

STA Children's Code
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Chapter I Purpose, Rules of Construction and Definitions

Section 1.01 Purpose

- (a) The children within the jurisdiction of the Sitka Tribe of Alaska are the Tribe's most important resource, and their welfare is of paramount importance to the Sitka Tribe of Alaska.
- (b) It is important that the children within the jurisdiction of the Sitka Tribe of Alaska receive, preferably in their own homes and from their own people, the care and guidance needed to prepare them to take their place in adult society.
- (c) The Sitka Tribal Court system and the Sitka Tribe's Social Services Department are directed to accomplish these purposes, and to insure that other governments will cooperate in returning young tribal citizens to the tribal community for care and guidance.

Section 1.02 Rules of Construction

- (a) This Code shall not be construed or implemented in any manner which violates the Indian Civil Rights Act, or the Sitka Tribe of Alaska's Constitution and by-laws as determined by the Sitka Tribal Court (hereinafter referred to as Court or Tribal Court).
- (b) When the computation of any period of time procedurally required by this code would result in a day falling on a weekend or holiday, the following working day shall apply.
- (c) The Tribal Court is directed to select the most beneficial method of achieving its goal. This approach applies to all actions, except for termination of parental rights, taken by the Sitka Tribal Court under this code. In termination of parental rights cases, the Tribal Court shall select the least detrimental alternative available. Whenever the Tribal Court must decide how to proceed, it should consider the reason for that action and select the solution that fulfills the objective in a manner which is consistent with the purposes of this code and goes no further. Therefore:
 - (1) Any restrictions placed on a child must be reasonably related to the Tribal Court's objectives and must be the least restrictive way of achieving those objectives; and
 - (2) When the disposition involves placing a child outside of his or her own home or family, the least restrictive alternative shall be selected. That alternative shall be the one that most approximates tribal family environment, and which allows the child reasonable means to fulfill his or her needs as an Indian child and other special physical, psychological, emotional, educational and cultural needs; and
 - (3) A child shall not be removed from his or her home unless determined to be

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necessary under the terms of this Code.

- (d) All cases arising under this code will be considered urgent when they involve child placement. They shall be heard before all other cases on the Court's docket. The cases involving younger children shall be heard before those involving older children. If Social Services cannot meet the timelines set out in this ordinance, it may petition the Court for an extension of time. The Sitka Tribal Court may order such extension of time only if good cause is shown.
- (e) A child's well-being shall be more important than parental or custodial rights.
- (f) This code is to be interpreted in a manner consistent with the Code Governing Tribal Court Rules and Civil Procedure. The Judges of the Sitka Tribal Court shall have broad discretion in interpreting this code, and where tribal custom provides, may issue verbal orders or otherwise take necessary action consistent with the spirit of written or unwritten tribal law.
- (g) If there are no provisions in this code requiring otherwise, the Sitka Tribe of Alaska's Social Services Department may present actions to the Tribal Court in any form consistent with tribal custom.
- (h) At the discretion of the Sitka Tribal Court, Tribal Judges may use any source of traditional Tlingit law or custom pursuant to Chapter VII of this code.

Section 1.03 Definitions

For the purpose of this code, the following words and phrases shall have the following meanings respectively ascribed to them:

- (a) Abandonment means the conscious disregard of parental or custodial responsibilities toward a minor by failing to provide support, supervision or maintain regular contact without justifiable cause;
- (b) Abuse means any action that threatens or impairs the physical, psychological and mental health, safety or well being of a minor;
- (c) Best interests of a child includes, but is not limited to, the following considerations:
 - (1) The emotional, mental, physical, religious, and social health of the child;
 - (2) The capability and desire of each parent or custodian to meet these needs;
 - (3) The wishes of the child's parent, parents or custodian;

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- (4) The wishes of the child as to his custodian, if the child is of sufficient age and capacity to form a preference;
 - (5) The interaction and interrelationship of the child with his or her parent or parents, his or her siblings, and any other person who may significantly affect the child's best interests;
 - (6) The child's adjustment to his home, school, and community;
 - (7) The Indian heritage of the child; and
 - (8) The Statement of Child's rights adopted by the For Our Grandchildren Committee.
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- (d) Beyond a reasonable doubt means that the Judge has no reasonable doubts regarding the evidence presented;
 - (e) Child or minor means any person under the age of 18;
 - (f) Court or Judge may be used interchangeably in this Code and shall be interpreted to mean the presiding judicial officer of the Sitka Tribal Court. These terms shall not be interpreted to mean the tribal court clerk, staff or any other employee of the Sitka Tribe of Alaska;
 - (g) Interested Parties means the individuals entitled to notice as determined by Section 2.06;
 - (h) Neglect means a failure to act or omission that threatens or impairs the physical, psychological, and mental health, safety or well being of a minor, though the parent or custodian is financially able to do so or offered the financial or other reasonable means to do so;
 - (i) Parent means the biological parent of a child or any person who has lawfully adopted a minor and whose parental rights have not been terminated as determined by the Tribal Court;
 - (j) Permanency Plan means a written and detailed plan for the long-term permanent placement of a child designed to result in the adoption of that child in the most expedient manner that is consistent with the best interests of the child;
 - (k) Rebellion means habitual conduct including, but not limited to, violence, truancy, use of illegal substances, running away from home or other conduct beyond the control of the minor's parent or custodian;

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- (l) Social Services means the Social Services Department of the Sitka Tribe of Alaska.
- (m) Tribal Court Clerk means either the Tribal Court Clerk or the Tribal Court administrator.

Section 1.04 Severability

Each provision of this Code stands on its own. Should any provision of this Code be determined invalid by a court of competent jurisdiction, that finding will not affect the validity of any other provision of this code.

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Chapter II General Provisions, Administration, and Policy

Section 2.01 Role of the Social Services Department

- (a) Social Services may represent the Sitka Tribe of Alaska in Tribal Court actions involving Indian children and families, and may designate a caseworker for that purpose.
- (b) Social Services may request representation by a member of the Tribal Court Bar, representation shall become effective upon approval of the General Manager.
- (c) Social Services shall meet regularly with the staff of the Tribal Court.
- (d) Social Services shall develop policies and procedures to implement their responsibilities under this Code, including the policy to intervene, whenever possible, in Indian Child Welfare Act (hereinafter ICWA) proceedings and prompt notification to the Tribal Court Clerk of any significant developments in a case or proceeding before the Court.
- (e) Social Services shall ensure the confidentiality of all proceedings and records conducted under this Code, pursuant to section 2.05 of this code.
- (f) Whenever possible Social Services shall exercise its authority in coordination with the State's Division of Family and Youth Services, and other appropriate agencies.
- (g) Social Services staff shall conduct themselves in a professional manner befitting officers of the Court.

Section 2.02 Role of Staff of the Tribal Court

- (a) The Staff shall meet regularly with the staff of Social Services of Social Services.
- (b) The Staff shall develop policies and procedures to implement their responsibilities under this Code, including prompt notification to the appropriate Tribal Judge of any significant developments and any filings in a case or proceeding before the Court.
- (c) The Staff shall conduct themselves in a professional manner befitting officers of the Court.
- (d) The Staff shall ensure the confidentiality of all proceedings and records conducted under this Code, pursuant to Sections 2.04 and 2.05 of this Code.

Section 2.03 Jurisdiction

- (a) The Sitka Tribe of Alaska properly exercises jurisdiction over Indian children and families who are citizens of the Sitka Tribe of Alaska or are otherwise subject to the jurisdiction of the Sitka Tribe of Alaska.

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- (b) The Sitka Tribal Court shall exercise jurisdiction in a manner consistent with the Constitution and By-Laws of the Sitka Tribe of Alaska.
- (c) Upon application to the Court, the Court may waive its jurisdiction to any other court of competent jurisdiction provided that the Sitka Tribal Court makes a written determination that the waiver is in the best interests of the child and the child will not be deprived of his or her cultural heritage or dignity as an Indian if the Court waives its jurisdiction.
- (d) The Court may accept a transfer or waiver of jurisdiction from any other court or tribal government of competent jurisdiction upon written request, provided that acceptance of the case is without conditions or restrictions, so that the Tribal Court can make an independent decision based on the best interests of the child.

Section 2.04 Records

- (a) All records of proceedings are strictly confidential, and may be released only
 - (1) by an order of the Sitka Tribal Court; or
 - (2) upon written request to the Chief Judge of the Sitka Tribal Court by:
 - (i) named parties to the action; or
 - (ii) members of the Sitka Tribal Court Bar representing a party to the action.
- (b) Hard copies of such records shall be kept behind a two-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 Sitka Tribal Court. Orders, letters, or memos may be released as needed to schools, hospitals, banks, or similar entities for the purpose of verification of who has custody, guardianship, or parental rights to a child.

Section 2.05 Confidentiality of Child Protection Cases

All child protection cases shall be considered and treated as confidential. All Tribal Court Judges, the Tribal Court Clerk, or tribal employees who participate in a case, and involved agency personnel shall be sworn to confidentiality under the oath of confidentiality, provided in the Sitka Tribal Court handbook.

Section 2.06 Determination of Interested Parties

Prior to the distribution of any Notice of Petition under this Code, and as necessary thereafter, the Judge shall make a determination as to the interested parties who are entitled to notice. In making this determination, the Judge may consider any relevant information concerning the individual's relationship with the child including, but not limited to, familial ties, caretaking, and clan relations.

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Section 2.07 Review and Approval of Forms by Judges

Any standard petitions, forms or documents required to be developed and maintained by the Tribal Court Clerk shall be reviewed and approved by the Judges of the Tribal Court prior to distribution and use by any Petitioner. Such forms may be developed in coordination with other appropriate tribal departments.

Section 2.08 Mediation and Alternative Tools for Resolution

Mediation may be ordered at the Judge's discretion for any part or the entirety of a case. Other alternative tools for resolution may be used at the Judge's discretion.

Chapter III Guardianships

Section 3.01 Purpose

A Petition for Guardianship is a request for the Tribal Court to make a decision as to the best interests of a child in a placement or a protective action of that child. All Petitions for Guardianship, except Emergency Guardianship Petitions described in Chapter IV, shall be handled in the manner described in this Chapter and by the policies and procedures adopted and practiced by the Staff of the Tribal Court that are consistent with this Code.

Section 3.02 Contents of Petition

A Petition for Guardianship shall be signed under oath before a notary or a Judge and shall include:

- (a) The name, gender, tribal affiliation, birth date, birth place, current residence, clan affiliation if known, enrollment status, and medical, psychological and educational needs of the minor named in the Petition for Guardianship.
- (b) The name, address, telephone number, enrollment status, tribal affiliation, current residence, clan affiliation if known, and current employment of the biological mother.
- (c) The name, address, telephone number, enrollment status, tribal affiliation, current residence, clan affiliation if known, and current employment of the biological father.
- (d) The name, address, telephone number, enrollment status, tribal affiliation, current residence, clan affiliation if known, and current employment of the Proposed Guardian.
- (e) The facts which make the child in need of guardianship. The facts must be presented in a clear manner and shall include the following:
 - (1) A statement regarding why the biological parent(s) or current legal guardian, are not capable or willing to assume responsibility of the child's welfare; and
 - (2) A brief description of the relationship between the proposed guardian and child, and a statement regarding why the guardianship is in the best interests of the child.

Section 3.03 Filing of Petition

The Petition may be filed by the prospective guardian, Social Services, or any other concerned person. The Tribal Court Clerk shall make available a blank petition form indicating all the information required by the Court. Social Services may, at its discretion, assist petitioners in drafting and completing petition for guardianships. Upon completion, the petition and filing fee, as required by Section 2.16 of the Code Governing Tribal Court Rules and Civil Procedure, shall be filed with the Tribal Court Clerk.

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Section 3.04 Notice of Petition

The Tribal Court Clerk shall deliver the notice of Petition for Guardianship and a copy of the Petition via certified mail, return receipt requested, within one day of the filing to all interested parties, as determined under Section 2.06. The Notice of Petition and a copy of the Petition shall be provided to Social Services, by hand delivery, the day of the filing.

Section 3.05 Case History and Recommendations

Social Services shall complete and file a Case History and Recommendations with the Tribal Court Clerk within 14 days after receipt of the Notice of Petition. The Case History and Recommendations shall include, at a minimum, information sufficient for the Judge to make the findings required in an Order under Section 3.07. Case History and Recommendations shall also include criminal background checks on all members of the proposed household and any others who have direct supervision over the minor child in the guardianship. The case history and recommendations may include the preference of the minor child.

Section 3.06 Hearing on Petition for Guardianship

- (a) After the Case History and Recommendations have been filed, the Clerk shall, after consultation with the Tribal Court Judge, schedule a hearing date and time in the form of a Notice of Hearing. The Notice of Hearing shall be sent to all interested parties by the Tribal Court Clerk. Unless there is mutual agreement by all interested parties and the Court to hold the hearing at an earlier date and time, the date and time of the hearing shall be scheduled no earlier than fourteen days after the date of receipt of the Notice of Hearing.
- (b) The Tribal Court Judge shall conduct the hearing in a fair manner, giving all interested parties an opportunity to speak and present witnesses and evidence on their behalf. The Judge shall ask questions necessary to make a determination sufficient to support findings required in an Order for Guardianship described in Section 3.07. The Court's inquiry shall include a consideration of the preference of the minor child, although the child's preference is not binding on the Court.

Section 3.07 Order for Guardianship

- (a) This section provides the Judge with a roadmap for the questions to be asked during a hearing and the checklist for drafting a written order.
- (b) At the conclusion of the hearing or within five (5) days after the hearing held under Section 3.06, the Tribal Court Judge shall issue a written decision that either denies or grants the Petition.
- (c) If the Petition is granted, the order shall include the following determinations of fact and law:

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- (1) The facts establishing the need for the guardianship. Evidence of abuse, neglect, abandonment, or rebellion shall be conclusive proof of the need for a guardianship. The need for a guardianship may also be established by other facts that do not tend to place blame on the child, parent or custodian, including, but not limited to, a request for voluntary placement by the custodian or parent.
 - (2) A statement that guardianship is in the best interests of the child, including a statement regarding whether the child consents to the placement;
 - (3) The length of the guardianship;
 - (4) Requirements and responsibility for monitoring the placement;
 - (5) Other terms and conditions necessary to provide for the best interests of the child; and
 - (6) A Finding that the services and resources necessary for the successful guardianship are available to the minor child.
- (d) If the Petition is granted, the order may include the following determinations of fact and law, if appropriate:
- (1) Provisions for visitation for interested parties;
 - (2) Any screening, counseling and/or treatment determined by the Court to be necessary and in the best interests of the child including, but not limited to, alcohol, drug or mental health programs and services.
 - (3) Any determination regarding responsibility for child support; and
 - (4) The date of the next hearing or proceeding.
- (e) If the petition is denied, the order shall contain a brief statement of reasons why the petition was denied.

Chapter IV Emergency Custody

Section 4.01 Emergency Petition for Guardianship

- (a) An emergency exists when a child is at risk of immediate and substantial physical or psychological harm. Once that risk passes, the emergency no longer exists and an emergency petition shall not be granted.

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- (b) Within two hours after Social Services takes action to remove a child from their own home, family or current placement, Social Services shall file an emergency petition with the Court. An emergency petition shall include the same information required for a petition for guardianship under Section 3.02, except it shall also include an additional statement regarding the reason why the child is at risk of immediate and substantial physical or psychological harm.

Section 4.02 Initial Notice and Hearings for Emergency Petition

- (a) The Tribal Court Clerk, after consultation with the Tribal Court Judge, shall schedule a hearing within twenty-four (24) hours of the filing of the petition. The Tribal Court Clerk shall make a good faith effort to provide notice to all interested parties. However, failure to provide notice under this Section shall not affect the validity of the proceedings.
- (b) If all interested parties are not able to attend the first hearing on the emergency petition, the Court shall schedule a second hearing within five (5) days of the first hearing and provide written notice to all interested parties.

Section 4.03 Initial Order for Emergency Petition

The Tribal Court Judge shall issue an order at the conclusion of the hearing or hearings held under Section 4.02 that either grants or denies the Petition. The order shall include the determinations of fact and law required by Section 3.07 with an additional explanation of why the child has been found to be at risk of immediate and substantial physical or psychological harm.

Section 4.04 Case History and Recommendations

Social Services shall complete and file the Case History and Recommendations with the Tribal Court Clerk within 14 days after the filing of the emergency petition. The Case History and Recommendations shall include at a minimum information sufficient for the Judge to make the findings required in an Order under Section 3.07.

Section 4.05 Subsequent Notice, Hearings and Orders

Upon the filing of the Case History and Recommendations the provisions for notice, hearings, and orders under Sections 3.06 and 3.07 shall apply. All hearings and orders issued under this Chapter shall comply with the provisions of Chapter III to the extent they do not conflict with the provisions of this Chapter.

Chapter V Termination of Parental Rights

Section 5.01 General Provisions

- (a) The procedures provided in this Chapter demonstrate recognition of the severe consequences of termination. The cancellation of all legal ties between a parent and child is viewed as such an extreme measure of which the law should insure that all legal and cultural rights of the parent and child are protected.
- (b) Separate termination proceedings must be initiated each time a proceeding is held where a parental right may be extinguished. Therefore, each parent requires a separate petition, hearing and order. Further, a separate petition, hearing, and order is required for each individual child at issue.
- (c) Termination proceedings are to be kept completely separate from any other proceedings under this Code, and are not to be tacked on to adoptions, guardianships or temporary placements.

Section 5.02 Petition for Termination

Proceedings to terminate parental rights shall be initiated by a petition signed under oath before a notary or Judge and filed by Social Services, a parent of the child or any other concerned person. The petition shall include the following information:

- (a) name, birth date, residence, and clan affiliation, if known, of the child;
- (b) name, residence, and clan affiliation if known of both the child's parents or custodian;
- (c) the current residence, placement of the child, and unique physical, mental health, and educational status.
- (d) a copy of the child's birth certificate;
- (e) name, birth date, residence and relationship to the child of the petitioner; and
- (f) a detailed statement of the facts and reasons justifying termination of parental rights.

Section 5.03 Notice of Petition for Termination

The Tribal Court Clerk shall deliver the Notice of Petition for Termination of Parental Rights and a copy of the Petition via certified mail, return receipt requested, within one day of the filing to all interested parties, as determined under Section 2.06. The notice of petition for Termination of Parental Rights and a copy of the Petition shall be provided to Social Services, by hand delivery, the day of the filing.

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Section 5.04 Pre-termination Report

- (a) Within two days of receiving the petition, the Tribal Court Judge shall order Social Services to begin preparation of a pre-termination report to be completed within 30 (thirty) days. Additionally, Social Services shall begin concurrent planning for placement. The Court may subpoena relevant records of any social or health service agencies.
- (b) The pre-termination report shall include, at a minimum, information sufficient for the Judge to make the findings required in an Order under Section 5.06, including:
 - (1) Summaries of consultations with the child's parents, custodians, family members and all social services, health, education and other persons who have had prior relevant professional or personal contacts with the child; and
 - (2) The written opinions of all professional or other persons consulted regarding the status of the child or parent in question.

Section 5.05 Notice and Hearing on Petition for Termination

- (a) Upon the filing of the pre-termination report, the Clerk shall, after consultation with the Judge, schedule a hearing date and time in the form of a Notice of Hearing for Termination of Parental Rights.
- (b) The Tribal Court Clerk shall deliver the Notice of Hearing via certified mail, return receipt requested, within one day of the scheduling to all interested parties, as determined under Section 2.06. The Notice of Hearing shall contain a statement that a copy of this code, pleading forms and the pre-termination report can be received by contacting the Tribal Court Clerk. The date of the hearing shall be scheduled no earlier than two weeks after the postmark delivery of the Notice of Hearing and pre-termination report.
- (c) The pre-termination report shall be released to the party whose parental rights are to be terminated, the petitioner and the child. Other interested parties shall receive a copy of the pre-termination report only upon order of the court.
- (d) The hearing may be postponed upon a motion of:
 - (1) the child's parent or guardian; or
 - (2) Social Services by reason of the unavailability of material evidence or witnesses if the Judge finds that Social Services has exercised due diligence to obtain the evidence and contact witnesses and reasonable grounds exist to believe that the evidence and witnesses will become available.
- (e) The sole purpose of a termination hearing is to determine whether parental rights of

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an individual to a child shall be terminated. The Tribal Court Judge shall conduct the hearing in a fair manner, giving all interested parties an opportunity to speak and present witnesses and evidence on their behalf. The Judge shall ask questions necessary to make a determination sufficient to support findings required in an Order Terminating Parental Rights under Section 5.06.

Section 5.06 Order Terminating Parental Rights

- (a) This section provides the Judge with a roadmap for the inquiries and questions to be asked during a hearing and the checklist for drafting a written order.
- (b) The Tribal Court may terminate parental rights only if it issues a written order supported by specific grounds and facts, beyond a reasonable doubt that termination of parental rights is less detrimental to the child's psychological and physical well-being than all other available options.
- (c) Evidence that the child has been subjected to willful, repeated or serious neglect, abandonment, abuse or life or limb threatening situation may serve as specific grounds and facts to support a termination order.
- (d) The Court may also terminate parental rights if the voluntary written consent of a parent has been acknowledged, in person by the parent whose rights are to be terminated after full explanation of the terms and consequences of the termination, before the Court. The Court shall certify that the parent or guardian fully understands the explanation. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid. The consent of the parent or guardian may be withdrawn for any reason any time prior to the entry of a final decree of termination.
- (e) If parental rights to the child are terminated under this Chapter, the Court shall immediately order the initiation of a placement and permanency plan by Social Services.

Section 5.07 Permanency Rights

No termination of parental rights will affect the child's enrollment or eligibility status as a member or citizen of any Tribe, or rights and privileges as an Indian. Termination shall not affect rights of inheritance pursuant to tribal custom and law, nor the Sitka Tribe of Alaska's jurisdiction over the child under this Code.

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Chapter VI Adoptions

Section 6.01 General Purpose

A Petition for Adoption is a request to the Tribal Court to make a decision as to the best interests of a child in a permanent placement that establishes or affirms a new bond of parent and child.

Section 6.02 Petition for Adoption

- (a) The Petition for Adoption shall be signed under oath before a notary or Judge and filed by the adoptive parent or parents.
- (b) The Petition shall contain the following information:
 - (1) the full name, residence, gender, and clan affiliation of the child, and documentary proof of the date and place of the birth of the child to be adopted and the child's tribal affiliation;
 - (2) the full name, residence, gender, occupation and clan affiliation of the adoptive parent or parents and a statement regarding their tribal affiliation;
 - (3) evidence of a court order, if any, terminating the parent-child relationship with respect to each living parent of the child;
 - (4) proof of parental or custodial consent where the adoption is by voluntary consent of the child's parent, parents, or custodian;
 - (5) if the child being adopted is twelve years of age or older, proof of consent of the child;
 - (6) an agreement by the adopting parents showing their intent to establish the parent/child relationship with the adoptive child; and
 - (7) a full description and statement of all property, real and personal, owned or possessed by the child.
- (c) Any adult may file a Petition to Adopt an Indian child subject to the jurisdiction of the Court. In the case of persons maintaining a home together, the petition shall be the petition for both adults, except that if one of them is the natural parent of the child to be adopted, the natural parent shall not be required to join in the Petition.

Section 6.03 Required Consents to Adoption

- (a) All consents to adoptions required by this Chapter shall be executed and verified in writing, under oath before a judge of the Tribal Court accompanied by the judge's

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certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent, custodian or child.

- (b) All consents required by this Chapter shall be attached to the Petition for Adoption. Consent by a custodian of the child shall be accompanied by evidence satisfactory to the Court establishing the custodian's authority to consent to adoption of the child.
- (c) The consent of a parent or custodian may be withdrawn for any reason at a time prior to the entry of a final order of adoption and the child shall be returned to the parent. No consent to adoption prior to entry of a final order shall be withdrawn unless authorized by order of the Court after notice and opportunity to be heard are properly given to the petitioner in the adoption proceedings, and to the person seeking to withdraw the consent.

Section 6.04 Case History and Recommendations

Within five (5) days after the filing of the Petition for Adoption, the Court shall order Social Services to begin a Case History and Recommendations. The Case History and Recommendations shall include a statement of the reasons for the adoption, the background of the prospective adoptive parent or parents, and a home study of the prospective adoptive parent or parents. The Case History and Recommendations shall be completed within 30 days after the Court has ordered Social Services to begin the report.

Section 6.05 Notice and Hearing on Petition for Adoption

- (a) Upon the filing of a Petition for Adoption, the Clerk shall mail a copy of the Petition to all interested parties, as determined under Section 2.06.
- (b) Upon the filing of the Case History and Recommendations, the Clerk shall, after consultation with the Tribal Court Judge, schedule a hearing date and time in the form of a Notice of Hearing for Adoption.
- (c) The Notice of Hearing for Adoption and a copy of the Case History and Recommendations shall be sent to all interested parties by the Tribal Court Clerk. The date of the hearing shall be scheduled no earlier than two weeks after the postmark delivery of the Notice of Hearing.
- (d) The prospective adoptive parent or parents shall appear at the hearing. The child shall also be required to attend if the child is twelve years of age or older.

Section 6.06 Order for Adoption

- (a) This section provides the Judge with a roadmap for the inquiries and questions to be asked during a hearing and the checklist for drafting a written order.

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- (b) The final order of adoption shall include the facts necessary to establish that the child is eligible and suitable for adoption and that the parent or parents are suitable and have the love, affection and financial resources to care for the child. The final order shall also include a statement that the adoption is in the best interests of the child.
- (c) The final order may contain a provision for visitation by the biological parents or guardian of the child, if deemed appropriate by the Tribal Court.
- (d) The Judge shall also ensure that the required consents have been provided.

Section 6.07 Withdrawal of Consent after Entry of Order

After the entry of the final order of adoption, the parent, adoptive parent, or the child (if consent is required), may withdraw consent thereto only upon the grounds that consent was obtained by fraud or duress, and then may petition the Court to vacate the order and return the child to his or her former parent.

Section 6.08 Adoption Records

All records, reports, proceedings, and orders in adoption cases are confidential and permanent records of the Court. Adoption records may only be released upon order of the Sitka Tribal Court upon a showing of good cause. Information contained in adoption records may be released upon petition to the Court by the adopted person after he or she has reached the age of majority.

Chapter VII Traditional Tlingit Law

Section 7.01 General Provisions

- (a) The procedures in this chapter describe the guidelines for Tribal Court Judges to utilize Traditional Tlingit Law in a child's case.
- (b) Tribal Court Judges may use traditional Tlingit law in cases where traditional Tlingit law would be beneficial to a child's case before the Sitka Tribal Court.
- (c) Tribal Court Judges may apply traditional Tlingit law in a child's case by referring to written or recorded accounts of traditional Tlingit life, interview elders or cultural bearers or call upon the Haa Dachxanx'i Yan Jeeyis (For Our Grandchildren) Committee or the Cultural Committee.
- (c) Recommendations provided to the Judge by individuals or committees shall be used as such, and only the presiding Judge shall make and enter a Final Order or Judgement.
- (d) The individual or committee that is called upon by a presiding Judge shall consider recommendations for children that guard the best interests of the child, and is the most beneficial alternative. In making a recommendation to the Court, the individual or committee providing such recommendation shall do so in a manner that is consistent with Sitka Tribe of Alaska's Tribal Constitution and the Code Governing Tribal Court Rules and Civil Procedure.

Section 7.02 Procedure to Utilize Human Sources of Traditional Tlingit Law

The Judge may, at his or her discretion, request information from human sources of traditional Tlingit law, including but not limited to:

- (a) All relevant cultural information for the appropriate placement of a child or children on Tribal Court Adoptions, Temporary Guardianships, Termination of Parental Rights, Foster Care, or Tribal Protective Orders;
- (b) All relevant cultural information regarding individuals or families who are enrolled or eligible to be enrolled with the Sitka Tribe of Alaska, including but not limited to:
 - (1) Moiety, clan, house, village, or Tribe/Nation of an individual or family;
 - (2) Immediate and extended family, if known, of an individual or family who are involved in a Tribal Court case; and
 - (3) Traditional dispute resolution techniques by Clan House, if applicable.

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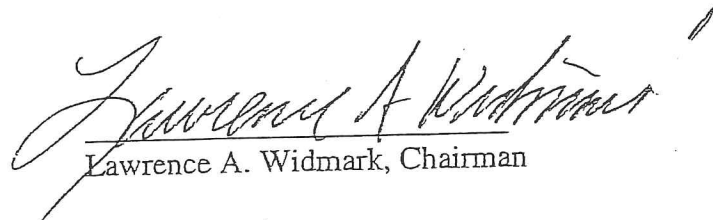
Section 7.03 Procedure to utilize written or recorded sources of Traditional Tlingit Law

The presiding Judge may, at his or her discretion, reference written or recorded sources of Traditional Tlingit Law including, but not limited to:

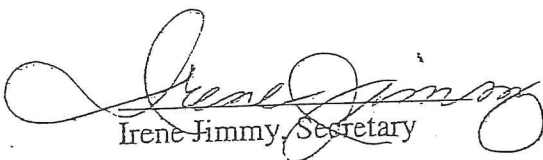
- (a) Archives located at Sitka Native Education Program, Sitka National Historical Park, and Sheldon Jackson Museum;
- (b) Books, publications, transcribed Tlingit texts, or related materials; and
- (c) Tapes, mini-discs, compact discs, audio cassettes, video cassettes, or reel to reel multi-media concerning Traditional Tlingit Law.

VOTE OF TRIBAL COUNCIL

This Ordinance was enacted by a vote of 7 for and 1 against and 1 absent and 0 abstentions at a regular meeting of the Tribal Council on **March 21, 2002** at which a quorum was present.


Lawrence A. Widmark, Chairman

ATTEST:


Irene Jimmy, Secretary

STA Children's Code
(06.02)