

SAUK - SUIATTLE INDIAN TRIBE

FAMILY CODE

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SAUK - SUIATTLE INDIAN TRIBE

FAMILY CODE

PART 1

GENERAL PROVISIONS

Chapter 1.1 PURPOSE (reserved)

Chapter 1.2 JURISDICTION

1.2.010 Jurisdiction of the Family Court - Subject Matter

The Sauk-Suiattle Family Court shall have jurisdiction over cases arising under this code, cases arising under other laws of the Sauk-Suiattle Indian Tribe providing for disposition by the Family Court, and any actions arising under the customs and traditions of the Sauk-Suiattle Indian Tribe affecting family and child welfare.

1.2.020 Territorial and Personal Jurisdiction

The jurisdiction of the Family Court over persons and territory is limited only by the Constitution of the Sauk-Suiattle Indian Tribe.

1.2.030 Jurisdictional Questions

The Family Court shall have the power to decide questions of jurisdiction which may be raised under this chapter. The Sauk-Suiattle Indian Tribe intends to vest the Family Court with the fullest jurisdiction possible, in order to protect the children and families of the Sauk-Suiattle Indian Tribe.

Chapter 1.3 TRANSFERS OF JURISDICTION

1.3.010 Transfer of Jurisdiction to the Family Court

The Family Court may accept any transfer of jurisdiction over a matter from another court or government for proceedings under this code.

1.3.020 Transfer of Jurisdiction from Family Court to Another Jurisdiction

A tribe, parent, custodian, or guardian may petition the Family Court to transfer a proceeding to another court in cases involving a youth over whom the Family Court determines it has no jurisdiction or involving a youth who is

enrolled or eligible for enrollment in another tribe. If the Family Court believes it to be in the youth's best interest, it may transfer a proceeding under this section on its own motion.

1.3.030 Notice to Other Tribes

If the Family Court or the Indian Child Welfare Worker has reason to believe a youth may be enrolled or eligible for enrollment or membership in another tribe, the Court Clerk shall be directed to notify the other tribe of the proceeding before the Family Court. The notice shall include a request to the other tribe to advise the Family Court, within fifteen (15) days, whether it intends to act in the matter.

1.3.040 Hearing on Transfer Petition

The Court shall hold a hearing on the transfer petition at the next regularly scheduled court date after the petition is filed, unless the time is extended for good cause shown or to allow sufficient notice under section 1.3.030 where applicable.

1.3.050 Transfers from the Family Court Involving Youths Enrolled or Eligible for Enrollment in the Sauk-Suiattle Indian Tribe

The Family Court may grant a request for a transfer of jurisdiction over a youth who is enrolled or eligible for enrollment in the Sauk-Suiattle Indian Tribe only for compelling reasons. In any transfer of a case involving a youth who is enrolled or is eligible for enrollment in the Sauk-Suiattle Indian Tribe, the Family Court shall retain concurrent jurisdiction. Prior to any transfer under this section, the other court must agree to recognize the concurrent jurisdiction of the Sauk-Suiattle Tribal Court, to allow the Sauk-Suiattle Indian Tribe to monitor or participate in the case, and that it will not transfer the case to any other jurisdiction. If the other court attempts to transfer the case to a third court, the jurisdiction of the Family Court shall become exclusive.

1.3.060 Grounds for Deciding Transfer Petitions

In cases where more than one tribe has an interest in the proceeding, the Family Court shall be guided by the following considerations in deciding whether to transfer jurisdiction:

- (a) The wishes of the parent, custodian, or guardian;
- (b) The wishes of the youth, if it appears to the Court that the youth is able to understand the consequences of the transfer;
- (c) The wishes of the extended family members;

- (d) The recommendation of tribal law enforcement, if any;
- (e) The recommendation of tribal health and social services staff;
- (f) The tribal affiliation of each party;
- (g) The residence of each party;
- (h) The type and duration of contacts the youth and the youth's family members have with each community involved; and
- (i) Whether another tribe has responded to the Family Court's notice of the proceedings.

1.3.070 Interim Orders to Protect a Youth Pending Transfer

The court may make such orders as are necessary to protect the youth and to retain jurisdiction over the youth, pending the outcome of any transfer proceeding.

Chapter 1.4 DEFINITIONS

1.4.010 Adult

Any person who is either eighteen (18) years of age or older, married or otherwise emancipated.

1.4.020 Court or Family Court

The Sauk-Suiattle Tribal Court when exercising jurisdiction under this code.

1.4.030 Custodian

Any person who has legal custody of a youth under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been given by the parent of such youth.

1.4.040 Delinquent Act

An act committed by a youth which if committed by an adult would be designated a crime or for which a penalty is provided under Sauk-Suiattle Tribal law.

1.4.050 Domicile/Residence

The determination of domicile and residence shall be in accordance with tribal law and custom. In the absence of other factors clearly demonstrating an intent to establish a permanent home off the reservation, a youth's domicile/residence shall be deemed to be within the reservation.

1.4.060 Extended Family Member

A person who has reached the age of eighteen years, or who is of sufficient maturity to care for a child, and who is the Indian youth'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 and any other person who is considered a family member under tribal law or custom; a non-Indian relative who is an accepted member of the Sauk-Suiattle Indian Community and would be considered a family member by tribal custom shall also be considered part of the youth's extended family for purposes of this definition.

1.4.070 Guardian

A person other than the youth's parent who is responsible for that youth by law.

1.4.080 Guardian Ad Litem

An adult appointed by the Court to represent the best interests of a youth in any proceeding to which he or she may be a party.

1.4.090 Indian Tribe

Any Indian Tribe, band, nation, or other organizational group, or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan Native village defined in section 3(c) of the Alaska Native Claims Settlement Act (85 Stat. 688, 689), as amended; any treaty tribe, metis community or non-status Indian community from Canada; and any tribe recognized as an Indian tribe be the Sauk-Suiattle Indian Tribe, regardless of whether it has federal recognition.

1.4.100 Indian Youth

A youth who is under the age of eighteen (18) years and who is either enrolled in or a member of an Indian tribe or is eligible for enrollment or membership in an Indian tribe.

1.4.110 Out-of-Home Placement

Emergency or temporary placement of a youth in need of care, but not with youth's parent.

1.4.120 Parent

Includes a biological or adoptive parent but does not include persons whose parental rights have been terminated, nor does it include an unwed father whose paternity has not been acknowledged or established.

1.4.130 Probable Cause/Reason to Believe

Facts which support a reasonable belief of the existence of a particular conclusion.

1.4.140 Qualified Elder, Historian, or Other Tribal Representative

An individual who, because of his or her knowledge and experience, has been certified by the Sauk-Suiattle Tribal Council to testify as to the traditions and customs of the Sauk-Suiattle Indian Tribe.

1.4.150 Reservation

Means "Indian Country" as defined in 18 U.S.C. 1151, and any lands not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual, subject to a restriction by the United States against alienation.

1.4.160 Tribal Status

The tribe or tribes, if any, in which a youth is eligible to be enrolled or to be a member or is enrolled in or is a member.

1.4.170 Youth (Minor)

- (a) A person under the age of eighteen (18) years.
- (b) A person eighteen (18) years of age or older concerning whom proceedings are commenced in Family Court prior to his or her eighteenth (18th) birthday.
- (c) Any person eighteen (18) years of age through twenty (20) years of age under the continuing jurisdiction of the Family Court.

Chapter 1.5 THE FAMILY COURT

1.5.010 Establishment

There is hereby established for the Sauk-Suiattle Tribe a division of the Sauk-Suiattle Tribal Court to be known as the Sauk-Suiattle Family Court.

1.5.020 Judges

The Sauk-Suiattle Family Court shall consist of those judges appointed by the Tribal Council to serve as judges of the Tribal Court.

1.5.030 Qualifications

The Family Court judges' qualifications shall be the same as the qualifications for judges who sit on the Sauk-Suiattle Tribal Court.

1.5.040 Powers and Duties of Family Court Judge

In carrying out duties and powers under this code, judges of the Family Court shall have the same powers and duties as judges of the Sauk-Suiattle Tribal Court and such additional powers and duties as are set forth in this code.

1.5.050 Judicial Officer

The Sauk-Suiattle Tribal Council may appoint one or more persons to serve as judicial officers. A judicial officer shall have limited powers, specified by the Tribal Council, such as the power to issue emergency custody orders and to conduct First Hearings.

1.5.060 Authority of Court

- (a) The Court is authorized to cooperate fully with any federal, state, tribal, public, or private agency to participate in any diversion, rehabilitation or training programs and to receive grants-in-aid to carry out the purposes of this code.
- (b) The Court may utilize such social services as may be furnished by any tribal, federal, state, or private agency.

Chapter 1.6 SOCIAL SERVICES STAFF

1.6.010 Social Services Staff - Defined

“Social Services Staff” means those persons employed or appointed by the Sauk-Suiattle Tribe who are trained to deliver services in specific social areas

such as, but not limited to, mental health, alcohol, community health, education, foster home licensing, and Indian Child Welfare.

1.6.020 Duties

The Social Services Staff shall assist the Indian Child Welfare Worker to:

- (a) Request transfers in Indian Child Welfare cases under Chapter 1.3
- (b) Make recommendations to be included in the Indian Child Welfare Worker's pre-dispositional and pre-termination of parental rights reports under this code;
- (c) Recommend to the Tribal Council any changes that should be made in the Family Code;
- (d) Make recommendations to the Tribal Council and to the Department of Social and Health Services governing the licensing and operation of foster care and other youth placement facilities;
- (e) Take a youth into custody and make an emergency placement in the absences of the Indian Child Welfare Worker and Tribal Law Enforcement under Part II of this code;
- (f) Make arrangements with outside agencies for family services and placement of youths. Such arrangements shall not affect the jurisdiction of the Family Court over youths and families; and
- (g) Make recommendations to the Presenting Officer on actions to take in Family Court.

Chapter 1.7 INDIAN CHILD WELFARE WORKER

1.7.010 Appointment

The Tribal Council shall employ or appoint an Indian Child Welfare Worker to carry out the duties and responsibilities set forth in this code.

1.7.020 Qualifications

The Indian Child Welfare Worker shall have an educational background and/or prior experience in the field of delivering social services to Indian youth.

1.7.030 Resource Development

The Indian Child Welfare Worker shall develop and identify resources within the tribal community designed to promote the well-being of families.

1.7.040 Duties Not Performed

The Indian Child Welfare Worker shall not be employed as, nor perform the duties of, prosecutor, presenting officer, or law enforcement officer.

1.7.050 Duties

The Indian Child Welfare Worker shall:

- (a) Make investigations as provided in this code or as directed by the Court;
- (b) Make reports as provided in this code or directed by the Court;
- (c) Place a youth out of home as provided in this code;
- (d) Perform such duties in connection with care, custody, or transportation of youth as the Court and this code require; and
- (e) Make recommendation to the Presenting Officer on actions to take in Family Court.

1.7.060 Child Protective Services

The Indian Child Welfare Worker may work in cooperation with a person or agency to provide child protective services to the Sauk-Suiattle Indian Tribe such as emergency removal of a child for out of home placement and investigation of child abuse and neglect. The duties and authority of the cooperating agency shall be set forth by agreement with the Sauk-Suiattle Indian Tribe.

Chapter 1.8 INDIAN CHILD WELFARE COMMITTEE

1.8.010 Indian Child Welfare Committee - Purpose

The custom of the Sauk-Suiattle Indian Tribe has long been to hold council, particularly among the elders, to decide the best solution for family problems. The Indian Child Welfare Committee shall serve that function under this code; to give recommendations to the Indian Child Welfare Worker on measures to be taken to protect tribal families including family support services, emergency placements, and longer term placements.

1.8.020 Indian Child Welfare Committee - Appointment and Duties

Members of the Indian Child Welfare Committee shall be appointed by the Tribal Council. The Committee shall be composed of five persons. A quorum shall be three persons. The Committee shall have those powers and duties specified under this code and any other powers and duties delegated by the Tribal Council. If the Tribal Council does not appoint a Committee or if a quorum of Committee members is unavailable in a particular situation, proceedings under this code may continue without consulting with the Committee.

Chapter 1.9 PRESENTING OFFICER

1.9.010 Appointment

The Tribal Council shall appoint a Presenting Officer to carry out the duties and responsibilities set forth in this code.

1.9.020 Qualifications

The Presenting Officer's qualifications shall be the same as the qualifications for the individual who serves as prosecutor for the Tribal Court.

1.9.030 Duties

The Presenting Officer shall:

- (a) File petitions with the Court as provided in this code;
- (b) Represent the Tribe in all proceedings under this code; and
- (c) Perform such other duties as the Court or this code may require.

Chapter 1.10 GUARDIAN AD LITEM

1.10.010 Appointment

The Court, under any proceedings authorized by this code, may appoint for the purpose of that proceeding, a guardian ad litem for a youth where it finds that the youth does not have a natural or adoptive parent, guardian, or custodian willing and able to exercise sound judgment as to the best interests of the youth, or upon the request of the Indian Child Welfare Worker, or upon the Court's own motion.

1.10.020 Qualifications

The guardian ad litem must be familiar with the rights of youth and the provisions of this code.

1.10.030 Duties

A guardian ad litem shall:

- (a) Represent the youth's best interest in any proceeding as required by the Court; and
- (b) Make recommendations to the Court on disposition.

Chapter 1.11 CONFIDENTIALITY

1.11.010 Hearings and Conferences

All hearings under this code shall be closed to the public. Only the Presenting Officer, the Family Court Judge, the Indian child Welfare Worker, the Tribal Law Enforcement officers, and the parties to the action shall be permitted at the hearings and conferences; provided that the parties may agree to allow the presence of other persons. Any person asked to testify or speak shall be permitted at the hearings and conferences but only for the limited purpose of giving testimony or presenting evidence.

1.11.020 Records

Court records under this code shall be confidential and shall not be open to inspection to any but the following, except as may be ordered by the Court in the youth's best interest:

- (a) The youth;
- (b) The parent, guardian, or custodian;
- (c) The Indian Child Welfare Worker;
- (d) The presenting officer; and
- (e) The spokesperson, attorney, or guardian ad litem for any party.

Law Enforcement records and files under this code concerning a youth shall be kept separate from the records and files of adults. The Court may issue and/or publish a written opinion in a case. The identity of the parties shall be protected in such an opinion.

Chapter 1.12 SERVICE

1.12.010 Service

Except as otherwise expressly provided in this code, every pleading, motion, notice and similar paper which is required or permitted to be served upon a person shall be given in the following manner:

- (a) By personally delivering a copy to him by handing it to his counsel or to the person himself; or by leaving it at his office with his secretary or other person; or if the person to be served has no office, leaving it at his dwelling place or usual place of residence with some person of suitable age and discretion then residing therein; or
- (b) If personal service cannot be made; then by certified mail, return receipt requested, postage prepaid, and properly addressed to the last known residence of the person to be served; or
- (c) Any method approved the Court as reasonable if the above methods are unsuccessful.
- (d) Personal service of all documents on behalf of the Tribe shall be made by Tribal Law Enforcement.

Chapter 1.13 CONTINUANCES

1.13.010 When to Order

Except as otherwise expressly provided, the Court may continue any proceeding:

- (a) Upon the motion of a party if there is a finding that good reason exists for the continuance, such as allowing time to give adequate notice or to produce material evidence or witnesses currently unavailable; or
- (b) Upon the Court's own motion if it considers it to be in the best interest of the youth.

1.13.020 Effect

A continuance suspends the time limits for the holding of hearings and the filing of documents.

Chapter 1.14 CONTEMPT

1.14.010 Contempt - Defined

The following acts or omissions constitute contempt of court:

- (a) Disorderly, contemptuous, or insolent behavior toward the judge while holding Court, tending to impair his or her authority, interrupting the due course of a hearing or other judicial proceeding, or being intoxicated in Court;
- (b) Disobedience of any lawful judgment, decree, order, subpoena, or other process of the Court;
- (c) A breach of the peace, boisterous conduct or violent disturbance tending to interrupt the due course of a hearing or other judicial proceeding; or
- (d) Any other unlawful interference with the process or proceedings of the Court.

1.14.020 Contempt - Summary Punishment

When contempt is committed in the presence of the Court, it may be punished at that time. An order shall be prepared stating: the contemptuous acts which occurred, that the person is guilty of contempt of court, and the punishment.

1.14.030 Contempt - Procedure in Other Cases

In cases other than summary proceedings, the facts constituting contempt must be presented to the Court by motion. The Court may then order the person to appear to show cause why he should not be held in contempt of court and be punished accordingly.

1.14.040 Contempt - Penalties

Any person found guilty of contempt of court shall be sentenced to:

- (a) A fine, not to exceed \$5000.00; or
- (b) Jail time, not to exceed one year; or both, and
- (c) Restitution, to reimburse any party, including the Tribe for loss or injury caused by the contemptuous act or omission.

1.14.050 Contempt - Imprisonment Until Act is Performed

When the contempt consists of the omission or refusal to perform an act which is yet in the power or the person to perform, he may be imprisoned until he has performed it. In such a case, the act must be specified in the warrant of commitment.

1.14.060 Bench Warrant

A Family Court judge or judicial officer may issue a warrant for a person's arrest for contempt upon failure to appear at any ordered conference or hearing either in person or by legal representative.

Chapter 1.15 RIGHTS OF PARTIES

1.15.010 Rights

All parties are entitled to the following rights in all proceedings under this code:

- (a) A statement by the Court to the youth and his or her parent, guardian or custodian that they have the right to have a legal representative advise and represent them, at their expense. A party may request a continuance of a proceeding in order to seek legal representation;
- (b) The opportunity to subpoena witnesses;
- (c) The opportunity to introduce, examine and cross-examine witnesses;
- (d) The opportunity to discover, offer and inspect evidence; and
- (e) The opportunity to present arguments and statements.

1.15.020 Jury Trial

There is no right to trial by jury for any proceeding under this code.

Chapter 1.16 Sovereign Immunity

1.16.010 Sovereign Immunity

The sovereign immunity of the Sauk-Suiattle Indian Tribe shall in no manner be waived by this code. The employees, appointees, and volunteers of Sauk-Suiattle Social Services (including, but not limited to, the Community Health Representative, alcohol program, foster home program, Tribal Law

Enforcement, and tribal court personnel) are cloaked with the sovereign immunity of the Sauk-Suiattle Indian Tribe. No person indicated above shall be liable for the inability or failure to provide services to any person.

Chapter 1.17 RECOGNITION OF OTHER COURTS' ORDERS

1.17.010 Recognition of Other Courts' Orders

The Court may give recognition to the state and other tribes' court orders as a matter of comity if the Court granting the order had jurisdiction over the case and the order does not violate the public policy of the Sauk-Suiattle Indian Tribe.

Chapter 1.18 SEVERABILITY

1.18.010 Severability

Should any word, section, clause, paragraph, sentence, or provision of this code be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of any part of this code which can be given effect without the invalid part or parts.

PART II

YOUTH IN NEED OF CARE

Chapter 2.1 STARTING A YOUTH IN NEED OF CARE ACTION

2.1.010 Youth in Need of Care - Defined

“Youth in Need of Care” means any youth who:

- (a) Has no parent, guardian or custodian willing, available and able to provide adequate care for him or her;
- (b) Has been sexually, physically or emotionally abused;
- (c) Has not been provided with adequate food, clothing, shelter, medical or mental health care, education and/or supervision by his or her parent, guardian, or custodian, and the deprivation is not due primarily to the lack of financial means of the parent, guardian or custodian. “Education” includes the parents' responsibility to send children to school regularly;

- (d) Has been physically or emotionally neglected;
- (e) Has repeatedly run away from home;
- (f) Has been committing delinquent acts as a result of parental or custodial neglect, pressure, guidance or approval;
- (g) Is in serious conflict with his parent, guardian or other custodian to the point where assistance outside the immediate family is needed or requested by the parent, guardian, or other custodian;
- (h) Has been placed for care or adoption in violation of the Indian Child Welfare Act of 1978; or
- (i) Has been habitually disobedient of the reasonable and lawful commands of his parent, guardian or custodian and is uncontrollable.

Sauk-Suiattle tribal custom recognizes that a parent may place a child with another care-giver for a brief or long term. This is not in itself grounds for a youth in need of care action.

2.1.020 Complaint - Filing

A complaint may be filed with the Sauk-Suiattle Tribal Law Enforcement Department or the Indian Child Welfare Worker's office by any person who has personal knowledge that a youth is in need of care as defined by this code.

2.1.030 Mandatory Reporting of Abuse/Neglect

The care of children is both a family and tribal responsibility. Any member of the Sauk-Suiattle Indian Tribe, persons residing within the jurisdiction of the Tribe, and tribal employees, who have reason to believe that a youth has been abused or neglected (as provided in section 2.1.010 (a), (b), (c), or (d)) is required to file a complaint for youth in need of care under Chapter 2.1. If Tribal Law Enforcement and the Indian Child Welfare Worker are not available to receive a complaint, the reporter shall report to the Bureau of Indian Affairs Enforcement. If BIA Enforcement is unavailable the report shall be made to the state of Washington Child Protective Services.

2.1.040 Immunity

All persons who report in good faith under section 2.1.030 shall be immune from civil liability and criminal prosecution.

2.1.050 Sanctions for Failure to Report

Any person who knowingly fails to report abuse or neglect as required under section 2.1.030 is subject to a civil fine not to exceed \$5000.00.

2.1.060 Contents of the Complaint

The complaint shall include:

- (a) The name, age and address of the youth who is the subject of the complaint, if known; and
- (b) A plain and concise statement of the facts upon which the complaint is based, including the date, time and location at which the alleged facts occurred; and
- (c) The name of the complainant shall not be disclosed to anyone except the Indian Child Welfare Worker, the presenting officer, Tribal Law Enforcement and the judge or judicial officer unless otherwise ordered by the Court. The Indian Child Welfare Worker may disclose the name of the complainant to the Social Services Staff and the Indian Child Welfare Committee if he or she deems it necessary.

2.1.070 Receipt of Complaint by Tribal Law Enforcement

Upon receipt of a complaint that a youth is in need of care, Tribal Law Enforcement shall take the following steps:

- (a) An enforcement officer shall immediately investigate the complaint. If the enforcement officer has probable cause to believe that a youth is in need of care based on his or her investigation, the Indian Child Welfare Worker shall be notified. A notice procedure to define when immediate notice must be given to the Indian Child Welfare Worker and when notice may be given at a later date may be established by the Social Services Staff. Based on the investigation, a detailed written report shall be completed by law enforcement. A copy shall be delivered to the Indian Child Welfare Worker within three (3) working days of the date the complaint was received.
- (b) If the enforcement officer reasonably believes the youth is in immediate and serious danger from his or her surroundings and removal is necessary for the youth's safety or well-being, the officer may take the youth into custody; provided, that if there is sufficient time and a judge or judicial officer is available, the enforcement officer shall first request an emergency custody order.

- (c) If the enforcement officer takes a youth into custody without first obtaining an emergency custody order, he or she shall:
 - (i) Release the youth to the youth's parent, guardian or custodian and issue verbal counsel or warning as may be appropriate; or
 - (ii) Immediately notify the Indian Child Welfare Worker and the Indian Child Welfare Committee and request direction as to whether the youth should be placed out-of-home and if so where; or
 - (iii) If the Indian Child Welfare Worker and the Indian Child Welfare Committee cannot be reached, the officer may place the youth out-of-home, but shall continue attempts to notify the Indian Child Welfare Worker. Placement of the youth shall be in a facility approved by a member of the Social Services Staff or the Indian Child Welfare Committee for emergency out-of-home placement in that particular case. A list of persons to contact in emergency placements may be set by the Social Services Staff and the Indian Child Welfare Committee and provided to Law Enforcement.
 - (iv) If the youth is not released, immediate and continuing efforts shall be made by both the enforcement officer and the Indian Child Welfare Worker to notify the youth's parent, guardian or custodian as to the circumstances surrounding the youth's custody.

2.1.080 Receipt of Complaint by Indian Child Welfare Worker

Upon receipt of a complaint under this chapter or receipt of notice from law enforcement that a youth is in need of care, the Indian Child Welfare Worker shall determine whether further action of the complaint is necessary. If the Indian Child Welfare Worker and Law Enforcement determine circumstances require it, an enforcement officer may conduct or assist in conducting the investigation. If the Indian Child Welfare Worker reasonably believes that a youth is in an emergency situation and requires out-of-home placement, he or she shall:

- (a) Request an emergency custody order, if there is time and a judge or judicial officer is available; or
- (b) After consulting with the Indian Child Welfare Committee immediately place the youth in out-of-home care. The Indian Child Welfare Worker may request assistance of an enforcement officer in making such placement.
- (c) If the youth's parent, guardian or custodian has not been notified, the Indian Child Welfare Worker shall inform him or her at the earliest

possible time and return the youth to him or her if such action is appropriate.

- (d) If a youth is taken into custody and it is unlikely that he or she will be released to his or her parent, guardian or custodian within two (2) working days, the Indian Child Welfare Worker shall immediately file a request for a First Hearing.

2.1.090 Emergency Custody Orders - Grounds

A Youth Court judge or judicial officer may issue an emergency custody order upon a sworn oral or written statement of facts showing probable cause to believe the youth is in need of care and that his or her health, safety and welfare will be seriously endangered if not taken into custody.

2.1.100 Emergency Custody Orders - Content

The emergency custody order shall specifically name the youth to be taken into custody, be signed by the judge or judicial officer, state the date and time issued, the place where the youth is to be taken and name the person or persons authorized to take the youth into custody. An emergency custody order may be transmitted by the judge by telephone, computer, or fax, if the judge cannot be present on the reservation.

2.1.110 Emergency Custody Order - Service and Duration

An emergency custody order must be executed within 72 hours of issuance. A youth taken into custody under an emergency custody order may be held until the conclusion of the First Hearing or as ordered by the Court.

Chapter 2.2 FIRST HEARING REGARDING YOUTHS PLACED OUT OF HOME

2.2.010 Purpose of the First Hearing

If a request for a First Hearing is filed under Chapter 2.1, the Court must make the following determinations at that hearing:

- (a) The tribal status of the youth;
- (b) Whether there is probable cause to believe the youth is in need of care;
- (c) The best interest of the youth and the Tribe with regard to any action to be taken; and
- (d) Whether continued out-of-home placement is necessary pending further proceedings.

2.2.020 Request for First Hearing - Contents

A request for a First Hearing shall include:

- (a) The name, birthdate, residence, domicile and tribal status, if known, of the youth;
- (b) The name and residence of the youth's parent, guardian or custodian;
- (c) A citation to the specific section of this code which gives the Court jurisdiction over the proceeding;
- (d) A plain and concise statement of the facts which support the allegation that the youth is in need of care; and
- (e) If the youth is in out-of-home placement, the location of the placement and the time taken into custody.

2.2.030 First Hearing - Time of Hearing

A First Hearing shall be conducted within seven (7) working days of filing a request for a First Hearing.

2.2.040 Notice

Notice of the First Hearing shall be given to the parties by the court clerk, law enforcement officer, or a person appointed by the Tribal Council to fulfill these duties under section 1.12.010 Service, and shall include:

- (a) The name of the Court;
- (b) A copy of the Request for First Hearing; and
- (c) The date, time and place of the First Hearing;

2.2.050 Presence of Parent, Guardian or Custodian

If the youth's parent, guardian, or custodian is not present at the First Hearing, the Court shall determine what efforts have been made to notify and to obtain the presence of the parent, guardian or custodian. If it appears that further efforts are likely to produce the parent, guardian, or custodian, the hearing shall be recessed for a reasonable period of time and Tribal Law Enforcement shall be directed to make continued efforts to obtain the presence of the parent, guardian or custodian. If the parent, guardian, or custodian is not produced after a reasonable recess, the First Hearing shall proceed without further delay.

2.2.060 Presence of Counsel - Continuance

The Family Court may not continue a First Hearing solely to allow a party to obtain legal representation; however, a party who appears at a First Hearing without legal representation does not waive his or her right to appeal any procedural or substantive error made at the First Hearing by failing to make objections during the hearing.

2.2.070 Court's Findings - Release of Youth

If the Court finds that there is not probable cause to believe the youth is in need of care, the youth shall be released to the custody of his or her parent, guardian, or custodian.

2.2.080 Court's Findings - Youth in Need of Care

If the Court finds that there is probable cause to believe that the youth is in need of care, it may order:

- (a) That the youth be released to his parent, guardian, or other custodian pending further proceeding; or
- (b) That out-of-home placement be continued, if the Court finds that there is probable cause to believe that:
 - (i) No parent, guardian, custodian, or other person is able, willing, or available to provide adequate supervision of and care for the youth; or
 - (ii) The youth will run away or otherwise be unavailable for further proceedings;
 - (iii) The youth will be in an emergency situation if he is returned to his parent, guardian or other custodian;
 - (iv) The youth will cause serious damage to persons or property; or
 - (v) The youth requires medical care, treatment, or evaluation that he could not otherwise receive if he were to remain in the custody of his parent, guardian, or other custodian; or
 - (vi) The youth has been abandoned; or
- (c) That any person who poses a threat to the youth's well-being be restrained from contacting the youth. Such an order may be entered to

protect a youth in his or her home or while in an out-of-home placement; or

- (d) That the youth and his parent, guardian or other custodian, or any other interested person within the Court's jurisdiction, attend Community Board Mediation, and shall advise the parties as to the date, time and place of such mediation; and
- (e) The Court may make other orders necessary for the protection and well-being of the youth and the family, including but not limited to evaluation and treatment (including involuntary residential treatment) of substance abuse, mental illness, and emotional disturbance; parenting classes; mandatory school attendance; visitation orders; and other services or activities for the benefit of the youth and his or her family. The Court may make a particular placement conditional on compliance with any of its orders.
- (f) That the parties shall keep the Court informed as to any changes in their whereabouts and mailing addresses.

2.2.090 Out-of-Home Placement

If a child is placed out-of-home the Court shall follow the placement preferences below.

- (a) A private home recommended by the Tribal Social Services Staff and the Indian Child Welfare Committee (this will usually be a responsible member of the youth's extended family); or
- (b) A foster home approved or licensed by the Tribe; or
- (c) Any other facility approved by the Tribe.

2.2.100 Fact Finding Hearing - Scheduling at First Hearing

If it appears that a petition for Fact Finding will soon be filed based upon the findings at the First Hearing, the Court shall set a date and time for the Fact Finding Hearing and shall advise the parties of the date, time and place of that hearing, and shall order their attendance at the hearing. If the parent, guardian or other custodian is not present at the First Hearing, notice of the Fact-Finding Hearing may be served in accordance with Section 2.2.040.

Chapter 2.3 FACT FINDING HEARINGS

2.3.010 Purpose

The Court shall conduct a Fact Finding Hearing for the purpose of determining whether a youth is in need of care.

2.3.020 Request for Fact Finding Hearing

A request for a Fact Finding Hearing may be initiated at the First Hearing under section 2.2.100 or by a petition filed by the presented officer upon recommendation of the Indian Child Welfare Worker.

2.3.030 Petition - Contents

A petition for Fact Finding Hearing shall include:

- (a) The name, birthdate, residence, domicile, and tribal status of the youth;
- (b) The names, residences and tribal status of the youth's parents, guardian or custodian;
- (c) A citation to the specific section of this Code which gives the Court jurisdiction over the proceedings;
- (d) A detailed statement of facts and reasons which support the allegation that the youth is in need of care. However, if a Request for First Hearing was filed previously, the petition may incorporate by reference the contents of the Request; and
- (e) If the youth is in out-of-home placement, the location of the placement and the time taken into custody.

2.3.040 Time of Hearing

The Court shall set the date for hearing within 35 days of receipt of a petition. Failure to comply with the time limits, without good cause shown, shall result in dismissal of the petition.

2.3.050 Notice

Notice of a Fact Finding Hearing shall be served as specified under section 1.12.01 by the court clerk or other person designated by the Tribe to perform this duty, at least five working days before the hearing. The notice shall include the name of the court; the date, time, and place of hearing; and a copy of the petition. The notices shall be served on:

- (a) The youth;
- (b) The youth's parent, guardian or custodian;
- (c) Any person the Court believes necessary for the hearing;
- (d) Any person the parties believe necessary for the hearing; and
- (e) The Indian Child Welfare Worker.

2.3.060 Evidence

The Court may hear any evidence which is relevant to the case and which is reasonable reliable.

2.3.070 Burden of Proof

The burden of proof shall be clear and convincing evidence.

2.3.080 Agreed Order

The Parties to a Fact Finding Hearing may agree to a proposed order which resolves some or all of the issues of the case. Before deciding whether to approve the Agreed Order, the presiding judge shall hold an in-chambers, ex parte discussion with the parent, guardian or custodian to:

- (a) Explain in detail the provisions of the proposed agreed order, and the consequences of the person's failure to comply with the agreed terms;
- (b) Assure that the person's consent to the proposed order is not the result of coercion, threat, duress, fraud, over-reaching, or improper promise on the part of any other party to the case;
- (c) Explain the person's right to a spokesperson/counsel;
- (d) Explain that the Tribe has the burden of proving the allegations of the Petition, and that the person does not have to consent to the proposed order;
- (e) Explain that once the person agrees to the proposed order and it is signed and entered by the Court, it will be too late for the person to change his/her mind -- unless the person can show that his/her consent was the result of fraud or duress.

The in-chambers conversation need not be recorded

If the parent, guardian or custodian wants a friend, family member, and/or other people to be present at the in-chambers with the judge, the judge shall allow it after first speaking alone with the parent, guardian or custodian.

Upon finding by the Court that any such consent was the result of fraud or duress, the agreed order shall be vacated.

Chapter 2.4 DISPOSITION

2.4.010 Predispositional Report - Purpose

The Indian Child Welfare Worker shall prepare a written report describing all reasonable and appropriate alternatives. Such report shall be made in consultation with the Social Services Staff and the Indian Child Welfare Committee.

2.4.020 Predispositional Report - Contents of the Plan

The report shall contain a specific plan for the care of and assistance to the youth and his or her parent, guardian or custodian. The report shall explain the necessity for the proposed plan and its benefits to the youth and his or her parent, guardian or custodian.

2.4.030 Predispositional Report - Placement Recommendations

If placement with someone other than the youth's parent, guardian or custodian is recommended, the report shall contain specific reasons for not recommending placement of the youth with his or her parent, guardian or custodian.

2.4.040 Predispositional Report - Service

The Indian Child Welfare Worker shall mail or deliver the predispositional report to the Court and all parties to the proceeding at least five (5) days before the dispositional hearing.

2.4.050 Additional Reports

Any party to an action under this code may file a predispositional report which shall include his or her recommendations for consideration by the Court.

2.4.060 Dispositional Hearing - Time

A dispositional hearing may be held in conjunction with the Fact Finding Hearing if the Court determines that such action is in the best interest of the

youth. If the dispositional hearing to be held is separate from the Fact Finding Hearing, it shall take place within 35 days of the Fact Finding Hearing.

2.4.070 Dispositional Hearing - Notice

The dispositional hearing shall be set at the Fact Finding Hearing and such announcement shall constitute notice.

2.4.080 Conduct of Dispositional Hearing

The Court shall hear testimony to determine the proper disposition for the youth. The Court shall consider the predispositional report submitted by the Indian Child Welfare Worker and any other reports submitted for review. All parties shall be given the opportunity to contest the factual contents and conclusions of the predispositional reports submitted.

2.4.090 Dispositional Alternatives for Youths in Need of Care

If a youth has been determined to be in need of care, the Court may order any of the following dispositions, listed in order of priority. The Court shall make its disposition consistent with the policy and custom of the Sauk-Suiattle Indian Tribe to provide all assistance available to protect the cohesiveness of tribal families.

- (a) Permit the youth to remain with his or her parent, guardian or custodian, subject to any such limitations and conditions the Court may order;
- (b) Place the youth with an extended family member subject to any limitations and conditions the Court may prescribe;
- (c) Place youth in a foster home which has been licensed or approved by the Tribe, subject to any limitations and conditions the Court may order;
- (d) Place the youth in another home or facility which will both meet the particular needs of the youth and will insure that the youth will keep his or her ties to the Sauk-Suiattle Indian Community and to his or her family.

The Court may make other orders necessary for the protection and well-being of the youth and the family, including but not limited to evaluation and treatment (including involuntary residential treatment) of substance abuse, mental illness, and emotional disturbance; parenting classes; mandatory school attendance; mediation; visitation orders; restraining orders; and other services or activities for the benefit of the youth and his or her family. The Court may make a particular placement conditional on compliance with any of the above orders.

2.4.100 Dispositional Order Is Final

The dispositional order constitutes a final order for purposes of appeal.

2.4.110 Review Hearing

The Court shall conduct a hearing to review its dispositional order at least once every six months, or earlier upon motion of any party. The Court shall review the compliance of the parties with the Court's disposition and shall consider whether modification of the order is necessary to strengthen the cohesiveness of the youth's family and protect the welfare of the youth.

2.4.120 Modification for Violating the Court Order

If the request for review of a disposition is based on an alleged violation of a Court order, the Court shall not modify its dispositional order unless it finds clear and convincing evidence of the violation.

PART III

GUARDIANSHIP

Chapter 3.1 GENERAL PROVISIONS

3.1.010 Intent

It is the custom of the Sauk-Suiattle Indian Tribe that youths be raised within the supportive network of extended family and community if the youth's parents are unable to adequately care for him or her. The Sauk-Suiattle Indian Tribe has never recognized "termination of parental rights", even in cases of extreme abuse or neglect. A parent may have been completely restricted from having any contact with his or her child and the child may have been raised by a relative, but the parent's status as the child's parent was never "terminated." Similarly, a person raising another person's child did not "adopt" the child. The provision for guardianship in this code is intended to reflect these values and customs of the Sauk-Suiattle Indian Tribe.

Chapter 3.2 STARTING AN ACTION TO APPOINT GUARDIAN

3.2.010 Petition - Who May File

Any person at least eighteen (18) years old may file a petition with the Court requesting that he or she be appointed as guardian. If the petitioner is married, his or her spouse must also be at least eighteen (18) years old and must sign

the petition, unless the spouse's whereabouts are unknown or unless waived Court. "Spouse" for purposes here includes common law spouses. "Common law spouse" for purposes of this code means parties to a marriage recognized under tribal custom or parties to a relationship wherein the couple reside together and intend to reside together as a family.

3.2.020 Petition - Contents

A petition for appointment of a guardian shall include:

- (a) The name, birthdate, residence, and tribal status of the youth who is the subject of the petition;
- (b) The name, birthdate, residence, and tribal status, if known, of the youth's parent(s) and of the petitioner(s);
- (c) If the youth is residing with someone other than a parent, the location and length at that location; and
- (d) A concise statement of the facts and reasons supporting the request that the petitioner be appointed as a guardian.

3.2.030 Setting the Hearing

When the Court receives the petition it shall set a hearing date, which shall not be more than forty (40) days after the Court receives the petition.

3.2.040 Notice of Hearing

Notice of the hearing shall be given by the Court Clerk or other person designated by the Tribe to perform this duty as provided under section 1.12.010 Service, at least twenty (20) days before the hearing. The notice shall include the date, time, and place of the hearing and a copy of the petition. The notice shall be served on:

- (a) The petitioner(s);
- (b) The youth;
- (c) The youth's parent(s);
- (d) The presenting officer;
- (e) Any person the Court deems necessary for proper adjudication; and
- (f) Any person the parties believe necessary for the hearing.

3.2.050 Guardianship Report - Preparation

The Indian Child Welfare Worker, in consultation with the Social Services Staff, shall prepare a guardianship report. In preparing the report, the Indian Child Welfare Worker shall conduct a complete home study and shall consult with the youth's parent(s), all health, education and social service personnel who have had prior professional contacts with the youth, and with the petitioner(s) to determine whether appointment of a guardian would be in the best interests of the youth. The Indian Child Welfare Worker may also review the child's previous court record, if any. In addition, the Indian Child Welfare Worker must obtain the recommendation, of the Indian Child Welfare Committee as to the disposition and any other relevant issues. The guardianship report shall be in writing and contain the professional opinions of all personnel consulted.

3.2.060 Guardianship Report - Service

The Indian Child Welfare Worker shall mail the guardianship report to the Court and to all parties to the proceeding at least ten (10) days before the hearing.

3.2.070 Additional Reports

Any party may file a report which shall include his or her recommendations for consideration by the Court.

3.2.080 Guardianship Hearing - Purpose

The Court shall conduct the hearing to determine whether appointment of a guardian is in the best interest of the youth and the tribal community.

3.2.090 Guardianship Hearing - Conduct

The hearing shall be private and closed. The Court shall hear testimony to determine whether guardianship is in the best interest of the youth and the tribal community. The Court shall consider all guardianship reports submitted for review. All parties shall be given the opportunity to contest the factual contents and conclusions of the guardianship reports.

3.2.100 Grounds for Appointing a Guardian and Burden of Proof

The Court may appoint a guardian when the following conditions have been proved by clear and convincing evidence:

- (a) The parent has consented in writing to the guardianship; or
- (b) The youth is a youth in need of care as defined under this code.

In addition to finding one of the above conditions has been proved, the Court must also find all the following conditions have been proved by clear and convincing evidence:

- (1) That appointment of a guardian is in the best interest of the youth and the tribal community; and
- (2) The youth's best interests would not be served if the youth remains under the parent's care and custody; and
- (3) That the petitioner(s) can provide appropriate and adequate parental care for the youth's financial and emotional support.

3.2.110 Placement Preference

The order of preference in placing a youth with a guardian is:

- (a) Extended family member;
- (b) A member of or personal eligible for enrollment in the Tribe;
- (c) A member of another Indian tribe; or
- (d) If this order of placement preference cannot be met, for good cause shown, then placement may be made with any person who has knowledge of and a desire to foster the youth's tribal affiliation and special needs.

3.2.120 Enrollment Prior to Appointment of Guardian

If a youth is eligible for enrollment in the Sauk-Suiattle Indian Tribe, the Indian Child Welfare Worker shall assist the parent in making application for enrollment of the youth to the Sauk-Suiattle Enrollment Clerk. The parent may file an objection to enrollment in the Sauk-Suiattle Indian Tribe, in writing, with the Court. The parent's objection shall be followed.

3.2.130 Order of Appointment - Powers of Guardian

If the Court orders the appointment of a guardian, the order may define or limit the guardian's power. If the order does not define or limit the power of the guardian, the guardian has the rights and responsibilities of a parent except:

- (a) The guardian shall not move outside a seventy-five (75) mile radius of the Sauk-Suiattle Tribal Center without court approval upon notice and hearing;

- (b) The guardian cannot consent to any adoption of the child; and
- (c) The guardian cannot enroll a child who is eligible for enrollment in the Sauk-Suiattle Indian Tribe, in another tribe.

Guardians shall notify the Court, in writing, of any change of address.

3.2.140 Visitation

The Court may order visitation between the youth and parent(s) or any other person.

3.2.150 Court Review

Unless ordered by the Court, the guardianship shall not be subject to periodic or continuing supervision.

PART IV

DOMESTIC VIOLENCE

Chapter 4.1 GENERAL PROVISIONS

4.1.010 Purpose

Domestic violence is a serious crime against the Sauk-Suiattle Indian Tribe. The Sauk-Suiattle Law and Order Code prohibits domestic violence as defined under section 4.1.020 (a) of this code. Sauk-Suiattle Law Enforcement shall enforce these laws to protect the victim without regard to whether the persons involved are family members or not. Removal of the perpetrator from the situation rather than the victims shall be the goal of the Tribe's intervention. In addition to these criminal sanctions, a victim of domestic violence may obtain an order or protection under this code. This order is civil in nature and may be used for protection from Indian and non-Indian perpetrators.

4.1.020 Definitions

- (a) "Domestic violence" means any behavior between family members which would constitute a crime under Chapter 7 of the Sauk-Suiattle Law and Order Code (major crimes) and the following sections of the Sauk-Suiattle Law and Order Code: 6.005 Abduction, 6.015 Aiding or Abetting Suicide Attempt, 6.020 Assault, 6.035 Brandishing Weapons, 6.040 Breaking and Entering, 6.060 Child Abuse, 6.065 Child Molestation, 6.070 Coercion, 6.130 Custodial Interference, 6.420

Reckless Endangerment, or 6.540 Willfull Aiming or Discharging of Firearm. Attempt to commit any crime under this section is also domestic violence (Attempt 6.030).

- (b) “Family members” means spouses, former spouses, adults related by blood or marriage, persons who reside together or have resided together in the past, and persons who have a child in common regardless of whether they have ever lived together.
- (c) “No contact order” means an order issued by the court, in the course of criminal proceedings involving domestic violence, which prohibits any contact with the victim including contact by telephone, letters, or physical presence and any attempt to communicate with the victim whether verbally or non-verbally.

4.1.030 Liability of Enforcement

An enforcement officer shall not be held liable in any action for an arrest based on probable cause, enforcement in good faith of a court order, or any other action or omission in good faith under this chapter arising from an alleged incident of domestic violence brought by any party to the incident.

Chapter 4.2 CRIMINAL ACTIONS

4.2.010 Law Enforcement Response

- (a) When a law enforcement officer responds to a domestic violence call, he or she shall make an arrest or issue a citation if he or she has probable cause to believe a crime has been committed. If the officer does not make an arrest or issue a citation, he or she shall advise the victim of the victim’s right to file a criminal complaint. The parties shall be advised of the importance of preserving evidence.
- (b) A law enforcement officer responding to a domestic violence case shall take a complete offense report including the officer’s disposition of the case.
- (c) The law enforcement officer may advise the victim of reasonable means to prevent further abuse including the availability of shelters and other community shelter. (services?)
- (d) The officer may arrange transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter. If such transportation involves use of an official tribal vehicle, guidelines set by the Tribe for use of the vehicle shall be followed.

- (e) The law enforcement officer shall forward the offense report to the appropriate prosecutor within five calendar days of making such report if there is probable cause to believe that an offense has been committed, unless the case is still under active investigation.

4.2.020 Court Duties in Domestic Violence Prosecutions

Because of the serious nature of domestic violence, the court in domestic violence cases:

- (a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;
- (b) Shall waive any requirement that the victim's location be disclosed to any person, upon a showing that there is a possibility of further violence.

4.2.030 No Contact Orders

- (a) Because of the likelihood of repeated violence directed at those who have been victims in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim and, where appropriate, the victim's family. The Court, in its discretion, may issue a no-contact order binding on both the victim and perpetrator. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the person charged or arrested from having contact with the victim. The no-contact order shall also be issued in writing as soon as possible. If the court has probable cause to believe that the person charged or arrested is likely to use or display or threaten to use a deadly weapon in any further acts of violence, the court may also require that person to surrender any deadly weapon in that person's possession or control, to Sauk-Suiattle Law Enforcement. The weapon shall be released to the defendant if he or she is acquitted or if the case is dismissed. If the defendant is convicted the court shall order the weapon to be forfeited and disposed of for the benefit of the Tribe.
- (b) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended.
- (c) Violation of a non-contact order is punishable under section 4.3.110 of this code.

Chapter 4.3 CIVIL ACTIONS - PROTECTIVE ORDERS

4.3.010 Petition for Protection - Who May File

Any person who alleges that he or she has been the victim of domestic violence may file a petition for an order of protection. A person may petition for relief on his or her own behalf and on behalf of any family members under the age of eighteen (18) years of age.

4.3.020 Petition - Contents

A petition for protection from domestic violence shall include the name and address of the petitioner; the allegation that domestic violence has taken place; the names, addresses, and ages of all persons known by the petitioner to be in need of protection; the name, address and age of the alleged perpetrator of the domestic violence and his or her relationship to each victim. An affidavit shall be filed with the petition stating, in the petitioner's own words, the specific facts and circumstances of the alleged domestic violence.

4.3.030 Filing fee

A petition for an order of protection shall be filed with the Court Clerk. The petition shall be accompanied by a filing fee of \$20.00 unless waived by the Court upon good cause shown.

4.3.040 Effect of Other Proceedings Pending

A petition for an order of protection may be filed regardless of whether other court proceedings between the parties have been filed or criminal charges have been filed against the alleged perpetrator.

4.3.050 No Bond Required

A person filing a petition for an order of protection is not required to post a bond in order to receive relief under this chapter.

4.3.060 Hearing - Time and Service

When a petition is filed, the Court Clerk shall note the case for hearing at the next regularly scheduled court date. Notice of hearing shall be served on both parties as provided under section 1.12.010 of this code. If service on the respondent cannot be made within five (5) days of the next regularly scheduled court date, the Court Clerk shall note the case for hearing no later than the following regularly scheduled court date.

4.3.070 Hearing - Civil Nature

The hearing shall be conducted as a civil matter.

4.3.080 Order of Protection

Upon notice and after hearing, the Court may make an order of protection binding on either petitioner or respondent, based on which party is found by the court to be the victim and who the perpetrator, or both. The order may:

- (a) Restrain a party from committing domestic violence;
- (b) Exclude a party from the victim's dwelling;
- (c) Award temporary custody and establish temporary visitation regarding minor children of the parties and restrain any interference with child custody;
- (d) Order any person involved in the domestic violence to participate in treatment or counseling;
- (e) Order a law enforcement officer to accompany a party and assist in placing a party in possession of the dwelling or otherwise assist in executing the order of protection; and
- (f) Assess costs against the perpetrator, including filing fees, court costs, and costs of service.

4.3.090 Temporary Orders

Where a petition alleges that irreparable injury could result from domestic violence if an order is not issued immediately, without prior notice to the respondent, the court may grant a temporary order for protection, pending a full hearing and grant relief as provided in section 4.3.080 a, b, c, and e. The court shall hold a hearing with the petitioner in person or by telephone on the day the petition is filed or as soon after as is practicable. A judicial officer shall have authority to issue temporary orders. A temporary order shall be effective until notice and hearing may be arranged under section 4.3.060. The respondent shall be served with a copy of the ex parte order along with a copy of the petition and notice of hearing. Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened the petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

4.3.100 Service of Order

If the respondent fails to appear at the hearing, any order entered by the court shall be personally served on the respondent by a law enforcement officer. If the law enforcement officer cannot locate the respondent within ten (10) days, he or she shall notify the petitioner. The order may be served by law enforcement up to one (1) year after the date it was signed by the judge.

4.3.110 Violating the Order - Criminal and Civil Sanctions

Any person who violates the restraint provisions of an order entered under this chapter, knowing that the order has been issued against him or her shall be guilty of an offense and shall be sentenced as follows:

First violation:

- (a) A minimum, mandatory sentence of 5 days in jail.* The maximum sentence is one year in jail; and
- (b) A fine not to exceed \$5,000.00; and
- (c) Appropriate treatment to prevent future domestic violence, if available.

Subsequent violation of an order, whether the same order or another order of protection entered against the person:

- (a) A minimum, mandatory sentence of 15 days in jail.* The maximum sentence is one year in jail; and
- (b) A fine not to exceed \$5,000.00; and
- (c) Appropriate treatment to prevent future domestic violence, if available.

* The violator shall be required to pay the costs of incarceration and costs of transportation to the jail facility incurred by law enforcement under this code.

A violation of an order of protection shall also constitute contempt of court and may be dealt with under chapter 1.14 of this code. Violation of an order of protection by a non-tribal member shall be grounds for exclusion from the Sauk-Suiattle Reservation.

4.3.120 Violating the Order - Arrest

A law enforcement officer shall arrest without a warrant and take into custody a person who the officer has probable cause to believe has violated an order issued under this chapter that restrains the person or excludes the person from a residence, if the person knows of the order.

RESOLUTION NO. 29/89
OF THE
SAUK SUIATTLE INDIAN TRIBE

BE IT RESOLVED by the Sauk Suiattle Indian Tribal Council of the Sauk-Suiattle Indian Tribe of Washington State:

WHEREAS, The Sauk-Suiattle Indian Tribal Council is the governing body of the Sauk-Suiattle Indian Tribe, in accordance with the Constitution and Bylaws, as stipulated in Article III, section 1; and

WHEREAS, The Sauk-Suiattle Tribal Council recognizes that the present Family Code does not address agreed orders, and that such orders can be beneficial to the Court and the family involved; but such orders should be approved by the Court only after the Court has determined that the parent, guardian or custodian truly consents to the proposed agreed order; and

WHEREAS, The Sauk-Suiattle Family Code currently provides for a First Hearing to be held within seven working days under section 2.2.030 which is not always practicable, and

WHEREAS, Under section 2.2.080 the Family Code does not expressly give the Court authority to make protective and treatment type orders at the First Hearing;

NOW THEREFORE BE IT RESOLVED, That the Sauk Tribal Family Code is amended to include a new section 2.2.080 as attached; and

BE IT FURTHER RESOLVED, that section 2.2.03 is amended, striking “within seven working days of” and replacing that language with “no later than the next regularly scheduled court date after”; and

BE IT FURTHER RESOLVED, that a new subsection (e) shall be added to section 2.2.080, identical to the last paragraph of section 2.4.090, providing for protective and other orders at the conclusion of the First Hearing.

CERTIFICATION

The above resolution was adopted at a special meeting of the Sauk-Suiattle Indian Tribal Council, on March 23, 1989, at which a quorum was present, by a vote of 4 for, 0 against, and 0 abstentions. (3 absent)

ATTEST:

_____/s/
Tribal Chairman
Sauk-Suiattle Tribal Council

_____/s/
Council Member
Sauk-Suiattle Tribal Council



RESOLUTION NO. 29/89
of the
SAUK SUIATTLE INDIAN TRIBE

Be it RESOLVED by the Sauk Suiattle Indian Tribal Council of the Sauk Suiattle Indian Tribe of Washington State:

WHEREAS, The Sauk Suiattle Indian Tribal Council is the governing body of the Sauk Suiattle Indian Tribe, in accordance with the Constitution and Bylaws, as stipulated in Article III, section 1; and

WHEREAS, The Sauk Suiattle Tribal Council has the power to act in all matters that concern the welfare of the Tribe, under Article VII, section 1(a) of the Constitution; and

WHEREAS, The Sauk Suiattle Tribal Council recognizes that the present Family Code does not address agreed orders, and that such orders can be beneficial to the Court and the family involved; but such orders should be approved by the Court only after the Court has determined that the parent, guardian or custodian truly consents to the proposed agreed order; and

WHEREAS, The Sauk Suiattle Family Code currently provides for a First Hearing to be held within seven working days under section 2.2.030 which is not always practicable, and

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BE IT FURTHER RESOLVED, that a new subsection e) shall be added to section 2.2.080, identical to the last paragraph of section 2.4.090, providing for protective and other orders at the conclusion of the First Hearing.

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

The above resolution was adopted at a special meeting of the
Sauk Suiattle Indian Tribal Council, on March 23,
1989, at which a quorum was present, by a vote of 4 for,
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ATTEST:


Tribal Chairman
Sauk Suiattle Tribal Council


Council Member
Sauk Suiattle Tribal Council

