

TITLE 5. CHILD WELFARE

CHAPTER 1. CHILD PROTECTION AND FAMILY PRESERVATION LAW

5 M.P.T.L. ch. 1 § 1

§ 1. Findings and Policy

The Mashantucket Pequot Tribe finds that there is no resource more vital to its continued existence and integrity than its Children. The Tribe recognizes that extended family relations are essential components of the tribal community. The Tribe hereby declares that it is the policy of this Nation to protect the health and welfare of Children and families within the Mashantucket Pequot community, to promote the security of community, and to preserve the unity of the family by enhancing the parental capacity for good Child care and development, and providing a continuum of services for Children and families with an emphasis, whenever possible, on prevention, early intervention, and community-based solutions.

For these purposes, the Tribe further declares that is the policy of this Nation to require the reporting of suspected Child neglect and abuse, the investigation of such reports. Further, where needed to secure the safety and well-being of the Child or Children involved, this Law provides for the removal of Children from their families and the placement of such Children in tribally-approved foster or protective care homes, which will reflect the values and culture of the Tribe.

5 M.P.T.L. ch. 1 § 2

§ 2. Supervision over Welfare of Children

Child Protection Services shall have general supervision over the provision of services to Children and families who require the care and protection of the Tribe.

5 M.P.T.L. ch. 1 § 3

§ 3. Family Court

a. There is hereby established a division of the tribal court to be known as the family court, which shall have exclusive jurisdiction over any Child Custody Proceeding involving a Child who resides, or is domiciled, within the Mashantucket Pequot Reservation, settlement area, or trust lands, or a Child who is a ward of the court, notwithstanding the residence or domicile of the Child. Where the family court asserts jurisdiction over a Child pursuant to this Law, the court shall also have jurisdiction over any adult residing in the Child's home to the extent necessary to issue any orders protecting the best interests of the Child.

b. The family court may take jurisdiction over any Child Custody Proceeding

involving a Child who does not reside on, or is not domiciled, on the Mashantucket Pequot Reservation, settlement area, or trust lands. Where the family court asserts jurisdiction over a Child pursuant to this Law, the court shall also have jurisdiction over any adult residing in the Child's home to the extent necessary to issue any orders protecting the best interests of the Child.

c. The family court may accept a transfer of jurisdiction from any court of competent jurisdiction involving a Child custody proceeding of a Child not domiciled or residing within the Reservation, upon the petition of either parent or the Child's custodian, or the Tribe; provided however, that the family court may decline to accept jurisdiction over a Child custody proceeding when there is good cause to decline such jurisdiction. The family court may transfer a Child Custody Proceeding to an appropriate court of competent jurisdiction when the transfer is in the best interests of the Child.

d. In any Child Custody Proceeding in a state court, the Tribe shall have the right to intervene at any point in the proceeding to protect the best interests of the Child.

e. The family court shall have the authority to issue all orders necessary to ensure the safety of Children within the jurisdiction of the Tribe, including, but not limited to, the issuance of subpoenas and orders of restriction, the imposition of fines and sanctions for contempt, and such other orders as may be appropriate. All actions brought under this Law shall be determined by the family court in accordance with tribal law. The court may be guided, but not bound by, the principles of law applicable to similar claims arising under the laws of the state of Connecticut or of the United States.

f. The family court shall give full faith and credit to the public acts, records and judicial decrees applicable to Child Custody Proceedings of any court of competent jurisdiction to the same extent that such court gives full faith and credit to the public acts, records and judicial decrees of the tribal court.

g. Family court judges shall meet the general qualifications for tribal court judges, and, in addition, shall have significant training and experience in Child welfare matters, and be familiar with the Indian Child Welfare Act, 25 U.S.C. §§ 1901-1923, and the Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. §§ 3201-3211, 18 U.S.C. § 1169. The family court may establish qualifications for additional court personnel as needed, such as guardians ad litem, court appointed special advocates, and special investigators.

CHAPTER 2. DEFINITIONS

5 M.P.T.L. ch. 2

Chapter 2. Definitions

Unless otherwise required by the context, the following words and phrases shall

be defined accordingly:

a. "Abandonment" means the complete lack of parental contact with their Child or marginal contact for twenty-four (24) of the past forty-eight (48) months, and the failure to provide financial support for more than one continuous year. Placement of the Child with a member of the parent's extended family shall not constitute abandonment.

b. "Adult" means a person eighteen (18) years of age or older.

c. "Child" means any unmarried person who is under the age of eighteen (18) years and is either

(1) a member of the Mashantucket Pequot Tribe, or,

(2) eligible for membership in the Tribe and is the biological Child of a member of the Tribe.

d. "Child Abuse" means any case in which a Child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma or soft tissue swelling and such condition is not justifiably explained or may not be the product of an accidental occurrence; or a Child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution.

e. "Child Custody Proceeding" means

(1) foster care placement: any action removing a Child from his/her parent or custodian for temporary placement in a foster home or institution or the home of a guardian where the parent or Indian custodian cannot have the Child returned upon demand, but where parental rights have not been terminated;

(2) termination of parental rights: the process by which a parent's rights to his or her Child are legally and permanently terminated;

(3) pre-adoptive placement: the temporary placement of a Child in a foster home or institution after the termination of parental rights, but prior to or in-lieu of adoptive placement; and,

(4) adoptive placement: the permanent placement of a Child for adoption, including any action resulting in a final decree of adoption.

Child Custody Proceeding shall not include a placement based upon an award in a divorce proceeding of custody to one of the parents or intra-family custody dispute.

f. "Child Neglect" means, but is not limited to, negligent treatment or maltreatment of a Child by a person, including a person responsible for the Child's welfare, under circumstances which indicate that the Child's health or welfare is harmed or threatened thereby; and, Abandonment.

g. "Child Protective Services" ("CPS") means the department that has primary responsibility for receiving reports of Children in need of the Tribe's care and protection, making referrals and coordinating the screening and investigation of suspected Child Neglect and Abuse, and ensuring that

Protective Services and related assistance are provided to Children and families.

h. "Custodian/Guardian" means any person who has legal custody of a Child or with whom temporary care, custody and control has been placed, under law, and who is responsible for the health, safety, and welfare of a Child. Such a person has the duty and authority to make major decisions affecting such Child's welfare, including, but not limited to major medical, psychiatric, and surgical treatment.

i. "Domicile" means a person's permanent home, legal, or main residence. The domicile of a Child is generally that of the custodial parent or guardian. A Child shall be considered a domicile of the Mashantucket Pequot Reservation where the Child's custodial parent or guardian considers the Reservation to be her permanent home.

j. "Expert Witness" means a person who is a professional having a recognized education or experience in medicine, sociology, psychology, or other fields relevant to a Child welfare proceeding.

k. "Extended Family" means any person who has reached the age of 18 and is related to the Indian Child by blood or marriage, or any person recognized by the law or custom of the Tribe.

l. "Foster Home" means any tribally-approved home or facility which provides temporary shelter and related assistance to Children under the supervision of CPS.

m. "Guardian Ad Litem" means any person appointed by the family court to represent and protect the legal rights and interests of the Child in the family court proceedings.

n. "Parent" means a biological or adoptive mother or father, including an unwed father whose paternity has been acknowledged or established in accordance with tribal law or custom.

o. "Protective Services" means assistance provided by CPS after reports or referrals of neglect or abuse have been received and investigated.

p. "Protective Supervision" means the status created by court order following adjudication of neglect or abuse.

q. "Tribal Police" means the Mashantucket Pequot Police Department.

Miscellaneous words listed in singular form may be considered to include the plural form of each word and vice versa except where the context clearly indicates otherwise, and the use of she/her means she or he, her or his.

CHAPTER 3. REPORTING OF CHILD NEGLECT AND ABUSE

5 M.P.T.L. ch. 3 § 1

§ 1. Notification of Child Abuse Reports

Pursuant to the Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. §§ 3201-3211, and 18 U.S.C. § 1169, the following procedures shall be followed for reporting Child Abuse or Neglect.

a. Whenever the Tribal Police or CPS receive an initial report or referral from any person of the neglect or abuse of a Child or actions which would reasonably be expected to result in the neglect or abuse of a Child , the receiving agency shall:

(1) immediately notify the appropriate officials of the other agency and the tribal prosecutor of such report and information; and,

(2) submit a copy of the written preliminary report required under subsection (c) of this Section to such agency and office.

b. Where an initial report or referral of abuse involves an Indian Child or where the alleged abuser is an Indian and the preliminary report indicates that a criminal violation has occurred, the Tribal Police shall immediately report such occurrence to the Federal Bureau of Investigation.

c. Within thirty-six (36) hours after receiving an initial report or referral of Child neglect or abuse, the receiving agency shall prepare a written preliminary report which shall include, if available: the name, address, age, and sex of the Child who is the subject of the report; the grade and the school in which the Child is currently enrolled; the name and address of the Child's parents or other person responsible for the Child's care; the name and address of the alleged offender; the name and address of the person who made the report to the agency; a brief narrative as to the nature and extent of the Child's condition or injuries, including any previously known or suspected neglect or abuse of the Child or the Child's siblings and the date of the suspected neglect or abuse; and, any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged neglect or abuse.

d. Upon receipt of a report alleging neglect or abuse, CPS, in conjunction with the Tribal Police, shall:

(1) when deemed necessary by CPS, convene a Multi-Disciplinary Team ("MDT"), comprised of personnel with experience with incidents of Child Neglect, Abuse, and family violence to provide advice and consultation in these matters;

(2) take immediate and appropriate steps to secure the safety and well-being of the Child or Children involved;

(3) provide appropriate services to the family; and,

(4) complete the investigation and prepare a written final report on such allegation within fifteen (15) business days.

e. If the investigation produces evidence that a Child has been neglected or abused by a person other than the parent or guardian/custodian, the Tribal Police or CPS shall immediately notify the Child's parent or other person responsible for the Child's care, and any other appropriate law enforcement authority having jurisdiction over the suspected neglect or abuse. If the investigation produces evidence that a Child has been abused by an employee of the Tribe, the Tribal Police or CPS shall notify the director of the appropriate tribal department of such evidence, and the director may suspend such employee, with or without pay, or terminate the employee. The employee shall be entitled to pursue any employment rights provided under the Tribe's personnel policies and procedures.

f. CPS, in conjunction with the Tribal Police, shall develop protocols for the reporting, screening, investigation, and treatment of Child neglect and abuse, and to clarify roles and responsibilities of the tribal departments and agencies involved in Child welfare matters.

5 M.P.T.L. ch. 3 § 2

§ 2. Interviews and Examinations

a. In any case where the Tribal Police or CPS reasonably believe that the Child has been subjected to neglect or abuse, officials of those agencies shall be allowed to take photographs; consent to x-rays, medical and psychological examinations of the Child; and, interview the Child without first obtaining the consent of the parent or guardian/custodian.

b. All examinations and interviews of a Child who may have been subjected to neglect or abuse shall be conducted in such a manner that minimizes additional trauma to the Child.

c. The expense of such examinations and diagnostic tests shall be paid by the parents or guardian/custodian of the Child, or if they are unable to pay, by CPS, which may seek reimbursement according to tribal law.

5 M.P.T.L. ch. 3 § 3

§ 3. Emergency Removal

a. If a Child is in imminent danger from her surroundings and removal from such surroundings is necessary to insure the Child's safety, the Tribal Police or CPS may remove the Child from such surroundings without a court order and place her in protective care or a Foster Home. A Child shall be considered to be in

imminent danger when:

(1) the failure to remove the Child may result in an immediate and substantial risk of death, permanent or serious injury, or serious emotional harm to the Child; or,

(2) the parent or guardian/custodian is absent and it appears from the circumstances that the Child's basic necessities of life are not being met, and proper arrangements have not been made by the parent or guardian/custodian to provide for such necessities.

b. When a Child is removed, the Tribal Police or CPS shall make reasonable efforts to contact the Child's Extended Family.

c. Such removal shall not exceed ninety-six (96) hours, within which time an emergency protective care petition shall be filed with the court or the Child shall be returned to her parent or guardian/custodian.

d. If a petition is filed, the procedures for removal shall be followed, provided that the court shall schedule a hearing on the petition within ten (10) business days from the date the petition was filed.

5 M.P.T.L. ch. 3 § 4

§ 4. Procedures for Removal

a. If the investigation produces evidence that the Child has been neglected or abused and is in need of care, the tribal prosecutor shall file a protective care petition.

b. The petition shall set forth the following:

(1) the name, birth date, sex, residence and tribal affiliation of the Child;

(2) the basis for the court's jurisdiction;

(3) a plain and concise statement of the facts upon which the allegations of neglect or abuse are based, including the date, time and location at which the alleged neglect or abuse occurred;

(4) the names, addresses, and tribal affiliation of the Child's parents or guardians/custodians, if available;

and,

(5) if the Child has been placed outside of the home, the facts necessitating the placement, the date and time of the placement, and where and with whom the Child was placed.

c. The court shall schedule a hearing on the petition within twenty (20) business days from the date the petition was filed, unless the Child was removed from the home pursuant to 5 M.P.T.L. ch.3 § 3, in which case the family court shall schedule the hearing on the petition within ten (10) business days

of the filing of the petition. Upon petition or its own initiative, the court may order that a social study of the Child's home and family or an evaluation of matters relevant to the disposition of the case be made.

d. Upon the filing of the petition, the court shall cause a summons to be issued requiring the parents and any other persons necessary or proper to the proceedings to appear in court at the time and place named therein. The summons and petition shall be personally served upon the party at least ten (10) days before the scheduled hearing. If the party to be served is not within the Reservation boundaries or personal service cannot be effected, the summons and petition may be served by certified or registered mail, with a return receipt requested. The summons shall contain the following information:

(1) identify the parties and the nature of the proceedings;

(2) state that the party served shall personally appear before the court and respond to the Petition at a specified date and time; and,

(3) state that the party has the right to be represented by an attorney/advocate at her own expense in all proceedings under this Law, to introduce evidence, to be heard on her own behalf, to examine witnesses, and to be informed of possible consequences of the proceedings.

5 M.P.T.L. ch. 3 § 5

§ 5. Hearing

The purpose of the hearing is to determine whether or not court intervention and Protective Supervision are necessary to protect the best interests of the Child.

a. The hearing proceedings shall be on the record, but shall be closed to the general public. The Mashantucket Pequot Rules of Evidence and Civil Procedure shall not apply. Specifically,

(1) Any privilege against the disclosure of communications between spouses shall not apply and either party may testify as to any relevant matter.

(2) Evidence that the Child has been neglected or abused or has sustained a non-accidental injury shall constitute prima facie evidence that shall be sufficient to support an adjudication that such Child is in need of Protective Supervision.

b. The Child shall be represented by a Guardian Ad Litem ("GAL") appointed by the family court to speak on behalf of the best interests of the Child. The GAL shall be knowledgeable about the protective, social, and medical needs of the Child and the Child's family. The GAL's fee shall be paid by the parents or guardian/custodian, or if such they are unable to pay, by the court, which may seek reimbursement according to tribal law.

c. Whenever any party intends to call the Child as a witness, it shall notify the court no later than five days before the hearing, unless good cause is

shown for short notice to the court. Upon receipt of the notice, the court may direct the Child to be evaluated by an Expert Witness to determine whether testifying in person would cause trauma to the Child.

(1) The Child may be allowed to testify if such testimony will not cause serious emotional or psychological harm to the Child.

(2) If the court determines that such testimony, if given in person, may cause serious emotional or psychological harm to the Child, the Child may testify by means of a videotape deposition or other appropriate method. If the court allows these methods to be utilized, the court shall specifically set out the reasons for this determination on the record.

c. The court shall hear testimony from the parties and make specific findings as to whether or not the allegations of the petition are supported by the evidence and whether or not the best interests of the Child will be served by court intervention, Protective Supervision, or by removal from her home.

(1) Whenever removal and foster care placement of a Child is recommended, the court must be satisfied that active efforts have been made to provide remedial and rehabilitation services designed to prevent the breakup of the family and that these efforts have proved unsuccessful.

(2) Whenever it appears from the allegations of the petition, supported by a preponderance of the evidence, including the testimony of a qualified Expert Witness and, if available, the testimony of the parents or guardian/custodian, that the Child's condition or the circumstances surrounding her care require that her custody be assumed to safeguard her welfare, the court shall vest in CPS or a qualified person the Child's temporary care and custody.

5 M.P.T.L. ch. 3 § 6

§ 6. Court Findings

a. The court shall enter a written order with specific findings of fact and conclusions of law.

b. If the court concludes that removal or continued out of the home placement is not warranted, the Child shall be returned immediately to the custody of her parents or custodian/guardian; provided however, that the court may define the terms and conditions for returning the Child to her home, including continued court jurisdiction and Protective Supervision.

c. If, pursuant to Section 5(c)(2), the court finds that removal or continued removal is in the best interests of the Child, the court shall determine:

(1) the proper placement of the Child;

(2) the services or treatment to be provided to the Child and the Child's family to help address the circumstances underlying the removal; and,

(3) the terms and conditions for placement of the Child, returning the Child to her home, and family visitation.

d. Where the evidence demonstrates that the activities of a particular person in the household are the basis for the court's finding that removal of the Child is required, the court may, pursuant to its civil regulatory authority, issue a restraining order preventing that person from residing in the residence in lieu of removing the Child.

e. The expense for any temporary care and custody shall be paid by the parents or guardian/custodian, or if they are unable to pay, by CPS which may seek reimbursement according to tribal law.

5 M.P.T.L. ch. 3 § 7

§ 7. Review of Placement and Supervision

a. The court may exercise continuing jurisdiction over the supervision of such Child custody proceeding for so long as it deems necessary to protect the Child's best interests. The status of all Children who have come within the supervision of the court shall be reviewed by the court at least every three (3) months at a hearing to determine whether or not the placement conditions have been met and whether or not court supervision shall continue.

b. The first review following a formal hearing on the petition shall be held within forty-five (45) business days of the court's decision.

c. If continued court supervision and intervention is necessary, the court shall set forth the following in a written order:

(1) what services have been provided or offered to the parents or guardian/custodian to help address the circumstances underlying the removal;

(2) the extent of the parent or guardian/custodian involvement with the Child or any reason why visitation and/or contact has been infrequent or not otherwise occurred;

(3) whether or not the parents or guardian/custodian have been cooperative with the court;

(4) whether or not the parents or guardian/custodian should be required to participate in any additional treatment programs to help correct the underlying circumstances;

(5) define a time frame in which the family can reasonably expect to be reunited, provided the circumstances underlying the removal have been satisfactorily addressed; and,

(6) any additional steps the court deems necessary and appropriate.

§ 8. Placement Preferences

a. Whenever the court has adjudicated a Child to be in need of protective or foster care, the Child shall be placed in the least restrictive setting which most approximates a family, and in which her special needs, if any, may be met. The Child shall also be placed within reasonable proximity to her home, taking into account any special needs of the Child. A placement preference shall be given, in the absence of good cause to the contrary and taking into consideration the Child's age and maturity, to a placement with:

- (1) members of the Child's family or Extended Family;
- (2) other members of the Mashantucket Pequot Tribe;
- (3) a tribally-approved Foster Home or facility for Children which has a program suitable to meet the Child's needs; or,
- (4) other Indian families.

b. Where a Child is placed outside of the tribal community, the tribal court shall include in its order provisions for continuing contact between the Child and the tribal community.

§ 9. Emergency Authorization of Medical Treatment

a. This Section shall apply to the emergency removal of a Child who is in imminent danger.

b. When a physician indicates that in her professional opinion, the life of the Child would be greatly endangered or that there is a strong likelihood that the Child would suffer permanent and/or serious harm without specified treatment, the Protective Care or foster care parent, or the family court, on an ex parte basis, may authorize emergency medical treatment. Every effort shall be made to contact the Child's parents before authorization is given. The Child's parents or an extended member of the Child's family shall be notified of the emergency treatment immediately thereafter.

§ 10. Confidentiality and Records

a. The identity of any person making a report of suspected Child neglect or abuse shall not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or an employee of the tribe, or state or federal government, who needs to know the information in the performance of such employee's duties.

b. Pursuant to 25 U.S.C. § 3205 and 20 U.S.C. § 1232g, or any other provision of law, agencies of the tribe that investigate and treat incidents of Child abuse may provide information and records to those agencies of any other tribe, state, or the federal government that need to know the information in the performance of their duties.

c. CPS, the Tribal Police, and family court shall preserve a record of all investigative reports, interviews, documentary evidence, and hearings for each matter for twenty-five (25) years from the close-out of the matter.

d. All of these records shall be confidential and shall not be open to inspection, except by those personnel directly involved in handling the case, the Bureaus of Indian Affairs, or any other person, having a legitimate interest in the particular case or work of the court, by order of the court.

5 M.P.T.L. ch. 3 § 11

§ 11. Modification, Revocation or Extension of Court Orders

a. Upon a motion of any party to the proceeding or any other person or entity who would have had the right to be a party to the proceeding, the court may conduct a hearing to modify, revoke, or extend a court order made under this Law.

b. Any hearing to modify, revoke or extend a court order shall be held in accordance with the procedures established by the family court.

5 M.P.T.L. ch. 3 § 13

§ 13. Appeals

Appeals from decisions by the family court under this Law may be made by any party in accordance with the rules governing the Mashantucket Pequot Tribe Court of Appeals.

CHAPTER 4. GUARDIANSHIP

5 M.P.T.L. ch. 4 § 1

§ 1. Appointment of Guardians

If a Child is under the age of fourteen (14) years, the family court may appoint a guardian over the person of a Child. If the Child is fourteen (14) years of age or older, she may nominate her own guardian who, if approved by the family court, shall be appointed accordingly. If the guardian nominated by the Child is not approved by the court, or if the Child resides outside of the Reservation, or if, after being duly cited by the court, the Child fails to

nominate a suitable person, the court may nominate and appoint the guardian in the same manner as if the Child were under the age of 14 years.

5 M.P.T.L. ch. 4 § 2

§ 2. Guardianship Petition

a. The petition for guardianship may be filed by any of the following persons:

- (1) either or both parents, including a parent who is a minor;
- (2) the tribal prosecutor on behalf of the Tribe;
- (3) any person possessing a legitimate interest in the matter.

b. The petition for guardianship shall include the following information:

- (1) the name, sex, date and place of birth, present address and tribal affiliation of the Child who is the proposed ward;
- (2) the name and address of the petitioner, and the nature of the relationship between the petitioner and the Child;
- (3) the names, dates of birth, address, tribal affiliation of the Child's parents;
- (4) the name of the person or agency of the proposed guardian;
- (5) if the parent of the Child is a minor, the names and addresses of the parents or guardian of the parent;
- (6) the name and address of the person or agency having legal or temporary custody of the Child;
- (7) the facts upon which the guardianship is sought, the effects of the guardianship, and the basis for the court's jurisdiction; and,
- (8) a statement describing the property owned, possessed, or in which the Child has an interest and the value of such property or property interest.

c. If the information required under subsections (2), (3) and (7) of subsection (b) of this Section is not stated, the petition shall be dismissed. If any of the other facts required hereunder are not known or cannot be ascertained by the petitioner, the petitioner shall so state in the petition. The petitioner shall sign and date the petition, and attest to the veracity of the information contained therein.

§ 3. Appointment of Guardian Ad Litem for Minor or Incompetent Parent

a. Whenever, with respect to any petition filed under this Law, it appears that either parent of the Child is a minor or incompetent, the court shall appoint a Guardian Ad Litem for such parent. The Guardian Ad Litem shall be an attorney authorized to practice law in tribal court.

b. The Guardian Ad Litem shall be allowed reasonable compensation which shall be assessed against the petitioner. If the court finds that the petitioner is unable to pay, the reasonable compensation shall be paid by court, which may seek reimbursement of such fees according to tribal law.

§ 4. Consent to Guardianship

a. If a petition indicates that either or both parents consent to the guardianship, or if any time following the filing of a petition and before the entry of a final decree, a parent consents to the guardianship, each consenting parent shall acknowledge such consent in writing on a form promulgated by the chief judge, before the court, evidencing to the satisfaction of the court that the parent has voluntarily and knowingly consented to the guardianship and that the terms and consequences of such consent are understood by the parent. The court shall also certify that either the parent or guardian fully understands the explanation in English or that it was interpreted into a language that the parent or guardian or custodian understands.

b. No voluntary consent to guardianship by a mother shall be executed prior to or within 10 days after the birth of the Child. A minor who is a parent shall have the right to consent to the guardianship and such consent shall not be voidable by reason of such minority.

c. In any voluntary proceeding the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree, and where the Child has been placed out of the family, the Child shall be returned to the parent unless the court finds good cause to not return the Child.

§ 5. Hearing

a. Upon the filing of a petition for guardianship, the court shall set a time for hearing the petition. The time for the hearing shall not be more than thirty (30) business days after the filing of the petition.

b. The court shall cause a notice of the hearing to be given to the parents of the minor Child, including any parent of a minor who is himself a parent, the guardian or any other person whom the court deems appropriate, the CPS, and to

the Child if he is over the age of fourteen (14) years. The notice shall state that the party for whom a guardianship is being sought has the right to be represented by counsel.

c. Notice of the hearing and a copy of the petition, certified by the petitioner or his attorney or the court clerk, shall be served at least ten (10) business days before the date of the hearing by personal service on the persons enumerated in subsection (b) of this Section. If personal service cannot be reasonably effected or the address of any person is unknown, a judge or court clerk shall order notice to be given by registered or certified mail, return receipt requested, or by publication at least ten (10) business days before the date of the hearing in a newspaper of general circulation in the place of the last-known address of the person to be notified, whether within or without Connecticut, or if no such address is known, in a newspaper of general circulation in the region where the court is located.

d. Notice and appearance may be waived by a parent in writing before the court, provided that such parent has been apprised by the court of the meaning and consequences of the guardianship action. The parent who has executed such a waiver shall not be required to appear at the subsequent hearing. Where the parent is a minor, the waiver shall be effective only upon approval by the court.

5 M.P.T.L. ch. 4 § 6

§ 6. Conduct of Hearing; Investigation and Report; Grounds for Termination

a. At the hearing held on the petition for the guardianship, any party to whom notice was given shall have the right to appear and be heard with respect to the petition. If the parent who is consenting to the guardianship appears at the hearing, the court shall explain to the parent the meaning and consequences of the guardianship action.

b. Upon finding at the hearing or at any time during the pendency of the petition that reasonable cause exists to warrant an examination, the court, on its own motion or on motion of any party, may order the Child to be examined by a physician, psychiatrist, or licensed clinical psychologist appointed by the court. The court may also order an examination of a parent or guardian whose competency or ability to care for a Child before the court is at issue. The expenses of any examination if ordered by the court shall be paid by the petitioner, or if ordered on motion by a party, shall be paid for by that party unless such party or petitioner is unable to pay, in which case, they shall be paid by the court. The court may consider the results of the examination in ruling on the merits of the petition.

c. The court may, in any contested case, request CPS to make an investigation and written report to the court within forty-five (45) business days from receipt of such request. The report shall indicate the physical, mental, and emotional health of the Child and shall contain such facts as may be relevant to determine whether the proposed guardianship will be in the best interests of the Child, including the physical, mental, and social emotional and financial condition of the proposed guardian, and any factors which the agency deems

relevant to determine whether the proposed guardianship will be in the best interests of the Child.

d. If such a report is requested, the court shall schedule a hearing not more than thirty (30) business days from the date the expiration of the forty-five (45) day time period or receipt of the report, whichever is earlier. The court shall give reasonable notice of the investigation hearing to all parties to the first hearing.

e. The report shall be admissible in evidence, subject to the right of any interested party to require that the person making it appear as a witness and subject himself to examination.

f. At either the investigation hearing or the first hearing, if no investigation and report has been requested, the court may approve the petition for guardianship and may appoint a guardian of the person of the Child, if it finds by a preponderance of the evidence, including the testimony of a qualified Expert Witness, that the guardianship is in the best interests of the Child, and, with respect to any consenting adult, that such consent was voluntarily and knowingly given.

g. If the court denies a petition for guardianship, with or without consent, it may refer the matter to CPS to assess the needs of the Child, the care the Child is receiving, and a remediation plan for the parent.

5 M.P.T.L. ch. 4 § 7

§ 7. Findings and Orders

a. The court shall make written findings in determining whether to appoint a guardian based on a consideration of:

(1) the timeliness, nature, and extent of services offered or provided to the Child or parent by any tribal or state agency to facilitate the preservation of the family;

(2) the terms of any applicable court order and the extent to which the parties have fulfilled their obligations thereunder;

(3) the feelings and emotional ties of the Child with respect to his parents, the proposed guardian, or any person who has provided physical care or custody to the Child during the preceding year and with whom the Child has developed significant emotional ties;

(4) the age of the Child;

(5) the efforts the parent has made to make it in the best interests of the child to be reunited with the parent; and

(6) the extent to which the parent may have been prevented from maintaining a meaningful relationship with the Child.

b. Whenever the court finds that a guardian should be appointed, the court shall appoint either a temporary or permanent guardian over the person of the Child under such terms and conditions as the court sets forth in the written order. An appointment of a guardianship shall not terminate the parental rights of the parents; however, the guardian shall have the responsibility for the care, custody and education of the Child until she attains the age of eighteen (18) years, marries, is emancipated by the court, or until the guardian is legally discharged. The guardian shall also have the authority to consent to the medical care and treatment of the Child. The court may grant visitation rights to the parents and the Child's Extended Family under the terms and conditions as the court deems to be in the best interests of the Child. The guardian shall not have the authority, without the express written consent of the court, to use or dispose of any real or personal property of the Child in any manner.

c. Any support obligation existing prior to the effective date of the court's order shall not be severed or terminated.

5 M.P.T.L. ch. 4 § 8

§ 8. Termination of the Guardianship

a. A temporary guardianship may be terminated upon a determination that it is in the best interests of the Child to change custody from the guardian to a new guardian or to return the Child to the Child's parent.

b. A permanent guardianship shall only be terminated upon a determination of the unsuitability of the permanent guardian rather than the competency or suitability of the parents.

5 M.P.T.L. ch. 4 § 9

§ 9. Guardian of the Property

a. The court may appoint a guardian over the property of a Child under such express terms and conditions as the court deems to be in the best interests of the Child and not inconsistent with tribal law.

b. The guardianship of the property may be limited to specific property or a specific legal action, or it may extend until the Child attains the age of eighteen (18) years.

c. The property and funds of the Child shall be used by the guardian solely for the Child's support and education, and shall be expended by the guardian in a manner as can reasonably be afforded according to the income and estate of the Child. If the court determines it appropriate, the written order may set forth that the Child's property may not be used for the Child's care, but rather to be managed for the Child until the Child attains the age of eighteen (18) years, marries, is emancipated by the court, or until the guardian is legally discharged.

§ 10. Review of Guardianship

The status of all Children who have been placed with a guardian pursuant to this Law shall be reviewed by the court at least once a year, or as otherwise directed by the court. Whenever a guardian of the Child's property has been appointed, the guardian shall submit a yearly accounting regarding the guardian's use of the Child's property to the court for review and approval.

CHAPTER 5. TERMINATION OF PARENTAL RIGHTS

§ 1. Purpose

This Chapter provides for the voluntary or involuntary termination of the parent-Child relationship by court order by severing of the legal relationship, with all its rights and responsibilities, between the Child and his parents so that the Child is free for permanent placement or adoption, except that it shall not affect the right of inheritance of the Child or the Child's membership rights in the Tribe. This Chapter shall be construed in a manner consistent with the philosophy that the family unit is of most value to the community and to individual family members when that unit remains united and together, and that termination of the parent-Child relationship bears such permanent effects that it should be used only as a last resort when, in the opinion of the court, all efforts have failed to preserve a viable family unit and termination is in the best interests of the Child concerned.

§ 2. Appointment of Guardian Ad Litem for Minor or Incompetent Parent

a. Whenever, with respect to any petition filed under this Law, it appears that either parent of the Child is a minor or incompetent, the court shall appoint a Guardian Ad Litem for such parent. The Guardian Ad Litem shall be an attorney authorized to practice law in tribal court.

b. The Guardian Ad Litem shall be allowed reasonable compensation which shall be assessed against the petitioner. If the court finds that the petitioner is unable to pay, the reasonable compensation shall be paid by court, which may seek reimbursement of such fees according to tribal law.

§ 3. Petition to Terminate Parental Rights

a. A petition to terminate parental rights may be filed by any of the following persons:

- (1) either or both parents, including a parent who is a minor;
- (2) the guardian of the Child;
- (3) the tribal prosecutor on behalf of the Tribe;
- (4) any person possessing a legitimate interest in the matter.

b. The petition for termination of parental rights shall be entitled "In the interests of (Name of Child), a person under the age of 18 years," and shall set forth with specificity:

- (1) the name, sex, date and place of birth, present address and tribal affiliation of the Child;
- (2) the name and address of the petitioner, and the nature of the relationship between the petitioner and the Child;
- (3) the names, dates of birth, addresses, and tribal affiliation of the Child's parents;
- (4) if the parent of the Child is a minor, the names and addresses of the parents or guardian of the minor;
- (5) the name and address of the person or agency having legal or temporary custody of the Child;
- (6) the facts upon which the termination is sought, the effects of a termination decree, and the basis for the court's jurisdiction;
- (7) the name of the persons or agencies which have agreed to accept custody or guardianship of the Child upon disposition of the matter; and,
- (8) a list of the assets of the Child, together with a statement of the value thereof.

c. If the information required under subsections (2) and (6) of subsection (b) of this Section is not stated, the petition shall be dismissed. If any of the other facts required hereunder are not known or cannot be ascertained by the petitioner, the petitioner shall so state in the petition. The petitioner shall sign and date the petition, and attest to the veracity of the information contained therein.

§ 4. Consent to Termination

a. If a petition indicates that either or both parents consent to the termination of their parental right, or if any time following the filing of a petition and before the entry of a final decree, a parent consents to the termination of his parental rights, each consenting parent shall acknowledge such consent in writing on a form promulgated by the chief judge, before the court, evidencing to the satisfaction of the court that the parent has voluntarily and knowingly consented to the termination of his parental rights, and that the terms and consequences of such consent are understood by the parent. The court shall also certify that either the parent or guardian fully understands the explanation in English or that it was interpreted into a language that the parent or guardian or custodian understands.

b. No consent to termination of parental rights by a mother shall be executed prior to or within ten (10) business days after the birth of the Child. A minor who is a parent shall have the right to consent to termination of parental rights and such consent shall not be voidable by reason of such minority.

c. In any voluntary proceeding the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree, and where the Child has been placed out of the family, the Child shall be returned to the parent unless the court finds good cause to the contrary not to return the Child.

§ 5. Hearing

a. Upon the filing of a petition for the termination of parental rights, the court shall set a time for hearing the petition. The time for the hearing shall not be more than thirty (30) business days after the filing of the petition.

b. The court shall cause a notice of the hearing to be given to the parents of the minor Child, including any parent of a minor who is himself a parent, the guardian or any other person whom the court deems appropriate, CPS, and to the Child if he is over the age of fourteen (14) years. The notice shall state that the party whose parental rights are being terminated has the right to be represented by counsel.

c. Notice of the hearing and a copy of the petition, certified by the petitioner or his attorney or the court clerk, shall be served at least ten (10) business days before the date of the hearing by personal service on the persons enumerated in subsection (b) of this Section. If personal service cannot be reasonably effected or the address of any person is unknown, a judge or court clerk shall order notice to be given by registered or certified mail, return receipt requested, or by publication at least ten (10) business days

before the date of the hearing in a newspaper of general circulation in the place of the last-known address of the person to be notified, whether within or without Connecticut, or if no such address is known, in a newspaper of general circulation in the region where the Court is located.

d. Notice and appearance may be waived by a parent in writing before the court, provided that such parent has been apprised by the court of the meaning and consequences of the termination action. The parent who has executed such a waiver shall not be required to appear at the subsequent hearing. Where the parent is a minor, the waiver shall be effective only upon approval by the court.

5 M.P.T.L. ch. 5 § 6

§ 6. Conduct of Hearing; Investigation and Report; Grounds for Termination

a. At the hearing held on the petition for the termination of parental rights, any party to whom notice was given shall have the right to appear and be heard with respect to the petition. If the parent who is consenting to the termination of parental rights appears at the hearing, the court shall explain to the parent the meaning and consequences of termination of parental rights.

b. Upon finding at the hearing or at any time during the pendency of the petition that reasonable cause exists to warrant an examination, the court, on its own motion or on motion of any party, may order the Child to be examined by a physician, psychiatrist, or licensed clinical psychologist appointed by the court. The court may also order an examination of a parent or guardian whose competency or ability to care for a Child before the court is at issue. The expenses of any examination if ordered by the court shall be paid by the petitioner, or if ordered on motion by a party, shall be paid for by that party unless such party or petitioner is unable to pay, in which case, they shall be paid by the court. The court may consider the results of the examination in ruling on the merits of the petition.

c. The court may, in any contested case, request CPS to make an investigation and written report to the court within forty-five (45) business days from receipt of such request. The report shall indicate the physical, mental, and emotional health of the Child and shall contain such facts as may be relevant to determine whether the proposed termination of parental rights will be in the best interests of the Child, including the physical, mental, and social emotional, and financial condition of the parents, and any factors which the agency deems relevant to determine whether the proposed termination will be in the best interests of the Child.

d. If such a report is requested, the court shall schedule a hearing not more than thirty (30) business days from the date the expiration of the forty-five (45) business day time period or receipt of the report, whichever is earlier. The court shall give reasonable notice of the investigation hearing to all parties to the first hearing.

e. The report shall be admissible in evidence, subject to the right of any interested party to require that the person making it appear as a witness and

subject himself to examination.

f. The court may approve the petition terminating the parental rights and appoint a guardian, if it finds by clear and convincing evidence, including the testimony of a qualified Expert Witnesses that the termination of parental rights is in the best interests of the Child.

(1) Any parental consent to such a termination must be voluntarily and knowingly given.

(2) If, however, a parent does not give consent, the court may terminate the parental rights when the Child has been Abandoned or abused by the parent, or the Child has been denied the care, guidance, or control necessary for his physical, educational, moral or emotional well-being, and the court determines that the continuation of the parent-Child relationship would be detrimental to the best interests of the Child.

g. If the court denies a petition for termination of parental rights, with or without consent, it may refer the matter to CPS to assess the needs of the Child, the care the Child is receiving, and a remediation plan for the parent.

h. The court may waive the requirement that one year expire prior to the termination of parental rights if it finds from the totality of the circumstances surrounding the Child that such waiver is necessary to promote the best interests of the Child.

5 M.P.T.L. ch. 5 § 7

§ 7. Findings and Orders

a. Except in cases based on consent, the court shall make written findings in determining whether to terminate the parent-Child relationship based on

(1) the timeliness, nature, and extent of services offered or provided to the Child or parent by any tribal or state agency to facilitate the reunion of the Child with the parent;

(2) the terms of any applicable court order and the extent to which the parties have fulfilled their obligations thereunder;

(3) the feelings and emotional ties of the Child with respect to his parents, any guardian, or any person who has provided physical care or custody to the Child during the preceding year and with whom the Child has developed significant emotional ties;

(4) the age of the Child;

(5) the efforts the parent has made to make it in the best interests of the Child to be reunited with the parent; and

(6) the extent to which the parent may have been prevented from maintaining a meaningful relationship with the Child.

b. Whenever the court finds that the parent-Child relationship should be terminated, all rights, powers, privileges, immunities, duties, and obligations including any rights to custody, control, or visitation, existing between the Child and parent shall be severed and terminated.

c. The rights of one parent may be terminated without affecting the rights of the other parent. The remaining parent shall be the sole parent and, unless otherwise provided by law, the guardian of the person of the Child. The parent whose rights have been terminated shall have no standing to appear at any future legal proceedings concerning the Child.

d. Any support obligation existing prior to the effective date of the order terminating parental rights shall not be severed or terminated.

e. A termination order shall not prevent a Child from inheriting property or interest in the same manner as any other natural Child from the natural parent. A natural parent may not, however, inherit from a natural Child after termination.

5 M.P.T.L. ch. 5 § 8

§ 8. Child's Continued Right to Benefits

An order terminating the parent-Child relationship shall not disentitle a Child to any benefit due the Child from any third person, agency, state or the United States, nor shall any action under this Law be deemed to affect any rights and benefits that the Child derives from the Child's descent from or membership in the Mashantucket Pequot Tribe.

5 M.P.T.L. ch. 5 § 9

§ 9. Custody after Relinquishment or Termination Order

a. If upon entering a decree terminating the parental rights of a parent or guardian, there remains no suitable parent or no parent having parental rights, the court shall commit the Child to the care and custody of CPS or shall place the Child in accordance with the placement preferences established by this Law under such terms and conditions as are in the best interests of the Child. In the absence of a suitable home under the placement preferences, the court may place the Child with a non-Indian family outside the tribal community, or authorize CPS to seek an appropriate adoption of the Child.

b. At least every three (3) months thereafter, a report shall be made to the court on the efforts taken to secure permanent placement of the Child. The court shall so review the status of the Child until the Child is adopted or permanently placed.

§ 10. Review of Placement

The status of all Children who have been permanently placed pursuant to this Law shall be reviewed by the court at least once a year, or as otherwise directed by the court.

CHAPTER 6. FOSTER HOME LICENSING PROCEDURES

§ 1. Foster Care Inspector

a. The CPS shall inspect the homes of tribal members and others who reside on the Reservation or within a fifty (50) mile radius of the Reservation.

b. Upon an inspection of the proposed Foster Home and an interview with the proposed foster family, CPS shall submit a recommendation to the chairperson of the HHS Committee. The HHS Committee shall review the recommendation and act upon it within thirty (30) business days, or, if no action is taken, the recommendation of the foster home inspector shall be deemed approved. If the HHS Committee approves the foster family, the HHS Committee shall issue a Foster Home license within thirty (30) business days. The foster parent shall file a copy of the foster home license with the Tribal Clerk's Office.

c. Except under exceptional circumstances, or in order to preserve a family unit, a foster home may not accept more than four (4) foster Children.

d. Any license issued by the HHS Committee shall apply only to the residence where the family is living at the time application for a license is made. A permanent change of residence automatically terminates the license. The foster parents shall notify the HHS Committee whenever a change of residence is contemplated.

e. The foster parents shall also notify the HHS Committee whenever a change in the household occurs. For example, if any member of the Foster Home moves out of the residence, or if any other person moves into the residence, the foster parent shall notify the HHS Committee within forty-eight (48) hours. Failure to report such changes may result in the suspension or revocation of the Foster Home license.

f. It shall be grounds for revocation of the Foster Home license if any member of the Foster Home is accused or convicted of a crime or if any other facts come to the attention of the HHS Committee which would render the Foster Home unsuitable. The Tribal Police shall have an affirmative duty to notify the HHS Committee of any information which may reflect upon the suitability of the Foster Home.

g. Upon reasonable notice, a revocation hearing shall be held before the HHS Committee. Such hearing shall be held pursuant to 40 M.P.T.L. The HHS Committee shall make specific findings as to whether the Foster Home license should be revoked as being in the best interest of the foster Child. In the event the HHS Committee revokes the Foster Home license, it shall notify the Tribal Clerk's Office and CPS, and CPS shall immediately make suitable arrangements for the removal and placement of the foster Child consistent with chapter 3, section 8 of this Title.

5 M.P.T.L. ch. 6 § 2

§ 2. Foster Home Requirements

a. The Foster Home shall be constructed, arranged and maintained so as to provide for the health and safety of all occupants. The foster care inspector may, upon 24 hours' notice, inspect a Foster Home.

b. Heating, ventilation, and light shall be sufficient to provide a comfortable, airy atmosphere. Furnishings and housekeeping shall be adequate to protect the health and comfort of the foster Child.

c. Comfortable beds shall be provided for all members of the family. Sleeping rooms must provide adequate opportunities for rest. All sleeping rooms must have a window of a type that may be readily opened and used for evacuation in case of fire.

d. Play space shall be available and free from hazards which might be dangerous to the life or health of the Child.

5 M.P.T.L. ch. 6 §3

§ 3. The Foster Family

a. All members of the household shall be in such physical and mental health as will not adversely affect either the health of the Child or the quality and manner of his care.

b. Members of the Foster Family shall be of good character and standing in the community. They shall never have been convicted of a sex offense and shall not have had any felony convictions within the last five years. Exceptions concerning non-sexual felony convictions may be made, provided that adequate information is submitted and reviewed indicating that a significant change of character has occurred.

c. The foster parents shall be of suitable temperament to care for the foster Child, and shall understand the special needs of the Child as an Indian person and a member of the tribal community.

d. Foster parents shall be at least 21 years of age, but there shall be no upper age level, provided that the foster parent has the physical and emotional stamina to deal with the care and guardianship of a foster Child. Foster parents shall be willing, when necessary, to cooperate with the

biological parents and shall be willing to help the family re-establish the necessary family ties.

e. A Foster Home need not be composed of both a male and female foster parent. CPS may certify a Foster Home with a single foster parent provided that the foster parent displays the qualifications necessary to raise a foster Child.

f. The foster parents shall have an income sufficient to care for all members of the foster family. CPS may take into account any tribal or state benefits when determining the financial ability of the foster parents compared to the financial needs of the Child.

g. Any time a pre-school foster Child is placed in a Foster Home, there must be at least one foster parent at home full time, unless the foster parent has obligations outside the home that necessitate day care, in which case, the foster parent shall show the ability and availability to provide appropriate day care for the pre-school foster Child. For school age Children, the foster parent must show the Child care arrangements which will be made for those periods of time when both foster parents are employed. Infants and young Children shall never be left alone without competent supervision.

h. Except without specific approval by the HHS Committee, a Foster Home shall not be licensed whenever any member of the family is mentally ill, on convalescent status, is on parole or probation, or is an inmate of a penal or correctional institution.

i. The standards CPS shall use in judging the above criteria shall be those of the tribal community.

5 M.P.T.L. ch. 6 § 4

§ 4. Investigation

CPS is authorized to conduct a character investigation to determine the adequacy of the Foster Home and the competency of the proposed foster parents. CPS shall be authorized to interview the potential foster parents and any other person who is familiar with the applicants and with the type of care they provide to their Children.

5 M.P.T.L. ch. 6 § 5

§ 5. The Foster Child

a. The daily routine of a foster Child shall be such as to promote good health, rest, and play habits.

b. The responsibility for a Child's health care shall rest with the foster parents. In case of an emergency or a serious sickness or accident to a Child, the foster parents shall immediately notify CPS and the HHS Committee Chairperson. The foster parents may consent to surgery or other treatment in a medical emergency.

c. The foster parents shall not subject the Child to verbal abuse, derogatory remarks about the Child, the Child's natural parents or relatives, or to threats to expel the Child from the Foster Home. No Child shall be deprived of meals, mail or family visits as a method of discipline. When discipline or punishment must be administered, it shall be done with understanding and reason.

CHAPTER 7. ADOPTION

5 M.P.T.L. ch. 7 §1

§ 1. Open Adoptions

It is the policy of the Tribe that is Children should be adopted as a matter of last resort, and alternative long-term placements such as guardianship and long-term foster placement should be first considered which maintain a stronger connection between the Child, the parent, and family.

Adoptions under this code shall be in the nature of "Open Adoptions." Open adoption is a form of adoption in which the biological family and the adopted Child may enjoy an ongoing in-person relationship, unless the court orders otherwise for good cause.

5 M.P.T.L. ch. 7 § 2

§ 2. Purpose

The purpose of such open adoptions is to not permanently deprive the Child of connections to, or knowledge of, the Child's biological family. The purpose of adoptions shall be to give the adoptive Child a permanent home. The following shall apply and be contained in all adoptive orders and decrees:

a. The adoptive parents and adoptive Child shall be treated under the law as if the relationship was that of a biological Child and parent, except as set forth herein.

b. The adoptive Child shall have an absolute right, absent a convincing and compelling reason to the contrary, to information and knowledge about his biological family and his Mashantucket Pequot Tribal heritage.

c. Adoption shall not serve to prevent an adoptive Child from inheriting from a biological parent in the same manner as any other biological Child. The biological parents shall not be entitled to inherit from an adoptive Child in the same manner as parents would otherwise be entitled to inherit. An adoptive Child shall be entitled to inherit from adoptive parents, and vice versa, in the same manner as if biological parents and Child.

5 M.P.T.L. ch. 7 § 3

§ 3. Availability for Adoption

A Child may be adopted only if he has no parents by reason of death or by the voluntary or involuntary termination of the parent-Child relationship. The Court may conduct a hearing as provided under 5 M.P.T.L. ch. 5, Termination of Parental Rights, prior to or in connection with an adoption hearing.

5 M.P.T.L. ch. 7 § 4

§ 4. Who May File an Adoption Petition

Any adult may file a petition to adopt an Indian minor residing within the Mashantucket Pequot Tribal lands, or a minor tribal member not residing on the Mashantucket Pequot Tribal lands. The court may also hear petitions transferred from state courts pursuant to 25 U.S.C. 1911(b). In the case of married persons maintaining a home together, the petition shall be the joint petition of the spouses, except that if one of the spouses is the biological parent of the Child to be adopted, the biological parent shall not be required to join in the petition.

5 M.P.T.L. ch. 7 § 5

§ 5. Placement Preferences

a. If a Child is placed out-of-home, the following placement preferences shall be observed, in order:

(1) With a member of the Child's immediate family who resides on the Reservation or within a fifty (50) mile radius of the Reservation;

(2) With a member of the Child's immediate family regardless of residence;

(3) With a member of the Child's Extended Family who resides on the Reservation or within a fifty (50) mile radius of the Reservation;

(4) With a member of the Child's Extended Family regardless of residence;

(5) With another person who resides within or near the Mashantucket Pequot Tribal community who has knowledge of and a desire to foster the Child's tribal status and special needs;

(6) With a member of, or a person eligible for, enrollment in the Child's tribe;

(7) With a member of another Indian tribe; or

(8) With any person who has knowledge of and a desire to foster the Child's tribal status and special needs (including but not limited to cultural, therapeutic, and needs based on disability).

b. The placement preferences in paragraph (a) shall be observed unless the person having priority cannot adequately care for and protect the Child or placing the Child with the person having priority would pose a danger to the Child.

c. Placement of a Child with anyone who does not reside within the jurisdiction of the Mashantucket Pequot Tribal Nation shall be contingent on the person's written agreement to accept the jurisdiction of the Tribal Court, to not permanently remove the Child from the State of Connecticut without permission from the Court or supervising agency, nor to allow the Child to cross an international boundary without permission from the Court.

5 M.P.T.L. ch. 7 § 6

§ 6. Traditional Custodians and Grandparents Rights

a. No disposition order or decree, including the termination of parental rights and adoption, shall divest the Child's traditional custodians or grandparents of their right to reasonable visitation with the Child and their duty to provide instruction and training to the Child regarding Tribal customs and traditions. They must also provide the necessities of life for the Child should the parents be unable to do so, unless those rights and duties have been extinguished in a proceeding in which the individual was a party, provided that adoptive traditional custodians shall also succeed to these rights and duties.

b. The rights and duties of the traditional custodians and grandparents may be enforced by court order whenever it appears in the Child's best interest to do so, provided that all interested parties shall be given notice and an opportunity to be heard.

5 M.P.T.L. ch. 7 § 7

§ 7. Content of Adoption Petition

a. The petition for adoption shall include the following, to the best information and belief of the petitioner:

(1) The full name, address, and tribal affiliation of the petitioner;

(2) The full name, sex, residence, date and place of birth, and tribal affiliations of the proposed adoptee;

(3) The name by which the proposed adoptee shall be known if the petition is granted;

(4) The basis for the Mashantucket Pequot Family Court's jurisdiction;

(5) A full description and statement of value of all property owned by, possessed by, or in which the Child has an interest;

(6) The relationship of the petitioner to the proposed adoptee; and

(7) The names and addresses of any person or agency whose consent to aid adoption is necessary.

b. Where there is more than one proposed adoptee, and the proposed adoptees are siblings, only one petition shall be required for the adoption of all or any combination of the siblings, provided that each sibling proposed to be adopted be named in the petition. All petitions must be signed and dated by the petitioner, and must be notarized or witnessed by a clerk of the court.

5 M.P.T.L. ch. 7 § 8

§ 8. Notice

Notice shall be provided in accordance with the notice procedures set forth in Chapter 5, Section 5 (c) of this Title.

5 M.P.T.L. ch. 7 § 9

§ 9. Home Studies

a. When a petition for the adoption of a Child is filed with the Mashantucket Pequot Family Court, the Court shall immediately request that the CPS or other qualified agency, conduct a home study on the petitioner and a report on the Child. The home study and report shall relate to circumstance of the home, the petitioner, and his/her ability, both physically and mentally, to assume the responsibilities of a parent to the Child. The home study shall contain other pertinent information designed to assist the Mashantucket Pequot Family Court in determining the best placement for the Child. The home study will also address the issue of whether or not the home most closely resembles that of the Child's culture, identity, and where applicable, tribal affiliation. b. No determination can be made on a petition for adoption until the home study and/or report has been completed and submitted to and considered by the Mashantucket Pequot Family Court. The home study shall be submitted to the court no later than ten (10) days before the hearing. The home study and /or report may be consolidated into one document. The Mashantucket Pequot Family Court may order additional home studies or reports as deemed necessary.

5 M.P.T.L. ch. 7 § 10

§ 10. Hearing Procedures

An adoption hearing shall be held within ninety (90) days of the Mashantucket Pequot Family Court's receipt of an adoption petition from the prospective adoptive parent(s). The hearing proceedings shall be on the record, but shall be closed to the general public. Rules of evidence and civil procedure shall be suspended. The Child shall be represented by a GAL appointed by the court to speak on behalf of the best interest of the Child.

The GAL shall be knowledgeable about the protective, social, and medical needs of the Child.

b. The Mashantucket Pequot Family Court shall conduct the hearing to determine if it is in the best interests of the Child and shall examine the following:

- (1) Termination of parental rights order;
- (2) Length of time of the Child's wardship by the court;
- (3) Special conditions of the Child;
- (4) Parental communication with the Child;
- (5) Minor's consent to adoption, if 12 years of age or older;
- (6) Home studies or other reports; and
- (7) Order of preference of placement.

c. The petitioner and the proposed adoptee shall appear personally at the hearing. During the hearing, the Mashantucket Pequot Family Court shall advise the party(s) of their basic rights as provided under Mashantucket Pequot Tribal Law. The judge shall examine all persons separately, and may, if satisfied that all other requirements of this chapter have been met, enter a final decree of adoption, or may place the person to be adopted in the legal custody of the petitioner for a period not to exceed six (6) months prior to entering a final decree of adoption.

d. If the Mashantucket Pequot Family Court is satisfied that the adoption will not be in the Child's best interest, or finds that all of the requirements of this chapter have not been met, it may deny the petition and make any other order it deems necessary for the care and custody of the Child not inconsistent with this Title.

e. Proceedings for termination of the parent-Child relationship and proceedings for adoption may be consolidated and determined at one hearing provided that all the requirements of this Chapter and Chapter 5 of this Title governing termination are complied with fully.

5 M.P.T.L. ch. 7 § 11

§ 11. Adoption Decree

a. If the Mashantucket Pequot Family Court finds that the requirements of this Chapter have been met and that the Child's best interests will be satisfied, a final decree of adoption may be entered.

b. A person, when adopted, may take the name of the persons adopting him or her. Following the adoption, they shall have the legal relationship of parent and Child, and shall have all the rights and shall be subject to all the duties of that relationship, including all of the rights of a Child of the whole blood to inherit from any person, in all respects, under the provisions of inheritance and succession of this code.

5 M.P.T.L. ch. 7 § 12

§ 12. Intervention

Upon showing of good cause and if the best interests of the Child so indicate, the Court may allow or invite persons other than those entitled to notice to intervene and participate in any or all phases of the proceedings subject to the rules of confidentiality pursuant to this Title.

CHAPTER 8. WORKING WITH INDIAN CHILDREN

5 M.P.T.L. ch. 8 § 1

§ 1. Minimum Standards to Work with Indian Children

a. In accordance with 25 U.S.C. § 3207, the Tribe shall compile and maintain a list of all positions which involve regular contact with, or control over, Indian Children and hereby establishes, in subsection (b), character standards that these individuals shall meet.

(1) A representative designated by the Human Resources Department shall compile and maintain the list of all positions covered by this Chapter. The Human Resources Department will share this list with the Procurement Department.

(2) The Mashantucket Pequot Police Department shall fingerprint and perform a criminal, CT Department of Children and Family Services, and RI Department of Children, Youth and Family Services background investigation of each individual who is employed, is being considered for employment, is volunteering, or is a contractor or vendor in a position identified pursuant to subsection (a)(i) of this Section.

b. An individual who has been found guilty of, or entered a plea of no contest, or entered a plea of guilty to: (i) any felony within two(2)years; (ii) a felony involving crimes of violence; (iii) two or more misdemeanors involving crimes of violence; (iv) sexual assault, sexual molestation, sexual exploitation, illegal sexual contact, or prostitution; (v) crimes against persons; or (vi) offenses committed against Children shall be disqualified from holding any position designated by the Human Resources Department under Section 1(a)(i) as a position which involves regular contact with, or control over, Indian Children.

Historical Notes

Derivation.

Effective June 13, 1995 TCR061395-05 enacted the "Child Protection and Family Preservation Ordinance"

Amendments.

Effective August 31, 2005 TCR083105-02 amends 5 M.P.T.L. By adding Chapter 7. Adoptions.

Effective October 30, 2014 TCR103014-09 of 09 amended 5 M.P.T.L to account for the government reorganization, affirmatively state that the Tribal Court may assert jurisdiction over Tribal Children living off-Reservation, and update the character standards

Effective May 12, 2016 TCR051216-02 of 05 amended 5 M.P.T.L. Ch.8 §1 to clarify that character standards and requisite background checks apply to contractors and vendors who have regular contact with, or control over, Indian Children.