

COQUILLE INDIAN TRIBAL CODE
Chapter 641
JUVENILE DEPENDENCY

641.010 Policy and Purpose. (1) The Tribal Council declares that it is the policy of the Coquille Indian Tribe to assure the future of the Coquille Indian Tribe by establishing this chapter to protect the best interests of Coquille children, to preserve the stability of the family, and to protect the Tribe, its customs and culture.

(2) It shall be the purpose of this chapter to:

- (a) Provide for the welfare, care and protection of children;
- (b) Protect the best interests of children by preserving the unity of the family and to achieve the purposes of this act in a family environment whenever possible;
- (c) Protect and strengthen the cultural ties and ethnic identity of tribal children in general to the maximum extent possible;
- (d) Compel the parent or custodian of a child to provide the proper care, guidance and control to help the child develop into a well-adjusted, responsible adult, and to facilitate the changes needed in the home environment to ensure the child's safety, health and development;
- (e) Secure to each child removed from his or her home the care, guidance, and control as nearly equivalent as practicable to that which the child should have been given by his parent or custodian to help him develop into a well-adjusted, responsible adult;
- (f) Protect from and prevent as much as possible child abuse, neglect and abandonment;
- (g) Provide judicial and other procedures through which the provisions of this code are executed and enforced, and in which the parties are assured a fair hearing and their civil and legal rights are recognized.

641.015 Definitions. All definitions in CITC chapter 640, Children Generally, are hereby incorporated into this chapter when not in conflict with a definition under this section.

641.020 Jurisdiction as to dependent child. Pursuant to this chapter, the court, in exercising its jurisdiction under CITC 640.020 of Children Generally as to a child, must also find that a child is dependent in order to take wardship over the child.

(1) A child is considered dependent if:

- (a) the child is beyond the control of the parents or custodian, and the child's behavior is such as to endanger the welfare of himself or herself or of others including behavior related to a mental health condition; or

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(b) the child's condition or circumstances are such as to endanger the welfare of the child or of others, including but not limited to;

(i) any case where a parent or custodian is incapable of meeting his/her duties due to incarceration, hospitalization or other physical or mental incapacity without planning for the care and custody of the child; or

(ii) any case where a child has been placed for care or adoption in violation of federal, state or tribal law; or

(iii) any case where a child is neglected or abused as those terms are defined in CITC 640.015 of Children Generally; or

(iv) any case where a child is absent from school for more than 10 days in a semester without a valid excuse; or

(v) any case where a child is abandoned; or

(c) the child is dependent on a public or private child-caring agency that needs the services of the court in planning for the best interests of the child; or

(d) the child has run away from his home.

(2) The court may exercise jurisdiction under subsection (1) of this section even though the child is receiving adequate care from the person having physical custody of the child.

(3) The court may exercise jurisdiction under subsection (1) of this section if the non-custodial parent appears fit, including being capable of protecting the child from an unfit parent, or if the matter is best heard by a family law court and no prior custody determination has been made. The court may exercise its jurisdiction in full, or may limit its jurisdiction to determining facts sufficient to make a temporary custody determination. In entering such a temporary custody order, the court should consider the best interest of the child and the relative fitness of the parents based on the conditions and circumstances that brought the child before the court. The court may maintain its jurisdiction to allow for the filing of a custody petition.

641.025 Jurisdiction attaches at the time of protective custody. The jurisdiction of the court shall attach from the time that the child is taken into protective custody. If initial custody is sought by application under CITC 641.100(1)(b), jurisdiction attaches at the time of application for an order of custody.

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641.030 Procedure. The Coquille Rules of Civil Procedure shall apply to proceedings pursuant to this chapter unless otherwise provided for in this chapter.

641.040 Closed proceedings. All juvenile proceedings under this chapter are closed to the general public. The judge, in her or his discretion, may allow any non-party having an interest in the matter to attend the proceedings.

641.050 Parties to a proceeding, limited rights of participation. (1) The following people shall be considered parties to a proceeding and shall have all the rights of a party:

(a) The child, who after 11 years of age may be allowed to personally appear or after 13 years of age shall be allowed to appear, and his or her representative if one is appointed; and

(b) the parent or custodian; and

(c) the child's Indian Tribe, if other than the Coquille Tribe; and

(d) the Coquille Tribe as represented by a person or agency designated by the Tribal Council if so designated; and

(e) Human Services; and

(f) a psychological parent; and

(g) a grandparent for the purpose of asserting visitation rights; and

(h) a CASA.

(2) Persons who are not a party under subsection (1) of this section may petition the court for rights of limited participation. Such a petition must be filed at least 2 weeks prior to the proceeding in which the person wants to participate. The petition must state:

(a) the reason for seeking participation and the relief requested; and

(b) why the parties can not adequately present the case; and

(c) how the person's involvement is in the best interest of the child.

The court may grant the petition and may restrict the rights of participation as the court sees fit.

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641.060 Right to counsel. All parties to a juvenile dependency proceeding have the right to be represented by counsel or a court approved spokesperson. Each party shall be responsible for the costs of his or her counsel or spokesperson. Should a party request or the court determine that the child who is the subject of a juvenile dependency proceeding is in need of representation, the court shall appoint an attorney, court approved spokesperson, guardian ad litem or CASA to attend to the interests of the child. A person appointed to represent a child under this section shall be on a voluntary basis unless the Tribal Council has appropriated money for such representation.

641.100 Protective Custody; emergency medical care. (1) A child may be taken into protective custody by the Coquille Tribal Police or Human Services if:

(a) the child's condition or surroundings reasonably appear to endanger the child's welfare and prompt removal is needed to prevent imminent physical harm or imminent physical damage; or

(b) the child has left his or her home without the consent of his parent or custodian for a substantial period of time or without intent to return; or

(c) The court has ordered that a child be taken into protective custody. Such order may be obtained by ex parte application that includes a sworn statement by the applicant that he or she believes the child's condition or surroundings are sufficient to justify protective custody under sub-subsection (a) of this subsection. Such application may be made on information and belief.

(2) The Tribal Police shall take a child into protective custody if directed to do so by the Court or Human Services. Human Service may seek the assistance of other local law enforcement officers if needed to take a child into protective custody.

(3) Tribal police or Human Services may take any child found within the exterior boundaries of the reservation or Indian country into protective custody on an emergency basis to ensure the welfare of said child from herself or from a parent or custodian. A child so removed shall be placed into the custody of non-Tribal local law enforcement or an agent of the State Offices for Services to Children and families.

(4) When a child is taken into protective custody and it reasonably appears to the law officer or child protection worker that the child is in need of medical treatment to preserve his or her health, the law officer or child protection worker shall have the authority to authorize a medical evaluation and to authorize treatment for such child if:

(a) the child is found to be in need of medical treatment as diagnosed by a physician at the evaluation to preserve the child's health, and after due diligence, the parent or custodian can not be located; or

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(b) if a parent or custodian is located, and does not consent to such treatment, such treatment can only be provided upon order of the court unless the evaluating physician diagnoses the child as needing immediate treatment to avoid death or substantial permanent injury.

(5) No person giving such authorization pursuant to this section shall have any liability, civil or criminal, for giving such authorization. The court may order a parent to pay for such medical treatment.

641.150 Disposition of child taken into protective custody. (1) A child taken into protective custody is not under arrest and shall not be placed in a detention facility or jail. Such child shall be placed in the home of an extended family member, taken to a hospital or medical facility for treatment pursuant to CITC 641.100(4), be placed in a shelter care facility licensed or approved by the Tribe, or placed in a foster home licensed or approved by the Tribe.

(2) A child taken into protective custody may be released to a parent or legal custodian at the discretion of the Human Services with appropriate instruction as to the care of the child or of the need to attend a hearing pursuant to CITC 641.200. The child must be returned to the appropriate parent or guardian if a shelter hearing pursuant to CITC 641.200 has not occurred or a court order has not otherwise been issued authorizing continued protective custody.

(3) Local law enforcement or Human Services shall maintain a record of children taken into protective custody that includes:

- (a) the child's name, age and address; and
- (b) the name and address of the parent or custodian; and
- (c) the name and address of the person whom the child was removed from and the circumstances giving rise to the need for protective custody; and
- (d) the efforts to notify the parent or custodian; and
- (e) where the child was placed and why.

Such record shall be provided to the court within 24 hours after a child is taken into protective custody.

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(4) As soon as practicable after a child is taken into protective custody, local law enforcement or Human Services shall notify any person entitled to notice pursuant to CITC 640.040 of Children Generally of the following:

- (a) the action taken; and
- (b) the time and place of the initial hearing; and
- (c) that the child may be held until the shelter hearing; and
- (d) the contact information for Human Services.

(5) A child taken into protective custody who is not a resident of the reservation or Indian country or is not subject to the court's continuing jurisdiction shall be released to the appropriate authority as soon as practicable.

641.200 Shelter Care; conduct of hearing. (1) No child may be held in protective custody for more than 5 days, excluding Saturdays, Sundays and judicial holidays, without an order of the court, pursuant to this section, that the child remain in shelter pending further investigation of the child's condition or circumstances.

(2) A child may be maintained in shelter care pursuant to an order of the court that finds there is probable cause to believe that a child is dependent and the child's condition or surroundings reasonably appear to endanger the child's welfare.

(3)(a) An order for continued shelter care may only be issued after notice to the parent or custodian of the date and time of such a hearing. If a parent or custodian comes forward after the initial shelter hearing, the court shall grant an additional hearing to determine if the child is to remain in shelter care as to that parent.

(b) A shelter order can be entered, in the absence of notice, if the court has determined that the parent or custodian's whereabouts are unknown. If it appears to the court that, by the continued due diligence of the tribal prosecutor or Human Services, that the parent can be found, the court may continue the hearing to a later date not to exceed 5 days.

(4) Any reports of abuse under CITC 640.100 – 640.020 of Children Generally or reports of protective custody under CITC 641.150(3) shall be provided to the parent or custodian at the time of the hearing except that a report under CITC 640.100 of Children Generally may be withheld if the court determines that the release will jeopardize an ongoing criminal investigation.

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(5) A copy of any petition filed pursuant to CITC 641.300, together with a summons, shall be served on the parent or guardian at the time of the shelter hearing. If no petition is filed at the time of a shelter hearing, the court shall order that a petition be filed forthwith in compliance with CITC 641.300.

(6) A parent or custodian is entitled to present evidence as to why the child is no longer endangered by his or her surroundings and can be safely returned home.

(7) After an evidentiary hearing a court shall make written findings and enter an order that:

- (a) the matter be continued for not more than 5 days; or
- (b) the allegations are unfounded and order that the petition and summons be dismissed; or
- (c) the child be returned to the parent or custodian but that temporary custody shall remain with the court pending further investigation; or
- (d) the child shall remain in shelter care pending further investigation; and
 - (i) the decision to remove the child was made in the best interests of the child; and
 - (ii) remedial efforts are being made to prevent the need for continued removal considering the circumstances of the child and the results of such efforts, or order that such efforts be made; and
 - (iii) find that the placement of the child complies with CITC 641.550.

(8) A court's findings and order shall be issued at the conclusion of the hearing. The court may set additional shelter hearings as it sees fit. The court may hear any evidence that a reasonable person would rely upon in making such findings.

641.300 Petition for Wardship; form; amendment. (1) Only a tribal prosecutor or Human Services may file a petition alleging a child named therein is a dependent child within the jurisdiction of the Court. Such petition may be filed based upon information and belief.

(2) The petition shall be filed prior to the shelter hearing unless good cause exists for not filing the petition. In any case, a petition shall be filed within 2 days after the emergency removal or ex parte application for a removal order.

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(3) The petition shall be entitled "In the Matter of _____, a child" and shall set forth with particularity:

(a) the name, age, sex, and residence of the child, and whom the child has resided with in the last 6 months; and

(b) the tribal affiliations of the child, parent and custodian by heritage and, if known, their enrollment status; and

(c) a plain and concise statement of the facts including the date, time and location of the conditions or occurrences which bring the child within the jurisdiction of the court pursuant to CITC 641.020 and the specific code sections that give the court jurisdiction; and

(d) the name, age and residence of the parent or custodian, and when there is no parent or custodian, the name, age and address of the nearest relative; and

(e) whether there is any custody or other proceeding involving the same child or subject matter pending in any court and the nature of such a proceeding.

Provided, that if one or more of the above required facts is not known, the petition shall specifically state that such fact is not known.

(4) The court, on motion of an interested party or on its own motion, may at any time prior to the adjudicatory hearing direct that the petition be amended. If the amendment substantially departs from the facts originally alleged, the court shall grant the parties such additional time to prepare for the adjudicatory hearing as may be required to ensure a full and fair hearing. A court may amend the petition at the end of an adjudicatory hearing to conform to the evidence presented if such an amendment does not prejudice the parties by substantially departing from the original allegations.

641.310 Summons; form; contempt of court. (1) After the petition has been filed, summons shall issue forthwith by the court. A true copy of the petition shall be attached to the summons.

(2) The summons, together with the petition, shall be served on the parents, the custodian, if different, and on the child if over the age of 11 in accordance with the Coquille Rules of Civil Procedure at least 10 days before the date of hearing stated on the summons. Summons and petition may also be served on any one whose appearance at the hearing the court deems necessary and proper for the determination of the issues.

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(3) If the child's tribe is different than the Coquille Tribe, the summons shall be served, by registered mail, on the child's tribe at the address listed in the Federal Register in accordance with the Indian Child Welfare Act of 1978.

(4) The summons shall be entitled as the petition and shall be clearly labeled "Summons". The summons shall also contain:

(a) the date, time and exact location of the proceeding; and

(b) a brief description of the proceeding with the phrase "as described more fully in the attached petition" and state that the parent or custodian and the child are entitled to be represented by an attorney or court approved spokesperson, at their own expense, during the proceeding; and

(c) a command that the person named therein shall appear before the court as stated and that any person having custody of the child shall bring that child before the court; and

(d) a statement that failure to appear may result in the court proceeding in the person's absence, making whatever order is deemed necessary for the protection of the child, or finding the person in contempt, which may be punishable under the applicable provisions of Tribal law.

(e) a statement that if the person fails to come before the court with the named child, a warrant for the arrest of the person and for the protective custody of the child may be issued by the Court.

(5) When a child in the physical custody of a summoned person is not brought before the court or it appears to the court that the summons will be ineffectual, the court shall issue an order for the protective custody of that child, if the court determines that such an order is in the child's best interests.

(6) When requested, Tribal police shall assist with the service of the summons. Law enforcement personnel from other jurisdictions may also assist with such service.

641.315 Consolidation. (1) In any case filed in the court where the legal or physical custody of a child is at issue and there is also pending, or adjudicated, a child custody or visitation case involving the child in a domestic relations, filiation or guardianship proceeding, the matters shall be consolidated. Matters so consolidated may be resolved at different stages of the proceedings.

(2) Upon entry of an order of consolidation, all matters related to custody or visitation shall be heard and decided together, and existing orders may be modified.

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641.325 Preliminary investigation; report to the court. (1) After a shelter hearing, Human Services shall conduct an investigation of the child's conditions and circumstances and shall report to the court as provided in subsection (2) of this section.

(2) Human Services shall file a report with the Court not less than 5 days prior to an adjudicatory hearing. When no shelter care hearing has been held, Human Services shall file a preliminary report to the Court not less than 5 days prior to the preliminary hearing. The report shall contain:

(a) a detailed discussion of the child's circumstances and conditions and the names of those people able to testify as to the circumstances and conditions of the child; and

(b) the present ability of the parent or custodian to meet the child's needs and what services are needed to maintain or return the child to the care of the parent or custodian; and

(c) the type, need for and appropriateness of any shelter care placement that occurred during the preliminary investigation including the dates of such care; and

(d) a plan as to what, if any, future action is needed to protect the child and reunify the family; and

(e) the recommended placement for the child, how it meets the child's special needs and how the placement complies with CITC 641.450; and

(f) what active efforts were made to prevent the removal or to reunify the family prior to the adjudicatory hearing; and

(g) the need for and type of emergency medical care that the child has been provided and if any current condition exists that needs treatment; and

(h) any other information necessary for a proper disposition of the case.

(3) Human Services shall serve the report on the parties by US mail not less than 5 days prior to the hearing. The court shall make the report available to any parties prior to the hearing.

641.330 Preliminary inquiry; prima facie case. (1) If no shelter hearing is held, the court shall set a time for a preliminary inquiry not less than 5 days after a petition is filed or a child is returned to the parent or custodian after being taken into protective custody.

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(2) At such hearing, the court shall inquire into the conditions and circumstances of the child to ensure that the child's best interests are being looked after and shall enter an order consistent with CITC 641.200.

641.340 Disclosures; depositions. (1) In all proceedings under CITC 641.350 or chapter 642, termination of parental rights, each party, including a tribal prosecutor and Human Services, shall disclose to each other party the following information:

(a) the names and addresses of all persons the party intends to call as witnesses, together with any written or recorded statements of such persons; and

(b) any written or recorded statements or memoranda of any oral statements made by the parent, custodian or child to any other party or agent of any other party; and

(c) any reports or statements of experts made in connection with the case, including the results of any physical or mental examinations, and of comparisons or experiments that the party intends to offer in evidence; and

(d) any books, papers, documents or photographs that the party intends to offer in evidence at the hearing, or that were obtained from or belong to any other party; and

(e) any required reports to the court; and

(f) such other information as may be relevant to the proceedings.

(2) Disclosure shall be made as soon as practicable after a petition is filed. The court may supervise the disclosures to insure a proper and expeditious process. The court may also enter such orders as are necessary to preserve any recognized evidentiary privileges including the in camera inspection and redaction of any disclosable information, or otherwise protect information from disclosure as the interests of justice may require.

(3) The obligation to disclose is ongoing. At any stage of an adjudicatory hearing, a party shall make further disclosures of new or additional information.

(4) Upon being notified of a breach of the duty to disclose, the court may order such information disclosed, grant a continuance, refuse to permit a witness to testify or refuse to admit into evidence the material, or enter such other order as the court finds appropriate.

(5) The court may allow the taking of a deposition if such deposition is needed to perpetuate the testimony of a witness who is outside the court's jurisdiction or unable to attend because of age, infirmity, illness, imprisonment or undue hardship. In allowing

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the deposition, the court shall consider if the witness can testify by phone. Depositions shall be taken pursuant to Coquille Rules of Civil Procedure.

641.350 Adjudication of Wardship Petition; conduct of the hearing. (1) No adjudicatory hearing shall be held unless proper notice was provided to all necessary parties pursuant to CITC 641.310 at least 10 days prior to the hearing. An adjudicatory hearing must be held within 90 days after a petition is filed, unless the court expressly makes the finding that holding the hearing within 90 days would be contrary to the interests of justice.

(2) Any party to a proceeding shall have the right of compulsory process of any witness necessary for the hearing. Such subpoena shall be in the form prescribed by and served in compliance with the Coquille Rules of Civil Procedure.

(3) Any party has the rights of due process and shall be allowed to cross-examine any witness except as set out in subsection (5) of this section. The rules of evidence of the Coquille Evidence Code shall apply.

(4) No juvenile dependency shall be tried to a jury.

(5) The court may exclude witnesses on the motion of a party. The court, on its own motion or on motion of a party, may take testimony from a child or determine that it is not in the best interest of the child to testify due to age or mental capacity. If the court determines that a child under 13 years of age should testify, the court may take steps to ensure that the testimony is taken in a manner that protects the child's best interests including an in chamber interview with the judge that excludes the parent or custodian or video testimony. If a child's testimony is taken by a process that excludes a party, the party's representative shall be allowed to hear the testimony. A recording of the testimony shall be made available to the parties and made a part of the record.

(6) A record of the proceeding shall be made by stenographic or electronic means.

(7) In order for the court to take wardship over the child, the court must find that:

(a) the party seeking to remove the child from the custody of the parent or custodian has satisfied the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the removal of the child or to allow a return of the child from protective custody, and that these efforts have proven unsuccessful; and

(b) the facts, as alleged, are proven by a preponderance of the evidence that the continued custody of the child by the parent or custodian is likely to result in physical damage or emotional harm to the child, or that the child will endanger or harm others.

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In the absence of such proof, the petition must be dismissed.

(8) When a judge heard a matter in a hearing not subject to the rules of evidence, the judge should carefully consider if it is appropriate to hear the adjudicatory proceeding. When more than one judge is available to hear matters, and one judge has never heard the matter set for adjudication, that judge shall hear the adjudication.

(9) The applicable provisions of the Coquille Tribal Constitution and the Indian Civil Rights Act may not be invoked by parents or custodians in juvenile proceedings as a privilege against giving testimony against their interest regarding a juvenile proceeding, provided that parents or custodians may invoke these provisions to prevent them from testifying to facts that would or could incriminate them relevant to a criminal proceeding.

641.400 Informal resolution. (1) At any time prior to an adjudicatory proceeding, the court, on its own motion or the motion of a party, may set the matter for a judicial settlement conference. At such conference the court may take admissions and make the child a ward, or may dismiss the petition in favor of an agreement between Human Services and the parent or custodian to engage in remedial services.

(2) If a voluntary agreement is sought by the parties, the court must find that this resolution is in the child's best interests and that the parent or custodian understand the obligations and consequences of the agreement. Such agreement shall be in writing and state the remedial service plan agreed to and how such plan will be carried out.

(3) No voluntary plan under this section shall take more than 6 months to fulfill unless approved by the court and reviewed by the court within 6 months.

(4) Human Services shall review the family's progress every 30 days. If the parent or custodian fails to follow the plan between the first 30-day review and the expiration of the agreement, Human Services shall re-file the petition and take any other steps needed to protect the child.

(5) A voluntary agreement that includes an out of home placement for the child, may be withdrawn by the consenting party at any time by written notice served on the parties and filed with the court. Upon notice of withdrawal of consent, the child shall be returned immediately to the parent or custodian unless the child's conditions and circumstances are such that protective custody is needed pursuant to CITC 641.100.

641.450 Placement of children; preferences. (1) The following placement preferences shall apply to all placements under this chapter and in addition shall constitute the Coquille Tribe's placement preferences under the ICWA, 25 U.S.C. § 1915(c).

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(2) Any child accepted for placement out of his or her home under this chapter shall be placed in the least restrictive setting which most approximates a family and which meets any special needs of the child. Such placement shall also be within reasonable proximity to his or her home. Whenever possible, all siblings accepted for placement shall be placed together.

(3) In the absence of good cause to the contrary, an out of home placement decision shall give preference to:

- (a) a member of the child's extended family; or
- (b) a foster home licensed or approved by the Coquille Tribe; or
- (b) a foster home licensed, approved or specified by the child's Tribe; or
- (c) an Indian foster home licensed or approved by an Indian organization; or
- (d) an Indian foster home licensed or approved by a state or non-governmental agency; or
- (e) an institution for children approved by an Indian Tribe or operated by an Indian organization that has a program suitable to meet the child's needs.

(4) The court, in approving a placement, should consider:

- (a) the best interests of the child; and
- (b) the reasonable desires of the parent or custodian; and
- (c) the reasonable desires of the child if over the age of 11 years; and
- (d) the geographic location of the placement in relationship to the community from which the child is removed.

(5) Any party may file a motion to invalidate a placement made in contradiction of the above requirements.

641.500 Disposition of Case. (1) After an adjudication determines that a child shall be made a ward of the court and specific findings of fact are made on the allegations stated in the petition, the court shall determine the disposition of the case. Such disposition may occur immediately following the conclusion of the adjudicatory hearing or may be continued for not more than 30 days to allow the parties to present additional information on the needs of the child, parent or custodian, and the availability of a preferred

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placement. If disposition is continued, the court shall enter an order temporarily placing the child until the dispositional hearing is concluded.

(2) The court may order remedial services for the child, and parent or custodian, and may:

(a) permit the child to remain with a parent or custodian subject to protective supervision by Human Services, and such limitations and conditions as the court may prescribe; or

(b) give custody to Human Services to place the child in accordance with CITC 641.450; or

(c) transfer legal custody of the child to a non-governmental agency responsible for the care of dependent children or to a family member or other person capable of meeting the child's needs; or

(d) Recommend emancipation of the child; or

(e) Recommend such long-term plan as may be in the child's best interests.

(3) For the purpose of determining proper disposition of the case, the court may receive such other reports, documents or testimony, as it deems relevant. The rules of evidence shall not apply to the disposition hearing.

(4) A child made a ward of the court shall remain a ward of the court until;

(a) the petition is dismissed or wardship is otherwise terminated; or

(b) the court transfers jurisdiction over the case to a foreign jurisdiction; or

(c) a decree of adoption is entered; or

(d) the child reaches 18 years of age or is otherwise emancipated, unless the court has, in a prior order, determined that wardship should continue until the completion of high school if the child is still in school on his or her eighteenth birthday.

(5) As part of a disposition, the court may enter such other orders as are necessary to determine visitation rights of any person or party, restrictions on the child's associations or activities, conditions to be followed by the person or agency having custody of the child, and what, if any, financial support a parent is obligated to make while the child is placed out of home.

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641.510 Remedial efforts. (1) At all stages of a proceeding under this chapter, Human Services shall make active efforts to provide remedial services and rehabilitation programs designed to prevent or eliminate the need for removal of the child from the home.

(2) When the court is obligated to make a finding as to remedial services, its finding shall state what services were provided and why further efforts could or could not prevent or shorten the separation of the family.

(3) A remedial service plan shall be rationally related to the allegations found true by the court and shall be reasonably calculated to achieve reunification of the family. In assessing the barriers to reunification, Human Services shall consider what services can be provided to the child as well as the parent. Remedial services shall be Indian oriented and designed to take into consideration the customs and traditions of the child's tribe.

641.550 Authority of Court over parents and child. (1) Any parent or custodian of a child made a ward of the court and served with a summons pursuant to CITC 641.310 shall be subject to the jurisdiction of the court for the purposes of ordering participation in remedial services.

(2) The court shall have authority to order a parent or child to comply with a remedial service plan pursuant to CITC 641.510, including, but not limited to, the authority to order:

(a) medical, mental, substance abuse or educational evaluations for the parent, custodian, and/or child; or

(b) counseling, therapy or substance abuse treatment for the parent, custodian, and/or child; or

(c) contribution by a parent, custodian or guardian to the financial support of the child; or

(d) participation in tribal activities by the parent, custodian and/or child; or

(e) inpatient treatment for a child.

641.560 Commitment to Human Services; authority over placement. (1) The court may specify the particular type of care, supervision or services to be provided by Human Services to children placed in their care, but the actual case planning and provision of such care, supervision and services shall be the responsibility of Human Services.

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(2) In meeting its obligations under this section, Human Services shall consider the recommendations of the court and shall allow the family to assist in designing a reunification plan. To the maximum extent possible, Human Services shall seek to integrate its plan with other tribal or state programs.

(3) When a child committed to the care of Human Services is in need of medical care or other treatment by reason of physical or mental condition, Human Services shall have the authority to approve all necessary care and treatment in consultation with the parent or custodian. Human Services' initial case plan shall include a medical care and treatment plan, if needed, and shall update the court as to the progress of such plan at periodic reviews.

(3) The court may invalidate a placement if it determines that such placement is so inappropriate as to violate the rights of the child, parent or custodian, or is in violation of the placement preferences enumerated in CITC 641.450.

(5) Human Services shall give notice prior to a change in placement or immediately after an emergency change in placement to the child's representative and to the parent and custodian.

641.570 Legal custody; duties and authority. (1) At disposition, the court may grant legal custody to Human Services or to another tribally approved agency for the care of dependent children.

(2) The duties and authority of the legal custodian are as follows:

- (a) to have physical custody and control of the child; and
- (b) to supply the child with food, clothing, shelter and incidental necessities; and
- (c) to provide the child with care, education and discipline; and
- (d) to authorize ordinary medical, dental, mental health or other remedial care and treatment as the child needs and, in an emergency, to authorize surgery or other extraordinary care; and
- (e) To make such reports and to supply such information as the court may from time to time require; and
- (f) To apply for any tribal, state or federal disability benefits or other public assistance to which the child is entitled, and to use those benefits for the care of the child, and to open a trust account for the management of those funds as may be necessary; and

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(g) To make an application for enrollment on behalf of the child with a tribe in which the child is eligible for enrollment and has the closest relationship.

641.575 Juvenile Court Guardianship; duties and authority. (1) At the time of disposition, the court may grant guardianship to Human Services or to any other person or tribally approved agency for the care of dependent children. A grant of guardianship may be different than the grant of legal custody. If no grant of guardianship is made, the court retains the duties and authority of a guardian as an incident of its wardship.

(2) A guardian's duties and authority consist of the following:

(a) to authorize surgery or other extraordinary care but this authority does not prevent a legal custodian from exercising his authority under CITC 641.570(2)(d); and

(b) to authorize the child to enlist in the Armed Forces of the United States; and

(c) to consent to the child's marriage; and

(d) to consent to the adoption of a child freed for adoption pursuant CITC chapter 642, Termination of Parental Rights; and

(e) to make legal decisions for the child; and

(f) to make educational decisions for the child; and

(g) to make an application for enrollment on behalf of the child with a tribe that the child is eligible for enrollment and has the closest relationship.

(3) A guardian appointed under this section is not given authority to act as conservator of the child's estate unless so appointed pursuant to CITC chapter 748, Family Law.

641.577 Other duties and authority. (1) All other duties and authority not delegated by the court or granted under CITC 641.570 and 641.575 shall be retained by the court.

(2) Only the court may consent to the placement of a child in an inpatient mental health treatment facility.

(3) No person or agency may change or consent to change the residence or domicile of the child without the express permission of the court. Approval of a placement in a location different than the child's residence at the time of the filing of a petition shall not be sufficient consent. The court shall not consent to a change in residence unless the court is assured that its jurisdiction will not be materially jeopardized and such change is in the child's best interests. Any legal custodian or guardian who seeks to change the

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child's residency without first obtaining the permission of the court shall automatically lose their grant of authority over the child, and shall be considered to have unlawful custody of the child.

641.600 Review of child made ward of the Court. (1) The court must review the disposition of any child made a ward of the court at least every 6 months to determine if the needs of the child are being met, and if the remedial services are succeeding in preventing the need for removal or assisting with reunification. All parties must be given notice of the review hearing.

(2) The court may also review the case as requested by a party to resolve any issue that needs the court's attention.

(3) The court may hear any evidence that a reasonable person would rely upon in making such findings. The rules of evidence will not apply except as to relevancy, weight and credibility of the evidence or witness.

(4) If the decision is to maintain the child in an out of home placement, the court shall make findings and issue orders, which specifically state:

(a) why continued out of home placement is needed as opposed to reunification, or why prompt action has not been taken to find a permanent placement for the child; and

(b) the expected timetable for reunification or why an alternative plan is being pursued and the timetable to achieving that plan; and

(c) The nature and success of the remedial services and what additional services, if any, are needed.

641.650 Permanent plan review hearing. (1) The court must hold a permanent plan hearing within 12 months after a child is placed in an out of home placement. A permanent plan hearing may be held as early as 9 months after the placement if requested by a party. After the first hearing, if the child remains in an out of home placement, the court shall review the permanent plan at least every 12 months until achieved.

(2) No permanent plan can take effect until approved by the court.

(3) A permanent plan hearing shall be conducted as a review hearing, and the court shall make additional findings and orders as to the appropriateness of the permanent plan, why the plan is necessary in spite of the remedial services, and, if requested earlier than 18 months, why such early request is in the best interests of the child. The court's findings in approving a permanent plan other than a return to the parent or custodian must be

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supported by clear and convincing evidence that continued remedial services will not result in a reunification of the family.

(4) The court may approve any permanent plan that is in the best interests of the child and complies with any applicable placement preference, including guardianship, long-term foster care or adoption.

641.675 Run away from placement. Any child who leaves or runs away from his or her placement shall be immediately reported to Human Services and Human Services shall report the child as a run away to local law enforcement. The court shall issue a warrant to take the child into protective custody upon ex parte application by Human Services.

641.700 Report to court for review hearing. (1) Any person or agency having legal custody or guardianship of a child shall file reports to the court every 6 months or more often as required by the court.

(2) A report filed for a review shall be so filed not less than 5 days prior the hearing under CITC 641.600 or 641.650 and disclosed to the parties not less than 5 days prior to the hearing, and shall contain:

(a) a description of the barriers to reunification or return of legal custody to the parent or custodian; and

(b) a description of the type and analysis of the effectiveness of the care, treatment and supervision provided to the child, including a list of all placements made, the length of placement, the reasons it disrupted and how the placements complied with CITC 641.450; and

(c) a description of the remedial services offered to the child, parent and custodian, and an analysis of the effectiveness of the services; and

(d) a proposed service plan or modification of existing service plan for the care, treatment and supervision of the child and the reunification of the family, together with a time line for reunification; and

(e) a description of the visitation that has occurred between the child and any person and the quality of the interaction; and

(f) a description of the cultural activities, school activities and routine medical and dental care in which the child participates.

(3) A report submitted for a permanent plan hearing shall also contain:

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(a) a detailed description of the remedial services provided, why they were unsuccessful, and if any additional services would allow a safe reunification and the projected time frame to reunification with those additional services; and

(b) the permanent placement that Human Services is recommending to the Court, why such placement is in the best interests of the child, how the recommended placement complies with the preferences in CITC 641.450 or 643.250 of Adoptions and the timeframe to achieve the placement.

(4) Information in prior reports need not be repeated in future reports.

(5) Any party may file an alternative report as part of his or her presentation to the court.

641.750 Interpreters. If, at any stage of a proceeding under the Juvenile Code, the court determines that a party is in need of an interpreter to understand the proceedings, the court shall recess the matter until such time as an interpreter can be located to assist the party. The costs of an interpreter shall be borne by the court.

641.775 Fees. (1) There shall be no fees for filing a petition under this chapter or under CITC chapter 642, Termination of Parental Rights, and the Tribal Police shall not charge a fee for service of process or attendance at a court hearing. Witness fees shall be paid pursuant to the Coquille Rules of Civil Procedure.

(2) The Court may assess any fees incurred in the court proceedings against the parent or custodian.

641.800 Records; confidentiality. (1) All records held by the court or the legal custodian in cases under the Juvenile Code shall be maintained in a confidential manner. A party to the proceeding may inspect the records. A non-party may only inspect the legal file, except as may be required from time to time by a tribal or federal audit for compliance with conditions on the receipt of funds. In the case of an audit, the records shall be reviewed by the court or a designee to remove all confidential information not subject to an audit.

(2) In all cases under the Juvenile Code, the court shall maintain two files, one legal and one social. The court shall establish additional restrictions on the access to social files as it sees fit to further ensure confidentiality. The legal file shall only contain orders, findings of fact, pleadings filed by the parties, proof of service and other legal documents.

(3) Public inspection of any record may be ordered by the court with due regard to the best interests of the child who is the subject of the records. Public inspection of the social

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file as it pertains to a parent requires the consent of the parent, or proof that such consent can not be obtained and the purpose of the inspection.

(4) A violation of this section or any other section of the Juvenile code related to confidentiality of tribal records. is punishable by contempt

641.950 Reconsideration of orders; appeal. (1) When a parent or custodian was not present at an adjudicatory hearing due to failure of proper notice or when she has good cause for failing to appear, the court shall grant a rehearing in full on the matter.

(2) The court may modify or set aside any order made by it upon such notice and with such hearing as the court may direct. The court shall require notice to the parent or custodian and hold a hearing if the result of modifying or setting aside the order may deprive the parent or custodian of legal custody or change the placement of a child.

(3) If parental rights have been terminated pursuant to CITC chapter 642, Termination of Parental Rights, the parent may only request a modification or set aside if an appeal is pending. In no case may an order pursuant to CITC chapter 643, Adoptions, be modified or set-aside after the filing of a petition for adoption.

(4) An order after adjudication and other orders are final orders for purposes of appeal. Appeal may be had pursuant to CITC 640.800 of Children Generally and any applicable rules of appellate procedure as any other matter in equity. The right to appeal a matter is subject to the establishment of an appellate court by the Tribal Council.

(5) An appeal shall not suspend or stay the juvenile proceeding, or release the child from the wardship of the court unless expressly ordered by the appellate court.