

Title 9 – Youth Code

Chapter 1. General Provisions

Sec. 102. Definitions.

(a) Youth. The term Youth shall include a child or minor and shall constitute any Indian person under eighteen (18) years of age.

(b) Abused youth. A youth who has suffered or is likely in the immediate future to suffer serious physical or emotional harm as a result of a parent, guardian or custodian inflicting or failing to make reasonable efforts to prevent the infliction of physical or mental injury upon the youth, including but not limited to excessive corporal punishment or an act of sexual abuse or molestation.

(c) Abandoned youth. A youth whose parent, guardian or custodian is not identifiable, or if known, has made no reasonable efforts to care for or arrange substitute care for the youth for a period of six (6) months or more.

(d) Neglected youth. A youth:

(1) Whose parent, guardian or custodian fails to provide the minimal care which a reasonable prudent parent would provide in the same or similar circumstances for the subsistence, education, and welfare of the youth; or

(2) Who has special physical or mental conditions for which the youth's parent, guardian or custodian neglects or refuses to provide a reasonable level of special care; or

(3) Whose parent, guardian or custodian is unable to discharge his/her responsibilities to and for the youth because of incarceration, hospitalization, or other physical or mental incapacity. A youth shall not be deemed neglected if the only reason for failing to provide the minimal care for the youth is the indigence of the parent, guardian or custodian.

(e) Dependent youth. A youth who is homeless or destitute or without proper care and support, through no fault of his/her parent, legal guardian or custodian.

(f) Youth in Need of Supervision. A youth:

(1) Who is subject to compulsory school attendance and is habitually truant from school without justification; or

(2) Who has committed an offense committable only by youth; or

(3) Who is habitually disobedient to the reasonable and lawful commands of the parent, guardian or custodian; or

(4) Who habitually runs away from home.

(g) Delinquent Youth. A youth who commits an act which if committed by an adult would be in violation of any provisions of the Fort Peck Tribal Comprehensive Code of Justice (CCOJ), except that traffic offenses shall be deemed delinquent acts only if committed by a youth under sixteen (16) years of age.

(h) Detention. The temporary, secure custody of a youth in a facilities designated by the Court, pending a final disposition of a petition, provided that detention shall not be in a facility where the youth has sight or sound contact with incarcerated adult offenders.

(i) Foster/Shelter Care. The temporary care of a youth in licensed child/youth care facility designated by the Court, pending a final disposition of a petition.

(j) Diversion. A course of remedial action taken in matters arising under this Title, designed to utilize, if available, community based treatment and/or preventative programs to avoid formal Court action and which is agreed to be in the best interest of the youth involved.

(k) Probation. A formal course of action by the Court or an agreement between the youth, parent(s) and a Juvenile officer whereby a youth is permitted to remain in the youth's home under prescribed conditions and under supervision by a designated Probation/Juvenile officer and is subject to return to Court for any violation of the prescribed conditions.

(l) Probable Cause. Such facts and circumstances as would convince a reasonable person.

(m) Clear and Convincing Evidence. The measure or degree of proof which will produce in the mind of the trier of fact more than a mere preponderance, but not to the extent of such certainty as required by beyond a reasonable doubt.

(n) Beyond a Reasonable Doubt. Where facts and circumstances shown by evidence proves

every essential element that the act was committed.

(o) Parent. The biological parent of a youth or any person who has lawfully adopted a youth. Parent shall not mean the unwed father of a youth where paternity has not been acknowledged, adjudicated or established by other clear and convincing evidence. Parent shall not mean any person whose parent-child relationship has been lawfully terminated.

(p) Custodian. A person or agency, other than a parent or guardian, to whom the legal custody of a youth has been granted by an order of a court of competent jurisdiction or who is acting in loco parentis but does not include a person who has only physical custody.

(q) Guardian. A person, other than the youth's parent(s), who has the legal duty and responsibility for that youth's person while under the guardianship of that person.

(r) Guardian Ad-Litem. An individual appointed by the Court to represent the best interests of the youth in an advocacy role.

(s) Ft. Peck Tribal Guardian Ad-Litem. An individual either hired or contracted by the Tribe to represent the best interest of the Indian youth on behalf of the Tribes in an advocacy role.

(t) Extended Family Member. Any adult family member other than the youth's parents related by blood, customs or traditions.

(u) Minimal Care. The provision of adequate food, clothing, shelter, medical care, education and day-to-day supervision. In determining whether minimal care has been provided, the Court shall apply the standards prevailing in the community.

(v) Restitution. Financial or other reimbursement by a youth and/or the parent, custodian or guardian of a youth who is adjudged by the Court guilty of an offense which if committed by an adult would be arson (section 301), burglary (section 310), criminal trespass (section 311), theft (section 320), robbery (section 321), criminal mischief (section 322), injury to public property (section 323), issuing bad checks (section 324), or forgery (section 330) under Title 7 - Criminal Offenses, in order to reimburse any injured party

for damage or loss caused directly or indirectly by the youth's offense, by means of surrender of property, payment of money damages in an aggregate amount not to exceed \$2,500.00, or the performance of any other act, including appropriate work detail, for the benefit of the injured party.

(w) Probation Officer. A person designated by the Tribal Executive Board to be responsible for performing field work in the supervision and rehabilitation of youth probationers and assigned to assist the Court and the Juvenile Services Department in ensuring that such youth fulfill the Orders of the Court.

(x) Indian Child Welfare Act Transfers. Any state court proceedings for foster care placement, custody or adoption of, or termination of parental rights to, an Indian youth transferred to the Court under the Indian Child Welfare Act, 25 U.S. C. sections 1901 et seq.