

Title 8 – Juveniles
Chapter 2 – Jurisdiction, Transfer of Jurisdiction and Comity

Sec.

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Legislative History

Enacted:

Juvenile Code, Ord. 170 (6/30/03), BIA (7/3/03).

Repealed or Superseded:

Juvenile Code, Ord. 68 (12/89), Enacting Res. 89-12-98 (repealing Ord. 40 and all other previous youth ordinances).
Youth Code, Ord. 40 (2/8/83), Enacting Res. 83-2-20, BIA (rescinded 5/5/83, approved 6/25/83) (repealing all previous youth ordinances).

8-02.010 Generally.

- (A) The Court shall have jurisdiction over any proceeding arising under this Title and any actions arising under the customs and traditions of the Swinomish Indian Tribal Community affecting family or child welfare, which involves:
- (1) Any Indian youth who resides or is domiciled on the Swinomish Reservation;
 - (2) Any youth who is a member or is eligible for membership in the Swinomish Indian Tribal Community regardless of the youth's residence or domicile; or
 - (3) Any Indian youth who has been placed in temporary care on the Reservation or in any care facility licensed by the Tribe for placement of Indian youth.

- (B) The Court shall have jurisdiction over adults in furtherance of its powers under this Title. The Court may make such orders as are necessary for the welfare of a youth and families.
- (C) When state, federal or other tribal courts have jurisdiction over any of the matters provided for in this Title, the Court has concurrent jurisdiction over the same matters, to the extent consistent with federal law.
- (D) The limitations on jurisdiction in this Chapter are not intended to reflect the Tribe's view as to the legally permissible limits of jurisdiction but are merely designed to limit tribal activity in this area in accordance with tribal priorities and resources.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-02.020 Notice to Other Tribes.

If the Court, Presenting Officer, or Family Services Representative has reason to believe a youth, who is the subject of a proceeding under this Title, may be enrolled in, a member of, or eligible for enrollment/membership in another tribe, the Court Clerk shall be directed to notify the other tribe of the proceeding.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-02.030 Transfer of Jurisdiction.

- (A) The Court may accept or decline any transfer of jurisdiction over a youth from other federal, state or tribal courts.
- (B) In any proceeding before the Youth Court, the Court may transfer the proceedings to an appropriate state court or another tribal court where the state or the other Indian tribe has a significant interest in the youth and the transfer would be in the best interests of the youth.
- (C) Any transfer of jurisdiction from the Youth Court to another jurisdiction shall be in accordance with the following procedures:
 - (1) Any person may request the Court to transfer a proceeding by filing a petition with the Court.
 - (2) The petition shall include:

- (a) The name, date of birth, address and tribal affiliation, if known, of the youth who is the subject of the proceeding; and
 - (b) A plain and concise statement of the reasons the transfer should be granted.
- (3) The Court shall hold a hearing on the transfer request within ten (10) days of the filing of the petition for transfer, unless otherwise agreed upon.
 - (4) Written notice of the date, time and location of the transfer hearing shall be given to the Family Services representative, the youth, his or her parent(s), guardian or custodian and to the Court or other judicial or administrative body to which transfer has been requested as soon as the time and place for the hearing has been established.
 - (5) A tribal law enforcement officer or an appointee of the Court shall deliver the notice. If the notice cannot be delivered personally, the notice shall be delivered by registered mail or any other method reasonably designed to give notice to the required persons.
 - (6) A parent's wishes regarding transfer shall be considered but shall not be controlling as to the decision to transfer.
 - (7) The controlling factor shall be the youth's best interest.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-02.040 Interim Orders to Protect a Youth Pending Transfer.

The Court may make such orders as are necessary to protect the youth and to retain jurisdiction over the youth, pending the outcome of any transfer proceeding.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-02.050 Jurisdictional Agreements.

The Tribe may enter into intergovernmental agreements regarding jurisdiction over youth-in-need-of-care matters, youth offender matters and any other related matters it deems appropriate.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-02.060 Recognition of Orders from Foreign Courts.

The Court may give recognition to state and other tribes' court orders as a matter of comity as follows:

- (A) State Court Orders: State child custody orders may be recognized by the Youth Court only after the Youth Court has conducted a full independent review of the orders and determined that:
 - (1) the state court had jurisdiction over the child;
 - (2) the provisions of the Indian Child Welfare Act, 25 U.S.C. §§ 1901-1963, were properly followed;
 - (3) due process was provided to all interested persons participating in the state proceeding; and
 - (4) the state court proceeding does not violate the public policies, customs, or common law of the Tribe.

- (B) Court Orders of Other Tribal Courts: Court orders of other tribal courts may be recognized by the Youth Court after the Court has determined:
 - (1) that the other tribal court exercised proper subject matter and personal jurisdiction over the parties;
 - (2) due process was accorded to all interested parties participating in the other tribal court proceeding; and
 - (3) the other tribe's proceeding does not violate the public policies, customs, or common law of the Tribe.

- (C) The Court shall honor the provisions of any intergovernmental agreement, consistent with the provisions of this Section.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).