

**WYANDOTTE NATION**  
**TITLE 9**  
**JUVENILE DELINQUENT CODE**  
(APPROVED BY THE BOARD OF DIRECTORS 7-14-2026)

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**WYANDOTTE NATION  
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**INTRODUCTION**

**Section 1. Citation.**

This Title may be cited as the “Juvenile Delinquent Act.”

**Section 2. Purpose.**

It is the intent of the Wyandotte Nation to:

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

(b) Promote the public safety and reduce juvenile delinquency, through fair and just means.

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

**Section 3. Definitions.**

(a) “Adjudicatory hearing” means a hearing to determine whether the allegations of a petition filed pursuant to this Title are supported by the evidence and whether a juvenile should be adjudged to be a ward of the Court.

(b) “Adult” means a person eighteen (18) years of age or older; except any person alleged to have committed a delinquent act before he or she became eighteen (18) years of age shall be considered a child under this Title for the purpose of adjudication and disposition of the delinquent act, except where otherwise provided in this Title.

(c) “Alternatives to secure detention” means those services and facilities which are used for the temporary detention of juveniles in lieu of secure detention in a juvenile detention facility.

(c) “Behavioral health” means mental health, substance abuse or co-occurring mental health and substance abuse diagnoses, and the continuum of treatment for such conditions.

(d) “Board of Directors” means the Board of Directors of the Wyandotte Nation.

(e) “Child” or “Juvenile” means any person under eighteen (18) years of age, over whom the Wyandotte Nation has jurisdiction including, but not limited to:

(i) Enrolled citizens of the Wyandotte Nation who are under the age of eighteen (18) years;

(ii) Persons under the age of eighteen (18) who are eligible for enrollment in the Wyandotte Nation;

(iii) Indians, who are under the age of eighteen (18) years of age and who are residing within the reservation of the Wyandotte Nation;

(f) “Child or Juvenile in need of supervision” means a juvenile who:

(i) has repeatedly disobeyed reasonable and lawful commands or directives of the parent, legal guardian, or other custodian;

(ii) is willfully and voluntarily absent from his or her home without the consent of the parent, legal guardian, or other custodian for a substantial length of time or without intent to return;

(iii) is willfully and voluntarily absent from school; or

(iv) has been served with an ex parte or final protective order pursuant to the laws of the Wyandotte Nation.

(g) “Clerk” means the Clerk of the Court.

(h) “Code” means the statutory laws of the Wyandotte Nation.

(i) “Commit” means to transfer legal custody.

(j) “Common law” means the traditions and customs of the Wyandotte 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.

(k) “Constitution” means the Constitution of the Wyandotte Nation unless otherwise indicated.

(l) “Custody means legal care and control of the person.

(m) “Delinquent child or juvenile” means a juvenile who:

(i) has violated any Federal or Tribal law, other than those specially reserved for Federal jurisdiction, except a traffic offense or has violated any lawful order of the Court made pursuant to the provisions of the Wyandotte Nation Juvenile Code; or

(ii) has habitually violated traffic laws;

(n) “Dispositional hearing” means a hearing to determine the order of disposition which should be made with respect to a juvenile adjudged to be a ward of the Court.

(o) “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 which is used for the lawful custody and treatment of juveniles. A facility shall not mean or include a correctional facility.

(p) “Group home” means a residential facility with a program which emphasizes family-style living in a homelike environment. A group home shall not be considered a correctional facility.

(q) “Independent living program” means a program designed to assist a juvenile in the enhancement of skills and abilities for successful adult living.

(r) “Indian” means any member of a Federally Recognized Indian Tribe, band, or community or Alaskan Natives.

(s) “Institution” means a residential facility offering care and treatment for individuals in need of behavioral health services. An institution shall not mean or include a correctional facility.

(t) “Jurisdiction” means the Indian Country, including the reservation boundaries, within the territorial jurisdiction of the Wyandotte Nation. The jurisdiction of the Nation’s courts is coextensive with that of the Nation itself.

(u) “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.

(v) “Juvenile detention facility” means a secure facility which is entirely separate from any prison, jail, adult lockup, or other adult facility, for the temporary care of children. A juvenile detention facility shall not be considered a correctional facility.

(w) “Nation” and variants thereof, both uppercase and lowercase, means the Wyandotte Nation unless otherwise indicated.

(x) “Probation” means a legal status created by court order whereby a delinquent juvenile is permitted to remain outside a facility directly or by contract under prescribed conditions and under supervision of the Court through a probation officer or other designee.

(y) “Prosecuting Attorney” means the Attorney General of the Wyandotte Nation or other legal representative appointed by the Board of Directors to prosecute crimes and/or juvenile matters.

(z) “Responsible adult” means a stepparent, foster parent, person related to the juvenile in any manner who is eighteen (18) years of age or older, or any person having an obligation and authority to care for or safeguard the juvenile in the absence of another person who is eighteen (18) years of age or older.

(aa) “Secure detention” means the temporary care of juveniles who require secure custody in physically restricting facilities:

(i) while under the continuing jurisdiction of the Court pending court disposition;  
or

(ii) pending placement by the Court after adjudication.

(bb) “Supreme Court” means 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.

#### **Section 4. 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. Juvenile Court Established.**

There is hereby created and established within the District Court, a Juvenile Division whose powers and duties are set forth in this Title. Any Judge of the District Court may be assigned to hear cases in the Juvenile Division of the Court by the Chief Judge.

#### **Section 102. Jurisdiction.**

(a) Except as otherwise provided by law, the Juvenile Court shall have exclusive jurisdiction in proceedings:

- (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 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 Court’s jurisdiction;
- (5) For the issuance of orders of support of minor children;

(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 in military service 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 Court's jurisdiction.

(b) The Court may issue temporary orders providing for protection, support, or medical or surgical treatment as it deems in the best interest of any child concerning whom a petition has been filed.

(c) Nothing in this section shall deprive the District Court of jurisdiction to appoint a guardian for a child nor of jurisdiction to determine the legal custody of a child upon writ of habeas corpus or when the question of legal custody is incidental to the determination of a cause in the District Court except that:

(1) If a petition involving the same child is pending in Juvenile Court or if continuous jurisdiction has been previously acquired by the Juvenile Court, the District Court shall certify the question of legal custody to the Juvenile Court; and

(2) The District Court at any time may request the Juvenile Court to make recommendations pertaining to guardianship or legal custody.

(d) Where a custody award has been made in the District Court in a dissolution of marriage action or another proceeding, the District Court may assume jurisdiction in a case involving the same child if the child is dependent or neglected or otherwise comes within the jurisdiction as set forth herein.

(e) Where any person fifteen (15) years of age or older but less than eighteen (18) years of age is charged with a criminal offense which is punishable by banishment, such person shall be considered an adult and the Court shall advise the person that they are being prosecuted as an adult. Such person is presumed to be an adult unless a motion for certification as a juvenile is filed with the Court twenty (20) days before trial. Upon the filing of such motion, the complete juvenile record of the accused shall be made available to the Prosecuting Attorney and the accused person and their legal counsel.

(f) The accused may offer evidence to support the motion for certification as a juvenile.

(g) The Court shall rule on the certification motion of the accused person before trial. When ruling on the certification motion of the accused person, the Court shall give consideration to the following guidelines, listed in order of priority:

(1) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(2) Whether the offense was against person or property, greater weight being given for retaining the accused person within the adult criminal system for offenses against persons, especially if personal injury resulted;

(3) The record and past history of the accused person, including previous contacts with law enforcement agencies and juvenile or criminal courts, prior periods of probation and commitments to juvenile institutions;

(4) The prospects for adequate protection of the public if the accused person is processed through the juvenile system;

(5) The Court, in deciding on the certification motion of the accused person, need not detail responses to each of the above considerations, but shall state that the Court has considered each of the guidelines in reaching its decision;

(6) Upon completion of the hearing, if the accused person is certified as a child to the Juvenile Division of the District Court, then all adult court records relative to the accused person and this charge shall be expunged and any mention of the accused person shall be removed from public record; and

(7) An order certifying a person as a child or denying the request for certification as a child shall be a final order, appealable when entered and filed by the Court Clerk.

### **Section 103. Notice of Legal Rights.**

(a) At the child's first appearance before the Juvenile Court, the child and their parent(s), guardian or other legal custodian shall be fully advised by the Court of their legal rights, including:

(1) Their right to a jury trial upon demand where available;

(2) Their right to be represented by an attorney, at their own expense, at every stage of the proceeding;

(3) Their right to see, hear, and cross-examine all witnesses against them;

(4) Their right to call witnesses on their own behalf and to have court process compel the attendance of witnesses for them; and

(5) In juvenile delinquency proceedings, the right of the child not to be compelled to testify against himself.

(b) If the child or his parents, guardian, or other legal custodian requests an attorney and is found to be without sufficient financial means, counsel shall be appointed by the Court in proceedings wherein the Nation is a party.

(c) The Court may appoint counsel without such request if it deems representation by counsel necessary to protect the interests of the child or other parties.

(d) If the child and their parent(s), guardian, or other legal custodian were not represented by counsel, the Court shall inform them at the conclusion of the proceedings that they have the right to file a motion for new trial and that if such motion is denied, they have the right to appeal.

#### **Section 104. Procedure.**

(a) The rules of juvenile procedure herein set forth shall apply in all proceedings under this Title. To the extent that any procedure is not specifically set forth herein, the general rules of the Wyandotte Nation Civil Procedure and the Wyandotte Nation Criminal Procedures shall apply.

(b) In cases involving an allegation of delinquency by means of commission of an offense, the adjudicatory hearing shall be held in conformity with the rules of criminal procedure, and the child shall be entitled to all the rights, privileges, and immunities of any accused in a criminal case.

(c) The District Court shall have the authority by written Court rule not inconsistent with this Title or the rules of Civil Procedure and filed of record in the Court Clerk's office to provide for any procedure or form necessary for the efficient, orderly, and just resolution of cases under this Title.

#### **Section 105. Hearings.**

(a) Hearings shall be held before the Court without a jury. 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 Judge.

(c) When more than one child is named in a petition alleging delinquency or need of supervision, the hearings may be consolidated or heard separately at any stage of the proceeding at the Court's discretion.

(d) Children's cases shall be heard separately from adult cases; however, 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.

(e) 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 (e) 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 106. Prosecuting Attorney Duties.**

The Prosecuting Attorney shall represent the Nation in all proceedings subject to this Title in which the Nation is a party.

#### **Section 107. 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 when the allegations of a petition are denied, then the study or report shall not be made until the Court has entered an order of adjudication.

(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 108. Effect of Proceedings.**

(a) No adjudication or disposition in proceedings under this Title shall impose any civil disability upon a child or disqualify them from any Tribal personnel system or military service application or appointment from holding Tribal office.

(b) No adjudication, disposition, or evidence given in proceedings brought under this Title shall be admissible against a child in any criminal or other action or proceedings, except in subsequent proceedings under this Title concerning the same child.

#### **Section 109. 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) Probation counselor's records and all other reports of social 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 110. Expungement of Records.**

(a) Any person who has been adjudicated delinquent or in need of supervision, who was taken into custody on an allegation of delinquency or need of supervision, or who was the subject of a petition for delinquency or need of supervision later may petition the Court for the expungement of their record and shall be so informed at the time of adjudication, or the Court, on its own motion may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the Court. Such petition shall be filed or such court order entered no sooner than two years after the date of termination of the Court's jurisdiction over the person. Only by stipulation of all parties involved may expungement be applied for prior to the expiration of two years from the date of termination of the Court's jurisdiction or termination of the Court's supervision.

(b) Upon filing of a petition for expungement or entering of a court order, the Court shall set a date for a hearing and shall notify the Prosecuting Attorney and anyone else whom the Court has reason to believe may have relevant information related to the expungement of the record, including all agencies or officials known to have relevant files relating to the individual.

(c) The Court shall order sealed all records in the petitioner's case in the custody of the Court and any records in the custody of any other agency or official, if at the hearing the Court finds that:

(1) The subject of the hearing has not been convicted of a felony, an offense punishable by banishment, or of a misdemeanor involving moral turpitude and has not been adjudicated under this Title since the termination of the Court's jurisdiction.

(2) No proceeding concerning a felony, an offense punishable by banishment, a misdemeanor involving moral turpitude, or a petition under this Title is pending or being instituted against him; and

(3) The rehabilitation of the person has been attained to the satisfaction of the Court.

(d) Upon the entry of an order to seal the records, the proceedings in the case shall be deemed never to have occurred, and all index references shall be deleted, and the person, every agency, and the Court may properly reply that no record exists with respect to such person upon any inquiry in the matter.

(e) Copies of the order shall be sent to each agency or official named therein.

(f) Inspection of the records included in the order may thereafter be permitted by the Court only upon petition by the person who is the subject of such records and only to that person named in such petition.

(g) In any proceeding alleging delinquency or need-of-supervision in which the Court orders the petition dismissed on the merits at adjudication, the Court may order the records expunged. Such order of expungement may be entered without delay upon petition of the child or any party or upon the Court's own motion.

#### **Section 111. 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 arrest 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:

(1) To the victim in each case when the child is found guilty of a delinquent act;

(2) When the child has escaped from an institution to which the child has been committed;

(3) By order of the Court;

(4) When the Court orders the child to be held for criminal proceedings;

(5) When there has been a criminal conviction and a pre-sentence investigation is being made on an application for probation; or

(6) When the disclosure is to a Tribal, Federal, or State officer, employee, or agency in their official capacity who shows a bona fide need for the information requested to assist in apprehension, to conduct a current investigation, or as otherwise provided by the Wyandotte Nation Code of laws.

## **Section 112. Family Service Department and Other Records.**

The records of the Family Service Department or other social or probationary 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:

- (a) To the victim in each case when the child is found guilty of a delinquent act;
- (b) When the child has escaped an institution to which the child has been committed;
- (c) By order of the Court;
- (d) When the Court orders the child to be held for criminal proceedings;
- (e) When there has been a criminal conviction and a pre-sentence investigation is being made on an application for probation; or
- (f) When the disclosure is to a Tribal, Federal, or State officer, employee, or agency in their official capacity who shows a bona fide need for the information requested to assist in apprehension, to conduct a current investigation, or as otherwise provided by the Wyandotte Nation Code of laws.

## **Section 113. Identity Confidential.**

No fingerprint, photograph, name, address, or other information concerning the identity of a child taken into temporary custody or issued a summons under the provisions of this Title may be transmitted to the Federal Bureau of Investigation or any other person or agency except a local Law Enforcement Agency when necessary to assist in apprehension or to conduct a current investigation, or when the Court orders the child to be held for criminal proceedings. An exclusion to this Subsection shall be had when the Court determines the safety of a missing or exploited child necessitates the release of such information.

## **Section 114. Search Warrants for the Protection of Children.**

(a) A search warrant may be issued by the Juvenile Court to search any place for the recovery of any child within the jurisdiction of the Court believed to be a delinquent child or a child in need of supervision.

(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 delinquent child or a child in need of supervision, 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 115. 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 affidavits. 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 a detention or shelter facility or other Court approved facility.

(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 116. Expiration of Search Warrant.**

A search warrant for 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 117. Exclusion of Certain Statements by Alleged Delinquent.**

(a) No statements or admission of a child, under the age of sixteen (16), made as a result of interrogation of the child by a law enforcement official concerning acts alleged to have been committed by the child which would constitute a crime if committed by an adult shall be admissible

in evidence against that child unless a parent, guardian, or legal custodian of the child was present at such interrogation and the child and his parent, guardian, or legal custodian were advised of the child's right to remain silent, that any statements made may be used against him in a court of law, the right of the presence of an attorney during such interrogation, and the right to have counsel appointed if so requested at the time of the interrogation if available at no fee except that, if to the extent such counsel is available for appointment, legal counsel representing the child is present at such interrogation, such statements or admissions may be admissible in evidence even though the child's parent(s), guardian or other legal custodian was not present.

(b) Notwithstanding the provisions of Subsection (a) of this Section, statements or admissions of a child, under the age of sixteen (16), shall not be inadmissible in evidence by reason of the absence of a parent, guardian, or legal custodian if the child is emancipated from the parent(s), guardian, or legal custodian or if the child is a runaway from outside the Court's jurisdiction and is of sufficient age and understanding.

### **Section 118. Appeals.**

(a) An appeal may be taken from any order, decree, or judgment of the Court in the same manner as other criminal 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.

(b) The Nation shall have the same right to appeal questions of law in delinquency cases as exist in criminal cases.

## **CHAPTER TWO CUSTODY AND COURT PROCEEDINGS**

### **Section 201. Emergency Custody.**

(a) A child may be taken into custody prior to the filing of a petition alleging that the child is delinquent or in need of supervision:

(i) By law enforcement, without a Court Order, for any criminal offense for which the officer is authorized to arrest an adult without a warrant, or if the child is willfully and voluntarily absent from the home of the child without the consent of the parent, legal guardian, legal custodian or other person having custody and control of the child for a substantial length of time or without intent to return, or if the surroundings of the child are such as to endanger the welfare of the child;

(ii) By a Juvenile Services worker, probation officer, or social worker, without a court order, if the child is willfully and voluntarily absent from the home of the child without the consent of the parent, legal guardian, legal custodian or other person having custody and control of the child for a substantial length of time or without the intent to return or if the surroundings of the child are such as to endanger the welfare of the child;

(iii) Pursuant to an order of the District Court issued on the application of the tribal prosecutor, provided that the application shall be supported by a sworn affidavit which may be based upon information and belief. The application shall state facts sufficient to demonstrate to the Court that there is probable cause to believe the child has committed a crime or is in violation of the terms of probation or other order of the Court;

(iv) By order of the District Court when the child is in need of medical or behavioral health treatment or other action in order to protect the health or welfare of the child and the parent, legal guardian, legal custodian or other person having custody or control of the child is unwilling or unavailable to consent to such medical or behavioral health treatment or other action; and

(v) Pursuant to an emergency ex parte or a final protective order of the District Court issued at the request of a parent or legal guardian.

(b) Whenever a child is taken into custody as a delinquent child or a child in need of supervision pursuant to Subsection (a) of this Section, the child shall be detained, held temporarily in the custodial care of a law enforcement officer or be released to the custody of the parent, legal guardian, legal custodian, attorney or other responsible adult, upon the written promise of such person to bring the child to Court at the time fixed if a petition is to be filed and to assume responsibility for costs of damages caused by the child if the child commits any delinquent acts after being released regardless of whether a petition is to be filed.

(i) It shall be a misdemeanor for any person to sign the written promise and then fail to comply with the terms of the promise. Any person convicted of violating the terms of the written promise shall be subject to incarceration for not more than six (6) months or a fine of not more than Five Hundred Dollars (\$500.00), or by both a fine and incarceration.

(ii) It shall be a misdemeanor if a parent, legal guardian, legal custodian, or other responsible adult is notified that the child has been taken into custody, if such person refuses to assume custody of the child in a timely manner. Any person convicted of failing to assume custody, upon a Court Order, shall be subject to incarceration for not more than six (6) months or a fine of not more than Five Hundred Dollars (\$500.00), or by both a fine and incarceration.

(iii) If detained, the child shall be taken immediately before the judge of the District Court, or to the place of detention or shelter designated by the Court. Provided, however, the child shall not be detained in custody beyond the next judicial day unless the Court shall so order after a detention hearing to determine if there exists probable cause to detain the child.

(iv) The child shall be present at the detention hearing, whether in-person, via telephone, or other electronic means.

(v) If detained, a reasonable bond for release may be set, pending further disposition of the case, or a child whose custody has been assumed by the Court may be released to the custody of a parent, legal guardian, legal custodian or to any other person designated by the Court, or be detained in such place as the Court determines as appropriate, and subject to further order of the Court.

(c) When any child is taken into custody pursuant to this Title and it reasonably appears to law enforcement or the Court that the child is in need of medical treatment to preserve the health and welfare of the child, the Court shall order the child receive an appropriate medical or mental health examination and/or treatment, regardless of the consent of the parent, legal guardian or legal custodian of the child. No person acting pursuant to a Court order for medical treatment shall have any liability, civil or criminal, for giving such authorization for medical treatment.

(d) A child may be taken into custody pursuant to an order of the Court specifying the child is in need of medical treatment or other action to protect the health or welfare of the child and the parent, legal guardian, or legal custodian is unwilling or unavailable to consent to such medical treatment or other action.

(i) If the child is in need of immediate medical treatment or other action to protect the health and welfare of the child, the Court may issue an emergency ex parte order upon application, verbal or written, of the prosecutor. The application shall be supported by facts sufficient to demonstrate to the Court that there is reasonable cause to believe the child is in need of immediate medical treatment or other action to protect the health and welfare of the child. The emergency ex parte order shall be in effect until a full hearing is conducted. Such hearing shall occur within twenty-four (24) hours, excluding weekends and days when the Court is not open for business, of the filing of the application. Such hearing shall be set regardless of whether an ex parte order was issued or denied. A copy of the application, notice for full hearing and a copy of any ex parte order shall be served upon the parent, legal guardian or legal custodian at the earliest time possible and before the hearing.

(ii) Except as otherwise provided in paragraph (i) of this Subsection, whenever a child is in need of medical treatment to protect the health and welfare of the child, and the parent, legal guardian, or legal custodian is unwilling or unavailable to consent to such medical treatment or other action, the Court, upon application of the prosecutor, shall hold a full hearing within five (5) days of filing the application. Notice shall be served upon the parent, legal guardian, or legal custodian.

(iii) At any hearing held pursuant to this Subsection, the Court may grant an order or require such medical treatment or other action as is necessary to protect the health or welfare of the child. Expenses for such medical treatment or other action shall be the responsibility of the person having custody or control of the child and no liability, civil or criminal, shall be placed upon anyone acting pursuant to the Court's order.

## **Section 202. Personal Jurisdiction.**

(a) Upon the filing of a petition alleging the child to be in need of supervision, or upon the assumption of custody pursuant to this Title, the District Court shall have jurisdiction over a child who is an Indian, as defined by Federal law, where a child resides, is found or is alleged to be in need of supervision within the exterior boundaries of the Wyandotte Nation Reservation.

(i) The Court shall have jurisdiction of the parent, legal guardian, legal custodian, stepparent of the child, or any adult person living in the home of the child regardless of where that individual is found.

(ii) When jurisdiction has been obtained over a child who is alleged to be in need of supervision, such may be retained until the child reaches the legal age of majority.

(b) Upon the filing of a petition alleging the child to be delinquent or upon the assumption of custody pursuant to this Title, the District Court shall have jurisdiction of the child and of the parent, legal guardian, legal custodian, stepparent of the child, or any adult person living in the home of the child regardless of there that individual is found.

(i) When jurisdiction has been obtained over a child who is or is alleged to be a delinquent, jurisdiction may be retained until the child becomes nineteen (19) years of age upon the Court's own motion or motion by the tribal prosecutor.

(ii) The juvenile proceeding may be filed before the child becomes eighteen (18) years of age; within one (1) year after the date of the eighteenth birthday of the child if the underlying act would constitute a felony if committed by an adult; or within six (6) months after the date of the eighteenth birthday if the underlying act would constitute a misdemeanor if committed by an adult.

(c) Any adjudication and disposition made by the Court in which said petition is filed shall control over prior orders in regard to the child.

(d) Except as otherwise provided in this Title, a child who is charged with having violated any tribal statute shall not be tried in a criminal action other than in a juvenile proceeding.

(e) If, during the pendency of a criminal charge against any person, it shall be ascertained that the person was a child at the time of committing the alleged offense, the District Court may transfer the case, together with all papers, documents and testimony connected therewith, to the juvenile division of the District Court.

### **Section 203. Notification of Parent, Legal Guardian or Other Legal Custodian.**

When a child is taken into temporary custody, the officer shall notify a parent, legal guardian, or other legal custodian without unnecessary delay and inform them that, if the child is placed in detention, all parties have a right to a prompt hearing to determine whether the child is to be detained further. Such notification may be made to a person with whom the child is residing if a parent, guardian, or legal custodian cannot be located. If the officer taking the child into custody is unable to make such notification, it may be made by any other law enforcement officer, probation officer, detention center counselor, or jailer in whose physical custody the child is placed.

### **Section 204. Notification of Court Officers.**

Whenever an officer or other person takes a child to a detention or shelter facility, or admits a child to a medical facility pursuant to Section 201, the officer or other person who took the child to a detention or shelter facility shall notify the Prosecuting Attorney, the Family Services Department, Juvenile Services, and any agency or person so designated by the Court at the earliest opportunity that the child has been taken into custody and where the child has been taken. He shall also promptly file a brief written report with the Prosecuting Attorney, the Family Services Department, Juvenile Services, and any agency or person so designated by the Court stating the facts which led to the child being taken into custody and the reason why the child was not released. This report shall be filed within twenty-four (24) hours excluding Saturdays, Sundays and legal holidays.

#### **Section 205. Release of Detained Child.**

(a) Except as provided in paragraph (b) of this Section, a child shall not be detained by law enforcement officials any longer than is reasonably necessary to obtain the child's name, age, residence and other necessary information and to contact the child's parent(s), legal guardian or other legal custodian.

(b) The child shall be released to the care of their parent(s) or other responsible adult unless his immediate welfare or the protection of the community requires that the child be detained. The parent(s) or other person to whom the child is released may be required to sign a written promise, on forms supplied by the Court, to bring the child to the Court at a time set or to be set by the Court.

(c) If the child is not released as provided in Subsection (b) of this Section, the child shall be taken directly to the Court or to the detention facility or shelter approved and designated by the Court without unnecessary delay unless admitted to a facility for medical treatment pursuant to Section 201(c) of this Title.

(d) No child shall be detained pursuant to Subsection (b) for a period exceeding seventy-two (72) hours, exclusive of Saturdays, Sundays and legal holidays, without an order of the Court. If no Court order is issued within such time, the child must be released.

(e) Notwithstanding the provisions of Subsection (d) of this Section, a child who is alleged to be a runaway from another Tribal jurisdiction or a state may be held in a detention facility or shelter up to seven (7) days, during which time, arrangements shall be made for returning the child to their parent, or legal custodian.

#### **Section 206. Special Release Rule for Major Offenses.**

(a) No child taken to a detention or shelter facility, without a Court Order as the result of an allegedly delinquent act, which would constitute a major crime or offense punishable by banishment if committed by an adult, shall be released from such facility if a Law Enforcement Agency has requested, in writing, that a detention hearing be held to determine whether the child's immediate welfare or the protection of the community requires that the child be detained. No such child shall thereafter be released from detention except after a hearing, reasonable advanced notice

of which has been given to the Prosecuting Attorney, alleging new circumstances concerning further detention of the child.

(b) When, following a detention hearing as provided for by Subsection (a) of this Section, the Court orders further detention of a child, a petition alleging the child to be delinquent shall be filed with the Court without unnecessary delay if one has not been previously filed, and the child shall be held in detention pending a hearing on the petition.

(c) Nothing herein shall be construed as depriving a child of the right to bail under the same circumstances as an adult.

#### **Section 207. Court Ordered Release.**

At any time prior to the filing of a petition and entry of an emergency custody order on that petition, the Court may order the release of any child, except children being held pursuant to section 201 of this Title, from detention or shelter care without holding a hearing, either without restriction or upon written promise of the parent(s), guardian, or other legal custodian to bring the child to the Court at a time set or to be set by the Court.

#### **Section 208. Extension of Detention Period.**

For good cause shown, the Court may extend the time period during which a child may be detained without a petition and Court Order for a period not exceeding five (5) working days. Such extension shall be in writing or may be made verbally and reduced to writing within twenty-four (24) hours, excluding legal holidays and days when the Court is not open for business.

#### **Section 209. Detention and Shelter.**

(a) A child who must be taken from their home but who does not require physical restriction shall be given temporary care in a juvenile shelter facility approved and designated by the Court and shall not be placed in detention.

(b) No child under the age of fourteen (14) and, except under order of the Court, no child fourteen (14) years of age or older and under sixteen (16) years of age, shall be detained in a jail, lockup, or other place used for confinement of adult offenders or persons charged with a crime. The exception shall be used by the Court only if no other suitable place of confinement is available.

(c) A child fourteen (14) years of age or older shall be detained separately from adult offenders or persons charged with crime, including any child ordered by the Court to be held for criminal proceedings. Such detention shall preclude sight or sound contact with adult inmates.

(d) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with a crime shall inform the Court and Prosecuting Attorney immediately when a child who is or appears to be under the age of eighteen (18) is received at the facility, except for a child ordered by the Court to be held for criminal proceedings.

### **Section 210. Court Ordered Commitment for Observation.**

If it appears that any child being held in detention or shelter 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.

## **CHAPTER THREE ADJUDICATION**

### **Section 301. Intake.**

(a) Whenever it appears to a law enforcement officer or any other person that a child is or appears to be within the Court's jurisdiction, by reason of delinquency or need of supervision, the law enforcement officer or other person may refer the matter conferring or appearing to confer jurisdiction to the appropriate Juvenile Case Worker, who shall determine whether the interests of the child or of the community requires that further action be taken.

(b) If the Juvenile Case Worker determines that the interests of the child or of the community require that court action be taken, the officer shall request in writing the Prosecuting Attorney file a petition and shall deliver a copy of the entire case to the Prosecuting Attorney.

(c) If the Juvenile Case Worker determines that the interest of the child or of the Nation do not require court action, the Juvenile Case Worker may facilitate the acquisition of services and make such referrals to other agencies as may be appropriate to help the family with any problems they may have.

### **Section 302. Prosecuting Attorney Intake.**

(a) Upon receiving a request to file a petition and the accompanying reports and files from the Juvenile Case Worker, the Prosecuting Attorney shall review the case file, reports, and witness statements to determine if there is sufficient evidence which will be admissible under the Nation's laws to establish the jurisdiction of the Juvenile Court over the child.

(b) If the Prosecuting Attorney determines that there is not sufficient evidence available to establish the jurisdiction of the Juvenile Court over the child, the Prosecuting Attorney may decline to file the requested petition, or in their discretion, may request the Family Services Department or Law Enforcement Agency to conduct further investigation into the matter.

(c) If the Prosecuting Attorney determines that sufficient evidence is available to establish the jurisdiction of the Juvenile Court over the child, the Prosecuting Attorney shall file a petition concerning the child.

### **Section 303. Diversion by Consent Decree.**

(a) After filing a petition, the Prosecuting Attorney may divert any children's case, except a case subject to Section 206 or Section 304 of this Title, 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/her 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) Refuse to testify against themselves or each other in delinquency cases;

(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), guardian, or other legal 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 Juvenile Case Worker has prepared a Treatment and Service Plan for the family to be incorporated into the Consent Decree which distinctly states:

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

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

(iii) The specific acts which the parent(s), guardian, or other legal 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 and Service 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 and Service Plan. The Consent Decree shall be monitored and modified as in other dispositions, provided, that if the family fails to comply with the

Treatment and Service 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.

#### **Section 304. Limitation on Diversions.**

No child's case shall be handled by informal adjudication where the child referred to the Court by any person has had any sustained petition for delinquency in the preceding twelve (12) months or has been handled by informal adjudication for a delinquent act in the preceding twelve (12) months.

#### **Section 305. Petition Form.**

The Prosecuting Attorney shall sign and file all child welfare petitions alleging a child to be delinquent or in-need-of-supervision. Such petitions and all subsequent court documents in such proceedings shall contain a heading and title in substantially the following form:

IN THE DISTRICT COURT  
WYANDOTTE NATION

|                         |   |                |
|-------------------------|---|----------------|
| The WYANDOTTE NATION    | ) |                |
| In The Interest Of:     | ) |                |
|                         | ) | Case No. _____ |
| _____                   | ) |                |
|                         | ) |                |
| An Alleged _____ Child, | ) |                |
| And Concerning:         | ) |                |
|                         | ) |                |
| _____                   | ) |                |
| _____                   | ) |                |
| Respondent(s).          | ) |                |

#### **Section 306. Petition Contents.**

The petition shall set forth plainly the facts which bring the child within the Court's jurisdiction. If the petition alleges that the child is delinquent, it shall cite the law which the child is alleged to have violated. The petition shall also state the name, age, and residence of the child and the names and residences of the child's parent(s), guardian, or other legal custodian, or of the child's nearest known relative if no parent, guardian, or other legal custodian is known.

#### **Section 307. Summons.**

Upon filing a petition, the Court Clerk shall issue a summons to the respondents and the child as in civil cases. The summons shall be in substantially the following form:

IN THE DISTRICT COURT  
WYANDOTTE NATION

|                         |   |                |
|-------------------------|---|----------------|
| The WYANDOTTE NATION    | ) |                |
| In The Interest Of:     | ) |                |
|                         | ) | Case No. _____ |
| _____                   | ) |                |
|                         | ) |                |
| An Alleged _____ Child, | ) |                |
| And Concerning:         | ) |                |
|                         | ) |                |
| _____                   | ) |                |
| _____                   | ) |                |
| Respondent(s).          | ) |                |

SUMMONS

THE WYANDOTTE NATION to:  
\_\_\_\_\_, Respondents.

YOU ARE HEREBY NOTIFIED, that a petition has been filed in the Juvenile Court alleging that the above named \_\_\_\_\_ is a (delinquent) child (in-need-of-supervision) and that as the (parent(s)) (guardian) (legal custodian) of said child you have been named as the Respondent, all as more fully set out in the attached petition.

YOU ARE THEREFORE ORDERED TO APPEAR at the Courtroom of the District Court in and for the Wyandotte Nation [Address of Court], on the \_\_\_\_ day of \_\_\_\_\_. 20\_\_\_\_, at the hour of \_\_\_\_ o'clock \_\_.m. and to there remain subject to the call of the Court until discharged so that you may be advised of the allegations contained in the petition and may answer that you admit or deny the allegations of the petition.

YOU ARE FURTHER ORDERED, if the above child is in your physical custody or subject to your control, to bring the child to Court with you.

You may seek the advice of an attorney on any matter relating to this action at your own expense.

\_\_\_\_\_  
Court Clerk

[Seal]

IF YOU FAIL TO APPEAR IN RESPONSE TO THIS SUMMONS, A WARRANT FOR FAILURE TO APPEAR MAY ISSUE.

(Return as in other civil cases)

**Section 308. When Summons Unnecessary.**

A summons need not issue or be served upon any respondent who appears voluntarily, or who waives service in writing before a notary public or Court Clerk, or who has promised to appear at the hearing in writing upon the release of a child from emergency custody or otherwise, but any such person shall be entitled to a copy of the petition and summons upon request.

**Section 309. Service of Summons.**

(a) Summons shall be served personally, pursuant to the Wyandotte Nation Civil Procedure Code.

(b) If the parties, guardian, or other legal custodian of the child required to be summoned cannot be found within the Court's jurisdiction, the fact of the child's presence within the Nation's jurisdiction shall confer jurisdiction on the Court as to any absent parent, guardian, or legal custodian if due notice has been given in the following manner:

(1) When the residence of the person to be served outside of the Nation's jurisdiction is known, a copy of the summons and petition shall be sent by certified mail, with postage prepaid thereon, to such person at his place of residence with a return receipt requested. Service of summons shall be deemed complete upon proof of delivery.

(2) When the person to be served has no residence within the Nation's jurisdiction and place of residence is not known, or when the person cannot be found within the Nation's jurisdiction after due diligence, service may be made by publication.

**Section 310. Failure to Appear.**

(a) Any person served with a summons who fails to appear without reasonable cause may be proceeded against for contempt of court and a bench warrant may issue.

(b) If after reasonable effort, the summons cannot be served or if the welfare of the child requires that the child be brought immediately into the custody of the Court, a bench warrant may be issued for the parent, guardian, or other legal custodian for the child, or a search warrant may issue for the child as provided by law.

(c) When a parent or other person who signed a written promise to appear and bring the child to court, or who has waived or acknowledged service, fails to appear with the child on the

date set by the Court, a bench warrant may be issued for the parent or other person, the child, or both.

### **Section 311. Court Appointed Guardian Ad Litem; Duties.**

(a) Upon the filing of a petition alleging the child is a delinquent or a child in need of supervision, the Court may appoint a guardian ad litem for the child at any time subsequent to the filing of the petition and shall appoint a guardian ad litem upon the request of the child or the attorney of the child.

(b) The guardian ad litem shall be given access to the court file and access to all records and reports relevant to the case and to all records and reports of examination of the child's parent or other custodian, at no cost.

(c) A guardian ad litem may be required by the Court to provide testimony or prepare a written report explaining the current status and welfare of the child, as well as providing recommendations addressing the current and future best interests of the child.

### **Section 312. Adjudicatory Hearing.**

(a) At the adjudicatory hearing, which shall be conducted as provided in the Wyandotte Criminal Procedure Code, Title 6, the Court shall consider whether the allegations of the petition are supported by evidence beyond a reasonable doubt, except that jurisdictional matters of the age and residence of the child shall be deemed admitted by or on behalf of the child unless specifically denied prior to the adjudicatory hearing.

(1) If the Court finds the burden of proof is met and the child should be adjudicated as a delinquent or child in need of supervision, the Court shall enter an Order of adjudication and set the matter for disposition.

(2) If the Court finds there is a lack of sufficient evidence to support the finding of a delinquent or child in need of supervision, the Court may dismiss the petition and release the child from any temporary restrictions imposed.

(b) All cases of children shall be heard separately from the trial of cases against adults. Except as provided otherwise in this Title, the hearings shall be private unless specifically ordered by the judge to be conducted in public, and all persons having a direct interest in the case shall be admitted.

(1) Any victim, relative, legal guardian of a victim, or a person designated by the victim who is not subject to the rule of sequestration as a witness of a delinquent act shall be considered to have a direct interest in the case and shall be notified of all court hearings involving that particular delinquent act and shall be admitted to the proceedings.

(2) Verbatim record and transcripts shall be kept as in other cases, but they shall not be open to inspection except by order of the Court or as otherwise provided by law.

(c) The child may remain silent as a matter of right in delinquency hearings and in need of supervision hearings, and before the child testifies, the child shall be so advised by the Court.

(d) A decision determining a child to come within the purview of the Wyandotte Nation Juvenile Procedure Code shall be based on sworn testimony and the child shall have the opportunity for cross-examination unless the facts are stipulated. If a child is alleged to be delinquent and the facts are stipulated, the judge shall ascertain from the child if the child agrees with the stipulation and if the child understands the consequences of stipulating the facts.

(e) If the Court finds that the allegations of a petition alleging a child to be delinquent or in need of supervision are supported by the evidence, the Court shall sustain the petition, and shall make an order of adjudication setting forth whether the child is delinquent or in need of supervision and shall adjudge the child as a ward of the Court.

(f) If the Court finds the allegations of the petition are not supported by the evidence, the Court shall order the petition dismissed and shall order the child discharged from any detention or restriction previously ordered. The parents, legal guardian or other legal custodian of the child shall also be discharged from any restriction or previous temporary order.

### **Section 313. Trial As Adult; Certification Order; Bail.**

(a) Except as otherwise provided by law, if a child is charged with a delinquent act as a result of an offense which would be a felony if committed by an adult, the Court on its own motion or at the request of the tribal prosecutor shall conduct a preliminary hearing to determine whether there is prosecutive merit to the complaint. If the Court finds that prosecutive merit exists, it shall continue the hearing for a sufficient period of time to conduct an investigation and further hearing to determine if the child shall be held accountable for acts of the child as if the child were an adult if the child is found to have committed the alleged act or omission.

Considerations shall be given to:

(1) The seriousness of the alleged offense to the community, and whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;

(2) Whether the offense was against persons or property, greater weight being given to transferring the accused person to the adult criminal justice system for offenses against persons and, if personal injury resulted, the degree of personal injury;

(3) The emotional maturity of the juvenile and capability of the juvenile of distinguishing right from wrong as determined by consideration of a psychological evaluation of the juvenile, home, environmental situation, emotional attitude and pattern of living.

(4) The record and previous history of the accused person, including previous contacts with community agencies, law enforcement agencies, schools, juvenile or criminal courts and other jurisdictions, prior periods of probation or prior commitments to juvenile institutions;

(5) The prospects for adequate protection of the public;

(6) The likelihood of reasonable rehabilitation of the juvenile if the juvenile is found to have committed the alleged offense; and

(7) Whether the offense occurred while the juvenile was escaping or in an escape status from an institution for delinquent children.

After the investigation and hearing, the Court may, in its discretion, proceed with the juvenile proceeding, or it shall state its reasons in writing and shall certify, based on clear and convincing evidence, that the child shall be held accountable of the acts of the child as if the child were an adult and shall be held for proper criminal proceedings for the specific offense charged. The juvenile proceeding shall not be dismissed until the criminal proceeding has commenced and if no criminal proceeding commences within thirty (30) days of the date of the certification, unless stayed pending appeal, the Court shall proceed with the juvenile proceeding and the certification shall lapse.

If not included in the original summons, notice of a hearing to consider whether a child should be certified for trial as an adult shall be given to all persons who are required to be served with a summons at the commencement of a juvenile proceeding, but publication in a newspaper when the address of a person is unknown is not required. The purpose of the hearing shall be clearly stated in the notice.

(b) Prior to the entry of any order of certification, any child in custody shall have the same right to be released upon bail as would an adult under the same circumstances. Subsequent to the entry of an order that a child stand trial as an adult, the child shall have all the statutory and constitutional rights and protections of an adult accused of a crime but shall, while awaiting trial and for the duration of the trial, be detained in a jail cell or ward separate from prisoners who are eighteen (18) years of age or over. Upon conviction, the juvenile may be incarcerated with the adult population. If prior to the entry of any order of certification, the child becomes eighteen (18) years of age, the child may be detained in a jail or released on bail.

(c) Any child who has been certified to stand trial as an adult pursuant to any order entered by any competent court of the Wyandotte Nation or any other Federally Recognized Indian Tribe or any State of the United States shall be tried as an adult in all subsequent criminal prosecutions, and shall not be subject to the jurisdiction of the juvenile court in any further proceedings.

(d) An order certifying a person as a child or an adult pursuant to Subsection (a) of this Section or denying such certification shall be a final order, appealable when entered and shall not be modified.

### **Section 314. Deferral of Delinquency Proceedings.**

(a) The Court may defer delinquency adjudication proceedings or proceedings to determine if a child is in need of supervision for a period of one-hundred eighty (180) days if the child:

(1) Is alleged to have committed or attempted to commit a delinquent offense that if committed by an adult would be a misdemeanor or a felony;

(2) Enters into a stipulation that the allegations are true or that sufficient evidence exists to meet the burden of proof required for the Court to sustain the allegations of the petition;

(3) Has not been previously adjudicated a delinquent; and

(4) The prosecutor is in agreement to the deferral.

(b) During any deferral period, the Court may require the following:

(1) Participation in counseling, community service, drug or alcohol treatment or education, vocational training or any other legal activity which would be beneficial to the child;

(2) Require the child to undergo a behavioral health evaluation and, if warranted by the mental condition of the child, undergo appropriate care or treatment;

(3) Restitution by either the child or the legal custodian of the child, or both, to the victim;

(4) Any other programs and services which may be provided through public or private agencies and deemed by the Court to be appropriate.

(c) Upon conclusion of the deferral process, the Court shall dismiss the case with prejudice if the child has completed the requirements successfully and the satisfaction of the Court.

(d) The “alternative diversion program” outlined herein is intended for application to committed acts which are deemed by the Court to be rehabilitatable through an intervention rather than an adjudication.

## **CHAPTER FOUR DISPOSITION**

### **Section 401. Dispositional Hearings - Purpose.**

The purpose of the dispositional hearing is for the Court to determine the treatment which should be ordered to attempt to correct the problems which led to the adjudication, and to provide for the health, welfare, and safety of the child and the public.

### **Section 402. Hearing Informal.**

The dispositional hearing shall be informal and the general rules of procedure and evidence shall not apply in order that all pertinent evidence may be considered in determining treatment and disposition for the benefit and well-being of the child and the safety of the public.

#### **Section 403. Dispositional Hearings - Generally.**

(a) Subsequent to the adjudication hearing, the Court shall hold a separate hearing, at which time all evidence is to be received which may be helpful for the Court to determine the proper disposition in regard to the best interests of the child and the public. Such evidence may include oral and written reports and same may be relied upon for their probative value.

(b) Prior to issuing the disposition order, the Court shall advise the prosecutor, the parent, guardian, or legal custodian and any counsel in the case, of the factual contents and the conclusion of reports relied upon by the Court in order to afford a fair opportunity to controvert the evidence.

(c) On its own motion or that of the prosecutor, the parent, guardian, or legal custodian or counsel, the Court may adjourn the hearing for a reasonable period to receive reports or other evidence. The Court shall make an appropriate order for the detention of the child during any period of continuance.

(d) In scheduling investigations and hearings, the Court shall give priority to proceedings in which a child is in detention or has been removed from his home, before an order of disposition is made.

#### **Section 404. Child in Need of Supervision: Disposition.**

When a child has been adjudicated as being in need of supervision, the Court shall enter a decree of disposition containing one or more of the following provisions which the Court finds appropriate:

(a) The Court may place the child on probation or under protective supervision in the legal custody of one or both parents or the guardian under such conditions as the Court may impose;

(b) The Court may place the child in the legal custody of a relative or other suitable person under such conditions as the Court may impose, which may include placing the child on probation or under protective supervision in accordance with Section 406 of this Title.

(c) The Court may require as a condition of probation that the child report for assignment to a supervised work program or place such child in a child care facility which shall provide a work program, if:

(1) The child is not deprived of the schooling which is appropriate to their age, needs, and specific rehabilitative goals;

(2) The supervised work program is of a constructive nature designed to promote rehabilitation, is appropriate to the age level and physical ability of the child, and is combined with counseling from guidance personnel; and

(3) The supervised work program assignment is made for a period of time consistent with the child's best interest, but not exceeding one hundred eighty (180) days;

(d) The Court may place legal custody in the Family Services Department or a child placement agency for placement in a family care home or child care facility, or it may place the child in a child care facility;

(e) The Court may order that the child be examined or treated by a physician, surgeon, psychiatrist, or psychologist, or that the child receive other special care, and may place the child in a hospital or other suitable facility for such purposes; or

(f) The Court may commit the child to any institution or group care facility designated by the Court.

#### **Section 405. Delinquent Child; Disposition.**

If a child has been adjudicated as being delinquent, the Court shall transmit, with the commitment order, a copy of the petition, the order of adjudication, copies of the home study, any clinical or educational reports, and other information pertinent to the care and treatment of the child to the designated institution to whose care the Court orders the child to be committed.

(a) The designated institution shall provide the Court with any information concerning a child committed to its care which the Court may at any time require.

(b) A commitment of child to a designated institution under this Section shall be for a period not to exceed two (2) years.

(c) The prosecutor or Juvenile Case Worker may petition the committing court to extend the commitment for an additional period not to exceed two (2) years. The petition shall set forth the reasons why it would be in the best interest of the child or the public to extend the commitment. Upon filing the petition, the Court shall set a hearing to determine whether the petition should be granted or denied and shall notify all interested parties.

(d) Each commitment to a designated institution shall be reviewed no later than six (6) months after it is entered and each six (6) month period thereafter.

#### **Section 406. Probation for Delinquent and Children in Need of Supervision.**

(a) The terms and conditions of probation shall be specified by rules or orders of the Court. The Court, as a condition of probation for a child who is fourteen (14) years of age or older but less than eighteen (18) years of age on the date of the dispositional hearing, has the power to impose a commitment, placement, or detention, whether continuous or at designated intervals,

which shall not exceed forty-five (45) days. Each child placed on probation shall be given a written statement of the terms and conditions of his probation and shall have such terms and conditions fully explained to him.

(b) The Court shall review the terms and conditions of probation and the progress of each child placed on probation at least once every six (6) months.

(c) The Court may release a child from probation or modify terms and conditions of his probation at any time, but any child who has complied satisfactorily with the terms and conditions of his probation for a period of two (2) years shall be released from probation, and the jurisdiction of the Court shall conclude.

(d) When it is alleged that a child has violated the terms and conditions of his probation, the Court shall set a hearing as to the alleged violation and shall give notice to the child and their parents, guardian, or other legal custodian, and any other parties to the proceeding.

(1) The child, his parents, guardian, or other legal custodian shall be given a written statement concerning the alleged violation and shall have the right to be represented by counsel at the hearing, at their own expense or the Court may appoint representation, and shall be entitled to the issuance of compulsory process for the attendance of witnesses.

(2) The hearing on the alleged violation shall be conducted as soon as possible.

(e) If the Court finds that the child violated the terms and condition of probation, it may modify the terms and conditions of probation, revoke probation, or take such other action permitted by this Chapter which is in the best interest of the child and the Nation.

(f) If the Court revokes the probation of a person over eighteen (18) years old, in addition to other action permitted by this Chapter, the Court may sentence him to the Nation's designated criminal detention facility for a period not to exceed one hundred eighty (180) days during which the individual may be released during the day for school attendance, job training, or employment, as ordered by the Court.

## **CHAPTER FIVE MISCELLANEOUS**

### **Section 501. New Hearing Authorized.**

(a) A parent, guardian, custodian, or next friend of any child adjudicated under this Chapter, or any person affected by a decree in a proceeding under this Chapter, may petition the Court for a new hearing on the following grounds:

(1) That new evidence, which was not known or could not with due diligence have been made available at the original hearing and which might affect the decree, has been discovered;

(2) That irregularity in the proceedings prevented a fair hearing.

(b) If it appears to the Court that the motion should be granted, it shall order a new hearing and shall make such disposition of the case as warranted by all the facts and circumstances and the best interest of the child.

**Section 502. Continuing Jurisdiction.**

Except as otherwise provided in this Chapter, the jurisdiction of the Court over any child adjudicated as neglected or dependent, in need of supervision, or delinquent shall continue until the child becomes eighteen (18) years of age unless terminated by court order.

**Section 503. Powers of Court Not Diminished.**

Nothing herein contained shall diminish or otherwise abridge the power or authority of the District Court of the Wyandotte Nation to take jurisdiction of or enter any order in any matter relating to or arising out of the subject matter covered by this Act which it would otherwise be competent to address.