

**SAC AND FOX NATION TRIBAL CODE
TITLE 20 ARTICLE 6**

**TITLE 20
JUVENILE PROCEDURE**

**ARTICLE 6
ADOPTIONS**

Section 601. Jurisdiction Over Adoptions

(a) Except as otherwise provided by law, the Court shall have exclusive jurisdiction regarding the adoption of any child who resides or is domiciled within the jurisdiction of the Court, is unmarried, less than eighteen (18) years of age, and either:

- (1) Is a member of an Indian tribe; or
- (2) Is eligible for membership in an Indian tribe, and is the biological child of a member of an Indian tribe; or
- (3) Whose case has been transferred to the Court from the courts of a state or tribe which has assumed jurisdiction over said child; and

(b) The Court shall have concurrent jurisdiction with the courts of any other sovereign having lawful authority regarding the adoption by or of any other child or adult who is:

- (1) A bona fide resident of or domiciled within the jurisdiction of the Court; or
- (2) Between two adults who submit to the jurisdiction of the Court regardless of residence or domicile; or
- (3) A member of the Tribe.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §601]

Section 602. Purpose of Adoptions

The purpose of an adoption is to establish a formal and legal family relationship between two or more persons which after adoption, shall exist as if the parties were born into the adoptive relationship by blood. Adoptions pursuant to this Act shall be so recognized by every agency and level of the government except in eligibility for enrollment determinations which shall continue to be based upon biological parentage.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §602]

Section 603. Types of Adoptions

There shall be three types of adoptions recognized by this Tribe, namely:

- (a) Statutory adoptions under Tribal law entered pursuant to Article 6 of this Title.

(b) Statutory adoptions under the laws of some other tribe, state, or nation having jurisdiction over the parties and the subject matter.

(c) Traditional adoptions which may be for the purpose of establishing any traditional allowed family relationship between any persons, and which shall be governed by Section 623 of this Code. Unless otherwise specifically provided by Tribal Statute, traditional adoptions create a particular stated family relationship between persons for all purposes other than enrolment and probate of decedents' estates.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §603]

Section 604. In-camera Determination of Enrollment Eligibility

Whenever a parent, whether biological or adoptive, has expressed a desire that the name of the parent or the original adoptive name of the child and the child's relationship to themselves or others remain confidential, and a question arises as to the eligibility of the child for enrollment as a citizen of the Tribe, the Court is authorized to receive from any source such information as may be necessary for a determination of the eligibility of such child for enrollment, to review such information in-camera, and to enter its order declaring whether or not the child is eligible for enrollment and the child's blood quantum or other necessary non-identifying enrollment eligibility criteria. In doing so, the Court shall be provided with a complete Tribal roll for the necessary period(s), and shall seal all records received to maintain the confidentiality of the parts. If the Court determines that such child is eligible for enrollment, it shall enter in its order declaring said fact and the Tribal enrollment officers shall accept such order as conclusive proof of the eligibility of the child for enrollment and enroll the child accordingly. If the Court determines that such child is not eligible for enrollment, it shall enter its order accordingly, and the Tribal enrollment officers shall accept such order as proof of the ineligibility of said child and refuse to enroll the child unless other or further qualifications for enrollment are shown.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §604]

Section 605. Eligibility for Statutory Adoption

Every child within the jurisdiction of the Court at the time a petition for adoption is filed, may be adopted subject to the terms and conditions of this Article.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §605]

Section 606. Eligibility to Adopt by Statutory Process

The following persons are eligible to adopt a child pursuant to this Article, subject to the placement preferences of this Title:

- (a) A husband and wife jointly;
- (b) Either the husband or wife, if the other spouse is the parent of the child;
- (c) An unmarried person who is at least twenty-one (21) years old;

- (d) A married person who is legally separated from the other spouse and at least twenty-one (21) years old; or
- (e) In the case of a child born out of wedlock, his/her unmarried father or mother.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §606]

Section 607. Consent to Statutory Adoption

(a) Adoption of a child may be decreed only if consent to such adoption has been executed and filed in the Juvenile Court by:

(1) Both parents, if living, or the surviving parent unless their parental rights have been terminated by judicial decree, or in the case of divorce, if one parent gets the consent of the other parent an adoption can be heard without termination of parental rights.

(2) A parent less than sixteen (16) years of age may give his/her consent only with the written consent of one of that minor's parent's legal guardian, or a guardian ad litem of the minor parent appointed by the Court.

(3) If both parents are deceased, or if their parental rights have been terminated by judicial decree, then the traditional custodian having physical custody of said child for the preceding six (6) month period, or a person of the executive head of an agency having custody of the child by judicial decree with the specific authority, granted by the Court to consent to the adoption of the child.

(b) Where any parent or Indian custodian voluntarily consents to an adoption or termination of parental rights, such consent shall not be valid unless executed before a judge of a court of competent jurisdiction and accompanied by the judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The Court shall certify that the parent or Indian custodian either fully understood the explanation in English, or that it was interpreted into a language that the parent or Indian custodian understood.

(c) Any consent given prior to or written ten (10) days of the birth of a child shall not be valid.

(d) Any consent given for the adoption of or termination of parental rights to a child may be withdrawn at any time prior to the entry of a final decree of adoption or termination as the case may be and the child shall be returned to the parent.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §607]

Section 608. Voluntary Relinquishment

A parent, legal custodian, traditional custodian, or other guardian of a child may relinquish, subject to the terms of Section 607(b), (c), (d) of this Article, any rights they may have to the care, custody, and control of a child. A relinquishment shall be made by filing a petition in the Court with notice to the Department, tribal presenting officer, traditional custodians, and the parent(s) who are not petitioners. The traditional custodians may intervene in said action. The petition may relinquish generally, in which case, the Court shall assume jurisdiction over the

child, or specially to a particular person for adoption. A relinquishment shall be valid only upon approval and decree of the Court.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §608]

Section 609. When Consent of Parents is Unnecessary

Adoption of a Child may be decreed without the consent required by Section 607 of this Article only if the parents or the traditional custodians having custody if the parents:

- (a) Are deceased; or
- (b) Have had their parental or custodial rights terminated by a decree of a court of competent jurisdiction; or
- (c) Have been adjudicated incompetent by reason of mental disease, defect, or injury, or by abuse of alcohol or drugs, and it appears by a preponderance of the evidence that such person will be unable to provide the necessary care and control of said child for a significant period of time prior to the child reaching majority; or
- (d) For a period of twelve (12) months immediately preceding the filing of the petition for adoption, have willfully failed, refused, or neglected to provide and contribute to the support of their child, either:
 - (1) In substantial compliance with any decree of a court of competent jurisdiction ordering certain support be contributed; or
 - (2) If no court order has been made ordering certain support, then within their available means through contribution of financial support, physical necessities such as food, clothing, and shelter contributions, or by performing labor or other services for and at the request of the person or agency having custody.
- (e) Been finally adjudicated guilty of a felony and sentenced to death or a term of imprisonment which is likely to prevent release of the parent for a period such that the parent will be unable to provide the necessary care and control of said child for a significant period of time prior to the child reaching majority. In such cases, it shall not be necessary to obtain the consent of such parent, or to terminate the parental rights of such parent prior to adoption of the child.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §609]

Section 610. Notice of Hearing for Adoption Without Consent

Before the Court hears a petition for adoption without the consent of the parents as provided by Section 609, the person having authority to consent to the adoption, or the person petitioning for the adoption shall file an application for adoption without consent setting out the reason the consent of the other person is not necessary. The application shall be set for hearing at a date and time certain, and the application shall contain the name of the child to be adopted, the time, date, and place of the hearing, the reason that the child is eligible for adoption without the consent of the parent, guardian, or custodian, and a notice that the adoption may be ordered if the parent, guardian, or custodian does not appear at the hearing and show cause for why their consent is

necessary. The application and notice shall be served on the parent, guardian, or custodian whose consent is alleged to be unnecessary in the same manner that the civil summons is served. The hearing on the application shall be at least twenty-four (24) hours prior to the hearing on the adoption.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §610]

Section 611. Consent of Child

Whenever a child be of sufficient maturity and understanding, the Court may, and in every case of a child over ten (1) years of age, the Court shall require the consent of that child, expressed in such form as the Court shall direct, prior to the entry of a decree of adoption. Whenever possible, the Court should interview such child in private concerning the adoption prior to approving the child's consent.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §611]

Section 612. Petition

A petition for adoption shall be filed in duplicate, verified by the petitioners, and shall specifically state:

- (a) The full names, ages and places of residence of the Petitioners, and, if married, the place and date of their marriage.
- (b) Their relationship with the child, if any, and their tribal affiliation by blood and membership, if any.
- (c) When and from whom the petitioners acquired or intend to acquire physical custody of the child.
- (d) The names of the child's biological parents and their tribal affiliation by blood and membership, including tribal roll numbers, if known.
- (e) The date and place of birth of the child including the jurisdiction issuing the birth certificate for said child, the child's sex, race, and tribal affiliation by blood and membership including tribal roll number, if known.
- (f) The name used for the child in the proceeding, and, if a change in name is desired, the new name.
- (g) That it is the desire of the petitioners that the relationship of parent and child be established between them and the child.
- (h) A full description and statement of the value of all property owned or possessed by the child.
- (i) The facts, if any, which excuse the consent of the parents or either of them to the adoption.
- (j) Any required consents to the adoption may be attached to the petition or filed with the Court prior to entry of a decree of adoption.
- (k) The facts which bring the child within the jurisdiction of the Court.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §612]

Section 613. Investigation

(a) Upon the filing of a petition for adoption, the Court shall order an investigation to be made;

- (1) By the agency having custody or legal guardianship of the child; or
- (2) In other cases, by the State or Department; or
- (3) By a person qualified by training or experience, designated by the Court,

and shall further order that a report of such investigation shall be filed with the Court by the designated investigator within the time fixed by the Court and in no event more than sixty (60) days from the issuance of the order for investigation, unless time is extended by the Court.

(b) Such investigation shall include the conditions and antecedents of the child for the purpose of determining whether he/she is a proper subject for adoption; appropriate inquiry to determine whether the proposed home is suitable for the child; and any other circumstances and conditions which may have bearing on the adoption and of which the Court should have knowledge; and in this entire matter of investigation, the Court is specially authorized to exercise judicial knowledge.

(c) The Court may order agencies named in subsection (a) of this Section located in one or more counties to make separate investigations on separate parts of the inquiry, as may be appropriate.

(d) Where the adopting parent is the spouse of the parent, or in the event that a report, as outlined above is deemed adequate for the purpose by the Court, has been made within the six (6) months next preceding the filing of the petition for adoption, the Court, in its discretion, may waive the making of an investigation and the filing of a report.

(e) Upon the filing of the report, the investigator shall serve written notice upon the petitioners that the report has been filed with the Court, provided that the report shall remain confidential and the contents of the report shall not be divulged to the petitioners, except upon the consent of the investigating officer and the Court, and except to the Department and the Presenting Officer.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §613]

Section 614. Adoption Hearing

At any time after the written investigation report has been filed, the Court, upon motion or request of the petitioners, or upon its own motion, shall fix a time for hearing the petition for adoption. The adoptive parent or parents and adoptive child shall appear personally at the hearing. All other persons whose consent is necessary to the adoption and who have not filed their written consents shall be duly notified and may appear or be represented by a member of the Bar of the Court, or by an unpaid personal representative at their request with the approval of the Court. The Judge shall examine all persons appearing separately, and if satisfied as to the suitability of the child for adoption, the financial ability and moral and physical fitness and responsibility of the adoptive

parents, and that the best interest of the child will be promoted by the adoption, may enter a final decree of adoption, or may place the child in the legal custody of the petitioners for a period of not more than six (6) months prior to entering a final decree of adoption, or if the Court is satisfied that the adoption will not be in the best interests of the child, the petition shall be denied and the child's guardian instructed to arrange suitable care for the child, and the Court may request the Tribal agencies, Federal agencies, or other agencies to provide services to assist in the placement and the care of the child, or, in the case of need, refer the matter to the Tribal Department and District Attorney for the purpose of determining whether an involuntary juvenile petition should be filed.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §614]

Section 615. Report and Final Decree of Adoption

If the Court does not enter a final decree of adoption at the time of the hearing for adoption, but places the child in the legal custody of the petitioners, within six (6) months after the child has been in the custody of the petitioner, the Court shall request a supplementary written report as to the welfare of the child, the current situation and conditions of the adoptive home and adoptive parents. If the Court is satisfied that the interests of the child are best served by the proposed adoption, a final decree of adoption may be entered. No final order shall be entered by the Court unless it appears to the Court that the adoption is in the best interest of the child. In any case where the Court finds that the best interest will not be served by the adoption, a guardian shall be appointed and suitable arrangements for the care of the child shall be made and the Court may request tribal agencies or federal agencies or other agencies authorized to provide services to assist in the placement and the care of the child.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §615]

Section 616. Contents of Adoption Order.

The final order of adoption shall include such facts as are necessary to establish that the child is within the jurisdiction of the Court and eligible for adoption and that the adoptive parents and home are adequate and capable for the proper care of the child, as shown by the investigation reports and the findings upon the evidence adduced at the hearings, the new name of the child, and if any, and that relationship of parent and child exists between the petitioners and the child.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §616]

Section 617. Effect of Final Decree of Statutory Adoptions

(a) After a final decree of adoption pursuant to this Article is entered, the relationship of parent and child, and all the rights, duties, and other legal consequences of the natural relation of a child and parent shall thereafter exist between such adopted child, the adopting parents, and the kindred of the adopting parents. The adopted child shall inherit real and personal property

from the adopting family and the adopting family shall inherit from the child in accordance with law as if such child were the natural child of the adopting parent(s).

(b) After a final decree of adoption pursuant to this Article is entered, the natural parents of the adopted child, unless they are the adoptive parents or the spouse of an adoptive parent, shall be relieved and terminated from all parental rights and responsibilities for said child, including the right to inherit from the child, provided that the child shall remain eligible to inherit from said natural parents, and retain all rights to membership in the Tribe by virtue of his/her birth to said natural parents.

(c) Unless the traditional custodians and grandparents of a child have given their consent to the adoption of the child, or have had their custodial rights terminated in the same manner that a parent consents or has their rights terminated, the Court, at any time within two year after the final decree of adoption or refusal of the adoptive parents to allow visitation, whichever is the later, may, upon application of a natural traditional custodian or a natural grandparent, order reasonable visitation rights in favor of said person if the Court deems such visitation in the best interest of the child. The Court may enforce such visitation rights and make orders thereto at any time after timely filing of an application therefor. Notice of such application shall be served upon the adoptive parents as a summons is served.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §617]

Section 618. Records and Hearings Confidential

Unless the Court shall otherwise order:

(a) All hearings held in proceedings under this Article shall be confidential and shall be held in closed Court without admittance of any person other than the interested parties, including traditional custodians, representatives of the Court, persons whose presence is requested by the parties in private before the Court after the exclusion of all other persons, and the counsel for the parties, traditional custodians, and the Department.

(b) All papers, records, and files pertaining to the adoption shall be kept as a permanent record of the Court and withheld from inspection. No person shall have access to such records except:

(1) Upon order of the Court for good cause shown;

(2) Upon the adopted person reaching the age of eighteen (18), the adopted person may review the records unless the natural parents have by affidavit requested anonymity in which case their names and identifying characteristics, not including Tribal membership and degree of blood, shall be deleted prior to allowing the adopted person access to the records;

(3) The traditional custodians and natural grandparents shall have access to the records unless the natural grandparents shall have access to the records unless the natural parents have, by affidavit, requested anonymity, in which case, the names and identifying characteristics shall be deleted prior to allowing them access to the records as in the preceding paragraph.

(4) For the purpose of obtaining the enrollment of the child with another Indian tribe, the Court may request of an enrollment officer of that tribe, certify to that officer

pertinent facts to enable that officer to determine the eligibility of the child for membership in that tribe subject to the written guarantee, with an understanding if deemed necessary by the Court, that such facts will remain confidential and be divulge only to those persons who must know the facts to obtain the enrollment of the child, in the alternative, and in cases where the natural or adoptive parents have, by affidavit, requested anonymity, the Court may certify a copy of the record of the case to a judge of the court of the other tribe for an in camera review only, or allow such judge to review the record in tribal court, in camera for the purpose of said judge certifying to his/her tribe that the child is eligible for membership in that tribe.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §618]

Section 619. Certificates of Adoption

(a) For each adoption or annulment of adoption, the Court shall prepare, within thirty (30) days after the decree becomes final, a certificate of such decree on a form furnished by the registrar of vital statistics of the state or other jurisdiction having issued the copies of the petition and decree of adoption, and any other information required by law by the registrar.

(b) Such form and certified copies, along with any other pertinent information requested by the jurisdiction having issued the birth certificate, shall be forwarded forthwith to the registrar of vital statistics of the jurisdiction.

(c) One certified copy of the form, certificate, petition, and decree of adoption shall be forwarded to the Secretary of the Interior. The material forwarded to the Secretary shall also contain a judge's certificate showing:

- (1) The original and adoptive name and tribal affiliation of the child;
- (2) The names, addresses, tribal affiliation and degree of blood when known of the biological parents;
- (3) The names and addresses of the adoptive parents;
- (4) The identity and addresses of the adoptive parents;
- (5) The identity of any agency having files or information relating to the adoptive placement;

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §619]

Section 620. Foreign Decree

When the relationship of parent and child has been created by a decree of adoption of any court of competent jurisdiction of any other nation, or its political subdivisions having authority to enter such decrees, the rights and obligations of the parties as to matters within the jurisdiction of this Nation shall be determined by the Rules of Civil Procedure as found elsewhere in this Code.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §620]

Section 621. Adoption of Adults

(a) An adult person may be adopted by any other adult person with the consent of the person to be adopted, or his/her guardian, if the Court shall approve, and with the consent of the spouse of the adopting parent, if any, filed in writing with the Court. The consent of the adopted adult's parents shall not be necessary unless said adult has been adjudicated incompetent, nor shall an investigation be made. Such adoption shall create the relationship of a parent and a child between the parties, but shall not destroy the parent-child relationship with the biological parents, unless specifically requested by the adopted adult in writing in open court. Unless so requested, the legal effect of such decree, for all purposes, including inheritance, but not including tribal enrollment eligibility, shall be that the adopted person is the child of both sets of parents equally.

(b) Proceedings and records relating to the adoption of an adult shall be open to the public as are the records of other civil cases.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §621]

Section 622. Appeals

An appeal to the Court of Appeals may be taken from any final order, judgment, or decree rendered hereunder by any person aggrieved thereby in the manner provided for civil appeals.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20: PUBLIC LAW # T 20 §621]

Section 623. Traditional Adoptions (Customary Adoptions)

It is the fundamental belief of the Sac and Fox Nation that its children are the sacred responsibility of the Tribe. One of the Tribe's basic inherent sovereign rights is the right to make decisions regarding the best interests of its children, including who should provide for the care, custody, and control of its children. As an exercise of its inherent sovereignty, the Tribe has the authority and the jurisdiction to formally delegate the authority to the Tribal Court to adjudicate its own customary practices regarding child rearing and child custody.

(a) These provisions governing customary adoptions shall be interpreted liberally to provide what is in the best interest of the child and the Tribe and to provide a sense of permanency and belonging to children throughout their lives and at the same time provide them with knowledge about their unique cultural heritage, including their tribal customs, history, language, religion, and values.

(b) Definitions: As used in this Section,

(1) "Adoptee" is defined as the individual, child, or adult who is adopted or to be adopted.

(2) "Adoptive Parent" is defined as the person establishing or seeking to establish a permanent parent-child relationship with a child who is not their biological child.

(3) "Best Interest of the Child" is defined as a variety of factors, including: the ability of the Tribe and the community to provide for the care of the child; the wishes of the Tribe, parents, party or parties; the preference of the child if the child is of sufficient age to express a preference; the intimacy of the relationship between the parties and the child; the

child's adjustment to home, school, and tribal community; the length of time the child; the child's adjustment to home, school, and tribal community; the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity; the permanence, as a family unit, of the existing or proposed adoptive home; the mental and physical health of all individuals involved; the capacity and disposition of the parties to give the child love, affection, guidance, and to continue educating the child in the child's tribal culture and heritage.

(4) "Best Interests of the Tribe" is defined as a variety of factors, including, but not limited to the ability of the Tribe and its members to provide for the child; the ability of the Tribe and its members to provide for the continuations of the Tribe's culture, language, history, religion, traditions and values through its children if those children are taken away and not taught these things throughout their lives; if the ability of the tribe to continue as a viable cultural entity will be hindered by the loss of its children.

(5) "Birth Parent" is defined as the biological parent.

(6) "Customary Adoption" means a traditional tribal practice recognized by the community and Tribe which gives a child a permanent placement with someone other than the child's birth parent(s).

(7) "Family Member" is defined as a person related by blood or marriage who maintains some form of significant contact with the child, the term includes spouses, parents, children, siblings, aunts, uncles, grandparents, grandchildren, and any other person who might be considered a family member or relative under tribal law or custom.

(8) "Final Decree of Customary Adoption" is defined as the final court order which establishes the permanent legal relationship between the child and the adoptive parent(s) and establishes any contact which may be allowed with the biological parent.

(9) "Final Order Suspending Parental Rights" means a final order of the Court which permanently suspends the rights of the biological parent(s) to provide for the care, custody, and control of their child. Said order may establish the parameters of contact between the birth parent and the child, if said contact is in the child's best interests.

(10) "Suspension of Parental Rights" is defined as the permanent suspension of the rights of biological parents to provide for the care, custody, and control of their child. The suspension of parental rights does not sever or affect in any way a child's relationship to his/her Tribe or any rights of inheritance from the biological parent(s).

(c) Rights of Parties: In addition to any other rights afforded under the Indian Civil Rights Act 25 U.S.C. § 1302-03(1968), as amended or provided within this Code, petitioners and other parties to a customary adoption have the following rights:

(1) A biological parent has the right to refuse services provided by any social services agency, however, their refusal to accept services may have a significant impact on their ability to have contact with the child;

(2) The petitioner and respondent have the right to have reasonable notice and to attend any hearing arising out of the filing of a petition pursuant to this Code. The biological parents and the petitioner have the right to be represented by counsel at their own expense at all proceedings.

(3) The biological parents and petition have the right to summon and cross-examine witnesses.

(4) The biological parents and the petitioner have the right to seek independent medical, psychological, or psychiatric evaluations of the child at their own expense.

(d) Petition to Suspend Parental Rights.

(1) Any adult or agency possessing custody of a minor child may file a petition with the Court seeking an order for the permanent suspension of the parental rights of a parent and child. The petition shall contain the following information:

(A) The name, address, and telephone number of the Child's Tribe;

(B) The name, address, and telephone number of child's parent(s) whose parental rights have been suspended;

(C) The name, address, and telephone number of the petitioner and the petitioner's relationship, if any, to the child;

(D) The name, address, and telephone number of any other relatives who may have an interest in the care, custody, and control of the minor child;

(E) A statement as to why an order for the suspension of parental rights is in the best interest of the Child and the child's tribe;

(F) A statement as to the basis for the request for the suspension of parental rights, supported by medical, psychiatric, child protection worker, family member, and/or psychological reports or testimony;

(G) A statement that no similar action is pending in a state or other tribal court having jurisdiction over the child.

(2) The petitioner shall sign the petition in the presence of the Clerk of the Court or a notary public and shall affirm under oath that the contents are true and correct except as to those matters based upon belief and, as to those matters, the petitioner reasonably believes them to be true.

(e) Notice of Hearing of Petition to Suspend Parental Rights: Upon the filing of a petition seeking an order for the suspension of parental rights, the Court shall schedule a hearing to be held thereon and shall cause written notice of such hearing to be served upon the petitioner; the child's tribe; the child's parent(s), family members, caretaker, if any, and any appropriate agencies of Tribe which may either have an interest in the proceedings or be of assistance to the Court in adjudicating the matter. Such notice shall be served in the manner provided for the rest of the Rules of Civil Procedure.

(f) Hearing:

(1) Attendance at Hearing:

(A) The parent family members, agencies and petitioner shall be present at the hearing in person or by telephone unless he or she has waived the right to appear in a notarized writing and filed with the or unless the parent is unable to attend by reason of medical condition as evidenced by a written statement from a licensed physician or other appropriate professional.

(B) The petitioner shall be present at the hearing. The petitioner's failure to appear shall be grounds for the dismissal of the petition.

(C) The parent(s) named in the petition shall also be present. The failure of the parent(s) to appear shall not prevent the issuance of an order for suspension of parental rights.

(2) Conduct of the Hearing:

(A) The Court shall inform the parent of their rights under this Code and of the nature and consequences of the proceedings.

(B) The Court shall further inform all other parties of their rights under this Code and pursuant to the Indian Civil Rights Act, including the right to summon and cross-examine witnesses.

(C) The Rules of Evidence of the Tribal Court shall apply.

(D) The burden of proving the allegations of the petition shall be upon the petition and the standard of proof shall be clear and convincing evidence. There shall be a legal presumption of the parent's ability to parent until proven otherwise.

(E) The Court may continue the hearing upon a showing of good cause, at the request of any party to the proceeding and enter such temporary orders, if any, as may be deemed just and reasonable to carry out the purposes of this Permanency Hearing.

(3) Record of Proceedings. In all proceedings, the Court shall take and preserve an accurate stenographic or recording of the proceedings.

(4) Findings:

(A) In all cases, the Court shall make specific written findings of fact, state separately its conclusions of law, and enter an appropriate judgment or order.

(B) The Court may make findings that it is in the child's best interests that a final order suspending the parental rights be entered and the Court shall specify the basis of those findings.

(g) Final Order for Suspension of Parental Rights.

(1) If the Court determines that it is in the best interests of the child and the child's Tribe, it shall issue a final order for a suspension of parental rights. Such an order for the suspension of parental rights may include, but is no limited to, the following:

(A) A permanent suspension of the parental rights of the parent including the suspension of the right to the care, custody, and control of the minor child and allowing the child to be adopted.

(B) A permanent suspension of the right of the parent to have contact with the minor child including contact in person, by mail, telephone, or through third parties or the order may allow for a contact agreement agreed upon by the parties to be ordered by the Court;

(C) Restraining a parent from contacting the minor child, the child's foster parent, the child's adoptive parent and/or the social services agency or agencies possessing information regarding the minor child;

(D) Ordering that the biological parents' obligation to pay child support, except for arrearages, is hereby terminated.

(E) Ordering that any prior court order for custody, visitation or contact with the minor child is hereby terminated.

(2) Copies of any order for suspension of parental rights shall be served upon the parent and the agency or agencies having legal custody of the child and any other parties as directed by the Court.

(3) Final orders for the suspension of parental rights may be reviewed by the Court at the request of the parent, the agency or agencies possessing custody of the child only if one of the following occurs: the child is not adopted after a period of one (1) year after the entry of the final order suspending parental rights; the adoption of the child fails; or the adoptive parent is deceased. Notice of this review shall be provided to all parties to the hearing at which the final order was issued.

(h) Petition for Customary Adoption: Any adult may file a petition with the Court seeking an order for the customary adoption of a minor child. The petition shall contain the following information:

- (1) The name, address, and telephone number of the child's tribe;
- (2) The name, address, and telephone number and age of the child to be adopted;
- (3) The name, address, and telephone number of the petitioner and the petitioner's relationship, if any, to the child;
- (4) The name, address, and telephone number of any other relatives who may have any interest in the care, custody, and control of the minor child;
- (5) The proposed name of the adoptee after the entry of the final order of customary adoption;
- (6) A statement or a copy of the final order suspending the parental rights of the biological parent(s);
- (7) A statement as to why a final order for customary adoption is in the best interests of the child and the best interests of the child's tribe;
- (8) A statement as to the basis for the customary adoption supported by a home study, medical, psychiatric, child protection worker, family member and/or psychological reports or testimony;
- (9) A statement that no similar action is pending in a tribal or state court having jurisdiction over a child.

(i) Notice of Hearing on Petition for Customary Adoption: Upon the filing of a petition seeking an order for a customary adoption of a minor child, the Court shall schedule a hearing to be held thereon and shall cause written notice of such hearing to be served upon the petitioner; the child's tribe; the child's parent(s); family members; caretaker, if any; and appropriate agencies of the Tribe which may either have an interest in the proceedings or be of assistance to the Court in adjudicating the matter. Such notice shall be served in the manner provided for in Article 8, and if not covered under that provision, then in the Rules of Civil Procedure.

(j) Hearing on Petition for Customary Adoption

- (1) Attendance at hearing:
 - (A) The child who is the subject of a petition for customary adoption, agencies, petitioner and any appropriate family members may be present at the hearing in person or by telephone.

(B) The petitioner shall be present at the hearing. The petitioner's failure to appear shall be grounds for dismissal of the petition.

(2) Conduct of the hearing:

(A) The Court shall inform the parties of their rights under this Code and of the nature and consequences of the proceedings.

(B) The Court shall further inform all other parties of their rights under this Code and pursuant to the Indian Civil Rights Act, including the right to summon and cross-examine witnesses.

(C) The Rules of Evidence of the Tribal Court shall apply.

(D) The burden of proving the allegations of the petition shall be upon the petitioner and the standard of proof shall be clear and convincing evidence. There shall be a legal presumption of the parent's ability to parent until proven otherwise.

(E) The Court may continue the hearing, upon a showing of good cause, at the request of any party to the proceeding and enter such temporary orders, if any, as may be deemed just and reasonable to carry out the purposes of this Section.

(3) Record of proceedings: In all proceedings, the Court shall take and preserve an accurate stenographic or recording of the proceedings.

(4) Findings:

(A) In all cases, the Court shall make specific written findings of fact, state separately its conclusions of law, and enter an appropriate judgment or order.

(B) The Court may make findings that it is in the child's best interests that a final order suspending the parental rights be entered and the Court shall specify the basis of those findings.

(k) Final Order of Customary Adoption: If the Court determines that it is in the best interests of the child and the child's tribe, it shall issue a final order for a customary adoption. Such an order may include, but is not limited to the following:

(1) A statement that the child has been adopted by the petitioner(s) and that the parent-child bond is hereby established and that all of the rights and responsibilities of that relationship shall exist upon the entry of such a final order;

(2) A notice regarding the new name of the child, if any.

(l) Certification of a Customary Adoption.

(1) A customary adoption may be certified by the Court as having the same effect as an adoption order issued by the Court so long as it is in the best interests of the child and the child's tribe

(2) A decree certifying a customary adoption has the same effect as a decree or final order of statutory adoption issued by this Court.

(m) Enforcement: Final orders for the suspension of parental rights or customary adoptions may be enforced by utilizing the contempt power of the Court as set forth in Section 137.

(n) Appeals:

(1) Any party to a petition to suspend parental rights pursuant to this order may appeal a final order of this Court.

(2) All appeals from proceedings under this Code shall be heard pursuant to the Court of Appeals Rules of appellate procedure, except to the extent that any rule of this procedure is in direct conflict with the express provisions of this Title. In such cases, the provisions of this Title shall apply.

(o) Right of Access to Records: any child who has been the subject of a suspension of parental rights proceeding or a customary adoption proceeding has the right, upon reaching the age of majority, to review all of the Court's files on these matters subject to redaction of names or the rights of confidentiality of some documents under federal or Tribal law.

(p) Severability: If any provision of this Title, or the application thereof is held invalid, such invalidity shall not affect the provisions or applications of this Section which can be given effect without the invalid provisions, and to this end, the provisions of this Title are declared severable.

[History: L. 1992, May 2; R-30-92: Amend. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §623]