
Blackfeet Tribal Law and Order Code

Circa 1999

THE FAMILY COURT OF THE BLACKFEET TRIBE OF THE BLACKFEET INDIAN RESERVATION FAMILY CODE

TITLE

This law shall be entitled "The Family Code of the Blackfeet Tribe". This code is to be inserted in the proposed codification of Tribal Laws.

EMPOWERMENT

This law is enacted pursuant to Article VI Section 1(k) of the Constitution for the Blackfeet Tribe. This section grants to the Blackfeet Tribal Business Council the power -

To promulgate ordinances for the purpose of safeguarding the peace and safety of residents of the Blackfeet Indian Reservation; and to establish minor courts for the adjudication of claims or disputes arising amongst the members of the Tribe, and for the trial and punishment of members of the Tribe charged with the commission of offenses set forth in such ordinances.

CODE OF ETHICS FOR BLACKFEET FAMILY COURT MEMBERS

1. Members of the Blackfeet Family Court will abide by the Blackfeet Family Court Code of Ethics and all laws and regulations governing their activities.
2. Members of the Blackfeet Family Court will uphold the credibility and dignity of the Family Court concept by conducting all business in an honest, fair, professional, and humane manner.
3. Employees of the Blackfeet Family Court will not use their authority inappropriately, nor condone any illegal act or unethical practice related to the Family Court, or to the Blackfeet Community.
4. Blackfeet Family Court members may not use the Blackfeet Family Court for personal gain.

5. Members of the Blackfeet Family Court will avoid any action which could adversely affect the confidence of the public in the Blackfeet Family Court or the Blackfeet Nation.
6. The Blackfeet Family Court Members will serve and respond to requests without bias because of race, religion, sex, age, national origin or handicap.
7. The Blackfeet Family Court Members will respect the right to privacy of all individuals, and will keep information about the Family Court cases confidential.
8. Persons affiliated with the Blackfeet Family Court will not use confidential information obtained through their work for personal benefit.
9. Individuals working in the Blackfeet Family Court as staff must be trained in the operations of the court and child welfare systems, and in the nature of child abuse and neglect.
10. Blackfeet Family Court programs must respect a child's inherent right to grow up with dignity in a safe environment that meets that child's best interests.

CHAPTER 1

FINDINGS, POLICY AND INTENT

Section 1. Findings.

The Blackfeet Tribal Business Council finds that:

1. The Traditional Family with young people is one of the Tribe's most important resources, and the welfare and protection of the family members is of paramount importance to the Blackfeet Tribe.
2. It is important that the unity of the family be preserved and the members protected from abuse, neglect, or abandonment. To provide a continuum of services for families from prevention to residential treatment, with emphasis whenever possible on prevention, early intervention and community-based alternatives.
3. To secure the rights of and ensure fairness to the children, parents, guardians, custodians, or other parties who come before the Family Court under the provisions of this code.
4. The Blackfeet Tribe needs a competent and just Family Court system to ensure that other Courts will be willing to return family members and young people of the Tribe to the reservation for care and guidance.
5. The Blackfeet Family Court will recognize and acknowledge the Tribal Customs and traditions of the Blackfeet Nation with regard to child-rearing and family guidance.

Section 2. Policy and Intent Concerning Persons Under the Age of 18 Years.

The Family Court shall protect the child's interest by choosing a course of action and interpretation of this code which least restricts the child's freedom and is consistent with the

safety, peace and interests of the Blackfeet Tribe.

1. All provisions and procedures established by this code shall be construed and applied so as to provide not less than the minimum requirements of due process to a child.
2. The Family Court shall protect the child's interest by choosing a course of action and interpretation of this Code which provides a safe, caring and nurturing environment for the child.

CHAPTER 2

DEFINITIONS

For the purpose of this Code the words and phrases shall have these meanings respectively ascribed to them:

1. "Abandon"- When a parent, guardian, custodian, or other person responsible for the welfare of a child:
 - a. Leaves the child without communication, or
 - b. Fails to support the child and there is not indication of that person's willingness to assume a parental role for a period in excess of six (6) months.
2. "Abuse" - Inflicting or causing physical or mental injury, harm or imminent danger to the physical or mental health or welfare of a child other than by accidental means, including abandonment, sexual abuse, excessive or unreasonable corporal punishment, malnutrition or substantial risk thereof, or any other acts and omissions by the parent(s) or other person responsible for the child's welfare.
3. "Adult" - A person eighteen (18) years of age or older, or otherwise emancipated by order of a court of competent jurisdiction.
4. "Child" - An Indian under the age of eighteen (18) years unmarried and has not been emancipated by order of a court of competent jurisdiction.
5. "Commit" - means to transfer to legal custody.
6. "Counselor" - An individual admitted to the bar of the Blackfeet Tribal Court.
7. "Court" - When used without further qualification, means the Blackfeet Family Court.
8. "Custodian" - Person, agency, organization or institution other than a parent or guardian, who has legal and physical custody of a minor and who is obligated to provide food, shelter and supervision to the minor.
9. "Custody" - The power to control the day-to-day activities of the minor.
10. "Delinquent Youth" - A youth who has committed an offense, that if committed by an adult, would constitute a criminal offense, or a youth who has previously been placed on probation, has violated the conditions of that probation.

11. "Dependent Youth" - A youth who is abandoned or is without parents or guardian or under the care and supervision of an unsuitable adult. A youth who has no proper guidance to provide for his/her necessary physical, moral, and emotional well-being. A youth who is destitute, and is dependent upon the public for support, and whose parent or parents have relinquished custody of the child and whose legal custody has been transferred to a licensed agency.
12. "Detention" - The placement of a person under eighteen (18) years of age in a physically restrictive facility, other than the youths' home, pending court disposition or execution of a court order for placement or commitment or final disposition of his/her case.
13. "Detention Facility" - A physically restrictive facility designed to prevent a youth from departing at will. The term includes a short-term detention center, and a regional detention facility, which have been approved or licensed by an appropriate agency.
14. "Domicile" - The place where a person has their true, fixed and permanent home and to which, whenever absent, he has the intention of returning.
15. "Domestic Violence" Inflicting or causing physical or mental injury, harm or imminent danger to the physical or mental health or welfare of a family member or substantial risk thereof.
16. "Emancipation" - The legal process by which a youth can become a legal adult, this status can be obtained by declaration of a Court of Law, or by marriage, or by providing proof to a court that an individual under 18 years of age has been responsible for their own care and welfare for a period of not less than six (6) months before the date in question.
17. "Elder" - A family member who has reached the age of fifty-five (55) years or a person of such age or condition that requires care in order to meet their daily needs of food, shelter, clothing, maintenance, emotional support, medical, or any other care on behalf of the elder.
18. "Elder Abuse" - Inflicting or causing physical or mental injury, harm or imminent danger to the physical or mental health or welfare of and Elder family member or substantial risk thereof.
19. "Elder Neglect" - A failure or refusal by those responsible for an Elder's welfare to provide reasonably adequate care (food, shelter, clothing), maintenance, emotional support, supervision, medical, surgical or any other care on behalf of the elder.
20. "Extended Family" - A person over the age of eighteen and who is the child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or step-parent.
21. "Family Court" - Means the court established by this order to hear all proceedings which involves matters pertaining to the family and especially to any youths alleged to be a delinquent youth, a youth in need of supervision, a youth in need of care, and includes the family court judge, administrative officer, presenting officer, probation officer, child protection officer, clerk of the court, and juvenile investigating officer.
22. "Family Member" - Mothers, fathers, children, brothers, sisters and other past or present family members of a household. These relationships include relationships created by adoption and remarriage including step-children, step-parents and

adoptive children and parents.

23. "Failure to Thrive" - A medical condition seen in young children where there is failure of the child to gain weight. This may be associated with a decrease in height, motor development and head size.
24. "Final Disposition" - means the implementation of a family court order for the disposition or placement of a youth.
25. "Foster home" - means a private residence licensed by the State of Montana or the Blackfeet Tribe for placement of a youth.
26. "Guardian" - A person other than the parent who is by law responsible for that child.
27. "Guardian Ad Litem" - A guardian appointed by the court to represent a child's interests many action before the court to which the child is a party.
28. "Guardianship" - The status created and defined by law, between a youth and an adult with the reciprocal rights, duties, and responsibilities.
29. "Homeless Youth" - Runaways, throwaways, or abducted youth eventually may become homeless. The implication is that the family has abandoned the youth completely or the youth has voluntarily exiled himself or herself from the family group.
30. "Imminent Danger" - Includes threatened harm and means a statement, overt act, condition or status which represents an immediate and substantial risk of physical, sexual or mental abuse or injury.
31. "Indian" - A person who is:
 - a. An enrolled member of any federally recognized Indian Tribe;
 - b. Eligible for enrollment in any Indian Tribe and a biological child of an enrolled member of an Indian Tribe; or
 - c. A descendent of a member of any Indian Tribe who is a resident or domiciliary of the Blackfeet Indian Reservation or who has significant family or cultural contacts with Blackfeet Indian Reservation.
32. "Initial Placement Hearing" - An informal hearing before the Blackfeet Family Court within seventy-two (72) hours of the time that a youth is placed in custody.
33. "Judge" - when used without further qualification, means the judge of the Blackfeet Family Court.
34. "Juvenile Offender" - or delinquent youth, is an Indian person who commits a delinquent act prior to his/her eighteenth (18) birthday.
35. "Juvenile Offense" - A criminal violation of the Tribal Law and Order Code of the Blackfeet Tribe which is committed by a person who is under the age of eighteen (18) at the time the offense was committed.
36. "Juvenile Presenter" - The juvenile presenter or juvenile presenting officer or any

other person who performs the duties and responsibilities set forth in this code.

37. "Least Restrictive Environment" - The least drastic method of detention for achieving the court's goal; the restrictions placed on the child must be reasonably related; to the court's objectives and must be the least restrictive way of achieving that objective.
38. "Legal Custody" - The legal status created by order of a court of competent jurisdiction that gives a person the right and duty to:
- a. Have physical custody of the youth;
 - b. Determine with whom the youth shall live and for what period;
 - c. Protect, train, and discipline the youth; and
 - d. Provide the youth with food, shelter, education, and ordinary medical care.
39. "Minor" - An Indian under the age of eighteen (18) years.
40. "Minor in need of care" - A minor who:
- a. Has no parent or guardian available, willing or capable to care and/or protect him/her.
 - b. Has suffered or is likely to suffer a physical or emotional injury, inflicted by other than accidental means, which causes or creates a substantial risk of death, disfigurement, impairment of bodily functions or emotional health.
 - c. Has failed to thrive and has not been provided with adequate food, clothing, shelter, medical care, education or supervision by his/her parent(s), guardian or custodian.
 - d. Has been sexually abused, or
 - e. Has been committing delinquent acts as a result of parental pressure, guidance or approval.
41. "Minor in need of Supervision" - A youth who commits an offense prohibited by law that, if committed by an adult, would not constitute a criminal offense. A youth who violates a law regarding use of alcoholic beverages, and continues to exhibit behavior beyond control of the parents, guardian or custodian.
42. "Necessary parties" - includes the youth, his/her parents, guardian, custodian, or spouse.
43. "Neglect" - A failure or refusal by those responsible for a child's welfare to provide reasonably adequate care (food, shelter, clothing), maintenance, emotional support, supervision, education, medical, surgical or any other care on behalf of the child. "Neglect" shall include "abandoned" children.
44. "Probable Cause" - A reasonable ground for belief in the existence of facts which would induce a reasonably intelligent person to believe that a cause of action exists.
45. "Relative" - An adult person who is related in any degree by blood, marriage or

adoption or as otherwise defined by law or tribal custom.

46. "Reservation" - The Blackfeet Reservation in Montana.
47. "Restitution" - Payments in cash to the victim or with services to the victim or the general community when these payments are made pursuant to an informal adjustment, consent decree, contract, or other Family Court Order.
48. "Sexual Abuse" - Sexual acts committed against children by an adult or older child which include, but are not limited to, molestation, fondling, masturbation, intercourse, rape, exposure, pornography, incest and sodomy (anal/oral), as defined in Chapter 5, § 54 (A),(B), and (C) of the Blackfeet Tribal Law & Order Code.
49. "Shelter Care" - A temporary home or facility which does not physically restrict the freedom of a child that provides food, clothing and shelter pending court disposition for placement.
50. "Substantial Risk" - Means a strong Possibility as contrasted with a remote or insignificant possibility.
51. "Toxic Substances (Inhalants)" - Solvents, thinners, glue, gasoline, aerosol paints and other aerosols which have volatile hydrocarbons and if inhaled, can produce a feeling of drunkenness, dizziness and euphoria. This also includes Isobutyl Nitrite (Rush).
52. "Tribal Council" - The tribal council of the Blackfeet Tribe.
53. "Tribal Court" - The tribal court of the Blackfeet Tribe.
54. "Tribe" - The Blackfeet Tribe.

CHAPTER 3

FAMILY COURT SYSTEM

Section 1. Health. Education and Social Services Committee

The Health, Education and Social Services Committee of the Blackfeet Tribal Business Council is authorized to:

1. Determine the qualifications and job descriptions of all those employed in the family court system, provided that the qualifications and job descriptions of the Family Court Judge, Manager/Coordinator, and Presenting Officer shall be determined in cooperation with the Law and Order Committee.
2. Make recommendations to the Blackfeet Tribal Business Council and the Personnel Committee on personnel matters of the Family Court System.
3. Offer direction on matters of policy and the interpretations of this code.
4. Make recommendations to the Blackfeet Tribal Business Council on the budget or budget amendments of any component of the Family Court System.
5. Consider any grant proposal developed by a component of the Family Court System

and recommend its approval to the Blackfeet Tribal Business Council.

6. Consider any proposed change or addition to this code, and recommend the enactment of appropriate changes or additions to the Blackfeet Tribal Business Council.
7. Provided that, the Family Court shall be primarily under the Law and Order Committee. The Law and Order Committee shall inform the HESS Committee of any action taken, affecting the Family Court.

Section 2. Family Court

- A. Establishment. There is hereby established for the Blackfeet Tribe of the Blackfeet Indian Reservation, a court to be known as the Family Court. The Law and Order Committee with the consent of the Blackfeet Tribal Business Council, shall appoint an applicant to serve as Family Court Judge for a period of one (1) year to four (4) years. In the absence or disqualification of the appointed judge, the Family Court Administrator or any of the other judges of the Blackfeet Tribal Court may serve as judge in the Family Court until such time as another judge may be appointed.
- B. Jurisdiction of the Family Court; Except as provided in subsection (1) and (2) the Court has exclusive original jurisdiction on all proceedings under the Family Court Act in which situations arise from family matters occurring within the external boundaries of the Blackfeet Reservation to include, divorce, emancipation, guardianships, paternity, termination of parental rights, child, domestic, and elder abuse/violence. To provide for the welfare, care and protection of the children and families on the Blackfeet Reservation. To take such actions as may be necessary and feasible to prevent the abuse, neglect, or abandonment of family members. To provide a continuum of services for families from prevention to residential treatment, with emphasis whenever possible on prevention, early intervention and community-based alternatives. The jurisdiction of the family court shall be civil in nature and shall include the right to issue all orders necessary to insure the safety of the family, children, and incompetents within exterior boundaries of the Blackfeet Reservation, as well as others who have been declared to be wards of the family court. The Family court shall also have the power to enforce subpoenas and orders of restriction, fines, contempt, confinement and other orders as appropriate.
 1. The Blackfeet Tribal Court shall have concurrent jurisdiction with the Family court over all traffic or fish and game law violations committed by youths prior to having become 18 years of age.
 2. If, during the pendency of a criminal or quasi-criminal proceeding in the Tribal Court, including an arraignment, it shall be ascertained that the person charged was less than 18 years of age at the time of committing the alleged offense, that court shall transfer the case to the Family Court, together with all related documents. The Family Court shall then proceed as provided in this Code.
 3. Children residing within the exterior boundaries of the reservation, for whatever reason, in the home of an enrolled member of the tribe or other Indians, as defined in this code, as long as the parents, guardians, or custodians have consented to the jurisdiction of the family court. Such consent, once given, may be revoked only with permission of the family court and incompetent persons residing or domiciled with the exterior boundaries of

the reservation.

- C. Jurisdiction over Extended Family. Where the family court asserts jurisdiction over a person under this code, the court shall also have jurisdiction over the person's extended family whenever the court deems it appropriate.
- D. Retention of jurisdiction. Once the Family Court obtains jurisdiction over family member or a youth, the court retains jurisdiction over children and their extended families who leave the exterior boundaries of the reservation, unless terminated by the court or by mandatory termination in the following cases:
 - 1. At the time the proceedings are transferred to the Blackfeet Tribal Court;
 - 2. At the time the youth is discharged by the Family Court; and
 - 3. In any event, at the time the youth reaches the age of 21 years.
- E. Transfer to Other Courts. The family court may apply the policies of the Indian Child Welfare Act, 25 U.S.C. 1901-1963, where they do not conflict with the provisions of this code. The procedures for state courts in the Indian Child Welfare Act shall not be binding upon the family court unless specifically provided for in this code. Exercise of jurisdiction over a family member on probation, under protective supervision, or other continuing jurisdiction of the court, may be transferred by the Family Court, if the receiving court consents and in fact has proper jurisdiction over the matter. In any case involving an Indian child from another Tribe, the Family Court Judge shall inquire of the child's Tribe whether it wishes to assume jurisdiction of the case. When the interests of justice can best be served by an order of the Family Court, proceedings under this chapter may be waived and any juvenile fifteen (15) years of age or more, may be tried in the Blackfeet Tribal Court.
- F. Transfer to Tribal or Federal Court. After a petition has been filed alleging a criminal act has been committed, the court may, upon motion of the Presenting Officer, before hearing the petition on its merits, transfer the matter of prosecution to the Tribal or Federal Court if:
 - 1. The individual charged was 12 years of age or more at the time of the conduct alleged to be unlawful and the act would constitute sexual intercourse without consent, deliberate homicide, mitigated deliberate homicide, or the attempt, of either deliberate or mitigated deliberate homicide if the act had been committed by an adult; or
 - 2. The individual charged was 16 years of age or more at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:
 - a. negligent homicide
 - b. arson
 - c. aggravated or felony assault
 - d. robbery
 - e. burglary or aggravated burglary
 - f. aggravated kidnapping
 - g. possession of explosives

- h. criminal sale of dangerous drugs
- 3. Attempt, of any of the acts enumerated in subsections (2)(a) through (2)(h);
- 4. A hearing on whether the transfer should be made is held in conformity with the rules on a hearing on a petition alleging a criminal act has been committed, except that the hearing will be conducted by the Family Court without a jury;
 - a. notice in writing of the time, place, and purpose of the hearing is given to the individual, if a youth, his/her counsel, parents, guardian, or custodian at least 10 days before the hearing; and
 - b. the court finds upon the hearing of all relevant evidence that there is probable cause to believe that:
 - i. the individual committed the act alleged, or if a youth committed the delinquent act alleged;
 - ii. the seriousness of the offense and the protection of the Blackfeet Community require treatment of the individual or youth beyond that afforded by the Family Court facilities; and
 - iii. the alleged offense was committed in an aggressive, violent, or premeditated manner.
- 5. In transferring the matter of prosecution to the Tribal or Federal Court, the court may also consider the following factors:
 - a. the sophistication and maturity of the youth, determined by consideration of the home, environmental situation, and emotional attitude and pattern of living;
 - b. the record and previous history of the individual, including previous contacts with the Family Court, law enforcement agencies, youth courts in other jurisdictions, prior periods of probation, and prior commitments to institutions. However, lack of a prior history with the courts will not of itself be grounds for denying the transfer.
- 6. The Family court shall grant the motion to transfer if the youth was 16 years old or older at the time of the conduct alleged to be unlawful and the unlawful act would constitute deliberate homicide, mitigated deliberate homicide, or the attempt of either deliberate or mitigated deliberate homicide if the act had been committed by an adult.
- 7. Upon transfer to Tribal or Federal court, the Judge shall make written findings of the reasons why the jurisdiction of the family court was waived and the case transferred.
- 8. The transfer terminates the jurisdiction of the Family Court over the individual with respect to the acts alleged in the petition. An individual may not be prosecuted in the Tribal or Federal Court for a criminal offense originally subject to the jurisdiction of the Family Court unless the case has been transferred as provided in this section.
- 9. Upon order of the Family Court transferring the case to the Tribal or Federal Court, the prosecuting attorney shall file the information against the individual

without unreasonable delay.

10. Any offense not enumerated in subsection (1) that arises during the commission of a crime enumerated in subsection (1) may be:

- a. tried in Family Court;
- b. transferred to Tribal or Federal Court with an offense enumerated in subsection (1), upon motion of the prosecuting attorney and order of the Family Court Judge.

11. A youth whose case is transferred to Tribal or Federal Court may not be detained or otherwise placed in a jail or other adult detention facility before final disposition of his/her case unless:

- a. alternative facilities do not provide adequate security; and;
- b. the youth is kept in an area that provides physical, as well as sight and sound separation from adults accused or convicted of criminal offenses.

G. Transfer from Other Courts. The Blackfeet Family Court may accept or decline, under the procedures set forth in this code, transfers of child welfare cases from other federal, state, or tribal courts.

H. Procedures for Transfer from State Court.

1. Receipt of Notice: The Blackfeet tribal agent for service of notice of state court child custody proceedings, as defined by the Indian Child Welfare Act, shall be the tribal social service department.
2. Investigation and pre-transfer report by the court counselor. The tribal social services department shall conduct an investigation and file a written report with the family court within five (5) days of receipt of recommendation from the court.
3. Recommendations for transfer or intervention: The court shall make written recommendations to the tribal attorney on whether or not the Blackfeet Tribe should petition for transfer from or intervene in state court.
4. Petition for transfer: The Blackfeet Tribal petition for transfer shall be filed by the tribal attorney within five (5) days of receipt of recommendations from the court.
5. Intervention in State Court proceedings: The tribe may intervene in state court child custody proceedings, as defined by the Indian Child Welfare Act, at any point in the proceedings, and the tribal attorney or selected representatives shall file a motion to intervene within five (5) days of receipt of recommendation from the court.
6. Acceptance of Transfer: The Blackfeet Family Court will not accept a transfer from state court unless:
 - a. a parent or Indian custodian's petition to state court for transfer is granted, or;

- b. the tribe's petition to state court for transfer is granted, or;
 - c. the tribal social services department's pre transfer report recommends the acceptance of transfer, and;
 - d. the tribal attorney recommends acceptance.
- I. Powers and Duties Concerning Adjudication of Minors. No adjudication upon the status of any child in the jurisdiction of the Family Court shall be deemed criminal or be deemed a conviction of a crime, unless the Family Court refers the matter to the adult tribal court. The disposition of child's case or the evidence given shall not be admissible as evidence against the child in any proceeding in another court.
- J. Court Orders of Other Tribal Courts. Court orders of other tribal courts involving children over whom the family court could take jurisdiction shall be recognized by the family court after the court has determined:
 - 1. that the other tribal court exercised proper subject matter and personal jurisdiction over the parties, and;
 - 2. due process was accorded to all interested parties participating in the other tribal court proceedings.
- K. Cooperation with Other Agencies. The Family Court is authorized to cooperate fully with any federal, state, tribal, public or private agency, to participate in any diversion, rehabilitation or training programs and to receive grants to carry out the purposes of this Code with the consent of the Blackfeet Tribal Business Council.
 - 1. The Family Court shall until such social services as may be furnished by any tribal, federal, private, or state agency as social workers.
 - 2. The Family Court may negotiate contracts with tribal, federal or state agencies and/or departments on behalf of the tribal council for the care and placement of children before the family court subject to the approval of the tribal council before the expenditure of any tribal funds.
 - 3. All judges will be required to have 40 hours of training in the area of family court law including child abuse/neglect within three months of appointment or their privileges to practice in Family Court will be suspended.
- L. Guardian Ad Litem for Minors. The Family Court, in any proceeding authorized by this Code, may appoint, for the purposes of the proceeding, a guardian ad litem for a minor where the court finds that the minor is alleged to be neglected or abused and does not have a natural or adoptive parent, guardian or custodian, willing and able to exercise effective guardianship or where a conflict exists between the parent and child or children provided that guardian ad litem shall not be an employee of the Family Court System. The primary responsibility is to guide the child and the child's family through investigative and court processes, protect the child's emotional well-being and best interests and identify and provide appropriate advocacy services for the child and the family.
- M. Immunity from Liability-Persons Reporting. Any person participating in good faith in the making of a report or in a judicial proceeding held pursuant to this Code, any person taking color photographs or x-rays, or placing in temporary custody a child pursuant to this Code or otherwise performing his/her duties or acting pursuant to

this article shall be immune from any liability, civil or criminal, that otherwise might result by reason of such reporting. For the purpose of any proceedings, civil or criminal, the good faith of any person reporting child abuse, any person taking color photographs or x-rays, and any person who has legal authority to place a child in protective custody shall be presumed.

- N. Confidentiality of Records. As provided for in Chapter 20 of the Blackfeet Family Court Code.
- O. Right to Counsel. At his/her first appearance before the court, the individual or the child and his/her parent(s), guardian, or other legal custodian shall be fully advised by the court of their legal rights, including the right to be represented by counsel, at his/her own expense, at every stage of the proceedings.
- P. Court Records. A record of all hearings under this code shall be made and preserved.
- Q. Expungement of Juvenile Records. As provided for in Chapter 20 of the Blackfeet Family Court Code.

Section 3. Family Court Judge.

The Family Court shall consist of one or more judges, one of whom shall be designated as Chief Judge, and the others as associate judges. Judge(s) shall be appointed by the Tribal Business Council and the Law and Order Committee. Their salary may be fixed and paid by the Executive Director of the Family Court from Grant funds.

- A. Duties and Powers. In carrying out the duties and powers specifically enumerated in the family court code, judges of the family court shall have the same duties and powers as judges(s) of the tribal court, including, but not limited to, the contempt power, to power to issue arrest or custody warrants, and the power to issue search warrants.
- B. Disqualification. The rules on disqualification or disability of a family court judge shall be the same as those rules that govern tribal court judge(s).

Section 4. Family Court Manager /Coordinator.

The Blackfeet Family Court shall appoint a Family Court Manager/Coordinator to carry out the duties and responsibilities set forth in this code.

- A. Duties. The Blackfeet Family Court Manager/Coordinator shall be responsible for overseeing the day to day operations of the court and the following:
 - 1. Supervision of all family court members with the exception of the Family Court Judge(s); and
 - 2. Financial management of the Blackfeet Family Court, including preparation of the court budget; and
 - 3. Maintaining Family Court security, including juror and witness management; and
 - 4. Releasing family court information as appropriate to the media and to the public; and
 - 5. Coordinate with the Blackfeet Family Court Chief Judge in order to operate' an effective and efficient Blackfeet Family Court system; and

6. Coordinate with all personnel of the Blackfeet Family Court and all applicable agencies to develop programs of intervention and prevention for members of the Blackfeet Community; and
7. The Blackfeet Family Court Manager/Coordinator shall perform the duties of any of the Blackfeet Family Court personnel when needed.

Section 5. Family Court Clerk/Reporter.

The Blackfeet Family Court shall appoint Family Court Clerk/Reporter(s) to carry out the duties and responsibilities set forth in this code.

A. Duties. The Family Court Clerk/Reporter shall be responsible for the day to day paperwork incidental to the Family Court Operations and the following:

1. Maintaining up to date records of all Family Court proceedings; and
2. Tape recording of all Family Court proceedings; and
3. Swearing in of all witnesses testifying in the Blackfeet Family Court; and
4. All other such duties as may be assigned by the Blackfeet Family Court Judge(s) or Blackfeet Family Court Manager/Coordinator.

Section 6. Family Court Presenting Officer.

The court shall appoint Family Court Presenter(s) to carry out the duties and responsibilities set forth in this code. The chief judge shall certify annually to the tribal council the number of qualified presenter(s) needed to carry out the purpose of this code.

A. Duties. The Family Court Presenting Officer, may file petitions, write summons or recommendations to the Family Court Judge, set up hearings and in general assure that the Family Court takes appropriate action on every case brought before it.

1. The Presenting Officer may make home visits and write family evaluations, or may refer these matters to Tribal, State or Bureau of Indian Affairs Social Workers.
2. The Presenting Officer shall perform other duties as assigned by the Family Court Judge or the HESS Committee.
3. The Presenting Officer shall explain this law and procedures under this law to members of the public.
4. The Presenting Officer shall be required to have 40 hours of training in Family Court matters within 3 months of the enactment of this Code.
5. If a child has been removed from the home an Initial Placement Hearing shall take place no later than the second court working day following the removal.

Section 7. Juvenile Probation Officer(s).

The court shall appoint Family Court juvenile probation officer(s) to carry out the duties and responsibilities set forth in this code. The chief judge of the family court shall certify to the tribal council the number of qualified juvenile probation officer(s) needed to carry out this code. The juvenile probation officer(s) must have an educational background and/or prior experience in the field of delivering social services to youth. The juvenile probation officer(s) shall identify and develop resources on the reservation, in conjunction with the juvenile court and the tribal council, to enhance each tribal child's potential as a viable member of the tribal community.

A. Duties:

1. Make investigations as provided in this code or as directed by the court;
2. Make reports to the court as provided in this code or as directed by the family court;
3. Conduct informal adjustments;
4. Provide counseling services;
5. Utilize the "balanced approach to probation".
6. Perform such other duties in connection with the care, custody or transportation of children as the court may require.

B. Prohibited Duties: The juvenile probation officer(s) shall not be employed as or be required to perform the duties of a Family Court presenting officer or law enforcement official.

C. Reports. Whenever the court receives information from any agency or person, based upon reasonable grounds, that a youth being subject to a court order or consent order, has violated the terms thereof, the Family Court Probation Officer shall make a preliminary inquiry into the matter.

1. The probation officer may:
 - a. require the presence of any person relevant to the inquiry;
 - b. request subpoenas from the Family Court Judge to accomplish this purpose;
 - c. require investigation of the matter by any law enforcement agency or any other appropriate agency.
2. If the probation officer determines that the facts indicate a probation violation, the probation officer shall immediately conduct a preliminary inquiry and shall:
 - i. advise the youth of the youth's rights under this the Family Court Code;
 - ii. determine, if the youth is in detention or shelter care, whether such detention or shelter care should be continued;
- b. Once relevant information is secured, the Family Court probation Officer shall:

- i. determine whether the interest of the Blackfeet Community or the youth requires that further action be taken;
 - ii. terminate the inquiry upon the determination that no further action be taken; and
 - iii. release the youth immediately upon the determination that the filing of a probation revocation is not authorized.
3. The Family Court Probation Officer upon determining that further action is required may:
 - a. provide counseling, refer the youth and parents to another agency providing appropriate services, or take any other action or make any informal adjustment that does not involve probation or detention;
 - b. provide for treatment or adjustment involving probation or other disposition provided such treatment or adjustment is voluntarily accepted by the youth's parents or guardian and the youth, and provided further that said matter is referred immediately to the Family Court Presenting Officer for review and that the probation officer proceed no further unless authorized by the presenting officer; or
 - c. refer the matter to the Family Court Presenting Officer for filing a petition charging the youth to be in violation of Family Court Probation
4. The Presenting Officer may apply to the Family Court for permission to file a petition charging the youth with violation of probation. This application must be supported by such evidence as the Family Court may require. If it appears that there is probable cause to believe that the allegations of the petition are true, the Family Court shall grant leave to file the petition.
5. A petition charging a youth held in detention must be filed within seven (7) working days from the date the youth was first taken into custody or petition shall be dismissed and the youth released unless good cause is shown to further detain such youth.
6. If no petition is filed under this section, the complainant and the victim, if any, shall be informed by the probation officer of the action and the reasons therefor and shall be advised of the right to submit the matter to the Family Court Presenting Officer for review. The Family Court Presenting Officer, upon receiving a request for review, shall consider the facts, consult with the probation officer, and make the final decision as to whether a petition shall be filed.

D. Confidentiality of Records. As provided for in Chapter 20 of the Blackfeet Family Court Code.

Section 8. Adult Probation Officer(s).

The Court shall appoint Family Court Adult Probation Officer(s) to carry out the duties and responsibilities set forth in this code. The Chief Judge of the Family Court shall certify to the Tribal Council the number of qualified Adult Probation Officer(s) needed to carry out this code. The Adult Probation Officer(s) must have an educational background and/or prior experience in the field of delivering social services. The Adult Probation Officer(s) in

conjunction with the other members of the Family Court shall identify and develop resources on the reservation to enhance each tribal members potential as a viable member of the Blackfeet Community.

A. Duties:

1. Make investigations as provided for in this code or as directed by the Family Court;
2. Make reports to the Family court as provided for in this code or as directed by the Family Court;
3. Conduct informal adjustments;
4. Provide counseling services;
5. Utilize the "balanced approach to probation".
6. Perform such other duties in connection with the care, custody or transportation of clients as the court may require.

B. Prohibited Duties: The Adult Probation Officer(s) shall not be employed as or be required to perform the duties of a Family Court Presenting Officer or Law Enforcement Officer.

C. Violation of Family Court Order: Whenever the Family Court receives information from any agency or person, based upon reasonable grounds, that an individual being subject to a court order or consent order, has violated the terms thereof, The Family Court Probation Officer(s) shall make a preliminary inquiry into the matter.

1. The Adult Probation Officer(s) may:
 - a. require the presence of any person relevant to the inquiry;
 - b. request subpoenas from the Family Court Judge to accomplish this purpose;
 - c. require investigation of the matter by any law enforcement or other appropriate agency.
2. If the Adult Probation Officer determines that the facts indicate a probation violation, the probation officer shall immediately conduct a Preliminary inquiry and shall determine whether the interest of the Blackfeet Community or the individual requires that further action be taken. Upon determining that further action is required, the probation Officer(s) may:
 - a. provide counseling, refer the client to another agency providing appropriate services, or take any other action or make any informal adjustment that does not involve probation or jail.
 - b. Provide for treatment or adjustment involving probation provided such treatment or adjustment is voluntarily accepted by the individual, and provided further that said matter is referred immediately to the Family Court Presenting Officer for review and that the probation officer

proceeds no further unless authorized by the presenting officer; or

- c. refer the matter to the Family Court Presenting Officer for filing a petition charging the individual to be in violation of Family Court Probation.
3. The Presenting Officer may apply to the Family Court for permission to file a petition charging the individual with violation of probation. This application must be supported by such evidence as the Family Court may require. If it appears that there is probable cause to believe that allegations of the petition are true, the Family Court shall grant leave to file the petition.
4. If no petition is filed under this section, the complainant and the victim, if any, shall be informed by the probation officer of the action and the reasons therefor and shall be advised of the right to submit the matter to the Family Court Presenting Officer for review. The Family Court Presenting Officer, upon receiving a request for review, shall consider the facts, consult with the probation officer, and make the final decision as to whether a petition shall be filed.

Section 9. Protective Service Workers.

The Family Court shall appoint protective service worker(s) to carry out the duties and responsibilities set forth in this code. The chief judge of the family court shall certify annually to the tribal council the number of qualified protection worker(s) needed to carry out the purpose of this code.

- A. Powers and Duties: Protective Services Worker(s) shall be employed by the family court. The protective services worker(s) may cooperate with such state and community agencies as are necessary to achieve the purposes of this code. The family court may negotiate working agreements with other jurisdictions. Such agreements shall be subject to ratification by the tribal council or its designate.
- B. A Protective Services Worker Shall:
 1. Receive reports of neglected, abused or abandoned family members and be prepared to provide temporary foster care for such members on a twenty-four (25) hour basis, and;
 2. Receive from any source, oral or written, information regarding a family member who may be in need of protective services.
 3. Upon receipt of any report or information under paragraph (1) or (2) of this section, immediately:
 - a. notify the appropriate law enforcement agency, and;
 - b. make a prompt and thorough investigation which shall include a determination of the nature, extent, and cause of any condition which is contrary to the family member's best interest and the name, age, and condition of other family members in the home.
 4. Take a child into temporary custody if there are reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from

the surroundings and this the removal is necessary. Law enforcement officials shall cooperate with social services personnel to remove a child from the custody of parents, guardian, or custodian when necessary.

5. After investigation, evaluate and assess the home environment of the child or children in the same home and the risk to such children if they continue to be subjected to the existing home environment, and all other facts or matters found to be pertinent. They shall determine whether any of such children is a child in need of protective services.
6. Offer to the family of any child found to be a child in need of protective services appropriate services which may include, but shall not be limited to protective services.
7. Within thirty (30) days after a referral of a potential child in need of protective services, submit a written report of the investigation and evaluation to the Family Court Presenting Officer.

C. Confidentiality of Records. As provided for in Chapter 20 of the Blackfeet Family Court Code.

Section 10. Juvenile Department.

A Juvenile Department is established under the Family Court. The Department shall be responsible for enforcing the provisions of this Code.

A. Duties of the Juvenile Department and Juvenile Officer(s). These duties are established in the Blackfeet Tribal Personnel Department. Some duties are as follows:

1. Maintain continuous liaison and work with representatives of Federal and State Law Enforcement and Social Service agencies and Indian Health Service;
2. Coordinate activities of the Department with other programs serving the interests of children on the reservation to ensure that policy and intent of this Code is being pursued;
3. Maintain an updated knowledge of legal developments in the field of juvenile/child protection law.
4. Report to the Health, Education and Social Services Committee when necessary or when requested to do so, and;
5. Perform such other duties as are required by this Code, the Family Court Presenting Officer, or by the Law and Order Committee.
6. The Juvenile Officer(s) shall have completed Basic Police Academy training within one year of employment.
7. The Juvenile Department shall provide forty (40) hours of training in child abuse/neglect procedures, to the juvenile officer(s) within each fiscal year.

B. Temporary Investigative Authority-Intake Process:

1. Juvenile Officer(s) Intake Process;

- a. Receiving the report or referral.
- b. Possibly making collateral contacts and checking records.
- c. Exploring the appropriateness of the referral.
- d. Documenting the record.

C. Juvenile Officer(s) Initial Assessment:

1. Making initial contact with the child, determining if Bureau of Indian Affairs Criminal Investigator must be contacted.
 - a. If determined that Bureau of Indian Affairs Criminal Investigator is to be contacted, proceed as directed by Criminal Investigator.
 - b. If requested by Bureau of Indian Affairs Criminal Investigator, provide assistance.
 - c. Preparing an initial risk assessment form.
2. Making subsequent assessment visits.
3. Assessing the damage to the child.
4. Assessing the potential for continuing risk to the child.
5. Evaluating the family indicators of abuse or neglect.
6. Determining if abuse or neglect exists and continuing the case as open.
7. Determining the need to invoke the authority of the family court.
8. Providing emergency services as needed.
9. Providing feedback to appropriate persons.
10. Documenting the record.

D. Rights of Youth Taken Into Custody - Questioning - Hearing for Initial Placement or Detention

1. When a youth is taken into custody for questioning upon a matter that could result in a petition alleging that the youth is either a delinquent youth or a youth in need of supervision, the following requirements must be met:
 - a. The youth must be advised of his right against self-incrimination and his right to counsel;
 - b. The youth may waive these rights under the following situations;
 - i. When the youth is 16 years of age or older, the youth may make an effective waiver;

- ii. when the youth is under the age of 16 years and the youth and a parent or guardian agree, they may make an effective waiver, and
 - iii. when the youth is under the age of 16 years and the youth and his parent or guardian do not agree, the youth may make an effective waiver only with advise of counsel.
 - c. The investigating officer, probation officer, or person assigned to give notice shall immediately notify the parents, guardian, or legal custodian of the youth that the youth has been taken into custody, the reasons for taking the youth into custody, where the youth is being held, and serve a Summons for a 72 Hour Show Cause Hearing. If the parents, guardian, or legal custodian cannot be found through diligent efforts, a close relative or adult friend must be notified.
2. Unless a youth has been released, an initial placement hearing must be held within 72 hours after the youth is taken into custody, excluding weekends and legal holidays, to determine whether there is probable cause to believe that the youth is a delinquent youth or a youth in need of supervision.
 3. The Initial Placement Hearing required under subsection (2) may be held by the Family Court Judge having jurisdiction in the case.
 4. At the Initial Placement Hearing, the youth must be informed of his constitutional rights and his rights under this chapter.
 5. A parent, guardian, or legal custodian of the youth may be held in contempt of court for failing to be present at or to participate in the Initial Placement Hearing unless he;
 - a. cannot be located through diligent efforts of the investigating officer; or
 - b. is excused by the court for good cause.
 6. At the Initial Placement Hearing, a guardian ad litem may be appointed.
 7. If it is determined that there is probable cause to believe the youth is a delinquent you or is a youth in need of supervision, the Family Court Judge shall determine whether the youth should be retained in custody.
 8. If probable cause is not found or if an Initial Placement hearing is not held with the time specified, the youth must be immediately released from custody.

E. Criteria for Placement of a Youth in a Secure Detention Facility or a Shelter.

1. A youth may not be placed in a secure detention facility unless:
 - a. the youth has allegedly committed an act that if committed by an adult would constitute a criminal offense and the alleged offense is one specified in the Blackfeet Tribal Law and Order Code.
 - b. The youth is alleged to be a delinquent youth and:
 - i. has escaped from a correctional facility or secure detention

facility;

- ii. has violated a valid Family Court Order or an aftercare agreement;
 - iii. detention is required to protect persons or property;
 - iv. has pending Family Court or administrative action or is awaiting a transfer to another jurisdiction and may abscond or be removed from the jurisdiction of the court;
 - v. there are not adequate assurances that the youth will appear for court when required; or
 - vi. the youth meets additional criteria for secure detention established by the Family Court; or
- c. has been adjudicated delinquent and awaiting final disposition of the case.

2. A youth may not be placed in a shelter care facility unless;

- a. the youth and family need shelter care to address their problematic situation when it is not possible for the youth to remain at home;
- b. the youth needs to be protected from physical or emotional harm;
- c. the youth needs to be deterred or prevented from immediate repetition of his troubling behavior;
- d. shelter care is necessary to assess the youth and his environment;
- e. shelter care is necessary to provide adequate time for case planning and disposition; or
- f. shelter care is necessary to intervene in a crisis situation and provide intensive services or attention that might alleviate the problem and reunite the family.

F. Confidentiality of Records. As provided for in Chapter 20 of the Blackfeet Family Court Code.

Section 11. White Buffalo Home.

The White Buffalo Home shall serve as the Emergency Receiving Home for the Reservation.

- A. Organization. Within one year from the approval of this code, the Board of Directors of the White Buffalo Home shall examine the organization format presently in use, determine whether that format best serves the interests of the White Buffalo Home, and recommend appropriate changes if necessary, to the HESS Committee.
- B. Policies and Procedures. The Board of Directors of the White Buffalo Home shall design policies and procedures to meet appropriate license standards and funding

requirements.

- C. Administration of White Buffalo Home. The White Buffalo Home shall be administered according to the procedures authorized by the Blackfeet Tribal Business Council.
- D. Payment for Care in White Buffalo Home. The White Buffalo Home shall bill the Montana State Department of Family Services or the Bureau of Indian Affairs as appropriate whenever the child is eligible for either funding source. The White Buffalo Home may arrange billing procedures with these agencies. If the child is not eligible for care from either of these agencies the parent or guardian shall be responsible for payment.
- E. Relationships with Social Service Agencies. The White Buffalo Home shall cooperate with Social Service agencies, according to agreements with those agencies as approved by the HESS Committee and Blackfeet Tribal Business Council, as directed by the Family Court Judge.

Section 12. Child Protection Team.

- A. Establishment. A Child Protection Team is established. The members of the Team shall include a representative from each of the following:
 - 1. Indian Health Service
 - 2. BIA Social Services Department, and
 - 3. BIA Law Enforcement, Blackfeet Indian Agency
 - 4. Montana State Department of Family Services
 - 5. Family Court Juvenile Department
 - 6. Family Court Presenting officer
 - 7. Tribal Child Protection Worker
 - 8. Residential Child Care representatives (White Buffalo Home, Blackfeet Boarding Dorm, and the Nurturing Center)
 - 9. Education representatives (schools including head start)
 - 10. Family Court Probation Officer(s)
- B. Vote. Each Agency shall have one (1) vote whenever a vote shall be necessary.
- C. Duty. The Team, through the Presenting Officer, shall advise the Family Court by assessing the needs of, formulating and monitoring a treatment plan for and coordinating services to children and their families.
- D. Referrals. Children may be referred to the Team by the Family Court Juvenile Department, BIA Law Enforcement Officials, BIA Social Services and Montana State Department of Family Services.

- E. Procedures. The Team shall decide upon meeting procedures and the place of meetings, and is encouraged to rotate the position of facilitator on a quarterly basis. Procedures shall be written and shall be approved by the Health, Education and Social Services (HESS) Committee of the Blackfeet Tribal Business Council.
- F. Records. Records developed by the Team shall be kept in the file of the child, maintained by the Family Court.
- G. Confidentiality. With the understanding that any particular case may be discussed with the Health, Education and Social Services Committee in order to illustrate particular problems, if any tribal employee or Family Court member is found by the HESS Committee to have violated the child or family's right to have matters considered by the Team kept confidential, the Chairman of the HESS Committee shall direct the employee's program director or the Personnel Director to take disciplinary action as provided for in Section 9 of the Blackfeet Tribal Personnel Policies and Procedures. Such disciplinary action may not be taken without the direction of the HESS Committee. If any Team member who is not a Tribal Employee is found by the HESS Committee to have violated the child or family's right to have matters considered by the Team kept confidential, the Chairman of the HESS Committee shall report the occurrence to the Team member's supervisor. Provided, however, that all team members may share information gathered during investigations, home visits, interviews, and medical exams with other team members on a need-to-know basis to facilitate team discussion and short/long term case planning and as provided for in Chapter 20 of the Blackfeet Family Court Code.
- H. Reports. The Team shall report quarterly to the HESS Committee in writing, stating the number of cases handled and the disposition of each case.
- I. Relationship to BIA and IHS Directive. The directive of the Bureau of Indian Affairs and the Indian Health Service to establish child protection teams is recognized and supported and the team shall report to these two agencies as required.

CHAPTER 4

MINOR IN NEED OF CARE AND STATUS OFFENDER

Section 1. Minor in Need of Care.

A minor in need of care, is an Indian under the age of eighteen (18) who:

1. Has no parent, guardian or custodian available and willing to care for him/her; or
2. Has suffered or is likely to suffer an injury inflicted upon him/her by other than accidental means which causes or created a substantial risk of death, disfigurement, or impairment of bodily functions, or intellectual or psychological functioning; or
3. Has failed to thrive and has not been provided with adequate food, clothing, shelter, medical care, education or supervision by a parent, guardian or custodian necessary for health and well-being; or
4. Has been or is likely to be physically, sexually or mentally abused; or

5. Has committed delinquent acts or status offenses. A status offense is the non-criminal behavior of a minor which violates tribal laws that apply only to minors or commits any of the acts of a delinquent youth but whom the Juvenile Court, in its discretion, chooses to regard as a minor in need of supervision. Status offenses are further listed and defined at the end of this chapter.

Section 2. Petition.

A petition may be filed by the Family Court Presenting Officer from reports received and a knowledge of the facts alleged. The petition shall be signed by the Presenting Officer. The petition shall contain:

1. A reference to the specific statutory provisions of this code which gives the Family Court jurisdiction of the proceedings; and
2. The name, age, and address of the minor who is the subject of the petition, if known; and
3. A plain, concise and sworn statement of the facts upon which the allegations are based, including the date, time, and location at which the alleged facts occurred.

Section 3. Order of Protective Custody.

The Family Court may enter an order directing that a minor be taken into protective custody if the Family Court finds there is probable cause to believe the minor is a "minor in need of care".

Section 4. Protective Custody: Grounds.

A minor may be taken into protective custody by a BIA Law Enforcement Officer, Juvenile/Child Protection Officer, or any commissioned officer of the Tribe, DFS Social Worker or BIA Caseworker; if:

1. The officer or caseworker has reasonable grounds to believe that the minor is a "minor in need of care", as defined in this code and the minor is in immediate danger from his/her surroundings and that his/her removal is necessary or he/she is about to be removed from the jurisdiction of the court for the purpose of evading proceedings under this code or if removal is necessary to preserve evidence in a civil or criminal investigation; or
2. An order pursuant to this Code has been issued for the minor.

Section 5. Protective Custody.

A law enforcement officer or caseworker who takes a minor into protective custody pursuant to this code shall proceed as follows:

1. Release the minor to the minor's parent, guardian or custodian and issue verbal counsel or warning as may be appropriate, unless emergency receiving home care is

necessary;

2. If the minor is not released, the officer shall make immediate and recurring efforts to notify the minor's parent, guardian or custodian to inform them and issue a Summons for a Show Cause Hearing at the Blackfeet Family Court within 72 hours of the time that the summons was issued.
3. If the minor is not released, the minor shall be taken immediately to the White Buffalo Home or other designated facility, and within 72 hours an initial placement hearing with the Family Court shall occur and a petition for protective custody can be obtained from the Blackfeet Family Court.

Section 6. Notice of Initial Placement Hearing.

The following notice requirement shall apply to Initial Placement hearings:

1. Notice of the Initial Placement Hearing shall be given to the minor and his/her parent, guardian, or custodian and their counsel and to the Juvenile/Protection Department as soon as the time for inquiry has been established.
 - a. The notice shall contain: The name of the court; the title of the proceeding; a brief statement of the alleged circumstances upon which the "minor in need of care", allegation is based; and the date, time, and place of the preliminary inquiry.
 - b. The notice shall be delivered by a tribal law enforcement officer, or an appointee of the Tribal or Family Court.

Section 7. Initial Placement Hearing.

If a minor is placed in the White Buffalo Home or a foster home under the protective custody provision of this Code, the Family Court shall conduct an initial placement hearing within seventy two (72) hours of the filing of the petition in order to determine:

1. Whether probable cause exists to believe the minor is a "minor in need of care", or status offender; and
 2. Whether continued Emergency receiving home care is necessary pending further proceedings.
- B. Release of Minor. If a minor has been released to his parent, guardian, or custodian, the Family Court shall conduct an initial placement hearing within (72) hours after filing of the petition for the sole purpose of determining whether probable cause exists to believe the minor is indeed a "minor in need of care".
1. If the minor's parent, guardian or custodian is not present at the initial placement hearing, the Family Court shall determine what efforts have been made to notify and to obtain the presence of the parent, guardian or custodian. If it appears that further efforts are likely to produce the parent, guardian or custodian, the court shall recess for not more than twenty-four (24) hours and direct the Social Worker or Juvenile Officer to make continued efforts to obtain the presence of a parent, guardian or custodian.

2. The Family Court at the initial placement hearing shall hear testimony concerning:
 - a. The circumstances that give rise to the petition or the taking of the minor into custody; and
 - b. The need for shelter care.
- C. Minor in Need of Care. If the Family Court finds that probable cause exists to believe the minor is a "minor in need of care", or status offender, he or she shall be released to his/her parent(s) and ordered to appear at the formal hearing unless:
 1. There is reasonable cause to believe that the minor will run away or that he/she will be unavailable for further proceedings; or
 2. There is reasonable cause to believe that the minor is in immediate danger from his/her parent(s), guardian or custodian and that his/her removal from them is necessary; or
 3. There is reasonable cause to believe that the minor will commit a serious act causing damage to person or property.
 4. There is reasonable cause to believe that an alleged offender will have access to the minor in the minor's home and may attempt to force the minor to recant his/her claims or allegations.
- D. Release of Minor. If probable cause is not found to believe the minor "is a minor in need of care", or status offender, or that there is a need for continued shelter care, the petition shall be dismissed and the minor released. The Family Court may release a minor to any relative or other responsible Indian adult if the Family Court determines under Section 5, that the minor should not be released to his/her parent(s), guardian or custodian.
- E. Shelter Care. Upon a finding that probable cause exists to believe that the minor is a "minor in need of care", or status offender and that there is a need for shelter care, the minor's shelter care shall be continued. The court shall consider the Social Worker or Juvenile Officer's recommendations or the recommendations of the Child Protection Team.

Section 8. Informal Hearing.

The Family Court Judge, and a Juvenile Board consisting of a Tribal Child Protection Worker, Juvenile presenting Officer, Juvenile Probation Officer, and a Juvenile/Child Protection Officer is established. At least three (3) Board Members must be present for each informal hearing. The Board may hold an informal hearing with the minor and the minor's parent(s), guardian or custodian to discuss alternatives to the filing of a petition if:

1. The alleged facts constitute a status offense of the Juvenile Court; and
2. An informal disposition of the matter would be in the best interest of the minor and the Tribe; and
3. The minor and parent(s), guardian or custodian consent to an informal disposition of

the matter with knowledge that the consent is voluntary.

A. Recommendations. At the informal hearing, the Juvenile Board may:

1. Refer the minor and the parent(s), guardian or custodian to a community agency for needed assistance through use of a Family Court Contract; or
2. Recommend that a petition for a "minor in need of care", or "status offender" be filed and set a Family Court date.

B. Informal Disposition. The Family Court shall set forth, in writing, the conclusion reached at the informal hearing and the disposition agreed to by the parties for remedying the situation.

1. Any informal disposition period shall not exceed six (6) months.
2. The Family Court shall review the minor's progress every thirty (30) days. If, at any time after the initial 30 day period, the Court concludes that positive results are not being achieved, the Court shall recommend that a petition be filed pursuant to this Code.

Section 9. Formal Hearing - Date Provision.

If the formal hearing is not held within fifteen (15) days after the filing of the petition, the petition shall be dismissed and cannot be filed again unless:

1. The hearing is continued upon the motion of the minor's parent(s), guardian or custodian; or
2. The hearing is continued upon the motion of the Family Court Presenting Officer by reason of the unavailability of material evidence or witnesses and the Family Court finds the presenting officer has exercised due diligence to obtain the material or that the evidence will become available. Provided, however, that the hearing shall not be continued for more than thirty (30) days after the filing of the petition under this section.

Section 10. Summons.

At least five (5) days prior to the adjudicatory hearing, the Family Court shall issue summons to:

1. The minor's parent(s), guardian or custodian; and
2. The petitioner; and
3. Any person the Family Court believes necessary for the proper adjudication of the hearing.
4. Any person the minor believes necessary for the proper adjudication of the hearing.
5. A copy of the summons shall be given to the Juvenile Department, and a copy of the Family Court Calendar shall be given to the Juvenile/Child Protection Department as

often as necessary.

6. The summons shall contain the name of the court; the title of the proceeding; and the date, time and place of the hearing.
7. A copy of the petition shall be attached to the summons.
8. The summons shall be delivered personally by a tribal law enforcement officer, or an appointee of the Tribal or Family Court. If the summons cannot be delivered personally, the summons shall be delivered by registered mail to the last known address of the person(s) entitled to receive a summons.
9. If a person who has been served a summons, fails to appear at the hearing, that person shall be held in contempt of court.

Section 11. Formal Hearing.

The Family Court shall conduct the formal hearing for the sole purpose of determining whether the minor is a "minor in need of care", or "status offender". The hearing shall be private and closed. A finding that a minor is a "minor in need of care", constitutes a final order for purposes of appeal. The Family Court may grant care, placement and supervision responsibility to a state or federal agency or institution.

Section 12. Pre-Dispositional Report.

If ordered by the Court, a Family Court Juvenile Probation Officer shall prepare a written report in accordance with Chapter 3, Section 5 of the Blackfeet Family Court Code.

Section 13. Disposition Hearing.

A disposition hearing shall take place not more than thirty (30) days after the formal hearing.

1. At the disposition hearing, the Family Court shall hear evidence on the question of proper disposition.
2. At the disposition hearing, the Family Court shall consider any pre-disposition report submitted by the Probation Officer and afford the parties an opportunity to discuss the factual contents and conclusions of the reports. The Family Court shall also consider the alternative pre-disposition report prepared by the minor and his attorney and advocate, if any.
3. The dispositional order constitutes a final order for purposes of appeal.

Section 14. Dispositional Alternatives; Review Hearing.

If a minor has been adjudged "minor in need of care", the Family Court may make any of the following dispositions which are listed by priority:

1. Permit the minor to remain with parent(s), guardian or custodian, subject to such limitations and conditions as the court may prescribe; or

2. Place the minor with a relative within the external boundaries of the Reservation, subject to such limitations and conditions as the court may prescribe; or
3. Place the minor with a relative outside the external boundaries of the Reservation, subject to such limitations and conditions as the court may prescribe; or
4. Place the minor with a member of his/her Tribe within the external boundaries of the Reservation, subject to such limitations and conditions as the court may prescribe; or
5. Place the minor with a member of his/her Tribe outside the external boundaries of the Reservation, subject to such limitations and conditions as the court may prescribe; or
6. Place the minor with an Indian of any other Tribe, within the external boundaries of the Reservation, subject to such limitations and conditions as the court may prescribe; or
7. Place the minor with an Indian of any other Tribe, outside the external boundaries of the Reservation, subject to such limitations and conditions as the court may prescribe; or
8. Place the minor with a non-Indian inside or outside the reservation boundaries, subject to such limitations and conditions as the court may prescribe; or
9. Place the minor in a public or private institution.

Section 15. Record.

A record of each placement of an Indian child under the Family Court Code shall be maintained by the court. Such record shall document the efforts made to comply with the order of preference specified in Sections (a) through (g) above.

Section 16. Off Reservation Placement.

Whenever a minor is placed in a home or facility located outside the boundaries of the Reservation, the Family Court shall require the party receiving custody of the minor, to sign an agreement that the minor will be returned to the court upon order of the Family Court.

Section 17. Time Limit on Orders.

The disposition orders are to be in effect for the time limit set by the Family Court, but no order shall continue after the minor reaches the age of eighteen (18) years. The dispositional orders are to be reviewed, at the Family Court's discretion, at least once every six (6) months.

Section 18. Modification of Dispositional Order.

A disposition order of the Family Court may be modified upon a showing of change of circumstances. The Family Court may modify a disposition order at any time upon the motion of the following:

1. The minor; or

2. The minor's parent(s), guardian or custodian; or
3. The Presenting Officer, Juvenile Probation Officer, or Juvenile Investigation Officer.

[NOTE - If the modification involves a change of custody, the court will hear a review of its disposition order.]

Section 19. Status Offenses.

The following shall be Status Offenses:

- A. **Curfew Violations.** A child, under the age of eighteen (18), commits a curfew offense if he/she knowingly violates the following curfew:
 1. From June 1st to September 1st of every year, the curfew shall be 11:00 p.m. and end at 6 a.m.
 2. From September 2nd to May 31st of every year, the curfew shall be 10:00 p.m. for those under the age of 16 years, and shall be 11:00 p.m. for those 16 years of age and over.
 3. Exceptions are permitted if the child is under the immediate supervision of an adult, parent, or guardian during meetings and gatherings; the child may attend authorized school functions without such supervision, and will be granted a half an hour exception to curfew after such function is concluded.
- B. **Minor Loitering About Games of Chance.** A child under the age of 18, who plays or loiters around a non-traditional game of chance, which may result in monetary benefit to the participant, commits a Status Offense.
- C. **Minor Loitering about Retail Liquor Establishment.** Any child under the age of 18, who enters or loiters in or around a retail liquor establishment, as defined in the Criminal Code, commits a Status Offense.
- D. **Minor in Possession of Alcoholic Beverages.** Any child under the age of 18, who is not in the presence of his/her parent(s) or guardian, and is in possession of an alcoholic beverage, or is intoxicated commits a Status Offense.
- E. **Minor in Possession of Dangerous Drugs.** Any child under the age of 18, who is found to be knowingly in possession of a dangerous drug, as defined in the Criminal Code, commits a Status Offense.
- F. **Truancy.** Any child under the age of 16 or any child that is over the age of 16 and not surpassed the eighth grade, who is found to be, not attending school, commits a Status Offense.
- G. **Minor Inhaling Toxic Substances (Sniffing).** Any child under the age of 18, who is found to be knowingly and willingly inhaling a toxic substance, as defined in the Criminal Code, commits a Status Offense. No minor can purchase such inhalants or toxic substances at any retail or wholesale business on the reservation.
- H. **Motor Vehicle Violations.** Any Minor under the age of 18, who is processed in family court, for being in violation of Driving Under the Influence of Alcohol and/or Reckless Driving, under the Blackfeet Tribal Motor Vehicle violations, commits a Status

Offense.

Section 20. Curfew Violations. Bail/Fine.

When a child, under the age of eighteen (18) years of age is taken into custody for a Curfew Violation, the child shall be placed in the White Buffalo Home or the Nurturing Center and a fee of forty-five dollars (\$45.00) per day (24 hour period) shall be assessed from the parents/guardians before the child may be released.

Section 21. Minor in Possession of Alcoholic Beverages, Minor in Possession of Dangerous Drugs, Minor Inhaling Toxic Substances (Sniffing) , and a Minor Charged with Disorderly Conduct. Bail/Fine.

When a child, under the age of eighteen (18) years of age is taken into custody for Minor in Possession of Alcoholic Beverages, Minor in Possession of Dangerous Drugs, Minor Inhaling Toxic Substances. (Sniffing), and a Minor charged with Disorderly Conduct, the child shall be placed in the appropriate holding facility for a period of six (6) hours and then may be released to a parent or guardian and a fee of forty-five dollars (\$45.00) per day (24 hour period) shall be assessed from the parents/guardians before the child may be released. In the event that a child is not released at the end of the six (6) hour period, the child shall be moved to the White Buffalo Home or the Nurturing Center.

CHAPTER 5

JUVENILE OFFENDER PROCEDURE

Section 1. Juvenile Offender.

A juvenile offender is an Indian, who before his/her eighteenth (18th) birthday, commits an act which, if committed by an adult, would be a crime under the laws of the United States or the Blackfeet Tribe, or if on probation, commits an act which violates the conditions of that probation.

Section 2. Petition.

A petition may be filed by the Family Court Presenting Officer based on alleged facts given to the Presenting Officer by Law Enforcement. The petition shall be signed by the Family Court Presenting Officer, the petition shall contain:

1. The specific statutory provision of this Code which gives the Family Court jurisdiction over the proceedings; and
2. The specific statutory provision of the Tribal Code which the juvenile is alleged to have violated;
3. Name, age and address of the juvenile who is the subject of the complaint, if known; and
4. A plain and concise statement of the facts, upon which the allegations are based,

including the date, time, and location at which the alleged facts occurred.

Section 3. Order to Pick Up and Hold.

The Family Court may enter an order to pick up and hold, directing that a juvenile be taken into custody, if the Family Court finds that there is probable cause to believe, the juvenile committed the delinquent act alleged in the petition. Also a Family Court Juvenile/ Protection Officer may issue a PICK UP AND HOLD when the officer receives information from a parent or guardian that a juvenile is missing from the household. When the Juvenile/Protection Officer apprehends a juvenile on an officer issued pick up and hold, the juvenile shall be released to the parent or guardian filing the original request for pick up and hold if they will accept responsibility for the juvenile.

Section 4. Notice.

In any proceeding, in the Family Court for juvenile offenders the following shall apply:

1. The court shall cause a "Notice of Hearing" to be delivered by a BIA Law Enforcement Officer, or an appointee of the Tribal or Family Court to each individual concerned. The notice shall contain:
 - a. The name of the court;
 - b. Title of the proceeding;
 - c. Brief statement of the allegations against juvenile;
 - d. Date, time, place and type of proceeding.

Section 5. Rights of Parties.

In any proceeding in the Family Court for juvenile offenders, the following shall apply:

- A. Right to Counsel. The Family Court Judge shall inform the juvenile and his/her parent(s), guardian or custodian, of their right to retain Counsel, by telling them, "According to the Indian Civil Rights Act, you have a right to have a lawyer, or other person, represent you at this hearing. However, you or your family must pay any fees which may be required for such representation."
 1. If the parties appear at the hearing without Counsel, the Family Court Judge shall continue the proceedings if they need additional time to seek Counsel.
 2. If the parties are unable to pay for Counsel, the Family Court Judge shall inform them of any available services that provide representation.
 3. The juveniles need not be a witness against themselves, nor otherwise incriminate themselves.
 4. The Family Court Judge shall give the juvenile, parent(s), and their respective Counsel or persons selected to represent them, the opportunity to introduce evidence, to be heard on their own behalf and to examine witnesses.

Section 6. Custody.

A juvenile may be taken into custody by~ juvenile/protection or law enforcement officer, if;

1. The officer has probable cause to believe a delinquent act has been committed and that the juvenile has committed the act; or
2. A warrant pursuant to this Code, has been issued for the juvenile.
3. Whenever a juvenile or minor is taken into custody from a school, during school hours, the law enforcement officer shall inform the principal or other school authorities of his/her intent, and request their cooperation, so that the taking of custody may be accomplished privately and orderly, with the minimum embarrassment to the person being taken into custody, and without unduly disturbing the school population.
4. Care shall be taken to avoid the use of excessive force in the taking into custody of juveniles.

Section 7. Fingerprinting and Photographing.

A child in custody shall not be fingerprinted nor photographed for criminal identification purposes except by order of the Family Court. If an order of the Family Court is given, the fingerprints or photographs shall be used only as specified by the court.

Section 8. Law Enforcement Officer's Duties.

A law enforcement officer, who takes a juvenile into custody, pursuant to this Code, shall proceed as follows:

- A. Warnings. An arresting officer shall give the following warnings to any juvenile he takes into custody prior to any questioning:
 1. The juvenile has the right to remain silent; and
 2. Anything the juveniles say can be used against them in court;
 3. The juvenile has the right to the presence of parent(s), guardian or custodian and/or an attorney during questioning; and
 4. If they cannot afford an attorney, the court will help them obtain the services of one through available services.
- B. Release. An arresting officer shall release the juvenile to the juvenile's parent(s), guardian or custodian and issue verbal counsel or warning as may be appropriate, unless shelter, care or detention is necessary as determined by the Family Court Juvenile/ Protection Officer or the Family Court Judge. If the juvenile is not released, an arresting officer shall make immediate and recurring efforts to notify the juvenile's parent(s), guardian, or custodian to inform them, that the juvenile has been taken into custody, and inform them of their right to be present with the juvenile, when an investigation to determine the need for shelter, care or detention is made and shall issue a Summons for a Show Cause Hearing at the Blackfeet Family Court within 72

hours of the time that the summons was issued.

Section 9. Detention and Shelter Care.

A juvenile alleged to be a juvenile offender, may be detained, pending a court hearing, in the following places:

1. A foster care facility approved by the Tribe; or
2. A short term detention center, if the child meets the standards of the center; or
3. The home of their parent(s), guardian or custodian.
4. In a private family home approved by the Department of Family Services or the BIA Social Services.
5. The White Buffalo Home, if the child meets the standards of the Home.
6. A juvenile may be detained in a jail facility, used for the detention of adults, as a short term, (up to 96 hours) detention only if:
 - a. A facility is not available or would not assure adequate supervision of the juvenile;
 - b. Detention is in a cell separate and removed from sight and sound of adults, whenever possible; and
 - c. Adequate supervision is provided twenty four (24) hours a day, in said facility.
7. A juvenile may be detained in a BIA and/or Tribal contracted Regional Detention Facility used exclusively for the lawful detention of alleged or adjudicated delinquent youth.

Section 10. Initial Detention Hearing.

If a juvenile is placed in detention or shelter care by the Family Court pursuant to this Code, the Family Court shall conduct a preliminary inquiry within seventy two (72) hours, for the purpose of determining:

1. Whether probable cause exists to believe the juvenile committed the alleged delinquent act; and
2. Whether continued detention or shelter care is necessary pending further proceedings.
3. If a juvenile has been released to his parent(s), guardian or custodian, the Family Court shall conduct a preliminary inquiry within seventy-two (72) hours after receipt of the complaint for the sole purpose of determining whether probable cause exists to believe the juvenile committed the delinquent act.
4. If the juvenile's parent(s), guardian or custodian is not present at the preliminary inquiry, the Family Court shall determine what efforts have been made to notify and

obtain the presence of them. If it appears that further efforts are likely to produce the parent(s), guardian or custodian, the Family Court shall recess for not more than twenty four (24) hours and direct the Juvenile Officer to make continued efforts to obtain the presence of a parent, guardian or custodian.

5. The Family Court shall hear testimony concerning:
 - a. The circumstances that gave rise to the complaint or the taking of the juvenile into custody; and
 - b. The need for detention or shelter care.
6. If the Family Court finds that probable cause exists to believe that the offense charged, was committed by the accused, the juvenile shall be released to his/her parent(s), guardian or custodian, and ordered to appear at the adjudicatory hearing unless;
 - a. There is reasonable cause to believe that the juvenile will run away so that he/she will be unavailable for further proceedings; or
 - b. There is reasonable cause to believe that the juvenile will commit a serious act causing damage to person or property.
7. The Family Court may release a juvenile to a relative or other responsible Indian adult, if the parent, guardian or custodian of the juvenile, consents to the release.
8. Upon finding that probable cause exists to believe that the juvenile committed the alleged delinquent act and that there is a need for continued supervisory care, the juvenile's detention or shelter care, shall be continued. The Family Court shall consider the Juvenile/Protection Officer's recommendation.
9. If probable cause to believe the juvenile committed the alleged delinquent act and the need for supervised care is not found, the petition shall be dismissed and the juvenile be released.

Section 11. Informal Hearing.

The Family Court may hold an informal conference with the juvenile and the juvenile's parent(s), guardian or custodian, to discuss alternatives to the filing of the petition, if;

1. The admitted facts bring the case within the jurisdiction of the Family Court; and
2. An informal disposition of the matter would be in the best interests of the juvenile, the Family Court, and the Tribe; and
3. The juvenile and his/her parent, guardian or custodian, consent to an informal disposition with knowledge that the consent is voluntary.
4. At the informal hearing, the Family Court may through the use of a "contract":
 - a. Refer the juvenile and parent(s), guardian or custodian, to a community agency for needed assistance; i.e., counseling, and psychological evaluations; and

- b. Order terms of supervision calculated to assist and benefit the juvenile which regulate the juvenile's activities and which are within the ability of the juvenile to perform; or
 - c. Accept an offer of restitution, if voluntarily made by the juvenile; or
 - d. If voluntarily acceptable, attach the child's per capita payment from the Blackfeet Tribe, in order to pay restitution.
 - e. Recommend to the Bureau of Indian Affairs Agency Superintendent, that funds from the child's, Individual Indian Monies (IIM) Account, be used for restitution.
 - f. Order the child's parents to pay restitution if voluntary.
 - g. Impose a fine as authorized by law if the violation alleged would constitute a criminal offense if committed by an adult.
 - h. Recommend that the Presenting Officer file a petition pursuant to this Code.
5. The Family Court shall set forth, in writing, the conclusions reached at the informal hearing and the disposition agreed to by the parties for remedying the situation.
 6. If at any time, after a disposition is agreed to, pursuant to this Section:, the Juvenile/Protection Officer concludes that positive results are not being achieved, the Officer shall recommend that a petition be filed.

Section 12. Formal Hearing - Date Provision.

Upon receipt of the Complaint, the Family Court shall set a date for the hearing which shall not be more than fifteen (15) days after the Family Court receives the complaint from the presenting officer.

1. If the adjudicatory hearing is not held within fifteen (15) days after the filing of the petition, the petition shall be dismissed and cannot be filed again, unless;
 - a. The hearing is continued upon motion of the juvenile; or
 - b. The hearing is continued upon motion of the presenting officer, by reason of the unavailability of material evidence or witnesses, and the Family Court finds the presenting officer has exercised due diligence to obtain the material or evidence, which will become available. Provided, however, that the hearing date shall not be continued for more than thirty (30) days after the filing of the petition.

Section 13. Summons.

At least five (5) days prior to the formal hearing, the Family Court shall issue summons to:

1. The juvenile and the juvenile's parent(s), guardian or custodian; and
2. Any person the Family Court believes necessary for the proper adjudication of the

hearing; and

3. Any person the juvenile believes necessary for the adjudication of the hearing.
4. The Juvenile/Protection Department shall receive a copy of the summons. A copy of the Family Court Calendar shall be given to the Juvenile/Protection Department as necessary.
5. The summons shall contain:
 - a. Name of the Court,
 - b. Title of the proceedings,
 - c. Date, time and place of the hearing.
6. A copy of the petition shall be attached to the summons.
7. The summons shall be delivered personally by a BIA Law Enforcement Officer of appointee of the Family or Tribal Court. If the summons cannot be delivered personally, the summons shall be delivered by registered mail, to the last known address of the person(s) entitled to receive a copy of the summons.
8. If a person who has been issued a summons fails to appear at the hearing, that person shall be held in contempt of court, however, if the person failing to appear is the juvenile, the Court may issue a pick up and hold order until the formal hearing is held.

Section 14. Formal Hearing.

The Family Court shall conduct a formal hearing for the sole purpose of determining the guilt or innocence of the juvenile. The hearing shall be private and closed.

1. If the juvenile admits the allegations of the petition, the Family Court shall proceed to the disposition stage, only if the Family Court finds:
 - a. The juvenile fully understands his/her rights, and fully understands the potential consequences of the admission; and
 - b. The juvenile voluntarily, intelligently, and knowingly admits to all facts necessary to constitute a basis for Family Court action; and
 - c. The juvenile has not, in his/her purported admission to the allegations, set forth facts which, if found to be true, constitute a defense to the allegations.
2. The Family Court shall hear testimony concerning the circumstances which gave rise to the complaint.
3. If the allegations of the petition are sustained by proof beyond a reasonable doubt, the Family Court shall find the juvenile to be a juvenile offender and proceed to the disposition hearing.
4. A finding that a juvenile is a juvenile offender constitutes a final order for purposes of

appeal.

Section 15. Pre-Disposition Report.

The Court may order preparation of a pre-disposition report in accordance with Chapter 3, Section 5 of the Blackfeet Family Court Code.

Section 16. Disposition Hearing.

A disposition hearing shall take place within thirty (30) days after the formal hearing. At the disposition hearing, the Family Court shall hear evidence on the question of proper disposition.

1. At the disposition hearing, the Family Court shall consider the pre-disposition report submitted by the Juvenile Probation Officer and afford the juvenile and the juvenile's parent(s), guardian or custodian, and opportunity to discuss the factual contents and conclusions of the report. The Family Court shall also consider the alternative pre-dispositional report prepared by the juvenile and his/her attorney, or advocate, if any.
2. The disposition order constitutes a final order for purposes of appeal.

Section 17. Disposition Alternative.

If the juvenile has been adjudged a juvenile offender, the Family Court may make the following dispositions:

1. Place the juvenile on probation, subject to conditions set by the Family Court.
2. Place the juvenile in a foster home, an institution or agency designated by the Family Court.
3. Order Restitution.
4. The disposition order is to be in effect for the time limit set by the Family Court, but no order shall continue after the juvenile reaches the age of eighteen (18) years, unless extended to age 21 pursuant to this Code.
5. The disposition order must be reviewed at the discretion of the Family Court, at least every six (6) months.

Section 18. Appeal.

All appeals shall be conducted in accordance with the rules and regulations contained in Chapter 21 of this code.

Section 19. Contempt of Court.

Any willful disobedience or interference with any order of the Family Court, constitutes

contempt of court as provided for in Chapter 15 of this Code.

1. The Family Court may charge an adult for contempt of court in accordance with the Tribal Law and Order Code.

CHAPTER 6

FORMAL TRIAL ON THE ISSUES

Section 1. Purpose.

The purpose of this chapter is to establish procedures for notice and implementation of guidelines for formal trials on the issues within the Blackfeet Family Court system.

Section 2. Summons.

The Blackfeet Family Court shall issue a summons to the parent, guardian, or custodian and such other persons as appear to the court to be proper or necessary parties to the proceedings. The summons shall require them to appear personally before the Blackfeet Family Court at the time and date set for formal trial.

1. A copy of the family court petition shall be attached to each summons. The court shall also attach a notice to the parent, guardian, or custodian which advises them of their rights.
2. If the parties to be served with a summons can be found within the exterior boundaries of the Blackfeet Reservation, the summons, a copy of the petition, and the notice of rights shall be personally served upon them at least five (5) days before the formal trial on the issues.
3. If the parties are within the exterior boundaries of the Blackfeet Reservation, but cannot be personally served, and if their address is known, the summons, petition, and notice of rights may be served by registered mail with a return receipt requested, at least five (5) days before the formal trial.
4. If the Blackfeet Family Court cannot accomplish personal or mail service, the court shall attempt to notify the parent(s), guardian, or custodian by contacting members of the extended family.
5. Service of a summons may be made under the direction of the Blackfeet Family Court by any person eighteen (18) years of age or older.
6. In a Family Court case where it appears within the body of the petition or within an accompanying statement that the parent(s), guardian, or custodian is a non-resident of the Blackfeet Reservation, or that their name, place of residence or whereabouts is unknown, as well as in all cases where after due personal service or service by registered mail has been unable to be effected, the court shall direct the clerk to publish legal notice in a newspaper printed in Glacier County or on the Blackfeet Reservation, qualified to publish summons, once a week for three (3) consecutive weeks with the first publication of the notice to be at least twenty-one (21) days prior to the date fixed for the hearing. Such notice shall be directed to the parent(s), guardian, or custodian if their names are known, or if unknown a phrase

"to whom it may concern" may be used and applied to, and be binding upon any such person whose names are unknown. The name of the court, name of the child, the date of the filing of the petition, the time and date of the hearing, and the object of the proceedings in general terms, shall be set forth. There shall be filed with the clerk an affidavit showing publication of the notice. The publication of the notice shall be paid by the Blackfeet Tribe. The publication of the notice shall be deemed equivalent to personal service upon all persons known or unknown who have been designated as provided for in this section.

- A. Contempt Warning. The summons issued by the Blackfeet Family Court shall conspicuously display the words:

NOTICE, VIOLATION OF THIS ORDER IS SUBJECT TO PROCEEDINGS FOR CONTEMPT OF COURT PURSUANT TO THE BLACKFEET TRIBAL LAW AND ORDER CODE. THE BLACKFEET FAMILY COURT MAY FIND THE PARENT, GUARDIAN, OR CUSTODIAN IN CONTEMPT FOR FAILURE TO APPEAR AT A FAMILY COURT HEARING OR FOR FAILURE TO FOLLOW FAMILY COURT ORDERS.

Section 3. Default Judgment.

If the parent, guardian, or custodian fails to appear for the formal trial, the Blackfeet Family Court may find the parent, guardian, or custodian in default, and enter a default order of the Family Court for necessary intervention and appropriate steps the parents, guardian, or custodian must follow to correct the problem.

1. Prior to finding a parent, guardian, or custodian in default, the Family Court must be satisfied that actual notice has been given or that all reasonable possible attempts have been taken to provide notice of the formal trial to the parent, guardian, or custodian. The court must also find that the petitioner can prove the elements of the Family Court Petition.
2. If the parent, guardian or custodian is found in default, the Blackfeet Family Court shall specify the facts, grounds, and Law and Order code sections upon which it relied in making a decision.

Section 4. Formal Trial on the Issues.

The formal trial on the issues will be set for no later than fifteen (15) days following the filing of the Blackfeet Family Court petition.

- A. Admissibility. The records of the initial placement hearing and any other hearings shall not be admissible at the formal trial. This shall not be construed to prevent the admissibility of any evidence that was presented at these hearings which would normally be admissible under the Blackfeet Family Court's rules of evidence.
- B. Closed Hearing. The general public shall be excluded from any proceedings involving children. Only the parties, their counsel, witnesses, and the child's extended family, and other persons determined to be appropriate by the Family Court shall be admitted.
- C. Advise of Rights. During the formal hearing, the Blackfeet Family Court shall advise the party(s) of the reason for the hearing and of their basic rights as provided for in

the Blackfeet Law and Order Code.

- D. Child Witnesses. If the Blackfeet Family Court determines that it is in the best interests of the child and does not violate the rights of any party, the court may allow the child to testify by means of a videotape deposition, closed circuit television or any other appropriate method. If the court does allow these methods to be utilized, the court shall specifically set out the reasons for this determination on the record.
- E. Burden of Proof. The burden of proof lies with petitioner. The petitioner must prove that the allegations raised in the family court petition are more likely true than not, that is, by the preponderance of the evidence, and that the best interests of the child will be served by continued Family Court intervention.
- F. Outcome of Hearing. The Blackfeet Family Court will either find the allegations of the petition to be true or dismiss the petition, unless the hearing shall be continued to date certain to allow for the presentation of further evidence.
- G. Return to Home. The Blackfeet Family Court may find the allegations of the family court petition to be true, but that out of home placement is not needed to insure the protection of the victim. The court may, however, due to unresolved problems in the home, continue court intervention and supervision as appropriate.
- H. Grounds for Continuing Removal from the Home. The Blackfeet Family Court may find that allegations of the petition to be true and order that the child remain out of the home. The grounds for continuing removal from the home of a parent, guardian or custodian are that:
 - 1. A child has no parent, guardian, or custodian available and capable to care for the child.
 - 2. The child has suffered, or is likely to suffer, physical injury by other than accidental means, which causes or creates a substantial risk of death, disfigurement, or impairment of bodily functions.
 - 3. The child has not been provided with adequate food, clothing, shelter, medical care, education, or supervision by the parent, guardian, or custodian, which is necessary for the child's health and well being.
 - 4. The child has been sexually abused or sexually exploited.
 - 5. The child has committed juvenile offenses as a result of parental pressure, guidance, or approval.
 - 6. The child has been emotionally abused or neglected.
 - 7. The child has suffered, or is likely to suffer, emotional damage which causes or creates a substantial risk of impaired development.
- I. Family Court Order for Continuing Removal. The Blackfeet Family Court shall specify in its order the necessary intervention and appropriate steps, if any, the parent, guardian or custodian must follow to correct the underlying problem.
- J. Return of Child to Parent, Guardian, or Custodian. The Blackfeet Family Court may find the allegations of the petition to be true and out-of-home placement necessary, but with the accomplishment of specified actions by the parent, guardian, or

custodian, the may be returned absent good cause to the contrary. The order of the court will specify actions, and the time frames for such actions, that parents, guardians, or custodians must accomplish before the child is returned. The family Court order will also specify the responsibilities of any support agency or personnel to be involved.

- K. Out-of-Home Placement. The Blackfeet Family court may find the allegations of the petition to be true and that out-of- home placement continues to be necessary and further that the child may not be returned to the home, absent specific orders of this court. The court shall specify what steps the parents, guardian, or custodian shall take to demonstrate their abilities to care for the child, and specify to the parties what factors the court will consider at a subsequent hearing to determine whether or not the child should be returned.
- L. Written Order. The Blackfeet Family Court shall specify in writing the facts, grounds, and code sections upon which it relied to make its decisions.

CHAPTER 7

INDIAN CHILD WELFARE ACT PROCEDURES

The following procedure is to be followed regarding Indian Child Welfare Act procedures:

Section 1. Notice.

Any Indian Child Welfare Act (ICWA) notice received by any Tribal Department shall be forwarded to the Indian Child Welfare Office as soon as possible. The Chairman of the Tribal Council shall request the Superintendent of the Bureau of Indian Affairs, to deliver any ICWA requests the Bureau receives, to the Tribal Indian Child Welfare Office, P.O. Box 518, Browning MT 59417.

Section 2. Enrollment Eligibility Determination

Upon the receipt of an ICWA notice, the ICWA Office shall:

1. Determine whether the child is enrolled or enrollable;
 2. Forward the request and the Department's findings and recommendations, if any, to the respective State Court.
 - a. If the child is not enrolled or enrollable, but the Department or State has information which may be helpful in any determination of the child's future, the Department may forward the information to the Indian Child Welfare Office.
- B. Record. The Department will use the attached form to keep an accurate record of all ICWA requests received. The Tribe may require the Department to report to the HESS Committee on ICWA matters.

Section 3. Indian Child Welfare Office

- A. Authorization. The ICWA Counselor(s) is/are authorized to recommend to the Tribe that any ICWA case be transferred to the Tribal Court. The Counselor(s) are also authorized to recommend that the ICWA case should remain with the State Court, but that the Tribe intervene or take other action to assist in the determination of the child's future.
- B. Record. The ICWA Counselor(s) shall set up and maintain the Tribal Master File on each ICWA case. The ICWA Counselor(s) are to notify the Enrollment Department of any change in the child's custody or address.
- C. Investigations. The ICWA Counselor(s) may request that the Juvenile/Child Protection Department or Tribal Child Protection Worker conduct such investigations as are appropriate to enable that Counselor to best determine the proper role of the Tribe in any ICWA case. All Tribal Departments and Programs are directed to cooperate with such investigations.
- D. Reports. The ICWA Staff shall report monthly, to the Chairman of the HESS Committee. The ICWA Staff will make every effort to ensure that the report format is designed to inform the Committee of the ICWA activity as well as the need for any change in this procedure or in the related structures of Tribal Government.
- E. Relationship with Federal and State Agencies. The ICWA Staff are authorized to request information relevant to any ICWA case from any appropriate state or federal agency. The ICWA Counselor(s) are authorized to request technical assistance from any state or federal agency, whose assistance may be helpful to the determination of any particular case or to the development of proper tribal procedures in ICWA matters.
- F. Criteria. In the determination of the proper role for the tribe in each ICWA case, the ICWA Staff must consider:
1. The potential parenting role of the grandparent(s), aunts and uncles, and other relatives of the child;
 2. Whether the child owns land on the Reservation;
 3. How the parent(s) or other family of the child, desire the child to be involved in Indian Cultural life;
 4. Whether the child has needs such as special counseling or medical treatment which are more readily available off the Reservation; and
 5. Whether the social background of the child could cause severe adjustment problems if the child were placed on the Reservation; and
 6. Whether the best possibilities for reuniting the parents and child would be possible on the Reservation.
 7. Complete Home Studies on Extended Families.

Section 4. Confidentiality.

With the understanding that any particular ICWA case may be discussed with the HESS

Committee in order to illustrate particular problems in dealing with ICWA, the following code of confidentiality shall apply:

1. If any tribal employee, agent, representative, contractor or official is found by the HESS Committee to have violated this Code, the Chairman of the HESS Committee may direct the Program Director or Personnel Director to take disciplinary action as provided for in Section 9, of the Blackfeet Tribal Personnel Policies and Procedures. Such disciplinary action may of course be taken without direction of the HESS Committee.

CHAPTER 8

REPORTING OF CHILD ABUSE

Section 1. Reporting Process.

When the professionals and officials listed in subsection A, know or have reasonable cause to suspect that a child known to them in their professional or official capacity is an abused or neglected child, they shall report the matter promptly to the Blackfeet Family Court Juvenile/Child Protection Department. (Public Law 101-630 Section 1169, Title IV - Indian Child Protection).

A. Required Reporting. Professionals and officials required to report are:

1. Physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, or health care provider,
2. teacher, school counselor, instructional aide, teacher's aide, teacher's assistant, or bus driver employed by any tribal, Federal, public or private school, administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal, Federal, public or private school,
3. child day care worker, headstart teacher, public assistance worker, worker in a group home or residential or day care facility, or social worker,
4. psychiatrist, psychologist, or psychological assistant,
5. licensed or unlicensed marriage, family or child counselor,
6. person employed in the mental health profession, or,
7. law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statutes and judicial orders.

B. Who May Report. Any person may make a report under this section if he/she knows or has reasonable cause to suspect that a child is abused or neglected.

C. Refusal. No person listed in section A (1) and (7) may refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege, if the person came into possession of such information as a result of his/her treatment

of the child.

D. Reports. The reports referred to under this section shall contain:

1. The names and addresses of the child/children and his/her parent(s) or others responsible for their care;
2. To the extent known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries;
3. Any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of person(s) responsible thereof; and
4. The facts which led the person reporting, to believe that the child has suffered injury or injuries of willful neglect, within the meaning of this chapter.

Section 2. Action on Reporting.

Upon receipt of a report as required by this chapter, that a child is or has been abused or neglected, the Family Court Juvenile/Protection Department shall conduct an investigation within one court working day into the home of the child involved, or any other place where the child is present, into the circumstances surrounding the injury of the child and into all other nonfinancial matters which in the discretion of the investigator, are relevant to the investigation. If the Juvenile/Protection Officer(s) determines that there is probable cause to believe that the child/children are abused/neglected, the officer(s) shall remove the child/children from the situation by taking them into protective custody, the officer shall issue a 72 hour Initial Placement Hearing Summons to each parent/guardian for the next session of the Family Court.

1. When a Family Court Juvenile/Protection Officer takes an abused/neglected child/children into protective custody, the officer shall transport the child/children to I.H.S. for a medical examination. Upon completion of the examination, the officer will determine the best placement for the child/children until the Family Court Initial Placement Hearing can be conducted unless the examining physician directs admission to I.H.S. Placement can be as follows:
 - a. Non-offender parent/guardian
 - b. Blackfeet Nurturing Center (Under 12 YOA)
 - c. White Buffalo Home (Over 12 YOA)
2. If the child is treated at medical facility, the social worker or Juvenile/Protection Officer(s) shall, consistent with reasonable medical practice, have the right of access to the child for interviews, photographs, and securing physical evidence and have the right of access to relevant hospital and medical records pertaining to the child.
 - A. Possible Sexual Abuse. If the Juvenile/Protection Officer(s) has reason to believe that a child/children has been sexually abused, the officer shall contact the Bureau of Indian Affairs Criminal Investigator and proceed as directed by the Criminal Investigator. Assistance shall be given in the investigation if requested by the Bureau of Indian Affairs Criminal Investigator.

Section 3. Confidentiality of Informant.

The identity of any person making a report described in this chapter, shall not be disclosed without the consent of the individual, to any person other than a court of competent jurisdiction, or an employee of the Tribe, State or Federal Government, who needs to know the information in the performance of such employee's duties.

Section 4. Immunity from Liability.

Anyone investigating or reporting any incident of child abuse or neglect, resulting in judicial proceedings, or furnishing hospital or medical records as required by this chapter is immune from any liability, civil or criminal, that might otherwise be incurred or imposed, unless the person acted in bad faith or with malicious purpose.

Section 5. Admissibility and Preservation of Evidence.

In any proceeding resulting from a report made pursuant to the provisions of this chapter or in any proceeding where the report or its contents are sought to be introduced into evidence, the report or its contents or any other fact related to the report or to the condition of the child who is the subject of the report, shall not be excluded on the grounds that the matter is or may be the subject of a privilege related to the examination or treatment of the child, except the attorney-client privilege.

- A. Photographs. Any person or official required to report under this Chapter, may take or cause to be taken, photographs of the area of trauma, visible on a child who is the subject of a report. When any person required to report under this Chapter finds visible evidence that a child has suffered abuse or neglect, he/she must include in a report, either a written description or photographs of the evidence.
- B. Medical Examination. A physician, either in the course of his providing medical care to a minor or after consultation with the Juvenile Department, may require x-rays to be taken when in his professional opinion, there is a need for radiological evidence of suspected abuse or neglect. X-rays may be taken under this section without the permission of the parent or guardian.
 - 1. All written, photographic or radiological evidence gathered, subsequent to this section, shall be sent to the Juvenile Department at the time of the written confirmation report or soon thereafter as is possible.

Section 6. Procedure in Case of Child's Death.

Any person or official required to report by law, who has reasonable cause to suspect that a child has died as a result of child abuse or neglect shall report his/her suspicion to the appropriate medical examiner or law enforcement officer. Any other person who has reasonable cause to suspect that a child has died as a result of child abuse or neglect shall report his/her suspicion to the appropriate medical examiner or law enforcement officer. The medical examiner or coroner shall investigate the report and submit his/her findings, in writing, to the local law enforcement agency, and if the person making the report is a physician, a report will also be given to that physician.

Section 7. Penalty for Failure to Report.

Any person, official, or institution required by law to report known or suspected child abuse or neglect, who purposely or knowingly fails to do so or who prevents others from reasonably doing so, is civilly liable for the damages proximately caused by such failure or prevention. That person is subject to a civil penalty not to exceed Five Thousand Dollars (5,000.00).

CHAPTER 9

DOMESTIC ABUSE

Section 1. Purpose.

The purpose of this law is to recognize Domestic Abuse as a serious crime against our society and to assure the victims of Domestic Abuse the maximum protection from abuse which the law and those who enforce the law can provide. It is the intent of the Blackfeet Family Court that the official response to cases of Domestic Abuse shall be that violent behavior is not to be excused or tolerated whether or not the abuser is intoxicated.

Section 2. Crime of Domestic Abuse.

A person commits the offense of Domestic Abuse if he/she:

1. Purposely or knowingly causes bodily injury to a family or household member; or
2. Purposely or knowingly causes apprehension of bodily injury to a family or household member.

Section 3. Mandatory Arrest Provision.

An officer shall arrest and take into custody persons whom the officer has probable cause to believe abused or is about to abuse any family or household member. No warrant is required to make an arrest. This mandatory arrest provision means that the victim need not sign a complaint for an arrest to occur. Further, under this provision an officer shall arrest under probable cause even though it may be against the expressed wishes of the victim.

- A. Protection Order. An officer shall arrest and take into custody, a person whom the officer has probable cause to believe has violated a Family Court Protection Order restraining the person from contact with the victim or excluding the person from the residence if the existence of an order can be verified.

NOTE: Regardless of whether or not the person violating the order was invited back into the home, an arrest shall be made. Thus, when the Court issues such an order, it must inform the excluded party that the Family Court must formally change the order before he/she can return to the residence.

1. Arrest is the MANDATORY response in Domestic Abuse cases which involve:

- a. Injury to the victim, or
 - b. the use or threatened use of a weapon, or
 - c. violation of a restraining order, or
 - d. imminent danger to the victim.
2. An officer may arrest both parties if the officer has probable cause to believe that both parties have committed the offense of Domestic Abuse as defined in Section 1.
3. Any person arrested under this ordinance shall be held without bail, in the custody of the Police Department for a period of forty-eight (48) hours, as a mandatory "Cooling Off" period in the best interest of the Blackfeet Community.

Section 4. Notice of Rights.

Whenever an officer arrests an individual for Domestic Abuse, if the victim is present, the officer shall advise the victim of the availability of the Shelter or other services in the Blackfeet Community and give the victim immediate notice of any legal rights and remedies available. The notice must include furnishing the victim with a copy of the following statement.

"If you are the victim of Domestic Abuse, The Family Court Presenter on behalf of the Blackfeet Nation will file criminal charges against your abuser. You will be subpoenaed as a witness in this action."

The notice must also include, but not be limited to information as follows:

1. The Family Court will issue an Order restraining your abuser from abusing you; and/or
2. an Order directing your abuser to leave your household; and/or
3. an Order preventing your abuser from transferring any property except in the usual course of business; and/or
4. an Order awarding you or the other parent, custody of/or visitation with a minor child or children; and/or
5. an Order restraining your abuser from molesting or interfering with you or with any minor children in your custody; and/or
6. an Order directing the party not granted custody of minor child/children to pay support of minor child/children or to pay support of the other party if there is a legal obligation to do so.

Section 5. Bail.

The following Bail/Bond schedule shall apply after the mandatory forty-eight (48) hour

"Cooling Off" period:

1. Abuse I - resulting in hospitalization - \$1,500.00 Bond (NO REDUCTION) and a Bench Protection Order.
2. Abuse II - resulting in substantial bodily injury - defined as broken bones, lacerations requiring stitching, missing or broken teeth, or burns - \$1,000.00 (NO REDUCTION) and a Bench Protection Order.
3. Abuse III - resulting in serious bodily injury - defined as bruising, spraining, extreme fear, or pulled hair - This level is to be interpreted as a "combination" of injury factors - \$500.00 Bond (NO REDUCTION)
4. If the offender has a Doctor's statement at due to health reasons they are not to be held in jail - \$300.00 (NO REDUCTION)

Section 6. Filing a Complaint.

The Officer involved shall submit a detailed report of the circumstances of the arrest, along with statements from the victim(s), the officer's personal observations, reports of the examining physician and other health professional and other witness(s) to the Family Court Presenter who shall file a complaint against the alleged abuser on behalf of the Blackfeet Nation's Family Court.

A. Subpoenas. The victim(s) shall be subpoenaed as the primary witness for the Presenting Officer.

B. Communication Privilege. If the offender and the victim are married to one another, the Husband and Wife Communication privilege shall not apply in cases of Domestic Abuse.

Section 7. Penalties.

The purpose of this ordinance shall be to stop all family violence on the Blackfeet Reservation and to promote the healing of families where possible.

1. A person convicted of a first offense of Domestic Abuse shall be imprisoned for a term of not less than ten (10) days and shall be fined an amount not less than five hundred dollars (\$500.00). The Family Court shall require mandatory counseling as part of the sentence. Such counseling shall include, but is not limited to: alcohol/drug abuse counseling, Domestic Abuse Counseling, Anger Control Counseling, and Family Counseling. Counseling as indicated herein shall mean completion of the program. Persons who practice Traditional Indian Religion shall be entitled to counseling by a Medicine Man recognized in the Blackfeet Community as such. Restitution for damages to property and/or the cost of victim counseling shall also be levied as part of the sentencing.
2. A person convicted of a second offense of Domestic Abuse shall be imprisoned for a term not less than thirty (30) days nor more than sixty (60) days and shall be fined an amount not less than six hundred dollar (\$600.00). The Family Court shall require counseling and restitution as directed in Sec 7.1.
3. A person convicted of a third offense of Domestic Abuse shall be imprisoned for a

term no less than ninety (90) days nor more than three hundred and sixty-five (365) days and shall be fined an amount not less than six hundred dollars (\$600.00). The Family Court shall require counseling and restitution as directed in Section 7.1.

4. A person convicted of a fourth or more offense of Domestic Abuse shall be considered a habitual offender and imprisoned for a term no less than three hundred and sixty-five (365) days and shall be fined an amount not less than six hundred dollars (\$600.00). The Family Court shall require counseling and restitution as directed in Sec 7.1.

Section 8. Transfer of Jurisdiction.

If at any stage of the proceeding, the Family Court believes that the seriousness of the offense warrants transfer to the Blackfeet Tribal Court or transfer to the United States Federal Court, the Family Court shall recommend a transfer of jurisdiction.

Section 9. Liability of Law Enforcement Officers.

A law enforcement officer shall not be held liable for any civil action for an arrest based on probable cause, enforcement in good faith of a court order, or any other action or omission in good faith under this ordinance arising from an alleged incident of Domestic Abuse brought by any party to the incident.

Section 10. Written Report.

Whenever an officer is called to the scene of a reported incident of Domestic Abuse, and he/she does not make an arrest, he/she shall file a written report with the Family Court Presenter, setting forth the reason or reasons for his/her decision within 10 days of the incident.

Section 11. Reporting Statistics.

In all cases of Domestic Abuse, the officer involved shall make a written report and the numbers of such cases shall be tabulated by the Department. A Quarterly Report shall be made by the Police Department, setting forth the numbers of reports of Domestic Abuse investigations and the number of arrests. Such Quarterly reports shall be made available to the appropriate agencies and the public.

CHAPTER 10

ELDER ABUSE

Section 1. Purpose.

The purpose of this Law is to recognize Elder Abuse/Neglect/Exploitation as a serious crime against our society and to assure the victims of Elder Abuse/Neglect/ Exploitation, the maximum protection from abuse/neglect/exploitation which the law and those who enforce the law can provide. It is the intent of the Blackfeet Family Court that the official response to

cases of Elder Abuse/Neglect/Exploitation shall be that violent behavior, neglect, or exploitation is not to be excused or tolerated whether or not the abuser is intoxicated.

Section 2. Crime of Elder Abuse / Neglect / Exploitation.

A person commits the offense of Elder Abuse/Neglect/Exploitation, if he/she:

1. purposely or knowing causes bodily injury to an elder family member or elder household member; or
2. purposely or knowingly causes apprehension of bodily injury to an elder family member or elder household member; or
3. purposely or knowingly neglects an elder family member or elder household member; or
4. exploits or steals items of value from an elder family member or elder household member.

Section 3. Mandatory Arrest Provision.

An officer shall arrest and take into custody persons whom the officer has probable cause to believe abused/neglected a person defined as an "Elder". No warrant is required to make an arrest. This mandatory arrest provision means that the victim need not sign a complaint for an arrest to occur. Further, under this provision an officer shall arrest under probable cause even though it may be against the expressed wishes of the victim. An officer shall arrest and take into custody, a person whom the officer has probable cause to believe has violated an court order for protection restraining the person from contact with the victim or excluding the person from the residence if the existence of the court order can be verified.

NOTE: Regardless of whether or not the person violating the order was invited back into the home, an arrest shall be made. Thus, when the Court issues such an order, it must inform the excluded party that the Family Court must formally change the order before h/she can return to the residence.

1. Arrest is the MANDATORY response in Elder Abuse/Neglect cases which involve:
 - a. Injury to the victim, or
 - b. the use or threatened use of a weapon, or
 - c. violation of a restraining Court Order, or
 - d. imminent danger through abuse or neglect of the victim.
2. Any person arrested under this ordinance shall be held without bail, in the custody of the Police Department for a period of forty-eight (48) hours as a mandatory "Cooling Off" period in the best interest of the Blackfeet Community.
3. Arrest of a person exploiting an Elder is not mandatory. The investigating officer shall

file a written report with the Family Court Presenting Officer within ten (10) days of completing the investigation.

Section 4. Notice of Rights.

Whenever an officer arrests an individual for Elder Abuse/Neglect, if the victim is present, the officer shall advise the victim of the availability of the Shelter or other services in the Blackfeet Community and give the victim immediate notice of any legal rights and remedies available. The notice must include furnishing the victim with a copy of the following statement.

"If you are the victim of Elder Abuse/Neglect, the Family Court Presenter on behalf of the Blackfeet Nation will file criminal charges against your abuser/neglector. You will be subpoenaed as a witness in this action."

The notice must also include, but not be limited to information as follows:

1. The Family Court will issue an Order restraining your abuser/neglector from abusing/neglecting you; and/or
2. an Order directing your abuser/neglector to leave your household; and/or
3. an Order preventing your abuser/neglector from transferring any property except in the usual course of business; and/or
4. an Order restraining your abuser/neglector from molesting or interfering with you.

Section 5. Bail.

The following Bail/Bond schedule shall apply after the mandatory forty-eight (48) hour "Cooling Off" period:

1. Abuse/Neglect I - resulting in hospitalization - fifteen thousand dollars (\$1,500.00) Bond (NO REDUCTION) and a Bench Protection Order.
2. Abuse/Neglect II - resulting in substantial bodily injury - defined as broken bones, lacerations requiring stitching, one thousand dollars, (\$1,000.00) Bond (NO REDUCTION) and a Bench Protection Order.
3. Abuse/Neglect III - resulting in serious bodily injury - defined as bruising, spraining, extreme fear, or pulled hair - This level is to be interpreted as a "combination" of injury factors - five hundred dollars (\$500.00) Bond (NO REDUCTION).
4. If the offender has a Doctor's statement that due to health reasons they are not to be held in jail - three hundred dollars (\$300.00) (NO REDUCTION).

Section 6. Filing a Complaint.

The Officer involved shall submit a detailed report of the circumstances of the arrest, along with statements from the victim(s), the officer's personal observations, reports of the examining physician and other health professionals and other witness(s) to the Family Court Presenter who shall file a complaint against the alleged abuser on behalf of the Blackfeet

Nation's Family Court.

- A. Subpoenas The victim(s) shall be subpoenaed as the primary witness for the Presenting Officer.

Section 7. Penalties.

The purpose of this ordinance shall be to stop all elder abuse/neglect/exploitation on the Blackfeet Reservation and to promote the healing of families where possible.

- A. First Offense. A person convicted of ~a first offense of Elder Abuse/Neglect/Exploitation shall be imprisoned for a term of not less than ten (10) days and shall be fined an amount not less than five hundred dollars (\$500.00) and ordered to pay restitution for the value of any exploitation. The Family Court shall require mandatory counseling as part of the sentence. Such counseling shall include, but is not limited to: Alcohol/drug abuse Counseling, Elder Abuse/Neglect/Exploitation counseling, Anger control counseling, and Family Counseling. Counseling as indicated herein shall mean completion of the program. Persons who practice Traditional Indian Religion shall be entitled to counseling by a Medicine Man recognized in the Blackfeet Community as such. Restitution for damages to property and/or the cost of victim counseling shall also be levied as part of the sentencing.
- B. Second Offense. A person convicted of a second offense of Elder Abuse/Neglect/Exploitation shall be imprisoned for a term not less than thirty (30) days nor more than sixty (60) days and shall be fined an amount not less than six hundred dollars (\$600.00). The Family Court shall require counseling and restitution as directed in Section 7. A.
- C. Third Offense. A person convicted of a third offense of Elder Abuse/Neglect/Exploitation shall be imprisoned for a term no less than ninety (90) days nor more than three hundred and sixty- five (365) days and shall be fined an amount not less than six hundred dollars (\$600.00). The Family Court shall require counseling and restitution as directed in Section 7. A.
- D. Fourth or More Offense. A person convicted of a fourth or more offense of Elder Abuse/Neglect/Exploitation shall be considered a habitual offender and imprisoned for a term no less than three hundred and sixty-five (365) days and shall be fined an amount not less than six hundred dollars (600.00). The Family Court shall require counseling and restitution as directed in Section 7. A.

Section 8. Transfer of Jurisdiction.

If at any stage of the proceedings, the Family Court believes that the seriousness of the offense warrants transfer to the Blackfeet Tribal Court or transfer to the United States Federal Court, the Family Court shall recommend a transfer of jurisdiction.

Section 9. Liability of Law Enforcement Officers.

A law enforcement officer shall not be held liable for any civil action for an arrest based on probable cause, enforcement in good faith or a court order, or any other action or omission in good faith under this ordinance arising from an alleged incident of Elder

Abuse/Neglect/Exploitation brought by any party to the incident.

Section 10. Written Report.

Whenever an officer is called to the scene of a reported incident of Elder Abuse/Neglect/Exploitation, and he/she does not make an arrest, he/she shall file a written report with the Family Court Presenter, setting forth the reason or reasons for his/her decision within ten (10) days of the incident.

Section 11. Reporting Statistics.

In all cases of Elder Abuse/Neglect/Exploitation, the officer involved shall make a written report and the numbers of such cases shall be tabulated by the Department. A Quarterly Report shall be made by the Police Department, setting forth the number of Elder Abuse/Neglect/Exploitation investigations and the number of arrests. Such Quarterly reports shall be made available to the appropriate agencies and the public.

CHAPTER 11

DOMESTIC RELATIONS

Section 1. Marriages:

All members of the Blackfeet Indian Tribe shall be governed by Montana State Law and subject to State of Montana Jurisdiction with respect to marriage hereafter consummated. Common-law marriages and Indian Customs marriages shall not be recognized within the Blackfeet Reservation.

Section 2. Divorces:

All divorces must be consummated in accordance with the State Law of Montana. Indian custom divorces are from this time on illegal and will not be recognized as lawful divorces on the Blackfeet Reservation.

Section 3. Determination of Paternity and Support.

The Family Court shall have jurisdiction of all suits brought to determine the paternity of a child and to obtain a judgment for the support of the child. A judgment of the Family Court establishing the identity of the father of the child shall be conclusive of that fact in all subsequent determination of inheritance by the Department of the Interior or by the Family Court.

Section 4. Emancipation.

A child over the age of sixteen (16) may petition the court for emancipation. The Blackfeet Family Court shall grant such status when the child proves to the court that the child is capable of functioning as an independent and responsible member of the Blackfeet

Community.

CHAPTER 12

DEPOSIT AND DISPOSITION OF FINES

Section 1. Money Fines.

All money fines imposed for the commission of an offense shall be paid to the Clerk of the Family Court, and by him, her paid over to the Treasurer of the Blackfeet Tribe to be held as a special account. The said Treasurer shall pay out of such account, upon the order of the Clerk of the Family Court, signed by a Judge, of the Family Court, specified fees to specified jurors or witnesses authorized under the Blackfeet Law and Order Code. The Clerk, or the Family Court shall keep an accounting of all such deposits and withdrawals for the inspection of any person interested. Whenever such fund shall exceed the amount necessary with a reasonable reserve for the payment of the Family Court expenses, the before mentioned Tribal Business Council and Law and Order Committee shall designate further expenses of the work of the Family Court or other public expenses, which shall be paid from these funds.

Section 2. Property Received in Lieu of Money.

Whenever a fine is paid in property, the property shall be turned over under the supervision of the Clerk of the Family Court to the custody of the Treasurer of the Blackfeet Tribe, to be sold or, if the Tribal Business Council so directs, to be disposed of in other ways for the benefit of the Tribe. The proceeds of any sale of such property shall be deposited and distributed in the same manner as money fines.

CHAPTER 13

FAILURE TO SEND TO SCHOOL

Section 1. Failure to Send.

It shall be unlawful for any person or persons on the Blackfeet Indian Reservation, without good cause, to neglect or refuse to send any child under the age of sixteen (16) years of age, in their care to school.

Section 2. Exceptions.

If a child is "homebound" the person or persons having care of the child may apply to the School Board of the district in which they reside for a waiver of Section 1. Further, if the person or persons having care of a child and wish to utilize "School at Home", they may also apply to the School Board in their district for permission to do so.

Section 3. Penalties.

Any person or person who are in violation of Sections 1 and 2 of this chapter may be summoned into Family Court and fined not less than \$100.00 nor more than \$500.00 and sentenced to not less than five (5) days nor more that ten (10) days in custody.

CHAPTER 14

CONTRIBUTING TO THE DELINQUENCY OF A MINOR

Section 1. Purpose.

The purpose of this Law is to recognize that contributing to the delinquency of a minor is a serious crime against our societies youth. It is the intent of the Blackfeet Family Court that the official response to cases of Contributing to the Delinquency of minors is not to be excused or tolerated.

Section 2. Crime of Contribution to the Delinquency of a Minor.

A person commits Contributing to the Delinquency of a Minor by knowingly aiding, encouraging and/or abetting any minor person to violate any alcohol or drug law contained in the Blackfeet Law and Order Code; or

1. a person commits Contributing to the Delinquency of a Minor by knowingly and willfully furnishing alcohol or drugs to any minor person; or
 2. a person commits Contributing to the Delinquency of a Minor by encouraging, aiding, or abetting any minor to escape from the care, custody, or control of parents or guardians; or
 3. a person commits Contributing to the Delinquency of a Minor by knowingly and willfully aiding, encouraging, or abetting a minor person to violate the Blackfeet Law and Order Curfew Ordinance; or
 4. a person commits Contributing to the Delinquency of a Minor by knowingly and willfully aiding, abetting, or encouraging a minor person to violate any Blackfeet Law and Order Ordinance; and
5. a person commits Contributing to the Delinquency of a Minor by knowingly and willfully engaging in any act of sexual intercourse with a person, who is not their legal spouse, and is under the age of 18 years of age.

Section 3. Bail.

Any person arrested for any of the offenses listed under Section 2, shall have a bail set of two hundred dollars (\$200.00) (NO REDUCTION).

Section 4. Filing a Complaint.

The officer involved shall submit a detailed report of the circumstances of the offense, along with personal observations and statements from any witnesses to the Family Court Presenting Officer, who will file a petition with the Family Court within ten (10) days of

receiving the report from the officer.

Section 5. Penalties.

A person convicted in the Family Court of Contributing to the Delinquency of a Minor shall have the following penalties imposed:

1. A person convicted of a first offense of Contributing to the Delinquency of a Minor shall be imprisoned for a term of not less than ten (10) days, nor more than thirty (30) days and shall be fined an amount not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00). The Family Court may require mandatory counseling in any area as part of the sentence. Persons who practice Traditional Indian Religion shall be entitled to counseling by a Medicine Man recognized in the Blackfeet Community as such.
2. A person convicted of second offense Contributing to the Delinquency of a Minor shall be imprisoned for a term of not less than thirty (30) days, nor more than ninety (90) days and shall be fined an amount not less than two hundred dollars (\$200.00) nor more than four hundred dollars (\$400.00). Mandatory counseling applies the same as in Subsection 1.
3. A person convicted of third or more offense Contributing to the Delinquency of a Minor shall be imprisoned for a term of not less than ninety (90) days, nor more than three hundred and sixty-five (365) and shall be fined an amount not less than three hundred dollars (\$300.00) nor more than six hundred dollars (\$600 .00). Mandatory counseling applies the same as in Subsection 1.

CHAPTER 15

CONTEMPT OF COURT

Section 1. Purpose.

The purpose of this Law is to recognize that Contempt of Court is a serious offense. It is intent of the Blackfeet Family Court that the official response to Contempt of Court is not to be excused or tolerated.

Section 2. Crime of Contempt of Court.

A person or persons commits the Crime of Contempt of Court by committing any of the following acts:

1. by engaging in disorderly, contemptuous or insolent behavior toward a judge holding court, or behavior tending to interrupt the due course of a trial or other judicial proceedings; or
2. by engaging in breach of the peace, boisterous conduct, or creation of a disturbance in the presence of a Judge, or in the immediate vicinity of the court while in session which tends to interrupt the due course of a trial or other judicial proceedings; or
3. by disobeying a subpoena duly served, or refusal to be sworn, or to answer as a

witness in the courtroom.

Section 3. Bail.

Any person arrested for any of the offenses listed under Section 2, shall have a bail set of one hundred dollars (\$100.00) (NO REDUCTION).

Section 4. Filing a Complaint.

When a persons commits Contempt of Court in the immediate view and presence of a judge, it may be punished summarily. When the Contempt of Court is not committed in the immediate view and presence of a judge, the Family Court Presenting Officer shall file a complaint with the Family Court and an arrest warrant shall be issued for the person or persons.

Section 5. Penalties.

A person convicted in the Family Court for Contempt of Court may be fined not less than ten Dollars (\$10.00) nor more than five hundred (\$500.00) and may be imprisoned not more than thirty (30) days.

CHAPTER 16

TERMINATION OF PARENTAL RIGHTS

Section 1. Purpose.

The purpose of this chapter is to provide for the voluntary and involuntary termination of the parent/child relationship and for the substitution of parental care and supervision by judicial process. This chapter shall be construed in a manner consistent with the philosophy that all parties shall be secured their rights as enumerated in the Indian Civil Rights Act of 1968 and that the family unit is of most value to the Blackfeet Community and the individual family members when that unit remains united and together, and that termination of the parent-child relationship is of such vital importance that it should be used only as a last resort when, in the opinion of the Family Court, all efforts have failed to avoid termination and it is in the best interests of the child concerned to proceed under this chapter.

Section 2. Grounds for Involuntary Termination.

- A. Abandonment. If the parent has not contacted the child by telephone, letter or in person, or provided any financial support for more than one (1) year without a break, or have had only marginal contacts for twenty-four (24) out of the latest forty-eight (48) months, a presumption shall exist that there is no parental relationship existing. The burden shall then be up to the parent to provide that such a relationship does exist. The evidence necessary to rebut this presumption may include, but shall not be limited to, information about efforts to maintain the parent-child relationship, including a showing of regular visits, telephone calls, letters, other contacts, or

monetary support.

- B. Physical Injuries. The parent has caused willful and repeated physical injuries to the child.
- C. Sexual Abuse. The parent has willfully and repeatedly subjected the child to acts of sexual abuse or sexual exploitation or had knowledge of the abuse or exploitation.
- D. Emotional Harm. The return of the child may result in serious permanent emotional damage as supported by the best evidence available in the field of child development.

Section 3. Pre-Filing Requirements.

A petition seeking involuntary termination of the parent-child relationship must establish the following:

1. The child has been found to be an abandoned, abused, or neglected child under this code for at least a one year period of time, and has been removed from their parent at the time of this termination hearing for a period of one year or more;
2. The court has entered an order which states what the parent was required to accomplish to correct their underlying problem(s);
3. The social service agency involved has made a good faith attempt to offer or provide all court ordered and/or necessary services that are reasonably available in the Blackfeet Community and which are capable of helping the parent resolve his/her underlying problem(s);
4. There is little likelihood the conditions will be remedied so that the child can be returned to the parents in the near future;
5. Continuation of the parent-child relationship clearly diminishes the child's prospects for successful placement into a permanent and stable home; and
6. Not returning the child to their parent is the least detrimental alternative that can be taken.

Section 4. Who May File a Termination Petition.

No parental rights may be terminated unless a petition has first been filed, notice has been given, and a hearing held in accordance with the provisions of this chapter. A termination petition may be filed by:

1. Either parent when termination is sought with respect to the other parent.
2. The Family Court Presenting Officer.
3. Any other person possessing a legitimate interest in the matter.
4. A parent may file a petition for the voluntary termination of parental rights.

Section 5. Contents of Termination Petition.

The petition for termination of parental rights shall include the following to best information and belief of the petitioner, when any of the facts required by this section are unknown, the petition shall so state:

1. The name, place of residence and tribal affiliation of the petitioner (if other than the family court presenting officer);
2. The full name, sex, date and place of birth, residence and tribal affiliation of the child;
3. The basis for the family court's jurisdiction.
4. The relationship of the petitioner to the child, or the fact that no relationship exists;
5. The names, addresses, tribal affiliation, and dates of birth of the child's parents;
6. Where the child's parent is a child, the names and addresses of the parent's parents or guardian; and where the parent or guardian, the members of the parent's extended family.
7. The name and address of the person or agency having legal or temporary custody of the child;
8. The grounds on which the termination is sought under section 2 of this code (unless voluntary termination);
9. A statement that the pre-filing requirements set forth in Section 3 of this code have been met
(unless voluntary termination), and;
10. A list of the assets of the child together with a statement of the value thereof.

Section 6. Notice.

After a petition for the involuntary termination of parental rights has been filed, the family court shall set the time and place for a hearing and shall cause notice thereof to be given to the petitioner, the parents of the child, the guardian of the person of the child, the person having legal custody of the child, and the child's extended family as determined by the court.

1. When the child's parent is a child, notice shall also be given to the parent's parents or guardian of the person unless the court is satisfied, in exercise of its discretion, that said notice is not in the best interest of the parent and that it would serve no useful purpose.
2. Notice shall be given by personal service. If service cannot be made personally, the court may authorize service by registered mail at the last known address of the person to be served. If notice cannot be served by registered mail, the court may authorize service by publication in either the tribal newspaper of the Blackfeet Reservation, or a newspaper of general circulation in the county where the court is located, once a week for three consecutive weeks. All notices served whether personally or by registered mail shall be received by the person named therein no less than ten (10) days prior to the date set for the hearing. No hearing can be held

sooner than ten (10) days after the last publication where service is made.

3. Notice and appearance may be waived by a parent in writing before the court in the presence of, and witnessed by a clerk of the court, provided that such parent has been apprised by the court of the meaning and consequences of the termination action. The parent who has executed such a waiver shall not be required to appear at the hearing. When the parent is a minor, the waiver shall be effective only upon approval by the court.

Section 7. Pre-Termination Report.

Upon the filing of a petition under this chapter for the involuntary termination of parental rights, the family court shall request that the social services department or other qualified agency prepare and submit to the court a report in writing. The report shall be submitted to the Blackfeet Family Court no later than ten (10) days before the hearing with copies given to the parents. The purpose of the report is to aid the court in making a determination on the petition and shall be considered by the court prior to the hearing. The Blackfeet Family Court may request additional reports when it deems necessary.

1. The report shall include, but not be limited to, the circumstances of the petition, the investigation, the present condition of the child and parents, proposed plans for the child, and other such facts as may be pertinent to the parent and child relationship, and the report submitted shall include a recommendation and the reasons therefor as to whether or not the parent and child relationship should be terminated.

Section 8. Voluntary Relinquishment of Parental Rights.

Parental rights may be relinquished (voluntarily terminated) by a parent in writing, if signed by the parent in the presence and with the approval of the Blackfeet Family Court. Relinquishment shall not be accepted or acknowledged by the court prior to ten (10) days after birth of the child. The family court shall ensure that the parent understands the consequences of the voluntary termination prior to approving it. A parent who wishes to relinquish parental rights shall be provided an interpreter if he/she does not understand English.

Section 9. Hearing Procedures.

The procedures for termination of parental rights hearings shall be in accordance with procedures of the Blackfeet Law and Order Code.

Section 10. Burden of Proof.

The burden of proof lies with the petitioner to prove that the allegations in the terminations petition are supported by clear, cogent and convincing evidence, and that the best interest of the child will be served by termination of parental rights.

Section 11. Findings of Fact and Conclusions of Law.

The Blackfeet Family Court will make formal findings of fact and conclusions of law as a basis

for the written order terminating the parent-child relationship.

Section 12. Result of Termination Order.

Upon the termination of parental rights, all rights, powers, privileges, immunities, duties and obligations including any rights to custody, control visitation or support existing between the child and parent shall be severed and terminated unless otherwise directed by the Blackfeet Family Court. The parent shall have no standing to appear at any future legal proceeding concerning the child. Any support obligation existing prior to the effective date of the order terminating parental rights shall not be severed or terminated. The rights of one parent may be terminated without affecting the rights of the other parent. A termination order shall not prevent a child from inheriting property or interest in the same manner as any other natural child from the natural parent. A natural parent may not, however, inherit from a natural child after termination.

Section 13. Child's Continued Right to Benefits.

An order terminating the parent-child relationship shall not disentitle a child to any benefit due the child from any third person, agencies, state or the United States, nor shall any action under this code be deemed to affect any rights and benefits that the child derives from the child's descent from a member of a federally recognized Indian Tribe.

Section 14. Custody After Termination Order.

If upon entering an order terminating the parental rights of a parent there remains no parent having parental rights, the Blackfeet Family Court shall commit the child to the custody of a social services agency for the purpose of placing the child for adoption, or in the absence of an adoptive home the agency may place the child in a licensed foster home or with a relative, or take other suitable measures for the care and welfare of the child. The custodian shall have the authority to consent to the adoption of the child, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical treatment for the child and consent to such matters as might normally be required of the child's parent.

Section 15. Future Review Hearings.

If a child has not been adopted or permanently placed within six (6) months of the termination order, another six (6) month review hearing will be held. Such six (6) month hearings will continue until the child is adopted or permanently placed.

CHAPTER 17

GUARDIANSHIPS

Section 1. Purpose.

The Blackfeet Family Court, when it appears necessary or convenient, may appoint

guardians for the persons and/or property of either children under the court's jurisdiction or incompetents who have no guardian legally appointed by will or deed. Such appointment may be made on the petition of a relative or other person on behalf of the child or incompetent, or a petition of the child if fourteen (14) years of age or older. Before making such appointment, the Family Court must cause such notice as the court deems reasonable to be given to any person having the care of the child, and to such other relatives of the child residing on the Blackfeet Reservation as the court may deem proper, and in cases of adult incompetents, the family court may cause notice to be given to the incompetent at least five (5) days before hearing the petition.

If a child is under the age of fourteen (14) years, the court may nominate or appoint a guardian. If the child is fourteen (14) years of age or older, the child may nominate his/her own guardian who, if approved by the court, must be appointed accordingly. If the guardian nominated by the child is not approved by the court, or if the child resides outside the external boundaries of the Blackfeet reservation, or if, after being duly cited by the court, neglects for ten (10) days to nominate a suitable person, the family court may nominate and appoint the guardian in the same manner as if the child were under the age of fourteen (14) years of age.

When a guardian has been appointed by the court for a child under the age of fourteen (14) years, the child, at any time after attaining that age, may nominate another guardian, subject to the approval of the court. A guardian appointed may as specified by the family court have the custody and care of the education of the child and the care and management of their property until such child reaches the age of eighteen (18) years, marries, is emancipated by the court under Chapter 11 of this code, or until the guardian is legally discharged, provided, however, that said guardian shall not have the authority, without express written consent of the court, to dispose of any real or personal property of the child in any manner, including, but not limited to, the child's Individual Indian Money Account. Said guardian shall also have the authority to consent to the medical care and treatment of the child.

The Blackfeet Family Court may order that the court disburse monthly reimbursement payments to the person or agency to whom custody is granted under this code, provided sufficient funds have been appropriated by the Blackfeet Tribal Council. Said disbursements must be used by the person or agency with custody of the child for the sole purpose of covering expenses incurred in the care and custody of said child and shall not be used for any other purpose. The use of said funds for any purpose other than that described in this section shall subject said person or agency to contempt of court and to a criminal and civil penalties or remedies provided by the Blackfeet Law and Order Code.

- A. Types of Guardianship. The types of guardianship shall include guardianship of property and/or guardianship of the person. Guardianship of the person shall include both temporary guardianship and permanent guardianship.
- B. Guardianship of Property. The Family Court may appoint a guardian of the property of a child or incompetent person under such terms and conditions as the court sets forth in the written order. The guardianship may cover all property until the child reaches the age of eighteen (18) years or until the incompetent person becomes competent or it may be limited to only specific property or a specific legal action as set forth in the written order. A temporary or permanent guardianship of the person may also include guardianship of the child's property if set forth in the written order.
- C. Temporary Guardianship. The Blackfeet Family Court may appoint a temporary guardian under such terms and conditions as the as the court sets forth in the written order. A temporary guardianship may be terminated if the court determines that it is

in the best interests of the child to change custody from the temporary guardian to a new guardian or to return the child to a parent, guardian or custodian. The parents(s) and the child's extended family shall be granted liberal visitation rights unless deemed inappropriate by the court.

- D. Permanent Guardianship. The Blackfeet Family Court may appoint a permanent guardian of the child under such terms and conditions as the court sets forth in the written order. Permanent guardianship provides for permanent custody of a child to someone other than the parent(s), although there is no termination of the parental rights of the parents. There shall be a presumption of continued permanent guardianship in order to provide stability for the child. Permanent guardianship shall only be terminated based upon the unsuitability of the permanent guardian(s) rather than the competency or suitability of the parent(s). The parent(s) and the child's extended family shall be granted liberal visitation rights unless deemed inappropriate by the court.
- E. Who May File a Guardianship Petition. Any person may file a petition for guardianship with the Blackfeet Family Court Presenting Officer. The petition shall be initiated either by the proposed guardian or by the child if fourteen (14) years of age or older.
- F. Contents of a Guardianship Petition. The petition for guardianship shall include the following, to the best information and belief of the petitioner:
1. The fully name, address and tribal affiliation of the petitioner;
 2. The fully name, sex, date and place of birth, residence, and tribal affiliation of the proposed ward;
 3. The basis for the Blackfeet Family Court's jurisdiction;
 4. The relationship of the proposed guardian to the proposed ward, if any;
 5. The name and address of the person or agency having legal or temporary custody of the proposed ward;
 6. The type of guardianship requested;
 7. In the case of an alleged incompetent person, the grounds for incompetency under this Chapter; and
 8. A full description and statement of value of all property owned, possessed, or in which the proposed ward has an interest (if guardianship of property is requested).

NOTE. All petitions must be signed and dated by the petitioners, and must be notarized or witnessed by a clerk of the court.

- G. Guardianship Report. Upon the filing of a guardianship petition, the Blackfeet Family Court shall immediately request that the social services department or other qualified agency conduct a guardianship report on the proposed guardian and report on the proposed ward. The guardianship report shall contain all pertinent information necessary to assist the court in determining the best interests of the proposed ward.

No determination can be made on a petition for guardianship until the report has

been completed and submitted to the court for consideration. The guardianship report shall be submitted to the court no later than ten (10) days before the hearing. The Blackfeet Family Court may order additional reports as it deems necessary.

- H. Notice-Waiver-Guardian Ad Litem: After a petition has been filed, the court shall set the time and place for a hearing, and shall cause notice thereof to be given to the petitioner, the parents of the child, the guardian of the child, the person having legal custody of the child, and any individual standing in loco parentis to the child. When the child's parent is a minor, notice shall also be given to said minor's parents or guardian unless the court is satisfied in the exercise of its discretion, that such notice is not in the best interest of said minor and that it would serve no useful purpose. Notice shall be given by personal service. However, when reasonable efforts have been expended, the notice shall be delivered by registered mail to the last known address of the person(s) entitled to receive a notice.
- I. Hearings: Cases under this Section shall be heard by the Family Court without a jury. The hearing may be conducted in an informal manner and may be adjourned from time to time. A record of the hearing shall be made. The general public shall be excluded and only such persons admitted whose presence is requested by any person entitled to notice under Subsection C, or as the Family Court Judge shall find to have a direct interest in the case or in the work of the Family Court: Provided, that persons so admitted shall not disclose any information secured at the hearing which would identify an individual child, guardian, or parent. In addition, the Family Court may require the presence of witnesses, (including persons making any report, study or examination which is before the Family Court when such persons are reasonably available) deemed necessary to the disposition of the petition.
- J. Management of Property. In the event that any guardian shall receive any money or funds of any child or incompetent person during his/her term of office as guardian, before taking and receiving into custody such money or funds, the court must require of such person a bond with sufficient surety to be approved by the court and in such sum as he shall order, conditioned that the guardian will faithfully execute the duties of trust, and the following conditions shall form the part of such bond without being expressed therein;
1. To make an inventory of all the ward's estate and to return the same within such time as the court may order; and
 2. To dispose of and manage the estate according to law and for the best interests of the ward, and faithfully to discharge his/her trust in relation thereto, and also in relation to the care, custody and education of the ward; and
 3. To render an account on oath of the property, estate and money of the ward in his/her hands and all the proceeds or interests derived thereof, and of the management and disposition of the same, within three (3) months after appointment, and at such other times as the Blackfeet Family Court directs, and at the expiration of his/her trust, to settle all accounts with the Family Court, or with the ward if he/she shall be of full age, or the legal representative, and to pay over and deliver all the estate, monies and effects remaining, or due on such settlement to the person who is legally entitled thereto.

[Next four paragraphs - Possible missing text; illegible copy.]

NOTE: The funds of any child or incompetent must be used by the guardian solely for the support and education of such child and the support of such

incompetent, and shall be expended by the guardian in a reasonable manner according to the circumstances and station in life of such ward, and in such manner as can reasonably be afforded according to the income and estate of said ward. If determined to be appropriate by the Blackfeet Family Court, the written order may set forth that the child's property may not be used for child's care, but rather to be managed for the child until the child reaches the age of eighteen (18) years of age or is emancipated by the court.

Incompetent Persons. In the case of an incompetent person, if after a full hearing and examination upon such petition and upon further proof by the certificates of at least two qualified physicians showing that any person is incompetent as defined by the Blackfeet Law and Order Code, it appears to the court that the person in question is not capable of taking care of his/herself and of managing his/her property, such court must appoint a guardian of this person and any estate within the powers and duty specified in this chapter.

Every guardian of an incompetent person appointed as provided herein [missing text; illegible copy] the care and custody of the person and the management of the [missing text; illegible copy] state until such guardian is legally discharged; the guardian must give bond to such ward in like manner and with like conditions as before specified with respect to the guardianship of a child.

A person who has been declared insane, incompetent, a guardian or any relative of such person within the third degree or any friend, may apply by petition to the court in which he was declared insane, to have the fact of his restoration to capacity judicially determined. The petition shall be verified and shall state that such person is then sane or competent. The Blackfeet Family Court shall require notice to be given of a hearing upon said petition at some date after said petition has been filed; and at the hearing upon said petition, witnesses shall be examined and a determination made by the Family Court as to whether the petition should be granted and the insane or incompetent person be declared of sound mind and capable of taking care of him/herself and property, [missing text; illegible copy] the restoration to capacity shall be adjudged and the guardianship of such person, if such person shall not be child, shall cease.

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CHAPTER 18

ADOPTIONS

Section 1. Open Adoptions.

Adoptions under this code shall be in the nature of "Open Adoptions."

Section 2. Purpose.

The purpose of such open adoptions is not to permanently deprive the child of connections to, or knowledge of, the child's natural family. The purpose of adoptions shall be to give the adoptive child a permanent home. To this and the following shall apply and be contained in

all adoptive orders and decrees:

1. The adoptive parents and adoptive child shall be treated under the law as if the relationship was that of a natural child and parent, except as set forth herein.
2. The adoptive child shall have an absolute right, absent a convincing and compelling reason to the contrary, to information and knowledge about his natural family and his Blackfeet Tribal heritage.
3. The adoptive child and members of the child's natural extended family (including parents) shall have a right of reasonable visitation with each other, subject to reasonable controls of the adoptive parents.
4. Adoption shall not serve to prevent an adoptive child from inheriting from a natural parent in the same manner as any other natural child. The natural parents shall not be entitled to inherit from an adoptive child in the same manner as parents would otherwise be entitled to inherit. An adoptive child shall be entitled to inherit from adoptive parents, and vice versa, in the same manner as if natural parents and child.

Section 3. Consent to Adoption.

A. When not required. Written consent to an adoption is not required if:

1. The parent has abandoned the child;
2. The parent's rights have been terminated;
3. The parent has relinquished parental rights;
4. The parent has been declared incompetent.

B. When required. Written consent to an adoption is required from:

1. The biological or adoptive mother;
2. The biological, adoptive, or acknowledged father;
3. The custodian, if empowered to consent;
4. The court, if the custodian is not empowered to consent;
5. The child, if twelve (12) years of age or older.

Section 4. Execution of Consent to Adopt.

Written consent to an adoption shall be executed and acknowledged before the court. Consent shall not be accepted or acknowledged by the court prior to ten (10) days after birth of the child. An interpreter shall be provided if the person consenting to the adoption does not understand English. Consents of a child twelve (12) years of age or older shall be made orally either in open court, or in chambers with only the judge and any other person(s) deemed necessary, and the child present.

Section 5. Who May File An Adoption Petition.

Any person may file a petition for adoption with the Family Court Presenting Officer. The petition shall be initiated by the person proposing to adopt. In the case of married persons maintaining a home together, the petition shall be the joint petition of husband and wife, except that if one of the spouses is the natural or adopted parent of the proposed adoptee, said parent shall not be required to join in the petition.

Section 6. Content of Adoption Petition.

The petition for adoption shall include the following, to the best information and belief of the petitioner:

1. The full name, address, and tribal affiliation of the petitioner;
2. The full name, sex, residence, date and place of birth, and tribal affiliation of the proposed adoptee;
3. The name by which the proposed adoptee shall be known if the petition is granted;
4. The basis for the Blackfeet Family Court's jurisdiction;
5. If the proposed adoptee is a child, a full description and statement of value of all property owned, possessed or in which the child has an interest;
6. The relationship of the petitioner to the proposed adoptee; and
7. The names and addresses of any person or agency whose consent to aid adoption is necessary.

NOTE: Where there are more than one proposed adoptee, and the proposed adoptee are siblings, only one petition shall be required for the adoption of all or any combination of the siblings, provided that each sibling proposed to be adopted be named in the petition. All petitions must be signed and dated by the petitioner, and must be notarized or witnessed by a clerk of the court.

Section 7. Notice.

Notice shall be provided in accordance with the notice procedures set forth in Chapter 17, section 6 of this code except that the court may determine that it is unnecessary to give notice to specific individuals, including a parent whose parental rights have been terminated.

Section 8. Home Studies.

When a petition for the adoptions of a child is filed with the Blackfeet Family Court, the court shall immediately request that the social services department or other qualified agency, conduct a home study on the petitioner and a report on the child. The home study and report shall relate the circumstance of the home, the petitioner and his/her ability, both physical and mental, to assume the responsibilities of a parent of the child. The home study shall contain other pertinent information designed to assist the Blackfeet Family Court in determining the best placement for the child. The home study will also address the issue of

whether or not the home most closely resembles that of the child's culture, identity, and where applicable, tribal affiliation. The home study or report shall not be required where the proposed adoptee is an adult.

No determination can be made on a petition for adoption until the home study and/or report has been completed and submitted to and considered by the Blackfeet Family Court. The home study shall be submitted to the court no later than ten (10) days before the hearing. The home study and/or report may be consolidated into one document. The Blackfeet Family Court may order additional home studies or reports if deemed necessary.

Section 9. Withdrawal of Consent.

Any consent given under the provisions of this chapter may be withdrawn by the person or agency which gave the consent at any time prior to the entry of a final decree of adoption. No reason need be stated and no hearing need be held on such withdrawal.

1. All withdrawals must be in writing and notarized or witnessed by a clerk of the Blackfeet Family Court and the original document filed with the court.
2. Within two (2) years after the entry of a decree of adoptions, said decree may be vacated upon a petition being filed and a showing that the consent which made the decree possible was obtained through fraud or duress. Upon such showing the court shall vacate the decree and return the adopted person to that status had prior to entry of the decree.

Section 10. Adoption Preferences.

The preference of placement in adoption shall be in the following order unless the Blackfeet Family Court determines that the child's best interests require deviation from the preferences:

1. Extended family member;
2. A Blackfeet Tribal member or person eligible for Blackfeet Tribal membership;
3. Other Indian person(s), and;
4. If this order of preference cannot be met, then placement may be made with any person who has some knowledge of the child's tribal affiliation and special needs.

Section 11. Hearing Procedures.

An adoption hearing shall be held within ninety (90) days of receipt of an adoption petition from the prospective parent(s). The Blackfeet Family Court shall conduct the hearing to determine if it is in the best interests of the child, the Blackfeet Family Court shall examine the following:

1. Validity of written consent;
2. Termination of parental rights order;

3. Length of time of the child's wardship by the court;
4. Special conditions of the child;
5. Parental communication with the child;
6. Minor's consent to adoption, if twelve (12) years of age or older;
7. Home studies or other reports; and;
8. Order of preference of placement.

The petitioner and the proposed adoptee shall appear personally at the hearing. During the hearing the Blackfeet Family Court shall advise the party(s) of their basic rights as provided in the Blackfeet Law and Order Code. The judge shall examine all persons separately, and may, if satisfied that all other requirements of this chapter have been met, enter a final decree of adoption, or may place the person to be adopted, if a child, in the legal custody of the of the petitioner for a period not to exceed six (6) months prior to entering a final decree of adoption.

If the Blackfeet Family Court is satisfied that the adoption will not be in the child's best interest, or finds that all of the requirements of this chapter have not been met, it may deny the petition and make any other order it deems necessary for the care and custody of the child not inconsistent with this code.

Proceedings for termination of the parent-child relationship and proceedings for adoption may be consolidated and determined at one (1) hearing provided that all the requirements of this chapter as well as Chapter 17 of this code governing termination are complied with fully.

The hearing shall be informal in nature. Concerned parties may present evidence relating to the situation. Hearsay evidence will not be excluded from the proceedings. Only the parties, their counsel, witnesses, the child's extended family and other persons determined to be appropriate by the court shall be admitted.

Section 12. Adoption Decree.

If the Blackfeet Family Court finds that the requirements of this chapter have been met and that the child's best interests will be satisfied, a final decree of adoption may be entered.

NOTE: A person, when adopted, may take the name of the person adopting, and the two shall thenceforth sustain toward each other the legal relationship of parent and child, and shall have all the rights and shall be subject to all the duties of that relationship, including all of the rights of a child of the whole blood to inherit from any person, in all respects, under the provisions of inheritance and succession of this code.

CHAPTER 19

MODIFICATION, REVOCATION OR EXTENSION OF COURT ORDERS

Section 1. Purpose.

The purpose of this Chapter is to set procedures for motions to modify, revoke, or extend Blackfeet Family Court Orders.

Section 2. Motion to Modify, Revoke, or Extend Family.

Court Orders The Blackfeet Family Court may hold a hearing to modify, revoke, or extend a court order under this code at any time upon the motion of:

1. The Child;
2. The child's parent, guardian or custodian;
3. The prospective adoptive parent(s) upon court order;
4. The child's counsel or guardian ad litem;
5. The Family Court Probation Officer;
6. The Family Court Presenting Officer;
7. The institution, agency, or person vested with the legal custody of the child, or responsible for protective supervision, or;
8. The Blackfeet Family Court on its own motion.

Section 3. Hearing Procedure.

Any hearing to modify, revoke or extend a Blackfeet Family Court Order shall be held in accordance with the procedures established for the order at issue.

CHAPTER 20

FAMILY COURT RECORDS

Section 1. Purpose.

The purpose of this chapter is to insure that records are kept and preserved of all proceeding in the Blackfeet Family Court.

Section 2. Family Court Records Involving Minors.

All Blackfeet Family Court Records involving minors shall be kept confidential and shall not be open to inspection to any but the following except as provided for in this section, reports of child abuse or neglect and the name and address of any child, family, or informant or any other identifying information contained in such reports shall be confidential and shall not be public information:

1. The child;
2. The child's parent(s), guardian, or custodian;
3. The child's counsel or guardian ad litem;
4. The Law Enforcement agency or department investigating a report of known or suspected child abuse or neglect, treating a child or family which is the subject of the report;
5. The Blackfeet Family Court personnel directly involved in the handling of the case;
6. Any other person by order of the Blackfeet Family Court, having legitimate interest in the particular case or the work of the Blackfeet Family Court.
7. Disclosure of the name and address of the child and family and other identifying information involved in such reports shall be permitted only when authorized by a court for good cause. Such disclosure shall not be prohibited when there is a death of a suspected victim of child abuse or neglect and the death becomes a matter of public record, the subject of an arrest by a law enforcement agency, or the subject of the filing of a formal charge by a law enforcement agency.
8. Any Court, upon finding that access to such records may be necessary for determination of an issue before such court, but such access shall be limited to an in camera inspection unless the Blackfeet Family Court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before such court.

Section 3. Law Enforcement and Social Services Records.

Law enforcement and Social Services records and files delivered to the Blackfeet Family Court concerning a minor shall be kept separate from the records and files of adults. All law enforcement and social services records shall be kept confidential and shall not be open to inspection to any but the following:.

1. The child;
2. The child's parent(s), guardian or custodian;
3. The child's counsel or guardian ad litem;
4. Law enforcement and social services personnel directly involved in the handling of the case;
5. The Blackfeet Family Court personnel directly involved in the handling of the case;
6. Any other person by order of the Blackfeet Family Court, having legitimate interest in the particular case or the work of the Blackfeet Family Court.

Section 4. Penalties.

Any person who violates any provision of this Chapter shall be subject to a civil penalty of

not more than five hundred dollars (\$500.00)

Section 5. Expungement of Juvenile Records.

When a juvenile who has been the subject of any proceeding before the Family Court attains his/her eighteenth (18th) birthday, the Chief Judge of the Blackfeet Family Court shall order the Clerk of the Family Court to destroy all court records and the law enforcement records, except: where jurisdiction has been extended to age twenty-one (21) pursuant to the Blackfeet Law and Order Code.

CHAPTER 21

FAMILY COURT APPEALS

Section 1. Purpose.

The purpose of this chapter is to establish a process for appealing decisions by the Blackfeet Family Court.

Section 2. Who Can Appeal.

Any party to a Blackfeet Family Court hearing may appeal a final Blackfeet Family Court Order.

Section 3. Time Limit for Appeal.

Any party seeking to appeal a final Blackfeet Family Court Order shall file a written notice of appeal with the Blackfeet Family Court within thirty (30) days of the final order.

Section 4. Record.

For purposes of appeal, a record of proceedings shall be made available to the child, his parent(s), guardian or custodian, the child's counsel and other upon court order. Costs of obtaining this record shall be paid by the party seeking the appeal.

Section 5. Stay of Appeal.

A Blackfeet Family Court Order may be stayed by such appeal.

Section 6. Conduct of Proceedings.

All appeals shall be conducted in accordance with the Blackfeet Law and Order Code and tribal court rules of procedure as long as those provisions are not in conflict with the provisions of the Blackfeet Family Code.

CHAPTER 22

PENALTIES

Section 1. Purpose.

The purpose of this Law is to recognize that Child Abuse/Neglect/Endangerment, Sexual Crimes, and Failure to Supervise a child are serious crimes against our society's youth. It is the intent of the Blackfeet Family Court that the official response to case of Child Abuse/Neglect/ Endangerment, and Failure to Supervise a minor are not to be excused or tolerated.

Section 2. Definitions of Crimes.

The following definitions of crimes shall apply to the Blackfeet Family Court Code:

- A. "Child Abuse" - A person commits the Offense of Child Abuse by inflicting or causing physical or mental injury, harm or imminent danger to the physical or mental health or welfare of a child other than by accidental means, including abandonment, sexual abuse, excessive or unreasonable corporal punishment, malnutrition or substantial risk thereof, or any other acts and omissions by the parent(s) or other person responsible for the child's welfare.
- B. "Child Neglect" - A person commits the Offense of Child Neglect by failure or refusal by those responsible for a child's welfare to provide reasonable adequate care (food, shelter, clothing), maintenance, emotional support, supervision, education, medical, surgical or any other care on behalf of the child. "Neglect" shall include "abandoned" children.
- C. "Child" - A person commits the Offense of Child Endangerment by failure or refusal by those responsible for a child's welfare to provide a reasonable adequate and safe environment for a child/children, including but not limited to the following:
 - 1. Parents or guardians intoxicated leaving the child/children without proper supervision or care.
 - 2. Leaving an unattended child, under the age of six (6) years in a motor vehicle.
 - 3. Any other situation in which the child/children are placed in an environment for which there is a substantial risk of injury.
 - 4. A parent or guardian or any other person who is eighteen (18) years of age or older, whether or not he/she is supervising the welfare of the child, commits the offense of "Child Endangerment" if he/she knowingly contributes to the delinquency of a child by encouraging or aiding the child to:
 - a. Escape from the care, custody, and control of his/her parent or guardian;
 - b. Engages in sexual misconduct; or
 - c. Violates any Tribal or Federal Law.

D. "Failure to Supervise" - A person commits the offense of Failure to Supervise by failure or refusal by those responsible for a child's welfare to provide adequate supervision for a minor, including but not limited to the following:

1. If a child has NOT been reported to Law Enforcement as a "Runaway" and is out after "Curfew" the parents or guardians may be charged with the offense of "Failure to Supervise".
2. If a child has NOT been reported to Law Enforcement as a "Runaway" and commits any unlawful offense, the parents or guardians may be charged with the offense of "Failure to Supervise".

E. "Sexual Assault on a Minor" - A person commits the offense of Sexual Assault on a Minor by:

1. knowingly subjecting any person who is less than sixteen (16) years of age to any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying the sexual desires of either party or;
2. a person over the age of eighteen (18) years of age who knowingly permits or assists another to commit the offense of Sexual Assault on a Minor commits the offense of Sexual Assault on a Minor.

F. "Sexual Intercourse with a Minor" - a person commits the offense of "Sexual Intercourse with a Minor" by:

1. knowingly having sexual intercourse (either genital, anal, or oral) with a member of the opposite sex who is less than sixteen (16) years old commits the offense of "Sexual Intercourse with a Minor" or;
2. a person over the age of eighteen (18) years of age who knowingly permits or assists another to have sexual intercourse with a minor commits the offense of "Sexual Intercourse with a Minor".

G. "Deviate Sexual Conduct" - a person commits the offense of "Deviate Sexual Conduct" by:

1. knowingly subjecting a person of the same sex, who is less than sixteen (16) years old to either genital, oral or anal intercourse commits the offense of "Deviate Sexual Conduct".
2. a person over the age of eighteen (18) years of age who knowingly permits or assists another to commit the offense of "Deviate Sexual Conduct" commits the offense of Deviate Sexual Conduct.

Section 3. Bail.

Any person arrested for any of the offenses listed under Section 2. A. B. C. and D, shall have a bail set in the amount of six hundred dollars (\$600.00) (NO REDUCTION). Any person arrested for any of the offenses listed under Section 2. E. F. and G. shall have a bail set in the amount of one thousand dollars (\$1,000.00) (NO REDUCTION).

Section 4. Penalties.

A person convicted in the Blackfeet Family Court of any of the offenses listed under Section 2, shall have the following penalties imposed:

- A. Child Abuse/Neglect/Endangerment resulting in hospitalization, broken bones, or lacerations requiring stitching.
 - 1. First Offense - A person convicted of a first offense of Child Abuse/Neglect/Endangerment resulting in hospitalization, broken bones, or lacerations requiring stitching shall be fined in an amount not less than one hundred dollars (\$100.00) nor more than five hundred. (\$500.00) and shall be imprisoned for a term of not less than ten (10) days nor more than thirty (30) days. The Blackfeet Family Court shall require mandatory counseling as part of the sentence. Such counseling shall include, but is not limited to: Alcohol/drug Abuse Counseling, Child Abuse/Neglect/Endangerment Counseling, Anger Control Counseling, and Family Counseling. Counseling as indicated herein shall mean completion of the program. Persons who practice Traditional Indian Religion shall be entitled to counseling by a Medicine Man recognized in the Blackfeet Community as such.
 - 2. Second and Subsequent Offenses - A person convicted of a second or subsequent offense of Child Abuse/Neglect/Endangerment resulting in hospitalization, broken bones, or lacerations requiring stitching shall be fined in an amount not less than three hundred dollars (\$300.00) nor more than (\$500.00) and shall be imprisoned for a term of not less than thirty (30) days nor more than ninety (90) days. The Blackfeet Family Court shall require Counseling as directed in Section 4, A. 1.
- B. Child Abuse/Neglect/Endangerment resulting in serious bodily injury defined as bruising, spraining, extreme fear, or pulled hair - this level is to be interpreted as a "combination" of injury factors.
 - 1. First Offense - A person convicted of a first offense of Child Abuse/Neglect/Endangerment as outlined in Section 4. B. shall be fined in an amount not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) and be imprisoned for a term not to exceed fifteen (15) days. The Blackfeet Family Court shall require Counseling as directed in Section 4. A. 1.
 - 2. Second and Subsequent Offenses - A person convicted of a second or subsequent offense of Child Abuse/Neglect/ Endangerment as outlined in Section 4. B. shall be fined in an amount not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00) and be imprisoned for a term of not less than five (5) days, nor more than thirty (30) days. The Blackfeet Family Court shall require Counseling as directed in Section 4. A. 1.
- C. Failure to Supervise - A person convicted of the offense of " Failure to Supervise" shall be sentenced as follows:
 - 1. First Offense - A person convicted of a first offense of "Failure to Supervise" shall be fined in an amount not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) and may be imprisoned not to exceed thirty (30) days. The Blackfeet Family Court may require mandatory counseling as part of the sentence, such counseling may include, but is not limited to: Alcohol/Drug Abuse Counseling , Child. Abuse/Neglect/Endangerment Counseling, Anger Control Counseling, and Family Counseling. Counseling as

indicated herein shall mean completion of the program. Persons who practice Traditional Indian Religion shall be entitled to counseling by a Medicine Man recognized in the Blackfeet Community as such.

2. Second and Subsequent Offenses -A person convicted of second or subsequent offenses of "Failure to Supervise" shall be fined in an amount not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00) and shall be imprisoned not less than ten (10) days, nor more than forty-five (45) days. The Blackfeet Family Court may require mandatory counseling as directed in Section 4. C. 1.

D. Sexual Assault on a Minor, Sexual Intercourse with a Minor, or Deviate Sexual Conduct - A person convicted of 'the offense of "Sexual Assault on a Minor", Sexual Intercourse with a Minor", or Deviate Sexual Conduct shall be sentenced as follows:

1. First Offense - A person convicted of a first offense of "Sexual Assault on a Minor", Sexual Intercourse with a Minor", or "Deviate Sexual Conduct" shall be fined in an amount not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) and shall be imprisoned for a term of not less than ninety (90) days nor more than three hundred and sixty five (365) days. The Blackfeet Family Court may require mandatory counseling as directed in Section 4. A. 1.
2. Second and Subsequent Offenses - A person convicted of second or subsequent offenses of "Sexual Assault on a Minor", "Sexual Intercourse with a Minor", or "Deviate Sexual Conduct" shall be fined in an amount not less than one thousand dollars (\$1,000.00) and imprisoned for a term of three hundred and sixty five (365) days. The Blackfeet Family Court may require mandatory counseling as directed in Section 4. A. 1.

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