

**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WHEREAS, The Tribal Business Council recognizes that the present Adoption Code is outdated and lacking in crucial substantive and procedural areas; and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 Adoption Code to meet the needs of Tribal members; and

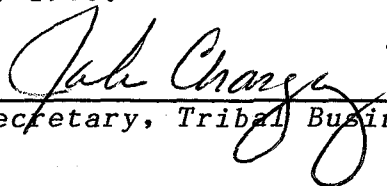
NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council hereby enacts the Three Affiliated Tribes Adoption Code, Chapter 9, for implementation in the Code of Laws of the Three Affiliated Tribes of the Fort Berthold Reservation and which shall go into effect immediately; and

BE IT FURTHER RESOLVED, That Section 23, Chapter 5, entitled, "Adoptions" is hereby rescinded and vacated in lieu of the enactment of the Adoption Code, Chapter 9, which shall be incorporated into the Code of Laws of the Three Affiliated Tribes of the Fort Berthold Reservation

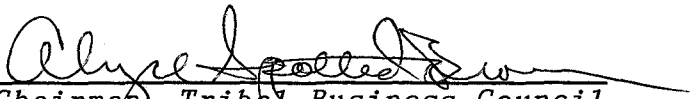
C E R T I F I C A T I O N

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 8 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 8 day of October, 1986.


Secretary, Tribal Business Council

ATTEST:


Chairman, Tribal Business Council

ADOPTION CODE - TITLE 9

THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD INDIAN RESERVATION

Adoption Code - Title 9

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Adoption Code - Title 9

9-1.0 Title

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

9-1.1 Definitions

As used in this chapter, unless the context otherwise requires:

1. "Adult" means an individual who is not a minor.
2. "Agency" means any person certified, licensed or otherwise specially empowered by law or rule to place minors for adoption.
3. "Child" means a son or daughter, whether by birth or adoption.
4. "Court" means the court of this tribe, and when the context requires means the court of any other jurisdiction empowered to grant petitions for adoption.
5. "Biological parent" means the natural mother or adjudicated mother of the adopted child, or the presumed father or adjudicated father of the adopted child under Chapter 10-2.8.
6. "Minor" means an individual under the age of eighteen years.
7. "Person" means an individual, corporation, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

9-1.2 Whom May Be Adopted

Any individual may be adopted.

9-1.3 Who May Adopt

The following individuals may adopt:

1. A husband and wife together although one or both are minors.
2. An unmarried adult.
3. The unmarried father or mother of the individual to be adopted.

4. A married individual without the other spouse joining as a petitioner, if the individual to be adopted is not his spouse, and if:
 - (a) The other spouse is a parent of the individual of the individual to be adopted and consents to the adoption;
 - (b) The petitioner and the other spouse are legally separated; or
 - (c) The failure of the other spouse to join in the petition or to consent to the adoption is excused by the court by reason of prolonged unexplained absence, unavailability, incapacity or circumstances constituting an unreasonable withholding of consent.

9-1.4 Persons Required to Consent to Adoption

1. Unless consent is not required under section 9-1.5, a petition to adopt a minor may be granted only if written consent to a particular adoption has been executed:
 - (a) The mother of the minor whether by birth or adoption;
 - (b) The father of the minor, if:
 - (1) The minor is his child by adoption, or he has otherwise legitimated the minor according to the laws of the place in which the adoption proceeding is brought; or
 - (2) He is presumed to be the natural father of the minor under section 15-17-03 of the Domestic Relations Code provided the nonexistence of the father and child relationship between them has not been judicially determined;
 - (c) Any person lawfully entitled to custody of the minor or empowered to consent;
 - (d) The court having jurisdiction to determine custody of the minor, if the legal guardian or custodian of the person of the minor is not empowered to consent to the adoption;
 - (e) The minor, if more than ten years of age, unless the court in the best interest of the minor dispenses with the minor's consent; and
 - (f) The spouse of the minor to be adopted.

2. A petition to adopt an adult may be granted only if written consent to adoption has been executed by the adult and adult's spouse.

9-1.5

Persons as to Whom Consent and Notice Not Required

1. Consent to adoption is not required of:
 - (a) A parent who has deserted a child without affording means of identification or who has abandoned a child.
 - (b) A parent of a child in the custody of another, if the parent for a period of at least one year has failed significantly without justifiable cause (1) to communicate with the child or (2) to provide for the care and support of the child as required by law or judicial decree.
 - (c) The father of a minor if the father's consent is not required by subdivision of subsection 1 of section 9-1.4.
 - (d) A parent who has relinquished his right to consent under section 9-2.7.
 - (e) A parent whose parental rights have been terminated by order of court under section 9-2.7.
 - (f) A parent judicially declared incompetent or mentally defective if the court dispenses with the parent's consent.
 - (g) Any parent of the individual to be adopted, if the individual is an adult.
 - (h) Any legal guardian or lawful custodian of the individual to be adopted, other than a parent, who has failed to respond in writing to a request for consent for a period of sixty days or who, after examination of his written reasons for withholding consent, is found by the court to be withholding his consent unreasonably.
 - (i) The spouse of the individual to be adopted, if the failure of the spouse to consent to the adoption is excused by the court by reason of prolonged unexplained absence, unavailability, incapacity or circumstances constituting an unreasonable withholding of consent.
 - (j) A parent of the minor, if the failure of the parent to consent is excused by the court in the best interest of the child by reason of the

parent's prolonged unexplained absence, unavailability, incapacity, or significant failure, without justifiable cause, to establish a substantial relationship with the minor or to manifest a significant parental interest in the minor or by reason of inability of the court to identify the parent.

2. Except as provided in section 9-1.9, notice of a hearing on a petition for adoption need not be given to a person whose consent is not required or to a person whose consent or relinquishment has been filed with the petition.

9-1.6

Procedures for Voluntary Consent

1. Voluntary consent to an adoption by any parent or Indian custodian shall not be valid unless in writing and recorded before a judge of the tribal court or another court of competent jurisdiction and is 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. Said judge shall also certify that 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.
2. The consent of the parent or Indian custodian may be withdrawn for any reason at any time prior to the entry of a final decree of adoption, and the child shall be returned to the parent.
3. After the entry of a final decree of adoption of an Indian child in any state court, the parent may withdraw consent thereto upon the ground that consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under state law.

9-1.7

Petition for Adoption

1. A petition for adoption shall be signed and verified by the petitioner, filed with the clerk of the court, and state:
 - (a) The date, place of birth and tribal affiliation of the individual to be adopted.

- (b) The name to be used for the individual to be adopted.
 - (c) The date petitioner acquired custody or date of placement of the minor and the name of the person placing the minor.
 - (d) The full name, age, place and duration of residence of petitioner.
 - (e) The marital status of the petitioner, including the date and place of marriage, if married.
 - (f) That the petitioner has facilities and resources, including those available under a subsidy agreement, suitable to provide for the nurture and care of the minor to be adopted, and that it is the desire of the petitioner to establish the relationship of parent and child with the individual to be adopted.
 - (g) A description and estimate of value of any property of the individual to be adopted.
 - (h) The name of any person whose consent to the adoption is required, but who has not consented, and facts or circumstances which excuse the lack of his consent normally required to the adoption.
 - (i) The tribal social services department as respondent.
2. A certified copy of the birth certificate or verification of the birth record of the individual to be adopted, if available, and the required consents and relinquishment shall be filed with the clerk.

9-1.8

Report of Petitioner's Expenditures

1. Except as specified in subsection 2, the petitioner in any proceeding for the adoption of a minor shall file, before the petition is heard, a full accounting report in a manner acceptable to the court of all disbursements of anything of value made or agreed to be made by or on behalf of the petitioner in connection with adoption. The report shall show any expenses incurred in connection with:
- (a) The birth of a minor;
 - (b) Placement of the minor with petitioner;
 - (c) Medical or hospital care received by the mother or by the minor during the mother's prenatal care and confinement; and

- (d) Services relating to the adoption or to the placement of the minor for adoption which were received by or on behalf of the petitioner, either natural parent of the minor, or any other person.
2. This section does not apply to an adoption by a step-parent whose spouse is a natural or adoptive parent of the child.
 3. Any report made under this section must be signed and verified by the petitioner.

9-1.9

Notice of Petition - Investigation and Hearing

1. After the filing of a petition to adopt a minor, the court shall fix a time and place for hearing the petition. At least twenty days before the date of hearing, notice of the filing of the petition and of the time and place of hearing shall be given by the petitioner to (a) the tribal social services department; (b) any agency or person whose consent to the adoption is required by this chapter but who has not consented; (c) a person whose consent is dispensed with upon any Ground mentioned in subdivisions a,b,f,h,i and j of section 9-1.5 but who has not consented; and (d) any person identified by the court as a natural parent or a possible natural parent of the minor, upon making inquiry to the extent necessary and appropriate, as in proceedings under section 8-4.7 and 8-5.0 of the Juvenile Code, unless the person has relinquished parental rights or his parental rights have been previously terminated by a court. The notice to the tribal social services department shall be accompanied by a copy of the petition.
2. An investigation shall be made by the tribal social services department, a licensed child-placing agency, or any other qualified agency or person designated by the court, to inquire into the condition and antecedents of a minor sought to be adopted and of the petitioner for the purpose of ascertaining whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor.
3. A written report of the investigation shall be filed with the court by the investigator before the petition is heard.
4. The report of the investigation shall contain an evaluation of the placement with a recommendation as to the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor.

5. An investigation and report is not required in cases in which a step-parent is the petitioner or the person to be adopted is an adult. The tribal social services department when required to consent to the adoption may give consent without making the investigation.
6. The tribal social services department or the agency or persons designated by the court to make the required investigation may request other departments or agencies within or without this reservation to make investigations of designated portions of the inquiry as may be appropriate and to make a written report thereof as a supplemental report to the court and shall make similar investigations and reports on behalf of other agencies or persons designated by the courts of this reservation or another place.
7. After the filing of a petition to adopt an adult the court by order shall direct that a copy of the petition and a notice of the time and place of the hearing be given to any person whose consent to the adoption is required but who has not consented. The court may order an appropriate investigation to assist it in determining whether the adoption is in the best interest of the persons involved.
8. Notice shall be given in the manner appropriate under rules of civil procedure for the service of process in a civil action on the Fort Berthold Reservation.

9-2.0

Required Residence of Minor

A final decree of adoption shall not be issued and an interlocutory decree of adoption does not become final, until the minor to be adopted, other than a stepchild of the petitioner, has lived in the adoptive home for at least six months after placement by an agency, or for at least six months after the tribal social services department or the court has been informed of the custody of the minor by the petitioner, and the tribal Social Services department court has had an opportunity to observe or investigate the adoptive home.

9-2.1

Appearance - Continuance - Disposition of Hearing

1. The petitioner and the individual to be adopted shall appear at the hearing on the petition, unless the presence of either is excused by the court for good cause shown.
2. The court may continue the hearing from time to time to permit further observation, investigation or consideration of any facts or circumstances affecting the granting of the petition.

3. If at the conclusion of the hearing, the court determines that the required consents have been obtained and that the adoption is in the best interest of the individual to be adopted, it may (a) issue a final decree of adoption; or (b) issue an interlocutory decree of adoption which by its own terms automatically becomes a final decree of adoption on a day specified in the decree, which day shall not be less than six months nor more than one year after the minor was placed in the adoptive home by an agency or after the tribal social services department or court was informed of the custody of the minor by the petitioner, unless sooner vacated by the court for good cause shown.
4. If the requirements for a decree under subsection 3 have not been met, the court shall dismiss the petition and determine the person to have custody of the minor, including the petitioners if in the best interest of the minor. In an interlocutory decree of adoption is entered the court may provide for observation, investigation and further report on the adoptive home during the interlucutory period.

9-2.2

Effect of Petition and Decree of Adoption

1. A final decree of adoption and an interlocutory decree of adoption which has become final, whether issued by a court of this reservation or of any other place, have the following effect as to matters within the jurisdiction or before the tribal court:
 - (a) Except with respect to a spouse of the petitioner, who is the natural or adoptive parent of the minor to be adopted and relatives of the said spouse, to relieve the natural parents of the adopted individual of all parental rights and responsibilities, and to terminate all legal relationships between the adopted individual and his relatives, including his natural parents, so that the adopted individual thereafter is a stranger to his former relative for all purposes including inheritance and the interpretation or construction of documents, statutes and instruments, whether executed before or after the adoption is decreed, which do not expressly include the individual by name or by some designation not based on a parent and child or blood relationship; and
 - (b) To create the relationship of parent and child between petitioner and the adopted individual, as if the adopted individual were a legitimate blood descendant of the petitioner, for all purposes including inheritance and applicability of

statutes, documents and instruments, whether executed before or after the adoption is decreed, which do not expressly exclude an adopted individual from their operation or effect.

2. Notwithstanding the provisions of subsection 1, if a parent of a child dies without the relationship of parent and child having been previously terminated and a spouse of the living parent thereafter adopts the child's right of inheritance from or through the deceased parent is unaffected by the adoption.
3. An interlocutory decree of adoption, while it is in force, has the same legal effect as a final decree of adoption. If an interlocutory decree of adoption is vacated, it shall be as though void from its issuance, and the rights, liabilities and status of all affected persons which have not become vested shall be governed accordingly.
4. If in a petition for the adoption of a child a change of the child's name is requested, the court, upon decreeing the adoption, may also decree the change of name.

9-2.3

Appeal and Validation of Adoption Decree

1. An appeal from any final order or decree rendered under this chapter may be taken in the manner and time provided for appeal from a judgment in a civil action.
2. Subject to the disposition of an appeal, upon the expiration of one year after an adoption decree is issued the decree cannot be questioned by any person including the petitioner, in any manner upon any ground, except as otherwise provided in this chapter.

2.4

Hearings and records in Adoption Proceedings - Confidential Nature - Disclosure of Identifying and Nonidentifying Information - Retroactive Operation

1. All hearings held in proceedings under this chapter shall be held in closed court without admittance of any person other than essential officers of the court, the parties, their witnesses, counsel, persons who have not previously consented to the adoption but are required to consent, and representatives of the agencies present to perform their official.
2. All papers, records and information pertaining to the adoption whether part of the permanent record of the court or of a file in the tribal social services department or in an agency are confidential and may be disclosed only in accordance with this section.

3. Nonidentifying information, if known, concerning undisclosed genetic parents shall be furnished to:
 - (a) The adoptive parents at the time of adoptive placement or upon their request.
 - (b) An adopted adult upon written request.

In addition, the clerk of the appropriate court, upon request and payment of the proper fee, shall furnish a certified copy of the decree of adoption to the adoptive parents, the guardian of an adopted minor child, or an adopted adult, provided the decree does not disclose the identity of the genetic parents or the name of the adopted person prior to the adoption proceedings, unless such information is necessary for the adopted person to protect rights flowing from a tribal relationship.

4. An adopted person who is twenty-one years of age or over may request the tribal social services department to secure and disclose information identifying the adopted child's genetic parents or to secure and disclose nonidentifying information not on file with the board or a child-placing agency. The tribal social services department shall, within five working days of receipt of the request, notify in writing the child-placing agency having access to the information requested of the request by the adopted child.
5. Within three months after receiving notice of the request of the adopted person, the child-placing agency shall make complete and reasonable efforts to notify the natural parents of the adopted child. The natural parents shall be contacted by the agency and informed of their right to file an affidavit opposing disclosure, or approving disclosure.
6. If the child-placing agency certifies to the department of human services that it has been unable to notify the natural parent within three months, the identifying information shall not be disclosed to the adopted child. If either natural parent has at any time filed with the tribal social services department an unrevoked affidavit stating that the identifying information should not be disclosed, the department of human services shall not disclose the information to the adopted child until the affidavit is revoked by the filing of a consent to disclosure by that parent, unless such information is necessary for the person seeking disclosure to prove a tribal relationship.
7. If, within three months, the child-placing agency certifies to the tribal social services department that it has notified the natural parents pursuant to

subsection 5, the department of human services shall receive the identifying information from the child-placing agency and disclose the information sixty-one days after the date of the latest notice to either genetic parent. This disclosure will occur if, at any time during the sixty-one days, the genetic parent has filed an affidavit with the tribal social services department stating that the information shall be disclosed and the affidavit has not been revoked by the subsequent filing and the genetic parent of an affidavit that the information shall not be disclosed.

8. If the natural parent has died and has not filed an unrevoked affidavit with the tribal social services department stating that identifying information shall not be disclosed, the information shall be forwarded to and released by the tribal social services department to the adopted child.
9. Any adopted person twenty-one or more years of age whose adoption was finalized by this court or whose genetic parents had their parental rights terminated in this court may request the tribal social services department to secure and disclose identifying information concerning an adult sibling in the same manner as provided for in subsection 4. Identifying information pertaining exclusively to the adult sibling, whether part of the permanent record of a file in the tribal social services department or in an agency, may be released only upon written consent of the adult sibling and any living genetic parents of the adult sibling knows of their identity, unless such information is necessary for the person seeking disclosure to prove a tribal relationship.

9-2.5

Recognition of Foreign Decree Affecting Adoption

A decree of court terminating the relationship of parent and child or establishing the relationship by adoption issued pursuant to due process of law and in compliance with the Indian Child Welfare Act by a court of any other jurisdiction within or without the United States shall be recognized on this reservation and the rights and obligations of the parties as matters within the jurisdiction of this reservation shall be determined as though the decree were issued by a court of this reservation.

9-2.6

Application for New Birth Record

Within thirty days after an adoption decree becomes final, the clerk of the court shall prepare an application for a birth record in the new name of the adopted individual and forward the application to the appropriate vital statistics office of the place, if known, where the adopted individual

was born and forward a copy of the decree to the tribal social services department.

9-2.7

Relinquishment and Termination of Parent and Child Relationship

1. The rights of a parent with reference to a child, including parental right to control the child or to withhold consent to an adoption, may be relinquished and the relationship of parent and child terminated in or prior to an adoption proceeding as provided in this section.
2. All rights of a parent with reference to a child, including the right to receive notice of a hearing on a petition for adoption, may be relinquished and the relationship of parent and child terminated by a writing, signed by the parent regardless of the age of the parent, provided, however, that 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 the 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.
3. In any voluntary proceeding for termination of parental rights to, or adoptive placement of, 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.
4. No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported 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 emotional or physical damage to the child.
5. A petition for termination of the relationship of parent and child in connection with an adoption proceeding may be made by:
 - (a) Either parent if termination of the relationship is sought with respect to the other parent;

(b) The petitioner for adoption, the guardian of the person, the legal custodian of the child, or the individual standing in parental relationship to the child;

(c) An agency; or

(d) Any other person having a legitimate interest in the matter.

6. Such an involuntary proceeding shall be held in conformity with section 8-4.7 and 8-4.8.

9.2-8 Adoption and Legitimation by Conduct

Notwithstanding the other provisions of this chapter, the father of an illegitimate minor adopts and legitimates a minor by publicly acknowledging the minor as his child, receiving the minor into his home with the consent of his wife, if he is married, and otherwise treating the minor as if the minor were legitimate. Thereafter, the minor is deemed the legitimate child of the father for all purposes from the time of birth of the minor, the same as if the adoption had been finally decreed pursuant to this chapter.

9.2-9 Description of Paternity

(See Domestic Relations Code, Section 15-17-03.)