

TITLE 9

JUVENILES

Part 1

General Provisions and Definitions.

9-1-101. Purpose. The Crow Tribe has enacted this Chapter, recognizing that Tribal children are the Tribes' most important resource and their welfare is of paramount importance to the Tribe. It is the purpose of this Chapter to provide and assure that each Tribal child within the jurisdiction of the Tribal Court shall receive the care and guidance needed to prepare such children to take their places as an adult member of the Tribes; to enact a recognized juvenile court to insure that off-reservation courts will be willing to return young people to the Crow Tribe Reservation for care and guidance; to prevent the unwarranted break-up of Indian families by incorporating procedures that recognize the rights of children and parents or other custodial adults, and, where possible, to maintain and strengthen the family unit, and to preserve and strengthen the child's individual, cultural, and Tribal identity. Wherever possible, family life shall be strengthened and preserved, and the primary efforts will be toward keeping the child with his or her family, and if this is not possible, then efforts shall be made toward maintaining the child's physical and emotional ties with the child's extended family and with the Tribal community. Unless in direct conflict with specific provisions of this Code, this Code shall not be interpreted as excluding or prohibiting the adoption of procedures, remedies, or treatments traditionally used by the Crow people where possible and desirable. The Juvenile Court will utilize the traditional practices and social customs of the Crow Tribe.

9-1-102. Intent. It is the intention of the Tribe in enacting this Chapter to incorporate to the fullest extent possible the honored customs and traditions of the Crow Tribe, consistent with the Indian Civil Rights Act, 25 U.S.C. Section 1301 *et seq.*, (1968), and with the needs and realities of Tribal members' lives and conditions upon the Crow Reservation. Evidence may be adopted in any proceeding conducted pursuant to this Chapter of such customs and traditions. Where it is shown to the satisfaction of the judge having jurisdiction over the hearing that the customs and traditions of the Crow Tribe are consistent with the provisions of this Chapter, then the judge shall adopt such customs and traditions for the purposes of the hearing and such customs and traditions shall have the effect of law governing that particular hearing.

9-1-103. Severability. If any provision or application of this Code is held invalid, such invalidity shall not effect the remaining Code provisions or application thereof.

9-1-104. Jurisdiction. The Tribal Court shall have exclusive, original jurisdiction over the following:

- (1) Any child custody proceeding involving an Indian child residing or domiciled within the exterior boundaries of the Crow Reservation or having significant contacts with the Reservation community and over all Indian children who are members of the Crow Tribe.
- (2) All child custody proceedings involving any Indian child who is a Tribal member of the Crow Tribe who resides or is domiciled within the Crow Reservation or is a protected child of the Tribes.
- (3) Proceedings in which a child is alleged to be a juvenile offender or child in need of care. (4) Proceedings for the adoption of an individual of any age.
- (5) Proceedings to determine the custody of, or appoint a legal guardian for a child.
- (6) Proceedings for the termination of parental rights.

9-1-105. Proceedings as Civil in Nature. Proceedings in juvenile cases shall be regarded as civil proceedings with the court exercising certain equitable powers. Any disposition under this code shall not be deemed a conviction of a crime, or impose any civil disabilities ordinarily resulting from conviction, or operate to disqualify any child in any application or appointment. The civil nature of the proceedings shall not operate to deprive the child of his or her rights to counsel, to confront accusers and cross-examine witnesses against them, nor to deny the child their privilege against self incrimination, or their right to a trial by jury .

9-1-106. Protected Children (Wards) of the Court. In any case where a Court transfers legal custody of an Indian child subject to this jurisdiction to the Crow Tribal Court, to Tribal Social Services of the Crow Tribe, to any person other than a natural parent of the child, or to any agency or institution of the Tribe, the Tribal Court shall reserve Jurisdiction over all future child custody proceedings involving that child, unless otherwise specified by a Tribal

Court Order, and the child shall become a Protected Child of the Tribe. For purposes of Tribal Court jurisdiction, a Protected Child of the Tribes shall be a ward of the Tribal Court, and such wardship status shall continue until terminated by the Tribal Court or until the child reaches the age of eighteen (18) years. All children who are wards of the Court by previous action of the Crow Tribal Court, or for any other reason, at the time of the adoption of this Code shall be considered Protected Children of the Tribe. Any Indian child having at least one parent who is an enrolled member of the Crow Tribe may become a Protected Child of the Tribe upon the certified consent of both of the child's natural parents. Such consent shall be certified under oath, before a Tribal Judge, the Tribal Clerk of Court, or a Public Notary of any State of the United States. Each such certification shall be filed and recorded by the Clerk of the Tribal Court. Such consent may later be withdrawn by the parents of the child by filing a Notice of Revocation of such consent with the Clerk of the Tribal Court. Upon the filing of such Notice of Revocation by each living parent of the child, the child shall no longer be a Protected Child of the Tribe.

9-1-107. Definitions.

- (1) "Adult" means any person who has reached his or her eighteenth (18th) birthday.
- (2) "Child" means any person less than eighteen (18) years of age.
- (3) "Child Custody Proceeding" means any voluntary or involuntary court action, informal or formal, but not including divorce actions, that may result in the temporary or permanent removal of a child from his or her parents, guardian or custodian. This definition shall not involve delinquency proceedings, except such proceedings involving acts which would not be deemed a crime if committed by an adult.
- (4) "Child in Need of Care" or "Youth in Need of Care" means any child:
 - (i) abandoned by his or her parents, guardian, or custodian, or
 - (ii) subjected to cruelty or physical, sexual, or emotional abuse, by or through the willful acts or omissions of the child's parents, guardian, or custodian to provide such care and control, or
 - (iii) who lacks the parental care and control necessary for his or her well-being because of the failure or inability of his or her parents, guardian, or custodian to provide such care and control, or
 - (iv) who has not been provided with adequate food, clothing, shelter, medical care, education, or any care or necessities essential to his or her well-being, by his or her parents, guardian, or custodian, or
 - (v) who has been placed for care or adoption in violation of the law, or(iv) any Youth defined under Section 9-3-104 herein.
- (5) "Community Advisors" means those members of the Tribal community having knowledge of the cultural or spiritual traditions or ways of the Crow Tribe who may be selected by the Court to counsel the child or the child's family. Community Advisors may provide such counseling either as individuals or in groups according to the specifications of the Court and the traditions of the Crow Tribe. Culture Committees will submit lists of people willing to serve as Advisors to Court.
- (6) "Custodian" means a person other than a natural parent or adoptive parent who has legal custody or lawful physical custody of an Indian youth.
- (7) "Delinquent Act" means an act that would, if committed by an adult, be designated a crime under the Crow Tribal Code.
- (8) "Delinquent Child" means a child who has committed a delinquent act according to the provisions of the Codes of the Crow Tribe.
- (9) "Domicile" means the place considered to be the child's home, according to the traditions and customs of the Crow Tribe, or the place where the child is living and is expected to continue living for an indefinite period of time.
- (10) "Emancipated Minor" means a person under the age of eighteen (18) years who supports him/herself or who is married and has been determined by the Court to be free from restrictions as a minor child.
- (11) "Expert Witness" means a witness who is either:

- (a) A member of the Tribal community who is an acknowledged expert on the cultural or spiritual traditions of the Crow Tribe;
- (b) A professional person having a recognized education in medical, sociological, spiritual, or other fields which the Court may determine relevant in child custody proceedings and who has special expertise in Indian culture.
- (12) "Extended Family" means any person related by blood or marriage to the child having significant contacts with the child and who is viewed as an extended family member in accordance with the customs of the Crow Tribe.
- (13) "Foster Care" means the placement of a child to reside with another family or person for a specified period of time.
- (14) "Guardian ad Litem" means a person appointed by the Tribal Court to represent and protect the legal rights and interests of the child in a Tribal Court proceeding.
- (15) "ICWA" means the Indian Child Welfare Act, Public Law 95-608, 25 U.S.C. 1901 et seq. (1978).
- (16) "Indian Youth or Indian Child" means a child of Indian descent who is either enrolled or enrollable in an Indian tribe, band, community, or who is a biological descendant of an enrolled member and has significant contacts or identification with an Indian community.
- (17) "Least Restrictive Alternative" means that the Court is directed to select the least drastic method of achieving its goal; that the restrictions placed on the child must be reasonably related to the Court's objectives and must be the least restrictive way, and the way least disruptive of the family unit, for achieving that objective.
- (18) "Parent" means any biological father or mother *of* an Indian child or any person who has adopted an Indian child.
- (19) "Protected Children" also means wards of the Court.
- (20) "Reservation" means the Crow Reservation of the Crow Tribe.
- (21) "Residence" means the place where the child is presently living.
- (22) "Shelter Care" means the residential care of children in a shelter care facility or group home approved by Tribal Social Services.
- (23) "Tribal Advocate" means a person who is allowed to represent another person in a Tribal Court proceeding according to qualifications set out by the Tribes' Code provision.
- (24) "Tribal Member" means, for jurisdictional purposes under this Code, an Indian child who is either of:
- (a) An enrolled or enrollable member of the Crow Tribe; or
- (b) A person of Indian descent having significant contacts or identification with the Tribal community, and is a descendant of a mother or father who is an enrolled or enrollable member of the Crow Tribe.
- (25) "Tribal Social Services" means the Tribal Social Services Department of the Crow Tribe which is also known as the Family Assistance Division.
- (26) "Youth" means any person less than eighteen(18) years of age.
- (27) "Court" means the Tribal Court of the Crow Tribe, unless another court is clearly specified or intended.

9-1-107. Confidentiality. All Court files and documents prepared in child custody proceedings governed by this Code shall be held confidential, unless otherwise specified in this Code. This shall include reports to Social Services, police officers, or other Tribal personnel involved in child custody proceedings, summaries or records of hearings held hereunder, the names of children, families, or witnesses involved in proceedings under this Code. All such records shall be kept in a secure place by the Clerk of the Court, and shall be released only to Judges, Tribal Advocates, Social Workers, or other Tribal agencies and officers of the Court directly involved in a child custody proceeding. No other release of such information shall be allowed without an order of the Court Judge.

9-1-108. Disposition of Records. All records of child Court proceedings involving delinquent acts of a Tribal child shall be physically sealed when the child reaches the age of eighteen (18) years. Court records, Probation Officer's records, and all other reports of social and clinical studies shall not be open to inspection except by consent of the Court or the youth, upon petition to this Court. Upon the physical sealing of the records pertaining to a youth pursuant to this section, any agency or department of the Tribes that has in its possession copies of the records so sealed shall also seal or destroy such copies of records. Anyone violating the provisions of this section shall be in violation of this Code provision and may be found in violation of a Court Order therefor.

9-1-109. Appeal.

Any order of the Court involving the suspension or termination of parental rights, and any final order of the Court, may be appealed according to the rules and practices under Section 7 of the Crow Tribal Code governing the Appeals Court of the Crow Tribe by filing a written notice of appeal with the Juvenile Court within thirty (30) days of the final order or disposition being appealed. For purposes of appeal, a record of all proceedings shall be made available to the child, his parents, guardian, custodian, or counsel. Costs of obtaining the record shall be paid by the party seeking the appeal.

9-1-110. Time Computation. The following time computation shall be excluded in computing the time for any proceedings under this Code:

- (1) The period of delay resulting from the absence or unavailability of a child, (2) Sundays and legal holidays.

Part 2

Foster Care and Shelter Care.

9-2-101. Foster Care and Shelter Care. Foster care and shelter care standards and licensing shall be according to the provisions for such as established or amended by the Tribal Council pursuant to Crow Tribal Code and in accordance with the Adoption and Safe Families Act of 1997 (PL. 105-89).

9-2-102. Placement in Foster or Shelter Care. A child alleged to be a child in need of care may be placed, pending a hearing, in the following places:

- (1) a foster care facility, on the Crow Reservation, approved by the Juvenile Court, or (2) a shelter care facility on the Crow Reservation, approved by the Juvenile Court, or (3) a medical facility.

A child in need of care may not be placed in a jail or other detention facility used for the detention of adults.

9-2-103. Standards for Foster or Shelter Care Facilities. (1)The Juvenile Court judge shall prescribe and enforce rules and regulations governing the operation of detention and shelter care facilities. The juvenile judge may assign the responsibility to another qualified tribal agency.

- (2) The rules and regulations shall include but are not limited to the following: (a) Cleanliness standards; (b) Heat, water, and light standards; (c)Personnel standards; (d) Visitation privileges; (e) Occupancy standards (f) Provisions for medical and dental care; and (g) Provisions for food, furnishings, clothing and toilet articles.

9-2-104. Care and Treatment in Shelter Care and)Detention Facilities.

(1) The juvenile judge shall draw up and enforce policies and procedures governing the administration of detention and shelter care facilities.

- (2) Such policies and procedures shall include but are not limited to the following:

- (a) A child shall not be punished, ridiculed, or criticized, for expressing through speech, custom, or dress, the child's Indian heritage.
- (b) A child shall be permitted to wear his or her hair according to his or her personal taste. The child shall not be punished, criticized, or ridiculed for the hairstyle he or she selects.
- (c) A child may wear his or her own clothes rather than clothing supplied by the detention facility as long as they comply with minimum standards of cleanliness.
- (d) Whenever possible the child shall be allowed to attend the school in which he or she is enrolled. School work and educational assistance at the child's level of development shall be provided for the child in detention facilities.
- {e} A child shall be allowed to attend traditional religious ceremonies provided that the child is accompanied by a parent, guardian, or custodian; has received consent to do so by the juvenile judge; and returns immediately to the detention or shelter care facility.
- (f) A child shall be allowed to attend the funeral and any related activities of his or her brother, sister, mother, father, aunt, uncle, grandmother, or cousin, whether they are natural or adopted provided that the child's parent, guardian, or custodian request and receive permission from the juvenile judge; and the child is accompanied by a parent, guardian or custodian, and the child returns immediately to the shelter care facility or detention facility.
- (g) A child shall be given the opportunity to engage in physical exercise every day.
- (h) A child shall not be locked alone in a room unless there exists a reasonable belief that he or she may cause physical injury to himself or herself or others if not locked alone. While the child is locked alone in a room he or she must be visited at least once every half hour. The confinement shall not continue unnecessarily.
- (i) A child shall not be punished by physical force, solitary confinement, or deprivation of meals or family visits.
- j) A child in a detention facility shall not be required to perform work duties.

Part 3

Youth in Need of Care.

9-3-101. Purpose. It is hereby declared to be the policy of the Crow Tribe to insure that all Tribal youth are afforded an adequate physical and emotional environment to promote development, to compel, in proper cases, the parent or custodian of the youth to perform the moral and legal duties owed to the youth; to promote and facilitate necessary changes in the family environment whenever possible; and to establish a judicial process, where necessary to provide substitute care and supervision for children in need of care. To the best extent possible, efforts shall be made toward maintaining the child's identity and ties with his or her family and with the tribal community and provisions for the child's spiritual development shall remain a priority goal.

9-3-102. Reports and Action on Reporting. Upon the receipt of any report or information regarding a Tribal child who may be a youth in need of care, it shall be the duty of the Director of Tribal Social Services, or those under the Director's supervision, to investigate or cause to be investigated the circumstances surrounding the report, including the home environment of the child, any physical or emotional injuries suffered by the child, and all other matters which, in the discretion of the Director or appropriate Tribal personnel, shall be relevant to the investigation. If from the investigation it shall appear that there is probable cause to believe that the Tribal child is a youth in need of care, the Director shall deliver, or cause to be delivered, a summary of the investigation to the Tribal Social Services Advocate for further action. If from the investigation it shall appear that the child is in need of emergency protective care as set forth in Subsection 5 of this part, the Director shall provide such emergency protective services.

9-3-103. Responsibility and Confidentiality of Reporting. (1) Any individual who knows or suspects that a child is a Tribal child in need of care should report the case to the Tribal Social Services, Tribal police, or the Court. The following individuals must report any known or suspected case of a Tribal child who may be in need of care to Tribal Social Services: school teachers, school personnel, social workers, medical professionals and other medical personnel, day care agency workers, Tribal Advocates, and mental health personnel.

(2) Any information regarding the source of a report of a child in need of care will be kept confidential. Such reports shall not be admissible in evidence in any proceeding under this part. Information contained in such reports shall not be admissible in any proceeding under this part unless the reporter is voluntarily and personally present at the proceeding and testifies to personal knowledge of such information. However, any information contained in such report may be admissible in evidence if offered by some witness other than the reporter, and if such evidence is otherwise admissible under the rules of evidence of the Tribal Court.

9-3-104. Youth in Need of Care--Definitions. A youth in need of care means a child who has been found to be in one or more of the following situations:

(1) An Abused Child: One who has suffered or is likely to suffer a physical injury, inflicted upon the child by other than accidental means, which causes or creates a substantial risk of death, disfigurement, impairment of bodily functions or serious physical or emotional harm, as determined by appropriate medical or professional personnel. The following are examples of circumstances in which a child could be found to be an abused child, but as such are not intended to be all-inclusive:

- (a) A child who has been excessively beaten or suffered other unusual or inappropriate corporal punishment.
- (b) A child who suffers injury to his or her psychological functioning, as determined by an appropriate professional person, as a result of psychological or other abuse.
- (c) A child who has been subjected to obscene or indecent sexual activities as a result of pressure, guidance, or approval of the child's parent or custodian.
- (d) A child who has been a passenger in a vehicle driven by an intoxicated person, with the knowledge or approval of the child's parent or custodian.

{2} A Neglected Child: One whose parent or custodian fails to provide such food, clothing, shelter, medical attention, hygiene, education, or supervision as the child needs for development, although the parent or custodian was able to furnish such needs or has refused Tribal or other assistance for furnishing such needs, and such " failure is likely to result in serious harm to the child as determined by appropriate medical or professional persons.

(3) A Delinquent Child: One who has been found in a Court or other appropriate proceeding, to have committed repeated delinquent acts, and whose parent or custodian is unable or unwilling to control such behavior.

(4) A Dependent Child: One who has no parent or custodian available, willing or able to care for the child. Nothing in these definitions shall be used to interfere with or prohibit the cultural and spiritual development of the child or with reasonably accepted community standards of child-raising practices of the child's family or Tribe.

9-3-105. Temporary Protective Care.

(1) Authorization and duties of Tribal Police and Tribal Social Services.

Whenever a Tribal police officer or Tribal Social Services worker has reasonable grounds to believe that a child is in danger of serious and imminent physical or emotional harm and that the removal of the child from the child's home residence is necessary to avoid harm, and if the Court is unavailable to issue a custody order, or if the issuance of a custody order would involve a delay that would contribute to the risk of harm to the child, the police officer or Social Services worker may take the child into temporary protective care.

(2) Procedure Upon Removal of a Child. Upon the removal of a child into emergency protective care, the Tribal police officer or Social Services worker shall:

- (a) Immediately notify the child's parents or custodian of such removal, and the reasons therefor. If attempts to so notify the child's parents or custodian are unsuccessful, then best efforts shall immediately be made to notify the child's nearest relatives.
- (b) Immediately notify the Director of Social Services, or the Social Services personnel designated to take such notice, of such removal.
- (c) If return of physical custody of the child can be accomplished without danger of harm to the child, the child shall be returned to the parents or custodian.

(d) If the return of the child to the child's parents or custodian is impossible or would involve continued risk of such harm to the child, then the child shall be placed in the physical custody of a responsible adult member of the child's extended family if such a person is available and if placement can be accomplished without risk of harm to the child. In order to protect the privacy of the parents or custodian, the Tribal police officer or Tribal social worker shall contact the child's relatives only to the extent necessary to investigate the case and determine whether appropriate placement can be made within the extended family.

(e) If temporary protective care as set forth above is not available, then the child shall be placed with a secure home, family, or shelter care facility having been approved for such placement by Tribal Social Services. A child shall not be placed in a jail facility or other environment where the child is in contact with persons in such a facility for the reason of having been accused or convicted of a crime or delinquent act, unless such a placement is determined, by a Tribal Court Judge, to be necessary for the benefit of the child or to insure the child's continued presence in the area.

(f) Upon the placement of the child, the Tribal police officer or Social Services worker shall make and deliver a report to the Director of Tribal Social Services containing a summary of the circumstances surrounding the temporary protective care and the basis therefor.

9-3-106. Termination of Protective Care. In no case shall protective temporary care extend beyond 72 hours, exclusive of weekends and holidays. At the expiration of this period, the Director of Tribal Social Services shall:

(1) Cause the child to be returned to the child's parents or custodian; or

(2) Have the child brought before a Tribal Court Judge for an emergency hearing to determine further placement of the child pending further proceedings in the case. In the case of an emergency hearing, Tribal Social Services shall use best efforts to notify the child's parents or custodian of the time and place of the hearing, and inform the parent or custodian of the time and place of the hearing, and inform the parents or custodian of their right to attend the hearing and be heard. At the time of hearing, the Court shall determine the placement of the child pending further proceedings, and may appoint a Guardian ad Litem for the child. A Tribal Advocate may be appointed for the parents or custodian if so requested, and if the parents or custodian cannot afford one. Such continued protective custody pursuant to an emergency hearing order shall extend no longer than is necessary for the filing of petition, notification of interested parties and the holding of a preliminary hearing as set forth in this part.

9-3-107. Initiation of Proceedings Petition. All Court proceedings under this part shall be initiated by a petition entitled "Petition for Declaration of Youth in Need of Care." Such petition shall be prepared and filed by the Tribal Social Services Advocate, the Tribal Attorney, or some other Tribal Advocate. The petition shall contain the following information:

(1) The name and birth date of the youth;

(2) The name of the parents or custodian of the youth;

(3) The basis of the Court's jurisdiction;

(4) An allegation that the youth is a youth in need of care, and a plain statement of facts supporting this allegation;

(5) Any facts relevant to the present physical or legal custody of the youth;

(6) A summary of any efforts which have been made by Tribal Social Services or others to divert the case from the Court system to community groups or advisors;

(7) Whether temporary custody of the youth is requested by Tribal Social Services;

(8) A statement of any other relief requested by Tribal Social Services, including termination of any parental or custodian rights or appointment of a substitute custodian.

9-3-108. Guardian Ad Litem. Upon the filing of a petition, the Clerk of the Tribal Court shall immediately notify a Court judge, and the Court may appoint a Guardian Ad Litem to represent the youth's interests if one has not already been appointed, or other qualified person to act as a Tribal advocate in the proceedings upon the petition and represent the youth. The tribal attorney and members of Tribal Social Services may not be appointed as a Guardian Ad Litem.

9-3-109. Notice. Written notice of any initial hearing or other hearing held under this Section shall be given, at least five (5) days prior to hearing date, to all parents or legal custodians of the child, and to other persons as the Court may direct. A copy of the petition shall also be served no later than five (5) days prior to the hearing.

9-3-110. Intervention. Intervention into the proceedings shall be allowed as follows:

(1) Any extended family member shall be allowed to intervene as an interested party.

(2) Community counselors, spiritual leaders, and other persons may be allowed to intervene as interested parties at the discretion of the Court. Where applicable, the Court shall follow the traditions and customs of the Crow Tribe regarding the involvement of such interested persons. Notice of intervention shall be served by mail, by the Clerk of the Court, upon all parties to the proceedings at least five (5) days prior to hearing. Such Notice may be excused by the Court if the Court determines that lack of Notice has not detrimentally affected the other parties. If the Court finds such detrimental effect, the Court may:

(a) Deny intervention; or

(b) Continue the hearing date for an appropriate time.

9-3-111. Initial Hearing. (1) Within ten (10) days of the filing of the petition, an initial hearing shall be conducted unless another time has been set for/good cause. All hearings under this Section shall be in closed Court, including only officers of the Court, the child, parents, custodians, social services person net, and such other persons who, in the discretion of the Court, may aid in the proceedings or have sufficient interest in the case. Upon the request of a parent, custodian, or the child, the hearing may be open to the public if the Court determines that the benefit of public hearing outweighs the right of privacy of the parties involved in the proceedings.

(a) The parents or custodians of the child shall be advised of:

(i) The nature of the charges;

(ii) The factual allegations therefor;

(iii) The present custodial situation;

(iv) The relief requested by Tribal Social Services;

(v) The right to be represented by legal counsel at their own expense and the right to request a Tribal Advocate appointed at the Tribe's expense if the parent or custodian cannot afford representation and if an advocate is available;

(vi) The right to request an informal adjustment conference. If an informal adjustment conference is requested and consented to in accordance with Subsection 9-3-112 of this part, the Court may suspend further proceeding pending the conference and diversion period.

(b) The parent or custodian will be allowed to admit or deny the allegations in the petition.

(c) Unless the allegations are admitted, the Tribal Social Services Advocate shall have the burden of proving by a preponderance of evidence that the child is a Youth in Need of Care if permanent or long-term custody and care is petitioned for. However, the Tribal Social Services Advocate may request further time with which to prepare its case

following a denial of the allegations in the petition, and the Court may continue the proceedings for such time as the Court determines necessary for further investigation and preparation by the Tribal Social Services.

(2) If temporary custody is requested, the Tribal Social Services Advocate shall have the burden of proving, by clear and convincing evidence, that such relief is necessary for the protection of the child.

(3) Upon the conclusion of the hearing, the Court shall issue a temporary order, including the following:

(a) Its jurisdiction over the case;

(b) Whether it has been proven that the child is a Youth in Need of Care. If the Court does not so find, the petition be dismissed..

(c) If temporary custody is requested, whether such is necessary for the protection of the child. If the Court does not so find, the custody of the child shall remain with or be returned to the parent or custodian.

(d) The date of the dispositional hearing upon the petition. The dispositional hearing shall determine the further custody or placement of the child, and such hearing shall be set no later than ninety (90) days after initial hearing.

(4) In addition, the Order may direct:

(a) That notice of the proceedings be given to additional interested parties;

(b) That the child, parents, or custodians undergo medical or psychological examinations and that reports be submitted to the Court;

(c) That further investigation be conducted by Tribal Social Services or other agencies;

(d) That the family or the child participate in such counseling, advice, or other program as the Court may deem beneficial; and

(e) That such other actions consistent with the purposes of this Code be taken.

(5) The initial hearing shall be held in two (2) parts: The adjudicatory hearing and the temporary disposition hearing. Such hearings shall be conducted according to the Rules of Civil Procedure and the Rules of Evidence of the Tribal Court, and consistent with all due process and other rights afforded the parties by the Indian Civil Rights Act. The burden of proof on all matters shall be upon Tribal Social Services. The adjudicatory hearing shall be conducted solely to determine whether the Tribal child is a Youth in Need of Care. For good cause, the adjudicatory hearing and the temporary dispositional hearing may be bifurcated and held in two (2) proceedings. Either the adjudicatory hearing phase of the proceedings may be transferred to another Court of competent jurisdiction for proceedings and determinations consistent with this Code.

9-3-112. Diversion - Informal Adjustment Conference.

(1) It shall be the duty of Tribal Social Services, the Tribal Advocates, and the Tribal Court to encourage satisfactory, out-of-court solutions to cases under this Code prior to the final disposition hearing.

(2) Any party to a proceeding may request an informal adjustment conference. The request shall be granted one time as a matter of right and thereafter at the discretion of the Court. The request may be made at any time, after the filing of a petition, up to the Court's issuance of the Order following final disposition hearing.

(3) Such parties may be present at the conference as the Court may direct. The Judge may be present. Alternatives to further proceedings may be discussed.

(4) Any disposition of the case pursuant to such a conference must be voluntarily agreed to by all parties to the proceedings. If such disposition is agreed to, the court shall enter a conference agreement, and this shall have the effect of a Court Order. The conference agreement may include the following dispositions:

(a) Release of the child to the parent or custodian with no further action, and dismiss case;

(b) Suspend the proceedings for a specified time, releasing the child to the parent, custodian, or other person as the Court may direct, with appropriate remedial conditions;

(c) Order final disposition of the case, consistent with the provisions for an order following final disposition hearing.

9-3-113. Final Disposition Hearing.

(1) Notice of final disposition hearing shall be given in accordance with Subsection 9-3-109. All interested parties may testify, and otherwise give evidence in their behalf regarding the present circumstances of the child and of the parents, custodians, or possible custodians of the children. The Court shall inquire into the compliance with any temporary order issued by the Court, including remedial conditions.

(2) Rules of Procedure and Evidence, and burdens of proof, shall be as set forth in Subsection 9-3-111 of this part, herein, for initial hearings.

{3} The Court may order any of the dispositional alternatives permissible under temporary dispositional orders or informal adjustment conference orders. If the Court's Order does not finally conclude the case, the Court shall specify in its Order the date for further reporting to the Court, and the date for further dispositional hearing. In addition, the Court may order any of the following dispositions:

(a) Temporarily suspending parental rights for a specified period of time, placing the child's legal custody for such period with the Tribal Social Services and the physical custody of the child with an extended family member, foster home, shelter-care home, or other appropriate person or facility.

(b) Suspend parental rights for an indefinite period of time, placing legal custody of the child with Tribal Social Services, and the physical custody of the child as set forth in Subsection a., directly above.

(c) Terminate parental rights, (see 9-4-101, *et. seq.*) and place the child with an appropriate custodian. Where practicable, the custodian shall be an extended family member of the child or a member of the child's community .

(4) In any of the above situations set forth in Subsections a. through co, where the parental rights have been suspended or terminated, but the child has not been adopted, the child shall be considered a Protected Child of the Tribe or Ward of the Court.

(5) No suspension or termination of parental rights may be ordered unless the Court determines, beyond a reasonable doubt, that the continued custody of the child by the parent or custodian is likely to result in serious emotional or physical damage to the child. No termination of parental rights may be ordered unless, in addition, the Court determines that the risk of serious emotional or physical damage to the child will continue due to circumstances that are irremediable by further efforts of the Court and Tribal Social Services.

(6) If the Court terminates parental rights, the Court shall include in its Order that the Court has considered the question of inheritance and residual parental rights, and the Court shall determine as follows:

(A) Inheritance Rights

(i) That the inheritance rights of the child and natural parents have been terminated; or

(ii) That the inheritance rights of the child or natural. parents, or both, shall be continued, with such conditions as the Court may place.

(B) Residual Rights

- (i) That all of the natural parents' rights to the child have been terminated; or
 - (ii) That the natural parents may enjoy certain residual parental rights. Such parental rights may include:
 - (a) The right to communication;
 - (b) The right to visitation;
 - (c) The right or obligation to contribute to support or education through disposition of per capita payments or other benefits as determined by the Court;
 - (d) The right to be consulted regarding the child's religious affiliation, major medical treatment, marriage, or other matters of major importance in the minor child's life; or
 - (e) Such other residual rights as the Court may deem appropriate, considering the circumstances.
- (7) The Court may grant similar residual rights to extended family members upon the termination of parental rights.
- (8) Nothing in this Code shall prohibit a parent whose parental rights have been terminated under judicial process to petition the Court to restore the parent to certain residual parental rights.

Part 4

Suspension or Termination of Parental Rights.

9-4-101. Definitions.

- (1) "Suspension of parental rights" means the temporary or indefinite severance of the legal relationship between parent or child.
- (2) "Termination of parental rights" means the permanent cancellation of the legal relationship between parent and child, subject only to such residual parental rights as the Court may determine.

9-4-102. Methods of Termination. The following shall be the exclusive methods of suspension or termination of parental rights.

- (1) Voluntary suspension or termination by the parent or parents.
- (2) Involuntary termination under Section 9-4-105 of this Code.
- (3) Involuntary termination of the rights of one parent, when requested by the other parent, subject to all due process and Indian Civil Rights Act protections and guarantees.

9-4-103. Duration of Suspension or Termination of Parental Rights. Parental rights of a natural or adoptive parent may be severed temporarily or permanently. Upon the temporary suspension of parental rights, the person assuming the traditional parental rights of the child shall be deemed a custodian. Upon the permanent termination of parental rights, the person assuming the traditional parental rights shall be deemed as adoptive parent.

9-4-104. Preservation of Tribal Rights. The termination of parental rights shall not adversely affect the child's rights and privileges as a Crow Indian, nor as a member of any Tribes to which the child is entitled to membership, nor shall it affect the child's enrollment status with the child's Tribe, nor shall it interfere with child's cultural level and traditional and spiritual growth as a member of the Crow Tribal community.

9-4-105. Suspension of Parental Rights. Parental rights may be suspended involuntarily or voluntarily.

- (1) Involuntarily Suspension. Involuntary suspension of parental rights, and custodianships may only be created according to the provisions of this Code. Involuntary suspension of parental rights is governed according to 9-5-10. Custodianships are governed by 9-4-106.

- (2) Voluntary Suspension. Voluntary suspension of parental rights or custodianship may be created by formal Court process or informally.

- (a) Formal Custodianship. A formal, voluntary custodianship may be created by petition and order of the Court.

9-4-106. Petition. The process for creation of a voluntary custodianship shall be initiated by the filing of a petition entitled "Petition for Custodianship." The petition shall be filed in the name of a parent having custody of the child, a proposed custodian, or the Crow Tribal Prosecutor on behalf of the Tribe.. The petition shall contain the following information:

- (a) The name, age, and residence of each living parent of the child;

- (b) The name, age, and residence of the child;
 - (c) The name, age, and residence of the proposed custodian or custodians;
 - (d) The jurisdictional basis of the Tribal Court over the matter;
 - (e) A statement of the facts indicating that the custodianship is in the best interests of the child;
 - (f) The duration of the proposed custodianship, and whether such is to be of a definite or indefinite duration;
- (g) Whether the custodianship is consented to by each living parent of the child, and, if not, any facts excusing such consent, including any facts related to the physical care or custody of the child, past or present, which may be relevant to the petition;
- (h) A full statement of the value of any property of the child's, or of which the child is expected to become entitled to during the duration of the custodianship, and recommendation for disposition of per capita pay meets during the custodianship period.

9-4-107. Consent. The written consent of each parent consenting to the custodianship shall be filed with the petition. Such consents shall be executed before an adult witness. Such consents shall not be invalidated by reason of the minority of the consenting parent.

9-4-108. Investigation. Upon the filing of a petition, the Court may order such investigation as it deems necessary for a full determination upon the petition.

9-4-109. Summary Order. If the Court determines that the proposed custodian is a member of the child's extended family or community, or otherwise has significant ties to the child, and that the custodianship has been consented to by each living parent of the child, and that the custodianship is in the best interests of the child, the Court may enter a summary order of custodianship as requested in the petition.

9-4-110. Notice. If the custodianship has not been contested to in writing by each living parent of the child, then each such parent not having consented shall be given written notice of the proceedings at least five (5) days prior to the time of hearing, including the date of hearing upon the petition and a copy of the petition. Such notice shall be served personally where the whereabouts of the parent is known and such service is practicable, otherwise service shall be made as ordered by the Court by the most effective means and consistent with the due process rights of the parent.

9-4-111. Hearing. Unless the custodianship is granted by summary order, the Court shall hold a hearing upon the petition within ten (10) days of its filing and shall determine if the custodianship is in the best interests of the child. If a nonconsenting parent appears at the hearing and contests the custodianship, the petition shall be denied unless the Court determines, upon clear and convincing evidence, that the custodianship is in the best interests of the child, and the non-consenting parent is unable to furnish a home for the child, and the nonconsenting parent is unable to furnish a home for the child which is more beneficial to the needs and the normal development of the child than the home of the proposed custodian.

9-4-112. Order. Upon a determination that the petition should be granted, the Court shall enter an order of custodianship. Such order shall contain the following:

- (a) The jurisdiction basis of the Court;
- (b) The name of the custodian or custodians;
- (c) The duration of the custodianship - whether of definite or indefinite duration;
- (d) A factual finding that the custodianship is in the best interests of the child and the reasons therefor;
- (e) Any specific conditions of custodianship, including rights of the parents.

9-4-113. Funds of the Child, Final Accounting.

(a) If the child is a member of the Crow Tribe, the Juvenile Court shall order the Crow Indian Agency to retain custody and control of funds in the child's individual Indian Money Account and to disperse funds from the account to the custodian in a manner and amount to be determined by the Court. The Court may also require the custodian to open a bank account in the name of the child specifically for funds obtained through the child's Indian Money Account.

(b) Upon termination of the custodianship, the Court shall require the custodian or their heirs to account for all real and personal property of the child received by the custodian at the beginning of the custodianship, received during the custodianship, or in possession of the custodian at the termination of the custodianship. The final accounting shall be presented to the Court, and any interested party may dispute the accounting. The Court may then issue a final judgment accepting the accounting if its correctness is validated. Final judgment does not relieve the custodian of responsibility for breach of a fiduciary duty owed to the child.

9-4-114. Termination of Custodianship. The custodianship shall terminate upon any of the following:

- (a) The duration specified in the Order; or
- (b) The further order of the Court, terminating custodianship, or the death of the custodian or other circumstances creating a practical inability of the custodian to care for the child.
- (c) Upon termination of the custodianship, all legal parental rights shall be returned to the person or persons having such rights prior to the creation of the custodianship.

9-4-115. Creation of Informal Custodianship. An informal custodianship, or traditional custodianship, may be created by the placement of a child by a natural parent or parents with another person or family, without Court involvement. Such a custodianship must be voluntarily entered into by the natural parent or parents involved and the custodian, and shall be recognized as a legal custodianship for so long as the consensual relationship continues.

9-4-116. Objections. No informal custodianship may be created over the objections of a natural parent having custody or joint custody of the child. A natural parent who does not have custody of the child, and who has not consented to such a traditional custodianship may petition the Court for denial or termination of the custodianship status, for custody of the child, or for such other appropriate relief as the parent believes may be in the best interests of the child.

9-4-117. Hearing Upon Petition. Upon the filing of such a petition, by a non-consenting parent, the Court shall hold a hearing in accordance with Section b(1)(f), above, and the matter shall thereafter be determined in accordance with the proceeding rules for determination of a formal custodianship petition.

9-4-118. Termination. After the creation of a traditional custodianship status, if the natural parent or parents consenting to the custodianship shall elect to terminate the custodianship and request the return of the child, such request shall be granted by the custodian and the child shall be returned to the parent or parents so requesting. If the custodian does not believe that the termination of the custodianship status is in the best interests of the child, the custodian may, in the alternative, file or cause to be filed, a petition asking that the youth be declared a Youth in Need of Care under section 9-3-107 of this Code.

Part 5

Adoptions

9-5-101. Types of Adoptions. An adoption may be accomplished either involuntarily or voluntarily.

(1) Involuntary. An involuntary adoption may only be accomplished by a termination of parental rights under Part 4 of this Code, and a further hearing under Subsection (g) of Part 5 to determine whether the proposed adoption is in the best interests of the child.

(2) Voluntary. A voluntary adoption may be accomplished by formal Court process or informally.

9-5-102. Petition. The process for a voluntary adoption shall be initiated by the filing of a petition entitled "Petition for Adoption." The petition shall be filed in the name of the proposed adoptive parent and shall contain the following information:

- (i) The name, age, and residence of each living parent of the child;
- (ii) The name, age, date of birth, and residence of the child, and the Tribal affiliation of the child;
- (iii) The name, age and residence of the proposed adoptive parent or parents;
- (iv) The basis of the Court's jurisdiction over the adoption of such child;
- (v) Whether the adoption is consented to by each living parent of the child, and, if not, any facts excusing such consent;
- (vi) A full statement of the value of any property of the child, or of which the child is expected to become entitled after the adoption;

(vii) Any facts related to the physical care or custody of the child either present or past, which is relevant to the petition;

(viii) Any facts relative to the adoptive parent's ability to provide for cultural, traditional and spiritual development of the child.

9-5-103. Consent.

1) No adoption shall be granted unless consent or relinquishment to adopt has been obtained and filed with the court from the following:

(A) From both natural parents, if living, except in the following cases:

(i) Consent is not necessary from a parent who has been declared incompetent by a court of competent jurisdiction, when it appears to the Juvenile Court, on reliable medical evidence, that the incompetence is probably permanent.

(ii) Consent is not necessary from a parent whose parental rights have been terminated by a court of competent jurisdiction.

(iii) Consent is not necessary from the father of a child born out of wedlock, unless the father has acknowledged his paternity by written document filed with the court, or by subsequent marriage to the mother, or by the provision of support for the child, or unless the father's paternity has been adjudicated by a court of competent jurisdiction.

(B) From the guardian of the child, or any person appointed by a court of competent jurisdiction who has been given authority by it to consent to the child's adoption.

(C) From an agency which has been given consent to place the child for adoption by the parent or parents whose consent would be necessary under section (i) above, or which has been given authority in other legal proceedings to place the child for adoption.

(2) If a child is twelve years of age or older, he or she shall not be adopted without his or her consent. The consent shall be given in open court or in any other form chosen by the court

(3) The court may waive any requirement for the consent of any person, except a natural parent and a child, when, after a hearing, the court determines that the waiver is in the best interests of the child. In the case of a waiver, the court shall give written reasons for the waiver.

(4) The minority of the child or parent shall not affect his or her competency to give consent under this section.

9-5-104. Form of Consent.

(1) All consents to adoption shall be in writing, signed by the person giving the consent, and acknowledged before any person authorized to take acknowledgments.

(2) A consent given less than 72 hours after the birth of a child is invalid.

(3) A consent shall be dated and shall identify the child to whose adoption the consent is given.

(4) A consent shall contain either of the following:

(a) The name of any other person authorized by the person giving the consent to place the child for adoption, or

(b) The names of any particular person or persons authorized to adopt the child by the person giving the consent.

(5) A consent, other than to a court, or to an institution, agency, or official approved by the court, which does not designate a particular person or persons as adoptive parents or which purports to permit a third person to locate or nominate an adoptive parent is invalid. Any consent given prior to, or within ten (10) days after birth of the child, shall not be valid.

9-5-105. Withdrawal of Consent. A consent executed by a minor parent may be withdrawn, for any reason, at any time prior to final Order of Adoption. A consent executed by an adult may be withdrawn, in the discretion of the Court, upon a showing that such a withdrawal is in the best interest of the child, at any time prior to final Order of Adoption. After entry of a final decree, a parent may withdraw consent thereto if consent was obtained through fraud or duress and the parent may petition the Court to vacate such decree.

9-5-106. Investigation of Adopted Parents or Custodians. (1) Upon the filing of a petition for adoption, the Court shall order such investigation as it deems necessary for a foil determination upon the petition. The Tribal

Social Services, on filing the petition must prepare a preplacement report about each of the adoptive parents or custodians to include the following:

- (a) age and date of birth, nationality, racial or ethnic background, and any religious affiliation;
- (b) marital status and family history, including the age and location of any child of the individual and the identity of and relationship to anyone else living in the individual's household;
- (c) physical and mental health and any history of alcohol or drug abuse;
- (d) educational and employment history and any special skills;
- (e) property and income, including outstanding financial obligations as indicated in a current credit report or financial statement furnished by the individual;
- (f) any previous request for an evaluation or involvement in an adoptive placement and the outcome of the evaluation or placement;
- (g) whether the individual has been charged with or convicted of domestic violence or has been involved in a substantiated charge of child abuse or neglect or elder abuse or neglect and the disposition of the charges;
- (h) whether the individual is subject to a court order restricting the individual's right to custody or visitation with a child;
- (i) whether the individual has been convicted of a crime other than a crime other than a minor traffic violation;
- (j) whether the individual has located a parent interested in a placing a child with the individual for adoption and, if so, a brief description of the parent and child; and
- (k) any other fact or circumstance that may be relevant in determining whether the individual is suited to be an adoptive parent, including the quality of life in the individual's home and the functioning of other children in the individual's household.

(2) If the investigation determines that the adoptive parent or custodian has committed murder or manslaughter of another child of the parent or custodian, placement of the child with that person will not occur.

(3) If the investigation reveals that the adoptive parent or custodian committed any of the following acts to another child or child of the parent or custodian, placement with that person will not occur:

- (a) abandonment, torture, chronic physical or mental abuse, or sexual abuse of a child or another child of the parent or custodian;
- (b) felony assault that results in serious bodily injury to a child or another child of the parent or custodian.

9-5-107. Best Interests of Child. (1) All relevant information must be considered in determining the best interests of the child in an adoption proceeding. Factors relevant to the determination of a prospective adoptive parent's parenting ability, the future security for a child, and familial stability must be considered. In determining the best interests of the child, the following factors with regard to a prospective adoptive parent may be considered:

- (a) age, as it relates to health, earning capacity, provisions for the support of a child, or other relevant circumstances;
- (b) marital status, as it relates to the ability to serve as a parent in the particularized circumstances;
- (c) religion, as it relates to the ability to provide the opportunity for religious or spiritual and ethical development and as it relates to the express preferences of a birth parent or a child to be placed with an adoptive parent of a particular religious faith or denomination.

(2) For purposes of ensuring that the best interests of the child are met, the department or a licensed child-placing agency is authorized to gather and use, in an appropriate, non-arbitrary manner, information concerning the age, marital status, and religious beliefs of a prospective parent. This authority includes the authority to consider, consistent with the best interests of the child, the preferences of birth parents concerning the age, marital status, and religious beliefs of an adoptive parent.

9-5-108. Summary Order of Adoption. The Court may enter a Summary Order of Adoption if such is requested in the petition, provided the Court upon investigation and inquiry determines as follows:

- (a) That one of the proposed adoptive parents is a member of the child's extended family or community, or otherwise has significant ties to the child;
- (b) That the adoption has been consented to by each living parent of the child;
- (c) That the proposed adoptive home is an adequate environment for the development of the child;
- (d) That the proposed adoptive parents can provide the child with the unique values of Indian culture; and
- (e) That the adoption is in the best interests of the child.

9-5-109. Notice. If the adoption has not been consented to in writing by each living parent of the child, then each such parent not having consented shall be given written notice of the proceedings, including the date of the hearing upon the petition and a copy of the petition. Such notice shall be served personally whenever the whereabouts of the parent or parents is known and such service is practicable, otherwise service shall be made as ordered by the Court by the most effective means and consistent with the due process rights of the parent or parents.

9-5-110. Hearing

(a) Unless the adoption is granted by Summary Order, the Court shall hold a hearing upon the petition. The first part of the hearing shall address the question of the termination of parental rights of any non-consenting living parent. The burden of proof shall be upon the petitioner to present evidence at the termination stage of the proceeding to prove, by a preponderance of the evidence, that the non-consenting parent's rights should be terminated, and that there is supporting evidence therefore.

(b) The second part of the hearing shall address the proposed adoption, and the petitioner shall have the burden of proof therein to prove, upon clear and convincing evidence that the adoption is in the best interests of the child according to Section 9-5-107.

(c) The hearing may be bifurcated to hear the separate parts of the hearing at different times, and the hearing may be continued at any stage, in the Court's discretion, for such time as may be necessary for a full determination of parental rights or whether the proposed adoption is in the best interests of the child.

9-5-111. Termination of Parental Rights. Parental rights may be terminated if the Court determines from a preponderance of the evidence that the parent in question has severed the parent-child relationship, and that the continuing of the parent-child relationship is no longer in the best interests of the child according to Section 9-5-107. The following circumstances may be indicative of the severance of the parent-child relationship, but are not meant to be exclusive circumstances for termination:

(a) Where the parent is no longer living with the child and has failed to maintain any meaningful contact with the child for a significant time;

(b) A parent who has committed serious acts or omissions which cause the child to become a Youth in Need of Care, under the standards of 9-3-104 of this Code;

(c) A parent who has failed to contribute to the financial and emotional support of the child during a period of more than one year prior to the filing of a petition, under the circumstances where the parent could have contributed support, and such support would have been beneficial to the child's welfare.

9-5-112. Order. Upon a factual determination based on a preponderance of evidence to terminate the parental rights of the living parent or parents of the child, or that all living parents have freely and voluntarily consented to the adoption with full knowledge of the effect of the adoption, the Court shall enter an Order of Adoption. The Order shall include the following:

(a) The name, age, and residence of each parent of the child;

(b) The name, age and date of birth, and residence of the child, and all relevant facts as to Tribal affiliation and membership of the child;

(c) The jurisdiction of the Court;

(d) Whether the adoption is consented to by each living parent of the child, and, if not, facts excusing the consent upon which the Court relies in terminating the parental rights of a non-consenting parent or parents;

(e) A full statement of the property of the child, and the value thereof, and any provisions the Court may impose for the protection or distribution of such property;

(f) That the adoptive parents are fit to provide a home environment for the healthy development of the child, and that the adoption is in the best interests of the child according to Section 9-5-107;

(g) Facts showing that all parties entitled to notice were given notice consistent with their rights to due process.

(h) In accordance with Indian custom, the Court may determine that an open adoption in some degree is best for the child and family. In that case, the Court will decide that a full termination of parental rights is not in the best interests of the child, and that certain residual parental rights will be maintained by the natural parents of the

child. Such residual rights may include rights to visitation, contact, to be informed of matters of major importance affecting the health, welfare, education or spiritual training of the child, or such other residual rights as the Court may determine in the best interests of the Child.

9-5-113. Relationship of Adoptive Parent and Child. Upon the entry of an Order of Adoption, the relation of parent and child and all rights, duties, and other legal consequences of the natural relation of child and parent shall thereafter exist between the adopted child and the adoptive parents. Unless otherwise ordered by the Court, the child shall be entitled to inherit real and personal property from the adoptive parent or parents, and the kindred of the adoptive parent or parents, according to the customs of the Tribe, and the adoptive parent or parents shall be entitled to inherit property from the adopted child as if the adopted child was their natural child. Unless otherwise ordered by the Court, the rights, duties, and obligations, including the rights of inheritance, between the child and the child's natural parents shall be canceled. However, the Order shall state that the Court has determined questions of inheritance and residual parental rights and determined that certain specified inheritance rights shall be continued between the natural parents and the child.

9-5-114. Failed Adoptions. In cases of failed adoptions, notices of any hearing regarding the child shall be sent to the natural biological parents and any previous Indian custodians.

9-5-115. Confidentiality of Records and Proceedings. Unless the Court shall otherwise order, all hearings held in proceedings under this Section shall be confidential and shall be held in closed Court without admittance of any person other than interested parties and their advocates.

9-5-116. Informal Adoptions. An informal adoption, or traditional adoption, may be created by placement of the child by the natural parent or parents with another person or family, without Court involvement.

(1) Creation of informal adoption. Such an adoption must be voluntarily entered into by the natural parent or parents involved and the custodian, and shall be recognized as a legal adoption. The natural parent or parents consenting to the adoption must do so with knowledge of the permanent nature and effect upon their natural parent rights.

(2) Rights of non-consenting parent. No informal adoption may be created without the consent of each living, natural parent of the child unless that natural parent's parental rights have been previously terminated by order of the Tribal Court, or some other court of competent jurisdiction. A non-consenting parent may petition the Court at any time within two (2) years of the discovery of the creation of the informal adoption, and request the Court to deny the adoption, or for such other appropriate relief as the parent believes may be in the best interest of the child and consistent with the rights of the natural parent under the laws of the child's Tribe and this Code.

(3) Hearing upon petition. Upon the filing of such a petition, the Court shall hold a hearing in accordance with Subsection 6 g. of this part above, and the matter shall thereafter be determined in accordance with the proceeding rules for determination of a formal adoption petition.

(4) Residual rights of the natural parent. By agreement between the natural parent or parents and the adoptive parent, or by order of the Court, certain residual rights may be maintained by the natural parents of the child. The extent and nature of the residual rights shall be determined by the agreement of the natural parents and adoptive parent, or by order of the Court, in the case of the filing of a petition under this part.

(5) Relationship of adoptive parent and child. Following the effective creation of an informal adoption, the relation of parent and child and all rights, duties, and other legal consequences of the natural relation of the child and the parent shall be in accordance with Section 4, Subsection 6 e above, as specified for formal adoptions.

Part 6

Referrals Under the Indian Child Welfare Act

9-6-101. Purpose. The purpose of this Part is to provide for the speedy and effective procedures for the processing of referrals under the Indian Child Welfare Act of 1978 from State or Tribal Courts, in order to best protect the interests of the child of the Crow Tribes and the interests of the Tribes. It is intended that the Tribes will investigate cases referred to them, and will act to transfer to the Tribal Court those cases in which transfer is

in the best interests of the child. The procedures found in this Section are aimed at producing a thoughtful and wise decision in the matter of transfers.

9-6-102. Receipt of Referrals. Referral of cases shall be received by the person or persons who shall be designated, from time to time, to the Secretary of Interior and upon the Federal Register, to receive such referrals. Upon receipt of referral, each person so receiving shall immediately deliver the referral to the Chief Judge of the Tribal Court, or in the absence of the Chief Judge to a designated Associate Judge of the Tribal Court, and shall immediately also deliver a copy of the referral to the Clerk of the Tribal Court.

9-6-103. Duties of the Clerk of Court. The Clerk of the Tribal Court, upon receipt of such referral by a Tribal Judge, shall document in a record all essential information relevant to the referral, including:

- (1) The source of the referral;
- (2) The names and addresses of the child and parent, guardian, or custodian;
- (3) The date of the referral;
- (4) The form of the scheduled proceedings in the outside Court; and
- (5) The Tribal affiliation and blood quantum of the child, if known.

9-6-104. Duties of the Chief Judge of the Tribal Court. The Chief Judge of the Tribal Court, or such Associate Judge as the Chief Judge may designate, shall receive referral and, in consultation with the Tribal Attorney where practicable, shall immediately determine if it is necessary to request the twenty (20) day extension to prepare the case, and, if so, shall direct the Tribal Attorney to so request.

9-6-105. Investigation of Referral. Upon receipt of referral and request of the twenty (20) day extension, the Chief Judge shall investigate the referral or direct appropriate Tribal personnel to assist in the investigation. The investigation shall include the "following:

- (1) Contact appropriate sources to determine the child's membership status of the Tribes;
- (2) Investigate and determine whether the child custody referral is one properly referred to the Tribes under the Indian Child Welfare Act;
- (3) Contact the parent or custodian of the child, and notify them of the fact of referral to the Tribes and the Tribes' considering transfer of the case to Tribal jurisdiction. Contact shall be made by personal delivery of the notice of the parent or the custodian, where practicable. Where such personal service is not practicable, then notice shall be given by registered mail with return receipt requested;
- (4) Contact social, medical, legal, or other sources to obtain necessary information regarding the circumstances of the case;
- (5) Make a decision as to whether the transfer of the case would be appropriate and in the best interests of this child. The Court may consider the past and present residences of the child, the child or the child's family ties with the Tribes or the Tribal community, any special conditions of the child in the ability of Tribal or reservation facilities to deal with such conditions, whether jurisdiction should be taken before or after the adjudication stage of the proceedings, considering the location of witnesses, documents, and other evidence and the existence of subpoena and other process limitations of Tribal jurisdictions;
- (6) Continuity in the child's surroundings and emotional contact;
- (7) The wishes of the child's family, extended family, and other interested persons;
- 8) Notify the parent, guardian, or custodian of the child, and all other interested persons having contacted the Tribal Court, of the decision regarding transfer. Notification to parent, guardian, or custodian shall be by registered mail, return receipt requested.
- (9) If the Chief Judge of the Tribal Court shall determine that the transfer is in the best interests of the child, the said Chief Judge shall file or cause to be filed a petition with the referring Court for transfer of jurisdiction to the Tribal Court. In addition, the Court shall cause to be filed with the referring Court a notice of willingness to accept jurisdiction, such affidavits, consents of parent or parents, and other documentation as may be necessary.
- (10) Determine whether, without transfer, the Court should intervene in the proceedings in the referring Court, and, if so, cause such intervention procedures to be initiated.

(11) The Chief Judge of the Tribal Court shall complete the above duties within ten (10) days after receiving the notice of referral, unless request has been made, in writing by registered mail, for the twenty (20) day extension as provided in the Indian Child Welfare Act.

9-6-106. Proceedings upon transfer. When transfer of a case has been made by a referring Court, the Chief Judge of the Tribal Court shall immediately notify Tribal Social Services and a petition under Section 3 of this Code shall be filed at the earliest practicable date.

Part 7
Youth Court

Purpose, Definitions, and Jurisdiction

9-7-101. Purpose. This Chapter shall be liberally interpreted and construed to fulfill the following expressed purposes:

- (1) To preserve and retain the family unit whenever possible. To provide for the care, protection, and wholesome mental and physical development of youth offenders who are within the provisions of this code;
- (2) To recognize that alcohol and substance abuse among youths is a disease which is both preventable and treatable;
- (3) To provide a program of supervision, care and rehabilitation, consistent with the protection of the reservation
- (4) To achieve the purposes of this code utilizing the family unit whenever possible and to separate the youth from the family unit only when necessary for the youth's welfare or to protect public safety;
- (5) To clearly provide the juvenile offender with services under this code and to provide appropriate and distinct dispositional options for treatment and rehabilitation;
- (6) To provide judicial and other procedures through which the provisions of this code are executed and enforced and in which the parties are assured a fair hearing and their civil and other legal rights are protected under the Indian Civil Rights Act of 1968 and statutory rights under the Crow Tribal Code for the Crow Reservation;
- (7) To provide a continuum of services for youths and their families from prevention to residential treatment, with emphasis whenever possible on prevention, early intervention and community-based alternatives; and
- (8) To provide a forum where an Indian youth who is an enrolled or enrollable member of the Crow Tribe and is charged in other jurisdictions may be referred for adjudication and/or disposition.

9-7-102. Definitions. The following definitions shall apply to this Code. Where his or her is used in this Code it is meant to include both genders.

- (1) "Adjudicatory Hearing" means a proceeding in the Youth Court to determine whether a youth has committed a specific "youth offense" or is a "youth in need of supervision" as set forth in a petition.
- (2) "Adult" means an individual who is 18 years of age or older.
- (3) "Advocate" means an attorney or advocate.

- (4) "Alcohol or Substance Abuse Emergency Shelter or Halfway House" means an appropriately licensed and supervised emergency shelter or halfway house for the care and treatment of youth with regard to alcohol and/or substance abuse problems.

- (5) "Consent Decree": At any time after the filing of a "youth offender" petition, and before the entry of a judgment, the Youth Court may, on motion of the youth presenter or that of counsel for the youth, suspend the proceedings and continue the youth under supervision under terms and conditions negotiated with the youth probation officer and agreed to by all parties affected. The Youth Court's order continuing the youth under supervision under this section shall be known as a "consent decree".
- (6) "Counsel": An attorney or advocate.
- (7) "Court" or "Youth court": See definition of Youth Court.
- (8) "Custodian": A person, other than a parent or guardian, to whom legal custody of the youth has been given.

- (9) "Deferred agreement" means an agreement which suspends a "juvenile offender" or "youth in need of supervision" proceeding prior to filing a petition and continues the youth under supervision or probation under terms and conditions negotiated with the juvenile officer and agreed to by all parties.
- (10) "Delinquent Youth" means a youth who:
 - (a) Has committed an offense which, if committed by an adult, would constitute a criminal offense;

(b) Having been placed on formal court probation as a delinquent youth or a youth in need of supervision, violates any conditions of his probation.

(11) "Detention" means exercising authority over a youth by physically placing them in any secure youth facility designated by the Youth Court where their movement is restricted.

(12) "Dispositional Hearing" means a proceeding in the Youth Court to determine how to resolve a case after the youth has been adjudicated a youth offender.

(13) "Domicile" means a person's permanent home, legal home or main residence. The domicile of a youth is generally that of the custodial parent or where the parent or guardian consider to be their permanent home. Domicile for purposes of jurisdiction is established at the time of the alleged acts.

(14) "Foster home" means placement with a family whose home has been licensed by Tribal Social Services to accept placement of youth.

(15) "Group home" means a residential facility which is licensed to care for youth.

(16) "Guardian" means a person, other than a parent, having the duty and authority to provide care, shelter, and control of a youth.

(17) "Guardian Ad Litem" means a person appointed at the discretion of the Youth Court or upon the recommendation of Juvenile Probation to represent and protect the legal rights and interests of a youth in a Youth Court proceeding when the youth has no parent or guardian appearing on his behalf or their interests conflict with those of the youth.

(18) "Indian Youth" means a youth who is an enrolled or enrollable member of the Crow Tribe; is an enrolled 01 enrollable member of a federally recognized tribe residing on the Crow Reservation; or is a biological descendant or an enrolled member of a Federally Recognized Tribe residing on the Crow Reservation and has significant ties to the Indian community.

(19) "Judge" when used without further qualifications, means the Judge of the Tribal Youth Court.

(20) "Juvenile Officer" means the youth probation officer who shall also serve as the Truancy Officer for the Crow Tribe. The juvenile officer works under the direction of the Tribal Prosecutor. When performing duties related to truancy, the Juvenile Officer shall coordinate and cooperate with the Home School Coordinator or other appropriate official at each school where a substantial percentage of students are children of Crow tribal members. Under appropriate circumstances, upon motion and good cause being shown, the Court may designate the Home School Coordinator, other appropriate official, or his or her named designee, to serve as an Ad Hoc Truancy Officer for the Crow Tribe.

(21) "Legal Custody" means the legal status created by order of a court of competent jurisdiction that gives a person the duty to:

(a) Have physical custody of the youth; and

(b) Determine with whom the youth shall live and for what period; and

(c) Protect, train, and discipline the youth; and

(d) Provide the youth with food, shelter, education, and ordinary medical care.

(e) An individual granted legal custody of a youth shall personally exercise his rights and duties as parents or guardian unless otherwise authorized by the Court entering the order. -

(22) "Parent" includes a natural or adoptive parent

(23) "Probable Cause" means any circumstances or factors that would lead a reasonable officer to believe, more likely than not, that a crime has been or is being committed.

(24) "Probation" means a legal status created by court order or under this code whereby an offender is under prescribed conditions and under the supervision of a person designated by the court. An offender on probation is subject to return to court for further proceedings in the event of his failure to comply with any of the prescribed conditions of probation.

(25) "Protective supervision" means a legal status created by court order under which an offender is permitted to remain in his home or is placed with a relative or other suitable individual, where supervision and assistance is provided by the court. (A health or social services agency or some other agency designated by the court).

(26) "Restitution" means monetary payment to the victim or services provided to the victim or the general community, made pursuant to an informal adjustment, consent decree, deferred agreement, or other Youth Court order.

(27) "Secure Youth Detention Facility" means a facility which:

(a) Contains locked cells or rooms;

(b) Restricts the movement of those placed in the locked cells or rooms; and

(c) Complies with the other requirements of the Juvenile Justice and Delinquency Prevention Act. 42 U.S.C. 5601 et seq.

(28) "Serious crime" means a crime committed by a youth, which if committed by an adult would be a felony and is an offense against a person, an offense against property, or an offense involving dangerous drugs.

(29) "Status Offense" means a youth who commits an offense prohibited by law which if committed by an adult,

would not constitute a criminal offense, including but not limited to a youth who:

(a) Violates any Tribal, Montana municipal, State, or federal law regarding use of alcoholic beverages or tobacco by minors, except that traditional cultural use of tobacco shall not be a youth offense;

(b) Habitually disobeys the reasonable and lawful demands of his parents, or guardian or is ungovernable and beyond their control;

(c) Being subject to compulsory school attendance, is habitually truant from school;

(d) Runs away from his home or place of residence; or

(e) violates a curfew enacted under this Code.

(30) "Transfer of Jurisdiction" means transferring a youth from the jurisdiction of the Tribal Youth Court according to provisions of this Code which results in the termination of the initial court's jurisdiction over that offense.

(31) "Tribal Council" means the Tribal council of the Crow Tribe.

(32) "Tribal Court" means the adult court for the Crow Tribe.

(33) "Tribal Social Services" means the social services department of the Crow Tribe.

(34) "Youth" see "Indian Youth" definition.

(35) "Youth Court" means the Court established by the Crow Tribe, to hear all proceedings in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care and includes the Youth Court, the judge, and juvenile probation officers.

(36) "Youth facility" means any youth facility (other than school) that cares for youth or may restrict their movement, including secure youth detention facilities, alcohol or substance abuse emergency shelter or halfway houses, foster homes, group homes, and shelter homes.

(37) "Youth in Need of Care" means a youth who is dependent, abused or neglected; or
(a) any Youth defined under section 9-3-104 of this Code.

(38) "Youth in Need of Supervision" means a youth who commits an offense prohibited by law which if committed by an adult, would not constitute a criminal offense, including but not limited to a youth who:

(a) Violates any Tribal, Montana municipal, State, or federal law regarding use of alcoholic beverages or tobacco by minors, except that traditional cultural use of tobacco shall not be a youth offense;

(b) Habitually disobeys the reasonable and lawful demands of his parents, or guardian or is ungovernable and beyond their control;

(c) Being subject to compulsory school attendance, is habitually truant from school; or

- (d) Has committed any of the acts of a delinquent youth but whom the Youth Court in its discretion chooses to regard as a youth in need of supervision;
- (e) Runs away from his home or place of residence; or
- (f) Violates a curfew as established by this Code.

(39) "Youth Offender": A youth who commits a "Youth Offense" or a "Status Offense" prior to the youth's eighteenth (18th) birthday.

(40) "Youth Offense": A violation of the law and order code of the Crow Tribe, or equivalent city, state or federal law, which is committed within the exterior boundaries of the Crow Indian Reservation by a person who is under the age of eighteen (18) at the time the offense was committed.

(41) "Youth Presenter"; The youth presenter, Tribal Prosecutor, or youth presenting officer or youth petitioner or any other person who performs the duties and responsibilities set forth in his job description, in accordance with the Tribes' Personnel Rules, Regulations, and Procedures.

9-7-103. Jurisdiction of the Youth Court. The Crow Tribe of the Crow Indian Reservation has established a court known as the Crow Tribal Youth Court. The court has exclusive original jurisdiction over all proceedings established in this code in which an Indian youth is residing in or domiciled within the exterior boundaries of the Crow Reservation, alleged to be a "Youth Offender" or "Youth in Need of Supervision," as defined in Section 9- 7 - 102 of this Chapter, unless the Youth Court transfers jurisdiction to the Tribal Adult Court or a State District Youth Court according to this code. Youth Court does not have jurisdiction over traffic or fish and game offenders, these matters are referred to the appropriate Tribal Court division.

9-7-104. Severability. If any provision or application of this code is held invalid, such invalidity shall not affect the remaining code provisions or application thereof.

Part 8

Transfer to Adult Tribal Court or State District Youth Court

9-8-101. Transfer of Jurisdiction to Adult Tribal Court. The Youth presenter shall have discretionary authority to file the cause in Adult Tribal Court, based on input provided by the Juvenile Probation Office and consistent with the factors set forth in subsection 2 below.

(1) A juvenile offender may be transferred to Adult Tribal Court only if:

- (a) the offender is sixteen (16) years of age or older,
- (b) is alleged to have committed a serious crime, and
- (c) is an enrolled member of the Crow Tribe or other federally recognized tribe.

(2) The Youth presenter shall consider the following factors to determine transfer:

- (a) the nature and seriousness of the alleged offense,
- (b) the youth's nature and condition as evidenced by his/her age, mental and/or physical condition,
- (c) the youth' s prior history of offenses, and
- (d) the youth's contact with the Tribe.

(3) Transfer report. The juvenile officer shall prepare a transfer report for the Youth Court Presenter to consider that addresses the issues described in subsections 1 and 2 above. This report shall be attached to the motion of transfer.

9-8-102. Transfer of Jurisdiction to State District Youth Court. The Youth Presenter shall have discretionary authority to transfer a juvenile offender to State Youth District Court based on input provided by the Juvenile Probation Office and consistent with the factors set forth in 9-8-102 (2) below.

(1) A juvenile offender may be transferred to State Youth District Court only if:

- (a) the offender is alleged to have committed a serious crime: and/or
- (b) transfer will access services or funding for the youth not available through the Tribe.

(2) The Youth Presenter shall consider the following factors to determine transfer:

- (a) the nature and seriousness of the alleged offense,
- (b) the youth's nature and condition as evidenced by his/her age, mental and/or physical condition,
- (c) the youth's past record of offenses,
- (d) availability of funding for treatment, and

(e) services that are available through state youth district court that are not available through Tribal Youth Court.

(3) Transfer report. The juvenile officer shall prepare a transfer report for the Youth Court Presenter to consider which will address the issues described above. This report shall be attached to the motion of transfer.

Part 9

Youth Court Procedure

9-9-101. Non-criminal proceedings. Any adjudication regarding the status of any individual within the jurisdiction of the Youth Court is not criminal in nature and may not be deemed a criminal conviction unless the cause is transferred to the Adult Tribal Court pursuant to this Chapter.

9-9-102. Use in other proceedings. The adjudication, disposition, and evidence presented to the Youth Court is inadmissible as evidence against the youth in any proceeding in another court, including the Adult Tribal Court.

9-9-103. Rules of procedure. The Youth Court procedures are governed by the Tribal Court rules of procedure that do not conflict with this Chapter.

9-9-104. Confidentiality. (1) All juvenile proceedings held pursuant to this Code shall be closed to the public. Only the parties, their counsel, witnesses, and other persons requested by the parties or the Youth Court shall be admitted.

(2) All petitions, pleading files, decrees, and orders, as well as medical and police reports, records, pre-dispositional studies and supervision records of probationers shall be closed to public inspection and accessed only by persons and for purposes authorized by the Court.

Part 10

Youth Court Authority

9-10-101. Scope of Youth Court Authority. The Youth Court may:

(1) cooperate fully with any federal, state, Tribal, public, or private agency in order to participate in any diversion, rehabilitation or training program(s) and to receive grants-in-aid to carry out the purposes of this code. This authority is subject to the approval of the Tribal council;

(2) utilize any social service that is furnished by any Tribal, federal, or state agency provided that it is economically administered without unnecessary duplication and expense;

(3) accept or decline transfers from other states or Tribal Courts involving alleged delinquent youth or alleged status offenders for the purposes of adjudication and/or disposition.

9-10-102. Powers and duties of the Youth Court. The Youth Court shall have the same powers and duties as the Tribal Court, including, but not limited to, the contempt power, the power to issue arrest or custody warrants,

the power to issue subpoenas, and the power to issue search warrants. The rules on disqualification or disability of a Youth Court judge shall be the same as those which govern Tribal Court judges.

9-10-103. Additional Youth Court personnel. The Youth Court may appoint additional Personnel including a Guardian Ad Litem or Court Appointed Special Advocates, or referees as it deems appropriate or upon recommendation by juvenile probation.

Part 11

Rights of Youth

When a youth is questioned by a Law Enforcement or Juvenile Officer upon a matter that could result in a petition alleging that the youth is either a delinquent youth or a youth in need of supervision, the following requirements must be met.

9-11-101. Right against self-incrimination.

- (1) The youth must be advised of his right against self-incrimination and his right to counsel.
- (2) The youth may waive these rights under the following situations:
 - (a) When the youth is 16 years of age or older, the youth may make an effective waiver if it is shown that the waiver was knowing, intelligent, and voluntary.
 - (b) When the youth is under the age of 16 years and the youth and a parent or guardian agree, they may make an effective waiver if it is shown the waiver was knowing, intelligent, and voluntary.
 - (c) When the youth is under the age of 16 years and the youth and his parent or guardian do not agree, the youth may make an effective waiver if it is shown the waiver was knowing, intelligent, and voluntary only with advice of counsel.
- (3) The investigating officer, probation officer, or person assigned to give notice shall immediately notify the parents, guardian, or legal custodian of the youth, that the youth has been taken into custody, the reasons for taking the youth into custody, and where the youth is being held. If the parents, guardian, or legal custodian cannot be found through diligent efforts, a close relative or friend chosen by the youth must be notified. To determine placement, the youth may be questioned to determine the following:
 - (a) To determine his or her name;
 - (b) To determine the name of his/her parent, or legal custodian; or
 - (c) To conduct medical assessment and treatment for alcohol or substance abuse when the youth's health or well-being is in serious jeopardy.

9-11-102. Admissibility of evidence. In a proceeding on a petition alleging that a youth is a "youth offender" or a youth in need of supervision:

- (1) An out-of-court statement that would be inadmissible in a criminal matter in Tribal Court shall not be received in evidence;
- (2) Evidence seized or obtained in violation of youths recognized rights shall not be received in evidence to establish the allegations of a petition;
- (3) Unless advised by counsel or an effective waiver was made by the youth, the statements of a youth while in custody of a juvenile officer, law enforcement officer, or defender, including statements made during a preliminary inquiry, shall not be received in evidence, in determining the truth of allegations of the petition;
- (4) A valid out-of-court admission or confession by the youth is insufficient to support a finding that the youth committed the acts alleged in the petition unless it is corroborated by other evidence;

9-11-103. Fingerprints and photographs.

- (1) A youth may be fingerprinted or photographed for criminal identification purposes:

- (a) if arrested for conduct alleged to be unlawful that would be a felony if committed by an adult;
- (b) pursuant to a search warrant, supported by probable cause, issued by a Tribal Youth Court judge; or
- (c) upon the order of the Tribal Youth Court judge, after a petition alleging delinquency has been filed in which the unlawful act alleged would constitute a felony if the act had been committed by an adult; or
- (d) upon order of Tribal Youth Court for minors who are habitual runaways for identification purposes only.

(2) Fingerprint records and photographs may be used by Tribal juvenile probation and Tribal law and order for comparison and identification purposes in any other investigation.

9-11-104. Right to retain counsel. (1) In all "youth offender" cases the youth shall be represented by counsel at all stages of the proceedings.

(2) If counsel is not retained for the youth, or if it does not appear that counsel will be retained, the Youth Court shall appoint counsel for the youth.

9-11-105. Explanation of rights. At the youths initial appearance before the Youth Court, the Youth Court shall inform the youth alleged to be a "youth offender" or a youth in need of supervision and the youths parent, guardian or custodian of the following:

- (1) The allegations against him or her;
- (2) The right to an advocate or attorney, as set forth in Section 3-3-504;
- (3) The right to testify or remain silent and that any statement made may be used against him or her;
- (4) The right to cross examine witnesses;
- (5) The right to subpoena witnesses and to introduce evidence on his or her own behalf; and
- (6) The possible consequences if the allegations in the petition are found to be true.

Part 12

Procedure for Taking a Youth Offender into Custody

9-12-101. Taking a youth into custody. A law enforcement officer may take a youth into custody when:

- (1) The youth commits a "youth offense" in the presence of the officer; or
- (2) The officer has probable cause to believe a youth offense has been committed by the youth detained; or
- (3) An appropriate custody order or warrant has been issued by the Youth Court, or other appropriate court, with permission of the Tribal Youth Court, authorizing the taking of a particular youth.

9-12-102. Provision of rights. At the time the youth is taken into custody, the arresting officer shall give the following warning:

- (1) The youth has a right to remain silent;
- (2) Anything the youth says can be used against the youth in court;
- (3) The youth has a right to the presence of his or her parent, guardian, custodian and counsel during questioning.

9-12-103. Release or delivery from custody. A law enforcement officer shall have discretionary authority to do the following after taking a youth into custody prior to questioning:

- (1) Release the youth to the youth's parent or guardian;
- (2) Release the youth to a relative or other responsible adult designated by the juvenile probation officer, if the youth's parent, guardian or custodian consents to the release or the parent either isn't capable to consent or can't be located; or
- (3) Deliver the youth to a licensed youth facility as designated by the juvenile probation officer or to a medical facility if the youth is believed to need prompt medical treatment.

9-12-104. Review for need of continued custody. Prior to delivery of a youth to the youth facility, the juvenile officer or juvenile official (as designated by the Youth Court) shall review the need for continued custody, and release the youth to his parent, guardian or custodian with instructions to appear at the hearing on a date to be set by the Youth Court, unless;

- (1) The act is serious enough to warrant continued detention; and
- (2) There is probable cause to believe the youth has committed the offense(s) alleged; or
- (3) There is probable cause to believe the youth will commit a serious act causing damage to a person or property; or
- (4) The youth's parent or guardian is unsuitable for or is unwilling or unable to accept return custody of the youth.

9-12-105. Notifications to family. Upon taking a youth into custody, the juvenile officer or Law enforcement officer shall immediately notify the youth's parent, guardian or custodian. All reasonable efforts shall be made to advise the parent, guardian or custodian of the reason for taking the youth into custody and the place of continued custody. Such reasonable efforts shall include telephone and personal contacts at the home or place of employment. If notification cannot be provided to the youth's parent, guardian or custodian, the notice shall be given to a member of the extended family of the parent, guardian, custodian or youth's extended family.

9-12-106. Criteria for selecting a youth facility. If the juvenile officer or juvenile official determines that there is a need for continued custody of the youth in accordance with Section 9-12-604, the following criteria shall be used to determine the appropriate youth facility for the youth:

- (1) A youth may be detained in a secure youth detention facility if:
 - (a) The youth is a fugitive from another jurisdiction wanted for a felony offense, with a copy of warrant or pick up and hold delivered immediately to the juvenile office; or
 - (b) The youth is uncontrollable and has committed a serious physical assault on the arresting officer or on other security personnel while resisting arrest or detention; or
 - (c) The youth is charged with committing a "Serious Crime", which would be an offense if the youth were an adult or equivalent state or federal offenses; or
 - (d) The youth is already detained or on conditional release for another "youth offense"; or
 - (e) The youth has demonstrated a recent record of willful failure to appear at Youth Court proceedings;
or
 - (f) The youth requests in writing that he be given protection by being confined in a secure youth detention facility and there is a present and immediate threat of serious physical injury to the youth;
 - (g) The youth violates his formal probation.
- (2) A youth may be housed in a youth facility (other than a secure detention facility) as designated by the Youth Court only if the following conditions exist:
 - (a) One of the conditions described in subsection (1) above exists; or
 - (b) The youth is unwilling to return home or to the home of an extended family member; or
 - (c) The youth's parent, guardian, custodian, or an extended family member is unavailable, unwilling, or unable to permit the youth to return to their home.

Part 13

Youth Offender Detention Hearing

9-13-101. Requirement of detention hearing. When a youth has been taken into continued custody as provided for under Section 9-12-104, a detention hearing shall be convened by the Youth Court within forty-eight (48) hours of the youth's initial detention, inclusive of weekends and holidays. The detention hearing shall take place in person except in the following situation. In the event that the detention hearing occurs *on* a weekend or a

legal holiday, the hearing may be conducted by telephone if other means of conducting the hearing are impractical. In the event that the initial detention hearing is conducted by telephone, the Youth shall have another detention hearing at which the Youth shall be personally present. This hearing shall be held on the morning or the next day that the Tribal Youth Court is in session.

9-13-102. Purpose of the detention hearing. The purpose of the detention hearing is to determine:

- (1) Whether probable cause exists to believe the youth committed the alleged "youth offense"; and
- (2) Whether continued detention is necessary pending further proceedings.

9-13-103. Notice of detention hearing. When a time for the detention hearing has been set, notice shall be immediately given to the youth, the youth's counsel, and reasonable effort has been made to locate the youth's parent, guardian or custodian. The notice shall contain:

- (1) The name of the Youth Court;
- (2) The title of the proceedings;
- (3) A brief statement of the "youth offense" the youth is alleged to have committed; and
- (4) The date, time, and place of the detention hearing.

9-13-104. Detention hearings.

- (1) Detention hearings shall be conducted by the Youth Court separate from other proceedings.
- (2) The general public shall be excluded from the proceedings. Only the parties, their counsel, witnesses, and other persons requested by the parties or the Youth Court shall be admitted.

9-13-105. Notification of rights at detention hearing. At the commencement of the detention hearing, the Youth Court shall notify the youth and the youth's parent, guardian, or custodian of their rights under Part 11 of this Title.

9-13-106. Findings at detention hearing. The Youth Court shall issue a written finding stating the reasons for release or continued detention of the youth. If the Youth Court determines that there is a need for continued detention, the Youth Court shall specify where the youth is to be placed until the adjudicatory hearing.

9-13-107. Rehearing of detention matter. The Youth Court shall rehear a detention matter within ten (10) days or less if:

- (1) The youth is not released at the first detention hearing;
- (2) Counsel for the youth was not notified of the hearing and did not appear or waive appearance at the hearing; and
- (3) A motion for a rehearing and a declaration stating the relevant facts has been filed with the Youth Court.

Part 14

Initiation of Proceedings

9-14-101. Investigation by the juvenile officer. Within a reasonable time, exclusive of weekends and holidays, of the detention hearing or the release of the youth to his or her parent, guardian, or custodian, the juvenile officer shall make an investigation to determine whether the interests of the youth and the public require that further action be taken. Based on the investigation, the juvenile officer(s) shall:

- (1) Recommend that no further action be taken;
- (2) Suggest to the youth and the youth's parent, guardian, or custodian that they appear for an informal adjustment conference under Sections 9-14-102 and 9-14-103;
- (3) Recommend that the youth presenter file a petition under this Chapter; or
- (4) Request the youth presenter begin a transfer under Section 9-8-101.

9-14-102. Informal Adjustment Conference.

(1) During the course of the investigation under Section 9-14-101, the juvenile officer shall confer with the youth and the youth's parent, guardian or custodian for the purpose of effecting adjustments or agreements that make the filing of a formal petition unnecessary.

(2) The juvenile officer shall consider the following factors in determining whether to proceed informally or to file a petition:

- (a) The nature and seriousness of the offense;
- (b) Previous number of contacts with the police, juvenile officer, or the Youth Court;
- (c) The age and maturity of the youth;
- (d) The attitude of the youth regarding the offense;

- (e) The willingness of the youth to participate in a voluntary program; and
- (f) The participation and input from the youth's parent, guardian or custodian.
- (3) After conducting a preliminary investigation, the juvenile officer shall hold an informal conference with the youth and the youth's parent, guardian or custodian to discuss alternative courses of action.
- (4) The juvenile officer shall inform the youth, and the youth's parent, guardian or custodian, of their basic rights under Part 5 of this Chapter.

(5) Based on the information obtained during the preliminary investigation, the juvenile officer may enter into a written deferred agreement with the youth and the youth's parent, guardian, or custodian, specifying the particular conditions to be observed during an informal adjustment period, not to exceed twelve (12) months. The youth and the youth's parent, guardian or custodian shall be informed that the informal adjustment agreement is voluntary and they may terminate the adjustment process at any time and petition the Youth Court for a hearing in the case

(6) The youth shall be permitted to be represented by counsel at the informal conference.

(7) If the youth does not desire to participate in an informal adjustment agreement, the juvenile officer shall recommend that the youth presenter file a petition under Section 9-14-104.

(8) Upon the successful completion of the informal adjustment agreement, the case shall be closed and no further action will be taken.

(9) If the youth fails to successfully complete the terms of the informal adjustment agreement, the juvenile officer may recommend that a petition be filed under Section 9-14-104.

9-14-103. Filing and content of petition.

(1) Petition. Formal "youth offender" proceedings shall be initiated by a petition filed by the youth presenter on behalf of the Tribe and in the interests of the youth and shall be as follows:

(a) The petition shall be entitled, "In the matter of _____, a youth" and shall set forth with specificity:

(i) The name, birth date, residence, and Tribal affiliation of the youth;

(ii) The names and residences of the youth's parents, guardians or custodians;

(iii) A citation to the specific section(s) of this code which gives the court jurisdiction over the proceedings;

(iv) A citation to the criminal statute or other law or ordinance which the youth is alleged to have violated;

(v) A plain and concise statement of facts upon which the allegations are based, including the date, time and location at which the alleged acts occurred;

(vi) A statement alleging the youth to be a delinquent youth or a youth in need of supervision;
and

(vii) Whether the youth is in custody and if so, the place of detention and time he was taken into custody.

(2) Petition - Additional required allegations for truancy. In addition to the allegations required under Section 9-14-104(1), a petition alleging that a youth is habitually and without justification absent from school, shall also allege the following:

(a) That the school and a youth's parent, guardian or custodian have held a meeting or the youth's parent; guardian or custodian has refused to attend a meeting to discuss the youth's habitual and unjustified absence from school;

(b) That the school has provided an opportunity for counseling to determine whether a curriculum change would resolve the youth's problem and if the local school board or governing authority of a private school provides an alternative education program, that the youth has been provided with an opportunity to enroll in the alternative program;

(c) That the school has conducted a review of the youth's educational status which may include medical psychological and/or educational testing of the youth in accordance with the school regulations to determine

whether learning problems may be a cause of the youth's absence from school and, if so, what steps have been taken to overcome the learning problems;

(d) That the social worker or other appropriate official of the youth's school has conducted an investigation to determine whether social problems may be a cause of the youth's absence from school and, if so that appropriate action has been taken; and

(e) That the school has sought assistance from appropriate agencies and resources available to the local school board or private school, or has referred the matter to a local social services agency for the purpose of utilizing and coordinating such agencies and resources.

(3) Time of filing.

(a) Upon the recommendation of the juvenile officer as provided for under Section 9-14-101(3), the youth presenter shall file a petition within forty-eight (48) hours, exclusive of weekends and holidays, if the youth is in custody.

(b) Upon the recommendation and receipt of the report of the juvenile officer as provided for under Section 9-14-101, the youth presenter shall file a petition within twenty (20) days if the youth has been previously released to a parent, guardian, custodian, relative, or responsible adult.

9-14-104. Issuance of summons. After a "youth offender" petition has been filed, the Youth Court shall direct the issuance of summons to:

- (1) The youth; and
- (2) The youth's parent, guardian or custodian.

9-14-105. Content of the summons. The summons shall contain the name of the Youth Court, the title of the proceedings, and the date, time, and place of the hearing. The summons shall also advise the parties of their applicable rights under Part 11 of this Title. A copy of the petition shall be attached to the summons.

9-14-106. Service of the summons. A law enforcement official or appointee of the Youth Court, shall serve summons upon the youth at least five (5) days prior to the hearing. If the summons cannot be delivered personally, to the youth's parents, custodian or guardian, the Youth Court may send it within ten (10) days of the hearing by registered mail to the last known address of the parties. A party, other than the youth, may waive service of summons by written stipulation or by voluntary appearance at the hearing.

Part 15

Youth Offender Consent Decree

9-15-101. Availability of consent decree. At any time after the filing of a "youth offender" petition, and before the entry of a judgment, the Youth Court may, on motion of the youth presenter or that of counsel for the youth, suspend the proceedings and continue the youth under supervision under terms and conditions negotiated with the juvenile officer and agreed to by all parties affected. The Youth Court's order continuing the youth under supervision under this section shall be known as a "consent decree".

9-15-102. Objection to consent decree. If the youth objects to a consent decree, the Youth Court shall proceed to adjudication and disposition of the case. If the youth does not object, but an objection is made by the youth presenter after consultation with the juvenile officer, the Youth Court shall, after considering the objections and the reasons given, determine whether it is appropriate to enter a consent decree and may, in its discretion, enter the consent decree.

9-15-103. Failure to fulfill terms and conditions. If, either prior to discharge by the juvenile officer or expiration of the consent decree, the youth fails to fulfill terms of the decree, the youth presenter may file a petition to revoke the consent decree. Proceedings on the petition to revoke shall be conducted according to Part 16 of this Chapter. If it finds the youth has violated the terms of the consent decree, the Youth Court may:

- (1) Extend the period of the consent decree; or
- (2) Order the Youth Court presenter to proceed with adjudication.

9-15-104. New youth offense complaint. If a new "youth offender" complaint is filed against the youth before discharge or expiration of the consent decree and the juvenile officer has conducted a preliminary inquiry, and authorized the filing of a petition the youth presenter, upon a finding that informal adjustment is not in the best interest of the youth and public, may;

- (1) File a petition to revoke the consent decree in accordance with Section 9-15-103; or
- (2) File a petition on the basis of the new complaint which has been filed against the youth.

9-15-105. Dismissal of youth offender petition. A youth who is discharged or completes a period of supervision without reinstatement of the original "youth offense" shall not proceed again, in any court, for the same offense alleged in the petition or an offense based upon the same conduct. The original petition shall be dismissed with prejudice. Nothing in this section precludes a civil suit against the youth for damages arising from this conduct.

Part 16

Youth Offender Proceedings

The following proceedings are subject to the Confidentiality provisions, previously set forth in Section 9-9-104.

9-16-101. Initial Hearing.

- (1) The Youth Court shall conduct a separate hearing on "youth offender" petitions.
- (2) The Youth Court shall conduct an Initial hearing for the purpose of advising the youth of his or her rights, ensuring that the youth understands his or her rights, reading of the petition, ensuring that the youth understands the allegations contained in the petition, and for the youth to enter an admission or denial to the allegations in the petition.
- (3) The initial hearing shall be held within ten (10) days of the filing of the Petition if the youth is in custody. If the youth was released from detention or the youth was never detained, the initial hearing shall be held within a reasonable time and shall be set by the court.
- (4) Notice of the initial hearing shall be given to the youth and the youth's parent, guardian or custodian, the youth's counsel and any other person the Youth Court deems necessary at least five (5) days prior to the hearing in accordance with Part 14 of this Title.
- (5) At this hearing, the youth and the youth's parent, guardian or custodian shall have the applicable rights listed in Section 11 of this Title.
- (6) Admission of allegations.
 - (a) If the youth admits the allegations of the petition, the Youth Court shall consider a disposition pursuant to Part 18 of this Chapter, only after a finding that:
 - (i) The youth fully understands his or her rights under Part 11 of this Chapter, and fully understands the consequences of his admission; and
 - (ii) The youth voluntarily, intelligently, knowingly, admits all facts necessary to constitute a basis for Youth Court action, and no facts are apparent to the court which if found to be true, would be a defense to the allegation.
 - (b) If the Youth Court finds that the youth has validly admitted the allegations contained in the petition, the Youth Court shall make and record its finding and schedule a disposition hearing in accordance with Part 18 of this Title. Additionally, the Youth Court shall specify in writing whether the youth is to be continued in an out-of-home placement pending the dispositional hearing.
- (7) Denial of allegations. If the youth denies all or some of the allegations of the petition, the Youth Court may order any disposition as deemed appropriate under Part 12 of this Chapter or continue with the proceedings as set forth below.

9-16-102. Scheduling Orders. Scheduling of further proceedings shall be done informally between the parties. If the youth is not in custody, a proposed order setting forth the witnesses of both parties, the date that discovery will be complete, and a date that all pretrial motions will be filed, shall be submitted to the Youth Court within

thirty (30) days of the initial hearing. If the youth is in custody, the proposed order shall be submitted to the Youth Court within ten (10) days of the initial hearing. Upon receipt of the proposed order, the Youth Court shall set a date for the adjudicatory hearing as set forth in Section 9-16-103.

9-16-103. Adjudicatory Hearing. (1) If the youth remains in custody, the Youth Court shall hold the adjudicatory hearing within thirty (30) days of receipt of the proposed scheduling order.

(2) If the youth is released from custody or was not taken into custody, then the adjudicatory hearing shall be held within a reasonable time and shall be set by the Youth Court.

(3) Except in cases of continued custody, notice of the adjudicatory hearing shall be given to the youth and the youths parent, guardian or custodian, the youths counsel and any other person the Youth Court deems necessary at least twenty (20) days prior to the hearing.

9-16-104. "Youth offender" finding after adjudicatory hearing.

(1) If the Youth Court finds on the basis of proof beyond a reasonable doubt that the allegation contained in the petition are true, the Youth Court shall make a record of its finding and schedule a disposition hearing in accordance with Part 18 of this Title. Additionally, the Youth Court shall specify in writing whether the youth is to be continued in an out-of-home placement pending the dispositional hearing.

(2) If the Youth Court finds that the allegations of the "youth offender" petition have not been established beyond a reasonable doubt, it shall dismiss the petition and order the youth released from any detention imposed in connection with the proceedings.

Part 17

Youth Offender Predisposition Studies:

Reports and Examinations

9-17-101. Predisposition study and report. The Youth Court may direct the juvenile officer to prepare a written predisposition study and report for the Youth Court concerning the youth, the youth's family, environment, and any other matter relevant to the need for treatment or other appropriate disposition of the case when:

- (1) The youth has been adjudicated as a "youth offender"; or
- (2) When the youth has admitted the allegation of the petition; or
- (3) When juvenile probation is requesting long term placement.

9-17-102. Contents of predisposition study and report. The report shall contain a specific plan for the youth, aimed at resolving the problems presented in the petition. The report shall contain a detailed explanation showing the necessity for the proposed plan of disposition and the benefits to the youth under the proposed plan. Preference shall be given to the dispositional alternatives which are least restrictive of the youths freedom and are consistent with the interests of the community.

9-17-103. Medical assessment and treatment. At any time the Youth Court may order a medical, psychological, or chemical dependency assessment of a youth arrested, detained or adjudicated for a "youth offense" to determine the mental or physical state of the youth so that appropriate steps can be taken to protect the youths health and well-being.

9-17-104. Transfer for diagnosis. The Youth Court may order that a youth adjudicated as a "youth offender" be transferred to an appropriate facility for a period of not more than sixty (60) days for purposes of diagnosis, with direction that the Youth Court be given a written report at the end of that period indicating the plan of intervention which appears most suitable.

9-17-105. Submission of reports. Evaluation, assessment, dispositional reports and other material to be considered by the Youth Court in a youth hearing shall be submitted to the Youth Court no later than ten (10) days before the scheduled hearing date for disposition. Copies will be provided to Youth Court Presenter and Youth's Counsel. The Court may exclude from the copies of the predisposition report which it distributes to the parties any information obtained under a promise of confidentiality, or any other information that if disclosed might result in harm to the defendant or other persons. In the event the Court excludes such information, however, the Court must inform the Youth in writing, at least five days before the disposition hearing, of the general nature of the information and the reasons for its exclusion from the report. Notwithstanding, the foregoing, the Youth shall have the right to the disclosure of the excluded information if:

- (1) the Court intends to rely in part on the information in making its decision on the disposition for the Youth;

and

(2) the Youth establishes that the disclosure of the information is essential to the presentation of Youth at disposition.

PART 18

Youth Offender Disposition Proceedings

9-18-101. Purpose and conduct of disposition hearing. Unless the youth waives the right to a separate hearing the Youth Court shall hold disposition hearings separate from other proceedings. The disposition hearing shall be conducted to determine how to resolve a case after it has been determined that the youth has committed a specific "youth offense". The Youth Court shall make and record its dispositional order in accordance with this Chapter. At the disposition hearing, the youth shall have the rights listed in Part 11 of this chapter, and the Confidentiality provisions set forth previously in Section 9-9-104 shall apply.

9-18-102. Time limitations on disposition hearings. If the youth remains in custody, the disposition hearing shall be held within ten (10) days after the adjudicatory hearing unless directed by the Youth Court otherwise. If the youth is released from custody or was not taken into custody, then the disposition hearing shall be held within a reasonable time after the adjudicatory hearing.

9-18-103. Notice of disposition hearing. Notice of the disposition hearing shall be given to the youth and the youth's parent, guardian or custodian, the youth's counsel and any other person the Youth Court deems necessary for the hearing at least five (5) days prior to the hearing in accordance with Section 9-14-106.

9-18-104. Evidence and reports. In the disposition hearing, the Youth Court may consider all relevant material information. The Youth Court shall consider any predisposition report, physician's report or social study it may have ordered. The Youth Court shall afford the youth, the youth's parent, guardian or custodian and the youth's counsel an opportunity to controvert the factual contents and conclusions of the report. The Youth Court shall also consider any alternative predisposition report or recommendations prepared by the youth or the youth's counsel.

9-18-105. Disposition alternatives. When it finds a youth is a "youth offender" the Youth Court may make and record any of the following orders of disposition, subject to conditions and limitations the Youth Court may prescribe:

- (1) Permit the youth to remain with his or her parents, guardian, or custodian;
- (2) Place the youth in the legal custody of a relative or other suitable person;
- (3) Order the youth to pay restitution;
- (4) Place the youth in the protective supervision of juvenile probation (as defined in Section 9-7-102);
- (5) Place the youth on probation;

- (6) Place the youth in a youth facility designated by the Youth Court, including alcohol or substance abuse emergency shelter or halfway house, foster home, group home, shelter home, or secure youth detention facility;
- (7) Impose a fine;
- (8) Order the youth to complete Community service;
- (9) Require the youth, the youth's parents or guardians, or the persons having legal custody of the youth to receive counseling services;

- (10) Require the medical and psychological evaluation of the youth, the youth's parents or guardians, or the persons having legal custody of the youth;
- (11) Any other disposition the court deems appropriate.

Part 19

Review, Modification, Revocation, Extension and Termination of Dispositional Orders

9-19-101. Mandatory review of disposition order. The Youth Court shall hold a hearing to modify, revoke, or extend a disposition order upon the motion of:

- (1) The youth;
- (2) The youth's parent, guardian, or custodian;

- (3) The youth's counsel;
- (4) The youth's counselor;
- (5) The juvenile officer;
- (6) The youth presenter;
- (7) The institution, agency, or person vested with the legal custody of the youth or responsibility for protective supervision; or
- (8) The Youth Court on its own motion.

9-19-102. Hearing to modify, revoke, or extend disposition order. A hearing to modify, revoke, or extend the disposition order shall be conducted according to Part 18 of this Chapter.

9-19-103. Automatic termination of disposition order. All disposition orders shall automatically terminate when the youth reaches eighteen (18) years of age. Unless otherwise ordered by the Youth Court the disposition order shall not, however, extend beyond the youth's nineteenth (19th) birthday. The records concerning the youth shall be destroyed according to Section 9-20-103.

Part 20

Youth Records

9-20-101. Youth Court records. A record of all hearings under this Code shall be made and preserved. All Youth Court records shall be confidential and closed to inspection by the general public as set forth in Section 9-9-104. For the purposes of this Code, only the following persons are "authorized persons" and permitted access to the case files for authorized uses:

- (1) The Youth Court personnel directly involved in handling of the case;
- (2) The youth and his/her attorney or advocate; or
- (3) Any other person by order of the Youth Court; having a legitimate interest in the particular case or the work of the Youth Court.

9-20-102. Law enforcement records. Law enforcement records and files concerning a youth shall be kept separate from the records and files of adults. All youth law enforcement records shall be confidential and shall not be open to inspection to any but the following:

- (1) Law enforcement personnel directly involved in the handling of (he case;
- (2) The Youth Court personnel directly involved in handling of the case; or
- (3) Any other person by order of the Youth Court having a legitimate interest in the particular case or the work of

9-20-103. Disposition of records. Youth Court and law enforcement records shall be sealed when the youth reaches the age of eighteen (18), unless the case is an on going case. Youth records shall be destroyed three (3) years after jurisdiction over the youth ends. After that time the Youth Court personnel shall respond to all record inquiries as if no records ever existed.

Part 21

Youth Appeals

9-21-101. Who can appeal. Any party to a Youth Court hearing may appeal a final Youth Court order, including all transfer, adjudication and/or disposition order, except that the Tribe cannot appeal an adjudication order.

9-21-102. Stay of order or disposition by appeal. Upon application to the Youth Court, a final order or disposition of a hearing may be stayed by such appeal.

9-21-103. Conduct of proceedings. All appeals shall be conducted in accordance with the Crow Tribal Code and Crow Tribal Court rules of procedure so long as those provisions are not in conflict with the provisions of this Title.