

WYANDOTTE NATION
TITLE 15
JUVENILE DEPRIVED CODE
(APPROVED BY THE BOARD 9-17-2026)

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INTRODUCTION

Section 1. Citation.

This Title may be cited as the “Juvenile Deprived Code.”

Section 2. Purpose.

The purposes of this Title are to:

(a) Secure for each child subject to this Title such care and guidance, preferably in their own home, as will best serve the child’s welfare and the interests of the Wyandotte Nation and society in general;

(b) Preserve and strengthen the ties between the child and their Tribe whenever possible;

(c) Preserve and strengthen family ties whenever possible, and, to strengthen and improve the home and its environment when necessary;

(d) Remove a child from the custody of their parents and traditional custodians only when the child’s welfare and safety or the protection of the public would otherwise be endangered;

(e) Secure for any child removed from the custody of their parent, the necessary care, guidance and discipline to assist the child in becoming a responsible and productive member of their Tribe and society in general; and

(f) Provide expeditious and timely judicial and agency procedures for the protection of the child.

In order to carry out these purposes, the provisions of this Title shall be liberally construed.

Section 3. Jurisdiction - Transfer to and from Other Courts.

(a) Except as otherwise provided by law, the Courts of the Wyandotte Nation shall have exclusive jurisdiction over Wyandotte children and may have jurisdiction over other Indian children domiciled within the Wyandotte Nation Reservation and as provided for in this Title unless such jurisdiction is otherwise vested in a State or Federal court by operation of Federal law. In such instances, the Wyandotte Nation will have concurrent jurisdiction.

(b) The Wyandotte Courts will have concurrent jurisdiction over proceedings involving a Wyandotte child who does not reside and is not domiciled within the Wyandotte Nation Reservation under the following circumstances:

(1) concerning any child in need of supervision;

(2) concerning any child who is delinquent, neglected, or dependent;

(3) concerning any transfer proceeding to or from a court of another Tribe or other sovereign in a children's case;

(4) to determine the legal custody of any child, or to appoint a guardian of the person, or legal custodian of any child who comes within the jurisdiction of the Wyandotte Nation;

(5) for the issuance of child support orders;

(6) to determine the parentage of a child, and to make an order of support in connection therewith;

(7) for the adoption of a person of any age;

(8) for judicial consent to the marriage, employment, or enlistment of a child, when such consent is required by law; and

(9) for the treatment or commitment of a mentally ill or developmentally disabled child who comes within the jurisdiction of the Wyandotte Nation; however, this Subsection shall not be employed in custody proceedings involving biological and/or legal parents.

(c) For purposes of the transfer hearing, only the Wyandotte Nation prosecutor and parents of the child shall be entitled to present evidence.

(d) The Court shall have authority to issue temporary orders providing for protection, support, or necessary and immediate medical treatment as it deems in the best interest of any child concerning whom a petition has been filed prior to adjudication or disposition of the case.

(e) Nothing in this Section shall deprive the Court of jurisdiction to appoint a guardian for a child or of jurisdiction to determine the legal custody of a child upon a writ of habeas corpus or when the question of legal custody is incidental to the determination of a cause in court.

(f) When a custody award has been previously made by the Court in a dissolution of marriage action or another proceeding, the Court may take jurisdiction in a case involving the same child if he or she is, or is alleged, to be dependent or neglected, or otherwise comes within the jurisdiction set forth in this Title.

(g) Pursuant to the Indian Child Welfare Act, 25 U.S.C. § 1911(b), any state court shall transfer to the Wyandotte Nation District Court any proceeding for the foster care placement of or termination of parental rights to, any Indian child who is a citizen of, or eligible for citizenship in the Wyandotte Nation, absent good cause to the contrary or an objection by either parent. These provisions shall apply to transfers from other tribal courts where an Indian child is a citizen or

eligible for citizenship in the Wyandotte Nation. Such transfers shall be subject to the declination of the Wyandotte Nation Court.

(h) In a transfer proceeding, the Wyandotte Nation Court shall make a determination whether the transfer to its jurisdiction is in the best interests of the child at a hearing upon receiving the action filed within the Court. In making such determination, the Court may consider:

(1) whether the child, or the family of the child, will be in need of special services for physical or mental disease or defect, which the Nation and its resources are unable to adequately provide;

(2) if transfer is made prior to adjudication, whether the witnesses necessary to adjudicate the matter will be available. If the witnesses would be faced with a significant hardship to testify, the Court may reserve transfer proceedings until the conclusion of the adjudication; and

(3) any other matters which may adversely affect the ability of the Wyandotte Nation to provide necessary services to the family.

(i) A court transferring a case to the jurisdiction of the Wyandotte Nation under this Title shall transmit all documents and legal and social records, or certified copies thereof, to the Wyandotte Court, which shall proceed with the case as if the petition had originally been filed or the adjudication had been originally made in the Wyandotte Nation. Transfer cases shall be assigned an appropriate case number as in other cases.

(j) The courts of the Wyandotte Nation are authorized to transfer any case involving a child arising within the Wyandotte Nation to the courts of the child's tribe when said child is not a citizen or eligible for citizenship within the Wyandotte Nation, or to the courts of the state where the child is a resident or is domiciled if the child is a non-Indian, upon the petition of the prosecutor, either parent of the child, a custodian, or guardian of the child, the child's tribe, or an appropriate official of the state where the child resides or is domiciled.

(k) In transferring a case to another jurisdiction, the Court shall consider:

(1) the best interests of the child;

(2) any special needs or mental or physical diseases or defects of the child and of the child's family, and the ability of the receiving jurisdiction to meet those needs;

(3) if transfer is requested prior to adjudication, whether witnesses necessary to the adjudication can attend the receiving jurisdiction;

(4) emotional, cultural and social ties of the child and his or her family; and

(5) the likelihood that the child and his or her family would return to the Wyandotte Nation within a reasonable time and come before the Court again.

(l) Upon entering an order transferring the case as provided herein, the Court shall serve a certified copy of the order of transfer, the legal case file, and any social or law enforcement reports concerning the child's case to the clerk of the court receiving jurisdiction by certified mail, return receipt requested. The Court may retain physical custody of the child pending an order or notice of acceptance from the receiving jurisdiction, and upon receiving such order or notice, may close the case file and dismiss the case subject to the necessary order for the protection of the child until completion of physical transfer to the receiving jurisdiction.

Section 4. Definitions.

Unless the context otherwise requires, as used in this Title, the term:

1. "Abandonment" means:

- (a) the willful intent by words, actions, or omissions not to return for a child, or
- (b) the failure to maintain a significant parental relationship with a child through visitation or communication in which incidental or token visits or communication are not considered significant, or
- (c) the failure to respond to notice of deprived proceedings;

2. "Abuse" means harm or threatened harm or failure to protect from harm or threatened harm to the health, safety, or welfare of a child by a person responsible for the child's health, safety, or welfare, including but not limited to, non-accidental physical or mental injury, sexual abuse, or sexual exploitation. Provided, however, nothing contained in this Title shall prohibit any parent, teacher, or other person from using ordinary force as a means of discipline, but not limited to, spanking, switching, or paddling.

(a) "Harm or threatened harm to the health or safety of a child" means any real or threatened physical, mental, or emotional injury, or damage to the body or mind that is not accidental including, but not limited to, sexual abuse, sexual exploitation, neglect, or dependency.

(b) "Sexual abuse" includes but is not limited to rape, incest, and lewd or indecent acts or proposals made to a child, as defined by law, by a person responsible for the health, safety, or welfare of the child.

(c) "Sexual exploitation" includes but is not limited to allowing, permitting, or encouraging a child to engage in prostitution, as defined by law, by any person eighteen (18) years of age or older or by a person responsible for the health, safety, or welfare of a child, or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic, as defined by law, photographing, filming, or depicting of a child in those acts by a person responsible for the health, safety, and welfare of the child.

3. "Adjudication" means a finding by the Court that the allegations in a petition alleging that a child is deprived are supported by a preponderance of the evidence.

4. “Adjudicatory hearing” means a hearing to determine whether the allegations of a petition alleging a child to be neglected or deprived filed pursuant to this Title are supported by a preponderance of the evidence.

5. “Adult” or “Age of majority” means a person eighteen (18) years of age or older.

6. “Assessment” means action taken by the Nation’s Family Services Department in response to a report of alleged child abuse or neglect that will include a safety analysis or investigation based upon degree of risk to a child.

7. “Behavioral health” means mental health, substance abuse, or co-occurring mental health and substance abuse diagnoses, and the treatment of same.

8. “Board of Directors” shall mean the Board of Directors of the Wyandotte Nation.

9. “Child” means a person under eighteen (18) years of age.

10. “Child advocacy center” means a center and the multidisciplinary child abuse team which it is a member that is accredited by the National Children’s Alliance.

11. “Child care center” means an institution or facility designed for the care of children and licensed or approved pursuant to Tribal law, or if outside the Tribal jurisdiction, by the law of the jurisdiction in which such facility is physically located, or both.

12. “Child placement agency” means an agency designed for the care or placement of children licensed or approved pursuant to Tribal law, or if outside the Tribal jurisdiction, by the law of the jurisdiction in which such facility is physically located, or both.

13. “Child Welfare Worker” shall mean an Indian Child Welfare worker within the Nation’s Indian Child Welfare Program or any social worker specifically designated and trained as a child welfare worker. *See also Tribal Family Services Department.*

14. “Clerk” shall mean the Clerk of the Court.

15. “Code” shall mean the statutory laws of the Wyandotte Nation.

16. “Commit” means to transfer legal custody.

17. “Common Law” shall mean the traditions and customs of the Nation. In cases where a child is a member of another Indian Tribe, “Common Law” shall include the traditions and customs of that Indian Tribe.

18. “Constitution” shall mean the Constitution of the Wyandotte Nation unless otherwise indicated.

19. “Custody” means guardianship of the person.

20. “Department” means the Tribal Family Services Department.

21. “Deprivation of custody” means the transfer of legal custody by the Court from a parent or a previous legal custodian to another person, agency, or institution.

22. “Dependent child” means a child who has been deprived of parental support or care by reason of the death, continued absence from the home (other than absence occasioned solely by reason of the performance of active duty in armed services) or physical or mental incapacity of a parent.

23. “Deprived child” means a child:

(a) whose parent, legal guardian or custodian has subjected the child to abuse or neglect, or whose parent, legal guardian or custodian has enabled or allowed another to subject the child to abuse or neglect without taking lawful means to stop such abuse or neglect or prevent it from recurring;

(b) who is for any reason homeless, or abandoned;

(c) who does not have the proper parental care or guardianship;

(d) who has been abused, neglected, or is dependent;

(e) whose home is an unfit place for the child by depravity on the part of the parent or legal guardian of the child, or other person responsible for the health and welfare of the child;

(f) who is a child in need of special care and treatment because of the child’s physical or mental condition, and the child’s parents, legal guardian, or other custodian is unable or willfully fails to provide such special care and treatment;

(g) who, due to improper parental care and guardianship, is absent from school, if the child is subject to compulsory school attendance;

(h) whose parent, legal guardian or custodian for good cause desired to be relieved of custody;

(i) who has been born to a parent whose parental rights to another child have been involuntarily terminated by the Court, and the conditions which led to the termination of the parental rights to the other child, have not been corrected;

(j) whose parent, legal guardian, or custodian has subjected another child to abuse or neglect or has allowed another child to be subjected to abuse or neglect and is currently a respondent in a deprived proceeding;

(k) whose parent, legal guardian or custodian has failed to protect the child from exposure to any of the following:

- (i) use, possession, sale or manufacturing of illegal drugs;
- (ii) illegal activities; or
- (iii) sexual acts or materials that are not age appropriate.

24. “Dispositional hearing” means a hearing, held after an adjudicating hearing has found a child to be deprived or neglected in which the Court must determine what treatment should be ordered for the family and the child(ren), and what placement of the child(ren) should be made during the period of treatment.

25. “District Court” shall mean the lower or general trial Court operating within the jurisdiction of the Nation, created pursuant to the Constitution of the Wyandotte Nation, Article 6, §6.

26. “Emergency custody” means the custody of a child prior to adjudication of the child following an issuance of an order of the Court.

27. “Extended family member” means a person at least eighteen (18) years of age and who is related to the child by either blood or marriage and is the child’s grandparent, aunt or uncle, brother or sister, niece or nephew, or cousin. This includes traditional custodians.

28. “Facility” means a place, an institution, a building or part thereof, a set of buildings, or an area whether or not enclosed in a building or set of buildings, used for the lawful custody and treatment of children.

29. “Foster parent” means a person, including relative of the child, licensed by the Family Services Department to provide temporary care for a child in the legal custody of the Wyandotte Nation.

30. “Foster care maintenance payments” means the financial assistance provided as a result of the foster parent’s status to reimburse, compensate, and provide for the costs associated with caring for a child in foster care.

31. “Guardianship” means legal custody or the duty and authority vested by law to make major decisions affecting a child including, but not limited to:

- (a) protection of the child;
- (b) education of the child;
- (c) care and control of the child;

(d) custody of the person; and

(e) decision making responsibility.

32. “Guardian ad litem” means a person appointed by the Court pursuant to the provisions of this Title having those duties and responsibilities as enumerated herein.

33. “Group home” means a residential facility licensed or approved by the Nation to provide full time care and community-based services for children.

34. “Harm or threatened harm to the health or safety of a child” means any real or threatened physical, mental or emotional injury or damage to the child that is not accidental including but not limited to, sexual abuse, sexual exploitation, neglect, or dependency.

35. “Heinous and shocking abuse” includes, but is not limited to, aggravated physical abuse that results in serious bodily, mental or emotional injury. “Serious bodily injury” means injury that involves:

(a) a substantial risk of death;

(b) extreme physical pain;

(c) prolonged disfigurement;

(d) a loss or impairment of the function of a body member, organ, or mental capacity;

(e) an injury to an internal or external organ or the body;

(f) a bone fracture;

(g) sexual abuse or sexual exploitation;

(h) chronic abuse including, but not limited to, physical, emotional, or sexual abuse, or sexual exploitation which is repeated or continuing;

(i) torture that includes, but is not limited to, inflicting, participating in or assisting in inflicting intense physical or emotional pain upon a child repeatedly over a period of time for the purpose of coercing or terrorizing a child or for the purpose of satisfying the craven, cruel, or salacious desires of the perpetrator or another person; or

(j) any other similar aggravated circumstance.

36. “Indian Tribe” shall mean any Federally recognized tribal government other than the Wyandotte Nation.

37. “Individualized service plan” means a written document for the purpose of providing a service plan or treatment plan for the responding legal custodian and/or the child who is subject to proceedings under this Title.

38. “Infant” means a child who is twelve (12) months of age or younger.

39. “Institution” means a residential facility offering care and treatment for the purpose of rehabilitation.

40. “Jurisdiction” shall mean the Indian Country within the territorial jurisdiction of the Wyandotte Nation. The jurisdiction of the Nation’s Courts is coextensive with that of the Nation itself.

41. “Juvenile Court” or “Court” means the Juvenile Division of the District Court of the Wyandotte Nation, or the Juvenile Court or Court of Indian Offenses Court established for other Indian Tribes, or a state Juvenile Court as is appropriate from the context.

42. “Minor” means the same as the term “child” as defined in this Section.

43. “Minor in need of treatment” means a child in need of mental health or substance abuse treatment.

44. “Multidisciplinary child abuse team” means any team of professionals assembled, and having training in the prevention, identification, investigation, prosecution, and treatment of physical and sexual abuse for the purpose of facilitating a broad range of prevention and intervention related services and services related to child abuse.

45. “Nation” and variants thereof, both uppercase and lowercase, shall mean the Wyandotte Nation unless otherwise indicated.

46. “Neglected Child” or “Deprived Child” means a child:

(1) Whose parent, guardian, or legal custodian has subjected him to mistreatment or abuse, or whose parent, guardian or legal custodian has suffered or allowed another to mistreat or abuse the child without taking lawful means to stop such mistreatment or abuse and prevent it from recurring; or

(2) Who lacks proper parental care through the actions or omissions of the parent, legal guardian, or custodian; or

(3) Whose environment is injurious to his welfare; or

(4) Whose parent, legal guardian, or custodian fails or refuses to provide necessary subsistence, education, medical care, or any other care necessary for the child’s health, guidance, or well-being, whether because of the fault of the parent, guardian, or legal custodian, or because

the parent, legal guardian or custodian does not have the ability or resources to provide for the child; or

(5) Who is homeless, without proper care, or not domiciled with his or her parent, guardian, or legal custodian, due to, or without the fault of his parent, legal guardian, or custodian, or

(6) Whose parent, legal guardian, or custodian has abandoned the child without apparent intent to return, or who has placed the child informally with any other person, and has not contributed to the support of the child or established personal contact with the child for a period in excess of six (6) months.

47. “Parent” means either a natural parent or a parent by adoption. Parent does not include an unwed father unless he has acknowledged paternity of the child in writing under oath unless paternity has been established by judicial action.

48. “Permanency hearing” means a hearing held by the Court for the purpose of determining the appropriate permanency goal for the child.

49. “Permanent custody” means the court-ordered custody of an adjudicated deprived child when a parent-child relationship no longer exists due to termination of parental rights or due to the death of a parent or parents.

50. “Prosecuting Attorney” shall mean the Attorney General of the Wyandotte Nation or such other legal representative appointed by the Board of Directors to prosecute crimes and/or juvenile matters.

51. “Protective custody” means custody of a child taken by a law enforcement officer or designated employee of the court without a court order.

52. “Protective supervision” means a legal status created by court order under which the child is permitted to remain in his own home under the supervision of the Juvenile Court through the Family Services Department for the period during which treatment services are being provided to the family by the Family Services Department or other agencies designated by the Court.

53. “Reasonable and prudent parent standard” means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in their care and under the responsibility of the Family Services Department to participate in extracurricular, enrichment, cultural, and social activities.

54. “Removal” means the intervention by agents or officers of the Wyandotte Nation to extract a child from their parent, guardian, or custodian to ensure the health, safety, and welfare of the child pursuant to either a court order or voluntary foster care placement; a child shall be considered constructively removed from the date of the first court order sanctioning removal of

the child; but a child that remains in the care of their parent, guardian, or custodian under the supervision of the Family Services Department shall not be considered removed.

55. “Residual parental rights and responsibilities” means those rights and responsibilities remaining with the parent after legal custody, or guardianship of the person of said child has been vested in another person, agency, or institution, but where parental rights have not been terminated, including, but not necessarily limited to, the responsibility for support, the right to consent to adoption, the right to inherit from the child, the right to determine the child’s religious affiliation, and the right to reasonable visitation with the child unless restricted by the Court.

56. “Shelter” means a facility for the temporary care of a child in physically un-restricting facilities pending court disposition, or execution of a court order for emergency or temporary placement.

57. “Sibling” means the biologically or legally related brother or sister of a child.

58. “Sex trafficking” means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act; or a severe form of trafficking which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age.

59. “Supreme Court” shall mean the Court of last resort to which appeals may be taken from the District Court. The judicial decisions of the Supreme Court are final and are not subject to further appeal.

60. “Temporary custody” means court-ordered custody of an adjudicated deprived child.

61. “Termination of parental rights” or “termination of the parent-child legal relationship” means the permanent elimination by court order of all parental rights and duties, including residual parental rights and duties, but not including the child’s right to inherit from the parents whose rights have been terminated.

62. “Therapeutic foster home” means a foster home which provides specific treatment services, pursuant to a therapeutic foster care contract, which are designed to remedy social and behavioral problems of a foster child residing in the home.

63. “Traditional custodian” means those relatives of the child other than the parent who, by force of the traditions, customs, and common law of the Nation or other Indian Tribe, have the rights, duties, and responsibilities of assisting the parents in rearing the child and providing for their support.

64. “Transfer proceeding” means any proceeding in the District Court to grant, accept, or decline transfer of any children’s case from or to the court of any Indian Tribe or state whenever such transfer is authorized by Tribal, Federal, or State law.

65. “Transitional living program” means a residential program that may be attached to an existing facility or operated solely for purposes of assisting children to develop the skills and abilities necessary for successful adult living. The program may include, but shall not be limited to, reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as part of the transitional living program.

66. “Treatment and service plan” means a document written specifically for the individualized service and/or treatment of a child that has been adjudicated to be a deprived child.

67. “Tribal Family Services Department” means generally the Wyandotte Nation’s Indian Child Welfare Program, Social Services Program, Family Services Department or other appropriate agency of the Nation designated to work with juvenile issues and/or provide related services. For purposes of this Title, “Family Services Department” and “Indian Child Welfare Program” may be used interchangeably, but shall be interpreted to mean the appropriate agency of the Nation designated to work with juvenile issues and/or provide related services.

Section 5. Place of Sitting.

The Juvenile Division of the District Court shall maintain offices and sit in the same place as the District Court sits, provided, that the Juvenile Division, in a transfer proceeding or where otherwise necessary and expedient in the interest of justice and economy, with the approval of the Chief Judge, may sit anywhere within the territorial limits of the United States.

CHAPTER ONE GENERAL PROVISIONS

Section 101. Requirement to Report Child Abuse or Neglect.

(a) Any person specified in Subsection (b) or (c) of this Section who has reasonable cause to know or suspect that a child has been subjected to physical or sexual abuse, sexual exploitation, or neglect, or who has observed the child being subjected to circumstances or conditions which would reasonably result in abuse or neglect or who has knowledge of the birth of a child dependent on a controlled substance shall immediately report, or cause a report to be made, of such fact to the Family Services Department, the Wyandotte Nation Police, or the Abuse and Neglect Hotline. Such reports may be made by telephone, in writing, personally or by any other method.

(b) Persons required to report such abuse or neglect or circumstances or conditions shall include:

1. Physician or surgeon, including a physician in training, residents and interns;
2. Registered nurse or licensed practical nurse;
3. Hospital personnel engaged in the admission, care or treatment of patients;

4. School official or employee, including but not limited to, teacher, counselor, instructional aide or assistant, or school bus driver;

5. Social worker or worker in a family care home or child care center, child day care worker, head start or preschool teacher, public assistance worker, worker in a group home or residential or day care facility, licensed or unlicensed adult and children's counselor;

6. Mental health professional;

7. Any law enforcement personnel;

8. Tribal Court staff, attorneys and advocates;

9. Emergency medical technician or paramedic;

10. Medical examiner or coroner;

11. Dentist or dental hygienist;

12. Optometrist;

13. Chiropractor;

14. Osteopathic physician;

15. Child health associate or community health representative;

16. Any adult with knowledge, or who suspects abuse or neglect.

(c) In addition to those persons specifically required by this Section to report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in abuse or neglect, any other person whether or not a citizen of the Wyandotte Nation, shall report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in child abuse or neglect to the Family Services Department or the Wyandotte Nation Police.

(d) The privileged communication between patient and physician, between husband and wife, or any other privilege or contract shall not relieve any person from the reporting requirements to this Section.

(e) The reporting obligations under this Section are individual, and no employer, supervisor, or administrator shall interfere with the reporting obligations of any employee or other person or in any manner discriminate or retaliate against, the employee or other person who in good faith reports suspected child abuse or neglect, or who provides testimony in any proceeding involving child abuse or neglect. Any employer, supervisor, or administrator who discharges,

discriminates or retaliates against the employee or other person shall be liable for damages, costs, and attorney fees.

(f) Any health care professional making a report of abuse or neglect as required by this Subsection or examining a child to determine the likelihood of abuse or neglect, and every hospital or related institution in which the child was examined or treated shall provide, upon request, copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to law enforcement and to the Family Services Department.

(e) Any person under the jurisdiction of the Wyandotte Nation who willfully violates the provisions of this Section, any person who inhibits or prevents a person described in this Section from making a report, or any person who knowingly and willfully makes a false report or a report that the person knows lacks factual foundation:

1. Shall be subject to a civil penalty not to exceed Five Hundred Dollars (\$500.00);
2. Shall be liable for associated administrative costs incurred by the Nation as a result;
3. Shall be liable for Court costs; and
4. Shall be liable for damages privately caused thereby.

(f) Nothing in this Section shall be construed to mean a child is abused or neglected for the sole reason the parent, guardian or custodian, in good faith, allows the child to be provided with treatment and care by spiritual means alone in accordance with the tenets and practice of a recognized church, religious denomination, traditional healing or medicine, or other religious organizational means by a recognized practitioner thereof.

Section 102. Investigation - Report and Findings.

(a) Upon receipt of a report that a child is subject to abuse or neglect, the Family Services Department shall immediately conduct an investigation and assess the circumstances and legitimacy of the report.

(b) Upon completion of the initial investigation, the Department shall forward a copy of its assessment, via written report, with regard to the actual commitment or potential to commit child abuse and/or neglect to the Wyandotte Nation prosecutor which may file a petition pursuant to this Title.

(c) If upon receipt of a report alleging abuse or neglect or during the assessment or investigation, the Department determines that:

1. There are substantial facts to conclude abuse or neglect occurred which resulted in physical harm to the child(ren), the Department shall immediately make a referral to the appropriate law enforcement agency.

(d) Any law enforcement agency receiving a referral as provided in this Section, shall provide the Family Services Department with a copy of the report of any investigation resulting from the Department's referral.

(e) Whenever, in the course of a criminal investigation, a law enforcement agency determines there is cause to believe that a child may be abused or neglected by reason of the acts, commissions, or failures on the part of a person responsible for the health, safety, or welfare of the child, the law enforcement agency shall immediately notify the Family Services Department and the prosecutor.

Section 103. Immunity from Civil or Criminal Liability.

(a) Any individual, who in good faith and exercising due care, reports suspected child abuse or neglect, or who allows access to a child by persons authorized to investigate a report concerning child abuse or neglect, shall have immunity from liability, civil or criminal, that might otherwise be incurred or imposed.

(b) For purposes of any proceeding, civil or criminal, the good faith of a person making a report pursuant to this Title, shall be a rebuttable presumption.

Section 104. Duties and Responsibilities of Family Services Department - Investigation and Report.

(a) When the Department of Family Services receives a child abuse or neglect report, they shall promptly respond by initiating an investigation of the report or by conducting an assessment of the family in accordance with the Department's priority guidelines. The Department may prioritize reports of alleged child abuse or neglect based on the severity and immediacy of the alleged harm to the child. The primary purpose of the investigation shall be the protection of the child.

1. Referrals made to the Department regarding alleged child abuse or neglect which are not within the Wyandotte Nation jurisdiction, shall be immediately referred to the appropriate child welfare agency or law enforcement agency.

2. If upon initiating an investigation, the Department determines the alleged abuse or neglect is not substantiated, the investigation or assessment will proceed no further.

(b) The investigation and assessment shall include a visit to the home of the child, unless there is reason to believe that there is an extreme safety risk to the child or worker, or if it appears the referral has been made in bad faith.

1. The investigation and assessment shall include an interview with, and examination of, the child who is the alleged victim of the reported abuse or neglect, and may be conducted at any reasonable time and at any place including, but not limited to, the child's school. The Department shall notify the person responsible for the health, safety, and welfare of the child that the child has been interviewed. The investigation and assessment may also include an interview with the person responsible for the health, safety and welfare of the child.

2. The investigation and assessment may include a medical, psychological, or psychiatric examination of the child. If the person responsible for the health, safety, and welfare of the child, is not cooperative, the Department shall contact the prosecutor who is then authorized to seek a judicial order for assistance or pick-up of the child.

3. Except in emergency circumstances wherein an ex parte hearing is held, the person responsible for the health, safety, and welfare of the alleged victim of abuse, is entitled to notice and the right to be heard before the Department is granted authority to obtain a medical, psychological, or psychiatric examination of the alleged victim.

4. The investigation of a report of sexual abuse or serious physical abuse, or both sexual abuse and serious physical abuse, shall be conducted, when appropriate and possible, using a multidisciplinary team approach. The appropriate law enforcement agency shall be involved in all investigations of sexual abuse and/or serious physical abuse as soon as is practicable.

(c) Every medical professional making a report of abuse or neglect as required by this Title, or examining a child to determine the likelihood of abuse or neglect and every hospital or related institution in which the child was examined or treated shall provide copies of the result of the examination, or copies of the examination on which the report was based, and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to law enforcement officers conducting a criminal investigation and to employees of the Family Service Department.

1. As part of the investigation, the Department may request and obtain, without a court order, copies of all prior medical records of a child, including, but not limited to, hospital records, medical, and dental records.

2. The physician-patient privilege shall not constitute grounds for failure to produce records that are relevant to an investigation of alleged child abuse or neglect.

(d) If, before the investigation and assessment is complete, the Department determines the child's health, safety, and welfare are endangered, the Department may seek an emergency order of custody from the Wyandotte Nation Court.

(e) Upon completion of the investigation, the Department shall make a complete written report of the investigation, together with recommendations, and shall submit same to the Nation's prosecutor.

(f) The report, where appropriate, shall identify prevention and intervention related services and arrange for such services to be provided to the family. The Family Services Department shall document in the record its attempt to provide, or arrange for the provision of, voluntary services and shall note in the report whether the family has availed themselves to such services. If the family refuses services, and the Department deems the child's surroundings endanger the health, safety, or welfare of the child, the Department may seek an emergency custody order from the Court or request the prosecutor to file a petition.

(g) If the Department has reason to believe that a person responsible for the health, safety, and welfare of the child may remove the child from the jurisdiction, the Department may seek the prosecutor's assistance in obtaining a restraining order or other appropriate relief.

Section 105. Notice of Allegations to be Provided to Person(s) Being Investigated.

(a) When an investigation and assessment is initiated, the person(s) being investigated shall be provided a brief and easily understood written statement of the investigation process. The statement shall include:

1. That a report has been received alleging abuse or neglect of a child within the care, custody, and control of the person;
2. The name of the reporter is confidential, may be anonymous, or may not be known to the Department;
3. That the investigation is required by law to be conducted in order to enable the Department to identify incidents of abuse or neglect so that protective or preventative services may be provided; and
4. That a written statement regarding the completion of the investigation will be provided in which the Department shall advise whether an investigation substantiated the allegation or whether there is insufficient evidence of abuse or neglect of a child.

Section 106. Medical and Behavioral Health Treatment.

Either parent or the court appointed custodian of a child may authorize a medical or behavioral health examination and corresponding treatment.

Section 107. Civil and Criminal Immunity for Persons Acting Pursuant to Court Order or Consent.

No employee of the Family Services Department, law enforcement officer or other person consenting to medical or behavioral health examination and treatment pursuant to an Order from, or consent by, the Court shall have any liability, civil or criminal for such consent to medical or behavioral health examination and treatment.

CHAPTER TWO

EMERGENCY CUSTODY PROCEEDINGS

Section 201. Jurisdiction Over Child and Other Persons.

(a) Upon the filing of a petition, the assumption of custody of a child, or the issuance of an emergency custody order, the Wyandotte Nation Court shall obtain jurisdiction over any child who is, or is alleged to be, deprived. Jurisdiction shall also be obtained over any parent, legal guardian, or custodian of, and other person living in the home of such child who appears in Court or has been properly served with summons.

(b) When jurisdiction is asserted over a child who is or, is alleged to be, a deprived child:

1. Jurisdiction may be retained until the child reaches the age of eighteen (18);

2. The Court may issue any temporary order or grant any interlocutory relief authorized by this Title in an emergency, regardless of whether another court has prior or current jurisdiction to determine the custody, support, or visitation of the child; and

3. All orders entered in the deprived proceeding concerning the custody, support, or visitation of the child shall take precedence over conflicting orders entered in other actions until such time as the jurisdiction of the Court in the deprived proceeding terminates.

Section 202. Protective and Emergency Custody.

(a) A child may be taken into custody prior to the filing of a petition:

1. By a law enforcement officer, if the officer has reasonable suspicion that:

(i) the child is in need of immediate protection due to abuse or neglect; or

(ii) the circumstances or surroundings of the child are such that continuation in the child's home or in the care of the custody of the parent, legal guardian, or custodian would present imminent danger to the child.

2. By an order of the Court issued upon the application of the Wyandotte Nation prosecutor, if said application is supported by a sworn affidavit based upon information and belief and the application states facts sufficient to demonstrate that a continuation of the child in the home or with the parent, legal guardian, or custodian is contrary to the child's welfare, and there is reasonable suspicion that:

(i) the child is in need of immediate protection due to abandonment, abuse, or neglect; or

(ii) the circumstances or surroundings of the child are such that continuation in the child's home or in the care of the custody of the parent, legal guardian, or custodian would present imminent danger to the child.

3. By an order of the Court when the child is in need of medical or behavioral health treatment in order to protect the health, safety, or welfare of the child and the parent is unwilling or unable to consent to such treatment.

(b) The Court shall not enter an emergency custody order removing a child from the home of the parent, legal guardian, or custodian, unless the Court makes a determination:

1. That continuation in the home of the child is contrary to the welfare of the child or that immediate placement in the custody of the Family Services Department is in the best interests of the child; and

2. Whether reasonable efforts have been made to prevent the removal of the child;
or

3. No efforts to prevent the removal of the child were possible because the removal is due to an emergency and is for the purpose of providing for the welfare of the child.

Section 203. Taking a Child into Custody.

(a) The Court may order the child to be placed in the emergency custody of the Family Services Department or some other suitable person or entity pending further hearing.

(b) The Court may authorize the release of a child from custody under such circumstances as the Court specifies, provided that the release of the child is consistent with the best interests and welfare of the child.

(c) No child taken into custody pursuant to this Section, shall be confined in any jail, adult lockup, or adult or juvenile detention facility.

Section 204. Search Warrants for the Protection of Children.

(a) A search warrant may be issued by the Court to search any place for the recovery of any child within the territorial jurisdiction of the Court believed to be a neglected or dependent child.

(b) Such warrant shall be issued only on the conditions that the application for the warrant shall:

(1) Be in writing and supported by affidavit sworn to or affirmed before the Court;

(2) Name or describe with particularity the child sought;

(3) State that the child is believed to be a neglected or dependent child and the reasons upon which such belief is based;

(4) State the address or legal description of the place to be searched; and

(5) State the reasons why it is necessary to proceed with the issuance of a search warrant pursuant to this Section instead of proceeding by issuance of a summons.

Section 205. Issuance and Return of Search Warrant.

(a) If the Court is satisfied that the grounds for the application exist or that there is probable cause to believe that they exist, it shall issue a search warrant identifying by name or describing with particularity the child sought and the place to be searched for the child.

(b) The search warrant shall be directed to any law enforcement officer authorized by law to execute it wherein the place to be searched is located.

(c) The warrant shall state the grounds or probable cause for its issuance and name(s) of the person who support the affidavit. The warrant shall be issued in form substantially similar to other search warrants and shall state the date(s) of its effectiveness.

(d) The warrant shall be served in the daytime unless the application for the warrant alleges that it is necessary to conduct the search at some other time, in which case the Court may so direct.

(e) A copy of the warrant, the application therefore, and the supporting affidavit shall be served upon the person in possession of the place to be searched and where the child is to be sought, or if no one be home, a copy shall be left in plain sight within the place searched.

(f) If the child is found, the child shall be taken into custody, transported to and placed in the custody of the Family Services Department.

(g) The warrant shall be returned to the issuing court, immediately upon service, and the officer shall subscribe on the warrant his name, the date and time of service, the place where the child was delivered by him and his fees. A copy shall be delivered to the Prosecuting Attorney. If the child was not found, such information should be subscribed on the warrant.

Section 206. Expiration of Search Warrant.

A search warrant for the protection of a child shall be null and void if not served within ten (10) days of the date of issuance and a void warrant should be returned with the reason for non-service subscribed thereon.

Section 207. Notice of Emergency Custody Hearing.

(a) Law enforcement, the Family Services Department, or other agency or individual, assuming emergency custody of the child, shall provide the parent, legal guardian or custodian of the child with immediate written notice of the protective or emergency custody of the child.

1. The written notice shall inform the parent(s), legal guardian or other custodian of the following:

(i) That a hearing to determine the continuation of emergency custody of the child will be held within two (2) judicial days from the date the child was taken into custody;

(ii) The date, time, and place for the hearing;

(iii) The nature of the allegation that led to placement of the child into protective or emergency custody;

(iv) The address and telephone number of the Family Services Department;
and

(v) The right to contact an attorney.

(b) The written notice shall also contain substantially the following information:

“FAILURE TO RESPOND TO THIS NOTICE OR TO APPEAR AT THE EMERGENCY CUSTODY HEARING WILL RESULT IN THE CHILD REMAINING IN THE CUSTODY OF THE WYANDOTTE NATION. YOUR FAILURE TO RESPOND OR COOPERATE MAY RESULT IN THE LOSS OF CUSTODY OF THE CHILD, OR A TERMINATION OF PARENTAL RIGHTS.”

Section 208. Emergency Custody Hearing.

(a) Within two (2) judicial days following the child being taken into protective or emergency custody, the Court shall conduct an emergency hearing. Any information having probative value may be received at the hearing regardless of its admissibility under the Wyandotte Evidence Code. At the hearing, the Court shall:

1. Determine whether sufficient facts exist to demonstrate there is a reasonable suspicion that the child is in need of immediate protection due to abuse or neglect, or that the circumstances or surrounding of the child are such that the continuation of the child in the parent, legal guardian, or custodian’s home or care, would present an imminent danger to the child’s health and welfare.

2. Advise the parent, legal guardian, or custodian of the following:

(i) the right to testify and present evidence at any court hearings;

(ii) the right to be represented by counsel; and

(iii) the right to appeal.

3. Determine temporary custody of the child and any additional orders pertaining to the health, safety, or welfare of the child.

Section 209. Restraining Order - Penalties for Violation.

(a) At the emergency custody hearing or when a petition has been filed alleging that a child has been physically or sexually abused, the Court may enter an order restraining the alleged perpetrator from having contact, or attempting to contact, the child. The Court may issue a restraining order if:

1. There is reasonable suspicion that abuse has occurred and that the person to be restrained committed the abuse; and
2. The order is in the best interests of the child.

(b) Any person guilty of violating the restraining order, upon conviction, shall be guilty of a misdemeanor, punishable by a fine not to exceed One Thousand Dollars (\$1,000.00) or by a term of incarceration not to exceed one (1) year, or both a fine and incarceration.

Section 210. Voluntary Foster Care Authorized.

In order to provide better treatment for a family's problems and to better protect children, the Family Services Department is authorized to accept a child for foster care when:

(a) The parent(s), legal guardian, or other legal custodian has consented to such foster care in writing before a Judge of a court of competent jurisdiction and the Judge's certificate that the terms and conditions, and consequences of such consent were fully explained in detail and fully understood in English, or that it was interpreted into a language which was understood.

(b) Consent to foster care placement may be withdrawn by the person giving same, the parent(s), guardian, or other person having legal custody, at any time and the child shall be returned to the authorized person requesting the child's release within forty-eight (48) hours.

Section 211. Court Ordered Medical Treatment.

(a) At any time after a child is taken into custody with or without a court order and prior to adjudication on the merits:

(1) When the Court finds that emergency medical, surgical, or dental treatment is required for a child in Tribal custody it may authorize such treatment or care if the parent(s), legal guardian, or other legal custodian are not immediately available to give their consent or to show cause why such treatment should not be ordered. The authority to consent to emergency medical care may be delegated by the Court to the agency or person having physical custody of the child pursuant to this Title or pursuant to court order.

(2) After making a reasonable effort to obtain the consent of the parent(s), guardian, or other legal custodian, and after a hearing on notice, the Court may authorize or consent to non-emergency medical, surgical, or dental treatment or care for a child in Tribal custody.

(b) After a child has been adjudicated a ward of the Court, the Court may consent to any necessary emergency, preventive, or general medical, surgical, or dental treatment or care, or may delegate the authority to consent thereto to the agency or person having custody of the child.

Section 212. Court Ordered Commitment for Observation.

If it appears that any child in the Nation's custody may be mentally ill, developmentally disabled, or has sustained any trauma which result in a delayed medical danger or injury, the Court shall place the child in a designated facility approved by the Court for seventy-two (72) hour treatment and evaluation. Upon the advice of a physician, the treatment and evaluation period may be extended for a period not exceeding ten (10) days.

Section 213. Diversion by Contract.

(a) Prior to the filing of a Petition, either the Child Welfare Worker or the Prosecuting Attorney, with the consent of the Child Welfare Worker, may divert a children's case, if there is a likelihood the parent, legal guardian, or custodian can appropriately eliminate the concerns in a reasonable manner and in an expedient amount of time.

(b) Diversion shall be made by entering into a contract with the child's parent(s), legal guardian, or other custodian whereby the parent(s), legal guardian, or other custodian agrees to undergo specified treatment for the condition noticed, including an agreement to do or refrain from doing certain acts and the Prosecuting Attorney on behalf of the Nation agrees not to file a petition in the case so long as the parent(s), legal guardian, or other custodian complies with the contract.

(c) Each diversion contract shall contain the following:

(1) The specific facts or allegations, including dates, which gave rise to the condition addressed by the contract;

(2) The specific treatment programs the parent(s), guardian, or other legal custodian agree to successfully complete and their duration;

(3) The specific facts which the parent(s), guardian, or custodian agree to do or to refrain from doing;

(4) The specific treatment or other social services to be offered by the Nation, the Bureau of Indian Affairs, or other agencies and which are accepted by the family;

(5) A fixed, limited time for the contract to run, not exceeding one (1) year;

(6) That the Nation will not file a petition on the subject of the contract for the facts or allegations stated if the parent(s), guardian, or legal custodian comply with the contract terms for the full term of the contract; and

(7) That each party has received a copy of the contract.

(d) No diversion contract may place physical custody in any person or agency other than the parent(s), guardian or other legal custodian unless it bears the approval in writing of a Judge of the Juvenile Court.

Section 214. Diversion Contract Inadmissible.

The diversion contract and any statements or admissions of the parties made in negotiating or fulfilling the terms of the contract are inadmissible as evidence, except, that the parent(s), guardian, or other legal custodian may prove the contract and show their compliance with the terms thereof as a defense to a petition filed concerning the matter of the contract. Upon a showing of compliance with the terms of the contract the Court shall dismiss the petition unless it determines by evidence beyond a reasonable doubt that the child is in imminent danger of severe physical or mental harm. Proof of the contract shall not be an admission of the parent(s), guardian, or other legal custodian of any of the facts therein.

Section 215. Diversion by Consent Decree.

(a) After filing a petition, the Prosecuting Attorney with the consent of the Child Welfare Worker may divert any children's case from the adjudicatory process with the consent of the respondents and the Court by obtaining a Consent decree if:

(1) The Court has informed the child and his parent(s), guardian, or other legal custodian of their rights to:

(i) Deny the allegations of the petition and require the Nation to prove each allegation by admissible evidence;

(ii) Confront and cross-examine the witnesses against them and to call witnesses on their own behalf;

(iii) A trial on the merits of the allegations;

(iv) Be represented by counsel at their own expense at each stage of the proceedings, and, to have counsel appointed for them if they cannot afford private counsel; and

(v) The Court believed they understood their rights.

(2) Written consent to the decree is obtained from the parent(s), legal guardian, or other custodian and the child if of sufficient age and understanding. The consent given for a Consent Decree does not constitute an admission for purposes of adjudication.

(3) The Tribal Family Service Department has prepared a treatment plan for the family to be incorporated into the Consent Decree which distinctly states:

(i) The specific treatment programs the parent(s), legal guardian, or other custodian, or child agree to successfully complete and their duration;

(ii) The specific treatment or other social services to be offered by the Nation and accepted by the family;

(iii) The specific acts which the parent(s), legal guardian, or other custodian, or child agree to do or to refrain from doing; and

(iv) The person or agency to be vested with custody of the child if the child cannot remain in their home, the specific provisions of (i), (ii), and (iii) above which must be completed or accomplished for a specific duration before the child is returned to their home; and the period of supervision of the child in their own home.

(b) After all parties have consented, the Court shall review the Treatment Plan and if the Court agrees that the plan is satisfactory, shall order all parties by the Consent Decree to abide by the provisions of the Treatment Plan. The Consent Decree shall be monitored and modified as in other dispositions, provided, that if the family fails to comply with the treatment plan, the Court, on motion of the prosecuting attorney, shall proceed with adjudication.

(c) A Consent Decree shall remain in effect for a period not exceeding one (1) year, provided, that upon notice of hearing the Court may extend the force of the decree for an additional term of one (1) year with the consent of the parties. The adjudication shall be continued during the term of the Consent Decree and thereafter dismissed if the Decree is complied with.

CHAPTER THREE

PETITION AND PROCEEDINGS

Section 301. Filing of Petition.

(a) A petition in a proceeding alleging a child to be deprived may be filed by the prosecutor to determine if further action is necessary.

(b) A petition shall be verified and may be upon information and belief. The petition shall set forth the following:

1. The facts which bring the child within the purview of the Court;
2. The name, date of birth, tribal status, and residence of the child;
3. The names and residences of the parents, legal guardians and custodians;

4. The relief requested, including but not limited to, or where applicable:

- (i) an adjudication that the child is deprived; a
- (ii) a termination of parental rights;
- (iii) the entry of an order for support;
- (iv) a judicial determination of the child's paternity.

Section 302. Service of Petition and Summons.

(a) Upon the filing of the petition, the Court shall set a hearing and issue a summons requiring the parents, legal guardian, custodian, the child, if the child is twelve (12) years of age or older, and any other person relevant to the facts, to appear before the Court for hearing.

(b) The summons shall be attached to a copy of the petition and shall advise the parties of the right to counsel, including the right to court appointed counsel, if indigent.

(c) The summons shall also contain language similar in content to the following:

“FAILURE TO RESPOND TO THIS SUMMONS OR TO APPEAR AT THIS HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR THESE CHILDREN) AS DEPRIVED CHILDREN AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OR THE TERMINATION OF PARENTAL RIGHTS.”

(d) Service of summons shall be made by personal delivery, by mail, or by publication as otherwise provided in Wyandotte Nation law.

(e) The Court shall not hold the adjudicatory hearing until at least forty-eight (48) hours after the service of summons.

(f) Service by publication shall be made consistent with Title 3, Wyandotte Nation Civil Procedure Code, Section 305.

Section 303. Failure to Appear at Adjudicatory Hearing - Contempt.

(a) Failure of a person to appear or to respond without reasonable cause, constitutes the person's consent to the adjudication of the child as deprived.

(b) If a person, properly summoned, fails to appear or respond, said person may be held in contempt.

(c) If the Court finds the health, safety, or welfare of the child requires that the child should be brought into the custody of the Court, a warrant may be issued against the parents, legal guardian, or custodian, or the child.

Section 304. Appointment of Counsel for Parent, Legal Guardian, or Custodian.

If a parent, legal guardian, or custodian requests an attorney and is found to be indigent, counsel may be appointed at the emergency custody hearing, and shall be appointed if a petition has been filed alleging the child is a deprived child; provided the Court may appoint counsel without such request, if it deems representation by counsel necessary to protect the interests of the parties.

Section 305. Appointment of Counsel, Guardian Ad Litem for Child.

(a) The Court may appoint either an attorney or a Guardian ad litem, or both, for the minor child if a petition has been filed alleging the child is a deprived child.

(b) Counsel appointed for the child shall represent the expressed interests of the child. Counsel shall make such further inquiry as the counsel deems necessary to ascertain the facts, and make recommendations as appropriate for the adequate representation of the child.

(c) An appointed guardian ad litem shall be appointed to objectively advocate on behalf of the child and act as an officer of the Court to investigate all matters concerning the best interests of the child.

Section 306. Hearings.

(a) Hearings shall be held before the Court without a jury, except as provided in this Title, and may be conducted in an informal manner. The general public shall be excluded unless the Court determines that it is in the best interest of the child to allow the general public to attend. The Court shall admit only such individuals who have an interest in the case or the work of the Court, including persons whom the parent(s) or guardian wish to be present unless an order has been entered authorizing the general public to attend. Hearings may be continued by order of the Court when necessary.

(b) A verbatim record shall be taken of all proceedings which might result in the deprivation of custody. A verbatim record shall be made in all other hearings, unless waived by the parties in the proceeding and so ordered by the Court.

(c) Children's cases shall be heard separately from adult cases, and the child or their parent(s), guardian, or other custodian may be consolidated or heard separately at any stage of the proceeding upon order of the Court and upon a finding of same being in the best interests of the child and in the interests of justice for all parties.

(d) The name, picture, place of residence, or identity of any child, parent, guardian, other custodian, or person appearing as a witness in children's proceedings under this Title shall not be published in any newspaper or in any other publication nor given any other publicity, unless for good cause, it is specifically permitted by order of the Court. Any person who violates the provisions of this Subsection (d) is guilty of a misdemeanor and, upon conviction thereof, shall be

punished by a fine of not more than Five Hundred Dollars (\$500.00), or by incarceration for not more than thirty (30) days, or both such fine and incarceration.

Section 307. Home Study and Other Reports.

(a) Unless waived by the Court, the Family Services Department or other agency designated by the Court shall make a home study and report in writing in all children's cases, except:

(1) If the allegations of a petition filed under Title are denied, the study shall not be made until the Court has entered an order of adjudication; and

(2) The study and investigation in all adoptions shall be made as provided in the provisions related to adoptions.

(b) At any time during the course of the proceedings, the Court may order a court appointed guardian ad litem to submit a report of their findings and recommendations.

(c) For the purpose of determining proper disposition of a child, the general rules of evidence shall not apply, and written reports and other material relating to the child's mental, physical, and social history may be received and considered by the Court along with other evidence. However, the Court, if so requested by the child, their parent(s), guardian, or other interested party, shall require that the person who wrote the report or prepared the material, appear as a witness and be subject to both direct and cross-examination. In the absence of such request, the Court may order the person who prepared the report or other material to appear if it finds that the interest of the child, their parent(s) or guardian, or other party to the proceedings so requires.

(d) The Court shall inform the child, their parent(s) or legal guardian, or other interested party of the right of cross-examination concerning any written report or other material as specified in Subsection (c) of this Section.

Section 308. Inspection of Court Records.

(a) Records of court proceedings shall be open to inspection by the parent(s) or guardian, attorneys and other parties in proceedings before the Court, and to any agency to which legal custody of the child has been transferred, except records of court proceedings in formal adoption and formal relinquishment shall be confidential and open to inspection only by Court order.

(b) With consent of the Court, records of court proceedings may be inspected by the child, by persons having legitimate interest in the proceedings, and by persons conducting pertinent research studies, except in formal relinquishment and formal adoption proceedings.

(c) Records and all other reports of home and clinical studies shall not be open to inspection by the general public, except by an order of the Court and for good cause shown.

Section 309. Law Enforcement Records.

(a) The records of law enforcement officers concerning all children's cases or children taken into temporary custody or issued a summons under the provisions of this Title shall be maintained separately from the records of adults and may not be inspected by, or disclosed to, the public, including the names of children taken into temporary custody or issued a summons, except when authorized to allow inspection by the Court.

Section 310. Family Service Department and Other Records.

The records of the Family Service Department or other social records concerning all children's cases under the provisions of this Title may not be inspected or disclosed to the public, including the names of children taken into temporary custody or issued a summons, except upon order of the Court.

CHAPTER FOUR ADJUDICATION

Section 401. Adjudication Hearing.

(a) The Court shall hold an adjudication hearing following the filing of a petition that alleges a child is deprived. The hearing shall be held not more than ninety (90) calendar days following the filing of the petition. The child and the child's parents, guardian, or legal custodian shall be entitled to not less than twenty (20) days prior notice of the hearing.

(b) The child shall be released from custody in the event the adjudication hearing is delayed beyond ninety (90) days from the date the petition is filed unless the Court issues a written order with findings sufficient to indicate:

1. There exists reasonable suspicion that the health, safety, or well-being of the child would be in imminent danger if the child were returned to the home; and

2. There exists either an exceptional circumstance to support the continuance of the child in emergency custody or the parties and the guardian ad litem, if any, agree to such continuance.

(c) At the adjudication hearing, if the Court finds that it is in the best interest of the child, the Court shall:

1. Accept a stipulation by the child's parent, legal guardian, or custodian that the facts alleged in the petition are true and correct;

2. Accept a stipulation by the child's parent, legal guardian, or custodian that if the Nation presented its evidence supporting the truth of the allegations, such evidence would be sufficient to meet the Nation's burden of proving by a preponderance of the evidence that the factual allegations are true and correct; or

3. Conduct a non-jury trial to determine whether the Nation has met its burden of proving by a preponderance of the evidence that the factual allegations in the petition are true and correct.

Section 402. Petition Not Supported by a Preponderance of the Evidence.

If the Court finds that the factual allegations of the petition are not supported by a preponderance of the evidence, the Court shall order the petition dismissed and shall order the child discharged from any custody. The child's parents, legal guardian, or custodian shall also be discharged from any restriction or other previous temporary order.

Section 403. Petition Supported by a Preponderance of the Evidence.

(a) If the Court finds that:

1. The factual allegations in a petition alleging that a child is deprived are supported by a preponderance of the evidence:

2. Such allegations are sufficient to support a finding the child is deprived; and

3. It is in the best interests of the child that the child be ordered a deprived child and made a ward of the Court, then the Court shall sustain the petition, and shall make an order of adjudication, finding the child to be deprived and shall adjudicate the child as a ward of the Court.

(b) The order of adjudication shall include a statement that advises the parent that failure to appear at any subsequent hearing or comply with any requirements of the Court may result in the termination of parental rights of the child.

Section 404. Placement Preferences.

(a) In making a placement of or committing legal custody of a child to some person in the dispositional process, whether for foster care or adoption, the Court shall place the child in the following descending order of preference:

(1) A member of the child's immediate or extended family;

(2) A Wyandotte Nation foster home licensed, approved or specified by the Wyandotte Nation;

(3) A Native or non-Native foster home licensed or approved by the Wyandotte Nation;

(4) With approval of the Wyandotte Nation, a foster home licensed or approved by another Tribe or Tribal Nation;

(5) A Native foster home approved by another agency;

(6) A non-public (private) institution for children approved by the Wyandotte Nation or operated by a Native organization which has programs suitable to meet the needs of the child; or

(7) A non-Native foster home licensed by another agency and approved by the Wyandotte Nation if no other appropriate homes previously listed are available.

(b) In determining the placement, the Court shall make a specific finding that the placement is appropriate for the child and in the best interest of the child.

(c) Where appropriate, the Court may consider the preference of the parent(s), guardian or other custodian as well as the proximity of the prospective placement home to the child's home in applying these preferences.

(d) For each possible placement, the Court shall consider the willingness, fitness, ability, suitability, and availability of each person in a placement category before considering the next lower level of placement preference.

Section 405. Extended Family Defined.

A child's extended family is defined to mean a person at least eighteen (18) years of age and who is related to the child by either blood or marriage and is the child's grandparent, aunt or uncle, brother or sister, niece or nephew, or cousin. This also includes traditional custodians.

Section 406. Legal Custody; Guardianship.

(a) Any individual, agency, or institution vested by the Court with legal custody of a child shall have the rights and duties defined in this Title.

(b) Any individual, agency or institution vested by the Court with guardianship of the person of the child shall have the rights and duties defined in this Title; except that no guardian of the person may consent to the adoption of a child unless that authority is expressly given to them by the Court.

(c) If legal custody or guardianship of the person is vested in an agency or institution, the Court shall transmit, with the court order, copies of the social study, any clinical reports, and other information concerning the care and treatment of the child.

(d) An individual, agency, or institution having legal custody or guardianship of the person of a child shall give the Court any information concerning the child which the Court may at any time require.

(e) No individual vested by the Court with legal custody of a child shall remove the child from the state for more than thirty (30) days without Court approval.

(f) The individual, institution, or agency vested with legal custody of a child may petition the Court for renewal of the decree. The Court, after notice and hearing, may renew the decree for such additional periods as the Court may determine, if it finds such renewal to be in the best interest of the child. The findings of the Court and the reasons therefore shall be entered with the order renewing or denying renewal of the decree.

(g) No legal custodian or guardian of the person may be removed without his or her consent until given notice and opportunity to be heard by the Court if he or she so requests.

Section 407. Orders for Support.

(a) Whenever a child is removed from the custody of its parent, guardian, or other custodian, the parent or other person shall be ordered by the Court to contribute financial support, consistent with the child support guidelines of the Wyandotte Nation.

(b) The amount of child support ordered shall be a reasonable and equitable amount, taking into considerations the needs of the child and the ability of the parents to pay.

Section 408. Modification of Decrees or Orders.

Any decree or order made pursuant to the provisions of this Title may be modified by the Court at any time; provided, however, that an order terminating parental rights shall not be modified.

CHAPTER FIVE DISPOSTION

Section 501. Disposition Order - Written Individualized Service Plan.

(a) The Family Services Department shall prepare and maintain a written individualized service plan for any child that has been adjudicated as a deprived child.

(b) The plan shall be provided to the Court within thirty (30) days after the adjudication of the child for approval.

(c) The individualized service plan shall be based upon a comprehensive assessment and evaluation of the child and the family and shall be developed with the intention that upon successful completion, the child and the family will be functioning in a healthy and safe manner that serves the best interest of the child.

(d) If any part of the plan is not approved by the Court, an evidentiary hearing may be held and at its conclusion, the Court shall determine the content of the individualized service plan in accordance with the evidence presented and the best interest of the child.

Section 502. Court Approval of Individualized Service Plan.

(a) An individualized service plan approved by the Court shall be incorporated and made a part of the dispositional order of the Court.

(b) A court approved plan shall be signed by the parent, legal guardian, or custodian, all attorneys, the guardian ad litem, the Family Services Department and the Court.

(c) Every service plan shall be individualized and specific to each child and the family.

(d) The individualized service plan may be modified as necessary to remain consistent with the correction of conditions that led to the adjudication of the child or other conditions inconsistent with the health, safety or welfare of the child.

(e) The individualized service plan shall include, but not be limited to;

1. A history of the child and family, including identification of the problems or conditions which led to the deprived child adjudication and the changes the parent, legal guardian, or custodian must make in order for the child to safely remain in or return home;

2. Identification of reunification services to be provided to the parent, legal guardian, custodian, other adult living in the home, or other family members;

3. Identification of the services to be provided to the child, including but not limited to, educational, vocational, medical, drug or alcohol abuse treatment, counseling, or other services; and

4. A plan and schedule for regular and frequent visitation of the child and the child's parent, legal guardian, custodian, or siblings, unless the Court has determined that visitation, even if supervised, would be harmful to the child.

(f) The individualized service plan shall also include the permanency plan for the child, the reason for that particular permanency plan, and a description of the steps being taken by the Family Services Department to finalize the plan.

(g) Each individualized service plan shall specifically provide for the safety and wellbeing of the child in accordance with Tribal and Federal law, and clearly define what actions or precautions will, or may, be necessary to provide for the safety and protection of the child.

(h) The individualized service plan shall include substantially the following statement:

“TO THE PARENT: THE PURPOSE OF THIS DOCUMENT IS TO HELP PROVIDE YOUR CHILD WITH A SAFE HOME WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE HOME OR ATTEND COURT HEARINGS, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU.”

Section 503. Requirements of Dispositional Orders.

(a) In any dispositional order in which a child was removed from the home, the Court shall make a determination as to whether, in accordance with the best interests and the health, safety, or welfare of the child, reasonable efforts have been made to provide for the safe return of the child to the child's home.

(b) If reasonable efforts are required for the safe return of the child to the child's home, the Court shall allow the parent of the child a reasonable time to correct the conditions which led to the adjudication of the child as deprived; however, such time shall not be less than three (3) months, nor more than eighteen (18) months, absent a finding of compelling reasons to the contrary.

(c) If the Court finds that continuation of reasonable efforts to return the child are inconsistent with the permanency plan for a child, the Court shall determine whether reasonable efforts have been made to complete the steps necessary to finalize the permanent placement of the child.

(d) If the Court determines reasonable efforts to return the child to the home are contrary to the health, welfare, and safety of the child, the Court shall explicitly document said findings.

Section 504. Hearings for Child Placement.

(a) At any hearing pursuant to the provisions of this Title for the purpose of determining the placement of a child or that a child in tribal custody is to be released from tribal custody, the Court shall provide an opportunity for all persons to be heard, including but not limited to the Family Services Department, the guardian ad litem, and the child, if of sufficient age as determined by the Court.

(b) The Court, the prosecutor, or the attorneys for the parties may cross-examine the witnesses.

(c) The Court may issue written findings of fact and conclusions of law and all hearings concerning such cases shall be on the record.

Section 505. Court Ordered Placement.

The Court shall determine if the recommended placement is in the best interests of the child and shall further determine continued legal custody with the Family Services Department. Whenever a child is in the custody of the Family Services Department, the Court shall have authority to disapprove a specific placement if it does not conform to statutory requirements and the best interests of the child.

Section 506. Trial Home Reunification.

(a) If the Court makes a best interests of the child finding that trial reunification is reasonable, the Court may order a trial reunification by returning the child to the care of their parent, legal guardian, or custodian for a period not to exceed six (6) months.

(b) During the trial reunification, the Family Services Department shall:

1. Continue to have legal custody of the child;
2. Continue to provide appropriate services to both the child and the parent, legal guardian, or custodian during the reunification period;
3. Terminate the trial reunification immediately if the health and safety of the child are in danger or otherwise harmful to the wellbeing of the child, provided that the Department advises the Court and the parties within three (3) judicial days of the removal of the child;
4. Prepare a written report for the Court when the trial reunification is terminated, either by removal or upon conclusion of the services and the Department's position that all matters relating to the concern for the child's wellbeing and safety have been satisfactorily addressed.

(c) In the event a trial reunification is terminated by the Department by removing the child to foster care without prior court order or authorization, the Court shall conduct a hearing within fifteen (15) days of receiving notice of the termination of the trial reunification and shall determine whether a continuation of the child in the child's home or with the child's caretaker is contrary to the welfare of the child and whether reasonable efforts were made to prevent the removal of the child from the trial reunification.

Section 507. Review Hearings.

(a) The Family Services Department or other agency having supervision of the case, or if the child has been removed from the home, the Department or agency having custody of the child, shall cause to be prepared for each review a written report concerning the child.

(b) Reports for the purpose of review hearings shall include, but not be limited to:

1. A summary of the physical, mental and emotional condition of the child, the conditions existing in the out-of-home placement where the child has been placed, and the adjustment of the child thereto;
2. A report on the progress of the child's education, and a summary of the visitation exercised by the parent, legal guardian, or custodian as well as any other family members;
3. Services being provided to the child and the status of such services;
4. Progress of the parent, legal guardian, or other custodians to correct the conditions which caused the child to be adjudicated deprived, and what changes remain necessary; and

5. Specific recommendations, giving reasons whether:

(i) trial reunification should be approved by the Court;

(ii) trial reunification should be continued to a date certain as specified by an order of the Court;

(iii) the child should remain in or be placed outside of the home of the parent, legal guardian, or custodian; or

(iv) the child should remain in the current placement when the permanency plan is other than reunification with the parent or legal guardian of the child.

Section 508. Permanency Hearing Finding Reasonable Efforts Not Required.

(a) At any time prior to or following the adjudicatory hearing the Court, on its own motion or upon the motion of a party, may find that reasonable efforts to prevent the removal of a child from home or to reunify the child and family are not required if the Court determines, based upon a preponderance of the evidence, that:

1. The parent or legal guardian has abandoned the child;

2. The parent or legal guardian of the child has:

(i) committed murder or manslaughter of any child,

(ii) aided or abetted, attempted, conspired, or solicited to commit the murder or manslaughter of any child,

(iv) committed a felony assault upon any child that resulted in the child receiving serious bodily injury; or

(v) subjected any child to aggravated circumstances including, but not limited to, heinous and shocking abuse or heinous and shocking neglect; or

3. The parental rights of a parent to the child's sibling have been terminated involuntarily.

(b) The Court shall conduct a permanency hearing within thirty (30) days of a determination by the Court that any of the conditions specified in Subsection (a) of this Section exist. Reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan.

Section 509. Permanency Hearing to Determine Goal.

(a) The Court shall conduct a permanency hearing to determine the appropriate permanency goal for the child and to order completion of all steps necessary to finalize the permanency plan. The hearing shall be held no later than:

1. Six (6) months after placing the child in out-of-home placement and every six (6) months thereafter; and

2. Thirty (30) days after a determination by the Court that reasonable efforts to return the child to either parent are not required pursuant to the provisions of Section 508 of this Title.

(b) A child shall be considered to have entered out-of-home placement on the earlier of;

1. The adjudication date, or

2. The date that is sixty (60) days after the date on which the child is removed from the home.

(c) Subsequent permanency hearing shall be held at least every six (6) months for any child who continues to be in out-of-home placement.

(d) At each permanency hearing, the Court may consider testimony of any person who has relevant information about the status of the child or the status of the treatment plan.

(e) A permanency hearing may be held concurrently with a dispositional or review hearing.

(f) At the hearing, the Court shall determine or review the continued appropriateness of the permanency plan of the child and whether a change in the plan is necessary; the date by which the goal of permanency for the child is scheduled to be achieved, and whether the current placement of the child continues to be in the best interests of the child's health, safety, and welfare.

CHAPTER SIX TERMINATION OF PARENTAL RIGHTS

Section 601. Petition for Termination of Parental Rights.

(a) A petition for termination of parental rights may be filed independently by the prosecutor or the attorney of a child alleged to be or adjudicated to be deprived.

(b) The prosecutor shall file a petition for termination of the parent-child relationship and parental rights or shall join in the petition, if filed by the child's attorney, in any of the following circumstances:

1. Prior to the end of the fifteenth (15) month when a child has been placed in foster care by the Family Services Department for fifteen (15) of the most recent twenty-two (22) months;

2. No later than sixty (60) days after a child has been judicially determined to be an abandoned infant;

3. No later than sixty (60) days after a court has determined that reasonable efforts to reunite are not required due to a felony conviction of a parent who has

(i) committed murder or manslaughter of any child,

(ii) aided or abetted, attempted, conspired, or solicited to commit the murder or manslaughter of any child,

(iv) committed a felony assault upon any child that resulted in the child receiving serious bodily injury; or

(v) subjected any child to aggravated circumstances including, but not limited to, heinous and shocking abuse or heinous and shocking neglect.

(c) If any of the following conditions exist, the prosecutor is not required to file a petition as provided in Subsection (b) of this Section:

1. The Court finds or has found that the child is properly being cared for by a relative;

2. The Family Services Department has a compelling reason for determining that a petition to terminate parental rights would not serve the best interests of the child;

3. The foster parents of the child are unable to adopt the child because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the child, but are willing and capable of providing the child with a stable and permanent environment, and the removal of the child from the physical custody of the foster parents would be seriously detrimental to the emotional well-being of the child because the child has substantial psychological ties to the foster parents; or

4. The child is not capable of achieving stability if placed in a family setting.

Section 602. Termination of Parental Rights.

(a) A court shall not terminate the rights of a parent to a child unless:

1. The child has been adjudicated deprived either prior to, or concurrently, with a proceeding to terminate parental rights; and

2. Termination of parental rights is in the best interests of the child.

(b) The Court may terminate the rights of a parent to a child based upon the following:

1. Upon the duly acknowledged written consent of a parent, who voluntarily agrees to terminate their parental rights;

(i) the voluntary consent of a parent to terminate their parental right shall be signed under oath and recorded before a judge of a competent jurisdiction and accompanied by the judge's certification that the terms and consequences of the consent were fully explained in detail and were understood by the parent.

(ii) a voluntary consent for termination of parental rights is effective when it is signed and may not be revoked except upon clear and convincing evidence that the consent was executed by reason of fraud or duress.

2. A finding that a parent who is entitled to custody of the child has abandoned the child;

3. A finding that the child is an abandoned infant;

4. A finding that the parent has:

(i) voluntarily placed physical custody of the child with the Family Services Department or another child placing agency;

(ii) has not complied with the placement agreement;

(iii) has not demonstrated during such period a firm intention to resume physical custody of the child or to make permanent legal arrangements for the care of the child.

5. A finding that:

(i) the parent has failed to correct the condition which led to the deprived adjudication of the child; and

(ii) the parent has been given at least three (3) months to correct the condition;

6. A finding that:

(i) the rights of the parent to another child have been terminated, and

(ii) the conditions that led to the prior termination of parental rights have not been corrected;

7. A finding that a parent who does not have custody of the child has, for at least twelve (12) out of fifteen (15) months immediately preceding the filing of the petition for termination of parental rights, willfully failed, refused, or neglected to contribute to the support of the child when ordered to do so by a court of competent jurisdiction;

8. A finding that the parent has been convicted in a court of competent jurisdiction in any Tribal, State or Federal court of any of the following acts:

- (i) permitting a child to participate in pornography;
- (ii) rape, or rape by instrumentation;
- (iii) lewd molestation of a child under sixteen (16) years of age;
- (iv) child abuse or neglect;
- (v) enabling child abuse or neglect;
- (vi) causing the death of a child as a result of the physical or sexual abuse or chronic abuse or chronic neglect of the child;
- (vii) causing the death of a sibling of the child as a result of the physical or sexual abuse or chronic abuse or chronic neglect of the child's sibling;
- (viii) murder of any child or aiding or abetting, attempting, conspiring or soliciting to commit murder of any child;
- (ix) voluntary manslaughter of any child;
- (x) a felony assault that has resulted in serious bodily injury to the child or another child of the parents; or
- (xi) murder or voluntary manslaughter of the child's parent or aiding or abetting, attempting, conspiring, or soliciting to commit murder of the child's parent;

9. That the parent has abused or neglected the child or a sibling or failed to protect the child or sibling from abuse or neglect that is heinous or shocking;

10. A finding that the parent has previously abused or neglected the child or a sibling or failed to protect the child or a sibling from abuse or neglect, and the child or a sibling have been subjected to subsequent abuse or neglect;

11. A finding that the child was conceived as a result of rape by the parent whose rights are sought to be terminated;

12. A finding that the parent whose rights are sought to be terminated is incarcerated, and a specific finding that the continuation of parental rights would result in harm to the child;

13. A finding that:

(i) the parent has a diagnosed cognitive disorder, an extreme physical incapacity, or a mental condition which renders the parent incapable of adequately, appropriately and safely parenting a child;

(ii) a finding of a diagnosed cognitive disorder, an extreme incapacity, or a mental condition is not sufficient for termination if the parent is able to appropriately and safely parent a child; and

14. A finding that:

(i) the conditions that led to the deprived adjudication has been the subject of a previous deprived action in relation to this child or a sibling;

(ii) the parent was given an adequate opportunity to correct the conditions which led to the initial determination of a deprived child and failed to do so.

(c) An order terminating parental rights is a final appealable order.

Section 603. Notice of Hearing to Terminate Parental Rights.

(a) Prior to a hearing to terminate parental rights, notice of the date, time and place of the hearing and a copy of the petition shall be served upon the parent who is the subject of the termination by personal service, certified mail, or by publication as provided in the Wyandotte Nation Civil Procedure Code.

(b) The notice shall contain the substantially the following statement:

“FAILURE TO APPEAR AT THIS HEARING CONSTITUTES CONSENT TO THE TERMINATION OF YOUR PARENTAL RIGHTS. IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED HEREIN, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD NAMED IN THE PETITION ATTACHED TO THIS NOTICE.”

(c) Notice shall be served not less than twenty (20) days prior to the scheduled hearing.

(d) Notice shall further state that termination of parental rights does not terminate the duty to support the child.

(e) The failure of a parent who is served with notice under this Section to appear at the hearing, shall constitute consent to the termination of parental rights by the Court.

(f) The Court shall be authorized to vacate an order terminating parental rights if the parent whose rights were terminated files a motion to vacate within thirty (30) days after the order is filed with the clerk.

(i) The burden of proof to show the parent had no actual notice, or due to unavoidable circumstances, is upon the parent whose rights were terminated;

(ii) If the Court makes a finding that the motion to vacate should be granted, the statutory consent shall be set aside and a new trial conducted.

Section 604. Jury Trials.

(a) Upon the filing of an action to terminate parental rights, a child, his parent, or guardian, or any other interested party may demand a trial by jury of not more than six (6) individuals, or the Court, on its own motion, may order such a jury to try a termination matter.

(b) Unless a jury trial be demanded, it shall be deemed to be waived.

(c) A jury trial shall be demanded consistent with the provisions of Title 3 - Civil Procedure Code, Section 901.

Section 605. Efforts to Locate Parent(s).

Before a termination of the parent-child legal relationship based on abandonment can be ordered, the petitioner shall file an affidavit stating what efforts have been made to locate the parent(s) of the child subject to the motion for termination. Such affidavit shall be filed not later than ten (10) days prior to the hearing.

Section 606. Permanency Hearing.

(a) When parental rights are not terminated as a result of trial, the Court shall set the matter for permanency hearing within thirty (30) days.

(b) The Court shall have continuing jurisdiction over a child and the parties when parental rights are not terminated.

(c) When rights are not terminated at trial, the Court is not required to reunite the child and the parent and shall continue exercising jurisdiction of the matter until the parent is able to provide a safe and healthy environment for the child.

Section 607. Effect of Decree.

(a) An order for the termination of the parent-child legal relationship divests the child and the parent of all legal right, power, privileges, immunities, duties and obligations with respect to each other, except for the right of the child to inherit from the parent as well as the parent's obligation to provide support for the child until such time as the child is adopted or emancipated.

(b) No order or decree entered pursuant to this Title shall disentitle a child to any benefit due him from any third person, including, but not limited to, any Indian Tribe, any agency, any state, or the United States.

(c) After the termination of a parent-child legal relationship, the former parent is not entitled to any notice of proceedings for the adoption of the child by another, nor do they have any right to object to the adoption or to otherwise participate in such proceedings.

CHAPTER SEVEN APPEALS

Section 701. Appeals.

An appeal may be taken from any order, decree, or judgment of the Court in the same manner as other civil appeals are taken. Initials shall appear on the record on appeal in place of the name of the child and respondents. Appeals shall be advanced on the calendar of the appellate court and shall be decided at the earliest practical time.

Section 702. Time for Filing Appeals.

All appeals of cases involving deprived or allegedly deprived children, including termination of parental rights, shall be commenced within thirty (30) days of the entry of the order being appealed.

CHAPTER EIGHT FOSTER CARE DEVELOPMENT

Section 801. Responsibility.

The Wyandotte Nation Indian Child Welfare Program will be responsible for the recruiting, necessary screening, and upon satisfaction, will issue a foster care home license, with the approval of the Family Services Director of the Wyandotte Nation for a minor child who is in need of a foster care home.

Section 802. Licensing Foster Homes.

The Indian Child Welfare Program of the Wyandotte Nation will comply with all Federal, State, and Tribal laws before issuing a foster care home license.

Section 803. Basic Standard for Foster Care Home.

The Indian Child Welfare Program, when determining to issue a foster care home license shall consider the foster parent's ability to provide love, affection, and the understanding of any child in distress or in need of care.

Section 804. Basic Standard for Foster Families.

Foster families shall meet the following criteria:

(a) Foster parents must be of sound or capable health as to care for a particular child. If there is any doubt as to the health ability of parent or any other child in the house, the Indian Child Welfare Program can request a written statement from a licensed physician.

(b) Physical handicaps will be considered, unless it would prevent adequate care of a child. Each case will be considered on an individual basis with the assistance of professional help.

Section 805. Income of Foster Families.

In the event there is not enough funding to pay to the foster care home, the Indian Child Welfare Program must determine that the intended foster care family has adequate funding resources to provide for the additional care and necessary expenses of a foster care child.

Section 806. Physical Facilities.

(a) The residence of the foster care home must have no present danger or presents no serious safety hazard to the child.

(b) Foster care homes will meet housing requirements as determined by local public codes for individual family dwellings.

(c) The physical residence of the foster care home will be determined by the individual living standards of the community in which the foster care home is located; that these standards shall be sufficient to assure a degree of comfort and self-respect in the community

(d) Comfort and privacy:

(1) Is it preferred that no more than two (2) children share the same sleeping room.

(2) It is not preferred that sleeping rooms be shared by children of the opposite sexes, especially those children who may be having difficulties in their development and behavior.

(3) Children, other than infants, shall not share the sleeping quarters with the adults of the household.

(4) Space will be provided for the child's personal possessions.

(e) There shall be no exceptions of Section 806 d., a – d, unless there are special cultural, ethnic, or social-economic circumstances that do not present a detriment to the child. Foster care homes must have access to education facilities, recreation area, medical areas, and other community related facilities.

(f) If the home is acceptable, except for physical problems the foster care home shall be provided to the greatest extent possible assistance in meeting the above requirements, standards and/or codes.

Section 807. Family Composition.

The Indian Child Welfare Program shall consider the composition of the family size and will determine what is in the best interests of the child.

Section 808. Foster Parents.

Each Prospective foster parent shall possess personal qualities of maturity, stability, flexibility, ability to cope with stress, ability to give and receive love, and good moral character. To assist the Indian Child Welfare Program the following items may be considered:

- (a) Psycho-social history;
- (b) Past relationships and experiences;
- (c) Role identification and acceptance;
- (d) Reaction to losses;
- (e) Education, employment, and patterns of social interaction;
- (f) Social activities, including Wyandotte Nation cultural participation;
- (g) Financial management;
- (h) Reaction to stress and daily pressures;
- (i) Daily routine and habits; and
- (j) Skills, interests, talents, and hobbies.

Section 809. Foster Parent Abilities.

This final assessment of a prospective foster care parent or parents must estimate the ability of the prospective parent, to care and provide for the specific child in question may consider the following:

- (a) The motivation for submitting an application;
- (b) The attitude, existing family relationships, and expectations of children, and the impact upon the family and the foster care child;

- (c) The attitude of the extended family;
- (d) The ability to accept and love the child as is;
- (e) Acceptance of the foster child into the family without a significant disruption;
- (f) Ability of foster parents to provide and care, in a parental manner, to all the children in the home;
- (g) Foster parent's children's attitude of having a new child member;
- (h) Understanding all realistic factors of child rearing;
- (i) Ability to provide long term care;
- (j) Ability to care for the child under changing circumstances;
- (k) Ability to accept, and if possible, to encourage reunification with the child's natural parent(s);
- (l) If a child is in need of special attention, that the foster parent can provide that level of attention;
- (m) Ability to handle further inquiries and make verbal reports;
- (n) To encourage a child to relate to the cultural attributes of the Wyandotte Nation.