

## GENERAL PROVISIONS

**Section 1. Citation**

This Title may be cited as the "Juvenile Procedure Act."

[History: L. 1992, May 2; R-30-92:  
PUBLIC LAW # T 20 § 1]

**Section 2. Purpose**

The purposes of this Title are to:

(a) Secure for each child subject to this Title such care and guidance, preferably in his own home, as will serve his welfare and the interests of the Tribe and society in general;

(b) Preserve and strengthen the ties whenever possible, and, to strengthen and improve the home and its environment when necessary;

(c) Preserve and strengthen family ties whenever possible, and, to strengthen and improve the home and its environment when necessary;

(d) Remove a child from the custody of his parents and traditional custodians only when his welfare and safety or the protection of the public would otherwise be endangered;

(e) Secure for any child removed from the custody of his parents the necessary care, guidance and discipline to assist him in becoming a responsible and productive member of his Tribe and society in general;

In order to carry out these purposes, the provisions of this Title shall be liberally construed.

[History: L. 1992, May 2; R-30-92:  
PUBLIC LAW # T 20 § 2]

**Section 3. Definitions**

Unless the context otherwise requires, as used in this Title, the term:

(a) "Adjudicatory hearing means a hearing to determine whether the allegations of a petition alleging a child to be neglected, deprived, in-need-of-supervision, or delinquent filed pursuant to this Title are supported by the evidence.

(b) "Adult" means a person eighteen (18) years of age or over; except that any person alleged to have committed a delinquent act before he became eighteen (18) years of age shall be considered a child under this Title for the purpose of adjudication and disposition of the delinquent act.

(c) "Aunt" means a person who, by blood or marriage; is:

(1) A female sibling of the biological parents; or

(2) A female first cousin of the biological parents;  
or

(3) A female child of a grandparent; or

(4) Any other female person, who, by virtue of an adoption, either of themselves or of a member of their family pursuant to the laws of any Indian Tribe or state would come within the terms of subparagraphs (1), (2), or (3) of this subsection.

(d) "Brother" means:

(1) Any male sibling; or

(2) Any other male person, who, by virtue of an adoption either of themselves or of a member of their family pursuant to the laws of any Indian Tribe or state, would hold the relationship of sibling with the person in question.

(e) "Brother-in-law" means the husband of a sister by blood or marriage.

(f) "Child" means a person under eighteen (18) years of age.

(g) "Child care center" means an institution or facility designed for the care of children licensed or approved pursuant to Tribal law, or, if outside the Tribal jurisdiction, by the law of the jurisdiction in which such facility is physically located, or both.

(h) "Child in need of supervision" means any child:

(1) who has repeatedly disobeyed reasonable and lawful commands or directives of this parent, legal guardian, or other custodian; or

(2) who is willfully and voluntarily absent from his home without the consent of his parent, guardian, or legal custodian for a substantial period of time, or without intent to return; or

(3) who, being subject to compulsory school attendance, is willfully, voluntarily, and habitually absent from school in violation of law.

(i) "Child placement agency" means an agency designed for the care or placement of children licensed or approved pursuant to Tribal law, or, if outside the Tribal jurisdiction in which such facility is physically located or both.

(j) "Commit" means to transfer legal custody.

(k) "Cousin" means the child of an aunt or uncle.

(l) "Custody" means guardianship of the person.

(m) "Delinquent child" means a child who:

(1) has violated any federal, Tribal, or state law excepting traffic statutes or ordinance, hunting or fishing statutes or ordinances, or any lawful order of the Court made pursuant to this Title, or

(2) has habitually violated any traffic, hunting, or fishing statutes or ordinances, or lawful orders of the Court made under this Title.

(n) "Department" means Tribal Social Services Department.

(o) "Deprivation of custody" means the transfer of legal custody by the Court from a parent or a previous legal custodian to another person, agency, or institution.

(p) "Detention" means the temporary care of a child who requires secure custody in physically restricting facilities

pending Court disposition or a Court order for placement or commitment.

(q) "Dispositional hearing" means a hearing, held after an adjudicating hearing has found a child to be deprived, neglected, in need of supervision, or delinquent in which the Court must determine what treatment should be ordered for the family and the child, and what placement of the child should be made during the period of treatment.

(r) "Family care Home" or "foster home" means a facility for the care of not more than ten (10) children in a family type setting, licensed or approved pursuant to Tribal law, or, if outside the Tribal jurisdiction, by the law of the jurisdiction in which such facility is physically located or both.

(s) "Group care facilities" means places other than family care homes or child care centers providing care for small groups of children.

(t) "Grandparent" means:

(1) A biological grandparent.

(2) The brothers and sisters of a biological grandparent, and their spouses.

(3) Any other person, who, by virtue of an adoption either of themselves or a member of their family pursuant to the laws of an Indian Tribe or state, would come within the terms of subparagraphs (1) or (2) of this section.

(u) "Guardianship of the person" means legal custody or the duty and authority vested by law to make major decisions affection a child including, but not limited to:

(1) The authority to consent to marriage, enlistment in the armed forces, and to extraordinary medical and surgical treatment, and

(2) The authority to represent a child in legal actions and to make other decisions of substantial legal significance concerning a child, and

(3) 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 the parents, and

(4) 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, or agency, or institution.

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

(v) "Halfway house" means group care facilities for children who have been placed on probation or parole by virtue of being adjudicated delinquent, or in need of supervision under this Title.

(w) "Juvenile Court" or "Court" means the Juvenile Division of the Tribal court, or the Juvenile Court, or C.F.R. Court established for other Indian Tribes, or a state Juvenile Court as is appropriate from the context.

(x) "Neglected child" or "dependent child" means a child:

(1) Whose parent, guardian, or legal custodian has subjected him to mistreatment or abuse, or whose parent, guardian, or legal custodian has suffered or allowed, another to mistreat or abuse the child without taking lawful means to stop such mistreatment or abuse and prevent it from recurring; or

(2) Who lacks proper parental care through the actions or omissions of the parent, guardian, or legal custodian; or

(3) Whose environment is injurious to his welfare; or

(4) Whose parent, guardian, or legal custodian fails or refuses to provide proper or necessary subsistence, education, medical care, or any other care necessary for his health, guidance, or well-being, whether because of the fault of the parent, guardian, or legal custodian, or because the parent, guardian or legal custodian does not have the ability or resources to provide for the child.

(5) Who is homeless, without proper care, or not domiciled with his parent, guardian, or legal custodian, due to, or without the fault of his parent, guardian, or legal custodian, or

(6) Whose parent, guardian, or legal custodian has abandoned him without apparent intent to return, or who has placed him informally with any other person, and has not contributed to the support of the child or established personal contact with the child for a period in excess of six months.

(y) "Nephew" means the male child of a brother, sister, brother-in-law, or sister-in-law, whether by blood, marriage, or adoption.

(z) "Niece" means the female child of a brother, sister, brother-in-law, or sister-in-law, whether by blood, marriage, or adoption.

(aa) "Parent" means either a natural parent or a parent by adoption. Parent does not include an unwed father unless he has acknowledged paternity of the child orally to two or more disinterested parties or in writing under oath unless paternity has been established by judicial action.

(bb) "Protective supervision" means a legal status created by Court order under which the child is permitted to remain in his own home under the supervision of the Juvenile Court through the Tribal Social Services Department during the period which treatment is being provided to the family by the Tribal Social Services Department or other agencies designated by the Court.

(cc) "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parent after legal custody, or guardianship of the person of said child has been vested in another person, agency, or institution, but where parental rights have not been terminated, including, but not necessarily limited to, the responsibility for support, the right to consent to adoption, the right to inherit from the child, the right to determine the child's religious affiliation, and the right to reasonable visitation with the child unless restricted by Court.

(dd) "Shelter" means a facility for the temporary care of a child in physically unrestricting facilities pending Court disposition, or execution of a Court order for emergency or temporary placement.

(ee) "Stepparent" means a person married to a biological parent, but who is not a biological parent of the child.

(ff) "Sister" means:

(1) Any female sibling; or

(2) Any other female person, who by virtue of an adoption either of themselves or of a member of their family pursuant to this Title or the laws of any Indian Tribe or state, would hold the relationship of sibling with the person in question.

(gg) "Sister-in-law" means the wife of a brother by blood or marriage.

(hh) "Termination of parental rights" or "termination of the parent-child legal relationship" means the permanent elimination by Court order of all parental rights and duties, including residual parental rights and duties, but not including the child's right to inherit from the parent's whose rights have been terminated.

(ii) "Traditional custodian" means those relatives of the child other than the parents, who, by force of the traditions, customs, and common law of the Tribe have the rights, duties, and responsibilities of assisting the parents in rearing the child and providing for its support.

(jj) "Transfer proceeding" means any proceeding in the Tribal Court to grant, accept, or decline transfer of any children's case from or to the courts of any Indian Tribe or state whenever such transfer is authorized by Tribal, federal, or state law.

(kk) "Tribal Court" shall mean the Tribal District Court.

[History: L. 1992, May 2; R-30-92:  
PUBLIC LAW # T 20 § 3]

**Section 4. Place of Sitting**

The Juvenile Division of the District Court shall maintain offices and in the same place the District Court sits, provided, that the Juvenile Division, in a transfer proceeding or where otherwise necessary and expedient in the interest of Justice and economy, with the approval of the Chief Judge, may sit anywhere within the territorial limits of the United States.

[History: L. 1992, May 2; R-30-92:  
PUBLIC LAW # T 20 § 4]