

TITLE 4 – DOMESTIC RELATIONS

CHAPTER 4-8 ADOPTIONS

4-8-1 Policy

It is the policy of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians that its children should be adopted only as a matter of last resort, and alternative long-term placements such as guardianship and long-term foster placement should first be considered which maintain the connection between the child and the parent and family. A decree of adoption shall not terminate the legal relationship between the child and the child's natural extended family members, except by order of the Court.

4-8-2 Definitions

For purposes of this chapter, the following definitions shall apply:

- (a) "Adult" means a person eighteen (18) years of age or older.
- (b) "Child" means a person under eighteen (18) years of age.
- (c) "Court" means The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians' Tribal Court.
- (d) "Minor" means a person under eighteen (18) years of age.
- (e) "Tribes" means The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.

4-8-3 Who May Adopt

The following persons may adopt:

- (a) Any adult may file a petition to adopt.
- (b) In the case of married persons, not legally separated, both spouses shall be petitioners except that, if one of the spouses is the natural parent of the minor to be adopted, the natural parent shall not be a party to the petition.
- (c) A married person legally separated may adopt without the consent of his spouse.

4-8-4 Who May Be Adopted

A minor subject to the jurisdiction of the Tribes' Tribal Court.

4-8-5 Conditions to Adoption

- (a) The welfare of the child shall be primary;
- (b) The proposed adoption must be in the best interests of the child; and
- (c) A person adopting shall be at least ten (10) years older than the child, unless the court determines that it is in the best interest of the minor to allow adoption by a sibling less than ten years older than the child.

4-8-6 Order of Preference for Adoption

Preference in adoption shall be given in the following order:

- (a) A member of the child's immediate family, which shall be construed to include a brother or sister, aunt or uncle or grandparent, who otherwise meets the age restrictions for an adoptive parent found in Sections 4-8-2 and 4-8-4; or
- (b) A member of the child's extended family; or
- (c) A member of the child's Tribe; or,
- (d) A person designated by the child's parent or approved by the Tribes' Child Protection Team; or,
- (e) A member of an Indian Tribe to which the child has hereditary connections;
- (f) A member of any Indian tribe; or,
- (g) An appropriate non-Indian person.

4-8-7 Petition for Adoption

To initiate an adoption in Tribal Court, a petition for adoption shall be filed with the Tribal Court Clerk. In circumstances in which parental rights have been involuntarily terminated and the child is placed within the care and custody of the Tribes' Family Services Department, the Department may file the adoption petition. In all other circumstances, a petition for adoption may be filed by the proposed adoptive parent(s). It shall be verified under oath by the adoptive parent(s) or Tribal Family Services Department caseworker and shall contain:

- (a) The full name, residence, place of birth, date and sex of the child, with attached documentary proof of the date and place of the birth of the child to be adopted.
- (b) Documentary proof of the child's membership status in the Tribe, if such proof exists;

- (c) The full name, residence, date and place of birth, occupation of the adoptive parent(s), statement of relationship to the child, documentary proof of marital status, provided this shall not be interpreted to prohibit single parent adoptions;
- (d) Proof of parental consent to the adoption where the petitioners are relatives of the child by blood or marriage; except
 - (1) where the natural parents-are deceased, as evidenced by certified copies of death certificates; or
 - (2) where there is a court order terminating parental rights of the parents to the child.
- (e) An agreement by the adopting parent of the desire that a relationship of parent and child be established between them and the child;
- (f) A full description and statement of value of all property owned, possessed or held in trust by and for the child.
- (g) A citation to the specific section of this Code giving the Court jurisdiction of the proceedings; and
- (h) A brief and concise statement of the facts which may aid the Court in its determination.
- (l) If the proposed adoption is the result of a Juvenile Dependency case in state court, a copy of the order transferring the matter to Tribal Court shall be attached to the Petition.

4-8-8 Investigative Report

(a) Role of Family Services Department Caseworker

The caseworker shall prepare and present to the Court a report within thirty (30) days of the filing of a petition for adoption or a supplemental report as ordered by the Court as to the suitability of the child for adoption, as well as to the financial, moral, physical fitness, general background of the adoptive home, and adoptive parent or parents. A home study shall be conducted as part of this procedure and shall be filed with the court as part of the adoption petition when the Tribal Family Services Department files the petition for adoption. The tribal caseworker shall contact appropriate agencies and individuals who have relevant knowledge and such contacts and relevant information shall be included in the report. The tribal caseworker shall make written recommendations on the proposed adoption.

(b) Other Agencies; Individuals

The Court may order other agencies or individuals to prepare and file written reports with the Court to aid in the Court's determination on the suitability of the proposed adoption. In lieu of an adoption study conducted by Tribal Family Services, the Court may rely on a post-placement adoption study prepared by a duly licensed State or private Adoption Agency in the state or county of residence of the proposed adoptive family.

(c) Cost of Investigative Report by Tribal Family Services

Proposed adoptive parents will pay \$675 for this post placement report fee , paid to the Tribal Family Services Department at the time of filing, unless waived by the Tribal Court for good cause.

(d) Copies of reports shall be served on petitioner at the same time they are presented to the Court.

4-8-9 Consent to Adoption

(a) When Required. Written consent to adoption is required of:

- (1) Each biological, adoptive and acknowledged parent whose parental rights have not been involuntarily terminated, who has not voluntarily relinquished or terminated his or her parental rights;
- (2) The minor, if he or she is eleven (11) years of age or older.

(b) When Not Required. Written consent to an adoption is not required if:

- (1) The parent's rights have been involuntarily terminated;
- (2) The parent has voluntarily relinquished or terminated his or her parental rights;

(c) Procedure for Signing the Consent to Adopt

Written consents, where required by this Code, shall be attached to the petition for adoption. Written consent to an adoption shall be signed and acknowledged before a Notary Public. Consent shall not be accepted or acknowledged by the Court unless signed and acknowledged more than ten (10) days after birth of the child, except by order of the Court. An interpreter shall be provided if required by the Court. The Court shall have authority to inquire as to the circumstances behind the signing of consent under this section.

(d) Withdrawal of Consent to Adopt

Written consent cannot be withdrawn after the entry of a final order of adoption. Consent may be withdrawn prior to the final order of adoption upon a showing by a preponderance of evidence at a hearing before the Court that consent was obtained by fraud, duress or coercion, or the best interests of the child require the consent to adoption be voided.

(e) Grandparent Notification

All grandparents shall be notified of the pending adoption in writing, certified return receipt, at their last known address. Information on Oregon's Voluntary Adoption Registry shall be sent along with this letter. Failure to complete notification because of a returned notice shall not deprive the court of jurisdiction to act on the petition.

4-8-10 Hearing on Petition for Adoption

(a) Purpose, Time Limit

A hearing shall be held within sixty (60) days of receipt of an adoption petition to determine if it is in the minor's best interest to be adopted by the proposed adoptive parents

(b) Procedure at Hearing

(1) The proposed adoptive parent or parents shall appear personally at the hearing. At or before the hearing, any biological, adoptive or acknowledged parent consenting to the adoption must appear personally before the judge, in open court so the Court can determine the voluntariness and understanding with which consent was given, only if the court determines the validity of the consent is an issue. All other persons whose consent is necessary shall be duly notified and shall personally appear, if the Court determines the validity of the consent is an issue.

(2) The judge shall examine all persons appearing as to the suitability of the child for adoption, the validity of consent to adoption, the financial, moral and physical fitness, responsibility of the adoptive parents, and whether the best interests of the child will be promoted by the adoption.

(3) The Court shall also hear natural extended family members to decide whether the child's legal relationship to the natural extended family should be terminated.

4-8-11 Order on Petition for Adoption

(a) Granting the Petition

If the Court is satisfied that it is in the best interest of the child to grant the petition, the

Court may:

- (1) Enter a final decree of adoption immediately, or
- (2) In cases in which the minor has not been in the custody of the proposed adoptive family for six months at the time of hearing, the Court may continue the hearing until the child has been placed in the legal custody of the adoptive parent(s) for at least six (6) months. After six (6) months, the court may request a supplemental report; and, if the Court determines that the best interest of the child is served, the Court shall enter the final decree of adoption immediately.

(b) Contents of Adoption Order

The final order of adoption shall include such facts necessary to establish that the child is eligible and suitable for adoption, and that the adoptive home and parents are adequate and capable of providing the proper care of the child, as shown by the investigation reports and the findings of the Court upon the evidence produced at the hearings.

(c) Denying the Petition

If the Court finds that the adoption petition is not in the best interests of the child, the petition shall be denied. The Court may request the Family Services Department or other agencies authorized to provide such services to assist in the placement and care of the child. Where the Court finds the best interest of the child will not be served by the adoption, a guardian shall be appointed and suitable arrangements made for the care of the child, in accordance with the applicable provisions of this Code.

4-8-12 Adoption Records

(a) Confidentiality

All records, reports, proceedings and orders are confidential, permanent records of the Court. These records, reports, proceedings and orders shall be sealed and shall not be available for release or inspection by the public, except by Order of the Court.

(b) Release of Information

Information contained in records, reports, proceedings and orders shall be released upon petition to the Court by the

- (1) adopted person after reaching legal age of majority; or
- (2) upon order of the Court upon a showing of good and sufficient cause by persons other than the adopted person who has petitioned for such information.

(c) Notice to Biological Parent

No information shall be released unless:

- (1) The biological parent(s) has been given notice by certified mail, return receipt requested at the parent's last known address, by the Court, of a petition for release of information within ten (10) days of the request; or
 - (2) The biological parent has consented in writing before the Court to release information; or
 - (3) The Court determines the need for information is greater than the parent's right to privacy.
- (d) The Court may refuse to divulge the biological parents' names but may release other information as long as the information will not lead to the discovery of the parents' names.

4-8-13 Adoptive Birth Certificate; Release of Original Certificate

- (a) The Tribal Court Clerk, within five (5) days of the final decree of adoption entered by the Court, shall notify the Division of Vital Statistics of the State Board of Health of the State which issued the original certificate of birth, by providing a certified copy of the final decree of adoption, that the adoption has taken place. The Tribal Court Clerk shall give the full name, sex, birthday, name of physician (if known), adoptive mother and father's dates of birth, states of birth and social security numbers and names of natural parents, in order that a new record of birth in the new name and with the name or names of the adopting parents are to be recorded.
- (b) The cost of the new Birth Certificate is \$50.00. This shall be submitted to the Division of Vital Statistics of the State Board of Health with the new birth certificate information. This fee is paid by the adopting parents, or if waived by the Tribal Court, the Tribes' Family Services Department.

4-8-14 Name and Legal Status of Adopted Child

Minor children adopted by order of the Court shall assume the surname of the persons by whom they are adopted, unless the petition provides for or the Court orders otherwise. They shall be entitled to the same rights as natural children of the persons adopting them. However, adoption does not confer tribal membership status on adopted children who would not be otherwise eligible. Adoption does not terminate the rights of natural extended family members of the child, as a group, except by Order of the Court. Adoption does not extinguish the right of the adopted child to inherit from any natural extended family member whose rights have not been terminated by Order of the Court.

4-8-15 Tribal Membership

Pursuant to the Tribes' Constitution, Article III, Section 6, adoption by a member of The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians shall not make the adoptee eligible for full voting membership in the Tribes unless the adoptee would have been eligible for full membership as a member of his or her birth family. Adoptees of members of the Tribes not eligible for full membership shall be made honorary members of the Tribes.

4-8-16 Sovereign Immunity Intact

Nothing in this Code is to be construed to create a cause of action for violation of its provisions or to be construed as a waiver of the sovereign immunity of the Tribes.

4-11-17 Severability

If a court of competent jurisdiction holds any provision of this Code invalid, the invalid portion will be severed and the remaining provisions shall continue in full force and effect.

APPENDIX A

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

ADOPTIONS

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the "Adoptions" Code, after being posted for over 30 days, at its second reading, Resolution 05-031, Ordinance No.062, at a Business Council Meeting on May 31, 2005. Vote was 6 (for), 0 (against), and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians reviewed the changes for the Adoption Ordinance. It was suggested that a section on definitions be incorporated into the Ordinance before being enacted.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved the "Adoptions" Code at its first reading, Resolution 04-075, Ordinance No. 062, at a Regular Council Meeting on November 14, 2004. Vote was 7 (for), 0 (against), and 0 (abstaining).