

TITLE 7. CHILD WELFARE

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TITLE 7. CHILD WELFARE**ARTICLE I.****GENERAL PROVISIONS**

[NOTE: Except as otherwise noted, the provisions of Article I, Title 7 was enacted on April 27, 2005, adopted by Res. No. 15-2005.]

CHAPTER 1. PURPOSE, CONSTRUCTION, AND PLACEMENT PREFERENCES**Sec. 7-1101. Introduction.**

Meskwaki children are sacred. They are the lifeblood of our future as a society and a Tribe. We suffer no greater loss than when we lose a child. We therefore commit by this law to protect our children, our families, our clans and our Tribe by putting laws in place that establish that a Meskwaki child's sense of belonging to his or her family, clan and Tribe must be protected and secured by the Tribal Court in all instances when the Court must step forward to help a family make decisions to regain their health and balance.

This law will remind people who come before the court and the judge hearing a matter about the values that sustain Meskwaki life. Meskwaki people understand that we are all related. You always have someone to turn to. Parents and children do not stand alone. We know that our mothers' sisters' children are our brothers and sisters. We adopt a person into our family to take someone's place in our family when they have passed on. There are many ways to keep our children in family. At birth a child is part of his father's clan and he must learn the ways of the clan. If a father has no name for his child, he will go to a clan leader for a name: it will be a clan name which only can be given by the clan. Mothers have a duty to encourage children to learn about their clan. In the case of a loss, separation or divorce between Meskwaki parents, a child can remain with its mother if the clan ways will still be learned as they should by the child. These are reminders of the foundations of Meskwaki values and beliefs.

Grandparents oftentimes have a lot to say to us about our relations and our respect for each other. If a pattern of neglect or strife has developed in a family, our grandparents have stepped in and taken their grandchildren to raise. They have not forced the parents of those children to change, but have helped show them problems they are facing. Things should be worked out without argument and fighting. We know that sometimes this can take a long while; our main objective is to remove the pain from that family and preserve that family by using our Tribal values, beliefs and religion.

Sometimes there are no grandparents to step in or grandparents are unable to step in when there is neglect and strife in a family. Sometimes other family member support is not directly available to speak to that neglect and strife. Our future depends on not passing on inappropriate behavior or allowing children to learn to copy the conduct of their parents who have become lost. This child welfare law provides a means to allow the Meskwaki Court to step in at those times and help a family reach decisions that will protect the child's sense of belonging to the family and the Tribe. The Meskwaki Court will follow our tribal values and beliefs and the lessons that our religion teaches us. It will require the Meskwaki Family Services to use all of the strengths and guidance of that child's family and clan to protect the child in a way we recognize as Meskwaki. The Meskwaki Court will help a family make a decision and sometimes it will make a decision on its own

because the family cannot. When it does this, it will consult Tribal elders, clan leaders and Tribal members who know the right way to protect the child and the family and help them heal.

Sec. 7-1102. Purpose.

This Title shall be interpreted to effectuate the following purposes:

- (a) To secure for each child coming before the Meskwaki Tribal Court such care and guidance, preferably in her or his own home, as will serve her or his welfare and the best interests of the Sac & Fox Tribe of the Mississippi in Iowa ("Tribe");
- (b) To preserve and strengthen family ties;
- (c) To preserve and strengthen each child's tribal, cultural, or ethnic identity;
- (d) To secure for any child removed from her or his home that care and guidance, as nearly equivalent as that which the child should have been given by her or his parents to help her or him develop into a responsible, well adjusted adult;
- (e) To improve any conditions or home environment which may be contributing to a child's need for assistance;
- (f) To divert a child from a State or other Tribal child justice system wherever possible in order to provide assistance within the Sac & Fox Tribe of the Mississippi in Iowa to children who are neglected, dependant, or committing delinquent acts or experiencing other law violations, including status level offenses such as truancy or runaway;
- (g) To protect the peace and security of the Sac & Fox Tribe of the Mississippi in Iowa community and its individual residents from child misconduct; and
- (h) To help maintain and restore the Meskwaki ways of being.

Sec. 7-1103. Policy.

(a) The policy is to insure that the Sac & Fox of the Mississippi in Iowa can protect the rights and promote the welfare of its children and other Indian children as well as all natural and adoptive parents. It is the further policy of the Tribe to insure that a tribal forum exists to address welfare and adoption issues that arise from all states' compliance with the Indian Child Welfare Act (ICWA), 25 U.S.C. §1901, *et seq.*

(b) The following shall constitute the policy of the Tribe with regard to the Indian Child Welfare Act, 25 U.S.C. §1901 *et seq.*

(1) The Tribe shall intervene in all matters addressed by the ICWA involving a tribal child, whether or not she or he is a member, unless such intervention would be impracticable under the circumstances of the case.

(2) In all ICWA cases which mandate transfer to Tribal Court and in which the Tribe is the "Indian Child's Tribe" within the meaning of a state ICWA or the federal ICWA, the Tribe shall

petition for transfer of proceedings from the state court unless such transfer would be impracticable under the circumstances of the case.

(3) The Tribal Court shall accept transfer of jurisdiction from state and other tribal courts unless acceptance of such transfer would be impracticable. The Tribal Court may include in such transfer siblings of Tribal minors who are members of another Tribe absent objection from the sibling's Tribe.

Sec. 7-1104. Construction.

This Title shall be liberally construed to insure that each child shall receive such care and guidance in the child's own home, if possible, as will protect and enhance the child's welfare and protect and enhance the health and stability of the Tribe.

Sec. 7-1105. Definitions.

(a) "Best interest of the child" shall be understood to reflect the Meskwaki ways of being. A best interest determination must be grounded in the concept of family preservation. The unique bond experienced by each child and her or his clan and tribe shall be protected in all proceedings. Each child shall be provided unbroken access to involvement with the Tribe's way of life and the child's lifelong relationship with her or his extended family, clan, tribal community, and tribe.

(b) "Child" or "Indian child" means an unmarried person under eighteen years of age who is enrolled in, enrollable in, or recognized as a member of, a tribal community of an Indian or Alaska Native tribe, band, nation, pueblo, village or community that the United States Secretary of the Interior acknowledges to exist as an Indian tribe.

(c) "Child in need of assistance" means any delinquent, dependent, or neglected child.

(d) "Children's Court" means the Sac & Fox Tribe of the Mississippi in Iowa Tribal Court, when exercising jurisdiction under this Title.

(e) "Children's Court Judge" means any duly appointed judge of the Court, when exercising jurisdiction under this Title.

(f) "Delinquent child" means any child who:

(1) Violates any provisions of existing Tribal law or any offenses enumerated in the criminal code of the State of Iowa, or any other state or tribal code in the United States;

(2) By reason of being ungovernable or habitually disobedient, is uncontrolled by her or his parents, guardian or custodian;

(3) Is habitually truant from school or home; or

(4) Habitually so deports herself or himself so as to injure or endanger the morals or health of herself or himself or others.

(g) "Dependent child" means any child who is homeless or destitute or without proper support through no fault of her or his parent, guardian, or custodian.

- (h) “Neglected child” means any child:
- (1) Who is abandoned by her or his parent, guardian or custodian;
 - (2) Who lacks proper parental care by reason of the fault or habits of her or his parents, guardian or custodian;
 - (3) Whose parent, guardian or custodian lacks the capacity, skills or ability to provide proper parental care for the child;
 - (4) Whose parent, guardian or custodian neglects or refuses to provide proper and necessary property, subsistence, education or other care necessary for the health, morals or well-being of such child;
 - (5) Whose parent, guardian or custodian neglects or refuses to provide special care made necessary by the mental or physical condition of the child; or
 - (6) Whose parent, guardian or custodian engages in conduct or is in a situation dangerous to life or limb or injurious to the health or morals of such child.
- (i) “Parties” mean the entities designated as petitioner and respondent in a child welfare action.

Sec. 7-1106. Placement Preferences.

(a) The Tribe hereby establishes the following placement preferences should a child be placed outside the child's home, provided such placement can secure the best care and guidance for the child. These placement preferences exist for foster care and adoption or any other placement that a court may need to make to secure a child's best interest as defined under this law. Within each placement preference category, preference shall be given to a placement on the Meskwaki Settlement. These placement preferences shall be applied by the Court in all proceedings pursuant to this Code and no deviation there from shall be made without a finding of good cause therefore.

(b) The out of home placement preferences for the Sac & Fox Tribe of the Mississippi in Iowa are as follows:

- (1) A member of the child's extended family;
- (2) A member of the child's Clan;
- (3) Another member of the child's Tribe who has been licensed by the Tribe to provide care for a Tribal child;
- (4) An Indian foster home located off the Settlement and licensed or approved by the Tribe;
- (5) Another Indian family; or
- (6) A specialized care provider for children approved by the Tribe or operated by an Indian organization which has a program suitable to meet a child's special needs.

(c) The provisions of this Section constitute the establishment of the Sac & Fox Tribe of the Mississippi in Iowa's order of placement preference as acknowledged by the Indian Child Welfare Act (ICWA) at 25 U.S.C. §1915 (c).

Sec. 7-1107. Records of Children's Court.

The Court shall maintain a record of all proceedings under this Title in record books labeled "Records of the Children's Court." The records of proceedings under this Code shall not be open to public inspection and the names of the parents, guardians, custodians and children in need of assistance shall not be released to the public nor the media.

Sec. 7-1108. Confidentiality.

(a) All matters under this Code shall be confidential and heard in closed Court, excluding all persons except parents, others who have a responsibility for the child, extended family, the probation officer, law enforcement officer, guardian ad litem, attorneys or advocates for the parties and, with the permission of the Court, others having a direct interest in the matter.

(b) Upon motion and good cause shown, the Court may exclude any person from a hearing or portion thereof or may redact orders issued to such person, as for example where a restraining order between parties provides grounds for preventing a party from knowing the residence or schedule of another party.

TITLE 7. CHILD WELFARE

ARTICLE II.

CHILD WELFARE PROCEEDINGS

[NOTE: Except as otherwise noted, the provisions of Article II, Title7 were enacted on October 24, 2007 by Res. No. 33-2007.]

CHAPTER 1. JURISDICTION

Sec. 7-2101. Jurisdiction.

The Children's Court shall have original jurisdiction in all proceedings coming within the terms of this Title and all inherent jurisdiction not foreclosed by federal law. The Children's Court shall have jurisdiction over the parent(s), guardian(s), custodian(s), presumed parent(s) or any individual(s) residing in the child's home. The Court shall have continuing jurisdiction until the child reaches eighteen (18) years of age. Unless the child is discharged by the Court, the Court for cause shown may re-open the case at any time and take such action with respect to a child as it deems appropriate. Jurisdiction over a minor may be extended past the minor's eighteenth birthday if the Court finds good cause exists for such extension, but not beyond her or his twenty-first birthday.

Sec. 7-2102. Transfer of Jurisdiction Under the ICWA.

(a) The Sac & Fox Tribe of the Mississippi in Iowa Court, acting through any judge thereof, shall have authority to formally accept the transfer of jurisdiction from any state court, but any order rejecting transfer shall only be valid if signed by a majority of the judges of the Court, after consultation amongst the judges and after consultation with the Tribal Council. Unless the Tribal Court order accepting transfer provides otherwise, all orders of the transferring court which were effective as of the date of transfer shall remain in effect, and shall be treated as if issued by the Tribal Court, until and unless modified by the Tribal Court; except that the acceptance of transfer of the case shall transfer legal custody of the child solely to the Tribe unless the Tribal Court expressly provides otherwise.

(b) Upon acceptance of transfer, the Sac and Fox Tribe of the Mississippi in Iowa Court shall set the matter for a hearing within such period of time as is warranted by the procedural posture and facts of the case, provided that the hearing shall begin: within 21 days if the transferring jurisdiction has not issued a dispositional order; and within 45 days with if the matter was pending a review hearing in the transferring jurisdiction.

(c) Where the transferring jurisdiction has adjudicated a child to be delinquent or dependent prior to transfer, unless all grounds for finding the child to be delinquent or dependent are repugnant to tribal law or the federal Indian Child Welfare Act, the Tribal Court shall treat the child as delinquent or dependent under this Title and shall proceed accordingly.

(d) Where the transferring jurisdiction has issued a dispositional order or other order adopting a permanency plan, plan for reunification or case plan, the Tribal Court shall review that order de novo, applying this Code, at the hearing provided for in subsection (b).

(e) Where the transferring jurisdiction has issued a final order terminating the parental rights of any person or other final order, such final order shall be subject to review or reconsideration in the Sac and Fox

Tribe of the Mississippi in Iowa Court only on grounds which would permit such review or reconsideration under the laws of the United States or the transferring jurisdiction.

CHAPTER 2. INITIATION OF PROCEEDINGS

Sec. 7-2201. Proceedings of a Civil Nature.

Proceedings in Children's Court cases shall be regarded as civil proceedings, with the Court exercising both legal and equitable powers. The fact that the proceedings are of a civil nature shall not be construed to deprive the child of her or his right to counsel or to confront accusers and cross-examine witnesses against her or him.

Sec. 7-2202. How to Start Proceedings.

Child welfare proceedings shall be initiated by Meskwaki Family Services filing a petition with the Meskwaki Children's Court alleging that a child is a child in need of assistance or by Meskwaki Family Services or Meskwaki police taking a child into emergency custody (followed by the filing of a petition and an emergency custody hearing within 72 hours) as permitted under this Title or by the Court accepting transfer of a case from another jurisdiction.

Sec. 7-2203. Contents of a Petition.

(a) The Petition shall:

(1) be captioned: "In Re the Matter of (child's or children's initials), [A] [Dependent], [Neglected], and/or [Delinquent] Child[ren]";

(2) state the full name, age, tribal affiliation and residence of each child, and of each child's parent(s), guardian(s), custodian(s), other care provider(s), putative father(s), and others who have or may have responsibility for the child; and

(3) state, in the language of the definitions in this Title, the grounds for alleging that the child is delinquent, dependent, or neglected, and provide a brief narrative statement of facts in support of each allegation.

(b) A petition which substantially complies with the requirements of this section shall not be dismissed for violation of this section.

Sec. 7-2204. Service of Petition and Notice.

(a) Upon the filing of a petition, the clerk of court shall issue a notice which may be in the form of a summons directing the parent(s), guardian(s), custodian(s), other care provider(s), putative father(s), others who have or may have responsibility for the child, and others the Court determines should be present in Court for an adjudicatory hearing at the time and place fixed in the notice. Meskwaki Family Services shall arrange for prompt attempts to serve all such notices. The returns of service or of attempts at service shall be filed in the record of the case.

(b) The Court shall schedule the adjudicatory hearing to be held not more than 21 days after the filing of the petition. That hearing may only be continued:

(1) Because a party necessary to adjudication has not been served with notice or was served with notice less than one week prior to the hearing;

(2) Because a party necessary to adjudication is in a treatment facility and establishes that participation in the adjudication would be detrimental to the treatment; or

(3) For other good and substantial cause, shown by clear and convincing evidence; provided that continuances under this subsection shall be for no more than 10 days.

(c) If the whereabouts of the parent(s), legal guardian(s) or care provider(s) or others who have a responsibility for the child is unknown, or if after reasonable efforts service cannot be completed, the Court may authorize service by publication and the Court may proceed to take any action to protect the best interests of the child until an adjudicatory hearing can be held.

Sec. 7-2205. Adjudicatory Hearing and Alternatives to Court Adjudication.

(a) The Court shall inquire at the earliest inception of the case if resolution of the matter may be found in the problem solving practices of the child's family, clan or tribe. If the matter of the child's safety and the family's stability can be resolved within and by the child's family, clan or tribe, the Court shall request such resolution. Upon being advised that a resolution for the child and family has been reached, the Court shall make the following inquiries before issuing a dispositional order:

- (1) the identity of the child's caregiver;
- (2) the child's residence;
- (3) the conditions of contact, if any, with the person from whom the child was removed;
- (4) the condition of contact, if any, with any person who has harmed the child; and
- (5) the resolution of the problem giving rise to the petition filing.

(b) Except as otherwise provided in this Code, the Tribal Court may adopt any mode of proceeding on the petition as it, in its discretion, deems appropriate, including, by way of example but not limitation: adjudication by trial; adjudication by stipulation with or without admission of grounds; conducting a dispositional hearing without adjudication of the merits of the petition; informal court review; or voluntary permanent or temporary transfer of custody.

(c) Unless the Court determines that adjudication of the petition is unnecessary for reasons stated in subsections (a) or (b), the Court shall hold an adjudicatory hearing, to determine whether the child is a child in need of assistance.

Sec. 7-2206. Emergency Custody Hearing.

If Meskwaki Family Services removes a child from the custody of a parent, guardian or custodian, in no instance shall such removal from custody exceed seventy-two (72) hours unless Meskwaki Family Services files a petition under section 7-2202 and the Court holds a hearing at which it determines that there is probable cause to believe that the child is a child in need of assistance and probable cause to believe that continued removal from custody of the parent, guardian or custodian is in the best interest of the child.

CHAPTER 3. ACTIONS OF THE CHILDREN'S COURT**Sec. 7-2301. General Authorities and Duties.**

(a) The Court shall make such orders for the commitment, custody and care of the child and take such other actions as it may deem advisable and appropriate in the best interest of the child. In addition to Meskwaki Family Services, the Court may request and accept the aid of other Tribes and the Iowa Department Human Services, or such others as it deems appropriate for a proper determination and disposition of the case, including custody or placement of the child.

(b) After a child is determined to be a dependent child, the Court shall review orders entered under this Title and Meskwaki Family Services case plans and make such adjustments to such orders as the Court determines are appropriate. Such reviews shall be at intervals set by the Court in its discretion based upon the facts of the case, but in no event shall more than 180 days expire between review hearings.

(c) The Court shall have authority to receive, consider and render judgment on petitions for termination of parental rights only against a person who has been convicted of the sexual or physical abuse or child endangerment, or repetitive instances of severe neglect which have a demonstrable negative impact upon the welfare of a child in his or her custody. No judgment or order may issue to terminate parental rights unless the respondents have been provided full notice and an opportunity to be heard prior to entry of any judgment.

(d) The Court shall make all possible efforts to comply with all time limitations stated in this Code and to cause others subject to the jurisdiction of the Court to comply with such time limitations. The Court shall give matters under this Code priority on its calendar in order to comply with time limitations. Where a party objects that a hearing is not scheduled within the time limits provided under this Code, the Court shall if reasonably possible reschedule to comply with the Code. But unless otherwise expressly provided for in this Code, failure to comply with any time limitation provided in this code shall not be grounds for dismissal of a case or for relieving any party of its duty to comply with orders directed to that party, but the Court may grant other remedies as it deems appropriate.

Sec. 7-2302. Orders for Protection.

(a) If it appears to the Children's Court, upon sworn testimony or an affidavit, that there is probable cause to believe that a child is being neglected, endangered, detained without authorization, or ill-treated in any place within the jurisdiction of the Children's Court, the Children's Court may issue an order authorizing Meskwaki Family Services, or any other person authorized by the Children's Court to search for and obtain physical custody of the child. Such person must thereupon take the child to the place or shelter designated by the Children's Court in its order. If such placement is not designated in the Court's order, then the child shall be placed, temporarily, pursuant to Meskwaki Family Services directives. A placement directive from Meskwaki Family Services shall not extend beyond a seventy-two hour period without review from a judge of the Children's Court.

(b) An order for protection may be issued if a child, previously placed by an order of the Court, runs from his or her placement.

(c) An order for protection may be issued on behalf of a minor child and her or his custodial parent if the Court finds that such order is necessary to prevent violent or threatening acts or harassment against the Court's designated custodian of the child and/or the child. Such order may be designated a protection order as provided in 18 U.S.C. sec. 2266, Violence Against Women Act.

(d) If an *ex parte* order for protection is issued by the Court and includes protection of the child's custodian, the Court shall provide notice and an opportunity to the respondent within a reasonable time after such order is issued which is sufficient to protect respondent's right to due process.

(e) Interference with execution of the Court's order may subject an individual to a contempt of Court citation, or arrest and detention if such authority shall exist.

Sec. 7-2303. Custody of Child Pending Hearing.

Pending final disposition of the case, the child shall be subject to the order of the Children's Court, subject to the placement preferences contained in this Title.

Sec. 7-2304. Medical Care and Examinations.

If the Children's Court orders medical examinations or psychological or psychiatric evaluations, it shall ensure that the evaluator has adequate training and experience and be able to make evaluations grounded in the cultural context of the child.

Sec. 7-2305. Commitments.

(a) The Court shall have authority to make involuntary parental commitments for mental health, chemical dependency or alcohol dependency for the benefit of the family and the child's best interest as defined in this title.

(b) The Children's Court shall have broad discretionary power, in accordance with Sec. 7-1106(b) of this Code, to make children's placements and commitments. Its authority shall include, without intending any limitation hereby, the power to place or commit the child, subject to Sec. 7-1106(b), 2206(b) and 2301(a).

Sec. 7-2306. Judgment for Support.

The Children's Court may, by order, direct the person or persons required by law to support the child to pay for the support of the child in such amount as the Children's Court may determine to be fair and reasonable, including the cost of any placement, guardian ad litem fees, or other costs associated with proceedings under this Code. Such orders shall have the force and effect of judgments for money and shall be enforceable as are other judgments for money.

Sec. 7-2307. Contempt of Court.

Any person who knowingly violates the orders of the Children's Court may be subjected to a show cause hearing for contempt of Court and a fine as permitted by Title V or other applicable laws. No show cause order for contempt shall issue prior to adequate attempts by the court to resolve the question of the person's conduct in a manner consistent with tribal problem solving practices. Prior to the issuance of an order to show cause, the court shall determine whether such action will adversely affect the best interest of the child as defined in this title.

Sec. 7-2308. Appointment of Advocates.

(a) The Court shall have authority to appoint an advocate or attorney to represent any party, other than the Tribe, in a proceeding under this Title; provided that such appointment shall not be at the expense of the Tribe unless otherwise expressly provided for in this section.

(b) The Tribal Court shall appoint an advocate or attorney for an indigent party if:

(1) The party has requested appointment of counsel and has proven that the party is indigent; and

(2) The appointment is for an adjudicatory hearing; hearing to determine whether parental rights should be terminated; final disposition of the case where Meskwaki Family Services is not recommending return of the child to the parent, guardian, or custodian from whom the child was removed; any other hearing for which appointment of counsel is required by due process of law; or any other hearing for which appointment would substantially benefit a party or the Court.

(c) The Tribal Court shall appoint an attorney or advocate for an indigent party at the expense of the Tribe where the appointment is required by subsection (b) and where additionally the Tribal Council has expressly earmarked funds to the Tribal Court budget for payment of such expenses, but in no event shall the Court pay for appointed counsel or advocates with any funds other than those expressly earmarked for that purpose. Unless the Tribal Council indicates otherwise when budgeting funds to the Court, all orders for appointment of attorneys at the Tribe's expense shall require the person receiving such funds to perform at least three hours of community services to the Tribe for each hour of attorney or advocate time billed to the Tribe, except that the Court need not require community service where the Court finds that a party is not physically able to perform such services or where the performance of such services would impede reunification of the family. The Court may, in its discretion, condition the appointment of counsel upon the indigent party first having completed some or all of the community service hours.

(d) As used in this section, "indigent" means a person who has income less than the federal poverty guidelines, unless there is evidence that the person has other assets or resources that might reasonably be used to employ a lawyer without undue hardship on the person or his or her dependents.

CHAPTER 4. CUSTODY OF A CHILD BY OFFICER OF LAW**Sec. 7-2401. Apprehension, Notice and Placement.**

(a) Nothing in this Title shall be construed as prohibiting an officer of the law, a probation officer, or a Meskwaki Family Services professional staff member from acting in an emergency to take into custody a child who is found violating a law, including truancy or run-a-way; who is reasonably believed to be a fugitive from her or his the parent(s), legal guardian(s), care provider(s); others who have a responsibility for the child, placement agency, or from justice; or whose surroundings are such as to endanger her or his health, safety, or welfare unless taken into custody.

(b) Upon such action by an officer of the law, the officer must immediately contact Meskwaki Family Services which shall take action pursuant to this section or take physical custody of the child in order to return that child to his or her parent(s), legal guardian(s), care provider(s) or others who have a responsibility for the child.

(c) If such placement is made with a family on the Meskwaki Settlement, an emergency order for protection shall be available for the placement family if such protection is determined to be reasonably necessary by the Court.

Sec. 7-2402. Emergency Removal Authority.

The Meskwaki Family Services is authorized by this section to make pre-hearing emergency placements and shall abide by the seventy-two (72) hour limitation required herein.

TITLE 7. CHILD WELFARE

ARTICLE III

MESKWAKI FAMILY SERVICES

[NOTE: Except as otherwise noted, the provisions of Article III, Title 7 were enacted on October 24, 2007 by Res. No. 33-2007.]

CHAPTER 1. GENERAL PROVISIONS

Sec. 7-3101. Duties.

In carrying out the duties enumerated in this Section, Meskwaki Family Services shall be aware at all times that its primary duty is to coordinate care rather than manage cases. Meskwaki Family Services shall be charged with organizing healing processes through the mobilization of family resources first. Meskwaki Family Services shall have the following powers, duties, and responsibilities.

(a) Pursuant to the instruction of the Tribal Council, process all ICWA notices sent to the Tribe, assist the Tribal Council in intervening in ICWA proceedings, assist the Tribal Council in petitioning for transfer of ICWA proceedings to the Meskwaki Children's Court and carry out all other duties and responsibilities regarding all ICWA matters pursuant to the instructions of the Tribal Council. In carrying out duties under this subsection, the Director of Meskwaki Family Services shall have authority to sign, on behalf of the Tribe, documents, whether denominated "motions", "notices" or otherwise, seeking or effectuating intervention by the Tribe in ICWA cases in foreign courts; and seeking or effectuating transfer of ICWA cases from foreign courts to the Sac and Fox Tribe of the Mississippi in Iowa Court.

(b) Receive and investigate reports of suspected child in need of assistance matters, including suspected child abuse, neglect, dependency, delinquency, truancy or runaway situations involving children either enrolled in or eligible for enrollment in the Sac & Fox Tribe of the Mississippi in Iowa, or any Indian child residing on or domiciled on the Meskwaki Settlement. In addition, Meskwaki Family Services shall report suspected abuse, neglect or dependency of non-Indian children residing on the Settlement to the appropriate authorities. Meskwaki Family Services staff shall participate in Children's Court cases to which it is a party.

(c) Receive referral information, conduct intake inquiries, and determine whether to initiate child welfare proceedings.

(d) Determine whether a child member of the tribe or a child eligible for membership in the tribe or a child considered a member of the community or any Indian child residing on the Settlement should be held pursuant to emergency removal authority, enumerated in Section 12 of this Title. Emergency removals shall not exceed seventy-two (72) hours without a Court hearing. Meskwaki Family Services shall provide crisis counseling during the intake process, when such counseling appears to be necessary.

(e) Make referrals of cases to other agencies and share information with other agencies if their assistance appears to be needed or desirable.

(f) Develop case plans, conduct case plan reviews, make dispositional reports and provide recommendations to the Court in child welfare proceedings, including a plan of rehabilitation, treatment and care. In each case where a child receives or is eligible for funding under federal social security laws, the case plan shall comply with all prerequisites for such funding, including, but not limited to requirements for

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reasonable efforts to maintain the family unit to the extent consistent with the safety of the child; reasonable efforts to reunify the family if possible, establishment of a permanency plan and alternative permanency plans, and submission for and obtaining of any Tribal Court approval as required for such funding.

(g) Supervise and assist children under the jurisdiction of this Court pursuant to child welfare dispositions, offer individual or family counseling, and engage in active efforts to obtain necessary or desired services for the child and the child's family.

(h) Accept legal custody of those children under the jurisdiction of this Court when ordered by the Children's Court.

(i) Initiate petitions for the termination of parental rights or investigate and report to the Children's Court on petitions to terminate parental rights brought pursuant to Sec. 7-2301(b).

(j) If specifically authorized by Tribal Council resolution, retain counsel to assist in carrying out these duties and to represent the Tribe in special matters relating to this Title.

(k) Negotiate agreements for services, record sharing, referral, and funding for child welfare services pursuant to dispositional orders.

(l) Provide measures and procedures for preserving the confidential nature of child welfare services records within Meskwaki Family Services.

(m) Mail and file such reports as may be required by this Code and by agreements with other governmental agencies in furtherance of child and family services.

(n) Perform any other functions ordered by the Court in cases brought under this Title.

Sec. 7-3102. Use of Other Tribal Resources by Meskwaki Family Services.

In carrying out its duties and responsibilities under this Title, Meskwaki Family Services may use psychiatric, psychological, therapeutic counseling and other social services available to the Tribe, both from within and without the Tribe. Meskwaki Family Services shall be required to identify and use tribal resources. Such medical providers must have adequate training and experience and be able to make evaluations grounded in the cultural context of the child.

Sec. 7-3103. Report of Custodian.

When a child is committed to the care of any person or agency, the matter may be assigned by the Children's Court to a Meskwaki Family Services representative who obtain a report quarterly, or more frequently if the Children's Court so orders, from the custodian to whom the child has been committed. Said report shall include at a minimum, the child's condition and welfare. The report shall be filed with the Children's Court.

Sec. 7-3104. Case Plans.

(a) For all matters in which a dispositional order other than a dismissal is entered, Meskwaki Family Services shall develop a written plan of service in consultation with the child, if over 12 years of age, the parent(s), legal guardian(s), care provider(s) or others who have a responsibility for the child, and such other child and family service providers as may be appropriate to the case. Each case plan shall be designed to assist the parent(s), legal guardian(s), care provider(s) or others who have a responsibility for the child to return

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to a healthy lifestyle in order to maintain family placement or to be reunified with their child if the Court determines that reunification is in the child's best interest. Each case plan shall be designated to achieve placement in a setting which most closely approximates the child's family and in which any special needs may be met, and shall include the following:

- (1) A description of the type of home or specialized child care the child needs;
- (2) A discussion why the placement is necessary for the particular child;
- (3) A plan to insure that;
 - (i) the child receives proper care while in placement;
 - (ii) services are provided to the parent(s), child, and foster parent(s) to maintain family placement or to facilitate the return of the child to her/his home or permanent placement;
 - (iii) in an out-of-home placement, regular, ongoing contact between the parent(s), legal guardian(s), care provider(s) or others who have a responsibility for the child and the child and all other family members who have been part of child's life when no danger is presented to child by such contact; and
 - (iv) the child's service needs in foster placement are met and that the services are appropriate.
- (4) At no less than six month intervals, Meskwaki Family Services shall review each case and plan, and develop written findings which address the;
 - (i) Continuing need for service and/or placement;
 - (ii) Appropriateness of services and/or placement to date;
 - (iii) Compliance with the service plan;
 - (iv) Progress made toward alleviating or mitigating the circumstances giving rise to the dispositional order; and
 - (v) Projection of a likely date by which the child may be returned home, placed in other custody or legal guardianship, long-term foster care, or placed for adoption in the circumstances provided for in this Title and Title 6.
- (5) Case reviews shall be conducted by a panel including at least one person who is not responsible for management or delivery of services in the case; and
- (6) The case plan and any case review findings shall be filed with the Children's Court and shall be referenced in any petition for extension or modification under this Title.