
CHAPTER 3
GWICHYAA ZHEE CHILD/FAMILY PROTECTION

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SECTION 3.01.01
Mission Statement of the Gwichyaa Zhee Gwich'in Tribal Government

To exercise governmental authority; tribal rights; and the authority to promote social and economic development; to secure tribal lands; to enhance educational opportunities; and to protect traditional cultural values; with a unified voice on behalf of its' tribal members.

SECTION 3.01.02
Mission Statement of the ICWA Social Service Department

To exercise the authority of the Gwichyaa Zhee Gwich'in Tribal Government for the protection, education, and continued safe development of the Tribe's youngest members, with an honest and unwavering voice of advocacy for the fulfillment of a peaceful tribal society.

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SECTION 3.02.01

Title; Policy; Construction; Situations Not Covered

A. Title

The title of this enactment is the “Child in Need Of Aid/Protection of the GZGTG”, to promote the health, safety, and welfare of the most valuable resource of the Tribe, the Gwichyaa Zhee Gwich'in People. The welfare of the children is of the foremost importance.

B. Policy

It is the policy of the GZGTG that this code shall be construed and applied in a manner consistent with the written and unwritten, custom law of the GZGTG, and such federal, state and order laws that may be applicable-

C. Construction

This code shall be construed in a manner which is in the best interests of children, families, and the Village generally. The purpose of this code is to provide policies and guidance for the Gwichyaa Zhee Gwich'in Tribal Government to take an active role in providing for the health, safety, and welfare of the Gwichyaa Zhee Gwich'in People, to preserve and strengthen family ties whenever possible, to protect and preserve the tribal heritage and cultural identity of the persons within the Gwichyaa Zhee Gwich'in jurisdiction, and to promote cooperation with the Tribe by other Courts and Agencies in fulfilling the purpose of this Code.

D. Situations Not Covered

Where no specific procedure is proscribed by this Code, the Court may proceed in any lawful manner that it deems appropriate, and may apply any written or unwritten custom laws of the Tribe not inconsistent with this Code.

SECTION 3.02.02

Child Protection Is The First Priority

Child Protection Is The First Priority of The Tribe. Children who are endangered will be taken into custody in accordance with the Child in Need of Aid/Protection Ordinance. The right of a child to live in a safe environment is greater than the right of a parents' guardianship. When a parent threatens a child's health and development by engaging in: physical, mental, or sexual abuse of a child, the child's right to live in a safe environment requires the intervention of a Social Service or Law Enforcement Worker. The best interest of the child/children shall be more important than the rights of any other person or entity.

SECTION 3.02.03
Sexual Abuse of A Child

The tribe will not place a child back into the home of a sexual predator. The tribe will not grant custody back to a parent who sexually molest their own, or other children.

SECTION 3.02.04
Best Placement For A Child

The tribe recognizes the importance of family for a child. The best placement for a child is back with the parents, except in cases of sexual abuse, or with members of the extended family. A child alleged to be neglected or abused shall not be detained in a jail or other facility intended or used for the incarceration of adults charged with criminal offenses or for the detention of children alleged to be juvenile offenders. The child shall be placed within reasonable proximity to his home, taking into account any special needs of the child if neither of these options of family or extended family placement are available; the order of best placement for a child should be as follows:

1. A Healthy Tribal Member of the Child's Extended Family who resides closest to or in the village in which the child resides.
2. A Healthy Tribal Family Within Gwich'in Country.
3. A Healthy Tribal Foster Home, licensed, approved or specified by the Tribe.
4. A Healthy Foster Home or Native Home outside of Gwichyaa Zhee.
5. A Healthy Family who have a relationship with the child, but who are not related to the child.

Children placed with a relative of the child shall be willing to guarantee to the Court that the child will not be returned to the alleged abusive or neglectful parent, guardian or custodian without the prior approval of the Court.

SECTION 3.02.05
Reunification of the Family is Secondary to the Best Interests of the Child

Reunification of the immediate family is secondary to the best interests of the child. The parents must show that they are capable of providing a safe home for their children to gain the trust of child custody back from the tribe. The parents must follow their prescribed case plan, and meet the tribe's requests when a child is taken into tribal custody, in order to regain custody. The children must receive the care and guidance necessary to allow them to become healthy, content, and productive members of Gwichyaa Zhee Gwich'in Tribe and society in general.

SECTION 3.02.06

Protection of our Social Service Workers

The protection of our Social Service Workers is a very high priority for the Tribe. Any assault on a Social Worker who is on duty will result in the loss of child custody, charges in tribal and federal court, and admonishment from the Tribal Council.

SECTION 3.02.07

Child in Need of Aid/Protection Ordinance

RECOGNIZING:

THAT The Native Village of Fort Yukon, IRA Tribal Government recognizes its duty to exercise its retained inherent authority to provide for the welfare of children in need of aid who are within the jurisdiction of Gwichyaa Zhee;

THAT Under Article IV, Section 1 of the Constitution and by-laws of Native Village of Fort Yukon, IRA, it is expressly recognized that the Village retains the power to do all things for the common good which it has done or has had the right to do in the past consistent with applicable law, including the protection and preservation of the integrity of children and families in the village;

THAT The Native Village of Fort Yukon, IRA Council is the governing body of the village pursuant to said Constitution and Bylaws;

THAT The Native Village of Fort Yukon, IRA Council has determined that enactment of this ordinance is in the best interests of children and families within the jurisdiction of the village;

THEREFORE, BE IT ENACTED:

TITLE 3 JURISDICTION

SECTION 3.03.01: General Jurisdiction
SECTION 3.03.02: Transfer of Jurisdiction
SECTION 3.03.03: Procedures and Authorization
SECTION 3.03.04: Protective/Social Service Workers
SECTION 3.03.05: Duty to Report Child Abuse and Neglect
SECTION 3.03.06: Investigations and Removal
SECTION 3.03.07: Notice of Removal

SECTION 3.03.01 *General Jurisdiction*

This ordinance shall be applied in a manner not inconsistent with the Constitution and Bylaws of the Gwichyaa Zhee Gwich'in Tribal Government, and all other applicable laws, including the Indian Civil Rights Act, 25 USC §1301 et seq.; The Indian Child Welfare Act of 1987, 25 USC s.1901-1963, et seq. are applicable. All actions brought under the provision of this Code; the Gwichyaa Zhee Gwich'in Tribal Government regulates domestic relation matters under the authority of its inherent sovereign power as a federally recognized Indian Tribe; under any additional new powers so delegated by Congress; under unwritten tribal law and under written tribal ordinances; and shall include the right to issue all orders necessary to protect the safety of children, families and incompetents within the boundaries of the Gwichyaa Zhee Gwich'in Territory.

SECTION 3.03.02 *Transfer of Jurisdiction*

A. Application of the Indian Child Welfare Act

The Gwichyaa Zhee Gwich'in Tribal Court may apply the policies of the Indian Child Welfare Act, 25 USC §1901-1963, where they do not conflict with the provisions of this Code. The procedures for state courts in the Indian Child Welfare Act shall not be binding upon the Court unless specifically provided for in the this Code.

B. Continuing Jurisdiction

Where the Court deems it appropriate, the Court may retain jurisdiction over children and their extended families that leave the exterior boundaries of Gwichyaa Zhee territory.

C. Transfer To State Court or Other Tribal Courts

In any proceeding before the Court, the Court may transfer the proceedings to an appropriate State or Tribal Court where the state or the other Tribe have a significant interest in the case and transfer would be in the best interest of the child.

D. Transfer From Other Courts

The Court may accept or decline, under the procedures set forth in this Code, transfers of Child Welfare cases from other federal, state or tribal courts.

E. Procedures for Transfer from State Court

1) Receipt of Notice

The Tribal agent for Service of Notice of state court child custody proceedings, as defined by ICWA, shall be the Tribal Social Service Department.

2) Investigation and Pre-transfer by the Court Clerk

The Tribal Social Services Department shall conduct an investigation and file a written report with the Court within five (5) working days of receipt of notice from the tribal agent for Service of Notice.

3) Recommendations for Transfer or Intervention

The Tribal Court shall make written recommendations to the tribal attorney or Court Clerk on whether or not the tribe should Petition for Transfer from or intervene in state court.

4) Petition to Transfer

The tribal Petition for Transfer shall be filed by the tribal attorney or Court Clerk within five (5) working days of recommendations from the Court.

5) Intervention in State Court Proceedings

a) The tribe may intervene in state court child custody proceedings, as defined in ICWA, at any point in the proceedings and;

b) The tribal attorney or selected representatives shall file a motion to intervene within five (5) days of Receipt of Recommendations from the Court.

6) Acceptance of Transfer

The Court will not petition to state court for transfer unless:

a) A parent or Indian custodian's petition to state court for transfer is granted; or;

b) The tribe's petition to state court for transfer is granted; and;

c) The Tribal Social Service Department's pre-transfer report recommends the Acceptance of Transfer; and;

d) The tribal attorney recommends acceptance.

7) Hearing(s)

Upon receipt of transfer jurisdiction from state court, the court clerk shall file a child/family protection petition, and appropriate hearing(s) shall be held in accordance with this code.

F. Full Faith and Credit; Conflict of Laws

1. State Court Orders

State child custody orders of other tribal courts involving children over whom the Court could take jurisdiction may be recognized by the Court only after a full independent review of such state proceedings has determined:

- a) The state court had jurisdiction over the child, and;
- b) The provisions of ICWA, 25 USC were properly followed, and;
- c) Due process was provided to all interested persons participating in the state proceeding, and;
- d) The state court proceeding does not violate the public policies, customs, or common law of the tribe.

2. Court Orders of Other Tribal Courts

Court orders of other tribal courts involving children over whom the Court could take jurisdiction shall be recognized by the Court after the Court has determined:

- a) That the other Tribal Court exercised proper subject matter and personal jurisdiction over the parties, and;
- b) Due process was accorded to all interested parties participating in the other tribal court proceeding.

3. Tribal Interest:

Because of the vital interest of the Tribe in its children and those children who may become members of the Tribe, the statutes, regulations, public policies, customs and common law of the Tribe shall control in any proceedings involving a child who is a member of the tribe.

SECTION 3.03.03

Procedures and Authorizations

A. Rules of Procedure

The procedures in the Tribal Court shall be governed by the rules of procedure for the tribal court which are not in conflict with this Code.

B. Cooperation and Grants

The Tribal Court is authorized to cooperate fully with any federal, state, tribal, public or private agency in order to participate in any foster care, shelter care, treatment or training program(s) and to receive grant-in-aid to carry out the purpose of this Code. This authority is subject to the approval of the GZG Tribal Council if it involves an expenditure of tribal funds.

C. Social Services

The Tribal Court shall utilize such social services as may be furnished by any tribal, federal, or state agency provided that it is economically administered without unnecessary duplication and expense.

D. Contracts

The GZG Tribal Court may negotiate contracts with tribal, federal or state agencies and/or departments on behalf of the Tribal Council for the Care and Placement of Children before the Court subject to the approval of the Tribal Council before the expenditure of tribal funds.

SECTION 3.03.04***Protective/Social Services Workers*****A. Power and Duties**

1. Protective/Social Service Workers shall be employed by the Tribal Social Service Department and/or the tribal/state law enforcement department.
2. The department(s) may cooperate with such state and community agencies as are necessary to achieve the purpose of this Code. The departments may negotiate working agreements with other jurisdictions. Such agreements shall be subject to ratification by the Tribal Council.
3. A Protective/Social Service Workers Shall:
 - 1) Receive reports of neglected, abused or abandoned children, and be prepared to provide temporary foster care for such children on a twenty-four hour basis, and;
 - 2) Receive from any source, oral, or written, information regarding a child who may be in need of aid or protective service.
 - 3) Upon receipt of any report or information under paragraph (a) of (b) of this section, immediately;
 - a) Notify the appropriate law enforcement agency, and;
 - b) Make prompt and thorough investigation which shall include a determination of the nature, extent, and cause of any condition which is contrary to the child's best interest and the name, age, and condition of other children in the home.
 - 4) Take a child into temporary custody if there is reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from his surroundings, and that his/her removal is necessary. Law enforcement officials shall cooperate with social services personnel to remove a child from the custody of his/her parents, guardian, or custodian when necessary.

- 5) After investigation, evaluate and assess the home environment of the child or children in the same home and the risk of such children if they continue to be subjected to the existing home environment, and all other facts or matters found to be pertinent. They shall determine whether any of such children is a child in need of aid/ protective service.
- 6) Offer to the family of any child found to be a child in need of aid services appropriate services which may include, but shall not be restricted to, protective services.
- 7) Within thirty (30) days after a Referral of a potential child in need of aid, submit a written report of his/her investigation and evaluation to the Tribal Court and to a central registry maintained by the Social Service Department.
- 8) No child shall remain in temporary custody for a period exceeding seventy-two (72) hours, excluding Saturdays, Sundays and holidays, unless a child/family protection petition is filed.

B. Limitations of Authority; Duty to Inform

- 1) Before offering protective/child in need of aid services to a family, a social worker shall inform the family that he/she has no legal authority to compel the family to receive such services and of his/her authority to initiate a petition in the Tribal Court.
- 2) If the family declines the offered services, the worker may initiate a child/family protection petition in Tribal Court alleging a child in need of aid/protective services if he/she believes it to be in the child's best interest.

SECTION 3.03.5

Duty to Report Child Abuse and Neglect

A. Duty to Report

Any person who has a reasonable cause to suspect that a child has been abused, neglected or abandoned shall immediately report the abuse, neglect or abandonment to the Tribal Social Services Department and/or law enforcement department.

B. Persons Specifically Required to Report

Those persons who are mandated to report suspected abuse or neglect include any physician, nurse, dentist, optometrist, or any other medical or mental health professional; school principal, school teacher, or other school officials; social workers, child day care worker or other child care staff including foster parents, residential care or institutional personnel; counselor, peace officer or other law enforcement officials; judge, attorney, court clerk or other judicial system officials.

C. Anonymous Reports

Any person who has a reasonable cause to suspect that a child has been abused, neglected, or abandoned shall report the abuse, neglect or abandonment. Those persons reporting, except those specified in Section 5, B, above, may remain anonymous.

D. Immunity from Liability

Any person who has a reasonable cause to suspect that a child has been abused, neglected, or abandoned shall report the abuse, neglect or abandonment.

E. Penalty of Not Reporting

Those persons mandated to report a case of known or suspected abuse or neglect who knowingly fail to do so or willfully prevent someone else from doing so shall be subject to a civil cause of action proceeding in a tribal, state or federal Court.

F. Abuse and Neglect Reports**1. Form of Report**

Those persons mandated to report under Section 5, above, shall promptly make an oral report to the Tribal Social Service Department and then follow with a written report as soon thereafter as possible.

2. Contents of Written Report

The following information shall be included in the written report:

- a) Names, address and tribal affiliation of the child and his parents, guardian, or custodian.
- b) The child's age
- c) The nature and content of the child's abuse or neglect.
- d) Previous abuse or neglect of the child or his siblings, if known.
- e) The name, age, and address of the person alleged to be responsible for the child's abuse or neglect, if known.
- f) The name and address of the person or agency making the report.

3. Photograph of Visible Trauma

Persons reporting suspected abuse or neglect may photograph or cause x-rays to be taken of the child suspected of abuse, and such photographs or x-rays may be introduced into evidence at a hearing.

G. Central Registry

The Department of Social Service and/or the law enforcement department shall maintain a central registry of reports, investigations, and evaluations made under this Code. The registry shall contain the information furnished by tribal personnel throughout the Gwichyaa Zhee Territory, including protective service workers, probation officers, caseworkers, and Indian Child Welfare Program employees. Data shall be kept in the central registry until the child concerned reaches the age of eighteen (18) years (unless the Court orders that individual records shall be kept on file beyond that date in order to protect other siblings.)

Data and information in the central registry shall be confidential and shall be made available only with the approval of the Director of the Department to the Tribal Court, social service agencies, public health and law enforcement agencies, licensed health practitioners and health and educational institution licensed or regulated by the tribe. A request for the release of information must be submitted in writing, and such request and its approval shall be made part of the child's file.

SECTION 3.03.06 ***Investigation and Removal***

A. Investigation

The child abuse or neglect report shall be investigated within one working day by the social service department or appropriate agency, unless the Court directs otherwise.

B. Authority to Remove

If the person investigating a report of child abuse or neglect finds that the grounds for removal, listed in Section C, below, have been met, such person may remove the child from the home in which the child is residing and place the child in a temporary receiving/foster home or other appropriate placement.

C. Grounds for Emergency Removal

No child shall be removed from the home of the child's parent, guardian, or custodian without the consent of the parent, guardian, or custodian absent a specific order of the Court, except as follows:

1. When failure to remove the child may result in a substantial risk of death, permanent injury, or serious emotional harm, or;
2. When the parent, guardian, or custodian is absent and it appears, from the circumstances, that the child is unable to provide for his own basic necessities of life, and that no satisfactory arrangements have been made by the parent, guardian or custodian to provide for such necessities.

D. Power to Remove

Any person shall have the power to remove a child pursuant to this Section provided that:

1. Reasonable grounds existed at the time of the removal to believe the removal was necessary, and;
2. The person removing the child ensures the safety and well-being of the child, until such time as the Court assumes control of the matter, and;
3. The person removing the child complies with the notice provisions contained in Section 7, below, of this Code.

SECTION 3.03.07
Notice of Removal

A. Notice to the Court

After a child is removed from his home, the person who removed the child shall attempt to contact the Tribal Social Service Department within six (6) hours. The attempt to contact the Court shall be documented. Actual notice to the Court shall be made, by the removing person, no later than 12:00 pm noon, the next Court working day.

B. Notice to the Parent, Guardian or Custodian

The Court shall make all reasonable efforts to notify the parents, guardian or custodian, within twelve (12) hours of the court knowing that the child was removed. Reasonable efforts shall include personal, telephone and written contacts at their residence, place of employment, or other location where the parent, guardian or custodian is known to frequent with regularity. If the parent, guardian or custodian cannot be found, notice shall be given to members of the extended family of the parent, guardian, or custodian and/or the extended family of the child.

C. Conditions That Can Justify Intervention:

A child can be put at risk by the acts or conditions of one or both parents, a guardian or custodian. A child will be declared in need of aid/protection if the Presiding Judge finds one or more of the following conditions:

- 1) One parent has abandoned the child and the other parent is absent or also neglects or abuses the child;
- 2) One parent is incarcerated and has failed to make adequate arrangements for the child, and the other parent is absent or neglects or abuses the child;
- 3) A parent has disappeared and left the child with an unwilling custodian;
- 4) A parent has knowingly failed to provide medical treatment to prevent substantial physical harm or mental injury;
- 5) The child runs away from home and refuses care; and the child is at risk of substantial physical or mental injury;
- 6) The child has suffered, or is at substantial risk of suffering, substantial physical harm based on a parent's conduct, home conditions, or lack of supervision;
- 7) The child has suffered or is at substantial risk of suffering mental injury, including exposure to domestic violence or a pattern of rejection, isolation, terror, or corruption;
- 8) A parent has neglected the child or another child in the household;
- 9) A parent's substance abuse substantially impairs the ability to parent and results in substantial risk of harm;
- 10) A parent's mental illness, serious emotional disturbance, or mental deficiency is of a nature and duration that places the child at substantial risk of physical or mental harm;
- 11) The child has committed delinquent acts as a result of pressure, guidance, or approval from a parent.

TITLE 4 *Definitions*

“Abandon” means the failure of the parent, guardian, or custodian to provide reasonable support and to maintain regular contact with a child. Failure to maintain a normal parental relationship with the child without just cause for a period of six months shall constitute prima facie evidence of abandonment. Custody with extended family members or voluntary consent to placement does not constitute abandonment.

“Agency” means the Gwichyaa Zhee Gwich'in Tribal Child Welfare Agency.

“Child” means a person under 18 years of age when the petition for custody is filed.

“Child in Need of Aid/Protection” means a child who is at risk of abuse or neglect, and whose welfare requires that the GZGTG take steps in the best interests of the child.

Child Protection means a child who:

- 1) Refuses to live at home with significant reason, or refuses to accept available care; or
- 2) Has no parent, guardian, custodian or relative caring or willing to provide care; or
- 3) In need of medical treatment, needs help to relieve or prevent substantial physical harm or mental harm as shown by failure to thrive, severe anxiety, depression, withdrawal, or exaggerated, inappropriate or unusual aggressive behavior or hostility toward others and the child's parents are not willing to provide the medical treatment; or
- 4) Suffered substantial physical harm or there is substantial and immediate risk that the child will suffer such harm as a result of the actions of or conditions created by the child's parents, guardian or custodian to adequately supervise the child; or
- 5) Has been sexually abused either by the child's parent, guardian or custodian, or as a result of conditions created by the child's parent, guardian, or custodian or by the failure of the parent, guardian or custodian to adequately supervise the child; or
- 6) Has suffered substantial physical abuse or neglect as result of conditions created by the child's parent, guardian or custodian.

“Court” means the Gwichyaa Zhee Gwich'in Tribal Court.

“Custodian” means a person over 18 years of age to whom responsibility has been transferred temporarily by parent, tribal court, tribal custom or state law to care for a child.

“Domicile” means a person's permanent home, legal home or main residence. The domicile of that of a child is generally that of the custodial parent or guardian. Domicile includes the intent to establish a permanent home or where the parent or guardian considers to be their permanent home.

“Extended Family” means the person's parents, children, grandparents, great grandparents, great aunts, great uncles, cousins, sisters and brothers, or someone who is considered to be extended family under the traditional laws of the Gwichyaa Zhee Gwich'in Tribal Government..

“Foster Care Placement” means any action removing a child from his/her parent or custodian for temporary placement in a Foster Home, a relative’s home, an institution or the home of a guardian where the parent or custodian cannot have the child returned on demand.

“Foster Home” means a home certified or licensed to provide foster care by the GZGTG Tribe or another federally recognized tribe or a state licensed home.

“Guardian” means a person over 18 years of age who is legally appointed by the tribal or state court to have legal custody of a child.

“Involved Agency” means an agency that is a party to the case due to the request of the Tribe or because of the jurisdiction of another government over the case. Examples: TCC, State of AK, OCS or Social Services of another state or tribal agency..

“Member” means a person who is a member of or is eligible for membership in any federal tribal affiliation.

“Most Significant Contacts” means, among other things, that the GZG Tribal Court shall consider the following factors:

- 1) Length of time child has lived in or near the Gwichyaa Zhee; and
- 2) The child’s participation in the activities of the GZG Tribe; and
- 3) The child’s fluency in the native language and cultural heritage; and
- 4) Whether there has been a previous case with respect to the child by the GZG Tribal Court; and
- 5) The tribal membership of the child’s custodial parent or other custodian; and
- 6) The child’s self identification with the Gwichyaa Zhee Gwich'in Tribe; and
- 7) Any other information relevant to the child’s contacts with the Gwichyaa Zhee Gwich'in Tribe.

“Neglect” means the failure of the parent, guardian, or custodian to provide adequate food, clothing, shelter, medical care, education or supervision for the child’s health and well-being. Neglect shall include “abandoned” children.

“Open Adoption” means an adoption which is intended not to permanently deprive the child of connections to, or knowledge of, his or her natural family.

“Parent” means a biological or adoptive parent.

“Parties” mean Petitioner(s) and Respondent(s) listed in the Petition to Use the Tribal Court, the Guardian ad litem and any other person or entity who is given the right by the GZG Tribal Court to express and protect their interest in the case.

“Pre-adoptive Placement” means the temporary placement of a child in a foster home or institution after the termination of parental rights, but prior to or in place of adoptive placement.

“Probable Cause” for the purpose of a “Child Protection Proceeding” means evidence from a reasonable, trustworthy source that would be a reasonable ground for belief that a child is a ‘child in need of aid’ and that an investigation and hearing should be conducted to determine all the facts.

“Protective Services” means

“Termination of Parental Rights” means any action resulting in the termination of the parent-child relationship.

“Ward” means a child who has been taken into custody by the Court making the Court the Child’s legal guardian.

TITLE 5
COMMENCEMENT OF PROCEEDINGS

SECTION 3.05.01: Petition, Notice and Summons

SECTION 3.05.02: Confidentiality of Child Protection Cases

SECTION 3.05.03: Tribal Court Records of Child Protection Cases

SECTION 3.05.04: Legal Custody and Status a Ward of Gwichyaa Zhee Gwich'in Tribal Government

SECTION 3.05.05: Rights and Best Interest of the Child

SECTION 3.05.01

Petition; Notice; Summons

A. Petition

Where the Social Service Department/Agency has reason to believe that a child is a child in need of aid/protection (CINA), it may initiate a formal proceeding by filing a child in need of aid/protection Petition in the GZG Tribal Court. The petition shall set forth the facts alleging that the child is a child in need of aid, and shall state the nature of any requested order of custody.

B. Time Limitations

If a child has been removed from the home, then a child/family protection petition shall be filed with the Court no later than 12:00 PM, noon, the second day of the Courts' working day following the removal.

C. Notice of Hearing

The Agency shall provide a copy of the petition, as well as actual notice of the time and place of the initial hearing on the petition, to the parents, custodian, and guardian (if any) of the child who is membership in, another Alaska Native Village or Indian tribe, notice shall also be provided to such tribal government.

D. Summons

The Court shall issue a summons to be served with the petition on the child, parents, custodian, and guardian (if any). The summons and petition shall be served in accordance with applicable law governing service in civil actions, or as directed by the court.

SECTION 3.05.02

Confidentiality of Child Protection Cases

All Child Protection Cases shall be considered and treated as confidential. All Tribal Court Judges, the Tribal Court Clerk, Tribal Employees or other tribal officials who participate in a case, and involved agency personnel shall be sworn to confidentiality under the oath of confidentiality as provided in Chapter 1, Title 12, 8_ the Ordinance.

SECTION 3.05.03***Tribal Court Records of Child Protection Cases***

Tribal Court Records shall not be released to anyone besides the parties to the case without the consent of the GZG Tribal Court. Hard copies of such records shall be kept behind a tow-lock system, and records stored on computer hard drives or in cyberspace shall be secured, and shall only be accessible by persons directly authorized by the GZG Tribal Court Brief Orders, letters, or memos may be given as needed to schools, hospitals, banks, or similar entities for the purpose of verification of who has custody, guardianship, or parental right to a child.

SECTION 3.05.04***Legal Custody and Status as Ward of Gwichyaa Zhee Gwichin Tribal Court
In Child in Need of Aid Cases***

A child becomes a ward and under the legal custody of the Gwichyaa Zhee Gwichin Tribal Court when the child is found to be a child in need of aid/protection as defined in this Code. A child may be found to be a child in need of aid upon a hearing conducted under the procedures set forth in this Code. A child may also become a ward of the GZG Tribal Court when a child in need of aid case is transferred from another court. A child remains a ward of the GZG Tribal Court until the Court closes the case or transfers the case to another court.

SECTION 3.05.05***Rights and Best Interest of the Child***

In all Child Custody Cases, the Court shall hear all the facts and evidence brought before it and shall consider the rights of all parties in the case when deciding what is in the child's best interest. The best interest of the child, as defined in this Code, shall be places above the rights of any other person or entity.

TITLE 6
CHILD PROTECTION/AID CASE

SECTION 3.06.01: Starting a Child Protection /Aid Case
SECTION 3.06.02: Custody
SECTION 3.06.03: Initial Hearing
SECTION 3.06.04: Thirty Day Hearing
SECTION 3.06.05: Formal Trial on the Issues
SECTION 3.06.06: Notice of Formal Trial on the Issues
SECTION 3.06.07: Default Judgment
SECTION 3.06.08: Six Month Review
SECTION 3.06.09: Social Service Report
SECTION 3.06.010: Emancipation

SECTION 3.06.01
Starting a Child Protection Case

A. Petition to Use Tribal Court

A child protection case may be brought in front of the Gwichyaa Zhee Gwich'in Tribal Court by any person who has reason to believe that a minor tribal member or child living in the village is a "child in need of aid". A child protection case shall be started by filing a Petition to use the Tribal Court form. The Court may either hold a hearing immediately upon receipt of a Petition, or designate a person to investigate the issues stated in the Petition before deciding to hold a hearing.

B. Contents of a Child Protection Petition

The Petition for child protection case shall provide the following information, provided that such information is available to the Petitioner:

1. The name, address and age of the child; and
2. The names and addresses of the child's parents and any custodians of the child; and
3. The names and addresses of any other person or tribe with an interest in the child; and
4. The reason why the petitioner believes that a child needs protection; a plain and concise statement of the facts upon which the allegations of abuse, neglect or abandonment are based, including the date, time and location at which the alleged facts occurred;]and;
5. Any available written evidence of injuries, abuse, or neglect (doctor report, PHS, health aide report, teacher's report, report of witness to injury, abuse or neglect, etc), and/or any other information that may be helpful in identifying the cause of the child's injuries or neglect; and

6. A statement of which tribe(s) the child is a member or with which tribe(s) the child is eligible for membership. This statement should include facts that indicate that the Gwichyaa Zhee Gwich'in Tribal Government is the tribe with the most significant contacts with the child.

7. If the child is placed outside of the home, where the child is placed, the facts necessitating the placement and the date and time of the placement.

SECTION 3.06.02

Custody

A. Emergency Custody

After receiving a Petition, the GZG Tribal Court may take a child into custody and make a temporary placement without notification and full hearing if the Court has reason to believe that immediate removal is necessary to prevent imminent physical damage or harm to the child. The Court shall issue an emergency Order describing the Court's action. As soon as possible, the Court shall serve the parents or guardians with a copy of the Emergency Order. If the Child is not a tribal member or eligible for tribal membership, the Court shall notify the child's tribe or the appropriate state officials. Emergency custody shall be for no more than thirty (30) days.

B. Emergency Custody Without Court Order

The Social Service Department may take emergency custody of a child without a court order if it has reasonable grounds to believe that the child is a child in need of aid, and is in immediate danger of physical damage or harm. Emergency and urgent child protection cases shall be placed ahead of all other cases that the GZG Tribal Court may have before it.

C. Emergency Custody With Court Order

The Social Service Worker or any person may petition the court for an order granting emergency custody of the child to Agency. The petition shall forth the facts alleging that the child is a child in need of aid, and basis for assumption of emergency custody. If the court determines that there is probable cause to believe that the requirements for emergency custody have been met, it shall issue an order granting emergency custody. At that time of executing the order, or as soon thereafter as possible, the Agency or other person designated by the Court shall serve a copy of the petition and order on the parents, custodian, and guardian (if any).

SECTION 3.06.03

Initial Hearing

A. Hearing Date

An initial hearing shall be held regarding the removal of a child before the end of the second working day following the filing of the child/family in need of aid petition.

B. Purpose

The purpose of the initial hearing is to determine whether it is reasonable to believe that continuing absence from the home is necessary to protect the well-being of the child.

C. Advise of Rights

During the hearing, the Court shall advise the party(s) of the reason for the hearing and of their basic rights as provided for in this code.

D. Nature of Hearing

The hearings shall be informal in nature. Concerned parties may present evidence relating to the situation. Hearsay evidence will not be excluded at this hearing as long as it is otherwise admissible. The general public shall be excluded from the proceedings. Only the parties, their counsel, witnesses, the child's extended family and another persons determined to be appropriate by the Court shall be admitted.

E. Possible Outcome of Initial Hearing

1. The child/family in need of aid petition may be dismissed and the child returned to the home.
2. The child may be returned to the home of the parents, guardian or custodian under the supervision of the Court and other hearing held within thirty (30) days.
3. The child may be continued in the child's out-of-home placement and a thirty day (30) hearing will be held.

F. Notice of Initial Hearing

The Court shall make all reasonable efforts to advise the parents, guardians, or custodian of the time and place of the initial hearing. The Court shall request that the parent, guardian, custodian be present for the hearing. Reasonable efforts shall include personal, telephone, and written contacts at their residence, place of employment or other location where the person is known to frequent with regularity. If the Court is unable to contact the parent, guardian or custodian, notice shall be given to members of the extended family of the child.

G. Unresolved Issues

If the problems are not resolved at the initial hearing or the thirty (30) day hearing, the Court will set a date for a formal hearing on the issues. Such date will be no later than ninety (90) days after the filing of the child/family in need of aid petition.

H. Notification of Rights

All parties have a right to be represented by an advocate/attorney at their own expense in all proceedings under this Code, to introduce evidence, to be heard on his or her own behalf, to examine witnesses, and to be informed of possible consequences if the allegations of the petition are found to be true. All parties shall be entitled to advance copies of court documents, including petitions and reports, unless deemed inappropriate by the Court.

SECTION 3.06.04***Thirty Day Hearing*****A. Purpose**

The second hearing will be held within thirty (30) days following the initial hearing. The purpose of this hearing is for the Court to reassess whether continuing Court intervention is necessary to protect the well-being of the child.

B. Hearing Procedures

The thirty (30) day hearing shall be held according to Section 10 C-F of this Code.

SECTION 3.06.05***Formal Trial on the Issues*****A. Time Limitations**

The formal trial on the issues will be set for no later than ninety (90) days following the filing of the Child/Family in Need of Aid Petition.

B. Admissibility

The records of the initial hearing and ninety day hearing shall not be admissible at the formal trial. This shall not be construed to prevent the admissibility of any evidence that was presented at these hearings which would normally be admissible under the Court's rules of evidence.

C. Closed Hearing

The general public shall be excluded from the proceedings. Only the parties, their counsel, witnesses, the child's extended family, and other persons determined to be appropriate by the Court shall be admitted.

D. Advise of Rights

During the hearing, the Court shall advise the party(s) of the reason for the hearing and of their basic rights as provided for in this Code.

E. Child Witness

If the court determines that it is in the best interest of the child and does not violate the rights of the party(s), the Court may allow the child to testify by means of a videotape deposition, closed circuit television, or other appropriate method. If the Court does allow

these methods to be utilized, the court shall specifically set out the reason for this determination on the record.

F. Burden of Proof

The burden of proof lies with the petitioner. The petitioner must prove that the allegations raised in the protection petition are more likely true than not; that is, by the preponderance of the evidence, and that the best interests of the child will be served by continued court intervention.

G. Outcome of Hearing

The court will either find the allegations of the Protection Order to be true or dismiss the Protection Petition, unless the hearing shall be continued to a date certain to allow for the presentation of further evidence.

H. Return to Home

The Court may find the allegations of the Protection Petition to be true, but that out of home placement is not needed to protect the child. The Court may, however, due to unresolved problems in the home, continue Court intervention and supervision as appropriate.

I. Grounds for Continuing Removal From the Home

The Court may find the allegations of the child/family protection Petition to be true and order that the child remain out of the home. The grounds for continuing removal from the home of a parent, guardian or custodian are that:

1. A child has no parent, guardian, or custodian available, willing and capable to care for the child.
2. The child has suffered, or is likely to suffer, a physical injury inflicted upon him by other than accidental means, which causes or creates a substantial risk of death, disfiguration, or impairment of bodily functions.
3. The child has not been sexually abused or sexually exploited.
4. The child has not been provided with adequate food, clothing, shelter, medical care, education or supervision by his/her parents, guardian, or custodian; which is necessary for the child's health and well-being.
5. The child has committed juvenile offenses as a result of parental pressure, guidance, or approval.
6. The child has been emotionally abused or neglected.
7. The child has suffered or is likely to suffer, emotional damage which causes or creates a substantial risk of impaired development.

J. Court Order for Continuing Removal

The Court shall specify in its Order the necessary intervention and appropriate steps, if any, the parent, guardian, or custodian must follow to correct the underlying problems.

The Court may order specific directives that may include but not limited to directing the child's parents, guardian or custodian to take educational classes; alcohol and drug assessments, and follow the recommendations of the assessments; psychological or psychiatric assessments and treatment; or such other treatment or programs as it feels are appropriate and are likely to result in the best interest of the child and reunification of the child with the family.

K. Return of Child to Parent, Guardian, or Custodian

The Court may find the allegations of the child/family protection petition to be true and out of home placement necessary, but with the accomplishment of specified actions by the parent, guardian, or custodian, the child may be returned absent good cause to the contrary. The Order of the Court will specify actions, and the time frames for such actions, that parents, guardians or custodians must accomplish before the child is returned. The Order will also specify the responsibilities of any support agency or personnel to be involved.

L. Out of Home Placement

The Court may find the allegations of the Protection Petition to be true and that out of home placement continues to be necessary and further that the child may not be returned to the home, absent specific order of this Court. The Court shall specify what steps the parents shall take to demonstrate their abilities to care for their child, and specify to the parties what factors the Court will consider at a subsequent hearing to determine whether or not the child should be returned.

M. Written Order

The Court shall specify in writing the facts, grounds and code sections upon which it relied to make its decisions.

SECTION 3.06.06***Notice of Formal Trial on the Issues*****A. Summons**

The Court shall issue a summons to the parent, guardian, custodian and such other persons as appear to the court to be proper or necessary parties to the proceedings. The summons shall require them to appear personally before the court at the time set for the formal trial.

B. Attachments to Summons

A copy of the protection petition shall be attached to each summons. The Court shall also attach a notice to the parent, guardian, custodian which advises them of their rights under this Code.

C. Personal Service

If the parties to be served with a summons can be found within the exterior boundaries of Gwichyaa Zhee, the summons, a copy of the protection petition and the notice of rights shall be personally upon them at least fifteen (15) Court days before the formal trial on the issues.

D. Mail Service

If the parties are within the exterior boundaries of Gwichyaa Zhee but cannot be personally served, and if their address is known, the summons, petition and notice of rights may be served by registered mail with a return receipt requested, at least ten (10) days before the formal trial.

E. Notice to Extended Family

If the Court cannot accomplish personal or mail service, the Court shall attempt to notify the parent, guardian or custodian by contacting members of the extended family of the parent, guardian or custodian and/or the extended family of the child/children.

F. Service of Summons

Service of summon may be made under the direction of the Court by any person eighteen (18) years of age or older who is not a party to the proceedings.

G. Publication

In a child/family protection case where it appears within the body of the petition or within an accompanying statement that the parent, guardian or custodian is a nonresident of the tribe, or that their name, place of residence or whereabouts is unknown, as well as in all cases where after due personal service or service by registered mail has been unable to be effected, the Court shall direct the Clerk to publish legal notice in a newspaper,; printed in the county qualified to publish summons with the publication of the notice to be at least twenty-one (21) days prior to the date fixed for the hearing. Such notice shall be directed to the parent, guardian, custodian of their names are known, or if unknown a phrase to who to may concern, be used and applied to and be binding upon any such person whose names are unknown. The name of the court, name of the child, the date of the filing of the petition, the date of the hearing, and the object of the proceeding in general terms, shall be set forth. There shall be filed with the clerk an affidavit showing publication of the notice. The publication of the notice shall be paid by the Tribe. The publication of the notice shall be deemed equivalent to personal service upon all persons known or unknown who have been designated as provided in this Section.

H. Contempt Warning

The summons issued by the Court shall conspicuously display the words:

Notice: Violation of this Order is subject to proceedings for contempt of court pursuant to Tribal Code Section 14, below. The Court may find the parent, guardian or custodian in contempt for failure to appear at a Court Hearing or for Failure to Follow Court Orders.

SECTION 3.06.07

Default Judgment

A. When Appropriate

If the parent, guardian or custodian fail to appear for the formal trial, the Court may find the parent, guardian or custodian in default, and enter a default order of child/family protection and order necessary intervention and appropriate steps the parents, guardian or custodian must follow to correct the underlined problem.

B. Notice of Determination

Prior to finding a parent, guardian, or custodian in default, the Court must be satisfied actual notice has been given or that all reasonable possible steps have been taken to provide notice of the formal trial to the parent, guardian or custodian. The Court must also find that the petitioner can prove the elements of the protection petition.

C. Written Order

If the parent, guardian, or custodian is found in default, the Court shall specify the facts, grounds and code sections upon which it relied to make the decisions.

SECTION 3.06.08

Six Month Review

A. Review Requirement

The status of all children subject to a protection code shall be reviewed by the Court at least every six (6) months at a hearing to determine whether court supervision shall continue, except that the first review following a formal trial on the issues shall be held within ninety (90) days of the formal trial on the issues.

B. Return to Home

A child shall be returned home at the review hearing unless the Court feels that reason for removal was set forth in Title 5, Section 12-14-I of this Code still exists. The Court may however, due to unresolved problems in the home, continue court intervention and supervision as appropriate.

C. Written Order

If continued Court Intervention is determined to be necessary, the Court shall set forth the following, in a written order:

1. What services have been provided or offered to the parent, guardian or custodian to help correct the underlying problem(s).
2. The extent to which the parent, guardian, or custodian has visited or contacted the child, any reason why such visitation and/or contact has been infrequent or not otherwise occurred.

3. Whether the parent, guardian, or custodian is cooperative with the Court.
4. Whether additional services should be offered to the parent, guardian, custodian.
5. Whether the parent, guardian or custodian should be required to participate in any additional programs to help correct the underlying problem(s).
6. When the return of the child can be expected.

D. Additional Steps

The Court at the review hearing may order that a petition to terminate the parent/child relationship be filed, or that a guardianship petition be filed.

SECTION 3.06.09 ***Social Service Report***

A. Requirement of Social Service Study

To aid the Court in its decision, a social study(ies) consisting of a written evaluation of matters relevant to the disposition of the case shall be made by the person or agencies filing the petition.

B. Contents of a Social Study

The social study shall include the following points, and be made available to the Court, and the parties as deemed appropriate by the Court, three (3) days prior to a protection review hearing.

1. A summary of the problem(s)
2. What steps, if any, have the parents, guardian or custodian or social services personnel already taken to correct the problem(s).
3. What services could be of benefit to the parent, guardian, or custodian, but are not available in the community.
4. A report on how the child is doing in current placement(s) since the last hearing. If there have been any moves, the report will contain the reason for such moves.
5. Dates of contacts with parent, guardian, custodian and the child(ren) since the first hearing was held, method of contact, duration and subjects discussed.
6. If there have been no contacts with the parents, guardian, custodian or social workers, what efforts have been made to contact such parties.
7. An assessment of when the child is expected to return home.

8. A list of who the extended family members are and a list of contacts, or attempts to contact such family members regarding placement of child.

9. The social service personnel shall develop a case plan and shall make recommendations for the next six (6) months. Such recommendations will include:

- a) A treatment plan for the parents to resolve solutions to primary problem
- b) Future placement for the child to resolve solution to primary problem
- c) What services should be provided for the child, if services are needed
- d) Actions required to resolve primary problems, of child and /or family

SECTION 3.06.10

Emancipation

A child over the age of sixteen (16) years may petition to the Court for emancipation. The court shall grant such when the child proves to the Court that the child is capable of functioning as an independent and responsible member of the community.

TITLE 7
MEDICAL TREATMENT

SECTION 3.07.01: Authorization of Medical Treatment

SECTION 3.07.01
Authorization of Medical Treatment

At any time whether or not a child is under the authority of the Court, the Court may authorize medical or surgical care for a child when:

A. Unavailability of Parent, Guardian, Custodian

A parent, guardian, custodian is not immediately available and cannot be found after reasonable effort in the circumstances of the case, or;

B. Life Endangerment

A physician informs the Court orally or in writing that in his professional opinion, the life of the child would be greatly endangered without certain treatment and the parent guardian or custodian refuses or fails to consent. If time allows in a situation of this type, the Court shall cause every effort to be made to grant the parents, guardian, or custodian an immediate informal hearing, but this hearing shall not be allowed to further jeopardize the child's life.

In making its Order the Court shall give due consideration to any treatment being given the child by prayer through spiritual means alone or through other methods approved by tribal customs or traditions or religions, if the child or his parent, guardian or custodian are adherents of a bona fide religious denomination that relies exclusively on this form of treatment in lieu of medical treatment, or practices in fact the tribal customs or tradition or religion upon which is relied for such treatment of the child.

After entering any authorization under this Section, the Court shall reduce the circumstances, findings and authorizations, in writing and enter it in the records of the Court and shall cause a copy of the authorization to be given to the physician or hospital, or both, that was involved.

Oral authorization by the Court is sufficient for care or treatment to be given and shall be accepted by any physician or hospital. No physician or hospital shall be subject to criminal or civil liability in the Court for performance of care or treatment in reliance on the Court's authorization, and any function performed thereunder shall be regarded as if it were performed with the child's and the parent's authorization.

TITLE 8 TERMINATION OF PARENTAL RIGHTS

SECTION 3.08.01: Purpose

SECTION 3.08.02: Findings Necessary for Termination of Parental Rights

SECTION 3.08.01

Purpose

The purpose of this Title is to provide for the voluntary and involuntary termination of the parent/child relationship and for the substitution of parental care and supervision by judicial process. This Title shall be construed in a manner consistent with the philosophy that all parties shall be secured their rights as enumerated in the Indian Civil Rights Act of 1968 and that the unit remains united and together, and that termination of the parent-child relationship is of such vital importance that it should be used only as a last resort when, in the opinion of the Court, all efforts have failed to avoid termination and it is in the best interests of the child concerned to proceed under this Title.

SECTION 3.08.02

Findings Necessary for Termination of Parental Rights

A. Grounds for Involuntary Termination

- 1. Abandonment.** If the parent has not contacted the child by telephone, letter or in person, or provided any financial support for more than one (1) year without a break, or have had only marginal contacts for twenty-four (24) out of the latest forty-eight (48) months, a presumption shall exist that there is no parental relationship existing.
- 2. Physical Injuries.** Willful and repeated physical injuries
- 3. Sexual Abuse.** Willful and repeated acts of sexual abuse or sexual exploitation.
- 4. Emotional Harm.** The return of the child may result in serious permanent emotional damage as supported by the best evidence available in the field of child development.

B. Pre-filing Requirements

A petition seeking involuntary termination of the parent-child relationship must establish the following:

- 1.** The child has been found to be an abandoned or neglected child under this Code for at least a one year period of time, and has been removed from their parent, guardian or custodian at the time of this termination hearing for a period of one year or more.

2. The Court has entered an Order which states what the parent was required to accomplish their underlying problem(s).
3. The Social Service Agency involved has made a good faith attempt to offer or provide all court ordered and/or necessary services that are reasonably available in the community and which are capable of helping the parent resolve his or her underlying problem(s).
4. There is little likelihood the conditions will be remedied so that the child can be returned to the parents in the near future.
5. Continuation of the parent-child relationship clearly diminishes the child's prospect for successful placement into a permanent and stable home; and
6. Not returning the child to their parent is the least detrimental alternative that can be taken.

C. Who May File Termination Petition

A petition may be filed by:

1. Either parent when termination is sought with respect to the other parent.
2. The juvenile presenter.
3. Any other person possessing a legitimate interest in the matter.
4. A parent may file a petition for the voluntary termination of his parental rights.

No parental rights may be terminated unless a petition has first been filed, notice has been given, and a hearing held in accordance with the provision of this Code.

D. Contents of Termination Petition

The Petition for Termination of Parental Rights shall include the following to the best information and belief of the petitioner.

1. The name, place of residence and tribal affiliation of the petitioner (if other than juvenile presenter);
2. The full name, sex, date, and place of birth, residence and tribal affiliation of the child;
3. The basis for the Court's jurisdiction;
4. The relationship of the petitioner to the child, or the fact that no relationship exists.

5. The names, addresses, tribal affiliation, and dates of birth of the child's parents;
6. Where the child's parents is himself a child, the names and addresses of the parent's parents of guardian; and where the parent has no parent or guardian, the memes of the parent's extended family;
7. The name and address of the person or agency having legal or temporary custody of the child.
8. The grounds on which the termination is sought under this Code (unless voluntary termination);
9. A statement that the pre-filing requirements set forth in this Code have been met (unless involuntary termination), and;
10. A list of the assts of the child together with a statement of the value thereof.

When any of the facts required by this Section are unknown, the Petition shall so state. The petitioner shall sign and date the Petition.

E. Notice

After a Petition for the involuntary termination of parental rights has been filed, the Court shall set the time and place for hearing and shall cause notice thereof to be given to the petitioner, the parents of the child, the guardian of the person of the child, the person having legal custody of the child, and the child's extended family as determined by the Court.

Where the child's parent is himself a child, notice shall also be given to the parent's parent or guardian of the person unless the Court is satisfied, in exercise of its discretion, that said notice is not in the best interest of the parent and that it would serve no useful purpose.

Notice shall be given by the personal service. If service cannot be made personally, the Court may authorize service by registered mail at the last known address of the person to be served. If notice cannot be served by registered mail, the Court may authorize service by publication in either the tribal newspaper or the county where the court is located, once a week for three consecutive weeks. All notices served whether personally or by registered mail shall be received by the person named therein no less than ten (10) days prior to the date set for the hearing. No hearing can be held sooner than ten (10) days after the last publication where service is made.

Notice and appearance may be waived by a parent in writing before the Court in the presence of, and witnessed by, a clerk of the court, in the presence of, and witnessed by, a clerk of the court, provided that such parent has been apprised by the Court of the meaning and consequences of the termination actions. The parent who has executed such

a waiver shall not be required to appear at the hearing. Where the parent is a minor the waiver shall be effective only upon approval by the Court.

F. Pre-Termination Report

Upon the filing of a petition under this chapter for the involuntary termination of parental rights, the Court shall request that the Social Service Department or other qualified agency prepare and submit to the Court a report in writing. The report shall be submitted to the Court no later than ten (10) days before the Hearing with copies given to the parents. The purpose of the report is to aid the Court in making a determination on the petition and shall be considered by the Court prior thereto. The Court may request additional reports where it deems necessary.

The report shall include the circumstances of the petition, the investigation, the present condition of the child and parents, proposed plans for the child, and other such facts as may be pertinent to the parent and child relationship, and the report submitted shall include a recommendation and the reasons therefor as to whether or not the parent and child relationship should be terminated.

G. Relinquishment of Parental Rights (Voluntary Termination of Parental Rights)

Parental rights may be relinquished (voluntarily terminated) by a parent in writing, if signed by the parent in the presence and with approval of the Court. Relinquishment shall not be accepted or acknowledged by the Court prior to ten (10) days after birth of the child. The Court shall ensure that the parent understands the consequences of the voluntary termination prior to approving it. A parent who wishes to relinquish his parental rights shall be provided an interpreter if he does not understand English and their right to withdraw the voluntary consent, the time to do so and the procedures for doing so.

H. Hearing Procedures

The procedures for termination of parental rights hearings shall be in accordance with Title 5, Sections 12 B-E of this Code.

I. Burden of Proof

The burden of proof lies with the petitioner to prove that the allegations in the termination petition are supported by clear, cogent and convincing evidence, and that the best interest of the child will be served by termination of parental rights.

J. Findings of Fact and Conclusions of Law

The Court will make formal findings of fact and conclusions of law as a basis for the written order terminating the parent-child relationship.

K. Result of Termination Order

Upon the termination of parental rights, all rights, powers, privileges, immunities, duties and obligations including any rights to custody, control visitation or support existing between the child and parent shall be severed and terminated unless otherwise directed by the Court. The parent shall have no standing to appear at any future legal proceeding

concerning the child. Any support obligation existing prior to the effective date of the order terminating parental rights shall not be severed or terminated. The rights of one parent may be terminated without affecting the rights of the other parent.

A Termination Order shall not prevent a child from inheriting property or interest in the same manner as any other natural child from the natural parent. A natural parent may not, however, inherit for a natural child after termination.

L. Child's Continued Right to Benefits

An Order terminating the parent-child relationship shall not disentitle the child to any benefit due the child from any third person, agencies, state or the United States, nor shall any action under this Code be deemed to affect any rights and benefits that the child derives from the child's descent from a member of a federally recognized Indian Tribe.

M. Custody After Termination Order

If upon entering an order terminating the parental rights of a parent there remains no parent having parental rights, the Court shall commit the child to the custody of a Social Service Agency for the purpose of placing the child for adoption, or in the absence of an adoptive home the Social Service may place the child in a licensed foster home or with a relative, or take other suitable measures for the care and welfare of the child. The custodian shall have the authority to consent to the adoption of the child, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical treatment for the child and consent to such matters as might normally be required of the child's parent.

N. Future Review Hearing

If a child has not been adopted or permanently placed within six (6) months of the termination order, another six (6) month review hearing will be held. Such six (6) month hearings will continue until the child is adopted or permanently placed.

TITLE 9 ADOPTION

- SECTION 3.09.01: Open Adoptions
- SECTION 3.09.02: Modifications, Revocations, or Extensions of Court Orders
- SECTION 3.09.03: Child/Family Records
- SECTION 3.09.04: Children Court of Appeals
- SECTION 3.09.05: Appointment of Representatives
- SECTION 3.09.06: Right to Counsel

SECTION 3.09.01 *Open Adoptions*

A. Adoptions under this Code shall be in the nature of “Open Adoptions.”

The purpose of such open adoption is not to permanently deprive the child of connections to, or knowledge of, the child's natural family. The purpose of open adoptions shall be to give the adoptive child a permanent home. To this end the following shall apply and be contained in all adoptive orders and decrees:

1. The adoptive parents and adoptive child shall be treated under the law as if the relationship was that of a natural child and parent, except as set forth herein.
2. The adoptive child shall have an absolute right, absent a convincing and compelling reason to the contrary, to information and knowledge about his natural family and his tribal heritage.
3. The adoptive child and members of the child's natural extended family (including parents) shall have a right of reasonable visitation with each other, subject to reasonable controls of the adoptive parents.
4. Adoption shall not serve to prevent an adoptive child from inheriting from a natural parent in the same manner as any other natural child. The manner as parents would otherwise be entitled to inherit. An adoptive child shall be entitled to inherit from adoptive parents, and vice versa, in the same manner as if natural parents and child.

B. Consent to Adoption

1. When not required: Written consent to adoption is not required if:
 - a) The parent has abandoned his child;
 - b) The parent's rights have been terminated;
 - c) The parent has relinquished his parental rights;
 - d) The parent has been declared incompetent.

2. When required: Written consent to an adoption is required of:

- a) The biological or adoptive mother;
- b) The biological, adoptive, or acknowledged father;
- c) The custodian, if empowered to consent;
- d) The court, if the custodian is not empowered to consent;
- e) The child, if he/she is over twelve (12) years of age.

C. Execution of Consent to Adopt

Written consent to an adoption shall be executed and acknowledged before the Court. Consent shall not be accepted or acknowledged by the Court prior to ten (10) days after birth of the child. An interpreter shall be provided if the person consenting to the adoption does not understand English. Consents of a child over the age of twelve (12) years shall be made orally either in open Court or in chambers with only the Judges and any other person (s) he deems necessary, and the child present.

D. Who May File an Adoption Petition

Any person may file a petition for adoption. The petition shall be initiated by the person proposing to adopt. In the case of married persons maintaining a home together, the petition shall be the joint petition of husband and wife, except that if one of the spouses is the natural or adopted parent of the proposed adoptee, said parent shall not be required to join in the petition.

E. Contents of Adoption Petition

The Petition for Adoption shall include the following, to the best information and belief of the petitioner:

1. The full name, address, and tribal affiliations of the petitioners;
2. The full name, sex residence, date and place of birth, and tribal affiliation of the proposed adoptee;
3. The name by which the proposed adoptee shall be known if the petition is granted;
4. The basis for the Court's jurisdiction;
5. If the proposed adoptee is a child, a full description and statement of value of all property owned, possessed or in which the child has an interest;
6. The relationship of the petitioner to the proposed adoptee; and

7. The names and addresses of any person or agency whose consent to aid adoption is necessary.

Where there is more than one proposed adoptee, and these proposed adoptees are siblings, only one petition shall be required for the adoption of all or any combination of the siblings, provided that each sibling proposed to be adopted be named in the petition.

All petitions must be signed and dated by the petitioner, and must be notarized or witnessed by a Clerk of the Court.

F. Notice

Notice shall be provided in accordance with the notice procedures set forth in Title 7, Section E of this Code, except that the Court may determine that it is unnecessary to give notice to specific individuals, including a parent whose parental rights have been terminated.

G. Homestudies

When a petition for the adoption of a child is filed with the Court, the Court shall immediately request that the Social Service Department or other qualified agency conduct a home study on the petitioner and report on the child(ren). The homestudy and report shall relate the circumstance of the home, the petitioner and his ability, both physical and mental, to assume the responsibilities of a parent of the child. The homestudy shall contain other pertinent information designed to assist the Court in determining the best placement for the child. The homestudy will also address the issue of whether or not the home most closely resembles that of the child's culture, identity, and where applicable, his tribal affiliation. The homestudy or report shall not be required where the proposed adoptee is an adult.

No determination can be made on a petition for adoption until the homestudy and report has been completed and submitted to and considered by the Court. The homestudy shall be submitted to the Court no later than ten (10) days before the hearing. The homestudy and report may be consolidated into one document. The Court may order additional homestudies or reports as it deems necessary.

H. Withdrawals of Consents

Any consent given under the provisions of this Section may be withdrawn by the person or agency which gave the consent at any time prior to the entry of a final decree of adoption. No reason need be stated and no hearing need be held on such withdrawal.

I. Adoption Preference

The preference of placement in adoption shall be in the following order unless the Court determines that the child's best interest require deviation from the preferences:

1. Extended Family Member
2. A Tribal Member or Person Eligible for Tribal Membership
3. Other Indian Person(s), and
4. If this order of preference cannot be met, then placement may be made with any person who has some knowledge of the child's tribal affiliation and his special needs as determined in Title 4 under 'most determined contacts' of this Code.

J. Hearing Procedures

An adoption hearing shall be held within ninety (90) days of receipt of an adoption petition from the prospective parent(s). The Court shall conduct the hearing to determine if it is in the best interests of the child to be placed with the petitioners. In determining the best interest of the child, the Court shall examine:

1. Validity of Written consent;
2. Termination of Parental Rights Order;
3. Length of Time of the Child's Wardship by the Court
4. Special Conditions of the Child;
5. Parent Communication with his Child;
6. Minor's Consent to Adoption, if he is over twelve (12) years of age;
7. Homestudies or Other Reports, and;
8. Order of Preference of Placement.

The petitioner and the proposed adoptee shall appear personally at the hearing. During the hearing the Court shall advise the Party(s) of their basic rights as provided in Chapter 2 of this Code. The judge shall examine all persons separately, and may, if satisfied that all other requirements of this Section have been met, enter a final decree of adoption, or may place the person to be adopted, if a child, in the legal custody of the petitioner for a period not to exceed six (6) months prior to entering a final decree of adoption.

If the Court is satisfied that the adoption will not be in the child's best interest, or finds that all of the requirements of this Section have not been met, it may deny the petition and make any other order it deems necessary for the care and custody of the child not inconsistent with this Code.

Proceedings for termination of the parent-child relationship and proceedings for adoption may be consolidated and determined at one (1) hearing provided that all the requirements of this Section, as well as, Title 7, 1 of this Code governing termination are complied with fully.

The hearing shall be informal in nature. Concerned parties may present evidence relating to the situation. Hearsay evidence will not be excluded from the proceedings. Only the parties, their counsel, witnesses, the child's extended family and other persons determined to be appropriate by the Court shall be admitted.

K. Adoption Decree

If the Court finds that the requirements of this Section have been met and that the child's best interests will be satisfied, a final decree of adoption may be entered.

A person; when adopted, may take the name of the person adopting, and the two shall thenceforth sustain toward each other the legal relation of parent and child, and shall have all the rights and shall be subject to all the duties of that relation, including all of the rights of the child of the whole blood to inherit from any person, in all respects, under the provisions of inheritance and succession of this Code.

SECTION 3.09.02

Modification, Revocation, or Extension of Court Orders

A. Motion to Modify, Revoke or Extend Court Orders

The Court may hold a hearing to modify, revoke or extend a Court Order under this Code at any time upon the motion of:

1. The Child;
2. The Child's Parent, Guardian, or Custodian;
3. The Prospective Adoptive Parents(s) Upon Court Order;
4. The Child's Counsel Or Guardian Ad Litem;
5. The Juvenile Counselor;
6. The Juvenile Presenter;
7. The Institution, Agency, or Person Vested with the Legal Custody of the Child Or Responsibility For Protective Supervision, or;
8. The Court on its Own Motion.

B. Hearing Procedure

Any hearing to modify, revoke or extend a Court Order shall be held in accordance with the procedures established for the order at issue.

SECTION 3.09.03

Child/Family Records

Client records are confidential under Alaska and Federal law. Confidentiality is the right of parents and children who are clients of the Tribal Social Service Department and Tribal Court to have information about them safeguarded against public disclosure. Each employee has an ethical and legal responsibility to safeguard information obtained by the tribal social service department in the course of providing services to clients.

The Tribal Social Service Department will follow state and federal law and regulations in balancing the clients' right to privacy with the child's need for health and safety, the parents' rights to seek redress, and the right of schools, foster parents, and the public to have certain information appropriate to their needs.

Reports of harm and reports of investigations for children who are subject to child in need of aid/protection petition are protected and may only be disclosed for use by appropriate governmental and tribal agencies with child protection functions, inside and outside the state, in connection with investigations or judicial proceedings involving child abuse, neglect or custody. Disclose of physical or mental health information that is used to make decisions about a person is subject to specific federal requirements which may be different than the requirements that apply to client records.

Tribal Divisional records which are not confidential must be made available to the public upon request.

A. Children's Court Records

A record of all hearings under this Code shall be made and preserved by the Tribal Court Clerk, and authorized Tribal officials. What is appropriate information to disclose must be decided on a case-by-case basis and depends on the purpose of the information shared and the function of the agency or individual to receive the disclosed information. All Children's Court records shall be confidential and shall not be open to inspection to anyone but the following:

- 1) The child's parent, guardian or custodian. The information to be provided is limited to that information necessary to enable the provision of the service requested.
- 2) The prospective adoptive parent(s); to enable the caretaker to provide appropriate care for the child, protect the safety of the child and the safety of the property of family members and visitors to the home must be provided.
- 3) The child's counsel or guardian ad litem;
- 4) The children's court personnel directly involved in the handling of the case;
- 5) Any other person by order of the Court, having legitimate interest in the particular case or the work of the Court.

- 6) All records requested shall be signed out and such document placed into such file requested.

B. Request for Information

When any client or other person or agency request a copy of records pertaining to a client, the social worker or tribal court clerk must consult with a supervisor and attorney. If the request arises out of another civil case, whether made informally or by motion or court order, consultation should be with a supervisor and attorney before disclosure.

C. Health Information

Physical health and mental health information are subject to the same confidentiality rules as other case information, except that the following additional rules apply to physical and mental health information that is used to make decisions about an individual (for example, a mental health evaluation of a parent that is used in making a decision about whether their child should be returned home). The rules applies both to information which originates within the social service and tribal court and to information that departmental staff has received from another agency.

- 1) An individual has a right of access to inspect and obtain a copy of health information about themselves that is used to make decisions about them, except for psychotherapy notes or information compiled of or for use, in a civil, or administrative action or proceedings.

D. Parent's Request to Review Child's File

1. Information on a child acquired while the child was not the subject of a CINA/P petition will be provided with the exception of name and nay identifying information about persons reporting harm to a child and information referred.
2. Information on a child acquired while the child was the subject of a CINA/P petition will be provided when the information is part of a court ordered evaluation program; is necessary to assist the parent to participate in court-ordered treatment, or pertains to the parents residual rights to visitation, consent to adoption, marriage, or enlistment in the military, and to consent to major medical treatment, or when the court has ordered the disclosure.

E. Law Enforcement and Social Services Records

Law enforcement records and files concerning a child shall be kept separate from the records and files of adults. All law enforcement and social services records shall be confidential and shall not be open to inspection to anyone but the following;

1. The child;
2. The child's parent, guardian, or custodian;
3. The child's counsel or guardian ad litem;
4. Law enforcement and social services personnel directly involved in the handling of the case;

5. The children's court personnel directly involved in the handling of the case;
Any other person by Order of the Court, having legitimate interest in the particular case or the work of the Court.

SECTION 3.09.04***Children's Court of Appeals*****A. Who Can Appeal**

Any party to a children's court hearing may appeal a final children's court order.

B. Time Limit for Appeal

Any party seeking to appeal a final children's court order shall file a Written Notice of Appeal with the Court within thirty (30) days of the final order.

C. Record

For purposes of appeal, a record of proceedings shall be made available to the child, his parent, guardian, or custodian, the child's counsel and others upon Court order. Cost of obtaining this record shall be paid by the party seeking the appeal.

D. Stay of Appeal

A court order may be stayed by such appeal.

E. Conduct of Proceedings

All appeals shall be conducted in accordance with the Tribal Code and Tribal Court rules of procedure as long as provisions are not in conflict with the provisions of this Code.

SECTION 3.09.05***Appointment of Representatives***

The Court may appoint a qualified spokesperson to represent the best interest of the child, and /or a spokesperson to represent the family of the child involved in actions under this Code. There is no right to an appointed spokesperson, and such appointment is at the discretion of the Court, and subject to such conditions as the Court may require.

SECTION 3.09.06***Right to Counsel***

All parties have the right to counsel at their own expense at all stages of proceedings. Attorneys or other representatives must receive permission to practice in the Court according to such provisions of Tribal law as may government practice before the Court.

TITLE 10
CHILD CUSTODY INVOLVING DISPUTES
BETWEEN PARENTS AND/OR GUARDIANS

SECTION 3.10.01: Beginning a Child Custody Case
SECTION 3.10.02: Contents of a Child Custody Case
SECTION 3.10.03: Temporary Custody Hearing and Order
SECTION 3.10.04: Custody Hearing
SECTION 3.10.05: Change of Custody Order
SECTION 3.10.06: Justice Circles

SECTION 3.10.01
Beginning a Child Custody Case

If there is a dispute between parents and/or custodians over custody of a child, the matter may be brought in front of the Gwichyaa Zhee Gwich'in Tribal Court. A child custody case shall be started by filing a Petition to Use the Tribal Court.

SECTION 3.10.02
Contents of Child Custody Petition

The Petition shall provide the following information:

1. The name, address and age of the child; and
2. The names and addresses of the child's parents and any custodians of the child; and
3. The names and addresses of any other persons or tribe with a specific interest in the child; and
4. The reason the Petitioner is requesting custody of the child; and
5. The facts that make the Petitioner believe that the best interest of the child require that a Custody Order be issued by the Court; and
6. A statement of which tribe(s) the child is a member or with which tribe(s) the child is eligible for membership. This statement should include facts that indicate that the named Tribe is the tribe with the most significant contacts with the child.

SECTION 3.10.03***Temporary Custody Hearing and Order*****A. Temporary Custody Hearing**

After the Court determines that it has jurisdiction to hear and decide the case, the Court may hold a temporary custody hearing in cases where it will take considerable time to hold a custody hearing. Before holding the temporary custody hearing, the Court shall issue a Notice to Appear in Tribal Court to the parents, custodian or guardian of the child, within a reasonable length of time before the hearing.

B. Temporary Custody Order

At the temporary custody hearing; all parties shall have an opportunity to present evident and question witnesses. After the hearing is completed, the Court may issue a Temporary Custody Order giving a particular person or persons temporary custody of the child until a custody hearing is held.

C. Equal Access When Not Harmful To Child

Unless it is shown to be harmful to the child, the child shall have reasonable equal access to both parents and/to custodians during the duration of the Temporary Custody Order. The Temporary Custody Order may also set out a reasonable visitation schedule for a person or persons.

D. Monitoring and Investigating

The temporary custody order may be monitored as directed by the Court. The Court may also direct a designated person to investigate the facts contained in a Petition, or for any purpose required by this Code.

SECTION 3.10.04***Custody Hearing*****A. Custody Hearing Within 30 Days**

After a Temporary Custody Order is issued by the Court, the Court shall set a custody hearing within 30 days of the temporary custody hearing, or as soon as is reasonable and agreeable to the Parties in the case.

B. Purpose of the Custody Hearing

The purpose of the custody hearing is to make a decision about who should have custody of the child, and what visitation, if any, should be awarded for those persons who do not have custody.

C. Witness

At the hearing, all parties shall have the opportunity to present evidence and question witnesses.

D. Deciding Custody and Visitation

After the hearing is completed, the Court shall make a decision as to who shall have custody and what, if any, visitation should be awarded. In making this decision, the Court shall consider all factors defining the best interest of the child in Title 1, Section 5 of this Code. The best interest of the child shall be considered above all else.

SECTION 3.10.05***Custody Order***

A. After the custody hearing, the Court may Order that:

1. A party or parties be given legal and physical custody of a child; and
2. That a party not given physical custody be given specified visitation with the child; and
3. That a party not be given custody of a child.

B. The person may request that an award of custody of a child or visitation with a child be modified by filing a Petition to use the tribal court form. It is up to the discretion of the Court to hold a hearing to consider the request in the petition. If the Court decides to hold a hearing based on the Petition, reasonable notice shall be provided to all parties, and any new decisions of the Court shall be made through a new custody Order.

SECTION 3.10.06***Justice Circles***

The Justice Circle provides a structure that permits parents and their extended family the opportunity to actively participate in a decision-making and to take responsibility for developing a plan that will ensure safety, protection and permanency for their children. No one is in a better position to know the strengths and the weaknesses of the family and who the safe caregivers will be. Family too, is best suited to figuring out what the best resources they can be counted on.

In a Justice Circle, the family is seen as the “expert” on themselves. When family members are recruited and included in the decision-making practices and provide adequate information, they are in the best position to develop a plan that will ensure the protection and care of their children and to deal with family problems. For family members hold information that non-family members may not know-including family secrets which may have a direct bearing on whether the child is subject to further abuse or neglect.

TITLE 11 JUSTICE CIRCLES

SECTION 3.11.01: Family Conferences
SECTION 3.11.02: Three Stages of Justice Circle
SECTION 3.11.03: Roles of the Participants

SECTION 3.11.01 *Family Conferences*

The family conference brings together parents, custodians, extended family members, social workers, and any other significant people the family wishes to include. These Justice Circles are voluntary, and are held only with the informed consent of the parents. Family conferences are based on family strengths and parents are consulted during the planning, regarding who should be invited, location, and other logistical considerations.

SECTION 3.11.02 *Three Stages of Justice Circles*

1. Information Sharing

Information about the case is shared with the family. The social worker, tribal representative and other service providers discuss both the positives and the concerns about the family and how they relate to the safety and well-being of the child(ren). The goal is to provide the family with as much information, as possible, about how the family became involved with the child welfare system and the current situation. It is important for family to hear all the information at the same time and to ask questions. Family members are not usually asked to provide information during this part. This is also the time for the social workers to let the family know if there are any plans they cannot accept, due to safety issues that arises to the children then to address those issues in the plan.

2. Family Private Time

Family meets alone without social workers or service providers. This gives them the opportunity to discuss the child's needs and to create a plan that will ensure the child's safety and well-being. They are also asked to discuss the needs of the parents and any caregiver(s). The social workers and other tribal representatives remain accessible to the family to answer questions, but do not stay in the room. The Keeper of the Circle remains to facilitate and guide the discussion. The family takes as long as they need to come up with plans that will address the concerns. In spite of the often emotional nature of the meetings, families create plans that meet the protection and safety needs of children.

3. Reviewing and Agreeing on the Plan

This is the final part of the Justice Circle, once the family has created their plan, they present it to the Keeper of the Circle, social worker and other parties. The social worker and other parties present review the plan with the family to determine if it meets the

health and safety needs of the child. The social worker may approve the plan as is, or fine tuning may occur with the family being asked to consider changes to meet any remaining concerns if there are disagreements. Everyone receives a copy of the plan which is signed by all involved family and parties.

The written plan detail specific steps for implementing the decision, including resource allocations, responsible individuals, time frames, contingency plans, a monitoring system and an evaluation process, to ensure its effectiveness in achieving child safety, functioning and well-being. Monitoring is a useful tool to create continued partnership between agencies and families to ensure progress and attainment of goals.

SECTION 3.11.03

Roles of the Participants

The Family Unity meeting model was developed in 1989, based upon family group decision making is rooted in strengths-based, child-centered, and family focused philosophies. Strength based approach helps to identify what a family does well or what is good about a family. Child centered and family focused mean that “the child protective needs are at the center of decision making, but the service is focused on building the family’s capacity to care for and protect the child(ren). Families have knowledge that others may not know of and they are the best to provide information and support.

A. Preparation Activities:

Prepare all information on the case for the family members and participants to help them understand the meeting concept, clarify their roles, and reduce anxieties. Time is required to prepare the facts, and importance of security and honesty when presented those facts. All participant need to know the purpose of the meeting beforehand. A blend of family and professionals that should attend should be held to a minimum to safeguard against family members feeling overwhelmed.

B. Keeper of the Circle:

- Sets the tone, remains neutral and impartial.
- Facilitates, welcome, introduce and share information with group.
- Assure safety and support for the children who participate.
- Discuss referral with the social service and other parties.
- Meet the parents to discuss fully the options available.
- Assist with contacting other relatives and other involved people to attend, voluntarily.
- Reconvene group for presenting of family’s plan.
- Facilitate discussion and decision-making around the plan.

C. Social Workers:

- The social workers with the Keeper of the Circle develop a list of relatives.
- Attend the Justice Circle, family conference to clearly explain the assessment and safety concerns in a respectful and non-judgmental way.
- Share assessment of family's strengths.
- Explain the potential resources/services available to the family.
- Let the family find their own solutions and listen to the family's explanations of their plan.
- Be open to a range of solutions for addressing the concerns and issues of the children.
- Listen to the family explain their plan and let them know if the Court is able to endorse, or if modifications are needed to be consistent; or if it cannot be endorsed, inform the family.

D. Family Group:

- Must be voluntary and must be based upon the best interest of the child/family.
- Keep confidential the issues of the session.
- Should be given all information necessary to make informed decisions for the children.
- Must have as much time necessary to meet in private to make decisions.

TITLE 12 RESOURCE SERVICE

SECTION 3.12.01: Counseling and Supportive Services

SECTION 3.12.01 *Counseling and Supportive Services*

If the Tribe does not have the resources to provide general supportive family services often requested by the parent, guardian, custodian, or referred by Order of the Court, such as family counseling, the Social Worker will explain services provided by other Tribal entities, state and federal agencies that are available and cost. Family supportive services may include counseling, substance abuse treatment, mental health services, assistance to address domestic violence, visitation with family members, parenting classes, temporary child care services and transportation. The goal is to improve child safety, increase permanency and permanency options for children, increase family connectedness and increase family functions.

A. Release of Information

When the service is required in order to resolve a problem identified in the case plan, feedback from the provider is required. The social worker must include provision for release of information from the provider, in order to check attendance and progress towards meeting the goals of the case plan.

B. Prioritize

To keep a case plan reasonably achievable, selection of 2 or 3 most pertinent service to the identified problem should be considered and included in the case plan. Family support services means the services and activities provided to children and their families including those provided by the community, church or other service organizations, both to prevent removal of the child from the family home, and to facilitate the child's safe return to the family.

C. In Home Service

In-home services also meet the requirement of reasonable efforts to prevent or eliminate the need for removal of the child from the home. Active efforts must be made to provide remedial services and rehabilitation programs designed to prevent removal of the child and maintain family unity.

D. Out of Home Service

When a child is placed out of home and the permanency plan is reunification, the social worker will provide time limited family support to the child and family in order to offer parents the opportunity to remedy parental conduct or conditions in the home that placed the child at risk of harm, so the child may be returned home safely and permanently.

E. Requirement of Counseling and Supportive Services.

The ICWA Social Worker or agency of the court may require a parent, guardian, or custodian who has a child in tribal custody to attend counseling and other supportive services.

F. Responsibility of Parents In Counseling

It is the responsibility of the parent, guardian, or custodian to enroll in, pay for, and attend any counseling sessions that are required by their respective case plan. It is the parents', guardian, or custodian's responsibility to keep the Social Worker informed of their progress and attendance in counseling. If the Social Worker is not regularly informed the parent, guardian or custodian will be assumed to be non-compliant.

G. Responsibility of the Social Worker For Counseling

The primary responsibility of the Social Worker is to determine where the supportive service will take place. The Presiding Judge will determine if a parent needs mental health counseling, alcohol-drug counseling, or other counseling, and require that counseling take place as written in the case plan. The Social Worker will inform the parent, guardian or custodian of the available counseling and supportive services.

H. Counseling Provided by the Tribe

The Tribe will make the effort to provide funding for counseling and treatment efforts. These funds are provided on an as-needed basis, when available, and are to be used at the recommendation of the ICWA Social Worker for parents on a secondary basis, and for children on a primary basis.

TITLE 13
CLOSING CASES

SECTION 3.13.01: Closing On-Going Cases

SECTION 3.13.01
Closing On-Going Cases

A. Cases will be closed when the child no longer needs the protection of the Court. The following criteria will be used when making a determination about whether a case should be closed:

- 1) The child will not be subjected to further maltreatment or substantial risk because the needs and problems that contributed to the maltreatment have been addressed and eliminated; or
- 2) The child has been placed into other permanent family situation in which there is low risk of maltreatment; or
- 3) The child has been emancipated; or
- 4) The child will reach the age of majority (age 18) and it is determined that there is no reason to request extension of custody past the child's 18th birthday; or
- 5) The child is the age older than 18 and the extension of custody has expired.

B. Cases will not be kept open when the criteria have been met.

C. Close with Referral indicates that while the social service department will not open an ongoing case, the family may benefit from voluntary services through another source. It is not required that there be a referral, if none is appropriate or available. A social worker may provide a referral to low risk level families with protective capacities to address priority needs if appropriate.

D. Inactive Cases: If a case has been inactive for some time, and the social worker is considering closing the case, the social worker will first contact the family and/or collateral contacts to verify that closing the case will not put the child's safety at risk.

All Closed Cases shall be logged and stored