

ST. CROIX CHIPPEWA INDIANS OF WISCONSIN FAMILY CODE

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CHAPTER 600 – FAMILY COURT

Section 600.01 – Purpose

- (a) The purpose of the Family Code is to set forth the principles and procedures whereby the St. Croix Chippewa Indians of Wisconsin will act to protect the lives, health, security, and future of its children and families.
- (b) The purpose of the Family Court is to promote the restoration of children’s personal security and growth, and families’ and communities’ social harmony and peace, where the lives of children, families, and communities have been harmed.
- (c) The goal of the Family Court is to provide safety and security to every child, preferably in their own home or in another permanent home within a reasonable time. Reunification efforts shall be reviewed by the Court after six months and if the parent(s) are not making adequate progress toward reunification, alternative permanent placement options for the child shall be considered by the Court.

Section 600.02 – Definitions

For purposes of the Code, the following definitions shall apply:

- (a) “Affected persons” means the child who is the subject of a petition under this Code, the Tribe by the Child Welfare Director, tribal youth program or truancy officer, and the child’s parents, guardians, and custodians, including any extended family member deemed to be an affected person by the Child Welfare Director or by the Court.
- (b) “Child” means
 - (1) A person under 18 years of age who is a member of, or is eligible for membership in the St. Croix Chippewa Indians of Wisconsin and is the child of a member of the St. Croix Chippewa Indians of Wisconsin, whether or not resident or domiciled on the Reservation and whether or not the subject of a child welfare proceeding in any court, assuming this court has jurisdiction, or

- (2) A person under the age of 18 years of age of St. Croix Chippewa Indians of Wisconsin descent who is the child of a member of the St. Croix Chippewa Indians of Wisconsin, whether or not resident or domiciled on the Reservation and whether or not the subject of a child welfare proceeding in any court, assuming this court has jurisdiction, or
 - (3) A person under the age of 18 years of age of Indian descent who resides in the same household with any other child as defined in subsection (1), and whether or not the subject of a child welfare proceeding in any court, assuming this court has jurisdiction, or
 - (4) A person under the age of 18 years of age of Indian descent who resides on the reservation or trust lands of the Tribe, on tribally-owned property, or on tribally-operated fee land, and whether or not the subject of a child welfare proceeding in any court, assuming this court has jurisdiction, or
 - (5) In an ongoing truancy case, a person under the age of 21, who has failed to meet the requirements for a high school diploma or HSED, whichever occurs first.
- (c) “Child Welfare Director” means the director of the Indian Child Welfare Office of the St. Croix Chippewa Indians of Wisconsin, or his or her designee.
- (d) “Child welfare proceeding” means
- (1) Any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;
 - (2) Any action resulting in the termination of the parent-child relationship;
 - (3) Any temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement;
 - (4) Any permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption;
 - (5) Any child protective proceeding regarding any child who commits an act which but for the child’s age would be considered a criminal or delinquent act; or
 - (6) All delegated and inherent power held by the St. Croix tribal government applicable to child welfare proceedings.
 - (7) Such term or terms shall not include a placement based upon an award, in a divorce proceeding, paternity or other custody or family court placement proceeding, of custody or physical placement to one of the parents.

- (e) “Custodian” means a person having care and custody of child under any arrangement with the child’s parent or guardian or pursuant to order of court.
- (f) “Extended family” shall include persons over 18 years of age who are a child’s brother, sister, step-parent, aunt, uncle, first cousin, niece, nephew or any person of a proceeding generation as denoted by the prefix of grand, great or great-great.
- (g) “Family Code” or “Code” means chapter 600 through 606 of the St. Croix Tribal Court Code.
- (h) “Guardian” means a person appointed by any court to be the legal guardian of a child’s person.
- (i) “Incompetent adult” means a person 18 years of age or older who is for any cause mentally incompetent to take care of themselves and to manage their property.
- (j) “Law Enforcement Officer” includes any tribal, state, or county social worker or peace officer of any jurisdiction within the boundaries of the United States.
- (k) “Person with an interest in a child” means the child, if 14 years of age or over, the child’s parent, extended family member, guardian, custodian, appointed guardian ad litem, tribal juvenile justice worker, or the Child Welfare Director.
- (l) “Person with an interest in an incompetent adult” means the person’s parents, children, extended family member, and guardian, custodian, appointed guardian ad litem, St. Croix elder advocate or St. Croix Aging Unit Director.

Section 600.03 – Authority

These chapters 600 through 606 are created under Article V, §§ (1)(a) and (f), St. Croix Constitution.

Section 600.04 – Construction

- (a) The Code shall be liberally construed to effect the purposes stated in § 600.01.
- (b) This Code shall be interpreted to comport with the customs and traditions of the St. Croix Tribe. If the customs and traditions of the St. Croix Tribe are inconclusive in any matter, federal law and law of the State Wisconsin may be used for guidance.
- (c) Except as inconsistent with any provision of this Code, the provisions of Chapters I through V of the St. Croix Tribal Court Code shall apply to any proceeding initiated hereunder.
- (d) If any provision of this Chapter, or the application thereof, to any person is held invalid, such invalidity shall not affect the provisions or applications of this Chapter which can be given effect without the invalid provisions, and to this end the provisions of this Chapter are declared severable.

Section 600.05 – Family Court

- (a) There is hereby established a St. Croix Family Court exercising jurisdiction pursuant to this chapter.
- (b) The chief judge and any associate judges of the St. Croix Tribal Court shall serve as judges of the Family Court.
- (c) All proceedings in Family Court shall be designated as “In the interest of _____, a child”.
- (d) All petitions under this Code shall be filed with the Family Court, shall be made under oath, and shall include, if known, the child or incompetent adult’s name, date of birth, parents’ names and last known addresses, children of an incompetent adult’s name and last known addresses, and the names and addresses of all other affected persons, if known.
- (e) In the event that a proceeding is transferred to the Family Court from any other Court, the Family Court may require conformity with the substantive and procedural law of the Tribe, and shall permit amendment of pleadings and other actions necessary to effect jurisdiction over the child and to conform with this Code.
- (f) All hearings in the Family Court shall be to the Court without a jury and all hearings shall be closed to the public. All proceedings shall be recorded electronically, or verbatim by the tribal court clerk.
- (g) Notwithstanding any other rules of court, the Family Court may receive hearsay evidence when the declarant is a child or incompetent adult, provided that the evidence bears sufficient indicia of reliability.
- (h) All records of the Family Court shall be confidential and no person other than a party or a party’s representative shall have access to court records, absent permission of the Family Court.
- (i) Any proceeding may be conducted by telephone pursuant to sec. 311(D) of the Tribal Court Code. In addition, the judge presiding in a matter may in his or her discretion conduct a hearing from a remote location by telephone, in which some, all, or none of the parties are physically present in court under conditions set by the Court. At any stage of a proceeding under this Chapter a Judge may file any order with a facsimile or scanned signature.

Section 600.055 – Full faith and credit to other jurisdictions; Transfer of Jurisdiction

- (a) The Family Court, Child Welfare Director and other officials of the St. Croix tribal government shall grant the public acts, records and judicial proceedings of other entities applicable to Indian

Child welfare proceedings full faith and credit to the same extent such entities give full faith and credit to the public acts, records and judicial proceedings of the Tribe.

- (b) The Family Court may, upon petition and by order, accept jurisdiction over a case originally brought in another court. In determining whether to accept jurisdiction, the Family Court shall consider whether transfer will serve the best interests of the child, and the basis and justification of any party or person(s) who petitions for, or who objects to the transfer of jurisdiction. The Family Court shall issue an order within 30 days of the entry of the sending court's order transferring the case, either accepting or declining the case.
- (c) Upon accepting the transfer of the case, dispositional orders in effect when the case was transferred to the Family Court shall have the same effect as if they had been issued from the Family Court, regardless whether the Family Court would in fact have had the power to make the order. A hearing in the Family Court shall be immediately scheduled and held within 10 business days of acceptance of jurisdiction, with notice being provided to all parties. Regardless of the law of other jurisdictions, the Family Court shall review and may modify, extend, suspend or terminate any order issued in a transferred judicial proceeding pursuant to the provisions of this Code.
- (d) Nothing herein shall be construed to limit the exclusive jurisdiction of the tribe to make determinations of its own membership, and to make, through its duly designated procedures, all findings of fact necessary to such determinations.

Section 600.06 – Jurisdiction over Children in Need of Care

The Family Court shall have jurisdiction over a child upon a petition filed by any person with an interest in the child, as defined in § 600.02(k), alleging that the child is a child in need of care because of the existence of any of the conditions enumerated in § 602.01.

- (a) When exercising jurisdiction over any child who is not a member of the tribe, but who may be a member of another tribe, the court shall verify that notice was given to such other tribe, and that the tribe is afforded an opportunity to participate as a witness, to intervene as a party, or to file a motion seeking transfer of proceedings to the other tribe's court.

Section 600.07 – Additional Jurisdiction

In addition to jurisdiction granted by other sections of this Chapter, the Family Court shall have jurisdiction to:

- (a) Order a tribal or other law enforcement officer, or the Child Welfare Director, to take a child into custody pursuant to § 601.01(b) and take such other emergency action as required or authorized by Chapter 601. Tribal or other law enforcement agencies are authorized to release a child or children taken into custody to the Child Welfare Director or to the appropriate county child protection agency, for temporary placement;
- (b) Terminate the parental rights of a parent of a child pursuant to chapter 603;
- (c) Enter an order of adoption pursuant to chapter 604; or
- (d) Appoint a guardian for a child pursuant to chapter 605.

Section 600.08 – Jurisdiction over contributing adults

In addition to jurisdiction granted by other sections of the Chapter, the Family Court shall have jurisdiction over persons 18 years or older alleged to have contributed to, encouraged, or tended to cause, by act or omission, a condition of a child as described in § 602.01.

- (a) The Family Court may make orders in any case under this Code with respect to any person 18 years or older whom the court is satisfied by a preponderance of the evidence has contributed to, encouraged, or tended to cause, by any act or omission, a child to be a child in need of care, whether or not the child is actually adjudicated a child in need of care, if the natural and probable consequences of the act or failure to act would be to cause the child to be a child in need of care.
- (b) No order with respect to any person 18 years or older may be entered until the person is given an opportunity to be heard upon the allegation against him or her. Such person shall be served no less than ten (10) days prior to a hearing under this subsection with written notice of the time, place, and purpose of the hearing. A notice served upon a parent or guardian pursuant to § 601.04 or § 602.02 shall be sufficient notice as to the parent or guardian so served and any other parent or guardian residing at the same location. Any such person who fails to comply with any order issued by the Family Court under this subsection may be proceeded against for contempt of court.

Section 600.09 – Continuing jurisdiction

The Family Court shall have continuing jurisdiction, subject to sections 601.04 and 602.03, over a child who is determined to be subject to this Code and shall have the power to modify, extend, or dismiss

previous orders, expunge the child's records, or consider petitions based on new evidence concerning the child.

Section 600.10 – Child Welfare Director authority

The Child Welfare Director is an officer of the Family Court and has the authority set forth in § 606.02.

Section 600.11 – Precedence over family court orders

Whenever an order rendered under this Code conflicts with any custody, physical placement, or other family court order rendered by any court, the order under this Code shall take precedence.

Section 600.12 – Parties

- (a) In the absence of a specific provision in this code or a court order to the contrary, all affected persons, as defined in § 600.02(a) shall be parties to a Family Court proceeding held in the interest of a child. After a termination of parental rights, no parent whose rights have been terminated shall be entitled to notice of any further proceedings regarding the child, except as the court may deem appropriate.
- (b) The Court shall, in all proceedings under this Code, appoint a guardian ad litem to represent, for purposes of the proceeding, the interests of the child. Appointment shall be made upon filing of the petition, and the court may appoint an attorney or other adult whom the Court is satisfied is familiar with this Code and with the procedures of the Court, and will sincerely and competently represent the child's best interests. The guardian ad litem shall be compensated at a rate set by order of the Family Court.
- (c) The fees and cost of the guardian ad litem shall be subject to the approval of the Family Court. The Family Court may order an appropriate party to pay the guardian ad litem fees and costs or to reimburse the tribe for such fees and costs.
- (d) In all proceedings before the Court, the Child Welfare Director shall represent the interests of the St. Croix Tribe. The Child Welfare Director may be represented by the tribal attorney or other attorney appointed by the Tribe to represent its interests before the Family Court.
- (e) Any party to a proceeding under this Code may be represented by an attorney or lay spokesman or advocate at the party's own expense, provided the attorney or lay spokesman is admitted to practice before the St. Croix Tribal Court.

- (f) Upon a showing of good cause, and if the best interests of the child so indicate, the Court may order, allow, or invite persons other than affected persons to intervene and participate in any or all phases of this proceeding.

Section 600.13 – Discovery

- (a) Copies of all police officer reports, relevant to the proceeding under this Code, including all officers’ memoranda and witness statements, shall be made available by the tribal attorney or the Child Welfare Director upon request of a party, counsel for a party, or the child’s guardian ad litem prior to the initial hearing in any matter.
- (b) All records relating to a child which are relevant to a proceeding under this Code, and which are in the possession of the Indian child welfare office, shall be open to inspection by a guardian ad litem or counsel for a party, upon demand without release, unless privileged, unless release is required by federal law, or unless the records contain statements given under a promise of confidentiality, or contain material the non-disclosure of which is necessary to protect the interests of the child. If any records are not released to a requesting party, the reason shall be given to the party, who may ask the court to review the denial of the request, in which case the court may, in its discretion, view the records in camera in order to decide whether to order the records released. Any party not represented by counsel may have access to records upon order of the court, which may be entered ex parte. Persons entitled to inspect records may obtain copies of them at their expense upon permission of the custodian of the records or the court. The court may require counsel or parties not to disclose material contained in the records to any other person if the court reasonably believes such disclosure would be harmful to the child.
- (c) Counsel and guardian ad litem shall have the right to view any videotaped oral statement of the child upon reasonable notice.

Section 600.14 – Psychological and other examinations

The Court may, in any proceeding under this Code, order any child and the child’s parents, guardians, or custodians, to submit to a psychological evaluation, a developmental examination, or to a drug and alcohol abuse evaluation, if the court reasonably believes that any condition that may be illuminated by such an examination would assist in the adjudication or disposition of the case. The costs to any affected person of any such exam, if approved by the court, shall be paid by the Tribe, if the costs are not covered by a third-party payor.

Section 600.15 – Parental contributions

Upon the Court’s determination of any parent or guardian’s ability to make a financial contribution, any parent or guardian may be ordered to contribute to the costs of services rendered to any child or any child’s parent under authority of this Code or any Court order entered under this Code, including the costs of recommended psychological, chemical health or other services. Parents and guardians may be ordered to obtain and maintain insurance to defray the costs of care and/or services. If parties are determined to be unable to afford needed services, the costs of services to tribal members may be paid by the tribe.

Section 600.16 – Informal disposition

Upon referral of any child who is or may be a child in need of care under § 602.01, the Child Welfare Director may investigate the circumstances, counsel the child, discuss the situation with the parents or guardians, arrange for services to be voluntarily accepted by the child or parents, or institute any other informal, voluntary arrangements designed to further the best interest of the child. At any time that the Child Welfare Director deems it appropriate, proceedings may be instituted consistent with this Code.

Section 600.17 – Accelerated proceedings

Notwithstanding any other provision of this Code, the Family Court may, upon proper notice or waiver of notice, accelerate and combine any of the hearings provided for in Chapter 601 (emergency custody hearing) or 602 (initial, adjudicatory, and dispositional hearings in child in need of care cases). The Court may require the accelerated preparation of any court report required by either chapter or may waive the reports, except that any report required as a prerequisite to an out-of-home placement may not be waived.

Section 600.18 – Time limits

All time periods prescribed by this Code are mandatory but are not jurisdictional. Any time period may be extended by the court on its own motion or on motion of a party for good cause shown, including the time requirement of § 601.04. Good cause shall be determined by the Court, and may be found when significant circumstances beyond the control of a party arise, such as severe weather or hospitalization, when the Community Center is closed for any reason, or whenever the Court determines that an extension will serve the best interests of the child.

Section 600.19 – Service fees

Any third party serving any notice or other pleading or paper under this Code may charge a service fee and mileage as set by the federal government. The court in its discretion may assess any personal or mail service charges against any party.

Section 600.20 – Notices to foster parents

When any child has been placed out of the home, copies of all notices shall be provided to the foster placement at the same time as they are provided to the parties. The notices are for information only and do not require the appearance of the foster placement at any hearing unless specifically stated, and do not confer party status on the placement.

CHAPTER 601 – EMERGENCY CUSTODY

Section 601.01 – Taking a child into custody

- (a) Any law enforcement officer, the Child Welfare Director or child welfare worker may take a child into custody under circumstances in which the officer, director, or worker reasonably believes:
- (1) The child has run away from his or her parents, guardians, or custodians.
 - (2) The child is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from these surroundings is necessary.
 - (3) The child will cause injury to self or another, to the property of another, will be or has been subject to injury by another, or another child living or staying in the same household will be or has been subject to injury by another.
 - (4) The child's parent, guardian or custodian is unavailable, unwilling, or unable to provide necessary supervision or care such that the child's safety or well-being, or the safety or well-being of another child living or staying in the same household is at imminent risk.
 - (5) The child will run away or be taken away so as to be unavailable for convenient further Family Court proceedings.
 - (6) Emergency custody of the child would be permitted under the law of the state where the child is physically found.
- (b) Any law enforcement officer or the Child Welfare Director shall take a child into custody upon written order of the Family Court, which may be entered upon a verified petition showing that the welfare of the child demands the child's immediate removal from his or her present

placement or custody. A petition for an order to take a child into custody may only be filed by the Child Welfare Director.

- (c) Any person taking a child into custody under this section shall immediately attempt to notify the parent, guardian or custodian that the child has been taken into custody and how to contact the Child Welfare Director or worker, by the most practical means, and shall continue to reasonably make such attempts until notification is made. Any law enforcement officer acting under this section shall also immediately attempt to notify the Child Welfare Director or any child welfare worker, by telephone or personal communication. If the child is physically transferred to the Child Welfare Director, the director shall thereafter continue notification attempts until notification is made. The person notifying the parent, guardian, or custodian, need not inform such person of the location of the child if the notifying person reasonably believes that providing such information will imminently endanger the child.
- (d) If the person taking a child into custody, or the Child Welfare Director, believes the child to be in need of prompt medical diagnosis or treatment, that person shall deliver the child to a hospital or physician, for that purpose, and may consent to emergency or urgent care of the child.
- (e) The agency taking a child into custody shall thereafter have the authority to make all decisions regarding the care and well-being of the child until the child is released from custody under §601.02 or by order of the court, unless custody is transferred to the Child Welfare Director, in which case such authority shall transfer therewith. The agency taking a child into custody or the Child Welfare Director retains custody during any placement made under §§ 601.03(b) or (c).

Section 601.02 – Release from custody

- (a) Any child taken into custody shall be released as soon as it is possible to do so, while protecting the child from the conditions causing the taking into custody.
- (b) The person taking a child into custody, or the Child Welfare Director or worker, shall attempt to immediately release the child to his or her parent, guardian, or custodian, unless such release is not in the child's best interests, or if the parent, guardian, or custodian is unwilling or unable to receive such child. If a child may not be released to a parent or guardian, the child may be released to a responsible adult as determined by the Child Welfare Director or worker, with suitable counsel, advice, or warning, in which case the name and address of the person to whom the child has been released shall be immediately given to the parent, guardian, or custodian if such disclosure is deemed appropriate by the Child Welfare Director or worker. If the procedure

given in §§ 601.03, 601.04 and 602.03(a) is not followed, the child's parent, guardian, or custodian shall have a right upon court order to exercise custody and supervision over the child.

Section 601.03 – Holding a child in custody

- (a) A child may be held in custody if the Child Welfare Director or worker has probable cause to believe that any or the conditions enumerated in §§ 601.01(a) or (b) exists.
- (b) A child may be held in custody in any of the following places:
 - (1) The home of a parent or guardian;
 - (2) The home of a relative;
 - (3) The home of a custodian;
 - (4) The home of another responsible adult;
 - (5) A licensed foster home provided the placement does not violate the terms of the license;
 - (6) A licensed group home provided the placement does not violate the terms of the license;
 - (7) A non-secure facility operated by a child welfare agency;
 - (8) A hospital or physician's office; or
 - (9) A drug or alcohol treatment facility.
- (c) The Child Welfare Director shall immediately notify the child's parent, guardian, or custodian that the child is in custody, the reasons for the custody, and the location of the child, if the Child Welfare Director deems such disclosure to be safe and appropriate for the child.

Section 601.04 – Hearing for child in custody

- (a) For any child who has been taken into custody and not released under § 601.02, a hearing shall be held to determine whether the criteria exist under §§ 601.01 to 601.03 to continue holding the child in custody. The hearing shall be held within 48 hours of the time the child is taken into custody, excluding Saturday, Sundays, and holidays, unless extended by the Court for good cause pursuant to § 600.18. For purposes of this section, the business day runs from 9:00 a.m. until 4:00 p.m. If the child has been taken into custody by another agency, the 48 hour time period shall run from the time that St. Croix Indian Child Welfare is notified of the placement. A petition under § 602.02 or a motion under § 602.06 shall be filed before or at the hearing. All reasonable steps shall be taken to notify the child's parents, guardian, and custodian of the hearing. If the parent, guardian, or custodian does not receive actual notice, he or she may later

request a rehearing by right if the child is still under the court's jurisdiction or the issue is not otherwise moot.

- (b) If, within the time provided by §601.04(a), no hearing is held, no petition under §602.02 or motion under § 602.06 is filed, the child shall be released from custody, unless the court finds either ex parte or at a post-deadline hearing that probable cause exists to believe that the child is in imminent danger to self or another, or that the child's parent, guardian, or custodian is unwilling or unable to provide adequate supervision and care, in which case one 48 hour extension may be granted during which time the child shall remain in custody pending the filing of a petition. Ex parte findings of probable cause shall be considered, and an opportunity to present oral and written evidence and argument shall be provided, by right, if any affected person requests reconsideration or hearing.
- (c) The hearing required under this section may be waived by the child's parents, guardians, or legal custodians or, if the child is over 14, by the joint waiver of the above and of the child. If a guardian ad litem is subsequently appointed for the child, or if an unrepresented parent, guardian, or legal custodian subsequently retains counsel, such waiver may be subsequently withdrawn and a hearing demanded. If a hearing under this section is demanded, it shall be held immediately; if a hearing under this section is waived, such waiver shall constitute consent to the temporary placement.
- (d) The Court shall consider appointment of a guardian ad litem at the hearing.
- (e) A copy of the notice of hearing under this chapter and the petition under chapter 602 shall be served by the Court on the child's parent, guardian, or legal custodian, and to the child if 14 or older, as soon as practicable, and in no case later than the commencement of the hearing. If deemed necessary by the Court, tribal law enforcement shall serve the notice and petition on the parent, guardian, legal custodian and/or the child as requested by the Court. Proofs of service shall be filed with the Court prior to, or at the time of the hearing.
- (f) At the commencement of the hearing, the court shall advise the child, and the parents, guardians, or custodians, of the allegations made, the possible consequences of the hearing, the right to counsel at a party's own expense, the right to confront and cross-examine witnesses, the right to present witnesses, and the right under subsection (h), below.
- (g) If the court finds by a preponderance of the evidence that one or more of the conditions enumerated in § 601.01 (a) or (b) exists, it may continue custody in any of the placements enumerated in § 601.03(b). The Court shall direct that a physical examination of the child be

conducted within 3-5 business days by the tribal health department and that a report of such examination be filed with the Court immediately; the Court may also impose reasonable restrictions on the child's travel, association with other persons, or places of abode, and may assign the child to the supervision of the St. Croix Indian Child Welfare Department. Reasonable restrictions may be placed upon the conduct of the parents, guardians, custodians, or other responsible adults as necessary to secure the safety and well-being of the child. Any order entered under this section shall be reduced to writing within ten days thereof.

- (h) Any order under this section shall be subject to rehearing for good cause. Any unrepresented parent, guardian or legal custodian may demand a rehearing as of right if counsel is subsequently obtained.

CHAPTER 602 - CHILD IN NEED OF CARE PROCEEDINGS

Section 602.01 – Jurisdiction

The Family Court shall have jurisdiction over a child upon a petition filed by Child Welfare Director or any person with an interest in the child, as defined in § 600.02(k), alleging that the child is in need of care because of the existence of any of the following conditions at the time of the petition or immediately prior thereto:

- (a) The child, or another child living or staying in the same household, is exposed to unsafe conditions, or is the victim of, or is in danger of physical, sexual, or emotional harm by other than accidental means. Unsafe conditions may be found due to the presence of controlled substances, criminal activity or significant neglect of a child.
- (b) The child, or another child living or staying in the same household, is or may be deprived of necessary custodial, medical, or other care.
- (c) The child has been abandoned by identified or unidentified parents, unless provision for necessary custodial, medical, and other care has been satisfactorily arranged and maintained.
- (d) The child is habitually absent from home without permission of the parent, guardian or custodian.
- (e) The child is habitually truant from school.
- (f) The child's parent, court-appointed guardian, or custodian signs a petition alleging that he or she is unable to fulfill the parental role to provide necessary custodial care or make appropriate

provision for the child's special custodial, medical or other specified needs after consultation with the Child Welfare Director.

- (g) The child's parent has failed to maintain an appropriate parental role or has failed to maintain significant contact with the child for a period of one year.
- (h) The child has been placed for care or adoption in violation of law.
- (i) The child is without a parent, guardian or legal custodian.
- (j) The child is receiving inadequate care during the period of time a parent is missing, incarcerated, hospitalized, or institutionalized.
- (k) The child is suffering from alcohol or other drug abuse, for which the parent is unwilling or unable to provide appropriate treatment.
- (l) The child would be a child in need of care, protection, or services under the law of the state where the child is physically found.
- (m) The child is failing to make adequate progress toward school promotion or graduation.
- (n) The child is the subject of a child custody proceeding that has been transferred to the tribal court by any other court of competent jurisdiction.
- (o) The child's mother is a member of the tribe who is reported to use illicit drugs or abuse alcohol during pregnancy. In the event that the Indian Child Welfare department receives a report of unborn child abuse under this section, such report shall immediately be referred to the county child protection department of the mother's county of residence, and the Indian child welfare department shall actively participate in any intervention until the child is born. If the child requires out-of-home placement at birth, the tribe may consider whether to seek transfer of jurisdiction at that time.

Section 602.02 – Petition and notice of hearing

- (a) Any petition under this chapter shall be filed with the Family Court, shall be made under oath, and shall include the following information if known: child's name, date of birth, parents' names, child's parents' last known addresses, and the names and addresses of all other affected persons or persons with an interest in the child. The petition shall be signed by a person with an interest in the child or by the Indian Child Welfare Director or their designee
- (b) Any petition filed under this section shall cite the specific subsection of § 602.01 upon which the petitioner alleges jurisdiction, and shall allege the specific facts upon which the petitioner

asserts jurisdiction exists. No petition shall be sufficient if it merely reiterates the language of the subsection invoked.

- (c) Upon the filing of a petition, the clerk of court shall prepare a notice which shall include notice of the time, date and place of the initial hearing, and shall instruct any affected person that his or her rights and responsibilities may be affected by the court in the course of the proceedings.
- (d) No petition filed by the Child Welfare Director shall be deemed insufficient on account of hearsay, provided that there is a sufficient indication in the petition of the declarant's reliability.
- (e) Each petition filed with the clerk of court, along with the notice prepared by the clerk of court, shall be served personally or by registered mail, return receipt requested, on all affected persons. If any affected person cannot be served as provided herein, the Petitioner shall request an order for service by publication. The clerk of court shall serve the parties on behalf of the petitioner.
- (f) All affected persons whose identity and address can be ascertained through reasonable efforts by the Indian Child Welfare Director must be given notice of the petition and initial hearing. Notice of the petition is sufficient if actual notice, written or oral, is given to an affected person, or if, no less than 24 hours before the initial hearing, written notice is left in a conspicuous place at the affected person's home, or when notice is given by publication. Appearance by any affected person waives any deficiencies in notice as to the person.
 - (1) In the case of a non-martial child, the petition shall be served on any man whose paternity has been adjudicated, or who has filed a declaration of paternal interest, or who is alleged in any paternity action to be the father, unless the child was conceived as a result of sexual assault. If an individual claiming paternity appears, the court may make an interim disposition pending a paternity determination or may make any other orders fashioned to serve the best interest of the child.
 - (2) In the event an affected person who was not personally served does not appear at the initial hearing, the court may proceed with the hearing or order a continuance, and may order the person be served personally or by certified mail, return receipt requested. The Court may proceed in the absence of notice to an affected person if it appears that actual service cannot practicably be made.

Section 602.03 – Initial Hearing

- (a) Upon filing a petition, the court shall schedule an initial hearing. The hearing shall be scheduled within ten days of the date of the filing of the petition in the case of a child held in custody, and within 30 days of the date of the filing of the petition in all other cases. All affected persons appearing at the initial hearing shall be served notice of subsequent hearings, either orally in court on the record or by first class mail or by personal service. The court may order additional persons to be served.
- (b) Any affected person has the right to be heard and represented at a hearing by counsel at his or her own expense. The court shall determine, on a case by case basis, whether appointment of a guardian ad litem for any child who is subject of a petition is necessary. The court may, on its own motion or that of any party, appoint a guardian ad litem for any minor parent, guardian, or custodian of a child subject of a petition.
- (c) At the initial hearing, or immediately thereafter in a written notice, the Court shall inform the child, parent, guardian or custodian of their rights as follows:
- (1) The right to remain silent, although the silence may be considered adversely against the party remaining silent;
 - (2) The right to confront and cross-examine witnesses;
 - (3) The right to an attorney or lay representative at the party's own expense;
 - (4) The right to subpoena and present witnesses;
 - (5) The right to have the allegations of the petition proven by clear and convincing evidence;
 - (6) The right to demand for cause, or pursuant to § 104(A)(1), a substitution of judge, which if not made before the close of the initial hearing is deemed waived. "For cause" means that the party is able to prove specific facts that demonstrate the Judge is actually biased against the party, and that the party cannot have a fair hearing unless a different Judge is assigned. A motion for a substitute Judge shall be determined initially by the sitting Judge who shall issue an Order containing findings of fact in support of the decision. If the motion is denied, the party may seek review of the Court's decision within 24 hours of service of the Order by filing a written request with the clerk of court; any other judge of the St. Croix court may review the finding and decision and such review shall be final; and
 - (7) Notice that permanency options other than reunification will be considered by the Court, including possible termination of parental rights, if parents, guardians or custodians are

unable or unwilling to make necessary changes or progress that would enable them to provide care for their child.

- (d) The child and the non-petitioning parties shall state whether they intend to contest the allegations of the petition.
- (e) If no party intends to contest the allegations of the petition, the court shall set a date for a dispositional hearing no later than 30 days from the date of the initial hearing. If all parties consent, the court may proceed immediately with the dispositional hearing.
- (f) If the petition is contested, the court shall set a date for an adjudicatory hearing (trial) no later than 20 days from the date of the initial hearing, unless this time limit is waived by the parties and approved by the court.
- (g) The court may inform the parties of any alternative dispute resolution methods that may be available, including mediation or peacemaking, or a party may propose another method at the court's discretion. If all parties consent to attempt an alternative dispute resolution, the court shall continue the initial hearing for a reasonable period of time to give the parties an opportunity to address the issues without formal court intervention or without contested litigation.
- (h) Unless the petition is dismissed, the Court shall inform the parent(s) or custodian(s) of the need to take corrective action to address the allegations of the petition and shall order the Child Welfare Director to meet with the parent or custodian to develop a written case plan within 14 days of the Initial hearing that specifies the actions necessary to correct the conditions that brought the matter before the court. Any disagreements among the parties regarding what should be required in the case plan shall be resolved by the Court; the Child Welfare Director shall work with the parties to facilitate compliance with the plan, with the goals of the plan being to meet the needs of the children and family, and to reunite children with their families or to allow them to remain safely within their own homes, whenever possible.

Section 602.04 – Adjudicatory Hearing (Trial)

- (a) At the adjudicatory hearing (trial) the court shall determine whether the allegations of the petition have been proved by clear and convincing evidence. In the event the petition is proved or admitted, the court shall schedule a dispositional hearing no later than 14 days from the date of the adjudicatory hearing (trial) unless such time limit is waived by all parties and approved by

the Judge. If all parties consent, the court may proceed immediately to the dispositional hearing.

- (b) The court may order its jurisdiction over the child to extend for any period of time; the orders of the court are effective from the moment they are announced on the record, and shall continue in effect until further Order of the Court.

Section 602.05 – Dispositional Hearing

- (a) At any stage of a proceeding under this chapter the court may order temporary disposition for the child. Such an order may include any disposition authorized by § 602.05(d).
- (b) Upon entry of an adjudication order, the court shall determine the disposition appropriate for the child. The child welfare department and the petitioning party if other than the Child Welfare Director, shall submit reports to the court summarizing the child’s personal history, the circumstances leading to the petition, the resources available and suitable to the child and family, the disposition recommended, and the rationale for the disposition. The report shall specify how the disposition is related to the circumstances leading to the petition and the role any affected person is expected to play in the removal of such circumstances in the future. Any other party may submit such a report.
 - (1) All such reports shall be filed with the court and served on the parent, custodian or legal guardian, tribal attorney and guardian ad litem by the person offering the report no later than five (5) days prior to the dispositional hearing; service on any represented party may be made on the attorney of record.
 - (2) Any party requesting out-of-home placement of a child shall submit to the court, and distribute as provided in subsection 602.05(b), above, a report enumerating the attempts made to prevent an out-of-home placement, and a statement describing the efforts that will be made to make it possible for the child to return home.
- (c) In considering an appropriate disposition, the court may consider any or all of the following best interest factors:
 - (1) Special physical, intellectual, or emotional needs of the child;
 - (2) Social, cultural, or religious tradition of the child, the child’s family, or the Tribe;
 - (3) Availability of resources within the child’s extended family;
 - (4) The child’s preference, if the child is over 14 years of age, and the recommendation of the guardian ad litem;

- (5) The recommendation of the Child Welfare Director or any person with an interest in the child;
 - (6) Recommendations of professionals experienced in services to children;
 - (7) The mental or physical health of any party or other person living in the home, if it affects the child's physical, intellectual or emotional well-being;
 - (8) The bonds and relationships that the child has with parents, caregivers, relatives and others,
 - (9) The cooperation and willingness of the parties to engage in rehabilitative activities, or to make other necessary changes to promote the well-being of the child; or
 - (10) Any other factors calculated to meet the needs of the individual child and purposes of this chapter.
- (d) The Court may order disposition in any or all of the following ways:
- (1) Counsel the child or the parent, guardian, or custodian.
 - (2) Remand the child to the custody of a parent, guardian, custodian, or other responsible relative in the child's home, with supervision of the child by the Child Welfare Director and reasonable rules of conduct by the child and the parent, guardian, custodian, or other responsible relative.
 - (3) Require participation of the child and/or parent, guardian or custodian in a specified counseling, treatment, or educational program, which may include use of traditional or culturally appropriate services or activities.
 - (4) Removal of the child from the home and/or placement with a member of the child's extended family, a tribal member licensed foster home, a licensed Indian foster home, an institution for children approved by the Tribe, or any other foster home.
 - (5) Participation of the child and/or parent, guardian or custodian in inpatient or outpatient alcohol, drug, or mental health treatment for specified purposes.
 - (6) Any other disposition calculated to provide for physical, mental emotional, or developmental needs of the child, or to rehabilitate the parent, guardian or custodian of the child.
 - (7) Such order may also provide for visitation by parties or extended family members as appropriate.
 - (8) Authority to grant consents and to exercise other attributes of guardianship may be assigned.

- a. Unless otherwise ordered by the court, the parent or parents with legal custody of a child retain the right to exercise all attributes of guardianship, subject to any foster parent's right to control the day-to-day activities of the child, and to execute consents for daily school activities, not including overnight activities for more than one night.
 - b. The Indian Child Welfare Director may be granted specific attributes of guardianship, including but not limited to the right to consent to medical treatment and educational services. When a child has been taken into custody under chapter 601 (emergency custody) the Indian Child Welfare Director may consent to necessary medical or other treatment without court order.
- (e) If an out-of-home placement is ordered, the court shall make specific findings of fact:
- (1) Any party to a proceeding under this chapter may seek and the court on its own motion may direct the Child Welfare Director to seek enforcement of any court order in any other appropriate court.
 - (2) The court on its own motion may waive, and any party to a proceeding under this chapter may, by motion and for good cause shown, seek a transfer of continuing jurisdiction over a child and refer the case to any other court having jurisdiction in such a case. The court shall retain jurisdiction unless the case is affirmatively accepted by another court.
 - (3) In any out-of-home placement of a child, the court shall make findings based on sufficient evidence that services designed to prevent the necessity of out-of-home placement are appropriate and available and have been offered. This shall not require any petitioning party to prove that services that are either not appropriate or not available through or from the Tribe have been offered, attempted, or rejected.
 - (4) In any out-of-home placement of a child, the court shall consider and make findings that reasonable efforts were made to prevent out-of-home placement and that continuance of the child in the child's home would be contrary to the child's welfare, and shall further make findings on the availability or appropriateness of custodial care within the child's extended family or with tribal members before ordering a placement in any other home or facility.
 - (5) Whenever the court orders a child to be placed outside the home, the court shall, at such time as the court determines the parent(s), guardian or custodian are not making adequate progress toward reunification, orally inform the parent(s), guardian or custodian(s) who appear in court of any ground for termination of parental rights under chapter 603 that may

be applicable; the court shall include in the written order a notice to the parents that termination of parental rights is a possible consequence.

- (6) Whenever the court orders a child to be placed outside the home, the court shall order reasonable efforts, as appropriate, to be made to return the child home.
- (7) Whenever the court orders a child to be placed outside the home, the court shall make the determination or referral for parental contributions to cost of care required under §600.15.
- (8) Change of Placement. Whenever the court orders a child to be placed outside the home, the Indian Child Welfare Director may change the placement without filing a motion for modification under § 602.06 under the following conditions:

- (a) If a change of placement is necessary, the Indian Child Welfare Director shall file a Request for Change of Placement with the court, which must be approved by the court. The clerk shall send to all parties, including the parent(s), guardian or custodian of the child, the tribal attorney and guardian ad litem, by fax, first class mail or hand-delivery, notice of the change of placement, giving the name and address of the current placement and the proposed new placement (unless confidential), the reason for the change, and a statement whether the new placement represents any change in the family or tribal member status of the placement or the level of restrictiveness of the placement. The notice shall further advise the recipients that any party objecting to the change may file with the court and serve on the parties notice of objection within ten days of the date of the notice of the proposed change of placement. If any such objection is filed the clerk of court shall promptly schedule a hearing on the matter.

- (b) If the Indian Child Welfare Department (ICW) has been granted discretion to change placements, a change of placement need not be approved by the court before the change can take place, but notice must be provided to the court and parties within a reasonable time.

Section 602.06 – Extensions and Modifications

Upon motion by any person with an interest in the child who was a party to the original proceedings or the Child Welfare Director, the Court may, for good cause shown, extend or a dispositional order any time during the effective period of the order sought to be modified. Such motion shall be filed with the court with copies served on all affected persons who were parties to the original proceedings, the Child

Welfare Director, the tribal attorney and the guardian ad litem, except that the court may order additional parties served. Service may be made by first class mail. The motion shall be filed and served together with a notice of hearing on the motion. The hearing so noticed will be on the merits of the motion unless the court otherwise orders. To assist the court, parties and guardian ad litem must prepare, file and serve and distribute court reports or affidavits that outline the facts relative to their motion.

Section 602.07 – Permanency Planning

- (a) The Child Welfare Director shall prepare a permanency plan in every case where an out-of-home placement is ordered, and shall file the plan within 60 days of the date on which the child was first held in physical custody or placed outside the home by the court. Copies shall be sent to the child if over 14 years of age, parent(s), guardian or custodian, foster parents, Child Welfare Director, tribal attorney and guardian ad litem, and any other individuals named as affected persons at §600.02(a).
- (b) The plan shall describe the following:
 - (1) The services offered to prevent out of home placement and/or to facilitate the child’s return to home.
 - (2) The basis for the decision to hold the child in custody or to place out of home.
 - (3) The current and future planned location and types of placement for the child.
 - (4) If the child is placed more than 60 miles from the child’s home, documentation that a closer placement is either unavailable or inappropriate.
 - (5) The appropriateness of the services provided to meet the needs of the child and the family, including a discussion of services that have been considered but are not available, or not likely to become available, or are not being offered and an explanation.
 - (6) The services that will be offered to carry out the dispositional order; to insure proper care and treatment of the child and to promote stability in the placement; to meet the child’s physical, social, emotional, educational, and vocational needs; and to facilitate return of the child to home or to obtain an alternative permanent placement.
 - (7) The conditions, if any, upon which the child will be returned to home, including any changes required in the conduct of the parents or guardians, the conduct of the child, or the nature of the home.
 - (8) The immunization records of the child.

- (9) The visitation plan that has been arranged with the parent and other affected persons.
- (c) The Court shall review the permanency plan 90 days after the child is placed out of the home if the parent is not engaged with services or not making adequate efforts to address the issues that resulted in the placement; otherwise, the Court shall review the permanency plan every 6 months from the first date on which the child was held in physical custody or placed outside the home, and shall provide notice to the parties in an order. The Court shall include notice of the date and time of the permanency review hearing, and that the parties may participate in the review hearing.
- (d) At the plan review hearing the court shall determine the following:
- (1) The continuing necessity or appropriateness of the placement.
 - (2) The extent of compliance with the plan by the Child Welfare Director, other service providers, the child's parents or guardians, and the child.
 - (3) The extent of efforts to involve other service providers to meet any special needs of the child or family.
 - (4) The progress toward eliminating the causes for the out of home placement and toward returning the child home or to another permanent placement.
 - (5) The date by which it is likely the child will be returned home, placed for adoption, placed under legal guardianship, or otherwise permanently placed.
 - (6) Whether reasonable efforts have been made by the agency to make it possible to return the child home.
 - (7) If the child has been placed out of home for six months or more, the appropriateness of the permanency plan and the circumstances which prevent the child from:
 - a. Being returned home,
 - b. Having a termination of parental rights petition filed,
 - c. Being placed for adoption, or
 - d. Being placed in other permanent care.
- (e) The court shall issue an order that includes the determinations made under (d) of this section, and shall provide copies to the parents or guardians, the child if over 14 years of age, the foster parents, the Child Welfare Director, the tribal attorney, and the guardian ad litem. Any party named in this paragraph may, and the Child Welfare Director shall, move the court for any appropriate modifications in the dispositional order based on the plan review.

Section 602.08 – Continuance of Hearings

Upon written motion by any person with an interest in the child who was a party to the original proceedings or the Child Welfare Director, filed and served at least 48 hours prior to the hearing, the Court may, for good cause shown, continue any hearing for a reasonable period of time, except that there may only be one 48 hour continuance of the Initial hearing. The motion shall include a sworn statement of facts or shall be supported by an affidavit establishing the reasons for the request, and shall be accompanied by an affidavit of service. The court shall determine whether to grant the continuance and shall so inform the parties as soon as possible after receiving the motion.

CHAPTER 603 – TERMINATION OF PARENTAL RIGHTS

Section 603.01 – Effect of termination; petition and hearing required

- (a) Termination of parental rights means that, pursuant to court order, all rights, powers, privileges, immunities, duties, and obligations existing between parent and child are permanently severed; however, tribal membership, rights, privileges, entitlements, or obligations shall not be affected by such termination.
- (b) Termination of parental rights may be ordered where a petition is filed that clearly states that the petitioner is seeking an order of termination of parental rights, and where the mother and father have been summoned to appear before the Family Court. The parental rights of a non-adjudicated or unacknowledged father may be terminated after service of the summons and petition as provided in §§ 603.06(a) and (b) on all persons named by the mother as the possible father or, in the case of an unknown father, after publication of the notice as provided in § 603.06(b). If any individual appears claiming paternity and contesting the termination of rights, the individual shall be given reasonable time to establish paternity at his own cost before the court considers the termination of the individual's parental rights.

Section 603.02 – Petition for voluntary or involuntary termination.

- (a) A petition for termination of parental rights may only be filed by a child's parent, guardian or custodian, or by the Child Welfare Director.
- (b) The petition commencing a proceeding for termination of parental rights shall set forth the following facts:
 - (1) The name, birth date, and address of the child or children,

- (2) The names, birth dates, and addresses of the child’s parents, the names and addresses of any guardian or custodian, and the names and addresses of the parent or guardian of any minor parent, and
 - (3) A statement that consent(s) to termination of parental rights will be given as provided by this chapter, or a statement that consent will not be given, a statement of the specific grounds for involuntary termination under this chapter, and a statement of facts which petitioner alleges establish the grounds.
- (c) The Court shall appoint a guardian ad litem for the child, and legal counsel for any minor parent, in all proceedings for termination of parental rights.

Section 603.03 – Summons

A summons shall be prepared by the court clerk and filed with the petition, and shall set forth the following:

- (a) The name and birth date of the child,
- (b) The nature, location, date, and time of the initial hearing,
- (c) Notice that the party summoned has the right to legal counsel at the party’s own expense,
- (d) Notice that failure to respond or appear at the hearing may result in a termination of the party’s parental rights, and
- (e) Name of petitioner, and name, address, and phone number of petitioner’s attorney or lay representative, if any, or of the petitioner if unrepresented.

Section 603.04 – Service of summons and petition.

- (a) The court shall cause the summons and petition to be served on the parent or parents of the child; any person who may, based on statements of the person or the mother, be the father of the child; the guardian, guardian ad litem, except that no summons and petition need be served on any person who may be the father of a child conceived as a result of sexual assault.
- (b) The summons and petition shall be served personally or by certified mail, return receipt requested, with delivery restricted to the addressee, no less than seven days prior to the initial hearing. If personal service or service by mail cannot with reasonable diligence be accomplished, service may be made by publication one time in a newspaper likely to give notice to the party, together with mailing of the summons and petition to the party’s last known address. The published notice shall contain the following information:

- (1) The name of the party or parties to whom notice is given,
 - (2) The former address of the party or parties,
 - (3) The approximate date and place of conception of the child,
 - (4) The date and place of the birth of the child,
 - (5) The notice shall not include the name of the mother unless the mother consents. The notice shall not include the name of the child unless the court finds that inclusion is essential to give effective notice to the father,
 - (6) Notice that the parental rights of any parent or alleged parent who fails to appear may be terminated,
 - (7) Notice that any party has the right to representation by counsel at his or her own expense.
- (c) Upon motion of petitioner, the court may waive constructive notice to any person whose identity is unknown but may be the father of the child if such notice appears unlikely to give the father effective notice.

Section 603.05 – Grounds for involuntary termination

Termination of parental rights may be ordered only in cases where the court finds that one or more of the following grounds exists, and that termination of parental rights is in the best interests of the child:

- (a) Abandonment.
- (1) The child has been left without provision for care or support and without reasonable expectation that a relative or other person would care for and support the child.
 - (2) The child has been left by the parent with a relative or other person, or could reasonably expect that a relative or other person would provide for the child's care and support and the parent has failed to visit or communicate with the child for six months or longer.
 - (3) The child has been placed outside the parent's home by the order of a court of competent jurisdiction issued in a proceeding whereby the parent received either an oral or written warning that their parental rights may be terminated in subsequent proceedings and the parent has failed to visit or communicate with the child for six months or longer.
- (b) Failure to remedy condition.
- (1) The child has been under the jurisdiction of court or courts of competent jurisdiction for at least one year and the parent has made no progress in remedying the conditions requiring jurisdiction.

(2) The child has been under the jurisdiction of a court or courts of competent jurisdiction for at least two years and it is unlikely that the parent will remedy the conditions requiring jurisdiction.

(c) Abuse.

The child is under the jurisdiction of the court pursuant to sec. 602.01 (a) and the Court finds that the facts establishing jurisdiction show a pattern of repeated or severe abuse.

(d) Continuing denial of periods of physical placement.

The parent has been denied all periods of physical placement or visitation rights by a court or courts of competent jurisdiction for a period of at least one year, and there is no currently pending action to modify the parent's physical placement or visitation rights in a court of competent jurisdiction.

(e) Failure to assume parental responsibility.

The parent has failed to establish a substantial parental relationship with the child, which means the acceptance and exercise of significant responsibilities for the daily supervision, education, protection, and care of a child, as evidenced by factors including but not limited to whether the parent has ever expressed concern for or interest in the support, care, or well-being of the child and whether the parent has neglected or refused to provide support.

(f) Other.

The parent's parental rights could be terminated under the law of the state where the child is physically found.

Section 603.06 – Method for giving consent to voluntary termination.

The court may terminate the parental rights of a parent who has given his or her informed, voluntary consent by one of the methods provided in this section.

- (a) The parent appears personally at a hearing on the record and gives his or her consent in writing, the court explains the effect of a termination of parental rights, the court has questioned the parent and found to its satisfaction that the consent is informed and voluntary, and the consent is accompanied by the judge's written certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent. The court shall also certify that either the parent fully understood the explanation in English or that it was interpreted into a language that the parent understood.

- (b) If the personal appearance of the parent before the court would be impossible or difficult, the court may accept a written consent executed by the parent before any other judge of a court of record as long as the requirements under § 603.06(a) are met by the other court.
- (c) Any minor parent stating intent to consent to the termination of parental rights shall have a guardian ad litem appointed for him or her by the court. The minor parent's consent to terminate rights shall not be accepted unless joined by his or her guardian ad litem. The consent of the guardian ad litem shall preclude later attack on the validity of the consent on the grounds of incompetence or minority.
- (d) No consent shall be valid unless it is given at least thirty days after the birth of the child to whom the parent's rights are to be terminated.

Section 603.07 – Initial Hearing

- (a) An initial hearing shall be held on the petition to terminate parental rights. At the hearing the court shall determine whether any party wishes to contest the petition.
- (b) Any non-petitioning party shall, upon request, be granted a continuance for the purpose of consulting legal counsel at the party's own expense. The court on its own motion or the motion of a party may appoint a guardian ad litem to represent any parent whom the court is concerned does not fully understand the proceedings. The court may order the parent in any such case to reimburse the tribe for any fees and expenses thus incurred.
- (c) A guardian ad litem shall be appointed for the child in any proceeding for termination of parental rights.
- (d) The court shall determine whether all interested parties, including parties who may be the child's father, have been notified. If the court determines that an unknown person may be the father of the child, the court shall further determine whether constructive notice will substantially increase the likelihood of actual notice to that person. If the court so determines, it shall adjourn the hearing and order such notice to be given. If the court determines that constructive notice will not substantially increase the likelihood of actual notice, the court shall order that the hearing proceed.
- (e) At the initial hearing, the child and the parents, guardian or custodian shall be informed of their rights as follows:
 - (1) The right to remain silent, although the silence may be considered adversely against the party remaining silent,

- (2) The right to confront and cross-examine witnesses,
 - (3) The right to counsel at the party's own expense,
 - (4) The right to subpoena and present witnesses,
 - (5) The right to have the allegations of the petition proven by clear and convincing evidence,
and
 - (6) The right to demand for cause or pursuant to §104(A)(1) a substitution of judge, except this right shall not be available if the case is already proceeding in the court as a child in need of care or guardianship matter. This demand must be made prior to the close of the initial hearing or it shall be deemed waived.
- (f) If the petition is contested the court shall set a date for a fact finding hearing (trial) no later than 45 days after the date of the initial hearing. The Indian Child Welfare Director shall prepare the disposition report required by § 603.09, and shall file it at the fact finding hearing (trial) or at the disposition hearing, whichever comes first.
- (g) If the petition is not contested, the court shall explain the effect of a termination of parental rights and shall question the parents consenting to termination in order to determine if such consent is informed and voluntary. The court shall make findings of fact on the record supporting its conclusions that consent is informed and voluntary before proceeding further with a voluntary termination. The court shall set a date for a dispositional hearing no later than 14 days from the date of the initial hearing.
- (h) If proper notice has been given and a person subject to termination of parental rights does not appear, the court may proceed by default and such individual shall be deemed to have not contested the petition and such consent shall be deemed informed and voluntary.

Section 603.08 – Fact finding hearing (Trial)

At the fact finding hearing (trial) the court shall determine whether the facts alleged in a petition that has been contested are proved to be true by clear and convincing evidence, and whether termination of parental rights would be in the child's best interests considering the factors of § 603.09(b)(2). The court may issue an order from the bench or take the matter under advisement for up to 14 days; the court shall set a dispositional hearing within 30 days of the fact finding hearing (trial). If the court finds that the petition has not been proved by clear and convincing evidence, the court shall dismiss the petition for termination of parental rights.

Section 603.09 – Disposition

- (a) Prior to disposition, the Child Welfare Director shall prepare a report to the court including a complete social, adjudicatory, and dispositional history of the child and the parent, a statement of feasible alternative dispositions, if any, and a statement applying the standards and factors contained in § 603.09(b). The report shall include a description of efforts made to prevent removal of the child from the home and efforts made, if any, to return the child, and to remedy the conditions resulting in the termination proceeding. If the report recommends termination of both parents, or of the only living or known parent, the report shall include a statement of the child's likelihood of adoption, listing factors that might prevent adoption and factors that might facilitate it, and the interim plan and designated guardian recommended pending adoption or, if adoption is unlikely a plan for the continued care, custody, and guardianship of the child. The report shall also contain a medical and genetic history of the child and birth parents on a form as provided by the Wisconsin Department of Health and Social Services.
- (b) Court considerations. In making a decision about the appropriate disposition, the court shall consider the standard and factors enumerated in this section.
- (1) Standard. The best interests of the child shall be the prevailing factor considered by the court in determining the disposition of all termination of parental rights proceedings.
- (2) Best Interest Factors. In considering the best interests of the child under this section the court shall consider but not be limited to the following:
- a. The age and health of the child, both at the time of the disposition and, if applicable, at the time the child was removed from the home;
 - b. Any special physical, intellectual or emotional needs of the child;
 - c. The wishes of the child, if old enough and mature enough to express their wishes;
 - d. The duration of, and reasons for, the separation of the parent from the child;
 - e. The efforts made by the parents to address their issues, to improve their situation and/or to be able to provide for their child, and whether the parents are likely to be able to maintain stability and to provide care for the child;
 - f. Whether the child will be able to enter into a more stable and permanent family relationship as a result of the termination, taking into account the conditions of the child's current placement, the likelihood of future placements and the results of prior placements;

- g. The recommendations of the guardian ad litem, social worker and/or any other professional working with the child or person with an interest in the child;
 - h. The social, cultural, or religious traditions of the child, the child's family, or the Tribe;
 - i. Availability of resources within the child's extended family; and
 - j. Other factors calculated to meet the needs of the individual child and the purposes of this chapter.
- (c) Any party may present evidence relevant to disposition, and may propose alternative dispositions. The court shall order either disposition listed below no later than ten days after a hearing on disposition.
- (d) Upon a finding that grounds exist for a termination of parental rights the court shall issue a dispositional order:
 - (1) The court may order the termination of parental rights of one or both parents. If the rights of both parents or of the only living or known parent are terminated, the court shall transfer guardianship of the child to the Child Welfare Director if the child is a Child in Need of Care, or retain guardianship as previously ordered; the court may authorize physical placement with a relative of the child or other individual with whom the child resides.
- (e) The court shall inform any parent whose rights have been terminated of the provisions of §§ 48.432 and 48.433, Wis. Stats., and of §§ 603.09(f) and 604.08(c) of this Code, relating to medical and identifying information in the order terminating parental rights.
- (f) Any parents whose rights have been terminated shall have a continuing duty to inform the court of any information he or she receives regarding any medical or genetic condition that may affect the health or longevity of the child or the child's issue. The parent shall be informed of this duty by the court in the order terminating parental rights.
- (g) Any order under this section shall be reduced to writing and filed within 30 days of its rendition.

CHAPTER 604 – ADOPTION

Section 604.01 – Effect of adoption; who may adopt and be adopted

- (a) Upon entry of the order of adoption, the relation of parent and child together with all the rights, duties, and other legal consequences of the natural relation of parent and child exist between the adoptive parents and adopted child, except that if the child is not otherwise eligible for

membership in the tribe, he or she may not gain eligibility through his or her adoptive parent or parents.

- (b) The child and adoptive parents are entitled to all records in accordance with §604.08. The biological family shall not be entitled to, or have access to, any information regarding the child. Visitation rights to the adoptive child must be sought accordance with §604.07.
- (c) Any child as defined in § 600.02(b) may be adopted.
- (d) The following are eligible to adopt a child:
 - (1) A husband and wife jointly, or either if the other spouse is a parent of the child, and
 - (2) An unmarried person who is at least 25 years of age.
- (e) The consent of the following are required for adoption:
 - (1) The child if 14 years or older,
 - (2) The parent or parents, if living, including the adjudicated or acknowledged father of a non-marital child, unless parental rights have been terminated, and
 - (3) The child's guardian ad litem, if one has been appointed by the court.

Section 604.02 – Petition

A proceeding for adoption shall be commenced by the filing of a verified petition which shall include:

- (a) The name, address and date of birth, or expected date of birth, of the child to be adopted.
- (b) Whether the child is enrolled or eligible for membership, and the tribal affiliation of the child.
- (c) The names, addresses, and ages of the birth parents (if known).
- (d) The names, addresses and ages of the adoptive parent(s) and his or her relationship to the child.
- (e) The identity of all persons or agencies which solicited, negotiated, or arranged for the adoption on behalf of any party.
- (f) A report of all transfers of anything of value made or agreed to be made by the proposed adoptive parents or on their behalf in connection with the birth of the child, the placement of the child with the proposed adoptive parents, the medical or hospital care received by the child or by the child's mother in connection with the birth of the child and any other expenses, including the estimated legal expenses, of either the child's parent or the proposed adoptive parents, including a copy of any written agreement between the birth parent and adoptive parent. The report shall be itemized and shall show the services relating to the adoption or to the placement of the child for adoption which were received by the proposed adoptive parents, by either parent, by any other person to whom payment was made by or on behalf of the

proposed adoptive parents. The report shall also include the dates of each payment, the names and addresses of each attorney, doctor, hospital, agency or other person or organization receiving any funds from the proposed adoptive parents in connection with the adoption or the placement of the child with them.

- (g) A statement of the tribal membership, if any, of each of the birth parents and each of the proposed adoptive parents.
- (h) The domicile of each of the birth parents, and the facts supporting the statement of domicile.
- (i) Whether the birth parental rights are terminated; if not that a petition for voluntary termination has been filed and that consent will be given. If rights have been terminated, a certified copy of the court order terminating the rights shall be attached to the petition.
- (j) The provisions of § 604.08(d) shall be set forth in the petition.

Section 604.03 – Service of petition and notice of hearing

- (a) The clerk of court shall cause the petition and notice of the hearing provided for in § 604.05 to be served on the child’s guardian, custodian, the natural parents if their parental rights have not been terminated, the Child Welfare Director, and the child, if 14 years of age or older, except that no notice and petition need be served on any person who may be the father of a child conceived as a result of sexual assault.
- (b) The Child Welfare Director shall have 20 days from the date of service to complete an investigation and file a report pursuant to § 604.04.
- (c) The notice and petition shall be served personally or by certified mail, return receipt requested, with delivery restricted to the addressee, no less than seven days prior to the initial hearing

Section 604.04 – Investigation and report

Upon filing of the petition, the Child Welfare Director shall perform an investigation as to the suitability of the petitioner(s) as the child’s adoptive parent(s). The report shall include the blood quanta of both birth parents, if known. The enrollment office will cooperate with the Child Welfare Director in preparing this information for inclusion in the report. The Child Welfare Director shall complete the report and file it with court, providing a copy to the parties within 20 days of receipt of the notice and petition. If the report is unfavorable or discloses a situation which, in the court’s opinion, raises a serious question as to the suitability of the proposed adoption, the court may appoint a guardian ad litem for the child who shall make an independent recommendation within 15 days of appointment.

The court may order the petitioner or adoptive parent(s) to pay the costs of the investigation and report, and of the guardian ad litem.

Section 604.05 – Hearing on the petition

- (a) Upon receipt of a petition, the clerk of court shall set a date for hearing within 30 days.
- (b) At the hearing, the presence of the petitioners and the child, if the child is 14 years of age or older, shall be required unless the court orders otherwise. The court shall determine from the Child Welfare Director's report and any evidence presented by the petitioners or other parties whether the petitioners are suitable adoptive parents, such determination to include an inquiry as to the nature and purpose of any transfer of value between or on behalf of the parties. If the court determines that granting the petition is in the child's best interest, it shall so order.

Section 604.06 – Temporary order and final judgment

- (a) The court may issue a temporary order giving the care and custody of the child to the petitioners pending the further order of the court; provided, that if the child is a close blood relative of one of the petitioners, or is a stepchild of a petitioner or has been living in the home of the petitioner for a substantial period of time prior to the date of filing the petition for adoption, the court may waive the entry of a temporary order, and immediately enter a final judgment for adoption. In all other cases the court shall set, prior to the close of the hearing on the petition, a date for a final hearing no less than six (6) months and no more than eight (8) months after the date of the hearing on the petition.
- (b) Subject to the provisions of this section, an adoptive parent shall have all the rights and responsibilities of a parent upon entry of a temporary order, except that the parent must cooperate with the court and Child Welfare Director until a final judgment is entered, and may not remove the child from the jurisdiction of the court without a court order authorizing travel.
- (c) Where a temporary order is entered, the Child Welfare Director may observe the child in the adoptive home and report to the court within six (6) months on any circumstances or conditions which may have a bearing on the child's adoption or custody.

Section 604.07 – Visitation rights

- (a) A person who, within the two years prior to the date of the petition for adoption, has maintained a close relationship with a child may petition the court, at the initial adoption

hearing, to be awarded visitation rights or other contact such as periodic photographs, letter writing or other sharing of information, upon hearing and after notice of the hearing to the child's prospective adoptive parent(s). Notice shall be served on those parents personally or by certified mail, return receipt requested, restricted delivery.

- (b) The court may award visitation or contact if the court determines visitation or contact is in the child's best interest and that the petitioner will not interfere in or act contrary to the parental decisions of the adoptive parents.

Section 604.08 – Records

- (a) The court may not disclose the records of any adoption except as provided for in this section.
- (b) A copy of the medical and genetic history report, as provided in § 603.09(a), with the names and other identifying data of the birth parents and of the birth parents' or child's health care provider removed, shall be provided to the adoptive parents upon entry of the final judgment of adoption. The court may, in its discretion, disclose information as needed from the report, including the entire report, to the adoptive parents after entry of a temporary order and before entry of the final judgment. Additional information supplied to the court under § 603.09(f) shall be made available to the adoptive parents upon receipt or upon later request, provided the adoptive parents sign a statement requesting such information and acknowledging that the court or tribe does not vouch for its accuracy. A copy of the report, the information and any additional information received under §603.09(f) shall also be made available, on request, to the child after the child's eighteenth birthday, provided the child signs a statement acknowledging that the court or tribe does not vouch for the accuracy of the information contained therein. Releases of information under this subsection shall be processed without charge.
- (c) Information confirming membership rights shall be made available upon request to the adoptive parents and, after the child has reached the age of 18 years, to the child, if such information can be released without identifying the child's birth parents. Releases of information under this subsection shall be without charge.
- (d) Whenever any child adopted in St. Croix Tribal Court has reached the age of 18 years, the child may file a written request for release of his or her birth parent's names and addresses as reflected in the court's adoption records. No notice of this request or of the review provided below need be provided to any party. Upon receipt of such a request, the clerk of court shall provide the records to the judge who shall review the records to determine if any special

conditions should be attached to the release of such records and who then shall release the records subject to any such conditions.

Section 604.09 – Agreements between birth mothers and adoptive parents

- (a) Any agreement between a birth mother and an adoptive parent, where either party is a member of the tribe, for the payment of fees or expenses, including those expenses referred to in § 604.02(f), relating to the adoption of any child as defined in § 604.09(c), shall be in writing.
- (b) Any agreement between a birth mother and an adoptive parent or parents for the payment of fees or expenses, including those expenses referred to in § 604.02(f), relating to the adoption of a child may be rescinded by the birth mother at any time up to the time that she gives consent to terminate her parental rights under § 603.06 under the following conditions:
 - (1) If neither adoptive parent is genetically related to the child, the birth mother can rescind the agreement. If the birth mother rescinds her consent as provided in this section, the adoptive parent or parents shall be entitled to judgment against the birth mother for all fees and expenses paid to her under the agreement between them, § 604.09(b).
 - (2) If the birth mother is not genetically related to the child, the birth mother cannot rescind the agreement.
 - (3) If the birth mother has provided the egg and the birth parents have provided the sperm for the child, then the court may resolve the matter by referral to state circuit court as a custody dispute or decide the matter using the balancing interests of a custody dispute based on the best interests of the child.
- (c) For purposes of this section “birth mother” means the individual who carries in utero any fetus, however fertilized or implanted. For purposes of this section “child” means any child, regardless of tribal membership or eligibility for membership, who, while in utero, was carried by a birth mother as herein defined.

CHAPTER 605 – GUARDIANSHIP

Section 605.01 – Guardian of the child.

The court may appoint a guardian of the child to exercise custody and the power to make daily and major decisions regarding any child as defined in § 600.02(b) who has no living parent or whose parents are unavailable by reason of incarceration or commitment or are otherwise

unable to care for the child. If a child is currently a Child in Need of Care pursuant to chapter 602, the court may dismiss a Petition for Guardianship, unless the Petition was filed in accordance with a recommendation of the Child Welfare Director or the court in the Child in Need of Care case.

Section 605.02 – Guardian of the estate.

- (a) The court may appoint a guardian of the child’s estate to conserve the assets, income, and financial interests of any child as defined in § 600.02(b) who has no living parent or whose parents are unavailable by reason of incarceration or commitment or otherwise unable to care for the child.
- (b) The guardian of the estate shall keep a complete and accurate record and accounting of all funds and expenditures on behalf of the child, shall keep a detailed record of any involvement on behalf of the child in any other matters, and shall insure that the child’s estate is maintained and utilized solely for the benefit of the child.
- (c) A guardian of the person for a child may be appointed the guardian of an estate for the child or separate guardians may be appointed.

Section 605.03 – Petition for guardianship; investigation and reports.

- (a) A person with an interest in a child as defined in § 600.02(k) may petition for the appointment of a guardian of a child and/or estate of a child.
- (b) A petition for guardianship shall state:
 - (1) The name, residence, address, post office address, and date of birth of the child, the petitioner, and of the proposed guardian or guardians,
 - (2) The reason guardianship is sought,
 - (3) Whether temporary or permanent guardianship is sought,
 - (4) Whether a guardian of the child or a guardian of the estate or both is sought,
 - (5) The income and assets of the child, and
 - (6) Whether any guardian of the child now exists.
- (c) A filing fee of \$30.00 shall be paid by the petitioner when the petition is filed, unless the petitioner is the Child Welfare Director.
- (d) Upon receiving for filing a petition for guardianship along with the filing fee, the court shall immediately appoint a guardian ad litem for the child and transmit the petition to the Child

Welfare Director with a request to issue a report, or conduct an investigation into the circumstances of the child and the suitability of the proposed guardian. The report or investigation shall, at a minimum, include a criminal background check, observations from a home visit, direct contact with the child(ren) involved and the proposed guardian(s), and a summary of any efforts of the parent, current guardian or custodian to resume care for the child. The Child Welfare Director shall file a report detailing the results of the investigation and making a recommendation to the court to approve or deny the petition, within 30 days. The guardian ad litem shall prepare a report with recommendations for the hearing, and shall appear at the hearing on the petition.

Section 605.04 – Summons

The clerk of court shall issue a summons that shall state the time, date, and place of hearing on the petition, the names of the child(ren) and guardian, and the name, address, and telephone number of the petitioner and the petitioner’s attorney, if any. The summons shall inform the party that failure to appear at the hearing may result in the court granting the relief requested in the petition. The Child Welfare Director shall not be required to appear in a guardianship case under this chapter unless the child is subject to an ongoing child in need of care proceeding or the Child Welfare Director recommends denial of the petition, however, the Child Welfare Director may appear and the Court shall allow the Child Welfare Director to participate as a party in any guardianship matter.

Section 605.05 – Service of summons and petition

- (a) The summons and petition shall be served by the court upon any parent of the child, the child if 14 years or older, any current guardian or custodian of the child, the Child Welfare Director, and the guardian ad litem.
- (b) The summons and petition shall be served personally or by certified mail, return receipt requested, or first class mail with delivery restricted to the addressee, no less than seven days prior to the initial hearing. If personal service or service by mail cannot with reasonable diligence be accomplished, service may be made by publication one time in a newspaper likely to give notice to the party, together with mailing of the summons and petition to the party’s last known address. The published notice shall contain the following information:
 - (1) The name of the party or parties to whom notice is given;
 - (2) The last known address of the party or parties;

- (3) The initials of, and date and place of the birth of the child;
 - (4) The name of the mother, if the publication is directed to any party other than the mother;
 - (5) Notice that a guardian of the child or of the child's estate may be ordered at the hearing;
and
 - (6) Notice that any party has the right to representation by counsel at his or her own expense.
- (c) Upon motion of petitioner or of any other party, the court may waive constructive notice to any person if such notice appears unlikely to give effective notice.

Section 605.06 – Hearing

At the hearing on the petition the court shall hear the petitioner's evidence and the evidence offered by any other party. The court shall take into consideration the best interests factors of § 603.09(b)(2). If the court is satisfied by clear and convincing evidence that the appointment of a guardian is in the best interests of the child, the court shall appoint a guardian who appears most suitable.

Section 605.07 – Appointment of guardian

- (a) Upon hearing, the court may appoint a guardian of the child, or of the estate of the child, or both, as requested in the petition. The guardianship so established may be temporary or permanent, as requested in the petition. If a permanent guardianship is ordered, there shall be a presumption that the guardianship will remain in the child's best interests until they reach the age of majority, and termination of a permanent guardianship shall only be considered in extraordinary circumstances.
- (b) The Court may impose restrictions or limitations on the powers of a guardian, and may condition the appointment on the guardian's performance of specified duties.
- (c) A guardian of a child shall report annually to the court, on forms provided by the court, on the care and status of the child. A guardian of the estate shall report every 6 months to the court, on forms provided by the court, on the income, assets, expenses, and debts of the child, and any other activities on the child's behalf. The order appointing guardian shall fix a date or dates for the filing of such reports.
- (d) The court may require the guardian of an estate to post a bond, and may impose other conditions to protect the child's interests. The court shall include in its order any conditions or requirements that would need to be met or considered before the court would terminate or modify the guardianship.

- (e) The court may, upon the filing of a petition under this chapter, grant emergency guardianship to the petitioner, pending the completion of the investigation and hearing required herein, if the court is satisfied that the petitioner is a suitable guardian and the petition demonstrates that the child does not have any other caregiver. Such emergency appointment shall only last as long as necessary to ensure the safety and well-being of the child.

Section 605.08 – Termination or modification of guardianship

- (a) A guardianship may be altered or terminated, or a new guardian appointed, by the same procedures as established by this chapter for the appointment of a guardian. The Court shall immediately refer any motion to modify or terminate a guardianship to the Child Welfare Director who shall issue a report or conduct an investigation and make a recommendation to the court to grant or deny the motion, within 14 days.
- (b) A temporary guardianship granted under this chapter may be terminated or modified by the court, if the court is satisfied by clear and convincing evidence that termination of the guardianship would be in the child’s best interests. Unless the parties agree, the burden of proof to terminate or modify a guardianship shall rest with the parent or other moving party.
- (c) Any guardianship created under this chapter shall terminate upon its terms or in a permanent guardianship upon the child’s eighteenth birthday.
- (d) If a Child in Need of Care Petition is filed in lieu of guardianship, the Court shall make a determination whether the guardianship action should be dismissed without prejudice or suspended. If suspension of the guardianship action is appropriate, it shall be for no more than six (6) months.
- (e) No permanent guardianship may be terminated except upon allegations of physical, emotional or psychological abuse substantiated by the Indian Child Welfare Department and upon the Department’s filing of a CINC petition.

CHAPTER 606 – ADMINISTRATION

Section 606.01 – Notices under the Indian Child Welfare Act

- (a) The Child Welfare Director is designated as agent for service of notices concerning child welfare proceedings as provided under the Indian Child Welfare Act.
- (b) Upon receipt of such notice, the Child Welfare Director may consult with such tribal staff as may be necessary to determine the eligibility of the child named in such notices.

- (c) Upon a determination that the notice received concerns a child as defined in section 600.02(b), the Child Welfare Director shall consult with the tribal attorney for the purpose of determining whether to intervene or seek transfer of the proceeding to the Family Court.
- (d) In any proceeding where transfer of jurisdiction is denied or not sought the Child Welfare Director shall maintain a record of all information gathered, actions taken and documents received.

Section 606.02 – Child Welfare Director

- (a) Duties and authority. The Child Welfare Director shall have the following authority and duties:
 - (1) To file petitions and represent the Tribe in all tribal proceedings concerning the child under this Family Code;
 - (2) To receive referrals, investigate reports, and ascertain whether a child is probably subject to this Family Code;
 - (3) To take a child into emergency custody to protect the child’s safety or welfare,
 - (4) To make emergency, foster, group home, and institutional placements on behalf of the tribe subject to the control of the Family Court;
 - (5) To represent the Tribe in proceedings concerning the welfare of any child as defined in § 600.02(b) in any foreign court or agency proceeding;
 - (6) To maintain records and establish procedures to maintain the confidentiality of such records;
 - (7) To negotiate agreements for services with local, state, or federal agencies, subject to Tribal Council review and approval;
 - (8) To establish procedures for compliance with duties as required under this Family Code,
 - (9) To share information for statistical or service purposes in conformity with agreements entered into;
 - (10) To receive and administer supervision, guardianship and custody of children under this chapter;
 - (11) To make such reports as may be required to the Tribal Council or its designee, provided that no such report that becomes a part of the Tribal public record shall contain any identifying information concerning the child or the child’s parents except as permitted by the Family Court;

- (12) To receive as the Tribe's agent, notifications under the federal Indian Child Welfare Act and Wis. Stats., and to maintain the confidentiality of such records as required by law;
- (13) To perform such other lawful acts as are required or permitted under this Family Code;
- (14) To determine, after consultation with the tribal attorney, whether to intervene, seek transfer of proceedings to Family Court, participate in some other fashion, or not participate at all in any child custody proceeding commenced in another court;
- (15) To exercise the Tribal Council's authority under 25 U.S.C. § 1915(c) to establish in individual cases a different order of preference than that set forth in 25 U.S.C. § 1915(a) and (b); and
- (16) To disclose otherwise confidential information to any peacemaker or mediator in any case conducted under § 600.16, except as federal law prohibits.

(b) The Child Welfare Director shall have the authority to delegate the authority provided for in this section to such assistants as may be hired by the tribe to work under the Child Welfare Director's direction.

Section 606.03 – Liability

No liability shall attach to the court, the Child Welfare Director, the tribal attorney, the guardian ad litem or any person acting under the or authority of any of them, for statements, acts, or omissions made in good faith while in the course of activities taken under this Family Code.