian, or custodian, develop an informal attendance plan.

6-1004. Informal Attendance Plan.

An informal attendance plan shall set forth, in writing:

1. A plain statement of the compulsory education requirements;
2. The rights of the child and the child's parent, guardian, or custodian;
3. An acknowledgment that participation in the informal attendance plan is otherwise voluntary, and neither the child nor the child's parent, guardian, or custodian is obligated to comply with the informal attendance plan;
4. The anticipated course of action to be taken if the child continues to accumulate unexcused absences;
5. The causes of the child's unexcused absences, and any perceived barriers to regular school attendance by the child;
6. The specific services and resources available to assist the child and the child's parent, guardian, or custodian to ensure regular school attendance by the child;
7. A comprehensive plan for ensuring that the child and the child's parent, guardian, or custodian obtain the services and resources needed; and
8. The specific actions to be taken by the child and the child's parent, guardian or custodian in accordance with the plan, including the frequency and location of appointments for services and contact with the school representative.

6-1005. Truancy Petition.

The school shall refer appropriate paper work of attendance and recommend that the Presenting Officer file a truancy petition:

1. If the child's parent, guardian, or custodian cannot agree on an informal attendance plan with the school representative;
2. If the child accumulates more than two (2) unexcused absences following the implementation of an informal attendance plan;
3. If the child is in imminent danger of losing credit or being required to repeat a grade level as the result of the child's unexcused absences.

6-1006. Truancy Petition – Contents.

The Petition shall include the following:

1. The name and address of the child;
2. The name of the child's parent, guardian, or custodian, if known;
3. Affidavit that there are sufficient grounds to believe that the child is a truant and what remedial measures, if any, were taken to avoid the intervention of the Children's Court.
4. Any available supporting evidence, including attendance reports, and affidavits or written statements from social workers, childcare professionals, or members of the community.

6-1007. Initial Hearing.

The initial hearing shall be held within seven (7) days of the filing of the truancy petition.

6-1008. Initial Hearing – Conduct.

At the initial hearing, the Children's Court shall advise the child and his/her parent or guardian, in language the child will easily understand, of the following:

1. The nature and purpose of the proceedings;
2. The contents of the truancy petition;
3. The possible consequences if the child is found to be a truant;
4. The right to counsel at own expense;
5. The privilege against self-incrimination;
6. The right to an adjudication in accordance with the provisions of this chapter;
7. The right to cross-examine witnesses;
8. The right to testify, the right to subpoena witnesses, and the right to introduce evidence on the child's own behalf;
9. The right to appeal any final order of the Children's Court.

6-1009. Initial Hearing – Determination of Reasonable Grounds.

At the initial hearing, the Children's Court shall enter a written order dismissing the truancy petition unless the Children's Court finds that the truancy petition sets forth reasonable grounds to believe the child is a truant.

6-1010. Adjudication Hearing.

The adjudication hearing shall be held within seven (7) days of the initial hearing.

6-1011. Adjudication Hearing – Burden of Proof.

The Presenting Officer shall bear the burden of showing, by clear and convincing evidence, that the child is a truant.

6-1012. Disposition Hearing.

Immediately following the adjudication hearing, after the Court finds clear and convincing evidence that the child is a truant, the Children's Court shall proceed with the disposition hearing, unless there is good cause to continue the hearing.

6-1013. Disposition Order.

If the Children's Court finds the child is truant, the Children's Court may enter:

1. A written order setting forth:
 - a. Particular conditions to be fulfilled by the child and the child's parent, guardian, or custodian to ensure the child is attending school, including but not limited to the following:
 1. Requirement that the child participate in tutoring, counseling, or the credit recovery program to meet the educational needs of the child and deter future absences;
 2. Requirement that the child and/or the child's parent, guardian or custodian attend parenting classes, counseling, or social service programs intended to address the underlying causes of truancy.
2. All disposition orders may provide for periodic review hearings to monitor the child's compliance with the disposition order.

Chapter 11 – Abuse, Neglect, Deprived, or Abandoned Children

6-1101. Purpose.

The purpose of this chapter is to set out rules and proceedings for the protection of minors who are abused, neglected, deprived, or abandoned and/or otherwise in need of care and services.

6-1102. Guardian ad Litem.

In all proceedings conducted pursuant this Chapter, the Children's Court may appoint a guardian ad litem if it is in the best interests of the child to do so.

6-1103. Petition.

1. Any person may submit to the Standing Rock Children's Court a petition to have any child, subject to the jurisdiction of the Court, declared a ward of the Court if the child is in need of protection due to the abuse, neglect, deprivation, or abandonment by the child's parent or legal guardian.
2. The Petition shall include the following:
 - a. The name, physical and mailing address and telephone number of the Petitioner;
 - b. The name of the child;
 - c. The name and physical and mailing address of the child's parent, guardian, or custodian, if known;
 - d. A plain and concise statement of facts upon which the petitioner believes the child is abused, neglected, deprived, or abandoned.;

- e. Whether the child is in custody, and if so, the place of detention and the time he/she was taken into custody; and,
 - f. Any available supporting evidence, including proof or statement of paternity, affidavits or written statements from social workers, childcare professionals, or members of the community.
3. All petitions under this section shall be referred to the presenting officer of the Standing Rock Children's Court.

6-1104. Persons Mandated to File Complaint of Abuse or Neglect.

1. The following persons are mandated to report to law enforcement or child protective services within forty-eight (48) hours of suspected abuse, neglect, or other conditions indicating a child is abused or neglected:
 - a. Physicians, nurses, dentists, optometrists, and any other medical, health or mental health worker;
 - b. School principals, school teachers, and other school officials;
 - c. Social workers, child day care center workers or other childcare staff including Head Start employees, foster parents, residential care personnel and institutional personnel;
 - d. Law enforcement officers, judges, or other officers of the Children's Court.
2. Any person or agency filing a written complaint or otherwise reporting in good faith under this section shall be immune from civil liability and criminal prosecution arising from the filing of the written complaint or the making of the report.
3. The communications between a husband and wife, physician and patient or social worker and client shall not be privileged when such communication involves information about the abuse or neglect of a minor. Communications about the abuse or neglect of a minor made between an attorney and client shall be privileged only if the attorney is representing the client in a matter involving the alleged abuse or neglect of a minor by the client.

6-1105. Screening of Petition.

Upon receipt of a petition, the Presenting Officer shall immediately screen the petition. The presenting officer shall determine if the petition is sufficient, on its face, to support a finding of abuse, neglect, deprivation, and/or abandonment as defined in this Code. If the petition lacks merit, the petition shall be dismissed without further court proceeding.

6-1106. Emergency Protective Custody.

1. A child may be placed in emergency protective custody by the following:
 - a. Any licensed physician; or
 - b. Any law enforcement officer;

- c. Any tribal or Bureau of Indian Affairs social worker;
 - d. A child protection services case worker.
2. Upon reasonable belief that the following exists:
 - a. It is contrary to the welfare of the child to remain in the home due to potential for immediate physical, emotional, or psychological harm or injury; and
 - b. Reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need for removal.
 3. When a child is placed in emergency protective custody without a court order by an authorized person as identified under subsection (1), the authorized person shall submit to the presenting officer an affidavit with evidence supporting the emergency protective custody within twenty-four (24) hours, not including weekends and holidays following removal of the child.
 4. The parent, guardian, or custodian of the child shall be notified immediately, or as soon as possible, after a child is placed in emergency protective custody.
 5. Preference for emergency protective custody shall be with the least restrictive placement, including the following:
 - a. Within the Tiwahe and Tiospaye, including immediate families of brothers and sisters, their descendants, and relatives adopted through formal ceremony;
 - b. With an adult community member who meets the foster care licensing requirement established by the Child Protective Services;
 - c. In a licensed foster home located within the Reservation;
 - d. In a licensed foster home located off the Reservation; or
 - e. In an institution for children that has a program suitable to meet the child's needs.
 6. In no event shall a child be kept in protective custody, without a court order, for more than seventy- two (72) hours.

6-1107. Initial Hearing.

1. After receiving a petition, the Court shall immediately schedule an initial hearing to be held immediately if possible and in all cases:
 - a. Within seventy-two (72) hours of the time a child is placed in protective custody; or
 - b. Within ten (10) days if the child is not in protective custody.
2. The Court shall make every reasonable attempt to notify, by telephone and other means, the child and the child's parent, guardian, or custodian of the time and place of the initial hearing. To assist in notifying the parent or legal custodian, Child Protection Services shall serve a temporary custody notice (TCN) upon the parents and/or legal custodians at the time of removal. If the parents' whereabouts are unknown, Child Protection Services

with the assistance of law enforcement, shall make reasonable efforts to serve the TCN on the parents/legal guardians prior to the Initial Hearing.

3. The Court may appoint a guardian ad litem to represent the child in all proceedings under this chapter.
4. The initial hearing shall be conducted informally and shall be closed to the public

6-1108. Basic Rights.

At all stages of all proceedings under this Chapter, the child and the child's parent, guardian, or custodian, shall be advised of their basic rights as defined in this Title including:

1. The right to be present
2. The right to obtain counsel at his/her own expense;
3. The right to deny the allegations in the Petition
4. The right to present evidence, testify, and call their own witnesses
5. The right to cross-examine the Tribe's witnesses
6. The right to a fair and speedy hearing, and
7. The right to appeal within 30 days of a final order

6-1109. Admission.

At the initial hearing, if the parent, guardian, or custodian acknowledges and admits to the content of the Petition, the presenting officer, child protection services investigator and/or caseworker shall make a recommendation for a disposition or request that a disposition hearing be held at a separate time. The Court shall enter a disposition in the best interests of the child in order to appropriately address the reason for removal and reunify the family.

6-1110. Denial.

At the initial hearing, if the parent, guardian, or custodian denies the allegations to the content of the Petition, the Court shall schedule an adjudication hearing

6-1111. Adjudication – Burden of Proof.

The Presenting Officer shall bear the burden of proving, by clear and convincing evidence, that the child is abused, neglected, abandoned, or deprived.

6-1112. Adjudication Hearing – Time Limit.

The adjudication hearing shall be held as soon as possible and, in all cases, within sixty (60) days from the initial hearing, unless continued by the Court upon motion by any party. In no cases shall the evidentiary hearing be held beyond ninety days of the filing of the petition.

6-1113. Adjudication Hearing – Conduct and Procedure.

1. The Children's Court shall conduct the adjudication hearing, informally and without a jury.
2. The rules of evidence shall be relaxed to ensure the hearing is conducted in a manner that will result in a disposition that is in the best interests of the child.
3. The adjudication hearing shall be closed to the public.
4. The Tribe, by and through the Presenting Officer, may summon witnesses and produce any relevant evidence. The Presenting Officer shall list the names of witnesses known to him/her and provide notice of those names to the child, the child's counsel, the child's parent, guardian, or custodian, and the Children's Court, upon request
5. The child, the child's counsel, and the child's parent, guardian, or custodian may summon or produce such witnesses and relevant evidence as they may desire, and may be represented by counsel at his/her own expense. The child, and the child's counsel, and the child's parent, guardian, or custodian shall list the names of witnesses and provide notice of those names to the Presenting Officer and the Children's Court upon request.
6. The parties shall be afforded the opportunity to cross-examine and have prior access to the contents and conclusions of any reports, testimony, or other evidence to be considered by the Children's Court.
7. The Children's Court may require the testimony of a physician based on an examination of the child.
8. The Children's Court shall be authorized, in its discretion, to accept licensed social workers as expert witnesses for the purposes of providing testimony.
9. If the Children's Court finds after the adjudication hearing that there is clear and convincing evidence that the child is abused, neglected, abandoned, or deprived, the Court may hold a dispositional hearing to determine the proper disposition under this Chapter. Otherwise, the petition shall be dismissed

6-1114. Adjudication Hearing – Hearsay.

An out-of-court statement not otherwise admissible as hearsay shall be admissible in the adjudication hearing if:

1. The statement was made by the child;
2. The Court finds that the content and circumstances of the statement and the reliability of the person to whom the statement is made provide sufficient basis for reliability.

6-1115. Disposition Hearing.

1. The Court shall make such disposition as is in the best interests of the child. In all cases where the child is placed outside the home, the case worker shall prepare a case service plan designed to obtain needed counseling and other services for the child and reunite the child with the family.

2. The Court may also order one of the following dispositions, in suggested order of preference, while the parent or guardian completes tasks in the case plan necessary to ensure the safe return of the child to the parent or guardian's custody place the child:
 - a. Within the Tiwahe and Tiospaye, including immediate families of brothers and sisters, their descendants, and relatives adopted through formal ceremony;
 - b. With an adult community member who meets the foster care licensing requirement established by the Child Protective Services;
 - c. In a licensed foster home located within the Reservation;
 - d. In a licensed foster home located off the Reservation; or
 - e. In an institution for children that has a program suitable to meet the child's needs
3. If the child is not placed in the child's parent, guardian, or custodian's custody, the Children's Court may require the parent to rectify the conditions that formed the basis for the petition. When the parents fulfill the requirements of the order or at a minimum those services or conditions that are necessary to ensure the child's safety and well-being, the Court shall return the child to the parent, guardian, or custodian's custody.
4. An order of disposition made shall remain in force for an indeterminate period, but not to exceed the child's eighteenth (18th) birthday, subject to periodic review not to exceed six (6) months

6-1116. Periodic Review Hearing.

1. The Court shall review the need for out-of-home placement or compliance with the disposition order or service case plan 12 months after disposition for permanency planning, and at least every twelve (12) month thereafter.
2. During the review hearing, the Court shall determine if the basis for the original removal does or does not remain in existence and/or compliance with the case service plan.
3. Prior to each Review Hearing, the case worker shall file a written Report to the Court with the Clerk of Court. The report shall detail the status of the child(ren), the status of the parents or guardians, compliance or noncompliance with the case plan, and recommendations. The Report to the Court should be filed at least three (3) days prior to the hearing.
4. If the Court finds that there is no longer clear and convincing evidence that grounds for removal exists, the Court shall modify the order of disposition and return the child to the parent, guardian, or custodian.

If the Court finds there is clear and convincing evidence that grounds for removal remain, the Court shall issue a new order setting forth such terms and conditions as may apply.

6-1117. Permanency Plan.

For every child adjudicated as abused, neglected, abandoned, or deprived who has been removed from his parent, guardian, or custodian for the past 12 months, the Child Protective Services together with the child's parent, guardian, custodian, juvenile officer, and presenting officer, shall prepare a Permanency Plan for the purposes of facilitating and encouraging reunification of the family or an alternative disposition that is in the best interests of the child considering the circumstances.

6-1118. Prohibition of Civil Custody Petitions.

When there is an open child welfare case, in which a minor child or child(ren) have been declared ward(s) of the Tribal Court, with care, custody, and control granted to Child Protection Services, the Court shall not entertain a Petition for Custody filed in civil court. Any request for placement or permanent custody must be requested through Child Protection Services and presented to the Court through the child welfare case.

Chapter 12 – Termination of Parental Rights

6-1201. Purpose.

The purpose of this chapter is to provide for the protection and promotion of the best interest of Indian children through the termination of the parent-child relationship by court order.

6-1202. Termination of Parental Rights.

Any person who has a legitimate interest in the welfare of a child may file a petition for the termination of the parent-child relationship if one or more of the following grounds exist:

1. In the event that either parent or both parents wish to voluntarily terminate their rights to a child, it must be proven to be in the best interest of the child by the parent. Termination of parental rights is at the discretion of the Children's Court;
2. That the parent or parents have abandoned the child and the parent or parents have made no effort to maintain a parental relationship. It shall be prima facie evidence of abandonment that the parent or parents, although having legal custody of the Child, have surrendered physical custody of the child, without adequate provisions for its care, and for a period of six (6) months following such surrender have not manifested by some affirmative act to the child or to the person having the physical custody of the child an intent to resume physical custody or to make arrangements for the care of the child; or
3. That a parent, who is subject to abuse, neglect, deprivation, or abandonment and/or neglect proceedings, has inflicted or attempted to inflict injury or cruel punishment upon the child or has continued to refuse or neglect to provide the child with necessary food, clothing, shelter, medical care or education.

6-1203. Petition for Termination of Parental Rights.

1. The Petition for Termination of Parental Rights shall include:
 - a. The name and place of the residence of the petitioner;
 - b. The name, sex, date, and place of birth and place of residence of the child;
 - c. The name, address, and date of birth of the parent;
 - d. Enrollment status of the child and parent;
 - e. The name and address of the person having legal custody or guardianship of the child, or acting in place of the parent of the child;
 - f. Plain and detailed statement the reasons for petitioning for termination of the parent-child relationship or the ground(s) on which termination of the parent-child relationship is sought;
 - g. Documentation of prior services and programming offered to the parent in order to prevent termination; and
 - h. A copy of any relinquishment or consent, if executed by the parents.
2. A petition for voluntary termination of parental rights shall not be accepted unless:
 - a. The petition shall include a notarized consent by the parents after they have read and understood their parental rights and the implications to their rights once the termination has been granted;
 - b. The petition is signed after thirty (30) days of the birth of the child; and,
3. At any time prior to the entry of the final order terminating parental rights, a parent may withdraw his or her consent to voluntarily terminate his or her parental rights.

6-1204. Procedure.

1. After a petition has been filed, the Court shall set the time and place for the hearing. The hearing must be held within ninety (90) days of receipt of the Petition.
2. Notice of the hearing shall be served on:
 - a. The petitioner;
 - b. The child or child's authorized representative;
 - c. The parent, guardian, or custodian; and
 - c. Any such persons as the Court determines are necessary for the proper adjudication of the matter.
3. Notice to the child and parent shall advise the parties of their basic rights as defined under this Title.
4. Service shall be made personally by a law enforcement officer or an officer of the Court, by certified mail, return receipt requested. If personal service or service by certified mail

is not possible, the Court shall publish notice in a newspaper designated to reach the parent(s), with said publication expenses to be paid by the Petitioner.

6-1205. Waiver of Notice and Appearance.

1. In the case of a petition for voluntary termination of parental rights by a parent, the parent may waive, in writing, notice and appearance in court provided:
 - a. The Court is assured that the parent understands the meaning and consequences of the termination action; and
 - b. The waiver is verified in the presence of a clerk or notary.
2. The waiver shall not be effective when:
 - a. The parent of the child is a minor;
 - b. The waiver is not verified by a clerk or notary; or
 - c. The waiver is signed within thirty (30) days of the birth of the child.
3. In those cases where the waiver is invalid, the Court shall order a hearing.

6-1206. Termination Hearing.

1. In all termination hearings, the child may be physically present at the hearing, in the Court's discretion.
2. In all involuntary termination hearings filed by the Tribe or Child Protection Services, the presenting officer shall represent the Tribe.
3. The Court may require testimony from:
 - a. A physician or other child care expert based upon an examination of the child;
 - b. The social services personnel who has knowledge of the case;
 - c. The child, the child's representative, and any such witnesses or testimony summoned or produced by the parent, as it deems necessary;
 - d. Any such other witnesses the Court deems necessary.

6-1207. Order Terminating Parental Rights.

1. If the Court finds, after hearing, that there is evidence beyond a reasonable doubt that:
 - a. The child has continuously or repeatedly been abused, neglected, or deprived, or abandoned so as to meet the criteria for an abused, neglected, deprived or abandoned child under this Title;
 - b. The services available cannot adequately reduce the likelihood of further abuse, neglect, or abandonment; and

- c. The Court finds that it would be in the best interests of the child to order a termination of the parent-child relationship, then the court shall order the termination of parental rights.
2. In all cases where a parent seeks to voluntarily terminate his or her parental rights, and in the absence of a waiver of notice and appearance, the Court shall:
 - a. Explain in detail, on the record, the consequences of that decision, and question the parent to determine whether any person has had undue influence on the decision of the parent to terminate his or her parental rights;
 - b. Enter a finding that the parent whose rights are to be terminated consented to the termination and has not withdrawn that consent; and
 - c. Enter a finding that it would be in the best interest of the child to order a termination of the parent-child relationship.
3. Every order terminating the rights of one or both parents shall be in writing and shall recite the facts upon which the Children's Court base its jurisdiction over the child and shall include the findings of facts.
4. An order terminating the parent-child relationship shall divest the parent and the child of all legal rights, privileges, duties and obligations with respect to each other except any outstanding arrearages owed for child support obligation.
5. The status of the child as a member of the Tribe, the child's quantum of Indian Blood, and the child's right to Tribal benefits and privileges shall not be affected.

Chapter 13 – Adoption

6-1301. Purpose.

The purpose of this chapter is to protect the rights and promote the welfare of Indian children, natural parents, and adoptive parents.

6-1302. Order of Preference for Adoption.

Where more than one family has petitioned to adopt a child, the order of preference shall be as follows:

1. Within the Tiwahe and Tiospaye, including immediate families of brothers and sisters, their descendants, and relatives adopted through formal ceremony.
2. An Indian family residing on the reservation;
3. An Indian family residing off the reservation;
4. Non-Indian family.

6-1303. Adoption by Non-Indian.

When a non-Indian is petitioning, the Petition shall not be granted unless:

1. The Tribe and Child Protection Services representative, who are involved in any child welfare matter involving an abused, neglected, abandoned, or deprived child, show that Tribe has followed the placement preference in seeking permanency for the child.
2. The Petitioners agree in writing that the Standing Rock Tribal Children's Court shall retain exclusive jurisdiction over custody of the child, wherever domiciled or resident; and
3. The Standing Rock Sioux Tribal Council, having met in executive session, after the termination of parental rights have been granted, approves of the petitioner(s) adopting the minor child by way of Resolution.

6-1304. Petition.

A Petition for Adoption shall be filed with the Court on a form prescribed by the Court. It shall be verified under oath by the adoptive parent(s) and shall include:

1. The full name and the residence of the child;
2. The sex of the child;
3. Enrollment status of the adoptive child and
4. Documentary proof of the date and place of birth of the child;
5. The full name and residence of the adoptive parent(s);
6. Certified copies of the birth certificates of the adoptive parent(s);
7. Occupation(s) of the adoptive parent(s);
8. Proof of all consents required under this Chapter;
9. Any Court Order terminating the parent-child relationship between the natural parent(s) and the child to be adopted;
10. A statement from the adoptive parent(s); that it is his or her desire that the relationship of parent and child be established between him or her and the child;
11. A full description and statement of value of all property owned or possessed by the child; and
12. A statement of other documentary proof that the minor child has been in the physical custody of the petitioner(s) for at least one (1) year, unless good cause is proven;
13. A copy of the home study obtained by the adoptive parent(s).

6-1305. Consents to Adoption.

1. Written consent to an adoption is required from:
 - a. The biological parents, in the event of a stepparent adoption.
 - b. The Tribe, if the minor child is under its supervision;
 - c. The child, if the child is twelve (12) years of age or older.

2. Written consent to adoption is not required of any person whose parental rights have been involuntarily or voluntarily terminated by a court of competent jurisdiction.
3. Written consent to an adoption shall be executed and acknowledged before the Court. Consent shall not be accepted or acknowledged by the Court until the child has been in the custody of the adoptive parents for a period of one (1) year.

6-1306. Withdrawal of Consent to Adopt.

1. Written consent to an adoption cannot be withdrawn after the entry of a final order of adoption.
2. Written consent may be withdrawn prior to the final order of adoption upon:
 - a. Notice and opportunity to be heard, given to the petitioner(s) for adoption and to the person(s) seeking to withdraw consent; and
 - b. A showing, at a hearing before the Court that the consent was obtained by fraud, duress, or coercion; or
 - c. A showing, at a hearing before the Court that it would be in the best interests of the child to grant such withdrawal.

6-1307. Home Study.

1. Upon a filing of a petition for adoption, Petitioner(s) must include a copy of the home study conducted by the Court Counselor or appropriate social service representative outlining the following:
 - a. The suitability of the child for adoption;
 - b. The enrollment status of the adoptive child, and if the child is not enrolled, an enrollment application has been filed;
 - c. The financial ability of the adoptive parent(s);
 - d. The federal, state, and tribal background of the adoptive parent(s);
 - e. The condition and fitness of the adoptive home; and
 - f. If the adoptive parent(s) are non-members or non-Indians, suitability of the non-member or non-Indian in adopting a member of the Tribe, and a copy of the Tribal Council Resolution approving adopting to a non-Indian family.

6-1308. Hearing.

1. Notice of the hearing shall be provided either in person or, if ordered by the Court, by certified mail, return receipt requested to:
 - a. The adoptive parent(s);
 - b. The biological parents, if their parental rights have not been terminated;

- c. Child Protection Services, if the agency is the legal custodian; and
 - d. Any person whose consent is required.
2. The adoptive parent(s) must appear personally at the hearing. All other persons whose consent is required shall appear personally, unless:
 - a. Represented by a person having power of attorney, authorizing such person to represent them for the purpose of the adoption;
 - b. Such person cannot be found; or
 - c. A valid waiver of notice and appearance has been filed with the Court.
 3. The judge may enter a decree of adoption after examination of all persons appearing and he/she is satisfied as to the:
 - a. Suitability of the child for adoption;
 - b. Enrollment status of the adoptive child;
 - c. Validity of the consents to adoption and/or the termination of parental rights order;
 - d. Financial ability, fitness, and responsibility of the adoptive parent(s);
 - e. In the Court's discretion, the child's consent to the adoption if the child is twelve (12) years of age or older;
 - f. Reports and recommendation of the investigative agency;
 - g. Best interests of the child being promoted by the adoption; and
 - h. Order of preference of placement.

6-1310. Decree of Adoption.

1. If after the hearing and consideration of all the reports and evidence, the Court is satisfied that the requirements of this Chapter have been met and that the adoption is in the best interest of the child, the Court shall make a permanent order granting the adoption.
2. The Decree of Adoption shall include:
 - a. Such facts as are necessary to establish the child is eligible and suitable for adoption;
 - b. Facts to establish that the adoptive home and parent(s) are adequate and capable for the proper care of the child, as shown by the home study and the findings of the Court upon the evidence adduced at the hearing;
 - c. The Tribe shall retain jurisdiction over adopted child until the child reached the age of eighteen (18).
3. Children adopted by Order of the Court shall:

- a. Assume the surname of the person by whom they are adopted, unless the Court orders otherwise; and
- b. Be entitled to the same rights of persons and as to property as natural children or heirs of the persons adopting them.
4. Not lose rights of enrollment for their biological children, if otherwise eligible for enrollment.

6-1311. Adoption Records.

1. All records, reports, proceedings and orders in adoption cases are confidential records of the court and shall not be available for release to or inspection by the public.
2. Such records, reports, proceedings, and orders shall be made available to the superintendent of the Standing Rock agency for use in fulfilling authorized functions, only upon approval of the Court.
3. A true and correct copy of each adoption order shall be filed with the clerk of the court.
4. For good cause shown, information contained in such records shall be released to the adopted persons after reaching the age of eighteen (18) years of age, upon written request to the Court.

6-1312. Traditional Adoption.

In accordance with tribal custom, traditional adoption begins with the placement of a child by his natural parents with another tribal family but without any court involvement. After a sustained period in the care of the family (not less than one (1) year), the Court, upon petition of the adoptive parent(s), will recognize that the adoptive parents in traditional adoption have certain rights over the child even though parental rights have not been terminated. The Court, in its discretion, and on a case-by-case basis, shall resolve any questions that arise over the respective rights of the natural parents and the adoptive parents in the traditional adoption. The decision of the Court shall be based upon the best interests of the child and on recognition of the child's sense of family.

Chapter 14 - Emancipation

6-1401. Petition.

Any Indian child, his parent, guardian, or custodian may petition the Children's Court to declare the child emancipated from parental supervision. The petition shall be certified by the juvenile Clerk of Court and contain the following:

1. That he or she is at least sixteen (16) years of age;
2. That he or she willingly lives separate and apart from his parent(s), guardian, or custodian, with the consent or knowledge of his parent(s), guardian, or custodian;
3. That he or she managing his own financial affairs or is capable of handling his own affairs;
4. The source of his or her income; and

5. A statement that:
 - d. His or her source of income is not derived from unlawful activity; or
 - e. He or she is lawfully married, with proof of said marriage attached to the petition; or
 - f. The emancipation is by agreement between the child and his or her parent, guardian, or custodian.

6-1402. Hearing.

Upon receipt and filing of the petition, the clerk shall issue Notice of hearing to the following:

1. The child;
2. The parent, guardian, or custodian;
3. If the child is a ward or if the child has been abused, neglected, deprived, or abandoned, notice shall be given to the appropriate social service agency and/or foster family;
4. Any other person entitled to the custody of the child.

6-1403. Order.

If the Court finds that the child is a person who meets the requirement in the petition and that emancipation would not be contrary to his or her best interests, the Court shall issue an order declaring the child to be emancipated. An order of emancipation is appealable to the Supreme Court of the Standing Rock Sioux Tribe.

6-1404. Effects of Order of Emancipation.

An emancipated child shall be considered as being over the age of majority for the following purposes:

1. Consenting to medical care and treatment, without parental consent;
2. Capacity to sue and be sued in his or her own name and enter into binding contracts;
3. Establishing his or her own name entering into binding contracts;
4. Establishing his or her own residence; and
5. Enrolling and attending any school or college.

6-1405. Revocation of Emancipation.

An emancipated child, his or her parent, guardian, or conservator or any other person/agency, entitled to the custody of the child, may petition to have the order of emancipation set aside. The petition to set aside an order of emancipation will not be accepted or acted upon until the time for appeal of the initial order of emancipation has expired.

6-1406. Grounds for Revocation.

The petition to revoke emancipation must allege that the child is unable to provide for his or her needs and has no means of support.

6-1407. Hearing.

Upon receipt of the petition to revoke emancipation, the Court shall issue a notice of hearing.

6-1408. Order.

If the petition to revoke emancipation is granted, the Court shall issue an order revoking the emancipation.

Chapter 15 - Transfer and Intervention In State Court Child Custody Proceedings

6-1501. Purpose.

The purpose of this Chapter is to return Indian children involved in state child custody proceedings to the jurisdiction of the Standing Rock Sioux Tribe when appropriate and feasible, and to intervene in state child custody proceedings, and thus protect and promote the best interests of those Indian children and their families

6-1502. Intervention and Transfer.

1. The Tribe, upon receipt of Notice of state Court child custody proceedings, defined by the Indian Child Welfare Act, 25 U.S.C. §1903(1), shall immediately notify the Indian Child Welfare Act worker.
2. Upon receipt of notice of state court child custody proceedings, the Indian Child Welfare Act worker shall conduct an investigation to determine whether the Tribe should intervene and/or request transfer. Thereafter, the Tribe will make a determination on whether to request intervention and/or transfer.
3. The Tribe and/or Tribal Court may not accept a transfer from state court unless:
 - (a) A parent or Indian custodian's petition for transfer is filed and is granted by the state court;
 - (b) The Tribe's petition to transfer is granted by the state court; and

(c) The Tribe accepts the transfer.

4. If the Tribe makes an initial determination not to intervene and/or transfer, the parent Indian custodian or an extended family member may file with the Court, a petition requesting the Tribe to intervene and/or request transfer of the proceedings to tribal court. A petition to intervene and/or transfer shall be noticed for hearing and after the hearing the Court shall have discretion to either grant or deny the request.