

CHAPTER 7 DOMESTIC VIOLENCE

Sec. 7.1 Policy and Purpose

Domestic violence is a serious crime and a crime, which is not in any way culturally sanctioned. This statute intends to promulgate responsible Hualapai Tribal response to domestic violence, which communicates the intent of the tribe that domestic violence represents an aberration and danger to the mental, physical and cultural well being of people on the Hualapai Reservation. It is also the intent of the tribe that victims of domestic violence receive the maximum assistance and protection under the law and that perpetrators are held accountable for their conduct.

Sec. 7.2 Definitions

- A. "Abuse" means 1) intentionally or recklessly or negligently causing or attempting to cause physical harm or mental anguish to another person, or 2) threatening or placing another person in reasonable apprehension of imminent serious physical injury.
- B. "Counseling" means services provided by social services or other authorized programs that provide services for, but not limited to domestic violence, alcohol and drug rehabilitation, parenting, and mental health education.
- C. "Court" means the Hualapai Tribal Court.
- D. "Domestic Violence" means abuse, mental anguish, physical harm, bodily injury, assault, or the infliction of reasonable fear of bodily injury, between family or household members, or sexual assault of one family or household member by another. All crimes involving threat, violence, assault and physical or sexual abuse against adults, children, elderly or others enumerated in the Hualapai Tribal Criminal Code may be charged as domestic violence.
- E. "Domestic Violence Shelter" means a location, which provides emergency housing on a 24-hour basis for victims of sexual assault, domestic violence, or both. Confidentiality and protection of the location is encouraged.
- F. "Family or Household Member" means spouses, former spouses, common-law spouses, domestic partners, parents, grandparents, children, siblings, half siblings, cousins, aunts, uncles, adult persons or emancipated minors presently residing together or who have a child in common regardless of whether they have been married at any time.
- G. "Mandatory Arrest" means a peace officer shall arrest, with or without a warrant if there is probable cause to believe the person to be arrested has

committed an offense of Domestic Violence as defined by this Chapter. The victim need not sign a complaint for an arrest to occur. An arrest must be made even if such arrest may be against the expressed wishes of the victim.

- H. "Probable Cause" means the reasonable belief, based on the officer's observations and statements made by the parties involved and witnesses, if any, that the person arrested committed an act of Domestic Violence.
- I. "Mental Anguish" means causing a person psychological or emotional damage by physical or verbal intimidation, threatening, verbal abuse, physical abuse, harassment, stalking, or any contact that is detrimental to the psychological and mental well-being of that person or any other family or household member, characterized by behavioral change or physical symptoms.
- J. "Order of Protection" means a Court order granted for the protection of victims of domestic violence.
- K. "Physical Harm" means the impairment of physical condition and includes but shall not be limited to any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition which imperils health or welfare.
- L. "Perpetrator" means a person who is alleged to have committed or has been convicted of committing an act of abuse or domestic violence on his or her family or household member.
- M. "Police officer," or "peace police" means a law enforcement officer of the Hualapai Tribal Police Department or other law enforcement officer having legal jurisdiction.
- N. "Primary, Physical Aggressor" means the person(s) who has caused or has threatened to cause significant physical or emotional harm to another in his or her family or household, as compared to other party(s) involved. This is regardless of which party was the first aggressor. In determining whether one person is a primary physical aggressor, consideration shall include but is not limited to:
 - 1. Prior history of domestic violence;
 - 2. The relative severity of the injuries inflicted on each person;
 - 3. The likelihood of future injure to each person;
 - 4. Whether one of the persons acted in self-defense; and
 - 5. Relative ability to inflict harm between the parties involved.

- O. Victim" means family or household member(s) who has been subjected to domestic violence.

Sec 7.3 Crime Involving Domestic Violence – Defined

- A. The purpose of this ordinance is to clarify that domestic violence is a separate crime punishable separate and apart from the underlying crime, and to acknowledge that when the following crimes against a family or household member, a finding of such shall trigger the application of this ordinance. The crime of domestic violence occurs when a family or household member commits one or more of the following offenses against another family or household member:

1. Arson;
2. Assault Offenses (Battery, Aggravated Assault, Simple Assault, and Intimidation);
3. Burglary, Breaking and Entering;
4. Destruction of Property, Damage, Vandalism of Property
5. Homicide Offenses (Murder and Non-negligent Manslaughter, Negligent Manslaughter, and Justifiable Homicide);
6. Kidnapping, Abduction;
7. Sex Offenses, Forcible (Forcible Rape, Forcible Sodomy, Sexual Assault with an Object, and Forcible Fondling);
8. Stolen Property Offenses;
9. Weapon Law Violations;
10. Disorderly Conduct;
11. Family Offenses, Non-Violent;
12. Stalking;
13. Trespass of Real Property;
14. Intoxication;
15. Harassment;
16. Home Invasion

- B. Committing the above stated offenses should not diminish the seriousness of domestic violence or take precedence over the crime of domestic violence since the intent of this Code is to prevent further acts of domestic violence. The commission of one of the above-

referenced crimes against a family or household member shall trigger the application of this ordinance, even if the criminal complaint is also charged as one of these offenses. The purpose of this Code is to differentiate between these crimes committed against non-family and non-household members and those against family and household members, which shall be subject to the provisions of this Code.

- C. The use of alcohol in the committing of domestic violence or any crime related to domestic violence shall not diminish the seriousness of domestic violence or take precedence over the crime of domestic violence. The fact that the perpetrator was under the influence at the time of the offense shall not be utilized by law enforcement prosecution or the Court to mitigate the severity of the violence. Voluntary intoxication, which is available as a legal defense only in cases involving specific intent crimes, shall not be available as a defense to a perpetrator, nor shall it be utilized to lessen the consequences to the perpetrator.

Sec. 7.4 Penalties

- A. Criminal Penalties should be guided by the seriousness of the offense.
 - 1. First Offense:
 - a. Any person who commits an act of domestic violence defined by this Chapter shall be deemed guilty of the offense of domestic violence. A person convicted of a first offense of domestic violence may be imprisoned for a term not to exceed six months and may be fined an amount not less than \$200 or more than \$1,000, or both such imprisonment and fine, with costs and restitution to the victim. Mandatory counseling shall be part of sentencing as provided in Section 7.5 of this Chapter, as well as restitution when appropriate.
 - b. The Court may suspend imposition of fines and imprisonment for the first offense and place defendant on probation for not less than three months nor more than one year. When a sentence is suspended there must be complete and total compliance with the orders of the Court requiring completion of the domestic violence program and counseling as ordered.
 - 2. Second Offense: A person convicted of a second offense of domestic violence within five years may be imprisoned for a term of not less than 60 days or more than one year and fined an amount not less than \$500 or more than \$3,000, or both such imprisonment and fine. Mandatory counseling shall be part of sentencing as

provided in Section 7.5 of this Chapter, as well as restitution when appropriate.

3. **Third and Subsequent Offenses:** A person convicted of a third or subsequent offense of domestic violence within five years of the last conviction may be imprisoned for a term of not less than one year and fined an amount not less than \$1,000 or more than \$5,000, or both such imprisonment and fine. Mandatory counseling shall be part of sentencing as provided in Section 7.5 of this Chapter as well as restitution when appropriate. A convicted person under this section shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.
4. For second and subsequent convictions, upon complete and total compliance with the orders of the Court requiring completion of the domestic violence program and/or counseling as ordered, the Court may suspend up to half of the imposition of fines and imprisonment for domestic violence offense(s). Provided: the perpetrator is placed on probation for not less than one year. Failure to comply with terms of probation shall result in the completion of the original sentence.
5. In cases of failure to comply with the Court's orders of counseling under this Section, the Court shall find the person in contempt and shall impose a sentence no greater than the original sentence for the offense and again require the perpetrator to complete the entire counseling program upon release from jail.
6. Failure to attend counseling, violation of an order for protection, commission of any crime during the order for protection period, or violation of any condition of sentencing will result in a violation of probation and upon a finding of such shall result in the imposition of a sentence no greater than the original sentence and require the perpetrator to complete the entire domestic violence program again.
7. Prosecution for the offense of domestic violence shall not preclude prosecution for any other offense arising from the same circumstances.
8. A person convicted of domestic violence shall not be released from custody for community service or to attend funeral or wake services unless said services are for a member of the person's immediate family. Immediate family as used in the foregoing Subsection A 7 shall mean husband, wife, son, daughter, brother, sister, father, mother or grandparent.

- B. **Civil Penalties** - A person who is found guilty of domestic violence may be liable for a civil penalty not to exceed \$5,000, to be determined by the Court after a thorough review of the evidence and circumstances. In addition, restitution shall be required when appropriate.
- C. **Other Offenses; Entering Tribal Jurisdiction and Committing Domestic Violence.**
 - 1. A person who enters the Tribal jurisdiction and commits an act of domestic violence and thereby causes injury to a family or household member, shall be considered to be in violation of Section 7.3 of this Chapter.
 - 2. A person who causes a family or household member to enter Tribal jurisdiction as a result of domestic violence commits an act of domestic violence and shall be considered to be in violation of Section 7.3 of this Chapter.
- D. **Other Conditions in Addition to Penalties.**
 - 1. In addition to the penalties above, the Court shall impose any condition it deems necessary to prevent further domestic violence, including but not limited, to restricting the defendant's ability to have contact with the victim and other family or household members and the requirement that defendant make periodic reports to the Court for the duration of the sentence and probation.
 - 2. A Peace Officer may remove any weapons or firearms that are in plain view or otherwise discovered during the domestic violence related investigation or are in the possession and control of the perpetrator. Such weapons may be subject of the forfeiture proceedings.
- E. **Pre-sentencing evaluation** - Prior to sentencing a person convicted under this Chapter for a domestic violence offense, the Court shall order a domestic violence evaluation or other personal evaluation deemed necessary upon motion of either party.

Sec. 7.5 Court Ordered Treatment and Counseling

- A. **Alcohol and substance abuse.** If alcohol, drugs, or other substance abuse, by perpetrator or victim, is a primary factor in the domestic violence arrest, a mandatory chemical dependency evaluation shall be conducted and complete cooperation with recommendations for treatment shall be considered by the Court.
- B. **Mandatory Counseling.**

1. A person convicted of domestic violence shall be ordered to participate in appropriate counseling, which may include domestic abuse, substance abuse, or family counseling.
2. The Court shall provide that qualified personnel will talk with the victim and discuss the availability of domestic violence services and groups.

C. Substance Abuse by Victim: Referral to Social Services

1. If a peace officer has reason to believe that the victim of domestic violence has abused alcohol, drugs or other substances, and such abuse contributed in part to a domestic violence incident which has occurred in the presence of a child(ren) under the care and control of such victim, the peace officer shall report the circumstances of the incident to Tribal Social Services within 24 hours.
2. Once Tribal Social Services receives a report as provided in Subsection C 1, Tribal Social Services shall commence an investigation of the home environment of the victim and the child(ren) within 48 hours and shall take appropriate action as provided in the Juvenile Code.

D. Religious Consideration - Persons who practice a traditional Indian religion or any other religion may participate in additional counseling or ceremonies at their own expense, as appropriate to their sentence.

E. Cost for counseling or other treatment - The Court may order the person convicted of domestic violence to pay any cost for counseling or other treatment ordered pursuant to this Section.

F. Follow-up Assessment

1. A follow-up assessment shall be done at the completion of the mandated counseling.
2. A treatment provider shall do the assessment and shall forward a written copy of the findings and recommendations to the Court.
3. All treatment records will be sealed by the Court and may be reviewed only with written permission of the Judge.

Sec. 7.6 Procedure for Arrest and Disposition

A. Police Department

1. If probable cause exists as described in this Chapter, the officer shall arrest the perpetrator of domestic violence whether or not the victim

signs a complaint and whether or not the arrest is against the expressed wishes of the victim.

2. Whenever a police officer investigates an allegation of domestic violence, whether or not an arrest is made, the officer shall make a written incident report of the alleged abuse and submit that report to the Office of the Tribal Prosecutor within 24 hours.
3. If a peace officer receives complaints of domestic violence from two or more persons, circumstances shall be evaluated to determine if there was a primary physical aggressor. If the officer determines that one person was a primary physical aggressor, the officer may arrest the person who has committed domestic violence.

B. Office of the Tribal Prosecutor

1. The Office of the Tribal Prosecutor shall evaluate the complaint based upon all available facts. A case shall not be dismissed solely on the grounds that the victim may be an uncooperative witness.
2. The Office of the Tribal Prosecutor shall make reasonable efforts to notify a victim of an alleged crime involving, domestic violence when the prosecutor has decided to decline prosecution of the crime, or dismiss the criminal charges filed against the defendant.

C. Court

1. When a defendant is arrested, automatic orders of protection will be issued as provided in Section 7.9 of this Chapter.
2. Anyone immediately arrested under this Chapter shall be held in the custody of the Hualapai Tribal Police Department or the Bureau of Indian Affairs for a period not less than 24 hours as a mandatory "cooling off" period, regardless of when arraignment occurs.
3. Prior to release of the defendant, the Court shall provide for information to the victim regarding the availability of domestic violence services and groups, or refer the victim to appropriate service providers.
4. Because of the serious nature of domestic violence:
 - a. Disposition of cases shall not be delayed or dismissed because of concurrent dissolution of marriage proceedings or other civil actions;

- b. Any requirement that the victim's location be disclosed shall be waived and communication to victim regarding the domestic violence case shall be conducted through the victim's advocate or the Court;
- c. Docket sheets of criminal actions arising from acts of domestic violence shall be identified by any reasonable means.

Sec. 7.7 Duties of Peace Officers

- A. **Primary duty of officers.** The primary duty of officers when responding to a domestic violence situation is to enforce the laws and ensure victim safety.
- B. **Notification to victim.** If the victim is present when the officer arrests a person for domestic violence, the officer shall advise the victim of reasonable means to prevent further abuse, the availability of a shelter and other services in the tribe, and give the victim immediate notice of any legal rights and remedies available in accordance with policies and protocols adopted in accordance with Section 7.9 of this Chapter.
 - 1. The victim shall be furnished with a copy of the following statement: If you are a victim of domestic violence, the Office of the Tribal Prosecutor will be notified of the incident and they shall determine whether to file charges against your abuser. An emergency order of protection will be issued against your abuser at the time of the arrest or at your request. You also have the right to go to Court and file a petition requesting any or all of the following temporary orders for relief.
 - 2. An order restraining your abuser from abusing, harassing, stalking, threatening, annoying, telephoning or otherwise contacting you and committing other acts of domestic violence.
 - 3. An order directing your abuser to leave your household and to stay away with no contact.
 - 4. An order preventing your abuser from removing any property from your household except for clothing and other such personal effects which may only be removed when the abuser is accompanied by a peace officer.
 - 5. An order awarding you custody or visitation of a minor child or children.
 - 6. An order specifying arrangements for visitation by your abuser, including required supervised visitation.

7. An order restraining your abuser from harassing or interfering with minor children in your custody.
 8. An order directing the party not granted custody to pay support of minor children or to pay support of the other party if there is already a legal obligation to do so, and
 9. An order protecting other family and household members.
- C. Protection of the Victim. A peace officer responding to an allegation of domestic violence shall use all reasonable means to protect the victim and prevent further violence, including but not limited to:
1. Taking action necessary to provide for the safety of the victim and any family or household member.
 2. Transporting or obtaining transportation for the victim or any minor child (or children) to a temporary shelter.
 3. Assisting the victim and any minor child (children) in obtaining immediate medical treatment, including obtaining transportation to a medical facility.
- D. Notification of Release of a Perpetrator. When a perpetrator is scheduled to be released from custody, the Police Department and/or Tribal Prosecutor shall make reasonable efforts to notify the victim prior to, or upon release of, the perpetrator from custody.

Sec. 7.8 Special Court Rules

In addition to the Rules of Court generally applicable to such proceedings, the Court is authorized to take the following actions in a proceeding, involving alleged domestic violence offenses.

- A. Conditions of Release: The Court shall, at the earliest stage of the proceedings, impose release conditions restraining the accused from committing further acts of violence against the alleged victim or any other person regardless of whether the Court orders bond release, recognizance release, or denies bond.
- B. Arraignment: At the arraignment, any Domestic Violence Victim Advocate may accompany the alleged victim to the hearing and may accompany the victim to all other subsequent hearings.
- C. Admissibility of Victim's Allegations: Any written statement made by the alleged victim under oath and signed by the victim describing the alleged acts

of domestic violence shall not be considered inadmissible solely because of an hearsay objection, but shall be subject to ordinary judicial analysis for admissibility of evidence in the Tribal Court.

- D. **Victim - Impact Statement:** When offered to the court, input from the victim shall be considered when determining the sentence to be imposed.
- E. **Conviction:** Upon conviction, the perpetrator shall be ordered to participate in an appropriate counseling program.
- F. **Failure to Comply with Court Order:** Failure to comply with a court order requiring a perpetrator to attend and cooperate in evaluation and/or undergo treatment as described in a treatment plan shall constitute contempt of court punishable as such. The Court may also order the imposition of any sentence that has been suspended.

Sec. 7.9 Civil Orders of Protection

Any person may seek relief under this Section by filing a petition, as a civil action, with the Court alleging that the person has been a victim of domestic violence committed by the Respondent. The person may petition for relief on behalf of himself or herself and on behalf of minors within the family or household members.

- A. **Availability of Civil Petition for Orders of Protection in General.**
 - 1. A civil petition to obtain an Order of Protection under this Section may be filed by:
 - a. Any person claiming to be the victim of domestic violence.
 - b. Any family member or household member of a person claimed to be the victim of domestic violence on behalf of the alleged victim.
 - c. A police officer/peace officer.
 - d. A Victim Advocate.
 - e. The Tribal Prosecutor.
 - 2. A Petition shall briefly describe the incident(s) of domestic violence and shall be a verified petition or supported by an affidavit made under oath stating the specific facts and circumstances justifying the requested order.
 - a. No filing fees shall be required for filing a petition nor shall a bond be required to obtain relief under this Section.

- b. The Petitioner, or the victim on whose behalf a petition has been filed is not required to file for annulment, separation, or divorce as a prerequisite to obtaining an order of protection.
- c. Standard petition forms with instructions for completion shall be available upon request from the Court Administrator.
- d. Mutual restraining orders of protection are permitted as determined by the Court.
- e. An order for protection does not preclude the rights of any party or child which are to be adjudicated at subsequent hearings in the proceeding.
- f. An order for protection may be revoked, modified, or extended.
- g. An order for protection may be presented in a proceeding, for the modification of an existing order, judgment or decree.

B. Procedure for Issuance of an Order of Protection in General

- 1. The order shall include the immediate granting of an ex parte order of protection based on the specific facts stated under oath and the Court has reasonable cause to believe that the Petitioner, or the person on whose behalf the petition is filed, is the victim of an act of domestic violence committed by the Respondent.
- 2. Within five days of the issuance of an ex parte order excluding holidays and weekends, a hearing shall be held to determine whether the order should be vacated, extended for an additional period of time, made permanent, or modified in any respect with reasonable notice to the Respondent.
- 3. If the Court does not find sufficient reasonable cause to grant an ex parte order, the Court shall serve notice to appear upon both parties and hold a hearing on the Petition for an Order of Protection within five days after the filing of the Petition, excluding holidays and weekends.
- 4. An Order of Protection granted pursuant to this Section shall be forwarded by the Court to the Police Department within 24 hours of issuance. In the case of an emergency Order for Protection, it shall be filed immediately upon issuance. The Police Department shall make available to each officer information as to the existence and status of every Order for Protection issued under this Section.

C. Contents of an Order of Protection in General

- 1. An Order of Protection shall include provisions:

- a. Restraining the Respondent from committing any acts of domestic violence.
 - b. Restraining the Respondent from harassing, stalking, threatening, telephoning, or otherwise contacting, the Petitioner, directly or indirectly, or engaging in any other conduct that would place any named family or household members in reasonable fear of bodily injury.
 - c. Prohibiting the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily injury.
 - d. Restraining Respondent from receiving, possession or transporting a firearm or ammunition.
 - e. Restraining one or both parties from transferring, removing, encumbering, mortgaging, concealing, disposing, altering or property except as authorized by the Court, and requiring that an accounting be made to the Court for all authorized transfers, encumbrances, disposition, and expenditures.
 - f. Notifying the parties involved that the knowing violation of any provision of the order may constitute contempt of court punishable by fines, imprisonment, or both.
2. An order of Protection may include any other relief the Court deems appropriate, including but not limited to:
- a. Excluding the Respondent from the residence of the victim (whether or not the Respondent and the victim share the residence), school, place of employment, or a specified place frequented by the Petitioner and any named family or household member.
 - b. Awarding temporary child custody, temporary child support, or establishing temporary visitation rights of the minor children of the parties, with the primary consideration of the least disruption of the children, including but not limited to health, safety, education, and normal routines of the children.
 - c. If visitation is granted there shall be set rules for exchange of children for visitation, including but not limited to times, places, persons, and the non-custodial parent may be required to post a bond as determined by the Court.
 - d. Ordering temporary possession and use of the parties' property.

- e. Ordering the Respondent to make timely payments on existing debts of the Respondent, including mortgage or rental payments and necessary utilities in order to maintain the Petitioner in their residence.
- f. Ordering other lawful relief as the Court deems necessary for the protection of the victim of domestic violence, including orders or directives to the Police Department or other appropriate departments and programs.

D. Duration and Amendments to Orders of Protection in General

1. An Order of Protection shall be enforced until further order of the Court but not to exceed 180 days and may be subject to amendment for extension at the discretion of the Court or at the request of one of the parties.
2. The Court may, in its discretion, conduct a review of the Order of Protection at the request of the parties.

E. Emergency Orders of Protection

1. During the hours that the Court is closed, the Court shall provide for the availability of a judge or other authorized personnel who shall authorize the issuance of emergency and temporary orders for protection by any appropriate and effective method.
2. If an officer, for any reason, cannot make an arrest under Section 7.6 of this Chapter, but states there is probable cause to believe a person is in immediate and present danger of domestic violence, the judge or other person authorized to issue emergency Orders for Protection may issue an ex parte Order of Protection if such authorized person finds that the officer's grounds are reasonable.

F. Violation of Order of Protection

1. In addition to any other penalties available under law or equity, a person, who knowingly violates, or a person who aides and abets another person to knowingly violate an Order of Protection is guilty of an offense and shall be sentenced to a maximum of six months imprisonment, or fined an amount not to exceed \$4,000 or both.
2. A person who enters Tribal jurisdiction with the intent to engage in conduct that violates the portion of a protection order shall be punished as provided in Subsection F 1 above.

3. A person in violation of a valid protection order issued by any court who causes a family or household member to enter Tribal jurisdiction shall be punished as provided in Subsection F 1.

Sec. 7.10 Reporting of Domestic Violence

- A. **Reporting Requirements.** Any physician, physician's assistant, nurse, community health representative, social worker, dentist, school teacher, adult services worker, peace officer, substance abuse counselor, or domestic violence program worker who has reasonable basis to believe that a person has been a victim of domestic violence shall report in accordance with Subsection B of this Section.
- B. **Report to Law Enforcement.** The report required by Subsection A. of this Section shall be made orally and immediately by telephone or otherwise to a peace officer.
- C. **Immunity for Reporting.** Except for malicious acts as described under Subsection D of this Section, a person making a report pursuant to this Section in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed and shall have the same immunity with respect to participation in any Court proceeding resulting from such a report.
- D. **Penalties for Failure to Report or False Reports**
 1. Any person who knowingly fails to make a report required under this Section is guilty of an offense and shall be imprisoned for a term of not more than 30 days and shall be fined an amount not less than \$100 nor more than \$300 or both.
 2. A person who knowingly and intentionally makes a false report or who coerces another person to make a false report of Domestic Violence is guilty of an offense and shall be sentenced to jail not to exceed 30 days, or fined an amount not to exceed \$500 or both.
 3. A person not subject to the criminal jurisdiction of the Hualapai Tribal Court, but who violates either Subsections 1, 2, or 3 above, is liable for a civil offense and shall be fined not more than \$1,000.

Sec. 7.11 Disclosure of Domestic Violence Shelters

Any person who knowingly publishes, disseminates or otherwise discloses the location of any domestic violence shelter or any place designated as a domestic violence shelter as defined in Section 7.2 without proper authorization is guilty of a crime and shall be sentenced to jail not less than five days or more than 30 days or fined an amount not less than \$100 or to exceed \$500, or both.

Sec. 7.12 Non-Indians

- A. All individuals involved as the perpetrator of domestic violence against tribal members, are subject to the mandatory arrest provisions of Section 7.6. If it is later determined by an official means a non-Indian person has been arrested, the non-Indian person may be released to the proper jurisdiction.
- B. A non-Indian person may choose to accept the civil jurisdiction of the Tribal Court to defend a charge of Domestic Violence.
- C. Upon conviction, proceedings for removal and exclusion of the non-Indian perpetrator from Tribal jurisdiction shall be initiated by the Tribe with a finding that exclusion is a proper remedy to ensure the safety of the victim(s).
- D. Civil Penalties. A non-Indian person not subject to the criminal jurisdiction of the Criminal Court but who is found responsible of domestic violence is liable for a civil penalty not to exceed \$5,000.00, to be determined by the Court after a thorough review of the evidence and circumstances. In addition, restitution shall be required when appropriate.

Sec. 7.13 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 the Chapter.

CHAPTER 8 CIVIL CONTEMPT

Sec. 8.1 Contempt of Court Defined

The following acts and omissions constitute contempt of court:

- A. Disorderly, contemptuous or insolent behavior committed during the sitting of a court of justice in immediate view and presence of the court, and directly tending to disrupt its proceedings or to impair respect due to authority; or
- B. Behavior of like character committed in the presence of a referee while actually engaged in a trial or hearing, pursuant to the order of a court, or in the presence of a jury while actually sitting during a trial of a case or upon inquest or other proceeding authorized by law; or
- C. Any breach of the peace, noise or other disturbance directly tending to interrupt the proceeding of a court; or
- D. Willful disobedience of process or an order lawfully issued by a court; or
- E. Resistance willfully offered to the lawful order or process of a court; or
- F. The unlawful refusal to be sworn as a witness or, when so sworn, refusal to answer a material question; or
- G. The publication of a false or grossly inaccurate report of a proceeding of a court.

Sec. 8.2 Contempt in Presence of Court: Summary Punishment

When a contempt is committed in the immediate view and presence of the Court, it may be punished summarily and immediately by a fine not to exceed \$500.00, or imprisonment in a detention facility for a term of not more than 30 days, or both. An order shall be entered by the Judge describing the actions constituting the contempt which took place in the Judge's immediate view and presence, and determining that the person proceeded against is in contempt of court.

Sec. 8.3 Procedure in Other Cases

In cases other than those described in 8.2 above, a contempt proceeding shall be commenced by the presentation to the Judge of an affidavit setting forth the facts constituting the contempt. The Court may either (1) issue an order against the person charged to show cause why he should not be held in contempt, and fixing a date and time for hearing, or (2) immediately issue a warrant of arrest to bring such person to before the Court. The Court

may release the person charged on his personal recognizance, may order bail or may order detention. If, after a hearing on a contempt charge, the Court determines that the person charged is guilty of contempt, the Court may sentence the person to pay a fine not to exceed \$500, to serve a term of imprisonment in a detention facility for a period not to exceed 30 days, or both, for each act of contempt.

Sec. 8.4 Damages to Injured Party

If any loss to a party in an action, suit or proceeding prejudicial to his rights therein have been caused by the contempt, or if the contempt has otherwise caused harm to any person or to the Tribe, the Court, in addition to the punishment imposed for the contempt, may give judgment against the party committing the contempt sufficient to compensate the aggrieved person or the Tribe, including costs and disbursements expended as a result of the contempt.

Sec. 8.5 Imprisonment until Act Performed

When the contempt consists of the omission or refusal to perform an act which is yet in the power of the person committing the contempt to perform, such person may be imprisoned until he performs such act.

Sec. 8.6 Additional Proceedings not Precluded

Nothing contained in this Chapter shall be deemed to prevent a person proceeded against under the provisions of this Chapter from also being charged, in either a criminal or civil proceeding, with the commission of an offense under Chapter 6 of this Code or otherwise pursuant to Tribal law.

CHAPTER 9
TRESPASS, EXCLUSION AND EXPULSION

Sec. 9.1 Who may be Excluded or Expelled

Any non-member of the Tribe may be excluded or removed from the Reservation pursuant to the provisions of this Chapter.

Sec. 9.2 Trespass; Grounds for Exclusion or Expulsion

The commission of any of the following acts by a non-member of the Tribe constitutes a trespass punishable, in addition to any other sanction imposed under applicable federal or tribal law, by exclusion or expulsion from the Reservation:

- A. Entering an area of the Reservation for which a permit is required under any tribal law, without first obtaining the requisite permit.
- B. Failure or refusal to pay any taxes, rents, fees, or other charges due the tribe after reasonable notice and opportunity to pay.
- C. The commission of any offense defined under tribal, state or federal law, including violation of any provision of the Hualapai Environmental Review Code and/or any of its subtitles.
- D. Unauthorized taking of any property from the Reservation.
- E. Any other act causing physical loss or damage of any nature to tribal property or to the property of any tribal member.
- F. Any other action which constitutes a threat to the health, welfare, security, or property of the tribe or any tribal member.

Sec. 9.3 Initiation of Expulsion or Exclusion Proceeding by Petition

An expulsion or exclusion proceeding shall be initiated by the filing of a written petition with the Tribal Court by any Tribal Prosecutor or the Hualapai Tribal Council. The petition shall state in plain terms the reason(s) for the proposed exclusion or expulsion.

Sec. 9.4 Notice of Proposed Expulsion or Exclusion; Service

Upon receipt of an expulsion or exclusion petition, the Clerk of the Tribal Court shall issue a notice of proposed expulsion or exclusion, stating the date, time and place at which the non-member may appear before the Tribal Court to show cause why he/she should not be excluded or expelled from the Reservation. The notice shall also state the time and manner in which the non-member may re-enter the Reservation only for the purpose of attending the

hearing. The Clerk shall cause the notice, along with a copy of the petition, to be served on the non-member pursuant to the provisions of Section 4.5 of this Code.

Sec. 9.5 Timing of Hearing

The hearing shall take place not less than five days after the completion of service of the notice and petition; PROVIDED, that if a Judge of the Tribal Court shall have reasonable cause to believe that an emergency exists, and the notice so states, the hearing may be held a minimum of 24 hours after completion of service.

Sec. 9.6 Hearing to Determine Expulsion or Exclusion

The hearing to determine whether the non-member shall be expelled or excluded from the Reservation shall be conducted as provided in Section 4.12 of this Code. The non-member shall be given an opportunity to present his/her defense at such hearing and may, at his/her own cost, be represented by counsel.

Sec. 9.7 Order of the Court

- A. At the conclusion of the hearing, or after the time set for the hearing in the event the non-member fails to appear or obtain a continuance thereof, the Court shall issue an order:
 - 1. Excluding or expelling the non-member from the Reservation, or
 - 2. Permitting the non-member to enter and/or remain upon the Reservation on such conditions as the court sees fit to impose.
- B. The order of expulsion or exclusion shall remain in force until revoked by the Tribal Court unless the order specifically provides otherwise.

Sec. 9.8 Enforcement of Orders of Exclusion or Expulsion

If any non-member ordered excluded or expelled from the Reservation does not promptly obey the order, a Judge of the Tribal Court may order (a) immediate physical removal of such person from the Reservation, or (b) that the non-member be brought before the Court for a civil contempt hearing under the provisions of Chapter 8 of this Code.

Sec. 9.9 Physical Removal of Non-members: Emergency

In cases involving immediate danger to the life, health, welfare, security, or property of the tribe or any of its members, or where any delay would result in irreparable damage, a Judge of the Court may, by written order, authorize any Peace Officer to remove a non-member or any of his/her property from the Reservation, either before or after the non-member has been ordered excluded or expelled from the Reservation as provided in Section 9.7 above. The Peace Officer executing such emergency removal order shall use only so

much force as deemed necessary by the Peace Officer to effect the removal. If service of the notice of proposed expulsion or exclusion has not already been made as provided for in Section 9.4 above, the Court shall cause the Peace Officer to serve the notice upon the non-member at the time of removal or as soon after removal as possible.

CHAPTER 10
TRIBAL COURT OF APPEALS; PROCEDURE

Sec. 10.1 Composition

The Tribal Court of Appeals shall consist of one or more judges selected in sequential order from a list of available Court of Appeals Judges compiled by the Tribal Court. The list of Court of Appeals Judges shall be renewed every two years and shall include at least three names. The Court of Appeals shall always consist of an odd number of Judges. No Judge shall sit on a Court of Appeals if he presided over the original proceedings or if disqualified under Section 2.10 of this Code.

Sec. 10.2 Jurisdiction

The Tribal Court of Appeals shall have appellate jurisdiction over all appeals from:

- A. A final judgment imposed by the Tribal Court in any criminal case;
- B. A final judgment or order of the Tribal Court in any civil case;
- C. A final judgment or order of the Juvenile Court;

Sec. 10.3 Right of Appeal

Any party to a civil action or defendant in a criminal action dissatisfied with a final judgment or order of the Tribal Court may appeal therefrom to the Tribal Court of Appeals.

Sec. 10.4 How Taken

- A. Appeals may be taken from any judgment or order of the Tribal Court or Juvenile Court by:
 - 1. Filing written notice of appeal within five days after the date of the action appealed.
 - 2. Posting with the Clerk of the Court an administrative fee of \$50 to cover costs and disbursements.
 - 3. In criminal cases, posting with the Clerk of the Court a satisfactory bond not exceeding twice the amount of the fine imposed or in case of a jail sentence the cash equivalent thereof; PROVIDED, however, that in the discretion of the Judge a cash bond in a lesser amount may be furnished in lieu thereof.
 - 4. In civil cases, posting with the Clerk of the Court a satisfactory bond

equal to twice the amount of the judgment, including costs, when the judgment is for money, or twice the value of the property, including costs, when the judgment is for the return of property. A cash deposit for the amount of the judgment or the value of property, plus costs, may be made in lieu of a bond.

- B. The court may waive the payment of any fees by the appellant in a criminal case who is unable to pay said fees without undue hardship.

Sec. 10.5 Content of Notice of Appeal; Written Response; Service

- A. The Notice of Appeal shall include the following:

1. The name(s), address(es) and telephone numbers of the party(ies) taking the appeal and their counsel or advocate(s);
2. The name of the court rendering the adverse ruling and the date the ruling was rendered;
3. A concise statement of the adverse ruling or alleged errors made by the court;
4. The nature of the relief being sought; and
5. A concise statement of the ground for reversal or modification.

- B. The appellant(s) shall cause to be mailed a copy of the Notice of Appeal to the opposing party(ies) on the day it is filed.

- C. Any appellee may file with the Court a brief written response joining the position of the appellant(s) or challenging the jurisdiction of the Tribal Court of Appeals within 10 days after the Notice of Appeal is filed, and shall mail any such written response to the appellant(s) on the day filed.

Sec. 10.6 Action of Clerk of Court

Upon receiving a Notice of Appeal in any matter, the Clerk of the Court shall:

- A. At the time the Notice of Appeal is filed, provide to all parties a copy of all rules of appellate procedure then in force; and
- B. Within fifteen days of the filing of a Notice of Appeal, and in accordance with applicable appellate rules, transmit to the Court of Appeals a copy of the Notice of Appeal along with the complete record of the lower court proceeding, certified as accurate by the judge who presided over the matter.

Sec. 10.7 Scope of Appellate Review Generally

The Court of Appeals shall review the interpretation and application of the law and procedure by the Tribal Court to the facts as found to exist in the original proceeding, and shall only review the findings of facts of the Tribal Court when they are determined to be arbitrary or capricious.

Sec. 10.8 Review of Findings of Fact

- A. Findings of fact shall be presumed to be without reversible error. The presumption may be overcome only by a sworn written statement presented to the Court at the time of the filing of the Notice of Appeal which establishes, on the basis of the statement, any one or more of the following:
1. That a witness ready and willing to testify at the time of the trial on behalf of the appellant was not allowed by the trial Judge to take the witness stand and to testify and that such testimony would have materially altered the judgment of the Trial Court
 2. That the Tribal Judge refused to admit documentary or other physical evidence, and that such evidence would have materially altered the judgment of the Trial Court
 3. That, after the trial, the appellant discovered material evidence which, with reasonable diligence, could not have been discovered and produced at the trial, and that such evidence would have materially altered the judgment of the Court.
- B. In the event the Court of Appeals finds the presumption is overcome pursuant to this Section, it shall remand the case to the Tribal Court for the limited purpose of hearing only the excluded or new evidence and any evidence in rebuttal presented by any other party to the proceeding.

Sec. 10.9 Review of Tribal Court Procedure and Conclusions of Law

- A. The Court of Appeals may review the Tribal Court's procedure to determine whether the rights of the appellant(s) were materially affected by any procedural errors of the Court, and may review conclusions of law of the Tribal Court to determine their appropriateness based on the Tribal Court's factual findings and whether the judgment or order appealed from is supported by the facts and applicable law.
- B. If the Court of Appeals finds reversible error in the Tribal Court's procedure or conclusions of law, it may modify the decision under review, reverse the decision in whole or in part, order a new trial, or take any other action as the merits of the case and the interests of justice require.

Sec. 10.10 Rules Governing Appeals

Rules promulgated by the Tribal Court of Appeals shall govern all additional matters of appellate procedure and substance not specifically addressed in this Chapter.

CHAPTER 11 LAW ENFORCEMENT

Sec. 11.1 Tribal Police Department

The Tribal Council may establish a Tribal Police Department, consisting of such peace officers and support personnel as may be needed. The Tribal Police Department shall be responsible for maintaining law and order on the Hualapai Reservation, and shall operate according to rules adopted by the Tribal Council, including any memoranda of agreement between the Bureau of Indian Affairs and the Hualapai Tribe, as may be confirmed, amended or superceded by other such agreements and/or Tribal law.

Sec. 11.2 Tribal Rangers as Authorized Officers

In addition to the powers and authority granted to Peace Officers, Tribal law also imposes certain responsibilities for the maintenance of law and order on the Reservation on rangers employed or commissioned by the Hualapai Tribe. As such, Tribal rangers may be deputized with some powers and duties, and subject to the limitations, described in this Chapter and elsewhere under Tribal law.

Sec. 11.3 Commissioning

Tribal Peace Officers may be authorized by another jurisdiction to aid in effective law enforcement on or near the Reservation. Law enforcement officers from other jurisdictions may be commissioned to aid in the enforcement of this Law and Order Code and/or other Tribal law.

Sec. 11.4 Additional Powers and Duties of Peace Officers

Subject to other provisions of Tribal law, every Peace Officer has the following powers and duties:

- A. To report and investigate all violations of any law or regulation which a Peace Officer is charged with upholding;
- B. To detain and/or arrest all persons for violations of laws and/or regulations which a Peace Officer is charged with upholding, when there exists sufficient grounds to do so;
- C. To lend assistance to other officers;
- D. To prevent, whenever possible, violations of Tribal law which a Peace Officer is charged with upholding;

- E. To inform himself or herself as to the provisions of this Law and Order Code and all other Tribal laws which a Peace Officer is charged with upholding, and to attend such training sessions as his supervisors may direct;
- F. To obey all applicable Tribal and Departmental regulations; and
- G. To otherwise maintain or assist in the maintenance of law and order on the Hualapai Indian Reservation.

Sec. 11.5 Limitations on Authority and Action

Peace Officers shall execute their powers and duties set forth in Section 11.4 above and elsewhere under Tribal law in a manner that:

- A. Is consistent with and does not violate any provision of the Tribal Constitution;
- B. Involves no unnecessary force or violence;
- C. Conforms to good law enforcement practices and procedures.

Sec. 11.6 Offenses by Peace Officers

Any Peace Officer who uses excessive force or violence, commits a trespass by entering a dwelling without a warrant or probable cause, or otherwise violates the Constitutional or other rights of a person without justification or defense under Tribal law may be subject to civil and/or criminal charges provided for in this Law and Order Code.

Sec. 11.7 Offenses Against Peace Officers

Any person who commits an offense identified in Chapter 6 of this Code upon an Peace Officer which interferes with the Officer's official duties shall be subject to a minimum mandatory period of incarceration of 30 days in addition to any other penalties or remedies which may be assessed by the Court under applicable Tribal law.

Sec. 11.8 Lawful Concealed Weapon

Peace Officers are authorized to carry concealed weapons in the performance of their official duties.

CHAPTER 12
DOMESTIC RELATIONS

GENERAL PROVISIONS; MARRIAGE UNDER TRIBAL LAW

Sec. 12.1 Jurisdiction of Tribal Court over Marriage and Domestic Relations Proceedings

The Hualapai Tribal Court has jurisdiction over all matters involving marriages, including licensing, determinations of marital status, separation of married persons, dissolution of marriage, division of marital property, spousal and child support, in cases where at least one party to the marriage is a member of the Hualapai Tribe domiciled within the Hualapai Indian Reservation at the time of the commencement of the proceeding, and child custody matters subject to the provisions of Section 12.32 below.

Sec. 12.2 Recognized Marriages

Hualapai Tribal Law recognizes as valid marriage between a man and a woman under Tribal law or the laws of any state or country.

Sec. 12.3 Marriage Defined

Marriage is a personal relationship arising out of a civil contract, to which the consent of the parties, capable of consenting, is necessary, as well as solemnization, which occurs, after issuance of a marriage license, when a ceremony is performed by a duly authorized official under the law of any state, by any recognized clergyman, or any Judge.

Sec. 12.4 Who may Marry

Both parties must be unmarried, be of marriageable age, and not be closely related.

Sec. 12.5 Age

Unmarried persons 18 years of age or older can be issued a marriage license. A license may also be issued to an unmarried female under the age of 18 where she has become pregnant to marry the father of the child or expected child with the written consent of her parent(s) or guardian(s). If the father is also a minor, the consent of his parent(s) or guardian(s) shall also be obtained.

Sec. 12.6 Incest Prohibited

The marriage between parents and children, including grandparents and grandchildren of every degree, between brothers and sisters of the one-half as well as the whole blood, between whole blood first cousins, between uncles and nieces, and between aunts and nephews, are incestuous and prohibited as well as void.

Sec. 12.7 Marriage Licenses; Issuance

- A. Any person eligible under Sections 12.4 to 12.7 above may obtain a marriage license from the Judge or Clerk of the Tribal Court.
- B. The Judge or Clerk shall require the applicants to fill out a form to ascertain that the applicants are sober, mentally competent, unmarried, of marriageable age, and are not closely related as defined in Section 12.7 above, and to pay an administrative fee fixed by the Tribal Court for the issuance of marriage licenses.
- C. The Judge or Clerk shall record all licenses issued in a book kept for that purpose.
- D. The certificate of marriage shall be signed by two witnesses of lawful age present at the performance of the marriage ceremony.

Sec. 12.8 Return of Marriage Licenses

All licenses issued by the Hualapai Tribal Court must be returned to the Judge or Clerk within 30 days, recorded in the marriage license docket and forwarded to the appropriate county to record the marriage and return it to the parties.

ANNULMENT, LEGAL SEPARATION AND DISSOLUTION OF MARRIAGE

Sec. 12.9 Pleadings in Domestic Relations Cases; Form

- A. Proceedings under this Chapter, other than marriage, shall be instituted by the filing of a written Petition with the Clerk of the Court. Any responsive pleading shall be denominated a Response.
- B. Proceedings for annulment, legal separation or dissolution of marriage shall be entitled "In re Marriage of _____ and _____."
- C. Proceedings for child custody and/or support shall be entitled "In re (Custody) (Support) of _____."

Sec. 12.10 Filing Fees

Except as otherwise provided herein, an administrative fee of \$50 must be posted with the Clerk at the time a Petition is filed initiating a domestic relations proceeding, which fee shall not be refunded if the Petition is withdrawn or dismissed. If the Response in any domestic relations matter contains a cross-complaint against the petitioner, the respondent may be required to post a fee of like amount.

Sec. 12.11 Legal Separation or Dissolution: Pleadings; Contents; Defense; Joinder of Parties

- A. A petition in a proceeding for legal separation or dissolution of marriage shall allege that the marriage is irretrievably broken and shall set forth:
1. The age, occupation and address of each party and his or her length of domicile within the Hualapai Indian Reservation;
 2. The date of the marriage and the place at which it was performed, or the factual bases for the assertion of traditional or common law marriage;
 3. The names, ages and addresses of all living children, natural or adopted, common to the parties and whether the wife is pregnant;
 4. The details of any agreements between the parties as to support, custody and visitation of the children and maintenance of a spouse; and
 5. The relief sought.
- B. Either or both parties to the marriage may initiate the proceeding.
- C. The only defense to a Petition for the legal separation or dissolution of marriage shall be that the marriage is not irretrievably broken.
- D. The Court may join additional parties necessary for the exercise of its authority.

Sec. 12.12 Irretrievable Breakdown; Finding

- A. If both of the parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken, or one of the parties has so stated and the other has not denied it, the Court, after hearing, shall make a finding whether or not the marriage is irretrievably broken.
- B. If one of the parties has denied under oath or affirmation that the marriage is irretrievably broken, the Court shall, upon hearing consider all relevant factors as to the prospect of reconciliation, and shall either:
1. Make a finding whether or not the marriage is irretrievably broken; or
 2. Continue the matter for further hearing, not more than 60 days later. The Court, at the request of either party, or on its own motion may order a conciliation conference. At the adjourned

hearing the Court shall make a finding whether or not the marriage is irretrievably broken.

- C. A finding that the marriage is irretrievably broken is a determination that there is no reasonable prospect of reconciliation.

Sec. 12.13 Decree of Legal Separation; Findings Necessary

The Court shall enter a Decree of Legal Separation if it finds each of the following:

- A. That one of the parties at the time the action commenced was domiciled within the Hualapai Reservation.
- B. That the marriage is irretrievably broken.
- C. That the other party does not object to a decree of legal separation. If the other party objects to a decree of legal separation, the Court shall, in the event one of the parties meets the required domicile for dissolution of marriage direct that the pleadings be amended to seek dissolution of the marriage.
- D. That, to the extent it has jurisdiction to do so, the Court has considered, approved or made provision for child custody, the support of any natural or adopted child common to the parties of the marriage entitled to support, the maintenance of either spouse and the disposition of the property, pursuant to the provisions of this Chapter.

Sec. 12.14 Decree of Dissolution of Marriage; Findings Necessary

The Court shall enter a Decree of Dissolution of Marriage if it finds each of the following:

- A. That one of the parties, at the time the action was commenced was domiciled within the Hualapai Indian Reservation for 90 days.
- B. That the marriage is irretrievably broken.
- C. That, to the extent it has jurisdiction to do so, the Court has considered, approved, and made provision for child custody, the support of any, natural or adopted, child common to the parties of the marriage entitled to support, the maintenance of either spouse and the disposition of property, pursuant to the provisions of this Chapter.

Sec. 12.15 Annulment: Contents of Petition; Grounds

- A. A Petition for Annulment shall set forth the information required by Subsections 1, 2, 3 and 5 of Section 12.14 A above, and shall state the

grounds upon which the annulment is sought.

- B. An annulment may be granted where, at the time of the marriage, there existed an impediment rendering the marriage contract void, such as that one or both of the parties was then married to another or was of improper age, or on the grounds of fraud or improper consent, unless such party freely cohabits with the other after attaining the age of consent or after discovery of the fraud.

Sec. 12.16 Decree: Effect

A Decree of Annulment, Legal Separation or Dissolution shall not be awarded to one of the parties, but shall provide that it affects the status previously existing between the parties in the manner decreed.

Sec. 12.17 Decree; Finality; Restoration of Maiden Name

- A. A Decree of Annulment, Legal Separation or Dissolution is final when entered, subject to the right of appeal pursuant to the provisions of Chapter 10 of this Code. An appeal from a Decree of Dissolution that does not challenge the finding that the marriage is irretrievably broken does not delay the finality of that provision of the decree which dissolves the marriage beyond the time for appealing from that provision, and either of the parties may remarry pending appeal. An order directing payment of money for support or maintenance of the spouse or the minor child or children, shall not be suspended or the execution thereof stayed pending the appeal.
- B. The court may upon hearing within six months after the entry of a Decree of Legal Separation, convert the decree to a Decree of Dissolution of Marriage.
- C. The Court shall, upon motion of either party after expiration of six months from the entry of a Decree of Legal Separation, convert the decree to a Decree of Dissolution of Marriage.
- D. Upon request by a wife whose marriage is annulled or dissolved, the Court shall order her maiden name or a former name restored.

PROPERTY DIVISION, MAINTENANCE AND SUPPORT

Sec. 12.18 Property Ownership

- A. All property, including personal effects and use rights in property, owned or claimed by a spouse before marriage, and that acquired after marriage by gift, devise or descent, as well as the increase, rents, issues and profits from such property, shall belong to that spouse.
- B. All property purchased or otherwise acquired as provided in Subsection

A above during the marriage, solely used by one spouse, shall belong to that spouse.

- C. All property purchased or otherwise acquired other than as provided in Subsection A above, which is mainly used by one spouse, shall belong to that spouse.
- D. All property which is used by both parties and any children of the marriage is referred to as marital property. If both parties are Hualapai Tribal Members, upon legal separation or dissolution such property shall be awarded to the spouse with custody of the children; if the party awarded custody of children of the marriage is a non-member, the Court may, in its discretion, award such property to such spouse until all children reach the age of 18.
- E. All other property shall be, as equally as possible, divided between the parties, and property with indebtedness attached to it shall be paid by the spouse who receives the property.

Sec. 12.19 Disposition of Property

In a proceeding for legal separation or dissolution of marriage, or in a proceeding for disposition of property following dissolution of marriage by a court which previously lacked personal jurisdiction over one absent spouse or previously lacked jurisdiction to dispose of the property, the Court shall assign each spouse's sole and separate property to him. It shall also divide the marital property and other property held in common equitably, though not necessarily in kind, without regard to marital misconduct. Nothing in this Section shall prevent the Court from considering excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of marital property or other property held in common.

Sec. 12.20 Maintenance Computation Factors

- A. In a proceeding for legal separation or dissolution of marriage, or a proceeding for maintenance following dissolution of marriage by a court which lacked personal jurisdiction over an absent spouse, the Court may grant a maintenance order for either spouse only if it finds that the spouse seeking maintenance:
 - 1. Lacks sufficient property, including property apportioned to him or to provide for his reasonable needs; and
 - 2. Is unable to support himself or herself through appropriate employment or is the custodian of a child whose age or condition is such that the custodian should not be required to seek employment outside the home.
- B. The maintenance order shall be in such amounts and for such periods of

time as the Court deems just, without regard to marital misconduct, and after considering all relevant factors, including:

1. The financial resources of the party seeking maintenance, including marital property apportioned to him and his ability to meet his needs independently.
2. The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment.
3. The standard of living established during the marriage.
4. The duration of the marriage.
5. The age and the physical and emotional condition of the spouse seeking maintenance.
6. The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.
7. Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of marital property or other property held in common.

Sec. 12.21 Child Support; Factors

- A. In a proceeding for legal separation, dissolution of marriage, maintenance or child support, the Court may order either or both parents owing a duty of support to a child, born to or adopted by the parents, to pay an amount reasonable and necessary for his support, without regard to marital misconduct after considering all relevant factors, including:
1. The financial resources and needs of the child.
 2. The financial resources and needs of the custodial parent.
 3. The standard of living the child would have enjoyed had the marriage not been dissolved.
 4. The physical and emotional condition of the child, and his educational needs.
 5. Excessive and abnormal expenditures, destruction, concealment or fraudulent disposition of community property, joint tenancy or other property held in common.

- B. In the case of a mentally or physically disabled child, if the court, after considering the factors set forth in Subsection A above, deems it appropriate, the Court may order support to continue past the age of emancipation and to be paid to the custodial parent, guardian or child.

Sec. 12.22 Temporary Order or Preliminary Injunction; Effect

- A. In a proceeding for legal separation, dissolution of marriage, maintenance or child support, either party may move for temporary maintenance or temporary support of a child, natural or adopted, common to the parties entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.
- B. As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the Court to issue a preliminary injunction for any of the following relief:
 - 1. Restraining any person from transferring, encumbering, concealing or otherwise disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained, requiring him to notify the moving party of any proposed extraordinary expenditures made after the order is issued.
 - 2. Enjoining a party from molesting or disturbing the peace of the other party or of any child.
 - 3. Excluding a party from the family home or from the home of the other party upon a showing that physical or emotional harm may otherwise result.
 - 4. Enjoining a party from removing a child from the jurisdiction of the Court.
 - 5. Providing other injunctive relief proper in the circumstances.
- C. The Court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury will result to the moving party if no order is issued until the time for responding has elapsed. No bond shall be required unless the Court deems it appropriate.
- D. On the basis of the showing made, and in conformity with Sections 12.23 and 12.24 above, the Court may issue a preliminary injunction and an order for temporary maintenance or support in amounts and on terms just and proper in the circumstances.

- E. A temporary order or preliminary injunction:
1. Does not prejudice the rights of the parties or any child which are to be adjudicated at the subsequent hearings in the proceedings.
 2. May be revoked or modified before final decree on showing by affidavit of the facts necessary to revocation or modification of a final decree.
 3. Terminates when the final decree is entered or when the Petition for legal separation or dissolution of marriage is dismissed.

Sec. 12.23 Separation Agreement; Effect

- A. To promote amicable settlement of disputes between parties to a marriage attendant upon their separation or the dissolution of their marriage, the parties may enter into a written separation agreement containing provisions for disposition of any property owned by either of them, maintenance of either of them, and support, custody and visitation of their children.
- B. In a proceeding for dissolution of marriage or for legal separation, the terms of the separation agreement, except those providing for the support, custody and visitation of children, are binding upon the Court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties, on their own motion or on request of the Court, that the separation agreement is unfair.
- C. If the Court finds the separation agreement unfair as to disposition of property or maintenance, it may request the parties to submit a revised separation agreement or may make orders for the disposition of property or maintenance.
- D. If the Court finds that the separation agreement is not unfair as to disposition of property or maintenance, and that it is reasonable as to support, custody and visitation of children, the provisions of the separation agreement shall be set forth or incorporated by reference in the Decree of Legal Separation or Dissolution and the parties shall be ordered to perform them. If the separation agreement provides that its terms shall not be set forth in the decree, the decree shall identify the separation agreement as incorporated by reference and state that the Court has found the terms as to property disposition and maintenance not unfair and the terms as to support, custody and visitation of children reasonable.
- E. Terms of the agreement set forth or incorporated by reference in the decree of divorce shall be enforceable by all remedies available for enforcement of a judgment, including contempt.

- F. Except for terms concerning the maintenance of either party and the support, custody or visitation of children, entry of the decree shall thereafter preclude the modification of the terms of the decree and the property settlement agreement, if any, set forth or incorporated by reference therein.

Sec. 12.24 Payment of Maintenance or Support to Courts; Records

- A. Upon its own motion or upon motion of either party, the Court may order at any time that maintenance or support payments be made to the Clerk of Court for remittance to the person entitled to receive the payments.
- B. The Clerk of Court shall maintain records listing the amount of payments, the date payments are required to be made, and the names and addresses of the parties affected by the order.
- C. The parties affected by the order shall inform the Clerk of Court of any change of address.
- D. If the person obligated to pay support has left or is beyond the jurisdiction of the Court, any party may institute any other proceeding available under Tribal law for enforcement of the duties of support and maintenance.

Sec. 12.25 Assignments

In the event a person obligated to pay child support is behind in payments for at least two months, the Court may order the person obligated to pay child support to make an assignment of a part of his periodic earnings or any trust income to the person entitled to receive the payments. In determining the amount which should be subject to assignment for the payment of child support, the Court shall make every effort to ensure a sufficient amount remains available to the person who is subject to the assignment order for their own support and livelihood. The assignment is binding on the employer, trustee, or other payor of the funds two weeks after service upon such person of notice that the assignment has been made. The payor shall withhold the earnings or trust income payable to the person obligated to support the amount specified in the assignment and shall transmit the payments to the Clerk of the court. The payor may deduct from each payment a sum not exceeding one dollar as reimbursements for costs. An employer shall not discharge or otherwise discipline an employee as a result of a wage or salary assignment authorized by this Section.

Sec. 12.26 Modification and Termination of Provisions for Maintenance, Support and Property Disposition

- A. Except as otherwise provided in Subsection F of Section 12.26 above, the provisions of any decree respecting maintenance or support may be modified only as to installments accruing subsequent to the motion for modification and only upon a showing of changed circumstances which are substantial and continuing. The provisions as to property disposition

may not be revoked or modified, unless the Court find the existence of conditions that justify the reopening of a judgment under Tribal law.

- B. Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.
- C. Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of the minor child are not terminated by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked or commuted to a lump sum payment to the extent just and appropriate in the circumstances.

CHILD CUSTODY AND VISITATION

Sec. 12.27 Separate Trials When Custody or Visitation is an Issue

- A. In all cases in which custody or visitation is a contested issue, the Court shall first hear all other issues including maintenance and child support. The contested issue of custody or visitation shall not be heard at any hearing involving other issues even upon agreement of attorneys.
- B. After all other issues have been decided and the amount of maintenance and child support established by the Court, then the issues of custody or visitation may be heard.

Sec. 12.28 Representation of Child by Counsel; Fees

The Court may appoint an attorney or any other person to represent the interests of a minor or dependent child with respect to his support, custody and visitation. The court may enter an order for costs, fees and disbursements in favor of the child's representative. The order may be made against either or both parents.

Sec. 12.29 Jurisdiction

- A. The Hualapai Tribal Court is vested with jurisdiction to decide child custody matters by initial determination or by modification of the decree, if:
 - 1. The child is an enrolled member of the Hualapai Tribe or is eligible for membership; or
 - 2. The child is domiciled within the Hualapai Indian Reservation at the time of commencement of the proceeding or within six months before commencement of the proceedings and the child is absent from the Reservation because of his removal or retention by a person claiming custody or for any other reason, and a parent or

persons acting as parent continues to live within the Reservation;
or

3. It is in the best interest of the child that the Tribal Court assume jurisdiction because the child and his parents, or the child and at least one contestant, have a significant connection with the Hualapai Tribe, and there is available to the Court substantial evidence concerning the child's present or future care, protection, training and personal relationships; or
4. The child is physically present within the Reservation and has been abandoned or it is necessary in an emergency to protect him because he has been subjected to or threatened with mistreatment or abuse or is neglected or dependent.

B. Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

Sec. 12.30 Commencement of Child Custody Proceeding; Notice; Intervention

A. A child custody proceeding is commenced in the Tribal Court:

1. By a parent, by filing a Petition:
 - a. For the dissolution or legal separation; or
 - b. For custody of the child; or
2. By a person other than a parent, by filing a Petition for custody of the child, but only if the child is not in the physical custody of one of his parents.

B. Notice of a child custody proceeding shall be given to the child's parent, guardian, and custodian, who may appear, be heard, and file a responsive pleading. The Court, upon a showing of good cause, may permit intervention of other interested parties.

Sec. 12.31 Best Interest of Child; Modification of Decree

A. The Court shall determine custody, either originally or upon petition for modification, in accordance with the best interests of the child. The Court may consider all relevant factors, including:

1. The wishes of the child's parent or parents as to his custody.
2. The interaction and interrelationship of the child with his parent

or parents, his siblings, and any other person who may significantly affect the child's best interest.

3. The child's adjustment to his home, school and community.
 4. The mental and physical health of all individuals involved.
- B. No motion to modify a custody decree may be made earlier than one year after its date, unless the Court permits it to be made on the basis of affidavits that there is reason to believe the child's present environment may endanger his physical, mental, or emotional health, safety or welfare.
- C. Fees of attorneys or lay advocate and costs shall be assessed against a party seeking modification if the court finds that the modification action is vexatious and constitutes harassment.

Sec. 12.32 Temporary Orders

- A. A party to a custody proceeding may move for a temporary custody order. This motion must be supported by pleadings as provided in Section 12.36. The Court may award temporary custody under the standards of Section 12.34 after a hearing, or, if there is no objection, solely on the basis of the pleadings.
- B. If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the Court finds, after a hearing, that the circumstances of the parents and the best interests of the child require that a custody decree is issued.
- C. If a custody proceeding commenced in the absence of a petition for dissolution of marriage or legal separation is dismissed, any temporary custody order thereby is vacated.

Sec. 12.33 Affidavit, Contents

A party seeking a temporary custody order or modification of a custody decree shall submit an affidavit or verified petition setting forth detailed facts supporting the requested order or modification and shall give notice, together with a copy of his affidavit or verified petition, to other parties to the proceeding, who may file opposing affidavits. The Court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the pleadings, in which case, it shall set a date for hearing on why the requested order of modification should not be granted

Sec. 12.34 Interviews by Court; Professional Assistance

- A. The Court may interview the child in chambers to ascertain the child's

wishes as to his custodian and as to visitation.

- B. The Court may seek the advice of professional personnel, whether or not employed by the Court on a regular basis. The advice given shall be in writing and shall be made available by the court to counsel, upon request, under such terms as the Court determines. Counsel may examine as a witness any professional personnel consulted by the Court unless such right is waived.

Sec. 12.35 Investigations and Reports

- A. In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian so requests, the Court may order an investigation and report concerning custodial arrangements for the child. The investigation and report may be made by a social service agency, the staff of the Juvenile Court or any other person or agency appointed by the Court.
- B. In preparing his report concerning a child, the investigator may consult any person who may have information about the child or his potential custodial arrangements.
- C. The Court shall mail the investigator's report to counsel of the parties at least 10 days prior to the hearing. The investigator shall make available to counsel of the parties the names and addresses of all persons whom the investigator has consulted. Any party to the proceedings may call for examination of the investigator and any person whom he has consulted.

Sec. 12.36 Custody Hearings; Priority; Costs; Record

- A. Custody proceedings shall receive priority in being set for hearing.
- B. The Court may authorize the payment of necessary travel and other expenses incurred by any person whose presence at the hearing the Court deems necessary to determine the best interest of the child.
- C. The Court, without a jury, shall determine questions of law and fact. If it finds that a public hearing may be detrimental to the child's best interest, the Court may exclude the public from a custody hearing, but may admit any person who has a direct and legitimate interest in the particular case or a legitimate educational or research interest in the work of the Court.
- D. If the Court finds that to protect the child's welfare, the record of any interview, report, investigation, or testimony in a custody proceeding should be kept secret, the Court may then make an appropriate order sealing the record.

Sec. 12.37 Visitation Rights; Exception

- A. A parent not granted custody of the child is entitled to reasonable visitation rights unless the Court finds, after a hearing, that visitation would endanger the child's physical, mental or emotional health, safety or welfare.
- B. The Court may modify an order granting or denying visitation rights whenever modification would serve the best interest of the child, but the Court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger the child's physical, mental, or emotional health, safety or welfare.

Sec. 12.38 Judicial Supervision

- A. Except as otherwise agreed by the parties in writing, the custodian may determine the child's upbringing, including his education, health and care, unless, upon motion by the noncustodial parent, the Court, after hearing, finds that in the absence of a specific limitation of the custodian's authority, the child's physical health would be endangered or his emotional development significantly impaired.
- B. If both parents or all contestants agree to the order, or if the Court finds that the child's physical health would be endangered or his emotional development significantly impaired, the Court may order a social service agency to exercise continuing supervision over the case to assure that the custodial or visitation terms of the decree are carried out.

FAMILY CONCILIATION

Sec. 12.39 Family Conciliation Division

The Hualapai Tribal Court may establish a Family Conciliation Division to provide means for the reconciliation of spouses and the amicable settlement of domestic and family controversies in order to promote the public welfare by preserving, promoting and protecting family life and the institution of matrimony, and to protect the rights of children.

Sec. 12.40 Investigations

The Chief Judge of the Hualapai Tribal Court may appoint a member of the Tribal Court staff or any other person to carry out the following duties:

- A. Investigate the facts upon which to base warrants, subpoenas, or orders in actions or proceedings filed in or transferred to the Family Conciliation Division pursuant to this Chapter.
- B. Hold conciliation conferences with parties to proceedings under this

Chapter and report the results of such proceedings to the Judge of the Tribal Court.

- C. Provide such supervision in connection with the exercise of the powers and duties of the Family Conciliation Division as the Chief Judge of the Tribal Court may direct.

Sec. 12.41 Petition for Conciliation or for Transfer of Action to Family Conciliation Division

Prior to the filing of any action for legal separation or dissolution of marriage, either spouse, or both spouses, may file a Conciliation Petition for the purpose of preserving the marriage by effecting a conciliation between the parties or for amicable settlement of the controversy between the spouses so as to avoid further litigation over the issues involved. In any case, when action for legal separation or dissolution of marriage has been filed, either party thereto may by petition filed therein have the matter transferred to the Family Conciliation Division.

Sec. 12.42 Conciliation Petition; Contents

The Conciliation Petition shall:

- A. Allege that a controversy exists between the spouses and request the aid of the Family Conciliation Division to effect a reconciliation or an amicable settlement of the controversy.
- B. State the name and age of each minor child whose welfare may be affected by the controversy.
- C. State the name and address of the petitioner or petitioners.
- D. If the petition is presented by one spouse only, name the other spouse as respondent and state the address of that spouse.
- E. Name as a respondent any other person who has any relation to the controversy and state the address of the person if known to the petitioner.
- F. State such other information as the Family Conciliation Division may by rule require.

Sec. 12.43 Forms

The Clerk of the Tribal Court may provide, at the expense of the tribe, blank forms for Conciliation Petitions. The Family Conciliation Division shall assist any person in the preparation and presentation of any such petition when requested to do so.

Sec. 12.44 Fees

The Tribal court may fix a fee to be charged for filing a Conciliation Petition.

Sec. 12.45 Conciliation Conference: Time; Place; Notice, Citation; Witnesses

The Tribal Court shall fix a reasonable time and place for a conciliation conference, to be held within 30 days of the date of the filing of the Conciliation Petition unless the Court for good cause orders the conference to be held at a different time. The Court shall cause notice of the filing of the petition and of the time and place of the conference as it deems necessary to be given to the respondent. The Court, may when it so deems necessary, issue a citation to any respondent requiring him to appear at the time and place stated in the citation, and may require the attendance of witnesses as in other actions pursuant to the provisions of Sections 3.10 and 3.11 of this Code.

Sec. 12.46 Time and Place of Conciliation Conferences

Conciliation conferences may be held at any time and place within the Reservation, and may be held in chambers or otherwise, except that the time and place for the conference shall not be different from the time and place provided by law for the trial of civil actions, if any party, prior to the hearing, objects to any different time or place.

Sec. 12.47 Conduct of Conference

- A. Conciliation conferences shall be conducted informally by the Family Conciliation Division as a meeting or series of meetings to affect a reconciliation of the spouses or an amicable adjustment or settlement of the issues.
- B. At the conclusion of the conferences, the Family Conciliation Division shall report the results to the Judge of the Tribal Court and, may on request of one or both of the parties, hold further conferences or hearings in accordance with the provisions of this Chapter.
- C. To facilitate and promote the purposes of this Chapter, the Family Conciliation Division may, with the consent of both of the parties to the action, recommend or invoke the aid of appropriate resources such as physicians, psychiatrists, social agencies, or other individuals or agencies including clergymen of the religious denominations to which the parties belong or may request, but no reports of any such individual or agency available to the Court shall be filed with or become a part of the record of the case. Any such aid shall not be at the expense of the Court or the Tribe the Tribal Council authorizes such aid.
- D. Conferences or hearings conducted before the Family Conciliation Division or before the Tribal Court for the purpose of effecting a

reconciliation of the spouses or an amicable adjustment or settlement of issues shall be held in private and the Court shall exclude all persons except the officers of the Court, the parties, their counsel, and witnesses. Conferences or hearings may be held with each party and his counsel separately, and, in the discretion of the Judge, or other persons conducting the hearing or conference, counsel for one party may be excluded when the adverse party is present. All communications, verbal or written, from the parties to the Judge or other person conducting the proceedings under this Chapter, shall be deemed confidential communications and shall not be disclosed without consent of the party making such communication.

Sec. 12.18 Orders; Duration of Effectiveness; Reconciliation Agreement

- A. The Family Conciliation Division shall have full power to make, alter, modify, and enforce all orders for custody of children, restraining orders, preliminary injunctions, and orders affecting possession of property, as may appear just and equitable, but such orders shall not be effective for more than 60 days from the filing of a Conciliation Petition, unless the parties mutually consent to a continuation of such time.
- B. Any reconciliation agreement between the parties may be reduced to writing, and with the consent of the parties an order of the Family Conciliation Division or the Tribal Court may be entered requiring the parties to comply fully therewith.

Sec. 12.49 Stay of Right to File Other Domestic Relations Proceedings Pending Conciliation

- A. During a period beginning upon the filing of a Conciliation Petition and continuing until 60 days after the filing of the petition, neither spouse shall file any action for legal separation or dissolution, and upon the filing of a Conciliation Petition or Petition to transfer proceedings, any proceedings then pending in the Tribal Court shall be stayed and the case transferred to the Family Conciliation Division for conference, hearing and further disposition as provided in this Chapter; provided, however, that all restraining, support, maintenance or custody orders previously issued by the Tribal Court shall remain in full force and effect until vacated or modified or until they expire by their own terms.
- B. If, however, after the expiration of such period, the controversy between the spouses has not been terminated, either spouse may institute proceedings for legal separation or dissolution of marriage by filing with the Clerk of the Tribal Court the appropriate pleadings pursuant to Sections 12.11 and 12.14 above. The provisions of this Chapter may be used in regard to post-dissolution problems, concerning the maintenance,

support, visitation, contempt, or for modification based on changed conditions, in the discretion of the Tribal Court and Family Conciliation Division.

CHAPTER 13
JUVENILE COURT AND PROCEDURE

Sec. 13.1 Tribal Juvenile Court

The establishment of the branch of the Hualapai Tribal Court known as the Tribal Juvenile Court is hereby reaffirmed.

Sec. 13.2 Juvenile Court Judges

The Chief Judge of the Hualapai Tribal Court shall assign one or more Judges to sit on the Tribal Juvenile Court.

Sec. 13.3 Jurisdiction

The Tribal Juvenile Court shall have original jurisdiction of all persons under the age of 18, within the jurisdiction of the Hualapai Tribe in all cases:

- A. Concerning any child who is alleged to have violated any Tribal law, subject to this Code;
- B. Concerning a child who is dependent, incorrigible, or neglected, as those terms are defined in Section 13.5, Subsections F, K and M.
- C. To determine the custody of any child or appoint a guardian of any child who comes within the purview of the Court's jurisdiction under other provisions of this Section.
- D. To determine the legal parent-child relationship, including termination of residual parental rights and duties, as to a child who comes within the purview of the Court's jurisdiction under other provisions of this Section
- E. For judicial consent to the marriage, employment or enlistment of a child in the armed forces, and to emergency medical or surgical treatment of a child who comes within the purview of the Court's jurisdiction under other provisions of this Section.
- F. For the treatment or commitment of a mentally defective or mentally ill child who comes within the purview of the Court's jurisdiction under other provisions of this Section.

Sec. 13.4 Transfer of Jurisdiction

- A. Exercise of jurisdiction over a child on probation or under protective supervision or of a child who is otherwise under the continuing jurisdiction of

the Court, may be transferred by the Court to any other court with jurisdiction, if the receiving Court consents.

- B. In the event a child reaches the age of majority of 18 years after a case is initiated in the Tribal Juvenile Court but before final disposition of that case, the case shall not be dismissed, but:
 - 1. The Juvenile Court may retain jurisdiction over the matter through final disposition; or
 - 2. The Juvenile Court may transfer the matter to the Hualapai Tribal Court for final disposition.

Sec. 13.5 Definitions

As used in this Chapter, the following terms shall have the following meanings:

- A. "Adjudication" means a finding by the Court on the facts alleged in the petition and incorporated in an order.
- B. "Adult" means a person who is an enrolled member of the Hualapai Tribe, or any other person subject to the jurisdiction of the Hualapai Tribe, who is 18 years of age or older.
- C. "Child" means a person who is an enrolled member of the Hualapai Tribe, or any other person subject to the jurisdiction of the Hualapai Tribe, who is under 18 years of age.
- D. "Court" means the Tribal Juvenile Court.
- E. "Delinquent child" is a child who is adjudicated to have committed a delinquent act.
- F. "Dependent child" is a child who is:
 - 1. Homeless or destitute or without proper support or care through no fault of the parent or guardian.
 - 2. Lacks proper care by reason of the mental or physical condition of the parent, guardian or custodian.
 - 3. Under the age of eight years who is found to have committed an act that would result in adjudication as a delinquent or incorrigible child if committed by an older child.

- G. "Deprivation of custody" means transfer to legal custody by the Court from a parent or a previous legal custodian to another person, agency, or institution.
- H. "Detention" means the temporary care of children who require secure custody, in physically restricting facilities pending court disposition or transfer to another jurisdiction.
- I. "Guardian" means a guardian of the person and not a guardian of the property.
- J. "Guardianship" means the duty and authority to make important decisions in matters having a permanent effect on the life and development of the minor and to be concerned about his general welfare. It includes, among other things the authority to consent to marriage, enlistment in the armed forces, and major medical, surgical, or psychiatric treatment. "Guardianship" also includes legal custody, if legal custody is not vested in another person, agency, or institution.
- K. "Incorrigible child" is a child adjudicated as one who refuses to obey the reasonable and proper orders or directions of the parent, guardian or custodian, and who is beyond the control of such person, or any child who is habitually truant from school, or who is a runaway from their home or parent, guardian or custodian or who habitually so deports himself or herself as to injure or endanger the health, safety or welfare of himself or herself or others.
- L. "Legal Custody" means a relationship embodying the following rights and duties: the right to physical custody of a child; the right and duty to protect, train and discipline the child, the duty to provide the child with food, clothing, shelter, education, and ordinary medical care; the right to determine where and with whom the child shall live; and the right in an emergency, to authorize surgery or other extraordinary care. Legal custody is subject to residual parental rights and responsibilities and to the rights and responsibilities of the guardian of the person.
- M. "Neglected child" is a child who is:
1. Abandoned by their parents, guardian or custodian;
 2. Subjected to mistreatment or abuse by a parent, guardian or custodian;
 3. Lacks parental care by reason of the fault or habits of the parent, guardian or custodian;
 4. Refused proper or necessary subsistence, education, medical or surgical care or other care necessary to the child's health, safety and welfare or well-being by the parent, guardian or custodian;

- 5. Refused the special care made necessary by the child's mental condition by the parent, guardian or custodian;
 - 6. Engaged in an occupation or in a situation or environment dangerous to life or limb or injurious to the health, safety or welfare of him or others.
- N. "Probation" means a legal status created by court order following an adjudication involving violations of law by the child, whereby the child is permitted to remain in his home under prescribed conditions and under supervision by a probation officer designated by the Court, subject to return to the Court for further proceedings due to violation of any of the conditions prescribed.
- O. "Protective supervision" means a legal status created by court order in proceedings not involving violations of law by the child, whereby the child is permitted to remain in his home, and supervision and assistance to correct the neglect or dependency is provided by a probation officer or other agency designated by the Court.
- P. "Residual parental right and duties" means those rights and duties remaining with the parent after legal custody or guardianship of the person, or both, have been vested in another person or agency, including, but not limited to, the responsibility for support, the right to consent to adoption, the right to determine the child's religious affiliation, and the right to reasonable visitation unless restricted by the court. If no guardian has been appointed, "residual parental rights and duties" also include the right to consent to marriage, enlistment in the armed forces, and major medical, surgical or psychiatric treatment.
- Q. "Shelter" means the temporary care of children in physically unrestricted facilities pending court disposition or transfer to another jurisdiction.
- R. "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

Sec. 13.6 Responsible Adults: Jurisdiction; Liability for Acts of Child

- A. In any case over which the Juvenile Court asserts jurisdiction under Section 13.3, the Juvenile Court also has jurisdiction over any and all adults responsible for a child alleged to have committed an offense, including the child's parent(s), guardian(s) or caretaker(s).
- B. In any case in which the Juvenile Court finds a child guilty of committing an offense defined by Tribal law, the Juvenile Court may impose sentence,

consistent with other provisions of Tribal law, against any and all adults responsible for the child, including parent(s), guardian(s) and/or caretaker(s), as well as the child, including fines, restitution to the aggrieved party, community service, or the requirement of family counseling.

Sec. 13.7 Duties and Powers of Juvenile Judges

In carrying out duties and powers specifically enumerated in this Chapter, Judges of the Juvenile Court shall have the same powers and duties as Judges of the Hualapai Tribal Court.

Sec. 13.8 Cooperation with other Agencies

The Tribal Juvenile Court is authorized to cooperate fully with any community, state, federal public or nonprofit agency to carry out the purposes of this Chapter, and is authorized to participate in any training programs or other programs which will improve the Juvenile Court system and carry out the purposes of this Chapter, subject to approval by the Hualapai Tribal Council of any expenditure of funds.

Sec. 13.9 Utilization of Social Services

The Juvenile Court in the exercise of its duties and in the exercise of any duties to be performed by officers under its supervision or control shall utilize such social services as may be furnished by the federal, tribal or state governments to the end that the Court may be economically administered without unnecessary duplication or expense.

Sec. 13.10 Placement of Children

The Tribal Juvenile Court may contract, on behalf of the Tribe, with agencies or departments of the Tribe, the federal government, or any state or any municipality thereof.

Sec. 13.11 Proceedings Involving Children Commenced by Petition; Exception

- A. Proceedings involving children shall be commenced by petition.
- B. The petition shall set forth with particularity the facts which are alleged to bring the person within the jurisdiction of the Court. The petition shall further state:
 - 1. the name, age and residence of the child; and
 - 2. the names and residences of the child's parents; and/or
 - 3. the name(s) and residence(s) of the child's guardian(s), if any; or

4. the name and address of the nearest known relative, if no parent or guardian is known; and
 5. the name and residence of the person having physical custody of the child.
- C. If any of the facts herein required to be stated are not known by the petitioner, the petition shall so state.
 - D. The petition may be prepared and filed by any Tribal Prosecutor.
 - E. In the case of violations of motor vehicle laws, other than those defined as offenses under Chapter 6 of this Code, a petition shall not be required, and the issuance of a citation or summons shall be sufficient to invoke the jurisdiction of the court.

Sec. 13.12 Determination of Status as Child

- A. Any person may, and every Authorized Officer shall, give the Court any and all information in his or her possession that a person is or appears to be a child within the jurisdiction of the Court.
- B. Whenever such information is received, the Court may require a preliminary inquiry to be made under the direction of the Court to determine whether the person is a child within the meaning and purposes of this Chapter and, if so, whether the interest of the public or the interest of the child require further action to be taken.
- C. On the basis of the information received and the preliminary inquiry, if one is made, the Court may direct that the petition be filed; or the Court may make such informal adjustment of the case as is practicable, provided that:
 1. the facts are admitted and establish prima facie jurisdiction;
 2. consent is obtained from the parents or other custodian of the child; and
 3. consent is also obtained from the child if the child is of sufficient age and understanding.
- D. Efforts to effect an informal adjustment may be continued no longer than 90 days without review by a Judge.

Sec. 13.13 Examination

The Court may order that a child be examined by a physician, surgeon, psychiatrist or

psychologist and may place the child in a hospital or other facility for such examination. However, the child shall not be held in such hospital or facility longer than 72 hours, excluding weekends and holidays, unless necessary for treatment of physical injuries, without a hearing before the Court. After due notice and a hearing set for the specific purpose, the Court may order a medical examination of a parent or guardian whose ability to care for a child is at issue, if the Court finds from the evidence presented at hearing that the parent's or guardian's physical, mental or emotional condition may be a factor in causing the neglect, dependency or delinquency of the child.

Sec. 13.14 Speedy Trial

Every case involving a child which is initiated in the Tribal Juvenile Court shall be decided within 60 days from the submission thereof to the presiding Judge, unless extraordinary circumstances exist which warrant an extension of that time period.

Sec. 13.15 No Additional Criminal Prosecution

When a petition has been filed under this Chapter, the child or children involved shall not thereafter be subject to criminal prosecution based on the facts giving rise to the petition, except as otherwise provided in this Chapter.

Sec. 13.16 Summons and Service of Process

- A. After a petition is filed and after such further investigation as the Court may direct, the Court shall promptly issue summons for hearing the case. No summons is required as to any person who appears voluntarily or who files a written waiver of service with the Tribal Court Administrator at or prior to the hearing.
- B. The summons shall contain the name of the Court, the title of the proceedings and (except for a published summons) a brief statement of the substance of the allegations in the petition. A published summons shall simply state that a proceeding concerning the child is pending in the Juvenile Court and an adjudication will be made. The summons shall require the person or persons who have physical custody of the child to appear personally and bring the child before the Court at a time and place stated. If the persons so summoned are not the parent(s) or guardian(s) of the child, then summons shall also be issued to the parent(s) or guardian(s) as the case may be notifying them of the status of the case and of the time and place set for the hearing.
- C. Summons may be issued to any person within the jurisdiction of the Hualapai Tribal Court requiring the appearance of any other person whose presence the Court deems necessary.
- D. If it appears to the Court that the welfare of the child or of the public requires that the child be taken into custody, the Court may at any time after a petition

is filed, make an order providing for detention or shelter.

- E. Upon the sworn testimony or signed statement of a physician, the Court may order emergency medical or surgical treatment which is immediately necessary for a child concerning whom a petition has been filed pending the service of summons upon his parents, guardian or custodian.
- F. A parent or guardian shall be entitled to the issuance of compulsory process for the attendance of witnesses on his or her own behalf or on behalf of the child. A guardian ad litem or a probation officer shall be entitled to compulsory process for the attendance of witnesses on behalf of the child.
- G. The Court may authorize the payment of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing of a case under this Chapter, not to exceed the amount allowed to witnesses for travel in the Tribal Court.
- H. Service of process shall be made by a Peace Officer but, upon request of the Court, such service may be made by any other person appointed by the Court. Service of process within the Hualapai Reservation may be made by delivering a copy thereof to the person summoned; however, parents who are living together at their usual place of abode may be served by delivery of two copies of the summons to either. If personal service of process is impractical under the circumstances, the Court may order service by registered mail with return receipt requested to be signed by the addressee only, to be addressed to the last known address of the person to be served. Service shall be complete upon return of the signed receipt to the court.
- I. If the parent(s) or guardian(s) required to be summoned cannot be found within the Reservation, the child's presence within the Reservation shall confer jurisdiction on the Juvenile Court in proceedings in under this Chapter as to any absent parent or guardian, provided that due notice has been given in one of the following manners:
 - 1. If the address of the parent(s) or guardian(s) is known, by sending him or her a copy of the summons by registered mail with a return receipt requested to be signed by the addressee only, or by personal service outside the Reservation. Service by mail shall be complete upon return to the Court of the signed receipt.
 - 2. If the address or whereabouts of the parent(s) or guardian(s) outside the Reservation cannot after diligent inquiry be ascertained, by publishing a summons in a newspaper having general circulation within and around the Reservation. The summons shall be published

once a week for three successive weeks. Service shall be deemed complete on the day of the last publication.

- J. In the case of personal service, service must be completed not less than 72 hours before the time set for the appearance of the person served. In the case of service by mail or publication outside the Reservation, service must be completed not less than five days before the time set for appearance of the person served.

Sec. 13.17 Search and Arrest Warrants

- A. If a summons can not be served, or, if it appears to the Court that the person served will not obey the summons, that serving the summons will be ineffectual, or that the welfare of the child requires that the child be brought immediately into custody of the Court, a warrant may be issued for the arrest of the parent, the guardian, the custodian, or the child, and any such warrant may be served anywhere within the jurisdiction of the Hualapai Tribal Court.
- B. If it appears to the Court upon an affidavit sworn to by an Peace Officer, Tribal Prosecutor, or any other person, and upon the examination of other witnesses if required by the Judge, that there is probable cause to believe that a child is being detained or ill-treated in any place within the jurisdiction of the Court, the Court may issue a warrant authorizing a peace officer to search for the child. Upon serving such warrant upon the person in possession of the premises specified in the warrant, the officer making the search may enter the house or premises by force if necessary in order to remove the child. The officer must thereupon take the child into custody in accordance with Section 13.18 below.

Sec. 13.18 Arrest and Detention of Children

- A. A child may be taken into custody by any Peace Officer pursuant to a warrant issued under Section 13.17 above.
- B. A child may be taken into custody by a Peace Officer without a warrant:
 - 1. When in the presence of the officer the child has violated state, federal or Tribal law;
 - 2. When there are reasonable grounds to believe that the child has committed an act which, if committed by an adult, would be a felony;
 - 3. When the child is seriously endangered in the child's surroundings, and immediate removal appears to be necessary for the child's protection;

4. When there are reasonable grounds to believe that the child has committed an act, which, if committed by an adult, would be a breach of peace;
 5. When the child violates curfew by being found loitering or lingering upon any of the streets, alleys or public places within the Hualapai Indian Reservation between the hours of 10:00 p.m. and 5:00 a.m.;
 6. Unaccompanied by a parent, guardian or adult relative, except when the child is attending any church, school or duly organized children's function; or
 7. When there are reasonable grounds to believe that the child requires immediate care or medical attention.
- C. When an officer takes a child into custody, the officer shall immediately notify the parents, guardian, or custodian.
- D. A child shall not be detained by an officer any longer than is reasonably necessary to obtain the child's name, age, residence and other information, and to contact and obtain the appearance of the child's parent, guardian or custodian. A peace officer who arrests a child may forthwith notify a probation officer. No child shall be held in detention for more than 48 hours unless a petition alleging delinquent conduct has been filed and no child shall be held longer than 48 hours after the filing of said petition unless so ordered by the Court after a hearing.
- E. The officer or other person who takes a child to a detention facility shall promptly file with the court a brief written report stating the occurrences or facts which bring the child within the jurisdiction of the Tribal Juvenile Court and giving the reason why the child was not released.
- F. After an investigation by a duly authorized officer of the Court, the Judge with or without a hearing shall, upon written promise to bring the child to the Court at a set time or without restriction, order the release of the child to the child's parents, guardian, or custodian if it is found that the child can be safely left in their care. If it is found after a hearing for that purpose that it is not safe to release the child, the Judge may order that the child be held in an appropriate facility, subject to further order of the Court.

Sec. 13.19 Investigation

- A. After adjudication that a child is delinquent, dependent, neglected or incorrigible, the Court may require that a social investigation to be made and that a report be submitted to the Court in writing in all cases under this Chapter in which a petition has been filed.

- B. The investigation shall cover the child's home environment history and associations, the present conditions of the child and family, and recommendations as to the child's future care. In cases involving the duty of support the study shall include such matters as earnings, assets, financial obligations and employment.

Sec. 13.20 Hearings

- A. Hearings in children's cases shall take place before the Court without a jury and may be conducted in an informal manner. The general public shall be excluded and only such persons as the Court finds have a direct and legitimate interest in the case or in the work of the Court shall be admitted. At the discretion of the Court, the child may be separately interviewed at any time. The hearing may be continued from time to time to a date specified in the order.
- B. The record of the proceedings shall be kept in accordance with the practice in other cases before the Hualapai Tribal Court, unless the Court otherwise directs.
- C. Neither the record in the Juvenile Court nor any evidence given therein shall be admissible as evidence against the child in any proceeding in any other court. No child shall be charged with crime nor be convicted in any Tribal Court except as provided in this Chapter. Upon reaching the age of 18, a child's record shall be sealed or destroyed upon the child's request.
- D. Any party, including the Tribe, shall have a right to be represented by a counselor in any proceeding under this Chapter. Prior to any hearings the Court shall inform the parents, guardians, or custodian, and the child when it is appropriate to do so, that they have a right to be represented by a counselor. The counselor may be a professional attorney or lay advocate permitted to appear before the Hualapai Tribal Court.
- E. The hearing shall consist of four portions:
 - 1. Initial hearing, including plea,
 - 2. Presentation of evidence regarding allegations in the petition,
 - 3. Adjudication hearing, and
 - 4. Disposition.
- F. Findings of fact by the Judge as to allegations in the petition shall be based on the standard requiring proof of each material allegation beyond a reasonable

doubt and shall be made upon the evidence admissible under the rules applicable to the trial of a criminal case in the Hualapai Tribal Court.

- G. In the disposition portion of the hearings any relevant and material information shall be admissible.
- H. Parties adversely affected by a final disposition shall be informed of their right to appeal under the provisions of Chapter 10 of this Code.
- I. When more than one child is involved in a home situation which may be found to constitute neglect or dependency, or when more than one child is alleged to be involved in the same violation, the proceedings may be consolidated, except that separate hearings may be held with respect to disposition.

Sec. 13.21 Amendment of Petition

When it appears during the course of any proceedings in a child's case that evidence presented points to material facts not alleged in the petition, the Court may proceed to consider the additional matters raised by the evidence. The Court, on motion of any interested party or on its own motion, shall direct that the petition be amended to conform to the evidence. If the amendment results in a substantial departure from the facts originally alleged, the Court shall grant such continuance as justice may require, subject to Section 13.14.

Sec. 13.22 New Hearing

A parent, guardian, custodian, or next of kin of any child whose status has been adjudicated under this Chapter, or any adult affected by a child's proceeding hereunder, may at any time petition the Court for a new hearing on the ground that new evidence which was not known and could not with due diligence have been made available at the original hearing and which might affect the decree, has been discovered. If it appears to the Court that there is such new evidence which might affect its decree, it shall order a new hearing and enter such decree and make disposition of the case as is warranted by all the facts and circumstances and the best interest of the child.

Sec. 13.23 Disposition of Cases

After adjudication of the allegations in the petition, the Court may issue a Disposition Order which includes any of the following:

- A. Require the child to submit to periodic counseling; and/or
- B. Place the child on probation or under protective supervision in the child's own home upon conditions determined by the Court; and/or

- C. Place the child in the legal custody of a relative or other suitable person, with or without probation or protective supervision; and/or
- D. Place the child in an approved boarding school or similar facility, for care, and for work; provided that the person, agency or associate operating the facility has been approved by the Court and has otherwise complied with all tribal, federal and, if applicable, state and local laws; and/or
- E. Order that the child, or the child's parent, guardian or custodian be required to make restitution for damage or loss caused by wrongful acts; and/or
- F. Arrange for employment or work programs, to enable children to fulfill their obligations under Subsection F of this Section, and for other purposes when deemed desirable by the Court; and/or
- G. In cases of violation of traffic laws, the Court may, in addition to any other disposition, restrain the child from driving for such periods of time as the Court deems necessary, and may take possession of the child's driving license; and/or
- H. Order that the child be examined or treated by a physician surgeon, psychiatrist, or psychologist, or that the child receive other special care, and for such purpose may place the child in a hospital or other suitable facility; and/or
- I. Appoint a guardian for the child where it appears necessary to do so in the interest of the child, and may appoint a public or private institution or agency in which legal custody of the child is vested, as such guardian.

Sec. 13.24 Primary Consideration - Welfare of the Child

In placing a child under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the child, but whenever practicable may take into consideration the religious preferences of the child and of the child's parents.

Sec. 13.25 Establishment of Conditions by Court

In support of a disposition order under Section 13.23 above, the Court may impose reasonable conditions to be complied with by the parents, the child, custodian, or any other person who has been made a part to the proceedings including, but not limited to, restriction on visitation by the parents or one parent, restrictions on the child's associates, occupation and/or other activities, and/or requirements to be observed by the parents or custodian.

Sec. 13.26 Hospitalization of Child

With respect to a child within the jurisdiction of the Court under Section 13.3 above, the court may order hospitalization in an authorized hospital if the Court finds, upon due notice to the parents or guardian and a special hearing conducted in accordance with applicable Tribal law, that the child is (a) mentally ill, and (b) because of the illness is likely to injure himself or herself or others if allowed to remain at liberty, or is in need of custody, care or treatment in the mental hospital.

Sec. 13.27 Commitment of Mentally Deficient Child

The Court may make an order committing a child within its jurisdiction to an appropriate facility if the child has been found mentally deficient.

Sec. 13.28 Termination of Parental Rights

The Court may terminate all parental rights, provided it complies with provisions of Section 13.31 below.

Sec. 13.29 Other Disposition of Cases

The Court may make any reasonable orders which are for the best interest of the child or are required for the protection of the public. The court may combine several modes of disposition where they are compatible.

Sec. 13.30 Periodic Review of Cases

An order under this Chapter for the placement of a child with an individual or any agency shall include a date certain for a review of the case by the Court, with a new date to be set upon each review. The maximum period of time between judgment and the first review and between successive reviews shall be six months.

Sec. 13.31 Judgments and Orders

- A. For purposes of implementing the orders made and filed in a proceeding under this Chapter, the Juvenile Court's jurisdiction over a child shall continue, unless sooner terminated or transferred, until the child reaches the age of 18 years and, if this occurs prior to final disposition of the proceeding, the Court may retain jurisdiction or transfer jurisdiction to the Hualapai Tribal Court.
- B. The Court may modify or set aside any order or decree made by it; but no modification of an order placing a child on probation shall be made upon an alleged violation of the terms of probation, until there has been a hearing after due notice to all persons concerned.

- C. Notice and a hearing shall also be required in any case in which the effect of modifying or setting aside any order may be to deprive a parent of the legal custody of a child, to place the child in an institution or agency, or to transfer the child from one institution or agency to another, except that transfer from one foster home to another may be effected without notice and hearing.
- D. Adjudication by the Juvenile Court that a child is within its jurisdiction under Section 13.3 of this Chapter shall not be deemed conviction of a crime.

Sec. 13.32 Custody of Children

- A. Before depriving any parent of the custody of his or her child, the Court shall give due consideration to the preferred right of parents to the custody of their children and shall not transfer custody to another person, agency or institution unless the Court finds from all the circumstances in the case that the welfare of the child or the public requires that the child be taken from the child's parents.
- B. The rights of one parent may be terminated without affecting the rights of the other parent.
- C. The rights of the parent or parents may be terminated if the Court finds one of the following:
 - 1. That the parent is unfit and incompetent by reason of conduct or condition seriously detrimental to the child.
 - 2. That the parent has abandoned the child. It shall be prima facie evidence of abandonment that the parent, although having legal custody of the child, has surrendered physical custody of the child, and for a period of one year following such surrender has not by some affirmative act manifested to the child or to the person having the physical custody of the child an intention to resume physical custody or to make arrangements for the care of the child.
 - 3. That after a trial period, during which the child was kept in their own home under protective supervision or probation, or during which the child was returned to live in their own house, the parent substantially and continuously or repeatedly refused or failed to give the child proper parental care and protection.
- D. A termination of parental rights may be ordered only after a hearing is held specifically on the question of terminating the rights of the parent. A parent must be advised as to his or her right to the assistance of counsel at the parent's own expense. No such hearing shall be held earlier than 10 days after service of summons is completed. The summons shall contain a statement

that the rights of the parent may be terminated in the proceeding.

- E. Every order terminating the right of a parent shall recite the facts upon which the Court based its jurisdiction over the child and shall include the findings upon which the order is based.
- F. Upon the entry of an order terminating the rights of the parent, the Court may:
 - 1. place the child for adoption pursuant to applicable law; or
 - 2. make any other disposition of the child authorized under Section 13.23 above.
- G. Nothing contained in this Section shall preclude a parent from surrendering permanent legal custody voluntarily by instrument in writing, duly acknowledged, for purposes of adoption, and in accordance with applicable law.
- H. A parent, guardian, custodian or next of kin of a child whose legal custody has been transferred by the Court to an individual, agency, or institution, may petition the court for restoration of custody or other modification or revocation of the order, on the ground that a change of circumstances has occurred which requires such modification or revocation in the best interest of the child. The Court shall make preliminary investigation, and may dismiss the petition if it finds that the alleged change of circumstances, if proved, would not affect the Court's prior order. If the Court finds that a further examination of the facts should be made, or if the Court on its own motion determines that an order should be reviewed, it shall conduct a hearing upon due notice to all persons concerned and may thereupon enter an order continuing, modifying, or terminating the prior order.
- I. An agency granted legal custody shall have the right to determine where and with whom the child shall live, provided that placement of the child does not remove the child from the Hualapai Reservation without approval of the Juvenile Court. An individual granted legal custody shall exercise the rights and responsibility involved in legal custody personally, unless otherwise authorized by the Court.

Sec. 13.33 Support of Children

- A. When legal custody of a child is vested by the Court in an individual or agency other than his or her parents, the Court may in the same or any subsequent proceeding inquire into the ability of the parents to support the child and to pay any medical, psychiatric, or psychological examination or treatment provided under order of the Court. The Court may, after due notice and a hearing on the matter, require the parents to pay the whole or part of

such support and expenses, depending on their financial resources and other demands on their funds. The amounts so required to be paid shall be paid at such intervals as the Court may direct, and unless otherwise ordered, payment shall be made to the Administrator of the Tribal Juvenile Court for transmission to the person or agency having legal custody of the child or to whom compensation is due.

- B. No Court order issued under the preceding Subsection against a parent shall be entered, unless summons has been served or a voluntary appearance is made or a waiver of service given. The summons shall specify that a hearing with respect to the financial support of the child will be held.
- C. An order entered under this Section against the parent may be enforced by contempt proceedings, and shall also have the effect of a legal judgment. In addition to other remedies, the Court may issue an order to any employer, trustee, financial agency, or other person within the jurisdiction of the Tribe, indebted to the parent, to withhold and pay over to the Tribal Court Administrator, monies due or to become due. No property of the parents, or either of them, shall be exempt from execution to enforce collection of the amounts ordered to be paid by the Court under this Section.
- D. If the Court finds that the parents are unable to pay for full or partial support, examination, treatment and other expenses of the child and that no other provision for the payment of such support and expenses has been made, or if the parents have failed to make such payments, the Court shall request the Hualapai Tribe or any other public agency with funds available for such purposes to pay for such support and other expenses and, if such department or agency consents, it shall be so ordered by the Court.
- E. Payment for child support may be made to an agency in whom the Court vests legal custody, provided that the agency shall make periodic reports to the Court concerning the care and treatment the child is receiving and his response to such treatment. Such reports shall be made at such intervals as the Court may direct, and shall be made with respect to each child at least every six months. The agency shall also afford an opportunity for a representative of the Court to visit the child as frequently as the court deems necessary.

Sec. 13.34 Appeals; Effect

- A. Appeals from final orders of the Tribal Juvenile Court may be made to the Tribal Court of Appeals pursuant to the provisions of Chapter 10 of this Code.
- B. Unless otherwise ordered by the Juvenile Court or by the Court of Appeals, the pendency of an appeal shall not stay the order or decree appealed from in a child's case. Where the order or decree appealed from directs a change of legal custody of a child, the appeal shall be heard and decided at the earliest

practicable time. The name of the child shall not appear on the record of appeal.

Sec. 13.35 Fees

- A. There shall be no fee for filing a petition under Subsections A or B of Section 13.3.
- B. The Court may charge an administrative fee to be paid upon the filing of a petition to address any other matter under this Chapter.
- C. No Peace Officer, prosecutor, or Court official shall charge a fee for the service of process or for attendance in Court in any proceeding under this Chapter.
- D. Witness fees shall be payable in accordance with provisions for witnesses in tribal courts.

Sec. 13.36 Records

The Juvenile Court shall keep such records as required by Tribal law or otherwise by the Judge. Records in children's cases shall not be deemed criminal records and shall not be open to public inspection; but the Court may, in its discretion, authorize inspection by persons having a legitimate interest in the proceedings and by persons conducting pertinent research studies.

Sec. 13.37 Detention

- A. Age – No child under the age of 8 years of age shall be delivered, admitted, or committed to any place of detention.
- B. Use of adult facilities prohibited – No child under the jurisdiction of the Juvenile Court shall be delivered, admitted, or committed to a detention facility operated for the confinement of adults, unless the Juvenile Court has transferred concurrently transferred jurisdiction to Adult Court.
- C. Temporary – No child may be detained by law enforcement for longer than 6 hours from the time of initial contact. After 6 hours the child must be released, or transportation commence to place the child in a juvenile detention facility.

Sec. 13.38 Juvenile Detention Facility

- A. Establishment – The Tribe may designate, establish, and, and/or operate a facility for the purpose of providing secure confinement and rehabilitation of youth.

- B. **Management** – The Tribal Court shall be responsible for the oversight and supervision of the operation of any juvenile detention facility established by the Tribe.
- C. **Annual Inspection** – The Tribal Court shall inspect and approve, on an annual basis, the operation of any Tribally established juvenile detention facility. The inspection shall consider the nature and condition of the physical plant, the level and training of staff, and the delivery of a comprehensive package of programs and services designed to promote wellness and rehabilitation.
- D. **Purpose** – The purpose of any juvenile detention facility shall be to provide education, training, and rehabilitation services in a residential facility that is safe and secure for the children, the staff, and the community.