

**SAC AND FOX NATION TRIBAL CODE  
TITLE 20 ARTICLE 5**

**TITLE 20  
JUVENILE PROCEDURE**

**ARTICLE 5  
TERMINATION OF PARENTAL RIGHTS**

**Section 501. Termination of Parental Rights Hearing**

A termination of parental rights hearing shall be held within thirty (30) days of receipt of a petition to terminate. The Court shall conduct the hearing for the purpose of determining whether parental rights should be terminated based upon a showing of:

- (a) Abandonment of the child;
- (b) Willful and repeated physical injuries which cause or create a substantial risk of death, disfigurement, or impairment of bodily functions;
- (c) Willful and repeated acts of sexual abuse;
- (d) Relinquishment of parental rights acknowledged before the Court.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §501]

**Section 502. Motion for Termination of Parental Rights**

Termination of a parent-child legal relationship shall be considered only after all other efforts have failed. An action commences with the filing of a written motion alleging the factual grounds for termination, and termination of a parent-child legal relationship shall be considered at a separate hearing following an adjudication of a child as child-in-need-of-care and only after reasonable efforts have failed to reunite the child with his/her parent(s). Such motion shall be filed at least thirty (30) days before such hearing.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §502]

**Section 503. Appointment of Counsel**

(a) After a motion for termination of a parent-child legal relationship is filed pursuant to this Chapter, the parent or parents shall be advised of the right to counsel, at their own expense, and counsel shall be appointed whenever counsel is available at no fee or whenever the Court fund has sufficient unobligated funds to pay an attorney a maximum of five hundred dollars (\$500.00) per case.

(b) An attorney shall be appointed to represent the child's best interest in any hearing determining the involuntary termination of the parent-child legal relationship. Such representation shall continue until an appropriate permanent placement of the child is effected or

until the Court's jurisdiction is terminated. If a respondent parent is a minor, a guardian ad litem shall be appointed and shall serve in addition to any counsel requested by the parent.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §503]

#### **Section 504. Termination Based on Abandonment**

Before a termination of the parent-child legal relationship based on abandonment can be ordered, the Presenting Officer shall file an affidavit stating what efforts have been made to locate the parent or parents of the child subject to the motion for termination. The Social Service worker may provide an affidavit to the Presenting Officer. Such affidavit shall be filed not later than ten (10) days prior to the hearing.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §504]

#### **Section 505. No Jury Trial**

There shall be no right to a jury trial at proceedings held to consider the termination of a parent-child legal relationship.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §505]

#### **Section 506. Criteria for Termination**

(a) The Court may order a termination of the parent-child legal relationship upon the finding of at least one of the following:

- (1) That the child has been abandoned by his parent or parents;
- (2) That the child is adjudicated dependent or neglected and all of the following exist:
  - (A) That an appropriate treatment plan approved by the Court has not been reasonably complied with by the parent or parents or has not been successful;
  - (B) That the parent is unfit;
  - (C) That the conduct or condition of the parent or parents is unlikely to change within a reasonable time.

(3) The parent voluntarily relinquishes his/her parental rights, acknowledged before the Court, pursuant to Section 508 below.

(b) In determining unfitness, conduct, or condition, the Court shall find that continuation of the legal relationship between parent and child is likely to result in grave risk of death or serious injury to the child or that the conduct or condition of the parent or parents renders the parent or parents unable or unwilling to give the child reasonable parental care. In making such determinations, the Court shall consider, but not be limited to, the following:

- (1) Emotional illness, mental illness, or mental deficiency of the parent of such duration or nature as to render the parent unlikely within a reasonable time to care for the ongoing physical, mental, and emotional needs of the child;



- (2) Conduct towards the child of a physically or sexually abusive nature;
- (3) History of violent behavior;
- (4) A single incident of life-threatening or gravely disabling injury or disfigurement of the child;
- (5) Excessive use of intoxicating liquors or narcotic or dangerous drugs which affect the ability to care and provide for the child;
- (6) Neglect of the child;
- (7) Long-term confinement of the parent;
- (8) Injury or death of a sibling due to proven parental abuse or neglect;
- (9) Reasonable efforts by childcare agencies which have been unable to rehabilitate the parent or parents.

(c) In considering any of the factors in subsection (b) of this Section in terminating the parent-child legal relationship, the Court shall give primary consideration to the physical, mental, and emotional conditions and needs of the child. The Court shall review and order, if necessary, an evaluation of the child's physical, mental, and emotional conditions.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §506]

#### **Section 507. Standard of Proof**

The Court shall order termination of parental rights if it finds by clear and convincing evidence that termination of parental rights and a permanent placement with another person is in the best interest of the child.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §507]

#### **Section 508. Voluntary Termination of Parental Rights**

Parental rights may be relinquished voluntarily by a parent in writing, if signed by the parent in the presence and with approval of the Court. Relinquishment shall not be accepted or acknowledged by the Court prior to ten (10) days after the birth of the child.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §508]

#### **Section 509. Review of Child's Disposition Following Termination of the Parent-Child Legal Relationship**

(a) The Court, at the conclusion of a hearing which it ordered the termination of a parent-child legal relationship, shall order that a review hearing be held not later than ninety (90) days following the date of the termination. At such hearing, the agency or individual vested with custody of the child shall report to the Court what disposition of the child, if any, has occurred, and the guardian ad litem shall submit a written report with recommendations to the Court, based upon an independent investigation, for the best disposition of the child.

(b) If no adoption has taken place within a reasonable time and the Court determines that adoption is not immediately feasible or appropriate, the Court may order that provision be made immediately for long-term foster placement of the child.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §509]

#### **Section 510. Expert Testimony**

(a) Subject to the availability of funds, an indigent parent has the right to have appointed one expert witness of his own choosing whose reasonable fees and expenses, subject to the Court's prior review and approval, shall be paid from the court funds.

(b) All ordered evaluations shall be made available to counsel at least fifteen (15) days prior to the hearing.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §510]

#### **Section 511. Effect of Decree**

(a) An order for the termination of the parent-child legal relationship divests the child and the parent of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other, except for the right of the child to inherit from the parent.

(b) No order or decree entered pursuant to this Chapter shall disentitle a child to any benefit due him from any third person, including but not limited to, any Indian Tribe, any agency, any state, or the United States.

(c) After the termination of a parent-child legal relationship, the former parent is not entitled to any notice of proceedings for the adoption of the child by another, nor has he any right to object to the adoption or to otherwise participate in such proceedings.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §511]

#### **Section 512. Appeals**

(a) Appeals of court decrees made under an order terminating parental rights shall be given precedence on the calendar of the appellate court over all other matters unless otherwise provided by law.

(b) Whenever an appeal is made concerning termination of parental rights, an indigent parent, upon request, subject to the availability of funds, may be provided a transcript of the trial proceeding for the appeal at the expense of the Tribe to be paid from the court fund.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §512]

### **Section 513. Traditional Custodian's and Grandparent's Rights**

No dispositional order or decree including termination of parental rights and adoption shall divest the child's traditional custodians or grandparents of their right to reasonable visitation with the child and their duty to provide instruction and training to the child regarding Tribal customs and traditions or their duty to provide the necessities of life for the child should the parents be unable to do so, unless those rights and duties have been extinguished in a proceeding in which the individual was a party provided that adoptive traditional custodians shall also succeed to these rights and duties.

(a) The rights and duties of the traditional custodians and grandparents may be enforced by court order whenever it appears in the child's best interest to do so, provided that all interested parties shall be given notice and an opportunity to be heard.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:  
PUBLIC LAW # T 20 §513]