

**SKOKOMISH CHILD PROTECTION AND  
FAMILY PRESERVATION ORDINANCE  
Adopted by Resolution No. 16-24 (February 2, 2016)**

**TABLE OF CONTENTS**

**GENERAL PROVISIONS**

<b>3.03.001</b>	<b>Title</b>
<b>3.03.002</b>	<b>Purpose and Scope</b>
<b>3.03.003</b>	<b>Authority</b>
<b>3.03.004</b>	<b>Jurisdiction</b>
<b>3.03.005</b>	<b>Definitions</b>
<b>3.03.006</b>	<b>Construction</b>
<b>3.03.007</b>	<b>Severability</b>
<b>3.03.008</b>	<b>No Waiver of Sovereign Immunity</b>

**PROCEEDINGS**

<b>3.03.026</b>	<b>Rights of Parties</b>
<b>3.03.027</b>	<b>Confidentiality of Records and Proceedings</b>
<b>3.03.028</b>	<b>Guardians Ad Litem</b>
<b>3.03.029</b>	<b>Procedure for Hearings</b>
<b>3.03.030</b>	<b>Personal Jurisdiction</b>
<b>3.03.031</b>	<b>Subject Matter Jurisdiction</b>
<b>3.03.032</b>	<b>Concurrent Jurisdiction</b>
<b>3.03.033</b>	<b>Recognition of Other Courts' Orders</b>
<b>3.03.034</b>	<b>Notice to Other Tribes</b>
<b>3.03.035</b>	<b>Transfer of Jurisdiction – Authority of Court</b>
<b>3.03.036</b>	<b>Transfer of Jurisdiction – Hearings</b>
<b>3.03.037</b>	<b>Interim Orders to Protect the Youth during Transfer Proceedings</b>
<b>3.03.038</b>	<b>Intervention in State Court Proceedings</b>

**CHILD IN NEED OF CARE**

<b>3.03.051</b>	<b>Purpose</b>
<b>3.03.052</b>	<b>Procedures and Guidelines</b>
<b>3.03.053</b>	<b>Child in Need of Care</b>

**REPORTING ABUSE AND NEGLECT**

<b>3.03.060</b>	<b>Reporting Abuse and Neglect</b>
<b>3.03.061</b>	<b>Immunity</b>
<b>3.03.062</b>	<b>False Report</b>
<b>3.03.063</b>	<b>Sanctions</b>
<b>3.03.064</b>	<b>Contents of the Report</b>
<b>3.03.065</b>	<b>Open Communication Policy</b>
<b>3.03.066</b>	<b>Response to the Report</b>
<b>3.03.067</b>	<b>Role of the Skokomish Department of Family Services</b>
<b>3.03.068</b>	<b>Role of Law Enforcement</b>
<b>3.03.069</b>	<b>Role of the Indian Child Welfare Caseworker</b>

**3.03.070 Preliminary Investigation**

**EMERGENCY PLACEMENT OF YOUTH**

- 3.03.080 Emergency Orders for Taking Custody of a Youth – When Needed**
- 3.03.081 Emergency Custody Orders – Contents**
- 3.03.082 Emergency Custody Orders – Service and Duration**
- 3.03.083 Request for First Hearing**
- 3.03.084 First Hearing – Time, Notice**
- 3.03.085 First Hearing – Order**
- 3.03.086 Placement Preferences for Out of Home Placement**
- 3.03.087 Scheduling a Fact Finding Hearing at First Hearing**

**FAMILY GROUP CONFERENCE**

- 3.03.095 Family Group Conference**

**FACT FINDING HEARINGS**

- 3.03.100 Purpose**
- 3.03.101 Contents and Filing of the Petition**
- 3.03.102 Time and Notice of Hearing**
- 3.03.103 Evidence and Burden of Proof**
- 3.03.104 Agreed Order**
- 3.03.105 Family Protection Plan**
- 3.03.106 Other Suggested Plans**
- 3.03.107 Hearing to Decide the Family Protection Plan**
- 3.03.108 Court Ordered Family Protection Plan (Disposition)**
- 3.03.109 Costs of Support**
- 3.03.110 Review Hearings**

**LONG-TERM GUARDIANSHIP**

- 3.03.120 Purpose**
- 3.03.121 Petition for Guardianship – Who May File**
- 3.03.122 Petition – Contents**
- 3.03.123 Setting the Hearing**
- 3.03.124 Indian Child Welfare Report**
- 3.03.125 Additional Reports**
- 3.03.126 Guardianship Hearing – Conduct**
- 3.03.127 Grounds for Appointing a Guardian**
- 3.03.128 Placement Preference**
- 3.03.129 Powers of Guardian**
- 3.03.130 Appointment of Guardian for a Youth’s Property**
- 3.03.131 Existing Trusts**
- 3.03.132 Removal of Guardian for a Youth's Property**
- 3.03.133 Change of Address**
- 3.03.134 Termination of Guardianship**

**TERMINATION OF PARENTAL RIGHTS**

- 3.03.140 Purpose**
- 3.03.141 Petition for Termination of Parental Rights – Who May File**

- 3.03.142 Petition – Contents
- 3.03.143 Setting the Hearing
- 3.03.144 Indian Child Welfare Report
- 3.03.145 Additional Reports
- 3.03.146 Termination Hearing – Conduct
- 3.03.147 Grounds for Termination and Burden of Proof
- 3.03.148 Consent
- 3.03.149 Disposition

**ADOPTION**

- 3.03.160 Petition for Adoption – Who May File
- 3.03.161 Petition – Contents
- 3.03.162 Availability for Adoption
- 3.03.163 Setting the Hearing
- 3.03.164 Adoption Report
- 3.03.165 Additional Reports
- 3.03.166 Adoption Hearing – Conduct
- 3.03.167 Grounds for Entering Decree of Adoption
- 3.03.168 Placement Preferences
- 3.03.169 Denial of Adoption Petition
- 3.03.170 Decree of Adoption
- 3.03.171 Effect of Decree of Adoption
- 3.03.172 Visitation
- 3.03.173 Adoption Records

**EMANCIPATION**

- 3.03.180 Purpose
- 3.03.181 Who May Petition
- 3.03.182 Contents
- 3.03.183 Consent
- 3.03.184 Standard to Be Applied
- 3.03.185 Rights of Emancipated Youth

**JUVENILE CURFEW**

- 3.03.190 Requirements

**SCHOOL ATTENDANCE**

- 3.03.200 Purpose and Scope
- 3.03.201 Requirements
- 3.03.202 Tools to Improve Skokomish Attendance in School
- 3.03.203 Petition to Court and Court Proceedings
- 3.03.204 Relief on Petition to Court
- 3.03.205 Custody and Disposition of Youth Absent from School without Excuse
- 3.03.206 Intervention in State Court Proceedings

## General Provisions

### **3.03.001 Title**

This ordinance shall be known as the Skokomish Child Protection and Family Preservation Ordinance.

### **3.03.002 Purpose and Scope**

- (a) The Skokomish Indian Tribe recognizes that its youth are its most important resource. This Ordinance is adopted to provide for the care, protection, and wholesome moral, mental, emotional, and physical development of the young people of the Skokomish Indian Tribe. The Skokomish Tribal Council places the highest priority on protecting and preserving the safety, identity, and dignity of young Skokomish people and insuring that the young people of the Skokomish Tribal Community receive assistance and guidance in their own homes whenever possible, separating the youth from their parents only when necessary for their welfare. This Ordinance is further adopted to provide a fair procedure for addressing and resolving conflicts involving Skokomish youths that discourages delinquent acts and protects the Skokomish community while reflecting tribal traditions and restorative justice. Finally, this Ordinance is adopted to ensure that other jurisdictions will be willing and able to return Skokomish youths to the tribal community for care and guidance whenever possible in the best interest of the child.
  
- (b) The provisions of this Ordinance shall apply to the fullest extent of the sovereign jurisdiction of the Skokomish Indian Tribe authorized by the Constitution of the Skokomish Indian Tribe, the Treaty of Point No Point, and applicable federal law. The provisions of this Ordinance shall apply to and be in conformity with all agreements and other cooperative arrangements entered into by the Skokomish Indian Tribe designed to ensure economic self-sufficiency for the Tribe and its people. The provisions of this Ordinance shall apply to all persons who are employed by the Skokomish Indian Tribe and appointed by the Skokomish Tribal Council to serve on advisory committees, task forces, tribal business enterprises, tribal nonprofit organizations, and in tribal government program and administration departments.

### **3.03.003 Authority**

This Ordinance is enacted pursuant to Art. V, Sec. 1(j), (k), and (q) of the Constitution of the Skokomish Indian Tribe.

### **3.03.004 Jurisdiction**

The provisions of this Ordinance shall apply to all persons and property subject to the governing authority of the Skokomish Indian Tribe as established by the Tribal Constitution and by the laws of the United States.

### **3.03.005 Definitions**

For purposes of this Ordinance, unless otherwise expressly provided, the following definitions shall apply:

- (a) “Abandonment” means that a parent has not contacted their child by telephone, letter, or in person, and has made no provisions for the child’s care for more than one (1) continuous year.
- (b) “Adult” means any person who is 18 years of age or older, married, emancipated, or is between the ages of 18 and 21 and has not voluntarily agreed to remain a dependent of the Skokomish Indian Tribe.
- (c) “Attendance Officer” means the Tribal employee whose responsibilities include assuring attendance of Indian youth at school.
- (d) “Custodian” means any person or entity having legal authority over a youth either by court order or a parent’s permission. This term generally applies to foster parents, child-placing agencies, and persons temporarily caring for a youth at the request of a parent.
- (e) “Department”:
  - (1) For the purpose of the Skokomish School Attendance Chapter of this Ordinance, Department means The Skokomish Education Department as established by the laws of this Tribe or such body as may now or hereafter be authorized by the laws of this Tribe to exercise the powers, functions, and duties stated in this ordinance; or
  - (2) For the purpose of all other provisions of the Skokomish Child Protection and Family Preservation Ordinance, Department means The Department of Family Services as established by the laws of this Tribe or such body as may now or hereafter be authorized by the laws of this Tribe to exercise the powers, functions, and duties stated in this ordinance,
- (f) “Director”:
  - (1) For the purpose of the Skokomish School Attendance Ordinance Chapter of this Ordinance, Director means the Tribe’s Director of Education (or successor Department) or his/her delegate; or
  - (2) For the purpose of all other provisions of the Skokomish Child Protection and Family Preservation Ordinance, Director means the Tribe’s Director of Family Services (or successor Department) or his/her delegate.
- (g) “Domicile/Residence” means the determination of domicile and residence shall be in accordance with Tribal law and custom. In the absence of other factors clearly demonstrating an intent to establish a permanent home off of the Reservation or

outside of housing owned or operated by the Tribe, the domicile and/or residence of a custodian, parent or guardian who is physically present within the Reservation or in Tribally owned or operated housing shall be deemed to be within the Reservation or such Tribal property.

- (h) “Excused school absence” means an “excused absence” as determined by the school in accordance with RCW 28A.225.020.
- (i) “Extended family” means family according to Skokomish tribal custom, which includes formal and informal community ties. These extended family ties may be based on bloodlines, marriage, friendship, and traditions of care. Specifically, all women in the Skokomish community become “auntie” or “grandma” when they reach a certain mature age, regardless of blood relationships. Although grandparents (including great-grandparents and great-great-grandparents), aunts, uncles, siblings, cousins, in-laws, and step relations are all extended family, any member of the Skokomish community who is reliable, responsible, loving, and willing to care for a child may be considered extended family under Skokomish custom and tradition.
- (j) “Guardian” means a person other than the youth’s parent who is responsible, by law, for that youth.
- (k) “Indian tribe” means any tribe, band, nation, pueblo, Alaska Native village community, or group of indigenous people recognized by the Secretary of the Interior as eligible for services provided to Indians; any treaty tribe, First Nations, Inuit, Métis, or nonstatus Canadian Indian community; any tribe or indigenous group recognized as such by the Skokomish Indian Tribe through its powers as a sovereign nation, regardless of federal recognition status.
- (l) “Indian youth” means any unmarried person under the age of 18 years who is:
  - (1) An enrolled member of a federally recognized Indian tribe;
  - (2) Eligible for membership in a federally recognized Indian tribe, including eligibility for adoption into tribal membership;
  - (3) The child or grandchild of a member of a federally recognized Indian tribe;
  - (4) An Alaska Native (including Eskimo and Aleut) or Canadian Indian (including First Nations, Inuit, Métis); or
  - (5) Considered to be Indian by himself or herself and by the Skokomish Indian Community.
- (m) “Parent” means a biological or adoptive parent, but does not include persons whose parental rights have been legally terminated. It also does not include an unwed father who has not acknowledged or established paternity in one (1) or more of the following ways: being identified as the father on the youth’s birth certificate; by acknowledging paternity to tribal enrollment authorities or to a court; or through

formal paternity proceedings under tribal or state law.

- (n) “Reservation” means all lands and waters within the exterior boundaries of the Skokomish Indian Reservation, as now or later proclaimed.
- (o) “Tribe” refers to the Skokomish Indian Tribe as defined in the Skokomish Tribal Constitution.
- (p) “Tribal Council” refers to the governing body of the Skokomish Indian Tribe as defined in the Skokomish Tribal Constitution.
- (q) “Tribal Court” means the Skokomish Tribal Court as established by the laws of this Tribe or such body as may now or hereafter be authorized by the laws of this Tribe to exercise the powers and functions of a court of law.
- (r) “Tribal law enforcement” or “tribal police” means the Skokomish Department of Public Safety.
- (s) “Tribal law enforcement officer” means a sworn officer acting under the authority of the Skokomish Indian Tribe through the Skokomish Department of Public Safety.
- (t) “Tribal status” means the tribe or tribes, if any, in which a youth is a member or eligible for membership.
- (u) “Unexcused school absence” means an “unexcused absence” as determined by the school in accordance with RCW 28A.225.020
- (v) “Vulnerable adult” means a person who is 18 years of age or older and is, or may be, in need of community services due to age, illness, or a mental or physical disability, or who may be unable to care for himself/herself, or unable to protect himself/herself against significant harm or exploitation.
- (w) “Youth (minor)” means:
  - (1) A person under the age of eighteen (18) years;
  - (2) A person eighteen (18) years of age or older who is the subject of proceedings commenced in Youth Court prior to his or her eighteenth (18th) birthday; or
  - (3) A person eighteen (18) years of age or older who is under the continuing jurisdiction of the Youth Court.

**3.03.006 Construction**

- (a) With the exceptions of the provisions stated in subsection (b) of this section, this Ordinance shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.

- (b) The provisions of this ordinance relating to Placement Preferences (S.T.C. 3.03.086; S.T.C. 3.03.128; and S.T.C. 3.03.168) shall be construed under the rule of strict construction.
- (c) For purposes of this Ordinance, “membership,” “enrollment,” and “enrolled membership” are used interchangeably with respect to tribal status.

**3.03.007 Severability**

If any provision of this Ordinance, or its application to any person, legal entity, or circumstance, is held invalid, the remainder of the Ordinance, or the application of the provision to other persons, legal entities, or circumstances, shall not be affected.

**3.03.008 No Waiver of Sovereign Immunity**

The Skokomish Indian Tribe expressly reserves all of its inherent sovereign rights as a federally recognized Indian tribe, including sovereign immunity from suit in any state, federal, or tribal court without the Tribe’s express consent.

**Proceedings**

**3.03.026 Rights of Parties**

Any party requiring notice under S.T.C. 3.03.029(e) shall have the following rights and shall be informed of these rights at the party's first appearance before the Court:

- (a) The parent(s), guardian(s), or custodian(s) have the right to be informed of the location of the youth, unless releasing that information would endanger the youth, and the right to either visit the youth or petition the Court for visitation rights if the Indian Child Welfare Caseworker determines that visitation is not consistent with the youth’s best interests.
- (b) The youth has the right to petition the Court to begin or suspend visits with the youth's parent, guardian, or custodian. The youth may petition the court directly or through a spokesperson, who may be the youth's guardian ad litem (if a guardian ad litem has been appointed), an Indian Child Welfare Caseworker, or other spokesperson of the youth's choosing. A petition to begin or suspend visitation brought by a youth shall be heard at the next court date. If a petition to suspend visitation is brought by a youth, visitation shall be temporarily suspended until the issue is decided.
- (c) Any party has the right to be represented by another person at the party’s own expense, provided the party desiring representation timely retains such representation. If a party informs the Court at the first hearing that the party wants to be represented, the first hearing may be continued at the Court's discretion for up to 14 days to give the party time to retain representation. Later hearings shall not be continued for this purpose unless the Court determines that manifest injustice would

result if a continuance is not granted.

- (d) Any party has the right to introduce evidence, to be heard, and to examine witnesses.
- (e) Any accused party has the right to remain silent or otherwise refrain from incriminating himself or herself.
- (f) There is no right to a jury trial in any proceeding under this Ordinance.

**3.03.027 Confidentiality of Records and Proceedings**

- (a) Hearings shall be closed to the public and open only to involved parties as set forth in S.T.C. 3.03.029(e). The Court shall have the authority to elicit evidence necessary to its determination.
- (b) Records and files in Court proceedings shall be confidential and shall not be open to inspection to any but the following, except as may be ordered by the Court in the youth's best interest or as set forth in S.T.C. 3.03.027(c).
  - (1) The youth and his legal representative.
  - (2) The youth's parent(s), guardian(s), or their representative.
  - (3) The Skokomish Indian Child Welfare Caseworker assigned to the case.
  - (4) The legal representative of the Tribe who is presenting the case.
- (c) In addition to the above, the following shall have access to information, records, and files in Court proceedings pursuant to this Ordinance on a "need to know" basis, as determined by the Indian Child Welfare Caseworker, or by order of the Court:
  - (1) Tribal law enforcement officers directly involved in the proceedings;
  - (2) Members of the Skokomish Indian Tribe's Child Protective Team (CPT), which shall be required to execute a confidentiality agreement provided by the Skokomish Department of Family Services;
  - (3) The youth's custodian(s) and/or their legal representative;
  - (4) The staff of agencies and departments whose cooperation is necessary for the protection of the youth, including non-tribal agencies and departments.
- (d) Indian Child Welfare files shall not be released to anyone except the staff of the Tribe's Indian Child Welfare Program and the Tribe's legal representative(s) unless entered into evidence by the Indian Child Welfare Caseworker or the Tribe's representative in a proceeding under this Ordinance or by order of the Court.
- (e) Indian Child Welfare files on reports that have not resulted in Court proceedings

under this Ordinance shall be destroyed two (2) years after the Indian Child Welfare Program's last contact with the youth or the youth's family, or when the youth reaches the age of 18, whichever comes first.

- (f) Court files and records in Indian Child Welfare cases shall be permanently sealed upon dismissal, or upon the youth reaching the age of 18. Upon the sealing of the case file, the court administrator may upload and save a certified electronic copy of the case file in the Court's confidential database, to be accessed only by judicial and authorized court personnel. The court administrator shall keep the sealed physical files in a secured filing cabinet. Once the youth turns 18 and the certified electronic copy of the case file is properly stored, the court administrator may destroy the physical file. The electronic copy of the case file is considered to be a permanently sealed file. Permanently sealed files and records, whether electronic or physical, may be accessed only by order of the Tribal Court.
- (g) Any violator of S.T.C. 3.03.027 shall be subject to a civil fine of \$500.00. In addition, any violation of S.T.C. 3.03.027 by a Skokomish tribal employee shall result in immediate termination of employment. This provision supersedes any personnel policy with regard to termination of employment by the Tribe.

### **3.03.028 Guardians Ad Litem**

A guardian ad litem is a person appointed by the Court to represent the best interests of a youth. The Court may appoint a qualified guardian ad litem when a parent cannot exercise sound judgment on behalf of the youth.

### **3.03.029 Procedure for Hearings**

- (a) All proceedings under this Ordinance are civil proceedings. Except as otherwise provided herein, proceedings under this Ordinance shall be governed by the Rules of the Skokomish Tribal Court, S.T.C. 3.01.
- (b) No fact-finding, guardianship, termination, or adoption hearing shall go forward without at least 30 days' written notice to all parties unless otherwise provided in this Ordinance. The notice shall include:
  - (1) The nature of the proceeding and name of the Court;
  - (2) The date, time, and place of the hearing;
  - (3) Guidance that responses to the petition are due within 20 days of receipt of the notice of hearing, the names and addresses of the Court with which responses and other pleadings must be filed and all parties on whom responses and other pleadings must be served, and the manner by which filing and service must be accomplished; and
  - (4) A copy of the petition.

- (c) Motions may be raised orally or in writing unless otherwise required by the Court or this Ordinance. If the motion is not made in open court during and as a consequence of events at a fact-finding, guardianship, termination, or adoption hearing, the moving party shall notify the court and all other parties of the nature of the motion; the date, time, and place of presentation of the motion; and the basis for the motion at least seven (7) days before the motion is presented in Court.
- (d) Any party may submit reports or other pleadings by filing them with the Court. Any document filed with the Court must be served by the submitting party on all other parties at least three (3) days prior to the hearing, following the procedure set forth in this section, unless otherwise provided in this Ordinance. Written answers, if any, to such reports and pleadings may be filed and served one (1) day prior to the hearing.
- (e) The following are parties to actions under this Ordinance:
  - (1) The petitioner;
  - (2) The youth;
  - (3) The youth's parent(s);
  - (4) The youth's guardian(s) or custodian(s);
  - (5) The presenting officer or other designated representative of the Skokomish Indian Tribe;
  - (6) Any tribe in which the youth is enrolled or eligible for enrollment, if the youth is not enrolled in the Skokomish Indian Tribe;
  - (7) Any person the Court, or any party, deems necessary for proper adjudication;
  - (8) Other persons as may be provided elsewhere in this Ordinance.
- (f) If the Court finds at the hearing that additional parties are necessary for proper adjudication of the matter at hand, the Court may continue the hearing to allow those parties to be notified. If the youth's parent(s), guardian(s), and/or custodian(s) do not appear at the hearing, the Court may order a recess and issue orders to secure their attendance. If a party has not been served because, despite due diligence on the part of the petitioner or moving party, the party has not been located, or for other good cause, the Court may, in its discretion, proceed with the hearing.
- (g) All notices of hearing shall be served by the petitioner or moving party. All other pleadings (including reports) shall be filed with the Court and served by the person submitting the pleading.
- (h) Service:
  - (1) All notices for first hearings and for fact-finding, guardianship, termination, and

adoption hearings shall be personally served by a person who has no stake in the outcome of the lawsuit. Personal service means either giving it to the defendant directly or by leaving it at defendant's residence or place of employment with a person at least 14 years old who lives or works there.

- (2) Notices for all other hearings and all other pleadings shall be served either by personal service or by certified mail, return receipt requested, postage prepaid, and properly addressed to the last known address of the person to be served. Mail service is complete three (3) days after mailing within the state of Washington, 14 days after mailing outside the state of Washington but within the United States, and 30 days outside the United States, unless otherwise ordered by the Court.
- (3) The Court may order an alternate method of service, including, but not limited to:
  - (A) Service by Publication. Notices may be published in the Tribal newspaper or any other publication that the Court determines could give fair notice to the person being served. Notices may also be posted at the Tribal Center and the Department of Public Safety. Service by publication shall require the naming of the individual needing to be served and the initials of the case name (e.g. "In re the Welfare of E.G. and S.G., minor Indian children);
  - (B) Service by Notice on the Tribal website. Notice may be posted of the Tribe's website. Service by publication shall require the naming of the individual needing to be served and the initials of the case name (e.g. "In re the Welfare of E.G. and S.G., minor Indian children);
  - (C) Service by electronic means. Notice may be served via email, text, fax, or other electronic means at the last known means of contact via these electronic means of the person to be served.
- (4) Service is not complete until an Affidavit, Declaration, or Certificate of Service has been filed with the Court.

### **3.03.030 Personal Jurisdiction**

- (a) The Tribal Court shall have exclusive original jurisdiction over any proceeding arising under this Ordinance that involves:
  - (1) Any Indian youth who resides or is domiciled on the Skokomish Indian Reservation;
  - (2) Any youth who is a member or is eligible for membership in the Skokomish Indian Tribe, regardless of the youth's residence or domicile; or
  - (3) Any Indian youth who has been placed in temporary or continuing care on the reservation or in any care facility licensed or approved by the Tribe for placement of Indian youths or in the home of a member of the youth's extended

family when the extended family member is a member of the Tribe.

- (b) The Tribal Court shall have jurisdiction over adults in aid of its powers under this ordinance and may make such orders as are necessary and in the best interests of the youth.
- (c) The Tribal Court shall have continuing jurisdiction over a youth who is determined to be subject to this ordinance and shall have the power to modify or dismiss previous orders, expunge the youth's record, or entertain petitions based on new evidence concerning the youth.
- (d) The Tribal Court shall have jurisdiction over persons under the age of 18 years who are parties to cases arising under other chapters of the Skokomish Tribal Code, including but not limited to S.T.C. 4.05 (Skokomish Liquor Ordinance), S.T.C. 7.02 (Skokomish On-Reservation and Treaty Fishing Ordinance), S.T.C. 7.03 (Skokomish Tribal On-Reservation and Treaty Hunting Ordinance), S.T.C. 8 (Civil Traffic Ordinance), and S.T.C. 9 (Skokomish Criminal Code).

**3.03.031 Subject Matter Jurisdiction**

- (a) The Tribal Court shall have exclusive original jurisdiction over proceedings in which one or more of the following circumstances are alleged:
  - (1) The youth is a "child in need of care" as defined by S.T.C. 3.03.053;
  - (2) The youth is the subject of a child custody proceeding as defined in the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq.*, to be transferred to the Skokomish Tribal Court;
  - (3) The youth has been placed for care or adoption in violation of federal, state, or tribal law;
  - (4) The youth is a candidate for long-term guardianship or adoption under the provisions of this Ordinance;
  - (5) The youth has committed an act which, if committed by an adult, would constitute a crime or civil infraction for which a penalty is provided under tribal law.

**3.03.032 Concurrent Jurisdiction**

When state, federal, or other tribal courts have jurisdiction over any matters provided for in this Ordinance, the Skokomish Tribal Court has concurrent jurisdiction over the same matters.

**3.03.033 Recognition of Other Courts' Orders**

The Tribal Court may give recognition to orders issued by a state or another tribal court as a matter of comity (courtesy) if the order does not violate the Indian Child Welfare Act and the

court granting the order had jurisdiction over the case, due process was afforded to all parties, and the order does not violate the public policy of the Skokomish Indian Tribe.

**3.03.034 Notice to Other Tribes**

If the Court or any party, in a proceeding involving the out-of-home-placement of a youth, has reason to believe that the youth is a member or eligible for membership in another tribe, the court clerk shall be directed to give written notice of the proceeding to the other tribe. The notice shall ask that the tribe respond in writing within 15 days of receiving the notice and to state whether it intends to act in the matter.

**3.03.035 Transfer of Jurisdiction – Authority of Court**

The Tribal Court has the authority to accept transfers of jurisdiction from other courts or government agencies. The Tribal Court shall only transfer a case under this chapter to another court pursuant to S.T.C. 3.03.036.

**3.03.036 Transfer of Jurisdiction – Hearings**

In cases where more than one government has an interest in a proceeding and a motion for transfer of jurisdiction has been received, or on motion of the Tribal Court if the Tribal Court determines that a transfer of jurisdiction to the other court may be in the best interest of the youth or otherwise fitting, the Tribal Court shall hold a hearing upon notice to the interested parties. The Tribal Court shall weigh the following factors and decide whether or not compelling reasons exist to transfer jurisdiction:

- (a) The wishes of the parent, custodian, or guardian;
- (b) The wishes of the child, if he/she is able to understand the meaning of a transfer of jurisdiction;
- (c) The recommendation of tribal law enforcement and of social and health services staff;
- (d) The place each party lives and their tribal status;
- (e) The ties and contacts each party has with the communities involved;
- (f) The stage of the proceedings in each of the courts with a claim to jurisdiction at the time the motion is brought;
- (g) Whether the other court has timely responded to the notice of the Tribal Court; and
- (h) Whether the other court or government has previously declined to accept, or failed to accept, a transfer of jurisdiction over the child.

### **3.03.037 Interim Orders to Protect the Youth during Transfer Proceedings**

The Court may make any orders which will protect the child and assist the youth's family, pending the outcome of any transfer of jurisdiction proceeding.

### **3.03.038 Intervention in Other Court Proceedings**

The Tribe may intervene in another court's child custody proceedings, as defined by the Indian Child Welfare Act, at any point in the proceedings. The Tribal Council must approve any intervention before that action is filed in another court.

## **Child in Need of Care**

### **3.03.051 Purpose**

- (a) The Skokomish Indian Tribe has always protected youth and assisted families without a formal code. These sections provide written procedures to better coordinate the services the Tribe offers youth and families and to facilitate cooperation between the Tribe and other governments, persons, and entities toward the mutual goal of providing for the safety and well-being of the Tribe's youth.
- (b) When there is a question of whether a child is in need of care, the presumption shall be in favor of providing protection for the child. Separation of youth from their parents should be seen as a last resort, and when such separation is necessary for the safety and well-being of the youth, the primary goal of these sections is successful reunification of the youth with their parents.
- (c) This Ordinance does not address situations where a person who is under 18 years of age has committed an act which if committed by an adult would constitute a crime or for which a penalty is provided under tribal law. S.T.C. 9.12 governs Juvenile Justice.

### **3.03.052 Procedures and Guidelines**

- (a) The Skokomish Department of Family Services is empowered to develop or adopt standards and procedures for achieving the purposes of these sections.
- (b) The Department is encouraged to make use of models, indicators, guidelines, protocols, manuals, textbooks, and other social work aids developed by qualified researchers and practitioners, provided they are not inconsistent with Skokomish tribal law, and to seek the guidance of qualified elders, historians, Skokomish culture bearers, or other tribal representatives to achieve the purposes of these sections.

### **3.03.053 Child in Need of Care**

- (a) Skokomish tribal custom recognizes that a parent may need to place a youth with another caregiver temporarily. This is not in itself grounds for a child in need of care action, provided the substitute caregiver is adequately caring for the youth.

(b) A “child in need of care” is a person between the ages of 18 and 21 years who voluntarily agrees to remain a dependent of the Tribe, or an unmarried person under the age of 18 years who meets one (1) or more of the following criteria:

(1) Has no parent, guardian, or custodian available or has no parent, guardian, or custodian able to provide proper care;

(2) Is neglected. "Neglect" means the youth, for reasons other than poverty, is not receiving the food, clothing, shelter, medical care, education, support, or supervision needed for his or her well-being or development. Any of the following shall provide reasonable cause to believe a youth may be neglected. This list of examples is neither prescriptive nor exhaustive.

(A) *Inadequate Food, Clothing, or Shelter.* Evidence that a youth may not be receiving adequate food, clothing or shelter includes, but is not limited to the following:

(i) The youth is suffering from disability, disease, or poor health due to inadequate nutrition;

(ii) The youth is failing to thrive as determined by a qualified medical professional;

(iii) The youth is habitually or frequently not dressed adequately for weather conditions;

(iv) The youth is frequently or habitually locked out of the youth's home;

(v) The youth's home is unsafe or unsanitary.

(B) *Inadequate Medical Care.* Evidence that a youth may not be receiving adequate medical care includes, but is not limited to the following:

(i) The mother of an unborn child is not receiving adequate prenatal care;

(ii) A seriously or chronically sick youth is not being taken to the doctor, clinic, or other appropriate medical professional or facility or is not being treated as advised, with the result that the youth's condition worsens or fails to improve;

(iii) The youth has untreated head lice or another parasitic infection.

(C) *Inadequate Education.* Evidence that a youth may not be receiving an adequate education includes, but is not limited to the following:

(i) The youth habitually or frequently fails to attend school without adequate reason;

- (ii) The youth is "home schooled," but is showing no progress in learning.
- (D) *Inadequate Support or Supervision*. Evidence that a youth may not be receiving adequate support or supervision includes, but is not limited to, the following:
- (i) The youth's parent, guardian, or custodian willfully neglects or refuses to provide for the youth's support or maintenance when financially able to do so;
  - (ii) The youth's parent, guardian, or custodian habitually misuses benefits intended for the youth, such as selling or squandering food stamps or commodities;
  - (iii) The parent, guardian, or custodian of a youth who is less than 12 years of age leaves the youth alone for an amount of time that would ordinarily raise concern based on the standards of the Skokomish community;
  - (iv) The youth is left with an inappropriate caregiver;
  - (v) The youth is allowed access to alcohol or other drugs other than drugs prescribed for the youth or over-the-counter medications properly used to treat a legitimate ailment of the youth;
  - (vi) The youth is repeatedly out after curfew, is a habitual runaway, or otherwise demonstrates a lack of parental control.
- (3) Has suffered physical abuse. "Physical abuse" means the youth has suffered or is likely to suffer physical injury inflicted by other than accidental means which causes or creates a substantial risk of death, disfigurement or impairment of bodily functions or has suffered acts which are cruel or inhumane regardless of observable injury. Any of the following shall provide reasonable cause to believe a youth may be physically abused. This list of examples is neither prescriptive nor exhaustive.
- (A) The youth has been locked, sequestered, or held in a constricted, dark, frightening, or otherwise inappropriate place, or in a place where the youth is not likely to be found, or in any place for an excessive period of time;
  - (B) An abrasion, lesion, burn, or broken bone; bruising; welting; or other damage to a youth's body, not clearly caused by pure accident;
  - (C) The youth has been subjected to extreme discipline demonstrating a disregard for the youth's physical pain and suffering.
  - (D) The youth has been subjected to conduct resulting in injury or creates a substantial risk to the youth's physical safety, health, or development;
  - (E) The youth's parent, guardian, or custodian has deliberately withheld adequate

nutrition or hydration from the youth or has forced the youth to ingest harmful or noxious substances, including but not limited to, inappropriate food, drink, or drugs;

- (F) The mother of an unborn or nursing child is using alcohol or other drugs to an extent that the fetus or baby is likely to be endangered.
- (4) Has suffered emotional abuse. "Emotional abuse" means the best interests of the youth require intervention in the parent-child relationship to prevent serious emotional harm to the youth. It shall be presumed that removal of a youth from the youth's home or parents is severely traumatic emotionally to the youth. Before a youth may be removed from the youth's home or parents for emotional abuse, the court must specifically find that the risk to the youth's emotional health to be prevented by the removal is greater than the risk to the youth's emotional health likely to be caused by the removal itself. Any of the following shall provide reasonable cause to believe a youth may be emotionally abused. This list of examples is neither prescriptive nor exhaustive.
- (A) Assault, terrorization, or intimidation. Evidence that a youth may have been assaulted, terrorized, or intimidated includes, but is not limited to, the following:
    - (B) Attempted violence or threats of physical harm or threats designed to create a climate of fear such as destroying the youth's possessions, or attacking beloved people or pets;
    - (C) Subjection of the youth to a clear pattern of obvious rejection or non-acceptance on the part of the youth's parent, guardian, or custodian;
    - (D) Instances of extreme discipline or a clear pattern of excessive ridiculing of a youth demonstrating a disregard for a youth's mental suffering;
    - (E) Isolation of the youth, including but not limited to, cutting the youth off from normal social experiences, preventing the youth from forming appropriate friendships, or locking the youth in or out of the youth's home;
- (5) Corruption. Evidence that a youth may have been corrupted includes, but is not limited to, the following:
- (A) The youth's parent, guardian, or custodian has knowingly encouraged, caused, or contributed to the commission of a criminal act by the youth or has allowed another adult to do so;
  - (B) The youth's parent, guardian, or custodian has taught or knowingly allowed another to teach the youth socially deviant behavior by rewarding aggression, delinquency, or sexually precocious behavior or by punishing appropriate, positive, socially adaptive behavior.

- (6) Has suffered sexual abuse. "Sexual abuse" means the youth has been the victim of a sexual offense as defined in S.T.C. 9.02A (Sex Crimes), or any form of sexual aggression, degradation, or exploitation, as determined by Skokomish community standards.

### **Reporting Abuse and Neglect**

#### **3.03.060 Reporting Abuse and Neglect**

The care of youth is both a family and a tribal responsibility. Any member of the Skokomish Indian Tribe, any persons residing within the jurisdiction of the Tribe, or any other members of the Skokomish community, including tribal officers and employees, who have reason to believe that a youth has been abused or neglected may file a report that a child is in need of care. Reporting under this section is mandatory for tribal employees and contractors with the Tribe who perform services to the community in the areas of education, health and human services, child care, and law enforcement; members of the clergy; private child care providers; members of the Tribe's Child Protective Team (CPT), and anyone providing services to youth, whether paid or volunteer.

#### **3.03.061 Immunity**

All persons who report child abuse or neglect in good faith are immune from civil liability and criminal prosecution for reporting the suspected abuse or neglect.

#### **3.03.062 False Report**

A false report of child abuse or neglect, if known to be false by the maker, is a "false charge" for purposes of S.T.C. 9.07.060 (False Arrest), and the person making such a report shall be prosecuted under the Rules of Criminal Procedure of the Skokomish Tribal Court. Any person who is not within the criminal jurisdiction of the Skokomish Tribal Court who knowingly makes a false report of child abuse or neglect is subject to a civil fine not to exceed \$2,500.

#### **3.03.063 Sanctions**

Any person who is required to report abuse or neglect under S.T.C. 3.03.060 and who knowingly fails to report abuse or neglect is subject to a civil fine not to exceed \$5,000.00. The Indian Child Welfare Program shall make a good faith effort to timely provide copies of S.T.C. 3.03.060 through S.T.C. 3.03.066 to all mandatory reporters and shall maintain a list of all persons to whom copies have been provided. Mandatory reporters who have not been provided with copies of these provisions shall not be fined for failure to report.

#### **3.03.064 Contents of the Report**

A report shall include:

- (a) The name, birth date, address, and tribal status of the youth, if known; and

- (b) A plain statement of the facts on which the report is based, including the date, time, and location of the events.

**3.03.065 Open Communication Policy**

The policy of the Skokomish Indian Tribe toward investigation of child abuse and neglect is one of open communication between agencies and departments for the protection of youth while respecting the confidentiality of statements by victims, their families, and reporters of abuse/neglect. Where there is a conflict between confidentiality and the need for communication, protection of the youth shall be the overriding consideration.

**3.03.066 Response to the Report**

If a report that a child may be in need of care is initially received by the Indian Child Welfare Caseworker, tribal law enforcement shall be immediately notified of the report. If the report is first received by tribal law enforcement and the case will require an out-of-home placement of the youth, the Indian Child Welfare Caseworker shall be notified. The Skokomish Department of Family Services and the Skokomish Department of Public Safety shall cooperate with one another, along with any other agencies or departments that are involved, in order to protect the youth and family, and to resolve the matter.

**3.03.067 Role of the Skokomish Department of Family Services**

The Skokomish Department of Family Services has been established by the Tribal Council as the agency of the Tribe responsible for the provision of youth-related services.

**3.03.068 Role of Law Enforcement**

Tribal law enforcement shall:

- (a) Conduct criminal and civil investigations, which may be associated with a report that a child is in need of care.
- (b) Coordinate with other departments or agencies (e.g., provide notice to CPS in cases of intra-family abuse and neglect).
- (c) Provide protection and assistance in the removal and placement of youth, on request, to the Indian Child Welfare Caseworker and authorized child protection and placement agency personnel.
- (d) Take custody of a youth if the tribal law enforcement officer believes the youth is in immediate and serious danger and removal is necessary for the youth's safety or well-being. The tribal law enforcement officer shall immediately contact the Indian Child Welfare Caseworker to discuss emergency placement options. If the Indian Child Welfare Caseworker is not available, the tribal law enforcement officer shall place the youth in a safe, emergency placement consistent with the short-term placement preferences in S.T.C. 3.03.086. In the event that the tribal law enforcement officer places the youth in an emergency placement in the Indian Child Welfare

Caseworker's absence, the tribal law enforcement officer shall make immediate and recurring efforts to notify the Indian Child Welfare Caseworker so the Indian Child Welfare Caseworker can investigate the need for emergency placement.

- (e) File petitions for children in need of care, on behalf of the Tribe if an Indian Child Welfare caseworker is not available for this purpose.
- (f) As soon as possible, notify or work with the Indian Child Welfare Caseworker (if available) to notify the parent(s), guardian(s), or custodian(s) of the placement if they are unaware that the youth has been placed out of the home, but the location of the placement shall not be released if, in the determination of the Indian Child Welfare Caseworker (or tribal law enforcement if the Indian Child Welfare Caseworker is not available), release of that information would endanger the youth. The parent(s), guardian(s), or custodian(s) shall also be notified of their right to visit or be present with the youth unless such visitation or presence is determined by the Indian Child Welfare Caseworker (or tribal law enforcement if the Indian Child Welfare Caseworker is not available) to be against the youth's best interests, in which case the parent(s), guardian(s), or custodian(s) shall be notified of their right to petition the Court for visitation rights.

### **3.03.069            Role of the Indian Child Welfare Caseworker**

The Indian Child Welfare Caseworker shall:

- (a) Take custody of a youth if the Indian Child Welfare Caseworker reasonably believes the youth is in immediate and serious danger and removal is necessary for the youth's safety or well-being. The Indian Child Welfare Caseworker shall be accompanied by tribal law enforcement.
- (b) Take the lead role in finding appropriate placements of youth.
- (c) Provide assistance to families to prevent out-of-home placement and to reunite families.
- (d) Prepare reports and appear in court proceedings as required under this Ordinance and by the Court.
- (e) Coordinate and communicate with all agencies and departments involved in the protection of youth.
- (f) Investigate matters of youth welfare and, upon request, assist tribal law enforcement in investigations involving youth.
- (g) File petitions for children in need of care on behalf of the Tribe.
- (h) As soon as possible, notify the parent(s), guardian(s), or custodian(s) of the placement if they are unaware that the youth has been placed out of the home, but the location of the placement shall not be released if, in the determination of the Indian

Child Welfare Caseworker, release of that information would endanger the youth. The parent(s), guardian(s), or custodian(s) shall also be notified of their right to visit or be present with the youth unless such visitation or presence is determined by the Indian Child Welfare Caseworker to be against the youth's best interests, in which case the parent(s), guardian(s), or custodian(s) shall be notified of their right to petition the Court for visitation rights.

- (i) Appear in state and other tribal courts as required.

### **3.03.070 Preliminary Investigation**

- (a) Prior to the commencement of any youth welfare proceeding in Tribal Court, other than proceedings transferred from state court, an Indian Child Welfare Caseworker shall be notified and determine whether the subject youth is within the jurisdiction of the Tribe pursuant to this Ordinance. The Indian Child Welfare Caseworker shall make an investigation as to the youth's circumstances and attempt to achieve resolution or alleviation of the youth's circumstances.
- (b) The Indian Child Welfare Caseworker may convene family reconciliation counseling at the request of the youth's parent(s), guardian(s), or custodian(s), or if the Indian Child Welfare Caseworker determines that such counseling is in the best interest of the youth.
- (c) If no resolution is attained, the Indian Child Welfare Caseworker may initiate a youth welfare proceeding.
- (d) If the Indian Child Welfare Caseworker fails to act or achieve a resolution within a reasonable amount of time, a person with an interest in the youth may initiate a child in need of care action under the provisions of this Ordinance. The Court shall decide within 24 hours whether the Court will hear the petition, and whether to grant emergency relief if such is requested.

### **Emergency Placement of Youth**

#### **3.03.080 Emergency Orders for Taking Custody of a Youth – When Needed**

A custody order from the Tribal Court is required before any agency or person other than tribal law enforcement removes or places a youth, in an emergency situation. Tribal law enforcement may obtain such an order if there is sufficient time before the removal or placement is necessary and shall obtain such an order as soon as possible thereafter.

#### **3.03.081 Emergency Custody Orders – Contents**

The Court may issue an emergency custody order upon an oral or written statement of fact showing probable cause to believe that a youth is in need of care and that his or her health, safety, or welfare will be seriously endangered if not taken into custody. The order shall specifically

name the youth to be taken into custody, state the time and date issued, the place where the youth is to be taken and the name of the person or persons authorized to take the youth into custody.

**3.03.082 Emergency Custody Orders – Service and Duration**

An emergency custody order must be executed within 24 hours from the time issued by the Court. Youth taken into custody under such an order may be released into the custody of their parent(s), guardian(s), or custodian(s) or held until the conclusion of the First Hearing or as ordered by the Court. The emergency custody order must be served upon the youth's parents, guardian(s), or custodian(s) upon taking the youth into custody or as soon as possible thereafter.

**3.03.083 Request for First Hearing**

A person or agency who takes emergency custody of a youth shall immediately file a request for a First Hearing with the Court. The request shall include:

- (a) The name, date of birth, permanent address, and tribal status of the youth and his or her parent, custodian, or guardian;
- (b) The facts establishing the Court's jurisdiction;
- (c) A statement of the facts that support the allegation that the youth is a child in need of care; and
- (d) The location of the youth and the date and time taken into custody. The location of the youth does not have to be shared with the parent if it would endanger the youth.

**3.03.084 First Hearing – Time, Notice**

Within five (5) days of taking a youth into emergency custody, a hearing shall be convened by the Court. Written notice, as provided in S.T.C. 3.03.029, shall be provided to all parties no later than 24 hours before the hearing unless good cause, including the inability to locate the parties, prevents such notice. If the parent(s), guardian(s), or custodian(s) do not appear at the hearing, the Court may order a recess in order to locate them.

**3.03.085 First Hearing – Order**

The Court shall make the following determinations at the hearing:

- (a) The tribal status of the youth.
- (b) Whether there is probable cause to believe the child is in need of care.
- (c) The best interest of the youth and the Tribe with regard to any action to be taken.
- (d) Whether out-of-home placement shall be continued for the protection of the youth or if the youth can safely be returned to the home.

- (e) Whether the youth will be made ward of the Court.
- (f) Whether interim orders for the protection of the youth and/or the family should be made while further proceedings are being considered. Interim orders may include restraining orders and orders that parties be evaluated for substance abuse, mental illness, and emotional disturbance and that the recommendations of evaluators be followed. The Court may also order parenting classes, mandatory school attendance, visitation, and other services or activities for the benefit of the youth and his or her family. The Court may make a particular placement conditional on compliance with any of its orders.
- (g) The parties shall be ordered to keep the Court informed as to any changes in their whereabouts and mailing addresses.

**3.03.086 Placement Preferences for Out of Home Placement**

- (a) If a youth is placed out-of-home, the following placement preferences shall be observed, in order:
  - (1) In the home of a member of the youth's extended family, whether or not the home is a licensed foster home;
  - (2) In the home of a member of the youth's tribe;
  - (3) In the home of a person from another tribe; or
  - (4) In emergency placements, in a licensed foster home or other safe place.
- (b) Placement of a youth with anyone who is not a Skokomish tribal member or who does not reside on the Skokomish Indian Reservation shall be contingent on the person's written agreement to accept the jurisdiction of the Skokomish Tribal Court and to cooperate fully with tribal law enforcement and the Indian Child Welfare Caseworker's office.

**3.03.087 Scheduling a Fact Finding Hearing at First Hearing**

If it appears that a petition for Fact Finding will soon be filed, based on the findings at the First Hearing, the Court shall set a time and date for a Fact Finding Hearing and shall so notify the parties at the conclusion of the First Hearing. Notice of the hearing shall be provided to any party who was not present at the First Hearing.

**Family Group Conference**

**3.03.095 Family Group Conference**

- (a) A Family Group Conference may be convened at any time by the Indian Child Welfare Caseworker at the request of the youth or any member of the youth's family,

or the Indian Child Welfare caseworker may initiate the conference.

- (b) When a Family Group Conference has been requested, the Indian Child Welfare Caseworker shall contact a Family Group Conference Facilitator. The Facilitator shall contact the requesting person and ask for names of family members who would be acceptable mediators. After consultation with all parties, the Facilitator shall select the mediator or mediators; arrange a date, time and place for the conference; notify the participants; and facilitate the conference.
- (c) Participation in the conference shall include the youth's parent(s), guardian(s), or custodian(s); extended family members; the Indian Child Welfare caseworker and the facilitator, and may include such mental health and medical professionals, school staff, attorneys or other representatives, religious leaders, and friends as the youth's family, or the Indian Child Welfare caseworker believe are necessary or may be useful to achieving an acceptable agreement. At the beginning of the conference, the Indian Child Welfare caseworker and other invited professionals and helpers will explain their concerns and issues as they relate to the youth and set forth what resources, if any, they may be able to make available to assist the youth and the youth's family. Then everyone except the family and facilitator shall withdraw from the conference, but shall remain available to provide information as may be requested by the family. Once the family has prepared a plan, the Indian Child Welfare caseworker and representatives of the parties, if any, shall meet with the family to determine whether the plan is adequate to meet the emotional, health, and safety needs of the youth. If the Indian Child Welfare caseworker is unable to agree with the family's plan, the family shall be given an opportunity to rework the plan to address the Indian Child Welfare caseworker's concerns.
- (d) The youth may participate in the conference at the discretion of the other parties or by order of the Court if the Court finds such participation is in the best interest of the youth.
- (e) Any agreement signed by the participants may be presented to the Court.
- (f) If the Family Group Conference is held prior to the commencement of any Court proceeding and the parties reach agreement, the agreement, when set forth in writing and signed by the parties, shall become a binding contract which may be enforced in Court. If no Court proceeding has been filed, the executed agreement shall not be entered as a court order or filed with the Court. However, if court enforcement of the agreement becomes necessary, the signed agreement may be admitted as evidence in any enforcement proceeding. All participants shall be clearly informed that a violation of the agreement could result in court action.
- (g) A Family Group Conference may also be held at any time after a petition has been filed. A Family Group Conference may be held prior to the First Hearing, and if the parties reach agreement on a temporary disposition, the agreement shall be set forth in writing, signed by the parties and entered by the Court in accordance with the procedure for entry of agreed fact finding orders set forth in S.T.C. 3.03.104 if the Court finds the following conditions have been met:

- (1) The Court has jurisdiction over the parties and the subject matter of the agreement;
  - (2) All necessary parties have actual knowledge of the proposed order and have agreed to it;
  - (3) The order contains the complete agreement of the parties and contains enough information as to the terms of the agreement that a dispute as to the interpretation of the order is not likely to arise in the future;
  - (4) The order is otherwise legal and enforceable.
- (h) A Family Group Conference may also be held between the First Hearing and the Fact Finding Hearing or after the Fact Finding Hearing and before the hearing on the Family Protection Plan. If the parties reach agreement on a final disposition, the agreement shall be entered by the Court.
  - (i) Any agreed disposition, whether contractual or entered by the Court, shall be for a fixed time period and shall not continue beyond the youth's 18th birthday.
  - (j) The Indian Child Welfare caseworker shall monitor the agreed disposition throughout its term. If there has been a failure to comply with the terms of the agreed disposition, the Indian Child Welfare Caseworker may recommend that the Tribe's representative proceed with a fact finding hearing.
  - (k) Any party may challenge an allegation of noncompliance before the Court by motion. If the Court finds that the parties have complied, it shall stay the proceedings and reinstate the agreed disposition.
  - (l) If the Tribe or any of its agents fail to comply with the agreed disposition, a party may petition the Court to have the case closed.
  - (m) If no agreement is reached during the conference or the parties fail to appear at the scheduled conference, a fact finding hearing shall be held as soon as practical.
  - (n) Family Group Conferences shall not be available in cases where there are allegations of sexual abuse.

### **Fact Finding Hearings**

#### **3.03.100 Purpose**

The Court shall conduct a Fact Finding Hearing to determine whether a youth is a child in need of care.

### **3.03.101 Contents and Filing of the Petition**

A petition for Fact Finding Hearing shall be filed by tribal law enforcement or other person authorized by the Tribe to file the petition and shall include:

- (a) The name, date of birth, permanent address, and tribal status of the youth and his or her parent, custodian, or guardian;
- (b) The facts establishing the Court's jurisdiction;
- (c) A detailed statement of the facts and reasons which support the allegation that the child is in need of care. If a request for a First Hearing was filed, it may be incorporated in this petition; and
- (d) The location of the youth and the date and time taken into custody. The location of the youth does not have to be disclosed if it would endanger the youth.

### **3.03.102 Time and Notice of Hearing**

The Court shall set the date for the hearing to take place within 40 days of the date the petition is filed. Service of the Notice of Hearing shall be as provided in S.T.C. 3.03.029.

### **3.03.103 Evidence and Burden of Proof**

Rules of evidence and burden of proof shall be the same as those that apply to civil actions before the Tribal Court.

### **3.03.104 Agreed Order**

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

- (a) Explain the proposed agreed order in detail and the consequences of the person's failure to comply with agreed terms;
- (b) Assure that the person's consent to the proposed order is not the result of coercion, threat, duress, fraud, over-reaching, or improper promise on the part of any person;
- (c) Explain the person's right to a spokesperson/counsel;
- (d) Explain that the Tribe has the burden of proving the allegations in the petition and that the person does not have to agree to the proposed order;
- (e) Explain that once the person agrees to the proposed order and it is signed and entered by the Court, it will be too late for the person to change his or her mind.
- (f) The in-chambers conversation will be recorded. If the parent wants a friend, family

member, or other people to be present, the judge shall allow it after first speaking alone with him or her. If the Court finds that any consent was the result of fraud or duress, the agreed order shall be vacated.

**3.03.105 Family Protection Plan**

The Indian Child Welfare Caseworker shall prepare a written plan describing his or her recommended alternative for caring for the youth and assisting the youth's family. The plan shall explain why the plan is necessary and its benefits to the youth and the family. The plan shall fully explain any recommendations for out-of-home placement of the youth. The professional opinions of all persons consulted; including the opinions of the Child Protection Team, community leaders and elders; shall be included. The Indian Child Welfare Caseworker shall file the report with the Court and provide copies to all parties at least five (5) days before any hearing on the Family Protection Plan.

**3.03.106 Other Suggested Plans**

Any person who is involved with a child in need of care case may prepare his or her recommendations to the Court in the form of a Family Protection Plan. Copies shall be provided to all parties to the case prior to any hearing on the Plan.

**3.03.107 Hearing to Decide the Family Protection Plan**

A hearing shall be set to decide what plan will best meet the needs of the youth, and to assist the youth's family. This hearing may take place the same day as the Fact Finding Hearing or may take place up to 35 days from the date of the Fact Finding Hearing. The Court shall determine the scheduling and shall cause notices of hearing to be served on all parties.

If, prior to the date set for hearing, all parties are able to agree on a plan, the plan may be entered by the Court in accordance with the procedure for entry of agreed fact finding orders set forth in S.T.C. 3.03.0104.

If no plan is entered by agreement, the Court shall hear testimony and consider all Family Protection Plans submitted. All parties shall be given a chance to contest the facts and conclusions presented in each Plan.

**3.03.108 Court Ordered Family Protection Plan (Disposition)**

If a youth is in need of care, the Court shall order a plan for his or her protection and well-being. The plan shall either allow the youth to remain with his or her parent, guardian, or custodian or order an out-of-home placement consistent with the placement preferences in S.T.C. 3.03.086. The Court may make any placement conditional on compliance with its orders.

The Court shall make any other orders necessary for the protection and well-being of the youth and family. Such orders may include restraining orders and orders that parties be evaluated for substance abuse, mental illness, and emotional disturbance and that the recommendations of evaluators be followed. The court may also order parenting classes, mandatory school attendance, visitation, and other services or activities for the benefit of the youth and his or her family.

**3.03.109 Costs of Support**

If an out-of-home placement is ordered, the youth's parents or guardian from whom the youth was removed may be ordered to provide support for the youth. Payments, in-kind goods, or services shall be made to the Skokomish Department of Family Services and released to the person or agency having physical custody of the youth for the benefit of the youth, or otherwise coordinated by Family Services. Family Services shall coordinate the receipt and distribution of support contributions with the Court and the Skokomish Accounting Department.

**3.03.110 Review Hearings**

- (a) The Court shall conduct a hearing to review its plan at least once every six (6) months, or earlier upon motion of any party. The Court shall review whether the parties are complying with the order and shall consider whether modification is necessary to protect the youth and strengthen the family.
- (b) If a youth reaches his/her 18<sup>th</sup> birthday and is still a dependent of the Tribe, the Court shall schedule a review hearing on the first available court calendar after the youth's 18<sup>th</sup> birthday. At that review hearing, the Court shall inform the youth that he/she may choose to end the dependent status or voluntarily continue. The youth shall be told that if he/she does continue, then the youth will continue to be eligible for all of the services the Tribe provides for dependent youth. The youth shall also be told that if he/she voluntarily continues, he/she is allowed to change his/her mind at a later date. The youth's decision shall be memorialized in a declaration that is to be filed in the Court's file.

**Long-Term Guardianship**

**3.03.120 Purpose**

It has long been the custom of the Skokomish Indian Tribe that a youth may be cared for by persons other than a parent, without excluding the parent from the youth's life. It is intended that these sections be applied with flexibility for a variety of family situations and problems.

**3.03.121 Petition for Guardianship – Who May File**

Any person at least 18 years old may file a petition with the Court requesting that he or she be appointed as the long-term guardian of a youth. A petition filed by a married person shall also be signed by the married person's spouse unless his or her whereabouts are unknown.

**3.03.122 Petition – Contents**

A petition for appointment of a long-term guardian shall include:

- (a) The name, birthdate, residence, and tribal status of the youth who is the subject of the petition;
- (b) The name, birthdate, residence, and tribal status, if known, of the youth's birth

parent(s) and of the petitioner(s);

- (c) If the youth is residing with someone other than a parent, the location and length of time at that location; and
- (d) A statement by the petitioner(s) of the facts and reasons supporting his or her request to be appointed as a guardian.

**3.03.123        Setting the Hearing**

When the Court receives the petition it shall set a hearing date, which shall not be more than 40 days after the Court received the petition, unless continued for good cause. Service of the Notice of Hearing shall be as provided in S.T.C. 3.03.029(h).

**3.03.124        Indian Child Welfare Report**

For every long-term guardianship petition, the Indian Child Welfare caseworker shall provide the Court, or arrange for the Court to be provided, with a complete guardianship, home study report including, but not limited to, a recommendation as to the petitioners' financial ability to support the youth. The Indian Child Welfare Caseworker shall file and serve the guardianship report, as provided in S.T.C. 3.03.029(d).

**3.03.125        Additional Reports**

Any party may file and serve a report setting forth his or her recommendations regarding the guardianship, as provided in S.T.C. 3.03.029(d).

**3.03.126        Guardianship Hearing – Conduct**

The hearing shall be private and closed. Only those persons the Court finds to have a legitimate interest in the proceedings may attend. The Court shall hear testimony to determine whether long-term guardianship is in the best interest of the youth and the tribal community. The Court shall consider all guardianship reports submitted for review. All parties shall be given the opportunity to contest the factual contents and conclusions of the guardianship reports.

**3.03.127        Grounds for Appointing a Guardian**

If the Court finds, by clear and convincing evidence, that the youth is without care or custody, that the petitioner(s) can provide appropriate and adequate parental care for the youth, and that the long-term guardianship is in the best interest of the youth and the Tribe, it shall order long-term guardianship pursuant to the petition. "Without care or custody" in this section means that:

- (a) The youth has been abandoned;
- (b) The youth has been found to be a "Child in Need of Care" as provided in S.T.C. 3.03.051 through S.T.C. 3.03.053;
- (c) The youth's parents voluntarily agree, without duress and in the presence of the Court

judge, to the long-term guardianship; or

- (d) The youth's parents are deceased. If the youth's parents are deceased and have left a legal will nominating or otherwise recommending a guardian or other caretaker for the youth, the parents' recommendation shall be honored by the Court absent a specific finding based on clear and convincing evidence that the parents' recommendation would be detrimental to the best interest of the youth.

**3.03.128 Placement Preference**

The preference for appointment of a long-term guardian shall be, in order:

- (a) A member of the youth's extended family;
- (b) A member of the Skokomish Indian Tribe;
- (c) A member of another Indian tribe;
- (d) A member of the Skokomish Tribal community, which shall include persons living on the Skokomish Indian Reservation or in Mason County who participate in tribal activities and are considered part of the tribal community, based on evidence presented at the hearing;
- (e) If the above criteria cannot be met, for good cause shown, placement may be made with any person who has knowledge of and a desire to foster the youth's tribal affiliation and special needs.

**3.03.129 Powers of Guardian**

- (a) Unless otherwise ordered by the Court, a long-term guardian has all the rights and responsibilities of a parent for the youth, except that the following shall require Court approval:
  - (1) Sterilization;
  - (2) The enrollment of a youth in another Indian tribe, when the youth is eligible for enrollment in the Skokomish Indian Tribe;
  - (3) Changing the youth's name;
  - (4) Relocation of the youth's residence to a location more than 50 miles outside the boundaries of the Reservation; and
  - (5) Any change in the placement of the child.
- (b) A youth shall not be removed from the custody of his or her guardian except under circumstances that would warrant removal if the guardian were the youth's parent or circumstances that amount to violation of the powers and duties ordered by the

Court.

### **3.03.130 Appointment of Guardian for a Youth's Property**

The Court may appoint a person or financial institution to be the guardian of a youth's property. This may be a different person than the guardian who provides direct care to the youth.

### **3.03.131 Existing Trusts**

If the youth's property is subject to a trust (for example, where a parent has died leaving property to a youth in a trust set up in the will), the guardian is bound by the trust provisions. The Court has the power to review any trust in connection with appointment of a guardian and to impose any protections necessary to enforce the trust, to insure that the guardian fully and regularly accounts for trust funds, and to see that the funds are properly managed.

### **3.03.132 Removal of Guardian for a Youth's Property**

- (a) The Court has the power to remove a guardian for a youth's property and appoint a replacement guardian whenever necessary for the youth's best interest.
- (b) When a youth whose property is in guardianship reaches the age of 18, he or she may petition the Court to terminate the guardianship and enter such orders as may be necessary to place him/her in control of his/her property and earnings.

### **3.03.133 Change of Address**

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

### **3.03.134 Termination of Guardianship**

- (a) Generally, a long-term guardianship shall terminate upon the death, marriage, emancipation, adoption, or 18th birthday of the youth (unless continued by the Court) or upon order of the Court.
- (b) Upon the petition of a parent or an extended family member of a youth in long-term guardianship, the youth may be returned to the parent or extended family member, after notice and hearing, upon a showing by clear and convincing evidence that the parent or extended family member is willing and able to resume permanent care of the youth and that return to the parent or extended family member is in the best interest of the youth.

### **3.03.135 Court Review of Guardianship**

In the Guardianship order, the Tribal Court shall set a review hearing for six months from the date of the entry of the Guardianship order. The purpose of this hearing is for the Court to determine if all available services have been made available to the Youth and the Guardian(s). If there are issues that either the Youth or the Guardian(s) need assistance with, the Court may order the Department to assist the Youth or the Guardians in obtaining services to meet those needs. The

Court may order further hearings to review if those services, if available, have been provided.

### **Termination of Parental Rights**

#### **3.03.140 Purpose**

The Skokomish Indian Tribe has not traditionally provided for the termination of a parent's rights. It is currently the custom of the Tribe to view involuntary termination of a parent's rights as a last resort when it is clear that long-term guardianship is insufficient to meet the needs of the youth and an adoption has been arranged.

#### **3.03.141 Petition for Termination of Parental Rights – Who May File**

Any person at least 18 years old may file a consent to allow the adoption of his or her child. Only a representative of the Tribe may file a petition for involuntary termination of a parent's rights.

#### **3.03.142 Petition – Contents**

A petition for termination of a parent's rights shall include:

- (a) The name, birthdate, residence, and tribal status of the youth who is the subject of the petition;
- (b) The name, birth date, residence, and tribal status, if known, of the youth's parent(s), guardian(s), or custodian(s);
- (c) If the youth is residing with someone other than a parent, the location and length of time at that location;
- (d) A statement by the petitioner (whether the petitioner is the Tribe or a parent) of the facts and reasons supporting the request; and
- (e) A copy of the adoption petition filed in conjunction with the termination petition.

#### **3.03.143 Setting the Hearing**

When the Court receives the petition it shall set a hearing date, which shall not be more than 40 days after the Court receives the petition, unless continued for good cause. Service of the Notice of Hearing shall be as provided in S.T.C. 3.03.029(h).

#### **3.03.144 Indian Child Welfare Report**

For every termination petition, the Indian Child Welfare caseworker shall provide the Court, or arrange for the Court to be provided, with a pre-termination report. The person preparing the report shall conduct a complete home study and shall consult with the youth's parent(s); all health, education, and social service personnel who have had prior professional contacts with the youth; and with the petitioner(s) to determine whether termination of the parent's rights would be in the best interest of the youth. The report shall be in writing and contain the professional

opinions of all persons consulted. The Court may waive the requirement of a pre-termination report in cases where a parent is consenting, provided that all requirements for a proper consent under this chapter have been met. The Indian Child Welfare Caseworker shall file and serve the pre-termination report, as provided in S.T.C. 3.03.029(d).

### **3.03.145 Additional Reports**

Any party may file and serve a report setting forth his or her recommendations regarding the proceeding, as provided in S.T.C. 3.03.029(d). The Court may also order the preparation of additional reports if it deems necessary to render a decision on the petition.

### **3.03.146 Termination Hearing – Conduct**

The hearing shall be private and closed. Only those persons the Court finds to have a legitimate interest in the proceedings may attend. In addition to the notice requirements of S.T.C. 3.03.029(b), special efforts shall be made to locate the parent(s) whose rights may be terminated. The Court shall consider all reports submitted for review. All parties shall be given the opportunity to testify and to contest the factual contents and conclusions of the pre-termination report(s).

### **3.03.147 Grounds for Termination and Burden of Proof**

The Court may order termination of a parent's rights only when an appropriate adoptive home is available and an adoption petition has been filed in conjunction with the termination petition. In addition, the Court must, in cases of voluntary termination, first approve the parent's consent as provided herein, or in cases of involuntary termination, the Tribe must prove by clear and convincing evidence each of the following:

- (a) That the youth has been abandoned or is a "Child in Need of Care" as provided in S.T.C. 3.03.051 through S.T.C. 3.03.053;
- (b) That termination of the parent's rights and adoption are in the best interest of the youth and of the Tribe;
- (c) That the Tribe has offered or helped arrange for appropriate resources to help the parent care appropriately for the youth; and
- (d) That it is unreasonable to expect that the parent will ever be able to care appropriately for the youth.

### **3.03.148 Consent**

- (a) Consent of a birth parent to terminate his or her rights to a child is not valid unless:
  - (1) The parent is at least 18 years old;
  - (2) The parent has received counseling from an appropriate professional who has explained the consequences of terminating his or her rights, has explored all

available services to help the parent care for the child (such as parenting classes and substance abuse treatment), and has explored alternatives to termination and adoption, such as long-term guardianship;

- (3) The parent orally explains his or her understanding of the meaning of the termination of his or her parental rights to the Court, and the Court makes a specific finding that the terms and consequences of the consent were fully explained to and were fully understood by the parent; and
  - (4) The consent is given no sooner than 30 days after the birth of the child. The child may be placed with the prospective adoptive parents or other care giver during this 30-day period.
- (b) Any consent may be withdrawn prior to the entry of a final decree of adoption and, if no other grounds exist for keeping the youth from the parent, the youth shall be returned to the parent.

### **3.03.149 Disposition**

If parental rights are terminated by the Court, the Court shall set the adoption hearing. This hearing may take place the same day as the termination hearing or may take place up to 30 days from the date of the adoption hearing. If parental rights are not terminated, but the Court finds the youth is a "Child in Need of Care" as provided in S.T.C. 3.03.051 through S.T.C. 3.03.053, the Court may set a "Hearing to Decide the Family Protection Plan" in accordance with S.T.C. 3.03.107.

## **Adoption**

### **3.03.160 Petition for Adoption – Who May File**

Any person at least 18 years old may file a petition with the Court to adopt a youth. If the petitioner is married, his or her spouse must also be at least 18 years old and must sign the petition, unless the spouse's whereabouts are unknown or unless waived by the Court.

"Spouse" for purposes of this section includes a partner to a relationship in which the partners undertake together to provide for the care, control, education, health, and welfare of the partners' minor children.

### **3.03.161 Petition – Contents**

The adoption petition shall include:

- (a) The name, birthdate, residence, and tribal status of the youth who is the subject of the petition;
- (b) The name, birthdate, place and duration of residence, and tribal status of the petitioner(s);

- (c) The name, birthdate, residence, and tribal status, if known, of the youth's birth parent(s);
- (d) The relationship, if any, of the petitioner(s) to the youth;
- (e) The names and addresses, if known, of all persons whose consent is required, and proof of such consent;
- (f) A description of all previous court proceedings involving the care or custody of the youth to be adopted and the results of these proceedings along with copies of all court orders;
- (g) The reasons the youth is available for adoption and why the petitioner(s) desires to adopt the youth;
- (h) A request to change the youth's name if the petitioner(s) wish to make such a request; and
- (i) A copy of any termination petition filed in conjunction with the adoption petition.

**3.03.162 Availability for Adoption**

A youth may be adopted only if the youth's parents are deceased or if the parental rights of the youth have been terminated.

**3.03.163 Setting the Hearing**

When the Court receives the petition for adoption it shall set a hearing date, which shall not be more than 40 days after the Court receives the petition, unless continued for good cause shown. Service of the Notice of Hearing shall be as provided in S.T.C. 3.03.029(h). The Secretary of the Tribal Council shall be a necessary party to all adoption proceedings before the Court.

**3.03.164 Adoption Report**

- (a) For every adoption petition, the Indian Child Welfare caseworker shall provide the Court, or arrange for the Court to be provided, with a complete pre-adoption, home study report including, but not limited to, the following:
  - (1) The physical and mental condition of the youth, petitioner(s) and persons living in the petitioners' home;
  - (2) The circumstances of the voluntary or involuntary termination of the parents' rights to the child or of the parents' death;
  - (3) The home environment, family life, access to health services, and resources of the petitioner(s);

- (4) The youth's and petitioners' cultural heritage and tribal status;
  - (5) The marital status of the petitioner(s);
  - (6) The names and ages of the petitioners' children and of any other persons residing with the petitioner(s);
  - (7) Information from health, education, and social service personnel who have had prior professional contacts with the youth and petitioner(s);
  - (8) The results of a criminal background check of the petitioner(s);
  - (9) Any evidence of alcohol and drug abuse in petitioners' household;
  - (10) Any other facts and circumstances relating to whether or not the adoption should be granted.
- (b) The Indian Child Welfare Caseworker shall file and serve the pre-adoption report, as provided in S.T.C. 3.03.029(d).

**3.03.165 Additional Reports**

Any party may file and serve a report setting forth his or her recommendations regarding the adoption, as provided in S.T.C. 3.03.029(d). The Court may also order the preparation of additional reports if it deems necessary to render a decision on the petition.

**3.03.166 Adoption Hearing – Conduct**

The hearing shall be private and closed. Only those persons the Court finds to have a legitimate interest in the proceedings may attend. The Court shall consider all adoption reports submitted for review. All parties shall be given the opportunity to testify.

**3.03.167 Grounds for Entering Decree of Adoption**

The Court may enter a decree of adoption if it finds that:

- (a) The youth is available for adoption as provided in S.T.C. 3.03.161;
- (b) The adoption is in the best interest of the youth and the Tribe; and
- (c) The petitioner(s) can provide appropriate and adequate parental care for the youth.

**3.03.168 Placement Preferences**

The Court shall be guided by the placement preferences set forth in S.T.C. 3.03.128 in deciding whether to grant a petition for adoption. The Court may deny a petition for adoption if the petitioner does not fall into one of the categories set forth in S.T.C. 3.03.128.

**3.03.169 Denial of Adoption Petition**

If the adoption petition is denied, the Court shall specifically state the reasons for the denial and shall designate who shall have custody of the youth.

**3.03.170 Decree of Adoption**

If the Court grants the petition for adoption, the Court shall enter Findings of Fact and Conclusions of Law and a separate Decree of Adoption. The Decree shall include:

- (a) A finding that the youth is available for adoption;
- (b) An order that the youth is, for all intents and purposes, the child, legal heir, and lawful issue of the petitioner(s);
- (c) A finding as to the marital status of the petitioner(s);
- (d) An order changing the name of the youth and the full name of the youth upon adoption, if such an order has been requested;
- (e) Orders directing the court clerk to forward a certified copy of the decree to the appropriate Bureau of Vital Statistics for the purpose of obtaining a corrected birth certificate when the adoption becomes permanent;
- (f) An order that the records of the proceeding shall remain sealed, unless otherwise ordered by the Court.

**3.03.171 Effect of Decree of Adoption**

A decree of adoption has the following effect: it creates the relationship between the adopted child and the petitioner(s) and all relatives of the petitioner(s) that would have existed if the youth were a legitimate, blood descendant of the petitioner(s). This relationship shall be created for all purposes including inheritance and applicability of statutes, documents, and instruments, whether executed before or after entry of the adoption decree, that do not expressly exclude an adopted person by their terms. The decree does not override any tribal enrollment laws or requirements, nor does it affect the youth's enrollment status as a member of any tribe.

**3.03.172 Visitation**

Adoptive parents shall be encouraged to help the youth maintain positive relationships with the biological family. However, the adoptive parents shall have the exclusive right and power to decide the terms, if any, of visitation by any person with the youth.

**3.03.173 Adoption Records**

- (a) All records, reports, proceedings, and orders in adoption cases are confidential and shall not be available for release or inspection except:

- (1) The Bureau of Indian Affairs may have access to such information as is necessary to protect inheritance rights or the enrollment status of the adopted child (and his or her descendants);
  - (2) A copy of the decree of adoption, but not the Findings of Fact and Conclusions of Law, may be given to a Bureau of Vital Statistics; and
  - (3) An adopted child may petition the Court, upon reaching 18 years of age, for release of specifically requested information, limited to: the biological parents' name, address, tribal status and social security number, and the names and relationship to the youth of relatives for the purposes of medical need or medical history information, to assist in making a relative placement of a child of the adoptive youth, or for the purpose of enrolling the youth or the youth's descendants in an Indian tribe or other Native nation or organization.
- (b) Upon receipt of the petition submitted by the youth to gain information about his or her biological parents, the Court shall review all information and order the release of such information as the Court may determine to be reasonably necessary to the lawful purposes set forth herein.

### Emancipation

#### **3.03.180 Purpose**

Any Indian youth who is a resident or is domiciled on the Reservation and is at least 17 years of age, who is living separate and apart from his/her parent, guardian, or custodian, and is capable of self-support and managing his/her own financial affairs, may petition the Court to have the status of an emancipated person for limited or general purposes.

#### **3.03.181 Who May Petition**

A youth may file this petition in his or her own name.

#### **3.03.182 Contents**

The petition for emancipation shall state:

- (a) The name, age and address of the youth;
- (b) The name and address of each living parent;
- (c) The name and address of the youth's guardian or custodian, if any;
- (d) The reasons why emancipation would be in the best interest of the youth; and
- (e) The purposes for which emancipation is sought.

**3.03.183 Consent**

The youth must obtain either the consent of each living parent, guardian, or custodian having control of the person or property of the youth or an affidavit from an Indian Child Welfare caseworker or other appropriate service provider recommending emancipation and setting out the factual basis for the recommendation.

**3.03.184 Standard to Be Applied**

The Court may remove the disabilities of minority as requested in the petition if found to be in the best interests of the youth, after a hearing. Emancipation may be for general purposes or the limited purposes specified in the order.

**3.03.185 Rights of Emancipated Youth**

Except for specific constitutional and statutory age requirements, including but not limited to, voting and use of alcoholic beverages, a youth whose disabilities are removed for general purposes has the power and capacity of an adult including, but not limited to the right to control himself/herself and his/her property, the right to be domiciled where he/she desires, the right to receive and control all earnings, the right to sue and to be sued, and the capacity to contract.

**Juvenile Curfew**

**3.03.190 Requirements**

(a) It is unlawful for any minor to be in any public place between the hours specified below:

Age	Day	Hours
14 and under	School night	10:00 p.m.–6:00 a.m.
14 and under	Non-school night	11:00 p.m.–6:00 a.m.
15–17	School night	10:00 p.m.–6:00 a.m.
15–17	Non-school night	12:00 a.m.–6:00 a.m.

(b) A minor is not in violation of curfew when:

- (1) Accompanied by a parent, legal guardian, or custodian of the minor; or
- (2) Going to or coming from employment or a regularly scheduled tribal, school, or religious function, and the minor is proceeding directly to or from home by most reasonably direct route.

(c) A minor violating curfew may be taken into custody by tribal law enforcement. If tribal law enforcement is unable to contact a parent, legal guardian, or custodian of the minor, or if such persons are unable or unwilling to provide the necessary care for and supervision of the minor, tribal law enforcement may place the minor in juvenile detention or emergency shelter care. Tribal law enforcement may contact Skokomish Family Services in order to determine the best place for the minor upon release.

- (d) A minor who violates curfew may be made a delinquent ward of the Tribal Court.

### School Attendance

#### **3.03.200 Purpose and Scope**

The education of Skokomish Indian Tribal Community youth is a high priority of the Skokomish Tribal Council. The Council encourages and supports school attendance by all Community children in keeping with statutory requirements.

This Chapter shall be interpreted and applied to accomplish this goal and to achieve the following objectives:

- (a) To provide for the mental, physical, social and cultural development and education of the Indian youth of the Skokomish Indian Tribal Community;
- (b) To protect and to preserve the identity and pride of the Indian youth of the Skokomish Indian Tribal Community as Native Americans;
- (c) To provide a procedure to encourage and ensure that Indian youth attend school, beginning with kindergarten and continuing through high school graduation; and
- (d) To coordinate Tribal action with the Washington state and School District policies and practices concerning school attendance and, to that end, the provisions of this Chapter shall, where appropriate and where consistent with Tribal policy, be interpreted and applied in a manner that is harmonious with the applicable provisions of Washington law in RCW 28A.225.

#### **3.03.201 Requirements**

Every custodian, parent, or legal guardian of any Skokomish youth who is eligible by age for enrollment in a public school shall cause that youth to attend a public school of a Washington state school district. Each Skokomish youth shall have the duty and the responsibility to attend such school for the full time when that school is in session unless the youth is excused from attending school pursuant to and in accordance with RCW 28A.225.010, as it is then in effect.

#### **3.02.202 Tools to Improve Skokomish Youth Attendance in School**

- (a) If a Skokomish youth required to attend school fails to attend school without valid justification, the Attendance Officer shall, after one unexcused absence during the current school year:
  - (1) Contact the youth's custodian, parents, or guardian by telephone, in person, or by a notice in writing; and
  - (2) Take steps to assist and support the youth and the youth's custodian, parents, or guardian in order to eliminate or reduce the youth's absences, and to support the

school's efforts to eliminate or reduce the youth's absences, consistent with RCW 28A.225.020. These steps may include providing direct guidance or assistance or making appropriate referrals in order to address the underlying causes of the youth's absence.

- (b) If a Skokomish youth is required to attend school and if the actions taken by the Attendance Officer are not successful in reducing that youth's absences from school, then after the third (3rd) unexcused absence during the current school year the Attendance Officer shall:
  - (1) Attempt to enter into an agreement with the custodian, parent, or guardian of that youth and, if deemed appropriate, the youth, that establishes school attendance requirements; or
  - (2) If no such agreement can be reached within seven (7) calendar days, or if the youth has another unexcused absence after such an agreement is signed, file a petition for a civil action with the Tribal Court.
- (c) If a Skokomish youth required to attend school has two (2) excused absences during one calendar month, the Attendance Officer shall:
  - (1) Contact the youth's custodian, parents, or guardian by telephone, in person, or by a notice in writing;
  - (2) Schedule a conference or conferences with the custodian, parents, or guardian and, if deemed appropriate, the youth, at a time reasonably convenient for all persons included for the purpose of identifying and attempting to resolve the causes of the youth's absences; and
  - (3) Take steps to assist and support the youth and the youth's custodian, parents, or guardian in order to eliminate or reduce the youth's absences, and to support the school's efforts to eliminate or reduce the youth's absences. These steps may include providing direct guidance or assistance or making appropriate referrals in order to address the underlying causes of the youth's absence.

### **3.03.203 Petition to Court and Court Proceedings**

- (a) A petition for civil action under this Ordinance shall consist of a written notification to the Tribal Court alleging a violation of the relevant section of the code by:
  - (1) The custodian, parent, or guardian; or
  - (2) If the Skokomish youth is a middle school or high school student, the custodian, parent, or guardian, as well as the Skokomish youth.
- (b) The petition shall inform the Court that:
  - (1) The youth has unexcused absences during the current school year;

- (2) Actions taken by the Tribe have not been successful in substantially reducing the youth's absences; and
- (3) Court intervention and supervision are necessary to assist the youth, Attendance Officer, and/or custodian, parent, or guardian to reduce the youth's absences.
- (c) The petition shall set forth the name, date of birth, current grade level, address, gender, tribal enrollment or eligibility for enrollment, and school of the Skokomish youth and the names and addresses of the youth's custodian, parents, or guardian.
- (d) The petition shall generally set forth facts that support the allegations, shall generally request relief available under this chapter and shall provide information about what specific relief the Tribal Court might order to improve the youth's attendance.
- (e) The petition may be signed and filed by the Attendance Officer, and the Attendance Officer may participate in the Tribal Court's proceedings on the petition, regardless of whether he/she is admitted to practice in the Tribal Court.
- (f) If the Attendance Officer does not file a petition under this section, the custodian, parent, or guardian of a Skokomish youth may file a petition with the Tribal Court alleging a violation of the relevant code section.
- (g) Petitions filed under this section may be served by certified mail, return receipt requested. If such service is unsuccessful, or the return receipt is not signed by the addressee, service shall be made in accordance with the Skokomish Tribal Court Rules for Civil Procedure.
- (h) When a petition is filed and has been served, the Tribal Court shall schedule a hearing at which the Tribal Court shall consider the petition.
- (i) Proceedings on a petition may be modified by the Court to be appropriate for the age, educational level, and circumstances of the youth who is the subject of the petition so as to achieve the purposes of this Ordinance.
- (j) Prior to holding a hearing on the merits of the petition, or directing other available relief, the Tribal Court shall determine whether the Attendance Officer entered into an agreement with the custodian, parent, or guardian of the youth, and, if deemed appropriate, with the youth, pursuant to the relevant code sections listed above. If no such agreement has been entered into, then the Tribal Court shall attempt to facilitate agreement between the Attendance Officer, the custodian, parent, or guardian and, if deemed appropriate, the youth, that establishes school attendance requirements, expectations, and actions necessary to address the youth's school absences. Any such agreement that is reached shall be reviewed and, if acceptable, approved by the Tribal Court. The Tribal Court shall then retain continuing supervision over the petition and youth until such time as the Tribal Court determines that Court supervision is no longer necessary or appropriate. The Attendance Officer shall report on compliance with the agreement as directed by the Tribal Court.

- (k) If the Tribal Court does not receive and approve any agreement pursuant to the previous subsection within a period of time deemed reasonable by the Tribal Court under the circumstances, then the Tribal Court shall hold a hearing on the merits of the petition and may fashion other appropriate relief to substantially reduce the youth's unexcused absences.
- (l) When a Tribal Court hearing is held, the Tribal Court shall:
  - (1) Separately notify the custodian, parent, or guardian of the youth, and the Attendance Officer of the hearing; and
  - (2) Notify the custodian, parents, and guardian of their right to present evidence at the hearing.
- (m) When a Tribal Court hearing is held concerning a youth who is in middle or high school who is alleged to have violated the attendance code, the Tribal Court shall:
  - (1) Notify the youth of the hearing and require that the youth attend the hearing; and
  - (2) Notify the youth of his or her right to present evidence at the hearing.
- (n) If the allegations in the petition are established by a preponderance of the evidence, the Tribal Court shall grant the petition and enter an order assuming jurisdiction to intervene for the period of time determined by the Tribal Court, after considering the facts alleged in the petition and the circumstances of the youth, to most likely cause the youth to return to and remain in school while the youth is subject to this Ordinance. In no case may the order expire before the end of the school year in which it is entered.
- (o) If the Tribal Court assumes jurisdiction, the Attendance Officer shall regularly report to the Tribal Court, as directed in the Tribal Court's order, on any additional unexcused absences by the youth.
- (p) The Tribal Court shall coordinate, to the extent possible, proceedings and actions pertaining to youth who are subject to a petition under this chapter with any other proceedings pending in the Tribal Court concerning the youth, and with any other proceedings that may be pending in a court of the State of Washington.
- (q) The Petition, Tribal Court Proceedings, Tribal Court Hearings, and the Tribal Court file are not confidential and are open to the public. However, the Tribal Court may order that portions of the Tribal Court file or documents in the Tribal Court file be sealed if the Tribal Court finds that an individual's privacy interests outweigh the community's interests in open records.

### **3.03.204 Relief on Petition to Court**

- (a) The Tribal Court may order that the custodian, parents, or guardian of a Skokomish youth, and the youth if the youth is in middle school or high school, who are subject to the Tribal Court's jurisdiction under the section of this code listed above and titled "Tools to Improve Skokomish Youth Attendance of School" shall ensure that the youth attends school consistent with the provisions of RCW 28A.225.090 as appropriate, and set forth minimum attendance requirements, and, if appropriate, specific steps that will help ensure such attendance.
- (b) If the youth, custodian, parents, or guardians fail to comply with the Tribal Court's order, the Tribal Court may conduct such further proceedings and issue further orders in accordance with Skokomish tribal law as is necessary to secure the youth's attendance and to enforce the Tribal Court's order.
- (c) Any custodian, parent, or guardian violating a Tribal Court order enforcing this Ordinance may, in the discretion of the Tribal Court, be fined in an amount determined by the Tribal Court to be fair, reasonable, and appropriate under the circumstances to result in improved school attendance by the youth, provided, however, that no fine shall be greater than fifty dollars (\$50) for each violation of such an order.
  - (1) It shall be a defense for a custodian, parent, or guardian alleged to have violated an order enforcing youth school attendance to show that he/she exercised reasonable diligence in attempting to cause the youth to attend school.
  - (2) The Tribal Court may order the custodian, parent, or guardian to provide community restitution instead of imposing a fine.
  - (3) Any fine imposed pursuant to this section may be suspended upon the condition that the custodian, parent, or guardian shall participate with the Attendance Officer and the youth in a supervised plan for the youth's attendance at school or upon condition that the custodian, parent, or guardian attend conferences scheduled by the Attendance Officer for the purpose of resolving the causes of a youth's absences.

### **3.03.205 Custody and Disposition of Youth Absent from School without Excuse**

Any tribal law enforcement officer or other law enforcement officer authorized by Tribal Court may take into custody without a warrant a Skokomish youth who is required by the provisions of this Ordinance to attend school and who is absent from school without an approved excuse, and shall deliver the youth to the Attendance Officer or his/her designate.

### **3.03.206 Intervention in Other Court Proceedings**

The Tribe may intervene in another court's school attendance proceedings, at any point in the proceedings. The Tribal Council must approve any intervention before that action is filed in another court.