

RESOLUTION OF THE GOVERNING BODY OF  
THE THREE AFFILIATED TRIBES OF THE  
FORT BERTHOLD RESERVATION

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and

WHEREAS, The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

WHEREAS, Article VI, Section 5(1) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to adopt resolutions regulating the procedure of Tribal agencies; and

WHEREAS, The Tribal Business Council recognizes that the present Juvenile Code is outdated and lacking in crucial substantive and procedural areas; and

WHEREAS, The Tribal Business Council recognizes the need for the enactment of a comprehensive, updated Juvenile Code to meet the needs of Tribal members; and

NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council hereby enacts the Three Affiliated Tribes Juvenile Code, Chapter 8, for implementation in the Code of Laws of the Three Affiliated Tribes of the Fort Berthold Reservation and which shall go into effect immediately; and

BE IT FURTHER RESOLVED, That the previous Juvenile Code of the Three Affiliated Tribes is hereby rescinded and vacated in lieu of the enactment of the Juvenile Code, Chapter 8, which shall be incorporated into the Code of Laws of the Three Affiliated Tribes of the Fort Berthold Reservation

C E R T I F I C A T I O N

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 11 members of whom 7 constitute a quorum, 7 were present at a SPECIAL Meeting thereof duly called, noticed, convened, and held on the 28 day of OCTOBER, 1986; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 7 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated the 10th day of July, 1986.

*Dennis Haber*  
Secretary, Tribal Business Council

ATTEST:

*Alyce Spotted Bear*  
Chairman, Tribal Business Council

*JUVENILE CODE - TITLE 8*

*THREE AFFILIATED TRIBES OF THE  
FORT BERTHOLD INDIAN RESERVATION*

JUVENILE CODE - TITLE 8

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## JUVENILE CODE - TITLE 8

### 8-1.1 Title

This section shall be titled the Juvenile Code of the Three Affiliated Tribes.

### 8-1.2 Purpose

The Juvenile Code of the Three Affiliated Tribes shall be interpreted and construed to fulfill the following purposes:

1. To provide for the welfare, care and protection of the children of the Three Affiliated Tribes;
2. To preserve the unity of the family, preferably by separating the child from his parents only when necessary;
3. To discourage delinquent acts and to protect the communities' interest by providing supervision, care and rehabilitation; and
4. To ensure that off-reservation courts will be willing to return tribal children to the reservation by establishing children's court rules and procedures.

### 8-1.3 Definitions

As used in this Title and in Title 9:

1. "Abandon" means when a parent leaves a child without adequate communication or fails to support a child and there is no indication of the willingness of the parent(s) to assume his parental role(s) for a period exceeding two (2) years.

2. "Child" means an individual who is:
  - a. Under the age of eighteen years and is neither married nor in the military service of the United States; or
  - b. Under the age of twenty years with respect to a delinquent act committed while under the age of eighteen years.
3. "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of a court.
4. "Delinquent act" means an act designated a crime under the law including local ordinances or resolutions of this tribe, or of another tribe or state if the act occurred in that state, or under federal law, and the crime does not fall under subdivision c of subsection 16 and is not a traffic offense as defined in subsection 15.
5. "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation.
6. "Deprived child" means a child who:
  - a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental or emotional health, or morals, and the deprivation is not due primarily to the lack of



financial means of the child's parents, guardian or other custodian:

- b. Has been placed for care or adoption in violation of law; or
  - c. Has been abandoned by the child's parents, guardian or other custodian.
7. "Extended Family Member" shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or step-parent.
8. "Indian child" means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.
9. "Indian child's tribe" means (a) the Indian tribe in which an Indian child is a member or is eligible for membership or (b) in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts.
10. "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody and control has been transferred by the parent of such child.
11. "Indian organization" means any group, association, partnership, corporation or other legal entity owned or

controlled by Indians, or a majority of whose members are Indians.

12. "Indian tribe" means any Indian tribe, band, nation or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in section 1602(c) of Title 43.
13. "Protective supervision" means supervision ordered by the court of children found to be deprived or unruly.
14. "Shelter care" means temporary care of a child in physically unrestricted facilities.
15. "Traffic offense" means a violation of a law or local ordinance or resolution governing the operation of a vehicle upon the highways of the Fort Berthold Reservation or the waterways within or adjoining this reservation, by a child who has been issued a valid operator's license or permit if one is required, other than (1) negligent homicide, (2) manslaughter; (3) driving under the influence of intoxicating liquor or controlled substances; and (4) leaving the scene of an accident resulting in bodily harm.
16. "Unruly child" means a child who:
  - a. Is habitually and without justification truant from school;
  - b. Is habitually disobedient of the reasonable and lawful commands of his parent, guardian or other custodian and is ungovernable; or who is willfully

*in a situation dangerous or injurious to the health, safety or morals of himself or others;*

- c. Has committed an offense applicable only to a child;*  
*or*
- d. Has committed a noncriminal traffic offense without ever having been issued an operator's license or permit if one was required; and*
- e. In any of the foregoing instances is in need of treatment or rehabilitation.*

**8-1.4 Jurisdiction**

- 1. The juvenile court has exclusive original jurisdiction of the following proceedings, which are governed by this section:*
  - a. Proceedings in which a child is alleged to be delinquent, unruly or deprived;*
  - b. Proceedings for the termination of parental rights.*
- 2. The juvenile court also has exclusive original jurisdiction of the following proceedings, which are governed by the laws relating thereto without regard to the other provisions of this title:*
  - a. Proceedings to obtain judicial consent to the marriage, employment, or enlistment in the armed services of a child, if consent is required by law;*
  - b. Proceedings under the interstate compact on juveniles; and*
  - c. Proceedings under the interstate compact on the placement of children.*

8-1.5 Juvenile Court Personnel

1. The governing body of the Three Affiliated Tribes or its designated representative or agency may appoint one or more juvenile supervisors who shall serve at the pleasure of the court. Juvenile supervisors have the powers and duties stated in section 8-1.6. If more than one juvenile supervisor is appointed, one may be designated by the court as the chief juvenile supervisor or director of court services, who shall be responsible for the administration of juvenile court services under the direction of the court.
2. Each juvenile supervisor shall receive as full compensation for his or her services an annual salary as may be fixed from time to time by the governing body of the Three Affiliated Tribes or its designated representative or agency. Such salary shall be within the limits of tribal appropriations. In addition, the juvenile supervisor shall be paid reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his duties, in accordance with the amount allowed to other tribal employees.

8-1.6 Powers and Duties of Juvenile Supervisors

For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a juvenile supervisor shall:

1. Make investigations, reports and recommendations to the juvenile court.

2. Receive and examine complaints and charges of delinquency, unruly conduct, or deprivation of a child for the purpose of considering the commencement of proceedings under this chapter.
3. Receive notice of state court proceedings involving Indian children as provided by 25 U.S.C. §1912(a). Upon receipt of such notice, the juvenile supervisor shall notify the tribal social services department.
4. Supervise and assist a child placed on probation or in his protection, supervision or care by order of the court or other authority of law.
5. Make appropriate referrals to other private or public agencies if their assistance appears to be needed or desirable.
6. Take into custody and detain a child who is under his supervision or care as a delinquent, unruly, or deprived child if he has reasonable cause to believe that the child's health or safety is in imminent danger, or that he may be removed from the jurisdiction of the court, or when ordered by the court pursuant to this chapter. Except as provided by this chapter, a juvenile supervisor does not have the powers of a law enforcement officer. He may not conduct accusatory proceedings under this chapter against a child who is or may be under his care or supervision.
7. Perform all other functions designated by this chapter or by order of the court pursuant thereto.

**8-1.7 Transfer From Other Courts**

If it appears to the court in a criminal proceeding, except for an offense transferred under section 8-4.0 that the defendant is a child subject to the jurisdiction of the juvenile court, the court shall immediately transfer the case to the juvenile court together with a copy of the accusatory pleading and other papers, documents and transcripts of testimony relating to the case. It shall order that the defendant be taken immediately to the juvenile court or to a place of detention designated by the juvenile court, or release the defendant to the custody of the defendant's parent, guardian, custodian or other person legally responsible for the defendant, to be brought before the juvenile court at a time designated by that court. The accusatory pleading may serve in lieu of a petition in the juvenile court unless that court directs the filing of a petition.

**8-1.8 Informal Adjustment**

1. Before a petition is filed, the juvenile supervisor or other officer of the court designated by it, subject to its direction, may give counsel and advice to the parties and impose conditions for the conduct and control of the child with a view to an informal adjustment if it appears:
  - a. The admitted facts bring the case within the jurisdiction of the court;
  - b. Counsel, advice and conditions, if any, for the conduct and control of the child without an adjudication

would be in the best interest of the public and the child; and

- c. The child and his parents, guardian or other custodian consent thereto, in writing, with knowledge that consent is not obligatory.
2. The giving of counsel and advice and any conditions imposed for the conduct and control of the child cannot extend beyond six months from the day commenced unless extended by the court for an additional period not to exceed six months and does not authorize the detention of the child if not otherwise permitted by this chapter.

#### 8-1.9 Taking Into custody

1. A child may be taken into custody:
  - a. Pursuant to an order of the court under this section;
  - b. Pursuant to the laws of arrest;
  - c. By a law enforcement officer or a juvenile supervisor if there are reasonable grounds to believe (1) that the child is suffering from illness or injury or is in immediate danger from his surroundings, and that his removal is necessary, or (2) that the child has run away from his parents, guardian or other custodian.
2. The taking of a child into custody is not an arrest, except for the purpose of determining its validity under the Indian Civil Rights Act.

#### 8-2.0 Detention of Child

A child taken into custody shall not be detained or placed in shelter care prior to the hearing on the petition unless his

detention or care is required to protect the person or property of others or of the child or because the child may be removed from the jurisdiction of the court or because he has no parent, guardian or custodian or other person able to provide supervision and care for him and return him to the court when required, or an order for his detention or shelter care has been made by the court pursuant to this chapter. No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

**8-2.1 Release or Delivery to Court**

1. A person taking a child into custody, with all reasonable speed and without first taking the child elsewhere, shall:
  - a. Release the child to his parent, guardian or other custodian upon his promise to bring the child before the court when requested by the court, unless his detention or shelter care is warranted or required under section 8-2.0; or
  - b. Bring the child before the court or deliver him to a detention or shelter care facility designated by the court or to a medical facility if the child is believed to suffer from a serious physical condition or illness which requires prompt treatment. He shall promptly give written notice thereof, together with a



statement of the reason for taking the child into custody, to a parent, guardian or other custodian and to the court. Any temporary detention or questioning of the child necessary to comply with this subsection shall conform to the procedures and conditions prescribed by this chapter and rules of court.

2. If a parent, guardian or other custodian, when requested, fails to bring the child before the court as provided in subsection 1 the court may issue its warrant directing that the child be taken into custody and brought before the court.

#### 8-2.2 Place of Detention

1. A child alleged to be delinquent or unruly may be detained only in:
  - a. A licensed foster home or a home approved by the court;
  - b. A facility operated by a licensed child welfare agency;
  - c. A detention home or center for delinquent or unruly children which is under the direction or supervision of the court or other authority or of a private agency approved by the court; or
  - d. Any other suitable place or facility, including a medical facility for the treatment of mental illness, alcoholism or drug addiction, designated or operated by the court. The child may be detained in a jail or other facility for the detention of adults only if the facility in subdivision c is not available, the

detention is in a room separate and removed from those for adults, it appears to the satisfaction of the court or the juvenile supervisor that public safety and protection reasonably require detention, and it is so ordered.

2. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be a child is received at the facility and shall bring him before the court upon request or deliver him to a detention or shelter care facility designated by the court.
3. If a case is transferred to another court for criminal prosecution the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime.

8-2.3 Release from Detention or Shelter Care - Hearing -  
Conditions of Release

1. If a child is brought before the court or delivered to a detention or shelter care facility designated by the court the intake or other authorized officer of the court shall immediately make an investigation and release the child unless it appears that his detention or shelter care is warranted or required under section 8-2.0.
2. If he is not so released, a petition under section 8-2.7 shall be promptly made and presented to the court. An informal detention hearing shall be held promptly and not

later than seventy-two hours after he is placed in detention to determine whether his detention or shelter care is required under section 8-2.0. Reasonable written notice stating the time, place and purpose of the detention hearing shall be given to the child, or upon a showing of a good faith reasonable effort that the child cannot be served, to his parents, guardian or other custodian. Prior to the commencement of the hearing, the court shall inform the parties of their right to counsel pursuant to the Indian Civil Rights Act and of the child's right to remain silent with respect to any allegations of delinquency or unruly conduct.

3. If the child is not so released and a parent, guardian or custodian has not been notified of the hearing, did not appear or waive appearance at the hearing, and files his affidavit showing these facts, the court shall rehear the matter without unnecessary delay and order his release, unless it appears from the hearing that the child's detention or shelter care is required under section 8-2.0.

#### 8-2.4 Subpoena

Upon application of a party the court or the clerk of the court shall issue, or the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing under this chapter.

#### 8-2.5 Petition - Preliminary Determination

A petition under this chapter shall not be filed unless the juvenile supervisor, the court, or other person authorized by

the court has determined and endorsed upon the petition that the filing of the petition is in the best interest of the tribe and the child.

8-2.6 Petition - Who May Make

Subject to section 8-2.5 the petition may be made by any adult person, including a law enforcement officer, who has knowledge of the facts alleged or is informed and believes that they are true.

8-2.7 Contents of Petition

The petition shall be verified and may be on information and belief. It shall set forth plainly:

1. The facts which bring the child within the jurisdiction of the court, with a statement that it is in the best interest of the child and the Three Affiliated Tribes that the proceeding be brought and, if delinquency or unruly conduct is alleged, that the child is in need of treatment or rehabilitation;
2. The name, age, tribal affiliation and residence address, if any, of the child on whose behalf the petition is brought;
3. The names and residence addresses, if known to petitioner, of the parents, guardian or custodian of the child and of the child's spouse, if any. If none of his parents, guardian or custodian resides or can be found within the Fort Berthold Reservation, or if their respective places of residence address are unknown, the name of any known adult relative residing within the reservation, or, if

there be none, the known adult relative residing nearest the location of the court; and

4. Whether the child is in custody and, if so, the place of his detention and the time he was taken into custody.

8-2.8 Summons

1. After the petition has been filed, the court shall fix a time for hearing thereon, which shall not be later than thirty days after the filing of the petition. If the child is in detention, the time for the hearing shall not be later than ten days after the filing of the petition. The court may extend the time for hearing for good cause shown. The court shall direct the issuance of a summons to the parents, guardian or other custodian, a guardian ad litem, and any other persons as appear to the court to be proper or necessary parties to the proceeding, requiring them to appear before the court at the time fixed to answer the allegations of the petition. The summons shall also be directed to the child if he is fourteen or more years of age or is alleged to be a delinquent or unruly child. A copy of the petition shall accompany the summons unless the summons is served by publication in which case the published summons shall indicate the general nature of the allegations and where a copy of the petition can be obtained.
2. The court may endorse upon the summons an order directing the parents, guardian or other custodian of the child to appear personally at the hearing and directing the person

having the physical custody or control of the child to bring the child to the hearing.

3. If it appears from affidavit filed or from sworn testimony before the court that the conduct, condition or surroundings of the child are endangering his health or welfare or those of others, or that he may be removed from the jurisdiction of the court or will not be brought before the court, notwithstanding the service of the summons, the court may endorse upon the summons an order that a law enforcement officer shall serve the summons and take the child into immediate custody and bring him forthwith before the court.
4. The summons shall state that a party is entitled to obtain counsel in the proceedings as provided for in the Indian Civil Rights Act.
5. A party, other than the child, may waive service of summons by written stipulation or by voluntary appearance at the hearing. If the child is present at the hearing, his counsel, with the consent of the parent, guardian or other custodian, or guardian ad litem, may waive service of summons in his behalf.

#### 8-2.9 Service of Summons

1. If a party to be served with a summons is within the Fort Berthold Reservation and can be found, the summons shall be served upon him in accordance with the Fort Berthold Rules of Civil Procedure at least twenty-four hours before the hearing. If he is within this reservation and cannot be found, but his address is known or can with reasonable

diligence be ascertained, the summons may be served upon him by mailing a copy by registered or certified mail at least five days before the hearing. If he is without this reservation but he can be found or his address is known, or his whereabouts or address can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy to him personally or mailing a copy to him by registered or certified mail at least five days before the hearing.

2. If after reasonable effort he cannot be found or his post office address ascertained, whether he is within or without this reservation, the court may order service of the summons upon him by publication in accordance with the Fort Berthold Rules of Civil Procedure. The hearing shall not be earlier than five days after the date of the last publication.
3. Service of the summons may be made by an suitable person under the direction of the court.

### 8-3.0 Conduct of Hearings

1. Hearings under this chapter shall be conducted by the court without a jury, in an informal but orderly manner, and separately from other proceedings not included in this section.
2. If the hearing has not been held within the time limit, or any extension thereof, required by subsection 1 of section 8-2.8, the petition shall be dismissed.

3. The tribe's prosecutor upon request of the court, shall present the evidence in support of any allegations of the petition not admitted and otherwise conduct the proceedings on behalf of the tribe.
4. The proceedings shall be recorded by stenographic notes or by electronic, mechanical or other appropriate means.
5. Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings under this chapter. Only the parties, their counsel, witnesses and any other persons as the court finds have a proper interest in the proceedings or in the work of the court may be admitted by the court.

8-3.1 Service by Publication - Interlocutory Order of Disposition

1. If service of summons upon a party is made by publication the court may conduct a provisional hearing upon the allegations of the petition and enter an interlocutory order of disposition if:
  - a. The petition alleges delinquency, unruly conduct or deprivation of the child;
  - b. The summons served upon any party (1) states that prior to the final hearing on the petition designated in the summons a provisional hearing thereon will be held at a specified time and place. (2) requires the party who is served other than by publication to appear and answer the allegations of the petition at the provisional hearing, (3) states further that findings of fact and orders of disposition made pub-



suant to the provisional hearing will become final at the final hearing unless the party served by publication appears at the final hearing, and (4) otherwise conforms to section 8-2.8; and

c. The child is personally before the court at the provisional hearing.

2. All provisions of this chapter applicable to a hearing on a petition, to orders of disposition and to other proceedings dependent thereon shall apply under this section, but findings of fact and orders of disposition have only interlocutory effect pending the final hearing on the petition. The rights and duties of the party served by publication are not affected except as provided in subsection 3.

3. If the party served by publication fails to appear at the final hearing on the petition the findings of fact and interlocutory orders made become final without further evidence and are governed by this chapter as if made at the final hearing. If the party appears at the final hearing the findings and orders shall be vacated and disregarded and the hearing shall proceed upon the allegations of the petition without regard to this section.

### 8-3.2 Right to Counsel

1. A party is entitled to representation by legal counsel at all stages of any proceedings under this chapter pursuant to the Indian Civil Rights Act. If a party appears without counsel the court shall ascertain whether he knows

of his right thereto. The court may continue the proceeding to enable a party to obtain counsel. Counsel may be provided for a child not represented by his parent, guardian or custodian. If the interests of two or more parties conflict, separate counsel may be obtained pursuant to the Indian Civil Rights Act.

2. A child is not to be considered needy if his parents or parent can, without undue financial hardship, provide full payment for legal counsel and other expenses of representation. Any parent entitled to the custody of a child involved in a proceeding under this chapter shall, unless undue financial hardship would ensue, be responsible for providing legal counsel and for paying other necessary expenses of representation for their child. The court may enforce performance of this duty by appropriate order. As used in this subsection, the word "parent" includes adoptive parents.

### 8-3.3 Investigation and Report

1. If the allegations of a petition are admitted by a party or notice of a hearing under section 8-4.0 has been given, the court, prior to the hearing on need for treatment or rehabilitation and disposition, may direct that a social study and report in writing to the court be made by the juvenile supervisor or other person designated by the court, concerning the child, his family, his environment and other matters relevant to disposition of the case. If the allegations of the petition are not admitted and notice of a hearing under section 8-4.0 has not been

given, the court shall not direct the making of the study and report until after the court has heard the petition upon notice of hearing given pursuant to this chapter and the court has found that the child committed a delinquent act or is an unruly or deprived child.

2. During the pendency of any proceeding the court may order the child to be examined at a suitable place by a physician, psychologist or certified addiction counselor and may also order medical or surgical treatment of a child who is suffering from a serious physical condition or illness, or alcohol or drug abuse, which in the opinion of a licensed physician requires prompt treatment, even if the parent, guardian or other custodian has not been given notice of a hearing, is not available, or without good cause informs the court of his refusal to consent to the treatment.

#### 8-3.4 Hearing-Findings-Dismissal

1. After hearing the evidence on the petition the court shall make and file its findings as to whether the child is a deprived child, or if the petition alleges that the child is delinquent or unruly, whether the acts ascribed to the child were committed by him. If the court finds that the child is not a deprived child or that the allegations of delinquency or unruly conduct have not been established it shall dismiss the petition and order the child discharged from any detention or other restriction theretofore ordered in the proceeding and returned to status quo.

2. If the court finds on proof beyond a reasonable doubt that the child committed the acts by reason of which he or she is alleged to be delinquent or unruly it shall proceed immediately or at a postponed hearing to hear evidence as to whether the child is in need of treatment or rehabilitation and to make and file its findings thereon. In the absence of evidence to the contrary evidence of the commission of acts which constitute a felony is sufficient to sustain a finding that the child is in need of treatment or rehabilitation. If the courts finds that the child is not in need of treatment or rehabilitation it shall dismiss the proceeding and discharge the child from any detention or other restriction theretofore ordered.
3. If the court finds from clear and convincing evidence that the child is deprived or that he is in need of treatment or rehabilitation as a delinquent or unruly child, the court shall proceed immediately or at a postponed hearing to make a proper disposition of the case.
4. In hearings under subsections 2 and 3 all evidence helpful in determining the questions presented, including oral and written reports, may be received by the court and relied upon to the extent of its probative value even though not otherwise competent in the hearing on the petition. The parties or their counsel shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making the reports. Sources of confidential information need not be disclosed unless ordered by the court.

5. On its motion or that of a party the court may continue the hearings under this section for a reasonable period to receive reports and other evidence bearing on the disposition or the need for treatment or rehabilitation. In this event the court shall make an appropriate order for detention of the child or his release from detention subject to supervision of the court during the period of the continuance. In scheduling investigations and hearings the court shall give priority to proceedings in which a child is in detention or has otherwise been removed from his home before an order of disposition has been made.

#### 8-3.5 Disposition of Deprived Child

1. If the child is found to be a deprived child the court may make any of the following orders of disposition best suited to the protection and physical, mental and moral welfare of the child, provided that any party seeking to effect a foster care placement of an Indian child under tribal law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful:

a. Permit the child to remain with his parents, guardian or other custodian, subject to conditions and limitations as the court prescribes, including supervision

as directed by the court for the protection of the child.

b. Subject to conditions and limitations as the court prescribes, transfer temporary legal custody to any of the following:

(1) Any individual who, after study by the juvenile supervisor or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child. First preference shall be given the extended family members, followed by the tribal members, and then to other Indians.

(2) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child.

(3) The director of the tribal social service agency or other tribal and public agencies authorized by law to receive and provide care for the child.

c. Require the parents, guardian or other custodian to participate in the treatment ordered for the child.

2. Unless a child found to be deprived is found also to be delinquent he shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children.

**8-3.6 Disposition of Delinquent Child**

If the child is found to be a delinquent child the court may make any of the following orders of disposition best suited to his treatment, rehabilitation and welfare:

1. Any order authorized by section 8-3.5 for the disposition of a deprived child;
2. Placing the child on probation under the supervision of the juvenile supervisor, probation officer or other appropriate officer of the court.
3. Placing the child in an institution, camp or other facility for delinquent children operated under the direction of the court or other local, county and state agencies; or
4. Committing the child to the state industrial school or to a state department to which commitment of delinquent or unruly children may be made.

**8-3.7 Disposition of Unruly Child**

If the child is found to be unruly the court may make any disposition authorized for a delinquent child except commitment to the state industrial school. If after making the disposition the court finds upon a further hearing that the child is not amenable to treatment or rehabilitation under the disposition made it may make a disposition otherwise authorized by section 8-3.6.

**8-3.8 Court Order Required for Removal of Child**

An order of disposition or other adjudication in a proceeding under this chapter, in those cases in which a child is removed

from the home of a relative by birth, marriage or adoption for the reason that continuation in such home would be contrary to the welfare of such child, must specifically state that a continuation of the child in the home of the relative would be likely to result in serious emotional or physical damage to the child.

**8-3.9 Order of Adjudication - Noncriminal**

1. An order of disposition or other adjudication in a proceeding under this chapter is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction. A child shall not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of persons convicted of a crime.
2. The disposition of a child and evidence adduced in a hearing in juvenile court may not be used against him in any proceeding in any court other than a juvenile court, whether before or after reaching majority, except for impeachment or in dispositional proceedings after conviction of a felony for the purposes of a presentence investigation and report.

**8-4.0 Transfer to Other Courts**

1. After a petition has been filed alleging delinquency based on conduct which is designated a crime or public offense under the laws of this reservation, the court before hearing the petition on its merits may transfer the offense for prosecution to the appropriate court having jurisdiction of the offense if:



- a. The child is over sixteen or more years of age and requests the transfer; or
- b.
  - (1) The child was fourteen or more years of age at the time of the alleged conduct;
  - (2) A hearing on whether the transfer should be made is held in conformity with sections 8-3.0 and 8-3.2;
  - (3) Notice in writing of the time, place and purpose of the hearing is given to the child and his parents, guardian or other custodian at least three days before the hearing; and
  - (4) The court finds that there are reasonable grounds to believe that:
    - (a) The child committed the delinquent act alleged;
    - (b) The child is not amenable to treatment or rehabilitation as a juvenile through available programs;
    - (c) The child is not treatable in an institution for the mentally retarded or mentally ill;
    - (d) The interests of the community require that the child be placed under legal restraint or discipline; and
    - (e) If the child is fourteen or fifteen years old, the child committed a

delinquent act involving the infliction  
or threat of serious bodily harm.

2. The transfer terminates the jurisdiction of the juvenile court over the child with respect to the delinquent acts alleged in the petition.
3. No child subject to the jurisdiction of the juvenile court, either before or after reaching eighteen years of age, shall be prosecuted for an offense previously committed unless the case has been transferred as provided in this section.
4. Statements made by the child at the hearing under this section are not admissible against him over objection in the criminal proceedings following the transfer except for impeachment.
5. If the case is not transferred the judge who conducted the hearing shall not, over objection of an interested party, preside at the hearing on the petition. If the case is transferred to a court of which the judge who conducted the hearing is also a judge he likewise is disqualified over objection from presiding in the prosecution.

8-4.1 Disposition of Mentally Ill, Mentally Retarded, Alcohol or Drug Abusing Child

1. If, at a dispositional hearing of a child found to be a delinquent or unruly child, or at a hearing to transfer a child to another court under section 8-4.0, the evidence indicates that the child may be suffering from mental retardation or mental illness, or alcohol or drug abuse, the court before making a disposition shall commit the

child for a period not exceeding sixty days to an appropriate institution, agency or individual for study and report on the child's mental or physical condition.

2. If it appears from the study and report that the child is committable under the laws of this reservation as a mentally retarded or mentally ill child, the court shall order the child detained and direct that within ten days after the order the court resume proceedings in the juvenile court for the child's commitment to an appropriate institution or agency.
3. If it does not so appear or the child is found not to be committable, the court shall proceed to the disposition or transfer of the child as otherwise provided by this chapter.

#### 8-4.2 Limitations of Time on Orders of Disposition

1. An order terminating parental rights is without limit as to duration.
2. An order of disposition pursuant to which a child is placed in foster care continues in force for not more than eighteen months. Any other order of disposition continues in force for not more than two years.
3. Except as provided in subsection 1, the court may sooner terminate an order of disposition or extend its duration for further periods. An order of extension may be made if:
  - a. A hearing is held prior to the expiration of the order upon motion of a party or on the court's own motion;

- b. Reasonable notice of the hearing and opportunity to be heard are given to the parties affected;
  - c. The court finds that the extension is necessary to accomplish the purposes of the order extended; and
  - d. The extension does not exceed eighteen months from the expiration of an order limited by subsection 3 or two years from the expiration of any other limited order.
4. The court may terminate an order of disposition or extension prior to its expiration, on or without an application of a party, if it appears to the court that the purposes of the order have been accomplished. If a party may be adversely affected by the order of termination the order may be made only after reasonable notice and opportunity to be heard have been given to him.
5. Except as provided in subsection 1, when the child attains the age of twenty years, all orders affecting him then in force terminate and he is discharged from further obligation or control.
6. If an order of disposition is made with respect to a child under the age of ten years pursuant to which the child is removed from the care, custody and control of his parent, guardian or other custodian without terminating parental rights and the parent and child relationship, the court, before extending the duration of the order, shall determine upon the extension hearing whether the child is adoptable and whether termination of those rights and that

relationship is warranted under section 8-4.7 and is in the best interest of the child. In that case the notice of the extension hearing must also inform the parties affected that the court will determine whether the child is adoptable and whether termination of their parental rights and the parent and child relationship is warranted and in the best interest of the child and that a further order of disposition may be made by the court placing said child with a view to adoption. If the court determines that the child is adoptable and that termination of parental rights and the parent and child relationship is warranted and is in the best interest of the child, the court shall make a further order of disposition terminating those rights and that relationship and committing the child under section 8-5.3.

#### 8-4.3 Modification or Vacation of Orders

1. An order of the court shall be set aside if (a) it appears that it was obtained by fraud or mistake sufficient therefor in a civil action, or (b) the court lacked jurisdiction over a necessary party or of the subject matter, or (c) newly discovered evidence so requires.
2. Except an order terminating parental rights, or an order of dismissal, an order of the court may also be changed, modified or vacated on the ground that changed circumstances so require in the best interest of the child. An order terminating parental rights and the parent and child relationship may be vacated by the court upon motion of the parent if the child is not on placement

for adoption and the person having custody of the child consents in writing to the vacation of the decree. An order granting probation to a child found to be delinquent or unruly may be revoked on the ground that the conditions or probation have not been observed.

3. Any party to the proceeding, the juvenile supervisor or other person having supervision or legal custody of or an interest in the child may petition the court for the relief provided in this section. The petition shall set forth in concise language the grounds upon which the relief is requested.
4. After the petition is filed the court shall fix a time for hearing and cause notice to be served (as a summons is served under section 8-2.9 on the parties to the proceeding or affected by the relief sought. After the hearing, which may be informal, the court shall deny or grant relief as the evidence warrants.

#### 8-4.4 Rights and Duties of Legal Custodian

A custodian to whom legal custody has been given by the court under this chapter has the right to the physical custody of the child and the right to determine the nature of the care and treatment of the child, including ordinary medical care as well as medical or surgical treatment for a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment. The custodian also has the right and duty to provide for the care, protection, training and education, and the physical, mental and moral

welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.

8-4.5 Voluntary Consent to Termination of Parental Rights

Where any parent or Indian custodian voluntarily consents to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding 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 also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

8-4.6 Withdrawal of Consent to Termination of Parental Rights

In any voluntary proceeding for termination of parental rights to an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

8-4.7 Termination of Parental Rights

1. The court by order may terminate the parental rights of a parent with respect to his child if:
  - a. The parent has abandoned the child;
  - b. The child is a deprived child and the court finds by evidence beyond a reasonable doubt, including

testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious physical, mental, moral, or emotional harm; or

- c. The written consent of the parent acknowledged before the court has been given, after full explanation of the legal consequences, and no sooner than ten days after the birth of the child.
2. If the court does not make an order of termination of parental rights it may grant an order under section 8-3.5 if the court finds from clear and convincing evidence that the child is a deprived child.

**8-4.8 Proceeding for Termination of Parental Rights**

1. The petition shall comply with section 8-2.7 and state clearly that an order for termination of parental rights is requested and that the effect thereof will be as stated in the first sentence of section 8-5.2.
2. If both of the natural parents of the child are not named in the petition either as petitioner or as respondent, the court shall cause inquiry to be made of the petitioner and other appropriate persons in an effort to identify an unnamed parent. The inquiry shall include, to the extent necessary and appropriate, all of the following:
  - a. Whether the natural mother of the child was cohabiting with a man at the time of conception or birth of the child.



- b. Whether the natural mother of the child has received from any man support payments or promises of support with respect to the child or in connection with her pregnancy.
  - c. Whether any person has formally or informally acknowledged or declared his possible parentage of the child.
  - d. Whether any person claims any right to custody of the child.
  - e. Whether any person is a presumed parent as provided in 9-2.8.
3. The court shall add as respondent to the petition and cause to be served with a summons any person identified by the court as an unnamed parent, unless the person has relinquished parental rights, or parental rights have been previously terminated by a court in compliance with the Indian Child Welfare Act.
4. If the court, after inquiry, is unable to identify an unnamed parent and no person has appeared in the proceeding claiming to be an unnamed parent of the child or to have any right of custody of the child, the court shall enter an order terminating all parental rights of the unnamed parent with reference to the child and the parent and child relationship.

**8-4.9 Notice in Cases of Abandonment**

If the petition alleges abandonment as the grounds for termination and if the parent was not served personally nor by registered mail, the petitioner shall file an affidavit

stating what efforts were made to locate and serve notice upon the parent. Copies of notice by publication shall be included in the affidavit. The affidavit shall be filed with the juvenile court at least 10 days prior to the hearing.

8-5.0 Criteria for Termination

1. The court may order termination of parental rights to a child upon finding beyond a reasonable doubt that:

a. Active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful; and

b. The parent voluntarily relinquished the child and fully intended and understood the consequences of the relinquishment; or

c. The parent abandoned the child as defined in Section 8-1.3(1).

d. The child has been judicially determined to be a child in need of care and the court finds that:

(1) The parent has not complied with an appropriate, court approved treatment plan or the treatment plan has not been successful; and

(2) The conduct or condition of the parent rendered them unable to care for the child is unlikely to change within a reasonable time.

2. A treatment plan means a written agreement between the agency or the court and the parent which includes:

- a. The action the parent shall take to resolve the condition or the conduct that resulted in the need for protective services for the child;
  - b. The role of the agency in assisting the parent to resolve that condition or conduct giving rise to the termination hearing; and
  - c. The role of any other party, providing assistance or treatment to the parent.
3. The court, in determining whether continuation of the parent-child legal relationship will likely result in continued abuse or neglect or that the conduct or condition of the parent renders him or her unfit, unable or unwilling to give the child adequate parental care, shall consider whether the conduct or condition of the parent is unlikely to change within a reasonable time. In making such determinations, the court shall consider, but is not limited to considering the following:
- a. Emotional illness, mental illness or mental deficiency of the parent of such duration or nature as to render the parent unlikely to care for the child's ongoing physical, mental and emotional needs;
  - b. A history of violent behavior by the parent;
  - c. A single incident of life-threatening or gravely disabling injury to or disfigurement of the child caused by the parent;

- d. Excessive use of intoxicating liquor or of a narcotic or dangerous drug which affects the parent's ability to care and provide for the child;
  - e. Current judicially-ordered, long-term confinement of the parent;
  - f. Injury or death of a sibling due to proven parental abuse or neglect;
  - g. Any reasonable efforts to rehabilitate the parents; and
  - h. Any plan approved by the Permanency Planning Committee for permanent placement for the child.
4. In considering the factors in subsection 3 above, the court shall give primary consideration to the physical, mental and emotional conditions and needs of the child. The court shall review existing evaluations and, if necessary, order further evaluations of the child's or the parent's physical, mental or emotional conditions.

#### 8-5.1 Review Following Termination

- 1. At the conclusion of a hearing in which the court orders termination of the parent's rights, the court shall order that a review hearing be held.
  - a. If a permanency planning committee approved plan was presented at the termination hearing, the review hearing shall be scheduled within 90 days following the date of termination; and
  - b. If no plan for the permanent placement of the child was presented at the termination hearing, the court

shall order that such a plan be submitted within 30 days and schedule a review hearing within 90 days following receipt of the plan.

2. At the review hearing, the agency or individual having custody of the child shall report to the court whether the plan for permanent placement of the child has been accomplished.
3. If the plan for permanent placement has not been accomplished, the court may order the agency or individual having custody to report to the court at intervals designated by the order which shall not exceed six months, on the status of the child until the plan for permanent placement of the child has been accomplished.

#### 8-5.2 Effect of Termination Decree

1. An order terminating a parent's rights to a child ends all legal rights, powers, immunities, duties and obligations between the parent and the child except the right of the child to inherit from the parent unless the child's right to inherit is excluded by the parent's will.
2. An order terminating a parent's rights to a child does not disentitle the child to any benefit from any third person, any agency, the tribe, state or the United States.
3. As a result of the termination of a parent's rights, the former parent is no longer entitled to notice of any proceedings for the adoption of the child and has no right to object to the adoption or to participate in any other placement proceedings.

### 8-5.3 Commitment to Agency

1. If, upon entering an order terminating the parental rights of a parent, there is no parent having parental rights, the court shall commit the child to the custody of the administrative director of the tribal social services agency of the Three Affiliated Tribes or a licensed child-placing agency willing to accept placement of Indian children for foster care or preadoptive placement in accordance with the Indian Child Welfare Act. The custodian has authority to consent to the adoption of the child, his marriage, his enlistment in the armed forces of the United States, and surgical and other medical treatment for the child.
2. If the child is not adopted within two years after the date of the order and a general guardian of the child has not been appointed by the tribal court, the child shall be returned to the court for entry of further orders for the care, custody, and control of the child.

### 8-5.4 Appeal

An appeal from an order of the court terminating parental rights shall be given priority on the calendar of the appellate court over all other matters.

### 8-5.5 Guardian ad litem

The court at any stage of a proceeding under this chapter, on application of a party or on its own motion, may appoint a guardian ad litem for a child who is a party to the proceeding if he has no parent, guardian or custodian appearing on his behalf or their interests conflict with his or in any other

case in which the interests of the child require a guardian. A party to the proceeding or his employee or representative shall not be appointed as guardian ad litem.

8-5.6 Costs and Expenses for Care of Child

1. The following expenses may be a charge upon the funds of the appropriate county, state or federal agencies:
  - a. The cost of medical and other examinations and treatment of a child ordered by the court;
  - b. The cost of care and support of a child committed by the court to the legal custody of a public agency other than an institution for delinquent children, or to a private agency or individual other than a parent;
2. The following expenses shall be a charge upon the Tribal Court of the Three Affiliated Tribes:
  - a. Reasonable compensation for services and related expenses of counsel appointed by the court for a party;
  - b. Reasonable compensation for a guardian ad litem; and
  - c. The expense of service of summonses, notices, subpoenas, travel expense of witnesses, and other like expenses incurred in the proceedings under this chapter.
3. If, after due notice to the parents or other persons legally obligated to care for and support the child, and after affording them an opportunity to be heard, the court finds that they are financially able to pay all or

part of the costs and expenses stated in subdivisions a and b of subsection 1 and in subdivisions a and b subsection 2, the court may order them to pay the same and prescribe the manner of payment. Unless otherwise ordered payment shall be made to the clerk of the juvenile court for remittance to the person to whom compensation is due.

#### 8-5.7 Protective Order

On application of a party or on the court's own motion the court may make an order restraining or otherwise controlling the conduct of a person if:

1. An order of disposition of a delinquent, unruly or deprived child has been or is about to be made in a proceeding under this chapter;
2. The court finds that the conduct (a) is or may be detrimental or harmful to the child and (b) will tend to defeat the execution of the order of disposition; and
3. Due notice of the application or motion and the grounds therefor and an opportunity to be heard thereon have been given to the person against whom the order is directed.

#### 8-5.8 Inspection of Court Files and Records

1. Except as provided in subsection 2, all files and records of the court in a proceeding under this chapter may not be disclosed to the public and are open to inspection only by:

- a. The judge, officers and professional staff of the court.
- b. The parties to the proceeding and their counsel and representatives.



- c. A public or private agency or institution providing supervision or having custody of the child under order of the court, which shall be given a copy of the findings and order of disposition when it receives custody of the child.
  - d. A court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to the proceeding in juvenile court.
  - e. With an order of this court any other person or agency or institution having a legitimate interest in the proceeding or in the work of the court.
2. In a proceeding under this chapter, if the court finds that a child committed a delinquent or unruly act which constitutes a violation of a law or local ordinance governing the operation of a motor vehicle or a delinquent act including (1) manslaughter or negligent homicide caused by the the child's operation of a motor vehicle, (2) driving under the influence of intoxicating liquor or controlled substances, and (3) leaving the scene of an accident resulting in bodily harm, the court shall, within ten days, report the finding to the tribal prosecutor for proper disposition.

8-5.9 Law Enforcement Records

Law enforcement records and files concerning a child shall be kept separate from the records and files of arrests of adults. Unless a charge of delinquency is transferred for criminal prosecution under section 8-4.0, the interest of national security requires, or the court otherwise orders in the interest of the child, the records and files shall not be open to public inspection or their contents disclosed to the public; but inspection of the records and files is permitted by:

1. A juvenile court having the child before it in any proceeding;
2. Counsel for a party to the proceeding;
3. The officers of public institutions or agencies to whom the child is committed;
4. Law enforcement officers of other jurisdictions when necessary for the discharge of their official duties; and
5. A court in which he is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole or pardon board in considering his parole or discharge or in exercising supervision over him.

8-6.0 Children's Fingerprints, Photographs

1. No child under fourteen years of age shall be fingerprinted in the investigation of a crime except as provided in this section. Fingerprints of a child fourteen or more years of age who is referred to the court

may be taken and filed by law enforcement officers in investigating the commission of the following crimes: murder, manslaughter, gross sexual imposition, robbery, aggravated assault, burglary and theft.

2. Fingerprint files of children shall be kept separate from those of adults. Copies of fingerprints known to be those of a child shall be maintained on a local basis only and not sent to a state or federal depository unless needed in the interest of national security.
3. Fingerprint files of children may be inspected by law enforcement officers when necessary for the discharge of their official duties. Other inspections may be authorized by the court in individual cases upon a showing that it is necessary in the public interest.
4. Fingerprints of a child shall be removed from the file and destroyed if:
  - a. A petition alleging delinquency is not filed, or the proceedings are dismissed after either a petition is filed or the case is transferred to the juvenile court as provided in section 8-1.7 or the child is adjudicated not to be a delinquent child; or
  - b. The child reaches eighteen years of age and there is no record that he committed a criminal offense after reaching sixteen years of age.
5. If latent fingerprints are found during the investigation of an offense and a law enforcement officer has probable cause to believe that they are those of a particular child

he may fingerprint the child regardless of age or offense for purposes of immediate comparison with the latent fingerprints. If the comparison is negative the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is referred to the court, the fingerprint card and other copies of the fingerprints taken shall be delivered to the court for disposition. If the child is not referred to the court, the fingerprints shall be immediately destroyed.

6. Without the consent of the judge, a child shall not be photographed after he is taken into custody unless the case is transferred to another court for prosecution.

8-6.1 Sealing and Disposal of Juvenile Records and Files - With and Without Hearings - Findings Necessary - Notice - Reopening Records

1. The court, upon its own motion, shall order the sealing of its files and records of every child who was the subject of a proceeding as a delinquent child or an unruly child under section 8-1.8, 8-3.6 or 8-3.7, including records kept if the court finds:
  - a. That two years have elapsed since the expiration of any informal adjustment or final order of disposition and the final discharge of the child; or
  - b. That the petition against the child has been dismissed for lack of jurisdiction or failure of proof.
2. When two years have elapsed since the expiration of any informal adjustment or final order of disposition and

final discharge of a child whose files and records are subject to an order of sealing under subsection 1, the court, on application of the child, or his parent or guardian, by order may direct the destruction of all orders, records and papers, and the disposal of all exhibits, relating to the child and contained in the files of the juvenile supervisor and the court, if the court finds, after a hearing, that since the expiration of any informal adjustment or final order of disposition and the final discharge of the child, the person who was the subject of the informal adjustment or final order of disposition has not been convicted of a felony, or of a misdemeanor involving moral turpitude, or adjudicated a delinquent child or unruly child, and no proceeding is pending seeking his conviction or adjudication.

3. Reasonable notice of the hearing under subsection 2 shall be given to:
  - a. The tribal attorney.
  - b. The authority granting the discharge if the final discharge was from an institution or from parole.
  - c. The law enforcement agencies or any representative of the tribe or tribal agency having custody of the files and records specified in sections 8-5.9 and 8-6.0, and which are included in the application or motion.
4. When ten years have elapsed since the expiration of any informal adjustment or final order of disposition and the

final discharge of a child whose files and records are subject to an order of sealing under subsection 1, the court on its own motion, unless earlier ordered by the court under subsection 2, shall order the destruction of all orders, records and papers, and the disposal of all exhibits, relating to the child and contained in the files of the juvenile supervisor and the court.

5. Upon entry of an order under subsection 2 or 4, the proceeding shall be treated as if it never occurred. Copies of the order shall be sent to each agency or official therein-named. Each law enforcement agency and law enforcement officer upon receipt of a copy of the order, shall destroy all files, records and references to the child pertaining to his apprehension, detention and referral to the juvenile court and any record of disposition made by the juvenile court.
6. The juvenile court may retain documents and records for the purpose of administration, planning, research and statistical information provided all names have been expunged from documents and records subject to an order under subsection 2 or 4.

#### 8-6.2 Ex Parte Emergency Orders

The Juvenile Court shall have the authority in emergency situations to issue exparte orders taking custody of Indian children for a period not to exceed 10 days. In order to issue such an order there must be a petition filed alleging that an emergency situation exists, pursuant to the requirements set

forth in 8-25, 8-26, and 8-27, including sworn affidavits supporting said allegations.