

**SAC AND FOX NATION TRIBAL CODE
TITLE 20 ARTICLE 3**

**TITLE 20
JUVENILE PROCEDURE**

**ARTICLE 3
ADJUDICATION**

Section 301. Court Intake

(a) Referral: Whenever it appears to a law enforcement officer or any other person that a child is or appears to be within the Court's jurisdiction, by reason of delinquency, need of supervision, neglect, or deprivation, or in need of care, the law enforcement officer may refer the matter conferring or appearing to confer jurisdiction to the Juvenile Presenting Officer or the Social Services worker, who shall determine whether the interest of the child or of the community requires that further action be taken.

(b) Initiating a Case: If the Social Services worker determines that the interests of the child or the community require that court action be taken, the Social Service Worker shall request in writing that the Tribal Presenting Officer file a petition. The Worker shall deliver a copy of the entire case file to the Presenting Officer.

(c) Petition: If the Presenting Officer finds that there is sufficient evidence to judicial action is in the best interest of the child and the community, the Presenting Officer shall prepare a petition conforming with the requirements set forth in section 303. The Presenting Officer shall request an affidavit prepared by the Social Service Worker in support of the allegations set forth in the petition.

(d) Further Investigation: If the Presenting Officer is unable to determine from information available to him/her whether the interests of the child or the Tribe require that Court action be taken, he/she may refer the matter to law enforcement or other agency designated by the Court for a preliminary investigation and recommendations as to filing a petition or as to initiating an informal adjustment pursuant to this Title.

(e) Non-Judicial Action: If the Social Services Worker determines that the interest of the child or of the Tribe do not require Court action, the Social Service Worker may offer social services and make referrals to other agencies as may be feasible to help the family with any problems they may have.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §301]

Section 302. Presenting Officer's Intake

(a) Upon receiving a request to file a petition and the accompanying reports and files from the Social Service Worker, the Presenting Officer shall review the case file, reports, and any witness statements to determine if there is sufficient evidence which will be admissible under the Sac and Fox Rules of Evidence to establish the jurisdiction of the Court over the child.

(b) If the Presenting Officer determines that there is not sufficient evidence available to establish the jurisdiction of the Court over the child, he/she shall, in writing, refuse to file the requested petition, or, in his/her discretion, may request the Department or law enforcement agency to conduct a further investigation into the matter.

(c) The Presenting Officer shall file a petition concerning the child if he/she determines that there is sufficient evidence available to establish the jurisdiction of the Court over the child.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §302]

Section 303. Petition—Contents

Adjudicative proceedings under this Chapter shall be initiated by a petition that:

- (a) Is signed and filed by the Juvenile Presenting Officer on behalf of the Tribe;
- (b) Is certified, to the best of the Juvenile Presenting Officer's knowledge, information, and belief, there are sufficient grounds to believe the child has committed a delinquent act;
- (c) Sets forth, with specificity;
 - (1) The name, birth date, and residence of the child;
 - (2) The name and residence of the child's parent, guardian, or custodian;
 - (3) A citation to the specific section(s) of this title which give the Juvenile Court jurisdiction over the proceedings;
 - (4) A citation to the specific criminal statute or other law or ordinance which the child is alleged to have violated; and
 - (5) A plain and concise statement of the facts, upon which the allegations are based, including the date, time, and location at which the alleged acts occurred.
- (d) Petition Form: The Presenting Officer shall sign and file all child welfare petitions alleging a child to be a delinquent or a child-in-need-of-care. Such petitions and all subsequent Court documents shall contain the heading and title in substantially the following form:

IN THE TRIBAL COURT
JUVENILE DIVISION
SAC AND FOX NATION OF KANSANS AND NEBRASKA

The Sac and Fox Nation)	
In the Interest)	CASE NO
)	
An Alleged Child,)	
And Concerning)	PETITION
)	
Respondents.)	

- a. [The petition shall set forth plainly the facts which bring the child within the Court's jurisdiction.]

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §303]

Section 304. Petition—Time for Filing

A petition shall be filed and presented at the Initial Appearance as follows:

- (a) Where the child was taken into custody and has not been released to his parent(s), guardian, or custodian, within 72 hours of the detention.
- (b) When the child has been released to the custody of his parent(s), guardian, or custodian, within ten (10) days of the detention.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §304]

Section 305. Amendments to the Petition

The delinquency petition may be amended to cure defects of the form at any time and may be amended to alleged additional delinquent acts.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §305]

Section 306. Initial Appearance—Notice

A written notice of the Initial Appearance shall:

- (a) be served on the child, the child's parent, guardian, or custodian, and counsel for the child as soon as the time for the Initial Appearance has been set;
- (b) in all other respects be served in accordance with the provisions of Section 317 of this Title;
- (c) contain the name of the Court, the nature and purpose of the proceedings, and the date, time, and place of the hearing;
- (d) advise the parties of their rights under the provisions of this Title; and
- (e) For a delinquency petition, specify the delinquent act the child is alleged to have committed.
- (f) For a petition for a child-in-need-of-services, specify the reasons why the child is alleged to be a child-in-need-of-services.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §306]

Section 307. Initial Appearance —Purpose

The Juvenile Court shall conduct the Initial Appearance for the purpose of determining:

- (a) For a delinquency petition:

- (1) whether probable cause exists to believe the child has committed a delinquent act, unless the Juvenile Court has entered a finding of probable cause, in accordance with the provisions of Sections 308 or 217, at a prior hearing;
 - (2) whether the child can be released without conditions;
 - (3) if the child cannot be released without conditions, what conditions of release imposed in accordance with the provisions of Section 209, would render detention unnecessary; and
 - (4) if detention is necessary and authorized under Section 203, where the child should be detained pending the child's next appearance before the Juvenile Court.
- (b) For a child-in-need-of-care/supervision petition:
- (1) Whether probable cause exists to believe that the child is a child-in-need-of-care/supervision;
 - (2) Whether the child can be placed with his/her parents;
 - (3) If the child cannot be placed with his/her parents, whether reasonable efforts have been made to prevent or eliminate the need for removal of the child from the parental home, and whether continuation in the home is contrary to the health, safety or welfare of the minor child; and
 - (4) Where the child should be placed until the adjudication hearing.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §307]

Section 308. Initial Appearance—Conduct

At the Initial Appearance, the Juvenile Court shall advise the child and/or the parents, guardians, or custodian of the following:

- (a) Rights and outcomes:
 - (1) The nature and purpose of the proceedings;
 - (2) The allegations against him/her set forth in the delinquency petition;
 - (3) The possible consequences, if the allegations of the petition are found to be true;
 - (4) The right to an attorney at his/her own expense;
 - (5) The privilege against self-incrimination;
 - (6) The right to an adjudication in accordance with the provisions of this chapter;
 - (7) The right to testify or remain silent and that any statement made by him/her may be used against him/her;
 - (8) The right to cross-examine witnesses;
 - (9) The right to subpoena witnesses on his/her own behalf; and
 - (10) The right to testify and introduce evidence on the child's own behalf.
- (b) Upon advising the child of his/her rights in a delinquency petition or a child-in-need-of-supervision petition, and the parent, guardian, or custodian of their rights in a child-in-need-of-care petition, the Juvenile Court shall inquire whether the child (for a delinquency and

child-in-need-of-supervision petition), and the parent, guardian, or custodian (in a child-in-need-of-care petition) admits or denies the allegations set forth in the delinquency petition.

(1) If an admission is entered, the Juvenile Court shall proceed accordingly pursuant to Section 309.

(2) If a denial is entered, the Juvenile Court shall proceed according to the provisions of Section 310.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §308]

Section 309. Admission of Allegations

(a) Before accepting an admission by the child to the allegations of the delinquency petition or the parents in a child-in-need-of care petition, the Juvenile Court:

(1) Shall inquire the following of the juvenile and/or the parent, guardian, or custodian:

(A) Whether they have consulted with legal counsel;

(B) Whether they understand the nature of the proceedings, the purpose of the adjudication hearings, and the procedures to be followed if the child or parent denies the allegations;

(C) Whether they understand their rights under the provisions of this Chapter;

(D) If they understand consequences of an admission; and

(E) That the juvenile or parent voluntarily, intelligently, and knowingly admits facts sufficient to support a finding that the he/she committed the delinquent act(s).

(2) Shall inquire whether each party

(A) is satisfied that there is sufficient evidence to support the allegations; and

(B) the admission is based upon an agreement of the parties regarding disposition recommendations submitted to the Court pursuant to Section 401.

(3) Shall provide the child's parent, guardian, or custodian an opportunity to be heard with regard to any matter addressed pursuant to this Title

(b) The Juvenile Court may accept the admission of the juvenile:

(1) upon satisfaction of requirements in subsection (a) of this Section; and

(2) that there are no other compelling factual or legal grounds for declining to accept the admission.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §309]

Section 310. Denial of Allegations

If the juvenile or the parents, guardian, or custodian deny the allegations set forth in the petition, or stands mute or refuses to answer, the Juvenile Court shall proceed with an adjudication as set forth in Section 316.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §310]

Section 311. Order on Initial Appearance

(a) Delinquency Petition:

(1) At the Initial Appearance, the Juvenile Court shall enter a written order releasing the child without conditions; unless the Juvenile Court finds, based on a filed affidavit or sworn testimony before the Juvenile Court that there is probable cause to believe the child has committed a delinquent act or that there is reason to believe that the child is in need of services.

(2) If the Juvenile Court finds that there is probable cause to believe the child has committed a delinquent act, the Juvenile Court shall enter a written order articulating the findings set forth in Section 307 (a).

(3) If the child was taken into custody as the result of a failure to appear before the Juvenile Court, the written order entered by the Juvenile Court shall be consistent with the provisions of Section 319.

(4) If the child is to be detained in a secure detention facility, the written order shall specify the date and time of the first detention review hearing.

(b) Child-in-need-of-care/supervision Petition

(1) at the Initial Appearance, the Juvenile Court shall enter a written order releasing the child to his/her parents; unless the Juvenile Court finds, based on a filed affidavit or sworn testimony before the Juvenile Court that there is probable cause to believe the child is a child-in-need-of-services.

(2) If the Juvenile Court finds that there is probable cause to believe the child is a child-in-need-of-services, the Juvenile Court shall enter a written order Section 307.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §311]

Section 312. Diversion Agreement—Form and Substance

(a) Prior to the filing of a petition, Social Services may recommend to the Presenting Officer, and the Presenting Officer may accept the recommendation that a juvenile's case be diverted for all cases, except those subject to subsection (b). Upon acceptance of the diversion, the child, the child's parent, guardian, or custodian may enter into a written diversion agreement setting forth:

(1) The rights of the child, and the child's parent, guardian, or custodian under the provisions of this title;

(2) That the entry into a diversion agreement is voluntary and that the child or the child's parent, guardian, or custodian may withdraw from the diversion agreement at any time;

(3) That the withdrawal from the diversion agreement may lead to the filing of a delinquency petition;

(4) The specific facts or allegation, including dates, which gave rise to the condition addressed by the contract.

(5) The specific treatment program(s), including duration, the parent, guardian, or custodian agrees to successfully complete.

(6) The specific facts or behaviors which the parent, guardian, or custodian agrees to do or to refrain from doing.

(7) The particular conditions, which may include any of the options specified in Section 314, to be fulfilled by the child and the child's parent, guardian, or custodian over a period not to exceed one year.

(8) That the Tribe will not file a petition on the subject of the contract for the facts or allegations stated if the parents, guardian, or custodian comply with the contract terms for the full term of the contract.

(b) A juvenile is not eligible for diversion if:

(1) Section 208 applies; or

(2) The juvenile has had a delinquency petition sustained or a separate diversion agreement in the previous 12 months.

(c) If the petition is filed prior to the entry of a diversion agreement, the child, and the child's parent, guardian, or custodian may enter into a diversion agreement, only after the Court has informed and confirmed the child, and the child's parent, guardian, or custodian of their rights to:

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

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

(3) Refuse to testify against themselves or each other in delinquency cases;

(4) A trial before the Judge;

(5) Be represented by counsel at their own expense at each stage of the proceedings;

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §312]

Section 313. Diversion Agreement—Fulfillment of Conditions

(a) If the child and the child's parent, guardian, or custodian fulfill the conditions of the diversion agreement, no further action shall be taken in the matter.

(b) If the child or the child's parent, guardian or custodian do not fulfill the conditions of the diversion agreement, the Department worker may:

(1) Confer with the child and the child's parent, guardian, or custodian for the purpose of effecting necessary or recommended modifications to the diversion agreement; or

(2) Recommend that the Juvenile Presenting Officer file a delinquency petition in accordance with the provisions of Section 312.

(c) Upon finding by a preponderance of the evidence that the child and the child's parent, guardian, or custodian have fulfilled the conditions of the diversion agreement, the Juvenile Court shall dismiss with prejudice any subsequent delinquency petition arising out of the alleged incident.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §313]

Section 314. Diversion Options

A diversion may require that:

- (a) The child and the child's parent, guardian, or custodian participate in
 - (1) social, community, or tribal services or resources appropriate for addressing the needs of the child and the child's parent, guardian, or custodian;
 - (2) other programs or activities aimed at rehabilitation, community involvement, or competency development, or which are otherwise appropriate for addressing the child's needs;
- (b) the child's parent, guardian, or custodian participate in:
 - (1) educational or counseling programs designed to deter delinquent acts or other conduct or conditions which would be harmful to the child or the community.
 - (2) educational or counseling programs designed to contribute to their ability to care for and supervise the child, including but not limited to parenting classes;
 - (3) medical, psychological, or psychiatric evaluations or treatment;
- (c) that the child:
 - (1) pay restitution;
 - (2) perform community service;
 - (3) maintain satisfactory school attendance, or otherwise pursue a course of study designed to lead to achieving a high school diploma or equivalent;
 - (4) participate in structured after-school, evening, or other court-approved programs appropriate for addressing the needs of the child and providing for the safety of the community; and
 - (5) Participate in other reasonable conditions aimed at holding the child accountable for his/her actions, providing for the safety and protection of the community, or promoting the development of competencies which will enable the child to become a responsible and productive member of the community.
- (d) A diversion agreement shall not include:
 - (1) Detention in a secure detention facility, nor participation in alternative programs or services specifically intended as alternatives to secure detention or otherwise directed solely at meeting the needs of the juvenile;
 - (2) A requirement that the child's parent, guardian, or custodian undergo medical, psychological, or psychiatric treatment, unless such treatment is recommended by a qualified medical professional and necessary to address conditions which contributed to the alleged delinquent act or allow the child to remain with or be returned to the custodian of the child's parent, guardian, or custodian.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §314]

Section 315. Diversion Contract Inadmissible

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

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §315]

Section 316. Adjudicatory Hearing

(a) Types of Hearings and burdens of proof:

(1) Delinquency: In all matters alleging that the child is a delinquent minor, the rules of criminal procedure shall apply. The Court shall consider whether the allegations of the petition are supported by evidence beyond a reasonable doubt.

(2) Child-in-need-of-Supervision: In all matters alleging that the child is a minor in need of supervision, the rules of juvenile procedure apply. The Court shall consider whether the allegations of the petition are supported by evidence beyond a reasonable doubt.

(3) Child-in-need-of-care or neglected or dependent children: In all matters alleging that the child is a child-in-need-of-services, the rules of juvenile procedure shall apply and the Court shall consider whether the allegations of the petition are supported by a preponderance of the evidence.

(b) Issues not raised in the Petition:

(1) When it appears that the evidence presented at the hearing discloses issues not raised in the petition, the Court may proceed immediately to consider the additional or different matters raised by the evidence if the parties consent.

(2) In such event, the Court, on motion of any interested party or on its own motion, shall order the petition to be amended to conform to the evidence.

(3) If the amendment results in a substantial departure from the original allegations in the petition, the Court shall continue the hearing on the motion of any interested party, or the Court may grant a continuance on its own motion if it finds it to be in the best interests of the child, or any other party to the proceeding.

(c) An adjudicatory hearing shall be held within thirty (30) days of the Initial Hearing. The Court shall conduct the hearing for the sole purpose of determining the guilt or innocence of a juvenile offender or for determining if the minor is a child-in-need-of-services.

(d) If it appears from the evidence that the child may be mentally ill or developmentally disabled, the court shall proceed under Section 320.

(e) Before making an adjudication, the Court may continue the hearing from time to time, allowing the child to remain in his/her own home or in the temporary custody of another person or agency subject to such conditions of conduct and of visitation or supervision by the Department or other agency as the Court may prescribe, if:

(1) Consent is given by the child and his/her parent, guardian, or custodian after being fully informed by the Court of their rights in the proceeding, including their right to have an adjudication made either dismissing or sustaining the petition;

(2) Such continuation shall extend no longer than six months without review by the Court. Upon review, the Court may continue the case for any additional period not to exceed six (6) months, after which the petition shall be either dismissed or sustained.

(f) When the Court finds that the allegations of the petition are not supported by evidence as set forth in subsection (a) of this Section, the Court shall order the petition dismissed and the child discharged from any detention or restriction previously ordered. His/her parents, guardian, or custodian shall also be charged from any restriction or other previous temporary order.

(g) When the Court finds that the allegations in the petition are supported by evidence as set forth in subsection (a) of this section, the Court shall:

(1) Sustain the petition and shall make an order of adjudication setting forth whether the child is in need of supervision or neglected or dependent. In cases concerning neglected or dependent children, evidence that the child abuse or non-accidental injury has occurred shall constitute prima facie evidence that such child is neglected or dependent, and such evidence shall be sufficient to support an adjudication under this Section;

(2) Specify whether the child is to be continued in an out-of-home placement or returned to the care of his/her parents, with conditions, if any.

(3) The court shall then hold the dispositional hearing, but such hearing may be continued on the motion of any interested party or on the motion of the Court.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §316]

Section 317. Summons

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

IN THE TRIBAL COURT
JUVENILE DIVISION
SAC AND FOX NATION OF KANSAS AND NEBRASKA

The Sac and Fox Nation of Kansas and Nebraska)	Case No.
In the Interest of:)	
_____)	SUMMONS
An Alleged Child,)	
and Concerning:)	
_____)	
Respondent(s).)	

SAC AND FOX NATION OF KANSAS AND NEBRASKA to:
Respondents.

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

YOU ARE THEREFORE ORDERED TO APPEAR at the Courtroom of the Tribal Court, Reserve, Kansas, on the _____ day of _____, at the hour of _____ o'clock a.m./p.m. and to there remain subject to the call of the Court until discharged so that you may be advised of the allegations contained in the petition and may answer that you admit or deny the allegations of the petition.

YOU ARE FURTHER ORDERED, if the above-named child is in your physical custody or subject to your control to bring the child to Court with you. You may seek the advice of an attorney on any matter relating to this action at your own expense.

Clerk of the Court

(b) A summons need not issue or be served upon any respondent who appears voluntarily, or who waives service in writing before the Clerk of the Court or who has signed a promise to appear at the hearing, but any such person shall be entitled to a copy of the petitions and summons upon request.

(c) The Court, on its own motion or on the motion of any party may join as a respondent or require the appearance of any person it deems necessary to the action and authorize the issuance of the summons directed to such person.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §317]

Section 318. Service of Summons

(a) Summons may be served in the following manners:

- (1) Personally, pursuant to the Tribe's Rules of Civil Procedure;
- (2) By certified mail, return receipt requested;

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

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

(2) When the person to be served has no residence within the Tribe's jurisdiction and his/her place of residence is not known or when he/she cannot be found within the Tribe's jurisdiction after due diligence, service may be made by publication. Publication may be made by either of the following manners:

(A) In a local newspaper.

(B) By posting the summons in three (3) public places on the reservation, including the Tribal Office building and the gas station. Such public places may include the school, the post office, or other community center.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §318]

Section 319. Failure to Appear

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

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

(c) When a parent or other person who signed a written promise to appear and bring the child to Court, or who has waived or acknowledged service fails to appear with the child on the date set by the Court, a bench warrant may be issued for the parent or other person, the child, or both.

(d) When a parent, guardian, custodian has been served or has signed a promise to appear for an adjudicatory hearing, the Presenting Officer may move the Court for a default judgment, thereby finding the juvenile is a child-in-need-of-services.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §320]

Section 320. Mentally Ill and Developmentally Disabled Children

(a) If it appears from the evidence presented and an adjudicatory hearing or otherwise that the child may be mentally ill or developmentally disabled, as these terms are defined in this section, the Court shall order that the child be examined by a physician, psychiatrist, or psychologist and may place the child in a hospital or other suitable facility for the purpose of examination for a period not to exceed thirty (30) days.

(b) A suitable facility for the purpose of examination shall be a facility designated by the Court for treatment and evaluation, but neither a Tribal, city, or county jail nor a detention facility shall be considered a suitable facility under any circumstances.

(c) If the report of the examination made pursuant to subsection (1) of this section states that the child is mentally ill to the extent that hospitalization or institutional confinement and treatment is required, the Court may order such hospitalization, institutional confinement, or treatment prior to or after adjudication.

(d) The Court may dismiss the original petition when a child who has been ordered to receive treatment is no longer receiving treatment.

(e) The Court shall set a time for resuming the hearing on the original petition when:

(1) The report of the examination made pursuant to subsection (1) of this Section states that the child is not mentally ill to the extent that hospitalization or institutional confinement and treatment are required;

(2) The child is found not to be mentally ill;

(3) The report of the examination made pursuant to Subsection (1) of this Section states that the child is developmentally disabled but not mentally, ill.

(f) “Mentally Ill person” means a person who is of such mental condition that he/she is in need of supervision, treatment, care, or restraint.

(g) “Developmental disability” means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or a neurological impairment, which may have originated during the first nineteen (19) years of life which can be expected to continue indefinitely, and which constitutes a substantial handicap.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §320]

Section 321. Dismissal of Petition

When the Court finds that the allegations of the petition are not supported by evidence as set forth in Section 316(a), the Court shall order the petition dismissed and the child discharged from any detention or restriction previously ordered. His/her parents, guardian, or custodian shall also be discharged from any restriction on the previous temporary order.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §321]

Section 322. Sustaining Petition

When the Court finds that the allegations of the petition are supported by evidence as set forth in Section 316(a), the Court shall sustain the petition and make an order of adjudication setting forth whether the child is delinquent or a child-in-need-of-services, and making the child a ward of the Court. In cases concerning a child-in-need-of-services, the evidence that child abuse or non-accidental injury has occurred shall constitute prima facie evidence that such child is neglected or dependent and such evidence shall be sufficient to support an adjudication under this Section.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §322]

Section 323. Temporary Orders

Upon sustaining a petition, the Court shall make such dispositional orders as may be necessary to protect the child prior to the dispositional hearing which shall be held without undue delay.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §323]