

TRIBAL CODES

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KICKAPOO TRADITIONAL TRIBE OF TEXAS TRIBAL CODES

CHAPTER 1. ESTABLISHING THE COURT; JUDGES; COURT PERSONNEL

Section 1.1 Council Findings

(A) Recognizing that tribal self-sufficiency cannot be fully realized without first exerting control over such matters as may be vital to tribal interests, the Traditional Council of the Kickapoo Traditional Tribe of Texas finds:

(1) That Article VII, Sections (n) and (o) of the Kickapoo Traditional Tribe of Texas Constitution (approved July 11, 1989) confers upon the Traditional Council the power "to regulate and maintain law and order on lands within the Tribe's jurisdiction" and "to provide for the administration of justice by establishing tribal courts," respectively; and

(2) That the Traditional Council desires to deal fairly and equitably with all persons; and

(3) That the Traditional Council desires to administer in a just and impartial fashion, consistent with Kickapoo traditions and customs, all applicable laws, ordinances, regulations and policies; and

(4) That the Traditional Council would best be served by a judicial system separate and independent of the legislative branch of tribal government; and

(5) That the Traditional Council desires to preclude state infringement of tribal sovereignty in all matters essential to the tribe's goal of self-sufficiency.

(B) (RESERVED FOR EXPANSION)

Section 1.2 Jurisdiction

(A) The Court shall exercise the general judicial jurisdiction of the Kickapoo Traditional Tribe of Texas and other additional jurisdiction where such is not prohibited by federal law:

(1) The Kickapoo Traditional Tribe of Texas Tribal Court shall exercise jurisdiction over all matters within the power and authority of the Kickapoo Traditional Tribe including controversies arising out of the Constitution of the Kickapoo Traditional Tribe; laws, statutes, ordinances, resolutions and codes enacted by the Traditional Council; and such other matters arising under enactments of the Traditional Council or the customs and traditions of the Kickapoo Traditional Tribe. This jurisdiction extends over the Kickapoo Traditional Tribe and its territory, persons who enter its territory, its

members, and persons who interact with the Kickapoo Traditional Tribe or its members wherever found.

(B) To the extent that any existing or future tribal ordinances or codes state that the jurisdiction for the adjudication of claims under or violations of said ordinances or codes lies with the Traditional Council, the jurisdiction for said ordinances and codes now lies with the Kickapoo Traditional Tribe of Texas Tribal Court.

Section 1.3 Purpose and Construction

(A) DECLARATION OF PURPOSE. This Code shall be interpreted and understood to accomplish the following tribal objectives:

(1) To exert jurisdiction over all matters essential to the Tribe's goal of self-determination and self-governance; and

(2) To provide orderly procedures for resolving conflicts that reflect tribal traditions as well as the prevailing community standards, and which afford all affected persons a fair, prompt and impartial hearing; and

(3) To establish a court system for the interpretation of Kickapoo Tribal Law and such other law as may properly come before the Court; and

(4) To ensure that all matters shall be conducted in a manner so as to afford all persons who appear before the Kickapoo Traditional Tribe of Texas Tribal Court all rights guaranteed by the Constitution of the Kickapoo Traditional Tribe of Texas; and

(5) To ensure that the sovereignty of the Kickapoo Traditional Tribe of Texas is recognized in all matters affecting the welfare of the Kickapoo Traditional Tribe of Texas.

(B) CONSTRUCTION. This code is exempted from the rule of strict construction. It shall be read and understood in a manner that gives full effect to the purposes for which it is enacted.

(1) Whenever there is uncertainty or a question as to the interpretation of certain provisions of this code, tribal law or custom shall be controlling and where appropriate may be based on the written or oral testimony of a qualified tribal elder, historian or other representative.

(2) Should it be determined that tribal law does not address particular subject matter, then the Court may apply federal law and regulations only if the Court determines them to be consistent with tribal custom.

(3) Should it be determined that neither tribal law nor federal law address particular subject matter, then the Court may apply state law only if the Court determines it to be consistent with tribal custom.

Section 1.4 Court Funding

(A) When allocating the budget money for the Tribal Court, the amount of money appropriated by the Traditional Council for the Tribal Court budget shall not be less than an amount sufficient to pay a full time district judge, a full time court clerk, and reasonable and necessary operating expenses.

Section 1.5 Definitions

(A) JUDGE: A person, qualified to be a judge of the Kickapoo Traditional Tribe of Texas Tribal Court, who is appointed by the Judicial Appointment Commission consistent with this code.

(B) TEMPORARY JUDGE: A person, qualified through training, education or experience, who is appointed by the Judicial Appointment Commission to preside over a Kickapoo Traditional Tribe of Texas Tribal Court proceeding when all Kickapoo Traditional Tribe of Texas Tribal Court judges are unavailable due to absence, resignation or disqualification.

(C) KICKAPOO LAW OR TRIBAL LAW: The Constitution of the Kickapoo Traditional Tribe of Texas, Kickapoo customs and traditions, and all codes, ordinances, regulations and policies duly adopted by Traditional Council resolution.

(D) AUTHORIZED ENFORCEMENT OFFICERS: Kickapoo Traditional Tribe of Texas law enforcement officers and such other enforcement officers as may be recognized by the Tribe.

(E) VIOLATION NOTICE: An order, issued by authorized law enforcement personnel to a suspected violator in connection with a violation of tribal law, to appear before the Kickapoo Traditional Tribe of Texas Tribal Court at a later date; commonly known as a citation or notice of infraction.

(F) KICKAPOO TRIBE OR "TRIBE": The Kickapoo Traditional Tribe of Texas, unless the context in which "Tribe" is used clearly indicates otherwise.

(G) KICKAPOO TRADITIONAL TRIBE OF TEXAS RESERVATION OR KICKAPOO RESERVATION: All lands of the Kickapoo Traditional Tribe of Texas and members thereof, falling within the purview of 18 U.S.C. Section 1151, or other applicable federal or tribal law.

(H) IMMEDIATE FAMILY: This term shall be defined by Kickapoo custom and tradition and includes the spouse, parents, grandparents, foster parents, children, foster

children, grandchildren, foster grandchildren, brothers, sisters, aunts and uncles of the person, or person's spouse, son-in-law, daughter-in-law, father-in-law, mother-in-law, sister in-law, brother-in-law, nieces and nephews.

(I) **SUBSTITUTE JUDGE:** A judge who will preside in the event that the judge of record is recused due to conflict of interest, or otherwise is unable to hear the case.

(J) **JUDICIAL APPOINTMENT COMMISSION:** A commission of 9 tribal members appointed by the tribal council to review applications for appointment, confirms and appoints the judges of the Kickapoo Traditional Tribal Court. The Chairman of the Council shall appoint one (1) member of the Commission and each member of the Traditional Council shall appoint two (2) members to the Judicial Appointment Commission. The member appointed by the Council Chairman shall serve as the Judicial Appointment Commission Chairperson. The Commission Chairperson shall call meetings, preside over meetings, and cause that a record is kept of all proceedings. Seven (7) members of the Judicial Appointment Commission shall constitute a quorum. No meeting shall take place if a quorum is not present.

Section 1.6 The Court

(A) Pursuant to Section 1.6 (B) the Kickapoo Traditional Council does hereby establish for the Kickapoo Traditional Tribe of Texas a court to be known as the Kickapoo Traditional Tribe of Texas Tribal Court, hereinafter "Court".

(B) Notwithstanding anything to the contrary herein contained, the first established Court shall consist of a District Court. The District Court established under this subsection shall consist of one Chief Judge appointed by the Council and any other judicial appointments as the Kickapoo Traditional Tribe Of Texas Council deems necessary. The other courts contained in this Code may be established after this Court has operated for at least six (6) months and as soon as fiscally practical.

(C) At the conclusion of the term of the court established under subsection 1.6(B), the Court shall consist of one Supreme Court and one or more District Courts. The Supreme Court shall consist of one Chief Justice and two or more Associate Justices. The District Court shall consist of one Chief Judge and one or more Associate Judge(s), and other judicial officers as may be appointed by the Kickapoo Judicial Appointment Commission. The Kickapoo Judicial Appointment Commission is responsible for initiating the nomination process in order to maintain at least five judges in the judiciary at all times.

(D) NOMINATION AND CONFIRMATION PROCESS

(1) The Judicial Appointment Commission shall post notice of a vacancy as soon as practicable. The notice shall be posted in the front entrance of the Administration Building. The notice may be further published as the Judicial Appointment Committee finds it necessary to fill the position.

(2) The Tribal Administrator shall, on behalf of the Judicial Appointment Commission, accept applications for the position of Tribal Judge. The Tribal Administrator shall promptly forward the applications to the Judicial Appointment Commission Chairperson.

(3) The Judicial Appointment Commission shall, at a meeting duly called by the Commission Chairman, consider all applications for the position of Tribal Judge and by a majority vote confirm final appointment(s) to all vacant positions.

(4) A majority of the Judicial Appointment Commission shall appoint the Chief Judge from among the confirmed tribal judges.

(D) At the first confirmation after enactment of this Code the Judicial Appointment Commission may appoint one or more judges for a three (3) year term of office and one or more judges for a five (5) year term of office. Thereafter, the judges shall be appointed for 5 year terms. Judges shall not be subject to removal by the Traditional Council except upon 5/7 vote of the Traditional Council and only for cause of illegal conduct, violation of the Kickapoo Traditional Council Judicial Code of Ethics, physical or mental inability to carry out the duties of office; except any judge convicted of a felony or any crime of moral turpitude is automatically removed upon conviction.

(E) The Judicial Appointment Commission may appoint a JUDGE to fill an unexpired judicial term or any part thereof. Judge shall meet qualifications under section (M).

(F) No person shall serve as judge while serving as a member of the Traditional Council or as a tribal law enforcement officer.

(G) No judge shall be qualified to act in any case wherein he or she has any direct interest in the matter before the Court. A trial judge shall not, unless his or her services are agreeable with all parties and only after explaining his or her relationship pursuant to the Kickapoo Traditional Tribe of Texas Judicial Code of Ethics, sit on any case where he or she is related as an immediate family member to one of the parties in the case.

(H) In any case where all judges have been prevented from presiding by virtue of disqualification, illness, or absence, a TEMPORARY JUDGE shall be selected by the Judicial Appointment Commission, for the Court.

(I) Court Personnel and clerk, are employees of the Tribe and subject to tribal personnel policies. The Chief Judge may, pursuant to tribal personnel policies, fill staff vacancies and fire employees except as to those serving as judge(s), prosecutor(s), or in any defender capacity. All court personnel, except those serving a prosecutorial or defender position, shall be subject to the supervision of the Chief Judge.

(J) Judges shall receive such compensation as shall be set by the Traditional Council; However a judges compensation will not be reduced during any term unless a 4/5

majority of The Traditional Council finds it unavoidable due to drastic reduction of Tribal revenue and fiscal emergency.

(K) The Court shall exercise appellate jurisdiction over all administrative hearings of the Tribe.

(L) The Kickapoo Traditional Tribe of Texas Tribal Supreme Court shall have jurisdiction over appeals from the Tribal District Court.

(M) QUALIFICATIONS FOR JUDGES. Judges confirmed by the Judicial Appointment Commission shall be 30 years of age and shall demonstrate fitness and competency for the office. No person convicted of a felony shall serve as a Judge. All applicants will be subject to a background investigation to insure compliance with these qualifications.

(1) All District Court Judge(s) shall be licensed attorneys.

(2) The Chief Justice and one Associate Justice of the Supreme Court shall be licensed attorneys. One of the Associate Justices need not be an attorney.

Section 1.7 Peacemaker Program

(A) The Kickapoo Traditional Tribe of Texas Tribal Court shall have the power to administer a Peacemaker Program. Such program shall be paid for out of the budget for the Court.

(B) The Court shall be responsible for all aspects of the Peacemaker Program including the hiring, training and supervision of Peacemakers.

Section 1.8 Tribal Prosecutor

(A) The Tribal Council shall appoint a person or persons to represent the Kickapoo Traditional Tribe in prosecuting cases before the Court.

(B) The Judicial Appointment Commission shall recommend to the Tribal Council candidates for appointment as Prosecutor(s). The Tribal Council shall review the recommendation and make its appointment(s).

(C) The Prosecutor may be removed for cause by the Traditional Council upon 5/7 vote of the Council. Cause includes but is not limited to abuse of discretion.

(D) The Prosecutor shall have the power to issue complaints on the basis of his/her own investigation or on the basis of information furnished by enforcement officers or others.

(E) The Prosecutor shall have discretion to decline to prosecute an action where he/she shall find that there is not sufficient justification for the complaint and states in writing the reason for declining the prosecution.

(F) The Prosecutor shall represent the people of the Kickapoo Traditional Tribe of Texas in all proceedings of the Tribe in Tribal Court in which the Tribe is a party, acting on their behalf and in their best interests.

(G) The Prosecutor shall be empowered to establish policies and procedures not inconsistent with tribal law and traditions necessary to carry out the duties of office.

(H) The Prosecutor shall receive such compensation as shall be set by the Traditional Council.

(I) Any Attorney for the tribe or a staff attorney may serve as Prosecutor and his or her regular salary shall be the compensation.

Section 1.9 Court Clerk

(A) The Chief Judge shall hire a person to serve as Court Clerk.

(B) The Clerk must be able to obtain a bond satisfactory to the Traditional Council.

(C) The duties of the Court Clerk shall be set by the Chief Judge consistent with the Traditional Tribal code and the Kickapoo Traditional Tribe of Texas personnel policy.

Section 1.10 Tribe as a Party

(A) In any case where the Tribe has a significant interest in being a party, the Tribe may petition to be joined as a party and shall join the case as a party.

(B) The Tribe shall be deemed to have a significant interest in the following cases:

- (1) The prosecution of violations of tribal civil law;
- (2) In the defense of tribal administrative decisions which are being appealed;
- (3) Where the constitutionality of a Traditional Council action is being challenged in Court;
- (4) Any case involving Tribal sovereignty or jurisdiction, the validity of Tribal law, or other actions of the Tribe, its employees, officers and agencies;
- (5) Any case involving a Kickapoo child who is under the age of 18, who is an enrolled member, or who is eligible for enrollment in the Tribe or is adopted into the Tribe by law or Tribal customs or traditions for the purposes of enforcing the Indian Child Welfare Act.

(C) In all other situations other than those listed in (B), when the Tribe petitions to be joined as a party, the Court shall allow the Tribe to intervene.

(D) In any case where the Tribe may have an interest, regardless of whether the Tribe or its employees, officers, or agencies are named as a party, the Tribal Court shall provide

written notice of the case to the Tribe's Legal Department and Traditional Council before the matter may be heard and before any action can be taken except as provided by Section 1.13.

Section 1.11 Sovereign Immunity

(B) The Kickapoo Traditional Tribe of Texas is immune from suit except to the extent that the Traditional Council expressly waives sovereign immunity and except as authorized by this section.

(B) Any official or employee of the Kickapoo Traditional Tribe of Texas acting within the scope of their duties shall be immune from suit. Officials and employees who act beyond the scope of their duties and authority shall be subject to suit in law and equity for declaratory judgment and prospective injunctive relief in the Kickapoo Traditional Tribe of Texas Tribal Court by persons subject to the jurisdiction of the Kickapoo Traditional Tribe of Texas Tribal Court for purposes of enforcing rights and duties established by the Constitution or other applicable laws. No money damages shall be available in suits under this section.

(C) Persons subject to the jurisdiction of the Kickapoo Traditional Tribe of Texas shall exhaust all remedies available to them under the Constitution and the laws of the Kickapoo Traditional Tribe of Texas before seeking redress of grievance against the Kickapoo Traditional Tribe of Texas in the courts of the United States under any law of the United States granting those persons such rights, unless specifically agreed to otherwise by the parties.

Section 1.12 Rule-Making Power

(A) The Kickapoo Traditional Tribe of Texas Tribal Court may from time to time prescribe Rules of Procedure for the conduct of Court business.

(B (RESERVED FOR EXPANSION)

Section 1.13 Temporary Restraining Orders and Injunctions

(A) Temporary Restraining Orders

A written complaint must be filed with the Kickapoo Traditional Tribe of Texas Tribal Court before a temporary restraining order may be issued. A temporary restraining order may be granted only where:

(1) The Petitioner shows to the court clear and convincing evidence that immediate and irreparable injury, loss, or damage will result to the Petitioner if the temporary restraining order is not granted;

(2) All adverse parties have been given notice that the Petitioner has applied to the court for a temporary restraining order. The notice requirement contained in this section and in section 1.10 can only be waived where the Petitioner or his/her advocate certifies in writing to the court what efforts, if any, have been taken to provide the notice and the reasons supporting the claim that notice should not be required; and

(3) The Petitioner provides to the court a bond or other such security as the court deems proper to protect the interests of adverse parties and for payment of such costs and damages as may be incurred by any party found to have been wrongfully enjoined or restrained. No such security shall be required of the Kickapoo Traditional Tribe of Texas or of any officer of the Kickapoo government acting in his or her official capacity.

(B) Every injunction and/or temporary restraining order shall:

- (1) set forth, in writing, the reasons for its issuance;
- (2) Be specific in its terms;
- (3) describe with specificity the act or acts that are to be restrained;
- (4) define the injury and state why it is irreparable;
- (5) State the date and time of its issuance;
- (6) If granted without notice, state why it was granted without notice;
- (7) Expire at a definite time, not to exceed twenty calendar days, unless extended for good cause shown or by consent of the adverse parties.

(C) On three calendar days notice to a party who obtained a temporary restraining order without notice, or on such shorter notice as the court may prescribe, the adverse party may appear and move that the order be dissolved or modified.

(D) Temporary and Permanent Injunctions.

(1) TEMPORARY INJUNCTIONS

The Kickapoo Traditional Tribe of Texas Tribal Court may issue temporary injunctions ordering the defendant to perform or restrain from certain acts only after a hearing with notice to all parties affected, and upon a written complaint, filed with the court at least five calendar days prior to the hearing that states with specificity the act or acts sought to be restrained and the reasons that support the relief sought. The court shall only grant a temporary injunction after considering the following factors:

- (a) The likelihood that the Petitioner will prevail on the merits of the case;
- (b) The likelihood that the Petitioner will suffer irreparable harm if the temporary injunction is not granted;
- (c) Whether the Petitioner has an adequate remedy at law;
- (d) The potential harm to the Petitioner outweighs the possible harm to the Respondent if it is later found the temporary injunction was wrongfully granted

(2) PERMANENT INJUNCTIONS

The Kickapoo Traditional Tribe of Texas Tribal Court may issue permanent injunctions ordering a Respondent to perform or restrain from certain acts only after a final hearing with notice to all parties affected, and upon a written complaint, filed with the court at least five calendar days prior to the hearing that states with specificity the act or acts sought to be restrained and the reasons that support the relief sought. The court shall only grant an injunction after considering the following factors:

- (a) The significance of the threat of irreparable harm to plaintiff if the injunction is not granted;
- (b) The balance between this harm and the injury that granting the injunction would inflict on the defendant; and
- (c) The public interest.

(E) In granting a temporary or permanent injunction, the court shall:

- (1) set forth, in writing, the reasons for its issuance;
- (2) be specific in its terms;
- (3) describe, with specificity, the act or acts that are to be restrained;
- (4) define the injury and state why it is irreparable; and
- (5) state the date and time of its issuance, and when it expires, if applicable.

(F) Restraining orders and injunctions for domestic abuse cases shall be issued under the Kickapoo Traditional Tribe of Texas Family Code.

DISPOSITION: ENFORCEMENT OF JUDGMENT

Section 1.14 Default Judgment

(A) Except as otherwise provided, upon failure of a defendant to appear at the Trial Court within two (2) calendar days of failing to answer a complaint or petition or failing to appear at a scheduled appearance, the Court may entertain a motion for default judgment. The plaintiff or petitioner may thereupon proceed to offer evidence including proof that the defendant was properly served with a summons and complaint. The Court may thereupon render a judgment granting such relief as the evidence warrants, provided that the defaulting party may apply in writing for a new trial within thirty (30) calendar days of a default judgment, after showing good cause for his or her failure to appear.

(B) Upon failure of any party to appear for trial or other proceeding, the Court may entertain a motion from another party that default judgment or dismissal be granted. The Court may thereupon render a judgment granting such relief as the evidence warrants provided that the defaulting party may apply in writing for a new trial within thirty (30)

calendar days of a default judgment or dismissal, after showing good cause for his or her failure to appear.

Section 1.15 Enforcement of Judgment

(A) All civil remedies are available to enforce the judgment of the Court, including the power of civil contempt. A judgment shall be a lien upon any available property of the defendant which is within the jurisdiction of the Court.

(B) The following property is exempt from becoming subject to a judgment lien:

- a. Household furnishings;
- b. Personal clothing;
- c. One vehicle per adult, per household, as necessary;
- d. One homestead per family unit;
- e. Occupational-related personal property;
- f. Tribal / Traditional personal property.

ETHICAL PROVISIONS FOR JUDGES

Section 1.16 Preface to Ethical Code

(A) This code sets standards of judicial conduct for judges who serve in the Kickapoo Traditional Tribe of Texas Tribal Court. The purpose of the code is to encourage a spirit of fairness toward persons brought before the Kickapoo Traditional Tribe of Texas Tribal Court and to ensure fundamental fairness and due process in Kickapoo Traditional Tribe of Texas Tribal Court proceedings.

Section 1.17 Who is Bound By This Code

This code applies to anyone, who is an officer of a tribal judicial system and is performing judicial functions as a judge for the purpose of this code, whether or not a lawyer.

Section 1.18 Honesty and Independence of the Kickapoo Traditional Tribe of Texas Tribal Court Judiciary

(A) A judge shall uphold the integrity and independence of the Kickapoo judiciary. An independent and honorable Kickapoo judiciary is essential to justice in the tribal community. A judge shall help create and maintain such a judiciary, and shall observe high standards of conduct toward achieving this goal.

(1) A judge shall encourage a separation between the judicial branch and other branches of tribal government, and shall avoid any contact or duty that violates such a separation.

(2) A judge shall not participate in legislative or executive decision making except where such participation is in accordance with the tradition of the Tribe.

Section 1.24 Impropriety and the Appearance of Impropriety

(A) A judge shall avoid impropriety and the appearance of impropriety in all his/her activities.

(1) A judge shall respect and comply with the law and tradition of the Tribe and shall at all times act in a manner that promotes public confidence in the honesty and impartiality of the Kickapoo judiciary.

(2) A judge shall not allow family, social or other personal relationships to influence his/her judicial conduct. He/she shall not attempt to use the prestige of his/her office to advance the private interests of others; nor shall he/she convey the impression that anyone has special influence on the judge.

Section 1.19 Diligence and Impartiality

(A) A judge shall perform the duties of the office with impartiality and diligence.

(1) The judicial duties of a judge shall take precedence over all other activities. The judicial duties of the judge include all the duties of the office prescribed by tribal law, custom or tradition. In the performance of these duties, the following standards apply:

(B) ADJUDICATIVE RESPONSIBILITIES:

(1) A judge shall adhere to the laws, customs and traditions of the Tribe. Decisions shall be un-swayed by partisan interests, public clamor, political pressure, or fear of criticism, and shall resist influences on the Court by other tribal officials, governmental officials or any others attempting to improperly influence the Court.

(2) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers, advocates and others with whom he/she deals in his/her official capacity and shall require similar conduct of other persons in Court proceedings and those court personnel who are subject to the judge's direction and control.

3) A judge shall give to every person who is legally interested in a proceeding, or his/her representative, a full right to be heard according to tribal law and tradition. A judge shall avoid all out-of-court or other communications with tribal officials, agents, or others concerning a pending proceeding unless all parties to the proceeding are present or represented. A judge may however, obtain the advice of a disinterested expert on Federal law, or on tribal law, custom or tradition or on other sources of law applicable to a proceeding before the court if the request for advice is limited to points of law or tradition and does not involve the particular merits of the case. Ordinarily the parties shall be given a reasonable opportunity to respond to the information provided by the expert.

(4) A judge shall maintain order in the court. He/she shall not interfere in proceedings except where necessary to protect the rights of the parties. A judge shall not take an advocate's role. Similarly, a judge shall rely only on those procedures prescribed by the laws and customs of the tribe.

(5) A judge shall dispose promptly of the business of the court.

(6) A judge shall not comment publicly on any proceeding pending in court and shall also prohibit other court personnel from such public comment.

(C) ADMINISTRATIVE RESPONSIBILITIES

(1) A judge shall diligently perform his/her administrative responsibilities.

(2) A judge shall require his/her staff and Court officials to observe high standards of honesty and diligence.

(3) A head judge shall initiate appropriate disciplinary measures against a judge. A judge shall initiate appropriate disciplinary measures against a lawyer for unprofessional conduct of which the judge has become aware.

(D) DISQUALIFICATIONS

(1) A judge shall disqualify himself/herself in a proceeding in which his/her impartiality might reasonably be questioned, including instances where:

(a) The judge has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts;

(b) The judge served as lawyer, advocate, or personal representative in the matter before the Court, or a person with whom the judge has been directly associated in a professional capacity served as a lawyer, advocate or personal representative concerning the matter during the association;

(c) The judge knows that he/she individually (or any member of the judge's immediate family) has a financial interest in the subject matter in controversy or is a party to the proceeding, or has any other interest that could be substantially affected by the proceedings;

(d) The judge or any member of the judge's immediate family:

(i) is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) is acting as a lawyer or advocate in the proceeding;

(iii) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or

(iv) is to the judge's knowledge likely to be a material witness in the proceeding.

(E) ALTERNATIVE OF DISQUALIFICATION

(1) A judge disqualified by the terms of Section 1.25 (D)(1)(c) or (D)(1)(d) may, instead of withdrawing from the proceeding, disclose on the record the basis of his or her disqualification. If, based on such disclosure, the parties and lawyers, independently of the judge's participation, all agree on the record that the judge's participation is not prejudicial or that his/her financial interest is insubstantial, the judge is no longer disqualified, and may participate in the proceeding. The agreement, signed by all parties and lawyers, shall be incorporated in the record of the proceeding.

Section 1.20 Improvement of the Legal System

(A) A judge may engage in activities to improve the law, the legal system and the administration of justice. A judge may engage in the following activities, if in doing so, he/she does not cast doubt on his/her capacity to decide impartially any issue that may come before the court:

(1) The judge may speak, write, lecture, teach and participate in other activities concerning tribal law and custom, the legal system of the tribe and the administration of justice.

(2) The judge may appear at a public hearing before a tribal executive or legislative body or official on matters concerning the tribal legal system and the administration of justice, and he/she may otherwise consult with a tribal executive or legislative body or official but only on matters concerning the general administration of justice.

(3) The judge may serve as a member, officer, or director of an organization or tribal government agency devoted to the improvement of tribal law, its legal system or the administration of justice. The judge may assist such an organization in raising funds and may participate in that management and investment. He/she may make recommendations to public and private fund-granting agencies on projects and programs concerning tribal law, its legal system and the administration of justice. A tribal judge may not serve as a member, officer or director of any other tribal governmental entity.

Section 1.21 Extra-judicial Activities

(A) A judge shall regulate his/her extrajudicial activities to minimize the risk of conflict with judicial duties.

(1) **AVOCATIONAL ACTIVITIES:** A judge may write, lecture, teach and speak on non-legal subjects, and engage in the arts, sports, and other social and recreational activities of the tribe, if these activities do not interfere with the performance of his/her judicial duties.

(2) CIVIL AND CHARITABLE ACTIVITIES.

(a) A judge may participate in civic, charitable, and other tribal activities that do not reflect upon his/her impartiality or interfere with the performance of his/her judicial duties.

(b) A judge may participate in any tribal educational, religious, charitable or similar organization that does not reflect upon his/her impartiality or interfere with the performance of his/her judicial duties.

(c) A judge shall not participate if it is likely that the organization will be involved in proceedings which would ordinarily come before him/her or will be involved in adversary proceedings in any tribal court.

(B) FINANCIAL ACTIVITIES

(1) A judge shall avoid financial and business dealings that tend to reflect adversely on his/her impartiality, interfere with the performance of his/her judicial duties, exploit his/her judicial position, or involve him/her in transactions with lawyers or others likely to come before the court on which he/she serves.

(2) A judge may hold and manage investments, and engage in other activity for compensation, but shall not ordinarily serve as an officer, director, manager or employee of any tribally owned business or of any entity that conducts business with the Tribe. However, in extenuating circumstances, as where the tribe is unable to provide an adequate judicial salary but is willing to allow full-time judges to supplement their income through commercial activities, a judge may then participate in the operation of a business provided that the Traditional Council approves such participation through the nomination and confirmation process set out in section 1.6(C).

(3) Neither a judge nor a member of his/her immediate family shall accept a gift, bequest, favor, or loan from anyone which would affect or appear to affect his/her impartiality in judicial proceedings, or on the judge's appearance of fairness.

(C) EXTRA-JUDICIAL APPOINTMENTS. A judge shall not accept appointment to any tribal governmental entity or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the tribal legal system, or the administration of justice.

Section 1.22 Political Activities of a judge

(A) A judge shall refrain from political activity inappropriate to his/her judicial office.

(1) Political conduct in general. A judge shall not engage in any tribal political activity except on behalf of measures to improve the law, the tribal legal system, or the administration of justice.

(2) CONDUCT DURING THE NOMINATION AND CONFIRMATION PROCESS. During the nomination and confirmation process a candidate, including an incumbent judge, for a tribal judicial office:

(a) Shall maintain the dignity appropriate to judicial office and shall refrain from any political activity that might interfere with the performance of his/her judicial duties; Furthermore, a judge shall encourage members of his/her family to adhere to the same standards of political conduct that apply to him/her.

(b) Shall not make pledges or promises of conduct in judicial office other than the faithful and impartial performance of the duties of the office, nor announce his/her views on disputed legal or political issues.

OTHER PROVISIONS

Section 1.23 Time

(A) COMPUTATION. In computing any period of time set forth herein, the day that the period is to commence from shall not be counted and the last day of the period shall be counted; provided however, that any time period under eleven (11) days will not include intermediate Saturdays, Sundays, or tribal holidays in the period and any period which would otherwise end on a Saturday, Sunday, or tribal holiday will be deemed to end on the next day which is not a Saturday, Sunday, or tribal holiday, unless the time is computed in calendar days.

(B) ENLARGEMENT. The Court for good cause shown may enlarge the prescribed period of time within which any required act may be done.

Section 1.24 Court Costs

(A) In addition to such other costs as may be assessed when a trial is held, defendants found guilty in a forfeiture action shall be subject to the following costs:

(1) Court costs for all forfeiture actions shall be \$20.

(B) The schedule of deposits shall include the costs set above.

Section 1.25 Monies

(A) All monies received as filing fees or court costs or suit taxes shall be deposited by the Tribal Treasurer in a tribal account designated solely for promoting the policies and administration of this code. The Chief Judge shall have disbursement authority.

(B) All forfeitures collected pursuant to this code shall be deposited in the Tribe's general account.

Section 1.26 Irregularities

(A) Any violation notice, complaint, summons, warrant, or similar document whose matter does not literally conform to the requirements prescribed in this code or Court rules, shall not thereby be rendered invalid if the matter contained in the document substantially achieves the purposes of the code provisions.

(B) However, no such document shall be valid unless it contains such signature or signatures as are prescribed by this code.

Section 1.27 Advocates

(A) A party to an action shall have the right to be represented by an advocate at all hearings at his or her own expense.

(B) Except as provided in (1), no advocate shall be admitted to practice before the Court unless he or she has successfully passed a standard written examination given by the Court.

(1) The Court may, in its discretion, admit as advocates those persons who by their experience or education demonstrate the necessary understanding of the law.

(C) The examination shall test the advocate's knowledge of Indian Law and Kickapoo Tribal Law and Custom.

(D) Passing the examination entitles the advocate to practice before the Court. The Chief Judge, with the approval of the Tribal Council, may establish a fee for administering the examination.

(E) The Court at its discretion may, subject to availability of funds, provide an advocate for any party to the action who in the Court's determination is unable to afford an advocate.

Section 1.28 Juveniles

(A) The class of juveniles shall include all individuals who have not achieved their eighteenth (18th) birthday.

(B) Court processing and court proceedings concerning juveniles shall, except as provided herein, proceed in the same manner set forth for adults.

(C) At the request of a juvenile charged with an offense the Court may, at its discretion, adopt informal procedures for the resolution of such pending charge or charges against such juvenile.

(D) All juvenile records of the Court shall be closed and unavailable for public information, except as may be ordered by the Court.

(E) Juvenile files and records shall be kept separate from the files and records of adults.

Section 1.29 Amendments and Severability

(A) AMENDMENTS: Amendments to this code will be effective upon enactment by the Kickapoo Traditional Tribe of Texas Traditional Council without further review by the Secretary of the Interior.

(B) SEVERABILITY: If any section, provision, or portion of this code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this code will not be affected thereby. The Tribe declares there is no liability on the part of the Tribe, its agencies, or employees for damages that may occur as a result of reliance upon or conformance with this code.

Section 1.30 Limitations

(A) Civil Actions may be commenced within three (3) years after the right accrues, except as may be otherwise provided by tribal law.

(B) An action is commenced when the summons naming the defendant and the complaint are filed with the Court, except no action shall be deemed commenced as to any defendant upon whom service of the summons and complaint has not been made pursuant to tribal law.

Section 1.31 Full and Credit

(A) The judicial records, orders and judgments of outside courts shall have the same full faith and credit in the Kickapoo Traditional Tribe of Texas' Courts as do the acts, records, orders and judgments of the Kickapoo Traditional Tribe of Texas' Courts, if the Kickapoo Traditional Tribe of Texas' Court deems that the record, order or judgment is of sufficient reliability.

(1) For purposes of this section, the term "outside court" means the tribal, state or federal court from which the act, record, order or judgment was issued.

(B) In assessing whether the record, order or judgment is of sufficient reliability to receive full faith and credit in the Kickapoo Traditional Tribe of Texas' Court, the Court may consider whether:

(1) The court is a court of record.

(2) The court judgment offered in evidence is a valid judgment.

(a) In determining whether an outside court's judgment is a valid judgment, the Court may consider whether:

(i) The outside court had jurisdiction of the subject matter and over the person named in the judgment.

(ii) The judgment is final under the laws of the outside court.

(iii) The judgment is on the merits.

(iv) The judgment was procured without fraud, duress or coercion.

(v) The judgment was procured in compliance with procedures required by the outside court.

(3) The court certifies that it grants full faith and credit to the judicial records, orders and judgments of the courts of the Kickapoo Traditional Tribe of Texas' Court and to the acts of other governmental entities in this state.

(C) To qualify for admission as evidence in the Court:

Copies of records, orders and judgments of the outside court shall be authenticated by the attestation of the clerk of that court. The seal, if any, of that court shall be affixed to the attestation.

CHAPTER 2. RIGHTS AND ENFORCEMENT

Section 2.1 Rights

The Kickapoo Traditional Tribe of Texas, in exercising its powers of self-government, shall not:

(A) Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or of the right of the people to assemble and to petition for a redress of grievances;

(B) Violate the right of people to be secure in their persons, houses, papers and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, support by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(C) Subject any person for the same offense to be twice put in jeopardy;

(D) Compel any person in any criminal case to be a witness against himself or herself;

(E) Take any private property for a public use without just compensation;

(F) Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him or her, to have compulsory process for obtaining witnesses in his or her

favor, and at his or her own expense to have the assistance of counsel for his or her defense and to have these rights explained at the time of arrest;

(G) Require excessive bail, impose excessive fines, or inflict cruel and unusual punishment;

(H) Deny to any persons within its jurisdiction the equal protection of its laws, provided that, this clause shall not be interpreted to grant those who are not members of the Kickapoo Traditional Tribe of Texas those rights and benefits to which members of the Kickapoo Traditional Tribe of Texas are entitled by virtue of their membership;

(I) Deprive any person of liberty or property without due process of law;

(J) Pass any bill of attainder or ex post facto law; or

(K) In the event the Tribe exercises criminal jurisdiction, deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

Section 2.2 Enforcement; Waiver

(A) In order to enforce the provisions of this Ordinance, the Tribe shall be subject to suit in law and equity for declaratory judgment and prospective injunctive relief in the Kickapoo Traditional Tribe of Texas' Court by persons subject to the jurisdiction of the Court. No money damages shall be available in suits under this section.

(B) The Kickapoo Traditional Tribe of Texas does not waive or limit any rights that it may have to be immune from suit in the courts of the United States or of any State.

CHAPTER 3. CITATIONS

Section 3.1 Issuance of Citations

(A) For violation of any ordinance of the Kickapoo Traditional Tribe, authorized law enforcement personnel may issue a uniform citation in lieu of a formal complaint filed with the Kickapoo Traditional Tribe of Texas' Court.

Section 3.2 form

(A) Citations shall be numbered and uniform for all uses. Citation forms shall be so constructed that completion of the form shall generate two carbon or no-carbon required copies at the same time. Forms shall provide for the following information:

- (1) Name, address of alleged violator
- (2) Location, time and date of violation
- (3) Description of violation

- (4) Citation of tribal ordinance provision
- (5) Scheduled date and time for appearance
- (6) Penalty for non-appearance or conviction
- (7) Amount of no-contest forfeiture
- (8) Identification of issuing officer
- (9) Time and date of issuance

Section 3.3 Delivery

(A) Citation books will only be issued to Tribal law enforcement personnel, who shall be responsible for the security of the books.

(1) Upon completing the citation form, the issuing officer shall deliver a copy of the citation to the alleged violator.

(B) Delivery of a citation may be effected by personal service in accordance with Tribal Code provisions governing personal service of process or by personal service delivery from the issuing officer to the alleged violator. A citation may be delivered by posting a copy in the mail to the alleged violator's last known address.

(C) Within 3 business days after delivery or mailing, the original citation shall be delivered to the Clerk of Court. The officer shall retain the second copy and shall forward a photocopy of the citation to the Tribal Prosecutor.

CHAPTER 4 THE PEACEMAKER SYSTEM

Part 1. GENERAL PROVISIONS

Section 4.1 Purpose & Construction

(A) These rules are meant to provide formal support, structure and enforcement to traditional Kickapoo methods of resolving disputes through mediation and the use of traditional ways.

(B) These rules shall be interpreted liberally and informally with the goal of providing a fair, informal, inexpensive and traditional means of resolving disputes. The rules shall be used and applied in accordance with Kickapoo tradition and custom, if possible.

(C) The Kickapoo customs and traditions shall be the Guiding Principles for the Peacemaker System.

Section 4.2 Establishment.

The Peacemaker System of the Kickapoo Traditional Tribe of Texas is hereby established as part of the Tribal Court System. While a part of the Tribal Court System, the Peacemaker System will be independent from the Tribal Court judges. The Peacemakers

may use the Tribal Court as a resource and infrastructure for purposes of supporting and maintaining the Peacemaker System. The Tribal Court judges may use the Peacemaker System as a resource as set forth below.

Section 4.3 Subject Matter Jurisdiction; Personal Jurisdiction: Attorneys

(A) A judge may appoint a Peacemaker where the matter in dispute is within the jurisdiction of the Court according to its jurisdictional requirements.

(B) The Peacemaker System does not have the power to compel persons within the jurisdiction of the Tribe to appear and participate in Peacemaker System proceedings nor to compel the attendance of parties. Peacemakers shall not have authority to decide a disputed matter unless all parties to the dispute consent to such authority in writing.

(C) Members of the Kickapoo Traditional Tribe of Texas' Bar and all attorneys are prohibited from participating in any proceedings of the Peacemaker System unless they have been called as witnesses or are parties and except to the extent they may assist persons with respect to protective orders, complaints, judgments or appeals as provided in Parts Four, Five and Six.

(D) Nothing in this Ordinance shall prevent Peacemakers from mediating disputes or providing Peacemaking services to entities other than the Kickapoo Traditional Tribe of Texas Tribal Court.

Part 2. PEACEMAKERS

Section 4.20 Appoint and Qualifications

(A) General Qualifications - Any Kickapoo tribal member who is over the age of 25 and who has the respect of the Kickapoo Traditional Tribe of Texas, an ability to work with Reservation residents and Tribal members, a reputation for integrity, honesty, humanity and an ability to resolve local problems shall be eligible to be appointed as Peacemaker, except that no attorney, nor any person while a member of the Traditional Council or while a Tribal Judge shall be eligible for appointment.

(B) Appointment

(1) The Kickapoo Traditional Council may select and certify the names of individuals as proposed Peacemakers. The individuals selected must agree in writing or by oath administered by a judge or the Clerk of Tribal Court to work in accordance with the Guiding Principles. The Clerk of Court shall maintain a roll of Peacemakers. Peacemakers shall be appointed from that roll. The Kickapoo Traditional Council may add or delete names to or from the list from time to time.

(2) Although a roll of Peacemakers shall be maintained in accordance with this section, this section shall not prevent individuals or parties from selecting another

individual to conduct Peacemaking, as long as the selection is done in a manner consistent with this Code.

(3) Peacemakers are encouraged to participate in training programs for Peacemakers. Peacemakers with sufficient knowledge of the Guiding Principles are not required to participate in training programs for Peacemakers.

C) Action where no appointment - If the Traditional Council fails to certify Peacemakers, the Court may appoint a Peacemaker from among persons known to it to be qualified.

(D) Agreement as to Peacemaker - The parties to any dispute, whether in Tribal Court or not, may by mutual agreement, have a specified individual serve as Peacemaker for the resolution of their dispute. In such cases, if the Peacemaker does not appear on the roll of Peacemakers kept by the Court, the parties must petition the Traditional Council to appoint the individual and the individual shall not conduct any peacemaking until appointed by the Traditional Council.

Section 4.21 Powers of Peacemakers

(A) Peacemakers appearing on the tribally approved roll shall have the same immunities as Tribal Court judges.

(B) Peacemakers shall have all the powers pursuant to Tribal law and customs necessary to conduct peacemaking.

Section 4.22 Limitations

Peacemakers not judges; Agreed arbitration. Peacemakers shall only have the authority to use traditional and customary methods to mediate disputes and obtain the resolution of problems through agreement. Peacemakers shall not have the authority to decide a disputed matter unless all parties to the dispute agree to such authority in writing or before the Tribal Court. Any such decision will have the effect of a court judgment when entered by the Tribal Court.

Section 4.23 Duties of Peacemakers

Peacemakers shall have all duties pursuant to Tribal law and customs necessary to conduct peacemaking.

Section 4.24 Reports to Tribal Court.

Where the Peacemaking sessions were pursuant to a referral from Tribal Court, either at the conclusion of the peacemaking or at such time as the Peacemaker finds there can be no resolution of the matter, the Peacemaker must report the results of the peacemaking to the Court. The reports may be informal but must be reduced to writing, either by the Peacemaker or the Tribal Court. This written record shall be maintained in the Court file.

Part 3. PROCEDURE

Section 4.30 Request for Peacemaking

Any individual may ask the assistance of the Peacemaker System by filing a written request with the Court or by contacting a certified Peacemaker directly. A list of certified Peacemakers shall be available to the public. The request may be informal and hand-written, and it may be made either on a form provided by the court or in any writing which gives the court the following information:

- (A) The name and address of the person who requests the use of the Peacemaker System;
- (B) The names of the persons involved in the dispute (parties), and their mailing addresses and their place of residence.
- (C) The reason the individual wants to use the Peacemaker System and a short statement of the problem involved;
- (D) The names and addresses of each person who should be contacted by the Peacemaker and involved in the peacemaking;
- (E) Information showing the status of each of the individuals involved as either Indian or non-Indian and tribal affiliation and membership, if any.
- (F) A joint declaration by the parties that they consent to participating in the Peacemaker process.

Section 4.31 RESERVED

Section 4.32 Duties of Clerk of Tribal Court

All Clerks of Court will assist parties before the Peacemaker System by providing information about the Peacemaker System, assisting individuals in filling out requests, assisting the Peacemakers in making reports, advising individuals how to obtain a protective order or file a complaint and in giving whatever kind of assistance individuals may need to make the Peacemaker System effective and to carry out the intent of these rules.

Section 4.33 Appointment of Peacemaker

Upon filing by a party of a request for peacemaking, the clerk of court will present the parties making the request with a list of certified Peacemakers. The parties may choose from the list. If the parties wish, the Clerk of Court may choose a Peacemaker for them at random. In order to make a request for peacemaking, it is not required that the parties be involved in a Tribal Court case or a case in any other court.

If the parties before the Court have already agreed on a specific person as a Peacemaker or they wish to choose the Peacemaker together, the Court shall allow it.

Section 4.34 Notice to begin proceedings

Notice of the appointment of the Peacemaker shall be provided by the Clerk of Court, who shall send copies of the request and order to the named Peacemaker by first class mail. If the Clerk of Court does not receive notification from the Peacemaker of acceptance of the appointment within a reasonable time, the clerk shall so advise the parties for the purpose of choosing another person as peacemaker. The Peacemaker is responsible to informally advise the parties, witnesses and participants of his appointment and the copies of the request and order sent to the Peacemaker shall be evidence of his or her authority.

Section 4.35 Compensation of Peacemaker

The parties shall, at the time of making the request to use the Peacemaker System, pay into the court the sum of \$20 from each party, as compensation for the Peacemaker's services. The clerk of court shall pay such sum to the Peacemaker upon his or her acceptance of appointment. Upon the completion of the peacemaking, parties to the dispute shall, in equal shares, reimburse the Peacemaker for any actual expenses incurred in the matter.

Section 4.36 RESERVED

Section 4.37 Fees

A fee of \$10 will be charged for any protective order sought with respect to Peacemaker System proceedings.

Part 4. ACTIONS BY THE TRIBAL COURT.

Section 4.40 Protective Orders

Any party, witness or participant involved in Court ordered Peacemaking may petition the Tribal Court for a protective order ending the peacemaking process or putting limitations upon it for good cause shown.

Section 4.41 Action by the Court

A petition for a protective order may be made in writing, and must be made in writing if the party seeking the order has counsel. Otherwise it may be made orally in open court. Upon considering the petition for a protective order, which may be heard ex parte, the Court may issue an immediate order terminating peacemaking proceedings and must issue an order for the purpose of conducting a hearing on the petition for a protective order. Upon a full hearing, following notice to the parties, the court may terminate

peacemaking proceedings or place reasonable limitations upon them. The person seeking a protective order must pay a fee of \$10 to the Clerk of Court at the time of filing of the petition.

Section 4.42 Judgments

Where the parties in Peacemaking reach an agreement they wish to have confirmed and recorded by a formal judgment or order of the Court, they may present a draft judgment to the Court for its consideration. A court may enter judgment only when the following conditions have been met:

- (A) The court has jurisdiction over the parties and the subject matter of the agreement;
- (B) All necessary parties have actual knowledge of the proposed judgment and have either agreed to it or have agreed to submit the question to the Peacemaker for a decision;
- (C) The judgment contains the complete agreement of the parties and contains sufficient information regarding the full agreement so a dispute as to the provisions of the judgment is not likely to arise in the future;
- (D) The proposed judgment is otherwise proper and enforceable by the Court.

Section 4.43 Method of Presenting Proposed Judgment

The parties need not be represented by counsel, and the Court may make its written judgment following an informal oral conference with the parties. Where necessary the Court may require a member of its staff to assist the Peacemaker in preparing a proper form of judgment.

Section 4.44 Form of Judgment

All judgments must contain the following information:

- (A) The names and jurisdictional information with regard to each party (i.e. residence, consent to jurisdiction, etc.);
- (B) A statement of the fact that all necessary parties to the dispute have actual knowledge of it and that they have all agreed to the proposed judgment;
- (C) If the dispute was resolved by the agreement of all the parties that it would be submitted for the Peacemaker's decision, a statement of that fact;
- (D) A statement that the judgment is based upon Peacemaker System proceedings, and the name of the Peacemaker;
- (E) A general description of the dispute;

(F) The actual judgment of the Tribal Court.

Section 4.45 Enforcement of Judgment

A judgment of the Tribal Court upon Peacemaker System proceedings may be enforced as any other judgment of the Tribal Court.

Part 5. CONDUCT OF PEACEMAKERS

Section 4.50 General Standards

Peacemakers shall be bound by Tribal tradition and custom.

Section 4.51 Complaints Regarding Peacemakers

Complaints against Peacemakers shall be made to the Traditional Council in writing, and such complaints shall be treated as any complaint against a Trial Judge.

Section 4.52 Action on Complaint

Upon finding that a Peacemaker has violated Tribal custom and tradition, the Traditional Council may, by majority vote, suspend the name of the individual from the Peacemaker rolls. Where criminal activity is involved, the Traditional Council may refer the matter to the Tribal Prosecutor or other authority for possible prosecution. The Traditional Council shall notify in writing any Peacemaker who has been suspended from the rolls and the reason(s) therefore within 10 days. The Peacemaker shall have 14 days to appeal such suspension to the Tribal Appellate Court. Such appeals shall thereafter proceed pursuant to tribal appellate laws.

**Part 6. TRANSFER OF CASES FROM TRIBAL COURT TO
PEACEMAKER SYSTEM.**

Section 4.60 General Policy

Any civil or criminal actions in Tribal Court may be referred to the Peacemaker System in accordance with this Part where they fall within the kinds of matters within the jurisdiction of the Peacemaker System or where it is in the interests of justice to make such a referral for good cause shown, and where all parties agree to transfer.

Section 4.61 Requests and Objections

(A) Any party can request referral of their case to Peacemaker System.

(B) Any party can by objection prevent referral of their case to Peacemaker System.

(C) The written consent of all parties must be obtained by Tribal Court prior to transfer of a case to the Peacemaker System. Parties cannot withdraw their consent to transfer absent a showing by clear and convincing evidence in Tribal Court that their consent was obtained by fraud or undue influence.

(D) Non-parties can neither request nor prevent transfers to Peacemaker System.

(E) When a case is referred pursuant to this section, the Tribal Court still maintains jurisdiction over the case. If the Peacemaking process does not produce an agreement or resolution, then Tribal Court proceedings may continue.

Section 4.62 Civil Matters

Civil actions may be referred to Peacemaker System with the written stipulation of all the parties to the action.

Section 4.63 Criminal Matters

Any criminal matter may be transferred to the Peacemaker System, upon consent of the parties, where:

(A) The case does not involve injury to person or property; or

(B) Where the victim to the alleged offense consents; or

(C) Where there is a plea or conviction of guilty and peacemaking would be an appropriate condition of probation for achieving harmony and reconciliation with the victim.

Section 4.64 Criminal Probation

The Tribal Court may, as a condition of criminal probation, require the defendant to submit to the Peacemaker System for traditional and customary counseling, instruction and lectures appropriate to his or her offense. The Tribal Court may require the defendant to pay a fee of \$20.00 per party before commencing the peacemaking process.

Section 4.56 Mandatory Referral to Peacemaker System

Notwithstanding the consent provisions of this Code, if the Trial Judge assigned to any civil case decides that the parties would benefit from a session with a Peacemaker, the judge may order that the parties to spend at least one (1) hour in a Peacemaking session to see if the parties can resolve their case.

CHAPTER 5: ADMINISTRATIVE CODE

Section 5.1 Definitions

(A) "Administrative entity" means a Tribal department, panel, committee or agency. The Tribal Council is not an administrative entity.

(B) "Court" means the Kickapoo Traditional Tribe of Texas Tribal Court

(C) .

Section 5.2 Judicial Review: Administrative Decisions Reviewable

(A) Only those administrative appeals authorized by ordinance shall be subject to review by the Court.

(B) The Court shall not hear an appeal unless all administrative remedies have been exhausted.

(C) The Court will only hear appeals on the basis of:

- (1) Some material of error.
- (2) Some material error in fact.
- (3) An abuse of direction by administrative entity.

Section 5.3 Petitions for Administrative Review

(A) When authorized by ordinance, any person aggrieved by a final decision or order of an administrative entity of the Tribe may, within 20 days after the decision or order, file a written petition for the decision or order to be reviewed by the Court. If the decision of an administrative entity is not appealed within 20 days after the decision or order, the decision may not be appealed to the Court. Where tribal law specifies a time limit other than 20 days, tribal law shall be controlling.

(B) The petition must state:

- (1) The action appealed from and the date it occurred;
- (2) The error of fact, error of law or abuse of discretion complained of, and relief sought;
- (3) The identity of the administrative entity whose action is being appealed;
- (4) The identity of all parties known to the Petitioner to have an interest in the action appealed from;
- (5) Any relevant facts, traditions, and/or law not considered by the administrative entity during the administrative process;
- (6) Whether the Petitioner seeks a stay of enforcement of the administrative decision appealed from and all grounds therefore;
- (7) Failure by a litigant to strictly adhere to these requirements may not be grounds for dismissal of the action or denial of requests made; the court, on its own motion, may require the parties to plead with more specificity.

- (C) Copies of petitions for review shall be served on the Tribal Legal Department and on all parties. Any person affected by the decision appealed from shall be given notice by public posting in the usual manner, and may become a party to the suit by filing a response within the time prescribed by this code.
- (D) The Court shall dispose of administrative appeals on an expedited basis.
- (E) The cost of filing a petition under this Code shall be set by ordinance.

Section 5.4 Stay of Administrative Decision

The filing of a petition appealing an administrative decision shall not stay enforcement of the administrative decision. If a party requests it, the Court may order a stay of the administrative decision only if the requirements of Section 1.13 of Chapter 1 of this Code are met.

Section 5.5 Record on Review

(A) Within 30 days after service of the petition for review upon the administrative entity, that entity shall transmit to the reviewing Court the original of the entire record of the proceedings in which the decision under review was made, including all pleadings, notices, testimony, exhibits, findings, decisions, orders and any other documents which relate to the appeal, including the administrative entity's response to the petition, if any.

(B) The Court, for good cause, may order the record transmitted sooner than 30 days.

(C) A copy of the record under Section 5.5(A) which will be provided to the Court must be given to the affected party, who will generally be the Appellant. Other parties shall not be given a copy of said record, but the Judge may decide whether it can be presented for in-camera review by the other parties. All said records shall be automatically sealed during and after proceedings.

Section 5.6 Scope of Review

(A) The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases where there is the allegation of the discovery of new evidence, testimony may be taken regarding the new evidence pursuant to Section 5.7(B) and the court shall consider newly discovered evidence if the court finds it will have a material impact on the case.

(B) Unless the court finds a ground for setting aside, modifying, remanding or ordering the entity to take a certain action or other relief as specified in this section, it shall affirm the administrative entity's action.

(C) In reviewing any decision or action by an administrative entity, the court shall give deference to the administrative entity and shall not disturb the entity's action unless it finds, based on evidence in the record, a material error of law or fact or an abuse of the entity's discretion.

- (D) The court shall reverse, remand the case to the administrative entity, or fashion a remedy if it finds that the administrative entity made a material error of law or fact, or abused the discretion delegated to the entity by law.

Section 5.7 Proceedings

- (A) The Court may hear oral arguments from the parties.
- (B) If the petition alleges that the discovery of new evidence will have a material impact on the case, the Court shall hear testimony and receive evidence concerning whether there is newly discovered evidence that will have a material impact on the case.

CHAPTER 6: PROBATE CODE

PART 1 GENERAL PROBATE PROVISIONS

Section 6.11 Purpose

(A) The following title shall hereinafter be referred to as the Probate Code. The objective of the Probate Code is to provide for the exercise of the greatest possible tribal jurisdiction over the probate of the estate of decedents who were domiciled or owned real or personal property on the Kickapoo Traditional Tribe of Texas Reservation. The Kickapoo Traditional Tribe of Texas Tribal Council finds that probate procedure in the Kickapoo Traditional Tribe of Texas Tribal Court is in the best interest of tribal members in that probate may be concluded more economically and more expeditiously than by other jurisdictions. Furthermore, the determination of how property is disposed upon a person's death is an exercise of self-governance crucial to tribal sovereignty.

(B) This code shall be liberally construed and applied to meet the following objectives:

- (1) To ensure that the property of decedents passes to the rightful heirs or beneficiaries.
- (2) To comply with the decedent's wishes as much as possible.
- (3) To comply with tribal custom and tradition.
- (4) To provide a simple, efficient and inexpensive method for probating decedent's property.
- (5) To prevent the transfer of land out of tribal ownership and control.
- (6) To ensure that the rights of creditors of decedents are protected to the extent possible and fair.
- (7) To promote and further the tribe's inherent right to self-governance.

Section 6.1.2 Definitions

As used in this title, unless the context otherwise requires:

(A) "Abatement" means a reduction or decrease.

(B) "Administrator" means the person appointed by the Tribal Court to administer the estate of a decedent according to this Probate Code and may include an Administrator nominated by the decedent's will, appointed at the request of an interested party, appointed by the Court, or the public Administrator.

(C) "Beneficiary" means any person nominated in a will to receive an interest in property other than in a fiduciary capacity.

(D) "Class Gift" means a devise or gift to a body of people, uncertain in number at the time of the gift, to be ascertained at a future time, who are all to take in equal, or other definite proportions, the share of each being dependent for its amount upon the ultimate number of people in the class. Example: "I leave \$10,000 to my grandchildren." In the example, the decedent's grandchildren constitute a class of people which may grow over time, but will be a certain number upon the death of the decedent.

(E) "Codicil" means a supplement or an addition to a will; it may explain, modify, add to, subtract from, qualify, alter, restrain or revoke provisions in an existing will. A codicil does not purport to dispose of the entire estate or to contain the entire will of the testator, nor does it ordinarily expressly or by implication revoke an entire prior will.

(F) "Decedent" means a person who has died leaving property that is subject to administration.

(G) "Devisee" means any person to whom lands or other real property are given by will

(H) "Devolution" means the passage or transfer from one person to another; the falling on or accrual to one person as the successor of another.

(I) "Distributee" means any person to whom property of a decedent is distributed other than in payment of a claim, or who is entitled to property of a decedent under their will or the laws governing intestate succession.

(J) "Domicile" means the place where a person has his or her true, fixed and permanent home and principal establishment, and to which whenever s/he is absent s/he has the intention of returning.

(K) "Donee" means the recipient of a gift or conveyance. In contrast to the giver or donor.

(L) "Escheat" means reversion of property to the Tribe because no valid heir or person to inherit exists.

(M) "Fiduciary" as a noun means that person or institution who manages money or property for another and who must exercise the highest standard of care in such

management activity; as an adjective, it describes the nature of a trust, which is the highest and most scrupulous duty owed to another.

(N) "Half-blood" means the degree of relationship which exists between those who have the same father or the same mother, but not both parents in common.

(O) "Heir" means any person, including the surviving spouse, who is entitled under the law governing intestate succession to an interest in the property of a decedent.

(P) "Incapacitated person" as used in this Code means a minor or an adult individual who, because of a physical or mental condition, is substantially unable to provide food, clothing or shelter for himself or herself, to care for the individual's own physical health or to manage the individual's own financial affairs. It includes a person who must have a guardian appointed to receive funds due the person from any governmental source.

(Q) "Indian" means a member of the Kickapoo Traditional Tribe of Texas, or any other person of Indian blood who is a member of a federally recognized Indian tribe or any other person on the Reservation who is recognized by the Tribal community as an Indian, including a Canadian Indian, Latin American Indian, Alaska Native, and/or Hawaiian Native.

(R) "Interested Witness" means any of the following:

(1) An heir of the decedent.

(2) A beneficiary named in any document offered for probate as the will of the decedent.

(3) A beneficiary of a trust created under any document offered for probate as the will of the decedent.

(4) A person named as Administrator or personal representative in any document offered for probate as the will of the decedent.

(5) Additional persons as the Tribal Court may include.

(S) "Intestate" means one who dies without leaving a valid will, or the circumstance of dying without leaving a valid will effectively disposing of all of the estate.

(T) "Intestate succession" means succession to property of a decedent who dies without a will or with a will that has certain provisions which are not valid.

(U) "Issue" when used to refer to persons who take by intestate succession, means children, grandchildren, lineal descendants of more remote degree, except those who are the lineal descendants of living descendants. The term includes adopted Kickapoo children and Kickapoo children born out of wedlock and their issue.

(V) "Kickapoo" means any member of the Kickapoo Traditional Tribe of Texas, Kickapoo Tribe of Oklahoma and/or Kickapoo Tribe of Kansas.

- (W) "Letters testamentary" means the formal document of authority and appointment given to an executor or administrator by the Court, empowering him or her to fulfill his or her duties as required by his position as executor or administrator.
- (X) "Member" means an enrolled member of the Kickapoo Traditional Tribe of Texas.
- (Y) "Personal Property" means all property other than real property.
- (Z) "Pretermitted" means a child or other descendant omitted from the will of a testator.
- (AB) "Property" means any interest, legal or equitable in real or personal property, without distinction as to kind, except trust property.
- (AA) "Real property" means all interest in land or in buildings or improvement permanently attached to land.
- (AC) "Renounce" means to make an affirmative declaration of abandonment. A waiver of rights.
- (AD) "Reservation" means the Kickapoo Traditional Tribe of Texas Reservation in Texas.
- (AE) "Residue" means the surplus or left over part of a testator's estate remaining after all the debts and distributions have been completed.
- (AF) "Take by Representation" means the principle upon which the issue of a decedent take or inherit the share of an estate which their immediate ancestor would have taken or inherited, if living.
- (AG) "Testator" means a decedent who dies leaving a valid will.
- (AH) "Tribal Court" means the Tribal Court of the Kickapoo Traditional Tribe of Texas.
- (AI) "Tribe" means the Kickapoo Traditional Tribe of Texas.
- (AJ) "Trust Property" means real or personal property title to which is in the United States for the benefit of an Indian or Indian Tribe.
- (AK) "Ward" A person for whom a guardian has been appointed.

Section 6.1.3 Jurisdiction

The Tribal Court shall have jurisdiction to administer in probate the estate of a decedent who, at the time of their death, was domiciled or owned real or personal property situated within the Kickapoo Traditional Tribe of Texas Reservation to the extent that such estate consists of property which does not come within the exclusive jurisdiction of the Secretary of the Interior of the United States.

Section 6.1.4 Control of Funeral Arrangements

(A) Control of funeral arrangements and disposition of the remains of the decedent shall be based upon any wishes, instructions or directions of the decedent as expressed in the decedent's will.

(B) If the decedent dies intestate or the decedent's will is silent on the issue of funeral arrangements, the control of funeral arrangements and disposition of the remains of the decedent shall be based upon a decision of the decedent's family.

(C) If the decedent dies intestate and the decedent's will is silent on the issue of funeral arrangements and the decedent has no family available to make a decision, control of the

decedent's funeral arrangements and disposition of the remains shall be based on the customs and traditions of the Tribe.

Section 6.1.5 Indian Custom and Tradition Distribution of Indian Finery and Artifacts

Notwithstanding the provisions of this Probate Code relating to descent and distribution, the surviving spouse or other surviving next of kin may distribute any Indian artifacts and finery belonging to the decedent in accordance with the customs and traditions of the Tribe prior to the initiation of the administration of the estate. Such distribution shall be in accordance with directions left by the decedent, if any.

Section 6.1.6 Effect of Fraud and Evasion

(A) Whenever fraud has been perpetuated in connection with any proceeding or in any statement filed under this Probate Code or if fraud is used to avoid or circumvent the provisions or purposes of this Probate Code, any person injured thereby may obtain appropriate relief against the perpetrator of the fraud including restitution from any person (other than a bona fide purchaser without knowledge) benefiting from the fraud, whether innocent or not.

(B) Any proceeding must be commenced within two years after the discovery of the fraud, but no proceeding may be brought against one not a perpetrator of the fraud later than five years after the time of commission of the fraud. This section has no bearing on remedies relating to fraud practiced on a decedent during their lifetime which affect the succession of the estate

Section 6.1.7 Evidence as to Death or Status

(A) In proceedings under this Probate Code, the following rules relating to determination of death and status are applicable:

(1) A certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred is prima facie proof of the fact, place, date and time of death and the identity of the decedent;

(2) A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that a person is missing, detained, dead, or alive, is prima facie evidence of the status and of the dates, circumstances and places disclosed by the record or report;

(3) A person who is absent for a continuous period of five years, during which they have not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry is presumed to be dead. Their death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier

Section 6.1.8 Practice In Court

Unless specifically provided to the contrary in this Probate Code or unless inconsistent with its provisions, the Kickapoo Traditional Tribe of Texas Tribal Court Code and Rules of Procedure, including the rules concerning vacation of orders, govern formal proceedings under this Probate Code. Appeals shall be taken in accordance with the Tribal Court rules on appeals.

Section 6.1.9 Judicial Powers and Duties

(A) The judge of the Court may make orders for the sale of personal property at public or private sale for the compounding of debts, for the settlement of an estate as insolvent, for the approval of bonds and all other orders of an ex-parte nature as may facilitate the settlement of estates. The orders shall be in writing, signed by the judge issuing the same, and shall be filed and recorded as an entry in the proper record

(B) The judge shall examine the bonds filed by the personal representatives, with a view to ascertaining their sufficiency and may approve the same. The judge may examine any inventory, sale, bill, account current, final account and vouchers filed therewith, or examine into the condition of an estate generally. Bond may be waived for good cause shown.

(C) The Court shall have the authority to draft orders requesting property of funds outside the exterior boundaries of the Reservation to be delivered to the Court for probate in the Tribal Court.

Section 6.1.10 Records and Certified Copies

The clerk shall keep a file for each decedent of all documents filed with the Court under this Probate Code and shall keep a numerical index of all such estates to facilitate access to such records. Upon payment of a fee, the Clerk shall issue certified copies of any document or paper so filed.

Section 6.1.11 Trial

All trials under this Probate Code shall be to the Court.

Section 6.1.12 Oath or Affirmation on Filed Documents

Except as specifically provided in this Probate Code, every document filed with the Court under this Probate Code shall be deemed to include an oath, affirmation, or statement to the effect that its representations are true as far as the person executing or filing it knows or is informed, and the penalties for perjury shall follow deliberate falsification therein.

Section 6.1.13 Notice

(A) If notice of a hearing on any petition or other matter is required and except for specific notice requirements as otherwise provided, the petitioner shall cause notice of the time and place of hearing of any petition to be given to any interested person or their advocate if they have appeared by advocate or requested that notice be sent to their advocate. Notice shall be given:

(1) By mailing a copy thereof at least 14 days before the time set for the hearing by certified mail addressed to the person being notified at the post office address given in their demand for notice, if any, or at their office or place of residence, if known;

(2) By delivering a copy thereof to the person being notified personally at least 14 days before the time set for the hearing; or

(3) If the address or identity of any person is not known and cannot be ascertained by reasonable diligence, by posting a copy of the notice in at least three conspicuous public places on the reservation, including the bulletin board at the main entrance of the Tribal Administration Building, at least 14 days before the time set for the hearing.

(B) The Court for good cause shown may provide for a different method or time of serving notice for any hearing.

(C) Proof of the giving of notice shall be made at or before the hearing and filed in the proceeding.

(D) A person, including a guardian ad litem, or other fiduciary, may waive notice by a writing signed by the person or their attorney and filed in the proceeding.

Section 6.1.14 Renunciation of Succession (Choosing not to Inherit)

(A) A person (or their personal representative) who is an heir, devisee, person succeeding to a renounced interest, beneficiary under a testamentary instrument or person designated to take pursuant to a power of appointment exercised by a testamentary instrument, may renounce in whole or in part the succession to any property or interest therein by filing a written instrument with the Court not later than six months after the decedent's death or the time at which it is determined that the person is entitled to take property if such is not known at the time of death.

(B) The instrument shall: (1) describe the property or part thereof or interest therein renounced, (2) be signed by the person renouncing, (3) be acknowledged before a notary public or signed by at least two disinterested witnesses, and (4) declare the renunciation and the extent thereof. Upon proper renouncement, the interest renounced passes as if the renouncing person had predeceased the decedent or donee.

Section 6.1.15 Effect of Divorce, Annulment, and Decree of Separation

A person who is divorced from a decedent or whose marriage to the decedent has been annulled is not a surviving spouse unless, by virtue of a subsequent marriage, he or she is married to the decedent at the time of death. A decree of separation which does not

terminate the status of husband and wife is not a divorce for purposes of this Probate Code.

Section 6.1.16 Effect of Homicide on Intestate Succession, Wills, Joint Assets Life Insurance and Beneficiary Designation

(A) A surviving spouse, heir or devisee who criminally and intentionally kills the decedent is not entitled to any benefits passing under this Probate Code and the estate of the decedent passes as if the killer had predeceased the decedent. Property appointed by the will of the decedent to or for the benefit of the killer passes as if the killer had predeceased the decedent.

(B) Any joint tenant who criminally and intentionally kills another joint tenant thereby affects a severance of the interest of the decedent so that the share of the decedent passes as their property and the killer has no rights by survivorship. This provision applies to joint tenancies in real and personal property, joint accounts in banks, savings and loan associations, credit unions and other institutions, and any other form of co-ownership with survivorship incidents.

(C) A named beneficiary of a bond, life insurance policy, or other contractual arrangement who criminally and intentionally kills the principal obligee or the person upon whose life the policy is issued is not entitled to any benefit under the bond, policy or other contractual arrangement, and it becomes payable as though the killer had predeceased the decedent.

(D) Any other acquisition of property or interest by the killer shall be treated in accordance with the principles of this section.

(E) A final judgment of conviction of an offense containing the elements of criminal and intentional killing is conclusive for purposes of this section. In the absence of a conviction of criminal and intentional killing, the Court may determine by a preponderance of evidence whether the killing was criminal and intentional for purposes of this section.

Section 6.1.17 Simultaneous Death Provisions

(A) Where the title to property covered under this Probate Code or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if they had survived except where provided otherwise in this Probate Code

(B) Where two or more beneficiaries are designated to take successively by reason of survivorship under another person's disposition of property and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously the property thus disposed of shall be divided into as many equal portions as there are successive

beneficiaries and these portions shall be distributed in the proportion that the beneficiary bears to the decedent or decedents.

(C) Where there is not sufficient evidence that two joint tenants or tenants by the entirety have died otherwise than simultaneously, the property so held shall be distributed one-half as if one had survived and one-half as if the other had survived. If there are more than two joint tenants and all of them have so died, the property thus shall be distributed in the proportion that one bears to the whole number of joint tenants

(D) Where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously, the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

(A) These provisions on simultaneous death shall not apply in cases where the decedent has made provision for a different distribution in a will, trust, deed, contract or insurance.

PART 2 WILLS

Section 6.2.1 Who May Make a Will

Any person 18 or more years of age and who is of sound mind may make a will.

Section 6.2.2 Execution

Except as otherwise provided for oral wills (§ 6.2.4) or holographic wills (§ 6.2.3), every will shall be put in writing and signed by the testator, or in the testator's presence and at the testator's direction signed by another person, and shall be signed by at least two persons each of whom either witnessed the signing by the testator of the will or the testator's acknowledgment of the signature and direction to do so.

Section 6.2.3 Holographic Will

A will which does not comply with § 6.2.2 of this Probate Code is valid as a holographic will, whether or not witnessed, if the signature and the material provisions are in the handwriting of the testator.

Section 6.2.4 Oral Will

(A) A will which does not comply with § 6.2.2 of this Probate code is valid as an oral will under custom and tradition if the testator orally made known the testator's last will in the traditional manner.

(B) The Court shall hear testimony and the Court shall decide the following: (1) the credibility of the testimony; and (2) whether the manner of disposition of testator's property reflects testator's intent. If the Court finds that both of the foregoing conditions prevail, the testator's expressed intent shall be carried out as a valid will.

(C) An oral will cannot revoke a prior written will

Section 6.2.5 Self-Proved Will-Form

An attested will may, at the time of its existence or at any subsequent date, be made self-proved, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before a Tribal Court judge or other person authorized to administer oaths, under official seal, attached or annexed to the will in form and content and substantially as follows:

Kickapoo Traditional Tribe of Texas §
Kickapoo Village §

We, _____, _____, and _____, the testator and the witnesses, respectively, whose names are signed to the attached and foregoing instrument, being first duly sworn, do hereby declare to the foregoing authority that the testator signed and executed the instrument as the testator's last will and that the testator signed willingly or directed another to sign for the testator, and that the testator executed the instrument as their free and voluntary act for the purposes therein expressed; and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of their knowledge the testator was at the time 18 years or more of age, of sound mind and under no constraint or undue influence.

TESTATOR

Witness Signature

Witness name

Witness Address

Date: _____

Witness Signature

Witness name

Witness Address

Date: _____

Subscribed, sworn to and acknowledged before me by
_____ the testator, and subscribed and sworn to before me by
_____ and _____ witnesses, this
____ day of _____ 20 ____.

SIGNED BY JUDGE OR AUTHORITY

Section 6.2.6 Who May Witness

(A) Any person who, at the time of execution of the will, would be competent to testify as a witness in Court to the facts relating to execution may act as a witness to the will. Subsequent incompetency of a witness is not a ground for denial of probate if the execution of the will is otherwise satisfactorily proved.

(B) A will is not invalidated because signed by an interested witness; but, unless the will is also signed by 2 disinterested witnesses, any beneficial provisions of the will for a witness or the witness' spouse are invalid to the extent that such provisions in the aggregate exceed in value what the witness or spouse would have received had the testator died intestate. Valuation is to be made as of testator's death.

Section 6.2.7 Choice of Law as to Execution

A written will is valid if executed in compliance with this Probate Code or if its execution complies with the law at the time of execution of the place where the will is executed, or of the law of the place where at the time of execution or at the time of death the testator is domiciled, has a place of abode or was a national.

Section 6.2.8 Revocation by Writing or by Act

(A) A will or any part thereof is revoked:

(1) By a subsequent valid written will, codicil, or other instrument which revokes the prior will in whole or in part expressly or by inconsistency; or

(2) By being burned, torn, canceled, obliterated, or destroyed with the intent and for the purpose of revoking it by the testator or by another person in the testator's presence and at the testator's direction.

Section 6.2.9 Revocation by Divorce; No Revocation by Other Changes of Circumstances

(A) If, after executing a will, the testator is divorced or the testator's marriage is annulled, the divorce or annulment revokes any disposition or appointment of property made by the will to the former spouse, any provision conferring a general or special power of appointment on the former spouse and any nomination of the former spouse as Executor, trustee, conservator, or guardian, unless the will expressly provides otherwise

(B) Property prevented from passing to a former spouse because of revocation by divorce or annulment passes as if the former spouse failed to survive the decedent. If provisions are revoked solely by this section, they are revived by testator's remarriage to the former spouse. A decree of separation which does not terminate the status of husband and wife is not a divorce for purposes of this section. No change of circumstances other than as described in this section revokes a will.

Section 6.2.10 Revival of Revoked Will

If a second will which, had it remained effective at death, would have revoked the first will in whole or in part, is thereafter revoked by a third will, the first will is revoked in whole or in part unless it is evident from the circumstances and the terms of the third will that the testator intended the first will to be revived and take effect as executed

Section 6.2.11 Incorporation by Reference

Any writing in existence when a will is executed may be incorporated by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification.

Section Events of Independent Significance

A will may dispose of property by reference to acts and events which have significance apart from their effect upon the disposition made by the will, whether they occur before or after the execution of the will or before or after the testator's death. The execution or revocation of a will of another person is such an event.

Section 6.2.13 Rules of Construction and Intention

(A) The intention of a testator as expressed in the testator's will controls the legal effect of the testator's dispositions;

(B) The following rules of construction apply unless a contrary intent is clear in the will:

(1) All property; after-acquired property. A will is construed to pass all property which the testator owns at their death including property acquired after the execution of their will;

(2) Devisee must survive testator by 120 hours. A devisee who does not survive the testator by 120 hours is treated as if they predeceased the testator, unless the will of the decedent contains such language dealing explicitly with simultaneous deaths, including common disaster, or requiring that the devisee survive the testator or survive the testator for a stated period in order to take under the will;

(3) Failure of testamentary provision. If a devise other than a residuary devise fails for any reason, it becomes part of the residual estate. If the residual estate is devised to two or more persons and the share of one of the residuary devisees fails for any reason, their share passes to the other residuary devisees, or to other residuary devisees in proportion to their interests in the residue.

(4) Class Gifts. One who would have been a devisee under a class gift if they had survived the testator is treated as a devisee for purposes of this section whether their death occurred before or after the execution of the will;

(5) Exercise of power of appointment. A general residuary clause in a will, or a will making general disposition of all the testator's property, does not exercise a power of appointment unless specific reference is made to that power;

(6) Generic Terms. Half-bloods, adopted persons and persons born out of wedlock are included in class gifts terminology and terms of relationships in accordance with rules for determining relationships for purposes of intestate succession, as long as they are Issue as defined in this Code, but a person born out of wedlock is not treated as the child of the father unless the person is openly and notoriously so treated by the father or unless paternity has been judicially determined during the life of the father or in some other manner which satisfies the court by clear and convincing evidence that paternity has been conclusively established.

(7) Ademption by satisfaction. Property which a testator gave in their lifetime to a person is treated as a satisfaction of a devise to that person in whole or in part, only if the will provides for deduction of the lifetime gift, or the testator declares in a contemporaneous writing that the gift is to be deducted from the devise or is in satisfaction. For the purpose of partial satisfaction, property given during the lifetime is valued as of the time the devisee came into possession or enjoyment of the property or as of the time of death of the testator, whichever occurs first.

PART 3 INTESTATE SUCCESSION

Section 6.3.1 Intestate Succession

Any part of the estate of a decedent not effectively disposed of by the decedent's will passes to the decedent's heirs as prescribed in the following sections of this Probate Code.

Section 6.3.2 Share of the Spouse

(A) The intestate share of the surviving spouse is:

- (1) if there is no surviving issue or parent of the decedent, the entire intestate estate;
- (2) if there is no surviving issue but the decedent is survived by a parent or parents, the first \$10,000, plus one-half of the balance of the intestate estate;
- (3) if there are surviving issue all of whom are issue of the survived spouse also, the first \$10,000, plus one-half of the balance of the intestate estate;
- (4) if there are surviving issue one or more of whom are not issue of the surviving spouse, one-half of the intestate estate.

Section 6.3.3 Share of Heirs Other Than Surviving Spouse

The part of the intestate estate not passing to the surviving spouse under § 6.3.2 of this Probate Code, or the entire intestate estate if there is no surviving spouse, passes as follows:

(A) to the issue of the decedent; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take by representation;

(B) if there is no surviving issue, to the decedent's parent or parents equally;

(C) if there is no surviving issue or parent, to the issue of the parents or either of them by representation;

(D) if there is no surviving issue, parent or issue of a parent, and the decedent is survived by one or more grandparents or issue of grandparents, half of the estate passes to the paternal grandparents if both survive, or to the surviving paternal grandparent, or to the issue of the paternal grandparents if both are deceased, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take by representation; and the other half passes to the maternal relatives in the same manner; but if there be no surviving grandparent or issue of grandparent on either the paternal or the maternal side, the entire estate passes to the relatives on the other side in the same manner as the half.

Section 6.3.4 On Taker

If there is no taker under the provisions of this chapter, the intestate estate passes to the Tribe.

Section 6.3.5 Representation

If representation is called for by this Probate Code, the estate is divided into as many shares as there are surviving heirs in the nearest degree of kinship and deceased persons in the same degree who left issue who survive the decedent. Each surviving heir in the nearest degree receives one share and the share of each deceased person in the same degree is divided among their issue in the same manner.

Section 6.3.6 Posthumous Persons

Person conceived before the decedent's death but born thereafter inherit as if they had been born in the lifetime of the decedent.

Persons of the half blood inherit the same share they would inherit if they were of the whole blood, but stepchildren and foster children and their descendants do not inherit, unless adopted.

Section 6.3.8 Divorce

Divorces of husband and wife do not affect the right of children to inherit their property.

Section 6.3.9 Determination of Relationship of Parent and Child

For purposes of intestate succession a relationship of parent and child shall be established to determine succession by, through or from a person, as follows:

(A) An adopted person is the child of an adopting parent and of the natural parents for inheritance purposes only. The adoption of a child by the spouse of a natural parent has no effect on the relationship between the child and that natural parent;

(B) An adopted person shall inherit from all other relatives of an adoptive parent as though the adopted person was the natural child of the adoptive parent and the relatives shall inherit from the adoptive parent's estate as if they were the adoptive parent's relatives;

(C) In cases not covered by Subsection 6.3.9 (A), a person born out of wedlock is a child of the mother and is a child of the father, if the relationship of parent and child has been established in accordance with the Kickapoo Traditional Tribe of Texas Youth Code.

PART 4 FAMILY RIGHTS\PROTECTION

Section 6.4.3 Waiver of Rights

The rights of the surviving spouse to homestead allowance, exempt property and family allowance, or any of them, may be waived, wholly or partially, before or after marriage, by a written contract, agreement or waiver signed by the party waiving after fair disclosure. Unless it provides to the contrary, a waiver of "all rights" (or equivalent language) in the property or estate of a present or prospective spouse or a complete property settlement entered into after or in anticipation of separation or divorce is a waiver of all rights to homestead allowance, exempt property and family allowance by each spouse in the property of the other and a renunciation of each of all benefits which would otherwise pass to them from the other by intestate succession or by virtue of the provisions of any will executed before the waiver or property settlement.

Section 6.4.7 Omitted Children

(A) If a testator fails to provide by will for their surviving spouse who married the testator after the execution of the will, the omitted spouse shall receive the same share of the estate they would have received if the decedent left no will unless it appears from the will that the omission was intentional or the testator provided for the spouse by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by statements of the testator or from the amount of the transfer or other evidence.

(B) In satisfying a share provided in this section, the devises made by the will abate as provided in § 6.7.10 of this Probate Code, which concerns "abatement".

Section 6.4.8 Pretermitted Children

(A) If a testator fails to provide in his or her will for any of their children living or born or adopted after the execution of the will, the omitted child receives a share in the estate equal in value to that which they would have received if the testator had died intestate unless:

(1) It appears from the will that the omission was intentional; or

(2) When the will was executed the testator had one or more children and devised substantially all their estate to the other parent of the omitted child; or

(3) The testator provided for the child by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by statements of the testator or from the amount of the transfer or other evidence.

(B) If at the time of execution of the will, the testator fails to provide in their will for a living child solely because they believe the child to be dead, the child receives a share in the estate equal in value to that which they would have received if the testator had died intestate.

(C) In satisfying a share provided by this section, the devises made by the will abate as provided in Section 6.7.10 of this Probate Code, which concerns "abatement".

Section 6.4.9 Homestead Allowance

A surviving spouse of a decedent who was domiciled on the reservation is entitled to a homestead allowance of \$5,000. If there is no surviving spouse, each minor child and each dependent child of the decedent is entitled to a homestead allowance amounting to \$5,000 divided by the number of minor and dependent children of the decedent. The homestead allowance is exempt from and has priority over all claims against the estate. Homestead allowance is in addition to any share passing to the surviving spouse or minor or dependent child by the will of the decedent unless otherwise provided by intestate succession.

Section 6.4.10 Exempt Property

(A) In addition to the homestead allowance, the surviving spouse of a decedent who was domiciled on the reservation is entitled from the estate to value not exceeding \$3,500 therein in household furniture, automobiles, furnishings, appliances and personal effects. The \$3,500 in value of the aforementioned items shall be over and above any security interest in said items. If there is no surviving spouse, children of the decedent are entitled jointly to the same value. If encumbered chattels are selected and if the value in excess of security interests, plus that of other exempt property, is less than \$3,500, or if there is not \$3,500 worth of exempt property in the estate, the spouse or children are entitled to other assets of the estate, if any, to the extent necessary to make up the \$3,500 value

(B) Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate, except that the right to any assets to make up a deficiency of exempt property shall abate as necessary to permit prior payment of homestead allowance and family allowance. These rights are in addition to any benefit or share passing to the surviving spouse or children by the will of the decedent unless otherwise provided, by intestate succession

Section 6.4.11 Family Allowance

(A) In addition to the right to homestead allowance and exempt property, if the decedent was domiciled on the reservation, the surviving spouse and minor children whom the decedent was obligated to support and children who were in fact being supported by the decedent are entitled to a reasonable allowance in money out of the estate for their maintenance during the period of administration, which allowance may not continue for longer than one year if the estate is inadequate to discharge allowed claims. The allowance may be paid as a lump sum or in periodic installments.

(B) It is payable to the surviving spouse, if living, for the use of the surviving spouse and minor and dependent children; otherwise to the children, or persons having their care and custody; but in case of any minor child or dependent child that is not living with the surviving spouse, the allowance may be made partially to the child or their guardian or other person having their care and custody, and partially to the spouse, as their needs may appear. The family allowance is exempt from and has priority over all claims but not over the homestead allowance.

(C) The family allowance is not chargeable against any benefit or share passing to the surviving spouse or children by the will of the decedent unless otherwise provided or by intestate succession. The death of any person entitled to family allowance terminates their right to allowances not yet paid.

Section 6.4.12 Source Determination and Documentation

(A) If the estate is otherwise sufficient, property specifically devised is not used to satisfy rights to homestead and exempt property. Subject to this restriction, the surviving spouse, the guardians of the minor children or children who are adults may select property of the estate as homestead allowance and exempt property. The personal representative may

make these selections if the surviving spouse, the children or the guardians of the minor children are unable or fail to do so within a reasonable time or if there are no guardians of the minor children. The personal representative may execute an instrument or deed of distribution to establish the ownership of property taken as homestead allowance or exempt property

(B) The personal representative may determine the family allowance in a lump sum not exceeding \$6,000 or periodic installments not exceeding \$500 per month for one year, and may disburse funds of the estate in payment of the family allowance and any part of the homestead allowance payable in cash. The personal representative or any interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the Court for appropriate relief, which relief may provide a family allowance larger or smaller than that which the personal representative determined or could have determined

Section 6.4.13 Dwelling Exemption

Upon the appraisal of an estate and it appearing that a dwelling is personal property in which other heirs and/or creditors have an interest, and the dwelling is occupied by the surviving spouse and/or the dwelling is necessary for the welfare and protection of such surviving spouse and/or children, the Court may, by order, after notice to the Tribe and all interested parties, and hearing, set aside such dwelling for the benefit of said surviving spouse and/or children as a homestead for a period not to exceed ten years, provided that in case of special hardship or emergency, the Court may extend such term from year to year thereafter, provided that the Tribe (by representative), any heir or heirs or creditors of the deceased shall have the opportunity to appear before the Court and protest the extension of the original terms setting aside said homestead. The Court may also set aside such sums from the estate as the Court may deem necessary for maintenance and upkeep of the home. The Court shall hear evidence on any contest before making any order of extension.

Section 6.4.14 Summary Probate of Exempt Estates

(A) Exempt Estates. An estate having an appraised value which does not exceed \$5,000 and which is to be inherited by a surviving spouse and/or minor children of the deceased shall be exempt from the claims of all unsecured creditors and the probate thereof may be summarily concluded as provided in this section.

(B) Notice of Hearing to Determine Whether the Estate is an Exempt Estate. Upon petition of the Administrator, the Court shall enter an order stating that it appears, from the appraised value that the whole estate does not exceed \$5,000 and that such estate is to be inherited by the surviving spouse and/or minor children of the decedent and shall set a date and hour for hearing objections of any interested persons, if any there be, why the whole estate should not be declared to be exempt from the claims of all unsecured creditors and distributed to the surviving spouse and/or minor children of the decedent. Notice of such hearing shall be given by posting a true copy of such order in three public

places within the Kickapoo Traditional Tribe of Texas Reservation, including at the main entrance of the Tribal Administration Building and by sending a true copy of such order by certified mail to all persons known to the Administrator to be a creditor, or an heir, devisee or legatee of the decedent. Such notice shall be posted or mailed not less than ten days before the time set for such hearing. On or before the time set for such hearing, the Administrator shall file his affidavit with the Court indicating compliance with this requirement of giving notice.

(C) Hearing to Determine Whether the Estate is an Exempt Estate. If, upon such hearing, the Court finds that such estate is an exempt estate, the Court shall enter an order directing the Administrator to distribute such estate to the surviving spouse and/or the minor children of the deceased as set forth in the order and provide that no further proceedings are necessary and that, upon distributing the distributive share or shares of such estate to those entitled thereto and filing receipts therefore, the estate shall be closed

PART 5 INHERITANCE BY NON-INDIANS/FRACTIONATED HEIRSHIP

Section 6.5.1 Restrictions on Inheritance of Individual Trust/Restriction Lands by Non-Indians

(A) Non-Indians shall not be entitled to receive by devise or descent any interest in individual trust or restricted lands within the Kickapoo Traditional Tribe of Texas Reservation or otherwise subject to the jurisdiction of the Tribe provided that:

(1) if an Indian dies intestate, the surviving non-Indian spouse and/or minor children may elect to receive a life estate in as much of the trust or restricted lands as such person or persons would have been entitled to take in the absence of such restriction on eligibility for inheritance and the remainder shall vest in the Indians who would have been heirs in the absence of a qualified person taking a life estate;

(2) if an intestate Indian decedent has no heir to whom interests in trust or restricted lands may pass, such interests shall escheat to the Tribe, subject to any non-Indian spouse and/or children's rights as described in paragraph (1) of this section;

(3) if an Indian decedent has devised interests, held for the benefit of that decedent individually, in trust or restricted lands to persons who are ineligible for such an inheritance by reason of a tribal ordinance enacted pursuant to this section, the devise shall be voided only if, while the estate is pending before the Secretary for probate, the Tribe acquires such interests by paying to the Secretary, on behalf of the devisees, the fair market value of such interests as determined by the Secretary as of the date of the decedent's death: Provided, That any non-Indian spouse and/or children of such decedent who have been devised such interests may retain, at their option, a life estate in such interests.

(B) Any ineligible devisee shall also have the right to renounce their devise in favor of a person or persons who are eligible to inherit in accordance with Section 6.1.14 (Renunciation of Succession) of this Probate Code.

(C) The right to receive a life estate under this section shall be limited to:

(1) a spouse and/or minor children who, if they had been eligible, would have inherited an ownership interest of 10 per cent or more in the tract of land; or

(2) a spouse and/or children who occupied the tract as a home at the time of the decedent's death.

Section 6.5.2 Escheat of Certain Fractionated Interests

The following section is enacted under Section 2206 (c) of Title 25 of the United States Code - The Indian Land Consolidation Act - to take precedence over the escheat provisions of Section 2206 of Title 25 of the United States Code.

(A) No undivided interest in any tract of trust or restricted land within the Kickapoo Traditional Tribe of Texas Reservation or otherwise subject to the Tribe's jurisdiction shall descend by intestacy or devise but shall escheat to the Tribe if such interests represents 2 per cent or less of the total acreage in such tract and is incapable of earning to the respective heirs \$100 in any one of the five years from the date of decedent's death, and is otherwise without significantly greater future potential value, Provided, that:

(1) In determining the future earning capacity of such interest the hearing examiner shall consider the presence of known or probable minerals and timber;

(2) in determining whether such interest is otherwise without significantly greater future potential value the hearing examiner shall consider, among other things, the geographic location of such property and its potential for commercial or other exploitation;

(3) where the fractional interest has earned to its owner less than \$100 in any one of the five years before it is due to escheat, in absence of previously unexploited known or probable mineral reserves or standing timber, there shall be a rebuttable presumption that such interest is incapable of earning to the respective heirs \$100 in any one of the five years from the date of decedent's death, and that the property is otherwise without significantly greater future potential value.

(B) Nothing in this section shall prohibit the devise of such a fractional interest to any other owner of an undivided fractional interest in such parcel or tract of trust or restricted land.

(C) Any beneficiary who, but for the provisions of this section, would have inherited such fractional interest, may assign such interest to any other owner of an undivided fractional interest in such trust or restricted land, such assignment to be made and filed with the hearing examiner within 60 days of the issuance of notice of intent to escheat the interest to the Tribe. The hearing examiner shall formally notify the beneficiary of their rights under this subsection at the time of the notice of intent to escheat and shall assist with the assignment process as needed.

(D) The Tribal Court Judge and the Federal Administrative Law Judge shall have the discretion to order any appropriate distribution of the decedent's estate as needed to reduce further fractionation so long as the distribution is fair and equitable.

PART 6 ADMINISTRATION OF INTESTATE ESTATES

Section 6.6.1 Petition

(A) When any person dies leaving an intestate estate subject to the jurisdiction of the Kickapoo Traditional Tribe of Texas Tribal Court under this Probate Code, any person claiming to be an heir of the decedent, or the Tribe, may petition the Court for a determination of the heirs of the decedent and for the distribution of such property. The petition shall contain the names and addresses of all persons known to the petitioners who may be entitled to share in the distribution of the estate.

(B) Whenever there is a valid will probated by the Court which does not dispose of all the decedent's property, a determination of the heirs entitled to such property and its distribution shall be made by the Court at or before the time the remainder of the estate is distributed without the necessity of a separate petition and proceeding.

(C) The following persons, if legally competent, shall be afforded the priority in order of their listing for appointment as Administrator: the surviving spouse, any child over 18 years of age, other blood relatives, any adult tribal member, any adult person.

(D) To take constructive or physical possession of all property of the decedent subject to this Probate Code as the Court shall order, taking into consideration the interests of the person who may have occupied the homestead of the decedent at the time of his or her death.

Section 6.6.2 Administration of Intestate Estate

(A) If an Executor is appointed over a decedent's property which is disposed of by a valid will, such person shall likewise assume authority over the decedent's intestate estate and administer it with the rest of the decedent's estate.

(B) Whenever it reasonably appears that such is necessary to the preservation, administration and/or distribution of a decedent's intestate estate, the Court shall appoint an Administrator over the estate. It shall not be necessary to appoint an Administrator if the value of the decedent's property appears to be less than \$5,000 in value, no problems in administering the estate are foreseen, and no one requests that one be appointed.

(C) The following persons, if legally competent, shall be afforded priority in order of their listing for appointment as Administrator: the surviving spouse, children over 18 years of age in descending order of age, other blood relatives in order of their closeness of relationship, any adult tribal member, any adult person

(D) The duties of the Administrator shall be:

(1) To take constructive or physical possession of all property of the decedent subject to this Probate Code as the Court shall order, taking into consideration the interests of the person or persons who may have occupied the homestead of the decedent at the time of his or her death.

(2) Within one month of appointment make an inventory and appraisal of such property and file it with the Court;

(3) Within one month of appointment, determine and file with the Court a list of all known relatives of the decedent, their ages, their relationship to the decedent, and their whereabouts if known;

(4) Subject to the approval of the Court, ascertain and pay all of the debts and legal obligations of the decedent;

(5) Prosecute and defend actions for or against the estate;

(6) Distribute the estate in accordance with the order of the Court and file receipts with the Court showing distribution of the estate.

(E) The Administrator shall file a bond in an amount to be set by the Court to insure their faithful, honest performance of their duties as Administrator. Unless otherwise made to appear necessary or desirable, no bond shall be required of an Administrator who is the spouse or child of a decedent.

Section 6.6.3 Appointment of Administrator

(A) Upon receipt of a petition to administer an intestate estate, the clerk shall schedule a hearing at which an Administrator will be appointed. Said hearing shall be scheduled far enough in advance to allow the required notice to be made

(B) Notice of the hearing shall be made by the petitioning party or by the clerk if the Tribe is the petitioning party and shall also be posted in a conspicuous place in the Court building.

(C) The Court shall determine who is the proper person to appoint as Administrator, and if such person manifests their willingness to serve, order their appointment as Administrator.

Section 6.6.4 Oath of Administrator; Letters of Administration

(A) Upon their appointment as Administrator, the person appointed shall take an oath to be prescribed by the Court to the effect that they will faithfully and honestly administer the estate.

(B) Upon taking the oath and filing the bond, if any is required, the Administrator shall be granted letters of administration as proof of their appointment.

(C) The Court may waive the requirement that the Administrator file a bond if the Court finds good cause to do so

Section 6.6.5 Notice to Creditors

The Administrator of the estate or the clerk if no Administrator is appointed shall cause notice to creditors to be posted in at least three conspicuous places on the Reservation and published for three consecutive issues in a publication of general distribution on the Reservation. Said notice shall state that creditors have 90 days from the date of the first publication of the noticed to present their claims to the Administrator or clerk and that only those claims so presented may be paid to the estate.

Section 6.6.6 Payment to Creditors

(A) Payment to creditors of the decedent shall be made by the Administrator or by the clerk if no Administrator is appointed only upon the order of the Court after determining the validity of the claims by affidavit or personal testimony of the claimant.

(B) All just claims of creditors allowed by the Court shall be paid before distribution of the estate but shall be paid only after payment of the family allowance and homestead allowances as provided herein.

Section 6.6.7 Accounting

Prior to the distribution of every estate for which an Administrator has been appointed, such Administrator shall render an accounting to the Court, for its approval, of all receipts and disbursements from the estate, showing the present status of the estate and that it is ready for distribution, and also showing the computation of any attorney's and/or Administrator's fees involved for which approval for payment is sought. In estates in which no Administrator is appointed, the clerk shall account to the Court for all transactions relating to the estate.

Section 6.6.8 No Taker/Escheat To Tribe

If there is no taker of the intestate estate, the intestate estate passes or escheats to the Tribe

Section 6.6.9 Advancements

If a person dies intestate, property which they gave in their lifetime to an heir is treated as an advancement against the latter's share of the estate only if declared in a contemporaneous writing by the decedent or acknowledged in writing by the heir to be an advancement. For this purpose, the property advanced is valued as of the time the heir came into possession or enjoyment of the property or as of the time of death of the decedent, whichever first occurs. If the recipient of the property fails to survive the decedent, the property is not taken into account in computing the intestate share to be

received by the recipient's issue, unless the declaration or acknowledgment provides otherwise.

Section 6.6.10 Debts to Decedent

A debt owed to the decedent is not charged against the intestate share of any person except the debtor. If the debtor fails to survive the decedent, the debt is not taken into account in computing the intestate or other share of the debtor's issue.

Section 6.6.11 Distribution: Closing Estate

(A) When it is made to appear to the Court that an estate is ready to be distributed, the Court shall order such according to the rules of intestate succession and this Probate Code.

(B) The estate shall be closed and the Administrator dismissed and their bond released upon the filing of receipts and an affidavit showing the estate is fully distributed, and after being fully administered, is now ready to be closed.

PART 7 PROBATE OF WILLS

Section 6.7.1 Duty to Present Will for Probate

Every custodian of a will shall deliver the will to the Kickapoo Traditional Tribal Court within 30 days after receipt of information that the testator is deceased. Any will custodian who fails or neglects to do so after receiving notice of this requirement shall be liable for damages sustained by any person injured thereby.

Section 6.7.2 Proving, Contesting, and Admitting Will

(A) Proof of Will

(1) Upon initiating the probate of an estate, the will of the decedent shall be filed with the Court. If the will is self proved in accordance with Section 6.2.5 it will admitted to probate. If the will is not self proved it may be proven and admitted to probate by filing the affidavit of an attesting witness which identifies such will as being the will which the decedent executed and declared to be their last will.

(2) If the evidence of none of the attesting witnesses is available, the Court may allow proof of the will by testimony or other evidence that the will is genuine.

(B) Contest of Will

(1) At any time within 30 days after a will has been admitted to probate, or within such time as the Court shall establish in the case of an exempt estate, any person having an interest in the decedent's estate may contest the validity of the will. Any non member of the Kickapoo Traditional Tribe of Texas who contests the will must consent to the

jurisdiction of the Kickapoo Traditional Tribal Court. In the event of a will contest, the Court shall take no further action with respect to the probate of the estate, but shall set a day and time for hearing on the will contest.

(2) Relevant evidence shall be presented at the will hearing concerning the decedent's capacity to execute a valid will and the circumstances surrounding its execution. Every reasonable effort shall be made to procure the testimony of the attesting witnesses to the will, or if their testimony is not reasonably available, an effort shall be made to identify signatures to the will through other evidence.

(C) Admission of Contested Will to Probate

(1) Upon considering all relevant evidence concerning the will, the Tribal Court shall enter an order affirming the admission of the will to probate or rejecting such will and ordering that the probate of the decedent's estate proceed as if the decedent had died without executing the will.

Section 6.7.3 Petition for Letters Testamentary

A petition for letters testamentary may be made by any person having possession of a decedent's will. The petition must be in writing, signed by the petitioner, and shall state the basis for the Court's jurisdiction, the names of the heirs of the decedent, if known, and the name or names of any person specified in the will as Executor and the address of such person if known. The original will shall be submitted to the Court with the petition.

Section 6.7.4 Qualification of Executor

The Court shall appoint an Executor to administer the estate. The Executor shall be a competent adult who consents to the jurisdiction of the Kickapoo Traditional Tribal Court. Preference shall be given, if such persons are otherwise qualified, to the person named in the will as testator, alternate testator, followed by the surviving spouse, child of the decedent over 18 years of age with preference given in descending order of age, other blood relatives in order of their closeness of relationship, any adult tribal member, any adult person.

Section 6.7.5 Appointment of Executor

(A) Upon receipt of a petition for letters testamentary, the clerk shall schedule a hearing at which an Executor will be appointed and letters testamentary authorized. The hearing shall be scheduled so that adequate notice to interested parties can be made.

(B) Notice of hearing shall be made by the petitioning party to all persons named as takers under the will, and to all known heirs of the decedent if different from the named takers, and also posted on the bulletin board at the Main entrance of the Administration Building.

(C) At the hearing, the Court shall first determine the validity of the decedent's will and then appoint an Executor to administer the estate according to the terms of this Probate Code and the decedent's will.

(D) Letters testamentary shall be granted to the person appointed as Executor upon their taking an oath, to be prescribed by the Court, to the effect that the Executor will faithfully and honestly administer the estate, and upon the Executor's filing of bond, if required.

Section 6.7.6 Duties of Executor; Bond

The duties of the Executor shall be the same as those prescribed in this Probate Code for the Administrator of an intestate estate (Part 6), and unless the will provides otherwise, the Executor shall file a bond in a like manner and subject to the same exceptions.

Section 6.7.7 Creditors

Notice to creditors, determination of the validity of claims, and payment of claims shall be handled as prescribed for intestate estates (Part 6).

Section 6.7.8 Accounting

Prior to the distribution of the estate remaining after payment of all just claims and priority payments, the Executor shall submit to the Court for approval an accounting of all receipts and disbursements from the estate, showing the present status of the estate and that it is ready for distribution, and also showing the computation of any attorney's and/or Executor's fees involved for which approval for payment is sought.

Section 6.7.9 Distribution; Closing Estate

(A) When it is made to appear to the Court that an estate is ready to be distributed, the Court shall order such distribution according to the provisions of the decedent's will or the rules of intestate succession, whichever is applicable, and according to the rules set forth in this Probate Code.

(B) The estate shall be closed and the personal representative of the estate dismissed and their bond, if any, released upon filing with the Court receipts showing that the estate is fully distributed, and also upon filing the personal representative's affidavit that the estate is fully administered and ready to be closed. "Personal representative" as used herein includes both Administrators and Executors.

Section 6.7.10 Distribution: Order in which Assets Appropriated; Abatement

(A) Except as provided in subsection 6.7.10 (b) shares of distributees abate, without any preference or priority as between real and personal property, in the following order:

- (1) Property not disposed of by the will;

- (2) Residuary devises;
- (3) General devises;
- (4) Specific devises.

For purposes of abatement, a general devise charged on any specific property or fund is a specific devise to the extent of the value of the property on which it is charged, and upon the failure or insufficiency of the property on which it is charged, a general devise to the extent of the failure or insufficiency. Abatement within each classification is in proportion to the amounts of property each of the beneficiaries would have received if full distribution of the property had been made in accordance with the terms of the will.

(B) If the will expresses an order of abatement, or if the testamentary plan or the express or implied purpose of the devise would be defeated by the order of abatement stated in subsection 6.7.10 (a), the shares of the distributees abate as may be found necessary to give effect to the intention of the testator.

(C) If the subject of a preferred devise is sold or used incident to administration, abatement shall be achieved by appropriate adjustments in, or contribution from, other interests in the remaining assets.

Section 6.7.11 Property Discovered After Estate Closed

An estate may be reopened whenever necessary to dispose of a decedent's property discovered after their estate has been closed. The Court shall order distribution of the property to the person or persons entitled thereto after making whatever orders appear necessary to assure a just participation of the after discovered property in the expenses of the estate.

PART 8 GUARDIANSHIP

Section 6.8.1 Definition of Guardian

(A) A guardian is an adult appointed to take care of the person or property of another. Unless a guardian has been appointed by a court, each parent is the natural guardian of their minor children. The guardian must exercise the highest standard of care for the ward, and is subject to regulation by the Kickapoo Traditional Tribe of Texas Tribal Court.

(B) The Court, when it appears necessary or convenient, may appoint guardians for the persons and/or property of an incapacitated person under the Court's jurisdiction who have no legally appointed guardian. Such appointment may be made on the petition of a relative or other person on behalf of the child or incompetent, or a petition of the child if at least fourteen (14) years of age. Before making such appointment, the Court must cause such notice as the Court deems reasonable to be given to any person having the care of a child, and to such other relatives of a child residing on the reservation as the Court may deem proper, and in cases of adult incompetents, the Court may cause notice to be given to the incompetent at least five (5) days before hearing the petition. If the

court recognizes a guardianship appointment from a foreign court, the foreign court proceeding may be transferred to the tribal court pursuant to Sections 7.3 and 7.4 of Chapter 7 of this code without regard to the ward's age.

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

(D) When a guardian has been appointed by the Court for a child under the age of fourteen (14) years, the child, at any time after the child attains that age, may nominate their own guardian, subject to the approval of the Court. The Court's order appointing a guardian may specify the custody of the child, the medical and dental care, treatment and education of the child and the care and management of their property until such child arrives at the age of eighteen (18), marries, is emancipated by the Court, or until the guardian is legally discharged; provided, however, that a guardian shall not have the authority, without express written approval of the Court, to consent for the child to any surgery not involving an imminent threat to the health of the child, to dispose of any real or personal property of the child in any manner, including, but not limited to, the child's Individual Indian Money Account and any trust fund account. With respect to a child's trust fund account, the guardian shall be bound by this code and any requirements and provisions of the Tribe's Revenue Allocation Plan.

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

Section 6.8.2 How Guardians are Appointed

(A) By will. The last surviving parent or spouse of a minor or mental incompetent may designate in a will the guardian for the minor or mental incompetent. Upon determination by the Court that the will is valid, and that the person designated is willing to accept the responsibilities of guardianship, the Court shall appoint the person designated; provided that for good cause shown, the Court may decline to appoint the person designated.

(B) By Court appointment. Where a minor or mental incompetent is in need of a guardian, and no guardian is appointed pursuant to a valid will, the Court may appoint a guardian, to promote the best interests of the minor or mental incompetent.

(C) Hearing. In each case where a guardian is to be appointed, either by will or by Court appointment, a hearing shall be held following notice to all interested parties

Section 6.8.3 Types of Guardianship

The types of guardianship shall include guardianship of the estate and/or guardianship of the person. Guardianship includes both temporary guardianship and permanent guardianship.

Section 6.8.4 Guardianship of the Estate

The Court may appoint a guardian of the estate of a child or incompetent person under such terms and conditions as the Court sets forth in the written order. The guardianship may cover all property until the child reaches eighteen (18) years of age or until the incompetent person becomes competent or it may be limited to only specific property or a specific legal action as set forth in the written order. A temporary or permanent guardianship of the person may also include guardianship of the estate of the ward if set forth in the written order.

Section 6.8.5 Permanent Guardianship of a Child

The Court may appoint a permanent guardian for the child under such terms and conditions as the Court sets forth in the written order. Permanent guardianship shall provide for permanent custody of a child to someone other than the parent(s), although there is no termination of the parental rights of the parents. There shall be a presumption of continued permanent guardianship in order to provide stability for the child. A permanent guardian shall only be removed pursuant to Section ? of this Chapter. A permanent guardianship shall only be terminated by Court order after hearing based upon finding the guardianship no longer necessary. The parent(s') and the child's extended family shall be granted liberal visitation rights during the guardianship unless deemed inappropriate by the Court.

Section 6.8.6 Temporary Guardianship

(A) If the Court finds that substantial harm to the respondent's health, safety, welfare or estate requires the immediate appointment of a guardian, the Court, on petition by a person interested in the respondent's welfare, may appoint a temporary guardian whose authority may not exceed sixty (60) days and who may exercise only the powers specified in the order. Immediately upon receipt of the petition for a temporary guardianship, the Court shall appoint a lawyer to represent the proposed ward in the proceeding. Except as otherwise provided in subsection (B), reasonable notice of the time and place of a hearing on the petition must be given to the respondent and any other persons as the Court directs.

(B) A temporary guardian may be appointed without notice to the respondent, the proposed ward, and the respondent's lawyer only if the Court finds from affidavit or

testimony that the proposed ward will be substantially harmed before a hearing on the appointment can be held. If the Court appoints a temporary guardian without notice, the respondent(s) and proposed ward must be given notice of the appointment within 48 hours after the appointment. If the order was based on testimony, attached to the notice shall be a written summary of the testimony. The Court shall hold a hearing on the appropriateness of the appointment within five (5) days after the appointment.

(C) Appointment of a temporary guardian, with or without notice, is not a determination of the respondent's incapacity.

(D) The Court may remove a temporary guardian at any time. A temporary guardian shall make any report the Court requires. In other respects, the provisions of this Code concerning guardians apply to a temporary guardian. If the proposed ward is a child and a temporary guardian is appointed, the parent(s) and the extended family of the child shall be granted liberal visitation rights unless deemed inappropriate by the Court.

Section 6.8.7 Who May File Guardianship Petition

Any person may file a petition for guardianship. The petition shall be initiated either by the proposed guardian or by the child if at least fourteen (14) years of age

Section 6.8.8 Contents of Guardianship Petition

(A) The petition for guardianship shall include the following, to the best information and belief of the petitioner.

- (1) The full name, address and tribal affiliation of the petitioner;
- (2) The full name, sex, date and place of birth, residence and tribal affiliation of the proposed ward;
- (3) The basis for the Court's jurisdiction and if the petitioner is not a member of the tribe a statement that the petitioner consents to the jurisdiction of the court;
- (4) The relationship of the proposed guardian to the proposed ward, if any;
- (5) The name and address of the person or agency having actual custody of the proposed ward;
- (6) Whether any court has issued any orders concerning the custody or estate of the proposed ward and, if so, the name of the court, title and number of the case, and nature of the proceeding. A true copy of any orders shall be attached to the petition if available;
- (7) The type of guardianship requested and why there is need for appointment of a guardian;
- (8) Whether an emergency guardianship is sought and, if so, the nature of the emergency.
- (9) In the case of alleged incompetent persons, the grounds for incompetency under § 6.8.11; and
- (10) A full description and statement of value of all property owned, possessed, or in which the proposed ward has an interest (if guardianship of the estate is requested).

(B) All petitions must be signed under oath and dated by the petitioner(s), and must be notarized.

Section 6.8.9 Guardianship Report

(A) Upon the filing of a guardianship petition, the Court shall immediately request that the social services department or other qualified agency conduct a guardianship investigation and report on the proposed guardian and the proposed ward. The guardianship report shall contain all pertinent information necessary to assist the Court in determining the best interests of the proposed ward and the qualifications of the proposed guardian.

(B) Except as provided in Section 6.8.6 above, no determination can be made on a petition for guardianship until the report has been completed and submitted to and considered by the Court. The guardianship report shall be submitted to the Court no later than ten (10) days before the hearing. The Court may order additional reports as it deems necessary

Section 6.8.10 Management of Property

(A) In the event that any guardian shall receive any money or funds of any incapacitated person during their term of office as guardian, before taking and receiving into custody such money or funds, the Court must require of such person a bond with sufficient surety to be approved by the Court and in such sum as the Court shall order, conditioned that the guardian will faithfully execute the duties of his/her trust, and the following conditions shall form a part of such bond without being expressed therein:

(1) To make an inventory of all the estate of the ward that comes into his/her possession or knowledge and to return the inventory within such time as the Court may order; and

(2) To manage the estate according to Tribal law and for the best interests of the ward, and to faithfully discharge his/her trust including the care, custody and education of the ward; and

(3) To report any changes in the property of the ward that have not been previously reported and provide a complete account of receipts and disbursements for the period covered by the account, and the source and nature of the receipts and disbursements, with receipts of principal and income shown separately within ninety (90) days after his/her appointment, and at such other times as the Court directs; and

(4) To settle the estate in accordance with the Court's order and Tribal law.

(5) The estate of any incapacitated person must be used by the guardian solely for the support of the ward and, if the ward is a child, for the ward's education and for the support of the ward, and shall be expended by the guardian in a reasonable manner considering the income and estate of the ward; and

(6) If determined to be appropriate by the Court, the written order for a ward who is a child may require that the child's estate may not be used for the child's care, but rather

must be managed for the child until the child reaches the age of eighteen (18) or is emancipated by the Court.

Section 6.8.11 Incapacitated Adults

(A) Upon the filing of a petition for guardianship of an adult and after notice the Court shall hold a hearing to determine whether the proposed ward is incapacitated. The Court shall consider all of the evidence including, without limitation, reports submitted and the statement of at least one qualified physician regarding whether the proposed ward is incapacitated and the extent of the proposed ward's incapacity.

(B) Every guardian of the person of an incapacitated adult has the care and custody of the person of the ward until discharged. Every guardian of the estate of an incapacitated adult shall manage the ward's estate until discharged. In each instance, the Court shall require the guardian to post bond in accordance with Section 6.8.10 above.

(C) Any interested person, may petition the Court with jurisdiction over the guardianship to make a declaration that the ward is no longer incapacitated and to terminate the guardianship. The petition shall be verified and shall state that such person is no longer incapacitated. The Court must cause such notice as the Court deems reasonable to be given to the ward and other interested persons as the Court may deem proper, but notice must be given at least five (5) days before hearing the petition. At the hearing, evidence shall be taken and witnesses shall be examined and the Court shall determine whether the petition should be granted. If the Court determines that the ward is no longer incapacitated, the Court shall terminate the guardianship.

Section 6.8.12 Removal of Guardian and Termination of Guardianship

(A) Upon motion of any person, including the Tribe, the Court, after notice shall hold a hearing on whether to remove a guardian. Grounds for removal shall include, but not be limited to, guardian's misuse of the ward's assets, failure to provide a reasonable level of care for the ward, or the inability of the guardian to carry out his/her duties.

(B) Guardianship, including guardians of the estate of the ward, shall terminate automatically upon a minor being emancipated, or upon an incapacitated adult being adjudged by the Court to have regained legal capacity.

CHAPTER 7: YOUTH CODE

Section 7.1 Council Findings

(A) Recognizing that there is no resource that is more vital to the continued existence and integrity of the Kickapoo Traditional Tribe of Texas than its children, the Kickapoo Traditional Tribe of Texas Traditional Council finds:

(1) That Art. VII, Sec. 1 (j), (o), (t), and (u) of the Kickapoo Traditional Tribe of Texas Constitution (approved 07-11-89) which state, in part: "to safeguard the peace, safety, welfare, and political integrity of the Tribe by enacting appropriate resolutions or ordinances for this purpose; ... to provide for the administration of justice by establishing tribal courts; ... to regulate domestic relations and other internal affairs of the tribe; ... to appoint guardians" authorizes the creation of a Youth Court and the establishment of a Child Protective Board; and

(2) That Indian families are often broken up by the unwarranted removal of their children from them by non-tribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

(3) That the States exercising jurisdiction over Indian child custody proceedings have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families; and

(4) That the Kickapoo Traditional Tribe of Texas needs a recognized Youth Court system to insure that off-reservation courts will be willing to return children of the Tribe to the jurisdiction of the Kickapoo Traditional Tribe of Texas for determinations regarding custody, care and guidance; and

(5) That the children of the Kickapoo Traditional Tribe of Texas must receive, preferably in their own homes, the care and guidance needed to prepare them to take their places as adult members of the Kickapoo Traditional Tribe of Texas; and

(6) That the Kickapoo Traditional Tribe of Texas has a direct interest in protecting Indian children who reside or are domiciled on the Kickapoo Traditional Tribe of Texas Reservation irrespective of blood quantum; and

(7) That the Kickapoo Traditional Tribe of Texas, must protect and preserve the essential tribal relations and cultural heritage of its children consistent with the best interests of the children; and

(8) That the appropriate means of addressing these concerns is through the passage of a child welfare ordinance under the title Kickapoo Traditional Tribe of Texas Tribal Law, Youth Code and the establishment of a Youth Court and a Child Protective Board.

Section 7.2 Purpose and Construction

(A) Council Declaration of Purpose: This Code shall be interpreted and understood to accomplish the following tribal objectives:

(1) To insure that the young Indian people of the Kickapoo Traditional Tribe of Texas receive assistance and guidance in their own homes, whenever possible, separating the youth from his or her parent only when necessary for the youth's welfare;

(2) To protect and preserve the identity and pride of the young Indian people of the Kickapoo Traditional Tribe of Texas as American Indians;

(3) To provide a simple procedure for addressing and resolving conflicts involving Indian youth that is reflective of tribal traditions and prevailing tribal community standards and that affords all affected persons a fair and impartial hearing, consistent with individual rights;

(4) To insure that off-reservation courts will be willing and able to return young people of the Tribe to the jurisdiction of the Kickapoo Traditional Tribe of Texas for determinations regarding custody, care and guidance;

(5) To insure the continued existence of the Tribe by protecting against the unwarranted removal of Indian children from their families;

(6) To establish a Youth Court that shall protect the child's interest by choosing a course of action that least restricts the child's freedom and best promotes the child's health, safety, welfare and tribal identity consistent with the traditions and interests of the Kickapoo Traditional Tribe of Texas ;

(7) In situations where it is not possible to maintain family unity, to find the next best alternative, mindful of the child's tribal heritage and cultural background, as well as other special needs;

(8) To insure the care, protection, and wholesome mental and physical development of all Indian children of the Kickapoo Traditional Tribe of Texas;

(9) To respond to children's needs for care and treatment through community based programs;

(10) To provide the children with and assure the availability of preventive services, accountable case planning, and other social services designed to preserve and/or reunify families;

(11) To insure that the sovereignty of the Kickapoo Traditional Tribe of Texas is recognized in all matters affecting the welfare of the young people of the Kickapoo Traditional Tribe of Texas

(B) Construction: This Code is exempted from the rule of strict construction. It shall be read and understood in a manner that gives full effect to the purposes for which it is enacted.

(C) Applicable Law: Whenever there is uncertainty or a question as to the interpretation of certain provisions of this Code, tribal law and tradition shall be controlling and where appropriate, may be based on the written or oral testimony of a qualified tribal elder, historian, or other representative.

(D) Crimes Committed by Juveniles: Delinquent acts committed by any Indian youth shall be disposed of as provided by Kickapoo Traditional Tribe of Texas tribal law and tradition, except as otherwise may be provided.

Section 7.3 Jurisdiction

(A) Exclusive Jurisdiction: The Court shall have exclusive original jurisdiction over any proceeding concerning a youth alleged to be in need of care, termination of parental rights, adoption, paternity, or guardianship which involves any Indian youth who resides or is domiciled on the Kickapoo Traditional Tribe of Texas Reservation.

(B) Jurisdiction Over Adults: The Court shall have jurisdiction over adults in aid of its powers under this Code, and may make such orders as are necessary for the welfare of a youth.

(C) Concurrent Jurisdiction: When state, federal or other tribal courts have jurisdiction over any of the matters provided for in this Code, the Court has concurrent jurisdiction over the same matters to an extent consistent with federal laws. The Court shall have concurrent jurisdiction over:

(1) Any youth who is a member or is eligible for membership in the Kickapoo Traditional Tribe of Texas Tribe regardless of the youth's residence or domicile; or

(2) Any Indian youth who has been placed in temporary care on the reservation or in any care facility licensed by the Tribe for placement of Indian youth.

(D) Jurisdiction - Limitations: The limitations on jurisdiction in this section are not intended to reflect the Tribe's view as to the legally permissible limits of jurisdiction, but are merely designed to define tribal activity in this area in accordance with tribal priorities and resources.

(E) Jurisdictional Agreements: The Tribe may enter into such intertribal and tribal-state agreements regarding jurisdiction over youth custody matters as it deems appropriate and necessary to protect the best interest of Kickapoo Traditional Tribe of Texas youth.

Section 7.4 Transfers of Jurisdiction and Intervention

(A) Notice to Other Tribes of Pendency of Action: When the Court or the Indian Child Welfare Worker has reason to believe a youth, who is a party to an action under this Code, may be enrolled or may be a member or eligible for enrollment or membership in another tribe, the Indian Child Welfare Worker shall notify the other tribe of the pendency of the action.

(B) Transfer of Jurisdiction to Kickapoo Traditional Tribe of Texas Youth Court: The Court may accept or decline any transfer of jurisdiction over a youth without a hearing, but shall allow aggrieved parties a hearing on their objections, if any.

(C) Child Protective Board Investigation and Recommendation: The Child Protective Board and the Indian Child Welfare Worker shall meet, investigate, and make recommendations to the Tribal Council on whether to accept or request a transfer of jurisdiction, or to intervene in another court's proceeding in the following cases:

(1) When the Tribe has received notice or has reason to believe that an action involving a Kickapoo Traditional Tribe of Texas Youth is pending in another court, or

(2) When the Tribe has received a request from another jurisdiction to transfer a case from Kickapoo Traditional Tribe of Texas Youth Court to the other jurisdiction.

(D) Guidelines for Transfers of Cases Involving Youths with Multi-Tribal Affiliations: In deciding whether to transfer to or accept transfer from another jurisdiction in cases involving a youth who may be enrolled or eligible for enrollment in another tribe, the

Child Protective Board and the Tribal Council shall be guided by the following considerations:

- (1) The youth's length of residence on or near a tribe's territorial jurisdiction;
- (2) The frequency of contacts the youth has had with a particular tribe;
- (3) The youth's participation in tribal activities;
- (4) Previous adjudications by the other tribe's court, if any, with respect to the Youth;
- (5) Residence on a particular reservation by the youth's parent or extended family member with whom the youth has resided for a substantial period of time;
- (6) The wishes of the parent(s) and, if the youth is over the age of twelve, the wishes of the youth;
- (7) Tribal membership of the youth's parent, guardian, or other custodian;
- (8) Interest asserted by the other tribe in response to notice given by the Kickapoo Traditional Tribe of Texas;
- (9) Tribal programs and resources available to meet the youth's needs and problems; and
- (10) Any other factors the Child Protective Board and Tribal Council deem relevant.

(E) Tribal Council Action: The Tribal Council shall decide whether to accept, reject or modify the recommendation of the Child Protective Board.

(F) Requests for Transfer or Intervention: If the Tribal Council decides that the Tribe should intervene in another court's action or should request that jurisdiction be transferred to the Kickapoo Traditional Tribe of Texas Youth Court, the Tribal Council shall request the Presenting Officer to file the appropriate pleading. Upon receipt of transfer from another jurisdiction, the Presenting Officer shall file the appropriate action in the Youth Court.

(G) Transfer to Another Jurisdiction: If the Tribal Council decides that the Tribe should transfer the case to another jurisdiction, the Tribal Council shall request the presenting officer to file a motion in the Youth Court for an order transferring jurisdiction.

Section 7.5 Definitions

(A) Abandonment:

1. When a parent or custodian leaves a youth without provisions for care or support for an unreasonable period considering the age of youth and all circumstances and the parents whereabouts cannot be ascertained; or
2. When a parent voluntarily relinquishes care and custody of a youth and fails to provide support for or to communicate with the youth other than on an incidental basis for a period exceeding one hundred eighty (180) days.

(B) Adult: Any person subject to the jurisdiction of the Kickapoo Traditional Tribe of Texas who is either eighteen (18) years of age or older, married or otherwise emancipated.

(C) Child Protective Board: a five (5) member board appointed by the Traditional Tribal Council to oversee the health, safety and welfare of youth within the jurisdiction of the Kickapoo Traditional Tribe of Texas.

(D) Court, Tribal Court or Youth Court: The Kickapoo Traditional Tribe of Texas Court when exercising jurisdiction under this Code, unless the context clearly requires otherwise.

(E) Custodian: An adult person, other than a parent or guardian, who has been given temporary physical care, custody and control of a youth, including the duty to provide food, clothing, shelter, medical care, education, and supervision to the youth.

(F) Delinquent Act: An act committed by a youth which if committed by an adult would be designated as a crime or for which a penalty is provided under tribal law or custom.

(G) Domicile/Residence: The determination of domicile and residence shall be in accordance with tribal law and tradition. In the absence of other factors clearly demonstrating an intent to establish a permanent home off the reservation, an Indian youth's domicile/residence shall be presumed to be within the reservation.

(H) Extended Family: This term shall be defined by the law or tradition of the Indian youth's tribe, or in the absence of such law or custom, shall be a person who is the youth's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or step-parent.

(I) Guardian: A person other than the youth's parent who is by tribal law or tradition responsible for that youth.

(J) Guardian Ad Litem: An adult appointed by the Court to represent the best interests of a youth in any proceeding to which the youth may be a party.

(K) Guardianship: Authority to make all decisions of legal import for a youth, including Legal Custody.

(L) ICWW: Indian Child Welfare Worker.

(M) Indian Tribe: Any Indian tribe, band, nation, or other organizational group, or community of Indians traditionally recognized as an Indian tribe by the Tribal Council or recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village as defined in Section 3(c) of the Alaska Native Claims Settlement Act as amended.

(N) Indian Youth: Means any unmarried person who is under eighteen (18) years of age and is either:

- (1) Enrolled in or a member of an Indian tribe or is eligible for enrollment or membership in an Indian tribe, or
- (2) The biological child of an enrolled member of an Indian tribe or eligible member of an Indian tribe; or
- (3) A member of an Indian tribe as documented by Tribal Resolution.

(O) Legal Custody:

- (1) Authority transferred or assumed by Tribal Court approved agreement or Tribal Court action to make decisions of legal import for a minor child as to care, custody, and control of the child;
- (2) Legal custody shall not include authority to place the minor child in another home or with any agency or to transfer the child's domicile;
- (3) Legal custody shall not include authority to enroll a youth in another tribe if the child is presently enrolled, or eligible for enrollment, in the Kickapoo Traditional Tribe of Texas.
- (4) Legal custody shall be terminated upon Tribal Court order and the child shall immediately be given into the custody of the Court.

(P) Legal Custody (Temporary):

- (1) Authority over a minor child temporarily transferred in writing by the parent(s) of the child to any adult member of the child's extended family or tribe as to care, custody, and control of the child for a period of up to, but not exceeding, 180 days; or
- (2) The parent(s) may give temporary legal custody to members of child's extended family orally, but such oral authority, shall not exceed thirty (30) days in duration;
- (3) Notwithstanding any written agreement, temporary legal custody shall be terminated upon demand of the parent(s) and the child shall be immediately returned to the custody of the Parent(s);
- (4) Temporary legal custody shall not include authority to place the minor child in another home or with any agency or to transfer the child's domicile;
- (5) Temporary legal custody may be terminated by Tribal Court order upon determination of the Court that such action is in the best interests of the child and the child shall immediately be given into the custody of the Court.
- (6) Temporary legal custody shall not include authority to enroll a youth in another Tribe if the child is presently enrolled, or eligible for enrollment, in the Kickapoo Traditional Tribe of Texas.

(Q) Parent: Includes a biological or adoptive parent but does not include persons whose parental rights have been terminated, nor does it include an unwed father whose paternity has not been acknowledged or established pursuant to PART VI, PATERNITY, of this Chapter.

(R) Probable Cause/Reason to Believe: Facts which support a reasonable belief of the existence of a particular conclusion.

(S) Qualified Elder, Historian, or Other Tribal Representative: An individual who, because of his or her knowledge and experience, has been appointed by the Kickapoo Traditional Tribe of Texas Tribal Council to testify as to the traditions and customs of the Kickapoo Traditional Tribe of Texas.

(T) Reservation: Means "Indian Country" as defined in 18 U.S.C. 1151 and any lands not covered under such definition when title to such land is held by the United States in trust for the benefit of any Indian tribe or Indian individual and provided such land is subject to a restriction by the United States against alienation.

(U) Shelter Care: Means an emergency or temporary placement for youths in need of care.

(V) Kickapoo Traditional Tribe of Texas: Means the Kickapoo Traditional Tribe of Texas.

(W) Tribal Status: Whether a youth is eligible to be an enrolled member of a tribe, and/or is an enrolled member of a tribe.

(X) Ward of the Court: Any youth appearing before the Youth Court and who is the subject of any proceeding over which the Court exercises jurisdiction.

(Y) Written Authority: Written agreement, between the parent(s) and a member of the Youth's tribe as to temporary legal custody of the youth, duly notarized and approved by the Youth Court.

(Z) Youth (minor):

(1) A person under the age of eighteen (18) years.

(2) A person eighteen (18) years of age or older whose proceedings are commenced in Youth Court prior to his or her eighteenth (18th) birthday.

(3) A person eighteen (18) years of age through twenty (20) years of age under the continuing jurisdiction of the Youth Court.

Section 7.6 The Court.

(A) Establishment: There is hereby established for the Kickapoo Traditional Tribe of Texas Court to be known as the Kickapoo Traditional Tribe of Texas Youth Court, hereinafter Youth Court.

(B) Judges and Judicial Officers: The Youth Court shall consist of one or more judges as elected by the Kickapoo Traditional Tribe of Texas; and other judicial officers as may be appointed by the Kickapoo Traditional Tribe of Texas Judicial Nomination Committee.

(C) Qualifications: The Youth Court judges' qualifications and compensation shall be the same as for judges who sit on the Kickapoo Traditional Tribe of Texas Court. Any judge of the Kickapoo Traditional Tribe of Texas Court may serve as a judge of the Youth Court.

(D) Disqualification: In the event that all Tribal Judges are unable to hear and determine a matter due to absence, illness, or conflict of interest, the Kickapoo Traditional Tribe of Texas Judicial Nomination Committee shall have authority to appoint a substitute judge.

(E) Powers and Duties of Youth Court Judge: In carrying out duties and powers under this Code, judges of the Youth Court shall have the same powers and duties as judges of the Kickapoo Traditional Tribe of Texas Court.

(F) Authority of the Youth Court:

(1) The Court is authorized to cooperate fully with any federal, state, tribal, public, or private agency to participate in any diversion, rehabilitation or training programs and to receive grants-in-aid to carry out the purposes of this Code.

(2) The Court may utilize such social services as may be furnished by any tribal, federal, state, or private agency.

Section 7.7 Social Services Staff

(A) Social Services Staff - Defined: "Social Services Staff" means those persons employed or appointed by the Kickapoo Traditional Tribe of Texas who are trained to deliver services in specific social areas such as, but not limited to, mental health, alcohol and drug abuse, community health, and education.

(B) Duties: The Social Services Staff upon request of the Indian Child Welfare Worker shall assist the Indian Child Welfare Worker to:

(1) Request intervention in Indian Child Welfare cases in state court;

(2) Request transfer of Indian Child Welfare cases from state court to the Youth Court;

(3) Make recommendations to be included in the Indian Child Welfare Worker's pre-dispositional and pre-termination of parental rights reports under this Code.

(4) Recommend to the Tribal Council any changes that should be made in the Youth Code.

(5) Make recommendations to the Tribal Council governing the licensing and operation of shelter care, foster care and other youth Placement facilities.

Section 7.8 Indian Child Welfare Worker

(A) Appointment: The Tribal Administrator shall appoint an Indian Child Welfare Worker to carry out the duties and responsibilities set forth in this Code.

(B) Qualifications: The Indian Child Welfare Worker shall have an educational background and/or prior experience in the field of delivering social services to Indian youth.

(C) Resource Development: The Indian Child Welfare Worker shall identify and develop within the tribal community resources designed to enhance each t

(D) Duties Not Performed: The Indian Child Welfare Worker shall not be employed as, nor perform the duties of: prosecutor, defender, presenting officer, or law enforcement official.

(E) Duties: The Indian Child Welfare Worker shall:

- (1) Make investigations as provided in this Code or as directed by the Youth Court;
- (2) Make reports as provided in this Code or as directed by the Youth Court;
- (3) Place a youth in shelter care as provided in this Code; and
- (4) Perform such duties in connection with care, custody, or transportation of youth as the Youth Court requires.

Section 7.9 Presenting Officer

(A) The Tribal Council shall appoint, a Presenting Officer to carry out the duties and responsibilities set forth in this Code. The Chief Judge of the Kickapoo Traditional Tribe of Texas Court shall annually certify to the Tribal Council the number of qualified Presenting Officers needed to carry out the purposes of this Code.

(B) The Presenting Officer's qualifications and compensation shall be the same as those of the official who acts as Prosecutor for the Kickapoo Traditional Tribe of Texas Court.

(C) The Tribal Attorney may act as the Presenting Officer.

(D) The Presenting Officer shall represent the people of the Kickapoo Traditional Tribe of Texas in all proceedings under this Code, acting on their behalf and in their best interests.

(E) The Presenting Officer shall be empowered to establish policies and procedures necessary to carry out the duties of office, not inconsistent with Kickapoo Traditional Tribe of Texas Tribal Law.

Section 7.10 Guardian Ad Litem

(A) Appointment: The Youth Court, under any proceedings authorized by this Code, shall appoint for the purpose of that proceeding a guardian ad litem for a youth where it finds that the youth does not have a natural or adoptive parent, guardian, or custodian willing and able to exercise sound judgment as to the best interests of the youth, or upon the request of the Indian Child Welfare Worker.

(B) Qualifications: The guardian ad litem must be familiar with the rights of youth and provisions of this Code.

(C) Duties: A guardian ad litem shall:

(1) Represent the youth's best interest in any proceeding as required by the Court; and

(2) Make recommendations to the Court on disposition.

(D) Compensation: The Youth Court, with Tribal Council approval, shall determine what compensation, if any, shall be made to the Guardian Ad Litem.

Section 7.11 Confidentiality

(A) Hearings and Conferences: All hearings and conferences under this Code shall be closed to the public. Only the Presenting Officer, the Youth Court Judge, the Indian Child Welfare Worker, the tribal law enforcement officer(s), and the parties to the action shall be permitted at the hearings and conferences; provided that the parties may agree to allow the presence of other persons. Any person asked to testify or speak shall be permitted at the hearings and conferences but only for the limited purpose of giving testimony or presenting evidence.

(B) Records: All conference, hearing, and law enforcement records and files under this Code shall be confidential and shall not be open to inspection to any but the following, except as may be ordered by the Youth Court in the youth's best interest:

- (1) The youth and his or her legal representative.
- (2) The parent, guardian, or custodian.
- (3) The Indian Child Welfare Worker.
- (4) The Presenting Officer.

(C) A Judge of the Youth Court shall review all requests for access to closed records and in no case shall closed records be opened to others without such review and written approval of the Youth Court Judge.

(D) Law enforcement records and files under this Code concerning a youth shall be kept separate from the records and files of adults.

Section 7.12 Service

(A) Service: Except as otherwise expressly provided in this Code, every pleading, motion, notice and similar paper which is required or permitted to be served upon a person shall be given in the following manner:

(1) By personally delivering a copy to him/her by handing it to his/her counsel or to the person to be served; or by leaving it at his/her office with a secretary or other person; or if the person to be served has no office, leaving it at his/her dwelling place or usual

place of residence with some person of suitable age and discretion then residing therein; or

(2) If personal service cannot be made, then by certified mail, return receipt requested, postage prepaid, and properly addressed to the last known residence of the person to be served. Service by mail shall be made by the Court Clerk.

(3) In the event that service can not be made, or is refused, a record of attempts of service shall be made a part of the file maintained by the Court Clerk.

(4) Delivery of all documents on behalf of the Tribe will be made at the discretion of the court. Personal service off the reservation may be made by others.

(B) Designated Tribal Agent for Service Of Notice: The designated tribal agent for service of notice of proceedings pursuant to 25 C.F.R. 23.12 shall be the Tribal Administrator.

Section 7.13 Continuances

(A) When to Order: Except as otherwise expressly provided, the Court may continue any proceeding:

(1) Upon the motion of a party if there is a finding that good reason exists for the continuance, including time to insure proper notice or to produce material evidence or witnesses currently unavailable; or

(2) Upon the Court's own motion if it considers it to be in the best interest of the youth.

(B) Effect: A continuance suspends the time limits for the holding of hearings and the filing of documents.

Section 7.14 Contempt

(A) Definition: Any willful disobedience or interference with any lawful order or process of the Court shall constitute contempt.

(B) Punishment: The Court may punish any person for contempt pursuant to Kickapoo Traditional Tribe of Texas Tribal Law.

(C) Bench Warrant: A Youth Court judge may issue a warrant for a person's arrest for contempt upon failure to appear at any ordered conference or hearing either in person or by legal representative, such warrant shall be issued in accordance with Kickapoo Traditional Tribe of Texas Tribal Law.

Section 7.15 Rights of Parties

(A) Rights: All parties are entitled to the following rights in all proceedings under this Code.

(1) A statement by the Youth Court to the youth and his or her parent, guardian or custodian that they have the right to have a legal representative advise and represent them, at their expense. A party may request a continuance of a proceeding in order to seek legal representation. If the youth and his or her parent, guardian or custodian are unable to hire an attorney, if the Court makes a determination of indigence, the Court may appoint an attorney to represent him/her.

(2) The opportunity to subpoena witnesses.

(3) The opportunity to introduce, examine and cross-examine witnesses.

(4) The opportunity to discover, offer and inspect evidence.

(5) The opportunity to present arguments and statements.

(B) Jury Trial: There is no right to trial by jury during any proceeding under the

Section 7.16 Appeal.

(A) Record: For purposes of appeal, a record of the proceedings shall be made available to the youth, his or her parent, guardian or custodian. Costs of obtaining this record shall be paid by the party seeking appeal unless waived by the court.

(B) Time Limit: Any party to a proceeding under this Code may appeal a final order or disposition of the case by filing a written notice of appeal with the Youth Court within thirty (30) days of the final order or disposition.

(C) Conduct of Proceeding: All appeals shall be conducted in accordance with Kickapoo Traditional Tribe of Texas Tribal Law, Chapter 1, Section 1.30, except as modified in this Chapter.

Section 7.17 Full Faith and Credit.

(A) The Youth Court shall give full faith and credit to state and other tribes' custody court orders if the Court granting the order had jurisdiction over the case and the order does not violate the public policy of the Kickapoo Traditional Tribe of Texas.

Section 7.18 Amendments; Severability and Non-liability.

(A) Amendments: Amendments to this Code will be effective upon enactment by the Kickapoo Traditional Tribe of Texas Tribal Council without further review by the Secretary of Interior.

(B) Severability and Non-Liability: If any section, provision, or portion of this Code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code will not be affected thereby. The Tribe declares there is no liability on the part of the Tribe, its agencies, or employees for damages that may occur as a result of reliance upon or conformance with this Code. The Kickapoo Traditional Tribe of Texas, by adoption of this Code, does not waive sovereign immunity in any respect.

CHAPTER 8. YOUTH IN NEED OF CARE ACTION

Section 8.1 Starting a Youth in Need of Care Action

(A) Youth in Need of Care - Defined: "Youth in Need of Care" means any youth who:

- (1) Has been abandoned; or
- (2) Has no parent, guardian or custodian, available and willing to care for the minor; or
- (3) Has suffered or is likely to suffer serious psychological/emotional or physical harm inflicted upon the minor by his or her parent, guardian or custodian by other than accidental means or which is self-inflicted and which causes or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions; or
- (4) For reasons other than poverty, has not been provided with adequate food, clothing, shelter, medical care, education or supervision by his or her parent, guardian or custodian necessary for the minor's health and well-being; or
- (5) Is being or has been subjected to sexual abuse or exploitation by or with the knowledge or acquiescence of his or her parent, guardian or custodian; or
- (6) Has a parent or guardian/custodian who requests tribal intervention and states that he or she is unable to care for, control, or provide the necessary special care or treatment for the child; or
- (7) Has been committing delinquent acts with parental pressure, acquiescence, guidance or approval; or
- (8) Has repeatedly run away from home; or
- (9) Has been committing delinquent acts and is under the age of twelve (12) years; or
- (10) Has engaged in conduct otherwise prohibited to minors and whose custodian fails to correct or regulate such conduct; or
- (11) Is suffering emotional damage for which the parent(s) or guardian is unwilling to provide treatment, which is evidenced by one or more of the following characteristics:
 - (a) Anxiety,
 - (b) Depression,
 - (c) Withdrawal,
 - (d) Outwardly aggressive behavior; or
- (12) Has been placed for care or adoption in violation of the Indian Child Welfare Act of 1978.

Section 8.2 Complaint

(A) Filing: A complaint may be filed with the Kickapoo Traditional Tribe of Texas Tribal Law Enforcement Office, the Presenting Officer's office or with the Indian Child

Welfare Worker's office by any person who has personal knowledge that a youth is in need of care as defined by this Code.

(B) Contents of the Complaint: The complaint shall include:

- (1) The name, age and address of the youth who is the subject of the complaint, if known; and
- (2) The names of parents, legal guardians, custodians or persons in charge of youth, or their closest relatives, their addresses and telephone numbers, if known;
- (3) A plain and concise statement of the facts upon which the complaint is based, including the date, time and location at which the alleged facts occurred; and
- (4) The signature of the complainant whose identity shall not be disclosed to anyone except the Indian Child Welfare Worker, tribal law enforcement office and the Court, unless otherwise ordered by the Court.

(C) Receipt of Complaint by Tribal Law Enforcement: Upon receipt of a complaint that a youth is in need of care, tribal law enforcement shall take the following steps:

- (1) An enforcement officer shall immediately investigate the complaint. If the enforcement officer has probable cause to believe that a youth is in need of care based on his or her investigation, the person designated from the Tribal Social Service Staff shall be notified. (A notice procedure to define when immediate notice must be given to the person designated from the Tribal Social Service Staff, and when notice may be given at a later date, shall be established by the ICWW and the Child Protective Board). Based on the investigation, a detailed written report shall be completed by law enforcement. A copy shall be delivered to the person designated from the Tribal Social Service Staff within three working days of the date the complaint was received.
- (2) If the enforcement officer reasonably believes the youth is in immediate and serious danger from his or her surroundings and removal is necessary for the youth's safety or well-being, the officer may take the youth into custody, provided, that if there is sufficient time and a judge is available, the enforcement officer shall first request an emergency custody order be issued by the Youth Court in accordance with Section 8.3.
- (3) If the enforcement officer takes a youth into custody without first obtaining an emergency custody order, he or she shall:
 - (a) Release the youth to the youth's parent, guardian or custodian and issue verbal counsel or warning as may be appropriate; or
 - (b) Immediately notify the person designated from Tribal Social Service Staff and request direction as to whether the youth should be placed in shelter care and if so where; or
 - (c) If the person designated from the Tribal Social Service staff cannot be reached, the officer may place the youth in shelter care, but shall continue attempts to notify the person designated from the Tribal Social Services Staff. Placement of the youth shall be in a facility approved by the Tribe

for emergency shelter care. A list of who to contact in emergency placements may be set by the Child Protective Board and provided to the law enforcement office.

(d) If the youth is not released, immediate and continuing efforts shall be made by both the enforcement officer and the person designated from the Tribal Social Services staff, youth's parent, guardian or custodian as to the circumstances surrounding the youth's custody.

(D) Receipt of Complaint by Indian Child Welfare Worker: Upon receipt of a complaint under this Chapter or receipt of notice from law enforcement that a youth is in need of care, the person designated from the Tribal Social Services Staff shall take the following steps:

(1) Immediately confer with tribal law enforcement to determine whether further action on the complaint is necessary. If the person designated from the Tribal Social Service Staff and law enforcement determines circumstances require it, an enforcement officer may conduct the investigation.

(2) If the person designated from the Tribal Social Service Staff determines that a youth is in an emergency situation and requires shelter care, he or she shall:

(a) Request an emergency custody order be issued by the Youth Court, if there is time and a judge is available or

(b) Immediately place the youth in shelter care. The person designated from the Tribal Social Service Staff shall request assistance of an enforcement officer in making such placement.

(c) If the youth's parent, guardian or custodian has not been notified, the person designated from the Tribal Social Service Staff shall inform him or her at the earliest possible time and return the youth to him or her if such action is appropriate.

(d) If a youth is taken into custody and it is unlikely that he or she will be released to his or her parent, guardian or custodian within two working days, the person designated from the Tribal Social Service Staff shall immediately file a request for a Preliminary Inquiry with the Court Clerk.

Section 8.3 Emergency Custody Orders

(A) Grounds: A Youth Court judge may issue an emergency custody order upon a sworn oral or written statement of facts showing probable cause to believe the youth is in need of care and that his or her health, safety and welfare will be seriously endangered if not taken into custody.

(B) Content: The emergency custody order shall specifically name the youth to be taken into custody, be signed by the judge, state the date and time issued, the place where the youth is to be taken and name the person or persons authorized to take the youth into custody.

(C) Execution and Duration: An emergency custody order must be executed within 48 hours of issuance. A youth taken into custody under an emergency custody order may be held until the conclusion of a Preliminary Inquiry or as ordered by the Court.

Section 8.4 Preliminary Inquiry Regarding Youths in Shelter Care.

(A) Purpose of Preliminary Inquiry: If a request for Preliminary Inquiry is filed under Section 8.2, above, a hearing will be held in Youth Court to determine:

- (1) The tribal status of the youth;
- (2) Whether there is probable cause to believe the youth is in need of care and, if probable cause is deemed to exist, to schedule a Fact Finding Hearing pursuant to Sections 8.7 et seq. of this Chapter.
- (3) The best interest of the youth and the Tribe with regard to any action to be taken;
- (4) Whether continued shelter care is necessary pending further proceedings.

(B) Request for Preliminary Inquiry - Contents: A request for Preliminary Inquiry shall include:

- (1) The name, birth date, residence, domicile and tribal status, if known, of the youth;
- (2) The name and residence of the youth's parent, guardian or custodian;
- (3) A citation to the specific section of this Code which gives the Court jurisdiction over the proceeding;
- (4) A plain and concise statement of the facts which support the allegation that the youth is in need of care; and
- (5) If the youth is in shelter care, the place of shelter care and the time taken into custody.

(C) Preliminary Inquiry - Time of Hearing: A Preliminary Inquiry shall be conducted within two working days of filing a request for Preliminary Inquiry.

(D) Notice: Notice of the Preliminary Inquiry shall be given to parties by the law enforcement office pursuant to Section 7.12 (A) (1), (3), and (4). Notice shall include:

- (1) The name of the Court;
- (2) A copy of the Request for Preliminary Inquiry; and
- (3) The date, time and place of the Preliminary Inquiry.

(E) Presence of Parent, Guardian or Custodian: If the youth's parent, guardian or custodian is not present at the Preliminary Inquiry, the Court shall determine what efforts have been made to notify and to obtain the presence of the parent, guardian or custodian. If it appears that further efforts are likely to produce the parent, guardian or custodian, the Inquiry shall be recessed for a reasonable period of time and the Indian Child Welfare

Worker shall be directed to make continued efforts to obtain the presence of the parent, guardian or custodian.

(F) Presence of Counsel - Continuance:

(1) The Youth Court may not continue a Preliminary Inquiry solely to allow a party to obtain legal representation;

(2) However, a party who appears at a Preliminary Inquiry without legal representation does not waive his or her right to appeal any procedural or substantive error made at the Preliminary Inquiry for failing to make objections during the Inquiry.

(3) However, if legal representation is obtained written objections should be made before the start of the Fact-Finding Hearing.

Section 8.5 Court Findings

(A) Release of Youth: If at the conclusion of the Preliminary Inquiry the Youth Court finds that there does not exist probable cause to believe the youth is in need of care, the youth shall be released to the custody of his or her parent, guardian, or custodian

(B) Youth in Need of Care: If the Youth Court finds that there exists probable cause to believe that the youth is in need of care, it may order:

(1) That the youth be released to his parent, guardian, or other custodian pending further proceedings; or

(2) That shelter care is continued if the Court finds that there is probable cause to believe that:

(a) No parent, guardian, custodian, or other person is able or willing to provide adequate supervision and care for the youth; or

(b) The youth will run away or otherwise be unavailable for further proceedings;

(c) The youth will be in an emergency situation if he is returned to his parent, guardian or other custodian;

(d) The youth will cause serious damage to persons or property; or

(e) The youth requires medical care, treatment, or evaluation that he could not otherwise receive if he were to remain in the custody of his parent, guardian, or other custodian; or

(f) The youth has been abandoned; or

(3) The court shall consider tribal resources for sheltered care in case where the child's need may not be continuing sheltered care.

(4) That the youth and his parent, guardian or other custodian, or any other interested person within the court's jurisdiction, attend mediation ordered by the Child Protective Board conducted by the Peacemaker Program, and shall advise the parties as to the date, time and place of such mediation; and

- (5) That the parties shall keep the court informed as to any changes in their mailing addresses.

Section 8.6 Shelter Care Placement

(A) If a child is placed in Shelter Care under this Code, the court shall follow the placement preferences below:

- (1) A private home recommended by the Child Protective Board (this private home will usually be a responsible member of the youth's extended family); or
- (2) A foster home licensed or approved by the Tribe; or
- (3) A shelter care facility approved by the Tribe.

Section 8.7 Fact Finding Hearing – Scheduling at Preliminary Inquiry

If it appears that a Petition for Fact Finding will soon be filed based upon the findings at the Preliminary Inquiry, the court shall set a date and time for the Fact Finding Hearing pursuant to Section 8.8 (D), following, and shall advise the parties of the date, time and place of that hearing, and shall order their attendance at the hearing. If the parent, guardian or other custodian is not present at the Preliminary Inquiry, notice of the Fact-Finding Hearing shall be served in accordance with Section 7.12.

Section 8.8 Fact Finding Hearings

(A) Purpose: The Court shall conduct a Fact Finding Hearing for the sole purpose of determining whether a youth is in need of care.

(B) Request for Fact Finding Hearing: A request for a Fact Finding Hearing may be initiated at the Preliminary Inquiry under Section 8.7, above, or by a petition filed by the Presenting Officer upon recommendation of the Indian Child Welfare Worker that it is in the best interest of the youth and the tribal community.

(C) Petition - Contents: A petition for Fact Finding Hearing shall include:

- (1) The name, birth date, residence, domicile, and tribal status of the youth;
- (2) The names, residences and tribal status of the youth's parent, guardian or custodian;
- (3) A citation to the specific section of this Code which gives the Court jurisdiction over the proceedings;
- (4) A detailed statement of facts and reasons which support the allegation that the youth is in need of care. However, if a Request for Preliminary Inquiry was filed previously, the petition may incorporate by reference the contents of the Request; and
- (5) If the youth is in shelter care, the place of shelter care and the time taken into custody.

(D) Time of Hearing: The Court shall set the date for hearing within thirty-five (35) days of receipt of a petition. Failure to comply with the time limits, without good cause shown, shall result in dismissal of the petition.

(E) Notice: Notice of Hearing shall be served on all parties in the manner specified under Section 7.12 of Chapter 7. Service shall be executed by tribal law enforcement, the court clerk or other person designated to perform this duty. Notice shall be served at least five (10) days prior to the date of the hearing. The notice shall include: the name of the court; the date of the hearing; the time and place of the hearing; the purpose of the hearing, and a copy of the petition. Notice shall be served on:

- (1) The youth;
- (2) The youth's parent, guardian custodian;
- (3) Any person the Court believes necessary for the hearing; and
- (4) Any person the parties believe necessary for the hearing.

(F) Testimony: The Court shall hear testimony concerning the circumstances which gave rise to the petition. Before testifying at a Court hearing, every witness shall first take an oath swearing to tell the truth.

(G) Rules of Evidence - Purpose: The purpose of these rules of evidence is to ensure that the Court is able to determine the truth of a matter with a minimum of delay, confusion and uncertainty.

(H) Rules of Evidence - Reliability: The rules of evidence used in state and federal courts shall not apply to hearings before the Kickapoo Traditional Tribe of Texas Youth Court. Where there is more than one kind of evidence about the same subject, the Court should hear the most reliable kind of evidence. In oral testimony, persons who testify from personal knowledge, such as first-hand observation of or participation in the event described shall be preferred as witnesses to persons who have second-hand knowledge of the event.

(I) Rules of Evidence - Relevance: Evidence submitted during Court hearings must be related either to the issues before the Court or to the weight and credibility which should be given to other evidence. When questioned by the Court or another party, the party who wishes to present certain evidence shall explain why he or she thinks the evidence is relevant.

(J) Rules of Evidence - Ruling by Court: When the relevance or reliability of evidence is challenged and the Court decides whether or not to use the evidence, it shall explain the decision.

(K) Admissibility of Statements Made at the Preliminary Inquiry: All statements made at the Preliminary Inquiry are part of the court record and are admissible in the Fact Finding Hearing unless ruled to be inadmissible by the court.

(L) Questioning Witnesses - Order Called: The Court shall determine the order in which parties or their representatives shall be allowed to question witnesses. The Court shall protect the witnesses from harassment or unnecessarily repetitive questioning. The Court itself may call and question any witnesses.

(M) Questioning Witnesses - Leading Questions: When questioning a witness, the Court and parties or their representatives shall not ask questions in such a way as to suggest the answer desired unless the witness is being cross-examined or is clearly hostile to the person asking questions.

(N) Written Testimony: Testimony of a witness may be presented in written form if the witness is unable to appear in person to testify and if the evidence presented in writing is not contradicted by other parties, or if the written testimony is offered to support a motion or an uncontested request for relief. Written testimony should show clearly who gave it and when the witness gave it. Written testimony shall contain a statement attesting to the truthfulness of the testimony and shall be signed before a tribal or state authorized notary, if possible. If no notary available, to be signed and witnessed by 2 disinterested parties.

(O) Rules for Discovery: The rules for discovery shall be the same as those rules established by the Kickapoo Traditional Tribe of Texas Court.

(P) Burden of Proof: The burden of proof shall be clear and convincing evidence.

Section 8.9 Disposition

(A) Pre-dispositional Report - Purpose: The Indian Child Welfare Worker, in consultation with the Child Protective Board and/or Social Services staff, shall prepare a written report describing all reasonable and appropriate alternatives.

(B) Pre-dispositional Report - Contents: The report shall contain a specific plan for the care of and assistance to the youth and his or her parent, guardian or custodian. The report shall explain the necessity for the proposed plan and its benefits to the youth and his or her parent, guardian or custodian.

(C) Pre-dispositional Report - Placement Recommendations: If placement with someone other than the youth's parent, guardian or custodian is recommended, the report shall contain specific reasons for not recommending placement of the youth with his/her parent, guardian or custodian.

(D) Pre-dispositional Report - Service: The Indian Child Welfare Worker shall mail the Pre-dispositional report to the Court and all parties to the proceeding at least ten (10) days before the dispositional hearing.

(E) Additional Reports: Any party to an action pursuant to this Code may file a Pre-dispositional report which shall include his or her recommendations for consideration by the Court.

(F) Dispositional Hearing - Time: A dispositional hearing may be held in conjunction with the Fact Finding Hearing if the Court determines that such action is in the best interest of the youth. If the dispositional hearing is separate from the Fact Finding Hearing, it shall take place within 35 days of the Fact Finding Hearing.

(G) Dispositional Hearing - Notice: The dispositional hearing shall be set at the Fact Finding Hearing and such pronouncement shall be followed by written notice pursuant to this Code.

(H) Conduct of Dispositional Hearing: The Court shall hear testimony to determine the proper disposition for the youth. The Court shall consider the Pre-dispositional report submitted by the Indian Child Welfare Worker and any other reports submitted for review. All parties shall be given the opportunity to contest the factual contents and conclusions of the Pre-dispositional reports submitted.

(I) Dispositional Alternatives for Youths in Need of Care: If a youth has been determined to be in need of care, the Court may take any of the following dispositions which are listed by priority:

- (1) Permit the youth to remain with his or her parent, guardian or custodian, subject to any such limitations and conditions the Court may order;
- (2) Place the youth with an extended family member subject to any limitations and conditions the Court may prescribe;
- (3) Place the youth in a foster home which has been licensed or approved by the Tribe, subject to any limitations and conditions the Court may order;
- (4) Place the youth in a shelter care facility approved by the Tribe;
- (5) Transfer legal custody to an agency responsible for youths in need of care, qualified to receive and care for the youth; or
- (6) Recommend that termination proceedings begin.
- (7) Order the youth to participate in a substance abuse treatment program in appropriate cases. This may be ordered in addition to any other disposition.
- (8) At all times, the Court shall consider the Tribe's available resources in making its decisions which may have an impact on the Tribal financial affairs and Administration.

(J) Dispositional Order Is Final: The dispositional order constitutes a final order for purposes of appeal.

Section 8.10 Review and Modification of Dispositional Order

(A) Review and Modification: Dispositional orders are to be reviewed by the Court at least every six (6) months. A dispositional order may be modified upon a finding of a good cause to modify.

(B) Motion to Modify: The Court shall review a dispositional order at any time upon the motion to modify by any of the following:

- (1) The youth;
- (2) The youth's parent, guardian or custodian;
- (3) The Indian Child Welfare Worker;
- (4) The Presenting Officer.

(C) Review Hearing: The Court shall conduct a hearing to review its dispositional order at least once every six months, or earlier upon motion of any party.

The Court shall review the performance of the youth, the youth's parent, guardian, or custodian, the Indian Child Welfare Worker, and any other parties to the disposition.

(D) Standard for Modification: If the request for review of a disposition is based on the alleged violation of a Court order, the Court shall not modify its dispositional order unless it finds clear and convincing evidence of the violation.

Section 8.11 Child Protective Board Mediation Panel Hearings

(A) Request for Mediation Hearing: A mediation panel hearing may be requested by the Presenting Officer, the Indian Child Welfare Worker, or by order of the Court. The request shall be filed in writing with the Child Protective Board which shall, upon receipt of such request, notify the Youth Court and Peacemaker Program.

(B) Notice of Hearing: Written notice of the mediation hearing shall be given to the youth and his or her parent, custodian or guardian and to all other parties to the mediation, as soon as the time and place for the hearing has been established. The notice shall include:

- (1) The name of the Court;
- (2) A citation to the section of the Code which gives the Court jurisdiction over the proceedings; and
- (3) The date, time and place of the mediation hearing.

(C) Time of Hearing: The Peacemaker Program shall schedule the mediation hearing as soon as possible.

(D) Service of the Notice of Hearing: The notice shall be delivered by the Court Clerk, Indian Child Welfare Worker or an appointee of the Court. If the notice cannot be delivered personally, the notice shall be delivered by any other method reasonably designed to give notice to the necessary persons.

(E) Procedure of the Mediation: The following procedures apply to hearings of the Peacemaker Mediation:

- (1) The hearing shall be informal and conducted according to the procedure established by the Peacemaker Program for mediations.
- (2) No substantive information obtained at a Peacemaker Program mediation hearing may be admitted into evidence at a court hearing or any other court

proceeding unless all parties agree otherwise. However, the terms of an agreed disposition are admissible as evidence at a subsequent proceeding involving the care of the youth.

(3) If an agreed disposition is reached, it shall be set forth in writing, including any conditions or requirements to be performed. The youth, the youth's parents, custodian or guardian and the Presenting Officer or Indian Child Welfare Worker (on behalf of the Tribe) shall sign the agreed disposition.

(4) The agreed disposition shall be for a fixed period of time and shall be filed with the Youth Court.

(5) If no agreement is reached during the mediation hearing or if the parties fail to appear at the scheduled hearing, a petition to initiate a court hearing may be filed by the Presenting Officer or, if a petition has been filed, the Presenting Officer may proceed to the Fact Finding Hearing pursuant to this Code.

(F) Monitoring - Failure to Comply With Agreement: The Indian Child Welfare Worker shall monitor the agreed disposition throughout its term. If he or she finds that there has been a failure to comply with the terms of the agreed disposition, he or she may request another mediation hearing or recommend that the Presenting Officer file a petition or proceed with Fact Finding.

After a petition is filed, the youth or his or her parent, custodian or guardian may challenge before the Court the allegation of non-compliance with the agreed disposition. If the Court finds that the parties have complied, it shall dismiss the petition and reinstate the agreed disposition.

Section 8.12 Agreed Disposition as Court Order

The Kickapoo Traditional Tribe of Texas Youth Court may enter an order based on an agreed disposition reached during a Peacemaker Program Mediation Hearing provided that:

(A) A petition for Fact Finding has been filed;

(B) The Court has jurisdiction over the parties and the subject matter of the case;

(C) All parties have notice of the terms of the agreement; and

(D) If the agreement provides that the youth will be placed outside his or her parent(s), custodian(s) or guardian's home, the parties sign the agreement in the presence of the judge.

CHAPTER 9: GUARDIANSHIP

Section 9.1 Starting an Action to Appoint Guardian

(A) Petition - Who May File: Any person at least eighteen (18) years old may file a petition with the Youth Court requesting that he or she be appointed as a guardian. If the

petitioner is married: his or her spouse must also be at least eighteen (18) years old and must sign the petition unless the spouse's whereabouts is unknown or unless this requirement is waived by the Court. "Spouse" for purposes here includes parties to a marriage recognized under tribal custom or law.

(B) Petition - Contents: A petition for appointment of guardian shall include:

(1) The name, birth date, residence, and tribal status of the youth who is the subject of the petition;

(2) The name, birth date, residence, and tribal status, if known, of the youth's parent(s) and of the petitioner(s).

(3) If the youth is residing with someone other than a parent, the location and length at that location; and

(4) A concise statement of the facts, including all places where the youth has resided for two (2) years preceding the filing of the petition, if known, and reasons supporting the request that the petitioner be appointed as a guardian.

Section 9.2 Guardianship Hearing.

(A) Setting the Hearing: When the Court receives the petition it shall set a hearing date, which shall not be more than thirty-five (35) days after the Court receives the petition.

(B) Notice of Hearing: Notice of hearing shall be served on all parties in the manner specified under Section 7.12 of Chapter 7. Service shall be executed by tribal law enforcement, the court clerk or other person designated to perform this duty. Notice shall be served at least twenty (20) days prior to the date of the hearing. The notice shall include: the name of the court; the date of the hearing; the time and place of the hearing; the purpose of the hearing; and a copy of the petition. Notice shall be served on:

(1) The petitioner(s);

(2) The youth;

(3) The youth's parent(s);

(4) The Presenting Officer;

(5) Any person the Court deems necessary for proper adjudication; and

(6) Any person the parties believe necessary for the hearing.

(C) Guardianship Report - Preparation: The Indian Child Welfare Worker, in consultation with the Social Services Staff, shall prepare a guardianship report. In preparing the report, the Indian Child Welfare Worker 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 appointment of a guardian would be in the best interests of the youth. The Indian Child Welfare Worker may also review the child's previous court record, if any. In addition, the Indian Child Welfare Worker must obtain the recommendation, if any, of the Kickapoo Traditional Tribe of Texas Tribal Council as to the disposition and any

other relevant issues. The guardianship report shall be in writing and contain the professional opinions of all personnel consulted.

(D) Guardianship Report - Service: The Indian Child Welfare Worker shall mail the guardianship report to the Court and to all parties to the proceeding at least ten (10) days before the hearing.

(E) Additional Reports: Any party may file a report which shall include his or her recommendations for consideration by the Court.

(F) Guardianship Hearing - Purpose: The Court shall conduct the hearing to determine whether appointment of a guardian is in the best interest of the youth.

(G) Guardianship Hearing - Conduct: The hearing shall be private and closed. The procedural rules set out in Section 8.8, (F)-(O) of Chapter 8 shall apply. The Court shall hear testimony to determine whether guardianship is in the best interest of the youth. 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.

Section 9.3 Grounds for Appointing a Guardian and Burden of Proof.

(A) The Court may appoint a guardian when either of the following conditions has been proved by clear and convincing evidence:

- (1) The parent has consented in writing to the guardianship; or
- (2) The youth is a youth in need of care as defined under this Code.

(B) In addition to finding that one of the above conditions has been proved, the Court must also find that all the following conditions have been proved by clear and convincing evidence:

- (1) That appointment of a guardian is in the best interest of the youth; and
- (2) The youth's best interests would not be served if the youth remains under the parent's care and custody; and
- (3) That the person(s) to be appointed guardian(s) can provide appropriate and adequate parental care for the youth's financial and emotional support.

Section 9.3 Placement Preference.

The order of preference in placing a youth with a guardian is:

(A) Extended family member;

(B) A member of or person eligible for enrollment in the Kickapoo Traditional Tribe of Texas;

(C) A member of another Indian tribe;

(D) If this order of placement preference cannot be met, for good cause shown, then placement may be made with any person who has knowledge of and a desire to foster the youth's tribal affiliation and special needs.

Section 9.5 Enrollment Prior to Appointment of Guardian.

If a youth is eligible for enrollment in the Kickapoo Traditional Tribe of Texas, the Indian Child Welfare Worker may assist the parent in making application for enrollment of the youth to the Kickapoo Traditional Tribe of Texas Tribal Enrollment Clerk.

Section 9.6 Order of Appointment – Powers of Guardian

(A) If the Court orders the appointment of a guardian, the order may define or limit the guardian's power. If the order does not define or limit the power of the guardian, the guardian has all the rights and responsibilities of a parent except:

(1) The power to enroll a youth in a tribe other than the Kickapoo Traditional Tribe of Texas if the child is enrolled or eligible for enrollment in the Kickapoo Traditional Tribe of Texas;

(2) The guardian shall not move outside a fifty mile radius of the Kickapoo Traditional Tribe of Texas Reservation without tribal court approval upon notice and hearing;

(3) Authority to place a youth in another home or with any agency, or to transfer the youth's domicile;

(4) The guardian may not consent to any adoption of the child.

Section 9.7 Visitation

The Court may order visitation between the youth and parent(s) or any other person if the Court finds such visitation is in the best interest of the youth.

Section 9.8 Court Review

Unless otherwise ordered by the Court, the guardianship shall be reviewed every 2 years. The Indian Child Welfare Worker shall review the circumstances of the Youth and the guardian and submit a report for these reviews 30 days before the bi-annual anniversary date. At minimum, the report shall provide information concerning the youth's health, education, welfare, and financial status.

CHAPTER 10: TERMINATION OF PARENTAL RIGHTS

Section 10.1 Starting an Action for Termination of Parental Rights.

(A) Petition: A proceeding to terminate parental rights shall be initiated by filing a petition with the Court. The petition shall include:

(1) The name, birth date, residence, and tribal status of the youth who is the subject of the petition;

(2) The name, birth date, residence, and tribal status, if known, of the youth's parent(s), guardian or custodian;

(3) If the youth is residing with someone other than a parent, the location and length of time at that location; and

(4) A concise statement of the facts, including where the child has resided for the two (2) years preceding the filing of the petition, and reasons supporting request that parental rights be terminated.

(B) Setting the Hearing: When the Court receives the petition, it shall set a date for the termination hearing, which shall not be more than sixty (60) days after the Court receives the petition unless extended by the Court for good cause shown.

(C) Notice of Hearing: Notice of hearing shall be served on all parties in the manner specified under Section 7.12 of Chapter 7. Service shall be executed by tribal law enforcement, the court clerk or other person designated to perform this duty. Notice shall be served at least forty (40) days prior to the date of the hearing. The notice shall include: the name of the court; the date of the hearing; the time and place of the hearing; the purpose of the hearing; and a copy of the petition. Notice shall be served on:

(1) The youth;

(2) The youth's parent(s) and guardian or custodian, if any;

(3) Any person the Court deems necessary for proper adjudication; and

(4) Any person the parties believe necessary for the hearing.

(D) Pre-termination Report - Preparation: The Indian Child Welfare Worker, in consultation with the Social Services Staff and/or Child Protective Board, shall prepare a pre-termination report. In preparing the report the Indian Child Welfare Worker shall consult with the youth's parents, guardian, or custodian and all social services, health, law enforcement and education personnel who have had prior professional contacts with the youth and his or her parent(s), guardian or custodian to determine whether termination of parental rights would be in the best interest of the youth. The Indian Child Welfare Worker may also review any pertinent court record. In addition, the Indian Child Welfare Worker must obtain from the Kickapoo Traditional Tribe of Texas Tribal Council any recommendation it may have as to disposition and any other relevant issues. The pre-termination report shall be in writing and contain the professional opinion of all personnel consulted.

(E) Pre-termination Report - Service: The Indian Child Welfare Worker shall mail the pre-termination report to the Court and all parties to the proceeding, at least fifteen (15) days before the hearing.

(F) Additional Reports: Any party may file a pre-termination report which shall include his or her recommendations for consideration by the Court.

(G) Termination Hearing - Purpose: The Court shall conduct the termination hearing to determine whether termination of parental rights is in the best interest of the youth.

(H) Termination Hearing - Conduct: The hearing shall be private and closed. The procedural rules set out in Section 8.8 (F)-(O) of Chapter 8 shall apply.

(1) The Court shall hear testimony to determine whether termination of parental rights is in the best interest of the youth. The Court shall consider all pre-termination reports submitted for review.

(2) All parties shall be given the opportunity to contest the factual contents and conclusions of the pre-termination reports.

Section 10.2 Grounds for Termination and Burden of Proof

(A) The Court may terminate a person's parental rights only when the following conditions have been proved beyond a reasonable doubt:

- (1) That termination of parental rights is in the best interest of the youth; and
- (2) That guardianship, rather than termination of parental rights, is not in the youth's best interest; and
- (3) That an appropriate adoptive home is available and that adoption proceedings have been filed in conjunction with the termination proceedings.

(B) In addition, the Court must find by proof beyond a reasonable doubt that:

- (1) the parent has consented to the termination of his or her parental rights under the terms of Section 10.3, or
- (2) That the parent is responsible for abuse of the youth as defined in Section 10.4.

Section 10.2 (RESERVED)

Section 10.3 Consent

(A) Consent of the parent to terminate parental rights is not valid unless:

- (1) It is in writing;
- (2) The parent has received counseling from the Kickapoo Traditional Tribe of Texas Social Services Staff on alternatives to termination such as guardianship, parental support services, and other alternatives;
- (3) The parent orally explains his/her understanding of the meaning of termination of parental rights and its consequences to the Court and the judge certifies that the terms and consequences of the consent were fully explained and were fully understood by the parent; and

(4) The consent was given no sooner than thirty (30) days after the birth of the youth.

(B) Any consent may be withdrawn prior to the entry of a final decree of adoption and, if no other grounds exist for terminating parental rights, the child shall be returned to the parent.

Section 10.4 Abuse - Defined

Abuse as a condition of termination of parental rights means: conduct resulting or likely to result in serious psychological/emotional or physical harm to a child including sexual abuse or exploitation when such conduct is engaged in or permitted by a person having care or custodial authority over such child.

Section 10.5 Disposition.

If parental rights are terminated, adoption proceedings shall continue. If parental rights are not terminated but sufficient grounds for finding the youth is in need of care have been proved to the Court, the Court may make a disposition consistent with the Youth in Need of Care provisions of this Code.

Section 10.6 Enrollment to Entry of Termination Order.

If a youth is eligible for enrollment in the Kickapoo Traditional Tribe of Texas, the Indian Child Welfare Worker shall submit an application for enrollment of the youth to the Kickapoo Traditional Tribe of Texas tribal enrollment clerk prior to any final order terminating parental rights.

CHAPTER 11: ADOPTIONS

Section 11.1 Adoption – General Provisions

(A) Petition - Who May File: Any person eighteen (18) years or older wishing to adopt a youth may file a petition with the Court requesting that he or she be appointed as an adoptive parent. If the petitioner is married, his or her spouse must also be at least eighteen (18) years old and must sign the petition unless the spouse's whereabouts are unknown or unless this requirement is waived by the Court. "Spouse" for purposes here includes parties to a marriage recognized under tribal custom or law.

(B) Petition - Contents: The adoption petition shall include:

- (1) The name, date of birth, residence and tribal status of the youth;
- (2) The full name to be given to the child to be adopted;

(3) The name, age, place and duration of residence and the tribal status of the petitioner(s);

(4) The relation, if any, of the petitioner(s) to the youth;

(5) The names and addresses, if known, of all persons whose consent is required; and proof of consent, if given;

(6) A description of any previous civil proceedings involving the care or custody of the youth to be adopted and the results of these proceedings;

(7) The reasons the petitioner(s) desire(s) to adopt the youth

Section 11.2 Availability for Adoption

A youth may be adopted only if he has no parents by reason of death or by the voluntary or involuntary termination of the parent-child relationship. The Court may conduct a hearing as provided under Chapter 10, Termination of Parental Rights, prior to or in consolidation with an adoption hearing.

Section 11.3 Adoption Hearing.

(A) Setting the Hearing: When the Court receives the petition for adoption, it shall set a date for the adoption hearing, which shall not be more than sixty (60) days after the Court receives the petition, unless extended by the Court for good cause shown.

(B) Notice of Hearing: Notice of hearing shall be served on all parties in the manner specified under Section 7.12 of Chapter 7. Service shall be executed by tribal law enforcement, the court clerk or other person designated to perform this duty. Notice shall be served at least forty (40) days prior to the date of the hearing. The notice shall include: the name of the court; the date of the hearing; the time and place of the hearing; the purpose of the hearing; and a copy of the petition. Notice shall be served on:

(1) The petitioner(s);

(2) The youth;

(3) The youth's parent(s) and guardian or custodian, if any;

(4) The Presenting Officer;

(5) Any person the Court deems necessary for proper adjudication; and

(6) Any person the parties believe necessary for the hearing

(C) Pre-Adoption Report: The Indian Child Welfare Worker, in consultation with the Social Services Staff, shall prepare a pre-adoption report. In preparing the report, the Indian Child Welfare Worker shall conduct a complete home study including all information reasonably available concerning:

(1) The physical and mental condition of the youth, the petitioner(s) and the petitioner(s)' family;

(2) The parent(s) of the youth;

(3) The home environment, family life, resources of the petitioner(s) and available health care;

(4) The youth's cultural heritage and tribal status;

(5) The marital status of the petitioner(s), if married, and divorce, if any. The names and ages of other children, both natural and adopted, of the petitioner(s);

(6) The recommendation, if any, of the Kickapoo Traditional Tribe of Texas Tribal Council regarding the adoption; and

(7) Any other facts and circumstances relating to the propriety and advisability of the adoption as may be required by the Court.

By agreement in writing by all parties and upon approval of the Court, the Court may waive the formal written requirements for the pre-adoptive report and require only such oral information from the Indian Child Welfare Worker and Social Services Staff as the Court deems necessary.

(D) Pre-Adoption Report - Service: The Indian Child Welfare Worker shall mail the pre-adoption report to the Court and all parties to the proceedings at least ten (10) days before the hearing.

(E) Additional Reports: Any party may file a report which shall include his or her recommendations for consideration by the Court.

(F) Adoption Hearing - Purpose: The Court shall conduct the adoption hearing to determine whether adoption is in the best interest of the youth.

(G) Adoption Hearing - Conduct: The hearing shall be private and closed. The procedural rules set out in, Section 8.8 (F)-(O) of Chapter 8 shall apply.

Section 11.4 Grounds for Entering Decree of Adoption

The Court may enter a decree of adoption if it finds beyond a reasonable doubt that all necessary procedures have been followed and that it would be in the best interest of the youth.

Section 11.5 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.

Section 11.6 Decree of Adoption

(A) If the Court grants the petition for adoption, the decree shall include:

(1) Such facts as are necessary to establish the youth is available for adoption, and that the adoptive home and parents are adequate and capable of providing proper care of the youth;

(2) A provision that the Bureau of Vital Statistics of the state where the child was born and the Bureau of Indian Affairs shall be notified of the adoption and a certified copy of the decree shall be mailed to those offices, and

(3) A provision stating the legal name (after adoption) of the person adopted.

(B) Effect of Decree of Adoption: A decree of adoption has the following effect: It creates the relationship between the adopted person and the petitioner and all relatives of the petitioner that would have existed if the adopted person were a legitimate blood descendant of the petitioner. This relationship shall be created for all purposes except Tribal membership.

Section 11.7 Adoption Records

All records, reports, proceedings, and orders in adoption cases are confidential and shall not be available for release or inspection. Information contained in such records may be released upon petition to the Court by the adopted person after reaching legal majority. However, information may be released as necessary to amend the child's birth certificate.

CHAPTER 12: PATERNITY

Section 12.1 Paternity

(A) Custody. The biological mother of a child born out of wedlock has all the rights and responsibilities consistent with the rights and responsibilities of a parent of a biological child except where the court grants legal custody to another person or transfers legal custody to an agency.

(B) Acknowledgment of Paternity. The putative father of a child born out of wedlock may assume parental responsibility for the child and recognize such child as his biological child, heir and offspring by executing a formal acknowledgment of paternity on a form provided for that purpose by the Indian Child Welfare Worker or the Court. The acknowledgment shall also be signed by the mother of the child.

(1) For purposes of this code, a putative father is defined as any man alleged in court proceedings to be the father of the child.

(2) For purposes of this code, a presumed father is defined as the man who appears on the child's birth certificate or any other official documents naming him as the father of the child. This presumption may be rebutted by a preponderance of the evidence.

Section 12.2 Petition to Determine Paternity

(A) Who May File: Any interested party, including the biological mother, the putative father, the child, and the Indian Child Welfare Worker, may petition the court for the determination of the paternity of a child.

Upon the filing of a petition, the Court Clerk shall issue a summons to the putative father or, if the petition is brought by the putative father, to the mother or legal custodian setting a date for an initial hearing and commanding appearance at the hearing.

(B) Petition Contents: The petition shall be entitled; "In the matter of the paternity of (child's name)" and shall contain the following information:

- (1) The name, birth date, and residence of the child.
- (2) Information showing that the child is a tribal child, or a descendant of a Tribal member.
- (3) The name and address of the biological mother.
- (4) The name and address of the putative father.
- (5) The name, address, and relationship to the child of all other interested parties.
- (6) The petitioner's interest in the matter.

(C) Notice of Hearing: The Court Clerk shall cause the summons and a copy of the petition to be served personally or by certified or registered mail upon all interested parties pursuant to established court procedures for service. Service shall also be made on the Indian Child Welfare Worker by certified mail if the ICWW is not the petitioner. Proof of service shall be filed with the court on a form provided for that purpose by the Office of the Court Clerk. Service shall be made at least ten (10) days prior to the initial hearing.

(D) A petition for determination of paternity brought by a party other than the child must be filed within eighteen (18) years after the child's birth.

Section 12.3 Initial Hearing

At the initial hearing the Court shall determine whether any interested party wishes to contest the petition. Before doing so, the Court shall inform the parties of the following:

- (A) The nature and possible consequences of the proceeding.
- (B) The right to confront and cross-examine witnesses.
- (C) The right to be represented by counsel at the party's own expense, and the availability, if any, of free or low cost representation for the indigent.
- (D) The right to request genetic tests provided the party so requesting shall pay the costs thereof, except where such costs are awarded as part of an adjudicated proceeding.
- (E) That the party contesting the petition has the defenses that the putative father was sterile or impotent at the time of conception, did not have sexual intercourse with the mother during the period of ten (10) months prior to the birth of the child, or that another man had sexual intercourse with the mother during that period of time.

Section Genetic Tests

(A) The Court may, and upon request of a party the Court shall, require the child, putative father, and mother to submit to genetic tests. If the Court deems it necessary, for the sole purpose of determining paternity, the Court shall order any other individual, including any male witness who testifies or will testify about his sexual relations with the

biological mother at a possible time of conception, to submit to genetic tests. The tests shall be performed by an expert qualified as an examiner of genetic markers present on the cells of the specific body material to be used for the tests, appointed by the Court. The Court shall not order genetic tests on deceased individuals if it would require exhumation.

(B) The Court may order such tests by additional experts at the request and expense of a party as the Court deems necessary.

(C) Whenever the results of the genetic tests exclude the putative father as the biological father of the child, this evidence shall be conclusive evidence of non-paternity and the Court shall dismiss the action. Whenever the results of the tests exclude any male witness, the tests shall be conclusive evidence of non-paternity of that male witness. If any party refuses to submit to the genetic tests this fact shall be taken into account as evidence and, a default judgment may be entered by the Court and such refusal shall be deemed a contempt of the Court. If the action was brought by the child's biological mother but she refuses to submit herself or the child to the genetic tests, the action shall be dismissed.

Section 12.5 Paternity Hearing

If the matter remains contested following the genetic tests, the Court shall expeditiously and fairly conduct a hearing to determine paternity. The hearing may be conducted in an informal manner, but the decision shall be based solely upon the evidence produced at the hearing. The hearing shall be closed to the public and the record of the proceedings shall remain sealed except upon order of the Court for good cause shown.

Section 12.6 Judgment

(A) If the paternity of the putative father is established at the hearing by a preponderance of evidence, a judgment establishing paternity and declaring the putative father to be the biological father shall be entered. If paternity is not so established, the petition shall be dismissed with prejudice.

(B) If paternity is established, the judgment may make provision for custody, visitation, support, and other relevant matters.

CHAPTER 13: COMPULSORY EDUCATION

Section 13.1 Purpose

The purpose of this code is to require the regular attendance at school of all school-age children living on the Kickapoo Reservation and all school-age tribal children who live off of the Kickapoo Reservation.

Section 13.2 Authority

This Code is enacted pursuant to Article VII (j) of the Constitution of the Kickapoo Traditional Tribe of Texas.

Section Abrogation and Greater Restrictions

When this code imposes greater restrictions than those contained in other tribal ordinances, codes, or resolutions, the provisions of this code shall govern.

Section 13.4 Interpretation

In its interpretation and application the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Tribe and shall not be deemed as a limitation upon or a repeal of any other tribal power or authority. The Tribe by adoption of this code does not waive its sovereign immunity in any respect.

Section 13.5 Applicability

This code shall apply to all school-age children living on the Kickapoo Reservation and all school-age tribal children who live off of the Kickapoo Reservation.

Section 13.6 Definitions

For the purpose of this code the following terms shall have the meaning ascribed below:

(A) "Adult" means any person 18 years of age or older who is not enrolled in elementary and/or secondary school.

(B) "Child" means any person who is less than 18 years of age.

(C) "Habitual Truancy" means a pupil who is absent from school without an acceptable excuse on ten or more days or parts of days within a six-month period within a school year or on 3 or more days or parts of days within a four-week period.

(D) "Member" means a person enrolled in the Kickapoo Traditional Tribe of Texas.

(E) "Reservation" means the area within the boundaries of the Kickapoo Traditional Tribe of Texas Reservation and dependant community areas.

(F) "School" means any pre-school, elementary and/or secondary school where a child to whom this code applies is eligible to attend and includes any alternative sites where instruction may occur.

(G) "School-age child" means a child age 6 to 16.

(H) "School Attendance" means physical presence of a child in school, and includes attending scheduled classes during such hours and on such days as determined by the school or, for students enrolled in alternative education programs, attendance at the place

and during hours scheduled by the school for the student, unless excused from such attendance by school policy, state law, or tribal law or custom.

(I) "School Attendance Policy" means the current policy for school attendance duly adopted by the appropriate school board.

(J) "Student" means one who attends school.

(K) "Tribe" means the Kickapoo Traditional Tribe of Texas.

(L) "Tribal Child" means a child who is either an enrolled member of the Tribe, or is eligible for enrollment in the Tribe.

(M) "Court" means the Kickapoo Traditional Tribe of Texas Tribal Court.

(N) "Truancy" means any absence by any child for part or all of one or more days from school during which the school attendance officer, or his agent, has not been notified of the excused absence by the person having the absent pupil under his or her control during non-school hours. "Truancy" also means intermittent attendance carried on for the purpose of defeating the intent of the state and tribe's attendance laws.

Section 13.7 School Enrollment Required

Except as excused under the state compulsory attendance law, any person having under their control a school aged child shall enroll the child in school.

Section 13.8 Requirement to Attend School

Except as excused under the state compulsory attendance law, or under a school policy governing school attendance, any person having under their control a school-age child (as defined in section 13.6) shall cause the child to attend the school in which the child is or should be enrolled.

Section 13.9 Truancy Prohibited

(A) Truancy is prohibited.

(B) It shall be unlawful for any person to cause, assist, or enable a child to be truant.

Section 13.10 Enforcement

The Indian Child Welfare Worker, Tribal Social Worker, or Tribal Law Enforcement Officer may enforce the provisions of this code.

(A) Any person authorized to enforce the provisions of this code may stop and question any person upon reasonable belief that the person has violated this code. Any child shall

provide identification and give his or her name, address(es), age and parental information to any person authorized to enforce this code.

(B) If, during school hours, a person authorized to enforce this code has probable cause to believe that a child is truant, the person may take the child into custody and transport the child to school and notify school authorities and parents of the child.

Section 13.11 Enforcement and Penalties

The school must document the following steps before the Court hears a truancy petition:

(A) The designated school official has met with the child's parent or guardian to discuss the child's truancy or attempted to meet with the child's parent or guardian and received no response or were refused

(B) The school has provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and to consider curriculum modification.

(C) The school has evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, take appropriate steps to overcome the learning problems, except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his or her grade level.

(D) The school has conducted a review to determine whether social problems may be the cause of the child's truancy and, if so, that the school has taken appropriate action or made appropriate referrals.

(E) Whether the school has referred the child, the child's parent(s) or guardian(s), Indian Child Welfare Worker, and the child's teacher or other school official to meet with the Peacemaker to attempt to resolve the attendance problems

(F) Contact law enforcement to issue a citation for truancy.

Once referred to the Court, the child, the child's parent, and the person responsible for the child if not the parent shall be summoned in accordance with Court procedure. If summoned to Court, appearance is mandatory by both the child and the parent, legal guardian, or legal custodian.

Section 13.12 Unit of Prosecution

Regardless of the number of incidents of truancy in a single day, a child may not be prosecuted for more than one truancy violation per school day.

Section 13.13 Penalties

(A) Any child convicted of truancy under Section 13.9 shall be subject to a minimum penalty of community services hours equal to the number of school hours truant and a maximum penalty of a civil money penalty of \$25.00 and/or seven (7) community services hours per incident of truancy.

(B) Any child who is convicted of aiding another child's truancy shall be subject to a minimum penalty of community service hours equal to the number of school hours the other child was truant and a maximum penalty of a civil money penalty of not more than \$50.00 and/or fourteen (14) community service hours.

(C) Any adult who is convicted of aiding a child's truancy shall be subject to a civil penalty not less than \$50.00, but not to exceed \$500.00. The presiding judge is authorized to order community service in his/her discretion.

(D) In addition to the imposition of civil forfeitures and community service hours for violations of this Chapter 13, the Court may impose other remedies including but not limited to: ordering the parent(s) or guardian(s) to supervise and/or accompany child while child performs community service, mental health counseling, alcohol assessment and counseling, limitations on the use of public facilities within the boundaries of the Kickapoo Reservation and loss of privileges incident to tribal membership.

Section 13.14

If the Court determines a child is habitually truant, the Court may order the appropriate tribal agency to initiate an in-depth investigation into the child's background to determine if a Youth in Need of Care petition should be filed.

Section 13.15

Nothing herein shall prohibit the referral of a tribal child to the appropriate tribal agency for the filing of a Petition for Fact Finding under Chapter 8 of Kickapoo Tribal Law. A Petition for Fact Finding may be filed regarding any tribal child who has been truant for five (5) days or more in any 90 school-day period.

Section 13.16

The Court shall have jurisdiction over cases brought to enforce this code. Proceedings shall be conducted in accordance with applicable Kickapoo Traditional Tribe of Texas Tribal laws and traditions.

CHAPTER 14: LOITERING AND HITCH-HIKING

Section 14.1

This ordinance regarding curfew and hitch-hiking is enacted in an effort to create an atmosphere on the Kickapoo Reservation which is free from gangs or gang-related activity.

Section 14.2 Interpretation

This Code is enacted pursuant to Article VII (j) of the Constitution of the Kickapoo Traditional Tribe of Texas and shall be deemed as a reasonable and proper exercise of the sovereign power of the Kickapoo Traditional Tribe of Texas for the protection of the Tribe's land, welfare, health, peace and morals. All provisions of this ordinance shall be liberally construed for the accomplishment of these purposes.

Section 14.3 Definitions

(A) "Child" shall mean any person who has not yet attained his or her eighteenth (18th) birthday and is not otherwise emancipated.

(B) "Going home" means traveling towards one's permanent residence with the intent of remaining at the residence.

(C) "Hitch-hiking" means attempting to solicit or soliciting free travel, or travel for a nominal price, from passing vehicles.

(D) "Loiter" means to remain in an area for no apparent or obvious reason.

Section 14.4 Curfew

(A) No child shall loiter or remain in or upon any road, street, trail or public place within the exterior boundaries of the Kickapoo Reservation between 9:00 p.m. and 6:00 a.m.

(B) No parent or guardian shall knowingly permit his or her child or ward to loiter or remain in or upon any road, street, trail or public place within the hours stated herein, unless such child is accompanied by a parent, guardian or some person of lawful age having legal custody or lawful temporary physical custody of such child, or unless any such child is going home from school activities, church programs, or approved organizational activities, or unless his or her employment makes it necessary for him or her to be upon said roads, streets, trails or public places, in which case this ordinance shall not apply.

(C) Any child shall have reasonable time to travel to his or her home or to the home of a family member after school activities, church programs, approved organizational activities, or employment, not to exceed one hour after the termination of such activity, to be within the definition of the term "going home."

Section 14.5 Hitch-hiking

No child under the age of eighteen (18) years shall hitch-hike within the exterior boundaries of the Kickapoo Reservation.

Section 14.6 Penalties

For a violation of Sections 14.4 or 14.5 of this ordinance:

(A) If the child is a resident on the Kickapoo Reservation, he or she shall be escorted by the law enforcement officer to his or her permanent residence or home of another family member

(B) If the child is not a resident on the Kickapoo Reservation, the law enforcement officer may:

- (1) contact a parent of the child and transfer custody of the child to the parent; or
- (2) contact the appropriate county official to ensure that the child is delivered safely off the reservation.

(C) A civil citation shall be issued to the child if the child is fourteen (14) years of age or over.

(D) A civil citation shall be issued to the parent(s) or guardian when the child involved is under the age of fourteen (14) years.

(E) A conviction under the provisions of this ordinance shall be subject to a forfeiture of not more than \$500.

(F) In place of or in addition to the penalty described in (E), the Court, in its discretion, may impose an alternative sentence which addresses the violation in a manner consistent with tribal and cultural values. Such alternative sentence may include, but is not limited to, community service, family counseling, and educational programming.

CHAPTER 15: (RESERVED FOR EXPANSION)

CHAPTER 16: PUBLIC PEACE AND GOOD ORDER

Statement of Purpose and Findings

The Kickapoo Tribal Council enacts this Ordinance to provide for the public peace of the Kickapoo Reservation and to minimize health and accident hazards on the Reservation. The Traditional Council further finds that this chapter is necessary to protect social, economic and political well being of the Kickapoo Reservation and its members.

Be it enacted by the Traditional Council of the Kickapoo Traditional Tribe of Texas, as follows:

Section 16.1 Short Title

This ordinance may be cited as the Kickapoo Traditional Tribe of Texas Public Peace and Good

Section 16.2 Interpretation

This ordinance shall be deemed as a reasonable and proper exercise of the sovereign power of the Kickapoo Traditional Tribe of Texas for the protection of the Tribe's land, welfare, health, peace and morals. All provisions of this ordinance shall be liberally construed for the accomplishment of these purposes.

Section 16.3 Definitions

In this ordinance, unless the context otherwise requires:

- (A) "Tribe" means the Kickapoo Traditional Tribe of Texas.
- (B) "Conservation Officers" mean those individuals employed by the Tribe to enforce federal and Tribal conservation codes and Tribal civil violations on the Reservation.
- (C) "Reservation" means the area within the exterior boundaries of the Kickapoo Traditional Tribe of Texas' Reservation and dependant communities.
- (D) "Tribal officer" means any officer employed by the Tribe and authorized by the Traditional Council for the purpose of patrolling and enforcing state criminal laws and tribal civil regulatory laws on the Reservation.
- (E) "Tribal parks" means any Tribal land on the Reservation which are specifically set aside for recreational use by Tribal members and their families and guests.

Section 16.4 Damage to Property

Destruction or defacement of Tribal or private property prohibited:

- (A) Damage to Property: No person shall deface, mar, injure, break or damage any Tribal or private property on the Reservation. Tribal and private property on the Reservation includes, but is not limited to signs, statues, monuments, and buildings.
- (B) Damage to Vegetation: No person shall maliciously destroy, remove or cut down, root up, sever or injure any fruit, trees, shrubs, plants, flowers, or other vegetation on the Reservation. It will be a defense if done for the purposes of gathering of medicine or transplanting plants and trees, with the required permission from the Traditional Council where applicable.

Section 16.5 Disorderly Conduct/Prohibition on Noise

- (A) Whoever, in a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance is guilty of a violation of this ordinance.
- (B) Loud and annoying noise prohibited: No person shall make or cause to be made any loud, disturbing, or annoying sounds or noises which may disturb any person on the Reservation.

Section 16.6 Unlawful Use of Telephone

(A) Whoever does any of the following is guilty of a violation of this ordinance:

(1) With intent to frighten, intimidate, threaten, abuse or harass, makes a telephone call and threatens to inflict injury or physical harm to any person or the property of any person.

(2) With intent to frighten, intimidate, threaten or abuse, telephones another and uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(3) Makes a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to abuse or threaten any person at the called number.

(4) With intent to harass or offend, telephones another and uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(5) Makes or causes the telephone of another repeatedly to ring, with intent to harass any person at the called number.

(6) Makes repeated telephone calls, whether or not conversation ensues, with intent solely to harass any person at the called number.

(7) Makes a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to harass any person at the called number.

(8) Knowingly permits any telephone under his or her control to be used for any purpose prohibited by this section.

Section 16.7 Harassment

(A) In this section:

(1) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.

(2) "Credible threat" means a threat made with the intent and apparent ability to carry out the threat.

(3) "Personally identifiable information" means information that can be associated with a particular individual through one or more identifiers or other information or circumstances.

(4) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic data is recorded or preserved, regardless of the physical form or characteristics, which has been created or is being kept by an authority including the Tribe.

(B) Whoever, with intent to harass or intimidate another person, does any of the following is guilty of a violation of this ordinance:

(1) Strikes, shoves, kicks or otherwise subjects the person to physical contact or attempts or threatens to do the same.

(2) Engages in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.

(C) Whoever violates subsection (B) under any of the following circumstances is guilty of an additional violation of this ordinance:

(1) The act is accompanied by a credible threat that places the victim in reasonable fear of death or great bodily harm.

(2) The act occurs while the actor is subject to an order or injunction under Kickapoo Community Domestic Abuse Restraining Order and Injunction ordinance that prohibits or limits his or her contact with the victim.

Section 16.8 Loitering Prohibited

No person shall loiter, lounge, or loaf in or about the Tribal Administrative offices, clinic, or housing project area or other Tribal buildings, facilities or grounds. Upon being requested to move, a person must immediately comply with such request by leaving the premises or area thereof at the time of the request.

Section 16.9 Smoking Prohibited

The use of cigarettes, pipes and any other tobacco products which produce smoke is prohibited inside all Tribal buildings except where exceptions have been approved by the Tribal Council.

Section 16.10 Littering Prohibited

No person shall throw any glass, refuse, or waste, filth, of other litter upon the streets, parks, or other public or private property on the Reservation

Section 16.11 Junked Motor Vehicles, Garbage, and Unsightly Areas

(A) Junked Motor Vehicles:

(1) No person shall allow any disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, or other junked or discarded property to be stored or remain in the open on Tribal or private property on the Reservation for a period of time in excess of thirty (30) days unless otherwise authorized by the Tribal Council.

(2) Whenever the Tribal Officer or any other authorized Tribal personnel finds such vehicles or other junked or discarded property placed or stored in the open upon property on the Reservation, he/she may cause notice to be placed on the property to remove junked or discarded property within 30 days or such property will be removed to a junk or salvage yard until either claimed by the owner or disposed of by the junk or salvage yard. If after 30 days the junked or discarded property has not been removed, the Tribal Officer or other authorized Tribal personnel may remove such property to a junk or salvage yard, until either claimed by the owner or disposed of by the junk or salvage yard.

(B) Unsightly Areas: No person shall allow any scrap, refuse, junk, salvage, rubbish or property on the Reservation that creates unsightly areas and/or contributes to health and safety hazards

(1) Whenever the Tribal Officer or any other authorized tribal personnel finds such property placed or stored on the Reservation, he/she shall notify the resident or owner of the property upon which such vehicles or other property are placed or stored. Such notice may be given to such owner personally or mailed to the resident or owner at any place such owner or resident may be found or at his/her last known address. Such officer or authorized Tribal personnel must indicate that it is the tribe's intention to remove such property. If such property is not removed within thirty (30) days, the tribe may cause the same to be removed, the cost of such removal to be charged to the owner or resident where such property is stored.

(C) Garbage: All persons shall place all kitchen, yard and general household trash and refuse in the designated places, in designated containers at times announced by Administration for pick up. No refuse material of any sort shall be dumped or otherwise disposed of at any place on the Reservation except that area designated at the Reservation dumping area. All garbage hauled by truck or trailer shall be covered to prevent spilling.

Section 16.12 Dog/Cat Control

(A) Dog control

(1) No owner or person in control or having custody of a dog shall allow the same to run at large on the Reservation unless accompanied by and under the control of the owner or keeper.

(2) All dogs shall be registered with the appropriate Tribal agency. Upon registration and upon presentation of evidence that the dog is currently immunized against rabies, the registering agency shall complete and issue to the owner a license for the dog bearing a serial number and in the form prescribed by the agency, stating the date of its expiration, the owner's name and address, and the name, sex, spayed or un-spayed, neutered or un-neutered, breed and color of the dog. A duplicate copy of the registration will be kept on file.

(3) No person shall keep any dog on the Reservation which has without provocation bitten, attacked, or injured any person.

(B) Cat Control

(1) All cats shall be registered with the appropriate Tribal agency. Upon registration and upon presentation of evidence that the cat is currently immunized against rabies, the registering agency shall complete and issue to the owner a license for the cat bearing a serial number and in the form prescribed by the agency. stating the date of its expiration, the owner's name and address, and the name, sex, spayed or un-spayed, neutered or un-neutered, breed and color of the cat. A duplicate copy of the registration will be kept on file.

(C) Enforcement. The Tribal officer and/or Tribal Conservation Officer shall notify the owner or keeper of any dog and/or cat of a violation of this section. Upon notification, the

owner or keeper of such dog and/or cat shall immediately remedy the complaint, or if the officer(s) is not able to identify the owner/keeper, the Tribal Conservation Officers are authorized to detain and/or dispose of such dog and/or cat in a proper and humane manner.

Section 16.13 Park Rules

(A) All persons using the tribal park facilities shall abide by the following special terms and conditions:

- (1) Camping is permitted in designated camping areas only.
- (2) No fires are permitted except in designated campfire areas.
- (3) There shall be no littering of any kind inside park boundaries.
- (4) Defacing of any park property or vegetation is strictly prohibited.
- (5) The maximum speed limit on park and campground roads is 10 m.p.h.
- (6) Through traffic is prohibited on the campground road when Tribal functions are scheduled in the park area.
- (7) Excessive noise is prohibited.
- (8) Campers shall observe established campground rules.
- (9) No alcohol shall be allowed in any Tribal parks from the hour of 10 p.m. until the hour of 10 a.m.

Section 16.14 Enforcement/Violation: Jurisdiction

(A) Any person who violates any provision of this ordinance or any rule or regulation authorized there under, shall be guilty of a Tribal civil offense punishable by a fine of not more than five hundred dollars (\$500.00).

(B) The Court shall have jurisdiction over all violations of this ordinance and may, in addition to the penalty described in Section 16.12 (A), grant such other relief as is necessary and proper for the enforcement of this ordinance.

(C) This ordinance is in effect and applicable throughout the entire Reservation.

CHAPTER 17: COLLECTIONS OF DEBTS AND JUDGMENTS

Section 17.1 Jurisdiction

(A) The Court shall have jurisdiction to hear any civil action where at least one of the parties to the action is Indian and which:

- (1) Involves a debt or contractual obligation arising or occurring within the territorial jurisdiction of the court; or
- (2) Involves the ownership or the right to use or to possess any land in trust or restricted status; or
- (3) Involves the right to possession or the ownership of any personal property within the territorial jurisdiction of the Court

(B) In addition the court shall have jurisdiction to recognize and enforce or to refuse to recognize and enforce foreign judgments.

Section Definitions

(A) "Contract" shall mean a promissory agreement between two (2) or more persons supported by consideration, to do or not to do a particular thing, or which creates, modifies or destroys a legal obligation

(B) "Court" shall mean the Kickapoo Traditional Tribe of Texas' Tribal Court as established by the Kickapoo Traditional Tribe of Texas' Traditional Council.

(C) "Debt" shall mean a sum of money or a quantity of property due by certain and express agreement where the amount is fixed and specific or readily determinable.

(D) "Default Judgment" shall mean a judgment rendered by the Court because a defendant failed to appear or plead at the appointed time.

(E) "Execution" shall mean a proceeding whereby the personal property belonging to and in the possession of a judgment debtor is attached by the Court to be held for public sale in order to satisfy all or part of a judgment rendered against the debtor by the Court.

(F) "Exempt Property" shall mean any property held in trust by the Bureau of Indian Affairs or income derived therefore, as well as any property, wages or otherwise which is protected by federal statute and Tribal law.

(G) "Foreign Judgment" shall mean any final judgment, order or decree rendered or issued by a Court not a Court of the Kickapoo Traditional Tribe of Texas.

(H) "Garnishee" shall mean the person against whom the process of garnishment is issued, and who has property, including money, and/or credits in his possession belonging to the debtor; notice having been given to the garnishee not to deliver or pay the property or credits over to the debtor until the result of the garnishment proceeding is determined.

(I) "Garnishment" shall mean a proceeding whereby a judgment debtor's money, or credits, in possession or under control of, or owing by, another are sought to be applied to payment of the judgment debtor's debt to a judgment creditor by properly authorized process against the debtor. A garnishment proceeding may be brought against a judgment debtor's salary and/or wages only if the judgment creditor is the Kickapoo Traditional Tribe of Texas.

(J) "Judgment Creditor" shall mean one who has obtained a judgment against his debtor.

(K) "Judgment Debtor" shall mean one against whom a judgment has been rendered and which remains unsatisfied, and shall include a judgment debtor's successors in interest.

(L) "Legal Holiday" shall include New Year's Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President, or the Congress of the United States or by the Kickapoo Traditional Tribe of Texas Traditional Council.

(M) "Person" shall mean an individual or other legal entity such as a Corporation, a tribal entity, organization or association.

(N) "Preponderance of the Evidence" shall mean the greater weight of the credible evidence.

(O) "Reservation" shall mean all lands of the Kickapoo Traditional Tribe of Texas and members thereof, falling within the purview of 18 U.S.C. Sec. 1151, or other applicable federal or Tribal law.

Section 17.3 Pleadings

A) A civil action brought pursuant to this Code shall be commenced upon the filing of a complaint in the Kickapoo Traditional Tribe of Texas Tribal Court. The complaint shall include the following information:

- (1) The name and address of the plaintiff;
 - (2) The name and address or place of residence of the defendant;
 - (3) A brief and concise statement of the nature and amount of the Plaintiff's claim and the time the claim accrued;
 - (4) A signed statement by the plaintiff stating what good-faith efforts the plaintiff made to have the claim satisfied by the defendant before filing the complaint in Tribal Court;
 - (5) A sworn verification by the plaintiff of the truth of the complaint;
- (B) The defendant shall have twenty (20) days from the date of service to file an answer to the complaint. Fail

(C) Any party to an action filed pursuant to this Chapter may use the appropriate complaint and answer forms provided by the Tribal Court.

Section 17.4 Service: Proof of Service

(A) Upon the filing of the complaint the Court Clerk shall issue a summons directing the named defendant to appear before the Court and respond to the complaint.

(B) The summons and a copy of the complaint shall be served by either of the following methods:

(1) By an officer of the Kickapoo Traditional Tribe of Texas Tribal Police Department, an officer of the Tribal Court, or any person authorized by the Tribal Court to make personal service delivering the summons and complaint to the named defendant personally,;

(2) By the Court Clerk sending the summons and a copy of the complaint to the named defendant by certified mail, return receipt requested, restricted delivery and with "deliver to addressee only" stamped on the envelope. Court Clerk shall make a record entry of the date of mailing and another entry when the return receipt is received by the Court

(C) Proof of service shall be maintained as part of each case file. When the defendant has been served personally, an affidavit of service shall be returned to the Court Clerk and filed in the Court records. When service is obtained by mail, the return receipt of the delivery, showing the signature of defendant shall be made a part of the Court records.

Section 17.5 Subpoena

(A) On motion of any party to the case or on the Court's own motion, the Court may issue subpoenas to compel the attendance of witnesses or the production of tangible objects necessary to the determination of the case

(B) A subpoena shall be served by an officer of the Kickapoo Traditional Tribe of Texas Tribal Police Department, or by any person authorized by the Court by delivering a copy thereof to the person ordered to appear or to produce a tangible object.

(C) A proof of service shall be filed by the person serving the subpoena.

(D) Failure by any person without adequate explanation to comply with a subpoena duly served upon him/her may be deemed in contempt of Court and punished as provided for in Section 17.21 of this Code.

Section 17.6 Court Costs

(A) A schedule for determining fees, costs and other expenses pursuant to this Code shall be made available to any person requesting same from the Court Clerk.

(B) In order to file a complaint pursuant to this Code the plaintiff shall pay a filing fee to the Court Clerk.

(C) Court costs for each case going to Kickapoo Traditional Tribe of Texas Tribal Court shall accrue on a per day basis and may be charged against the losing party at the close of the trial.

(D) The cost of serving the Summons and complaint on the defendant shall be determined on a per mile basis.

(E) Any other cost expended by a party in an action brought pursuant to this Code shall be properly documented to the Court when reimbursement for same is sought.

Section 17.7 Representation

It shall be proper for any party to an action filed pursuant to this Code to be represented by an attorney or other advocate at his own expense

Section 17.8 The Tribe as a Real Party in Interest

It shall be appropriate for any organization or department in the governmental structure of the Kickapoo Traditional Tribe of Texas to file a complaint pursuant to this Code on behalf of the real party in interest, namely, the Kickapoo Traditional Tribe of Texas Indian Reservation in order to collect on a debt or to seek enforcement of a contractual obligation owed to the complaining tribal organization or department. The director, chairman, or person in charge of the complaining tribal organization or department shall be the proper person to initiate a complaint pursuant to this Section.

Section 17.09 Sufficiency of Proof

The plaintiff shall have the burden of proving the allegations in his complaint by a preponderance of the evidence.

Section 17.10 Evidence

Although not mandatory, the Federal Rules of Evidence may govern the introduction and use of evidence in all cases before the Court. However, all material and relevant evidence which the Court deems proper and necessary for reaching a true and just verdict shall be admitted

Section 17.11 Continuance

A. The Court may grant a Continuance in any action brought pursuant to this Code when it deems the interests of justice will be served thereby.

Section 17.12 Time Computation

In computing any period of time, the date of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. When a period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

Section 17.13 Judgments

(A) Where either party prevails in an action pursuant to this Code, the Court shall enter a judgment consisting of an order for relief which the Court deems just and proper. Such an

order may include but is not limited to directing payment to the plaintiff for the monies found owing him, awarding money damages to be paid to the injured party, ordering a party to pay court costs, ordering a party to deliver possession of real or personal property to another party within a prescribed period of time, ordering the performance of some other act for the benefit of the injured party, or finding in favor of the defendant.

(B) Upon the failure of the defendant to appear before the Court and respond to the complaint, the Court may render a default judgment against the defendant, provided evidence is offered by the plaintiff indicating that the defendant was validly served with the Summons and complaint involved and proof is offered substantiating the plaintiff's claim for relief.

(C) Upon the failure of the plaintiff to appear in Court on the date set for trial, the Court shall dismiss the action. Such dismissal shall not bar the plaintiff from refiling his complaint with the Court.

Section 17.14 Costs Allowed

Unless otherwise directed by the Court, the party against whom judgment is entered shall be liable to the prevailing party for all court costs incurred in the action, including filing fees, service fees, expense of witnesses, attorney's fees, and any other incidental costs.

Section 17.15 Payment of Judgment

If the judgment is against a party to make payment or to otherwise satisfy the judgment the party shall act without delay upon the terms and conditions prescribed by the Court.

Section 17.16 Enforcement of the Judgment

(A) Upon failure of a party to pay or otherwise satisfy the terms of the conditions of the judgment rendered by the Court pursuant to this Code, the prevailing party may seek satisfaction of the judgment as provided for below:

(B) Execution:

(1) The judgment creditor may seek a Writ of Execution upon any specific personal property of the judgment debtor when such property is in the possession of the judgment debtor and is found within the jurisdiction of the Court.

(2) The Writ shall specify the property to be seized and the amount owing to the judgment creditor. Such property is to be seized by a duly authorized enforcement officer and sold in order to satisfy all or part of the judgment.

(3) A notice of sale shall be mailed to the judgment debtor and shall be posted at two public places within the reservation for ten (10) days prior to the sale by the Court. The sale shall be conducted by the Court Clerk or a duly authorized law enforcement officer

who shall issue a bill of sale for the property to the highest bidder in return for a cash amount but not for less than the reasonable value of the property.

(4) Proceeds of the sale shall first go to satisfy the cost of the sale, second to any unpaid court costs, next to satisfy any portion of the judgment still owing. Any amount remaining after the above has been paid shall be paid over to the defendant.

(C) Garnishment:

(1) The judgment creditor may seek a Writ of Garnishment upon any specific personal property of credits, including wages or salary owed by another to the judgment debtor which is in the possession of a third party and is found within the jurisdiction of the Court.

(2) The Writ shall specify the amount owing to the judgment creditor, as well as the name and address of the garnishee in whose possession the subject matter listed in the writ of garnishment is in.

(3) Notice of garnishment shall be served on the garnishee ordering the garnishee not to pay or deliver the property or credits owing to the debtor until the result of the garnishment proceeding is determined.

(4) The garnishee shall be required to file a return with the Court containing the amount and a description of property of the judgment debtor which is in the garnishee's possession. Such return shall be filed with the Court within ten (10) days from the date the garnishee was served with notice of the garnishment.

(5) It shall be proper for the Court to issue a Writ of Garnishment against the Kickapoo Traditional Tribe of Texas when it is determined the Tribe qualifies as a garnishee, and for this limited purpose the Tribe shall not exert its immunity from suit.

(D) Writ of Recovery:

(1) Whenever the Court has issued a judgment ordering the party to deliver possession of real or personal property to another party and such delivery has not taken place within the time limit prescribed in the judgment, the aggrieved party may seek a writ of recovery for such property.

(2) The Writ shall describe the real or personal property involved in enough detail to enable officers of the Court to locate such property, and shall authorize a law enforcement officer to take possession of specified real or personal property from a wrongful holder and deliver possession thereof to the party indicated on the Writ.

Section 17.17 Service of Writs

(A) Service of any Writs shall be made personally on the recipient by an officer of the Kickapoo Traditional Tribe of Texas Tribal Police Department or any person certified as an officer of the Court authorized to make personal service.

(B) Proof of service of each Writ shall be maintained as part of each case file in the form of an affidavit of service sworn to and filed with the Court by the officer who served the Writ.

Section 17.18 Exempt Property

(A) The following property shall be exempt from execution and garnishment:

- (1) Trust property;
- (2) Income from trust property; and
- (3) Any property which is protected by statute and ordinance.

(B) This section shall not prohibit the Court from adjudicating the right to possession of any trust property in actions brought pursuant to this Code to enforce rental, lease, purchase, or like agreements.

Section 17.19 Sovereign Immunity

Nothing in this Code shall affect the right of the Kickapoo Traditional Tribe of Texas to assert immunity from suit by virtue of its status as a sovereign entity, except that the Tribe may not assert sovereign immunity when served as a garnishee pursuant to Section of this Code.

Section 17.20 Contempt of Court

(A) Any person or persons found guilty of any of the following acts shall be adjudged to be in contempt of Court and shall be punished as the Court may direct.

(1) Disorderly, contemptuous or insolent behavior toward a judge or interrupt the due course of a trial or other judicial proceedings.

(2) Breach of the peace, boisterous conduct or creation of a disturbance in the presence of a judge or in the immediate vicinity of the Court held by him or her which tends to interrupt the due course of a trial or other judicial proceedings.

(3) Disobedience of any order or judgment of the Court or refusal to be sworn or to take an affirmation of truthfulness or to answer as a witness.

(B) When a contempt is committed in the immediate view and presence of the judge it may be punished summarily. An order shall recite the facts as they occurred and state the findings adjudging that the person is thereby guilty of the contempt and that he/she be punished as therein prescribed.

(C) When a contempt is not committed in the immediate view and presence of the judge, a warrant of arrest may be issued by a judge on the Court's own motion or the motion of another based on a showing of probable cause that contempt of court has been committed. The person who is charged is subject to immediate arrest and must be brought before the judge. The accused must be given an opportunity to be heard and present a defense. The judge may find the person in contempt or dismiss the charge.

Section 17.21 Recognition and Enforcement of Foreign Judgments

(A) The Court shall not recognize and enforce any foreign judgment unless the proponent of the foreign judgment:

(1) Complies with the procedure set forth in Section 17.22 or other applicable sections of this Code;

(2) Submits proof that the person against whom the foreign judgment has been rendered is subject to the jurisdiction of the Court;

(3) Submits proof that the foreign judgment is based on valid subject matter jurisdiction;

(4) Submits proof that an attempt was made to enforce the judgment in the jurisdiction which the foreign judgment was rendered and that such attempt was unsuccessful; or good cause why an attempt at enforcement of the foreign judgment in the jurisdiction in which the foreign judgment was rendered would be futile;

(5) Submits proof that the foreign judgment is final and that no appeal is pending or available; and

(6) Submits proof that the court from which the foreign judgment is issued provides reciprocal full faith and credit to the order, decrees and judgments of the Kickapoo Traditional Tribe of Texas Court.

(B) The Court shall not recognize or enforce a foreign judgment when to do so would require the Tribe to waive its immunity from suit, except when the Tribe is served as a garnishee for the wages or property of an employee, in which case the requirements set out in Section 17.16 of this Code shall be adhered to.

(C) The Court need not recognize a foreign judgment if:

(1) The defendant in the proceedings in the foreign court did not receive sufficient notice of the proceedings pursuant to the foreign court's rules;

(2) The foreign judgment, decree or order violated the Indian Civil Rights Act of 1968, 25 U.S.C. 1301-1341;

(3) The foreign judgment was obtained by fraud;

(4) The foreign judgment would serve to violate any federal law, tribal law, custom or tradition; or

(5) The cause of action on which the judgment is based is contrary to the general welfare of the Kickapoo Traditional Tribe of Texas or its members.

Section 17.22 Procedure for Recognition and Enforcement of Foreign Judgments

(A) In order for a foreign judgment to be recognized and enforced, such judgment shall be filed by its proponent with the Court within three (3) years from the date of its issuance.

(B) Proper filing of a foreign judgment with the Court shall be accomplished when the proponent thereof has delivered to the Court a certified copy of the foreign judgment, the date of its entry, the record of any subsequent entries affecting it, and a motion requesting

that the Court recognize and enforce the foreign judgment, that provides an accounting of any partial satisfaction or offsets. A properly filed foreign judgment shall be docketed and recorded in the Court in the same manner as other cases.

(C) Upon proper filing of a foreign judgment with the Court, the Court shall issue a summons directing the defendant to appear on a date not more than 20 days from the date of service and respond to the motion requesting the Court to recognize and enforce the foreign judgment. Such a summons shall be served on the defendant as in other cases.

(D) Failure to appear as directed by the summons or failure to respond to the motion requesting the Court to recognize and enforce the foreign judgment once personal jurisdiction over the defendant has been obtained shall not prevent the Court from ruling on the motion

(E) After reviewing all the relevant evidence concerning the foreign judgment the Court shall issue an order granting or denying the motion to recognize and enforce the foreign judgment. Such an order shall be a final judgment of the Court and shall be appeal able and enforceable as such

Section 17.23 Enforcement of tribal Court Judgments in Foreign Courts

Whenever a judgment of the Court is not enforceable within the jurisdiction of the court, and a department or program within the Kickapoo Traditional Tribe of Texas is a party to the judgment, the Court may direct the Tribal Attorney to seek recognition and enforcement of its judgment as a foreign judgment in the appropriate jurisdiction.

Section 17.24 Unlawful Interference


No person holding office in tribal government or employed by the Kickapoo Traditional Tribe of Texas or the other governmental entities on the Kickapoo Indian Reservation shall use or attempt to use his position to influence any decision of the Court.

CHAPTER 18: (Reserved for Expansion)

CERTIFICATION

I, Jesus Anico, the Secretary of the Kickapoo Traditional Tribe Of Texas Traditional Council hereby certify that a duly called meeting was held and that **KICKAPOO TRADITIONAL TRIBE OF TEXAS TRIBAL CODES** were approved and enacted on **November 10, 2005**. The Traditional Council voted as follows:

<u>4</u>	in favor
<u>0</u>	opposed
<u>0</u>	abstain
<u>1</u>	absent



Jesus Anico, Secretary
November 10, 2005

Date

ATTESTATION

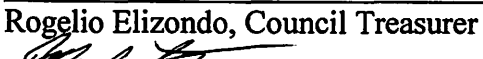
We, the undersigned Kickapoo Traditional Tribal Council members acting in our official capacities as the legal leadership of the Kickapoo Traditional Tribe of Texas certify that the above **KICKAPOO TRADITIONAL TRIBE OF TEXAS TRIBAL CODES** is was approved and adopted at a meeting called and conducted on **November 10, 2005** at the Kickapoo Tribal Governmental offices located at the Kickapoo Village in Eagle Pass, Texas with a quorum being present. Each signatory below indicates the vote by circling the choice on **KICKAPOO TRADITIONAL TRIBE OF TEXAS TRIBAL CODES** as follows :



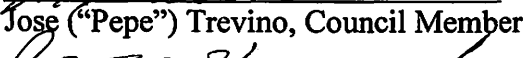
Juan Garza, Jr., Council Chairman




Jesus Anico, Council Secretary



Rogelio Elizondo, Council Treasurer



Jose ("Pepe") Trevino, Council Member



Jorge Hernandez, Council Member

FOR / AGAINST

11/10/05

Date

FOR / AGAINST

11/10/05

Date

FOR / AGAINST

Date

FOR / AGAINST

11-10-05

Date

FOR / AGAINST

11-10-05

Date

**TRADITIONAL
COUNCIL**

CHAIRMAN
Juan Garza, Jr., Kisisika

SECRETARY
Jesus Anico, Chakodata

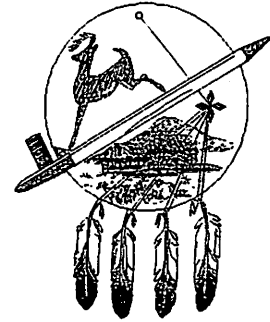
TREASURER
Rogelio Elizondo, Apichicuea

MEMBERS
Jorge Hernandez, Pepakenea
José Pepe Treviño, Jr., Kimillata

KICKAPOO

**TRADITIONAL
TRIBE OF TEXAS**

H C 1, Box 9700, Eagle Pass, Texas 78852
(830) 773-2105 (830) 757-8010
Fax (830) 757-9228



**Traditional
Council**

RESOLUTION No. 2005-080

**ADOPTION OF TRIBAL CODES
and
ESTABLISHMENT OF INTERIM DISTRICT TRIBAL COURT**

WHEREAS, the Kickapoo Traditional Tribe of Texas ("the Tribe") is a federally-recognized Indian tribe governed pursuant to its Constitution and laws; and

WHEREAS, the Traditional Council is the duly-elected governing body of the Tribe and is authorized to act on behalf of the Tribe; and

WHEREAS, pursuant to the Constitution the Traditional Council is empowered to provide for the administration of justice by establishing tribal courts; and

WHEREAS, the Traditional Council finds that it is in the best interest of the Tribe to adopt the Tribal Codes by which the court or courts created by the Kickapoo Traditional Tribe of Texas will be governed; and

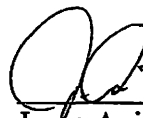
WHEREAS, the Traditional Council finds that it is in the best interest of the Tribe to create and establish an Interim District Tribal Court pursuant to the Tribal Codes.

THEREFORE IT IS RESOLVED that the Traditional Council of the Kickapoo Traditional Tribe of Texas hereby adopts the Tribal Codes of the Kickapoo Traditional Tribe of Texas. **IT IS FURTHER RESOLVED** that the Interim District Tribal Court is hereby established.

CERTIFICATION

I, Jesus Anico, the Secretary of the Kickapoo Traditional Tribe Of Texas Traditional Council hereby certify that a duly called meeting was held and that Resolution **2005-080** was approved and enacted on **November 10, 2005**. The Traditional Council voted as follows:

<u>4</u>	in favor
<u>0</u>	opposed
<u>0</u>	abstain
<u>1</u>	absent



Jesus Anico, Secretary

November 10, 2005
Date

ATTESTATION

We, the undersigned Kickapoo Traditional Tribal Council members acting in our official capacities as the legal leadership of the Kickapoo Traditional Tribe of Texas certify that the above resolution is true and accurate resolution adopted at a meeting called and conducted on **November 10, 2005** at the Kickapoo Tribal Governmental offices located at the Kickapoo Village in Eagle Pass, Texas with a quorum being present. Each signatory below indicates the vote by circling the choice on Resolution **2005-080** as follows :


Juan Garza, Jr., Council Chairman

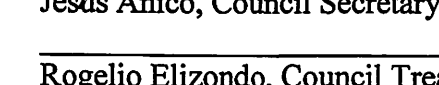
FOR / AGAINST

11/10/05
Date


Jesus Anico, Council Secretary

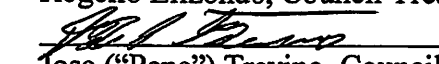
FOR / AGAINST

11/10/05
Date


Rogelio Elizondo, Council Treasurer

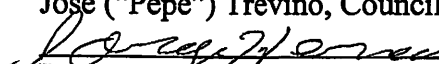
FOR / AGAINST

Date


Jose ("Pepe") Trevino, Council Member

FOR / AGAINST

11-10-05
Date


Jorge Hernandez, Council Member

FOR / AGAINST

11-10-05
Date