WALATOWA

PUEBLO OF JEMEZ

**PUEBLO OF JEMEZ TRIBAL COUNCIL RESOLUTION NO. 2026 - 50**
**REPEALING 2018 TRIBAL COUNCIL RESOLUTION PUEBLO OF JEMEZ CHILDREN'S CODE AND SUBSEQUENT AMENDMENTS THERETO AND ADOPTING 2026 TITLE XI - THE PUEBLO OF JEMEZ CHILDREN'S CODE**

At a duly called meeting of the Pueblo of Jemez Tribal Council on the 20th of November 2026, the following resolution was adopted:

**WHEREAS,** the Pueblo of Jemez is a federally recognized sovereign tribal government empowered through the Governors and Tribal Council to exercise all governmental powers including enacting tribal laws to govern tribal members and all resources within the boundaries of its Pueblo lands; and

**WHEREAS,** the Pueblo of Jemez is a federally recognized sovereign tribal government with a Governor and Tribal Council empowered to initiate and carry out programs for the benefit of the Jemez tribal members: and

**WHEREAS,** the Pueblo or Jemez Tribal Council adopted by Resolution the Pueblo of Jemez Children's Code, Title XI; Amended by Resolution 2007-50 to make it more responsive to the needs of the children, families, and service providers appearing in Jemez Tribal Court; Amended again by Resolution 2010-16 and once more amended by Resolution 2018-34 to allow collaboration and interaction with the State or New Mexico and to provide due process protections to limit liability placement of children in a New Mexico State facility; and

**WHEREAS,** the Jemez Pueblo Social Services Program contracted with a legal consultant to review and revise the Pueblo of Jemez Children's Code (as amended in 2018) to make it more responsive to the changes in Federal and/or State of New Mexico law, policies, and procedures as it relates to the prosecution and treatment of children appearing in the Pueblo of Jemez Children 's Court; and

**WHEREAS,** the Social Services Program and the Legal Consultant collaborated with Jemez Law Enforcement, Jemez Tribal Courts and Jemez Tribal Administration/Leadership through the Tribal Code Committee in revising the 2026 Title XI Pueblo of Jemez Children's Code; and

**WHERAS,** due to substantial and major changes to the current existing Title XI Pueblo of Jemez Children's Code, it is recommended by the Jemez Social Service Department and the Jemez Code Committee that the Children's Code adopted in 2018 be repealed and the new 2026 proposed Pueblo of Jemez Children's Code be adopted; and

**WHEREAS,** the Tribal Council has been advised of the proposed revisions and has determined that the new Children's Code will continue to strengthen our tribal sovereignty, contribute to the judicial needs of the Pueblo and provide for the orderly administration of tribal justice for children, families and parties that appear in the Pueblo of Jemez Children's Court.

**NOW THEREFORE BE IT RESOLVED THAT** the Pueblo of Jemez Tribal Council hereby REPEALS the Children's Code of 2018 and adopts the 2026 TITLE XI, the Pueblo of Jemez Children's Code, attached hereto as Exhibit A, which shall become effective immediately, and

**BE IT FURTHER RESOLVED** that the newly adopted Pueblo of Jemez Children's Code supersedes all prior code provisions and shall be incorporated into the Pueblo of Jemez Tribal Code, and

**BE IT FINALLY RESOLVED THAT** the Pueblo of Jemez Tribal Council authorize the Governor, Lieutenant Governors, Tribal Administration, Tribal Court, Social Services Program and staff to effectuate this Tribal Council Resolution.

## CERTIFICATION

I, THE UNDERSIGNED, as Governor of Pueblo of Jemez do hereby certify that the Jemez Tribal Council at a duly called meeting which was convened and held on the 20th day of November, 2026, at Pueblo of Jemez, New Mexico, approved the foregoing resolution that a quorum was present and that 8 voted for and 0 opposed and 0 abstained.

Governor John Galvan

ATTEST: 1ST Lieutenant Governor

**TRIBAL COUNCIL:**

Joe Cajero

James Roger Madalena

Paul S. Chinana

George Shendo, Jr.

Dominic Gachupin

David M. Toledo

Raymond Gachupin

Joseph A. Toya

J. Leonard Loretto

Vincent A. Toya, Sr.

Raymond Loretto, DVM

David R. Yepa

Peter Madalena

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PUEBLO of JEMEZ

**TRIBAL COUNCIL RESOLUTION NO. 2018-_34**

**RESOLUTION REPEALING 2007 PUEBLO OF JEMEZ CHILDREN'S CODE AND SUBSEQUENT AMENDMENTS THERETO AND ADOPTING 2018 PUEBLO OF JEMEZ CHILDREN'S CODE**

At a duly called meeting of the Tribal Council of the Pueblo of Jemez on the 11th of December 2018, the following resolution was adopted:

**WHEREAS,** the Pueblo of Jemez is a federally recognized sovereign tribal government with a Governor and Tribal Council empowered to exercise all government powers, fiscal authority and tribal sovereignty; and

**WHEREAS,** the Pueblo of Jemez is a federally recognized sovereign tribal government with a Governor and Tribal Council empowered to initiate and carry out programs for the benefit of the Jemez tribal members; and

**WHEREAS,** the Pueblo of Jemez Tribal Council adopted by Resolution 2007-39, the Pueblo of Jemez Children's Code, Title XI; Amended by Resolution 2007-50 to make it more responsive to the needs of the children, families and service providers appearing in Jemez Tribal Court; Amended again by Resolution 2010-16 to allow collaboration and interaction with the State of New Mexico and to provide due process protections to limit liability for placement of children in a New Mexico State facility; and

**WHEREAS,** the Jemez Pueblo Social Services Program contracted with a consultant to review and revise the Pueblo of Jemez Children's Code (as amended in 2010) to make it more responsive to the changes in Federal and/or State of New Mexico law, policies and procedures as it relates to the prosecution and treatment of children appearing in the Pueblo of Jemez Children's Court; and

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**WHEREAS,** the Social Services Program and the Consultant collaborated with Jemez Law Enforcement, Jemez Tribal Courts and Jemez Tribal Administration/Leadership in revising Title XI Pueblo of Jemez Children's Code; and

**WHEREAS,** due to substantial and major changes to the current existing Title XI Pueblo of Jemez Children's Code, it is recommended that the Children's Code adopted in 2007 and as subsequently amended in 2010 be repealed and the new 2018 proposed Pueblo of Jemez Children's Code be adopted; and

**WHEREAS,** the Tribal Council has been advised of the proposed revisions and have determined that the new Children's Code will continue to strengthen our tribal sovereignty, contribute to the judicial needs of the Pueblo and provide for the orderly administration of tribal justice for children, families and parties that appear in the Pueblo of Jemez Children's Court.

**NOW THEREFORE BE IT RESOLVED** that the Children's Code adopted in 2007 and subsequent amendments are hereby REPEALED and the new 2018 Pueblo of Jemez Children's Code Title XI Sections 11-1-1 to Sections 11 -9 -1 , are hereby APPROVED and ADOPTED as laws of the Pueblo and **shall become effective January 1, 2019**, and

**BE IT FURTHER RESOLVED** that the newly adopted Pueblo of Jemez Children's Code supersedes all prior code provisions and shall be incorporated into the Pueblo of Jemez Tribal Code.

## CERTIFICATION

I, THE UNDERSIGNED, as Governor of Pueblo of Jemez do hereby certify that the Jemez Tribal Council at a duly called meeting which was convened and held on the 11th day of December 2018, at Pueblo of Jemez, New Mexico, approved the foregoing resolution that a quorum was present and that 11 voted for and ~~0~~ opposed and ~~0~~ abstained.

Paul S. Chinana, Governor

ATTEST: _____
1st Lieutenant Governor

**TRIBAL COUNCIL:**

Joe Cajero

David M. Toledo

Raymond Gachupin

Jose Toledo

Frank Loretto

Michael Toledo, Jr.

J. Leonard Loretto

Paul Tosa

Raymond Loretto, DVM

Joseph A. Toya

James Roger Madalena

Vincent A. Toya, Sr.

Joshua Madalena

David R. Yepa

Jose E. Magdalena

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PUEBLO OF JEMEZ

**TRIBAL COUNCIL RESOLUTION No. 2010-_16__**

**Adopting Amendments to the Pueblo of Jemez Children's Code**

At a duly called meeting of the Tribal Council of the Pueblo of Jemez, the following resolution was passed:

**WHEREAS,** the Pueblo of Jemez is a federally recognized Indian Tribe with inherent powers of self-government and pursuant to its tribal sovereignty has the powers to legislate and enact tribal laws to control the conduct and activities within its tribal lands; and

**WHEREAS,** the Pueblo of Jemez Tribal Council adopted a Children's Code and established the Pueblo of Jemez Children's Court in an effort to provide care, protection, supervision and treatment for children who come before the Children's Court; and

**WHEREAS,** there is a lack of treatment and rehabilitation resources and service options for children coming before the Children's Court as delinquent youth or youth-in-need of supervision; and

**WHEREAS,** there is the need to identify and access State and other resources to provide these youth with more effective treatment and rehabilitation options; and

**WHEREAS,** in order to allow access to additional resources, the Children's Code must be amended to allow collaboration and interaction with State and other entities, provide for certain due process protections to limit potential liability for children placed in State facilities, and allow for appropriate information sharing.

**NOW THEREFORE BE IT RESOLVED** that the proposed amendments to the Pueblo of Jemez Children's Code, Title XI, Sections 11-1-1 to Section 11-7-6, are hereby approved and adopted as laws of the Pueblo; and

**BE IT FURTHER RESOLVED** that the amendments to the Pueblo of Jemez Children's Code be incorporated and made a part of the Children's Code as adopted.

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## CERTIFICATION

I, the undersigned, as the Governor of the Pueblo of Jemez hereby certify that at a duly called meeting of the Tribal Council held on the 28th day of April 2010, the foregoing resolution was passed, a quorum being present and that 11 voted for with 0 opposed and 0 abstained.

Governor Joshua Madalena

ATTEST:
1st Lieutenant Governor

**TRIBAL COUNCIL:**

Candido Armijo

Roger Madalena

Joe Cajero

Jose L. Pecos

Paul S. Chinana

Arthur Sandia

Raymond Gachupin

Jose Toledo

Frank Loretto

Michael Toledo, Jr.

J. Leonard Loretto

David M. Toledo

Raymond Loretto

Paul Tosa

Jose E. Magdalena

Vincent A. Toya, Sr.

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PUEBLO of JEMEZ

**TRIBAL COUNCIL RESOLUTION**
**No. 2007-50**

**Adopting Amendments to the Pueblo of Jemez Children's Code**

At a duly called meeting of the Tribal Council of the Pueblo of Jemez, the following resolution was passed:

**WHEREAS,** the Pueblo of Jemez is a federally recognized Indian Tribe with inherent powers of self-government and pursuant to its tribal sovereignty has the powers to legislate and enact tribal laws to control the conduct and activities within its tribal lands; and

**WHEREAS,** on August 10, 2007, the Pueblo of Jemez Tribal Council adopted the Children's Code and established the Pueblo of Jemez Children's Court as a Division of the Pueblo of Jemez Tribal Judiciary; and

**WHEREAS,** since that time, the Social Services Department, Law Enforcement Services, Tribal Courts, Tribal Administration and the Pueblo's legal counsel have had the opportunity to review the practical application of the Children's Code and now recommend amendments to the Children's Code which will make it more responsive to the needs of the children, families and service providers who come before the Pueblo of Jemez Children's Court.

**NOW THEREFORE BE IT RESOLVED** that the proposed amendments to the Pueblo of Jemez Children's Code, Title XI, Sections 11-1-1 to Section 11-7-6, are hereby approved and adopted as laws of the Pueblo; and

**BE IT FURTHER RESOLVED** that the amendments to the Pueblo of Jemez Children's Code be incorporated and made a part of the Children's Code as adopted.

## CERTIFICATION

I, the undersigned, as Governor of the Pueblo of Jemez, hereby certify that at a duly called Tribal Council meeting held on the 30th day of November 2007, the Tribal Council approved this Resolution, a quorum being present, and that 19 voted for, with 0 opposed and 0 abstained.

Governor Raymond Gachupin

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ATTEST:

Candido Armijo

Frank Loretto

Raymond Loretto

Jose L. Pecos

Jose Toledo

Patrick Waquie

Vincent Toya

Joe Cajero

J. Leonard Loretto

Joe E. Madalena

Arthur Sandia

Michael Toledo, Jr.

Roger Madalena

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PUEBLO of JEMEZ

**TRIBAL COUNCIL RESOLUTION**
**No. 2007-_39_**

**Tribal Resolution Adopting the Pueblo of Jemez Children's Code**

At a duly called meeting of the Tribal Council of the Pueblo of Jemez, the following resolution was passed:

**WHEREAS,** the Pueblo of Jemez is a federally recognized Indian Tribe with inherent powers of self-government and pursuant to its tribal sovereignty has the powers to legislate and enact tribal laws to control the conduct and activities within its tribal lands; and

**WHEREAS,** the Pueblo's Social Services Program contracted with Indian Pueblo Legal Services for the development of a Children's Code to help the Pueblo identify a judicial process for Children in Need of Supervision, Delinquent Children and to provide parties a fair hearing in which their rights are recognized and enforced; and

**WHEREAS,** the purpose of the Pueblo of Jemez Children's Code is to preserve and restore the family unit whenever possible by providing care, protection, supervision, rehabilitation, and treatment options for children who come before the Pueblo of Jemez Children's Court; and

**WHEREAS,** the Children's Code is to assist in preventing abuse and neglect of children and to prevent children from committing delinquent acts and whenever necessary to take the child out of the family environment for the child's welfare or in the interest of public safety; and

**WHEREAS,** the Social Services Department, Law Enforcement Services, Tribal Courts, Tribal Administration and the Pueblo's legal counsel have reviewed and revised several drafts of the Children's Code and now recommend for adoption the Pueblo of Jemez Children's Code and for formal establishment of a Children's Court Division; and

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**NOW THEREFORE BE IT RESOLVED** that the Pueblo of Jemez Children's Code, Title XI, Sections 11-1-1 to Section 11-7-6 are adopted as laws of the Pueblo; and

**BE IT FURTHERMORE RESOLVED** that the Pueblo of Jemez Children's Court is formally established as a Division of the Pueblo of Jemez Judiciary.

## CERTIFICATION

I, the undersigned, as Governor of the Pueblo of Jemez, hereby certify that at a duly called Tribal Council meeting held on the 10th day of August, 2007, the Tribal Council approved this Resolution, a quorum being present, and that 10 voted for with 0 opposed and 0 abstained.

Governor Raymond Gachupin

ATTEST:

Candido Armijo

Frank Loretto

Raymond Loretto

Roger Madalena

Arthur Sandia

Michael Toledo, Jr.

Joe Cajero

J. Leonard Loretto

Joe E. Madalena

Jose L Pecos

Jose Toledo

Vincent Toya

Augustine Waquie

# TITLE XI
# PUEBLO OF JEMEZ CHILDREN'S CODE

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# TITLE XI
# PUEBLO OF JEMEZ CHILDREN'S CODE

## CHAPTER 1 GENERAL PROVISIONS

### SECTION 11-1-1 PURPOSE, POLICY

The Jemez Pueblo Children's Court has exclusive jurisdiction to hear and adjudicate issues relating to the well-being of children according to the following policies:

A. The Jemez Children's Court will provide a place for the resolution of problems involving children and their families relying on the traditional law and culture of the Pueblo of Jemez to solve these problems in a collaborative and restorative manner. The Jemez Children's Court provides procedures for the deliberative resolution to issues of juvenile delinquency, child supervision and child abuse and neglect that utilizes both traditional and contemporary problem-solving methods.

B. The Jemez Children's Court will work to preserve the family recognizing that issues of juvenile delinquency, children in need of supervision and child abuse and neglect are family-based issues that require the participation of all members of the family to resolve. Therefore, parental responsibility is considered an important part of resolving these issues.

C. The Jemez Children's Court recognizes that the court system cannot solve personal problems and family dynamics that have brought the family into the court system. Therefore, it is the role of the Jemez Children's Court to educate and provide a way for the child and family to get the assistance needed to overcome physical, emotional, psychological and spiritual issues that are at the root of criminal activity or abuse and neglect.

D. Only if the child has shown that they are a danger to themselves or others through repeated negative behavior will the child be placed into a restrictive environment. Similarly, a child should not be removed from their home for accusations of abuse or neglect without evidence that the child would be subject to Imminent Physical or Emotional Harm as defined within this Children's Code.

### SECTION 11-1-2 DEFINITIONS

A. The following terms shall apply to the Children's Code:

1. "Abandoned" means the failure of the parent, custodian or guardian to provide reasonable support, maintain regular contact with the child, and provide adequate supervision. A child shall be presumed to be abandoned when a parent, guardian, or custodian fails to maintain a parental relationship with the child without just cause for a minimum period of thirty (30) days. Placing a child in the legal

custody of extended family member or voluntarily consenting to placement does not constitute abandonment.

2. "Abuse" means the infliction of physical, emotional or mental injury, including sexual exploitation or assault, on a child or any other action that endangers the child's physical or mental health, emotional well-being or development, including exposure to domestic violence, and includes failing to maintain reasonable care and treatment of a child.

3. "Active Efforts" means using affirmative thorough and culturally consistent efforts to develop a case plan, and provide, locate or refer parent(s), custodian(s), or guardian(s) to services designed to:

   a. Prevent the removal of a child from his or her home;

   b. Reunite a child with his or her parent(s), guardian(s) or custodian(s) after removal; and

   c. Finalize a permanent placement for a child when he or she is not able to return home.

   Services could include, but are not limited to, parenting education, substance abuse and after-care services, mental health counseling, domestic violence services and assistance accessing resources for basic living needs. The Case Plan and services should be tailored to the facts and circumstances of the particular case. All efforts should be documented in detail.

   A finding of active efforts by the Jemez Children's Court incorporates and necessarily includes a finding that reasonable efforts have been made.

4. "Adjudicated Child" means a child that has admitted to allegations of committing a crime or has been found to be delinquent in the Jemez Children's Court, has been found to be a child in need of services, or an abused, neglected or dependent child in the Jemez Children's Court.

5. "Adoption" means the legal creation of a permanent parent-child relationship with someone other than the child's birth parent(s).

6. "Adult" means a person eighteen (18) years of age or older, or a person who has been emancipated by order of a court of competent jurisdiction.

7. "Advocate or Guardian Ad Litem" means a person other than an immediate family member appointed by the Jemez Children's Court to represent the child's

best interest or appointed to represent a parent who is unable to represent himself or herself in any proceeding(s) under the Children's Code, including professional attorneys at the expense of the child's family or guardian. The Jemez Children's Court shall make an inquiry that any individual appointed as an Advocate or Guardian Ad Litem does not have a conflict of interest in the matter before the Court.

8. "Behavioral Health Program" means the Behavioral Health Program of the Pueblo of Jemez.

9. "Best interests of the child" is the standard by which the Jemez Children's Court will make decisions regarding a child subject to proceedings within the Jemez Children's Court jurisdiction. This standard will include consideration of the following:

   a. The circumstances of the child, and those of his or her parent(s), guardian(s), and custodian(s), as well as considering the capacity of those parent(s), guardian(s), and custodian(s) to parent;

   b. Need of a child for a safe and nurturing home environment that offers emotional support and comfort;

   c. Basic needs of food, clothing and shelter;

   d. Reasonable medical care;

   e. Protection from danger, violence or exposure to harmful conduct including drug or alcohol abuse;

   f. Connection to loving family members for guidance and nurturing;

   g. Availability to connect and participate within the child's larger Pueblo of Jemez and/or other tribal community, including participation in cultural activities, access to his or her native language;

   h. Opportunities to pursue education, enrichment and personal interests;

   i. Opportunities for play and recreation;

   j. The possession of toys and other personal items the child considers important; and

k. Any other considerations the Jemez Children's Court deems relevant regarding decisions related to a child in these matters.

10. "Case Plan" means a written document prepared by Jemez Social Services that outlines the objectives and steps that Jemez Social Services and parent(s), guardian(s), or custodian(s), and children ,and other involved individuals in a case will be working on for the reunification of the family and case closure.

11. "Child" means an enrolled member of the Pueblo of Jemez or an individual who is eligible for enrollment with the Pueblo of Jemez, or any other person who is subject to the jurisdiction of the Pueblo of Jemez, and is under the age of eighteen (18) years.

12. "Child in Need of Supervision" means a child who:

a. Is habitually absent from school while subject to compulsory school attendance; or

b. Habitually disobeys the reasonable and lawful demands of his or her parents, guardians or legal custodians, and is beyond control; or

c. Has committed an offense not classified as a crime or an offense applicable only to children; or

d. In any of the foregoing situations, is in need of care or rehabilitation.

13. "Children's Code" or "Jemez Children's Code" means this Title XI, Pueblo of Jemez Children's Code that may be amended from time-to-time.

14. "Contempt" means willful misbehavior by any person which disrupts, obstructs, or otherwise interferes with the conduct of any civil proceeding before the Jemez Children's Court, or which obstructs or interferes with the administration of justice by Jemez Children's Court, or which constitutes disobedience or resistance to or interference with any lawful summons, subpoena, process, order, rule, decree or command of the Jemez Children's Court will constitute contempt of court. The willful failure of a party to comply with the terms of a civil judgment directed against him or her with which he or she can comply shall be held in civil contempt of the Jemez Children's Court.

a. When contempt of Jemez Children's Court is committed in the presence of the Jemez Children's Court Judge, it may be punished summarily by that Judge. In such case, an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and

prescribing the punishment for such contempt. When it appears upon a verified statement filed with the Jemez Children's Court reciting with particularity the alleged acts and/or omissions constituting contempt to the Jemez Children's Court, which contempt may have been committed out of the presence of the Jemez Children's Court, the Jemez Children's Court may issue a summons to the person so charged directing him or her to appear at a time and place designated for a hearing on the matter. If such person served with the summons fails to appear at the time and place so designated, the Jemez Children's Court shall conduct a hearing, and if it finds him or her guilty of contempt, an order shall then be made reciting the facts constituting the contempt, adjudging the person subject to contempt, and prescribing the punishment for such contempt in accord with this subsection.

b. The Jemez Children's Court Judge may punish for civil contempt by community service and/or fine not to exceed $500 and may punish for criminal contempt by community service and/or fine not to exceed $1000. Civil and criminal contempt may also be punished by imprisonment not to exceed forty-eight (48) hours though this should be deemed an extraordinary remedy by the Jemez Children's Court.

15. "Ex parte" means asking the Jemez Children's Court to issue an order without one or more party receiving prior notification of the hearing and/or requiring the other party to be there.

16. "Extended Relative" means a person who is the child/adoptee's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent, or is recognized by traditional Pueblo custom and/or practice as an extended family member.

17. "Jemez Children's Court Judge" means: the Jemez Children's Court Judge or a Tribal Court Judge when fulfilling the role of judge for the Jemez Children's Court.

18. "Clear and Convincing Evidence" means the conforming to or being the standard of proof required in which the party bearing the burden of proof must show that the truth of the allegations is highly probable.

19. "Clerk of the Tribal Court" means the Clerk(s) who provides services for both the Jemez Pueblo Tribal Court and the Jemez Children's Court.

20. "Court Ordered Supervision" means the supervision ordered by the Jemez Children's Court under which a child is permitted to return to his or her parents,

or is placed with an extended relative or other suitable individual, and is required to comply with certain rules and conditions which are supervised by the Pueblo of Jemez Probation Department or any agency designated by the court. Court ordered supervision is an alternative disposition where the pending legal proceedings are suspended to allow the child to comply with certain conditions or restrictions as an alternative to possible detention or other rehabilitation services.

21. "Custodian" means a person other than a parent or legal guardian to whom legal custody of a child has been given by order of the Jemez Children's Court and may include a person with whom a child is placed by the parent(s).

22. "Customary Adoption", for purpose of Jemez Children's Code means an adoptive process that is based in the traditions of the Pueblo of Jemez and includes family and extended relatives as parties of interest in the adoption of a child.

23. "Days" means calendar days.

24. "Delinquent Act" means an act committed by a child which would be a crime if committed by an adult pursuant to Title III – Criminal Code of the Pueblo of Jemez Tribal Code. Delinquent acts include crimes against persons, crimes against property, drug offenses and crimes against public order.

25. "Delinquent child" means a child who is adjudicated to have committed a delinquent act, but shall not include a child under ten (10) years of age.

26. "Dependent Child" means a child:

    a. Who has been abandoned by his or her parent(s), guardian or custodian as defined within this Section 11-1-2(A)(26); or

    b. Who is without proper parental care and control or whose subsistence, education, medical or other care or control necessary for his or her well-being is inadequate because of the faults or habits of his or her parent(s), guardian(s) or custodian(s), or when able to do so, they neglect or refuse to provide the necessary care and control; or

    c. Whose parent(s), guardian or custodian is unable to discharge his or her responsibilities to and for the child because of incarceration, hospitalization or other physical or mental incapacity; or

    d. Who has been placed in legal custody or adoption in violation of Pueblo of Jemez law, the Indian Child Welfare Act, or other federal law, or other applicable state or tribal law; or

e. Who has been physically, emotionally, psychologically or sexually abused by his or her parent(s), guardian(s), custodian(s) or by others; or

f. Who has been sexually exploited by his or her parent(s), guardian(s) or custodian(s) or by others;

g. Whose parent(s), guardian(s) or custodian(s) has knowingly, intentionally or negligently:

i. Placed the child in a situation that may endanger his or her life or health; or

ii. Tortured, cruelly confined or cruelly punished him or her, or

iii. Exposed the child to domestic violence.

27. "Detention" means the temporary placement in physically restricting facilities for the protection of the child or the Pueblo of Jemez pending disposition of a child alleged to have committed a delinquent act.

28. "Domestic violence" means the occurrence of one or more the following acts by a family or household member who reside together or formerly resided together, but does not include acts of self-defense:

a. Attempting to cause or intentionally, knowingly or recklessly causing bodily injury with or without a deadly weapon to another family or household member; and/or

b. Emotional abuse; and/or

b. Placing by physical menace or threat another family or household member in fear of serious bodily injury; and/or

c. Causing a family or household member to engage involuntarily in sexual activity by force, threat of force, or duress.

29. "Domicile" means the place of residence, including the intent to establish a permanent home or where the parents or custodian consider to be their permanent home. A child who physically resides with the custodial parent within Pueblo of Jemez tribal lands is a domiciliary of the Pueblo of Jemez. The domicile of a child born out of wedlock is that of the natural mother unless otherwise established with the father. Domicile for purposes of jurisdiction is established at

the time of the alleged act(s). Children who are members of the Pueblo of Jemez shall be afforded domicile for the purposes of the Children's Code.

30. "Emergency Foster Care" means emergency placement according to the Placement Preferences of Section 11-1-14, with those placements which have previously met and continue to maintain Jemez Social Services licensure requirements, or both of which have previously met and continue to maintain the licensure requirements of a child protection agency of another state or tribe. In the event placement is possible with extended relative(s), placement may occur prior to licensure though Jemez Social Services is required to promptly work with the extended relative(s) to fulfill licensure requirements.

31. "Expungement" is the removal and destruction of court files and other court data relating to a particular person.

32. "Extra-Territorial Jurisdiction" means the exercise of jurisdiction outside of the exterior boundaries of the Pueblo of Jemez.

33. "Foster Care" means placement according to the Placement Preferences of Section 11-1-14, with those placements which have previously met and continue to maintain Jemez Social Services licensure requirements, or both of which have previously met and continue to maintain the licensure requirements of a child protection agency of another state or federally-recognized tribe pending the completion of conditions for reunification placed on the parents or pending adoption. In the event placement is possible with extended relative(s), placement may occur prior to licensure though Jemez Social Services is required to promptly work with the extended relative(s) to fulfill licensure requirements.

34. "Grandparent" means a person who is related to a child either biologically or through adoption, as the parent of the child's parent or the great-grandparent of a child. The termination of a parent's parental rights does not affect the grandparent relationship.

35. "Guardian" means a person, other than a parent, including an aunt, uncle, grandparent or other extended relative, ordered by a court of law as having the duty and authority to provide care and control of a child.

36. "Imminent Physical or Emotional Harm" means present or impending risk of serious bodily injury, emotional harm or death that will result in severe harm if safety intervention does not occur.

37. "Indian Child Welfare Act" or the "ICWA" means the federal law entitled the Indian Child Welfare Act of 1978, 25 U.S.C.A. §1901-§1963.

38. "Jemez Children's Court" means the division of the Pueblo of Jemez Tribal Court which hears matters relating to the protection of children, adjudicates children who have been accused of an offense, determines placement, adoption and other matters involving the children of the Pueblo of Jemez.

39. "Jemez lands" means all lands within the exterior boundaries of the Pueblo of Jemez and such other lands that may be acquired or added to the reservation and held in trust for the Pueblo of Jemez.

40. "Jemez Pueblo" or "Pueblo" means the Pueblo of Jemez.

41. "Jemez Qualified Expert Witness" means, only for the purpose of an ICWA case, a person recognized by Jemez Pueblo to have specific knowledge of Jemez Pueblo's culture and customs or experience in the delivery of child and family services to Indians and knowledge of prevailing social and cultural standards and childrearing practices within Jemez Pueblo. Jemez Social Services shall adopt a policy providing the qualifications of a Jemez Qualified Expert Witness and list of individuals available to offer such expert testimony services in ICWA cases according to Jemez Social Services policy.

42. "Jemez Social Services" means the Jemez Social Services Program of the Pueblo of Jemez.

43. "Law Enforcement Officer" means a Pueblo of Jemez Police Department officer or any officer of the law who has authority to keep the peace and enforce the laws of the Pueblo of Jemez.

44. "Least Restrictive Environment" means the placement of a child in detention, protective custody or incarceration in a place that provides the maximum possible opportunities for interaction with family and educational, therapeutic and medical opportunities.

45. "Legal Custody" means an order of a court of competent jurisdiction that grants a parent, other person or entity certain rights, including the right to have physical custody of the child; the right to determine where and with whom the child shall live; the right and duty to protect, educate, and discipline the child and to provide him or her with food, shelter, education and ordinary medical care. Such rights may be subject to the powers, rights, duties and responsibilities of the guardian of the child and subject to any existing parental rights and responsibilities. An individual or individuals that have been granted Legal Custody shall herein be referred to as "Custodian(s)".

46. "Legal Holiday" means a day recognized as a holiday by federal, State of New Mexico or Pueblo of Jemez governments and is marked by restrictions on work and transaction of official business.

47. "Neglect" means the failure to provide proper age-appropriate parental care and control for the basic necessities of life such as food, clothing, shelter, education or medical care or other care or control necessary for the child's well-being because of the faults or habits of his or her parents, guardians or custodians, or when able to do so, they neglect or refuse to provide the necessary care and control. Neglect includes abandonment.

48. "Non-appearance" means the failure of a child to appear for any hearing related to the purpose for which the child has been come under the jurisdiction of the Tribal Children's Court.

49. "Non-Customary Adoption" for the purpose of the Jemez Children's Code is an adoption of a child in which the Pueblo of Jemez or an agency of the Pueblo petitions for the adoption rather than the family, extended relatives of the child or an interested party.

50. "Parent" includes a natural or adoptive parent and includes any person whose parental rights have been suspended, but does not include persons whose parental rights have been terminated.

51. "Petitioner" means the Pueblo of Jemez Social Services Program, which is charged with the protection, rehabilitation, care or supervision of a child, or a Law Enforcement Officer, or any other person authorized under this Code, who initiates a Jemez Children's Court proceeding under this Code. A Law Enforcement Officer shall initiate a Jemez Children's Court proceeding involving a child under the age of twelve (12) years only upon consultation and recommendation of Jemez Social Services.

52. "Placement" means when a child is brought to live in a home other than his or her original home.

53. "Probation" means a sentence imposed by the Jemez Children's Court that, subject to stated conditions, allows the child to be released back into the community instead of sending the child to detention. A child who is on probation is subject to supervision by the Pueblo of Jemez Probation Department which is required to work with Jemez Social Services or any other agency of the Pueblo of Jemez or State of New Mexico to address any probation violations by the child.

54. "Protective Services" are services provided to a child(ren) who is at risk of abuse, neglect, injury or death. Services are provided by Jemez Social Services in coordination with other agencies where needed.

55. "Protective Services Worker" means Jemez Social Services or its employee who is responsible for preventing abuse, neglect and exploitation of children by offering social services to stabilize family life and help preserve the family unit by providing care, rehabilitation and treatment to those children or families in need of such services.

56. "Protective Supervision" refers to the legal status created by a Jemez Children's Court order under which a child is permitted to remain with his or her parents, guardians or legal custodians, or is placed with an extended relative or other suitable individual with supervision, monitoring and assistance provided by Jemez Social Services in coordination with other agencies where needed at the discretion of Jemez Social Services.

57. "Punitive Damages" means damages awarded in excess of compensation to a plaintiff to punish a defendant for a serious wrong.

58. "Reasonable doubt" means a doubt that arises or remains upon fair and thorough consideration of the evidence or lack thereof.

59. "Recuse" refers to a situation in which a Jemez Children's Court Judge is not allowed to hear a specific case due to a family conflict of interest. A Jemez Children's Court Judge may recuse themselves or the Governor for the Pueblo of Jemez may recuse the judge.

60. "School" means a public or parochial or other nonpublic school that provides a basic academic education in compliance with Jemez school attendance laws for students in grades one to twelve.

61. "Shelter Care" means the care of a child placed in Foster Care or an institution maintained by individuals or organizations approved or authorized by the Pueblo of Jemez to receive and care for children pending court disposition of a Jemez Children's Court proceeding.

62. "Telephonically" means any voice or video communication, including, but not limited to telephone call, conference call, online voice chat, online video chat or direct video conferencing – "telephonically" does not include e-mail, text messaging, written instant messaging, written online chat or other non-verbal communication.

63. "Tribal Court" means the Tribal Court of the Pueblo of Jemez of which the Jemez Children's Court is a part.

64. "Tribal Membership Status" means information which indicates whether a person's membership status with the Pueblo is one of the following: 1) a person whose name appears in the official Jemez Pueblo tribal membership roll; or 2) a person eligible for membership in Jemez Pueblo; or 3) a member of another federally recognized Indian Pueblo, tribe or nation; or 4) a person whose Indian ethnicity is claimed but cannot clearly be established.

65. "Tribal Officials" means the officers of the Pueblo of Jemez and their aides who are appointed and serve for one-year terms.

66. "Truancy" or "Truant" means any absence of part or all of one or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the person having the absent pupil under his or her control.

67. "Waiver of Service" is the voluntary acknowledgment that a court case is pending and that the respondent will appear without further summons. A Waiver of Service is evidenced by the signature of the Respondent on a written waiver form provided by Jemez Children's Court.

68. "Ward of the Court" is a child who has been placed in an out of home placement by the Jemez Children's Court and the Court maintains jurisdiction over the child until it is determined that the parents are capable of providing a safe and nurturing environment for the child or the child is placed into customary adoption.

69. "Welfare check" refers to the essential law enforcement function of entering a premise without a warrant based on reasonable belief that an inhabitant of a residence or business is endangered. Reasonable belief is based on statements of concerned individuals or a tribal agency.

## SECTION 11-1-3 JURISDICTION

A. Personal

The Jemez Children's Court shall have jurisdiction over all persons in matters that involve a child as defined under Section 11-1-2(A)(11) of this Title. This shall include. but not be limited to, the exercise of jurisdiction over cases of juvenile delinquency, children in need of supervision and child abuse and neglect when:

1. a child has committed an act that would be considered a crime if committed by an adult (Juvenile Delinquency);

2. a child has committed an act that is not a crime but indicates the lack of parental supervision or out of control child (Children in Need of Supervision);

3. a child has been a victim of child abuse or neglect; or

4. the matter before the court involves child legal custody and is subject to periodic review by the court and may also be guided by a Domestic Relations Code adopted by the Pueblo of Jemez.

B. Territorial

The Jemez Children's Court shall have jurisdiction over all matters under the Children's Code arising within the exterior boundaries of the Pueblo of Jemez. The Jemez Children's Court shall have exclusive jurisdiction over any child who resides or is domiciled within Pueblo lands or is a ward of the Jemez Children's Court, regardless of tribal membership status. The Jemez Children's Court may exercise jurisdiction over children who are enrolled members of the Pueblo of Jemez that do not live within the exterior boundaries of Pueblo lands where the Jemez Children's Court finds that there is an adequate basis.

C. Extra-territorial Jurisdiction

1. The Jemez Children's Court exercises extra-territorial jurisdiction through the implementation of the Indian Child Welfare Act pursuant to 11-7-1 of this Code. The Jemez Children's Court can exercise extra-territorial jurisdiction under tribal/state agreement or through the Indian Child Welfare Act over children who are members of the Pueblo or eligible to be members of the Pueblo.

2. The Court may reserve jurisdiction in the Pueblo of Jemez Children's Court when an order is issued transferring legal custody of an adjudicated delinquent child to an off-reservation agency responsible for the legal custody and rehabilitation of delinquent children. Such reservation of jurisdiction may include:

   a. Whether to parole or release the child;

   b. Whether supervision of a child after release under paragraph (1) of this subsection may be conducted by an agency other than the Probation Office of the Pueblo of Jemez, or under any conditions deemed appropriate.

3. Any Pueblo of Jemez child who is domiciled or resides within Jemez Pueblo and is voluntarily placed outside of the Jemez Pueblo shall be made a ward of the

Jemez Children's Court. A copy of any consent executed by the parents of such Jemez child and the location of placement shall be filed with the Jemez Children's Court. A report on the location of the child shall be filed annually with the Jemez Children's Court. A child becomes a ward of the Court when he or she physically leaves Jemez Pueblo in these circumstances. Any placement of a Jemez child in violation of this section may be invalidated upon petition to the Jemez Children's Court and the child shall immediately be made a ward of the Jemez Children's Court.

D. Continuing Jurisdiction

Jurisdiction obtained by the Court of a child under this Title shall continue for purposes of this Title until the child becomes eighteen (18) years of age, unless terminated prior thereto. Once the Court asserts jurisdiction over a person, the Court may retain jurisdiction over that person even if the person leaves the physical boundaries of the reservation.

E. Concurrent Jurisdiction

When a person seventeen (17) years of age or under who is under the continuing jurisdiction of the Court pursuant to this Code violates any applicable federal, state or local law, municipal or Tribal Ordinance, the Jemez Children's Court shall have concurrent jurisdiction with the Court having original jurisdiction of the new offense.

F. Termination of Jurisdiction

Jurisdiction obtained by the Jemez Children's Court over a child is retained until terminated by the following situations:

1. The child turns 18 years of age except when the child is participating in a court ordered program that extends or continues beyond the child's eighteenth ($18^{th}$) birthday.

2. When the Jemez Children's Court enters an order vacating the case or otherwise terminating jurisdiction.

## SECTION 11-1-4 POWER AND AUTHORITY

A. The Jemez Children's Court has the authority to hear and adjudicate matters coming before the Jemez Children's Court in accordance with the policies identified in Section 11-1-1, including:

1. Juvenile delinquency cases, which includes adjudicating offenses pursuant to Title VII, Traffic Offenses of the Pueblo of Jemez Tribal Code involving a child;

2. Determining if a child is a "Child in Need of Supervision";

3. Determining if a child is a "Dependent Child";

4. Issue orders on the emergency, temporary, and permanent legal custody of children which its jurisdictions, including custodianships, guardianships, adoptions, and open adoptions for a child,

5. Appoint Advocate/Guardian Ad Litem for the child;

6. Paternity determinations;

7. Protection of a mentally ill or mentally challenged child;

8. Determining temporary legal custody, protective legal custody and temporary placement matters;

9. Determining shelter care and detention matters, including treatment and rehabilitation options;

10. Determining and applying appropriate sentencing options including treatment, detention, probation or court ordered supervision;

11. Citing a person for contempt of court for disobeying the Court's order and for obstructing or interfering with the proceedings of the Court or the enforcement of its orders;

12. Issue, upon motion of a party or on its own motion, an order restraining the conduct of any party over whom the Court has obtained jurisdiction;

13. Power to decide questions of jurisdiction which may be raised under this Code or raised under other Codes and concerning child welfare; and

14. Develop, implement, and amend rules of court, including rules of evidence and civil procedure applicable to Jemez Children's Court proceedings.

B. The Jemez Children's Court is authorized to prepare, apply for and receive grants and to cooperate with any agency of the Pueblo of Jemez and any federal, state, or local agency that provides diversion, rehabilitation or training programs for children to carry out the purposes of this Code.

C. The Jemez Children's Court may accept or decline transfers of child legal custody proceedings from state or federal courts, or from courts of other federally-recognized Indian Tribes; however, it shall be the policy of the Pueblo of Jemez that, absent good cause, child legal custody proceedings involving Pueblo of Jemez children should be heard in the Jemez Children's Court.

D. The Pueblo of Jemez Governors and Tribal Administration are authorized to negotiate on behalf of the Jemez Children's Court intergovernmental agreements with appropriate agencies and governmental organizations subject to approval by the Tribal Council for the Pueblo of Jemez.

## SECTION 11-1-5 TREATMENT OPTIONS

A. The Jemez Children's Court shall collaborate with agencies that provide mental health, counseling and other services designed to reduce individual and family dysfunction, including residential services.

1. The Jemez Children's Court shall order assessments in any case in which the matter coming before the Court reflects a pattern of domestic violence, alcohol and/or drug abuse, abuse or neglect of children or lack of supervision over the children.

2. Assessment can be ordered at any stage of the proceeding at the discretion of the Jemez Children's Court.

## SECTION 11-1-6 JEMEZ CHILDREN'S COURT DISPOSITIONAL ALTERNATIVES

A. Policy

Dispositions in cases coming before the Jemez Children's Court shall be based on restorative justice principles and will serve to resolve family and individual problems that caused the negative actions. Detention of juveniles or separating a child from their parents, guardians and legal custodians should be considered only after all other attempts to resolve the negative behavior have failed.

B. Probation and Fiscales Written Reports

All resolutions and predispositional reports provided by Probation and/or the Fiscales shall be evidenced in a written form fully describing the findings of Probation and/or the Fiscales and clearly describing the recommendations to the Court, including any conditions, requirements or other circumstances.

C. Disposition of Mentally Ill or Mentally Challenged Child

At any stage of a Jemez Children's Court proceeding and upon a finding that a child is mentally ill or mentally challenged, the Jemez Children's Court shall order Jemez Social Services and the Jemez Behavioral Health Program to conduct an evaluation and to report to the Court on the child's condition. The report shall be provided to the Court no later than thirty (30) days from the order. The Jemez Children's Court shall make an appropriate disposition after a hearing on the results of the evaluation and the recommendations of Jemez Social Services and the Jemez Behavioral Health Program.

1. If Jemez Social Services recommends involuntary placement of a child in a residential treatment facility after conducting an evaluation under this subsection, all parties shall be provided proper notice prior to the hearing where the Jemez Children's Court will consider such involuntary placement. The health care provider or medical person that conducted the evaluation of the child shall be included as a witness at the hearing.

2. The child has the following rights regarding involuntary placement hearings:

    a. The right to be represented in the proceedings by an Advocate at his or her own expense;

    b. The right to present evidence and cross examine witnesses; and

    c. The right to access the complete evaluation submitted to the Jemez Children's Court by Jemez Social Service and all other evidence submitted for the Court to consider at the hearing.

3. An order issued by the Jemez Children's Court for involuntary placement shall be based on the following:

    a. A qualified health care provider or medical person's testimony of:

        i. The child's symptoms or behaviors,

        ii. An examination of alternatives where applicable;

    b. An examination of the parents, guardians or legal custodians opinion where possible, and where not possible a description of the efforts to garner the opinion of the parents', guardians' or legal custodians' opinions by the Court;

    c. Clear and convincing evidence that because of the child's mental illness or challenge:

i. The child needs treatment and is likely to benefit from the proposed treatment,

ii. The involuntary placement is consistent with the child's treatment needs, and

iii. The proposed involuntary placement is consistent with the Least Restrictive Environment principle as described in this Children's Code.

4. When a child is subject to this subsection and is receiving residential treatment, any documentation resulting from such treatment shall be filed with the Jemez Children's Court and such requirement shall be included in the Court's order.

5. The Jemez Children's Court will review the child's involuntary or voluntary placement not to exceed a period of every sixty (60) days. If the voluntary or involuntary placement exceeds one (1) year the reviews shall start being conducted within every thirty (30) days.

6. For cases where an involuntary committal is ordered under this subsection, the Clerk of the Tribal Court will organize all records pertaining to this subsection in a separate section of the case file.

D. Disposition of a Child Adjudicated to be Delinquent

1. A child who has been adjudicated as delinquent may be placed on probation with conditions attached that are meant to rehabilitate the child and to strengthen the family pursuant to Section 11-3-10 (A) of this Code.

2. Only if previous efforts to rehabilitate the child have failed, the child may be ordered into incarceration, except that no child shall be ordered to an institution for delinquent children for more than one (1) year without further order of the Court. Incarceration of a child is disfavored and should be considered by the Court as an extraordinary remedy.

3. Court orders for the incarceration of a child will be provided to the Fiscales every ninety (90) days where applicable to provide the Fiscales the opportunity to review for appropriateness, family progress, and to advise the Jemez Children's Court on whether continued detention is in the best interests of the child.

4. The delinquent child shall be placed in incarceration pursuant to the standards found in 11-3-7(C) and under no conditions will the child be placed in a facility that incarcerates adults.

5. The Court may reserve jurisdiction in the Jemez Children's Court when an order is issued transferring legal custody of an adjudicated delinquent child to an agency responsible for the legal custody and rehabilitation of delinquent children. Such reservation of jurisdiction may include:

   a. Whether to parole or release the child;

   b. Whether supervision of a child after release under paragraph (1) of this subsection may be conducted by an agency other than the Probation Office of the Pueblo of Jemez, or under any conditions deemed appropriate.

## SECTION 11-1-7 BASIC RIGHTS

A. In addition to any rights provided by this Code or by Federal law, all persons coming before the Jemez Children's Court shall enjoy the following rights:

1. Any person appearing before the Jemez Children's Court has the right:

   a. To appear in person at any hearing, subject to the restriction placed upon their presence by the Tribal Judge based upon the best interests of the child

   b. To be informed of the nature of the allegations and the consequences if the allegations are found to be true;

   c. To have a copy of the petition;

   d. To voluntarily testify on his or her own behalf;

   e. To confront and cross-examine all witnesses to the allegations;

   f. To compel by subpoena attendance of witnesses in his or her behalf;and

   g. To be represented by legal counsel at their own expense.

B. No child subject to arrest or court appearance shall:

1. Be required to divulge personally identifiable information including, but not limited to, giving DNA samples, being fingerprinted or photographed for criminal identification purposes except by order of the Court. If an order of the Court is given, the DNA sample, fingerprints or photographs shall be used only for the

purpose specified by the Court. Any person who willfully violates the provisions of this subsection is guilty of a misdemeanor.

2. Be subject to a separate criminal proceeding in the Tribal Court based on conduct which is the subject of a separate or pending case in the Jemez Children's Court, or when the child has admitted to the allegations in a Jemez Children's Court petition.

3. In case of alleged delinquency, not be questioned except in the presence of his or her parents, Advocate, guardian or custodian, except to determine identity and to determine the name of the child's parents or legal custodian and his or her medical needs. Any evidence gathered by an unauthorized interview shall not be admissible in Court.

C. Any person receiving or eligible to receive benefits through Jemez Social Services or other agency providing service to individuals under this Title of the Jemez Tribal Code and has been denied benefits or eligibility for services has the right to appeal the denial of benefits or eligibility to the Tribal Children's Court.

## SECTION 11-1-8 SUBPOENAS, SUMMONS, SERVICE

A. Witness, Evidence

Upon application of a party or on its own motion, the Jemez Children's Court may issue subpoenas requiring attendance and testimony of witnesses and the production of records, documents or other tangible objects.

B. Summons

1. After a Petition is filed or child has been arrested, and after such further investigation as the Court may direct, the Court shall establish a hearing date and promptly issue Summons.

2. The Summons shall contain the name of the Court, the title of the proceedings, and (except for a published Summons) a brief statement of the substance of the allegations in the Petition. A published Summons shall simply state that a proceeding concerning the child is pending in the Court and an adjudication will be made. The Summons shall require the person or persons who have physical custody of the child to appear personally and bring the child before the Court at a time and place stated. If the person or persons so summoned are not the parent, parents, or guardian, the Summons shall also be issued to the parent, parents, or guardian, as the case may be, notifying them of the pendency of the case and of the time and place set for the hearing.

3. The Summons shall also be issued to a child who is alleged to be a "delinquent child" or a "child in need of supervision" if the child is fourteen (14) years of age or older.

4. No Summons is required if a person appears voluntarily and files a written Waiver of Service with the Court prior to the hearing.

C. Substituted Service of Process

1. If the address of the child, parent or guardian is known, service can be made by sending a copy of the Summons by registered mail with a return receipt requested to be signed by the addressee only, or by personal service outside the Pueblo of Jemez. Service by registered mail shall be complete upon return to the Court of the signed receipt.

2. If the address or whereabouts of the parent or guardian outside the Pueblo of Jemez cannot be found, after diligent inquiry, service shall be satisfied by:

   a. Posting a copy of the Summons in at least two locations within Pueblo lands.

   b. Notice of Publication in which the caption of the case and time of hearing will be published in a newspaper of general circulation serving the Pueblo of Jemez for at least two issues of the newspaper prior to the scheduled hearing.

D. Disobedience, Arrest

1. Any person summoned as herein provided who, without reasonable cause, fails to appear, may be subject to contempt of Court and the Court may cause a Bench Warrant to be issued to produce such person in Court. The Court has the discretion to stay bench warrants.

2. If the Summons cannot be served, or if it appears to the Court that the person served will not obey the Summons, or that serving the Summons will be ineffectual, or that the welfare of the child requires that he or she be brought immediately into the physical custody of the Jemez Children's Court, a Warrant may be issued for the arrest of the parent, the guardian, the custodian, or the child, and any such Warrant may be served anywhere within the jurisdiction of the Court

## SECTION 11-1-9 REPORTS TO THE JEMEZ CHILDREN'S COURT

A. At any time in any proceeding the Jemez Children's Court can order assessments, evaluations, tests, and studies to provide information to the Court concerning the social, emotional, psychological and spiritual status of a child, the child's family or a member of the child's family.

1. After a child or a child's family has been brought into the jurisdiction of the Jemez Children's Court and the allegations bringing the child or child's family into the jurisdiction of the Jemez Children's Court have been established by admission or after a hearing but prior to a final decision, the Jemez Children's Court shall direct the Jemez Social Services Program to prepare a written predisposition study that includes a description of the family of the child, behaviors and risks displayed by the child or family, reasons for Jemez Social Services involvement, the environment of the child, recommendations as to intervention, disposition alternatives, programs or placements, and any other matters relevant to the need for treatment or appropriate to the disposition of the case. Jemez Social Services may collaborate with the Behavioral Health Program, Jemez Police Department and/or other agencies to complete the predisposition report.

2. Where there is an indication that the child may be mentally ill or mentally challenged, the Jemez Children's Court shall follow the provisions of Section 11-1-6 (C) related to the disposition of a matter involving a mentally ill or mentally challenged child.

3. The Jemez Children's Court may order examination, by a physician, psychiatrist or psychologist, of a parent whose ability to care for or supervise a child is an issue before the Court. The parent or custodian may refuse to be examined, but such refusal may be a factor to be considered during the disposition of the case.

## SECTION 11-1-10 DAMAGES; DESTRUCTION OF PROPERTY BY CHILD

A. Regardless of any disposition order issued by the Jemez Children's Court, any injured person may recover restitution in a civil action in Tribal Court from the parent, guardian or custodian of a child upon proof by clear and convincing evidence that the child maliciously or willfully injured a person(s) or damaged or destroyed property, real or personal, belonging to the person bringing the action and that the parent, guardian or custodian failed to provide adequate supervision of the child.

B. Restitution under this section is limited to actual losses suffered by the injured person proved in the action.

## SECTION 11-1-11 COURT COSTS

A. The expenses of services of summons, notices, subpoenas and other like expenses incurred in any proceeding under this Code shall be paid by the parents or other persons legally obligated to care for and support the child if, after due notice and hearing, the Court finds that they are financially able to pay all or part of the court costs and expenses. The manner of payment may be prescribed by the Court and, unless otherwise ordered, payment shall be made to the Court for remittance to those to whom compensation is due, or if no costs and expenses have been paid by the Court, to the Court.

B. If the parent or other legally obligated person willfully fails or refuses to pay the sum ordered, the Court may proceed with contempt charges. An order for payment may be filed and, once filed, shall have the effect of a civil judgment.

C. If a Child Advocate/Guardian Ad Litem is assigned to the child's case, the Court my order that the cost of such services will be paid by the parents though the Court is encouraged to seek grant funding for such services.

D. Parties are responsible for their own attorney fees and costs in the Jemez Children's Court. The award of attorney fees and costs are highly disfavored by the Jemez Children's Court and shall only be awarded upon a clear showing that an action filed by a party was frivolous.

**SECTION 11-1-12 CONFIDENTIALITY**

A. Because of the sensitivity of children and family issues, all matters in the Jemez Children's Court are confidential and are not to be shared outside of court personnel and personnel of agencies doing business in the Jemez Children's Court.

B. Confidentiality includes communications, status of cases, names of parties and witnesses, details of testimonies and pleadings, and other information and data that the Jemez Children's Court deems confidential.

C. Any person or party who intentionally divulges confidential information in violation of this section may be found to be in Contempt of Court and be subject to imprisonment not to exceed forty-eight (48) hours and be ordered to pay a fine not to exceed $500.00.

D. With the exception of notices authorized under this Children's Code, any person or party who posts in social media or otherwise publicly any reference to a proceeding before the Jemez Children's Court shall be found to be in Contempt of Court and be subject to imprisonment not to exceed forty-eight (48) hours, and/or community service, and/or be ordered to pay a fine not to exceed $500.00, regardless of whether the post divulges confidential information.

E. It is not a breach of the requirements of confidentiality in this Section 11-1-12, for a party to a case before the Jemez Children's Court to discuss the case with the Tribal Sheriff and Jemez

Pueblo Governor as the Governor serves as both Head of State and the Head of the Pueblo of Jemez government.

## SECTION 11-1-13 NON-APPEARANCE, STATUTE OF LIMITATIONS

A. Failure of a child to appear for any hearing to which the child has been subpoenaed will be considered as prima facia evidence of neglect and, after the appropriate hearing, shall subject the child to be placed under protective supervision.

B. Any adult, whether or not a parent or guardian, who encourages or actively assists a child to:

1. Not appear in Tribal Children's Court when properly served, or

2. Leave the jurisdiction to avoid Jemez Children's Court, shall be charged with a crime under Title III of the Jemez Tribal Code.

C. The statute of limitations for acts committed by a child which would be a crime if committed by an adult shall be 3 years or the child turning eighteen years of age, whichever is longer.

## SECTION 11-1-14 PLACEMENT PREFERENCES

A. If a child is adjudicated as a neglected child, child in need of supervision or as a dependent child, the Jemez Children's Court shall place the child on protective supervision pursuant to Section 11-3-11 of this Code and may, in extreme situations, place the child outside of the home, subject to such conditions as the Court may prescribe, in one of the following as ordered by preference:

1. Place the child with an extended relative with priority to grandparents as defined in Section 11-1-2 A. 16;

2. Place the child in a Jemez Pueblo or other federally-recognized enrolled member Foster Care home licensed by Jemez Social Services within Jemez lands;

3. Place the child in Jemez Pueblo or other federally-recognized enrolled member Foster Care home licensed by Jemez Social Services outside Jemez lands;

4. Place the child in Jemez Pueblo or other federally-recognized enrolled member Foster Care home licensed by a child protection agency of a state or federally-recognized tribe;

5. Place the child in a non-tribal member Foster Care home licensed by Jemez Social Services within Pueblo lands;

6. Place the child in a non-tribal member Foster Care home licensed by a child protection agency of a state or federally-recognized tribe; or

7. Place the child in a group home or residential care facility approved by the Jemez Children's Court.

B. If the child is removed from the home and placed subject to the placement preferences above, the Jemez Children's Court shall make the child a ward of the Court in its order placing the child outside the home.

C. If the child is removed and placed outside of the home, the Court must also make the finding that staying in the home is contrary to the welfare of the child.

## SECTION 11-1-15 TEMPORARY LEGAL CUSTODY

A. The Governor, Governor's Aide, Tribal Sheriff, Fiscales, a Law Enforcement Officer or a Jemez Social Services worker may take a child into temporary legal custody in cases of emergency when the best interests of the child indicates that temporary legal custody is needed, including:

1. when the child is in immediate danger of imminent physical or emotional harm if not taken from the control of parents, guardians or legal custodians;

2. when the child has suffered abuse or neglect and the abuse and neglect may continue;

3. if not placed in custody, the child will commit injury to persons or property of others, or cause injury to themselves;

4. when the child has no parent, guardian, legal custodian or other person able to provide adequate supervision and care for the child; or

5. concerns that the child will run away or be taken away as to be unavailable for proceedings of the Jemez Children's Court.

B. Upon the removal of a child into temporary legal custody, the Jemez agency (Governor, Governor's Aide, Tribal Sheriff, Fiscales, Jemez Law Enforcement or Jemez Social Services) removing the child shall take the following steps:

1. If personnel of Jemez Social Services or Jemez Police Department are not present, notify Jemez Social Services and Jemez Police Department of the decision to remove, upon which Jemez Social Services and/or Jemez Police Department personnel will respond and assist with the removal and placement of child.

2. Immediately notify the child's parents, guardians, legal custodians of such removal, and the reasons for the removal. If such attempts to notify the child's parents, guardians, legal custodians are unsuccessful, then best efforts shall immediately be made to notify the child's extended relatives.

3. Place child in accordance with the placement preferences of Section 11-1-14 above.

4. If a Law Enforcement officer and/or Jemez Social Services worker determines that the child needs emergency medical attention, the Law Officer Enforcement officer or a Jemez Social Services worker may contact emergency medical services and/or deliver the child to a medical facility for treatment.

5. Upon the placement of the child and where Law Enforcement was present for the removal and placement of the child, shall make and deliver a report to Jemez Social Services, within eight (8) hours, containing a summary of the circumstances surrounding the temporary protective care and the basis for it.

C. Jemez Police Department and Jemez Social Services shall further specify coordination of these procedures in an interdepartmental policy.

D. In no case shall temporary protective care extend beyond seventy-two (72), exclusive of weekends and holidays. At the expiration of this period, Jemez Social Services shall return the child to the child's parents, guardians or legal custodians unless the Jemez Children's Court Judge has issued an order approving the temporary legal custody.

E. Within twenty-four (24) hours, exclusive of weekends and holidays, of placing a child in temporary legal custody a Law Enforcement Officer or Jemez Social Services shall complete and file a Petition for Temporary Legal Custody with the Jemez Children's Court requesting a hearing on the appropriateness of the temporary legal custody placement. A Petition alleging a child is a victim of abuse or neglect in accordance with 11-5-2(B) may also be filed with the Petition for Temporary Legal Custody.

1. The caption of the Petition for Temporary Legal Custody shall be in accordance with 11-5-2(B) of this code and the Petition for Temporary Legal Custody shall allege the reasons the child was placed in temporary legal custody

2. Parents, or in their absence, other family members, and service providers will be identified in the Petition for Temporary Legal Custody and notified of the hearing, which hearing may be held telephonically at the discretion of the Jemez Children's Court Judge because of the emergency nature of the proceedings. Where Law Enforcement and/or Jemez Social Services tries but is unable to notify any other party of the hearing, the hearing may be held ex parte based on the emergency nature of the matter.

3. The Petition for Temporary Legal Custody shall set forth the basis for the temporary custody request.

E. A child placed in temporary legal custody shall not be placed in a jail or other facility used for the incarceration of adults convicted of a crime or in a detention facility used for the detention of children adjudicated as delinquent children.

F. Order for Temporary Legal Custody

1. The Jemez Children's Court judge will issue an order granting or denying the request for temporary legal custody in no less than four (4) hours after the hearing.

2. The temporary legal custody order shall identify Jemez Social Services or other person, or entity identified in either the petition or hearing as custodian for the child if the petition for temporary legal custody is granted.

3. The order shall provide authority for the custodian of the child to make educational, medical, and social decisions on behalf of the child.

4. In the event a Petition alleging child as victim of abuse or neglect was filed with the Petition for Temporary Legal Custody, the Order shall set a date for the Adjudicatory Hearing on the Petition alleging child as victim of abuse or neglect.

## SECTION 11-1-16 CHILD AS WARD OF THE COURT

A. The Jemez Children's Court shall order any child to be a ward of the Court who:

1. Is placed outside of their home pursuant to Court order,

2. Is ordered into in-patient treatment,

3. Is the subject of a Jemez Social Services petition requesting that child be made a ward of the Jemez Children's Court where the Court has found grounds to approve such request, or

4. Is domiciled or resides within Pueblo lands and is voluntarily placed outside of the territorial jurisdiction of the Pueblo of Jemez.

B. The Court shall give the Jemez Social Service Program care, control and supervision of any child who is made a ward of the Court

C. In all cases in which a child is made a ward of the Court, the Jemez Children's Court will conduct a status review of the case every ninety (90) days to determine whether the family is addressing the problems that led to the child being made a ward of the Court.

1. The status reviews are not hearings, but may, at the Court's discretion, include the presence of the petitioner, parents, an Advocate and other service providers.

2. If the status review indicates the need for a change in status, the Jemez Children's Court will schedule a hearing for the purpose of determining if a change in status is required. Status hearings will be conducted according to 11-3-8 for Juvenile Delinquency Proceedings or 11-5-5 for Child in Need of Supervision and Abuse or Neglect Proceedings below.

D. Once the child is made a ward of the Court, there must be efforts to reunify and preserve the family; however if reasonable efforts to reunify and preserve the family fail, the child will remain as a ward of the Court.

1. The Court shall schedule a permanency hearing no later than twelve (12) months after the child is made a ward of the Court.

2. Jemez Social Services will prepare a permanency plan for the child and be ready to submit to the Court prior to a permanency hearing.

## CHAPTER 2 ROLES AND RESPONSIBILITIES

### SECTION 11-2-1 JEMEZ CHILDREN'S COURT OFFICERS AND PERSONNEL

A. Judges

The Tribal Judge shall preside over the Jemez Children's Court and exercise all powers of the Jemez Children's Court necessary to fulfill the policies established in Section 11-1-1.

B. Limitations on Judges

1. The Jemez Pueblo Governor and/or Lieutenant Governors may assign a temporary Children's Court Judge when a particular judge is unable to preside over such

proceedings due to a conflict of interest or when they have been recused for good cause.

2. No Jemez Children's Court Judge should hear a case in which he or she previously participated as a party.

C. Clerk of the Tribal Court

The Clerk of the Tribal Court shall keep records of all proceedings and shall issue all process and notice required when ordered to do so by the Court and shall perform such other duties as may be assigned by the Court. The Clerk of the Tribal Court shall comply with all Jemez Pueblo and Federal laws and regulations relating to the confidentiality of Children's Court records and case files.

D. Child Advocate/Guardian Ad Litem

The Jemez Children's Court may appoint an Advocate/Guardian Ad Litem for a child in a Juvenile Delinquency or Child in Need of Supervision and Abuse or Neglect Proceedings. The Children's Court is encouraged to seek grant funding to enable the Court to have access to Child Advocate/Guardian Ad Litem services.

1. The Jemez Children's Court may appoint an Advocate/Guardian Ad Litem upon a finding that the child's best interest would be served by appointment of a Child Advocate/Guardian Ad Litem for the child, the Court may appoint a person to advocate for the child's best interest.

2. The Jemez Children's Court may appoint an Advocate/Guardian Ad Litem for a parent, guardian or custodian who is unable to represent himself or herself due to incompetence, physical condition or other disability.

3. A party to the proceedings shall not be appointed as an Advocate for the child due to a potential conflict between the interests of a parent, guardian or custodian party and the interests of the child.

4. Regardless of whether the Court is considering appointment of, or has appointed an Advocate or Guardian Ad Litem for the child or parent(s), guardian or legal custodian of the child shall be informed of available legal services and that they have the right to be advised and represented by counsel at their own expense.

5. An Advocate/Guardian Ad Litem should take into consideration the preferences of a child when appointed to advocate for that child's best interests with greater weight given for older children.

## SECTION 11-2-2 PUEBLO OF JEMEZ FISCALES

Under the traditions of the Pueblo of Jemez, the Fiscales have responsibility for the well-being of the children of the Pueblo. In that role, the Fiscales shall maintain responsibility to participate as advisors to the Jemez Children's Court and in certain dispositional matters before the Jemez Children's Court. The Jemez Children's Court and the Fiscales are encouraged to meet annually for training related to the roles, responsibilities and timelines under this Children's Code.

## SECTION 11-2-3 PUEBLO OF JEMEZ SOCIAL SERVICES PROGRAM

A. Power and Duties

1. The Jemez Social Services Program shall constitute protective services of the Pueblo of Jemez and shall be responsible for the protection, rehabilitation, care and supervision of a child coming within the provisions of the Children's Code.

2. The Jemez Social Services Program is authorized to cooperate with such Jemez Pueblo, tribal, state, federal and private agencies where necessary to achieve the purposes of the Children's Code and may negotiate working agreements with other jurisdictions and agencies for the provision of care, treatment, rehabilitation and supervision of a child coming within the provisions of the Children Code. Such agreements shall be subject to approval by the Jemez Pueblo Governor.

3. The Jemez Social Services Program is authorized to establish internal policies and/or guidelines promulgated to fulfill its responsibilities under this Code.

4. The Jemez Social Services Program shall:

   a. Receive reports of dependent, abused, neglected or abandoned children and be prepared to provide Emergency Foster Care for such children on a twenty-four (24) hour basis.

   b. Receive verbal or written information from any source regarding a child who may need protective services.

   c. Upon receipt of any report or information pursuant to paragraph (a) or (b) of this subsection immediately:

      i. Notify the appropriate law enforcement agency;

      ii. Make a prompt and thorough investigation which shall include a determination of the nature, extent, and cause of any condition

which is contrary to the child's best interest and the name, age, and condition of other children in the home.

d. Take a child into temporary legal custody if there are reasonable grounds to believe that the child is in imminent physical or emotional harm from his or her surroundings and that the child's removal is necessary. Law enforcement officers shall assist the Jemez Social Services Program when necessary to remove a child from the custody of his or her parents, guardians, or legal custodians when necessary.

e. After investigation, evaluate and assess the home environment of the child or children in the same home and the risk to such children if they continue to be subjected to the existing home environment, and all other facts or matters found to be pertinent. The protective services worker shall determine whether any of such children is a child in need of protective services.

f. Offer to the family of any child found to be a child in need of protective services such services, which may include, but not be restricted to, protective services.

g. Within seventy-two (72) hours after a referral of a potential child in need of protective services, the protective services worker shall complete a written report of the investigation and evaluation. Such report shall be filed in a database maintained by the Jemez Social Services Program.

B. Duty to Inform

1. Before offering protective services to a family, the Jemez Social Services Program workers shall inform the family of its authority and responsibility to initiate a dependency petition in the Jemez Children's Court and that the Jemez Social Services Program has no legal authority to compel the family to receive such services prior to the issuance of a Court order.

2. If the family declines the offered services, the Jemez Social Services Program may initiate a dependency petition in the Jemez Children's Court alleging a child in need of protective services if he or she believes it to be in the best interest of the child.

C. Database

1. The Jemez Social Services Program shall maintain a database of reports, investigations and evaluations made under this Children's Code. The registry

shall contain the information furnished by Pueblo of Jemez agencies, including protective service workers, probation officers, caseworkers and ICWA program employees including list of Jemez Qualified Expert Witnesses.

2. Data shall be kept in the database until the child that is the subject of the reports, investigations and evaluation reaches the age of eighteen (18) years.

3. Data and information in the database shall be confidential and, consistent with the non-disclosure provisions at Section 11-1-12, shall be made available only in accordance with applicable law. A request for the release of information must be submitted in writing, as such request and its approval shall be made part of the child's file.

D. Foster and Shelter Care; Standards; Reports

1. Foster and Shelter Care facilities shall meet appropriate standards and meet certification requirements of Jemez Pueblo, tribal, state or federal government under which the detention or shelter care facility is located. No child shall be placed in Foster Care or Shelter Care unless it is certified as approved by Jemez Social Services, or the applicable state or federal government.

2. Jemez Social Services has the authority to develop policies and procedures governing Foster Care and Shelter Care standards and licensing consistent with this Children's Code.

3. Jemez Social Services, along with such other Jemez Pueblo departments as appropriate, may inspect all foster and shelter care facilities before any child is placed within such facility.

4. A person applying to be a foster, pre-adoptive or adoptive parent or a guardian must meet the following minimum requirements:

   a. Be of good moral character;

   b. Be at least 21 years of age and not married to anyone less than 21 years of age;

   c. Have a schedule, together with the second parent (if applicable), that would not require that a child of preschool age in their care spend in excess of 50 hours per week in childcare or that a child of school age in their care spend in excess of 25 hours per week in child care;

   d. Have a stable source of income sufficient to support the household;

e. Have a stable housing history;

f. Have a working phone with the ability to leave a message;

g. Is a United States citizen or has been granted legal permanent resident status;

h. Be free of any physical, mental, or emotional illness or handicap that would impair his/her ability to provide appropriate care for the child;

i. Have a record that is free of criminal conduct that bears upon his or her ability to assume the responsibilities of caring for the child;

j. Demonstrate the ability to provide a safe, supportive, nurturing, and stable family environment;

k. Demonstrate the ability to respect and support a child's racial, ethnic, linguistic, cultural, and religious background;

l. Demonstrate the ability to accept and support a child's relationship with his or her parents, siblings, grandparents as defined herein and other family members, unless a court has deemed such relationship harmful to the child; and

m. Demonstrate the ability to implement the child's applicable plan with Jemez Social Services (i.e. case plan, permanency plan, safety plan, etc.).

E. When the legal custody of a child is vested in the Jemez Social Services Program under the provisions of the Children's Code, the Jemez Social Services Program may transfer physical custody of the child to an appropriate private agency and may purchase care and treatment from the private agency through contract. The private agency shall submit periodic reports to the Jemez Social Services Program covering the care and treatment the child is receiving. Frequency of such reports will be determined by the Jemez Social Services Program. The Jemez Social Services Program retains the right to remove the child from the agency for any reason.

## SECTION 11-2-4 PUEBLO OF JEMEZ LAW ENFORCEMENT

A. Jemez Law Enforcement has the basic role of protecting residents of the Pueblo of Jemez and keeping the peace. Jemez Law Enforcement works with the traditional Sheriff and other Jemez Pueblo officers and their aides in fulling this role. Jemez Law Enforcement will patrol and maintain a presence as a deterrent to crime and to engage with those who may violate the law.

B. Jemez Law Enforcement shall cooperate and collaborate with Jemez Pueblo and other Jemez Pueblo agencies pursuant to policies and procedures developed to facilitate such cooperation. Jemez Law Enforcement shall cooperate and collaborate with Federal and State agencies pursuant to existing laws, policies and procedures, contracts or intergovernmental agreements.

C. Jemez Law Enforcement shall work with any Jemez Pueblo, tribal, state or federal agency to protect the children of the Pueblo of Jemez by:

1. Responding to calls initiated by the general public, Jemez Pueblo officials or other Jemez agencies,

2. Conducting welfare checks,

3. Taking into custody any child who is abused, neglected, or is a danger to himself or others under the standards found in 11-1-15 of this code,

4. Initiating referrals and receiving referrals concerning child abuse, child neglect or a child who has committed an act that would be considered a crime if committed by an adult,

5. Making reports, both verbal and written as required, to superiors in Jemez Law Enforcement and to Jemez Social Services and other agencies as requested, and

6. Appearing in Jemez Children's Court as requested to provide evidence and testimony concerning any case of child in need of supervision and abuse or neglect or delinquency.

D. Jemez Law Enforcement shall develop, in collaboration with Jemez Pueblo agencies, procedures to facilitate the implementation of the above-described roles and responsibilities.

## SECTION 11-2-5 PUEBLO OF JEMEZ PROBATION

The Jemez Probation Officer is vested with the authority to provide supervision and assistance to a child placed on probation or court ordered supervision according to the provisions of an applicable Jemez Children's Court order. The Probation Officer's responsibilities include the following:

1. Supervise children who are determined to be delinquent or in need of supervision and are placed under the continuing jurisdiction of the Jemez Children's Court.

2. Locate and refer child(ren) and parents to counseling, treatment or other rehabilitation services.

3. Develop rehabilitative programs and services.

4. Present petitions or other matters to the Jemez Children's Court as necessary, and shall inform Jemez Social Services, Jemez Behavioral Health Program or Jemez Law Enforcement, as appropriate, of any action or matter presented to the Court.

5. To declare a delinquent child under his or her supervision to be in violation of the probation agreement and cause the delinquent child to be taken into custody in accordance with the provisions of 11-3-8 when the probation officer has reasonable cause to believe that the delinquent child has violated the conditions of his or her probation or that the child may leave the jurisdiction of the court.

## CHAPTER 3 JEMEZ CHILDREN'S COURT JUVENILE DELINQUENCY PROCEEDINGS

### SECTION 11-3-1 PETITION REQUIREMENTS

A. All juvenile delinquency proceedings in the Jemez Children's Court will be initiated by Petition filed by a Law Enforcement Officer, Jemez Social Services or an individual subject to the jurisdiction of the Tribal Court.

B. A petition initiating a Jemez Children's Court juvenile delinquency proceeding shall be captioned "In the Children's Court Pueblo of Jemez", and entitled, "In the matter of _____, a child, DOB:_____, and concerning [Parent(s) or Legal Guardian(s)], Respondent and shall state with specificity:

1. The facts asserting the jurisdiction of the Jemez Children's Court.

2. That the child has committed an offense that would be defined as a crime if committed by an adult.

3. A citation to the appropriate section of the Pueblo of Jemez Law and Order Code which the child is alleged to have violated.

4. A plain and concise statement of facts upon which the allegations are based, including the date, time and location at which the alleged act(s) occurred.

5. The name, birth date, Jemez Pueblo or other tribal membership status, residence and address of the child.

6. To the degree possible, the names, Jemez Pueblo or other tribal membership status, residence and address of parents, guardians, legal custodians, and grandparents as defined in Section 11-1-2 A. 34.; and if none of the parents, guardians, legal custodians, grandparents reside or can be found within Jemez Pueblo lands, or if their residence or addresses are unknown, the name of any known adult extended relative residing within Pueblo lands.

7. The name of the person presenting the petition and the date and time presented.

8. Whether the child is in custody, and if so, the place of detention or shelter care or other placement and the time he or she was taken into custody.

C. A Petition will not be considered defective and not subject to immediate dismissal if some of the above items are incomplete or unknown.

**SECTION 11-3-2 INITIAL APPEARANCE**

A. The Clerk of the Jemez Children's Court shall provide written notice of the hearing stating the time, place and purposes of the hearing to the child's parent(s), guardian or custodian, , and to the child if the child is fourteen (14) years of age or older and the petition alleges that the child is delinquent. If the parent of the child cannot be found, they can be served by substituted service of process under 11-1-8(C) of this code. The Clerk will also provide notification to the Fiscales of an initial appearance hearing under this Chapter 3.

B. At the initial appearance, the Jemez Children's Court will notify the parties in situations where adequate probable cause is not reflected in the petition alleging that the child is delinquent.

C. After a petition alleging a child to be delinquent has been filed, the child shall be required to make an initial appearance before the Jemez Children's Court. The child will be informed of the following at the initial hearing:

1. The nature of the allegations contained in the petition,

2. The consequences if the allegations are found to be true,

3. Provided a copy of the petition,

4. An opportunity to admit or deny the allegations, and

5. A description of the Fiscales' potential role in the proceedings.

D. The Jemez Children's Court shall also advise the parties of their basic rights under Section 11-1-7 and Federal law and may appoint an Advocate, a Guardian or Custodian, if appropriate.

E. The Jemez Children's Court will schedule the child's next appearance based on the following:

1. If the child admits to the allegations in the Petition, the Jemez Children's Court will schedule the dispositional hearing. The Jemez Children's Court shall notify the parties that Probation and the Fiscales will be provided an opportunity to develop a predispositional investigation for the Court's consideration at the dispositional hearing. In such cases, the Jemez Children's Court will order that the child and parent(s)/guardian(s) meet with Probation and the Fiscales to enable the preparation of the predispositional investigation. The Court will schedule the dispositional hearing at the initial appearance and shall provide thirty (30) days for Probation and the Fiscales to meet with the child and parent(s)/guardian(s) for the preparation of the predispositional investigation. The Court will notify Probation and the Fiscales of the order for a predispositional report as soon as practicable after the hearing.

2. If the child denies the allegations in the Petition, the Jemez Children's Court will schedule a hearing on the merits of the Petition.

## SECTION 11-3-3 FISCALES INFORMAL HEARING AND PROCESS

A. The Jemez Children's Court at any stage in the proceedings, may in its discretion refer a case for resolution through an informal process conducted by the Fiscales in coordination with Probation and law enforcement. The Jemez Children's Court will provide a written notice to the Fiscales, Probation and law enforcement requesting initiation of an informal hearing and process. If the Jemez Children's Court does not receive confirmation upon the expiration of thirty (30) calendar days that the Fiscales, Probation and law enforcement have initiated an informal process then the Jemez Children's Court shall proceed with the formal Court process.

B. An informal hearing may be held with all parties involved in the case to discuss whether proceeding through an informal process for resolution would be in the best interest of the child and the Pueblo.

C. All parties involved in the matter shall be notified of the date, time and place of the informal hearing

D. No statements made in the informal hearing may be admitted into evidence at any other proceedings against the child under the Children's Code.

E. If a resolution is reached, the written resolution reached will be provided to the Jemez Children's Court for acceptance by the Court. Such resolution may include a formal dismissal of the charges in a delinquency proceeding.

F. Failure of the parties to abide by the resolution terms may result in reinitiating formal proceedings in the Jemez Children's Court under this Children's Code.

G. Failure of the parties to reach a resolution through an informal process upon the expiration of (60) days from the date of the initiation of the informal process shall reinitiate formal proceedings under the Jemez Children's Code.

**SECTION 11-3-4 HEARINGS**

A. All juvenile hearings before the Jemez Children's Court shall be conducted separate from other Tribal Court proceedings and in accordance with the laws of the Pueblo of Jemez. The proceedings shall be recorded by electronic device or other means the Court finds appropriate.

B. The Jemez Children's Court shall advise the parties and the child who is alleged to have committed a delinquent act of their basic rights under 11-1-7 at each separate appearance.

C. All hearings before the Jemez Children's Court shall be closed to the general public, except the parties, witnesses and other persons who have an interest in the proceeding and are approved by the Court.

D. If the Jemez Children's Court finds that it is in the best interest of the child, the child may be temporarily excluded from any hearing including the final hearing on disposition and the Court should identify the reasons for the child's exclusion.

E. The Jemez Children's Court, prior to the start of a hearing, shall inform all persons present at the hearing of the confidential nature of the proceedings and the penalties for violation of the confidentiality requirements found in 11-1-12 of this code.

F. In cases of a delinquency hearing, the Jemez Children's Court shall receive the child's statement of whether allegations of the petition are admitted or denied. If the allegations are denied, the Jemez Children's Court shall proceed to hear evidence on the petition.

G. The Jemez Children's Court may consider and rely on all relevant and material evidence helpful in determining the issues presented in a petition, including verbal and written reports, provided such evidence tends to prove facts even though it might not otherwise be admissible. If

the Jemez Children's Court has adopted rules of evidence applicable to juvenile delinquency proceedings, such rules shall apply to the admission of evidence.

H. A party in any Jemez Children's Court case is entitled to an opportunity to introduce evidence and be heard, and to confront and cross-examine witnesses testifying against him or her, and to admit or deny the allegations in a petition.

I. The Jemez Children's Court, after hearing all the evidence on the allegations presented in the petition shall make and record its findings on whether the allegations in the petition have been established by the evidence presented.

J. The standard of proof in a juvenile delinquency proceeding shall be evidence beyond a reasonable doubt or based upon a valid admission to the allegations of the petition. Evidence of the commission of the act which constitutes a felony under federal law is sufficient to sustain a finding that the child is a delinquent and needs care or rehabilitation.

## SECTION 11-3-5 DISPOSITIONAL HEARING

A. If the Jemez Children's Court finds that the allegations in the petition have been established, the Court will notify the parties that Probation and the Fiscales will be provided an opportunity to develop a predispositional investigation for the Court's consideration at the dispositional hearing. In such cases, the Jemez Children's Court will order that the child and parent(s)/guardian(s) meet with Probation and the Fiscales to enable the preparation of the predispositional investigation. The Court shall provide thirty (30) days for the predispositional report to be developed before the dispositional hearing. The Court will notify Probation and the Fiscales of the order for a predispositional report as soon as practicable after the hearing.

B. If the Jemez Children's Court finds that the allegations on the petition have not been established, it shall dismiss the petition and order the child released from any detention or custody imposed in connection with the proceedings. However, the Court may issue such other orders that are in the best interest of the child and the child's family.

C. The Jemez Children's Court may, on its own motion or by motion of a party, continue the hearing on the petition for a reasonable time to receive reports, evaluations or assessments and other evidence on the need for care or rehabilitation in connection with disposition. During any continuance under this subsection, the Jemez Children's Court shall make an appropriate order for detention or legal custody.

D. The Jemez Children's Court is responsible for scheduling the dispositional hearing . The Tribal Court Clerk shall provide written notice of the hearing stating the time, place and purposes of the hearing to the child's parent(s), guardian or custodian.

E. Evaluations, assessments, disposition reports and other material to be considered by the Jemez Children's Court in the delinquency hearing shall be submitted to the Jemez Children's Court and shared with all other parties to the case no later than five (5) days before the scheduled dispositional hearing date. An affidavit, which does not require a notarized signature, including reasons why a report has not been completed shall be filed with the Jemez Children's Court no later than five (5) days before the scheduled dispositional hearing date if the report will not be submitted before the deadline. The Jemez Children's Court may, in its discretion, dismiss a petition if the necessary reports, evaluations or other material have not been timely submitted in a timely manner.

## SECTION 11-3-6 ORDERS

A. All orders issued by the Jemez Children's Court will be in writing and will include the findings of the Court, the disposition that has been ordered, the date of the disposition and signed by the Jemez Children's Court Judge.

B. An order granting legal custody of a child under this Chapter 3 in the Jemez Social Services Program or other agency shall remain in force for a period not to exceed two (2) years from the date entered,

C. An order granting legal custody of a child under this Chapter 3 with an individual shall remain in force for two (2) years from the date entered and automatically terminate at the end of two (2) years unless extended by order of the Court.

D. At any time prior to the expiration of an order transferring legal custody, upon motion by Jemez Social Services, the Court may extend the order for an additional period of up to one (1) year if it finds that the extension is necessary to safeguard the welfare of the child or the public interest of the Pueblo of Jemez.

E. When a child reaches eighteen (18) years of age all orders affecting the child then in force shall automatically terminate, except as specified under Section 11-1-3(F)

## SECTION 11-3-7 DETENTION OF A DELINQUENT JUVENILE

A. The Governor, Governor's Aide, Tribal Sheriff, Fiscales, a Law Enforcement Officer or Jemez Social Services may detain a child alleged to be a delinquent child until a Law Enforcement Officer is able to take the child into physical custody to be placed in detention prior to a hearing and disposition only where probable cause exists that the child has committed an offense that amounts to a serious violation of the Jemez Criminal Code if the child were an adult.

B. Only a Law Enforcement Officer may place a child alleged to have committed a delinquent act into detention prior to a hearing and disposition.

C. Place of Detention

1. A child alleged to be a delinquent child may be detained pending a court hearing in any of the following places:

   a. A detention facility approved by the Governor's Office or the Jemez Children's Court for children alleged to be delinquent children; or

   b. In the absence of available space at either of the above places, a child alleged to be delinquent and where there is no reasonable belief that the child will commit injury to persons or property of others, or cause injury to him or herself, may be placed according to the placement preferences listed in Section 11-1-14.

2. Any law enforcement officer or individual who knows or has reason to believe that a child or individual who appears to be under the age of eighteen (18) is being held in a jail or other facility for the incarceration of adults charged with crimes shall, within twenty-four (24) hours, inform the Social Services Program and, upon request, shall deliver the child or the individual to the Social Services Program or the Jemez Children's Court or transfer the child to a facility designated by the Jemez Social Services Program.

3. If the place of detention is a federal or state facility that is identified in any Intergovernmental Agreement between the Pueblo of Jemez and the State of New Mexico for juvenile detention or incarceration, the terms of that agreement will control.

D. Detention Hearing

1. When a child, who is alleged to be a delinquent child has been taken into physical custody, and is not released:

   a. Jemez Social Services Program or Law Enforcement shall file a petition with the Court within twenty-four (24) hours of when the child was initially taken into physical custody, excluding the weekends and legal holidays. The child shall be released if a petition is not filed within the stated time.

   b. A detention hearing shall be held as soon as possible after the filing of the petition, but not to exceed forty-eight (48) hours of the filing of a petition, excluding weekends and legal holidays, to determine whether continued detention is required.

2. The Clerk of the Tribal Court shall provide written notice of the detention hearing stating the time, place and purposes of the hearing to the child's parent(s), guardian or custodian, if they can be found, and to the child if the child is fourteen (14) years of age or older and the petition alleges that the child is delinquent.

3. The Jemez Children's Court shall advise the parties of their basic rights under Section 11-1-7 and applicable Federal law and shall appoint an Advocate, a guardian or custodian, if appropriate.

4. If the Court finds the child's continued detention is appropriate, continued detention in an appropriate facility shall be ordered.

5. The Court shall reschedule the detention hearing when a child is not released from physical custody and a parent, guardian, or custodian or an extended relative was not notified of the hearing and did not appear or waive appearance at the detention hearing. Such rescheduled hearing shall be heard as soon as possible but not to exceed an additional forty-eight (48) hours.

6. All relevant and material evidence helpful in determining the need for detention may be admitted at the detention hearing even though it might otherwise be inadmissible in a final hearing on the petition.

E. Release from Detention

1. If the Court finds that continued detention of the child is not appropriate, the Court shall order the release of the child, but may order one or more of the following conditions:

   a. Place the child in the legal custody of a parent, guardian or custodian or extended relative, or under the supervision of an agency agreeing to supervise the child.

   b. Place restrictions on the child's travel, association with other persons or place of residence during the time of release.

   c. Impose any other condition deemed reasonably necessary and consistent with the Children's Code, including a condition requiring that the child return to custody if required.

2. An order releasing a child on any conditions may be amended at any time to impose additional or different conditions of release or to return the child to custody or detention for failure to conform to the conditions originally imposed.

## SECTION 11-3-8 REVIEW AND MODIFICATION OF DETENTION ORDERS

In all delinquency cases in which the child is ordered into detention, incarceration or has been ordered into an out of home placement, the Jemez Children's Court shall review the detention or incarceration order every ninety (90) calendar days. The Jemez Children's Court will consider whether the continued detention, incarceration or out of home placement of the child is appropriate and whether the family has complied with any additional orders the court has issued.

## SECTION 11-3-9 MODIFICATION AND REVOCATION OF CUSTODY ORDERS

A. An individual, agency, or institution vested with legal custody of a child may petition the Jemez Children's Court for a modification or revocation of an Order on the grounds that such change is necessary for the welfare of the child or in the public interest. The Court shall proceed upon such Petition in the same manner as upon a Petition filed under Section 11-3-1 (B) of this Chapter. A Petition for Modification of a Jemez Children's Court order will be filed in Jemez Children's Court.

B. At any time prior to expiration, an order granting legal custody or protective supervision may be modified upon a request by:

1. the Jemez Social Services Program or any other person based on changed circumstances which requires a change in the legal custody or protective supervision of the child, or

2. A person who has legal custody, or responsibility for protective supervision, to extend the period of the order on the grounds the requested action is necessary for the completion of rehabilitative services, to safeguard the welfare of the child or protect the public interest.

## SECTION 11-3-10 PROBATION

A. Once a child has been adjudicated as delinquent, the Jemez Children's Court may place the child on probation to insure the child and their family participates in rehabilitative and restorative activities.

B. The Jemez Children's Court has the discretion to order any or all of the following conditions as part of the probation order:

1. School attendance,

2. Prohibition of violating laws,

3. Restrictions on having access to weapons,

4. Parental or guardian supervision requirements,

5. Regular contact and check-in with the Probation Officer,

6. Payment of fines or restitution, or both,

7. Alcohol or drug abuse treatment, inpatient or outpatient,

8. Counseling services, individual and family,

9. Community service,

10. Participation in any program designed to enhance individual and family resilience;

11. Participation in the development of a parenting plan; and

12. Participation in cultural and/or traditional activities upon recommendation of the Fiscales.

C. An order of probation shall remain in force for the period ordered by the Jemez Children's Court Judge though not exceeding two (2) years from the date entered.

D. Prior to the expiration of an order of probation, the Jemez Children's Court may extend the order for an additional period of up to one (1) year if it finds that the extension is necessary to complete rehabilitative services, protect the community or to safeguard the welfare of the child.

E. If the child or family fails to comply with the conditions of the probation order, the probation order is considered to have been violated. Upon violation:

1. The Probation Officer will submit a sworn statement to the Jemez Children's Court alleging the violation of the Probation Order.

2. The Jemez Children's Court will issue an arrest warrant in the event that a violation based on probable cause is established on the sworn statement.

F. The standard of proof in probation revocation proceedings shall be clear and convincing evidence.

G. If a finding of probation violation is made, the Jemez Children's Court may extend the period of probation and issue any other judgment or disposition that would have been appropriate in the original disposition of the case.

## SECTION 11-3-11 EXPUNGEMENT OF RECORDS

A. On motion by or on behalf of an individual who has been the subject of a petition filed under the Jemez Children's Code or on the Jemez Children's Court's own motion, the Jemez Children's Court may, after a hearing, vacate its findings, orders and judgments on the petition and order the Social Services files and records of the Jemez Children's Court, probation officer and of any other agency in the case sealed. If requested in the motion, the Jemez Children's Court shall also order law enforcement files and records sealed. An order sealing records and files may be entered if the Jemez Children's Court finds that:

1. One (1) year has lapsed since the final release of the individual from legal custody and/or supervision.

2. The individual has not, within the one (1) year immediately prior to filing the motion, been convicted of a felony or a misdemeanor or found delinquent or in need of supervision by a court, and no proceeding is pending seeking such a conviction or finding.

3. The best interests of the individual and the Pueblo of Jemez will be served if the case is expunged.

B. Reasonable notice of the expungement hearing shall be given to:

1. The petitioner;

2. The probation officer if involved;

3. Jemez Social Services if involved;

4. The law enforcement officer, department and central records depository having custody of the law enforcement files and records, if such records are included in the motion; and

5. Any other agency having custody of records or files subject to the sealing order.

C. Upon entry of the sealing order, the proceedings in the case shall be expunged and all index references shall be deleted. The Court, law enforcement officers and departments and agencies shall reply, and the individual may reply, to an inquiry that records with respect to such person have been expunged. Copies of the sealing order shall be sent to each agency or official named herein.

D. Inspection of the files and records or the release of information in the records included in the sealing order may thereafter be permitted by the Court only upon motion by the individual who is the subject of the records, Jemez Social Services Program and law enforcement and only to those persons named in the motion.

E. Any finding or allegation of delinquency or need of supervision after the sealing order is entered may, by Court order, be used as a basis to set aside that sealing order.

F. A person who has been the subject of a petition filed under the Children's Code shall be notified of the ability to have records sealed by the Court at the end of the dispositional stage.

## CHAPTER 4 CHILD ABUSE OR NEGLECT REPORTING REQUIRMENTS

### SECTION 11-4-1 DUTY TO REPORT SUSPECTED CHILD ABUSE OR NEGLECT

A. Basis of Report

Any person who knows or has probable cause to suspect that a child has been abused or neglected shall report the suspected abuse or neglect to the Jemez Social Services and/or Law Enforcement.

B. Mandatory Reporters

The following persons are mandatory reporters and are required to report suspected child abuse or neglect:

1. Physicians, nurses, dentists, optometrists, and other health professionals;

2. School principals, school teachers, and any other school officials;

3. Child day care center workers and other child care staff, including foster parent(s) and residential care, or institutional personnel;

4. Counselors, therapists, social workers, psychiatrists, psychologists, and other mental health professionals;

5. Peace officers and other law enforcement officials;

6. Judges, Jemez Pueblo court counselors and clerks, and other judicial system officials;

7. Employees of Jemez Community Development Corporation;

8. Employees of the Jemez Pueblo Public Library;

9. Employees of the Pueblo of Jemez in any Jemez Pueblo governmental program.

C. Failure of a mandatory reporter to report suspected child abuse or neglect is a crime and subject to penalty under Section 11-4-1 (F) of this code.

D. Anonymity

Any person who files a report of suspected child abuse or neglect may, upon request and approval of the Court, remain anonymous, except those persons who are mandatory reporters pursuant to section (B) of this section or other professional licensing standards.

E. Immunity

Any person making a report, providing information or otherwise participating in the child protective services program shall be immune from a civil or criminal liability for such action, unless such person acted in bad faith, malice or knowingly provided false information.

F. Penalties for Failing to Report

Any mandatory reporter failing, neglecting or refusing to report a suspected case of child abuse or neglect shall be guilty of violating Section 11-4-1 (B) and shall be punished by a fine of not less than $500.00 and/or jail time of not more than ninety (90) days.

G. Penalties for Filing a False Report

Any person who knowingly files a report of child abuse or neglect with the intent to impugn the character of the alleged perpetrator or to create discord in a family or legal proceeding shall be guilty of a crime punishable by a fine of not less than $500.00 and/or jail time of not more than ninety (90) days.

## CHAPTER 5 JEMEZ CHILDREN'S COURT CHILD IN NEED OF SUPERVISION AND ABUSE OR NEGLECT PROCEEDINGS

### SECTION 11-5-1 OVERVIEW OF CHILD IN NEED OF SUPERVISION AND DEPENDENT CHILD PROCESS

A. Jemez Law Enforcement will forward any report of suspected child abuse or neglect to Jemez Social Services Program for an investigation.

1. Jemez Social Services can initiate an investigation based on statements made by parents, other family members or other reports made to Jemez Social Services.

2. The Jemez Social Services investigation is not an investigation into any criminal activity, but an investigation into the allegations of child abuse or neglect and the best interests of the child. Law Enforcement shall have investigative responsibility to determine if the situation involves criminal activity.

3. In all possible cases, multiple interviews of the victims will be avoided and joint Law Enforcement /Social Services victim interviews will be encouraged.

B. If the Jemez Social Services Program investigation finds that the allegations of abuse or neglected are substantiated, Jemez Social Services shall remove the child(ren) from the abusive or neglectful environment in accordance with section 11-1-15 of this Children's Code.

C. If the Jemez Children's Court finds that the accusations of abuse and neglect have been substantiated:

1. The Jemez Children's Court can enter an order for the child(ren) to be placed in temporary legal custody with conditions based on recommendations from Jemez Social Services and other service providers in accordance with Section 11-2-3 of this code.

2. If the conditions warrant as described by Section 11-1-16(A), the Court can enter an order making the child a ward of the court and remove the child from the home, and pursuant to Section 11-1-16 (D) until the Court is satisfied that the parents have completed counseling, treatment or any other condition that leads to reconciliation with the child(ren).

D. If conditions warrant continued out of home placement and it appears that reconciliation is not possible or in the best interests of the child(ren), no later than 12 months have passed from out of home placement, Jemez Social Services will prepare a permanency plan for the child(ren).

**SECTION 11-5-2 PETITION REQUIREMENTS**

A. All proceedings in the Jemez Children's Court will be initiated by Petition filed by a Law Enforcement Officer, Jemez Social Services or an individual subject to the jurisdiction of the Jemez Children's Court.

B. A petition initiating a Jemez Children's Court child in need of supervision and abuse or neglect proceeding shall be captioned "In the Children's Court Pueblo of Jemez", and entitled, In the matter of _____, a child, DOB:_____, and shall state with specificity:

1. That the person submitting the petition swears that the statements made in the petition are true and accurate and made after swearing that signer so

swears, knowing that any untrue statements are punishable by this Court for contempt of court and other legal action.

2. The facts asserting the jurisdiction of the Jemez Children's Court.

3. That the child coming before the Jemez Children's Court has been a victim of child abuse or neglect or that the child is a child in need of supervision.

4. A plain and concise statement of facts upon which the allegations are based, including the date, time and location at which the alleged act(s) occurred.

5. The name, birth date, Jemez Pueblo or other tribal membership status, residence and address of the child.

6. To the degree possible, the names, Jemez Pueblo or other tribal membership status, residence and address of parents, guardians, legal custodians, and grandparents as defined in Section 11-1-2 A. 34.; and if none of the parents, guardians, legal custodians, grandparents reside or can be found within Pueblo lands, or if their residence or addresses are unknown, the name of any known adult extended relative residing within Pueblo lands.

7. The name of the person presenting the petition and the date and time presented.

8. Whether the child is in physical custody, and if so, the place of foster or shelter care or other placement and the time he or she was taken into physical custody.

C. A Petition will not be considered defective and not subject to immediate dismissal if some of the above items above are incomplete or unknown.

## SECTION 11-5-3 INITIAL HEARING FOR A CHILD IN NEED OF SUPERVISION

A. After a petition alleging a child to be without supervision has been filed, the child and parents shall be given the opportunity to make an initial appearance before the Jemez Children's Court and be informed of the nature of the allegations contained in the petition, the basic rights they have in the Court, the consequences if the allegations are found to be true, and to have a copy of the petition.

B. The court will schedule a hearing on the merits of the Petition, unless the parties agree to participate in an informal process as described below in Section 11-5-4.

C. The Clerk of the Tribal Court shall provide written notice of the hearing stating the time, place and purposes of the hearing to the child's parent(s), guardian or custodian.

D. The Pueblo of Jemez Social Services remains required to assure it provides a copy to the other parties of any Petitions or pleadings it files with the Court, unless it requests permission for ex parte communication through a written motion.

E. The Jemez Children's Court shall advise the parties of their basic rights under Section 11-1-7 and may appoint an Advocate or Guardian ad Litem.

## SECTION 11-5-4 FISCALE INFORMAL HEARING AND PROCESS

A. The Jemez Children's Court, at any stage in the proceedings, including at the Initial Hearing, may in its discretion refer a case for resolution through an informal process conducted by the Fiscales. If the Jemez Children's Court does not receive confirmation upon the expiration of thirty (30) calendar days that the Fiscales have accepted transfer of a matter for an informal process then the Jemez Children's Court shall proceed with the formal process.

B. An informal hearing may be held with all parties involved in the case to discuss whether proceeding through an informal process for resolution would be in the best interest of the child and Jemez Pueblo.

C. All parties involved in the matter shall be notified of the date and time of the informal hearing with the Fiscales.

D. No statements made in the informal hearing may be admitted into evidence at any other proceedings under the Children's Code.

E. The Fiscales shall approve a resolution in writing reached by the parties to the case and notify the Jemez Children's Court that a resolution has been reached and provide a copy of such resolution to the Jemez Children's Court.

F. Failure of the parties to abide by the resolution terms shall result in reinitiating formal proceedings under the Jemez Children's Code.

G. Failure of the parties to reach a resolution through an informal process upon the expiration of (60) days from the date of the acceptance of the transfer of the matter by the Fiscales shall reinitiate formal proceedings under the Jemez Children's Code.

## SECTION 11-5-5 HEARINGS

A. All child in need of supervision hearings before the Jemez Children's Court shall be conducted separate from other Tribal Court proceedings and in accordance with the laws of the Pueblo of Jemez. The proceedings shall be recorded by electronic device or other means the Court finds appropriate.

B. The Jemez Children's Court shall advise the parties and the child who is alleged to be in need of supervision of their basic rights under 11-1-7 at each separate appearance.

C. All child in need of supervision hearings before the Jemez Children's Court shall be closed to the general public, except the parties, witnesses and other persons who have an interest in the proceeding and are approved by the Court.

D. If the Jemez Children's Court finds that it is in the best interest of the child, the child may be temporarily excluded from any hearing including the final hearing on disposition and the Court should identify the reasons for the child's exclusion.

E. The Jemez Children's Court, prior to the start of a hearing, shall inform all persons present at the hearing of the confidential nature of the proceedings and the penalties for violation of the confidentiality requirements found in 11-1-12 of this code.

F. The Jemez Children's Court may consider and rely on all relevant and material evidence helpful in determining the issues presented in a petition, including verbal and written reports, provided such evidence tends to prove facts even though it might not otherwise be admissible. If the Jemez Children's Court has adopted rules of evidence applicable to child in need of supervision proceedings, such rules shall apply to the admission of evidence.

G. A party in any Jemez Children's Court is entitled to an opportunity to introduce evidence and be heard, and to confront and cross-examine witnesses testifying against him or her, and to admit or deny the allegations in a petition.

H. In cases transferred to the Jemez Children's Court pursuant to the Indian Child Welfare Act, reports and other public records generated by state personnel or agencies outside of the Pueblo of Jemez may be accepted as evidence where the best interest of the child require it even though state personnel are unable or unwilling to testify in the Jemez Children's Court.

I. The Jemez Children's Court, after hearing all the evidence on the allegations presented in the petition shall make and record its findings on whether the allegations in the petition have been established by the evidence presented. The Jemez Children's Court shall also make a finding of whether active efforts have been made to keep the child with his or her parent(s).

J. The standard of proof in all child in need of supervision proceedings under this Chapter 5 shall be clear and convincing evidence or based upon a valid admission to the allegations of the petition.

## SECTION 11-5-6 DISPOSITIONAL HEARING

A. The Jemez Children's Court may, on its own motion or by motion of a party, continue the hearing on the petition for a reasonable time to receive reports, evaluations or assessments and other evidence in connection with disposition. During any continuance under this subsection, the Jemez Children's Court shall make an appropriate order for legal custody.

B. Evaluations, assessments, disposition reports and other material to be considered by the Jemez Children's Court in the dispositional hearing shall be submitted to the Jemez Children's Court and provided to other parties to the case no later than five (5) days before the scheduled dispositional hearing date. An affidavit, which does not require a notarized signature, shall be filed with the Court that states the reasons why a report described in 11-5-6 (B) has not been completed shall be filed with the Jemez Children's Court no later than five (5) days before the dispositional hearing and notify the Court whether a continuance is needed.

C. Permanency Plan: If identifiable conditions warrant continued out of home placement and it appears that reconciliation between parent and child is not possible or is not in the best interests of the child(ren) and Jemez Social Services will not meet the 5 day rule outline in 11-5-6(B), Jemez Social Services will prepare a proposed permanency plan for the child(ren), for the Court's approval, that includes a request the child(ren) to remain at child's out of home placement and such will be filed by Social Services within 5 days before the scheduled dispositional hearing.

E. The Court will rule on its acceptance or rejection of any proposed permanency plan after the dispositional hearing, if the Pueblo of Jemez Social Services is able to sufficiently prove its allegations or if the Respondent parties agree to a finding that the child(ren) is a child in need.

F. The Court can consider the proposed permanency plan in any Orders it enters to grant any continuances or requests for extensions while it awaits ruling on a finding of abuse and neglect at a disposition hearing.

G. Parents or guardians to the child(ren) may file a written response to the proposed permanency plan that may include whether the parent or guardian agrees or does not agree to the proposed permanency plan.

H. The Jemez Children's Court may, in its discretion, dismiss a petition without prejudice if the necessary reports, evaluations or other material have not been submitted in a timely manner and the Court has found a dismissal is in the best interest of the child(ren).

## SECTION 11-5-7 ORDERS

A. All orders issued by the Jemez Children's Court will be in writing and will include the findings of the Court, the disposition that has been ordered, the date of the disposition and signed by the Jemez Children's Court.

B. An order granting legal custody of a child in the Jemez Social Services Program or other agency shall remain in force for a period not to exceed two (2) years from the date entered,

C. An order granting legal custody of a child with an individual shall remain in force for two (2) years from the date entered and automatically terminate at the end of two (2) years unless terminated or extended by order of the Court.

D. At any time prior to the expiration of an order transferring legal custody, upon motion by Jemez Social Services, the Court may extend the order for an additional period of up to one (1) year if it finds that the extension is necessary to safeguard the welfare of the child or the public interest of the Pueblo of Jemez.

E. When a child reaches eighteen (18) years of age all orders affecting the child then in force shall automatically terminate, except as specified under Section 11-1-3(F)

## SECTION 11-5-8 REVIEW OF PLACEMENT ORDERS

In all cases in which the child is ordered into an out of home placement, the Jemez Children's Court shall review the out of home placement order every ninety (90) calendar days. The Court will consider whether the family has taken the necessary steps for reunification and whether the child is thriving in the out of home placement.

## SECTION 11-5-9 MODIFICATION AND REVOCATION OF LEGAL CUSTODY ORDERS

A. An individual, agency, or institution vested with legal custody of a child may petition the Jemez Children's Court for a modification or revocation of an Order on the grounds that such change is necessary for the welfare of the child or in the public interest. The Court shall proceed upon such Petition in the same manner as upon a Petition filed under Section 11-3-1 (B) or Section 11-5-2 (B) of this Chapter. A Petition for Modification of a Jemez Children's Court order will be filed in Jemez Children's Court.

B. At any time prior to expiration, an order granting legal custody or protective supervision may be modified upon a request by:

1. Jemez Social Services or any other person based on changed circumstances which requires a change in the legal custody or protective supervision of the child, or

2. A person who has legal custody, or responsibility for protective supervision, to extend the period of the order on the grounds the requested action is necessary for the completion of rehabilitative services, to safeguard the welfare of the child or protect the public interest.

## SECTION 11-5-10 PROTECTIVE SUPERVISION

A. Protective supervision is a status for a child adjudicated to be a child in need of supervision, a neglected or dependent child. The purpose of protective supervision is to insure continuing court involvement and supervision of family situations that have resulted in the children in the family exhibiting negative behaviors or suffering neglect. Protective supervision will include conditions on both the child and the child's parents that insure the family is receiving services necessary to resolve problems in the family. Protective supervision may be requested by any party or the Jemez Social Services. The Jemez Children's Court may also initiate without request subject to the requirements below.

B. Upon a finding of a child to be a child in need of supervision or a neglected or dependent child, the Jemez Children's Court may place the child(ren) into protective supervision with an expiration period not to exceed two years.

C. Protective supervision does not necessarily include a change of physical and/or legal custody; but is the assignment of an individual or an agency to monitor and report to the Court the progress made or issues that arise within the family of the adjudicated child. Any individual or agency so assigned will collaborate with Jemez Social Services to implement the protective supervision order.

D. The protective supervision order shall contain the following conditions, including, but not limited to:

1. Treatment for alcohol or drug abuse, in-patient or out-patient,

2. Counseling sessions including individual and family sessions,

3. Participation in programs designed to develop individual and family resilience, and

4. Participation in any other activity ordered by the Court, including the development of a parenting plan.

E. Prior to the expiration of an order of protective supervision, the Jemez Children's Court may extend the order for an additional period of up to one (1) year if it finds that the extension is necessary to complete rehabilitative services or to safeguard the welfare of the child.

F. The Jemez Social Services Program may petition that the child be released from protective supervision, prior to the expiration period when it appears that the purpose of the order has been achieved. The petition shall set forth the reasons for the requested release.

## CHAPTER 6 SUSPENSION OF PARENTAL RIGHTS AND INFORMAL ADOPTION

### SECTION 11-6-1 POLICY ON SUSPENDING PARENTAL RIGHTS AND INFORMAL ADOPTION

A. The Pueblo of Jemez has specific cultural values that reinforce the family and community relationships and which guide the process for adoption and other long term care of children who cannot live in the household with their birth parents.

B. Children in the Pueblo of Jemez have cultural rights and relationships that cannot be forfeited because of the behavior of their biological parents.

C. Permanency planning and other long-term care planning will be cognizant of cultural rights and other rights based in the complex interrelationships that form the fabric of life in the Pueblo of Jemez.

D. The traditional practices of the Pueblo of Jemez recognize that there have been and continue to be many instances of children being raised in families other than their birth family and family members often take on responsibilities for children who are not their own.

E. The process of informal adoption is one that is to facilitate and protect long standing traditional practices of the Pueblo of Jemez and is sufficiently formal to meet the expectations of Federal and state governments.

### SECTION 11-6-2 SUSPENSION OF PARENTAL RIGHTS

A. The suspension of parental rights recognizes that the parents of the children who are before the Court have exhibited a pattern of behavior that constitutes abuse or neglect of their children and that the Court needs to restrict contact between the natural parents and the child(ren) until certain conditions have been met or on a permanent basis.

B. The Court, upon recommendation by Jemez Social Services and other agencies and programs, may enter an order suspending parental rights.

C. The suspension of parental rights results in the development of a permanency plan for the child(ren) that can result in Jemez Pueblo customary adoption.

### SECTION 11-6-3 VOLUNTARY SUSPENSION OF PARENTAL RIGHTS

A parent may voluntarily agree to suspend his or her parental rights if the consent has been signed by the parent(s) in front of a Jemez Children's Court judge with the judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent.

### SECTION 11-6-4 PETITION FOR THE SUSPENSION OF PARENTAL RIGHTS

A. Any adult or agency possessing legal custody of a minor child may file a petition with the Jemez Children's Court seeking an order for the suspension of the parental rights of a parent of a child. The petition shall contain the following information:

1. The name, address and telephone number of the child's tribe;

2. The name, address, telephone number and age of the child's parent whose parental rights are to be suspended;

3. The name, address, and telephone number of the petitioner and the petitioner's relationship, if any; to the child;

4. The name, address, and telephone number of any other extended relatives who may have an interest in the care, legal custody and control of the minor child;

5. A statement as to why an order for the suspension of parental rights of the parent is in the best interests of the child and the Pueblo of Jemez;

6. A statement as to basis for the request for the suspension of parental rights, supported by medical, psychiatric, child protection worker, family member and/or psychological reports or testimony; and

7. A statement that no similar action is pending in a state or other tribal court having jurisdiction over the child.

B. The petitioner shall sign the petition in the presence of the Clerk of Tribal Court or a notary public and shall affirm under oath that the contents are true and correct except as to those matters based upon belief and, as to those matters, the petitioner reasonably believes them to be true.

C. For purposes of compliance with Federal and State law, the petition for suspension of parental rights will be filed no earlier than one (1) years after the child has been removed from the child(ren)'s biological family.

## SECTION 11-6-5 RIGHTS OF PARTIES IN SUSPENSION OF PARENTAL RIGHTS PROCEEDINGS

A. In addition to any other rights afforded under the Indian Civil Rights Act, 25 U.S.C. Sections 1301-03 (1968), as amended, or enumerated within applicable Jemez Pueblo laws, petitioners, and other parties have the following rights:

1. A biological parent has the right to refuse services provided by any social services agency, however, their refusal to accept services may have a significant impact on their ability to have contact with their child;

2. The petitioner and respondent have the right to have reasonable notice and to attend any hearing arising out of the filing of a petition for suspension of parental rights pursuant to this Title;

3. The parents or guardians have the right to legal counsel at their own cost in suspension of legal rights proceedings.

4. The parents or guardians and the petitioner have the right to summon and cross-examine witnesses.

5. The parents or guardians and the petitioner have the right to seek independent medical, psychological or psychiatric evaluations of the child at their own expense.

## SECTION 11-6-6 NOTICE OF HEARING FOR THE SUSPENSION OF PARENTAL RIGHTS

A. Notice of a hearing for the suspension of parental rights shall be sent to the biological parents, any witnesses the biological parents request, and the agencies that have been providing service to the family under previous court orders.

B. Notice of hearing shall be sent in accordance with Section 11-1-8 Subpoenas, Summons, Service, of this Code.

## SECTION 11-6-7 FINAL ORDER FOR SUSPENSION OF PARENTAL RIGHTS.

A. If the Court determines by clear and convincing evidence that it is in the best interests of the child, the Court shall issue a final order for suspending the parental rights biological parents. The Court shall make findings that it is in the child's best interests that a final order for suspension of parental rights be entered and the Court shall specify the basis of those findings.

1. Such an order for the suspension of parental rights shall include, but is not limited, to the following:

   a. A determination that the parent(s) received notice of the proceedings that advised them of their rights;

   b. Because the child has been a ward of the Court and has been in placement for a minimum of one (1) year prior to filing a petition to suspend the parental rights of the child's biological parents, there is a rebuttable presumption that the suspension of parental rights is in the best interest of the child;

   c. A permanent suspension of the parental rights of the parent including the suspension of the right to the care, legal custody and control of the minor child and allowing the child to be customarily adopted.

2. In addition the order may contain provisions that include:

   a. An order that the biological parent(s) are restrained from contacting the minor child or the child's adoptive parent(s), including contact in person, by mail, by telephone or through third parties. Or the order may allow for a contact agreement, agreed upon by the parties, to be ordered by the Court;

   b. Ordering that any prior court order for physical and/or legal custody, visitation or contact with the minor child is thereby terminated, unless there is an existing order for siblings who are placed in a customary adoption with different families or grandparents who have maintained an ongoing relationship with the child;

   c. The biological parents' obligation to pay child support, except for arrears, is terminated; or that a child support obligation continues until the age of majority, or continues or is modified according to an agreed upon schedule.

3. Final orders for the suspension of parental rights may be reviewed by the Court at the request of the parent, or the prospective adoptive parent only if one of the following occurs:

   a. The child is not adopted after a period of one year after the entry of the final order suspending parental rights;

   b. The adoption of the child fails; or

   c. The adoptive parent is deceased.

4. Notice of this review shall be provided to all parties to the hearing at which the final order was issued.

## SECTION 11-6-8 RIGHTS AFFECTED

A. The suspension of parental rights will not affect cultural responsibilities that child(ren) may have based in the family to which they are born.

B. The suspension of parental rights does not sever or affect in any way a child(ren)'s rights of inheritance from either or both biological parents.

C. The suspension of parental rights will not affect the child(ren)'s ability to be enrolled into Jemez Pueblo for which the child would be eligible had the parent's rights not been suspended. This sub-section is not intended to replace or in any way change the application of Title XIII Membership Ordinance of the Pueblo of Jemez Tribal Code.

D. The suspension of parental rights will not affect the child(ren)'s right to receive financial support from the suspended parent, unless specifically modified through court order after a hearing.

E. The suspension of parental rights will give the Court, Jemez Social Services or adoptive parents the authority to make medical, educational, religious and language decision on behalf of the child(ren).

F. The child(ren)'s surname will not be changed except through court order.

## SECTION 11-6-9 EFFECT OF SUSPENSION OF PARENTAL RIGHTS

A. Once the parental rights of the biological parents have been suspended, the Court shall make the child a ward of the Court, if the child is not already a ward of the Court.

B. If the child is not in Foster Care or other out of home placement, Jemez Social Services Program shall place the child in temporary legal custody under Section 11-1-15 of this Code.

C. Any interested adult or the Jemez Social Services Program may petition for an informal adoption of the child whose parents have had their parental right suspended, as long as the interested adult and household members can pass a background check.

## SECTION 11-6-10 PROCEDURES FOR INFORMAL ADOPTION

A. An interested adult or Jemez Social Services Program will ask the Jemez Children's Court for a conference to discuss the adoption of the child(ren).

B. The Court will schedule a conference concerning the adoption within thirty (30) days of the request.

C. The following people will be called to participate in the conference:

1. Grandparents as defined in Section 11-1-2 A. 34. above,
2. Aunts and uncles, maternal and paternal,
3. Godparents,
4. Adult siblings,
5. Biological parents, if the other participants feel they should be there,
6. The child, if the other participants feel the child should be there,
7. Jemez Social Services,

8. Any other person able to prove an interest in the child may participate absent objection from any of the above listed participants.

D. The findings of the conference will direct the Court's order for customary adoption

## SECTION 11-6-11 DUTIES AND RESPONSIBILITIES TO IMPLEMENT CONFERENCE OUTCOME

A. Once the parties in the conference have made a decision, the Jemez Social Service Program will conduct the necessary home studies and assessments to insure a safe and wholesome environment, including a background check for members of interested adult's household.

B. If the Jemez Social Services cannot certify the home identified in the conference findings as a safe and wholesome environment, Section 11-6-11 (A) will be repeated.

C. Jemez Social Services Program will file a Petition in the Jemez Children's Court requesting that the findings of the conference be implemented by court order recognizing the identified family as the adoptive parents and attaching any conditions and terms established by the conference.

D. Any changes to the court order or status of the child other than reaching the age of majority shall be brought to the Court by Jemez Social Services as a modification of the customary adoption order.

# CHAPTER 7 TERMINATION OF PARENTAL RIGHTS AND ADOPTION

## SECTION 11-7-1 POLICY ON TERMINATION OF PARENTAL RIGHTS AND ADOPTION

A. Termination of parental rights is a process that is not preferred for the Pueblo of Jemez due to a wide variety of interrelationships that exist between individuals, families, clans and other social structures. Termination of parental rights is an extraordinary process because of the complex interrelationships and size of the population of the Pueblo and will only be allowed for in exceptionally rare cases.

B. Children in the Pueblo of Jemez have cultural rights and relationships that cannot be forfeited because of the behavior of their biological parents.

C. Permanency planning and other long-term care planning will be cognizant of cultural rights and other rights based in the complex interrelationships that form the fabric of life in the Pueblo of Jemez, including the rights of non-member parents.

## SECTION 11-7-2 TERMINATION OF PARENTAL RIGHTS

A. The termination of parental rights recognizes that the parents of the children who are before the Court have exhibited a pattern of behavior that constitutes abuse or neglect of their child(ren) and that the Court needs to restrict contact between the natural parents and the child(ren).

B. The termination of parental rights results in the development of a permanency plan for the child(ren) that can result in informal adoption or a formal adoption.

C. The Court, upon recommendation by Jemez Social Services and other agencies and programs, may enter an order terminating parental rights in a permanent manner after making a finding whether active efforts have been made to keep the child with his or her parent(s).

D. An individual seeking to terminate another person's parental rights and formal adoption must work with Jemez Social Services to file such an action. Jemez Social Services may refuse to file a petition for termination of parental rights if their investigation indicates that such termination is frivolous or is not in the best interest of the child.

## SECTION 11-7-3 VOLUNTARY TERMINATION OF PARENTAL RIGHTS

A parent may voluntarily agree to terminate his or her parental rights if the consent has been verified in front of a Jemez Children's Court judge with the judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent. The Jemez Children's Court has the discretion to require relinquishment counseling prior to accepting the voluntary termination of parental rights.

## SECTION 11-7-4 PETITION FOR TERMINATION OF PARENTAL RIGHTS; WHO MAY FILE

A. The Jemez Social Services Program for the Pueblo of Jemez possessing legal custody of a minor child or acting on behalf of an individual, other than a lawfully married step-parent, may file a petition with the Jemez Children's Court seeking an order for the termination of the parental rights of a parent of a child. The Jemez Children's Court cannot accept a petition for termination of parental rights that is not initiated by Jemez Social Services, except as outlined in 11-7-4(B).

B. The custodial birth parent and the custodial birth parent's spouse, may file a co-petition with the court to terminate the parental rights of a non-custodial birth parent as part of a Petition to Adopt a child in order to strengthen family relationships.

## SECTION 11-7-5 PETITION FOR THE TERMINATION OF PARENTAL RIGHTS

A. The petition shall contain the following information:

1. The name, address and telephone number of the child's tribe;

2. The names, addresses, telephone numbers, Jemez Pueblo or other tribal affiliations and dates of birth of the child's parents;

3. The name, address, and telephone number of the petitioner and the petitioner's relationship, if any; to the child;

4. The name, address, and telephone number of any other extended relatives who may have an interest in the care, legal custody and control of the minor child;

5. The basis for the Jemez Children's Court jurisdiction;

6. A statement as to why an order for the termination of parental rights of the parent or parents is in the best interests of the child and the Pueblo of Jemez;

7. A statement as to basis for the request for the termination of parental rights, supported by medical, psychiatric, child protection worker, family member and/or psychological reports or testimony; and

8. A statement that no similar action is pending in a state court or other tribal court having jurisdiction over the child.

B. The petitioner shall sign the petition in the presence of the Clerk of Tribal Court or a notary public and shall affirm under oath that the contents are true and correct except as to those matters based upon belief and, as to those matters, the petitioner reasonably believes them to be true.

C. For purposes of compliance with Federal and State law, the petition for termination of parental rights will be filed no earlier than one (1) years after the child has been removed from the child(ren)'s biological family, unless the termination petition is filed by the lawfully married step-parent.

## SECTION 11-7-6 RIGHTS OF PARTIES IN TERMINATION OF PARENTAL RIGHTS PROCEEDINGS

A. In addition to any other rights afforded under the Indian Civil Rights Act, 25 U.S.C. Sections 1301-03 (1968), as amended, or enumerated within the applicable Jemez Pueblo laws, petitioners, and other parties have the following rights:

1. A biological parent has the right to refuse services provided by any social services agency, however, their refusal to accept services may have a significant impact on their ability to have contact with their child;

2. The petitioner and respondent have the right to have reasonable notice and to attend any hearing arising out of the filing of a petition for termination of parental rights pursuant to this Title;

3. The biological parents and the petitioner have the right to summon and cross-examine witnesses.

4. The biological parents and the petitioner have the right to seek independent medical, psychological or psychiatric evaluations of the child at their own expense.

5. All parties before the court shall have the right to an attorney at their own expense.

## SECTION 11-7-7 NOTICE OF HEARING FOR THE TERMINATION OF PARENTAL RIGHTS

A. Notice of a hearing for the termination of parental rights shall be sent to the biological parents, any witnesses the biological parents request, the agencies that have been providing service to the family under previous court orders, and to any professional attorney that has been retained by the parents to represent them in this matter.

B. Notice of hearing shall be sent in accordance with Section 11-1-8 of this Code.

## SECTION 11-7-8 FINAL ORDER FOR TERMINATION OF PARENTAL RIGHTS

A. If the Court determines by clear and convincing evidence that it is in the best interests of the child, the Court shall issue a final order for terminating the parental rights of the biological parents. The Court shall make findings that it is in the child's best interests that a final order for termination of parental rights be entered and the Court shall specify the basis of those findings.

1. Such an order for the termination of parental rights shall include, but is not limited, to the following:

   a. A determination that the parent(s) received notice of the proceedings that advised them of their rights;

   b. Because the child has been a ward of the Court and has been in placement for a minimum of one (1) year prior to filing a petition to terminate the parental rights of the child's biological parents, there is a rebuttable presumption that the termination of parental rights is in the best interest of the child;

   c. A termination of the parental rights of the parent including the termination of the right to the care, legal custody and control of the minor child and allowing the child to be adopted.

2. In addition the order may contain provisions that include:

a. An order that the biological parent(s) are restrained from contacting the minor child or the child's adoptive parent(s), including contact in person, by mail, by telephone or through third parties. Or the order may allow for a contact agreement, agreed upon by the parties, to be ordered by the Court;

b. Ordering that any prior court order for physical and/or legal custody, visitation or contact with the minor child is thereby terminated, unless there is an existing order for siblings who have been adopted, customary or non-customary, with different families or grandparents who have maintained an ongoing relationship with the child;

c. The biological parents' obligation to pay child support, except for arrears, is terminated; or that a child support obligation continues until the age of majority, or continues or is modified according to an agreed upon schedule.

3. Final orders for the termination of parental rights may be reconsidered by the Court by motion of the parent, or the prospective adoptive parent only if one of the following occurs:

a. The child is not adopted after a period of one year after the entry of the final order suspending parental rights;

b. The adoption of the child fails; or

c. The adoptive parent is deceased.

4. Notice of this review shall be provided to all parties to the hearing at which the final order was issued.

## SECTION 11-7-9 RIGHTS AFFECTED

A. The termination of parental rights will not affect cultural responsibilities that child(ren) may have based in the family to which they are born.

B. The termination of parental rights does not sever or affect in any way a child(ren)'s rights of inheritance from either or both biological parents.

C. The termination of parental rights will not affect the child(ren)'s ability to be enrolled into Jemez Pueblo for which the child would be eligible had the parent's rights not been terminated. This sub-section is not intended to replace or in any way change the application of Title XIII Membership Ordinance of the Pueblo of Jemez Tribal Code.

D. The termination of parental rights will not affect the child(ren)'s right to receive financial support from the terminated parent, unless specifically modified through court order after a hearing.

E. The termination of parental rights will give the Court, Jemez Social Services or adoptive parents the authority to make medical, educational, religious and language decision on behalf of the child(ren).

F. The child(ren)'s surname will not be changed except through court order.

G. The termination of one's parent's rights will not affect the rights of the other parent.

H. Once the termination order is in effect, the parent subject to the order of termination will not be entitled to notice of the child's adoption proceedings or participate in the proceedings.

## SECTION 11-7-10 EFFECT OF TERMINATION OF PARENTAL RIGHTS

A. Once the parental rights of the biological parents have been terminated, the Court shall make the child a ward of the Court, if the child is not already a ward of the Court.

B. If the child is not in Foster Care or other out of home placement, Jemez Social Services Program shall place the child in temporary legal custody under Section 11-1-15 of this Children's Code.

C. Any interested adult or the Jemez Social Services Program may petition for a adoption, informal or formal, of the child whose parents have had their parental rights terminated, as long as the interested adult and household members can pass a background check.

D. The Jemez Social Service will prepare a permanency plan for the adoption of a child whose birth parents have had their parental rights terminated.

E. If only one parent had their parental rights terminated, the child shall be permanently placed with the parent whose parental rights remain intact.

## SECTION 11-7-11 PROCEDURES FOR FORMAL ADOPTION

A. The Jemez Social Services Program will file the Petition in the Jemez Children's Court requesting an adoption of the child(ren) for adoptions related to cases initiated under this Children's Code. An individual, Jemez Pueblo member or non-Jemez Pueblo member, cannot file for formal adoption under their own name, unless the petitioner is a lawfully married spouse of a custodial parent. The formal adoption must be filed by Jemez Social Service on behalf of the designated adoptive parents.

B. The petition shall contain the following information:

1. The name, address and telephone number of the child;

2. The name of the child(ren)'s parent whose parental rights were terminated, the date of termination, and the cause number of the termination order;

3. The name, address, and telephone number of the Petitioner and the designated adoptive parents and their relationship to the child, if any;

4. The name, address, and telephone number of any other agencies or extended relatives who may have an interest in the care, legal custody and control of the minor child;

5. The name, address and telephone number of the child's tribe;

6. Must be signed in front of notary or other officer authorized to administer oaths; and

7. All filing fees must be paid at the time of filing the petition unless exempted by rule of the Jemez Children's Court.

C. Service of Process

1. Notice of hearing shall be sent in accordance with Section 11-1-8 of this Children's Code to the Petitioner, the designated adoptive family and other agencies or extended relatives who may have an interest in the adoption.

D. Final Order for Formal Adoption

1. The Jemez Children's Court shall issue a written order giving care, control and supervision over the child to the adoptive parents.

2. If the evidence warrants, the Jemez Children's Court may continue jurisdiction over this matter as requested by one or more parties.

3. Copies of the adoption order shall be made available to educational, medical and educational institutions as requested by Jemez Social Services or the adoptive parents.

## CHAPTER 8 INDIAN CHILD WELFARE ACT & RELATIONSHIP WITH THE STATES

### SECTION 11-8-1 APPLICATION OF THE INDIAN CHILD WELFARE ACT

The Jemez Children's Court may apply the policies of the Indian Child Welfare Act where they do not conflict with the laws of the Pueblo of Jemez.

### SECTION 11-8-2 RECOGNITION OF FOREIGN ORDERS

A. The Pueblo of Jemez will recognize State child legal custody orders involving Pueblo of Jemez children only after an independent review of such state proceeding has determined:

1. The state court had jurisdiction over the Pueblo of Jemez child;

2. The state proceeding complied with the Indian Child Welfare Act, 25 U.S.C. §1901-§1963;

3. Due process was provided to all interested persons participating in the state proceeding; and

4. The state proceeding does not violate the public policies, customs, or laws of the Pueblo of Jemez.

B. Child legal custody orders from another tribal court involving Pueblo of Jemez children shall be recognized by the Jemez Children's Court after the Court has determined:

1. That the tribal court exercised proper subject matter and personal jurisdiction over the Jemez parties; and

2. Due process was accorded to all interested parties participating in the tribal court proceeding.

## SECTION 11-8-3 EXERCISE OF EXTRA-TERRITORIAL JURISDICTION

A. The Jemez Children's Court may exercise jurisdiction arising under Indian Child Welfare Act involving children who are Jemez Pueblo members or eligible for Jemez Pueblo membership wherever the case may arise.

B. The Court may decline to exercise it jurisdictional rights under the Indian Child Welfare Act jurisdiction in appropriate circumstances where a forum with concurrent jurisdiction is exercising its authority.

## SECTION 11-8-4 TRANSFER OF CASES FROM STATE COURT

A. The Pueblo of Jemez may exercise the right to intervene at any point in state court proceedings.

B. Intervention, if appropriate, will be authorized by the Governor upon review of a profile created by the Jemez Social Services program which outlines the relationship between the child and the Pueblo of Jemez, identifies extended relatives for possible placement, and estimated the potential costs.

C. Once the Governor has authorized the intervention in the state court proceedings, Jemez Pueblo attorneys will petition the state court to intervene in the case.

## SECTION 11-8-5 AUTHORITY TO SEEK FUNDING

The Pueblo of Jemez has the authority to seek funding for the purposes of implementing provisions of the Indian Child Welfare Act, developing programs related to child welfare and other child welfare related needs.

# CHAPTER 9 EDUCATIONAL ATTENDANCE

## SECTION 11-9-1 PURPOSE

The purpose of this Chapter 9 is to require regular attendance at school of all school-age children living on Jemez lands and set preconditions for filing a truancy matter in the Children's Court.

## SECTION 11-9-2 PRECONDITION TO FILING OF PETITION UNDER THIS CHAPTER

To refer a truancy matter to the Jemez Children's Court, a Jemez law enforcement officer or Jemez Social Services must file a Petition for a Child in Need of Supervision and then the process and procedure set forth in Chapter 5 of this Children's Code shall be followed subject to the provisions herein in this Chapter 9. However, prior to the filing of any Petition for a Child in Need of Supervision based upon truancy as defined by this Children's Code, the school in which the child is enrolled shall have completed the following steps first:

A. Provided parent, guardian, or custodian with a phone call by the school;

B. Provided parent, guardian, or custodian with a letter delivered by school with a copy provided to Jemez law enforcement and Jemez Social Services official;

C. School representative(s) met with the assistance with the student's parent, guardian, or custodian to:

1. discuss the student's truancy;

2. conduct an evaluation to determine whether social problems may be a cause of the student's truancy and, if so, have taken appropriate action or made appropriate referrals; and

3. evaluated the student to determine whether learning problems may be a cause of the student's truancy and, if so, have taken appropriate action or made appropriate referrals.

If the student's parent, guardian, or custodian refuses to meet with school representative(s), this Section 11-9-2 (C)(3) is deemed fulfilled.

D. Intervention has been offered to the parent, guardian, or custodian that includes involvement of the Fiscales, Pueblo of Jemez Department of Education, School representative(s), and JSS. If the student's parent, guardian, or custodian refuses intervention, this Section 11-9-7 (D) is deemed fulfilled.

## Section 11-9-3 REQUIREMENT TO ENROLL IN AND ATTEND SCHOOL

A student age six (6) or older shall be required to enroll in and attend school consecutively and continuously during the school year as fixed by the school unless the student's failure to attend is validly excused as previously determined by the school. A student who attains the age of eighteen (18) years during the school year shall be required to complete that school year as well as any special or remedial programs required by the school for the student to receive credit for that school year except that, the student may, with parental consent terminate his or her education upon attaining the age of sixteen (16) years or work towards a GED.

## SECTION 11-9-4 REQUIREMENT TO SEND STUDENT TO SCHOOL

All persons who are legally or otherwise responsible for the care and control or who have assumed the responsibility for the care and control of a student shall enroll said student in school and shall maintain and secure the attendance in school of said student continuously and consecutively during the school year fixed by the school unless the student's failure to attend is validly excused as previously determined by the school board or the student has attained the age of sixteen (16) years and is excused from further attendance at school. In the Court's discretion, any person who violates this section may be subject to penalties. The Children's Court is encouraged to utilize restorative justice solutions where practicable.

## SECTION 11-9-5 PRESUMPTIONS

A rebuttable presumption shall exist that a student's truancy is due to:

1. The person or persons responsible, or who have assumed responsibility for the student's care and control if the student is fourteen (14) years of age or less.

2. The student, if the student is more than fourteen (14) years of age and required to attend school.

Nothing in this section shall prevent both the student and his or her parent, guardian or custodian from being cited with a violation of this Children's Code where it shall appear that both the student and his or her parent, guardian, or custodian participated in the student's truancy.

## SECTION 11-9-6 DUTIES OF SCHOOL PERSONNEL

The school shall be responsible for monitoring school attendance for the students attending their school. A record shall be kept of each student's attendance.

## SECTION 11-9-7 POWERS OF JEMEZ LAW ENFORCEMENT OFFICERS

If, during school hours, a Jemez law enforcement officer believes that a student is in violation of this Chapter 9, he or she is authorized to stop and question, and otherwise investigate said student's behavior in order to determine the compliance or noncompliance of the student in regard to this Chapter 9. If the Jemez law enforcement officer believes that a student is in violation of this Chapter 9, he or she may transport the student to school or home. The Jemez law enforcement officer will provide notification within twenty-four (24) hours to Jemez Social Services if such an event occurs.

## SECTION 11-9-8 EXCUSED NONATTENDANCE

The below contains a list of events that are considered excused nonattendance and do not amount to a truancy event:

1. The student has completed a G.E.D. or has received a high school diploma.

2. The student has a valid medical reason for his or her nonattendance.

3. The student has been suspended and that student is absent during the period of the suspension.

4. The student is absent for other reasons defined in advance as excused absences by the school. Examples of such excused absences include but are not limited to the following:

    a. Death in the immediate family or death of a community member.

    b. The student's health related appointments, provided however, that the nonattendance shall not include time other than that reasonably necessary to attend the appointment(s).

    c. Reasonable times for family illness to be decided upon on a case-by-case basis by the school in consultation with the responsible person.

    d. The student's sport related events.

    e. School field trips.

# CHAPTER 10 EMANCIPATION

## SECTION 11-10-1 EMANCIPATION OF A MINOR

An emancipated minor is any person sixteen years of age or older who:

1. has entered into a valid marriage, whether or not the marriage was terminated by dissolution;

2. is on active duty with any of the armed forces of the United States of America; or;

3. has received a declaration of emancipation pursuant to a court order.

## SECTION 11-10-2 EMANICIPATION BY ORDER OF THE COURT

A. Any person sixteen years of age or older may be declared an emancipated minor if the minor is living separate and apart from his parents, guardians or legal custodians, is managing their own financial affairs and the court finds emancipation in the minor's best interest.

B. A minor may petition the Jemez Children's Court for a declaration of emancipation. The petition shall set forth with specificity the facts bringing the minor within the provisions of Section 11-10-1 and 11-10-2(A) of this Code.

C. Before the petition is heard, notice of the emancipation hearing shall be given to the minor's parents, guardians or legal custodians in accordance with Section 11-1-8 of this Code.

D. If the court finds that the minor is sixteen years of age or older and is a person described under Section 11-10-1 and 11-10-2(A) of this Code, the court may grant the petition for emancipation unless, after having considered all of the evidence introduced at the hearing, the court finds that granting the petition would be contrary to the best interests of the minor.

## CHAPTER 11 NAME CHANGE PETITIONS (Reserved)

## CHAPTER 12 APPEALS (Reserved)