

QUAPAW TRIBE OF OKLAHOMA

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Resolution No. 072415-B

To adopt an ordinance enacting a Tribal child welfare code

BEFORE THE BUSINESS COMMITTEE OF THE QUAPAW TRIBE
OF OKLAHOMA (O-GAH-PAH)

July 24, 2015

The TRIBAL BUSINESS COMMITTEE introduced the following Resolution to approve and adopt a Tribal ordinance enacting a Tribal child welfare code.

WHEREAS, the Quapaw Tribe of Indians of Oklahoma (O-Gah-Pah) is a federally recognized Indian Tribe and is governed by a Governing Resolution adopted by the Quapaw Indian Council on August 19, 1956, and approved by the Commissioner of Indian Affairs on September 20, 1957; and

WHEREAS, the Quapaw Tribe asserts tribal governmental jurisdiction to the fullest extent recognized by law over the lands within the original Quapaw Reservation, as established as a homeland for the Quapaw Tribe by the Treaty of May 13, 1833; and

WHEREAS, the Governing Resolution delegates authority to the Quapaw Tribal Business Committee to speak and act on the behalf of the Quapaw Tribe; and

WHEREAS, the Quapaw Tribal Business Committee is thus empowered and obligated to transact Tribal business, including but not limited to enacting laws and ordinances for the Tribe, including a Tribal child welfare code; and

WHEREAS, the Business Committee hereby adopts a new code for Tribal child welfare.

NOW THEREFORE BE IT RESOLVED by the Tribal Business Committee that the following Tribal child welfare code shall be enacted as the law of the Tribe:

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40 PART I. CHILD WELFARE—IN GENERAL

41 Sec. 1. Purpose

- 42 (a) The purpose of this Ordinance is to:
- 43 (1) ensure the safety and care of each Child;

- 1 (2) preserve and strengthen the ties between the Child and the Quapaw
2 Tribe;
- 3 (3) continue the Quapaw tribal tradition of strong family ties and values;
- 4 (4) provide for the best interest of Quapaw children;
- 5 (5) secure for any Child the necessary care, guidance and discipline to
6 assist the Child in becoming a responsible and productive member of the Quapaw
7 Tribe and society in general; and
- 8 (6) protect Quapaw Children and offer protective services in order to
9 prevent any further harm to a Child suffering from abuse.

10 (b) Provisions of this Ordinance shall be liberally construed in favor of
11 carrying out the purpose of this Ordinance.

12 **§ 2. Definitions**

13 (a) "Abandon" means any of the following:

- 14 (1) the Parent or Custodian has left the Child alone or in the care of
15 another, the whereabouts of the Parents or Custodians are unknown, and the
16 Child's identity cannot be ascertained by the exercise of reasonable diligence;
- 17 (2) the Parent or Custodian has voluntarily left the Child alone or in the
18 care of another and expressed a willful intent by words, actions, or omissions not
19 to return for the Child; or
- 20 (3) the Parent or Custodian fails to establish and/or maintain a
21 substantial and positive relationship with the Child for a period of six (6)
22 consecutive months out of the last fourteen (14) months immediately preceding
23 the filing of a petition.

24 (b) "Abuse" or "Child Abuse" or "Neglect" means an act or omission, in one
25 (1) of the following categories which seriously threatens the health or welfare of a Child,
26 taking into account accepted child rearing practices and tribal culture:

- 27 (1) any case in which a Child exhibits evidence of bruising, bleeding,
28 malnutrition, cuts, lashes, burns, bone fractures, subdural hematoma, swelling, or
29 death, and circumstances indicate that such condition or death may be the fault of
30 a Parent or Custodian;
- 31 (2) any case in which a Child is the victim of sexual assault or
32 molestation;
- 33 (3) any case in which the Child's Parents or custodians fail to provide
34 adequate food, clothing, shelter, or supervision that a prudent Parent would take;
- 35 (4) any case in which a Parent or Custodian has subjected the Child to
36 mistreatment or abuse, or allowed another to mistreat or abuse the Child without
37 taking means to stop such mistreatment or abuse and prevent it from recurring;
- 38 (5) any case in which a child lives in an environment unreasonably
39 dangerous to the Child's welfare;
- 40 (6) any case in which the Parent or Custodian unreasonably fails or
41 refuses to provide proper or necessary subsistence, education, medical care, or

- 1 any other care necessary for the Child's health, guidance, or well-being;
- 2 (7) any case when a Child is Abandoned by his or her parents.
- 3 (c) "Adult" means a person eighteen (18) years of age or over.
- 4 (d) "Child" means an unmarried person who is under the age of eighteen (18)
- 5 years and is either a member of an Indian tribe or is eligible for membership in an Indian
- 6 tribe.
- 7 (e) "Child Abuse" means acts that fall within the definition of "Abuse."
- 8 (f) "Child in Need of Supervision" means any Child who:
- 9 (1) has repeatedly disobeyed reasonable and lawful commands or
- 10 directives of his or her Parent, Guardian, or Custodian;
- 11 (2) is willfully absent from his or her home without the consent of his or
- 12 her Parent, Guardian, or Custodian for a substantial period of time;
- 13 (3) is willfully and habitually absent from school in violation of the law;
- 14 (4) has parents unreasonably absent or unwilling to provide adequate
- 15 parental care, supervision, and discipline.
- 16 (g) "Child Placement Agency" means an agency designed and licensed for the
- 17 care or placement of Children.
- 18 (h) "Custodian" means a person, entity, or agency with Custody of a Child.
- 19 (i) "Custody" means indefinite guardianship of and legal rights over a Child.
- 20 (j) "Foster Home" means a facility for the care of not more than ten (10)
- 21 Children in a family type setting, licensed or approved pursuant to Quapaw law, or, if
- 22 outside the Quapaw jurisdiction, by the law of the jurisdiction in which such facility is
- 23 physically located or both.
- 24 (k) "Guardian" means a temporary custodian or a person who has guardianship
- 25 authority over a Child.
- 26 (l) "Guardianship" means temporary custody or the duty and authority vested
- 27 by law, including by appointment of court, to make major decisions affecting the Child.
- 28 (m) "Neglect" means acts that fall within the definition of "Abuse."
- 29 (n) "Parent" means either a natural Parent or a Parent by adoption.
- 30 (o) "Protective Supervision" means a legal status created by court order under
- 31 which the Child is permitted to remain in his or her own home under the supervision of
- 32 the Court through the Quapaw Indian Child Welfare Office during the period in which
- 33 treatment is being provided to the family by the Quapaw Indian Child Welfare Office or
- 34 other agencies designated by the Court.

35 **§ 3. Jurisdiction**

- 36 (a) The Court shall have jurisdiction under this Ordinance to the furthest extent
- 37 the law allows.
- 38 (b) The Court may issue temporary orders providing for protection, support, or
- 39 medical treatment as it deems in the best interest of any Child subject to the jurisdiction

1 of this court and consistent with actions under this Ordinance.

2 (c) Where a Custody award has been made in the Court in a dissolution of
3 marriage action or another proceeding, the Court may take action under this Ordinance if
4 the Child is Neglected.

5 **§ 4. Child Welfare Transfers from Another Court**

6 (a) Any state or tribal court may transfer to the Quapaw Court any proceeding
7 for the foster care placement of or Termination of parental rights to any Indian Child
8 who is a member of, or eligible for membership in, the Quapaw Tribe if the Quapaw
9 Court finds that the transfer would not be detrimental to the best interests of the Child.

10 (b) The Court shall determine whether the transfer to the Quapaw Tribe's
11 jurisdiction would be detrimental to the best interest of the Child in a transfer hearing
12 initiated by the Quapaw Tribe after the order of transfer is received by the Court Clerk.

13 (c) A court transferring a case to the Quapaw Tribe's jurisdiction under this
14 Section shall transmit all documents and legal and social records, or certified copies
15 thereof, to the Court, which shall proceed with the case as if the petition has been
16 originally filed or the adjudication had been originally made in this Court.

17 **§ 5. Child Welfare Transfers to Another Court**

18 (a) The Quapaw Court is authorized to transfer any case under this Ordinance
19 arising within the Quapaw Tribe's jurisdiction, if the Child subject to the case is not a
20 member or eligible for membership in the Quapaw Tribe, to the Court of the Child's
21 Indian tribe, or if the Child is a non-Indian, to the courts of the state where the Child is a
22 resident or domiciled, upon the petition of the prosecutor, either Parent, a Custodian or
23 Guardian, the Child's tribe, or an appropriate official of the Child's state.

24 (b) When deciding whether to make such transfer, the Quapaw Court shall
25 consider:

- 26 (1) the best interests of the Child;
- 27 (2) if transfer is requested prior to adjudication, whether witnesses
28 necessary to the adjudication can attend in the receiving jurisdiction;
- 29 (3) emotional, cultural, and social ties of the Child and its family; and
- 30 (4) the likelihood that the same Child and family would return to the
31 Quapaw Tribe jurisdiction within a reasonable time and come before the Court
32 again.

33 (c) Upon entering an order transferring a case as provided under this Section,
34 the Court shall serve a certified copy of the Order of Transfer, the legal case file, and
35 any social or police reports concerning the Child's case to the Court Clerk of the
36 receiving jurisdiction. The Court may retain physical Custody of the Child pending an
37 order or notice of acceptance from the receiving jurisdiction.

38 **PART II. CHILD ABUSE**

39 **§ 6. Requirement to Report Child Abuse or Neglect**

40 Any person who has knows that a Child has been subjected to Abuse or Neglect or
41 who has observed the Child being subjected to circumstances or conditions which would

1 reasonably result in Abuse or Neglect shall immediately report or cause a report to be
2 made of such fact to the Quapaw Indian Child Welfare Program or the Quapaw Tribal
3 Marshals Service.

4 **§ 7. Evidence of Abuse**

5 (a) Any Child health associate, person licensed to practice medicine, registered
6 nurse or licensed practical nurse, hospital personnel engaged in the admission,
7 examination, care or treatment of patients, medical examiner, coroner, social worker, or
8 local law enforcement officer who has before him or her a Child reasonably believed to
9 have been Abused or Neglected may take or cause to be taken color photographs of the
10 areas of trauma visible on the Child. If medically indicated, such person may take or
11 cause to be taken X-rays of the Child.

12 (b) Any color photographs or X-rays which show evidence of Child Abuse
13 shall be immediately forwarded to the Quapaw Tribal Marshals Service and the Quapaw
14 Indian Child Welfare Office.

15 **§ 8. Temporary Protective Custody**

16 (a) The Court shall make a judge, magistrate, or officer of the court available
17 by telephone at all times to act with the authority of the Court, to issue written or verbal
18 temporary protective custody orders, or in the alternative or in addition thereto, the
19 Court shall enter a general order detailing the procedure to be used in taking Children
20 into custody on an emergency basis when no Judge is present at the Court.

21 (b) Temporary protective custody orders may be requested by the Quapaw
22 Tribal Marshals Service, the Quapaw Indian Child Welfare Office, or any physician who
23 has a Child he or she reasonably believed to have been Abused or Neglected and the
24 circumstances or condition of the Child indicate that care in the Child's residence or in
25 Custody of the person responsible for the Child's care would present an imminent
26 danger to that Child's life or health.

27 (c) The prosecutor, Quapaw Tribal Marshals Service, the Quapaw Court, and
28 the Quapaw Indian Child Welfare Office shall be notified of action under this Section
29 immediately so that Child protective proceedings may be initiated.

30 (d) Temporary custody under this Section shall not exceed seventy-two (72)
31 hours, except for good cause shown.

32 **§ 9. Reporting Procedures**

33 (a) Reports of known or suspected Child Abuse or Neglect made pursuant to
34 this Part shall be made immediately to the Quapaw Tribal Marshals Service and the
35 Quapaw Indian Child Welfare Office and shall be followed promptly by preparation of a
36 written report.

37 (b) Upon receiving notice of known or suspected Child Abuse or Neglect, the
38 Quapaw Tribal Marshals Service and the Quapaw Indian Child Welfare Office shall
39 prepare a joint report. Such report, when possible, shall include the following
40 information:

41 (1) the name, address, age, sex and race of the Child;

42 (2) the name and address of the Child's Parent, or where applicable,
43 Custodian or Guardian;

- 1 (3) the nature and extent of the Child's injuries, including any evidence
2 of previous known or suspected Abuse or Neglect to the Child or the Child's
3 siblings;
- 4 (4) the names and addresses of the persons responsible for the suspected
5 Abuse or Neglect;
- 6 (5) the family composition;
- 7 (6) the source of the report and the name, address, and occupation of the
8 person making the report;
- 9 (7) any action taken by the reporting source; and
- 10 (8) any other information that the person making the report believes may
11 be helpful in furthering the purposes of this Ordinance.

12 (c) A copy of the report shall be transmitted immediately to the prosecutor's
13 office, the Quapaw Indian Child Welfare Office, and the Court Clerk.

14 (d) A written report prepared under this Section shall be admissible as
15 evidence in any proceeding related to Child Abuse.

16 **§ 10. Investigation Upon Receipt of Report**

17 (a) The Quapaw Tribal Marshals Service or the Quapaw Indian Child Welfare
18 Office shall make a thorough investigation immediately upon receipt of any report of
19 known or suspected Child Abuse or Neglect. The immediate concern of such
20 investigation shall be the protection of the Child.

21 (b) The investigation, to the extent that it is reasonably possible, shall include:

- 22 (1) the nature, extent, and cause of the Abuse or Neglect;
- 23 (2) the identity of the person responsible for such Abuse or Neglect;
- 24 (3) the names and conditions of any other Children living in the same
25 place; and
- 26 (4) the environment and the relationship of any Children therein to the
27 person responsible for the suspected Abuse or Neglect.

28 (c) The investigation shall, at a minimum, include a visit to the Child's place of
29 residence or place of custody and to the location of the alleged Abuse or Neglect and an
30 interview with or observance of the Child reportedly having been Abused or Neglected.
31 If admission to the Child's place of residence cannot be obtained, the Court, upon good
32 cause shown, shall order access to the residence and for the investigators to conduct the
33 investigation.

34 (d) The Quapaw Tribal Marshals Service shall be responsible for the
35 coordination of all investigations of all reports of known or suspected Child Abuse or
36 Neglect. The Marshals Service may conduct the investigation independently or in
37 conjunction with another appropriate agency or may arrange for the initial investigation
38 to be conducted by another agency with personnel having appropriate training and skill.
39 The Marshals Service shall provide for persons to be continuously available to respond
40 to such reports.

1 (e) Upon receipt of a report, if the Quapaw Indian Child Welfare Office or
2 Tribal Marshals Service reasonably believes Abuse or Neglect has occurred, it shall
3 immediately offer social services to the Child who is the subject of the report and his or
4 her family. If immediate removal is necessary to protect the Child or other Children
5 under the same care from further Abuse, the Child or Children may be placed in
6 protective Custody in accordance with Quapaw tribal law.

7 **§ 11. Evidence Not Privileged**

8 The privileged communication between patient and physician and between husband
9 and wife shall not be a ground for excluding evidence in any judicial proceedings
10 resulting from a report pursuant to this Part.

11 **§ 12. Confidentiality of Reports and Investigations**

12 (a) Except as provided in this Section, reports of Child Abuse or Neglect and
13 the name and address of any Child, family or informant or any other identifying
14 information contained in such reports, shall be confidential and shall not be public
15 information.

16 (b) Disclosure of the name and address of the Child and family and other
17 identifying information involved in such reports shall be permitted only when authorized
18 by the Court for good cause.

19 (c) Access to the Child's records under this Section shall be permitted only
20 when necessary for the investigation of a related Child Abuse or Neglect case, such as
21 when a sibling is suspected to be a victim of Child Abuse by the same offender.

22 **§ 13. Child Protection Teams**

23 It is the intent of this Ordinance to encourage the Quapaw Tribal Marshals Service
24 and the Quapaw Indian Child Welfare Office to create and maintain one or more Child
25 Protection Teams. The Court, prosecutor, the Quapaw Tribal Marshals Service and the
26 Quapaw Indian Child Welfare Office shall extend to each other its full cooperation in
27 investigating all reports of Child Abuse and completing all follow-up reports, as
28 required, in a timely manner.

29 **§ 14. Immunity From Liability**

30 Any person participating in good faith in the making of a report or in a judicial
31 proceeding held pursuant to this Part, the taking of photographs or X-rays, or the placing
32 in temporary Custody of a Child pursuant to this Part or otherwise performing duties or
33 acting pursuant to this Part may be held immune from any liability, civil or criminal, that
34 otherwise might result by reason of such reporting.

35 **PART III. PROTECTIVE AND EMERGENCY CUSTODY**

36 **§ 15. Taking Children into Custody**

37 (a) A Child may be taken into temporary Custody by a law enforcement officer
38 without order of the Court when there are reasonable grounds to believe that:

- 39 (1) the Child is abandoned, lost, or seriously endangered in his or her
40 surroundings and immediate removal appears to be necessary for the Child's
41 protection; or

1 (2) the Child has run away or escaped from his Parents, Custodian or
2 Guardian.

3 (b) A medical doctor, physician, or similar licensed practitioner of medicine
4 may temporarily detain without an order of the Court a Child brought before him or her
5 for treatment whom he or she reasonably suspects to be the victim of Child abuse. Any
6 person detaining a Child due to possible Child abuse shall notify, without unnecessary
7 delay, a law enforcement officer who shall assume Custody of the Child. The law
8 enforcement officer assuming Custody shall have the authority to consent to the
9 admission of the Child to a medical facility and to consent to emergency medical
10 treatment necessary to protect the life or health of the Child from danger of imminent
11 harm. The opinion of a licensed medical doctors that treatment for a condition could not
12 reasonably be delayed for a period long enough to contact a Judge for an emergency
13 medical treatment order is necessary for emergency medical treatment.

14 (c) In all other cases, a Child may be taken into Custody only upon an order of
15 the Court.

16 **§ 16. Notification of Parents**

17 When a Child is taken into temporary Custody, the officer shall notify all Parents,
18 Custodians, and Guardians without unnecessary delay and inform the parent that all
19 parties have a right to a prompt hearing.

20 **§ 17. Notification of Court Officers**

21 Whenever an officer or other person takes a Child into custody, or admits a Child to
22 a medical facility and determines not to release the Child, the officer or other person
23 who took the Child into custody or to a medical facility shall notify the prosecutor, the
24 Quapaw Tribal Marshals Service, the Quapaw Indian Child Welfare Office, and any
25 agency or persons so designated by the Court at the earliest opportunity that the Child
26 has been taken into Custody and where the Child has been taken. The person shall also
27 promptly file a brief written report with the prosecutor, Quapaw Tribal Marshals
28 Service, the Quapaw Indian Child Welfare Office, and any agency or person so
29 designated by the Court stating the facts which led to the Child being taken into Custody
30 and the reason why the Child was not released.

31 **§ 18. Emergency Medical Treatment**

32 (a) At any time after a Child is taken into Custody with or without a court
33 order and prior to adjudication on the merits:

34 (1) when the Court finds that emergency medical, surgical, or dental
35 treatment is required for a Child in Quapaw Tribal Custody, it may authorize such
36 treatment or care if the Parents, Custodian, or Guardian are not immediately
37 available to give their consent or to show cause why such treatment should not be
38 ordered. The power to consent to emergency medical care may be delegated by
39 the Court to the agency or person having physical Custody of the Child pursuant
40 to this Part or pursuant to court order; and

41 (2) after making a reasonable effort to obtain the consent of the Parent,
42 Custodian, or Guardian, and after a hearing on notice, the Court may authorize or
43 consent to non-emergency medical, surgical, or dental treatment or care for a
44 Child in Quapaw Tribal Custody.

1 (b) After a Child has been adjudicated a ward of the Court, the Court may
2 consent to any necessary emergency, preventive, general medical, surgical, or dental
3 treatment or care, or may delegate the authority to consent thereto to the agency or
4 person having Custody of the Child.

5 **PART IV. PROCEDURE FOR CHILD WELFARE CASES**

6 **§ 19. Initial Review**

7 (a) Whenever it appears to any person that a Child is the subject of Abuse or
8 Neglect, or in Need of Supervision, the person may refer the matter to the Quapaw
9 Indian Child Welfare Office, which shall determine, in cooperation with the Quapaw
10 Marshals service, whether the interests of the Child requires that further action be taken.

11 (b) If it is determined that the interests of the Child or of the community
12 require that court action be taken, the welfare officer or Marshal shall make a request to
13 the prosecutor to file a petition and also deliver a copy of the entire case file to the
14 prosecutor.

15 (c) If the Quapaw Indian Child Welfare Office and Marshals Service are
16 unable to determine whether the interests of the Child or of the Quapaw Tribe require
17 that court action be taken from information available, the matter may be further
18 investigated as set forth in Section 10.

19 (d) If the Child Welfare officer determines that the interests of the Child or of
20 the Quapaw Tribe do not require court action, the Quapaw Indian Child Welfare Office
21 may offer such social services and make such referrals to other agencies as may be
22 feasible to help the family with any problems it may have.

23 **§ 20. Prosecutorial Review**

24 (a) Upon receiving a request to file a petition and the accompanying reports
25 and files from the Quapaw Indian Child Welfare Office and Marshals Service, the
26 prosecutor shall review the case file, reports, and any witness statements to determine if
27 there is sufficient evidence to establish jurisdiction and move forward with a case
28 regarding care of the Child.

29 (b) If the prosecutor determines that there is not sufficient evidence, the
30 prosecutor may request the Quapaw Indian Child Welfare Office or Quapaw Tribal
31 Marshals Service to conduct a further investigation into the matter as set forth in Section
32 10.

33 (c) If the prosecutor determines that sufficient evidence is available to
34 establish the jurisdiction of the Court over the Child, a petition for the Child shall be
35 filed.

36 **§ 21. Diversion by Contract**

37 (a) Prior to the filing of a Petition for suspected Child Abuse or Neglect, the
38 Quapaw Indian Child Welfare Office, with the consent of the prosecutor, may withhold
39 filing a case and divert the case to a nonjudicial source for treatment or assistance.

40 (b) If a case or prosecution is diverted from the justice system, the case or
41 charges shall not be filed if the Parent, Custodian or other person participates to the
42 satisfaction of the Quapaw Indian Child Welfare Office and prosecutor in the diversion
43 program offered.

1 (c) Diversion shall be made by entering into a contract with the Child's
2 Parents, guardian, or other custodian whereby the Parent, guardian or other custodian
3 agrees to undergo specified treatment for the condition noticed, including an agreement
4 to do or refrain from doing certain acts.

5 (d) Each diversion contract shall contain the following:

6 (1) the specific facts or allegations, including dates, which gave rise to
7 the condition addressed by the contract;

8 (2) the specific treatment programs the Parents, or where applicable
9 Custodian or other persons, agree to successfully complete and their duration;

10 (3) the specific facts which the parties agree to do or to refrain from
11 doing;

12 (4) the specific treatment or other social services to be offered by the
13 Quapaw Tribe and accepted by the family;

14 (5) a fixed, limited time for the contract to run not exceeding two (2)
15 years; and

16 (6) that the prosecutor will not file a petition on the subject of the
17 contract for the facts or allegations stated if the Parents, or where applicable
18 Custodian or other persons, comply with the contract terms for the full term of the
19 contract.

20 (e) If the person diverted successfully completes the diversion program to the
21 satisfaction of the prosecutor and the Quapaw Indian Child Welfare Office, he or she
22 shall be released from the terms and conditions of the program, and no filing of the case
23 shall be made.

24 (f) Participation by a person accused or suspected of Child Abuse in any
25 diversion program shall be voluntary.

26 (g) No diversion contract may place physical Custody in any person or agency
27 other than the Parents, Custodian, or Guardian unless it bears the approval in writing by
28 the Court.

29 (h) A Child shall not be diverted pursuant to this Section if diversion is not in
30 the best interest of the Child's health and welfare.

31 **§ 22. Petition Contents**

32 (a) In every petition filed under this Part, the Child's Parent, or where
33 applicable, Guardian or Custodian, shall be named as respondent. Summons shall be
34 issued for all named respondents.

35 (b) The petition shall set forth plainly the facts which bring the Child within
36 the Court's jurisdiction. The petition shall also state the name, age, and residence of the
37 Child and the names and residences of the Child's Parents, Custodian, or Guardian or of
38 the Child's closest known relative if no Parent, Custodian, or Guardian is known.

39 (c) All petitions filed alleging the dependency or neglect of a Child may
40 include the following statement: "Termination of the Parent-child Legal relationship is a
41 possible remedy available if this petition is sustained."

1 **§ 23. Summons**

2 (a) Upon filing of a petition the Court Clerk shall issue a summons to the
3 respondents and the Child.

4 (b) A summons need not be issued or served upon any respondent who appears
5 voluntarily, or who waives service in writing before a notary public or Court Clerk, or
6 who has promised to appear at the hearing in writing upon the release of a Child from
7 emergency Custody or otherwise, but any such person shall be entitled to a copy of the
8 petition and summons upon request.

9 (c) The Court on its own motion or on the motion of any party may join as a
10 respondent or require the appearance of any person it deems necessary to the action and
11 authorize the issuance of a summons directed to such person.

12 (d) If the parties required to be summoned cannot be found within the
13 jurisdiction of the Quapaw Tribal Court, the fact of the Child's presence within the
14 Quapaw jurisdiction shall confer jurisdiction on the Court as to any absent Parent,
15 Custodian, or Guardian if due notice has been given.

16 **§ 24. Failure to Appear**

17 (a) Any person served with a summons who fails to appear without reasonable
18 cause may be proceeded against for contempt of court and a bench warrant may be
19 issued.

20 (b) If after reasonable effort the summons cannot be served or if the welfare of
21 the Child requires that he or she be brought immediately into the Custody of the Court, a
22 bench warrant may be issued for the Parents, Custodian, Guardian, or Child.

23 (c) When a Parent or other person who signed a written promise to appear and
24 bring the Child to court, or who has waived or acknowledged service fails to appear with
25 the Child on the date set by the Court, a bench warrant may be issued for the Parent or
26 other person, the Child, or both.

27 **§ 25. Appointment of Guardian *Ad Litem***

28 (a) The Court may appoint a guardian *ad litem* to protect the interest of a Child
29 in proceedings when:

30 (1) the Court finds that the minor does not have a Parent, Custodian, or
31 Guardian willing and able to exercise effective guardianship;

32 (2) no Parent, Custodian, Guardian, or relative of the Child appears at
33 the first or any subsequent hearing in the case;

34 (3) the Court finds that there may be a conflict of interest between the
35 Child and the Child's Parent, Custodian, or Guardian, such as when the Child is
36 suffering from Abuse or Neglect; or

37 (4) the Court finds that it is in the Child's best interest, whether or not a
38 Parent, Custodian, or Guardian is present.

39 (b) The guardian *ad litem* shall be charged in general with the representation of
40 the Child's interest. The guardian *ad litem* shall be provided with all reports relevant to
41 the case, including the reports made pursuant to Section 9 and Section 10. A guardian

1 *ad litem* shall make such further investigations as deemed necessary to ascertain and
2 understanding and facts of the case.

3 (c) The costs of the proceeding, including guardian *ad litem* and expert witness
4 fees, may be charged to the respondent, where the court determines just and appropriate.

5 **§ 26. Diversion by Consent Decree**

6 (a) After the filing of a petition, the prosecutor with the consent of the Child
7 Welfare officer, the respondents and the Court may divert a child welfare case by
8 obtaining a Consent Decree if:

9 (1) the Court has informed the Child and the Parents, or where
10 applicable, Custodian, or other persons, of their rights and believes they
11 understand their legal rights;

12 (2) written consent to the decree is obtained from the Parents or
13 Custodians and other respondents; and

14 (3) the Quapaw Indian Child Welfare Office has prepared a Treatment
15 Plan for the respondents to be incorporated into the Consent Decree which states:

16 (A) the specific treatment programs the Parents or other respondents
17 agree to successfully complete;

18 (B) the specific acts which the Parents or other respondents agree to do
19 or to refrain from doing; and

20 (C) the person or agency to be vested with Custody of the Child if the
21 Child cannot remain in his or her own home, the specific provisions of the
22 Treatment Plan must be completed before the Child is returned to his or her
23 own home, and the period of supervision of the Child in his or her own home.

24 (b) After all parties have consented, the Court shall review the Treatment Plan
25 and if the Court agrees that the plan is satisfactory, shall order all parties by the Consent
26 Decree to abide by the provisions of the Treatment Plan. The Consent Decree shall be
27 monitored and modified as in other dispositions, provided that if the family fails to
28 comply with the Treatment Plan, the Court, on motion of the prosecutor, shall proceed
29 with the adjudication.

30 (c) A Consent Decree shall remain in effect for not exceeding one (1) year,
31 provided that upon notice of hearing the Court may extend the force of the decree for
32 additional terms of one (1) year with the consent of the parties. The adjudication shall
33 be continued during the term of the Consent Decree and thereafter dismissed upon
34 completion of the Consent Decree.

35 **§ 27. Adjudicatory Hearing**

36 (a) At the Adjudicatory Hearing, the Court shall consider whether the
37 allegations of the petition are supported by evidence.

38 (b) If the Court finds that the allegations of the petition are not supported by
39 evidence, the Court shall order the petition dismissed.

40 (c) When the Court finds that the allegations of the petition are supported, the
41 Court shall sustain the petition and make an order of adjudication setting forth whether
42 the Child is Neglected or Abused and making the Child a ward of the Court.

1 (d) Upon sustaining a petition, the Court shall make such dispositional orders
2 as may be necessary to protect the Child prior to the Dispositional Hearing which shall
3 be held without undue delay.

4 **§ 28. Dispositional Hearing**

5 (a) The Dispositional Hearing shall be held after an adjudicating hearing has
6 found a Child to be Abused or Neglected, or in need of Supervision.

7 (b) The purpose of the Dispositional Hearing is for the Court to determine the
8 treatment which should be ordered to attempt to correct the problems which led to the
9 adjudication, and to provide for the health, welfare, and safety of the Child during the
10 treatment period or, if treatment cannot or does not correct the problems after actual
11 attempts have been made to do so, to provide for the long term health, welfare, and
12 safety of the Child

13 (c) After making an order of adjudication, the Court shall hear evidence on the
14 question of the proper disposition best serving the interests of the Child and the Quapaw
15 Tribe.

16 (d) The Dispositional Hearing shall be informal and the general rules of
17 procedure and evidence shall not apply so that all pertinent information may be
18 considered in determining treatment and disposition. However, when feasible, the Court
19 shall order the person who drafted any report or study relied upon to appear and answer
20 questions regarding that report if it is challenged by any party.

21 **§ 29. Continuance**

22 (a) The Court may continue the Dispositional Hearing, either on its own
23 motion or on the motion of any interested party, for a reasonable period to receive
24 reports or other evidence.

25 (b) If the hearing is continued, the Court shall make an appropriate order for
26 the Child's care or release to the custody of the Child's Parents, Custodian, or Guardian,
27 or other responsible person or agency under such conditions of supervision as the Court
28 may impose during the continuance.

29 **§ 30. Social Study and Other Reports**

30 (a) The Court may order any agency to prepare and submit to the court a social
31 study, home study, family or medical history, or other reports which may be helpful in
32 determining proper treatment and disposition for the family in all cases under this Part.

33 (b) The general rules of evidence shall not apply for the purpose of
34 determining proper disposition of a Child and written reports and other material relating
35 to the Child's mental, physical, and social history may be received and considered by the
36 Court along with other evidence.

37 (c) Such reports shall be filed with the Court and a copy delivered to the
38 parties or their attorney at least five days prior to the Dispositional Hearing.

39 **§ 31. Treatment Plan**

40 (a) In every case the Court shall order the Quapaw Indian Child Welfare
41 Office to prepare a detailed treatment plan for the treatment and disposition of the
42 problems identified in the adjudication.

- 1 (b) The treatment plan shall contain at a minimum:
2 (1) a brief social and family history;
3 (2) a brief statement of the conduct at dispute;
4 (3) the specific treatment programs the family should be required to
5 complete, their duration, and what is expected to be accomplished;
6 (4) the specific actions the Parents, or other respondents, should be
7 ordered to do or refrain from doing;
8 (5) the specific treatment or other social services offered by the Quapaw
9 Tribe which the family should be required to accept; and
10 (6) the person or agency to be vested with Custody of the Child if the
11 Child cannot remain in his or her own home, and a detailed plan describing how
12 and when the Child will be returned to his or her home under supervision and
13 when court supervision should cease.
- 14 (c) The treatment plan shall be filed with the Court and a copy delivered to the
15 parties or their attorney at least five (5) days prior to the Dispositional Hearing.

16 **§ 32. Medical Examination**

17 The Court may order the Child to receive a medical examination to determine the
18 health and welfare of the Child for purposes of the Adjudicatory or Dispositional
19 hearing, as well as other hearings or reports the Court deems necessary.

20 **§ 33. Order of Protection**

- 21 (a) The Court may make an order of protection requiring a respondent:
22 (1) to stay away from a Child or the Child's residence;
23 (2) to permit a Parent to visit a Child at stated periods;
24 (3) to abstain from offensive conduct against a Child, the Child's Parent
25 or Parents, Custodian, or Guardian;
26 (4) to give proper attention to the care of the home;
27 (5) to cooperate in good faith with an agency:
28 (A) which has been given legal Custody of a Child;
29 (B) which is providing Protective Supervision of a Child by court order;
30 or
31 (C) to which the Child has been referred by the Court;
32 (6) to refrain from acts of commission or omission that tend to make a
33 home an improper place for a Child; or
34 (7) to perform any legal obligation of support.
- 35 (b) When such an order of protection is made applicable to a Parent or
36 Custodian, it may specifically require active participation in the rehabilitation process
37 and may impose specific requirements upon such Parent or Custodian, subject to the
38 penalty of contempt for failure to comply with such order.

1 **§ 34. Placement Preferences**

2 (a) In making a placement of or committing legal Custody of a Child to some
3 person in the dispositional process whether for foster care or adoption, the Court shall
4 consider the following order of preference:

5 (1) the natural Parents, adoptive Parents, Stepparents, Custodian, or
6 Guardian;

7 (2) a citizen of the Quapaw Tribe over eighteen (18) years of age who is
8 the Child's Grandparent, Aunt or Uncle, Brother or Sister, Niece or Nephew, or
9 Cousin, by blood or by marriage;

10 (3) a member of another Indian tribe over eighteen (18) years of age
11 who is the Child's Grandparent, Aunt or Uncle, Brother or Sister, Niece or
12 Nephew, or Cousin, by blood or by marriage;

13 (4) any other person over eighteen (18) years of age who is the Child's
14 Grandparent, Aunt or Uncle, Brother or Sister, Niece or Nephew, or Cousin, by
15 blood or by marriage;

16 (5) a Foster Home licensed by the Quapaw Indian Child Welfare Office;

17 (6) an Indian Foster Home licensed by any licensing authority by a state
18 or by another Tribe;

19 (7) an institution for Children licensed or approved by the Quapaw
20 Indian Child Welfare Office with a program suitable to meet the Child's needs;

21 (8) any other citizen of the Quapaw Tribe; or

22 (9) any other Indian person.

23 (b) Where appropriate the Court may consider the preference of the Parents
24 and the proximity of the prospective Foster Home to the Child's home in applying these
25 preferences.

26 (c) For each possible placement, the Court shall consider the willingness,
27 fitness, ability, suitability, and availability of each potential placement Custodian.

28 (d) The Court may place the Child with the Quapaw Indian Child Welfare
29 Office or a Child Placement Agency approved by the Quapaw Indian Child Welfare
30 Office for further placement in lieu of a direct placement pursuant to Paragraph (a) of
31 this Section.

32 **§ 35. Neglected or Abused Child; Disposition**

33 (a) When a Child has been adjudicated to be Abused or Neglected, the Court
34 shall enter a decree of disposition specifying the required placement, supervision, care,
35 treatment, examinations, and reporting necessary for the best interest of the Child.

36 (b) The Court may enter a decree terminating the Parent-Child legal
37 relationship of one or both Parents, as described in Part V when reasonable efforts to
38 treat the family have failed.

39 **§ 36. Child in Need of Supervision; Disposition**

40 When a Child has been adjudicated as being in need of Supervision, the Court shall

- 1 enter a decree of disposition which may:
- 2 (1) place the Child on probation or under Protective Supervision in the
3 legal Custody of one or both Parents or the guardian;
- 4 (2) place the Child in the legal Custody of a relative or other suitable
5 person which may include placing the Child on probation or under Protective
6 Supervision;
- 7 (3) require as a condition of probation that the Child report for
8 assignment to a supervised work program or place such Child in a Child care
9 facility which shall provide a supervised work program, if:
- 10 (A) the Child is not deprived of the schooling which is appropriate to his
11 or her age, needs, and specific rehabilitative goals;
- 12 (B) the supervised work program is of a constructive nature designed to
13 promote rehabilitation, is appropriate to the age level and physical ability of
14 the Child, and is combined with counseling from guidance personnel; and
- 15 (C) the supervised work program assignment is made for a period of
16 time consistent with the Child's best interest, but not exceeding one hundred
17 eighty (180) days.
- 18 (4) place legal Custody in the Quapaw Indian Child Welfare Office or a
19 Child Placement Agency for placement in a Foster Home or Child care facility;
20 or
- 21 (5) Commit the Child to any institution or Group Care Facility
22 designated by the Court.

23 **§ 37. New Hearing Authorized**

- 24 (a) An interested party may petition the Court for a new hearing when:
- 25 (1) new evidence, which was not known or could not with due diligence
26 have been made available at the original hearing and which might affect the
27 decree, has been discovered; or
- 28 (2) substantial irregularities in the proceedings prevented a fair hearing.
- 29 (b) If it appears to the Court that the motion should be granted, it shall order a
30 new hearing and shall make such disposition of the case as warranted by all the facts and
31 circumstances and the best interest of the Child.

32 **§ 38. Continuing Jurisdiction**

33 Except as otherwise provided in this Part, the jurisdiction of the Court over any
34 Child adjudicated as Abused, Neglected or in Need of Supervision shall continue until
35 he or she becomes eighteen (18) years of age unless terminated by court order.

36 **§ 39. Records**

- 37 (a) A record shall be taken of all proceedings which might result in the loss of
38 custody unless waived by the parties in the proceeding and so ordered by the Court.
- 39 (b) Records of court proceedings shall be open to inspection by the Parents or
40 guardian, attorneys and other parties in proceedings before the Court, and to any agency

1 to which legal Custody of the Child has been transferred, except records of court
2 proceedings in formal adoptions and formal relinquishment shall be confidential and
3 open to inspection only by court order.

4 **PART V. TERMINATION OF PARENTAL RIGHTS; GUARDIANSHIP**

5 **§ 40. Motion for Termination of Parental Rights**

6 Termination of a Parent-Child legal relationship shall be considered only after the
7 filing of a written motion alleging the factual grounds for termination, and termination
8 of a Parent-Child legal relationship shall be considered at a separate hearing following
9 an adjudication of a Child as Neglected. Such motion shall be filed at least thirty (30)
10 days before such hearing.

11 **§ 41. Petitions**

12 (a) A petition for Termination of Parental Rights may be filed by the
13 Prosecutor, Guardian of the Child, or Quapaw Indian Child Welfare Office .

14 (b) If a Child's Guardian or the Quapaw Indian Child Welfare Office files a
15 petition for the termination of the parental rights of the Parents of the Child, the
16 Prosecutor shall join in the petition or motion for those petitions or motions required to
17 be filed by the Prosecutor.

18 **§ 42. Guardian *Ad Litem***

19 A guardian *ad litem* shall be appointed to represent the Child's best interest in any
20 hearing determining the Termination of the Parent-child Legal relationship. Such
21 representation shall continue until an appropriate permanent placement of the Child is
22 effected or until the Court's jurisdiction is terminated.

23 **§ 43. Guardianship**

24 (a) A decree vesting Guardianship of a Child shall be for an indeterminate
25 period, not to exceed two years from the date it was entered. Such decree shall be
26 reviewed by the Court no later than six (6) months after it is entered.

27 (b) The individual, institution, or agency vested with Guardianship of a Child
28 may petition the Court for renewal of the decree. The Court, after notice and hearing,
29 may renew the decree for such additional period as the Court may determine, if it finds
30 such renewal to be in the best interest of the Child. The findings of the Court and the
31 reasons therefor shall be entered with the order renewing or denying renewal of the
32 decree.

33 (c) An individual, agency, or institution having Guardianship of the Child shall
34 give the court any information concerning the Child upon the Court's request.

35 (d) If Guardianship of the Child is transferred an agency or institution, the
36 Court shall transmit with the court order, copies of the social study, any clinical reports,
37 and other information concerning the care and treatment of the Child.

38 (e) Any individual, agency, or institution vested by the Court with
39 Guardianship of a Child shall:

40 (1) have the authority to—

41 (A) consent to medical and surgical treatment;

1 (B) represent the Child in legal actions and make other decisions of
2 substantial legal significance concerning a Child;

3 (C) determine where and with whom the Child may live; and

4 (2) have the duty and responsibilities of a Parent.

5 **§ 44. Criteria for Termination**

6 (a) The Court, in paramount consideration of the health, safety or welfare and
7 best interest of the Child, may order a Termination of the Parent-child Legal
8 Relationship upon the finding of any one of the following situations:

9 (1) a finding that the Child has been Abandoned by his or her Parent or
10 Parents subject to Section 45;

11 (2) a finding that the Child is adjudicated Abused or Neglected and all
12 of the following exist:

13 (A) that an appropriate treatment plan approved by the Court has not
14 been reasonably complied with by the Parent or Parents or has not been
15 successful;

16 (B) that the Parent is unfit; and

17 (C) that the conduct or condition of the Parent or Parents is unlikely to
18 change within a reasonable time;

19 (3) a finding that the Parent of a Child:

20 (A) has voluntarily placed physical custody of the Child with the
21 Quapaw Indian Child Welfare Office or with a Child-Placement Agency for
22 out-of-home placement;

23 (B) has not complied with the placement agreement; and

24 (C) has not demonstrated during such period a firm intention to resume
25 physical custody of the Child or to make permanent legal arrangements for
26 the care of the Child;

27 (4) a finding that a subsequent Child has been born to a Parent whose
28 parental rights to any other Child has been terminated by the Court; provided, that
29 the condition which led to the making of the finding which resulted in the
30 termination of such parent's parental rights to the other Child has not been
31 corrected;

32 (5) a finding that a Parent required to contribute child support has for a
33 period of twelve (12) consecutive months out of the last fourteen (14) months
34 immediately preceding the filing of a petition for Termination of Parental Rights,
35 willfully failed, refused or neglected to contribute support to the Child both in
36 substantial compliance with an order entered by the court of jurisdiction and
37 according to such Parent's financial ability to contribute to such Child's support;

38 (6) a conviction in a criminal action for child abuse or enabling child
39 abuse, neglecting a Child or enabling the neglect of a child, child sexual abuse or
40 enabling child sexual abuse, knowingly permitting or consenting to the use of a

- 1 Child in child pornography, rape, or lewd or indecent proposals or acts upon a
2 child under the age of consent in any court of record;
- 3 (7) a conviction in a criminal action that the Parent:
- 4 (A) caused the death of a Child as a result of physical abuse or neglect of
5 such Child;
- 6 (B) caused the death of a sibling of the Child as a result of physical
7 abuse or neglect of such sibling;
- 8 (C) committed the murder or voluntary manslaughter of any Child or
9 aided or abetted, attempted, conspired or solicited to commit such act;
- 10 (D) committed a felony assault that has resulted in serious bodily injury
11 to the Child or another Child of the Parent;
- 12 (8) a finding in a Neglect or Abuse action either that:
- 13 (A) the Parent has physically or sexually abused the Child or a sibling of
14 such Child or failed to protect the Child or a sibling of such Child from
15 physical or sexual abuse that is heinous or shocking to the Court;
- 16 (B) the Child or sibling of such Child has suffered severe harm or injury
17 as a result of such physical or sexual abuse;
- 18 (C) the Parent has physically or sexually abused the Child or a sibling of
19 such Child or failed to protect the Child or a sibling of such Child from
20 physical or sexual abuse subsequent to a previous finding that such Parent has
21 physically or sexually abused the Child or a sibling of such Child or failed to
22 protect the Child or a sibling of such Child from physical or sexual abuse;
- 23 (D) the Child has been adjudicated as a deprived Child as a result of a
24 single incident of severe sexual abuse, severe neglect or the infliction of
25 serious bodily injury or torture to the Child, a sibling of the Child, or a Child
26 within the household where the Child resides, by the Parent of the Child; or
- 27 (E) the Parent has inflicted chronic abuse, chronic neglect or torture on
28 the Child, a sibling of the Child or another Child within the household where
29 the Child resides;
- 30 (9) The Parent conceived the Child as a result of a rape on the other
31 Parent;
- 32 (10) a finding that all of the following exist:
- 33 (A) the Child has been adjudicated Abused or Neglected;
- 34 (B) custody of the Child has been placed outside the home of a natural or
35 adoptive Parent, guardian or extended family member;
- 36 (C) the Parent whose rights are sought to be terminated has been
37 incarcerated;
- 38 (D) the continuation of parental rights would result in harm to the Child
39 based on consideration of the following factors, among others: the duration of
40 incarceration and its detrimental effect on the Parent/Child relationship; any
41 previous incarcerations; any history of criminal behavior, including crimes

1 against Children; the age of the Child; the evidence of abuse or neglect of the
2 Child or siblings of the Child by the Parent; and the current relationship
3 between the Parent and the Child and the manner in which the Parent has
4 exercised parental rights and duties in the past; and

5 (E) Termination of Parental Rights is in the best interests of the Child.

6 (11) a finding that all of the following exist:

7 (A) the Child has been adjudicated Neglected or Abused;

8 (B) custody of the Child has been placed outside the home of a natural or
9 adoptive Parent, guardian or extended family member;

10 (C) the Parent whose rights are sought to be terminated has a mental
11 illness or mental deficiency which renders the Parent incapable of adequately
12 and appropriately exercising parental rights, duties and responsibilities;

13 (D) the continuation of parental rights would result in harm or threatened
14 harm to the Child;

15 (E) the mental illness or mental deficiency of the Parent is such that it
16 will not respond to treatment, therapy or medication and, based upon
17 competent medical opinion, the condition will not substantially improve;

18 (F) Termination of Parental Rights is in the best interests of the Child;

19 (12) the Parent of the Child has a history of extensive, abusive and
20 chronic use of drugs or alcohol and has resisted treatment for this problem during
21 a three (3) year period immediately prior to the filing of the petition; or

22 (13) a Child has been placed in foster care by the Quapaw Indian Child
23 Welfare Office or the Oklahoma Department of Human Services for fifteen (15)
24 of the most recent twenty-two (22) months preceding the filing of the petition.

25 (b) In determining unfitness, conduct, or condition, the Court shall consider,
26 but not be limited to, the following:

27 (1) emotional illness, mental illness, or mental deficiency of the parent
28 of such duration or nature as to render the parent unlikely within a reasonable
29 time to care for the ongoing physical, mental, and emotional needs of the Child;

30 (2) conduct towards the Child of a physically or sexually abusive nature;

31 (3) history of violent behavior;

32 (4) a single incident of life-threatening or gravely disabling injury or
33 disfigurement of the Child;

34 (5) excessive use of intoxicating liquors or narcotic or dangerous drugs
35 which affect the ability to care and provide for the Child;

36 (6) neglect of the Child;

37 (7) long-term confinement of the parent;

38 (8) injury or death of a sibling due to proven parental abuse or neglect;

39 or

1 (9) reasonable efforts by Child care agencies which have been unable to
2 rehabilitate the parent or parents.

3 (c) In considering any of the factors in Paragraph (b) of this Section in
4 terminating the Parent-Child Legal Relationship, the Court shall give primary
5 consideration to the physical, mental, and emotional conditions and needs of the Child.
6 The Court shall review and order, if necessary, an evaluation of the Child's physical,
7 mental, and emotional conditions.

8 **§ 45. Termination Based on Abandonment**

9 (a) When a Child has been adjudicated neglected because he or she has been
10 abandoned by his or her Parent or Parents, the Court may enter a decree terminating the
11 Parent-Child relationship if it finds:

12 (1) that the Parent or Parents having legal Custody have left the Child
13 and willfully failed to support the Child with no indication of the Parents'
14 willingness to assume a parental role; and

15 (2) that the identity of the Parent or Parents of the Child is unknown and
16 has been unknown for a period of ninety days and that reasonable efforts to
17 identify and locate the Parents have failed.

18 (b) Before a Termination of the Parent-child Legal relationship based on
19 abandonment can be ordered, the petitioner shall file an affidavit stating what efforts
20 have been made to locate the Parent or Parents of the Child subject to the motion for
21 termination.

22 **§ 46. Order of Termination and Appeal**

23 (a) The Court shall order termination of parental rights if it finds by clear and
24 convincing evidence that termination of parental rights and a permanent placement with
25 another person is in the best interest of the Child.

26 (b) An order directing the Termination of Parental Rights is a final appealable
27 order.

28 **§ 47. Effect of Termination Decree**

29 (a) An order for the Termination of the Parent-child Legal relationship divests
30 the Child and the Parent of all legal rights, powers, privileges, immunities, duties, and
31 obligations with respect to each other, except for the right of the Child to inherit from
32 the Parent.

33 (b) No order or decree entered pursuant to this Ordinance shall disentitle a
34 Child to any benefit due from any third person, including but not limited to, any Indian
35 tribe, any agency, any state, or the United States.

36 (c) After the termination of a Parent-Child legal relationship, the former Parent
37 is not entitled to any notice of proceedings for the adoption of the Child by another, nor
38 does the Parent have any right to object to the adoption or to otherwise participate in
39 such proceedings.

40 **§ 48. Orders for Support**

41 (a) Whenever a Child is removed from the Custody of his or her Parent or
42 Custodian, the Parent or Custodian may be ordered by the Court to contribute a

1 reasonable amount within their means or take other reasonable action to provide support
2 for the Child.

3 (b) When the Quapaw Tribe, or some other agency is paying for foster care for
4 such Child, the contribution of the Parent shall be paid to the Court Clerk and dispensed
5 by court order to that agency or the Quapaw Tribe as may be necessary by law or
6 appropriate in the circumstances.

7 **§ 49. Review of Child's Disposition**

8 (a) The Court, at the conclusion of a hearing in which it ordered the
9 termination of a Parent-Child legal relationship, shall order that a review hearing be held
10 no later than ninety (90) days following the date of the termination. At such hearing, the
11 agency or individual vested with Custody or Guardianship of the Child shall report to
12 the Court what disposition of the Child, if any, has occurred, and the Quapaw Indian
13 Child Welfare Office or guardian *ad litem* shall submit a written report with
14 recommendations to the Court, based upon an independent investigation, for the best
15 disposition of the Child.

16 (b) If no adoption has taken place within a reasonable time and the Court
17 determines that adoption is not immediately feasible or appropriate, the Court may order
18 foster placement of the Child.

19 **PART VI. FOSTER CARE**

20 **§ 50. Foster Parent Program and Homes**

21 (a) It shall be the responsibility of the Quapaw Indian Child Welfare Office to
22 recruit, screen, and license Foster Homes for Children in accordance with this Part.

23 (b) The Quapaw Indian Child Welfare Office shall identify and establish a list
24 of legally qualified foster parents and foster homes, meeting the qualifications required,
25 in order to place Indian children in Indian homes.

26 (c) The Quapaw Indian Child Welfare Office shall provide the Court with a
27 complete list of approved families qualified for the Foster Parent Program. There shall
28 also be prepared a list of Indian children by name, age, sex and a short background
29 history including the reasons for their being sent to a foster home.

30 **§ 51. Licensing Foster Homes**

31 The Quapaw Indian Child Welfare Office shall have the authority to license foster
32 care homes for the care of Children and shall file any licensure with the Court Clerk's
33 office.

34 **§ 52. Basic Standard for Foster Families**

35 In considering Indian foster Parents, the primary consideration should be the
36 Parents' capacity, flexibility, capability, and willingness to provide proper care to a
37 Child or Children and act in the Child's best interest.

38 **§ 53. Physical Facilities**

39 (a) Physical standards for the Foster Home shall be set according to individual
40 living standards for the community in which the Foster Home is located.

1 (b) The following standards for comfort, safety, and privacy shall be
2 considered:

3 (1) It is preferable for no more than two Children share sleeping rooms;

4 (2) The sharing of sleeping rooms by Children of opposite sexes is
5 undesirable;

6 (3) Children, other than infants and during emergencies (illness), shall
7 not share sleeping quarters with Adults in the household;

8 (4) Individual space shall be provided for the Child's personal
9 possessions; and

10 (c) Foster family homes shall be accessible to schools, recreation, churches,
11 tribal facilities, other community facilities, and special resources (such as medical
12 clinics) as needed.

13 (d) If the home is otherwise suitable, it is recommended the foster family be
14 provided with assistance in meeting foster home requirements, standards, and/or codes.

15 **§ 54. Family Composition**

16 (a) Two Parents shall be selected in most cases; however, single Parents shall
17 be selected when they can more effectively fulfill the needs of a particular Child.

18 (b) The presence of other Children (either own or foster), and other Adults
19 (i.e., Grandparents, Aunts, etc. or unrelated persons) shall be taken into consideration in
20 terms of how they might be affected by or have an effect upon another Child.

21 (c) The number and ages of Children in a home (both own and foster) shall be
22 considered on an individual basis, taking into account the foster Parent's(s') abilities to
23 meet the needs of all Children present in the home, physical accommodations of the
24 home, and the effect which an additional Child would have on the family as a unit.

25 (d) It is preferable that:

26 (1) foster Parent(s) shall care for not more than two (2) infants (under
27 two), including the foster Parent's own Children; and

28 (2) foster families should not have more than a total of six (6) Children,
29 including foster Children and foster Parent's(s') own Children, in the Foster Home
30 but exceptions may be made in order to keep siblings together.

31 (e) A Foster Home shall not provide placements for more than one (1) agency
32 at a time without a written agreement delineating the responsibilities of all parties
33 involved.

34 **§ 55. Foster Parenting Abilities**

35 An assessment of prospective foster Parent's(s') parenting ability regarding a specific
36 Child should take into account the following:

37 (1) motivation for the Petitioner's(s') application;

38 (2) characteristics and number of Children best suited to foster family;

39 (3) existing family relationships, attitudes, and expectations regarding
40 own Children and Parent-Child relationships;

1 unless other or further qualifications for citizenship are shown.

2 **§ 58. Jurisdiction Over Adoptions**

3 (a) The Court shall have exclusive jurisdiction regarding the adoption by or of
4 any Child who is a resident of or domiciled within the jurisdiction of the Quapaw Tribe
5 and a citizen of the Quapaw Tribe or eligible for citizenship of the Quapaw Tribe.

6 (b) The Court shall have concurrent jurisdiction over the adoption of a Child
7 who resides or is domiciled within the jurisdiction of the Tribe, and either:

8 (1) is a member of, or eligible for membership in, an Indian tribe other
9 than the Quapaw Tribe; or

10 (2) is one whose case has otherwise been transferred to the Court from
11 the courts of a state, or tribe which has assumed jurisdiction over said Child.

12 **§ 59. Eligibility to Adopt**

13 The following persons are eligible to adopt a Child pursuant to this Part:

14 (1) a married couple jointly;

15 (2) an unmarried person who is at least twenty one (21) years old; and

16 (3) in the case of a Child born out-of-wedlock, the Child's father.

17 **§ 60. Consent to Adoption**

18 (a) Adoption of a Child may be decreed only if consent to such adoption has
19 been executed and filed in the Court by:

20 (1) both Parents, if living, or the surviving Parent, unless their parental
21 rights have been terminated by judicial decree;

22 (2) parent(s) less than sixteen (16) years of age may give their consent
23 only with the written consent of the minor Parents' Parents or Custodians, or upon
24 approval of the Court for good cause; or

25 (3) if both Parents are deceased, or if their parental rights have been
26 terminated by judicial decree, then the Custodian of the Child, or the Guardian
27 with consent of the Court.

28 (b) Where any Parent or Custodian voluntarily consents to an adoption or
29 Termination of parental rights, such consent shall not be valid unless executed before a
30 judge of a court of competent jurisdiction and accompanied by the judge's certificate that
31 the terms and consequences of the consent were fully explained in detail and were fully
32 understood by the Parent or Indian custodian.

33 (c) Any consent given prior to or within ten (10) days after the birth of a Child
34 shall not be valid.

35 (d) Any consent given for the adoption of, or Termination of parental rights to
36 a Child may be withdrawn at any time prior to the entry of a final decree of adoption or
37 termination as the case may be and the Child shall be returned to the Parent.

38 **§ 61. Voluntary Relinquishment**

39 (a) Any Parent, Custodian or Guardian of a Child may relinquish any rights

1 they may have to the care, Custody and control of a Child.

2 (b) A relinquishment shall be made by filing a petition in the Court with notice
3 to the Quapaw Indian Child Welfare Office, the prosecutor, and the Parent(s) not a
4 petitioner(s).

5 (c) The petition may relinquish rights to the Court or to a particular person for
6 adoption.

7 (d) A relinquishment shall be valid only upon approval and decree of the
8 Court.

9 **§ 62. When Consent of Parents is Unnecessary**

10 Adoption of a Child may be decreed without the consent required by Section 60 of
11 this Part only if the Parents or Custodian, have had their parental or custodial rights
12 terminated by a decree of a court of competent jurisdiction.

13 **§ 63. Consent of Child**

14 (a) Whenever a Child is of sufficient maturity and understanding the Court
15 may require the consent of the Child, expressed in such form as the Court shall direct,
16 prior to the entry of a decree of adoption.

17 (b) Whenever possible, the Court should interview such Child in private
18 concerning the adoption prior to approving the Child's consent.

19 **§ 64. Prevention of Sex Trafficking**

20 (a) It shall be unlawful to:

21 (1) accept any compensation, in money, property or other thing of value,
22 at any time, from the person or persons adopting a Child, for services of any kind
23 performed or rendered, or purported to be performed or rendered, in connection
24 with such adoption;

25 (2) accept any compensation, in money, property or other thing of value,
26 from any other person, in return for placing, assisting to place, or attempting to
27 place a Child for adoption or for permanent care in a foster home;

28 (3) offer to place, or advertise to place, a Child for adoption or for care
29 in a foster home, as an inducement to any woman to enter an institution or home
30 or other place for maternity care or for the delivery of a Child.

31 (b) This Section does not apply to attorneys or advocates licensed by the tribal
32 courts receiving reasonable fees for legal services actually rendered in the course of
33 lawful adoption proceedings, nor shall subparagraphs (a)(1) or (a)(2) apply to any bona
34 fide social worker or government employee receiving his or her normal salary and
35 making such placements as a part of his or her official duties.

36 **§ 65. Petition for Adoption**

37 (a) A Petition for adoption shall be filed in duplicate, verified by the
38 petitioner(s), and shall specifically state:

39 (1) the full names, ages and places of residence of the petitioner(s), and,
40 if married, the place and date of their Marriage;

- 1 (2) the petitioner's(s') relationship with the Child, if any, and any tribal
2 affiliation by blood and membership, if any;
- 3 (3) when and from whom the petitioner(s) acquired or intend to acquire
4 physical Custody of the Child;
- 5 (4) the names of the Child's biological parents and their tribal affiliation
6 by blood and membership, including tribal roll numbers, if known;
- 7 (5) the date and place of birth of the Child including the jurisdiction
8 issuing the birth certificate for said Child, the Child's sex, race, and tribal
9 affiliation by blood and membership, including tribal roll number, if known;
- 10 (6) the name used for the Child in the proceeding and, if a change in
11 name is desired, the new name;
- 12 (7) that it is the desire of the petitioner(s) that the relationship of Parent
13 and Child be established between the Parent's(s') and the Child;
- 14 (8) the facts, if any, which excuse the consent of the Child's Parent(s) to
15 the adoption; and
- 16 (9) the facts which bring the Child within the jurisdiction of the Court.
- 17 (b) Any required consents to the adoption may be attached to the petition, or
18 filed with the Court prior to entry of a decree of adoption.

19 **§ 66. Investigation of Adoption Petitioners**

- 20 (a) Upon the filing of a petition for adoption, the Court shall order an
21 investigation to be made:
- 22 (1) by the agency having Custody or legal guardianship of the Child;
- 23 (2) in other cases, Quapaw Indian Child Welfare Office or other
24 appropriate tribal agency; or
- 25 (3) by a person qualified by training or experience, designated by the
26 Court.
- 27 (b) The Court shall further order that a report of such investigation shall be
28 filed with the Court by the designated investigator within the time fixed by the Court
29 and in no event more than forty-five (45) days from the issuance of the order for
30 investigation, unless time therefor is extended by the Court.
- 31 (c) Such investigation shall include the conditions and blood relatives of the
32 Child for the purpose of determining whether the Child is a proper subject for adoption;
33 appropriate inquiry to determine whether the proposed home is a suitable one for the
34 Child; the capability, fitness, qualifications, and willingness of the petitioners to act as
35 parents to the Child; and any other circumstances and conditions which may have
36 bearing on the adoption and of which the Court should have knowledge.
- 37 (d) Where the adopting Parent is the spouse of a Parent, or in the event that a
38 report from another jurisdiction is deemed adequate for the purpose of the Court and has
39 been made within the six (6) months preceding the filing of the petition for adoption, the
40 Court in its discretion, may waive the investigation and report requirements.

1 **§ 67. Adoption Hearing**

2 (a) At any time after the written investigation report has been filed, the Court,
3 upon motion or request of the petitioners or upon its own motion, shall fix a time for
4 hearing the petition for adoption. The adoptive Parent or Parents shall appear personally
5 at the hearing. All other persons whose consent is necessary to the adoption and who
6 have not filed their written consents shall be duly notified and may appear or be
7 represented by an attorney or by an unpaid personal representative at their request, with
8 the approval of the Court.

9 (b) The Judge shall examine all persons appearing separately and, if satisfied
10 as to the suitability of the Child for adoption, the financial ability and moral and physical
11 fitness and responsibility of the adoptive Parents, and that the best interest of the Child
12 will be promoted by the adoption, may enter a final decree of adoption or may place the
13 Child in the legal Custody of the petitioners for a period of not more than six (6) months
14 prior to entering a final decree of adoption.

15 (c) If the Court is satisfied that the adoption will not be in the best interests of
16 the Child, the petition shall be denied and the Child's guardian instructed to arrange
17 suitable care for the Child.

18 **§ 68. Report and Final Decree of Adoption**

19 (a) If the Court does not enter a final decree of adoption at the time of the
20 hearing for adoption but places the Child under the Guardianship of the petitioner(s),
21 within six (6) months after the Child has been under the Guardianship of the
22 petitioner(s), the Court shall request a supplementary written report as to the welfare of
23 the Child and the current situation and conditions of the adoptive home and the adoptive
24 Parents.

25 (b) If the Court is satisfied that the interests of the Child are best served by the
26 proposed adoption, a final Decree of Adoption may be entered.

27 (c) No final order shall be entered by the Court unless it appears to the Court
28 that the adoption is in the best interests of the Child.

29 (d) In any case where the Court finds that the best interests of the Child will
30 not be served by the adoption, a guardian shall be appointed and suitable arrangements
31 for the care of the Child shall be made.

32 **§ 69. Contents of Adoption Order**

33 The final order of adoption shall include such facts as are necessary to establish that
34 the Child is within the jurisdiction of the Court and eligible for adoption and that the
35 adoptive Parents and home are adequate and capable for the proper care of the Child, as
36 shown by the investigation reports and the findings of the Court upon the evidence
37 adduced at the hearings, the new name of the Child, if any, and that a Parent-Child
38 relationship exists between the petitioner(s) and the Child.

39 **§ 70. Effect of Final Decree of Adoption**

40 (a) After a final decree of adoption pursuant to this Part is entered, the Parent-
41 Child relationship, and all the rights, duties, and other legal consequences of the natural
42 relation of a Parent and a Child, shall thereafter exist between such adopted Child, the
43 adopting Parents, and the kindred of the adopting Parents. The adopted Child shall

1 inherit real and personal property from the adopting family and the adopting family shall
2 inherit from the Child in accordance with law as if such Child were the natural Child of
3 the adopting Parent(s).

4 (b) After a final decree of adoption pursuant to this Part is entered, the natural
5 Parents of the adopted Child, unless they are the adoptive Parents or the spouse of an
6 adoptive Parent, shall be relieved and terminated from all parental rights and
7 responsibilities for said Child, including the right to inherit from the Child, provided that
8 the Child shall remain eligible to inherit from said natural Parents and retain all rights to
9 membership in a tribe by virtue of his or her birth to said natural Parents.

10 (c) Challenge of an adoption, when not made within two (2) years of the date
11 the final decree is entered, shall be barred.

12 **§ 71. Records and Hearings Confidential**

13 Unless the Court shall otherwise order:

14 (1) All hearings held in proceedings under this Part shall be confidential
15 and shall be held in closed court without admittance of any person other than the
16 interested parties.

17 (2) All papers, records and files pertaining to the adoption shall be kept
18 as a permanent record of the Court and withheld from inspection. No person shall
19 have access to such records except upon order of the Court for good cause shown,
20 including for the purpose of determining enrollment in a Tribe as set forth in
21 Section 57.

22 **§ 72. Certificates of Adoption**

23 (a) For each adoption, the Court shall prepare, within thirty (30) days after the
24 decree becomes final, a certificate of such decree on a form furnished by the registrar of
25 vital statistics of the state or other jurisdiction having issued the birth certificate of said
26 Child and shall attach thereto certified copies of the petition and decree of adoption, and
27 any other information required by law.

28 (b) Such form and certified copies, along with any other pertinent information
29 requested by the jurisdiction having issued the birth certificate, shall be forwarded
30 forthwith to the registrar of vital statistics of the jurisdiction.

31 **§ 73. Recognition of Foreign Decree**

32 When a Parent-Child relationship has been created by a decree of adoption by
33 another court having authority and jurisdiction to enter such decrees, the rights,
34 authorities, and obligations of the parties shall be recognized as an adoption under this
35 Part.

36

*BE IT FURTHER RESOLVED that the Tribal Business Committee hereby
finds and resolves as follows:*

*1. The foregoing dissolution of marriage code shall become effective
immediately upon certification of this Resolution.*

2. The foregoing ordinance shall be codified by the General Counsel in

the Quapaw Code as the permanent law of the Tribe.

CERTIFICATION

The foregoing resolution of the Quapaw Tribal Business Committee was presented and duly adopted through an electronic/telephonic vote of the Tribal Business Committee on July 24, 2015, with a vote reflecting 7 yes, 0 no, 0 abstaining, and 0 absent.



John L. Berrey, Chairman
Quapaw Tribal Business Committee



Thomas Crawfish Mathews, Vice-Chairman
Quapaw Tribal Business Committee