

**SAC AND FOX NATION TRIBAL CODE  
TITLE 20 ARTICLE 4**

**TITLE 20  
JUVENILE PROCEDURE**

**ARTICLE 4  
DISPOSITION**

**Section 401. Pre-Dispositional Report and Treatment Plan**

(a) The Department shall prepare and present a written report to the Court at least 3 days before a dispositional hearing. The report shall contain a specific plan for the care and assistance to the minor or his/her parents, guardian, or custodian which is calculated to resolve the problems presented in the petition.

(b) In every case, the Court shall order the Department to prepare a detailed treatment plan for the treatment and disposition of the problems identified in the adjudication. The treatment plan shall contain at a minimum:

- (1) A brief social and family history;
- (2) A brief statement of the Court's jurisdiction in this matter
- (3) The specific actions the parents, guardian, custodian, or child should be ordered to do or refrain from doing and the reasons therefore.
- (4) The specific treatment or other social services offered by the Tribe which the family should be required to accept.
- (5) The person or agency vested with custody of the child if the child cannot remain in his/her own home, and a detailed plan describing how and when the child will be returned to his/her home under supervision and when Court supervision should cease.

(c) The Court may order any agency within its jurisdiction and request any other agency to prepare and submit to the Court after the adjudication and prior to disposition a social study home study, family or medical history or other reports which may be helpful in determining proper treatment and disposition for family.

(d) After adjudication, the Court may order or request, as appropriate, any agency to submit any pre-adjudicatory social studies r reports helpful in determining proper treatment and disposition for the family.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §401]

**Section 402. Dispositional Hearing**

After making an order of adjudication finding the child to be a ward of the Court, the Court shall hear evidence on the question of proper disposition best serving the interests of the child and the Tribe at a hearing scheduled for that purpose.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §402]

### **Section 403. Informal Nature of the Dispositional Hearing**

The dispositional hearing shall be informal, and the general rules of procedure and evidence shall not apply so that all pertinent information may be considered in determining treatment and disposition. However, when feasible, the Court shall order the writer of any report or study to appear and answer questions regarding that report if it be challenged by any party.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §403]

### **Section 404. Medical Examination.**

The Court may have the child examined by a physician, psychiatrist, or psychologist, and the Court may place the child in a hospital or other suitable facility for this purpose.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §404]

### **Section 405. Continuance**

(a) The Court may continue the dispositional hearing, either on its own motion or on the motion of any interested party, for a reasonable period to receive reports or other evidence, but the Court shall continue the hearing for good cause on the motion of any interested party in any case where the termination of the parent-child legal relationship is a possible remedy.

(b) If the hearing is continued, the Court shall make an appropriate order for detention or placement of the child or for his/her release to the custody of his/her parents, guardian, or other responsible person or agency under such conditions of supervision as the Court may impose during the continuance.

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

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §405]

### **Section 406. Order of Protection**

(a) The Court may make an order of protection in assistance of, or as a condition of, any decree of disposition authorized by this Article. The order of protection may set forth reasonable conditions of behavior to be observed for a specified period by the parent, guardian, or any other person who is a party to the proceeding.

(b) The order of protection may require any such person;

- (1) To stay away from a child or his/her residence;
- (2) To permit a parent to visit a child at stated periods;
- (3) To abstain from offensive conduct against a child, his/her parent, guardian, or any other person to whom legal custody of a child has been given;
- (4) To give proper attention to the care of the home;
- (5) To cooperate in good faith with an agency;



- (A) Which has been given the legal custody of a child
- (B) Which is providing protective supervision of a child by Court order; or
- (C) To which the child has been referred by the Court
- (6) To refrain from acts of omission or commission that tend to make a home an improper place for a child; or
- (7) To perform any legal obligation of support.
- (c) When such an order of protection is made applicable to a parent or guardian, it may specifically require his/her active participation in the rehabilitation process and may impose specific requirements upon such parent or guardian, subject to the penalty of contempt for failure to comply with such order without good cause, as provided in subsection (e) of this Section.
- (d) After notice and opportunity for hearing is given to a person subject to an order of protection, the order may be terminated, modified, or extended for a specific period of time if the Court finds that the best interests of the child and the Tribe will be served thereby.
- (e) A person failing to comply with an order of protection without good cause may be found in contempt of Court.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §406]

#### **Section 407. Placement Preferences**

- (a) In making a placement of or committing legal custody of a child to some person in the dispositional process whether for foster care or adoption, the Court shall place the child in the following descending order of preference:
  - (1) The biological parents, adoptive parents or stepparents;
  - (2) The child's biological grandparents
  - (3) Biological aunts or uncles
  - (4) Any other person who is a member of the child's family
  - (5) A traditional custodian who is a member of the Tribe
  - (6) A traditional custodian who is a member of another tribe
  - (7) An Indian foster family home licensed by the Department
  - (8) A foster family home licensed by any other licensing agency or authority within the state or Indian foster family home licensed by some other tribe
  - (9) Any other member of the Tribe
  - (10) any other Indian person
  - (11) a childcare institution licensed or approved by the Department with a program suitable to meet the child's needs
- (b) Where appropriate, the Court may consider the preference of the parents and the proximity of the foster home to the parent's home in applying these preferences.
- (c) The Court shall make every effort to place the child on-reservation but done in accordance with the placement preferences above and any placement shall take into consideration on-reservation resources or the resources of another tribe and that any placement is in the best interest of the child and the Tribe.

(d) In a case where the child has exceptional therapeutic, psychological, emotional, or behavioral needs, the Court may, upon the recommendation of the placement authority, deviate from these preferences in order to meet the special needs of that particular child.

(e) For each possible placement, the Court shall consider the willingness, fitness, ability, suitability, and availability of each person in a placement category before considering the next lower level of placement preference.

(f) The Court may place the child with the Department, or a child placement agency approved by the Department or the Tribal Council for further placement in lieu of a direct placement pursuant to subsection (a) of this Section. When the Court does so, the agency shall place said child in accordance with the preferences described above, and any person having a prior preference may petition the Court to review the placement of a lower preference made by that Agency.

(g) Social Services shall ensure that all placements are safe and appropriate prior to placing a child in the care of the placement and shall ensure that all efforts are made to ensure that placements and any other adults living in the same residence as the placement do not have previous child abuse or other dangerous criminal convictions, are not on listed as registered sex offenders, or are otherwise unsuitable as placement.

(h) State courts shall follow the placement preference rules outlined herein.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §407]

#### **Section 408. Disposition of a Child-in-Need-Of-Care**

(a) When a child has been adjudicated to be a child-in-need-of-care, the Court shall enter a decree of disposition. When the decree does not terminate the parent-child legal relationship, it shall include one or more of the following provisions which the Court finds appropriate:

(1) The Court may place the child in the legal custody of one or both parents or the guardian, with or without protective supervision, under such conditions as the Court may impose.

(2) The Court may place the child in the legal custody of a relative or other suitable person with or without protective supervision, under such conditions as the Court may impose, in accordance with Section 407.

(3) The Court may place custody in the Department or a child placement agency for placement in a foster family home or childcare institution in accordance with Section 407.

(4) The Court may order that the child examined or treated by a physician, surgeon, psychiatrist, or psychologist or that he/she received other special care and may place the child in a hospital or other suitable facility for such purposes

(b) The Court may enter a decree terminating the parent-child legal relationship of one or both parents when all reasonable efforts to treat the family have failed.



(c) Upon the entry of a decree terminating the parent-child legal relationship of both parents, of the sole surviving parent, or of the mother of a child born out of wedlock, the Court may:

(1) Vest the Department with the custody and guardianship of the child for the purpose of placing the child for adoption according to the placement preferences; or

(2) Make any other disposition that the Court finds appropriate.

(d) Upon the entry of a decree terminating the parent-child relationship of one parent, the Court may:

(1) Leave the child in the legal custody of the other parent and discharge the proceedings; or

(2) Make any other disposition that the Court finds appropriate.

(e) When a child has been adjudicated as a child-in-need-of-care because he/she has been abandoned by his/her parent, or parents, the Court may enter decree terminating the parent-child legal relationship if it finds:

(1) That the parent(s) having legal custody have willfully surrendered physical custody for a period of six (6) months and during this period have not manifested to the child or the person having physical custody a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child; or

(2) That the identity of the parent(s) of the child is unknown and has been unknown for a period of ninety days and that reasonable efforts to identify and locate the parents have failed.

(f) In placing the legal custody or guardianship of the person of a child with an individual or a private agency, the Court shall give primary consideration to the welfare of the child but shall take into consideration the religious preferences of the child or of his/her parents whenever practicable.

(g) When a child has been placed in the legal custody of the Department of Social Services under this section, may recommend that a guardianship with a relative or other appropriate individual be put in place after reasonable efforts have been made to work with the parent(s) of the child. A guardianship under this section shall follow the requirements of Section 417.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §408]

#### **Section 409. Disposition of a Child-in-Need-of-Supervision**

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

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

(b) The Court may place the child in the legal custody of a relative or other suitable person under such conditions as the Court may impose, which may include placing the child on probation or under protective supervision in accordance with Section 407.

(c) The Court may require as a condition of probation that the child report for assignment to a supervised work program

(d) The Court may place custody in the Department for placement in a foster family home or childcare institution.

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

(f) The Court may commit the child to any institution or group care facility that provides a proper and suitable level of care for the child.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §409]

#### **Section 410. Disposition of a Delinquent Child**

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

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

(b) A commitment of a child to a designated institution under Section 409 or this Section shall be for an indeterminate period of time, not to exceed two (2) years.

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

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

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §410]

#### **Section 411. Legal Custody; Guardianship**

(a) Any individual, agency, or institution vested by the Court with the legal custody of a child shall have the following rights and duties:

(1) The duty to provide food, clothing, shelter, ordinary medical care, education, and discipline for the child. Guardianship of the person or a child, or legal custody of a child, may be taken from his/her parents only by Court action.

(2) The authority to consent to marriage, to enlist in the Armed Forces, and to extraordinary medical or surgical treatment;



(3) The authority to represent a child in legal actions and to make other decisions of substantial legal significance concerning the child;

(4) The authority to consent to the adoption of a child when the parent-child relationship has been terminated by judicial decree or the death of parents;

(5) The rights and responsibilities of the physical and legal care, custody, and control of a child when legal custody has not been vested in another person, agency, or institution; and

(6) Any individual, agency, or institution vested by the Court with guardianship of the person of a child shall have rights and duties of custody; except that no guardian of the person may consent to the adoption of a child unless that authority is expressly given him/her by the Court.

(b) If legal custody or guardianship of the person is vested in an agency or institution, the Court shall transmit, with the Court order, copies of the social study, any clinical reports, and other information concerning the care and treatment of the child.

(c) An individual, agency, or institution having legal custody or guardianship of the person of a child shall give the Court any information concerning the child which the Court at any time may require.

(d) Any agency vested by the Court with legal custody of a child shall have the right, subject to the approval of the Court, to determine where and with whom the child shall live.

(e) No individual vested by the Court with legal custody of a child shall remove the child from the State for more than thirty (30) days without Court approval.

(f) A decree vesting legal custody of a child in an individual, institution, or agency shall be for an indeterminate period, not to exceed two (2) years from the date it was entered. Such decree shall be reviewed by the Court no later than six (6) months after it is entered.

(g) The individual, institution, or agency vested with the legal custody of a child may petition the Court for renewal of the decree. The Court, after notice and hearing, may renew the decree for such additional period as the Court may determine, if it finds such renewal to be in the best interest of the child. The findings of the Court and the reasons therefore shall be entered with the order renewing or denying renewal of the decree.

(h) No custodian or guardian of the person may be removed without his/her consent until given notice and an opportunity to be heard by the Court if he/she so requests.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §411]

## **Section 412. Probation for Delinquents**

The Terms and conditions of probation shall be specified by rules or order of the Court. The Court, as a condition of probation for a child who is fourteen (14) years of age or older but less than eighteen (18) years of age on the date of the dispositional hearing, has the power to impose a commitment, placement, or detention, whether continuous or at designated intervals, which shall not exceed forty five (45) days. Each child placed on probation shall be given a written statement of the terms and conditions of his/her probation and shall have such terms and conditions fully explained to him/her.

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

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

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §412]

### **Section 413. Violation of Probation**

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

(b) The child, his/her parents, guardian, or custodian shall be given a written statement concerning the alleged violation and shall have the right to be represented by counsel at the hearing, at his/her own cost, and shall be entitled to the issuance of compulsory process for the attendance of witnesses.

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

(d) Proceedings to revoke probation shall be conducted in the same manner as juvenile offender proceedings, except that no preliminary inquiry shall be conducted.

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

(f) If the Court finds that the child did not violate the terms and conditions of his/her probation as alleged, it shall dismiss the proceedings and continue the child on probation under the terms and conditions previously described.

(g) If the Court revokes the probation of a person over eighteen (18) years of age, in addition to other action permitted by this Article, the Court may sentence him/her to the tribal jail for a period not to exceed one hundred eighty days during which he/she may be released during the day for school attendance, job training, or employment, as ordered by the Court.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §413]

### **Section 414. New Hearing Authorized**

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

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

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



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

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §414]

#### **Section 415. Continuing Jurisdiction**

Except as otherwise provided in this Article, the jurisdiction of the Court over any child adjudicated as a child-in-need-of-services or a delinquent child shall continue until he/she becomes eighteen (18) years of age unless terminated by Court order.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §415]

#### **Section 416. Permanency Hearing for Children-in-Need-of-Services**

(a) The Court shall hold a permanency hearing to determine the permanent plan for the child. The permanency hearing may be combined with the periodic review hearing. The permanency hearing shall be held within twelve (12) months from the date that the child enters foster care, or within thirty (30) days after the Court finds that reasonable efforts to reunite the family are no longer required. A child shall be considered to have entered foster care on the earlier of the following dates: (1) the date of the adjudicatory hearing finding that the child is a child-in-need-of-services or (2) the date that is sixty (60) days after the date the child was removed from the home.

(b) At least two (2) days prior to the permanency hearing, the Department will develop and submit to the Court a report that recommends and justifies a permanent placement option for the child. The report will consider the appropriateness of parental reunification, adoption, legal guardianship, permanent placement with a fit relative, or an alternate planned permanent living arrangement. The Department shall make its placement recommendations based upon the best interests of the child.

(c) For any child who continues to be in an out-of-home placement, subsequent permanency hearings shall be held at least every six (6) months from the date of the previous permanency hearing until jurisdiction over the child terminates.

(d) At each permanency hearing the Court shall consult with Social Services and may consult with the child in an age-appropriate manner regarding the proposed permanency plan and include the following in its orders:

- (1) Whether the current permanency plan for the child remains the appropriate plan to meet the health, safety, welfare, and best interests of the child;
- (2) The extent of compliance with the permanency plan for the child;
- (3) The adequacy of services provided to the child and the child's parent(s), guardian, or custodian to reunite the family within a reasonable period of time and to find a permanent home for the child in the event that reunification is not possible; and

(4) Whether additional services are necessary to support the permanency plan, including services needed to assist the child to make a transition from foster care to successful adulthood for any child that has attained age fourteen (14).

(e) In addition to the foregoing requirements in this section, for any child for whom another planned permanent living arrangement is the permanency plan determine for the child:

(1) The Department shall document in its report:

(A) The intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by the agency to return the child home or secure a permanent placement for the child with a fit and willing relative (including adult siblings), a legal guardian or an adoptive parent, including through efforts that utilize search technology (including social media) to find biological family members for the children; and

(B) The steps the Department is taking to ensure that:

(i) the child's foster family home or childcare institution is following the reasonable and prudent parent standard; and

(ii) the child has regular, ongoing opportunities to engage in or age or developmentally appropriate activities (including consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities).

(2) At the permanency hearing, the Court shall:

(A) Ask the child (or the Social Service Worker on behalf of the child) about the desired permanency outcome for the child; and

(B) Make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interest of the child to return home; be placed for adoption, be placed with a legal guardian; or be placed with a fit and willing relative.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §416]

#### **Section 417. Guardianship as Recommended by the Department of Social Services for Permanence**

(a) The Department does not recommend the termination of parental rights of children except in extreme circumstances as outlined in Section 501. The preferred method of providing permanence for a child is guardianship in accordance with the placement preferences listed in Section 407.

(b) The potential guardian of the child shall file, with assistance from the Department if requested, for a guardianship of the child following the procedures in [Guardianship and Conservator Code]. However, if a guardianship is brought under this Title, the Department, as the current custodian of the child, shall be a party to the case.

(c) The guardianship order under this section may confer upon the guardian the ability to not only act as a guardian but as a conservator as well.

(d) Guardianship Report:



(1) Upon being served with a Guardianship petition involving a minor under the legal custody of the Department pursuant to this Title, the Department shall prepare a Guardianship Report on the proposed guardian and the child.

(2) The Guardianship Report shall contain all pertinent information necessary to assist the Court in determining the best interests of the child.

(3) No determination may be made on a Guardianship Petition involving a minor under the legal custody of the Department pursuant to this Title until the report has been completed and submitted to and considered by the Court.

(4) The Department shall appear at the Guardianship Hearing to answer any questions to Court may have involving the Guardianship Report.

(5) The Court may order additional reports as it deems necessary.

(e) The underlying protection case shall not be dismissed until after a guardianship brought under this Section is granted.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §417]