

CHAPTER 6 - YOUTH CODE

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Section 6-1 Youth Code

6-1.01 Title. This Code shall be known as the Youth Code of the Spokane Tribe of Indians.

Readopted 8/01/06, Resolu. 2006-524.

6-1.02 Purpose. The purpose of this Code is to assist Indian children within the jurisdiction of the Tribal Youth Court to receive the care and guidance needed to prepare them to take their places as responsible adults; to prevent the unwarranted breakup of Indian families; and to preserve and strengthen the child's individual, cultural, and Tribal identity.

Readopted 8/01/06, Resolu. 2006-524.

6-1.03 Intent. It is the intent of the Spokane Tribe, in adopting this Code, to incorporate to the fullest extent the recognized customs and traditions of the child's Tribe, consistent with the Indian Civil Rights Act, 25 USC Section 1301-3 (1968), and the Indian Child Welfare Act, 25 USC Section 1901, et. seq., and with the needs of Tribal members.

Readopted 8/01/06, Resolu. 2006-524.

6-1.04 Establishment of Court.

(a) There is hereby established a Court to be known as the Tribal Youth Court.

(b) The Spokane Tribal Judge, when presiding at the Tribal Youth Court, shall be known as the Spokane Youth Court Judge and is qualified to act as such.

Readopted 8/01/06, Resolu. 2006-524.

6-1.05 Jurisdiction. The Youth Court shall have jurisdiction over all matters covered in the Youth Code involving an Indian child residing or domiciled upon the Spokane Reservation.

(a) In addition, the Youth Court shall have the exclusive jurisdiction over all child custody proceedings, as defined by the Indian Child Welfare Act, 25 USC, Section 1903, involving an Indian child who resides or who is domiciled upon the Spokane Indian Reservation.

(b) An Indian child who is domiciled or resides upon the Spokane Indian Reservation, and, who is the subject of any state or foreign Tribal Court child custody proceeding, shall remain subject to that foreign Court's jurisdiction.

(c) The Spokane Youth Court, if it so desires, may petition the foreign Court to allow the Spokane Tribe to intervene or to have the case transferred to the Youth Court.

Readopted 8/01/06, Resolu. 2006-524

6-1.06 Protected Children of the Youth Court. In any case where this Court transfers legal custody of a Spokane Indian child to any person other than a natural parent of the child, or to any agency or institution, the Youth Court shall retain jurisdiction over all future custody proceedings involving that child, until the child reaches the age of 18 years, unless otherwise specified by a Tribal Youth Court order.

Readopted 8/01/06, Resolu. 2006-524.

6-1.07 Definitions. For the purpose of this Code, the following words and phrases shall, unless otherwise indicated, have the following meaning:

(a) "Adult" means any individual who has reached his or her 18 birthday.

(b) "Child" means any individual born or unborn under the age of 18 years or a person age 18 to 21 years who remains a Youth in Need of Care under the continuing jurisdiction of the Tribal Youth Court.

Legislaive History: Amended 1/25/2013; Resolu. 2013-139.

(c) "Child custody proceedings" means any voluntary or involuntary court action, informal or formal, not including divorce actions, that may result in the temporary or permanent removal of a child from his parent or parents or his custodian.

(d) "Custodian" means that person who has the legal right to custody of the child.

(e) "Delinquent Act" means an act that, if committed by an adult, is designated a crime under the Spokane Tribal Law and Order Code.

(f) "Domicile" means the place considered to be the child's home, according to the traditions and customs of the child's Tribe, or the place where the child is living and is expected to continue living for an indefinite period of time.

(g) "Extended Family Member" means an adult who is the child's grandparent, great-grandparent, aunt or uncle or great-aunt or great-uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin or step-parent.

(h) "Foster care" means the placement of a child to reside with another family or person for a temporary period of time.

(i) "Indian Child Welfare Advocate" means an attorney, Tribal member, or spokesperson who serves as counsel for the child in a Tribal Youth Court proceeding.

(j) "Indian Child Welfare Act" means the Indian Child Welfare Act, 25 USC 1901, et. seq.

(k) "Indian Child Welfare Advisory Committee" means the committee established by the Spokane Tribal Council, that is to be consulted in matters regarding the adoption, foster care and child protective services involving an Indian child as defined by this section.

(1) The Committee's membership and qualifications shall be determined by the Spokane Tribal Council.

(l) "Indian Youth" or "Indian Child" means any unmarried person born or unborn who is under 18 years of age and is either:

(1) a member of an Indian Tribe, or

(2) is eligible for Membership in an Indian Tribe and is the biological child of a member of an Indian Tribe.

(m) "Least Restrictive Alternative" means the least drastic method of achieving this Court's goal; the restrictions placed on the child must be reasonably related to the Court's objectives and must be the least restrictive way of achieving that objective.

(n) "Parent" means a natural or adoptive parent but does not include persons whose parental rights have been terminated, nor does it include the unwed father whose paternity has not been formally acknowledged or established.

(o) "Residence" means the place where the child is presently living.

(p) "Shelter care" means the temporary residential care of children in a shelter care facility or group home approved by the Spokane Tribe.

(q) "Spokane Indian Child" means any unmarried person born or unborn who is under the age of 18 and is either

(1) a member of the Spokane Indian Tribe, or

(2) is eligible for membership in the Spokane Indian Tribe and is the biological child of a member of the Spokane Indian Tribe, or

(3) the child (natural or adopted) of a member of the Spokane Indian Tribe.

Readopted 8/01/06, Resolu. 2006-524.

6-1.08 Confidentiality. All Court files and documents prepared in matters before this Court shall be held confidential.

(a) These records shall be kept in a secure place by the Clerk of the Youth Court, and shall be released only to Tribal Judges, the child's Indian Child Welfare Advocate, the Indian Child Welfare Advisory Committee Chairperson, and authorized social service workers.

(b) No other release of such information shall be allowed without an order of the Youth Court Judge.

Readopted 8/01/06, Resolu. 2006-524.

6-1.09 Appeal. Any person aggrieved by a final order of this Court may appeal the order as provided in Section 1-7 of this Code.

Readopted 8/01/06, Resolu. 2006-524.

Section 6-2 Foster Care

6-2.01 Foster Care and Pre-Adoptive Care.

(a) Each Spokane Indian child and Indian child accepted for foster care or pre-adoptive placement shall be placed in the least restrictive alternative setting.

(b) In placement, a preference shall be given to:

(1) a member of the Indian child's extended family;

(2) a foster home licensed, approved or specified by the Indian child's Tribe;

(3) an Indian foster home licensed or approved by authorized non-Indian licensing authority; or

(4) an institution for children approved by the Spokane Indian Tribe or operated by an Indian organization which has a program suitable to meet the Indian

child's needs.

Readopted 8/01/06, Resolu. 2006-524.

Section 6-3 Youth in Need of Care

6-3.01 Youth in Need of Care – Definitions. A youth in need of care means a child who has been found to be in 1 or more of the following situations:

(a) "Abused Child" means a child that has been injured, sexually abused, sexually exploited, neglected or maltreated by any person under circumstances which indicate that the child's health, welfare, and safety is harmed thereby; *provided, that* this subsection shall not be construed to authorize the interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare, and safety.

(b) "Neglected Child" means a child whose parent or custodian fails to provide such food, clothing, shelter, medical attention, hygiene, education, or supervision as a child needs for normal development, and such failure is likely to result in serious harm to the child.

(1) A neglected child includes an unborn child whose mother does not adequately protect its safety, health and well-being from date of conception to birth.

(c) "Delinquent Child" means a child who has been found, in a Tribal Court or other appropriate proceeding, to have committed delinquent acts, and whose parent or custodian is unable or unwilling to control such behavior.

(d) "Dependent Child" means a child who has no parent or custodian available, willing or capable of adequately caring for the child such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

Readopted 8/01/06, Resolu. 2006-524.

6-3.02 Action on Reporting. Within 24 hours after the receipt of any report or information regarding a Spokane Indian child and an Indian child who may be a youth in need of care, it shall be the duty of the Spokane Reservation social worker to investigate the circumstances surrounding the report, including the home environment of the child, any physical or emotional injuries suffered by the child, and all other matters which, in the view of the Reservation social worker, shall be relevant to the investigation.

(a) If the Spokane Reservation social worker is unavailable, the information or report is to be referred, within the aforementioned time frame, to the Tribal or Bureau of Indian Affairs Police, or the Indian Child Welfare Advisory Committee Chairperson.

(b) If from the investigation, it shall appear that there is probable cause to believe that the Spokane Indian child and/or Indian child is a youth in need of care, the person receiving the information shall file a petition with the Tribal Youth Court.

(c) If, from the investigation, it appears that the Spokane Indian child and/or Indian child is in need of emergency protective care the person receiving the information shall take appropriate steps to provide emergency protective services as provided in Section 6-3.04.

Readopted 8/01/06, Resolu. 2006-524.

6-3.03 Responsibility and Confidentiality of Reporting.

(a) Any individual who knows or suspects that a child is an Indian youth in need of care, should report the case to the Reservation social worker, Tribal or Bureau of Indian Affairs Police, the Indian Child Welfare Advisory Committee Chairperson, or the Youth Court.

(b) When any professional school personnel, registered or licensed nurse, social worker, psychologist, pharmacist, medical professional, day care worker, Head Start worker, law enforcement officer, child care agency worker, Tribal advocate, or mental health personnel, has reasonable cause to believe that a child is a youth in need of care, that person shall report such incident, or cause a report to be made.

(c) Any information regarding the source of the report of a youth in need of care will be kept confidential.

Readopted 8/01/06, Resolu. 2006-524.

6-3.04 Emergency Protective Care.

(a) Whenever a Tribal or Bureau of Indian Affairs Police Officer or Reservation social worker has reasonable grounds to believe that a Spokane Indian child or an Indian child is in danger of serious and imminent physical or emotional harm and that the removal of the child from the child's home is necessary to avoid such harm, and if the Court is unavailable to issue a custody order, or if the issuance of a custody order would involve a delay which would contribute to the risk of harm to the child, the policy officer or social worker may take the child into Emergency Protective care.

(b) Upon the removal of a Spokane Indian child or an Indian child into protective care, the Tribal or Bureau of Indian Affairs police officer or social worker shall:

(1) Immediately notify the child's parents or custodian of such removal, and the reasons therefore. If attempts to notify the child's parents or custodian are unsuccessful, then the child's nearest relatives shall be notified.

(2) The police shall notify the Reservation social worker of the removal or if the social worker is unavailable, the Chairperson of the Indian Child Welfare Advisory Committee.

(3) If the return of the child to the child's parents or custodian is impossible or would involve continued risk to the child, then the child shall be placed in foster care, or a shelter care facility. A child shall not be placed in a jail facility unless such a placement is determined, by a Tribal Youth Court Judge, to be necessary for the best interests of the child.

(4) Upon the placement of a child, the Tribal police officer or social worker shall make and deliver a report to the Tribal Youth Court and the Indian Child Welfare Advisory Committee Chairperson containing a summary of the circumstances surrounding the Emergency Protective Care.

Readopted 8/01/06, Resolu. 2006-524.

6-3.05 Termination of Protective Care.

(a) In no case shall emergency temporary care extend beyond 36 hours, exclusive of weekends and holidays.

(b) Prior to the expiration of this period, the Reservation social worker shall:

(1) Cause the child to be returned to the child's parents or custodian; or

(2) Have the child brought before a Tribal Youth Court Judge for an emergency hearing to determine further placement of the child.

Readopted 8/01/06, Resolu. 2006-524.

6-3.06 Emergency Hearing. In the case of an emergency hearing, the Reservation social worker shall make every reasonable effort to notify the child's parents or custodian of the time and place of the hearing, and inform the parents or custodian of their right to attend the hearing and be heard.

(a) Notice hereunder shall be provided by personal service unless otherwise provided for by a Court Order.

(b) If notice of such hearing was not received by the child's parent or custodian, the parent or custodian can request a new hearing, such hearing to take place as soon as possible, but no later than 5 days after its request.

(c) If the Court continues the emergency, temporary care pursuant to an emergency hearing, the Reservation social worker, or their appointee, shall file a petition as provided below and there shall be an "initial" hearing within 14 days of such emergency order.

(d) This matter will then proceed as a case initiated hereunder by virtue of a petition.

Readopted 8/01/06, Resolu. 2006-524.

6-3.07 Initiation of Proceedings - Petition.

(a) All Court proceedings under this part shall be initiated by a petition filed with the Tribal Youth Court.

(b) The petitions shall contain the following information:

(1) Identification of the youth. The name, age, sex, and residence of the youth so far as is known to the petitioner.

(2) Identification of parent, guardian, or custodian.

(A) The name, marital status, and residence of the parent, guardian, or custodian, or person with whom the juvenile is residing, so far as is known to the petitioner.

(B) If not known, the petition shall so state.

(c) The basis of the Court's jurisdiction.

(d) An allegation that the youth is an Indian youth in need of care, and a plain statement of facts supporting this allegation;

- (e) A statement of any relief requested, including termination of any parental or custodial rights or appointment of a substitute custodian.

Readopted 8/01/06, Resolu. 2006-524.

6-3.08 Indian Child Welfare Advocate. Upon the filing of a petition, the clerk of the Tribal Court shall immediately notify the Indian Child Welfare Advocate and the Indian Child Welfare Committee Chairperson.

- (a) The Indian Child Welfare Advocate will be the advocate who will represent the alleged youth in need in the proceedings upon the petition.
- (b) If there is no Indian Child Welfare Advocate, the Court shall appoint one and provide him or her with a copy of the petition and access to other materials involving the child.

Readopted 8/01/06, Resolu. 2006-524.

6-3.09 Notice. Written notice of any hearing, except an emergency hearing, held under this section shall be given at least 5 days prior to hearing date, to all parents and legal custodians of the child and to other persons as the Court may direct.

- (a) A copy of the petition shall also be provided to such parties with the notice of the hearing.
- (b) Service of such notice and petition shall be by personal service if the whereabouts of the parents are known, otherwise, service shall be as ordered by the Court.

Readopted 8/01/06, Resolu. 2006-524.

6-3.10 Intervention. Intervention will be allowed at any point in the proceeding by the Indian custodian or parent of the child and/or the child's Tribe.

Readopted 8/01/06, Resolu. 2006-524.

6-3.11 Initial Hearing. Within 14 days, or as soon as possible, after the filing of the petition, there shall be an initial hearing.

- (a) The general public shall be excluded from the hearings under this section and only such persons who are found by the Court to have a direct interest in the case or the work of the Court shall be admitted to the proceedings.
- (b) Where applicable, the Court shall follow the traditions and customs of the child's Tribe regarding involvement of interested persons.
- (c) At the time of the hearing, the parents or custodians of the youth shall be advised of:
 - (1) The nature of the charges;
 - (2) The factual allegations;
 - (3) The present custodial situation;
 - (4) The relief requested by the Reservation social service worker.
- (d) The parent or custodian will be allowed to admit or deny the allegations in the petition.
- (e) Unless the allegations are admitted, the Tribal Advocate shall have the burden of proving, by clear and convincing evidence, that the child is a youth in need of care. If temporary custody is requested, the Tribe shall have the burden of proving, by clear and convincing evidence, that such relief is necessary for the protection of the child.
- (f) Upon the conclusion of the hearing the Court shall issue a temporary order, including a statement concerning the following:
 - (1) Its jurisdiction over the case;

- (2) Whether it has been proven by clear and convincing evidence that the child is a youth in need of care. If the Court does not so find, the petition shall be dismissed;
- (3) If temporary custody is requested, whether it has been proven by clear and convincing evidence that such temporary custody is necessary for the protection of the child;
- (4) The date of the final disposition hearing upon the petition to determine the custody or placement of the child. Such hearing may be no later than 6 months after the initial hearing date.
- (g) The Youth Court Judge may order such other actions which the Judge deems necessary.

Readopted 8/01/06, Resolu. 2006-524.

6-3.12 Final Disposition Hearing on Indian Child. Notice of final disposition hearing shall be given in accordance with Section 6-3.09.

- (a) All parties may testify, and otherwise give evidence on their behalf regarding the circumstances of the child and of the parents, custodians, or possible custodians of the children.
- (b) The procedure and burden of proof of this hearing shall be as set forth in section 6-3.11.
- (c) Provided, however, 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 is likely to result in serious emotional or physical damage to the child.
- (d) In addition, the Court may order any of the following dispositions or other appropriate dispositions:
 - (1) Temporarily suspending parental rights for a specified or indefinite period of time, placing the child's legal custody for such period with the Tribe and the physical custody of the child with an extended family member, foster home, shelter care home, or other appropriate person or facility.
 - (2) Terminate those parental rights and place the child with an appropriate custodian.
- (e) In any of the above situations where the parental rights have been suspended or terminated, but the child has not been adopted, the child shall be considered a protected child of the Youth Court.

Readopted 8/01/06, Resolu. 2006-524.

6-3.13 Preservation of Tribal Rights of an Indian Child. The termination of parental rights of an Indian child shall not adversely affect the child's rights and privileges as an Indian, nor as a member of any Tribe to which the child is entitled to membership, nor shall it effect the child's enrollment status with the child's Tribe.

Readopted 8/01/06, Resolu. 2006-524.

Section 6-4 Appointment of Custodian

6-4.01 Appointment of Custodian of Child. The Spokane Tribal Youth Court has the authority to appoint a custodian for a child whose parents or existing custodian has been deprived of temporary or permanent custody of such child and the child has not been adopted or placed with some other individual or institution making the appointment of a custodian unnecessary.

(a) A custodian may also be appointed in other cases where the parent or custodian has not had such custody terminated, but only if the parent or the custodian consents to such appointment.

(b) **Formal Custodianship.** A formal custodianship shall be created upon petition and by order of the court.

(1) **Petition.** The process for creation of a custodianship shall be initiated by the filing of a petition. The petition shall be on behalf of the child needing such custodianship. The petition shall contain the following information:

(A) The name, age, and residence of each living parent of the child;

(B) The name, age, and residence of the child;

(C) The name, age, and residence of the proposed custodian or custodians;

(D) The jurisdictional basis of the Tribal Court;

(E) A statement of the facts indicating that the custodianship is in the best interest of the child;

(F) The duration of the proposed custodianship;

(G) Whether the custodianship is consented to by each living parent of the child, and if not, any facts requiring such custodianship without the consent of the parent or custodian.

(H) A full statement of the value of any property of the child's, or of which the child is expected to become entitled to during the custodianship.

(2) **Consent.** The written consent of each parent consenting to the custodianship will be filed with the petition. Such consent shall be executed before an adult witness. Such consents shall not be invalidated by reasons of the minority of the consenting parent.

(3) **Court Order.** Any Court order temporarily or permanently terminating the custody of the parent or an existing custodian shall be attached to the petition.

(4) **Investigation.** Upon the filing of a petition, the Court may order such investigation, as it deems necessary.

(c) **Summary Order.** If the Court determines that the proposed custodian is a member of the child's extended family, or otherwise has significant ties to the child, and that the custodianship has been consented to by each living parent of the child, and that the custodianship is in the best interest of the child, the Court may enter an order of custodianship as requested in the petition without need for formal hearings.

(d) **Notice.** If the custodianship has not been consented to in writing by each living parent of the child, then each parent not having consented shall be given written notice of the proceedings. Such notice shall be served personally if the whereabouts of the parent is known, otherwise service shall be made as ordered by the Court.

(e) **Hearings.** Unless the custodianship is granted by summary order, the Court shall hold a hearing upon the petition and shall determine if the custodianship is in the best interest of the child.

(1) If a non-consenting parent appears at the hearing and contests the custodianship the petition shall be denied unless the Court determines, upon clear and convincing evidence that the custodianship is in the best interest of the child, or that an order has already been entered temporarily or permanently depriving that parent of custody pursuant to section 6-3 of this Code.

(f) Order. Upon a determination that the petition should be granted, the Court shall enter an order of custodianship.

- (1) Such order shall contain the following:
 - A. The jurisdiction basis of the Court;
 - B. The name of the custodian;
 - C. The duration of the custodianship;
 - D. A factual finding that the custodianship is in the best interest of the child and the reasons therefore;
 - E. Any specific conditions of custodianship.

(g) Termination of Custodianship. The custodianship shall terminate upon any of the following:

- (1) Duration specified in the order;
- (2) The child reaching the age of 18 years;
- (3) The further order of the Court, terminating custodianship, or the death of the custodian or other circumstances creating a practical inability of the

custodian to care for the child.

(h) Upon termination of the custodianship, all legal parental rights shall be returned to the person or persons having such rights prior to the creation of the custodianship unless otherwise provided.

Readopted 8/01/06, Resolu. 2006-524.

6-4.02 Informal Custodianship. An informal custodianship may be created by the placement of a child by a custodial parent or parents with another person or family, without Court involvement.

(a) Creation of Informal Custodianship. Such a custodianship must be voluntarily entered into by the custodial parent or parents involved and the custodian and shall be recognized as a legal custodianship for so long as a consensual relationship continues.

(b) Rights of Non-Consenting Parent. No informal custodianship may be created over the objections of a natural parent having custody or joint custody of the child.

(1) A natural parent who does not have custody of the child, and who has not consented to such an informal custodianship may petition the Court for denial or termination of the custodianship status, for custody of the child or for such other appropriate relief as the parent believes may be in the best interests of the child.

(c) Hearing Upon Petition. Upon the filing of such a petition, the Court shall hold a hearing in accordance with RSLOC 6-4.01(e) above, and the matter shall thereafter be determined in accordance with the preceding rules for determination of a formal custodianship petition.

(d) Termination. After the creation of an informal custodianship status, if the natural parent or parents consenting to the custodianship shall elect to terminate the custodianship and request the return of the child, such requests shall be granted.

(1) If the custodian does not believe that the termination of the custodianship is in the best interests of the child, the custodian may, in the alternative, file or cause to be filed, a petition asking that the youth be declared a youth in need of care under Section 6-3 of this Chapter

Readopted 8/01/06, Resolu. 2006-524

Section 6-5 Referrals Under the Indian Child Welfare Act

6-5.01 Purpose.

(a) The purpose of this section is to provide for speedy and effective processing of referrals under the Indian Child Welfare Act of 1978 from State or Tribal Courts, in order to best protect the interests of a Spokane Indian child or an Indian child and the interests of the Spokane Tribe.

(b) It is intended that the Tribe investigate cases referred to them, and act or transfer to the Tribal Youth Court those cases where transfer is in the best interests of the child.

Readopted 8/01/06, Resolu. 2006-524.

6-5.02 Receipt of Referrals.

(a) Referrals shall be received by the Reservation social worker or Indian Child Welfare Advisory Committee Chairperson.

(b) Upon receipt of a referral, the social worker or Indian Child Welfare Advisory Committee Chairperson shall immediately deliver the referral to the Youth Court Judge, and the Spokane Tribal attorney.

Readopted 8/01/06, Resolu. 2006-524.

6-5.03 Duties of the Recipient of Referral. The recipient of a referral, upon receipt of such a referral, shall enter in the record all essential information relevant to the referral including:

(a) The source of the referral;

(b) The names and addresses of the child and parent, guardian, or custodian;

(c) The date of the referral;

(d) The form of the proceedings in the foreign Court;

(e) The Tribal affiliation and blood quantum of the child, if known.

Readopted 8/01/06, Resolu. 2006-524.

6-5.04 Duties of the Youth Court Judge. The Chairperson of the Indian Child Welfare Advisory Committee, Reservation social worker and the Indian Child Welfare Advocate where practicable, shall determine if it is necessary to request a 20 day extension to prepare the case, and if so, the Reservation social worker shall see that such request is properly made.

Readopted 8/01/06, Resolu. 2006-524.

6-5.05 Investigation of Referral. Upon receipt of referral and/or request of the 20 day extension, the Reservation social service worker shall assist in the investigation of the referral.

(a) The Indian Child Welfare Advisory Committee after consulting with the Youth Court Judge and the Reservation social worker, and after reviewing the investigation report, shall make a decision as to whether the transfer of the case would be appropriate and in the best interests of this child.

(b) If the Indian Child Welfare Advisory Committee determines that the transfer is in the best interests of the child, the Chairperson of Indian Child Welfare Advisory Committee shall file or cause to be filed a petition, with the referring Court a notice of willingness to accept jurisdiction, affidavits, consents of parent or parents, and other documentation as may be necessary.

(c) If the Indian Child Welfare Advisory Committee determines a transfer is unacceptable, the Indian Child Welfare Advisory Committee shall decide whether or not it would be appropriate to intervene in the proceedings and, if so, cause such intervention procedures to be initiated.

(d) The Indian Child Welfare Advisory Committee shall complete the above duties within 10 days after receiving the notice of referral, unless request has been made, in

writing by registered mail, for the 20 day extension as provided in the Indian Child Welfare Act.

Readopted 8/01/06, Resolu. 2006-524.

6-5.06 Proceedings Upon Transfer. When transfer of a case has been made by a referring Court, (the Youth Court Judge shall immediately notify Tribal Social Services and) a petition under Section 3 of this Code shall be filed at the earliest practicable date by the Reservation social worker.

Readopted 8/01/06, Resolu. 2006-524

Section 6-6 Full Faith and Credit

6-6.01 Full Faith and Credit. The Spokane Youth Court shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian Tribe or State applicable to Indian Child Custody Proceedings to the same extent that such entities give full faith and credit to the public acts, records and judicial proceedings of the Spokane Youth Court.

Readopted 8/01/06, Resolu. 2006-524.

Section 6-7 Delinquent Children

6-7.01 Delinquent Child. A delinquent child herein is an Indian child who:

- (a) Has committed an act which is a violation, or which if done by an adult would constitute a violation, of a law or Code of the United States, the State of Washington, or the Spokane Tribal Code; or
- (b) Is beyond the control of his parents or other persons having his custody; or
- (c) Whose behavior or condition is such as to endanger his own welfare or the welfare of others; or
- (d) Has run away from home; or
- (e) Is repeatedly absent from school without good cause; or
- (f) Violates any law or Codes enacted by the Spokane Tribal Council, governing the actions of such children.

Readopted 8/01/06, Resolu. 2006-524.

6-7.02 Time When Court Jurisdiction Attaches. The jurisdiction of the Youth Court of the Spokane Tribe under this section shall attach from the time the child is taken into custody or a complaint is filed hereunder.

Readopted 8/01/06, Resolu. 2006-524.

6-7.03 Procedure for Taking a Child Into Custody. Procedure in taking a child into custody is as follows:

- (a) As soon as practicable after the child is taken into custody, the police officer or other person taking the child into custody shall notify the child's parents, guardian or other person responsible for the child.
- (b) The police officer or other person taking the child into custody shall release the child to the parents or other responsible person, except in the following circumstances:
 - (1) Where the Court orders the child not to be released.
 - (2) Where it appears to the officer or the Court that the welfare of the child or of others may be immediately endangered by the release.
- (c) Only children 14 years of age or older may be held in the Juvenile Detention Quarters without prior approval of Chief Judge.
- (d) No child may be held in Juvenile Detention Quarters more than 72 hours, excluding Saturdays, Sundays and judicial holidays, except on order of the Court.

- (e) As soon as practicable after the child is taken into custody, the police officer, the other person taking the child into custody or Court staff shall prepare a Complaint and deliver it to the child and his or her parents or custodians.

Readopted 8/01/06, Resolu. 2006-524

6-7.04 Children Not Released Immediately to Parents or Guardians.

- (a) If a child taken into custody is not released as provided, the police officer or other person taking the child into custody shall without unnecessary delay:
 - (1) Bring the child before the Youth Court; or
 - (2) Bring the child to the Juvenile Detention Quarters, and as soon as possible thereafter, notify the Court that the child has been taken into custody;
- (b) The police officer or other person taking the child into custody (except where the child is taken into custody pursuant to an order of the Court) shall promptly file with the Court a written report stating the child's name, age and address and the reason why the child was not released to his parents or guardian.

Readopted 8/01/06, Resolu. 2006-524.

6-7.05 Procedure in Youth Court Involving Delinquency Matters. Any person may file a Complaint in the Tribal Court alleging that a child is a delinquent child as defined in subsection 6-7.01 of this section.

- (a) When a person files a complaint with the Court, a preliminary inquiry shall be made to determine whether this Court has jurisdiction and whether the interests of the child or the public require that further action be taken.
- (b) If the Court decides that further action can be taken, the Court shall appoint a guardian ad litem to represent the child in all further proceedings.
- (c) Upon the basis of the preliminary inquiry, or later hearing, the Court may:
 - (1) Make informal recommendations to the child and his parent or person having custody as are appropriate to the circumstances.
 - (2) Direct the juvenile and his parents or person having custody to appear for an informal hearing.
 - (3) Direct the juvenile and his parents or person having custody to appear in a formal hearing before the Court.
 - (4) Have the child arrested and brought before the Court.
- (d) Any juvenile 14 years of age or older may be ordered to stand trial as an adult for the offense charged.
 - (1) The Court shall consider the relevant reports, facts, opinions, and arguments presented by the parties and their advocate to determine that such order would be in the best interests of the child or the public.

Readopted 8/01/06, Resolu. 2006-524.

6-7.06 Conducting the Hearing.

- (a) Delinquency hearings before the Youth Court shall be closed hearings, unless the child or his parent or person having custody otherwise requests.
- (b) The general public shall be excluded and only such persons admitted as the Judge finds have a proper interest in the case or the work of the Court.
- (c) No right to jury trial exists in delinquency hearings, except cases where the juvenile is tried as an adult in open Court.
- (d) Witnesses or other persons necessary for the conduct of the hearing may be subpoenaed by the Court.
 - (1) The child or his parents, or guardian, or person appearing in his behalf, may have persons subpoenaed in the same manner as provided in Section 6, Chapter 1 of the Code.

(e) For the purpose of determining proper disposition of the child, testimony, reports or other material relating to the child's mental, physical and social history may be received by the Court without regard to the relevancy under rules of evidence.

(f) At the termination of the hearing, in the proceedings, the Court shall enter an appropriate order directing the disposition to be made in the case.

Readopted 8/01/06, Resolu. 2006-524.

6-7.07 Disposition by the Court in Delinquency Cases.

- (a) If a child is found to be delinquent under this Chapter of the Code, the Court may:
- (1) Place the child on probation or under protective supervision;
 - (2) Direct that the child remain in the legal custody of his parents or other person with whom he is living;
 - (3) Direct that the child be placed in the legal custody of some relative or some person maintaining a foster home approved by the Court;
 - (4) Specify particular requirements to be observed during the probation period of protective supervision, including but not limited to restrictions on visitations by child's parents, restrictions on the child's associates, and on activities, and may require the juvenile to report to an appointed counselor;
 - (5) Order restitution for properly taken, damaged or destroyed by the child as a condition of probation.
 - (A) The child may also be ordered to perform acts that will be beneficial to the child or the community;
 - (6) Place the juvenile under the supervision of a responsible person, institution or organization, or take any other action deemed necessary, as may be beneficial for said juvenile;
 - (7) Direct the juvenile to stand trial as an adult in open Court, as provided in 6-7.05(d) of this Chapter;
 - (8) Place the child in detention in the Juvenile Detention Quarters;
 - (9) Provide other remedies and punishment as the Court deems necessary.

(b) No probation, protective supervision or detention may extend beyond the date on which the child becomes 21 years of age.

Readopted 8/01/06, Resolu. 2006-524. Amended 1/25/2013; Resolu. 2013-139.

6-7.08 Remanding of Child to Trial as an Adult. A child may be required to stand trial as an adult if:

- (a) The child is at the time of remand, 14 years of age or older, and
- (b) The child has committed or is alleged to have committed a criminal violation of the Tribal Code, and
- (c) The Youth Court determines that handling the case to Youth Court will not serve the best interests of the child and the public.

Readopted 8/01/06, Resolu. 2006-524.

6-7.09 Termination of Court's Delinquency Jurisdiction. Except for the purpose of enforcing an order of restitution, fines, or court costs, the delinquency jurisdiction of the Court over a child brought before it continues until whichever of the following occurs first:

Amended 1/25/2013; Resolu. 2013-139.

- (a) The Court dismisses the juvenile from Court Supervision,
- (b) The child is remanded to be tried as an adult,
- (c) The child reaches their 21st birthday.

Readopted 8/01/06, Resolu. 2006-524. Amended 1/25/2013; Resolu. 2013-139.

6-7.10 Obligations to Support Children.

- (a) The Court may require the parents or other person legally obligated, to support a child found to be within the jurisdiction of the Court, and to pay toward a child's support such amounts and at such intervals as the Court may direct.
- (b) The Court may order that a specified amount of the child's funds be used for the care of the child and his needs, or both.
- (c) The Court, in determining the amount of support to be paid, shall give due regard to the cost of maintaining the child, the financial resources of the parents, or other responsible person.
- (d) Unless otherwise ordered, the specified amount to be paid shall be paid to the Court to be distributed as directed by the Court.
- (e) Failure on the part of parents, or other person having control over said child, to comply with a lawful order of the Court may be grounds for charges for Contempt of Court, as provided in Section 8 of Chapter 1.

Readopted 8/01/06, Resolu. 2006-524.

6-7.11 Special Juvenile Offenses.

- (a) Truancy. Any child who willfully and intentionally absents himself from school without his parents' consent or without being excused by proper authorities or who refuses to attend school shall be deemed guilty of an offense.
- (b) Runaway. Any child who has run away from his or her place of abode or any residence where he or she has been placed either by the Youth Court or by his parents/custodians shall be deemed guilty of an offense under this chapter.
- (c) Harboring a Runaway. Any adult who voluntarily harbors a runaway knowing that minor to be a runaway, shall be deemed guilty of Section 9-3.01 of this Code and subject to the penalties contained therein.

Readopted 8/01/06, Resolu. 2006-524.