

**Chapter 4.05
JUVENILE AND FAMILY CODE**

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Prior legislation: Ord. 81; Resos. 95-0069, 2005-105, 2005-122, 2005-318, 2005-323, 2006-2, 2006-345, 2007-190, 2008-38, 2009-21, 2009-252 and 2009-349.

Article I. General Provisions

4.05.010 Purpose and scope.

The purpose of this code is to protect and cultivate the best future for the children in the Tulalip Tribal community. All departments, employees, volunteers and agents of the Tribes shall, first and foremost, strive to protect children and to create systems and

structures that preserve opportunities for children to learn about their unique culture and heritage ~~and to become productive members of the Tulalip Tribal community.~~

The Juvenile and Family Code is a family-centered approach that places family as the primary source for understanding the needs and challenges of the child, with the belief that the child is best served in the context of families and that families are best served in the context of their community. Maintaining the child in the home of their natural parents is a major purpose of this chapter.

The scope of this code is to provide guiding principles and best practices to all matters that involve a child with any department, employee, contractor, agent or the Tribal Court.

Therefore, be it enacted by the Board of Directors (hereafter "Board") of the Tulalip Tribes, pursuant to Article VI, Sections 1(K), (L), (O), and (P) of the Constitution of the Tulalip Tribes, that this chapter shall be the law of the Tribes from the date of Secretarial approval. [Res. 2020-554; Res. 2018-346; Res. 2015-101].

4.05.020 Guiding principles for child welfare.

The Tulalip Tribes endeavors to protect the best interest of ~~Indian-Tribal~~ children by:

- (1) Preventing the unwarranted breakup of families;
- (2) Maintaining the connection of children to their families, the Tribes, and Tribal community when appropriate;
- (3) Promoting the stability and security of the Tribes by establishing standards for appropriately handling situations involving Tribal children and families in need of services;
- (4) Utilization of ~~case management~~ reunification services, which allows for and assumes individualized practice to best serve the varying strengths and needs of every child and family; and
- (5) Utilization of ~~ongoing assessments and re-assessments~~ best practices and individualized services to provide for the strengths and needs of the child and family.

Should there be any conflict in the application of these principles and the written law, the liberal application of these principles in the context of what is in the best interest of the child shall prevail. [Res. 2020-554; Res. 2018-346; Res. 2015-226; Res. 2015-101].

Commented [SL1]: Change everywhere to "reunification services"

4.05.030 Definitions.

Terms under this chapter shall be liberally construed so as not to limit the jurisdiction of the Tulalip Tribes over ~~Indian-Tribal~~ children, and to facilitate the authority of the Court and the Tribal agencies directly responsible for serving the needs of the children, to act to protect the interests of ~~Indian-Tribal~~ children and their families. When interpreting terms not defined by this chapter, consideration shall be given to Tulalip Tribal laws, customs, and traditional child-rearing practices. Unless in conflict with applicable Tribal law, terms not specifically defined in this chapter shall be defined according to their normal usage.

Commented [SL2]: Everywhere it says "Indian children" change to "Tribal children"

Define "Tribal children" to include descendants if not definition already

(1) "Active efforts" means the social worker actively and timely connects the parent(s) or guardian(s) with appropriate remedial or rehabilitative services to maintain or reunite a child with ~~his or her~~their family. Active efforts are tailored to the facts and circumstances of the family but they go beyond simply providing referrals to services and ~~should shall~~ include proactively engaging parents and assisting with access to services and keeping the child connected to ~~his or her~~their family.

Commented [SL3]: Change all gendered language to neutral language

(2) "Abandonment" means when a parent, legal guardian, or custodian leaves a child for a substantial period of prolonged absence without making arrangements for reasonable care, control, and supervision of the child despite an ability to exercise these parental rights and responsibilities; or when a child is left in the care of another adult for a substantial period of prolonged absence without the continuing consent of that other adult who is providing temporary care. If there has been no contact between the child and the child's parent, legal guardian, or custodian for a substantial period of prolonged absence, the Court may find that the child has been abandoned even if there is no finding of intent to abandon the child.

(3) "Abuse" includes but is not limited to:

(a) "Physical abuse" includes interfering with a child's breathing, any act that is likely to cause or does cause bodily harm greater than minor temporary marks including but not limited to: bruising, welting, abrasions, lesions, burns, broken bones, or other damage to a child's body not clearly caused by accident, and/or giving a child inappropriate food, drink, or drugs, withholding food for significant period or otherwise malnourishing a child.

(b) "Emotional maltreatment" is defined as a repeated pattern of damaging interactions between a child and one or more parents or caregivers that becomes typical of the relationship. The pattern may be chronic and pervasive, or in some situations stimulated by the parental use of alcohol or drugs. Emotional

maltreatment may coexist with or be a consequence of physical or sexual abuse, but it also can exist as a separate event.

“Emotional maltreatment” may include but is not limited to the following: a child whose social relationships are seriously impaired, and/or a child with very low self-esteem, or a consistent pattern of emotional difficulties such as listlessness, apathy, depression, or self-deprecating remarks; a child who does not appropriately respond to normal adult behavior (e.g., cowering or ingratiating himself or herself to adults behaving normally); a child who is rejected or whose parent, guardian, or custodian refuses to accept him or her; a child whose parent, guardian, or custodian ignores him or her or deprives him or her of essential responsiveness which stifles emotional growth and development; a child who is severely intimidated, ridiculed or terrorized by verbally assaulting, bullying, name calling, destroying possessions, or attacking pets or beloved people of that child; a child who is isolated from normal social experiences, prevented from forming friendships, or locked out of the home; a child who is taught socially deviant behavior, such as by rewarding aggression, delinquency, or sexual behavior; a child who is penalized for positive or normal behavior; or an infant who is failing to thrive as a result of the parent or discouraged from forming an attachment with his or her caregiver.

(c) “Sexual abuse or exploitation” includes failure of a parent, guardian, or custodian to adequately protect a child when the parent, guardian, or custodian knew or reasonably should have known that the child was in danger of sexual abuse or exploitation and exposure. “Sexual abuse or exploitation” may include, but is not limited to: molestation, rape, or sexual assault; engaging in or attempting to engage in a sexual act or sexual contact with a child; causing or attempting to cause a child to engage in sexually explicit conduct; exposing a child to lewd, pornographic or sexually explicit conduct or material; allowing a child to engage in prostitution, obscene or pornographic photography, filming, or other forms of illustrating or promoting sexual conduct; or any sex offense, defined by statute, involving a child.

(4) “Adult” means a person 18 years of age or older, or a person emancipated by order of a court of competent jurisdiction, or by legal marriage.

(5) “Aggravated circumstances” means but is not limited to abandonment, torture, chronic abuse, and sexual abuse and may be defined further by policy.

(6) “beda?chelh” means the Tribes’ ~~Social Services~~ Child Welfare Department under the Family Advocacy Division, charged with protecting Tribal children and serving their families.

(7) “CASA” means a court-appointed special advocate for the child.

(8) “~~Case management~~ Reunification Services” is a collaborative process of assessment, planning, facilitation, case coordination, evaluation, and advocacy for options and services to meet a child’s and family’s comprehensive needs through communication and available resources to promote quality and culturally sensitive outcomes to promote family connectivity and cultural connectivity.

(9) “~~Case Reunification P~~ lanning meeting” is a meeting held within five business days of every dependency hearing for the parent and social worker to discuss the ~~case~~ reunification plan and how the social worker can connect and support the parent in their service plan towards reunification.

(10) “Child,” “juvenile,” and “youth” mean a person who is under the age of 18 years; or any person up to the age of 21 years who meets the criteria for the extended foster care program under this chapter. A youth who remains dependent and who receives extended foster care services under TTC 4.05.630 shall not be considered a “child” under any other statute or for any other purpose.

(11) “Children’s Advocacy Center” (CAC) is the Tribal agency responsible for the coordination of a multi-agency investigation and intervention of child abuse allegations for law enforcement purposes and other services relating to the abuse.

(12) “Crisis residential center” (CRC) is a short-term, semi-secure facility for ~~runaway~~ youth in conflict with their families. Youth cannot remain in a CRC more than 21 consecutive days. The parent must authorize the youth residing at a CRC and the youth must be willing to stay in a CRC. Counselors at the CRC work with the family to resolve the immediate conflict. The goal is to reunite the family and youth when possible.

(13) “Custodial parent” is the person(s) having legal right to custody of the child and includes a legal guardian.

(14) “Custodian” means any person who has physical custody of a child under Tribal law or custom, or under State law, or to whom temporary physical care and custody have been transferred by the child’s parent, and who is providing food, shelter, and supervision to the child.

(15) “Customary adoption” means a process in which a child’s caretaker is bestowed by law the rights and responsibilities for parenting the child until 18 during which time the biological parents’ rights are suspended, meaning they have no recognized legal right to make decisions on behalf of the child, but may remain financially responsible.

(16) “Dependency case” means a case in which the child is alleged to be, or has been found by the Court to be, a “youth-in-need-of-care.”

(17) “Domicile” means a person’s legal home or main residence in which the person resides or to which the person intends to return. The domicile of a child is generally that of the custodial parent or legal guardian.

(18) “Permanence” means consideration of the child’s needs for stability and continuity in relation to the child’s needs to maintain positive and strong relationships with ~~his or her~~ their culture, family, and heritage.

(19) “Family resource meeting” is a meeting of parents, social worker, family members and community supports, and Family Haven to help determine the service needs for parents and youth to promote positive parenting and maintaining the family as a unit. A plan for the family will be created and evaluated at these meetings to promote the family’s strengths while addressing their needs.

(20) “Family team decision meeting” (FTDM) is a meeting that is arranged with parents, family, family supports and applicable service providers to make critical decisions regarding the removal of the child(ren) from their home, changes in out-of-home placement, and reunification or placement into a permanent home.

(21) “Foster care” means the care of a child by a person who is licensed by the Tribal or State agency.

Commented [SL4]: Add “Kinship Care – means care of a child by a family member who is licensed by the Tribal or state agency”

(22) “Guardian” or “legal guardian” means a person, not the child’s parent, who is legally vested with the power and responsibility to care for the child and/or the child’s property.

(23) “Guardian ad litem” (GAL) means an adult appointed by a court to represent the best interests of the child in a proceeding under this chapter.

(24) “In-home dependency” means a child is placed in the physical care of their parent(s), guardian(s), or custodian(s) by court order, but remains in bedachel’s legal custody.

(25) "~~Indian Tribal~~" means any member or person eligible for membership in a Federally recognized Indian tribe, band or community.

(26) "~~Indian Tribal youth~~" or "~~Indian Tribal child~~" means a child who is: (a) enrolled in an Indian tribe; (b) eligible for enrollment in an Indian tribe; or (c) the biological child of a person who is enrolled or is eligible for enrollment in an Indian tribe.

(27) "Neglect" means an act or failure to act, or cumulative effects of a pattern of conduct, behavior, or inaction that shows a serious disregard of consequences, and constitutes a clear and present danger to a child's health, welfare or safety. "Neglect" includes, but is not limited to:

(a) A child who is not receiving the food, clothing, shelter, medical care, education, or supervision needed for his or her well-being or development;

(b) An infant who is failing to thrive as a result of the parent;

(c) A child left with a babysitter who is intoxicated, irresponsible, too young or otherwise incapable of caring for the needs of the child;

(d) A child who is doing the work of a parent in running a household because the parent refuses or fails to act as a parent or forces the child to do the work of the parent;

(e) A child who is exposed to a dangerous situation as a result of parental negligence;

(f) An unborn or nursing child whose mother is using alcohol or nonprescribed drugs to the extent that the fetus or child may be endangered;

(g) An unborn child whose mother is not receiving adequate prenatal care;

(h) A child who has excessive unexcused absences from school or a child who is not enrolled in a school program;

(i) A child who is expected to provide prolonged and unsupervised babysitting services; or

(j) A child who has been a passenger in an automobile, boat, or other motorized vehicle driven by a person under the influence of alcohol and/or drugs, with the knowledge of the child's parent(s), guardian, or custodian.

(28) "Parent" means a biological or adoptive mother, biological or adoptive father or an unwed father whose paternity has been acknowledged or who is otherwise established as a legal father, or same-sex parents on a child's birth certificate. "Parent" does not mean a person whose parental rights to the child have been legally terminated or suspended. There shall be no preference given to an [native Indian](#) parent over a non-[Indian-native](#) parent.

Commented [SL5]: Defining "alleged father" as well

(29) "Regularly published newspaper" means a newspaper authorized to publish a summons in the Superior Court of the State of Washington for Snohomish County or the See-Yaht-Sub.

(30) "Relative" or "family member" means any person who is the child's parent, stepparent, grandparent, great-grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first, second, or third cousin, or anyone who has established a significant familial relationship with the child.

Commented [SL6]: Add "Biological relative or biological family members means any person who is the child's parent, grandparent, great-grandparent, aunt or uncle, great aunt or uncle, brother or sister (not step=brother or sister), and niece or nephew, first or second cousin."

(31) "Risk" is defined as the likelihood of maltreatment occurring in the future. Risk assessment requires making a safety determination regarding the immediacy and severity of the risk.

(32) "Significant familial relationships" includes nonblood relationships within the community that are significant to a child. Significant familial relationship can also be established through a relationship created as a result of a court process or placement. Such a relationship can be shown after the person has a relationship with the child lasting for at least one continuous year until the present, and in which the person has had physical custody of the child.

(33) "Support person" means an agreed-upon person with a significant familial relationship or an agreed-upon family member that has a close relationship with the family and that parties to a youth in need of services proceeding request be present during Court proceedings.

(34) "Tribes" or "Tribe" means the Tulalip Tribes.

(35) "~~Tulalip Indian Reservation~~" or "Tulalip Reservation" or "Reservation" means the territory established as the Tulalip Reservation by the Treaty of Point Elliott, January 22, 1855 (12 Stat. 927), and by the Executive Order of December 23, 1873, and other such lands as may be hereby added thereto under any law of the United States, except as otherwise provided by law.

(36) “Tulalip Tribes child” or “Tulalip child” means any child who is an enrolled member of, or is eligible for enrollment in, the Tulalip Tribes or whose parent is an enrolled member.

(37) “Yehaw” is an informal, confidential proceeding that involves the parties to a case and a judge as the final decision maker and is held off record.

(38) “Youth-in-need-of-care” (YINC) means a dependent child who has been found by the Tribal Court to be abandoned, abused, or neglected, or is otherwise in need of Tribal services to prevent the breakup of the child’s family.

(39) “Youth in need of services” means a youth who:

- (a) Is absent from home for at least 72 consecutive hours without consent of their parent(s) or guardian(s);
- (b) Is beyond the control of their parent(s) or guardian(s) such that the youth’s behavior endangers the health, safety, or welfare of the youth or any other person;
- (c) Has a substance abuse problem for which there are no pending criminal charges related to the substance abuse; or
- (d) Has excessive unexcused absences or is excessively late to school or who is not participating in their education without good reason. [Res. 2024-133; Res. 2020-554; Res. 2018-346; Res. 2015-497; Res. 2015-101].

4.05.040 Best interest of child.

The best interest of the child shall be the focus whenever making decisions regarding a child. Best interest determinations are generally made by considering a number of factors related to the child’s unique circumstances and the parent, guardian or custodian’s circumstances and capacity to parent, with the child’s ultimate safety and well-being being the paramount concern. Whenever a “best interests” determination is required, the following factors shall be considered in the context of the child’s age and developmental needs and recognition that every family and child is unique:

- (1) The physical safety and welfare of the child, including food, shelter, medical, dental and mental health, and education;
- (2) The child’s sense of attachments, including: where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel love, attachment, and a sense of being valued);

Commented [SL7]: Trauma experts – look at this one – short-term interest of child weighed with the long-term value of being connected with the community and family

(3) The child's need for permanence, including reviewing the active efforts made to reunify the child with their parent(s), the current status of the child's parents, and weighing these circumstances with the best long-term permanency option for the child;

(4) The child's background and community ties, including familial, cultural, friend, school, and religion;

(5) The least restrictive placement for the child in accordance with the Tribes' placement preferences per TTC 4.05.510;

(6) The willingness and ability of each of the parties to facilitate and encourage close and continuing family relationships between the child, their parent(s), and extended family members, as well as ongoing community and cultural ties with the Tribes; and

(7) The parties' ability to identify potential dangers and to protect a child. [Res. 2020-554; Res. 2018-346; Res. 2015-101].

4.05.050 Nonwaiver of sovereign immunity.

Nothing in this chapter shall be deemed to constitute a waiver by the Tulalip Tribes of its sovereign immunity for any reason whatsoever. [Res. 2020-554; Res. 2018-346; Res. 2015-101].

4.05.060 Policies and standard operating procedures.

bedachelh shall develop, promulgate, implement and enforce reasonable policies and standard operating procedures regarding the implementation of this chapter. [Res. 2020-554; Res. 2018-346; Res. 2015-101].

4.05.070 Construction.

This chapter shall be construed in a manner that gives full effect to the purpose and scope of this code so as not to limit the jurisdiction of the Court over Tulalip Tribal children or its authority to act to protect the best interests of Tulalip Tribal children and families, and the integrity of the relationship to the Tribal community.

This chapter takes effect on the date approved by the Tulalip Tribes Board of Directors and does not extinguish any action that existed on, pending to, or prior to the effective date of the resolution codified in this chapter, but the applicable law as of the date of the Board approving the new code shall be April 4, 2015. [Res. 2020-554; Res. 2018-346; Res. 2015-226; Res. 2015-101].

4.05.080 Severability.

If any part, or parts, or the application of any part of this chapter is held invalid, such holding shall not affect the validity of the remaining parts of this chapter. The Tulalip Tribes Board of Directors hereby declares that it would have passed the remaining parts of this chapter even if it had known that such part or parts or application of any part thereof would be declared invalid. [Res. 2020-554; Res. 2018-346; Res. 2015-101].

Article II. Tulalip Tribes Departments and Employees

4.05.090 Purpose.

Tulalip Tribes holds all Tribal departments, employees, volunteers and agents responsible for creating an environment that promotes the best interest of the child and cultivates the best future for the child. With this principle in mind, every person shall make it a priority to cooperate and collaborate with the agencies directly responsible for serving the needs of the children. All departments, employees, volunteers and agents are mandatory reporters (unless special exception is made) and shall treat children and families fairly. [Res. 2020-554; Res. 2018-346; Res. 2015-101].

4.05.100 Tribal employees having regular contact with children.

The Tulalip Tribes shall conduct criminal background checks on Tribal employees, volunteers and agents having regular contact with children which include: Tribal, State and Federal criminal, CPS and character investigations of such employees or prospective employees, volunteers or agents who have regular contact with children. [Res. 2020-554; Res. 2018-346; Res. 2015-101].

4.05.110 Responsibility of Tulalip Tribes regarding criminal background and character investigations.

(1) Investigations for Employees and/or Volunteers. The Tulalip Tribes shall identify and delegate, with assistance by the department to which an application is addressed, the duty to conduct a complete character, administrative and criminal background check and make documented good faith efforts to contact previous employers of each applicant to obtain information and/or recommendations which may be relevant to such person's fitness to be employed or to volunteer in a position involving contact with children.

(2) Criminal History Record Check for Emergency Placement.

(a) During an emergency situation when a child must be placed in out-of-home care, the Tribal shall request a Federal name-based criminal history record check of each individual over the age of 18 residing in the home of the potential placement resource. Upon receipt of the results of the name-based check and if

the child is placed in the home, beda?chelh shall provide a complete set of fingerprints of each resident over the age of 18 to the necessary database within 14 calendar days from the date the name search was conducted. Failure to provide fingerprints within the time frame required presumptively requires removal of the child.

Commented [SL8]: clarify that the person has to fingerprint in X days

(b) As used in this section, “emergency placement” refers to those limited instances when beda?chelh is placing a child in the home of private individuals, including neighbors, friends, or relatives, as a result of the sudden unavailability of the child’s primary caretaker.

(3) Criminal History Record Check for Nonemergency Placement.

(a) For nonemergency placement, when a child is placed in the home of an unlicensed caregiver, all individuals in the home who are 18 years of age or older shall complete beda?chelh’s background check form and be fingerprinted by Tulalip Tribes Background Check Agency (TTBIA) for submission to the FBI prior to placement of a child.

(b) Juveniles ages 13 through 17 may be requested to complete a criminal background check; however, they will not be fingerprinted by TTBIA.

(4) All Placement Applicants.

(a) As part of the general placement clearance process for placement, beda?chelh will assess the safety of the home and property, complete a CPS background check on everyone in the home and, if there is cause, a UA will be required.

(b) beda?chelh shall not place a child in a home if the results of the applicant’s criminal history show a conviction for any crime listed as a disqualifying crime on beda?chelh’s placement policy.

(c) An individual who has CPS findings of abuse and neglect, warrants, pending criminal charges, negative actions or convictions for other crimes not listed on beda?chelh’s placement policy will be assessed for suitability for placement on a case-by-case basis.

(d) Placements and their homes shall be “rechecked” every 12 months, including an updated home study.

(5) The Tulalip Tribes' placement staff shall annually review its files to determine that the fingerprinting and other requirements of this section have been adhered to and shall report to the beda?chelh Manager and Executive Director of Family Advocacy with the results of the annual review. [Res. 2020-554; Res. 2018-346; Res. 2015-384; Res. 2015-101].

4.05.120 Specific programs that work with children and the programs' role with children.

(1) beda?chelh. The primary objective of beda?chelh is safeguarding child welfare by working creatively to design integrated services to promoting family and cultural preservation, health, and resiliency in ~~its~~ children and families.

(a) In accordance with this belief, the priorities of beda?chelh are as follows:

(i) Secure for each child the mental, physical, educational, financial and emotional care and guidance that is in the best interest of the child and consistent with the customs, cultural values, and laws of the Tulalip Tribes; and

(ii) Whenever possible, preserve and strengthen family ties and a child's cultural and spiritual identity to help the child become a productive and well-adjusted community member.

(b) beda?chelh may include a variety of staff and service providers as required to address the needs and best interest of the child.

(2) ~~Tulalip Child Placement Agency. The Tulalip Child Foster Care Agency-beda?chelh Placement Team.~~ beda?chelh's placement team is charged with recruiting, educating, and licensing Tribal foster care homes consistent with Tribal and Federal law and as recognized by RCW 74.15.190. The ~~Tulalip Child-beda?chelh's~~ Placement ~~Team~~Agency shall create policies and standard operating procedures consistent with this chapter, Tulalip laws and customs, and Federal law.

(3) ~~beda?chelh Advocacy Committee.~~ The beda?chelh Advocacy Committee is composed of Tulalip community members who are appointed by the Tulalip Tribes Board of Directors and are charged with reviewing case issues as specified by and at the request of the parent/guardian respondent(s). The Committee has the authority to review case information only as related to the youth(s) in need of care and the parent/guardian who contacted the Committee. beda?chelh has discretion to not release information that is subject to an open investigation or is otherwise of such a

Commented [SL9]: Committee Bylaws are being amended, will revise this section to coincide with the Bylaws when approved

sensitive or graphic nature that it would not serve the purpose identified in the parent/guardian's request for review or it would not be in the youths' best interest to disclose such information for review. In order to review any case related information that is related to or contains information regulated by the Health Insurance Portability and Accountability Act (HIPAA) appropriate releases must be signed. Upon case review and hearing from the parent/guardian and the Committee will make recommendations on ways to proceed in accordance with law and policies.

(4) Children's Advocacy Center. The Children's Advocacy Center (CAC) is responsible for the coordination of the multi-agency investigation and intervention of child abuse allegations to minimize the number of interviews a child must undergo, to improve the quality of evidence collected and services provided to the child victim, to reduce any trauma associated with such an investigation, to improve the services that affected children and families experience and to overall provide a quality and effective intervention in child abuse cases.

(5) Tulalip Children's Advocacy Center Multidisciplinary Team. The Tulalip Tribes Children's Advocacy Center shall establish a Multidisciplinary Team (MDT) to protect the well-being of children and to advance and coordinate the prompt investigation of suspected cases of child abuse or neglect in a way that reduces the trauma of child victims. MDT meetings may be specific to criminal investigations or child protection investigations and process. The duties of the MDT shall include the development and implementation of policies and procedures for providing oversight to review cases and technical assistance to those departments, agencies and individuals that interact with abused and neglected children in civil and criminal proceedings.

(a) Information Sharing Among MDT Members. Team members may share information about criminal child abuse investigations and case planning with other participants in the Multidisciplinary Team to the extent necessary to fulfill the purpose of the MDT. This section is not intended to permit, direct, or compel team members to share information if sharing would constitute a violation of their professional ethical obligations or disclose privileged communications.

(b) Use and Disclosure of Information by MDT Members. A member of the team may use or disclose records made available by other team members only as necessary for the performance of the member's duties as a member of the MDT. Every member of the MDT team who receives information or records regarding children and families in his or her capacity as a member of the team is subject to the same privacy and confidentiality obligations and confidentiality penalties as the

person disclosing or providing the information or records. The information or records obtained by any team member must be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights. [Res. 2023-270; Res. 2022-243; Res. 2020-554; Res. 2018-346; Res. 2015-101].

Article III. Reporting and Investigating [Abandonment](#), [Abuse](#), and Neglect

4.05.130 Purpose.

The care of a child is both a family and a Tribal responsibility. Any member of the Tulalip Tribes, employees, contractors, volunteers, agents and persons residing within the jurisdiction of the Tribes who have reason to believe that a child has been abused or neglected shall report the matter to the Washington State Child Protection Services hotline, 1-866-ENDHARM (1-866-363-4276). [Res. 2020-554; Res. 2018-346; Res. 2015-101].

4.05.140 Mandated reporters.

Persons who reasonably suspect that a child has been abused, neglected, or abandoned shall report the matter to the Child Protection Services ([CPS](#)) hotline, 1-866-ENDHARM (1-866-363-4276) for investigation. [A community member who calls in an intake report may remain anonymous.](#)

The Tulalip Tribes considers all employees, volunteers, and agents of the Tulalip Tribes to be mandatory reporters unless special circumstances exist, or the information has been obtained as a result of privileged communication. [Res. 2020-554; Res. 2018-346; Res. 2015-101].

4.05.150 [Anonymity/Confidentiality](#).

[All people who call in CPS Intakes are confidential. Persons who are the subject of a CPS Intake do not have a right to know who the referrer is. A community member who files a report may remain anonymous. A mandated reporter may not unless exceptional circumstances exist.](#) [Res. 2020-554; Res. 2018-346; Res. 2015-101].

Commented [SL10]: develop working to make clear that all referrers remain confidential

4.05.160 Immunity from liability.

All persons or agencies reporting in good faith, and with reasonable grounds, known or suspected instances of [abandonment](#), [abuse](#), or neglect shall not be subject to civil liability or criminal prosecution in Tribal Court. [Res. 2020-554; Res. 2018-346; Res. 2015-101].

4.05.170 Sanctions for failure to report – Mandated reporter.

Any person who is required to report [abandonment](#), [abuse](#), or neglect under this chapter, or supervises someone who is required to report, and knowingly fails to report

abuse or neglect, or prevents that person from reporting the abuse or neglect, is subject to a civil fine not to exceed \$5,000 or, if an employee of the Tribes, subject to a sanction under the Tulalip Tribal Government Employee Handbook, [including termination](#). [Res. 2020-554; Res. 2018-346; Res. 2015-101].

4.05.180 Investigation upon report.

(1) Protection of Children. It is the policy of the Tulalip Tribes that examinations and interviews of [all children in the household of the](#) suspected ~~of having been subject to abandonment,~~ abuse, or neglect shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma to the children. It shall be the responsibility of the departments involved in the investigation and/or prosecution of the alleged offenses to coordinate their interviews and intrusive examinations with respect to the children.

(2) Waiver of Parental Consent. Photographs, X-rays, medical examinations, psychological examinations, drug testing, interviews, and forensic interviews of [all children in the household of the](#) alleged ~~to have been subject to abandonment,~~ abuse, or neglect shall be allowed without parental consent if ~~bedachelh~~ or law enforcement officials have reason to believe ~~at the~~ child has been subject to [abandonment](#), abuse, or neglect. (See 25 U.S.C. Chapter 34.) The interviews may be conducted at school, the child's day care facility, or at other suitable locations outside the presence of parents or guardians.

(3) Role of ~~bedachelh~~. Upon receiving a report of alleged [abandonment](#), abuse, and/or neglect of a child under this chapter, designated ~~bedachelh~~ personnel shall investigate such allegations and have access and be provided copies within a timely manner, recognizing that time may be of the essence, of all records, reports, files, and other relevant information of the child from Tribal departments, clinics, child care facilities, and schools for the purposes of investigating [abandonment](#), abuse, and/or neglect. These records may include but are not limited to health and medical records, school attendance records, disciplinary records, and other behavioral information that may be relevant to an [investigation-dependency case](#). This information shall continue to be available throughout the course of an investigation ~~or dependency case~~. At this stage, ~~bedachelh~~ will make a determination as to whether [engaging with the family -in the referral is credible and, if so, if the case is appropriate for prevention using a family-centered intervention is in the child's best interest](#), or if the child is at imminent risk of harm [and it is in the child's best interest to engage in requiring court intervention](#)

[\(a\) ~~bedachelh or the Department of Children, Youth, and Families \(DCYF\) -or the Child Advocacy Center \(CAC\)~~ shall make a referral to the proper law enforcement](#)

Commented [SL11]: Make sure comports with State MOA

agency if, at any point in their civil investigation of alleged abandonment, abuse, or neglect pursuant to this chapter, bedachelh determines that the child may be a victim of a possible criminal law violation.

(b) The Children's Advocacy Center shall be provided a copy of the CPS referral regarding suspected abuse, neglect or abandonment of a child, as soon as it is available. TPD shall provide a copy of a police report regarding suspected abuse, neglect or abandonment of a child upon request of the CAC and in accordance with TPD's policies.

(c) Records covered by this section shall be kept in accordance with TTC 4.05.420, Confidentiality.

(4) Role of Tulalip Tribal Police (TPD). The TPD is an integral part of the MDT and has a direct responsibility in identifying and reporting incidents of when a child is suspected to be abused, neglected or abandoned. The Tulalip Police Department shall:

(a) Report any suspected child abuse or neglect to the Child Protection Services ("CPS") Central Intake by faxing the police report directly to 360-805-8550, or calling Central Intake Hotline at 1-866-ENDHARM (1-866-363-4276).

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(b) Provide protection and assistance in the removal and placement of children on request by bedachelh or authorized child protection and placement agency personnel.

(c) Be authorized to take, or cause to be taken, a child into protective custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child's health, safety, and welfare will be at risk of imminent harm if it were necessary to first obtain a court order pursuant to this chapter. The officer shall cause a CPS referral to be submitted to Washington State Central Intake and then call the on-call after hours bedachelh social worker in order for bedachelh to prepare protective custody documents which law enforcement shall sign, and clear an emergency placement.

(d) Perform child welfare checks upon reasonable request by bedachelh or the CAC.

(e) Work collaboratively with other appropriate disciplines to provide information when children are identified as being, or at risk of being, abused, neglected or abandoned. [Res. 2020-554; Res. 2018-346; Res. 2015-101].

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Article IV. Voluntary Family Intervention Team (FIT) Program

4.05.190 Purpose.

The purpose of the Family Intervention Team (FIT) is to invest in long-term strategies and partnerships that strengthen families and communities. The goal of FIT is to improve outcomes for children and families with a focus on lifelong family connections. [Res. 2020-554; Res. 2018-346; Res. 2015-101].

4.05.200 Voluntary Family Intervention Team (FIT) ~~and Child Protective Services.~~

The voluntary Family Intervention Team (FIT) response is available to parents and youth when:

(1) there is a low to moderate risk of harm, beda?chelh receives a screened-out CPS Intake, a screened-in Family Reconciliation Services (FRS) Intake, or a screened-in Family Voluntary Services (FVS) Intake about the family and the family agrees to engage in the FIT Program;

(2) Expectant parent(s) are in situations which may put the parent(s) at risk for CPS involvement upon the birth of their child, in order to engage them in voluntary services to decrease their risk of CPS involvement.

(3)- A parent makes a self-referral to beda?chelh requesting to participate in the FIT program; or

(4) A community referral is made to beda?chelh about the family and the family agrees to engage in the FIT Program.

The Team is comprised of beda?chelh social workers, ~~and~~ the family, and family identified supports. The Team will work together to determine the family's # strengths and needs, and to identify supportive services that will promote lifelong family connections and assist the family with referrals for services.

Access to the FIT program may be limited by beda?chelh in the event that resources are not available to support the FIT Program's needs. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.210].

4.05.210 Role of beda?chelh FIT.

beda?chelh FIT should make contact with FIT eligible families to discuss the Voluntary FIT ~~option~~-Program with them. A family resource meeting shall be set up as soon as practical to work towards a solution and to identify support for the family and/or create a service plan. ~~If new allegations arise the social worker must make a CPS referral as a~~

~~mandated reporter. beda?chelh shall monitor the family through completion of their service plan.~~ [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.240].

Article V. Child Protective Services Investigation

4.05.220 Purpose.

beda?chelh CPS social workers co-investigate with the ~~State-DCYF~~ CPS ~~social~~ workers allegations of child endangerment, ~~abandonment~~, ~~abuse~~, and neglect through referrals called into the ~~State CPS hotline~~ ~~1-866-ENDHARM () hotline~~. ~~The State DCYF~~ is the lead investigator in CPS investigations in accordance with the ~~Government-to-Government Child Welfare Agreement between the Tulalip Tribes and the State of Washington~~. [Res. 2020-554].

Commented [SL14]: Make sure consistently referred to the same throughout

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4.05.230 Determination of risk.

beda?chelh shall investigate CPS referrals by assessing a variety of factors concerning the family's situation, functioning, and their strengths and needs. beda?chelh shall gather information during the course of the investigation from a variety of sources which may include social worker interviews with the child, parents, collateral contacts including school or medical staff, and may include a family team decision ~~making (FTDM)~~ meeting.

(1) beda?chelh shall make an assessment of risk based ~~in part~~ on:

- (a) The events that precipitated the referral;
- (b) The nature of the family interactions, conditions, and supports;
- (c) The child's age, individual and special needs, and capabilities;
- (d) How to best leverage family strengths and assessing the family's perceived needs and risks; and
- (e) Whether there are any previous reports of ~~abandonment~~, ~~abuse~~, or neglect.

(2) Once risk is assessed and child safety is determined:

- (a) To not be imminent, ~~but determined to be low to moderate risk of further harm~~, then the family may be referred ~~for services using the~~ ~~to the~~ ~~V~~oluntary Family Intervention Team (FIT) ~~Program~~.

(b) To be imminent harm or continuing risk, then appropriate action could be:

- (i) Safety plan with the family and service provider(s);
- (ii) Voluntary temporary out of home placement of the child;
- (iii) Requesting the Court to order the child into protective custody; or
- (iv) Placing the child in protective custody. [Res. 2020-554].

4.05.240 Intervention with expectant parents-

~~FIT shall reach out to expectant parent(s) in situations which may put the parent(s) at risk for Child Protective Services (CPS) involvement upon the birth of their child, in order to engage them in voluntary services to decrease their risk of CPS involvement. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.260].~~

Article VI. Tribal Court – General Provisions

4.05.250 Jurisdiction.

There shall be a preference for ~~bedachelh~~ to engage families outside of the court process through voluntary intervention processes such as FIT. If court intervention or removal is necessary, ~~bedachelh~~ shall work towards returning the child as soon as is practical and safe for the child. ~~A parent may also voluntarily consent to court intervention.~~

Commented [SL16]: Start the renumbering

(1) The Tulalip Tribal Court shall have jurisdiction over any proceeding arising under the Juvenile and Family Code and actions arising under the customs and traditions of the Tulalip ~~Indian~~-Tribal community affecting family or child welfare which involve:

- (a) Any ~~Indian-Tribal~~ child who resides or is domiciled on the Tulalip Reservation;
- (b) Any child who is a member of, or is eligible for membership in, the Tulalip Tribes, regardless of the child’s residence or domicile;
- (c) Any ~~Indian-Tribal~~ child who has been placed in temporary care on the Tulalip Reservation or in any care facility licensed by the Tribes for placement of a Tribal ~~Indian~~ child; or
- (d) Any child whose parent is an enrolled member of the Tulalip Tribes.

(2) The Tulalip Tribal Court shall have jurisdiction over adults in furtherance of its powers under this code. The Court may issue orders as are necessary for the welfare of children and families.

(3) Whenever State, Federal, or other Tribal Courts have jurisdiction over any of the matters provided for in this code, the Court shall have concurrent jurisdiction over the same matters, to the extent consistent with Federal law.

(4) The limitations on jurisdiction contained in this section are not intended to reflect the Tribes' view as to the legally permissible limits of jurisdiction. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.270].

4.05.260 Intervention as a party.

(1) Who May File as a Legal Intervener. The ~~Indian~~ child's tribe or tribes, any relative, or other person who has established a significant familial relationship with the child may file a motion for intervention with the Court.

(a) Any relative or someone with a significant familial relationship with the child may be granted permissive intervention to be evaluated consistent with TTC 2.10.060 and as long as intervention is in the best interest of the child.

(2) A child's tribe or tribes may intervene as a matter of right at any point in the proceedings.

(3) Rights of Intervener. The Court shall determine, in the best interests of the child, what rights similar to those of a party should be extended to an intervener. Absent a showing of good cause, the rights of an intervener, other than a ~~an Indian Tribe~~, shall be limited to information about the child which includes: notice of hearings, the ability to attend hearings regarding the child, to file and present motions and make written and oral statements to the Court. If good cause is found to expand the rights of an intervener, these rights may include, but are not limited to: the rights of discovery such as redacted reports about the child, counsel at their own expense, examination of the record and witnesses, placement, and visitation.

(4) Denying Intervention. If the Court denies intervention, but determines that an ongoing personal relationship exists and that visitation or contact rights are in the child's best interest and are consistent with ~~bedahel~~ policy, the Court may grant visitation or contact rights to the person having the ongoing relationship. The Court may order temporary visitation rights under this section pending further order.

(5) Dismissal of Motion to Intervene.

(a) Other than by a tribe, a motion for intervention shall be dismissed unless the intervener's motion provides proof of the existence of a significant familial relationship with the child or that they are the child's relative. The motion to intervene must also allege facts to support that the intervention is in the best interests of the child.

(b) A motion for intervention by the child's tribe may be dismissed only if the Court determines by clear and convincing evidence that intervention by the tribe is not in the best interest of the child.

(6) Dismissal of Intervention Status. Any party may motion the Court to remove a legal intervener from being a part of the dependency case if it is alleged and the Court finds that their intervention is no longer in the best interest of the child. A change in intervener status may be warranted if the child is removed from the legal intervener's physical custody, the legal intervener is actively preventing reunification with one or more parent/guardian, or is actively working against beda?chel's reunification efforts. [Res. 2020-554; Res. 2018-346; Res. 2015-497; Res. 2015-101. Formerly 4.05.280].

4.05.270 Transfer of jurisdiction.

(1) General Rule. It shall be the practice of the Tribes to request transfer of a Tulalip child who is the subject of a State dependency proceeding to the Tulalip Tribal Court, pursuant to the Indian Child Welfare Act (ICWA), except when good cause exists to the contrary.

(2) Transfer of Case to Tulalip Tribal Court.

(a) beda?chel on its own or at the request of either parent or child, if the child is 12 or older and who is subject to the jurisdiction of the Tulalip Tribal Court, may file a petition with the Court to accept transfer of a case from another court. The Tulalip Tribal Court may accept or decline transfer by ex parte order.

(b) Cases transferred to Tulalip Tribal Court shall be accepted in the status received; legal and factual determinations made by a court prior to transfer of a case to the Tulalip Tribal Court shall not be judicially reviewed or redetermined unless the determinations made are in violation of Tribal law and/or policy.

(3) Transfer of a Case from Tulalip Tribal Court. Unless otherwise expressly provided in this chapter, the Court may transfer jurisdiction over a child to another Tribal Court of competent jurisdiction upon motion filed and served on parties in accordance with civil service rules under Chapter 2.10 TTC.

Commented [SL17]: Make sure language is clear only transfer to another tribal court

(a) A party opposing transfer may object in writing to such order, requesting the transfer order be stayed, and within 14 days of the Court Clerk's receipt of such written objection, the Court shall conduct a hearing to determine whether such transfer should take place.

(b) The transfer shall be subject to declination by the other court of competent jurisdiction. The other court shall have 30 days to affirmatively respond to a motion or order transferring jurisdiction. A failure to respond within the 30-day period shall be construed as a declination to accept transfer of the case.

(c) The Tulalip Tribal Court shall continue to exercise jurisdiction over a child during the pendency of any transfer under this chapter.

(4) There is a presumption that transfer to, or retention of, jurisdiction by the Tulalip Tribal Court is in the best interest of a child absent other evidence. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.290].

4.05.280 Consolidation.

Proceedings involving two or more children may be heard at one consolidated hearing when the factual basis for jurisdiction is the same or similar, or for the convenience of all parties. Separate hearings may be held if it is reasonable to do so or upon request by any party. A legal guardianship or customary adoption proceeding shall have its own cause number, but any hearing may be consolidated with the underlying dependency. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.300].

4.05.290 Notice of hearings.

Except as otherwise provided in this chapter, every document which is required or allowed to be served on a person shall be served consistent with TTC 2.10.030(2). In addition, service may be by electronic means if that person consented in writing, in which event service is complete upon sending, but is not effective if the sender learns that it did not reach the person to be served. Service may also be delivered by any other means that the person consented to in writing. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.310].

Commented [SL18]: Need to align with confidentiality 420

4.05.300 Civil rules of Tribal Court.

Chapter 2.10 TTC, Civil Rules of Tribal Court, shall apply unless otherwise provided within this chapter. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.320].

4.05.310 Reports.

Whenever a report is required for a hearing, it shall be filed and served on the parties 10 days prior to the court hearing unless otherwise noted. Any party objecting to the report ~~may~~ must file and serve a motion with the Court outlining any objections at least 5 days prior to the hearing. ~~and t~~The hearing may be continued for a short period of time. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.330].

4.05.320 Contempt.

(1) Any person who fails to obey a court order or subpoena may be cited by the Court to appear and show cause why ~~s/he~~they should not be held in contempt of court. If the Court finds contempt of court, the person may be subject to appropriate sanctions imposed by the Court, including the imposition of monetary terms, which may be satisfied by garnishment, including of per capita distributions.

(2) No Court records or other confidential information shall be viewed or disseminated except as provided herein. Any person who receives or views documents or other information pursuant to this provision shall maintain the confidentiality of such information. Failure to abide by this restriction shall constitute contempt of court or, if an employee of Tulalip Tribes, may be a violation of the Tulalip Tribal Government Employee Handbook.

(3) If an intervener violates confidentiality, then a hearing shall be set to determine whether that status should be revoked and sanctions imposed.

(4) If a parent has successfully completed their court-ordered services or otherwise has no known barriers for them to parent their own child and they choose not to parent their own child by refusing to accept an in-home dependency, ~~bedat~~they may motion for a show cause or other hearing to address this matter in Court. After a hearing if the parent continues to refuse an in-home dependency they shall be fined \$250.00 per month, with the money to be directed to the child's placement. This action may be done in conjunction with or apart from contempt proceedings. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.50.340].

Article VII. Rights and Responsibilities

4.05.330 Child's rights.

A child within the jurisdiction of the Tulalip Tribes has the right to be treated with dignity and respect and to be in a safe and supportive environment free from abandonment, abuse, and neglect. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.350].

4.05.340 Child’s name.

(1) beda?chelh may file a motion to request the Court to change a child’s last name if child was previously in guardianship or adopted and returns to beda?chelh’s care and their last name does not reflect one of the last names of the child’s birth parent(s).

(2) If the child is not given a legal name, a family meeting will be held and the family can agree upon a name for the child if the parent(s) cannot be located to name the child within five days of coming into beda?chelh’s care or before the child is discharged from the hospital. If any name is mentioned as intending to be the child’s name and is listed in the hospital notes the child will be legally given that name. beda?chelh shall file a motion with the Court and the Court shall issue the order providing the youth with a name without requiring service of the motion to the parent(s). [Res. 2020-554].

4.05.350 Court responsibility to make accommodations to help children testify.

The Court shall create court rules to protect a child and recognize their rights in all court proceedings; scrupulously take into consideration the traumatic effect of testifying, facing a respondent or defendant, and of being subject to cross-examination. A child is not required to testify unless accommodations are provided. Such accommodations may include but are not limited to: providing a child-friendly oath, rearranging the courtroom so that the child does not sit near or is not within direct line of sight of the offender during questioning, creating a safe and comfortable area for a child witness to wait before testifying, and allowing the child to hold a comfort item during his/her testimony. In addition, if a properly registered therapy animal Courthouse Dog is available, with a handler in attendance, it may will be allowed to assist a child requesting such while testifying. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.360].

Commented [SL19]: Need to define “Courthouse Dog” in definitions 030

4.05.360 Court testimony of a child in chambers or by videotape.

The Court, upon its own motion, or upon the motion of any party, may take testimony from any child appearing as a witness and may exclude the child’s parent(s) or guardian(s) and other persons if the Court finds such action would be in the best interests of the child. In lieu of testimony and upon written motion, the Court may review a recorded forensic interview in chambers. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.370].

Commented [SL20]: ORA look into other Jurisdiction’s rules around FIs

4.05.370 Parent or guardian’s rights.

Parents and guardians have the right to be treated in a respectful manner at all times. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.380].

4.05.380 Parent or guardian's responsibilities.

(1) ~~Case Reunification Plan~~. The Court may order the parent or guardian submit to services and other requirements.

Commented [SL21]: Update language to be more trauma informed/friendly

(2) Support and Other Related Costs. Parents or guardians have an obligation to support or provide support for ~~his or her~~their child at all times unless parental rights or guardianship have been legally terminated ~~or suspended~~.

(3) Duty to Keep the Court and ~~bedah?chelh~~ Updated on Address and Contact Information Changes. If the parent or guardian has a change of address or in their contact information during the pendency of proceedings under this chapter, the parent or guardian must inform ~~bedah?chelh~~, the Court, and/or the agency involved with the family. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.390].

4.05.390 Rights of parties in court proceedings.

(1) Except as otherwise expressly provided in this chapter, all parties shall be entitled to notice consistent with TTC 2.10.040 and the following rights in every proceeding under this chapter, notice of which shall be provided at each party's first appearance:

- (a) To have an attorney or spokesperson represent them at their own expense.
- (b) To request a continuance of a hearing for a reasonable period of time in order to seek counsel.
- (c) To be informed by the Court of services which provide representation.
- (d) To introduce, examine, and cross-examine witnesses.
- (e) To discover, offer, and inspect evidence.
- (f) To present arguments and statements.
- (g) To not be required to testify or answer questions in court that could subject that party to a criminal prosecution or be used against them in a pending criminal case related to the dependency.

(2) There is no right to trial by jury during any proceeding conducted pursuant to this chapter. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.400].

4.05.400 Attorney, guardian ad litem or CASA for child.

Children ages twelve (12) and older will be appointed an attorney.

Commented [SL22]: For children in dependency, guardianship and adoption cases

The Court, at any stage of a youth-in-need-of-care proceeding, may appoint an attorney, a guardian ad litem, or CASA for a child who has no parent, guardian, or custodian appearing on behalf of the child, or whose interests conflict with the interests of parents, guardians, or custodians, or when it appears to the Court that the child's best interests warrant such an appointment. At the time of appointment, the Court shall enter an order specifying the rights, duties and term of appointment. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.410].

4.05.410 Records maintenance and protection.

(1) Court Records. A record of all hearings under this chapter shall be made and preserved. All Court records included within this section shall be kept in a secure place by the Tribal Court Director, and shall be released only pursuant to procedures developed by court rule. No other release of information shall be permitted without an order of the Court.

(2) Secure Placement. All records in bedah?chelh's possession, related to a bedah?chelh case or bedah?chelh civil investigation of alleged abuse, neglect or abandonment, shall be kept in a secure place and shall be released only pursuant to procedures developed by bedah?chelh policy.

(3) Destruction of Records. All Court records of the child shall be sealed and, excepting adoption records, physical files may be destroyed so long as electronic files are permanently and securely maintained. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.420].

4.05.420 Confidentiality.

(1) All bedah?chelh case files, bedah?chelh CPS investigation files, Children's Advocacy Center records, Court records, files, documents, and other related information associated with a child are confidential and are not accessible for inspection except as follows:

(a) By a law enforcement agency or child protective agency for the purpose of MDT collaboration, investigation, prosecution or so that services may be offered to a child in cases in which they are the victim or subject of an alleged crime. If the requesting agency is outside of the Tulalip Tribes, release of the records may be made only pursuant to court order and shall contain protections from further dissemination;

(b) By the child, the child's parent or legal guardian, CASA or guardian ad litem, or by the attorney of record, for use in a dependency proceeding involving the child,

subject to redactions. A parent or legal guardian may only receive compliance information only as to the other respondent parent and/or legal guardian in their proceedings;

Commented [SL23]: Youth's attorney given parents case plan services and compliance only

Break out child versus parent

(c) By Court personnel assigned to these proceedings;

(d) By Court-approved interveners if specifically provided for in their approved rights by court order;

(e) beda?chelh may share case related information with Family Wellness Court for the limited purposes of providing a referral to Family Wellness Court and staffing whether a family qualifies for Family Wellness Court with the Family Wellness Court Team. Upon receipt of a signed order entering a family into Family Wellness Court beda?chelh may share case information about the parent and child with the Family Wellness Court Coordinator to allow for coordination of services; specifically, beda?chelh will share the ReunificationPlan Order with the Family Wellness Court Coordinator.

(fe) By the Enrollment Department, [Membership Distribution Department](#), and [TANF Department](#) provided such access shall be limited to information relevant to determining an individual's enrollment status or eligibility for enrollment, and information necessary for carrying out other Enrollment Department functions, such as maintaining records pertaining to minor's per capita, ~~and/or~~ general welfare, or other payments;

(gf) beda?chelh may share case-related information and referrals about the parents with family members involved in family team decision meetings, placements of the child, or for other case-reunification planning purposes, but first the person receiving the information shall sign an agreement to not further disclose the information. beda?chelh can share child-specific information with the placement as necessary for the care and well-being of the child and consistent with the best interest of the child;

Commented [SL24]: Insert language to specify what information can be shared with DCYF (for example – court ordered services, parent contract/engagement) when social workers are working with a family that is also involved in state dependency court

Commented [SL25]: break apart child versus parents

(hg) beda?chelh may share case-related information about the parent/guardian who has requested case review by the beda?chelh Advocacy Committee and information about the child(ren). beda?chelh shall not share any information related to or containing information regulated by the Health Insurance Portability and Accountability Act (HIPAA). beda?chelh has discretion to not release information about an open investigation or is otherwise of such a sensitive or graphic nature that would not serve the purpose identified in the parent/guardian's

request for review or it would not be in the youths' best interest to disclose such information for review;

(h) In no case may information by any department of the Tribes related to or containing information regulated by the Health Insurance Portability and Accountability Act (HIPAA) be released without a signed release of information or court order.

(2) Closed Courtroom. Hearings and proceedings under this chapter shall be private and closed to the general public except for the parties to the proceeding, the attorneys for the parties to the proceeding, the guardian ad litem, court personnel designated by the Court, child welfare workers, and attorneys or staff in the Office of Reservation Attorney. Other members of the child's family having a close relationship with the child and placements may attend hearings unless a party objects or the Court determines the person does not have a legitimate interest in the proceedings or it is otherwise not in the child's best interest for the person to be present. Those who are allowed to remain may not disclose any information learned from the court proceedings and are bound by the confidentiality requirements of this code. [Res. 2022-243; Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.430].

4.05.430 Use of reports in youth-in-need-of-care proceedings.

For the purpose of establishing that a child is a youth-in-need-of-care, determining proper disposition of a case, and/or periodically reviewing the child and parent or guardian's progress, written reports and other materials relating to the parent or guardian or child's mental, physical, educational, and social history and condition may be required by the Court, may be received in evidence, and may be considered by the Court along with other evidence, but the Court may require that the person who wrote the report or prepared the material appear as a witness if that person is reasonably available.

Commented [SL26]: statement regarding rules of evidence

Reports prepared by guardians ad litem or CASAs shall be provided to parties pursuant to terms of a court order. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.440].

4.05.440 Assessments, evaluations and examinations.

The Court may order a medical, dental, psychological, psychosocial, or sexual deviancy evaluation, therapist report, bonding assessment or other professional examination of a child or any other party or person if it is relevant to the issues before the Court. Such examination(s) and service(s) will be provided by bedac?helh approved providers. The results of these reports shall be the property of bedac?helh and filed under seal. These

reports may not be released without a court order. Only the parties to the case or their attorney may motion the Court to review their sealed reports. Outside agencies may not access these reports for any purpose. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.450].

4.05.450 Right of access to records.

Any child who has been the subject of proceedings under this chapter has the right, upon reaching the age of majority, to review the Court's entire file on these matters subject to redaction of names or the rights of confidentiality of some documents under Federal or Tribal law. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.460].

Commented [SL27]: Limit to the child's information and then have to file a written request for parent's information with redactions -- need to show good cause

4.05.460 Payment of fees and expenses.

There shall be no fee for filing a petition under this chapter nor shall any fee be charged by any Tribal officer for the service of process or for attendance in Court in any such proceedings. Should beda?chelh be requesting a parent/guardian file a petition in relation to a dependency matter, such as Petitions for Custody, there shall be no fee for filing the petition. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.470].

Commented [SL28]: Something like this to make it more clear that no have to pay a fee if it is being requested by beda?chelh to file something

Article VIII. Court Dependency Case

4.05.470 Petitions alleging that a child is a youth-in-need-of-care.

(1) A dependency case is started by beda?chelh filing a petition, with a sworn declaration, alleging that the child is a youth-in-need-of-care and asking the Court to order:

- (a) Emergency pickup of a child and preliminary inquiry hearing; or
- (b) Preliminary inquiry hearing; or
- (c) Transfer of jurisdiction of a child to Tribal Court.

(2) The petition shall set forth, in ordinary and concise language, the following facts as are known:

- (a) The full name, residence, date ~~and place~~ of birth, sex of child, and Tribal status;
- (b) The names and residences of the child's legal parents, guardians, or custodians. In addition, the names and residences of putative fathers, if any;

(c) The facts upon which the allegations are based, and which, if true, would bring the child within the jurisdiction of the Court as set forth in this chapter. Such recitation shall include, but not be limited to, the date, time, and location where the alleged facts occurred, ~~and the names of any alleged witnesses~~, as well as all other information upon which the petitioner relies to form a belief that the child is within the jurisdiction of the Court;

(d) Whether, and if so where, there is a custody proceeding involving the child pending in another court; and

(e) If the child is in placement out of parental or guardian care, the time and date the child was placed, the location of the child if not confidential, the reasons the child has been placed out of parental or guardian care, and the active efforts made by beda?chelh to prevent or negate the need for removal of the child.

(3) The petition and supporting documentation, except for CPS referrals which are filed with the Court only, shall be served on:

(a) The named respondents on the petition, including alleged and presumed fathers until paternity has been established, and any person the Court deems necessary for proper adjudication; and

(b) If the child is not enrolled in the Tulalip Tribes, any tribe the child is enrolled in or is eligible for enrollment.

(c) Service shall be consistent with TTC 2.10.030(2), with the exception that as a party, beda?chelh may serve the parents or guardians with the pleadings.

Failure to effect service does not invalidate the petition if service was attempted and the parent(s) or guardian could not be found.

(4) Attendance of Parent(s) or Guardian(s). If the child's parent(s) or guardian(s) or custodian(s) are not present at the preliminary inquiry hearing, the Court shall determine what efforts have been made to serve them with the petition and supporting documents. If reasonable efforts have been made, the Court may proceed with the hearing in their absence.

(5) Dismissal of the Petition. The Court may dismiss a petition at any stage of the proceedings with good cause shown. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.480].

4.05.480 Protective custody.

(1) A child may be taken into protective custody by a law enforcement officer, or a bedah?chelh social worker.

(2) Protective custody of the child under this chapter shall terminate in 72 hours excluding Saturdays, Sundays, ~~and holidays~~, and administrative closures unless a petition and declaration have been filed and the Court has issued an order granting legal custody of the child to the Tribes.

(3) Protective custody of a child is authorized if:

(a) A law enforcement officer or a bedah?chelh social worker has probable cause to believe:

(i) The child is in need of care, and that the child's health, safety, and welfare are in imminent risk of harm if the child is not taken into custody; and

(ii) That the child is within the jurisdiction of the Court; and/or

(b) The Court has issued a protective custody order. If the judge cannot be present on the Reservation, a protective custody order may be transmitted by the judge via telephone, computer, or fax.

(4) The Court's dependency jurisdiction shall be in effect at the time the child is taken into protective custody, with or without court order.

(5) At the time the child is taken into protective custody, or as soon as possible thereafter, the person taking the child into custody shall make reasonable efforts to notify the child's parent(s), guardian(s), or custodian(s) within a 24-hour time frame.

(6) The person taking the child into protective custody shall release the child to the physical custody of the child's parent, guardian or other responsible person if:

(a) Safeguards are in place which make it reasonable to believe that the child is no longer in imminent risk of harm while in the parent's, guardian's, or custodian's physical custody; or

(b) The parent, guardian, or custodian is not the person from whom the child was removed, and is a safe resource.

(7) A child who cannot be released to a parent, guardian, or custodian shall be placed, pending the preliminary inquiry hearing, according to the placement provisions set forth in this chapter. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.490].

4.05.490 Protective custody order.

(1) The Court shall issue a protective custody order if the Court finds probable cause to believe that a child within the Court's jurisdiction is a youth-in-need-of-care, and that the child's health, safety, and welfare will be in imminent harm if the child is not taken into protective custody and may adopt the alleged facts of the petition by reference.

(2) The protective custody order shall specifically name the child to be taken into custody. It shall state the time and date issued, the place where the child is to be taken, and the name of the person or persons authorized to take the child into custody. The order shall be signed by a judge or magistrate.

(3) The order shall be served as soon as practical. A child taken into custody under such an order may be held until the conclusion of the preliminary inquiry hearing, or as ordered by the Court. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.500].

4.05.500 Preliminary inquiry hearing.

The preliminary hearing shall be held within 72 hours excluding Saturdays, Sundays, ~~and holidays~~, **and administrative closures** of the signing of the protective custody order or of the child being placed in protective custody. Findings to be made by the Court shall include:

(1) The Tribal status of the child.

(2) If law enforcement or beda?chelh has taken a child into protective custody without a court order, whether there is probable cause to believe the child is in need of care. The Court does not need to make this finding again, if the child was taken into protective custody pursuant to an order for protective custody and that probable cause determination was already found at the time that order was signed.

(3) Whether the child(ren) can be immediately and safely returned home.

(a) Challenges at this hearing shall be limited to the need or lack of need for out-of-home placement, which all parties may provide testimony for if necessary. If law enforcement or beda?chelh has taken a child into protective custody without a court order, at this hearing parties may also provide testimony to contest probable cause determinations made by beda?chelh and/or law enforcement which lead to

the child being taken into protective custody. Challenges to the facts alleged in the dependency petition shall be reserved for the adjudicatory hearing.

(4) ~~Case Reunification~~ Plan on Finding of Probable Cause. If the Court determines there is probable cause to believe the child is a youth-in-need-of-care, the Court may:

(a) Continue the petition, grant legal custody of the child to the Tribes, and place the child in the physical custody of the parent, guardian, or custodian, and set an adjudicatory hearing; or

(b) Continue the petition, grant legal custody of the child to the Tribes, and place the child in a bedah?chelh approved placement, and set an adjudicatory hearing; or

(c) Affirm any other reasonable plan supported by the evidence, including but not limited to the postponement of proceedings, mediation, or a plan agreed to by the parties; and

(d) If the child is placed in out-of-home care, the Court ~~shall~~ may set out in detail the ~~visitation-family time~~ which bedah?chelh will provide between the child and parent, guardian, or custodian, and relatives, if appropriate. ~~Family time~~ Visitation is to provide for time for the parent/guardian/child relationship to continue.

(5) Interim Services. Determining whether voluntary compliance with bedah?chelh recommended services, while further proceedings are being considered, are in the best interest of the child and family. The Court may issue any of the following orders: restraining orders; ~~complete an assessment for chemical dependency evaluation and treatment of substance abuse; complete a~~ mental health assessment, illness, and emotional disturbance; parenting classes; mandatory school attendance; family time visitation; and any other services or activities for the benefit of the child and ~~their~~ his/her family. The Court may make a particular placement conditional on compliance with any of its orders.

(6) Per Capita Distribution. The Court shall order all of the child's per capita (monthly or bonus) distributions to be directed into their trust account for the duration of the dependency case. Per capita being deposited into the minor's trust account under this chapter cannot be retroactively withdrawn from the minor's trust account.

(7) General Welfare Act Payments. General Welfare Act payments are for assistance to Tulalip Tribal member children for health, welfare and/or education and are provided at the discretion of the Board of Directors (BOD) per Chapter ~~16.04~~ 16.01 TTC. If such payments are authorized, it shall be by resolution from the BOD. General welfare

payments of the child shall be directed to the person who has physical custody of the child. ~~beda?chelh shall request placement of general welfare in a payee account for all~~ Children who are placed in facilities/institutions or ~~who are~~ not in the physical custody of an individual, ~~or if placement declines the general welfare shall have their funds held by beda?chelh for their benefit.~~

(8) Adjudicatory Hearing. The Court shall set the date for the adjudicatory hearing. The hearing shall be within 45 calendar days from the date the petition alleging that the child is a youth-in-need-of-care was filed or the child was placed in protective custody. If the parent(s), guardian(s), or custodian(s) is not present at the preliminary inquiry hearing, a notice of adjudicatory hearing shall be served upon the parent(s), guardian(s), or custodian(s) as required by this chapter.

(9) Update to the YINC Petition. beda?chelh may file an update to the petition, including new information, 10 days prior to the adjudicatory hearing. If available beda?chelh may include in the update the proposed ~~case reunification~~ plan as outlined in TTC 4.05.540.

(10) Answer to the Petition ~~and Update to YINC Petition~~. A written answer to ~~the a~~ petition ~~and update to the petition outlining any objections~~ shall be made by each respondent and shall be filed and served upon the Office of Reservation Attorney on behalf of beda?chelh, no later than ~~5-14~~ days prior to the adjudicatory hearing. ~~Language about setting the contested hearing and/or continuance to set a contested hearing.~~

~~(11) At the preliminary inquiry hearing beda?chelh shall set and provide notice to family of the date and time for a family resources and/or family team decision meeting, which shall be held within five days of the hearing.~~ [Res. 2020-554; Res. 2018-346; Res. 2016-096; Res. 2015-497; Res. 2015-101. Formerly 4.05.510].

Commented [SL29]: clear language about when they have to file a written response to the update with any objection

Commented [SL30]: put in policy

4.05.510 Placement priorities and preferences.

(1) When a youth-in-need-of-care child is in the legal custody of beda?chelh, and cannot be returned to a parent, guardian, or custodian, beda?chelh shall consider foremost the best interests of the child. The child(ren) will be placed in the temporary physical custody of one of the following, in order of preference and priority:

(a) Relatives; ~~or with~~

~~(b) A~~ person who would qualify as having a significant familial relationship with the child as defined within this chapter;

~~(c)~~ Private Tribal home, licensed or approved by beda?chelh;

(de) Private other Native home, licensed or approved by beda?chelh, on the Reservation;

(ed) Private non-Native home, licensed or approved by beda?chelh, on the Reservation;

(fe) Private other Native home, licensed or approved by beda?chelh, off the Reservation;

(gf) Private non-Native home, licensed or approved by beda?chelh, off the Reservation; or

(hg) In an emergency placement, however, beda?chelh shall continue to attempt to locate a family member or Tribal home for the child consistent with subsections (1)(a) and (b) of this section.

(2) Notwithstanding the above, beda?chelh, with good cause shown, shall have the discretion to place the child in a placement that serves the best interests of the child, including sibling connectivity; this

Commented [SL31]: Get opinion from experts with language about connection to siblings and how that factors in

(3) Placement may include a confidential placement, the location of which will be disclosed only to the Court, or a specialized home to address special needs of the child.

(4) A child shall be placed in as close proximity to the parent or guardian as possible to facilitate and encourage visitation and reunification unless such placement is not in the best interest of the child.

(5) A child shall be placed in the least restrictive placement available to meet the child's treatment needs; preference for placement shall be on or near the Tulalip Reservation so that the child can participate in all cultural events available and have access to family members.

(6) Placement of a child shall be contingent on the person's written agreement to accept the jurisdiction of the Tulalip Tribal Court and to cooperate fully with beda?chelh.

(7) In cases where a child has been with a placement, outside the placement preference, for a period of more than one year, and if a significant familial relationship can be shown, presumably the placement is in the best interests of the child. beda?chelh shall be required to demonstrate by a preponderance of evidence that any change of placement from this placement is in the child's best interest, except for

returning the child to their parent(s) or guardian(s). [Res. 2020-554; Res. 2018-424; Res. 2018-346; Res. 2015-497; Res. 2015-101. Formerly 4.05.520].

4.05.520 Family time Visitation.

beda?chelh shall make every effort to facilitate frequent and consistent ~~visitation-family time~~ with parent(s) or guardian(s), and siblings, whether in person, on the phone, over video conference, or by text. ~~Visitation-Family time~~ should be in the least restrictive means possible so long as it is safe for the child. ~~Visitation-Family time~~ will be suspended if it is not in the best interest of the child. If the child is placed out of parental or guardian care, beda?chelh will ~~provide-set up visitation-family time~~ between the child, siblings and relatives or persons with significant familial ties, as appropriate. ~~Visitation-Family time~~ may be limited by beda?chelh in the event that beda?chelh staff cannot support the same level of ~~visitation-family time~~ or may be limited to parent/guardian and child only in the event of a pandemic, natural disaster, or unforeseen circumstances outside of beda?chelh's control. [Res. 2020-554].

4.05.530 Adjudication.

(1) The adjudication is a court hearing to determine whether continued court jurisdiction is necessary. At the adjudicatory hearing, the Court will determine the following:

(a) beda?chelh shall have the burden of proof to prove the child is a youth-in-need-of-care by a preponderance of the evidence;

(b) Presumption for Child to Be in In-Home Care. The child shall be placed in in-home care unless beda?chelh proves by clear and convincing evidence that removal or continuing to remain in out-of-home placement is in the child's best interest. In making this determination, the Court shall consider the services that the parent or guardian has participated in or completed since the dependency action was filed as well as any change of circumstances; and

(c) Whether beda?chelh has made active efforts to reunify the family.

(2) If the child is adjudicated to be a youth-in-need-of-care, then the Court shall set a status review hearing within 60 days of the adjudicatory hearing or the ~~case reunification~~ plan hearing, whichever is later, and a permanent plan hearing within one year of the date of removal of the child.

~~(3) beda?chelh shall set and provide notice to family of the date and time for a family resource meeting, which shall be held within five days of the adjudicatory hearing.~~ [Res. 2020-554; Res. 2018-346; Res. 2015-497; Res. 2015-101].

Commented [SL32]: go into policy

4.05.540 Court ordered ~~case-reunification~~ plan.

(1) Purpose. The ~~case-reunification~~ plan shall be designed for each individual family and shall recommend services appropriate to alleviate the safety concerns alleged in the petition with the goal of reunifying the family and strengthening a child's identity and connection to their family, so long as it is in the child's best interest, and to enhance the families strengths and ability to avoid future court intervention.

Commented [SL33]: look at State's and other Tribe's language for medical and mental health care authorization for children
intent of this section is case plan services for parent
Commented [SL34R33]: Concerns with labeling children

(2) Scope. The ~~case-reunification~~ plan can be established at the adjudicatory hearing or a hearing to be held within 10 days of the entry of the adjudicatory order. The ~~case reunification~~ plan shall contain all necessary services. A new service may only be added after a hearing and if there is newly discovered evidence or a substantial change in circumstances that would support good cause for the Court to order additional services. A service may be removed at beda?chel's request only after a hearing and if there is good cause to support the service no longer being appropriate.

(3) Content. The ~~case-reunification~~ plan report shall be filed and served 10 days prior to the adjudicatory hearing and contain the following recommendations:

(a) Placement. The preference for placement shall be with the parent, guardian or custodian unless beda?chel shows by clear and convincing evidence why returning the child would not be in the child's best interests. In all cases beda?chel shall provide:

- (i) A plan for out-of-home placement of the child and what steps may need to be taken before the parent or guardian and child can be reunified; or
- (ii) A plan for in-home placement and what services need to be done or continued to maintain the child safely in the home.

Commented [SL35]: Making more clear or cutting the language -- what steps need to take in order for dependency to close versus what steps need to be taken in order for child to be place in an in-home placement
Commented [SL36]: clarify what specifically needs to be in report and then update the report template to mirror these two sections of the Code

(b) Services and Conditions Set by the Court. The services and conditions or restrictions which the Court may set upon a child, parent, guardian, custodian, or any other person shall be designed to improve the circumstances of the child, remedy the safety concerns that gave rise to the dependency case and work towards reunifying the family. All services should be unique to the parental and family needs and the circumstances of the case.

Services necessary to return the child to, or maintain placement with, a parent or guardian, may include the following (not an exhaustive list): medical evaluation; ~~drug and alcohol evaluation chemical dependency assessment;~~ assessment and treatment of psychological/psychiatric condition; ~~domestic violence education~~

Commented [SL37]: clarify language to be very clear on what we are talking about : to maintain in-home placement / to close dependency case with reunification / to move child to an in-home placement

~~classes~~; domestic violence treatment for perpetrators; sexual deviancy evaluation; compliance with protection orders; parenting classes; mandatory school attendance; ~~visitation~~family time; cooperation with ~~bedā?chelh~~; compliance with a ~~case-reunification~~ plan and/or service agreement; and cooperation with, and participation in, any and all services in which the child is engaged, including on-site residential or institutional services; entry of a custody order; or other requirements in the discretion of the Court that are in the best interest of the child.

~~(c) Identification of Siblings and Other Family. bedā?chelh shall include at least the names of the child's siblings in order to better facilitate visitation and family contact.~~

Commented [SL38]: Put in policy

~~(cd)~~ In rare circumstances bedā?chelh may request to be relieved by the Court at or after the adjudicatory hearing from the duty of providing active efforts for reunification with a parent(s) when the parent(s) has:

(i) Subjected the child and/or sibling(s) to aggravated circumstances including but not limited to torture, chronic abuse, severe neglect or sexual assault;

(ii) Committed, aided, abetted, attempted, conspired, or solicited deliberate or mitigated deliberate murder or manslaughter of a child or the sibling or parent of the child;

(iii) Committed aggravated assault against a child; or

(iv) Committed neglect of a child that resulted in serious bodily injury or death.;

(d) In the rare circumstance that a parent will be actively incarcerated for the life of the dependency matter then bedā?chelh will be relieved of active efforts and will continue to provide reasonable efforts. [Res. 2020-554; Res. 2018-346; Res. 2015-101].

4.05.550 Agreed adjudicatory orders.

The parties may agree to a proposed adjudicatory order in which respondents stipulate that there are sufficient facts alleged in the petition for the Court to find the child is a youth-in-need-of-care. Prior to signing the order, the Court shall ensure, on the record, the parent or guardian understands what ~~he or she is~~they are signing and what rights ~~he or she is~~they are giving up by determining the following:

(1) Explain the proposed agreed order in detail and the consequences of the person's failure to comply with the agreed terms;

(2) Assure that the person's consent to the proposed order is not the result of coercion, threat, duress, fraud, overreaching, or improper promise on the part of any person;

(3) Explain that the Tribe has the burden of proving the allegations within the petition and that they do not have to agree to the terms of the order; and

(4) Explain that once the person agrees to the proposed order and it is signed and entered by the court, it is a final order. [Res. 2020-554; Res. 2018-346; Res. 2015-101].

4.05.560 Agreed deferred adjudicatory order.

~~At a conference, or at another appropriate time and place,~~ An alternative to the adjudicatory hearing, an agreed deferred adjudicatory order, may be discussed. If such an agreement is satisfactory to the parties, it will be presented to the Court. beda?chelh may not consider a deferred adjudicatory order if the services are likely to take longer than nine months for parties to complete.

(1) Written Agreement. The agreed order shall be reduced to writing and signed by the parties and shall state the conclusions reached, ~~as a result of the conference,~~ specifying in detail what is expected of beda?chelh and the parties entering into the agreement. Each party will receive a copy of the signed agreement which should include a statement that the agreement has been read to the parties and that they understand the requirements and consequences of the agreement.

(2) Stipulations and Forfeit of Right to an Adjudicatory Hearing. The written agreement may include stipulations concerning the admissibility of the beda?chelh Declaration for Emergency Pick-Up or the preliminary inquiry hearing record. The parties entering into the agreement shall give up their right to an adjudicatory hearing.

(3) Court Order. The Court shall enter an order continuing the petition and adopting the agreed order.

(4) Court Postponement of Findings. Upon acceptance of the agreement of the parties and the written agreed order, the Court will continue protective custody of the child, but will postpone entering adjudicatory findings, and will postpone making the child a ward of the Court.

(5) Time Limit. The agreed order will be in effect no longer than nine months, except upon order of the Court, if good cause is shown, the agreement can be extended, but no longer than an additional nine months.-

(6) Review, Continuation, Dismissal, Adjudication, or Extension. beda?chelh shall, with the family if possible, review and document the family's progress at least every 30 calendar days. If, at any time after the initial 30-calendar-day period, but before the expiration of nine months, beda?chelh concludes that the party entering into the agreement is fully compliant, and it is in the best interests of the child, beda?chelh may move the Court for dismissal of the case. If, at any time after the initial 30-calendar-day period, but before the expiration of nine months, beda?chelh concludes that the party entering into the agreement is noncompliant, and that continuing the agreement is not in the best interests of the child, beda?chelh may move the Court for termination of the agreed order and an adjudicatory order. ~~If good cause is shown, the agreement can be extended, but no longer than an additional nine months.~~

Reports for deferred review hearings shall be specifically about the parents' compliance with agreed court-ordered services and any updates to the parent and child's situation. Concise reports shall be filed ~~five~~ 5 days prior to the hearing and served on the parent's attorney or parent if they are not represented.

If a party objects to the contents of beda?chelh's report they shall file a written response outlining any objections and serve the response on beda?chelh 3 days prior to the hearing.

(7) Dismissal of the Petition. If the party entering into the agreed order successfully completes the agreement, beda?chelh will notify the Court, and the Court may dismiss the petition, without prejudice, as to that party. The Court may do so without a hearing upon agreement of the parties. If parties are contesting dismissal the Court shall set a hearing and issue a scheduling order.

Commented [SL39]: clearly outline the motion practice

(8) Court Resolution of Disputes. If there is a dispute as to whether or not the agreement has been successfully completed, a hearing ~~may will~~ be set prior to the expiration of the agreement and the Court will determine the matter.

(9) Right of a Party to Request an Adjudicatory Hearing. A party who chooses not to enter into an agreed order has a right to an adjudicatory hearing as to her/himself, regardless of whether another party has entered into an agreed order on her/his own behalf.

(10) Per Capita. The child's per capita shall go to the parent(s)/guardian(s) who has physical custody of the child in in-home dependency. If the child is not placed with either parent or guardian then the child's per capita shall be directed 100 percent into trust. If circumstances change then the child's per capita will be redirected. The parent(s)

receiving the child's per capita is responsible for filing the child's taxes and paying any filing fees and taxes owed.

Commented [SL40]: Follow up on this one to see how needs to be amended if does)

(11) General Welfare. If the Board of Directors has authorized providing aid to Tulalip Tribal members through the General Welfare Act, to assist Tribal members with paying for food, housing and other household needs, then those payments for a child shall be distributed in accordance with the authorizing resolution from the BOD to the individual who has physical custody of the child. [Res. 2020-554; Res. 2018-346; Res. 2015-101].

4.05.570 Accelerated permanent plan.

(1) The Court may make a finding at or after the adjudicatory hearing that ~~beda?chelh~~ need not make active efforts to provide reunification services. The Court shall base this finding on proof that ~~the parent(s) has: beda?chelh has petitioned or is intending to petition for termination of parental rights or if the Court finds that the parent has:~~

(a) Subjected the child to aggravated circumstances including but not limited to torture, chronic abuse, ~~severe neglect or sexual assault;~~

Commented [SL41]: definition?

(b) Committed, aided, abetted, attempted, conspired, or solicited deliberate or mitigated deliberate murder or manslaughter of a child or the sibling or parent of the child;

(c) Committed aggravated assault against a child;

(d) Committed neglect of a child that resulted in serious bodily injury or death; or

(e) Had another child placed in permanent out-of-home placement and the parent has failed to effect significant change in the interim so as to care for another child

Commented [SL42]: policy

. [Res. 2022-243; Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.580].

4.05.580 Status review hearings.

(1) Status review hearings shall be held within 60 calendar days of the adjudicatory or ~~case-reunification~~ plan hearing, whichever occurs later, and at least every three months thereafter so long as a child remains within the jurisdiction of the Tulalip Tribal Court, and a permanent plan for the child has not yet been established by court order.

(2) The Court shall review the compliance of all parties with the ~~case-reunification~~ plan ~~since the last hearing date~~ and shall determine the continuing need for, and appropriateness of, court jurisdiction. Specifically, the status of the child will be reviewed to:

(a) Determine the continuing need for, and appropriateness of, ~~court jurisdiction~~ ~~and of~~ the child's placement;

(b) Determine the extent of compliance by all parties with the ~~case~~ ~~reunification~~ plan;

(c) Determine the extent of progress the parent has made toward eliminating the need for removal of the child from parental care, including, but not limited to, the efforts at compliance with required services, and whether ~~sufficient~~ progress is being made to consider return home ~~likely in the near future~~;

(d) Consider whether the services provided to the family have been appropriate, accessible, and provided in a timely manner; further consider whether beda?chelh can reasonably provide additional services which will facilitate the return of the child to parental care;

(e) Assess beda?chelh's concurrent ~~case-permanent~~ planning, if any, and the program's efforts to effect an alternative permanent plan for the child in the event there is insufficient progress to restore custody; ~~and~~

(f) Determine whether active efforts are being made by beda?chelh to alleviate the need for removal of the child from parental care.; ~~and~~

~~(g) Project a likely date when the child will be returned to parental care or when an alternative permanent plan will be put into effect.~~ [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.590].

4.05.590 Status review reports.

(1) beda?chelh shall prepare a status review report, which shall be filed, and copies given to all parties or sent to the address on record with the Court 10 calendar days before the hearing, except by order of the Court. beda?chelh's report shall provide supportive documentation, and shall summarize the history of the case since the last hearing and detail active efforts made to provide services to the child and family.

(2) A party may prepare their own report summarizing ~~his or her~~ ~~their~~ history since the last hearing which shall be filed and served on the parties in the manner immediately above.

(3) A party that disputes the content of beda?chelh's report may request a short continuance and ~~shall provide file~~ a written response ~~with the Court and serve that~~

response on beda?chelh at least 5 days prior to the hearing. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.600].

4.05.600 Change in placement or ~~visitation~~family time.

The parties ~~and placement~~ shall be provided with written notice of any change in the child's placement ~~or visitation~~ unless such notice could be harmful to the child or the parent or guardian has failed to participate in the court proceedings. The notice provided to the parent or guardian may be limited to the type of placement or that the child has been moved if information must remain confidential to protect the child or placement.

Commented [SL43]: add in policy that beda?chelh provides the order to new placement to use for youth's care

The parents/guardian will be provided with notice of a change in the family time plan.

beda?chelh shall provide the notice as soon as practicable, unless the child's health or safety would be endangered by delaying the proposed change, or the current placement gave notice that the child must be removed immediately. If the parent or guardian is represented by an attorney, the notice shall be served on ~~him or her~~them. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.610].

4.05.610 Permanent plan/~~plan for stability for child.~~

The Court shall conduct a hearing to review ~~the permanent~~its plan 12 months after the child has been taken into custody. The Court shall review whether the parties are complying with the ~~case-reunification~~ plan, determine whether to ~~move~~return the child ~~to an in-home placement~~Home, to continue out-of-home placement, or whether a ~~different~~other permanent plan ~~planned living arrangement~~ is in the best interests of the child. The Court will also determine if active efforts were made to support the ~~case reunification~~ plan and if modification is necessary to protect the child and strengthen the family. At the permanent plan hearing, the Court shall consider all factors related to the best interest of the child ~~with particular interest to their permanency needs.~~

The permanent plan options (not in any order of priority) are as follows:

- (1) Return Home. It is anticipated at this hearing, or in the near future, the child will be returned to a parent or guardian.
- (2) Dependency Guardianship. The underlying dependency remains open and held in abeyance, but the guardian is considered the long-term parent/guardian until 18 or further court order.
- (3) Long-Term Relative Care. Placement with a child's relative until 18 or further court order.

(4) Long-Term Foster Care. State or Tribal approved foster care placement in the child's best interest until 18 or further court order.

(5) Independent Living. For children 16 years or older or children who have volunteered to stay in dependency beyond the age of 18. Services are provided to the child with a focus on developing the child's independent living skills with a goal of transitioning to full independence.

It is anticipated that for any of the above to be completed, that additional hearings will be necessary. If the permanent plan is dependency guardianship, ~~or termination of parental rights and adoption~~, a new case number will be necessary for that action. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.620].

4.05.620 Permanent plan review hearings.

The Court shall review the permanent plan of a child at least two times per year unless the child is in an in-home dependency, then the hearings shall be held every three months:

(1) ~~In all other cases in which the child remains a ward of the Court,~~ beda?chelh shall be responsible for submitting a report to the Court 10 days prior to the hearing and is responsible for appearing at and providing information for a permanent plan review hearing of the child's plan.

Commented [SL44]: instead of "ward of the Court" say "under Court supervision" or "protected by the Court"

Commented [SL45R44]: Care of the Court

(2) Findings Required. At the permanent plan review hearing conducted by the Court after the establishment of the permanent plan, the Court shall determine:

- (a) The continued appropriateness of the placement and the permanent plan;
- (b) The extent of compliance with the permanent plan;
- (c) The adequacy of services provided to the child and placement;
- (d) The compliance of the parent(s)/guardian(s) in their court-ordered services; and
- (e) Whether other services are necessary to support the permanent plan, and if such services can be reasonably provided by the Court or beda?chelh.

(3) Final Order. A permanent plan order is a final order for the purposes of appeal.

(4) If the ~~case-permanent~~ plan for a child has been guardianship or other than return home for three years or more then beda?chelh shall be relieved of the duty to provide active efforts to the parents.

(5) Change in the Permanent Plan. A parent, guardian or beda?chelh may motion the Court to change the permanent plan back to return home if there has been a substantial change of circumstances and changing the plan to return home is in the best interest of the child. The standard of proof shall be preponderance of the evidence.

(6) Objections to Permanent Plan Report. A party objecting to the permanent plan report must file a written response outlining their objections with the Court and serve beda?chelh with the response at least 5 days prior to the hearing. [Res. 2020-554; Res. 2018-346; Res. 2015-101. Formerly 4.05.630].

4.05. Dismissal of Youth in Need of Care

Commented [RR46]: Add section on case closure

4.05.630 Extended foster care program.

Commented [SL47]: We are not reviewing this section. It was just amended and approved by the Board.