

TITLE 5: CHILD WELFARE

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TITLE 5

CHILD WELFARE

Chapter 1: General Provisions

Section 5-1-1: Purpose: The purpose of this title is to provide for the protection of children under the jurisdiction of the tribal court and to secure the care and guidance, preferably in his/her own home, which will serve the spiritual, emotional, mental, and physical welfare of such children and the best interests of the Flandreau Santee Sioux Tribe. The primary objective of these laws is to strengthen family ties; to preserve and strengthen the child's cultural and tribal identity; to secure for every child removed from his/her home that care, control, and guidance as nearly equivalent to that which he/she should be given by his/her parents to help the child develop into a responsible, well-adjusted adult; to improve any conditions or home environment which may be contributing to the child's delinquency; and to protect the peace and security of the community, the Reservation, and its individual residents from child abuse, juvenile violence and law breaking.

Section 5-1-2: Definitions:

- (1) "Abused or neglected Child" a child as defined in Chapter 5.
- (2) "Adjudication" mean a finding by the Court that the facts alleged in a petition have been proven and that subsequent judgment has ensued.
- (3) "Adjudicatory Hearing" is a hearing to determine whether the allegations in a petition alleging that a child is abused or neglected are supported by clear and convincing evidence or whether a petition alleging that a child is in need of supervision or a delinquent are supported by evidence beyond a reasonable doubt.
- (4) "Adult" is a person eighteen years of age or over,

- (5) "Advisory hearing" is an initial hearing conducted by the Court to inform the child and the child's parent of their statutory and constitutional rights.
- (6) "Child" is a person who is under the age of eighteen (18) years.
- (7) "Child in need of supervision" is a child as defined in Chapter 6.
- (8) "Court" means the Flandreau Santee Sioux Tribal Court.
- (9) "Custodian" is any person who has legal custody of a child under tribal law or state law or to whom temporary physical custody, care, and control has been transferred by the child's parent.
- (10) "Delinquent child" is a child as defined in Chapter 7.
- (11) "Office of Social Services" is the Tribal Office of Social Services.
- (12) "Detention" is the temporary custody of a child in a secured physically restricting facility.
- (13) "Dispositional hearing" is a hearing after adjudication at which the Court makes an interim or final decision in the case.
- (14) "Extended family member" is a person who has reached the age of eighteen and who is the child's grandparent, aunt or uncle, brother or sister, brother-in-law, or sister-in-law, niece or nephew, first or second cousin, step-parent or a person who as adopted the child through either formal legal means or traditional tribal adoption.
- (15) "Foster Care" is any action removing a child from his/her parents or custodian for temporary placement in a foster home or institution or the home of a guardian, but where parental rights have not been terminated.

- (16) “Involuntary placement” is the temporary custody placement of a child by a person authorized by law to place children without the consent of the child’s parent or custodian.
- (17) “Non-member” is a child who is not a member of the Flandreau Santee Sioux Tribe.
- (18) “Off-reservation” is a child who does not reside or is not domiciled on the reservation.
- (19) “On-reservation” is a child who resides or is domiciled on the reservation.
- (20) “Parent” is any biological parent or parents of a child or any person who has lawfully adopted a child, including adoptions under tribal law. It does not include unwed fathers where paternity has not been acknowledged or established.
- (21) “Protective custody” is a legal status created by court order under which an alleged or adjudicated abused or neglected child is permitted to remain in the home of the child’s parents, guardian, or custodian or is placed with a relative or other suitable person and supervision and assistance is provided by the Court, Office of Social Services or other agency designated by the Court.
- (22) “Reservation” is the territorial boundaries of the Flandreau Santee Sioux Tribe.
- (23) “Termination of parental rights” means any action resulting in the termination of the parent-child relationship.
- (24) “Tribe” means the governing body of the Flandreau Santee Sioux Tribe.
- (25) “Voluntary placement” means an action removing a child from his/her home and placing the child in the temporary custody of another either by the parent or by a person authorized by law to place children with

the consent of the child's parent, guardian, or custodian.

Section 5-1-3: Jurisdiction: The Tribal Court has original and exclusive jurisdiction over all matters under this title which involve the following:

- a) All children residing on, or who are found on the reservation.
- b) Children who are members of the Tribe who live off the reservation.

Section 5-1-4: Enforcement: Enforcement of these laws is the responsibility of the Court and tribal law enforcement.

Chapter 2: Office of Social Services

Section 5-2-1: Creation: There is hereby created a Tribal Office of Social Services.

Section 5-2-2: Responsibility: The Office of Social Services shall be, at a minimum, staffed by a Family Services Specialist. The Office of Social Services shall assist in the enforcement of all laws relating to the welfare of children, including laws related to abuse and neglect, children in need of supervision, and all other laws designed to protect and assist the child and shall take the initiative in securing enforcement of laws for the protection of children where no adequate provision is made for such enforcement. The Office of Social Services will be responsible for receiving all ICW A notices and maintaining records thereof. (As Amended by Resolution 98-82, dated November 30, 1998; and further amended by Resolution 18-28, dated January 4, 2019.)

Section 5-2-3: Rules and Regulations: The Office of Social Services shall promulgate rules and regulations for the enforcement of child welfare laws including standards for child care agencies, foster care standards and licensing requirements, adoption services, alcohol/drug counseling services, foster care payments and any other rules, consistent with these laws, which are necessary for carrying out the purposes of

this title, and for the overall enforcement of the Indian Child Welfare Act.

Section 5-2-4: Foster Care Licensing: The Tribe, through the Office of Social Services, may issue tribal licenses for foster care and foster care homes. Licensing requirements and standards shall be set by the Office of Social Services.

Chapter 3: Indian Child Welfare Act Requirements

Section 5-3-1: Purpose: The purpose of this Chapter is to ensure that the requirements and purposes of the Indian Child Welfare Act are followed whenever an Indian child, within the jurisdiction of the court, is the subject of a child custody proceeding as defined by the Indian Child Welfare Act.

Section 5-3-2: Tribal members residing off the reservation: Whenever a child who is enrolled or is eligible for enrollment in the Tribe is the subject of a state court child custody proceeding as defined by the Indian Child Welfare Act, the Tribe shall take the following steps to secure the Court's jurisdiction over the child:

- a) **Children residing in Moody County:** Whenever the Tribe, the Court, or Social Services is notified that a child who lives off-reservation but within Moody County is the subject of a proceeding as defined by the Indian Child Welfare Act, the Tribe shall file a petition/motion to intervene and/or transfer to Tribal Court. If such motion is granted, the Court will assume jurisdiction over the child.
- b) **Children residing outside of Moody County:** Whenever the Tribe, the Court, or Social Services is notified that a child who resides off-reservation and outside of Moody County, is the subject of a proceeding as defined by the Indian Child Welfare Act, the Tribe may, in its discretion or upon request of the child's parent, file a motion to intervene and/or transfer the case to Tribal Court. If such

motion is granted, the Court will assume jurisdiction over the child.

- c) **Exception: Extraordinary circumstances:** The requirements for intervention and transfer jurisdiction may be waived if extraordinary circumstances exist. Extraordinary circumstances include but are not limited to excessive costs to the Tribe in transferring the case to the Tribal Court.

Section 5-3-3: Non-members: Whenever a non-member child within the Court's jurisdiction is the subject of a child custody proceeding as defined by the Indian Child Welfare Act, the Department of Social Services shall immediately notify the child's Tribe of the proceeding and of its right to intervene. If the child's Tribe files a motion to intervene and/or transfer jurisdiction, the Court will grant such motion unless good cause to the contrary exists.

Section 5-3-4: Enforcement: Enforcement of this Chapter will be the responsibility of the Tribal Prosecutor, the Office of Social Services, and the Tribe.

Section 5-3-5: Applicable law: Any person responsible for enforcement of these provisions, shall follow Tribal Law, the Indian Child Welfare Act, and the Code of Federal Regulations in enforcing these requirements, including notice, motions, transfers, and intervention requirements.

Chapter 4: Juvenile Court

Section 5-4-1: Creation: There is hereby created a Juvenile Court which shall be known as the Flandreau Santee Sioux Tribal Juvenile Court, and any duly appointed or elected judge of the court when exercising jurisdiction under this Title, shall be known as the Flandreau Santee Sioux Tribal Juvenile Judge.

Section 5-4-2: Proceeding in the best interest of the child: Proceedings under this Title, shall be in the best interests of the child.

Section 5-4-3: Contempt: Any person who interferes or fails to comply with any order of the Court, affecting the direction or disposition of any child made pursuant to provisions of this Title, may be held in contempt of court and subject to punishment for contempt of court.

Section 5-4-4: Tribal Prosecutor to represent the Tribe: The Tribal Prosecutor shall represent the Tribe in all proceedings brought under this Chapter, and Chapter 5, 6, and 7.

Section 5-4-5: Preliminary investigation: A preliminary investigation shall be conducted by the Tribal Prosecutor upon receipt of a written report from the Office of Social Service, Law Enforcement, or another individual that a child is, or appears to be, within the purview of this Title. The Tribal Prosecutor shall make a determination based on the reports and investigations of Law Enforcement and Social Services of whether further action is warranted. On the basis of the investigation, the Tribal Prosecutor shall decide whether to pursue remedies within the law.

Section 5-4-6: Court ordered temporary custody: The court may order temporary custody of any child during any scheduled hearing. Without a scheduled hearing, the court may immediately issue a written temporary custody order in the following instances on the receipt of an affidavit or, on receipt of sworn oral testimony communicated by telephone or other appropriate means:

- (1) On application by the Tribal Prosecutor, regarding an apparent, alleged or adjudicated abused or neglected child stating good cause to believe as follows:
 - (a) The child is abandoned or is seriously endangered by his/her environment;
or
 - (b) There exists an imminent danger to the child's life or safety and immediate removal of the child from his/her parents, guardian or custodian

appears to be necessary for the protection of the child.

- (2) On application by the Tribal Prosecutor, respecting an alleged or adjudicated child in need of supervision or delinquent child stating reasonable cause pursuant to Chapter 6 or Chapter 7, as applicable, to believe as follows:
 - (a) The child presents a serious danger to others or there is need for protection of others from the child; or
 - (b) The child has run away or escaped from the child's parents, guardian or custodian.

Section 5-4-7: Emergency removal/temporary custody: A child may be taken into custody by a Tribal Law Enforcement Officer without court order only if:

- (1) The child is subject to arrest under the Flandreau Santee Sioux Tribe Law and Order Code; or
- (2) The child is abandoned or seriously endangered in his/her surroundings or is seriously endangering others and immediate removal of the child appears to be necessary for the child's protection or for the protection of others;
- (3) There are reasonable grounds to believe the child has run away from his/her parents, guardian, or custodian; or
- (4) The officer reasonably believes that temporary custody is warranted because there exists an imminent danger to the child's life or safety and there is no time to apply for a Court Order and the child's parents, guardian or custodian refuse an oral request for consent to the child's removal from their custody or the child's parent, guardian or custodian are unavailable; or
- (5) The child is under the influence of alcohol, inhalants or a controlled substance.

The Law Enforcement Officer taking a child into temporary custody may deliver the child to the Office of Social Services for temporary placement.

Section 5-4-8: Notice to parent, guardian or custodian of temporary custody: The Law Enforcement Officer who takes a child into temporary custody, with or without Court Order, except under a Court Order issued during a scheduled hearing after an action has been commenced, shall immediately, without unnecessary delay, inform the child's parent, guardian or custodian of the temporary custody and of the right to a prompt hearing by the Court to determine whether temporary custody should be continued. If the child's parent, guardian or custodian cannot be located after reasonable inquiry, the Officer shall report that fact and the circumstances immediately to the Tribal Prosecutor. Notice shall be given to the child's parents, guardian or custodian, without unnecessary delay, of the time, date and place of the temporary custody hearing.

Section 5-4-9: Notice to Tribal Prosecutor and the Court: The Law Enforcement Officer who takes a child into temporary custody, with or without a Court Order, except under a Court Order issued during a scheduled hearing after an action has been commenced, shall notify the Tribal Prosecutor within the next working day by written report of the temporary custody. The report shall include information concerning the identity and age of the child, the time the child was taken into temporary custody, the location of the child, available information about identities and locations of the child's parents, guardian or custodian and the facts which caused placement of the child in temporary custody.

Section 5-4-10: Temporary custody hearing/standard for continued custody: Upon receipt of notification that a child has been taken into temporary custody pursuant to Section 5-4-7, the Court shall hold a hearing within 48 hours, excluding Saturdays, Sundays and Holidays, to determine the need for continued custody. At the temporary custody hearing, the Court shall consider the evidence of the need for continued temporary custody of the child. In the case of an alleged abused or neglected child, the Court may continue the temporary custody only if the Court makes a determination,

supported by clear and convincing evidence, that returning custody to the child's parent, guardian or custodian is likely to result in serious emotional or physical damage to the child. In the case of an apparent or alleged child in need of supervision or delinquent child, the Court may continue temporary custody in accordance with Section 5-4-13 and 5-4-14. The temporary custody hearing may be conducted telephonically when necessary as determined by the Court.

Section 5-4-11: Temporary custody placement: An alleged abused or neglected child taken into temporary custody under Section 5-4-7, and not released to the child's parent, guardian or custodian, shall be placed in the temporary custody of the Office of Social Services, for foster care placement in accordance with the placement preferences set out in Chapter 5, Section 5-5-13. A child alleged in need of supervision or an alleged delinquent child taken into temporary custody under Section 5-4-7, and not released to the child's parents, guardian or custodian may be placed in foster care, shelter or detention as designated by the Court to be the least restrictive alternative for the child. No child may be held in temporary custody longer than forty-eight hours, excluding Saturdays, Sundays or holidays, unless a petition has been filed and the Court orders longer custody during a scheduled hearing or a telephonic hearing. The Court may at any time order the release of a child from temporary custody with or without restriction regarding the care and protection of an alleged abused or neglected child or regarding custody and appearance in Court of an alleged child in need of supervision or an alleged delinquent child at a time, date and place to be determined by the Court.

Section 5-4-12: Options of the Court following temporary custody hearing for abused or neglected child; After the temporary custody hearing the Court may:

- (1) Order the release of the child from temporary custody, either with or without restriction regarding the care or protection of the child; or
- (2) Continue the temporary custody in accordance with Section 5-4-10, under the terms and conditions for duration and placement that the Court requires, including the placement of temporary custody of the

child with the Office of Social Services, in foster care or shelter. The Court may provide for visitation of the child by the child's parents, guardian or custodian or family members in keeping with the best interests of the child.

If the child is in the temporary custody of the Office of Social Services, and has not been adjudicated abused or neglected, the Court shall review the child's temporary custody placement at least once every sixty days.

Section 5-4-13: Release of child in need of supervision following temporary custody hearing: After the temporary custody hearing the Court shall release the child from temporary custody to the child's parents, guardian or custodian, with or without condition regarding care or supervision of the child, unless the Court finds that the child should continue to be held in temporary custody for any of the following reasons:

- (1) The child has failed to comply with Court ordered program; or
- (2) The child has a demonstrated propensity to run away from his/her home, from Court ordered placement outside of his/her home, or from agencies charged with providing temporary care for the child; or
- (3) There are specific, articulated circumstances which justify the detention for the protection of the child from potentially immediate harm to the child's self or to others; or
- (4) The child is a material witness, the detention of which is necessary because of implications of tampering with the child, and an affidavit so stating is filed with the Court; or
- (5) Any other reason the Court deems necessary and in the best interests of the child.

Section 5-4-14: Release of delinquent child after temporary custody hearing: After the temporary custody hearing, the Court shall release the child from temporary custody to the child's parents, guardian or custodian. The Court may place restrictions or conditions on the child regarding the custody or supervision of the child and the subsequent

appearance of the child in Court at a time, date, and place to be determined by the Court, unless the Court finds that the child should continue to be held in temporary custody of Court Services for any of the following reasons:

- (1) The child is charged with a crime of violence or a property crime, which, if committed by an adult would be a felony; or
- (2) The child is already held in detention or on conditional release in connection with another delinquency proceeding; or
- (3) The child has a demonstrable record of willful failure to appear at juvenile proceedings; or
- (4) The child has a demonstrable record of violent conduct; or
- (5) The child is under the influence of alcohol, inhalants, or a controlled substance; or
- (6) Any other reason that the Court deems necessary and in the best interests of the child.

Section 5-4-15: Temporary custody is not an arrest: The taking of any child into temporary custody under this Chapter is not an arrest and does not constitute a police record.

Section 5-4-16: Jail prohibited/exceptions: No child under fifteen years of age may be held in jail. A child between the ages of fifteen and seventeen years of age may be held in a jail if the child is separated by sight and sound from any adult prisoners and if the child is alleged to have committed an offense which is a crime of violence under Tribal or Federal Law. No apparent, alleged or adjudicated abused or neglected child may be placed at any time in a jail or in any type of detention or temporary care facility containing criminal offenders.

Section 5-4-17: Confidentiality of records: The records of law enforcement officers and agencies concerning all children taken into temporary custody or issued a summons under this Chapter, shall be maintained separately from the records regarding detention of adult persons. The records of children may not be inspected by or disclosed to the public except:

- (1) By Order of the Court;

- (2) If there has been a criminal conviction and a presentence investigation is being made on application for probation; or
- (3) Any child or his parent, guardian or custodian may authorize the release of records to representative of the United States military for the purpose of enlistment into military service.

Section 5-4-18: Release of information on identity of child prohibited except by Court Order or when child adjudicated a delinquent offender: No fingerprint, photograph, name, address or other information concerning the identity of a child taken into temporary custody or issued a summons under this Chapter, may be released or transmitted to the Federal Bureau of Investigation or any other person or agency except in the following circumstances:

- (1) To the person or party specifically authorized by Order of Court; and
- (2) To Courts, Law Enforcement Agencies, Prosecuting Attorneys, Court Services Officers and the Office of Social Services if the child is an adjudicated delinquent offender.

Information concerning children may be release, pursuant to an Order of the Court, to persons or agencies who have a legitimate interest in the child, to the child's parents, guardian or custodian, or to the child's attorney.

Section 5-4-19: Rights of child and parents, guardian or custodian: The Court shall advise the child and the child's parents, guardian or custodian involved in any proceeding under this Title of their constitutional and statutory rights, including their right to be represented by an attorney pursuant to the Indian Civil Rights Act, at the first appearance of the parties before the Court.

Section 5-4-20: Conduct of hearings: Hearings under this Chapter and Chapters 5, 6 and 7, shall be conducted as follows:

- (1) Adjudicatory hearings shall be conducted in accordance with the rules of civil procedure under Title 2, except as otherwise provided in this Chapter;
- (2) Dispositional hearings and all other hearings

shall be tried to the Court and conducted and designed to inform the Court fully of the exact status of the child and to ascertain the history, environment and the past and present physical, mental and moral condition of the child and of the child's parents, guardian or custodian;

- (3) A verbatim record shall be taken of all hearings, except telephonic hearings held pursuant to SS 5-4-6; and
- (4) All hearings in actions under this Chapter and Chapters 5, 6 and 7 are closed. The Court may allow extended family members to be present during hearings.

Section 5-4-21: Inspection of court proceedings: Records of court proceedings, including reports of the Office of Social Services, records and reports of Court Services Officer, under this Chapter and Chapter 5, 6 and 7, shall be open to inspection by the child's parents, guardian, or custodian and by other respondent parties involved in the proceedings, their attorneys, the child's attorney, and by any department or agency having custody of the child. The Court may place appropriate restrictions on such inspections to ensure the confidentiality of records.

Section 5-4-22: Witnesses: A parent or guardian shall be entitled to the issuance of compulsory process for the attendance of witnesses on his/her own behalf or on behalf of the child. Upon application to the Court, compulsory process shall be issued for the attendance of witnesses on behalf of the child. The name, picture, place of residence or identity of any person appearing as witness in proceedings under this Chapter or Chapters 5, 6, and 7 may not be published.

Section 5-4-23: Examinations: The Court may order an apparent, alleged or adjudicated abused or neglected child, child in need of supervision or delinquent child to be examined by a physician or qualified mental health professional. The Court may direct that an examination or evaluation report be submitted to the Court and such report may be considered by the Court at an Adjudicatory or Dispositional hearing.

Section 5-4-24: Petitions alleging abused or neglected child, child in need of supervision or delinquent child: The Tribal Prosecutor may file with the Clerk of Courts a written petition alleging a child to be an abused or neglected child, a child in need of supervision or a delinquent child, as defined by this Chapter and Chapters 5, 6 and 7. The petition shall include the following:

- (1) The child's name, date of birth and residence.
- (2) The names and residences of the child's parents, guardian, or, if not known, of the child's nearest known relative.
- (3) A statement of the facts which bring the child within the Court's jurisdiction.
- (4) A request that the Court adjudicate the child to be an abused or neglected child, a child in need of supervision or a delinquent child, according to applicable statutory definition and that appropriate proceedings be conducted regarding adjudication and disposition.

Two or more children having one or more common parent, guardian or custodian and a common home environment may be included in the same petition.

If the petition alleges a child to be an abused or neglected child, the petition shall recite that the action is brought by the Tribe on behalf of the Office of Social Services. Petitions filed regarding an alleged child in need of supervision or a delinquent child shall be brought on behalf of the Tribe. Affidavits of Social Workers of the Office of Social Services, Law Enforcement Officers, or Court Service Officers, may be incorporated by reference as part of the petition. The child's parents, guardian or custodian, as applicable, shall be included as named respondents in the petition.

Section 5-4-25: Summons/service of process: Upon the filing of a petition, the Court shall issue a summons stating the time, date and place for the hearing on the petition that is directed to the child's parents, guardian or custodian, if any. If the petition declares the parties are unknown, then to "All Whom It May Concern" shall be sufficient to authorize the Court to hear and determine the action as though the parties

had been described by their proper names. The summons shall:

- (1) Require the persons named in it to appear, either in person or by attorney, at a stated time, date and place and to respond to the petition and shall advise the persons named that failure to appear is an admission to the allegations contained in the petition;
- (2) State that the persons named and the child, who is the subject of the petition, have the right to an attorney, pursuant to Indian Civil Rights Act, at all stages in the proceedings;
- (3) If the petition alleges the child to be an abused or neglected child, include a statement that termination of parental rights is a possible remedy under the proceeding;
- (4) If the petition alleges the child to be a child in need of supervision, or a delinquent child, require the parents of the party having custody of the child to appear, either in person or by an attorney, with the child at the time, date and place stated in the summons.

The summons shall be served in the same manner as personal service of summons according to the Tribal Rules of Civil Procedure, or by publication as provided in this Title, not less than thirty (30) days before the date of the hearing on the petition and shall be served as follows:

- (1) On the child, if the child is an alleged child in need of supervision or an alleged delinquent child; and
- (2) On the child's parents, guardian or custodian if the child is an alleged abused or neglected child.

Section 5-4-26: Publication of summons: When the petition or an affidavit of the Tribal Prosecutor discloses that any person or party to be served with the summons, is off the reservation or out of the state, upon due diligence, cannot be found, is concealed, whose mail at the last known address has been returned, whose location is unknown or is affected by the designation "All Whom It May Concern", the Court shall cause the summons, modified to declare the

initials of the child in lieu of the name of the child, to be published once in a newspaper of general circulation published in Moody County, or in another newspaper designated by the Court as most likely to give notice to the party to be served. Publication of the summons shall be made not less than thirty (30) days before the date of the hearing on the petition.

Section 5-4-27: Warrants issued against parents, guardian, or custodian: If the summons is not served on the child's parents, guardian or custodian, or if any party fails to obey the summons, or if it is made apparent to the Court by affidavit of the Tribal Prosecutor, which may be on information and belief, that a summons will be ineffective to secure the required presence of the child, a warrant may be issued by the Court against the parents, guardian or custodian of the child requiring that the party or the party and the child be brought before the Court. A warrant may be issued by the Court against any child directing the child to appear before the Court.

Upon issuance of a warrant, any Tribal Law Enforcement Officer, shall take the child into custody and bring the child before the Court. In lieu of taking custody of the child, the Court or any officer processing the warrant, may accept the verbal or written promise of the child's parents, guardian or or custodian served with summons, to be personally responsible for bringing the child before the Court as required by the summons or the warrant.

Section 5-4-28: Appearance and answer/failure as default: Every person or party to whom notice is given by summons, and all other interested parties affected by the designation "All Whom It May Concern", may appear either in person or by attorney, pursuant to summons, and answer, either in writing or orally in open court, in response to the petition. Failure to appear pursuant to summons or to answer or otherwise respond to a petition shall result in the entering of judgment by default and the petition shall be taken as admitted by the party so named.

Section 5-4-29: Initial appearance/Advisory hearing: Upon the initial appearance of the parties pursuant to summons, the Court shall conduct an advisory hearing before the Adjudicatory hearing on the petition as follows:

- (1) The Court shall first:
- (a) Ascertain the need for any joinder or deletion of parties, determine true names and addresses of parties and their relationships to the child, and determine the true name, date and place of birth, address and custodial status of the child; and
 - (b) Advise the parties of the nature of the proceedings, the allegations contained in the petition, the burden of proof of the Tribe and constitutional and statutory rights of the parties; and
 - (c) Advise the parties of their right to be represented by an attorney pursuant to the Indian Civil Rights Act and if requested by any party or if required by the Court, the Court may adjourn and continue the advisory hearing to a time, date and place set by the Court to afford opportunity for the parties to consult with their attorneys; and

The Court shall then receive the answer, response, denial or admission of the parties and the child as follows:

- (a) If the petition alleges the child to be abused or neglected, the parents, guardian or custodian of the child may admit the allegations contained in the petition and the Court may accept the admissions if the Court is satisfied there is a factual basis for them.
- (b) If the petition alleges the child to be in need of supervision, the parents, guardian or custodian of the child, and the child may admit the allegations contained in the petition and the Court may accept the admissions if the Court is satisfied there is a factual basis for them;

- (c) If the petition alleges the child to be delinquent, the child may admit the allegations contained in the petition and the Court may accept the admissions if the Court is satisfied there is a factual basis for them.

Section 5-4-30: Petitions admitted to by all parties: When all parties admit the allegations contained in the petition and the Court accepts the admissions, the Court may find, conclude and make a decision as to adjudication of the child under the applicable provisions of Chapters 5, 6 and 7. The Court may then proceed with the dispositional phase of the proceedings without conducting a formal adjudicatory hearing on the petition with the concurrence of all parties. However, at the request of any party or if required by the Court, the Court shall set a later time and date for the dispositional hearing. The Court shall then determine interim dispositional arrangements concerning the child and the parties. If the petition is not admitted by all parties, including the child, if appropriate, or if the petition is denied by any necessary party or the child, if appropriate, the Court shall proceed with adjudicatory hearing on the petition or schedule the adjudicatory hearing for a later time and date. If the advisory hearing is adjourned and continued to a later date or if the advisory hearing is completed and the adjudicatory hearing on the petition is scheduled for a later time and date, the Court shall make an interim order regarding temporary custody of the child.

Section 5-4-31: Rules of procedure and evidence apply to hearings: Except as otherwise provided in this Chapter and other related Chapters, the Tribal Rules of Civil Procedure and evidence apply to all hearings under this Chapter.

Section 5-4-32: Respondent's discovery: On written request of the respondent or the child, the Tribal Prosecutor shall furnish the following information in the possession, custody or control of the Tribal Prosecutor:

- (1) Relevant written or recorded statements made by the respondent or the child.
- (2) Copies of prior orders of adjudication or final decree of disposition affecting the party in any prior proceeding that is related to

- abused or neglected children, children in need of supervision or delinquent children.
- (3) Any books, papers, documents, photographs, tangible objects, which are material to respondents or child's case, which are intended for use by the Tribal Prosecutor as evidence in chief at the hearing, or which were obtained from or belong to the respondent.
 - (4) Results or reports of physical or mental exams and of scientific test or experiments or copies of them.

Discovery of evidence shall be made by furnishing evidence and allowing the respondent or child to inspect and photocopy the evidence requested. The Court may place appropriate restrictions on discovery to ensure the confidentiality of records.

The discovery or inspection of reports, memorandum or other internal documents made by the Tribal Prosecutor or other employees of the Tribe, or agencies authorized to enforce these laws in connection with the investigation or litigation of the case is not authorized.

Discovery of statements made by witnesses or prospective witnesses of the Tribe, are not subject to inspection until the witness has testified on direct exam in the adjudicatory hearing.

Section 5-4-33: Petitioner discovery: When the respondent or child request disclosure under 5-4-32, and the Tribal Prosecutor complies with the request, the respondent shall upon the request of the Tribal Prosecutor allow the Tribal Prosecutor to inspect, and photocopy the following:

- (1) Books, papers, documents, photographs, tangible objects or copies or portions of them which are in the possession or control of the respondent or child and which the respondent or child intends to introduce as evidence in chief at the hearing.
- (2) Any results or reports of physical or mental examinations and of scientific experiments made in connection with the case which are

in the possession or control of the respondent or child and which the respondent or child intends to use as evidence in chief at the hearing, or which were prepared by a witness whom the respondent or child intends to call at the hearing when the results or reports relate to testimony of a witness.

Discovery or inspection of reports, memorandum or other internal case presentation documents made by the respondent or the child or their attorneys in connection with the investigation or presentation of their case or of statements made by the respondent or the child, or by witnesses or prospective witnesses for the child or any respondent is not authorized.

Section 5-4-34: Notice for additional evidence: Any party who, prior to or during a hearing, discovers additional evidence or material previously requested or ordered which is subject to discovery or inspection under 5-4-32 or 5-4-33, shall promptly notify the other parties or their attorneys or the court of the existence of the additional evidence or material.

Section 5-4-35: Failure to comply with discovery: If it is brought to the attention of the Court that a party has failed to comply with an applicable discovery provision, the Court may order the party to permit the discovery or inspection, grant a continuance or prohibit the party from introducing evidence not disclosed or the Court may enter another order the Court considers just under the circumstances.

Section 5-4-36: Adjudicatory hearing: Following an advisory hearing on a petition, the Court shall conduct an adjudicatory hearing. The Court shall consider whether the allegations of the petition are supported by clear and convincing evidence concerning an alleged abused or neglected child or whether the allegations of the petition are supported by evidence beyond a reasonable doubt concerning an alleged child in need of supervision or an alleged delinquent child. In cases concerning abused or neglected children, evidence that child abuse has occurred is prima facie evidence that the child is an abused or neglected child regardless of allegations contained in the petition, and such evidence is sufficient to

support an adjudication of the child as an abused or neglected child.

Written reports and other material and information relating to the child's mental, physical, and social history may be received and considered by the Court at the hearing together with other evidence relating to allegations of the petition or circumstances then affecting the child. If requested by the child or the child's parents, guardian or custodian, or other interested party appearing as a respondent in the action, the Court shall require the party who prepared the reports or material to appear as a witness and be subject to both direct and cross-examination. In the absence of a request regarding the appearance of the party preparing reports or material, the Court may order the party who prepared the report or material to appear and testify if the Court finds that interests of the child or child's parents, guardian or custodian or any other respondent to the proceedings so require.

Section 5-4-37: Final order where allegations not supported by evidence: Upon a finding by the Court that the allegations of a petition filed under Section 5-4-24, are not supported by clear and convincing evidence in cases concerning an alleged abused or neglected child or are not supported by evidence beyond a reasonable doubt in cases concerning alleged children in need of supervision or alleged delinquent children, the Court shall enter a final order accordingly and the action shall be terminated. In the case of an alleged abused or neglected child, the Court shall enter findings and conclusions in addition to the final order. On termination of the action, the child, the child's parents, guardian or custodian and other respondent parties shall be released from any restriction or temporary order previously issued by the Court and from the jurisdiction of the Court. A final order terminating the action may be appealed by any party to the action in accordance with the Tribal rules governing civil appeals.

Section 5-4-38: Order of adjudication where allegations supported by the evidence: Upon the finding by the Court that the allegations of a petition are supported by clear and convincing evidence in cases concerning an alleged abused or neglected child or are supported by evidence beyond a reasonable doubt in cases concerning an alleged child in

need of supervision or an alleged delinquent child, the Court shall adjudicate the child accordingly and shall issue findings of fact, conclusions of law and an order of adjudication stating the child to be an abused or neglected child, a child in need of supervision, or a delinquent child. The order of adjudication is an appealable order and is subject to appeal according to the Tribal rules governing civil appeals.

The Court shall proceed with the dispositional phase of the proceedings and shall issue an order setting the time, date and place of the initial dispositional hearing and prescribing notice of the hearing. The Court may proceed immediately with the dispositional phase with the consent of the Tribe, the child and the child's parents, guardian or custodian or other parties who are respondents in the action.

If the dispositional phase of the proceedings is set for another date, the Court shall issue an interim dispositional decree governing custody, placement, care, shelter or detention of the child pending the final dispositional hearing.

Section 5-4-39: Exams, reports, and investigations of adjudicated child before final disposition: After adjudication of a child as an abused or neglected child, a child in need of supervision or a delinquent child and before the final disposition of the case, the Court may:

- (1) Order the child's parents, guardian, custodian or relative of the child who might be considered as a potential caretaker of the child on disposition to submit to psychological, psychiatric or mental examination and evaluation by a qualified mental health professional or physician and submit the report to the Court. The order may be issued by the Court on motion of the Tribe, the child, any interested party, or on the Court's own motion. The order directing the examination and evaluation shall state the time, place, manner, conditions and scope of the examination and evaluation to be made and the person or persons by whom it is to be made; and
- (2) Order homestudy investigations and reports of the investigations concerning the child's

parents, guardian, custodian, any other party respondent or a relative of the child who may be a potential caretaker of the child on disposition. The order for a homestudy investigation and a report of the investigation shall state the conditions and scope of the investigation.

Reports received by the Court pursuant to this section may be released by the Court to attorneys of record for the parties and may be received by the Court as evidence in the dispositional phase of the proceeding.

Section 5-4-40: Continuance: At any time after filing of the petition and before final disposition of the case, the Court may continue the case where the circumstance of the case require the need for continuance. The Court shall issue an order to continue custody of any child(ren) for up to but no longer than three months.

Section 5-4-41: Dispositional hearing/final decree: After adjudication, the Court shall conduct dispositional hearings in accordance with Chapters 5, 6, and 7, and consider evidence regarding proper disposition of the child according to the least restrictive alternative and best serving the interests of the child with due regard to the rights and interests of the child's parents, guardian, custodian, other party respondents, and the Tribe. Dispositional evidence may include social study reports, mental and medical examinations and evaluation reports, homestudy investigation reports and any other evidence related to appropriate disposition of the child.

The Court shall issue findings of fact, conclusion of law and a final decree of disposition. The decree shall be the final order of the Court for the purpose of an appeal by any party according to the rules governing civil appeals.

Notice of entry of an order of adjudication or final decree of disposition in any case shall be served on the parties to the action.

Section 5-4-42: Order of decree of guardianship of child: Any child adjudicated to be an abused or neglected child, child in need of supervision or a delinquent child, and awarded by the Court to a guardian or institution, shall be held by the

guardian or institution by virtue of the order or decree entered of record in the case. The Court shall order a decree as proof of the authority of the guardian or institution over the child.

Section 5-4-43: Orders for support: Upon adjudication and final decree of disposition ~~removing the child from the custody of the child's parents, guardian or custodian~~ the Court may order the child's parents, guardian or custodian, to contribute to the financial support of the child where it appears the child's parents, guardian or custodian is financially able to do so.

See:
Resolution 00-19

Section 5-4-44: Guardianship of the estate of the child: Unless otherwise specifically ordered by the Court in its order or decree, nothing in this Chapter or any other Chapter of this title gives the guardianship of the estate of the child to any guardian appointed or changes the age of minority of a child for any purpose unless the child is a person under age twenty-one(21) years, who is under the continuing jurisdiction of the Court. The Court may appoint a guardian of the estate of a child who is under the age of eighteen (18)years, if the Court specifically finds that appointment of a guardian of the estate is necessary and appropriate under the circumstances and is in the best interests of the child.

Section 5-4-45: Period of continuation of guardianship/application for new guardian, restoration to parents or discharge of guardianship: Guardianship of the person or of the estate of the child shall continue until the Court orders otherwise, but not after the child has attained the age of majority. The child or representative of the child, or any party may from time to time, upon a proper showing, apply to the Court for the appointment of a new guardian, for restoration of the child to the custody of the child's parents, if parental rights have not been terminated, or for the discharge of the guardian appointed by the Court at the final disposition of the child.

Section 5-4-46: Child not disqualified from public office, civil service or military service/not criminal conviction: No adjudication or disposition under this Chapter may cause disqualification or ineligibility of a child from any public office, civil service or military service. No child may be termed a criminal because of any adjudication or disposition

nor may any adjudication or disposition be considered to be a conviction.

Section 5-4-47: Orders of protection: The Court may enter an order of protection in addition to, or as condition of, any decree of disposition authorized by this Chapter. The order of protection shall set forth reasonable conditions of behavior to be observed for a specified period by any person who is a party to such proceedings.

The order of protection may require any person or party:

- (1) To stay away from the child or the child's home;
- (2) To permit a parent or other person to visit a child at stated periods and places, with or without supervision;
- (3) To abstain from offensive conduct against a child or the child's parents, guardian, custodian or other person having custody or temporary care of the child;
- (4) To give proper care and maintenance of the child's home;
- (5) To refrain from any acts that tend to make a home an improper place for a child;
- (6) To cooperate with and participate in any physical or mental examination and evaluation, counseling, treatment, therapy or child care or Parenting classes considered necessary by the Court for the benefit of the child.
- (7) Any other provision deemed necessary by the Court under the circumstances.

Section 5-4-48: Modification or setting aside order or decree: The Court may modify or set aside any order or decree. Modification of a prior order or decree shall not be made without a hearing under either of the following circumstances:

- (1) Upon violation of the terms of probation governing a child in need of supervision or a delinquent child; or
- (2) The effect of modifying or setting aside the order or decree would be to deprive a parent

of custody of a child or make a change in custody.

Section 5-4-49: Petition for modification or termination of custody decree: After placement of custody of a child by the Court with an individual, institution or agency, a parent whose parental rights have not been terminated, or a former guardian or custodian of the child may petition the Court for restoration of custody or other modification or termination of the prior custodial order or decree on the ground that a change of circumstance has occurred which requires the modification or termination in the best interest of the child and the Tribe.

Section 5-4-50: Petition for new hearing on grounds of new evidence: A child and/or a representative of the child or a child's parents, guardian or custodian may petition the Court for a new hearing, related to adjudication or disposition, on the ground of newly discovered evidence which was not known and could not with due diligence been available at the original adjudicatory or dispositional hearing. A hearing on the petition shall be conducted, and upon a finding by the Court that new evidence exists which might affect the original order of decree, the Court shall order a new hearing and shall proceed with a revised determination of the case as warranted by the evidence.

Section 5-4-51: Continuing jurisdiction of Court: The Court shall have continuing jurisdiction over children adjudicated, placed or committed under this Chapter regardless of the location of the child up until the child has reached the age of twenty-one (21) years.

Chapter 5: Protection of Children From Abuse and Neglect

Section 5-5-1: Purpose: The purpose of this Chapter is to protect children from abuse and neglect. Adjudication of a child as an abused or neglected child is an adjudication of the status or condition of the child.

Section 5-5-2: Abused or neglected child defined: The definition of an abused or neglected child shall be a child:

- (1) Whose parent, guardian or custodian has abandoned the child or has subjected the child to mistreatment or physical battering;
or
- (2) Who lacks proper parental care through the actions or omissions of the child's parent, guardian or custodian; or
- (3) Whose environment is injurious to the child's welfare; or
- (4) Whose parent, guardian or custodian fails or refuses to provide proper or necessary subsistence, supervision, education, medical care or any other care necessary for the child's health, guidance or well-being; or
- (5) Who is homeless, without proper care or not domiciled with the child's parent, guardian or custodian, through no fault of the child's parent, guardian or custodian; or
- (6) Who is threatened with substantial harm; or
- (7) Who has sustained emotional harm or mental injury as indicated by the child's intellectual or psychological capacity evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, with due regard to the child's culture; or
- (8) Who is subject to sexual abuse, sexual molestation or sexual exploitation by the child's parent, guardian, custodian or any other person; or
- (9) Who is left unattended or unsupervised for extended periods of time, if under fourteen years of age, in circumstances that pose a risk of substantial harm to the child.

Section 5-5-3: Persons mandated to report child abuse or neglect:

Any person who is health care provider, mental health professional or counselor, social worker, law enforcement officer, teacher, school counselor or licensed or registered child care provider who has reasonable cause to believe that a child has been abused or neglected, is required to report

such information. The report shall be made to the Tribal Prosecutor, the Tribal Office of Social Services, or to Tribal Law Enforcement Officials, **within 24 hours of learning of alleged abuse/neglect.** Reports shall include the name, address, and age of the child, the name and address of the child's parents, guardian or custodian, if known, and details of suspected or known instances of child abuse or neglect. The Office of Social Services shall be the central registry for such information. **(As Amended by Resolution 99-34, dated March 11, 1999).**

Section 5-5-4: Investigation: Upon receipt of a report pursuant to Section 5-5-3, or any other report of child abuse or neglect, the Office of Social Services and Tribal Law Enforcement Officers, shall investigate the report. Investigating personnel have the authority to interview a child out of the presence of the child's parents, guardian or custodian without advanced notice or consent. Investigations may include the taking of photographs of the areas of trauma visible on the child and medical examinations or testing of the child without the consent of the parent, guardian or custodian. Investigations by the Office of Social Services shall be made and completed within thirty days of receiving a report of the alleged abuse or neglect.

Section 5-5-5: Substantiated/unsubstantiated reports: Upon completion of an investigation of alleged abuse or neglect, the Office of Social Services substantiate the allegation of abuse or neglect. If the report is substantiated, the information shall be added to the central registry for child abuse and neglect and then forwarded to the Tribal Prosecutor for appropriate action. If the allegations are not substantiated by the evidence, the Office of Social Services shall close the case. The case will not be recorded into the central registry.

Section 5-5-6: Release of information by Office of Social Services: Upon receipt by the Office of Social Services of a request showing that it is necessary to have requested information in the performance of official functions related to child abuse or neglect, the Office of Social Services shall release records, files or other information to the following parties:

- (1) The Tribal Prosecutor, Tribal Law Enforcement Agencies, and Protective

- Service Workers, investigating reports of known or suspected child abuse or neglect;
- (2) The attorney or guardian ad litem of the child, who is the subject of the information;
 - (3) Tribal institutions and agencies that have legal responsibility or authorization to care for, treat or supervise a child who is the subject of the information or report;
 - (4) An adoptive parent of the child who is the subject of the information or report, and a licensed child welfare agency for screening of applicants; and
 - (5) A physician who has before him a child whom the physician reasonably believes may be abused or neglected.

Section 5-5-7: Confidentiality: All investigative case records and files relating to reports of child abuse and neglect are confidential, and no disclosure of records, files or other information may be made except as authorized in this title. Any person, who knowingly violates the confidential nature of such records, files or information shall be subject to punishment under the Flandreau Santee Sioux Law and Order Code.

Information received by an authorized party pursuant to Section 5-5-6, shall be held confidential by the receiving party. The Court may order the release of the information or any portion of it necessary for determination of an issue before the Court.

The privilege of confidentiality may not be claimed in any judicial proceeding involving an alleged abused or neglected child or resulting from the giving or causing the giving of a report concerning abuse or neglect of child pursuant to this Chapter.

Section 5-5-8: Immunity from liability: Any person or party acting in good faith in the making of a report or the submission of copies of medical examination, treatment or hospitalization records pursuant to this Chapter, is immune from liability, civil or criminal, that might otherwise be incurred or imposed and has the same immunity for participation in any judicial proceeding resulting from the report. Immunity also extends to persons involved in the investigation and

treatment of child abuse or neglect or making a temporary placement of the child pursuant to this Chapter or to any person who in good faith cooperates with the Office of Social Services in investigation, placement or treatment plan. The provisions of this section allowing the grant of immunity do not extend to any person alleged to have committed an act or acts of child abuse or neglect.

Section 5-5-9: Child protection teams: The Office of Social Services may appoint a child protection team to assist in prevention and treatment of child abuse and neglect. A child protection team shall include licensed or certified medical and health professionals, court services officer, representatives of the Office of Social Services, mental health professionals, representatives of the public school, attorneys and representatives of the Tribal community. The Office of Social Services shall promulgate rules and regulations for the development of a child protection team.

Section 5-5-10: Appointment of guardian ad litem: The Court may appoint a guardian ad litem for an alleged or adjudicated abused or neglected child to represent the best interests of the child. The guardian ad litem is an officer of the Court for the purpose of representing the child's best interests. The guardian ad litem shall receive all reports concerning the child pursuant to Section 5-5-6.

Section 5-5-11: Remedial measures to prevent removal of children from their home: Except as provided in Chapter 4, Section 4-4-7, an alleged or adjudicated abused or neglected child shall not be removed from the home of the child's parent, guardian or custodian until the Office of Social Services has made reasonable efforts to prevent or eliminate the need for removal of the child. Under any circumstance, any party seeking to effect the removal of a child from the child's home for foster care placement or termination of parental rights, must first satisfy the Court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the family unit and that these efforts have proven unsuccessful.

Section 5-5-12: Standards for Removals/foster care placements: A child may not be removed from the child's home and placed in foster care, except as provided in Chapter 4, Section 4-4-

7, until the Court has made a judicial determination, supported by clear and convincing evidence, that the continued custody of the child by the child's parent, guardian or custodian is likely to result in serious emotional or physical harm to the child and that remedial measures under Section 5-5-11 have been attempted by the Office of Social Services and have proven unsuccessful.

Section 5-5-13: Foster care placement preferences: When any child is placed in a foster care home the child shall be placed in the least restrictive setting which most approximates a family and in which the child's needs may be met. In any foster care or pre-adoptive placement, a preference shall be given, in the absence of good cause to the contrary, to placement in the following order:

- (1) A member of the child's extended family;
- (2) An Indian foster home licensed by either the Tribe or the State of South Dakota;
- (3) Any foster home licensed by the State of South Dakota; or
- (4) An institution for children approved by the Tribe and the Court.

Section 5-5-14: Final decree of disposition: The Court shall enter a final decree of disposition which shall include one or more of the following provisions appropriate as the least restrictive alternative available:

- (1) Place the child in the custody of one or both parents or in the custody of another individual under the preferences set out in Section 5-5-13, without a Court approved plan for long term foster care, subject to the conditions that the Court deems necessary and appropriate.
- (2) Place the child in the custody of the Office of Social Services pursuant to Court approved plan for placement under Section 5-5-13.
- (3) Order that the child be examined by a physician or qualified mental health professional or that the child receive other special care or be placed in a suitable facility

for such purposes as the Court deems necessary or appropriate.

Further hearings shall be held as necessary following any examination. If disposition of the child under this section involves the removal from or the non-return of the child to the home of the child's parents, guardian or custodian and placement of the child in the custody of the Office of Social Services for placement in foster care, the Court shall include in the decree a written judicial determination, supported by clear and convincing evidence, that the continued custody of the child by the child's parents, guardian or custodian is likely to result in serious emotional or physical harm to the child and that remedial and rehabilitative measures have been attempted and proven unsuccessful.

Section 5-5-14: Periodic review hearings of foster care: When a child has been adjudicated an abused or neglected child and parental rights have not been terminated and the Court places custody of the child in the Office of Social Services without a Court approved plan for long term foster care, the Court shall conduct a review hearing every ninety (90) days or sooner. The hearing shall be conducted in the same manner as a dispositional hearing. The Office of Social Services may request the Tribal Prosecutor to petition the Court for review if it finds that further Court action is necessary to clarify the child's legal status or, for any other reason, to protect the interests of the child.

Section 5-5-15: Criteria for determining continued placement: In conducting the review hearing required by Section 5-5-14, the Court may continue placement of the child separate from the home of the child's parents, or custodian upon a written judicial determination that return of the child to the child's home would likely result in serious emotional or physical harm to the child and that remedial and rehabilitative measures which would make it possible for the child to return to the home have been attempted and proven unsuccessful. In making this determination the Court may consider the following criteria:

- (1) The goals of the foster care placement and the appropriateness of the foster care;
- (2) The assistance and services which have been offered to reunite the child with the child's

parents guardian or custodian and the good faith efforts, or their lack, and ability of the child's parents guardian, or custodian to cooperate with the Office of Social Services and to effectively utilize the assistance and services for the benefit and welfare of the child; and

- (3) If the return of the child to the home of the child's parents, guardian or custodian is not likely, the reasonable efforts of the Office of Social Services that have been made or should be made to provide for other methods of care in keeping with the best interests of the child.

Section 5-5-16: Termination of parental rights: When an abused or neglected child has been in the custody of the Office of Social Services without a Court approved plan for long-term foster care and parental rights have not been terminated and it appears at a dispositional or review hearing:

- (1) That all reasonable efforts have been made to rehabilitate the family, and
- (2) That the conditions which led to the removal of the child still exist, and
- (3) There is little likelihood that those conditions will be remedied so that the child can be returned to the custody of the child's parent, and
- (4) Evidence exists beyond a reasonable doubt that the custody of the child with the child's parents would likely result in serious emotional or physical harm to the child, the Court shall affirmatively find that good cause exists for termination of the parental rights of the child's parent(s), and the Court shall enter an order terminating parental rights.

Upon entry of the final decree of disposition terminating the parental rights of one or both parents, the Court shall award the Office of Social Services with the custody and guardianship of the child for the purpose of placing the child for adoption and authorizing appropriate personnel of the Office to consent to adoption of the child without need for

any notice or consent of any parent or child.

Upon entry of final decree of disposition terminating the parental rights of one parent, the Court may leave the child in the custody of the remaining parent and end all proceedings.

If the Court does not find that good cause exists for termination of parental rights, the Court shall make further disposition of the child as follows:

- (1) Return custody of the child to the child's parents, guardian or custodian, with or without supervision.
- (2) Continue foster care placement of the child for a specified period of time, and if the child is sixteen years of age or older, direct the Office of Social Services to determine the services needed to assist the child to make the transition from foster care to independent living and, if appropriate, provide a plan for independent living for the child.
- (3) Place the child in the custody of the Office of Social Services, a foster home or other child care facility for long-term foster care under a court-approved plan, with or without guardianship of the child, and determine visitation rights of the child's parents, guardian or custodian. Under this subdivision, the Court may retain jurisdiction of the action and proceedings for future consideration of termination of parental rights.

In no case may a child remain in foster care for a period in excess of eighteen (18) months without the Court making a dispositional decree setting forth one of the above options.

Section 5-5-17: Voluntary termination: A child's parent may voluntarily consent to termination of parental rights. The consent shall be executed in writing and recorded in a hearing in which the parent(s) shall acknowledge in writing that the terms and consequences of the consent were fully understood by the parent. The parent may withdraw consent at any time prior to the entry of a final decree of termination and request return of the child.

Section 5-5-18: Termination of parental rights based on abandonment; The Court may terminate the parental rights of one or both parents upon a showing that the parent(s) have totally abandoned the child for at least six months and during this period the parent(s) have made no attempt to resume physical custody of the child or make suitable arrangements for the child. Termination under these circumstances shall be made in accordance with the applicable provisions of Section 5-5-16.

Section 5-5-19: Notice of final decree; Notice of entry of order of adjudication or final decree of disposition issued by the Court shall be served on the child's attorney or guardian ad litem, and other respondent parties. Notice by publication shall be published in a newspaper most likely to provide notice to the parties for at least thirty (30) days and shall be completed five (5) days after the date of publication. Appeal from a final decree begins on the day following the date of completed service of the notice of entry regardless of the manner in which the notice of entry is served. An appeal of a final order must be entered within thirty (30) days of the final date of order.

Section 5-5-20: Continuing jurisdiction; In any action involving the termination of parental rights the Court shall have continuing jurisdiction of the action and of the child for purposes of reviewing the status of the child until the adoption is fully completed. The Office of Social Services or any other party having custody or guardianship of the child pending adoption may petition the Court to review the status of the child at any time before the adoption of the child is completed. The Court may issue any order or decrees necessary to protect the child's best interests, to preserve the child's best interests, to preserve the child's welfare and to facilitate adoption of the child.

Chapter 6: Children In Need Of Supervision

Section 5-6-1: Purpose; The purpose of this Chapter is to establish an effective Tribal system for children in need of supervision.

Section 5-6-2: Definition of child in need of supervision: In this Chapter and Chapter 4, the term “child in need of supervision” means:

- (1) Any child of compulsory school age as defined by Tribal Law, who is habitually absent from school without legal excuse; or
- (2) Any child who has run away from home or is otherwise beyond the control of the child’s parents, guardian or custodian; or
- (3) Any child whose behavior or condition endangers the child’s own welfare or the welfare of others.

Section 5-6-3: Temporary custody/Circumstances requiring release:

A child alleged to be in need of supervision may be taken into custody under the provisions of Chapter 4, Section 4-4-7. A child taken into temporary custody by a law enforcement officer prior to a temporary custody hearing shall be released to the child’s parent, guardian, or custodian unless the child’s parent, guardian or custodian cannot be located or in the judgment of the Court, are not suitable to care for the child, in which case the child shall be placed in shelter. A child may not be placed in detention unless the Court finds that the parents, guardian or custodian are not available or are not suitable to care for the child, and finds at least one of the following circumstances to exist:

- (1) The child has failed to comply with court services or a Court ordered program;
- (2) The child has a demonstrated propensity to runaway from home, flee from court-ordered placement outside of the child’s home or flee from agencies charged with providing temporary care for the child; or
- (3) The child is under court ordered detention; or
- (4) There are specific articulated circumstances which justify the detention for the protection of the child.

The shelter or detention provided shall be the least restrictive alternative available.

Section 5-6-4: Medical or mental health care for the child: The Court may order the child to be examined or treated by a physician or qualified mental health professional or to receive other special care and may place the child in a hospital or other suitable facility for such purpose.

Section 5-6-5: Decree of disposition: Upon adjudication as a child in need of supervision, the Court shall enter a decree of disposition according to the least restrictive alternative available in the best interests of the child. The Court decree shall contain any of the following:

- (1) Placement of the child on probation;
- (2) Placement of the child under protective supervision with the custody of one or both parents, guardian, custodian, relative or another suitable persons under conditions imposed by the Court;
- (3) Placement of the child in a detention facility;
- (4) Order the child to pay restitution for any damage done to property under conditions set by the Court if payment can be enforced without serious hardship to the child;
- (5) Placement of the child in a group care facility or a foster home under supervision of a court services officer;
- (6) Order the child to be examined and treated at a place suited to the needs of the child;
- (7) Order the child to perform community service;
- (8) Order traditional/cultural forms of treatment or care which may be appropriate for the child's needs but only with the consent of the child's parent, guardian or custodian.

The terms and conditions of probation and the progress of each child placed on probation shall be reviewed at least once every six (6) months. The Court may release a child from probation or modify the terms and conditions of the child's probation at any time. Any child who has satisfactorily complied with the terms, conditions and duration of probation shall be released from probation.

Section 5-6-6: Probation Officers: Any child who has been adjudicated in need of supervision may be placed under the supervision of a probation officer.

Section 5-6-7: Revocation of probation: The following provisions apply when a petition is filed alleging that a child has violated the terms and conditions of probation:

- (1) The Court shall set a hearing on the alleged violation and shall give five (5) days notice to the child, to the child's parents, guardian or custodian;
- (2) The child and the child's parents, guardian or custodian shall be given a written statement concerning the alleged violation;
- (3) If the Court finds by preponderance of the evidence that the child violated the terms and conditions of probation, the Court may modify the terms and conditions of probation, revoke probation or take other action permitted by the Chapter, according to the least restrictive alternative which is in the best interests of the child, the public and the Tribe;
- (4) If the Court finds that the child did not violate the terms and conditions of probation as alleged, the Court shall dismiss the proceedings and continue the child on probation under the terms and conditions previously prescribed.

Chapter 7: Delinquent Children

Section 5-7-1: Purpose: The purpose of this Chapter is to establish an effective Tribal system for delinquent children.

Section 5-7-2: Definition of delinquent child: The term delinquent child means any child ten (10) years of age or older who, regardless of where the violation occurred, has violated any Federal, Tribal, or Local Law or Regulation for which there is a penalty of a criminal nature, except Tribal Hunting and Fishing Laws.

Section 5-7-3: Release/placement in shelter; An apparent or alleged delinquent child taken into temporary custody by a law enforcement officer prior to a temporary custody hearing shall be released to the child's parents, guardian or custodian unless the parents, guardian or custodian cannot be located or in the judgment of the Court, are not suitable to receive the child and at least one of the following circumstances exists:

- (1) The child is charged with a crime of violence a serious property crime, which, if committed by an adult, would be a felony; or
- (2) The child is already held in detention or on conditional release in connection with another delinquency proceeding; or
- (3) The child has a demonstrable recent record of willful failures to appear for juvenile court proceedings; or
- (4) The child has a demonstrable recent record of violent conduct; or
- (5) The child has a demonstrable recent record of adjudication's for serious property offenses; or
- (6) The child is under the influence of alcohol, inhalants or a controlled substance and detention is the least restrictive alternative in view of the gravity of the alleged offense and is necessary for the physical safety of the child, the public and others.

Section 5-7-4: Suspension of imposition of sentence/probation; The Court may suspend imposition of sentence for any child and place the child on probation under terms, conditions and duration required by the Court. The Court may revoke the suspension at any time during probationary period and impose sentencing without diminishment or credit for any of the probationary period.

Section 5-7-5: Plan of disposition; Following adjudication, a plan of disposition shall be determined according to the child's best interests and surrounding circumstances.

Section 5-7-6: Court ordered physical or mental health care; Following adjudication, the Court may order the child to

be examined or treated by a physician or a qualified mental health professional or to receive other special care.

Section 5-7-7: Dispositional decree/alternatives: Following adjudication, the Court shall enter a decree of disposition according to the least restrictive alternative available in the best interests of the child. The decree may contain one or more of the following alternatives:

- (1) Any one or more of the dispositions set out in 6-6-5;
- (2) Impose a fine not to exceed five hundred (500) dollars;
- (3) Place the child on probation under supervision of a court services officer or another designated individual;
- (4) Place the child in a foster home under supervision of a court services officer;
- (5) Place the child in a licensed group home or group care center for examination and treatment;
- (6) Place the child in the state human services center for examination and treatment;
- (7) Place the child in a correctional institute if the seriousness of the delinquency warrants so;
- (8) Place the child in a detention facility for not more than ninety (90) days, which may be in addition to any period of temporary custody;
- (9) Place the child in an alternative educational program;
- (10) Order the child to perform community service;
- (11) Order traditional/cultural forms of treatment or care which are appropriate for the child's needs but only with the consent of the child's parent, guardian or custodian.

Section 5-7-8: Limit of temporary custody: An alleged or adjudicated delinquent child may not be held in temporary custody for more than ninety (90) days unless on the ninetieth day the child is in the process of receiving treatment or care which has a specified duration and plan. In that case, the temporary custody may be extended to the end of the treatment or care.

Section 5-7-9: Alternate arrangements for child committed to a facility: When a child has been committed to a juvenile facility under the provisions of this Chapter or any other Chapter under this title, the Court may, at any time after making the commitment and as long as the child is in the juvenile facility, upon notice and scheduled hearing:

- (1) Order the discharge of the child from the juvenile facility; or
- (2) Order the child to be restored to the child's parents, guardian or custodian; or
- (3) Order the child to be placed under guardianship of another person appointed by the Court and placed in a suitable family home.

Section 5-7-10: Termination of jurisdiction: Upon the successful completion of the dispositional plan of a delinquent child, the Court shall terminate its jurisdiction.

Section 5-7-11: Probation Officers: Any child adjudicated delinquent may be placed under the supervision of a probation officer under terms and conditions set by the Court.

Section 5-7-12: Terms, conditions, and duration of probation review/release/modification: The terms, conditions, and duration of probation of a delinquent child shall be specified by Order of the Court. The terms and conditions shall be fully explained to the child.

A review of the terms and conditions of probation and the progress of each child placed on probation shall be held at least once every six (6) months. Any child who has complied satisfactorily with the terms and conditions of probation, shall be released from probation and the jurisdiction of the Court.

Section 5-7-13: Probation violation: Upon proper notice of probation violation:

- (1) The Court shall set a hearing on the alleged violation and shall give five (5) days notice to the child, to the child's parents, guardian or custodian;

- (2) The child and the child's parents, guardian or custodian shall be given a written statement concerning the alleged violation;
- (3) If the Court finds by a preponderance of the evidence that the child violated the terms and conditions of probation, the Court may modify the terms and conditions of probation, revoke probation or take other action permitted by this Chapter which is in the best interests of the child and the Tribe;
- (4) If the Court finds that the child did not violate the terms and conditions of probation as alleged, the Court shall dismiss the proceedings.

Section 5-7-14: Transfer to Adult criminal court: The Court may, in its discretion, upon petition of the Tribal Prosecutor, order that an alleged delinquent child be transferred to criminal court to be proceeded against, in accordance with the laws of the Tribe governing the commission of crimes on the reservation. No transfer shall be ordered until a transfer hearing has been held at which time the Court shall consider whether it would be contrary to the best interests of the child or of the Tribe to transfer the child to criminal court. The following factors may be considered by the Court in determining whether a child should be transferred:

- (1) The seriousness of the alleged offense to the Tribal community and whether protection of the community requires transfer;
- (2) Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
- (3) Whether the alleged offense was against persons or property with greater weight given to offenses against persons;
- (4) The record and previous history of the child;
- (5) The prospective merit of the juvenile petition;
- (6) The prospect for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if he or she is found to have committed the offense, by the

- use of procedures, services and facilities currently available to the juvenile court;
- (7) The age of the child.

Written reports and other materials relating to the child's mental, physical, and social history may be considered by the Court, provided that the person or persons who prepared the report and other material shall appear and be subject to both direct and indirect cross examination.

If the Court finds that a child should be held for criminal proceedings, the Court shall enter an order certifying to that effect. The order shall contain findings of fact upon which the Court's decision is based. The findings shall not be set aside upon review unless clearly erroneous, and due regard shall be given to the opportunity of the trial court, to judge the credibility of the witnesses. When an order of certification has been made, the jurisdiction of the juvenile court is terminated.

If the Court finds that it is in the best interests of the child and of the community for the juvenile court to retain jurisdiction, it shall proceed with the adjudication. (As added by Resolution 96-49, dated July 29, 1996).

Chapter 8: Curfew

Section 5-8-1: Loitering prohibited. It shall be unlawful for any minor person under the age of seventeen years to loiter, idle, wander, stroll, or play, ride or be in any motor vehicle in or upon the streets, highways, roads, alleys, parks, public buildings, places of amusement or entertainment, vacant lots, or other unsupervised places, or to be or remain in a public place between the hours of 10:00 PM and 5:00 AM of the following day, on the days Sunday through Thursday, and between the hours of 12:00 AM and 5:00 AM of the following day, on Friday and Saturday.

Provided however, that the provisions of this section do not apply to a minor accompanied by his or her parents, legal guardians or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business, directed by his or her parent or legal guardian or other adult person having the care or custody of the minor; and provided further, that this section does not in any way apply to any minor after he or she shall have reached his or her seventeenth birthday.

Section 5-8-2. Responsibility of parent. It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of seventeen to knowingly ermit such minor to loiter, idle, wander, or play, or ride or be in any motor vehicle upon the streets, highways, roads, alleys, playgrounds, or other public grounds, public places or public buildings, places of amusement, vacant lots, or other unsupervised places, between the hours of 10:00 PM and 5:00 AM of the following day on the days Sunday through Thursday, and between the hours of 12:00 AM and 5:00 AM of the following day on Friday and Saturday.

Provided, however, that the provisions of this section do not apply when the minor is accompanied by his or her parent, legal guardian or other adult person having the care and custody of the minor, or when the minor is upon an emergency errand of legitimate business directed by his or her parent, legal guardian or other adult person having the care and custody of the minor.

Section 5-8-3: Responsibility of other persons. It shall be unlawful for any person, firm or business operating places of amusement, entertainment, restaurants, cafes, business or other public place to permit minors to enter or remain in such places during the hours of curfew set out in this Chapter, or for the owner or operator of any motor vehicle to permit or allow any minor under age Seventeen to be in or ride in such motor vehicle during the hours prohibited by this Chapter; provided, however, that the provisions of this section do not apply when the minor is accompanied by his or her parent, legal guardian, or ther adult person having the care and custody of the minor.

Section 5-8-4: Penalties. Any minor violating the provision of this Chapter may be detained by law enforcement and brought before the tribal court and dealt with in accordance with the provisions of this Title. Any other individual who violates the terms of this chapter shall be subject to civil penalties. **(As added by Resolution 96-49, dated July 29, 1996,**

This Title was enacted by the Executive Committee of the Flandreau Santee Sioux Tribe, on April 21, 1997, by Resolution 97-24, and reviewed and approved by the Bureau of Indian Affairs on April 27, 1997.)

Flandreau Santee Sioux Tribe

Box 283 Flandreau, SD 57028

Phone 997-3891

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RESOLUTION # 97-24B

WHEREAS, the Flandreau Santee Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act with a Constitution and By-Laws approved by the Secretary of Interior and Commissioner of Indian Affairs on April 24th, 1936, and amended February 7, 1941, and further amended November 16, 1967, and further amended November 14, 1984, and further amended May 23, 1990, and

WHEREAS, Article III, Section 1 of said revised Constitution and By-Laws provides that the governing body of the Tribe shall be the Executive Committee, and

WHEREAS, Article VIII, Section 1 (f) of said Constitution provides that the Executive Committee shall have authority to promulgate ordinances which shall be subject to the review of the Secretary of Interior, and

WHEREAS, on December 16th, 1994, the Executive Committee passed Resolution #94-28 which enacted Title 5, Juvenile Code, of the FSST Law and Order, and submitted said Code to the Bureau Of Indian Affairs for approval in accordance with the Constitution, and

WHEREAS, the Bureau of Indian Affairs reviewed Title 5 and informally requested changes to Title 5, and

WHEREAS, said requested changes to Title 5 were made and re-submitted to the Bureau of Indian Affairs but the Bureau of Indian Affairs has failed to approve said Title 5, and

WHEREAS, the Executive Committee did not pass a resolution enacting Title 5 with said recommended changes.

NOW THEREFORE BE IT RESOLVED, that the Executive Committee hereby enacts Revised Title 5, entitled Juvenile Code, with changes recommended by the Bureau of Indian Affairs, and

BE IT FURTHER RESOLVED, that the Executive Committee requests that the Bureau of Indian Affairs approve Title 5 in accordance with the FSST Constitution.

CERTIFICATION

The foregoing Resolution was duly enacted and adopted on this 21 day of April, 1997, by the Executive Committee at which a quorum was present of 3 for, 0 against, and 1 not voting. 1 excused


Gordon Jones, Jr.
Tribal Secretary


Richard P. Allen
Tribal President

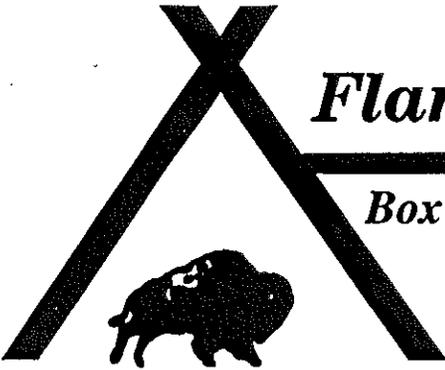
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Flandreau Santee Sioux Tribe

Box 283 Flandreau, SD 57028

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RESOLUTION NO. 99-34

WHEREAS, the Flandreau Santee Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act and a Constitution and By-Laws approved by the Secretary of the Interior and Commissioner of Indian Affairs on April 24, 1936, amended February 7, 1941, and further amended November 16, 1967, and further amended November 14, 1984, and further amended May 17, 1997, and

WHEREAS, Article III of said amended Constitution and By-Laws provides that the governing body of the Tribe shall be the Executive Committee and under the terms of Article VIII, Section 1 (f) the Executive Committee has the power to promulgate ordinances regulating the conduct of tribal members and non-members coming upon the territory of the Tribe, and

WHEREAS, pursuant to Article VIII the Executive Committee enacted Title 5, Child Welfare, of the FSST Law and Order Code on April 27, 1997 by Resolution # 97-24, and

WHEREAS, Chapter 5, Section 5.3 of Title 5 sets out the mandatory child abuse reporting provisions for certain individuals, but does not include a timeframe for which mandatory reporters must make reports, and

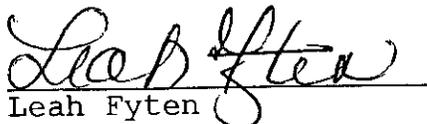
WHEREAS, it has been recommended that Section 5.3 be amended to require a timeframe of twenty-four hours for mandatory reporters to make reports; and

NOW THEREFORE BE IT RESOLVED, that the Executive Committee hereby amends Title 5, Chapter 5 of the FSST Law and Order Code by amending Chapter 5, Section 5.3 of Title 5 as follows:

5.3 Persons mandated to report child abuse or neglect: Any person who is a health care provider, mental health professional or counselor, social worker, law enforcement officer, teacher, school counselor or licensed or registered child care provider who has reasonable cause to believe that a child has been abused or neglected is required to report such information. The report shall be made to the Tribal Prosecutor, the Tribal Office of Social Services or to Tribal Law Enforcement officials, **within 24 hours of learning of alleged abuse/neglect.** Reports shall include the name, address, and age of the child, the name and address of the child's parents, guardian or custodian, if known, and details of suspected or known instances of child abuse or neglect. The Office of Social Services shall be the central registry for such information.

CERTIFICATION

The foregoing Resolution was duly enacted and adopted on this 11 day of March, 1999, by the Flandreau Santee Sioux Executive Committee at which a quorum was present by a vote of 5 for, 0, against 1 not voting. *1 absent.*


Leah Fyten
Secretary


Thomas Ranfranz
President

Flandreau Santee Sioux Tribe

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RESOLUTION 00-19

WHEREAS, the Flandreau Santee Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act with a Constitution and By-laws approved by the Secretary of Interior and Commissioner of Indian Affairs on April 24th, 1936, and amended February 7th, 1941, and further amended November 16th, 1967, and further amended November 14th, 1984, and further amended May 23rd, 1990, and further amended May 12th, 1997, and

WHEREAS, Article III, Section 1 of said revised Constitution and By-laws provides that the governing body of the Tribe shall be the Executive Committee, and

WHEREAS, pursuant to Article VIII, Section 1 (f) of said revised Constitution and By-laws, the Executive Committee has authority to promulgate ordinances governing and regulating the conduct of all individuals on the Reservation, and

WHEREAS, pursuant to said powers, the Executive Committee enacted Title 5, Child Welfare, to FSST Law and Order Code on April 21, 1997 by Resolution 97-24, and

WHEREAS, the FSST Judicial Code Committee has recommended that Title 5, Section 5-~~4~~-43 be amended to authorize the entry of orders of financial support by parents prior to final decree of disposition when children have been removed from their homes pursuant to Title 5 and placed in the custody of social services for placement in foster care, and

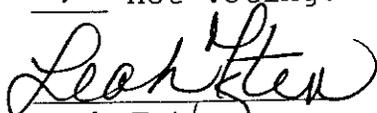
WHEREAS, the Executive Committee agrees with the Judicial Code Committee's recommendation regarding amendment to Title 5, Section 5-4-43 of the FSST Law and Order Code.

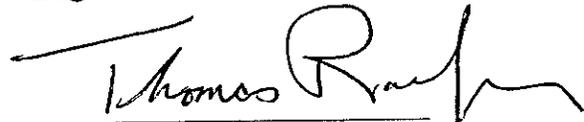
NOW THEREFORE BE IT RESOLVED, that the Executive Committee hereby amends Title 5, Section 5-4-43 of the FSST Law and Order Code in its entirety by replacing the current language with the following language:

Section 5-4-43: Orders for support: Upon entry of an order removing a child from the custody of the child's parents, guardian or custodian pursuant to the terms of this Chapter, the court may order the child's parents, guardian or custodian to contribute to the financial support of the child by reimbursing the Tribal Department of Social Services for the cost of foster care placement. Any order under this Section shall be deemed an order for child support and subject to enforcement as the same.

CERTIFICATION

The foregoing Resolution was duly enacted and adopted on this 17 day of April, 2000, by the Executive Committee at which a quorum was present of 6 for 0 against, and 1 not voting.


Leah Fyten
Tribal Secretary


Thomas Ranfranz
Tribal President

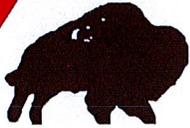
Flandreau Santee Sioux Tribe

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RESOLUTION NO. 18-128

- WHEREAS,** the Flandreau Santee Sioux Tribe is a recognized Indian tribe organized pursuant to a Constitution and By-laws approved by the Secretary of Interior and Commissioner of Indian Affairs on April 24, 1936, amended February 7, 1941, and further amended November 16, 1967, and further amended November 14, 1984, and further amended May 17, 1997; and
- WHEREAS,** Article III of the Tribe's Constitution and By-laws provides that the governing body of the Tribe shall be the Executive Committee; and
- WHEREAS,** Article VIII Section 1(f) of said Constitution provides that the Executive Committee may promulgate and enforce ordinances governing and regulating the conduct of all persons on the reservation; and
- WHEREAS,** Article VIII Section 1(g) of said Constitution provides that the Executive Committee may adopt resolutions consistent with this Constitution and By-Laws, regulating the procedure of the Executive Committee itself and of other tribal agencies, tribal officials or tribal organizations of the Flandreau Santee Sioux Tribe; and
- WHEREAS,** the Tribal Office of Social Services was previously created under Chapter 2 of the Juvenile Code under Title 5, Flandreau Santee Sioux Tribe Tribal Law and Order Code; and
- WHEREAS,** Section 5-2-1, FSST TLOC, places the Office of Social Services under the authority of the Tribal Department of Health and Social Services but the Tribe does not currently have such a department; and
- WHEREAS,** Section 5-2-2, FSST TLOC, requires the Office of Social Services to be staffed by a Program Director who is a licensed social worker; and
- WHEREAS,** the Tribe does not have any funding agreements in place that would require the Office of Social Services to be staffed by any licensed social worker; and
- WHEREAS,** the Tribe finds it unnecessarily burdensome to require the Office of Social Services to be staffed by any social worker.

NOW THEREFORE BE IT RESOLVED that the Executive Committee approves of amending sections 5-2-1 and 5-5-2, FSST TLOC, to remove the requirements stated above. The previous sections stated:

Section 5-2-1. Creation. There is hereby created a Tribal Office of Social Services. The Tribal Office of Social Services shall be under the authority of the Tribal Department of Health and Social Services.

Section 5-2-2. Responsibility. The Office of Social Services shall be staffed by a Program Director who shall be a licensed Social Worker. The Office of Social Services shall assist in the enforcement of all laws relating to the welfare of children, including laws related to abuse and neglect, children in need of supervision, and all other laws designed to protect and assist the child and shall take the initiative in securing enforcement of laws for the protection of children where no adequate provision is made for such enforcement. The Office of Social Services will be responsible for receiving all ICWA notices and maintaining records thereof. (As Amended by Resolution 98-82, dated November 30, 1998.)

The sections shall now state:

Section 5-2-1. Creation. There is hereby created a Tribal Office of Social Services.

Section 5-2-2. Responsibility. The Office of Social Services shall be, at a minimum, staffed by a Family Services Specialist. The Office of Social Services shall assist in the enforcement of all laws relating to the welfare of children, including laws related to abuse and neglect, children in need of supervision, and all other laws designed to protect and assist the child and shall take the initiative in securing enforcement of laws for the protection of children where no adequate provision is made for such enforcement. The Office of Social Services will be responsible for receiving all ICWA notices and maintaining records thereof.

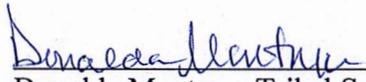
NOW THEREFORE BE IT FURTHER RESOLVED that the Flandreau Santee Sioux Tribe Tribal Law and Order Code be updated to reflect these amendments.

[Certification to follow on the next page.]

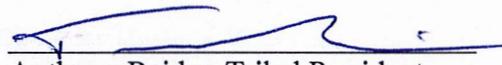
CERTIFICATION

The foregoing Resolution was duly enacted and adopted on this 4th day of January, 2019, by the Executive Committee of the Flandreau Santee Sioux Tribe during a duly called meeting with a quorum was present of 6 In Favor, 0 Opposed, 0 Abstaining, and 1 Not Voting, as follows:

Vice President, Andrew Weston:	<input checked="" type="radio"/> YES	NO	ABSTAIN	NOT PRESENT
Secretary, Donalda Montoya:	<input checked="" type="radio"/> YES	NO	ABSTAIN	NOT PRESENT
Trustee I, Kristi Bietz:	<input checked="" type="radio"/> YES	NO	ABSTAIN	NOT PRESENT
Trustee II, David Kills-A-Hundred:	<input checked="" type="radio"/> YES	NO	ABSTAIN	NOT PRESENT
Trustee III, Kenneth Weston:	<input checked="" type="radio"/> YES	NO	ABSTAIN	NOT PRESENT
Trustee IV, John Jason Armstrong:	<input checked="" type="radio"/> YES	NO	ABSTAIN	NOT PRESENT
President, Anthony Reider (<i>If Required</i>):	YES	NO	ABSTAIN	NOT PRESENT



Donalda Montoya, Tribal Secretary



Anthony Reider, Tribal President