

Yurok Tribal Code, Children

AMENDED YUROK TRIBE CHILDREN'S CODE

GENERAL PROVISIONS	4
SECTION 4001. Short Title	4
SECTION 4002. Purpose.....	4
SECTION 4003. Scope.....	4
SECTION 4004. Sovereign Immunity Preserved.....	5
SECTION 4005. Severability	5
SECTION 4006. Effective Date	5
SECTION 4008. Confidentiality	5
SECTION 4009. Background Checks Required.....	6
SECTION 4010. Definitions	6
CHAPTER 1. JURISDICTION	13
CHAPTER 2. PERMANENCY PLANS WHEN CHILD REMOVED FROM HOME.	16
CHAPTER 3. PROVISIONS FOR COURT HEARINGS.....	18
SECTION 4301. Applicability of these Provisions.	18
SECTION 4302. Representation in Court.....	18
SECTION 4303. Notice of Hearing.	18
SECTION 4304. Persons Present.....	19
SECTION 4305. Notification of Rights.....	19
SECTION 4306. Evidence.....	19
SECTION 4307. Court Ordered Evaluations.....	20
SECTION 4308. Placement and Care.	20
SECTION 4309. Court Ordered Services.....	20
SECTION 4310. Scheduling.....	21
CHAPTER 4. CASE REPORT AND PLANS	21
SECTION 4401. Development of Case Plan.....	21
SECTION 4402. Review of Plan.....	21
SECTION 4403. Voluntary Case Plans.....	22
SECTION 4404. Reports and Evidence for the Court.....	22
SECTION 4405. Required Elements to Case Plans	22

SECTION 4406. Transition Case Planning for Minors and Non-Minor Dependents Exiting Foster Care.	27
SECTION 4407. Documentation Required in Case Plan for Permanency.	28
SECTION 4408. Documentation of Active Efforts in Case Plan.	28
SECTION 4409. Documentation of Termination of Parental Rights in Case Plan.	28
SECTION 4410. Documentation of Guardianship with a Relative in the Case Plan.	28
CHAPTER 5. ABUSE	29
SECTION 4501. Physical Abuse.....	29
SECTION 4502. Sexual Abuse.....	29
SECTION 4503. Child Neglect.....	30
SECTION 4504. Psychological Maltreatment.....	31
SECTION 4505. Mental Injury.	31
CHAPTER 6. INVESTIGATIONS AND REPORTS.....	31
SECTION 4601. Receipt of Report.....	31
SECTION 4602. Confidentiality of Informant.	32
SECTION 4603. Cross-Notification of Child Maltreatment Reports.....	32
SECTION 4604. Investigation and Reports of Allegations of Commercial Sexual Exploitation of a Child or Missing Child.....	32
SECTION 4605. Cross Notification within 24 Hours.....	33
SECTION 4606. Convening of Multi-Disciplinary Team	33
SECTION 4607. Mandate for Training.....	33
CHAPTER 7. ACTIVE EFFORTS.....	34
SECTION 4701. Active Efforts Required.....	34
SECTION 4702. When Active Efforts are Not Required.....	35
SECTION 4703. Permanency Hearings When Active Efforts Are Not Required.....	35
SECTION 4704. Documentation of Judicial Determinations.....	35
CHAPTER 8. IN-HOME COURT CASES.....	36
SECTION 4801. Timing.....	36
SECTION 4802. Purpose.....	36
SECTION 4803. Eligibility.	36
CHAPTER 9. INITIAL HEARING (IN-HOME COURT CASES)	37
SECTION 4901. Initial Hearing Timing.....	37

SECTION 4902. Purpose.....	37
SECTION 4903. Child In Need of Aid Petition (In-Home).	37
SECTION 4904. Tribal Child Welfare Department to Make a Prima Facie Case.....	38
SECTION 4905. Required Findings and Orders.....	38
CHAPTER 10. JURISDICTION HEARING (IN-HOME COURT CASE).	39
SECTION 41001. Timing.....	39
SECTION 41002. Purpose.....	39
SECTION 41003. Admit or Deny.	39
SECTION 41004. Findings and Orders.....	39
CHAPTER 11. DISPOSITION HEARING (IN-HOME COURT CASE).....	41
SECTION 41101. Timing.....	41
SECTION 41102. Purpose.....	41
SECTION 41103. Required Findings and Orders:.....	41
CHAPTER 12. STATUS REVIEW HEARING(S) (IN-HOME COURT CASE).	42
SECTION 41201. Timing.....	42
SECTION 41202. Purpose.....	42
SECTION 41203. Required Findings and Orders.....	42
CHAPTER 13. TERMINATION OF JURISDICTION (IN-HOME COURT CASES).....	43
SECTION 41301. Termination of Services.	43
SECTION 41302. Filing New Petition When Services Unsuccessful.	44
CHAPTER 14. REMOVAL OF CHILD.....	44
CHAPTER 15. OUT-OF-HOME COURT CASES.....	45
CHAPTER 16. JURISDICTION HEARING (OUT-OF-HOME COURT CASE).	52
CHAPTER 17. DISPOSITION HEARING (OUT-OF-HOME COURT CASE).....	56
CHAPTER 18. STATUS REVIEW HEARING(S) (OUT-OF-HOME COURT CASE).....	59
CHAPTER 19. PERMANENCY HEARING (OUT-OF-HOME COURT CASE).	62
CHAPTER 20. HEARING TO REVIEW PLACEMENT IN SHORT-TERM RESIDENTIAL TREATMENT PROGRAM.	64
CHAPTER 24. EXTENDED FOSTER CARE.....	66

CHAPTER 22. KINSHIP CARE/GUARDIANSHIPS	67
CHAPTER 23. TERMINATION OF PARENTAL RIGHTS.....	70
CHAPTER 24. ADOPTION	73

GENERAL PROVISIONS

SECTION 4001. Short Title

This ordinance shall be referred to as the “Yurok Children’s Code.”

SECTION 4002. Purpose

- (a) The Preamble to the Constitution of the Yurok Tribe states that: “Our social and ecological balance, thousands and thousands of years old, was shattered by the invasion of the non-Indians. We lost three-fourths or more of our people through unprovoked massacres by vigilantes and the intrusion of fatal European diseases. The introduction of alcohol weakened our social structure, as did the forced removal of our children to government boarding schools, where many were beaten, punished for speaking their language, and denied the right to practice their cultural heritage.” Although the era of removal and placement in government boarding schools has passed, a new and more pervasive means of taking our children from us and with the goal of furthering the breakdown of Yurok culture and spiritual beliefs has arisen. Judicial systems designed to support a non-native adoption industry combined with the introduction to our culture by non-Indians seek to impose foreign standards of child rearing unknown to the Yurok people and our way of life. Traditionally, a child of the Yurok Tribe was raised collectively by the entire village. Participation in Yurok culture and ceremonial life was a person’s duty and responsibility. The foreign values imposed upon us by an outside system fail to honor and respect our duties and responsibilities.
- (b) The Constitution of the Yurok Tribe was adopted to: “Preserve forever the survival of our Tribe and protect it from forces which may threaten its existence... Uphold and protect our Tribal sovereignty which has existed from time immemorial and which remains undiminished... Preserve and promote our culture, language, and religious beliefs and practices, and pass them on to our children, our grandchildren, and to their children and grandchildren on, forever...Provide for the health, education, economy, and social wellbeing of our members and future members...” By adopting this Yurok Children’s Code, we clearly express our sovereign right to protect future generations and hereby affirm the Tribe’s intent to handle all matters of child welfare internally and according to Yurok culture, tradition, and family values. [Ord. 46A § 1002, adopted, 3/24/2016.]

SECTION 4003. Scope

The jurisdiction of the Yurok Tribal Court and the effective scope of this Ordinance shall minimally include, but not necessarily be limited to: all Yurok Tribal members, both present and future, any children of a Yurok Tribal member, all territory within the Yurok Indian Reservation, as defined by Article 1 of the Yurok Tribal Constitution, including but not necessarily limited to, all real property including fee patents, allotments, assignments; all roads, waters, and bridges used or maintained for

Tribal purposes, and existing and future lands outside the boundaries of the currently federally recognized Reservation owned or controlled by the Yurok Tribe for the benefit of its members.

The Courts of the Yurok Tribe shall have jurisdiction over all cases arising under the provisions of this code and all cases arising under the provisions of any state or country that arise under that jurisdiction's codes as related to any provision related to child dependency, foster care, guardianship, and/or adoption which shall arise involving any child which is or may be eligible for enrollment in the Yurok Tribe. Further, this jurisdiction will extend to any child of a Tribal member even if that child may not necessarily be a candidate for enrollment with the Tribe at the time of the proceedings.

All cases of child dependency, foster care, guardianship, and/or adoption involving the minor children of any member of the Yurok Tribe which may arise outside the Yurok Reservation are subject to the assertion of concurrent jurisdiction by the Yurok Tribal Court and until such time as the retrocession of Public Law 82-280 shall be subject to the provisions of the Indian Child Welfare Act allowing for transfer of said case to the Yurok Tribal Court.

SECTION 4004. Sovereign Immunity Preserved

Except as judicial review is authorized in this ordinance, and in accordance with the Yurok Tribe's Supreme Ordinance, nothing in this ordinance shall be interpreted as a waiver of the Tribe's sovereign immunity from unconsented lawsuit, or as authorization for a claim for monetary damages against the Tribe.

SECTION 4005. Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of its provisions to other persons or circumstances shall not be affected, and to this end, the provisions of this ordinance are severable.

SECTION 4006. Effective Date

This ordinance shall take effect immediately after its adoption by Council.

SECTION 4007. Repeal of Conflicting Ordinance Provisions

All prior ordinance provisions previously enacted by the Tribal Council and inconsistent with the provisions of this ordinance are hereby repealed. If the provisions of this ordinance conflict with the provisions of any other previously enacted ordinance, the provisions of this ordinance shall control.

SECTION 4008. Confidentiality

It is the intention of the Tribe that this Code shall be consistent with the provisions set forth in the California Welfare and Institutions Code § 10850 related to the confidentiality of records and information concerning individuals receiving public social services. This will not impact Tribal Child Welfare and Behavioral Health's ability to provide information to service providers for the purpose of making referrals or complying with case plans developed under this Code.

SECTION 4009. Background Checks Required

No child that is under the jurisdiction of the Court who has been removed from their home pursuant to this Code, shall be placed in a home unless, all adults who reside in the home, anyone who is employed in the home, and/or anyone that has an intimate relationship with the applicant for placement, have met the background check requirements in subsection (b) of this section.

To be approved, all individuals identified in subsection (a) of this section must provide background information and must successfully complete a Criminal and Child Abuse Background Check that is in accord with the standards set forth in the California Health and Safety Code §§ 1522 and 1522.1.

A criminal records check may be conducted pursuant to this section on any person over 14 years of age living in the home who the Tribal Child Welfare Department worker believes may have a criminal record.

SECTION 4010. Definitions

For the purpose of this Code, the terms defined in this section have the meanings given in this section.

- (a) “Abandonment of child/infant” means when a parent or caretaker has shown conscious disregard of parental responsibilities and/or an inability because of parental failure toward the child by failing to provide reasonable support, maintain regular contact, or provide supervision, according to the child’s age and needs. The term “abandonment” includes when a parent or caretaker has shown conscious disregard of parental responsibilities toward the child by failing to provide reasonable support, maintain regular contact, or provide normal supervision, considering the child’s age and needs.
 - (1) A finding of abandonment requires that the parent/guardian/caretaker has been given notice and opportunity to redress the abandonment and is found to be or states they are unwilling or unable to redress the problem and seeks the intervention of the Court to insure the welfare of the child. If the Court makes the finding of abandonment then the Court will establish a parental figure and/or placement plan for the child.
 - (2) “Abandonment of a child” also includes instances when the parent or caretaker unjustifiably:
 - (A) Leaves the child with another person without provision for the child’s support and without meaningful communication with the child for a period of three months;
 - (B) Intentionally leaves the child without affording means of identifying the child and the child’s parent or caretaker;
 - (C) Is absent from the home for a period of time that creates a substantial risk of serious harm to a child left in the home;

- (D) Failed to respond to notice of child protection proceedings; or
- (E) In the case of a noncustodial parent:
 - (i) Makes only minimal efforts to support and communicate with the child;
 - (ii) Fails to maintain regular visitation with the child for a period of six months; or
 - (iii) Fails to participate in a suitable plan or program designed to reunite the parent with the child.
- (3) “Abandonment of child/infant” does not mean where a parent or caretaker:
 - (A) Places their child with an extended family member;
 - (B) Acts or fails to act in a manner that would constitute abandonment except the parent or caretaker, or a child in his or her care, is a victim of domestic violence and the action or failure to act is necessary to protect the parent, caretaker, or child in his or her care, from further acts of domestic violence. If the parent or caretaker does not take reasonable steps to reunify with or provide care for the child after becoming secure from further acts of domestic violence, the child may be considered abandoned;
 - (C) Has established an Indian Custodianship;
 - (D) Has been deployed as an active member of the military;
 - (E) Has been incarcerated or is medically or psychologically incapacitated; or
 - (F) Has taken off-reservation employment and/or schooling opportunity and has not been personally notified of the failure of an existing care plan for a child.
- (b) “Adoption” means the establishment by this court, the legal relationship between persons who are not so related by birth, with the same mutual rights and obligations that exist between children and their birth parents. This relationship can only be termed “adoption” after the legal process is completed as provided for under this Code. An adoption of another jurisdiction will be recognized by the Yurok Court so long as the laws of that jurisdiction have been followed and the adoption is not in conflict with Yurok laws and customs.
- (c) “Advisor to Tribal Court” means the family member, elder, or other known person the parent(s)/guardian/caretaker nominates to act as an advisor to the Court, or a person the Court nominates to serve this role for the family. The advisor’s role is not designed to replace a parent’s advocate, or department staff, but is to help the Court reach a disposition in each case that is consistent with the purposes of this title to protect Yurok children’s rights to an upbringing consistent with Yurok cultural imperatives and the rights of each Yurok child to a loving and protected upbringing. For these purposes, the advisor is allowed to address the Court with a nonbinding recommendation. The advisor may be excused by the Court, if the advisor ceases to function in a manner that is helpful to the Court or the Court process.

- (d) “Aggravated Circumstances” Tribal Child Welfare Department must provide active efforts to prevent the breakup of a Yurok family and a removal of a child from the home of the parents unless the Court makes a finding that such efforts are not required in the case. Active efforts to preserve or reunify the family are not required when the Court has found “aggravated circumstances.” Aggravated circumstances as defined in this title shall consist of those circumstances identified in the Yurok Tribe Title IV-E Policies and Procedures Chapter 3 Section I.N.
- (e) “Caretaker” means any person with the responsibility of caring for or safeguarding any child and is recognized by the child’s family and/or community as having such responsibilities. A caretaker for purposes of this Code includes an Indian Custodian.
- (f) “Court Appointed Advocate” means a person who has been appointed by the Court to represent the best interests of the child or parent/guardian/caretaker in Tribal Court. The Court Appointed Advocate will be a member in good standing with the Yurok Bar Association.
- (g) “Child in Need of Aid ” means that the Court has found the child to be a Child In Need of Aid , as result of actions taken which are contrary to the child’s welfare or at risk of being contrary to the child’s welfare, if the Court finds by a preponderance of the evidence that the child has been subjected to, or is at substantial risk of being subjected to, conditions which inflict upon the child or place the child in danger of physical, mental, or emotional harm, including:
- (1) The parent/guardian/caretaker has abandoned the child, and the other parent is absent or unable to care for the child, or has committed conduct or created conditions that willfully or negligently fail to provide for or protect the child such as to cause the child to be a Child in Need of Aid under this Code;
 - (2) The child has been neglected; due to the failure of the parent/guardian/caretaker, to provide the child with adequate, food, clothing, shelter, supervision, or medical treatment though 1) the parent or caretaker is financially able to do so; or 2) public assistance and service programs are reasonably available if the parent or caretaker is indigent or by the inability to care or provide for the child due to the parent/guardian/caretaker’s health issues not necessarily limited to mental illness, developmental disability or substance abuse;
 - (3) The child has suffered medical neglect;
 - (4) The child is a habitual runaway;
 - (5) The child has suffered physical abuse, or there is substantial risk that the child will suffer physical abuse;
 - (6) The child has suffered sexual abuse, or there is substantial risk that the child will suffer sexual abuse;
 - (7) The child is determined to have been a commercially sexually exploited child;
 - (8) The child has suffered, or there is substantial risk the child will suffer, emotional damage or mental injury as the result of the conduct of the parent/guardian/caretaker, or there is no parent/guardian/caretaker capable

- of providing appropriate care for the child;
- (9) The parent/guardian/caretaker's ability to parent has been substantially impaired by the addictive or habitual use of an intoxicant, or the addictive or habitual use of an intoxicant has resulted in a substantial risk of harm to the child;
 - (10) The parent/guardian/caretaker has a mental illness, serious emotional disturbance, serious physical disability, or mental deficiency of a nature and duration that places the child at substantial risk of harm;
 - (11) The child's sibling has been abused or neglected as defined in this section and there is substantial risk that the child will be abused or neglected, based on the circumstances of the prior abuse, the age of the child, and any other factors the Court considers probative in the determination of whether there is substantial future risk to the child; and/or
 - (12) The child is a safely surrendered infant.
 - (13) It is not the intention that this definition be used to interfere with or prohibit the cultural and spiritual development and traditional child-raising practices of the child's family or Tribe.
- (h) "Concurrent jurisdiction" means that this Court may assume concurrent jurisdiction with any non-Yurok court upon a specific request by Tribal Child Welfare Department that sets forth a specific case plan and terms of said request. This Court may also, pursuant to a request from Tribal Child Welfare Department, concurrently work with any Wellness Court requirements, and or allow the provisions of any Tribal Child Welfare Department case plan to be adopted as Wellness Court requirements. Information sharing to carry out the objectives of concurrent jurisdiction is anticipated and hereby allowed.
 - (i) "Court" means the Yurok Tribal Court, unless otherwise specified.
 - (j) "Date the child entered foster care" means the date that is the earlier of the first judicial finding of child abuse or neglect (the jurisdiction finding) or 60 days after the child is physically removed from the home of the parent, guardian or caretaker. See [42 U.S.C. § 675\(5\)\(F\)](#).
 - (k) "Delinquent child" means a child who has previously been adjudicated a delinquent by a non-Yurok court of competent jurisdiction or who has been adjudicated a delinquent pursuant to any delinquency ordinance enacted by this Tribe.
 - (l) "Extended family or relative" means a person who is the minor's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent, or is recognized by traditional village custom and/or practice as an extended family member, such as fictive kin.
 - (m) "Fictive kin" means a person who is not related by birth, adoption, or marriage to a child, but who has an emotionally significant relationship with the child.
 - (n) "Guardian" means the relationship established between a child and a caretaker in a legal guardianship.
 - (o) "Indian custodian" means an Indian person who has custody of an Yurok child but

is not that child's biological parent, who has the right and responsibility to make decisions about a child's day-to-day care, wellbeing, and overall best interests, and has special rights under the Indian Child Welfare Act, 25 U.S.C § 1901 et al.

- (p) "Legal guardianship" means a judicially-created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision-making.
- (q) "Non-custodial parent" means the parent that does not have primary physical custody of the child. This arrangement may be informal or through a court order. A non-custodial parent may have visitation with their child and be actively involved in the child's life.
- (r) "Permanency Team" means a team that shall consist of all appropriate biological family members, relative, and fictive kin of the child, as well as, as appropriate, professionals who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy. In the case of a child who has attained age 14, the Permanency Team shall include the members that are selected by the child in accordance with section 475(5)(C)(iv) of the Social Security Act.
- (s) "Protective parent(s)" is a caretaker established by the Court when a child is the subject of a prospective adoption under this Code, and to whom the Court assigns custody and responsibility for care of the child including authority to consent to the medical care and treatment of the child, and to otherwise have those rights of a biological parent of the child, including protection, education care and control of the person, and decision making on behalf of the child pending the finalization of the Adoption.
- (t) "Qualified Individual" means a trained professional or licensed clinician who is not an employee of the Yurok Title IV-E Program and who is not connected to, or affiliated with, any placement setting in which children are placed by Tribal Child Welfare Department .
- (u) "Reasonable and prudent parent" or "reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a protective parent, guardian or caretaker shall use when determining whether to allow a child under the jurisdiction of the Yurok Tribal Court pursuant to this title to participate in extracurricular, enrichment, cultural, and social activities.
- (v) "Relative" *see* "Extended Family or Relative."
- (w) "Safely surrendered infant" means an infant 72 hours of age or younger whose parent gives up control of the infant by an act coupled with an intention to knowingly surrender such control to the Tribal Child Welfare Department , Yurok Tribal Police and/or the Yurok Tribal Court and where the parent does not re-claim the infant within 14 calendar days. The knowing intention to surrender control may be demonstrated by execution of a form confirming knowing and willing surrender

of the child and by the failure to reclaim the child within 14 days after the surrender. The Tribe adopts the concept of California's Safely Surrendered Baby provisions in that specifically said "surrender" of a Yurok Infant by a Yurok parent may take place by bringing the infant to the offices of Yurok Social Services (Tribal Child Welfare Department), Yurok Public Safety and/or the Yurok Tribal Court. The infant will be conveyed to Tribal Child Welfare Department for immediate care and detention consistent with the infant's needs.

(x) "Short-Term Residential Treatment Program" means a program that:

- (1) Has a trauma informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavior disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the chosen assessment of the child;
- (2) Has registered licensed nursing staff and other licensed clinical staff who:
 - (A) Provide care within the scope of their practice as defined by State law;
 - (B) Are on site according to the trauma informed treatment model; and
 - (C) Are available 24 hours a day and seven days a week.
- (3) To the extent appropriate and in accordance with the child's best interests, facilitates participation of family members in the child's treatment program;
- (4) Facilitates outreach to the family members of the child, including siblings, documents how the outreach is made (including contact information), and maintains contact information for any known biological family and fictive kin of the child;
 - (A) Documents how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;
 - (B) Provides discharge planning and family-based aftercare support for at least 6 months post-discharge; and
 - (C) Is licensed by the State of California and accredited by any of the following independent, not for profit organizations:
 - (i) The Commission on Accreditation of Rehabilitation Facilities;
 - (ii) The Joint Commission on Accreditation of Healthcare Organizations;
 - (iii) The Council on Accreditation; or
 - (iv) Any other independent, not-for profit accrediting organization approved by the Secretary of Health and Human Services.

- (y) “Sibling” means one or more individuals who share a common parent.
- (z) “Tribal Representative” means Yurok Tribal Police or Tribal Child Welfare Department , or their designees. As used in this Code, the Tribal Representative has the authority to remove a child from their home.
- (aa) “ Yurok Adoption” means the establishment, by the Tribal Court, of the legal relationship between persons to create the same mutual rights and obligations that exist between children and their birth parents. This relationship can only be termed “yurok adoption” after the legal process is completed as provided under this Ordinance. Yurok adoption does not sever the biological parent and child relationship, it only modifies the rights of the biological parents.
- (bb) “Tribal Customary Adoption” or “TCA” means an adoption, confirmed by the Tribal Court through a Tribal Customary Adoption Order (TCAO), for a child who is under the jurisdiction of the State of California. This type of adoption does not apply to children who are under the exclusive jurisdiction of the Tribal Court. Under this type of adoption, the biological parent(s) responsibilities, including child support obligations, are modified. The Tribe has the inherent, independent authority to establish a TCA.
- (cc) “Voluntary placement” means an out of home placement of a child by the Tribal Child Welfare and Behavioral Health Department after the child’s parent/guardian/caretaker requested the assistance of Tribal Child Welfare Department and has agreed, by signing a voluntary placement agreement, to the placement of a child in an out-of- home placement for a period of no longer than 180 days.
- (dd) “Voluntary placement agreement” means a written agreement binding on Tribal Child Welfare Department and any parent, guardian, or caretaker which:
 - (1) Specifies the legal status of the child and the rights and obligations of the parent/guardian/caretaker, the child, and Tribal Child Welfare Department while the child is in out-of-home placement;
 - (2) Is requested by the parent/guardian/caretaker;
 - (3) Is signed by all parties including Tribal Child Welfare Department ; and
 - (4) May be revoked if the parent/guardian/caretaker requests the child be returned home or to the home of a specified relative unless Tribal Child Welfare Department opposes such request and obtains a judicial determination that the return of the child to such home would be contrary to the child’s welfare and can last no longer than 180 days.
- (ee) “Voluntary Services” With the agreement of Tribal Child Welfare Department , a Yurok parent or other person, who the Court has jurisdiction over pursuant to this Code, may seek the assistance of Tribal Child Welfare Department and enter into a voluntary service plan pursuant to the provisions of this Code.
- (ff) “Withholding medically indicated treatment” means where a parent or other caretaker fails to respond to a child’s life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, which, in the treating physician’s or physicians’ reasonable medical judgment will be most likely to

be effective in improving or correcting all such conditions, except that the term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to a child when, in the treating physician's or physicians' reasonable medical judgment:

- (1) The child is chronically and irreversibly comatose;
 - (2) The provision of such treatment:
 - (A) Would merely prolong dying; or
 - (B) Would not be effective in improving or correcting all of the child's life; or
 - (C) Would otherwise be futile in terms of the survival of the child; or
 - (3) The provision of such treatment would be virtually futile in terms of the survival of the child and the treatment itself under such circumstances would be inhumane.
 - (4) Notwithstanding the above, if, in the judgment of the child's parent or caretaker, or in the absence of the parent/caretaker/guardian entrusted with the wellbeing of the child, there are available culturally appropriate and acceptable, by applicable community standards, alternative methods of healing available to the child, the parent/caretaker/guardian may employ those culturally acceptable alternative methods of healing.
- (gg) "Yurok child" means, for the purposes of this Code, any minor that has not yet attained 18 years of age who is the child of a present or deceased Yurok Tribal member including any adopted child of such a member. In this Code, the words "child" and "youth" are used interchangeably, and both generally mean unmarried minors under 18 years of age in need of care, however for Extended Foster Care and Independent Living Program services "youth" and "child" refer to people between the ages of 14 and 21 years old.

CHAPTER 1. JURISDICTION



Jurisdiction of Tribal Court

- (a) The jurisdiction of the Yurok Tribal Court and the effective scope of this Code shall minimally include, but not necessarily be limited to: all Yurok Tribal members, both present and future, any children of a Yurok Tribal member, all territory within the Yurok Indian Reservation, as defined by Article I of the Constitution of the Yurok Tribe, including but not necessarily limited to, all real property including fee patents, allotments, assignments; all roads, waters, and bridges used or maintained for Tribal purposes, and existing and future lands outside the boundaries of the currently federally recognized Reservation owned or controlled by the Yurok Tribe for the benefit of its members.
- (b) The Courts of the Yurok Tribe shall have jurisdiction over all cases arising under the provisions of this Code and all cases arising under the provisions of any state or country that arise under that jurisdiction's codes as related to any provision related to

child dependency, foster care, guardianship, and/or adoption which shall arise involving any child which is or may be eligible for enrollment in the Yurok Tribe. Further, this jurisdiction will extend to any child of a Tribal member even if that child may not necessarily be a candidate for enrollment with the Tribe at the time of the proceedings.

- (c) All cases of child dependency, foster care, guardianship, and/or adoption involving the minor children of any member of the Yurok Tribe which may arise outside the Yurok Reservation are subject to the assertion of concurrent jurisdiction by the Yurok Tribal Court and until such time as the retrocession of Public Law 82-280 shall be subject to the provisions of the Indian Child Welfare Act allowing for transfer of said case to the Yurok Tribal Court.

Transfer of Jurisdiction to Tribal Court

- (a) The Yurok Tribal Court is authorized to formally accept the transfer of jurisdiction from any state or other Tribal Court, so long as the other tribe's governing body has validly consented in writing to the transfer of jurisdiction or the Tribal Court has issued an order granting the transfer.
 - (1) A party interested in transferring jurisdiction to Tribal Court must file a Petition to Accept Transfer of Jurisdiction, along with any supporting documentation, stipulations or legal authorities, as appropriate or necessary, with the Tribal Court.
 - (A) Any Petition to Accept Transfer of Jurisdiction filed with the Tribal Court must include:
 - (i) Whether the child is enrolled or eligible for enrollment in the Yurok Tribe, or whether there is another circumstance outlined in section 12.15.010 of this Code that gives the Tribal Court jurisdiction over this case;
 - (ii) A copy of the Report and Findings and Orders from the most recent State Court or Tribal Court hearing;
 - (iii) Whether a Petition to Transfer Jurisdiction to Yurok Tribal Court has already been filed in the State Court, and if it has, whether it was granted; or if the case is currently under the jurisdiction of another Tribe, whether a Petition to Transfer Jurisdiction to the Yurok Tribal Court has already been filed in that Tribal Court, and if so, whether it has been granted; or if the other Tribe does not have a Tribal Court, whether a request has been made to that Tribe's governing body for the transfer, and if so whether that Tribe's governing body has validly consented in writing to the transfer; and
 - (2) The transfer may be initiated in the State Court, the Yurok Tribal Court, or another Tribal Court. Both courts must approve of the transfer.
 - (3) The transferring court may apply the policies of the Indian Child Welfare Act, [25 U.S.C. §§ 1901](#) through [1963](#), where they do not conflict with the provisions of this Code.

- (4) In cases transferred to the Tribal Court under the Indian Child Welfare Act (ICWA), [25 U.S.C. § 1911\(b\)](#), the Court may adopt the state court's certification of aggravated circumstances or hold its own hearing regarding the existence and applicability of an aggravated circumstances determination by the state under this chapter.
- (5) After another court transfers a case to the Tribal Court's jurisdiction and transmits all documents and legal and social records, the Tribal Court shall proceed with the case as if the Petition had been originally filed in the Tribal Court.

Notice of Hearing.

The Tribal Court will provide notice of the hearing as outlined in section 12.20.060(b) of this Code. If the State Court has not granted an order transferring jurisdiction to the Tribal Court, parties to the State Court case shall be noticed as well.

Findings and Orders.

The Court shall make the following Findings and Orders:

- (a) Whether all parties and the child's current caregiver(s) have been noticed of the date, time, and location of this hearing.
- (b) Whether the case falls under the jurisdiction of the Tribal Court.
- (c) Whether a request or Petition has been filed with the State or Tribal Court having jurisdiction, and if so whether the State Court, Tribal Court, or Tribal governing body has granted the request.
- (d) Whether the Yurok Tribal Court has been provided with the documents from the State or other Tribal Court necessary to make an informed decision about whether transfer of the case to the Yurok Tribal Court is appropriate.
- (e) If the Yurok Tribal Court has not been provided with the documents necessary to make an informed decision about whether to accept transfer of jurisdiction of the case, the Court may order the Petitioner to obtain the documents and continue the hearing.
- (f) If the Court does not continue the hearing, it shall either accept or deny the request to accept transfer of jurisdiction of the case.
- (g) If the Court denies the request, the Petition shall be dismissed.
- (h) If the Court grants the request and an order has already been issued by the State or other Tribal Court, jurisdiction of the case will be accepted immediately and jurisdiction of the State or Tribal Court will be terminated by operation of law. If the Court grants the request and an order has not been issued by the State or other Tribal Court that currently has jurisdiction, the Yurok Tribal Court will have jurisdiction of the case effective the date the State or other Tribal Court grants the request to transfer the case.
- (i) If the Tribal Court accepts transfer of jurisdiction of the case, it shall hold a transfer-

in hearing to issue interim orders to ensure there is no gap in care or custody of the child during the transfer process.

Transfer-in Hearing.

- (a) Timing. When an order has already been issued by a State or another Tribal Court granting transfer of jurisdiction to the Yurok Tribal Court, the Court shall make every effort to hold the transfer-in hearing in conjunction with the hearing on the Petition to Transfer Jurisdiction to the Yurok Tribal Court.
- (b) Purpose. The purpose of the transfer-in hearing is for the Court to: notify parties of their rights; appoint a Court Appointed Advocate to represent the child and parent/guardian/caretaker, where applicable; and issue interim orders, including orders on visitation, services, and placement and care of the child.

Findings and Orders.

The Court shall make the following findings and orders:

- (a) Whether all parties and the child's current caregiver(s) have been noticed of the date, time, and location of this hearing as well as their rights.
- (b) If the child has been removed, the Court shall order exclusive placement and care of the child with Tribal Child Welfare Department . The Court may also make the additional orders relating to Tribal Child Welfare Department 's placement and care of the child as outlined in section 12.20.060(g) of this Code.
- (c) The Court may order placement, services, requirements, and visitation/contact with the child as stated in the child's existing case plan.
- (d) The Court may order Tribal Child Welfare Department to develop a new case plan jointly with the parent/guardian/caretaker, and if over 14, the child, as well as family service providers.
- (e) The Court may order Tribal Child Welfare Department to prepare a Court Report and serve and file it in accordance with the Rules of Court.
- (f) The Court may order that all previously made orders, including orders of the State or Tribal Court from which jurisdiction were transferred, that are not in conflict with this order, remain in full force and effect.
- (g) The Court may make additional orders as it deems necessary.


Concurrent Jurisdiction Cases.

Tribal Child Welfare Department or another jurisdiction may petition the Court to jointly and/or concurrently supervise cases which are within the subject matter jurisdiction of this Code. The Petition and subsequent order will specifically delineate the responsibility of each jurisdiction.

CHAPTER 2. PERMANENCY PLANS WHEN CHILD REMOVED FROM HOME.

Permanency plans.

For a child that has been removed from their home, the permanency plan shall be to return to and be safely maintained in the home unless reunification efforts are unsuccessful or have been determined not to be required by the Court. Tribal Child Welfare Department must make active efforts as outlined in Chapter 9, section 4901 of this Code to finalize the permanency plan and to develop and implement an alternative permanency plan while simultaneously making active efforts to unite or reunite the child with their parent/guardian/caretaker.

Alternative permanency plans. 

Alternative permanency plans include legal guardianship, placement with a fit and willing relative, Yurok adoption, adoption with the termination of parental rights, or in Another Planned Permanent Living Arrangement if the child is 16 years of age or older.

- (a) Legal Guardianship: means a judicially-created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision-making.
- (b) Placement with a Fit and Willing Relative: means long-term placement with a committed relative where the child remains under the placement and care of Tribal Child Welfare Department. Therefore, parental rights with respect to the child, such as protection, education, care and control of the person, custody of the person, and decision-making, do not transfer to the relative.
- (c) Yurok adoptionYurok adoption : means the establishment by the Tribal Court, of the legal relationship between persons who are not so related by birth, with the same mutual rights and obligations that exist between children and their birth parents. Yurok adoptionA Yurok adoption does not sever the biological parent and child relationship it only modifies the rights of the biological parents.
- (d) Adoption with Termination of Parental Rights: means the establishment by the Tribal Court, of the legal relationships between persons who are not so related by birth with the same mutual rights and obligations that exist between children and their birth parents. Under this type of adoption, all parental rights of the biological parents are terminated. When this type of adoption is ordered, a protective parent(s) shall be named when this Court has terminated the parental rights and responsibilities of a parent pending the finalization of the adoption. Protective parent status will be found by the Tribal Court when the Court determines, in the best interests of the minor, that the proposed prospective parent should be granted this status. The protective parent shall permanently have all the rights and responsibilities of the biological parents when the adoption is finalized. The child shall continue to retain all rights of enrollment and inheritance that stem from the biological parent(s) and family.
- (e) Another Planned Permanent Living Arrangement (APPLA). When the child is 16 years of age or older at the time of the hearing and in a planned permanent living arrangement other than return home, legal guardianship, placement with a fit and willing relative, Yurok adoption, or adoption with the termination of parental rights,

the Court shall do all of the following:

- (1) Ask the child about his or her desired permanency outcome;
- (2) Made a judicial determination that Tribal Child Welfare Department has taken steps to ensure that the child's foster family home or childcare institution is following the reasonable and prudent parent standard and ascertaining whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities by consulting with the child in an age-appropriate manner about the opportunities the child has to participate in activities;
- (3) Make a judicial determination explaining why, as of the hearing date, another planned permanent living arrangement is the best permanency plan for the child;
- (4) State for the record the compelling reason or reasons why it continues not to be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative; and [Ord. 46A § 1602, adopted, 3/24/2016.]
- (5) Approve the placement.

CHAPTER 3. PROVISIONS FOR COURT HEARINGS.

SECTION 4301. Applicability of these Provisions.

Unless otherwise stated, the provisions in this Chapter shall apply to all hearings under this Code.

SECTION 4302. Representation in Court.

- (a) Court Appointed Advocate. In any proceedings which have necessitated Court intervention, the Tribal Court will appoint an Advocate to represent the child. The Tribal Court may also appoint an Advocate to represent a parent/guardian/caretaker depending on the availability for funding for such appointment. A Court Appointed Advocate shall be a sworn officer of the Court.
- (b) Spokesperson/Representative. A spokesperson/representative may be allowed to act as such at any hearing at the discretion of the Court. If a dispute arises as to the qualifications/abilities of such a person to function in that role, the Chief Judge will resolve the dispute.

SECTION 4303. Notice of Hearing.

The Court shall notice all parties named in an action of the date, time, and location of hearings, with the exception of a Detention hearing and a hearing for California Statutory Tribal Customary Adoption (TCA). The Detention hearing shall be noticed as outlined in section 12.50.010(d) of this Code and the TCA hearing shall be noticed as outlined in section 12.65.40(f) of this Code. The child, if age twelve or older, shall also be noticed of the hearing. Notice of the proceeding and the right to be heard shall also be provided to the foster parent(s) of a child and any pre-adoptive parent(s) or relative(s) providing care for the child in all Status Review and Permanency hearings, at a minimum. Notice of and right to be heard does not require the Court to make the caregiver a party to the proceeding.

SECTION 4304. Persons Present.

Unless requested by a parent/guardian/caretaker and consented to or requested by the child concerning whom the Petition has been filed, the public shall not be admitted to any hearing. The judge may nevertheless admit such persons as they deem to have a direct and legitimate interest in the particular case or the work of the Court.

SECTION 4305. Notification of Rights.

- (a) Right to an Attorney or Spokesperson. The Court shall advise the parties of the right to retain legal counsel or a spokesperson at their own expense, or to a Court Appointed Advocate, if applicable.
- (b) Right to be Informed. The Court shall inform the parent/guardian/caretaker and child, where appropriate, of the reason for any hearing. In the case of a Detention or Initial hearing and the Jurisdiction hearing, the Court shall read the contents of the Child in Need of Aid Petition to the parent/guardian/caretaker, explain the reasons the child was taken into emergency custody, or the Petition was filed for Court intervention, the purpose of the Detention or Initial Hearing and the Jurisdiction hearing, and the possible outcomes of the hearing.
- (c) Right to Present Evidence. A parent/guardian/caretaker, or counsel for such person, a child over the age of 12, or counsel, spokesperson admitted to the Tribal Bar, Court Appointed Advocate, shall be given the opportunity to present evidence to the Court at any hearing. The Court may hear any evidence which is relevant to the case and is reasonably reliable. Evidence may include that the child can be returned to the care of the parent/guardian/caretaker without further jeopardy to the child's health or safety, without endangering the health or safety of others, or without fear of removal of the child from the area. [Ord. 46A § 1701(j), adopted, 3/24/2016.]

SECTION 4306. Evidence.

- (a) For the purpose of establishing that a child is, or is at risk of becoming, a Child in Need of Aid , determining proper disposition of a child, and/or periodically reviewing the child's and family's progress, written reports and other materials relating to the child's mental, physical, educational, and social history and condition, must be received into evidence and may be considered by the Court along with other evidence. The Court may also require that the person who prepared the report or the person or persons whose opinions or statements are contained within such reports appear as a witness if such person or persons are reasonably available. Evidence may also include oral or documentary facts presented by a party or their representative.
- (b) A report prepared by Tribal Child Welfare Department , and hearsay evidence contained in it, where the hearsay declarant is a peace officer, a health practitioner, a social worker, or a teacher, is admissible and constitutes competent evidence upon which a finding of jurisdiction [a finding that a child is, or is at risk of becoming, a Child in Need of Aid] may be based.
- (c) The preparer of the report shall be made available for cross-examination upon a timely request by any party. The Court may deem the preparer available for cross-

examination if it determines that the preparer is on telephone standby and can be present in court within a reasonable time of the request or available by telephone.

- (d) A Court Appointed Advocate shall be appointed to any unrepresented child in all Court proceedings pursuant to section 12.20.060(a) of this Code. The Court Appointed Advocate shall present all relevant documents in that child's cases including, but not limited to, social services reports, Court Findings and Orders, discovery materials and all Petitions filed. [Ord. 46A § 1701(f), adopted, 3/24/2016.]

SECTION 4307. Court Ordered Evaluations.

- (a) The Court may order that a child, who is the subject of a filed Child in Need of Aid Petition (In-Home or Out-of-Home), be examined by a physician, surgeon, psychiatrist or psychologist, and may place the child in a hospital or other facility for such examination.
- (b) The Court may also order an examination of a parent/guardian/caretaker whose ability to care for the child is at issue if the Court finds evidence presented at the hearing that the physical, mental, or emotional condition of the parent/guardian/caretaker may be a factor in causing the maltreatment of the child. Such examination may be ordered only for purposes of custody disposition and with consent of the parent/guardian/caretaker. [Ord. 46A § 1701(n), adopted, 3/24/2016.]

SECTION 4308. Placement and Care.

At any hearing in which the Court determines that it is contrary to the child's welfare to remain at home or return home, placement and care of the child shall be vested with Tribal Child Welfare Department .

- (a) The Court may authorize Tribal Child Welfare Department to obtain medical, hospital, surgical, mental health, or dental care for the child by licensed practitioners as necessary for the health, safety and welfare of the child.
- (b) The Court may authorize Tribal Child Welfare Department to sign releases of information for the child on behalf of the parent/guardian/caretaker if they are unable or unwilling to sign such releases of information.
- (c) The Court may order Tribal Child Welfare Department to seek such public financial assistance as may be available for the support and maintenance of the child and may authorize or order Tribal Child Welfare Department to receive and disburse any and all benefits to which the child may be entitled.

SECTION 4309. Court Ordered Services.

- (a) Before a case plan is developed, or in addition to services recommended in a case plan, the Court may order the child, parent/guardian/caretaker to attend any of the following if it determines they are related to the circumstances which cause the child to come to the attention of the Court, and if they are likely to promote the best interests of the child and their Tribe and the return of the child to their home or the maintenance of the child in the home: (i) Parenting education classes; (ii) Alcohol or substance abuse treatment; (iii) Wellness court services; (iv) Anger abatement classes; or (v) Counseling for victims or perpetrators of domestic violence.

- (b) The Court may refer the matter to the Tribal Court Mediator or for Family Unity Conferencing.
- (c) The Court may order services as stated in the case plan, which may be attached and incorporated by reference into the Court's Findings and Orders.
- (d) In all actions in which a substantiated report of child maltreatment is confirmed, the Court shall order Tribal Child Welfare Department to implement a Family Conferencing Plan as part of the services offered to the family.
- (e) The Court may order any additional services deemed necessary.

SECTION 4310. Scheduling.

In scheduling investigations and hearings, the Court shall give priority to proceedings concerning children who have been removed from their homes before an order of disposition has been made.

CHAPTER 4. CASE REPORT AND PLANS

SECTION 4401. Development of Case Plan

Tribal Child Welfare Department or other agency designated by the Court shall develop a written case plan in all cases within sixty days of the removal of the home or initiation of an In-Home services case. The case plan may be attached to the Court Report and shall be filed with the Court and served on all parties at least five court days prior to the hearing in which it will be considered.

- (a) The case plan for each child must be developed using a uniform case plan format. The case plan shall be a discrete part of the case record.
- (b) The focus of the case plan shall be to achieve the child's safety, permanency and well-being. The plan must be designed to reunite the family and will contain, if appropriate, a concurrent alternative permanent plan for the child in the event the child does not return to parental care. All case planning must be done in collaboration with the parents and as appropriately with the child/non-minor dependent.
- (c) Every child must have a case plan to address the safety and appropriateness of the placement. If the child is placed in out of home care, the case plan will address the needs of the substitute caregiver in caring for the child and in order to improve the conditions in the home.
- (d) It is expected that all parental case plans are to be signed by the parents and Tribal Child Welfare Department staff. For a child's case plan who is under 14, the parent and/or foster parent as well as legal representative must sign the case plan. For children 14 and over, the child, legal representative and the Tribal Child Welfare Department Title IV-E staff must sign the case plan. Parents and children/non-minor dependents who have legal representation should be encouraged to review the case plan prior to submission to the Court.

SECTION 4402. Review of Plan.

The case plan will be reviewed at a minimum every ninety (90) days and revised every six (6) months as needed.

SECTION 4403. Voluntary Case Plans

Case plans for children and families under voluntary services should be developed in accordance with Chapter 2.IV.D of the Yurok Title IV-E Policies and Procedures Manual.

SECTION 4404. Reports and Evidence for the Court

For the purpose of determining proper disposition of a child, written reports and other material relating to the child's mental, physical, and social history may be received and considered by the Court along with other evidence.

- (a) The Court, either on its own motion or if requested by the child, the child's parent/guardian/caretaker, or other interested party, shall require that the person who wrote the report or prepared the material appear as a witness and be subject to both direct and cross-examination.
- (b) The Court may order placement, services, and visitation/contact with the child as stated in the case plan, and incorporated into its Findings and Orders by reference. In addition, the Court may make additional orders regarding the child's safety, medical/dental/vaccine status, education, behavioral health, visitation/family connections, and cultural connections, and any other orders it deems necessary for the safety and wellbeing of the child.

SECTION 4405. Required Elements to Case Plans

Every case plan shall contain the following elements regardless of the overall objective of the case:

- (a) Include a description of the services offered and provided to prevent removal of the child from the home and to reunify the family which may include but not be limited to the following services:
 - (1) Case Management;
 - (2) Case Planning Activities;
 - (3) Transportation;
 - (4) Family Finding.
- (b) Include specific descriptions of the responsibilities of the Social Worker, other staff, other individuals, and community agencies in the provision of services and the performance of case management activities.
- (c) For children in out-of-home care, the case plan shall document the two services tracks identified for children receiving family reunification services which include the following:
 - (1) The services to be provided to assist the parents(s), guardian or Indian custodian in reunifying with the child as identified in the family reunification services track.
 - (2) The services to be provided and steps to be taken to implement the permanency alternative identified in the case plan if family reunification fails.
- (d) Include a description of the family's needs which will include documentation in

regard to the family's:

- (1) Behavioral Health
 - (2) Housing;
 - (3) Parenting;
 - (4) Medical;
 - (5) Employment;
 - (6) Education;
 - (7) Culture;
 - (8) Community Resources;
 - (9) Transportation.
- (e) Include timelines to which the family and Tribal Child Welfare Department will be held for completion of services;
- (f) Include a description of the services provided to the parent(s), child and substitute caregivers in order to improve the conditions in the parent(s)' home to facilitate the child's return to his or her own safe home, or the permanent placement of the child (please see Chapter 4 Section III.C Service Guidelines for further instruction);
- (g) Include a description of how the families' progress, or lack of progress, will be measured;
- (h) Include a plan that outlines the visitation which Tribal Child Welfare Department will provide between the child and parent, guardian, or custodian, and relatives if appropriate if the child is placed out of the home;
- (i) Include a description of the type of home or institution in which the child/ non-minor dependent is placed;
- (j) Include a discussion of the safety and appropriateness of the placement and how Tribal Child Welfare Department plans to carry out the circumstances necessitating voluntary placement and/or the judicial determinations and recommendations made by the court regarding the child's removal and placement;
- (k) Include a plan for assuring that the child/non-minor dependent receives safe and proper care and that services are provided to the child/non-minor dependent and substitute caregiver to address the needs of the child while in foster care;
- (l) Include a discussion of the appropriateness of the services that have been provided to the child/non-minor dependent under the plan;
- (m) Where appropriate for a child/ non-minor dependent 14 or over, includes a written description of the programs and services which will help such child prepare for the transition from foster care to independent living in an Independent Living Plan (ILP). Any revision or addition to the plan must be developed in consultation with the child and at the option of the child up to two members of the case planning team who are chosen by the child and who are not a foster parent of, or a caseworker for the child. The ILP shall include:

- (1) A description of the rights of the child/non-minor dependent with respect to education, health, visitation, court participation, the rights to health and education records and the right to stay safe and avoid exploitation;
- (2) A signed acknowledgment by the child/non-minor dependent that they were provided a copy their rights and these rights were explained in such a way that the child/non-minor dependent understands their rights.
- (3) A description of the child/non-minor dependent's current level of functioning, their emancipation goals; the progress toward achieving the goals in the ILP; the programs and services needed to help the child/non-minor dependent achieve the goals; and identifies the individuals assisting the child/non-minor dependent to accomplish the ILP goals.
- (4) The ILP shall address and include goals related to the following areas:
 - (A) Employment
 - (B) Financial/Taxes
 - (C) Independent Living Programs (Tribal or County ILP as appropriate)
 - (D) Education
 - (E) Housing
 - (F) Connectedness to Yurok culture, community and family
 - (G) Preventive health activities
 - (H) Behavioral Health Mental health counseling, if needed
 - (I) Self-advocacy skills
 - (J) Knowledge of how to obtain important documents
 - (K) Establishment and maintenance of a bank account
 - (L) Receipt/completion of applications for sources of post-emancipation financial support
 - (M) Referral to adult social services, as needed, prior to emancipation
 - (N) Development of a mentoring relationship with a responsible adult/establishing permanent connections.
- (5) Each child/non-minor dependent in foster care under the responsibility of the Tribe who has attained 14 years of age shall receive without cost a copy of any consumer report (as defined in section 603(d) of the Fair Credit Reporting Act) pertaining to the child/non-minor dependent each year until the child/ child/non-minor dependent is discharged from care, and receives assistance (including, when feasible, from any court-appointed advocate for the child/non-minor dependent) in interpreting and resolving any inaccuracies in the report.
- (n) Includes a discussion of how the case plan is designed to achieve a safe placement for the child in the least restrictive (most family-like) setting available and in close proximity to the home of the parent(s) when the case plan goal is reunification and a

discussion of how the placement is consistent with the best interest and special needs of the child;

- (o) If the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parent(s), in a different State, or outside of the Tribal service area, sets forth the reasons why such a placement is in the best interests of the child or if the child has been placed in foster care in a State or Tribal service area outside the State or Tribal service area in which the child's parent(s) are located, assures that an agency Social Worker on the staff of the State or Tribal agency of the State or service area in which the home of the parents of the child is located, of the State or service area in which the child has been placed, or of a private agency under contract with either such State or Tribe, visits the child in such foster home or institution no less frequently than every month and submits a report on the visit to Tribal Child Welfare Department and/or the State or Tribal agency in the service area where the home of the child's parent(s) is located;
- (p) A plan for ensuring the educational stability of the child while in foster care including:
 - (1) Assurances that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and
 - (2) An assurance that Tribal Child Welfare Department has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the child remains in the school in which the child is enrolled at the time of each placement; or
 - (3) If remaining in such school is not in the best interests of the child, assurances by Tribal Child Welfare Department and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school; and
- (q) Incorporates the health and education records of the child including the most recent information available regarding:
 - (1) The names and addresses of the child's health and educational providers;
 - (2) The child's grade level performance;
 - (3) The child's school record;
 - (4) A record of the child's immunizations;
 - (5) The child's known medical problems;
 - (6) The child's medications; and
 - (7) Any other relevant health and education information concerning the child determined to be appropriate by Tribal Child Welfare Department .
 - (8) A child's health and education records are reviewed and updated, and a copy of the record is supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster

care.

- (r) For a child, aged 16 years of age or older, for whom another planned permanent living arrangement has been determined as the permanency plan:
 - (1) A description of the intensive, ongoing and unsuccessful efforts made by Tribal Child Welfare Department to return the child home or place the child with a fit a willing relative, a legal guardian, or an adoptive parent, including through efforts that utilize search technology to find biological family members for children;
 - (2) A description of the steps Tribal Child Welfare Department is taking to ensure the child's foster family home or child-care institution is following the reasonable and prudent parent standard including whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities;
 - (3) A description of the steps Tribal Child Welfare Department is taking to return the child home or secure a placement for the child with a fit and willing relative, a legal guardian or an adoptive parent; and
 - (4) A description of the compelling reason that it would not be in the best interest of the child to return home, be placed for adoption or legal guardianship or with a fit and willing relative.
- (s) If the child has been placed in a Short-Term Residential Treatment Program the case plan shall include:
 - (1) A description of the child's Permanency Team including the individuals who comprise the team, the contact information for those who comprise the team, and the contact information for other family members and fictive kin who are not part of the team;
 - (2) A description of the efforts Tribal Child Welfare Department has made to identify and include all individuals on the Permanency Team as described in Chapter 1, Section III of the Yurok Tribe Title IV-E Policies and Procedures Manual.
 - (3) A description of the efforts Tribal Child Welfare Department has made to facilitate meetings of the Permanency Team including making those meetings accessible in time and place;
 - (4) A description of how the parent or legal guardian of the child was included in the selection of the members of the Permanency Team;
 - (5) A description of the ongoing assessment conducted on the strengths and needs of the child, how the Permanency Team was involved in the assessment, and how that assessment supports the determination that the needs of the child cannot be met by the family or through placement in a foster family home (a shortage or lack of foster family homes shall not be an acceptable reason);
 - (6) A description of how the placement in a Short-Term Residential Treatment Program provides the most effective and appropriate level of care for the

child in the least restrictive environment;

- (7) A description of how the placement in a Short-Term Residential Treatment Program is consistent with the short- and long-term goals of the child as specified in the permanency plan for the child;
- (8) A description of the specific treatment or service needs that will be met for the child in placement and the length of time the child is expected to need the treatment or services;
- (9) A description of the efforts made by Tribal Child Welfare Department to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian or in a foster family home;
- (10) A description of the placement preferences of the family and the Permanency Team that recognizes that children should be placed with their siblings;
- (11) For a child who is not placed according to the placement preferences of the Permanency Team, a description of why the recommendation of the qualified individual and the placement of the child did not follow the placement preferences of the family; and
- (12) The signature of the Tribal Child Welfare and Behavioral Health Director authorizing the continued placement of the child in the Short-Term Residential Treatment Program.

SECTION 4406. Transition Case Planning for Minors and Non-Minor Dependents Exiting Foster Care.

During the 90-day period immediately prior to the date on which the child or non-minor dependent will exit foster care, the Social Worker and as appropriate, other representatives of the child/non-minor dependent child, shall provide the child/non-minor dependent child with assistance and support in developing a 90-Day Transition Case Plan. The Case Plan shall be developed whether during that period foster care maintenance payments are being made on their child's behalf or the child/non-minor dependent child is receiving independent living benefits or services. The Case Plan shall be personalized at the direction of the child/non-minor dependent child.

The plan shall include:

- (a) specific options on housing,
- (b) health insurance,
- (c) education,
- (d) local opportunities for mentors and continuing support services,
- (e) work force supports and employment services,
- (f) information about the importance of designating another individual to make health care treatment decisions on behalf of the child/non-minor dependent child if they child becomes unable to participate in such decisions and the child/non-minor dependent child does not have, or does not want, a relative who would otherwise be

authorized under Tribal law to make such decisions, and

- (g) provides the child/non-minor dependent child with the option to execute a health care proxy, or other similar document recognized under Tribal law, and is as detailed as the child may elect;

SECTION 4407. Documentation Required in Case Plan for Permanency.

Tribal Child Welfare Department must:

- (a) Document the steps to finalize a placement when the case plan goal is or becomes adoption or placement in another permanent home in accordance with the Federal Social Security Act. When the case plan goal is adoption, at a minimum such documentation shall include child-specific recruitment efforts such as the use of Tribal, State, regional, and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-State and interstate placements;
- (b) In the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship.
- (c) At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-State and interstate placements.

SECTION 4408. Documentation of Active Efforts in Case Plan.

Tribal Child Welfare Department must provide active efforts to prevent the breakup of a Yurok family and a removal of a child from the home of the parents unless the Court makes a finding that such efforts are not required in the case. Active efforts to preserve or reunify the family are not required when the court has found “aggravated circumstances.” Aggravated circumstances as defined in the Children’s Ordinance shall consist of those circumstances identified in the California Welfare and Institutions Code section 361.5(b) and further described in Chapter 3, Section I.N. of the Yurok Tribe Title IV-E Policies and Procedures.

SECTION 4409. Documentation of Termination of Parental Rights in Case Plan.

In the case of a child who has been in foster care under the responsibility of the Tribe for 15 of the most recent 22 months, or, if a court of competent jurisdiction has determined a child to be an abandoned infant (as defined under Tribal law) or has made a determination of aggravated circumstances the Tribe shall file a petition to terminate the parental rights of the child’s parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, unless the requirements of Section 42305 “Election to Not File” are met.

SECTION 4410. Documentation of Guardianship with a Relative in the Case Plan.

For a child with respect to whom the permanency plan is placement with a relative and receipt of guardian assistance payments, Tribal Child Welfare Department shall include in the case plan a description of:

- (a) The steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;
- (b) The reasons for any separation of siblings during placement;
- (c) The reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests;
- (d) The ways in which the child meets the eligibility requirements for a guardianship assistance payment;
- (e) The efforts TCW has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons; and
- (f) The efforts made by TCW to discuss with the child's parent(s) the guardianship assistance arrangement, or the reasons why the efforts were not made.

CHAPTER 5. ABUSE

SECTION 4501. Physical Abuse

For the purposes of this title, the term "physical abuse" includes where a parent or other caretaker inflicts, causes another to inflict, or fails to make reasonable efforts to prevent the infliction of physical injury upon a child when the parent or caretaker knows or reasonably should know that a child is in danger of physical abuse.

- (a) The term "physical injury" includes, but is not limited to, any case in which:
 - (1) The child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture, sprain or dislocation of any bone, subdural hematoma, soft tissue swelling, lacerations, disfigurement, impairment of bodily organs or functions, severe pain, or intentional overdosing or withholding of prescription medications or administration of illegal drugs or alcohol; and
 - (2) Such condition is not justifiably explained, is not the product of an accidental occurrence, or within the parameters of cultural or religious practices.
- (b) The term "physical abuse" does not include discipline administered by a parent or other caretaker to a child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty, within applicable Yurok Tribal standards.

SECTION 4502. Sexual Abuse.

For purposes of this chapter, the term "sexual abuse" includes where a parent or other caretaker employs, uses, persuades, induces, entices, or coerces a child to engage in, or assists another person

to engage in, sexually explicit conduct or the rape, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children. The term also includes where a parent or caretaker fails to make reasonable efforts to protect the child from sexual abuse when the parent or caretaker knew or reasonably should have known that the child was in danger of sexual abuse.

- (a) The term “sexually explicit conduct” includes, but is not limited to, actual or simulated:
 - (1) Sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;
 - (2) Bestiality;
 - (3) Masturbation;
 - (4) Lascivious exhibition of the genitals or pubic area of a person or animal; or
 - (5) Sadistic or masochistic abuse; or
 - (6) Exposure to pornographic materials for the purposes of sexual gratification of the parent, caretaker or another third party.
- (b) The term “sexual exploitation” includes, but is not limited to:
 - (1) Knowingly permitting or encouraging a child to engage, in any way, in prostitution or live sexual performance, or to display his or her genitals for the sexual gratification of the parent, caretaker, or third person; or
 - (2) Knowingly permitting or encouraging a child to engage, in any way, in the production of pornographic material, including the visual depiction of the child engaged in sexually explicit conduct, whether for commercial or personal purposes.
- (c) Commercial sexual exploitation means the sexual trafficking of a child as defined in subdivision (c) of California Penal Code § 236.1 and/or the provision of food, shelter, or any payment to a child in exchange for the performance of any sexual act described in subdivision (c) of California Penal Code § 236.1.
- (d) Sexual abuse may also be committed by a person under 18 years of age when that person is either three years older or more than the victim, when the victim is a mentally impaired child, or when the perpetrator is in a position of power or control over another child. [Ord. 46A § 1202, adopted, 3/24/2016.]

SECTION 4503. Child Neglect.

For the purposes of this chapter, the term “child neglect” includes where a parent or other caretaker:

- (a) Fails to provide the child with adequate food, clothing, shelter, education, medical

attention, supervision or other care necessary for the child's physical, mental, emotional and spiritual health and development, though:

- (1) The parent or caretaker is financially able to do so; or
 - (2) Public assistance and service programs are reasonably available if the parent or caretaker is indigent and parent or caretaker is made aware of such assistance;
- (b) Has knowingly abandoned the child;
 - (c) Has knowingly withheld medically indicated treatment, including traditional, cultural, and spiritual healing methods and options where appropriate;
 - (d) Is intoxicated or under the influence of a legal or illegal substance which renders the parent or caretaker unable to meet the reasonable responsibilities of the child for care;
 - (e) Has been found to be manufacturing/cultivating any illicit drugs in the home or on the property where the home is located or on or property where the child might reasonably be assumed to have access to in the daily life of the child; or
 - (f) Has failed to adequately protect the child from the known company of a registered sex offender.

SECTION 4504. Psychological Maltreatment.

For the purposes of this Code, the term “psychological maltreatment” includes where a parent or caretaker inflicts, causes another to inflict, or fails to make reasonable efforts to prevent the infliction of mental injury upon a child when the parent or caretaker knows or reasonably should know that the child was in danger of psychological maltreatment.

SECTION 4505. Mental Injury.

The term “mental injury” includes, but is not limited to, witnessing domestic violence, spurning, terrorizing, isolating, exploiting, or corrupting, denying emotional response or neglecting medical/mental health care and educational needs treatment. Symptoms of such abuse may be evidenced by an observable and substantial impairment in their ability to function within a normal range of performance and behavior, with due regard to their culture.

CHAPTER 6. INVESTIGATIONS AND REPORTS.

SECTION 4601. Receipt of Report.

If Yurok Tribal Police or Tribal Child Welfare Department receives a report alleging child maltreatment as described in the definitions section of this Code, Tribal Child Welfare Department shall immediately initiate an investigation of such allegation and shall take immediate, appropriate steps to secure the safety and wellbeing of the child(ren) involved.

- (a) Yurok Tribal Police will assist in the investigation upon the request of Tribal Child Welfare Department and/or if a crime or civil offense is being investigated.
- (b) The Yurok Tribal Police, upon receipt of a report of known or suspected child abuse

or neglect, shall first attempt to contact Tribal Child Welfare Department in order to refer the case for investigation. If the Yurok Tribal Police are unable to contact Tribal Child Welfare Department, they shall make a complete investigation and may institute appropriate legal proceedings on behalf of the subject child or other children under the same care.

- (c) The Yurok Tribal Police, upon receipt of a report and upon completion of any investigation they may undertake, shall immediately forward a summary of the investigatory data plus all relevant documents to Tribal Child Welfare Department. If Tribal Child Welfare Department is not available for immediate response, the law enforcement agency may take the child into protective custody if there appears to be an immediate threat to the child's wellbeing.
- (d) Upon completion of the investigation of any report of alleged child maltreatment, Tribal Child Welfare Department shall prepare a final written report on such allegation as described in Chapter 2 Section III.C. of the Yurok Tribe Title IV-E Policies and Procedures Manual. Copies of which will be available to the parent or guardian of the subject child upon request.

SECTION 4602. Confidentiality of Informant.

The identity of any person making a report described in Chapter 2 Section III.C. of the Yurok Tribe Title IV-E Policies and Procedures Manual shall not be disclosed in the final report of Tribal Child Welfare Department under section 12.30.010(5) of this Code, without the consent of the individual, to any person other than a court of competent jurisdiction or an employee of an Indian Tribe, a State or the Federal Government who needs to know the information in the performance of such employee's duties with the exception of cross-notifications required under section 12.30.030 of this Code.

SECTION 4603. Cross-Notification of Child Maltreatment Reports.

- (a) When the law enforcement agency or Tribal Child Welfare Department receives an initial report from any person of:
 - (1) The maltreatment of any child of the Tribe; or
 - (2) Actions which would reasonably be expected to result in abuse of a Yurok child;
- (b) The receiving agency shall immediately notify appropriate officials of the other agency of such report and shall also submit a copy of the written report to the other agency.
- (c) Where a report of abuse involves an Yurok child or where the alleged abuser is an Indian and where a preliminary inquiry indicates a criminal violation has occurred, the local law enforcement agency, if other than the Federal Bureau of Investigation, shall immediately report such occurrence to the Federal Bureau of Investigation.

SECTION 4604. Investigation and Reports of Allegations of Commercial Sexual Exploitation of a Child or Missing Child.

"Commercial sexual exploitation" refers to either:

- (a) The sexual trafficking of a child, as described in subdivision (c) of California Penal Code § 236.1; or
- (b) The provision of food, shelter, or payment to a child in exchange for the performance of any sexual act described subdivision (c) of California Penal Code § 236.1.

SECTION 4605. Cross Notification within 24 Hours.

Where it comes to the attention of Tribal Child Welfare Department staff that a child is, or is reasonably believed to be, a victim of commercial sexual exploitation or missing, the following shall apply:

- (a) Tribal Child Welfare Department staff shall immediately, and in no case later than 24 hours from receipt of the information, report to the law enforcement agency having jurisdiction over location of the child's last known residence or last known whereabouts, that a child or youth who is receiving Tribal child welfare services has been identified as missing or the victim of commercial sexual exploitation; and
- (b) Tribal Child Welfare Department staff shall immediately, or in no case later than 24 hours from receipt of the information, report the incident to the appropriate law enforcement authority for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to the National Center for Missing and Exploited Children.

SECTION 4606. Convening of Multi-Disciplinary Team .

- (a) Upon receipt of a report of known or suspected child sexual abuse or physical abuse of a child, or upon investigation of a report of child maltreatment that gives rise to such a suspicion, the Yurok Tribal Police or Tribal Child Welfare Department , whichever agency first receives the report of child maltreatment, shall notify the Office of the Tribal Attorney which shall convene a multi-disciplinary team pursuant to the federal Crime Control Act of 1990, 18 U.S.C. §3509(g), to provide services including:
 - (1) Medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;
 - (2) Telephone consultation services in emergencies and in other situations;
 - (3) Medical evaluations related to maltreatment;
 - (4) Psychological and psychiatric diagnoses and evaluation services for the child, parent or guardian, or other caregivers, or any other individual involved in a child victim or child witness case;
 - (5) Expert medical, psychological, and related professional testimony; and
 - (6) Case service coordination and assistance, including the location of services available from public and private agencies in the community.

SECTION 4607. Mandate for Training

Training for Judges, Litigators, Court Officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses shall be held annually. The Office of the Tribal Attorney, Yurok Tribal Police, and Tribal Child Welfare Department shall adopt and implement standard child abuse and neglect investigation and interview protocols using a model Tribal or state protocol that shall implement provisions required by this title. [Ord. 46A § 1304, adopted, 3/24/2016.]

CHAPTER 7. ACTIVE EFFORTS.

SECTION 4701. Active Efforts Required.

Tribal Child Welfare Department shall make active efforts to maintain the family unit and prevent the unnecessary removal of a child from their home, as long as the child's safety is assured; to effect the safe reunification of the child and family (if temporary out-of-home placement is necessary to ensure the immediate safety of the child); and to make and finalize alternate permanency plans in a timely manner when reunification is not appropriate or possible.

- (a) In determining active efforts to be made with respect to a child and in making such efforts, the child's health and safety shall be the paramount concern.
- (b) When a child is removed from their home, a judicial determination as to whether active efforts were made, or were not required, to prevent or eliminate the need for removal from the home, must be made no later than 60 days from the date the child is removed from the home. If the determination concerning active efforts to prevent the removal is not made within 60 days of removal, the child is not eligible under the Title IV-E foster care maintenance payments program for the duration of that stay in foster care.
- (c) Active efforts shall be made to preserve and reunify families:
 - (1) Prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home; and
 - (2) To make it possible for a child to safely return to the child's home; and
 - (3) If continuation of active efforts to reunify is determined to be inconsistent with the permanency plan for the child, active efforts shall be made to place the child in a timely manner in accordance with the permanency plan (including, if appropriate, through an inter-jurisdictional placement) and to complete whatever steps are necessary to finalize the permanent placement of the child.
- (d) Active Efforts to Finalize a Permanency Plan.
 - (1) Tribal Child Welfare Department must obtain a judicial determination that it has made active efforts to finalize the permanency plan that is in effect (whether the plan is reunification, Yurok adoption, adoption with the termination of parental rights, legal guardianship, placement with a fit and willing relative, or placement in Another Planned Permanent Living Arrangement) within 12 months of the date the child is considered to have entered foster care, and at least once every 12 months thereafter while the

child is in foster care.

- (2) If such a judicial determination regarding active efforts to finalize a permanency plan is not made within 12 months of the date the child is considered to have entered foster care, and at least once every 12 months thereafter, the child becomes ineligible under title IV-E at the end of the twelfth month in which the judicial determination was required to have been made, and remains ineligible until such a determination is made.

SECTION 4702. When Active Efforts are Not Required.

When active efforts are not required. Active efforts to prevent a child's removal from home or to reunify the child and family are not required if Tribal Child Welfare Department obtains a judicial determination that such efforts are not required because:

- (a) The Court has determined that aggravated circumstances justify the non-provision of active efforts as described in this section. Aggravated circumstances as defined in this title shall consist of those circumstances identified in the Yurok Tribe Title IV-E Policies and Procedures Manual Chapter 3 Section N.
- (b) A court of competent jurisdiction has determined that the parent has been convicted of any of the following as defined in Title 18 of the United States Code:
 - (1) Murder of another child of the parent;
 - (2) Voluntary manslaughter of another child of the parent;
 - (3) Aiding or abetting, attempting, conspiring or soliciting to commit such a murder or such a voluntary manslaughter; or
 - (4) A felony assault that results in serious bodily injury to the child or another child of the parent.

SECTION 4703. Permanency Hearings When Active Efforts Are Not Required.

When a judicial determination is made that active efforts are not required:

- (a) A Permanency hearing, which considers interstate and inter-jurisdiction permanent placement options for the child, shall be held for the child within 30 days after the determination; and the following shall apply:
 - (1) Active efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child; and
 - (2) Active efforts to place a child for adoption or with a legal guardian, including identifying appropriate interstate and inter-jurisdiction placements shall be made concurrently with active efforts to reunify.

SECTION 4704. Documentation of Judicial Determinations.

The judicial determinations regarding contrary to the welfare, active efforts to prevent removal, and active efforts to finalize the permanency plan in effect including judicial determinations that active efforts are not required, must be explicitly documented and must be made on a case-by-case basis and so stated in the court order.

- (a) If such judicial determinations are not included as required in the Court orders, a transcript of the Court proceedings is the only other documentation that will be accepted to verify that these required determinations have been made. Neither affidavits nor nunc pro tunc orders will be accepted as verification documentation in support of active efforts and contrary to the welfare judicial determinations.
- (b) Court orders that reference Tribal law (or the laws of another jurisdiction) to substantiate judicial determinations are not acceptable, even if the law provides that a removal must be based on a judicial determination that remaining in the home would be contrary to the child's welfare or that removal can only be ordered after active efforts have been made.
- (c) The duty to make active efforts includes, but is not limited to:
 - (1) Identifying family support services that will assist the parent/guardian/caretaker in remedying the conduct or conditions in the home that created the need for removal or made the child a Child in Need of Aid;
 - (2) Actively offering the parent/guardian/caretaker the services identified under this chapter;
 - (3) Initiating a Family Conferencing Plan;
 - (4) Actively referring the parent/guardian/caretaker to community-based family support services whenever community-based services are available and desired by the parent/guardian/caretaker;
 - (5) Placing siblings in the same home. Requirements for the implementation of this section shall be specified by Tribal Child Welfare Department in the Yurok Tribe Title IV-E Policies and Procedures Manual. [Ord. 46A § 1701(o), adopted, 3/24/2016.] and
 - (6) Document all actions taken by Tribal Child Welfare Department pursuant to section 12.35.010 of this Code. Such documentation will be included in any reports made to the Court.

CHAPTER 8. IN-HOME COURT CASES.

SECTION 4801. Timing.

Family maintenance services are limited to six months and may be extended in periods of six month increments if it is demonstrated that the case plan can be achieved within the extension.

SECTION 4802. Purpose.

The general purpose of an in-home court case is to provide time-limited, in-home protective services (family maintenance services) that prevent or remedy neglect, abuse or exploitation and prevent the separation of child(ren) from families when the child(ren) can safely remain in the home.

SECTION 4803. Eligibility.

A case shall be eligible for in-home (family maintenance) services under one of the following circumstances:

- (a) When a minor's parent/guardian/caretaker have requested the assistance of Tribal Child Welfare Department because the child is, or is at risk for becoming, a Child in Need of Aid and:
 - (1) The parent/guardian/caretaker has failed to appear at the informal conference after requesting voluntary services; or
 - (2) the parent/guardian/caretaker has failed to engage in services agreed to in the family case plan resulting from the informal conference following a request for voluntary services.
- (b) When Tribal Child Welfare Department has received a report of suspected abuse or neglect, conducted an investigation, and prepared a written report that determined that the child can safely remain in the home with the provision of services that would prevent the need for the child's removal from the home.
- (c) After the child has been removed from the home, at any hearing before reunification services to the parent/guardian/caretaker have been terminated, the Court may order the child returned home and the parent/guardian/caretaker and child to engage in prevention services under Court supervision.
- (d) When the child has a family maintenance services case open under the jurisdiction of a State Court or another Tribal Court, and the Yurok Tribal Court has accepted transfer of jurisdiction of that case.

CHAPTER 9. INITIAL HEARING (IN-HOME COURT CASES)

SECTION 4901. Initial Hearing Timing.

The Initial hearing shall be held before the end of the 15th court day following the filing of the Child in Need of Aid Petition (In-Home).

SECTION 4902. Purpose.

The purpose of the Initial hearing is for the Court to determine based on the first impression, by a prima facie showing, whether Court intervention is necessary to protect the safety and welfare of the child.

SECTION 4903. Child In Need of Aid Petition (In-Home).

In order to request Court intervention, Tribal Child Welfare Department must file a Petition documenting a prima facie showing that the child is, or is at risk of becoming a Child in Need of Aid as defined in this Code.

- (a) The Child in Need of Aid Petition (In-Home) shall contain:
 - (1) The name, address, and age of the child;
 - (2) The names and address of the child's parent/guardian/caretaker, unless it is known that one of the parents is a victim of domestic violence and there exists good cause that the address shall be kept confidential;
 - (3) The specific grounds upon which the Petition is based, sufficient to describe the circumstances under which the child is a Child in Need of Aid as defined in this Code, including the nature and extent of the child's alleged injury, abuse, or neglect;

- (4) A description of the services provided to the child and parent/guardian/caretaker to prevent the removal of the child;
- (5) The names and ages of any siblings of the child. If any siblings are the subject of a Court case, the name of the Court and case number, if known;
- (6) The factual basis for the Court's jurisdiction; and
- (7) If an investigation was conducted, information gained in the investigation shall be included in a written report and included with the Petition or presented and filed at the Initial Hearing.

SECTION 4904. Tribal Child Welfare Department to Make a Prima Facie Case.

The Tribal social worker shall report to the Court on why the Child in Need of Aid Petition (In-Home) has been filed. The Court shall dismiss the Petition unless a prima facie showing has been made that the child is or is at risk of becoming a Child in Need of Aid and that continued Court intervention is necessary to ensure the child's safety and wellbeing.

SECTION 4905. Required Findings and Orders.

At the Initial Hearing, the Court shall make the following Findings and Orders:

- (a) Whether all parties have been notified of the date, time, and location of the hearing, as well as their rights.
- (b) The Court has appointed the child a Court Appointed Advocate, whether the Court has appointed the parent(s)/guardian(s)/caretaker(s) an Advocate, and whether the Court Appointed Advocate(s) has/have accepted the appointment.
- (c) The Court shall determine the identity of child's parent(s)/guardian(s)/caretaker(s), and whether each is an enrolled member of the Yurok Tribe.
- (d) The Court shall determine whether it has jurisdiction.
- (e) The Court shall determine the name and age of the child's siblings, if any. If any of the siblings are the subject of a court case, the Court shall determine the name of the Court and the case number.
- (f) Whether active efforts have been made to prevent the removal of the child.
- (g) Whether services are available which would prevent the need for removal.
- (h) Whether Tribal Child Welfare Department has made a prima facie showing that the child is or is at risk of becoming a Child in Need of Aid.
 - (1) If the Court has determined that the child is not a Child in Need of Aid, or at risk of becoming a Child in Need of Aid, the Court may dismiss the Child in Need of Aid Petition (In-Home) and terminate its jurisdiction.
- (i) If the Court finds that Tribal Child Welfare Department has made a prima facie showing that the child is, or is at risk of becoming, a Child in Need of Aid, the Court will state for the record the basis of this conclusion. The Court may continue Court supervision, order family maintenance services, and set a jurisdiction hearing date.
- (j) If the Court finds that Tribal Child Welfare Department has made a prima facie

showing that the child is, or is at risk of becoming, a Child in Need of Aid , and determines that continuation in the home is contrary to the child's welfare, the Court may detain the child and proceed with the Findings and Orders in section 12.50.010(j) of this Code.

- (k) The Court may order services as outlined in section 12.20.060(h) of this Code.
- (l) The Court may order evaluations as outlined in section 12.20.060(f) of this Code.
- (m) In all actions in which a substantiated report of child maltreatment is confirmed, the Court shall order Tribal Child Welfare Department to implement a Family Conferencing Plan as part of the services offered to the family.
- (n) The Court may make any other orders it deems necessary.

CHAPTER 10. JURISDICTION HEARING (IN-HOME COURT CASE).

SECTION 41001. Timing.

The Jurisdiction hearing shall be held no later than 30 days following conclusion of the Initial Hearing but may be held in conjunction with the Initial Hearing.

SECTION 41002. Purpose.

The purpose of the Jurisdiction hearing is for the Court to determine whether the allegations in the Child in Need of Aid Petition (In-Home) are true, reassess whether continuing Court involvement is necessary to protect the wellbeing of the child and whether active efforts have been made to prevent the child's removal from the home.

SECTION 41003. Admit or Deny.

The parent/guardian/caretaker may admit or deny the allegations in the Petition. If the parent/guardian/caretaker denies the allegations, this shall not be held against them in the Court's findings. If the parent denies the allegations, the Court will hold a contested Jurisdiction hearing and weigh the evidence presented to it. The Court will make a decision regarding the allegations based on the evidence presented in Court. Tribal Child Welfare and Behavioral Health will present whatever evidence they have in support of the allegations and the parent/guardian/caretaker will have the opportunity to respond to that evidence and present evidence of their own to defend against the allegations. The burden of proof lies with the Petitioner (the person filing the Petition). The Petitioner must prove that the allegations raised in the Petition are more likely true than not, that is, by a preponderance of the evidence, and that the best interests of the child and the child's Tribe will be served by continued Court intervention.

SECTION 41004. Findings and Orders.

The Court shall make the following findings and orders:

- (a) Whether all parties have been notified of the date, time, and location of the hearing as well as their rights.
- (b) The Court has appointed the child a Court Appointed Advocate, whether the Court has appointed the parent(s)/guardian(s)/caretaker(s) an Advocate, and whether the

Court Appointed Advocate(s) has/have accepted the appointment.

- (c) Jurisdictional matters of the age and tribal status of the child shall be deemed admitted by or on behalf of the child, unless specifically denied before the Jurisdiction hearing.
- (d) The Court shall determine the identity of the parents, including their tribal status.
- (e) The Court shall determine the name and age of the child's siblings, if any. If any of the siblings are the subject of a court case, the Court shall determine the name of the Court and the case number.
- (f) Whether active efforts have been made to prevent the removal of the child.
- (g) Whether services are available which would prevent the need for removal.
- (h) The Court shall find by a preponderance of the evidence that the child is a CINA or dismiss the Petition unless the hearing shall be continued to a date certain to allow for the presentation of further evidence.
- (i) If the Court finds by a preponderance of the evidence that the allegations in the Petition are true and that the child can safely remain in the home with services available that may prevent the need for removal, the Court may order that the child remain in the custody to the parent/guardian/caretaker. In this case, the Court may order family maintenance services and set a Disposition hearing.
- (j) If the Court finds by a preponderance of the evidence that the allegations in the Petition are true and continuation in the home is contrary to the child's welfare, the Court may detain the child and proceed with the Findings and Orders in section 12.50.010(j) of this Code.
- (k) When it appears that the evidence presented at the hearing discloses facts not alleged in the Petition, the Court may proceed immediately to consider such additional or different matters raised by the evidence.
- (l) In such event, the Court, on the motion of an interested party or on its own motion, shall order the Petition to be amended to conform to the evidence. If the amendment results in a substantial departure from the original allegations in the Petition, the Court shall continue the hearing on the motion of any interested party, or on its own motion, if it finds such continuance to be in the best interests of the child or any other party to the proceedings materially prejudiced by the change in allegations.
- (m) If the Court finds that the child is or is at risk of becoming a Child in Need of Aid, the Court shall order Tribal Child Welfare and Behavioral Health to develop an appropriate case plan jointly with the parent/guardian/caretaker, any child 14 or older, and any others whose participation is deemed necessary by the Court.
- (n) The Court may order services as outlined in section 12.20.060(h) of this Code.
- (o) The Court may order evaluations as outlined in section 12.20.060(f) of this Code.
- (p) The Court may make any other orders it deems necessary.

CHAPTER 11. DISPOSITION HEARING (IN-HOME COURT CASE).

SECTION 41101. Timing.

The Tribal Court shall hear evidence regarding the proper disposition best serving the interests of the child and their Tribe. The disposition hearing may be held in conjunction with the Jurisdiction hearing if that is in the best interest of the child and the parties. The disposition hearing must be held within 60 days of the Initial hearing.

SECTION 41102. Purpose.

The purpose of the disposition hearing is to determine the appropriate disposition of the case and long-term plan for the child, including the child's placement, and whether the proposed case plan reasonably addresses the problems and needs of the child and parent/guardian/caretaker.

SECTION 41103. Required Findings and Orders:

The court shall make the following findings and orders:

- (a) Whether all parties have been notified of the date, time, and location of the hearing, as well as their rights.
- (b) The Court has appointed the child a Court Appointed Advocate, whether the Court has appointed the parent(s)/guardian(s)/caretaker(s) an Advocate and whether the Court Appointed Advocate(s) has/have accepted the appointment.
- (c) The Court shall determine the identity of the parents, including their tribal status.
- (d) The Court shall determine the name and age of the child's siblings, if any. If any of the siblings are the subject of a court case, the Court shall determine the name of the Court and the case number.
- (e) Whether active efforts have been made to prevent removal of the child.
- (f) Whether services are available that would prevent the child's removal.
- (g) The Court may find that Court intervention and supervision are not necessary. In this case the Court may dismiss the Petition and terminate jurisdiction.
- (h) The Court may find that continued Court intervention and supervision due to unresolved problems in the home are in the best interest of the child and parent/guardian/caretaker. In this case the Court may order family maintenance services and set a Status Review hearing. The Court shall specify what steps the parent/guardian/caretaker shall take to demonstrate their abilities to care for their child and specify what factors the Court will consider at a subsequent hearing to determine whether or not the Court shall terminate its jurisdiction.
- (i) Whether the parent/guardian/caretaker, any child 14 years or older, and any others ordered to participate were actively involved in the development of the case plan.
 - (1) If any parties were not actively involved in the development of the case plan, the Court may order Tribal Child Welfare Department to actively involve them and submit an updated case plan.
 - (2) The Court may also find that Tribal Child Welfare Department is not

required to actively involve any party in the development of the case plan because these persons are unable, unavailable, or unwilling to participate.

- (j) Whether the case plan reasonably addresses the problems and needs of the child and the parent/guardian/caretaker.
- (k) The Court shall order Tribal Child Welfare Department to provide family maintenance services and the parent(s)/guardian(s)/caretaker(s) to participate in the services stated in the case plan.
- (l) The Court may continue the Disposition hearing on its own motion or on the motion of any interested party, for a reasonable period to receive reports or for good cause.
- (m) The Court may order services as outlined in section 12.20.060(h) of this Code.
- (n) The Court may order evaluations as outlined in section 12.20.060(f) of this Code.
- (o) The Court may make any other orders it deems necessary.

CHAPTER 12. STATUS REVIEW HEARING(S) (IN-HOME COURT CASE).

SECTION 41201. Timing.

The status of all children shall be reviewed by the Tribal Court at least every 90 days at a hearing to determine whether Court supervision shall continue.

SECTION 41202. Purpose.

The general purpose of Status Review hearings is for the Court to determine whether continuing Court involvement is necessary to protect the wellbeing of the child, the extent of compliance with the case plan, the extent of progress that has been made toward alleviating or mitigating the causes necessitating Court intervention, and to project a likely date by which Court intervention may end.

SECTION 41203. Required Findings and Orders.

- (a) All parties and the child's current caregiver have been notified of the date, time, and location of the hearing, as well as their rights.
- (b) Whether the parent/guardian/caretaker, any child 14 years or older, and any others ordered to participate were actively involved in the development of the case plan.
 - (1) If any parties were not actively involved in the development of the case plan, the Court may order Tribal Child Welfare Department to actively involve them and submit an updated case plan.
 - (2) The Court may also find that Tribal Child Welfare Department is not required to actively involve any party in the development of the case plan because these persons are unable, unavailable, or unwilling to participate.
- (c) Whether the case plan reasonably addresses the problems and needs of the child and the parent/guardian/caretaker.
- (d) Whether by clear and convincing evidence, Tribal Child Welfare Department has complied with the case plan by making active efforts to prevent or eliminate the need for the child's removal from the home.

- (e) Whether the services provided to the family have been appropriate, accessible and provided in a timely manner.
- (f) Whether services are available that would prevent the need for the child's removal.
- (g) The extent of compliance with the case plan made by each parent/guardian/caretaker has been:
 - (1) no progress;
 - (2) minimal;
 - (3) moderate; or
 - (4) substantial. This finding may result in differing levels of progress for each parent/guardian/caretaker.
- (h) The extent of progress which has been made by each parent/guardian/caretaker toward alleviating or mitigating the causes necessitating placement has been:
 - (1) no progress;
 - (2) minimal;
 - (3) moderate; or
 - (4) substantial.

This finding may result in differing levels of progress for each parent/guardian/caretaker.
- (i) The Court may find that the problems that led to Court intervention no longer exist and that Court supervised family maintenance services are not necessary. In this case the Court may dismiss the Petition and terminate Court jurisdiction. This finding may be different for each parent/guardian/caretaker.
- (j) The Court may find that the problems that led to Court intervention still exist and that services are available that may prevent the child's removal from the home. In this case the Court may continue family maintenance services. This finding may be different for each parent/guardian/caretaker.
- (k) The Court may find that the problems that led to Court intervention still exist and that services are not available that will prevent the child's removal from the home. In this case the Court may detain the child and proceed with the findings in section 12.50.010(j). This finding may be different for each parent/guardian/caretaker.
- (l) The Court may order services as outlined in section 12.20.060(h) of this Code.
- (m) The Court may make any additional orders it deems necessary.

CHAPTER 13. TERMINATION OF JURISDICTION (IN-HOME COURT CASES).

SECTION 41301. Termination of Services.

Family maintenance services shall be terminated when the child is found not to be under the jurisdiction of the Court under any one of the following circumstances:

- (a) The Court dismisses the child welfare proceeding;

- (b) The effective date of closure of the Court supervised prevention services case will be the date of the hearing at which the child welfare proceeding is dismissed;
- (c) The Court has ordered that family reunification services or permanent placement services be provided;
- (d) The effective date of closure of the Court supervised prevention services case will be the date of the hearing at which services are ordered;
- (e) The Court declares the child is emancipated;
- (f) The child reaches age 18; or
- (g) The child is no longer a foster care candidate (i.e., no longer at imminent risk of removal).

SECTION 41302. Filing New Petition When Services Unsuccessful.

If at any point during an in-home court case the family does not comply, or family maintenance services are otherwise unsuccessful at resolving the allegation in the Petition, the social worker may file a new Petition with the Court referring to the previously sustained Petition and allege to the Court that the prior disposition was ineffective in ameliorating the situation requiring the prevention services. The Petition should then either be dismissed or require a new Detention Hearing be held.

CHAPTER 14. REMOVAL OF CHILD

SECTION 41401. Entity Responsible for Taking Emergency Custody of Children.

Tribal Child Welfare Department and Yurok Tribal Police shall be authorized to take a child that is or is at risk of becoming a Child in Need of Aid, into emergency custody.

SECTION 41402. Taking a Child into Emergency Custody.

The Tribal Representative shall take a child into emergency custody if:

- (a) An emergency custody order has been issued by this Court for the child following the ex parte filing of a sworn affidavit by a law enforcement officer or any other person, and upon the examination of other witnesses if required by the Court, that there is probable cause to believe that a child is being or has been abused, neglected, or is in need of aid as defined herein and is within the jurisdiction of the Court. An order authorizing removal of the child and providing for the child's custody, care and protection may be issued after the Court makes a prima facie determination that continuation in the child's home would be contrary to the child's welfare.
- (b) They have reasonable grounds to believe that the child is a Child in Need of Aid, that one or more of the conditions that would make the child a Child in Need of Aid exist, and the removal is required without an emergency custody order because there is an immediate safety threat to the child. [Ord. 46A § 1502, adopted, 3/24/2016.]

SECTION 41403. Notice of Emergency Custody to the Parent/Guardian/Caretaker.

The removing agency shall make all reasonable efforts to notify the parent/guardian/caretaker within 12 hours of the child's removal.

- (a) Reasonable efforts shall include personal, telephone and written contacts at the

residence, place of employment, or other location where the parent/guardian/caretaker is known to frequent with regularity.

- (b) If the parent/guardian/caretaker cannot be found, notice shall be given to extended family members.

SECTION 41404. Notice of Removal to the Court.

After a child is taken into emergency custody, the removing agency shall immediately notify this Court via filing.



SECTION 41405. Delivering the Child into Custody.

The Tribal Representative who takes a child into custody shall:

- (a) Release the child to their parent/guardian/caretaker immediately when the condition that created the need for emergency custody no longer exists, and issuing verbal instructions or warnings is sufficient to protect the child; or
- (b) Deliver the child immediately to a family advocate, Tribal Child Welfare Department Staff, or to a shelter care facility designated by the Court, or to a medical facility if the child is believed to be in need of medical attention. If appropriate, a Tribal Representative taking a child into custody may deliver the child into the custody of a previously designated caretaker or extended family member at their discretion. In all cases, a child taken into custody under this chapter shall be released to their parent/guardian/caretaker in 72 hours, not to include nonjudicial days, of the time they were taken into emergency custody unless the Court issues an order following a Detention hearing pursuant to this statute granting an extension of custody. [Ord. 46A § 1701(c), adopted, 3/24/2016.]

CHAPTER 15. OUT-OF-HOME COURT CASES

SECTION 41501. Placement of a Child

Any child accepted for foster care or pre-adoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any out of home placement of a child, a preference shall be given, in the absence of good cause to the contrary, to a placement with:

- (1) A member of the child's extended family;
- (2) A foster home licensed, approved, or specified by Tribal Child Welfare Department ;
- (3) An Indian foster home licensed or approved by an authorized non-Yurok licensing authority;
- (4) A non-Indian foster home licensed or approved by an authorized non-Yurok licensing authority;



- (5) An institution for children approved by an Indian Tribe or operated by an Indian organization which has a program suitable to meet the child's needs; or
- (6) An institution for children approved by the State of California, including a Short-Term Residential Treatment Program.

SECTION 41502.Orders on Placement

In any out of home placement of a child, active efforts shall be made to place siblings in the same home. Requirements for the implementation of this section shall be specified by the Tribal Child Welfare Department in the Yurok Tribe Title IV-E Policies and Procedures Manual.

- (c) The Court may order placement as stated in the case plan, which may be attached and incorporated by reference into the Court's Findings and Orders.
- (d) Nothing in this Code prohibits the Court from placing a child that has been removed with a non-custodial parent as long as the Court has determined that placement with the non-custodial parent is in the child's best interest and child's health and safety can be ensured.



SECTION 41503.Visitation when Child Removed from Home.

- (a) Responsibilities and Rights of Parents – Right to Visitation. Whenever a child is temporarily or permanently removed from the custody of one or both parents, each parent shall have the right to reasonable and frequent visitation; provided, that the parent's rights have not been terminated. Such visitation will be subject to limitations imposed by the Court for the child's protection.
- (b) Responsibilities and Rights of Extended Family Members – Right to Visitation. Any member of a child's extended family has the right to reasonable visitation with that child if necessary for the best interests of the child.
- (c) Effect on Visitation Rights of a Finding of Aggravated Circumstances or Certain Criminal Convictions. After a finding of the existence of an aggravated circumstance or the existence of one of the criminal convictions outlined in Chapter 12.35.020(a)(2) of this Code with regard to a parent/guardian/caretaker, or extended family member, the Court may deny that parent/guardian/caretaker or extended family member visitation rights with respect to any child who has been adjudicated a Child in Need of Aid , or at risk of becoming a Child in Need of Aid . [Ord. 46A § 1701(q), adopted, 3/24/2016.]
- (d) The Court may order visitation/contact with the child as stated in the case plan, which may be attached and incorporated by reference into the Court's Findings and Orders.

SECTION 41504.Trial Home Visits.

When a child is removed from their home, the Court may determine that return to the home does not pose a safety risk to the child and place the child back in the home on a trial basis. A trial home visit may not exceed six months in duration unless the Court orders a longer trial home visit. If a trial home visit extends beyond six months and has not been authorized by the Court or exceeds the

time period the Court has deemed appropriate, and the child is subsequently returned to foster care, that placement must then be considered a new placement and Title IV-E eligibility must be newly established. Under these circumstances, the judicial determinations regarding “contrary to the welfare” and “active efforts to prevent removal” are required.

CHAPTER 18. DETENTION HEARING (OUT-OF-HOME COURT CASE)

SECTION 41505. Timing.

- (a) Within 48 hours, not to include nonjudicial days, of the removal of a child, Tribal Child Welfare Department shall file a Child in Need of Aid Petition (Out-of-Home) with the Court seeking continued detention.
- (b) If no Petition is filed, the child shall be released within 48 hours, not to include nonjudicial days, from when they were taken into emergency custody. [Ord. 46A § 1701(a), adopted, 3/24/2016.]
- (c) The Court shall immediately, and in no event more than 72 hours, not to include nonjudicial days, after the removal of a child from their home, hold a Detention hearing. If present at the hearing, a parent/guardian/caretaker of the child may request a continuance of the hearing for the purpose of preparing a response to the allegation that the child is a Child in Need of Aid . The Court may grant the request on a showing of good cause for why the parent/guardian/caretaker is not prepared to respond to the allegation. During a continuance, the child remains in the emergency custody of Tribal Child Welfare Department . [Ord. 46A § 1701(g), adopted, 3/24/2016.]

SECTION 41506. Purpose.

The purpose of the Detention hearing is for the Court to determine based on the first impression, that is by a prima facie showing, whether removal of the child from the home is necessary to protect the safety and welfare of the child. [Ord. 46A § 1701(b), adopted, 3/24/2016.]

SECTION 41507. Child in Need of Aid Petition (Out-of-Home).

In order to request an extension of emergency custody, Tribal Child Welfare Department must file a Petition documenting a prima facie showing that the child is a Child in Need of Aid as defined in this Code and that one of more conditions in section 12.50.010(f) exist that would make it contrary to the child’s welfare to return home.

- (a) The Child in Need of Aid Petition (Out-of-Home) shall contain:
 - (1) The name, address and age of the child;
 - (2) The names and address of the child’s parent/guardian/caretaker, unless it is known that one of the parents is a victim of domestic violence and there exists good cause that the address shall be kept confidential;
 - (3) The specific grounds upon which the Petition is based, sufficient to describe the circumstances under which the child is a Child in Need of Aid as defined

in this Code and the circumstances that exist that make it contrary to the child's welfare to return home, including the nature and extent of the child's alleged injury, abuse, or neglect;

- (4) If the child has been placed outside the home after emergency removal, the Petition shall state where the child has been placed, the facts necessitating removal and placement, the efforts to place siblings together, and the date and time of removal;
- (5) If the child was removed and placed in a Short-Term Residential Treatment Program, the Petition should include the date the child was placed and the date the Request to Review the Placement was filed and served, or the expected date it will be filed and served.
- (6) A description of the active efforts including the services provided to child and parent to prevent the removal of the child and to return the child after removal and how those services were not successful;
- (7) The names and ages of any siblings of the child. If any siblings are the subject of a Court case, the name of the Court and case number, if known;
- (8) The factual basis for the Court's jurisdiction; and
If an investigation was conducted, information gained in the investigation shall be included in a written report and included with the Petition or presented and filed at the Detention hearing.
- (9) Recommendations for visitation orders between the child, the parent, siblings, extended family members, and other persons important in the child's life, as appropriate.

SECTION 41508. Notice of Detention Hearing.

The parent/guardian/caretaker of a child taken into emergency custody shall be given reasonable notice of the time and place of the Detention hearing by Tribal Child Welfare Department . That notice will be given at least five hours prior to the hearing which is scheduled within 72 hours, not to include nonjudicial days of detention as noted above, unless the parent/guardian/caretaker cannot be located and/or unless conditions of notice, e.g., flooding, road closures, or other acts of inclement weather make such notice attempts dangerously inadvisable. In such case(s) that notice cannot be effected Tribal Child Welfare Department must file a Declaration of Due Diligence fully setting forth the circumstances preventing such notice.

SECTION 41509. Basis for Continued Removal.

An extension of a child's emergency custody may be granted for up to 15 days if the Tribal Court at the Detention hearing finds a prima facie showing that the child is a Child in Need of Aid and one or more of the following conditions exist:

- (a) The child is suffering from an illness or injury, and no parent/guardian/caretaker is providing adequate care for them; or
- (b) The child has been subjected to aggravated circumstances, child is in imminent

danger from their surroundings, removal is necessary for the safety or wellbeing of the child, or failure to remove the child may result in a substantial risk of harm to the child; or

- (c) The child will be subject to injury or abuse by others or by themselves if not placed in custody by the Court; or
- (d) The child has been abandoned by their parent/guardian/caretaker, or;
- (e) No parent/guardian/caretaker is able or willing to provide adequate supervision and care for the child; or
- (f) The child will run away or be taken beyond the jurisdiction of the Court, and will be unavailable for further proceedings; or
- (g) A safely surrendered infant.

In assessing whether the child should be returned to the home, the Court may consider previous findings of child maltreatment by the parent/guardian/caretaker and the availability of other family members to care for the child as well as the facts leading to the present removal of the child. [Ord. 46A § 1701(h), adopted, 3/24/2016.]

SECTION 41510. Tribal Child Welfare Department to Make a Prima Facie Case.

The Tribal social worker shall report to the Court on the reasons why the child has been removed from the physical custody of the parent/guardian/caretaker and the need, if any, for continued removal. The Court shall order the release of the child from custody unless a prima facie showing has been made that the child is a Child in Need of Aid as defined in this Code and the Court finds that continuance in the home of a parent/guardian/caretaker is contrary to the child's welfare.

SECTION 41701. Alternative Permanency Plan.

Tribal Child Welfare Department shall develop and implement an alternative permanency plan for the child while simultaneously making active efforts to unite or re-unite the child with his parent/guardian/caretaker. [Ord. 46A § 1701(k), adopted, 3/24/2016.]

SECTION 41511. Secure Detention Prohibited.

No child who is in emergency custody or who is determined to be, or at risk of becoming, a Child in Need of Aid shall be detained in a secure juvenile detention facility, jail, or prison for any amount of time under this title. [Ord. 46A § 1701(p), adopted, 3/24/2016.]

SECTION 41512. Required Findings and Orders.

At the Detention hearing, the Court shall make the following Findings and Orders:

- (a) The Court has appointed the child a Court Appointed Advocate and whether the Court has appointed one or more of the parent/guardian/caretakers with an Advocate, and whether the appointment(s) has/have been accepted.
- (b) The Court shall determine the identity of child's parent(s)/guardian(s)/caretaker(s), including whether either is an enrolled member of the Yurok Tribe.
- (c) The Court shall determine the name and age of the child's siblings, if any. If any of

the siblings are the subject of a court case, the Court shall determine the name of the Court and the case number.

- (d) Whether all parties have been notified of their rights.
- (e) Whether all parties have been notified of the date, time, and location of the hearing. If any parties have not been properly noticed of the hearing, whether Tribal Child Welfare Department has filed a Declaration of Due Diligence regarding notification attempts.
- (f) Whether active efforts were made by Tribal Child Welfare Department to provide notice of the child's removal to the parent(s)/guardian(s)/caretaker(s). If Tribal Child Welfare Department was not able to notify the parent(s)/guardian(s)/caretaker(s), whether notice was provided to extended family members (if required).
- (g) Whether the Child in Need of Aid Petition (Out-of-Home) was filed within 48 hours of the child's removal. If it was not, the Court shall dismiss the Petition and order the child's return to the home.
- (h) Whether the Court has jurisdiction over the case.
- (i) Whether active efforts have been made to prevent or eliminate the need for the removal of the child and safely return the child after the removal, but that said efforts have not been successful; or that active efforts have not yet been provided and are ordered to be provided by the next hearing; or that active efforts to prevent removal and reunify were not required due to the existence of any of the circumstances outlined in Chapter 12.35.020(a) of this Code. If active efforts are not required, the Court shall include the circumstances in its written order. If active efforts are not required for both parent(s)/guardian(s)/caretaker(s), the Court shall hold a Permanency hearing within 30 days of this determination.
- (j) Whether services are available which would prevent the need for further detention.
- (k) Whether Tribal Child Welfare Department has made a prima facie showing that the child is, or is at risk of becoming, a Child in Need of Aid.
 - (1) If the Court has determined that the child is not a Child in Need of Aid, the Court may order return of custody to the parent/guardian/caretaker, dismiss the Child in Need of Aid Petition (Out-of-Home) and terminate its jurisdiction.
 - (2) If the Court has determined that the child is, or is at risk of becoming, a Child in Need of Aid it shall state the facts upon which it has based its determination on the record.
- (l) If the Court has determined that the child is, or is at risk of becoming, a Child in Need of Aid, whether return of the child to the home is contrary to the welfare of the child because one or more of the conditions in section 12.50.010(f) of this Code exist.
 - (1) If the Court has determined that one or more of conditions exist that would make return of the child home contrary to the child's welfare, it shall state the facts upon which it has based its determination on the record and in its written Order.

- (m) If the Court has determined that the child is or, is at risk of becoming, a Child in Need of Aid, but that one of the conditions listed in section 12.50.010(f) of this Code does not exist and services are available that may prevent the need for further detention, the Court may order return of custody to the parent/guardian/caretaker. In this case the Court may order family maintenance services with Court supervision and set the case for a Jurisdiction hearing under Chapter 12.40 of this Code.
- (n) If the Court has determined that the child is a Child in Need of Aid and one or more of the conditions outlined in section 12.50.010(f) of this Code exist, the Court shall make the following orders:
- (1) Continuance of the child in the home is contrary to the child's welfare because it would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The Court shall state the factual basis for this conclusion on the record and its Orders;
 - (2) The child's continued removal from the home and placement is necessary and appropriate.
 - (3) Temporary responsibility for placement and care of the child shall be vested with Tribal Child Welfare Department . The Court may also make additional orders relating to Tribal Child Welfare Department 's placement and care of the child as outlined in section 12.20.060(g) of this Code.
- (o) The child is currently placed:
- (1) With a member of the child's extended family;
 - (2) In a foster home licensed, approved, or specified by Tribal Child Welfare Department ;
 - (3) In an Indian foster home licensed or approved by an authorized non-Yurok licensing authority;
 - (4) In a non-Indian foster home licensed or approved by an authorized non-Yurok licensing authority;
 - (5) In an institution for children approved by an Indian Tribe or operated by an Indian organization which has a program suitable to meet the child's needs;
 - (6) In an institution for children approved by the State of California, including a Short-Term Residential Treatment Program; or
 - (7) Other as specified in the Court's Findings and Orders.
 - (8) If the child was removed and placed in a Short-Term Residential Treatment Program the Court shall include in its Order that a hearing to review the placement under Chapter 12.50.060 of this Code will be set upon filing by Tribal Child Welfare Department of the Request for Review of the Placement in a Short-Term Residential Treatment Program. The hearing shall be set within 60 days of the child's placement.
 - (9) Whether active efforts were made to place siblings in the same home. If active efforts have not been made, whether Tribal Child Welfare Department has documented that such a joint placement is contrary to the safety or

wellbeing for the child or any siblings. The Court may also order Tribal Child Welfare Department to make active efforts to place siblings in the same home by the next hearing.

- (10) The Court shall make orders regarding visitation/contact between the child, the parent/guardian/caretaker, siblings, extended family members, and others important in the child's life.
- (p) The Court may order services pending further proceedings as outlined in section 12.20.060(h) of this Code.
- (q) In all actions in which a substantiated report of child maltreatment is confirmed, the Court shall order Tribal Child Welfare Department to implement a Family Conferencing Plan as part of the services offered to the family.
- (r) The Court may order evaluations as outlined in section 12.20.060(f) of this Code.
- (s) The Court may make any other orders deemed necessary.

SECTION 41513. Possible Detention Hearing Outcomes.

Disposition of Prima Facie Showing. If the Court determines there is a prima facie showing that the child is or is at risk of becoming a Child in Need of Aid , the Court may:

- (a) Allow the child to be released to the parent if the Court does not find there is a substantial risk to the child remaining in or returning home, and the Court determines that there are services which could prevent or eliminate the need for removal under continued Court supervision; and set a Jurisdiction hearing; or
- (b) Detain and grant temporary custody of the child to the Tribal Child Welfare Department , and place the child in the physical custody of a non-custodial parent(s), guardian, caretaker, another appropriate person, or in shelter or foster care pending the Jurisdiction hearing; and set a Jurisdiction hearing; or
- (c) Affirm any other reasonable plan recommended by Tribal Child Welfare Department and/or stipulated to by the parties, including but not limited to the postponement of proceedings; and order such restrictions on contact or visitation that the Court deems appropriate; and set additional preliminary inquiry hearings or other hearings as necessary.

SECTION 41514. Dismissal of the Petition.

If the Court determines there is no prima facie showing that the child is a Child in Need of Aid , or at risk of becoming a Child in Need of Aid , the Child in Need of Aid Petition (Out-of-Home) shall be dismissed without prejudice, and the child released from emergency custody.

CHAPTER 16. JURISDICTION HEARING (OUT-OF-HOME COURT CASE).

SECTION 41601. Timing.

The Jurisdiction hearing shall be held no later than 15 days following conclusion of the Detention hearing but may be held in conjunction with the Detention hearing.

SECTION 41602. Purpose.

The purpose of the Jurisdiction hearing is for the Court to determine whether the allegations in the Child in Need of Aid Petition (Out-of-Home) are true, reassess whether continuing Court involvement is necessary to protect the wellbeing of the child, to determine whether continuation in the home is contrary to the welfare of the child and to determine whether active efforts have been made to prevent the child's removal from the home and to safely reunify the family, or whether active efforts were not required.

SECTION 41603. Admit or Deny

The parent/guardian/caretaker may admit or deny the allegations in the Petition. If the parent/guardian/caretaker denies the allegations, this shall not be held against them in the Court's findings. If the parent denies the allegations, the Court will hold a contested Jurisdiction hearing and weigh the evidence presented to it. The Court will make a decision regarding the allegations based on the evidence presented in Court. Tribal Child Welfare Department will present whatever evidence they have in support of the allegations and the parent/guardian/caretaker will have the opportunity to respond to that evidence and present evidence of their own to defend against the allegations. The burden of proof lies with the Petitioner (the person filing the Petition). The Petitioner must prove that the allegations raised in the Petition are more likely true than not, that is, by a preponderance of the evidence, and that the best interests of the child and the child's Tribe will be served by continued Court intervention and the child's continued removal from the home.

SECTION 41604. Required Findings and Orders.

At the Jurisdictional Hearing the Court shall make the following findings and orders:

- (a) The Court has appointed the child a Court Appointed Advocate and whether the Court has appointed one or more of the parent/guardian/caretakers with an Advocate, and whether the appointment(s) has/have been accepted.
- (b) The Court shall determine the identity of child's parent(s)/guardian(s)/caretaker(s).
- (c) The Court shall determine the name and age of the child's siblings, if any. If any of the siblings are the subject of a court case, the Court shall determine the name of the Court and the case number.
- (d) Whether all parties and the current caregiver(s) have been notified of the date, time, and location of the hearing as well as their rights.
- (e) Jurisdictional matters of the age and tribal status of the child shall be deemed admitted by or on behalf of the child, unless specifically denied prior to the Jurisdiction hearing.
- (f) Whether active efforts have been made to prevent or eliminate the need for removal of the child, or to return the child after removal and whether said efforts have been successful, or that active efforts were not required due to the existence of any of the circumstances outlined in Chapter 12.35.020(a) of this Code. If active efforts are not required, the Court shall include the circumstances in its written order. If active efforts are not required for both parent(s)/guardian(s)/caretaker(s), the Court shall hold a Permanency hearing within 30 days of this determination.

- (g) Whether services are available which would prevent the need for further detention.
- (h) Whether any allegations have been stricken by motion made by Tribal Child Welfare Department .
- (i) Whether each parent/guardian/caretaker admits or denies each allegation.
 - (1) If any parent/guardian/caretaker admits any allegation, the Court shall determine whether the parent/guardian/caretaker: (1) understands the nature of the allegation; (2) understands the possible consequences of their admission; (3) has voluntarily entered the admission; (4) knowingly and voluntarily waived their right to a contested hearing, to present evidence, and to confront and cross-examine adverse witnesses.
 - (2) If any parent/guardian/caretaker denies any allegation, the Court shall hold a contested hearing. The Jurisdiction hearing may be continued to allow the parties to prepare or may be held at the same hearing if the parties are ready to proceed.
- (j) When it appears that the evidence presented at the hearing discloses facts not alleged in the Petition, the Court may proceed immediately to consider such additional or different matters raised by the evidence.
- (k) In such event, the Court, on the motion of an interested party or on its own motion, shall order the Petition to be amended to conform to the evidence. If the amendment results in a substantial departure from the original allegations in the Petition, the Court shall continue the hearing on the motion of any interested party, or on its own motion, if it finds such continuance to be in the best interests of the child or any other party to the proceedings materially prejudiced by the change in allegations.
- (l) Whether the Court finds by a preponderance of the evidence that the child is, or is at risk of becoming, a Child in Need of Aid as defined in this Code.
 - (1) If the Court finds that the allegations in the Petition are not true by a preponderance of the evidence, the Court may order return of custody to the parent/guardian/caretaker, dismiss the Petition, and terminate its jurisdiction, unless the hearing shall be continued to a date certain to allow for the presentation of further evidence.
 - (2) If the Court finds that the allegations in the Petition are true by a preponderance of the evidence, the Court shall state for the record the facts upon which it has made this determination.
- (m) (13) Whether the Court finds by a preponderance of the evidence that one or more of the following additional allegations outlined in section 12.50.10(f) of this Code are true.
- (n) If the Court finds by a preponderance of the evidence that the allegations that the child is, or is at risk of becoming, a Child in Need of Aid are true, but that one or more or more of the additional allegations outlined in section 12.50.10(f) of this Code do not exist and that services are available which may prevent the need for further detention, the Court shall find that return of the child to the home would not be contrary to the child's welfare. In this case the Court may order return of custody

to the parent/guardian/caretaker and may order family maintenance services with Court supervision and set the case for a Dispositional hearing under Chapter 12.40 of this Code.

- (o) If the Court finds by a preponderance of the evidence that the allegations that the child is a Child in Need of Aid are true and that one or more of the additional allegations outlined in section 12.50.10(f) of this Code are also true by a preponderance of the evidence, the Court shall make the following findings and orders:
- (1) Continuance of the child in the home is contrary to the child's welfare because it would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The Court shall state the factual basis for this conclusion on the record and its written Order.
 - (2) The child's continued removal from the home is necessary and appropriate.
 - (3) Exclusive placement and care of the child shall be vested with Tribal Child Welfare Department . The Court may also make the additional orders relating to Tribal Child Welfare Department 's placement and care of the child as outlined in section 12.20.060(g) of this Code.
 - (4) The child is currently placed: (1) With a member of the child's extended family; (2) In a foster home licensed, approved, or specified by Tribal Child Welfare Department ; (3) In an Indian foster home licensed or approved by an authorized non-Yurok licensing authority; (4) In a non-Indian foster home licensed or approved by an authorized non-Yurok licensing authority; (5) In an institution for children approved by an Indian Tribe or operated by an Indian organization which has a program suitable to meet the child's needs; (6) In an institution for children approved by the State of California, including a Short-Term Residential Treatment Program; or (7) other as specified in the Court's Findings and Orders.
 - (A) If the child was placed in a Short-Term Residential Treatment Program the Court shall include in its Order either: 1) that a hearing to review the placement under Chapter 12.50.060 of this Code will be set upon filing by Tribal Child Welfare Department of the Request for Review of the Placement in a Short-Term Residential Treatment Program; or 2) the date of the hearing if it has already been set. The hearing shall occur within 60 days of the child's placement.
- (p) Whether active efforts were made to place siblings in the same home. If active efforts have not been made, whether Tribal Child Welfare Department has documented that such a joint placement is contrary to the safety or wellbeing for the child or any siblings.
- (q) The Court shall make orders regarding visitation/contact between the child, the parent/guardian/caretaker, siblings, extended family members, and others important in the child's life.
- (r) The Court may order services pending further proceedings as outlined in section 12.20.060(h) of this Code.

- (s) In all actions in which a substantiated report of child maltreatment is confirmed, the Court shall order Tribal Child Welfare Department to implement a Family Conferencing Plan as part of the services offered to the family.
- (t) The Court may order evaluations as outlined in section 12.20.060(f) of this Code.
- (u) The Court may make any other orders it deems necessary.

CHAPTER 17. DISPOSITION HEARING (OUT-OF-HOME COURT CASE).

SECTION 41702. Timing.

The Tribal Court shall hear evidence regarding the proper disposition best serving the interests of the child, their parent/guardian/caretaker and their Tribe. The disposition hearing may be held in conjunction with the Jurisdiction hearing if that is in the best interest of the child and the parties. The disposition hearing must be held within 60 days of the child's removal from the home.

SECTION 41703. Purpose.

The purpose of the Disposition hearing is to determine the appropriate disposition of the case and long-term plan for the child, including the child's placement, and whether the proposed case plan reasonably addresses the problems and needs of the child and parent/guardian/caretaker.

SECTION 41704. Required Findings and Orders.

- (a) The Court has appointed the child a Court Appointed Advocate and whether the Court has appointed one or more of the parent/guardian/caretakers with an Advocate, and whether the appointment(s) has/have been accepted.
- (b) The Court shall determine whether all parties and the current caregiver(s) have been notified of the date, time, and location of the hearing, as well as their rights.
- (c) The Court shall determine the identity of child's parent(s)/guardian(s)/caretaker(s).
- (d) The Court shall determine the name and age of the child's siblings, if any. If any of the siblings are the subject of a court case, the Court shall determine the name of the Court and the case number.
- (e) The Court shall determine whether active efforts have been made to prevent or eliminate the need for the removal of the child and to safely reunify, and whether said efforts have been successful, or that active efforts were not required due to the existence of any of the circumstances outlined in Chapter 12.35.020(a) of this Code. If active efforts are not required, the Court shall include the circumstances in its written order. If active efforts are not required for both parent(s)/guardian(s)/caretaker(s), the Court shall hold a Permanency hearing within 30 days of this determination.
- (f) The Court may find by clear and convincing evidence that the child is not, nor is at risk of becoming, a Child in Need of Aid. In this case the Court may dismiss the Child in Need of Aid Petition (Out-of-Home), terminate its jurisdiction, and order the child's immediate return to their parent/guardian/caretaker.
- (g) The Court may find by clear and convincing evidence that the child is, or is at risk of becoming, a Child in Need of Aid, but that out-of-home placement is not needed to

protect the child. In this case the Court may order family maintenance services, return of the child to parent/guardian/caretaker, and set the case for a status review hearing under Chapter 12.40 of this Code. The Court shall state the facts that it has used to make this determination on the record and in its Order.

- (h) The Court may find that the child shall remain out of the home. The grounds for continued removal are those found in section 12.50.010(f) of this Code. Any finding that the child shall remain out of the home shall be made by clear and convincing evidence and be stated on the record and in the Court's written Order. Should the Court find that the child shall remain out of the home, the Court must also make the following findings:
- (1) The child's out-of-home placement is necessary and appropriate.
 - (2) Exclusive placement and care of the child is vested with Tribal Child Welfare Department . The Court may also make the additional orders relating to Tribal Child Welfare Department 's placement and care of the child as outlined in section 12.20.060(g) of this Code.
 - (3) The child is currently placed: (1) With a member of the child's extended family; (2) In a foster home licensed, approved, or specified by Tribal Child Welfare Department ; (3) In an Indian foster home licensed or approved by an authorized non-Yurok licensing authority; (4) In a non-Indian foster home licensed or approved by an authorized non-Yurok licensing authority; (5) In an institution for children approved by an Indian Tribe or operated by an Indian organization which has a program suitable to meet the child's needs; (6) In an institution for children approved by the State of California, including a Short-Term Residential Treatment Program; or (7) other as specified in the Court's Findings and Orders.
 - (A) If the child was placed in a Short-Term Residential Treatment Program the Court shall include in its Order either: 1) that a hearing to review the placement under Chapter 12.50.060 of this Code will be set upon filing by Tribal Child Welfare Department of the Request for Review of the Placement in a Short-Term Residential Treatment Program; or 2) the date of the hearing if it has already been set. The hearing shall occur within 60 days of the child's placement. the date of that
- (i) Whether the child's current placement is appropriate. If the child's current placement is not appropriate, the Court shall order Tribal Child Welfare Department to find an appropriate placement.
- (j) If the child is placed outside the state of California, whether that placement continues to be the most appropriate placement for the child and is in the best interest of the child.
- (k) Whether active efforts were made to place siblings in the same home. If active efforts have not been made the Court shall determine whether Tribal Child Welfare Department has documented that such a joint placement is contrary to the safety or wellbeing of the child or any of the siblings.
- (l) The child's placement is the least restrictive (most family-like) setting available.

- (m) The Court shall determine whether family reunification services are appropriate. This finding may be different for each parent/guardian/caretaker. If the Court finds that reunification services are appropriate, it shall specify what steps the parent/guardian/caretaker shall take to demonstrate their abilities to care for their child and specify what factors the Court will consider at a subsequent hearing to determine whether or not the child should be returned home. If the Court finds that family reunification services are not appropriate for both parent(s)/guardian(s)/caretaker(s), it shall hold a permanency hearing within 30 days of this determination.
- (n) The Court shall project a likely date by which the child may be returned to and safely maintained in the home, placed for Yurok adoption, adoption with the termination of parental rights, legal guardianship, placed with a fit and willing relative, or in another planned permanent living arrangement if the child is 16 years of age or older.
- (o) The Court may order services and visitation/contact with the child as stated in the case plan, which may be incorporated by reference.
- (p) Trial Home Visit: The Court may find that out-of-home placement is necessary, but with the performance of specified actions by the parent/guardian/caretaker, the child may be returned absent good cause to the contrary. The order of the Court shall specify actions, and the time frames for such actions, that the parent/guardian/caretaker must accomplish before the child is returned. The Order shall also specify the responsibilities of any support agency or personnel to be involved. The Tribal Court may order a trial home visit as set forth in section 12.20.020(i) of this Code. The Court order must explicitly delineate the length and other parameters of the home visit.
- (q) The Court shall find whether the parent/guardian/caretaker, any child 14 years or older, and any others ordered to participate were actively involved in the development of the case plan, including the child's plan for permanent placement.
 - (1) If any parties were not actively involved in the development of the case plan, the Court may order Tribal Child Welfare Department to actively involve them and submit an updated case plan.
 - (2) The Court may also find that Tribal Child Welfare Department is not required to actively involve any party in the development of the case plan because these persons are unable, unavailable, or unwilling to participate.
- (r) The Court shall find whether the case plan reasonably addresses the problems and needs of the child and the parent/guardian/caretaker, including whether the placement recommendation of the case plan is appropriate.
- (s) Unless the Court terminates its jurisdiction, it shall order Tribal Child Welfare Department to provide the services set forth in the case plan, and each parent/guardian/caretaker, as well as any service providers shall be ordered to participate in the services stated in the case plan.
- (t) For a child 14 years or older who shall remain out of the home, the Court shall find whether the services set forth in the Independent Living Plan include those needed to assist the child to make the transition from foster care to independent living. The Court may order additional services be added to the Independent Living Plan.



- (u) For a child who will turn 18 within the next 90 days and shall remain out of the home, the Court shall find:
 - (1) If the child intends to exit foster care, whether the child's 90-Day Transition Plan includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services.
 - (2) If the child intends to enter extended foster care, the Court shall make a finding as to whether the child's Independent Living Plan includes a plan for the child to satisfy one of the conditions outlined in section 12.50.070(a) of this Code.
- (v) The Court may continue the disposition hearing on its own motion or on the motion of any interested party, for a reasonable period to receive reports or for good cause. If the hearing is continued, the Court shall make an appropriate order for care of the child during the continuance and ensure that the active efforts determination has been made.
- (w) The Court may order services as outlined in section 12.20.060(h) of this Code.
- (x) The Court may make any other orders it deems necessary.

CHAPTER 18. STATUS REVIEW HEARING(S) (OUT-OF-HOME COURT CASE).

SECTION 41801. Timing.

The status of all children shall be reviewed by the Tribal Court at least every 90 days at a hearing to determine whether court supervision shall continue. In no event shall the first Status Review hearing for a child placed in foster care or another out of home arrangement be made more than six months after the date the child is considered to have entered foster care. The date that the child enters foster care shall be the earlier of the first judicial finding of child abuse or neglect (the jurisdiction finding) or 60 days after the child is physically removed from the home of the parent/guardian/caretaker. After a case has had a Permanency hearing, Status Review hearings must continue to be held at least every six months unless the Court's jurisdiction has been terminated.

SECTION 41802. Purpose.

- (y) The general purpose of Status Review hearings is for the Court to determine the safety and continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, the extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care, and will project a likely date by which the child may be: returned to the home; placed for Yurok adoption; placed for adoption with the termination of parental rights; placed in a legal guardianship; placed with a fit and willing relative; or if 16 years or older, placed in Another Planned Permanent Living Arrangement.
- (a) A child shall be returned home at the Status Review hearing unless the Tribal Court finds that a reason for removal as set forth in section 12.50.010(f) of this Code still exists. The Court may, however, due to unresolved problems in the home, continue Court intervention, services and supervision as appropriate.

SECTION 41803. Required Findings and Orders.

- (a) All parties and the child's current caregiver have been notified of the date, time, and location of the hearing as well as their rights.
- (b) Whether the parent/guardian/caretaker, any child 14 years or older, and any others ordered to participate were actively involved in the development of the case plan, including the child's plan for permanent placement.
 - (1) If any parties were not actively involved in the development of the case plan, the Court may order Tribal Child Welfare Department to actively involve them and submit an updated case plan.
 - (2) The Court may also find that Tribal Child Welfare Department is not required to actively involve any party in the development of the case plan because these persons are unable, unavailable, or unwilling to participate.
- (c) Whether the case plan reasonably addresses the problems and needs of the child and the parent/guardian/caretaker, including whether the placement recommendation of the case plan is appropriate.
- (d) Whether by clear and convincing evidence Tribal Child Welfare Department has complied with the case plan by making active efforts to make it possible for the child to safely return home; complete whatever steps are necessary to affect an alternative permanent plan for the child if there is insufficient progress to restore custody; and to take whatever steps are necessary to finalize a permanent placement for the child.
 - (1) The Court may find by clear and convincing evidence that Tribal Child Welfare Department is not required to provide active efforts to reunify the family due to the existence of any of the circumstances outlined in Chapter 12.35.020(a) of this Code. If active efforts are not required for both parent(s)/guardian(s)/caretaker(s), the Court shall hold a Permanency Hearing within 30 days of this determination.
- (e) Whether the services provided to the family have been appropriate, accessible and provided in a timely manner.
- (f) The extent of compliance with the case plan made by each parent/guardian/caretaker has been: (1) no progress; (2) minimal; (3) moderate; or (4) substantial. This finding may result in differing levels of progress for each parent/guardian/caretaker.
- (g) The extent of progress which has been made by each parent/guardian/caretaker toward alleviating or mitigating the causes necessitating placement has been: (1) no progress; (2) minimal; (3) moderate; or (4) substantial. This finding may result in differing levels of progress for each parent/guardian/caretaker.
- (h) If the Court finds that return of the child would not create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child, and the child's out-of-home placement is no longer necessary and appropriate, the Court shall order custody be returned to the parent/guardian/caretaker.
 - (1) The Court may find that the problems that led to Court intervention no longer exist and that family maintenance services are not necessary. In this case the Court may dismiss the Petition and terminate Court jurisdiction.

- (2) The Court may find that out-of-home placement is not needed to protect the child but may continue Court intervention and supervision due to unresolved problems in the home. In this case the Court may order family maintenance services as to the parent/guardian/caretaker.
- (3) This finding may be different for each parent/guardian/caretaker.
- (i) If the Court finds that the conditions which justified placement out-of-home continue to exist and that return of the child to the parent/guardian/caretaker would be contrary to the welfare of the child because it would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child, the Court shall state the factual basis for this conclusion on the record and make the following Findings and Orders:
 - (1) Family reunification services as to parent/guardian/caretaker either: (i) Are now or continue to be appropriate; or (ii) Are not appropriate and should be terminated. This finding may be different for each parent/guardian/caretaker.
 - (A) If family reunification services are terminated as to both parents/guardians/caretakers, the Court shall set a Permanency hearing to be held within 30 days.
 - (2) The child's out-of-home placement continues to be necessary and appropriate.
 - (3) The child's current placement is appropriate. If the child's current placement is not appropriate, the Court shall order Tribal Child Welfare Department to find an appropriate placement.
 - (A) If the child was placed in a Short-Term Residential Treatment Program the Court shall include in its Order either: 1) that a hearing to review the placement under Chapter 12.50.060 of this Code will be set upon filing by Tribal Child Welfare Department of the Request for Review of the Placement in a Short-Term Residential Treatment Program; or 2) the date of the hearing if it has already been set. The hearing shall occur within 60 days of the child's placement.
 - (4) If the child is placed outside the state of California, that placement continues to be the most appropriate placement and is in the child's best interest. If the Court finds that the child's out-of-state placement is not in the best of interest of the child and is not appropriate, the Court may make additional orders regarding that placement.
- (j) The child's placement is the least restrictive, most family-like, setting available.
- (k) Whether Tribal Child Welfare Department can reasonably provide additional services which will facilitate return of the child to parent/guardian/caretaker.
- (l) For a Status Review hearing that occurs after a Permanency hearing, the permanent plan ordered by the Court shall be returned to and safely maintained in the home, appointed a legal guardian, placed permanently with a fit and willing relative, placed for Yurok adoption, placed for adoption with termination of parental rights, or placed in Another Planned Permanent Living Arrangement.

- (1) For a child 16 years or older, whose permanent plan is Another Planned Permanent Living Arrangement (APPLA), the Court shall make the determinations and orders outlined in section 12.20.050(c) of this Code.
- (m) For a Status Review hearing that occurs after a Permanency hearing, whether the permanent plan is the least restrictive, most family-like, placement for the child.
- (n) The likely date by which the child may be returned to and safely maintained in the home, appointed a legal guardian, placed with a fit and willing relative, placed for Yurok adoption, placed for adoption with termination of parental rights, or placed in Another Planned Permanent Living Arrangement (APPLA).
- (o) Exclusive placement and care of the child are vested with Tribal Child Welfare Department . The Court may also make the additional orders relating to Tribal Child Welfare Department 's placement and care of the child as outlined in section 12.20.060(g) of this Code.
- (p) For a child 14 years or older who shall remain out of the home, the Court shall make a finding whether the services set forth in the Independent Living Plan include those needed to assist the child to make the transition from foster care to independent living. The Court may order additional services added to the Independent Living Plan.
- (q) For a child who will turn 18 within the next 90 days and shall remain out of the home, the Court shall find:
 - (1) If the child intends to exit foster care, whether the child's 90-Day Transition Plan includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services.
 - (2) If the child intends to enter extended foster care, the Court shall make a finding as to whether the child's Independent Living Plan includes a plan for the child to satisfy one of the conditions of eligibility to remain under Tribal Court jurisdiction as a non-minor dependent outlined in section 12.50.070(a).
- (r) The Court shall make orders regarding visitation/contact between the child, the parent/guardian/caretaker, siblings, extended family members, and others important in the child's life.
- (s) The Court may order services as outlined in section 12.20.060(h) of this Code.
- (t) The Court may make any additional orders it deems necessary.

CHAPTER 19 PERMANENCY HEARING (OUT-OF-HOME COURT CASE).

SECTION 41901. Permanency Hearings Required.

Tribal Court shall hold a Permanency hearings for all children under the responsibility for placement and care of Tribal Child Welfare Department including children under voluntary placement agreements.

SECTION 41902. Timing.

No later than 12 months from the “date the child entered foster care” and at least once every 12 months thereafter while the child remains in foster care, the Court must hold a Permanency hearing. This hearing may be held in conjunction with a Status Review hearing, which must continue to be held at least every six months unless the Court’s jurisdiction is terminated. In any case in which no reunification services are offered, the Permanency hearing must be held within 30 days of that determination. In the case of a safely surrendered infant, the Permanency hearing must be held within 60 days of the Court finding by a preponderance of the evidence that the child is a safely surrendered infant.

SECTION 41903. Purpose.

The purpose of the Permanency hearing is to determine a permanency plan for the child, including whether, and if applicable, when, the child will be:

- (a) Returned home;
- (b) Placed for a Yurok adoption;
- (c) Placed for adoption with termination of parental rights;
- (d) Referred for legal guardianship;
- (e) Referred for permanent placement with a fit and willing relative; or
- (f) In cases where Tribal Child Welfare Department has concluded, after considering reunification, adoption, legal guardianship, or permanent placement with a fit and willing relative, that the most appropriate permanency plan for a child age 16 or older is placement in another planned permanent living arrangement, Tribal Child Welfare Department will document to the Court the compelling reason for the alternate plan.

SECTION 41904. Procedural Safeguards.

- (a) In any Permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, procedural safeguards shall be applied to assure the Court consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child. These safeguards might include a hearing in chambers outside the presence of parties considering the child’s age and stage of development. In such a case, the parties will be entitled to a read back of the testimony transcript or a summary from Court or counsel of the testimony.
 - (1) Procedural safeguards are also to be applied with respect to parental rights pertaining to the removal of the child from the home of their parent(s), to a change in the child’s placement, and to any determination affecting visitation privileges of parents.

SECTION 41905. Long Term Foster Care.

- (a) Long-term foster care arrangement with nonrelatives cannot be considered acceptable permanent placements unless there are specific reasons documented by the agency on a case-by-case basis as to why this should be permitted.

SECTION 41906. Findings and Orders.

The required findings at the Permanency Hearing are the same as those of a Status Review Hearing, outlined in section 12.50.40(d) of this Code, with the addition of the following:

- (b) The permanent plan ordered by the Court shall be returned to and safely maintained in the home, appointed a legal guardian, placed permanently with a fit and willing relative, placed for Yurok adoption, placed for adoption with termination of parental rights, or placed in Another Planned Permanent Living Arrangement.
 - (1) For a child 16 years or older, whose permanent plan is Another Planned Permanent Living Arrangement (APPLA), the Court shall take the steps and make the determinations and orders outlined in Section 12.20.050(c) of this Code.
- (c) The permanent plan is the least restrictive, most family-like, placement for the child.
- (d) The likely date by which the child's permanent plan will be finalized.
- (e) If the child has not been returned to the custody of his or her parent/guardian/caretaker at the Permanency hearing, or if the child has been in foster care for 15 of the most recent 22 months, on behalf of Tribal Child Welfare Department, the Office of the Tribal Attorney or other designated official shall either file a Petition, or seek to be joined to a Petition filed by another party, to terminate parental rights of the child's parent/guardian/caretaker.
- (f) Tribal Child Welfare Department may elect not to file a Petition to Terminate Parental Rights if: (1) at the option of Tribal Child Welfare Department, the child is being cared for by a relative; (2) Tribal Child Welfare Department has documented in the case plan a compelling reason as outlined in section 12.60.020 for not filing to terminate parental rights; or (3) Tribal Child Welfare Department has not provided to the family services that Tribal Child Welfare Department deemed necessary for the safe return of the child to the home, when active efforts to reunify are required.

CHAPTER 20. HEARING TO REVIEW PLACEMENT IN SHORT-TERM RESIDENTIAL TREATMENT PROGRAM.

SECTION 42001. Timing.

- (a) Initial/Change in Placement. The Tribal Court must review and approve the initial placement and any subsequent placements of a child in a Short-Term Residential Treatment Program within 60 days of the date of that placement. The review and approval of such a placement may occur in conjunction with an already scheduled hearing for the child if it occurs within the 60-day timeframe. If the placement occurs in a time period that is outside of an already scheduled hearing, within 60 days of the placement, a special hearing must be held to review and approve the placement.
- (b) Review of Ongoing Placement. For a child who continues to be placed, after initial placement and approval by the Court in a Short-Term Residential Treatment Program, the Court must review the placement every 90 days, and in no case more than six months after the previous approval. The review may take place as part of a regularly scheduled hearing so long as that hearing occurs within six months of the

previous placement approval.

SECTION 42002. Purpose.

In the case of a child who is placed in a Short-Term Residential Treatment Program the purpose of the hearing is to determine the following:

- (a) The ongoing assessment of the child's strengths and needs has been conducted by a qualified individual in collaboration with the Permanency Team that included family members, including the parents, and other important persons to the child, and relevant service providers;
- (b) The assessment supports the determination that the needs of the child cannot be met by the family or through placement in a foster family home;
- (c) The placement in a Short-Term Residential Treatment Program provides the most effective and appropriate level of care for the child in the least restrictive environment in spite of the placement preferences of the family if they should differ;
- (d) The placement in a Short-Term Residential Treatment Program is consistent with the short- and long-term goals of the child as specified in the permanency plan for the child;
- (e) The placement addresses the specific treatment or service needs of the child and specifies the length of the time the child is expected to need the treatment and services; and
- (f) Tribal Child Welfare Department has made active efforts to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian or in a foster family home.

To assist the Court in making the necessary Findings and Orders, the Tribal Child Welfare Department Social Worker shall prepare a Report and the Short-Term Residential Treatment Program Case Plan Supplement meeting the requirements set forth in Chapter 12.20.030, Section (j)(26) of this Code that demonstrates all of the above requirements have been met.

SECTION 42003. Findings and Orders.

Based on the Report and Short-Term Residential Treatment Program Case Plan Supplement demonstrating the requirements have been met, the Court may make the following Findings and Orders:

- (a) The child's assessment by the Qualified Individual and Tribal Child Welfare Department's Report have been completed within 30 days of the child's placement in the Short-Term Residential Treatment Program as outlined in Chapter Five, Section III.D. of the Yurok Tribe Title IV-E Policies and Procedures Manual.
- (b) The needs of the child cannot be met through placement in a home-based family setting;
- (c) The placement provides the most effective and appropriate level of care for the child in the least restrictive environment;
- (d) The placement is consistent with the short- and long-term behavioral health goals

and permanent plan of the child; and

- (e) The placement is approved. If the placement is approved, the Court shall state in writing the factual basis for the Findings and Orders.

CHAPTER 24. EXTENDED FOSTER CARE.

SECTION 42101. Extended Foster Care.

Extended foster care may be authorized under this title to include transitional support to youth including extended foster care assistance to foster youth that are 18 years of age and up to age 21 that meet at least one of the five following participation criteria:

- (a) Be enrolled and participating in a high school or an equivalency program;
- (b) Be enrolled and participating in post-secondary education or vocational school;
- (c) Participate in a program or activity that promotes or removes barriers to employment;
- (d) Be employed at least 80 hours per month; or
- (e) Is deemed incapable of participating in any activity as described above due to a documented medical condition.

SECTION 42102. Independent Living and Other Supportive Programs.

This Court has the authority in development of a service plan under this section, to consider or approve additional programs and options to assist the youth, including Independent Living Services that are or may become available under Yurok Tribal programs, the state of California or other options as they may arise.

SECTION 42103. Requirements specified in Policy.

Requirements for the implementation of extended foster care shall be specified by Tribal Child Welfare Department in the Yurok Tribe Title IV-E Policies and Procedures Manual.

SECTION 42104. Opt-Out Program.

Extended Foster Care is an opt-out program, meaning that if it will be presumed that the youth will enter extended foster care unless they take action to opt-out.

SECTION 42105. Review hearings.

Review hearings for a youth participating in Extended Foster Care shall be held every ninety (90) days and no less frequently than every six months. Upon review, the Court shall determine and make the following Findings and Orders:

- (a) All parties have been notified of the date, time, and location of the hearing as well as their rights.
- (b) Whether the child's continued placement is necessary.
- (c) Whether the child's current placement is appropriate.

- (d) Whether the child continues to be eligible for extended foster care services by meeting one of the requirements in section 12.50.070(a).
- (e) Whether Tribal Child Welfare Department has assisted the child in meeting the requirements for eligibility.
- (f) Whether the Independent Living Plan contains appropriate and meaningful goals and services to assist the child in developing independent living skills;
- (g) Whether the Independent Living Plan was developed jointly with the child.
- (h) Whether Tribal Child Welfare Department is assisting the child in meeting the child's goals as outline in the Independent Living Plan;
- (i) The permanent plan ordered by the Court shall be return home, placed for Yurok adoption, placed for adoption with termination of parental rights, placed permanently with a fit and willing relative, or placed in Another Planned Permanent Living Arrangement.
- (j) For a child 16 years or older, whose permanent plan is Another Planned Permanent Living Arrangement (APPLA), the Court shall make the determinations and findings as outlined in section 12.20.050 of this Code.
- (k) The likely date by which the child will achieve permanency.
- (l) Whether Tribal Child Welfare Department has made active efforts to finalize the Permanent Plan.
- (m) Whether the child is making overall progress towards full independence and whether modifications need to be made to the ILP to assist the youth in meeting those goals.

SECTION 42106.Termination of Jurisdiction.

Tribal jurisdiction will terminate upon the Court's finding that:

- (a) The child no longer meets any of the criteria laid out in section 12.50.070(a); or
- (b) The child has informed the Court they no longer want to participate in the program; or
- (c) The child has turned age 21.

SECTION 42107.Re-entry into Extended Foster Care.

- (a) At any point after the Court's jurisdiction has been terminated pursuant to subsection (f) but before turning age 21, the child may re-enter extended foster care, provided they request re-entry and meet one of the criteria set forth in subsection (a). The Tribal Court shall retain original jurisdiction over the child in extended foster care, therefore the Court will not hold a detention, jurisdiction, or disposition hearing upon a child's re-entry.

CHAPTER 22. KINSHIP CARE/GUARDIANSHIPS

SECTION 42201. Kinship Care/Guardianships.

Upon petition to the Court, the Court make determinations of temporary and permanent legal guardianship. The Court may make these findings only after proper notice to the parents and family

members and an opportunity for interested persons to respond or appear at any Court hearing on the proposed guardianship.

SECTION 42202. Who May Petition.

The Petition to Establish a Guardianship can be initiated by Petition from the following persons:

- (a) Yurok Tribal Child Welfare and Behavioral Health;
- (b) Any prospective guardian; and/or
- (c) Any other interested person or family member.

SECTION 42203. Circumstances Under Which the Court May Appoint a Guardian

The Court may appoint guardianships over a child under the following circumstances:

- (a) The child has been removed from their home pursuant to a voluntary agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and
- (b) Returning the child home and adoption are not appropriate permanency options; and
- (c) The child has a strong attachment to the proposed guardian(s) and has been consulted about the guardianship if 14 years of age or older; and
- (d) The guardian has a strong commitment to permanently care for the child; and
- (e) Tribal Child Welfare Department has made efforts to discuss the guardianship arrangement with the parents; and
- (f) The guardianship is in the child's best interest.

SECTION 42204. Procedure for Petitioning for Guardianship.

The Petition to Establish Guardianship must be filed in Yurok Tribal Court and served on the parents if their whereabouts are known. The Petition will be properly noticed and the parties be given an opportunity to respond. The Petition will be set for hearing.

SECTION 42004. (e) Term, Rights and Responsibilities of Legal Guardian.

A legal guardian appointed by the Court shall:

- (a) Have custody, and be responsible for all care of the child and the care and management of his/her property until the child reaches 18 or, where circumstances of the child require, until the child reaches 19 years of age or 12 months after the child graduates from high-school, whichever is later, marries, is emancipated by a court of competent jurisdiction, or until the legal guardian is legally discharged;
- (b) Have full decision-making authority, also known as legal custody;
- (c) Have full physical custody;
- (d) Have the ability to make all decisions about the care of the child that a parent would make, including educational rights;
- (e) Have full responsibility for the child's care, including, but not limited to: food,

clothing, and shelter; safety and protection; physical growth and well-being; emotional growth and well-being; authority to consent to the medical and dental care and treatment of the child; education, and all rights associated with the responsibility, and any special needs; have access to customary practices of Yurok culture if the child is Yurok; and have general supervision of the child, including liability for intentional damage the child may cause;

- (f) Be responsible for reporting to the Court every six months under the jurisdiction of the Court provided by the Yurok Family Code, Chapter 13 during the first two years of the guardianship and annually thereafter, or more often as required by the Court;
- (g) Be responsible for notifying the Court of any change of address in writing within 30 days;
- (h) Have the authority, but only with the express written consent of the Court, to dispose of any real property or Tribal member benefits of the child; and
- (i) Maintain the child's enrollment in the Yurok Tribe; the guardian(s) is/are not authorized to disenroll the child from the Yurok Tribe.

SECTION 42205. Requirements Defined.

The requirements for the implementation of this section shall be specified by the Tribal Child Welfare Department in the Yurok Tribe Title IV-E Policies and Procedures Manual and Tribal Child Welfare Department shall be authorized to evaluate and implement modifications as necessary in order to provide guardianship assistance payments under California's kinship guardianship assistance program. [Ord. 46A § 1805, adopted, 3/24/2016.]

SECTION 42206. Kinship Guardianship Agreement.

- (a) In order to be eligible for the kinship guardianship assistance payments, there must be a written kinship guardianship agreement executed prior to the establishment of the guardianship. Requirements for the implementation of this section shall be specified by the Tribal Child Welfare Department in the Yurok Title IV-E Policies and Procedures Manual.
- (b) A copy of the agreement shall be provided to the prospective relative guardian.

SECTION 42207. Required Findings and Orders.

The Court must make the following findings and orders:

- (a) Parent(s)/guardian(s) were properly served with the Petition to Establish Guardianship. If they were not, the Court shall state in the Order the reason why.
- (b) All parties and the child's current caregiver have been notified of the date, time, and location of the hearing as well as their rights.
- (c) The name(s) of the parent(s)/guardian(s) and the prospective legal guardian(s), including whether the prospective guardian(s) are relatives.
- (d) The date the Court ordered the permanent plan of legal guardianship.
- (e) All of the conditions outlined in subsection (b) apply to this case.

- (f) Active efforts have been provided to place the child and siblings removed from their home in the same guardianship unless Tribal Child Welfare Department documents that such a joint placement is contrary to the safety or wellbeing of the child or any siblings; and
 - (1) In the case of a sibling removed from the home who is not so jointly placed, the order shall provide for frequent visitation or other ongoing interaction between the siblings, unless Tribal Child Welfare Department documents that frequent visitation or other ongoing interaction between the siblings, be contrary to the safety or wellbeing of any of the siblings;
- (g) Orders regarding visitation/contact between the child and anyone important in the child's life.
- (h) The Court may make Orders regarding any services that will (continue to) be provided by Tribal Child Welfare Department and Orders regarding any provisions that will benefit the child's continuing safety and wellbeing.
- (i) The Court's Order shall include all terms, rights, and responsibilities of the guardian(s) as outlined in subsection (e).
- (j) The Court shall grant the Petition to establish guardianship if it finds that granting the guardianship would be in the best interest of the child.
- (k) If the Court grants the Petition, it shall terminate its jurisdiction under the Children's Code. It may assume jurisdiction under the Family Code and make orders regarding the guardian(s)' participation in review hearings as outlined in subsection (e)(6) of this Chapter, with additional requirements as deemed necessary by the Court.

SECTION 42208. Guardianship Orders.

Following a hearing in which the Court determines that a guardian shall be appointed, the Court shall issue an order setting forth its findings, appointing the guardian, and addressing the following:

- (a) **Services.** Any continued services Tribal Child Welfare Department consents to provide;
- (b) **Rights and Responsibilities of Guardian.** The term of guardianship and the rights and responsibilities of the guardian, including the guardian's responsibilities related to annual reviews;
- (c) **Other.** Any other provision to benefit the child's continuing safety and wellbeing;
- (d) **Letter of Guardianship.** A certified copy of the letter of guardianship will be prepared and attached to the order; and
- (e) **Final Order.** A guardianship order is a final order for purposes of appeal. Upon issuance of a final order of guardianship arising out of an out-of-home court case, the Court shall terminate its jurisdiction under the Children's Code. The Court may conduct reviews of the case as described in Title 13, Chapter 13.60 of the Yurok Tribal Code.

CHAPTER 23. TERMINATION OF PARENTAL RIGHTS

SECTION 42301. Circumstances Requiring Termination of Parental Rights.

On behalf of Tribal Child Welfare Department , the Office of the Tribal Attorney or other designated official shall either file a Petition, or seek to be joined to a Petition filed by another party, to terminate parental rights of the child's parent(s) in the following circumstances:

- (a) When a child has been in foster care under the responsibility of Tribal Child Welfare Department for 15 of the most recent 22 months, the Petition to Terminate Parental Rights must be filed by the end of the child's fifteenth month in foster care.
- (b) When a court of competent jurisdiction has determined a child to be a safely surrendered infant as defined in Chapter 12.10 of this Code, the Petition to Terminate Parental Rights is to be made within 60 days of the judicial determination.
- (c) When a court of competent jurisdiction has made a determination that the parent has:
 - (1) Committed murder of another child of the parent;
 - (2) Committed voluntary manslaughter of another child of the parent;
 - (3) Aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter; or
 - (4) Committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent the Petition to Terminate Parental Rights is to be made within 60 days of a judicial determination that active efforts to reunify the child and parent are not required.
- (d) A finding by the Tribal Court or court of competent jurisdiction has determined the parent is guilty of aggravated circumstances, as defined in Chapter 12.10 of this Code. [Ord. 46A § 1801, adopted, 3/24/2016.]
- (e) If Tribal Child Welfare Department files to terminate the parental rights of both parents it shall concurrently identify, recruit, process, and approve a qualified family for an adoption pursuant to the provisions of the adoption and protective parent definitions in Chapter 12.10 of this Code. [Ord. 46A § 1802, adopted, 3/24/2016.]
- (f)
- (g)

SECTION 42302. Calculation of Time in Foster Care to Determine if a Petition to Terminate Parental Rights is Required.

In calculating when to file a Petition to Terminate Parental Rights, Tribal Child Welfare Department :

- (a) Will calculate the 15 out of the most recent 22-month period from the date the child entered foster care as defined in Chapter 12.10 of this Code;
- (b) Will use a cumulative method of calculation when a child experiences multiple exits from and enters into foster care during the 22-month period; and
- (c) Will not include trial home visits or runaway episodes in calculating 15 months in foster care.
- (d) Tribal Child Welfare Department will only apply this requirement to a child once.

SECTION 42303.

SECTION 42304. Election to Not File.

Tribal Child Welfare Department may elect not to file a Petition or join a Petition to Terminate Parental Rights if:

- (a) At the option of Tribal Child Welfare Department, the child is being cared for by a relative;
- (b) Tribal Child Welfare Department has documented in the case plan (which shall be available for court review) a compelling reason for determining that filing such a Petition would not be in the best interests of the child. Compelling reasons might include, but are not limited to:
 - (1) Maintaining a connection between the parent, extended family, and community is in the best interest of the child;
 - (2) A Yurok adoption is in the best interest of the child; or
 - (3) Grounds for termination do not exist.
- (c) The Tribe has not provided to the family of the child, consistent with the time period in the case plan, such services as the Tribe deems necessary for the safe return of the child to the child's home, if active efforts are required to be made with respect to the child.

SECTION 42305. Grounds for Granting Petition to Terminate Parental Rights.

Before granting any termination of parental rights, Yurok Health and Human Services must ensure the child is officially enrolled in the Yurok Tribe. The Court shall make a determination that it is in the best of interests of the child to grant a Petition to Terminate Parental Rights and all the following grounds must be met before granting:

- (a) Failure to reunify despite the provision of active efforts on the part of Tribal Child Welfare Department or there was a judicial determination by Tribal Court or another court of competent jurisdiction that the parent is guilty of aggravated circumstances as defined in Chapter 12.10 of this Code which excused the implementation of reunification services; and all of the following factors exist:
 - (1) The Court finds specific circumstances of each individual case that the child cannot safely be returned home because of the risk of harm by the parent or the inability of the parent to provide for the child's basic needs;
 - (2) The Court finds it is in the best interest of the child;
 - (3) In the case of termination of the rights of both parents, a protective parent as defined in Chapter 12.10 of this Code is available and willing to accept such appointment on behalf of the child; and
 - (4) There is a method to maintain the child's connection to family, culture, community and Tribal enrollment status, [Ord. 46A § 1803, adopted, 3/24/2016.]

CHAPTER 24. ADOPTION

SECTION 42401. Adoption Overview and Purpose.

- (a) Tribal Child Welfare Department is responsible to ensure that a stable plan for a Yurok child when he or she cannot return home is in place. Tribal Child Welfare Department will work to place the child in a guardianship or Traditional adoption rather than pursue a “western” adoption which requires termination of parental rights in most cases. The term Adoption has negative meaning to many Tribal families as a result of Federal, State, and western religious practices. As a result of historical federal policies, during the assimilation period, many Native children were wrongfully removed from their Tribal families and were adopted to white families in effort to assimilate Native children and wipe out traditional Tribal culture. During the Indian Adoption Project, many Tribal families experienced loss of their children and cultural genocide. Termination of parental rights is not congruent with Yurok traditional cultural practices. Adoption is about making relatives rather than severing a connection completely. However, in appropriate circumstances, adoption may take place in a method that is customary and honors the tradition of making relatives and modifies parental rights rather than complete termination of parental rights.
- (b) Adoption may take place pursuant to provisions in this Code. The preferred method of adoption is Traditional/Tribal Customary Adoption. While termination of parental rights is not congruent with Yurok traditional culture there are rare circumstances in which it may be necessary to terminate parental rights. This process will help ensure stability and permanence in the life of a child while recognizing that a child can be afforded the permanency of adoption while continuing to nurture their ongoing relationships with their birth family, and tribal customs and practices. Therefore, every child will be assessed for appropriateness for adoption.
- (c) Adoption is a permanency option that should be considered as part of concurrent case planning for all children in substitute care. The assessment of the appropriateness of adoption as the permanency plan for a child begins at the time of the child’s initial placement and continues until a permanent plan is achieved. If safe placement with a parent is not possible for a child and there is an available adoptive resource who wishes to adopt the child it must be determined if adoption is an appropriate permanency plan for the child. Adoption is not the most appropriate plan for every child.
- (d) The purpose of this Chapter is to provide guidance when adoption is ordered as the Permanent Plan.

SECTION 42402. Full Faith and Credit.

This Court has the authority to give full faith and credit to adoptions granted under the laws of another tribe, state, or nation having jurisdiction over the parties and the subject matter including a California Tribal Customary Adoption granted pursuant to California Welfare and Institutions Code § 366.24. [Ord. 46A § 1804, adopted, 3/24/2016.]

SECTION 42403. Yurok Adoption and Adoption with Termination of Parental Rights.

- (a) **Timing.** For cases under Tribal Court jurisdiction, an Adoption Petition shall be

filed within 30 days of the Tribal Court ordering the Permanent Plan of adoption. The hearing to finalize the Adoption must be held within 180 days from when the Adoption Petition is filed.

- (b) **Who can initiate a Petition for Adoption.** The Petition for Adoption can be initiated by petition from the following persons: (1) Tribal Child Welfare and Behavioral Health; or (2) Any prospective “protective parent.”
- (c) The Court may order a Traditional Adoption or an Adoption with the Termination of Parental rights under the following circumstances:
 - (1) Failure to reunify despite the provision of active efforts on the part of Tribal Child Welfare Department or a judicial determination by Tribal Court or another court of competent jurisdiction that the parent is guilty of any of the circumstances outlined in Chapter 12.35.20(a)(2) of this Code or aggravated circumstances under Chapter 12.10 of this Code, which excused the implementation of reunification services; and
 - (2) The Court has found specific circumstances of each individual case that the child cannot safely be returned home because of the risk of harm by the parent or the inability of the parent to provide for the child’s basic needs; and
 - (3) There is a method to maintain the child’s connection to family, culture, community and Tribal enrollment status; and
 - (4) A “protective parent” is available, willing and approved to accept such appointment on behalf of the child; and
 - (5) The child has a strong attachment to the “protective parent” and has been consulted about the adoption if 14 years of age or older; and
 - (6) The “protective parent” has a strong commitment to permanently care for the child; and
 - (7) Tribal Child Welfare Department has made efforts to discuss the adoption with the “protective parents”; and
 - (8) The adoption is in the child’s best interest.

SECTION 42404. Report.

Tribal Child Welfare Department shall file an Adoption Report with the Tribal Court with a final recommendation regarding the prospective adoption within 180 days of the filing of the Adoption Petition, unless an extension of time has been granted by the Court. The report shall be based on required assessments as further defined in Chapter 9, Section II.1 of the Yurok Tribe Title IV-E Policies and Procedures Manual.

SECTION 42405. Petition.

The Petition for Adoption must be filed in Yurok Tribal Court. In the case of a Yurok adoption, the Petition shall be served on the parents if their whereabouts are known, and all parties will be given an opportunity to respond. The Petition will be set for hearing.

SECTION 42406. Required Findings and Orders.

At the Adoption hearing, the Court shall make the following Findings and Orders:

- (a) All parties and the child's current caregiver have been notified of the date, time, and location of the hearing as well as their rights.
- (b) Returning the child home is not an appropriate permanency option.
- (c) All of the conditions in section 42403(c) have been met.
- (d) The Adoption Order addresses all requirements outlined in subsection (h).
- (e) The Adoption Order is approved.

SECTION 42407. Adoption Order.

The order shall address the following:

- (f) In the case of a Yurok adoption, the order will include the modification of the legal relationship of the birth parents or Indian custodian and the child.
- (a) In the case of an Adoption Terminating Parental Rights, the order will include the termination of the legal relationship of the birth parents or Indian custodian and the child.
- (b) That the child is eligible and suitable for adoption and that the adoptive parent (or protective parent) is capable of providing proper care for the child;
- (c) Rights and liabilities of the natural parents, including inheritance and child support;
- (d) Visitation, if any, of the parties or others;
- (e) Cultural and Tribal connections that will be preserved under the adoption;
- (f) Where the adoption includes a signed agreement between the adoptive parent(s) (or protective parent(s)) and the biological parent(s), the Court shall incorporate the agreement into its Order to provide judicial review in the event of noncompliance;
- (g) That the Court will facilitate the change of the child's last name to that of the adoptive parent (or the protective parent) if it finds that it is in the best interest of the minor to change the last name. The Court will take into consideration the preference of the minor, if appropriate, in determining whether to change the child's last name;
- (h) That the child is entitled to the same rights as a biological child of the adoptive parents (or the protective parent);
- (i) That the adoptive parents (or protective parent(s)) have no authority to relinquish the child's membership in the Yurok Tribe;
- (j) The effective date of the order of adoption; and
- (k) That an order of adoption has been prepared and will be provided by the Court to the California Department of Public Health Vital Records.
- (l) Whether the child has rights of inheritance; and
- (m) The child's legal relationship with the Tribe.

SECTION 42408. Changes to Birth Certificate Following Adoption.

The Court will issue an order of adoption and the Court Clerk will coordinate the amendment of the minor's birth certificate if necessary, according to the following procedures:

- (a) The Court Clerk will issue a completed Court Report of Adoption Form to the state of California in order to facilitate a new birth certificate. Upon receipt of the Court Report of Adoption Form, the California Department of Public Health Vital Records will be able to issue the new birth certificate.
- (b) The information provided in the Court Report of Adoption is used to locate and seal the original birth record of the adopted child and to prepare the new birth certificate. The Court Report of Adoption contains the child's original birth name, sex, date and place of birth, physician's or attendant's name, and the natural parents' names, as well as the child's new name and information about the adoptive parents.
- (c) Adoptive Birth Certificate. Within 10 days of the issuance of the order of adoption, the Court shall mail the Order of Adoption Form to the California Department of Public Health Vital Records. The Order of Adoption Form shall set forth the full name, sex, date and place of birth, and names of biological parents, in order that a new record of birth in the child's new name and with the name of the adoptive parents may be recorded.

SECTION 42409. California Statutory Tribal Customary Adoption

California Statutory Tribal Customary Adoption: means an adoption, confirmed by Tribal Court through a Tribal Customary Adoption Order (TCAO), for a child under the jurisdiction of the State of California as defined by the California Welfare and Institutions Code §300. The biological parent(s) responsibilities, including child support obligations, shall be modified. Tribes have the inherent, independent authority to establish Tribal Customary Adoptions (TCAs). TCAs are advanced within the Tribal Court and the Tribal Customary Adoption Order is granted full faith and credit by the County Superior Court that maintains jurisdiction of the child. To facilitate this type of adoption, the TCA must have been ordered by the County Superior Court in a state dependency case as the permanent plan for an Indian child under California Welfare and Institutions Code §366.24. This type of adoption does not apply to children under the exclusive jurisdiction of the Tribal Court and shall not be recommended as the permanent plan by Tribal Child Welfare Department for cases in Tribal Court.

SECTION 42410. Timing.

Where the State Court has ordered California Statutory Tribal Customary Adoption as the permanent plan for a Yurok child under State Court jurisdiction, the hearing in Tribal Court must occur within 30 days of the request for hearing.

SECTION 42411. Ordering a California Statutory Tribal Customary Adoption

The Tribal Court may order a California Statutory Tribal Customary Adoption under the following circumstances:

- (a) A TCAO shall not be prepared in a case where no TCA adoptive family has yet to be identified.

- (b) Tribal Child Welfare Department shall commence development of the TCAO as soon as a decision has been made that TCA will be a possible permanent plan (concurrent planning) and no later than two days after the State Court has terminated reunification services to the family of origin and set a permanent plan hearing (often referred to as the “§366.26 hearing” or the Selection and Implementation hearing).
- (c) If after affirmation by the Tribal Court of the TCAO and completion of the Tribe’s Tribal Customary Adoption process but prior to the TCAO being afforded full faith and credit by the State Court, there is reason to believe by Tribal Child Welfare Department that the TCA is no longer in the tribal child’s best interest, Tribal Child Welfare Department shall immediately:
 - (1) Inform Tribal Child Welfare Department Director in writing of the basis, including all available evidence and reports, for the reason to believe the TCA is no longer in the tribal child’s best interest.
 - (2) Upon receipt of the Tribal Child Welfare Department Director’s, or their designee’s, approval, file a Request to Withdraw the TCAO in Tribal Court.
 - (3) Request the Tribal Court issue an order revoking the Tribe’s TCA and revoking affirmation of the TCAO be sent directly to the State Court.

SECTION 42412. Report.

Tribal Child Welfare Department shall file a report with the request to put the hearing on calendar that includes the proposed Tribal Customary Adoption Order and their final recommendation regarding the prospective adoption. The report shall be based on required assessments as further defined in the Yurok Title IV-E Policies and Procedures Manual.

SECTION 42413. Notice.

Notice of the hearing, the right to be heard, and the right to provide input shall be provided to the counsel for the parents, child, and the County Child Welfare Services in the State Court proceeding, as well as the protective parents and Tribal Child Welfare Department . Notice shall be provided by the Tribal Clerk of the Court at least 10 days before the hearing.

SECTION 42414. Findings and Orders.

At the Tribal Customary Adoption hearing, the Court shall make the following Findings and Orders:

- (a) All parties and the child’s current caregiver have been notified of the date, time, and location of the hearing as well as their rights.
- (b) The Tribal Customary Adoption Order addresses all requirements outlined in subsection 42217.
- (c) The Tribal Customary Adoption Order is approved.

SECTION 42415. Tribal Customary Adoption Order.

The Tribal Customary Adoption Order “TCAO” is the document that includes the plan for a tribal child’s adoption under tribal custom and tradition, by and through state law. The TCAO for a tribal

child will be a Tribal Court Order that will be filed in the state court action and become a part of the adoption state court order of the tribal child. The TCAO shall address the following:

- (a) The modification of the legal relationship of the birth parents or Indian custodian and the child.
- (b) That the child is eligible and suitable for adoption and that the adoptive parent (or protective parent) is capable of providing proper care for the child;
- (c) Rights and liabilities of the natural parents, including inheritance and child support;
- (d) Rights of the child to inheritance from the natural parents.
- (e) A statement regarding visitation with the natural parents or Indian Custodian.
- (f) Cultural and Tribal connections that will be preserved under the adoption;
- (g) Where the adoption includes a signed agreement between the adoptive parent(s) (or protective parent(s)) and the biological parent(s), the Court shall incorporate the agreement into its Order to provide judicial review in the event of noncompliance;
- (h) That the Court will facilitate the change of the child's last name to that of the adoptive parent (or the protective parent) if it finds that it is in the best interest of the minor to change the last name. The Court will take into consideration the preference of the minor, if appropriate, in determining whether to change the child's last name;
- (i) That the child is entitled to the same rights as a biological child of the adoptive parents (or the protective parent);
- (j) That the adoptive parents (or protective parent(s)) have no authority to relinquish the child's membership in the Yurok Tribe;
- (k) The order of adoption is approved; and
- (l) The effective date of the order of adoption.

C*E*R*T*I*F*I*C*A*T*I*O*N

THE FOREGOING ORDINANCE, ENTITLED THE _____ ORDINANCE, WAS PASSED AT A REGULARLY SCHEDULED MEETING OF THE YUROK TRIBAL COUNCIL ON _____, 2024, AT WHICH QUORUM WAS PRESENT, AND THIS ORDINANCE WAS ADOPTED BY A VOTE OF ____ FOR, ____ OPPOSED AND ____ ABSTENTIONS IN ACCORDANCE WITH ARTICLE IV, SECTION 5(j) OF THE CONSTITUTION OF THE YUROK TRIBE.

DATED THIS ____ DAY OF _____ 2025

Joseph L. James, Chairperson

Yurok Tribal Council

ATTEST:

Toby Vanlandingham, Secretary

Yurok Tribal Council

DRAFT