

Aullarripta Qaunagisaqługich
Miqłigtuvut Pitqurrianich Native
Village of Barrow's Children's Code



Native Village of Barrow Iñupiat Traditional Government Tribal Children's Code 2020

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4-1 GENERAL PROVISIONS

4-1-1 SHORT TITLE; PURPOSE AND CONSTRUCTION; POLICY

4-1-1 A. Short Title

Title VI (Chapters 4-1 through 4-6) shall be referred to as the Native Village of Barrow Iñupiat Traditional Government Tribal Children's Code ("children's code" or "Code").

4-1-1 B. Purpose and Construction

The Native Village of Barrow Iñupiat Traditional Government ("NVB Tribe" or "Tribe") hereby establishes the following procedures to protect the best interests of children, and the future of the Tribe and its customs and culture, as authorized by the Constitution of the NVB Tribe. All provisions of this Code shall be liberally construed in order to give effect to the following purposes with regard to child welfare:

1. Protect the best interests of children, prevent the unwarranted breakup of families, maintain the connection of children to their families, their community and the Tribe, and promote the stability and security of the Tribe by establishing tribal standards for the conduct of legal proceedings involving children;
2. Foster cooperative intergovernmental relations between the Tribe and the State of Alaska, and other states and tribes, with regard to the welfare of children and families;
3. Provide child welfare services to children and families that are in accord with the laws, traditions, and cultural values of the Tribe; and
4. Preserve the opportunity for children to learn about their culture and heritage, and to become productive adult members of the NVB Tribe community, by experiencing their culture on an ongoing basis.

4-1-1 C. Policy

It is the policy of the NVB Tribe to ensure a safe and appropriate physical and emotional environment that will protect the health, safety, and development of all children; to compel the parent or custodian of a child to provide a proper environment for the child; to facilitate changes or improvement in the home environment where necessary to provide proper environment for the child; to establish a judicial process to protect the health and safety of children including the provision of substitute care and supervision for children in need of aid; and to protect a child's identity and ties with his family and the tribal community.

4-1-2 REPEAL OF PRIOR CHILDREN'S CODES

All codes governing dependency, adoption, or child custody adopted by the Native Village of Barrow prior to the adoption of this Code are hereby repealed. The Native Village of Barrow Tribe Juvenile Delinquency and Rehabilitation Code and the Native Village of Barrow Tribe Wellness Code are not repealed by this Section.

4-1-3 JURISDICTION OF THE CHILDREN'S COURT

There is hereby established for the Native Village of Barrow a court to be known as the children's court ("court" or "children's court"). The children's court shall have subject matter jurisdiction as follows:

1. To approve and continue emergency custody of a child pursuant to Sections 4-4-3 E through 4-4-3 P of this Code.
2. Where a child is adjudicated a child in need of aid under Section 4-4-1 A of this Code.
3. Where a petition for voluntary relinquishment of parental rights, voluntary guardianship, voluntary adoption, or other voluntary proceeding affecting children or parental rights has been filed pursuant to Chapter 4-5 of this Code.

4-2 DEFINITIONS

As used in this Code, except where the context clearly suggests otherwise, the following terms shall be defined as indicated herein:

1. **Adoption:** A legal proceeding through which a child gains a new parent and the adoptive parent gains parental rights over the child. The term "adoption" includes both *lñuguq* and *Tiguaq*.
2. **Adoptive Parent:** Any person who has gained parental rights over a child through any form of adoption.
3. **Adoptive Family:** The family into which a child is adopted.
4. **Adjudicate:** Make a formal judgment or decision about a problem or disputed matter.
5. **Advocate:** A person, not an attorney, licensed by the Tribe to represent parties before the NVB Tribal Court. An advocate must conform to licensing and conduct requirements mandated by the Tribe.
6. **Attorney:** A person licensed to practice law in the State of Alaska and certified by the Tribe. An attorney must conform to licensing and conduct requirements

mandated by the Alaska bar-and by the Tribe. When representing a child, an attorney is bound by the child's expressed preferences.

7. **Best Interest of the Child:** Standard governing all decisions in proceedings under this Code. The best interests of the child shall also include paramount consideration of the child's health and safety.
8. **Beyond a Reasonable Doubt:** Proof beyond a doubt that prevents one from being firmly convinced; proof that excludes any real possibility that the thing to be proven is not true.
9. **Birth Parents:** The mother and father who physically conceived a child. Where the term “birth parent” is used to refer to the parent whose rights with respect to the child are being or might be limited, relinquished, or terminated, the definition shall include adoptive parents, custodians, or extended family members who are in that situation.
10. **Child:** Any person from conception to age eighteen (18) years old who is a member or eligible for membership in the NVB Tribe or other person from conception to age eighteen (18) years old where consent is obtained.
11. **Child in Need of Aid (“CINA”):** A child, whether born or in the womb, who has been found by the court to have been subjected to conditions which inflict upon the child or place the child in danger of physical, mental, or emotional harm as defined in Section 4-4-1 A et seq. and is therefore in need of intervention by the Tribe.
12. **Child Protection Proceeding or Dependency Proceeding:** Any proceeding based on a CINA petition.
13. **Clear and Convincing Evidence:** Evidence indicating that the thing to be proved is highly probable or is reasonably certain.
14. **Court Appointed Special Advocate (“CASA”):** A volunteer spokesperson appointed by the court to research and monitor a child's situation and to protect the child's best interests without being bound by the child's expressed preferences.
15. **Custodian:** Any person other than a parent who is primarily responsible for a child's care, including guardians and extended family members.
16. **Extended Family Member:** Any adult sibling, grandparent, aunt, uncle, great aunt, great uncle, or cousin of the child, including adoptive adult siblings, grandparents, aunts, uncles, great aunts, great uncles; and cousins. Extended family members have certain rights and responsibilities with respect to children.
17. **Extended Family Member Right:** The set of legal rights and responsibilities created by an extended family member relationship, whether by birth or adoption.

Extended family member rights and responsibilities include those listed in Subchapter 4-3-3 of this Code, but may be modified by court order. Extended family member rights exist independent of the child's legal relationship to his parent in that family.

18. **Family Advocate:** An employee of the Social Services Department or other tribal or social service agency responsible for investigating reports of suspected abuse or neglect and developing, implementing, and monitoring the case plan of a child or family.
19. **Foster Care:** Placement in a foster home or other foster care facility.
20. **Foster Care Facility:** Any facility licensed by the Tribe to accept physical custody of children upon order of the court on a temporary or long-term basis.
21. **Probable Cause:** A reasonable ground to suspect that the thing alleged is true.
22. **Report of Harm:** A report of suspected harm to a child made to the Social Services Department.
23. **Residential Facility:** Any facility licensed by the Tribe to accept physical custody of children in a group residential setting, including shelter care facilities. Residential facilities may be non-secure or semi-secure, but may not include secure juvenile detention facilities as defined in Section 1-1 C of the Native Village of Barrow Tribe Juvenile Delinquency and Rehabilitation Code.
24. **Shelter Care Facility:** A non-secure facility licensed by the Tribe to accept physical custody of children on a short-term, emergency basis.
25. **Spokesperson:** A person, not an attorney and not licensed by the Tribe to represent parties, who appears before the court to speak on behalf of another person. Spokespeople have a traditional role among Inupiat people and are not bound by the standards of attorneys or advocates.
26. **Step-parent:** Any person married to a birth parent or adoptive parent who is not himself a birth parent or adoptive parent of that child.
27. **Social Services Department or Department:** The social services department of the NVB Tribe.
28. **Tiguaq:** A form of adoption in which the parental rights of the birth parent are terminated.
29. **Ward of the Court:** A child over whom the court has assumed the role of a parent.

4-3 RESPONSIBILITIES AND RIGHTS REGARDING CHILDREN

4-3-1 RIGHTS OF CHILDREN

4-3-1 A. Right to Life

A child has an inherent right to life, survival, and development, and the right to a standard of living adequate to the child's physical, mental, spiritual, moral, and social development and reflective of the traditions and cultural values of that child's people.

This right includes the right to nutrition, clothing, shelter, nurturing, and appropriate discipline.

4-3-1 B. Right to Identity

A child has the right from birth to acquire and form an identity, including name, tribal affiliation, language, and cultural heritage. A child has the right to learn about and preserve his identity throughout his life, including the right to maintain ties to his birth parents, his extended family and his village. A child has the right to learn about and benefit from tribal history, culture, language, spiritual traditions, and philosophy.

4-3-1 C. Right to Protection

A child has the right to be protected from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parents, extended family members, or any other custodian. A child has the right to be free from torture or other cruel, inhuman, or degrading treatment or punishment. A child has the right not to face capital punishment or life imprisonment without possibility of release.

4-3-1 D. Right to Health

A child has the right to enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. Mentally or physically disabled children have the right to enjoy a full and decent life in conditions which ensure dignity, promote self-reliance, and facilitate the child's active participation in the community. All children have the right to periodic review of any medical or mental health treatment.

4-3-1 E. Right to Family

A child has the right not to be separated from his parents forcibly or against his will, except when competent authorities subject to judicial review determine the such separation is necessary for the best interest of the child. In case such separation is necessary, a child shall have the right wherever possible not to be separated from other members of his immediate and extended family.

A child temporarily or permanently deprived of his family environment shall be entitled to special protection and assistance provided by the Tribe, which shall strive to ensure continuity in the child's upbringing and the maintenance of ethnic, cultural, religious, and linguistic heritage.

4-3-1 F. Right to Education

A child has the right to education, including academic, physical, and cultural teachings, and training on how to safely undertake subsistence activities and other potentially dangerous work.

4-3-1 G. Right to be Heard

A child who is capable of forming his own views has the right to express those views freely in all matters, including judicial proceedings, affecting that child and those views shall be given due weight in accordance with the age and maturity of the child.

4-3-1- H. Right to Due Process

A child has the right not to be deprived of his liberty unlawfully or arbitrarily. Every child deprived of liberty shall have the right to challenge the deprivation of liberty and the right to appropriate judicial review. A child shall at all times be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of a person of his age.

4-3-2 RESPONSIBILITIES AND RIGHTS OF PARENTS

4-3-2 A. Common Responsibility for Children

Parents have primary, common responsibility for the upbringing and development of their children. This includes ensuring each child's inherent right to life, survival, and development and to a standard of living adequate to the child's healthy physical, mental, spiritual, moral, and social development and reflective of the traditions and cultural values of that child's people. This responsibility also includes providing financial support for their children. The best interests of the child shall be the parents' basic concern.

4-3-2 B. Responsibility to Foster Identity

Parents are responsible for ensuring that their children acquire and form identities, including name, tribal affiliation, language, and cultural heritage. Parents shall also provide means for their children to learn about and preserve their identities throughout the children's lives and to maintain ties to their birth family and their village.

4-3-2 C. Responsibility to Nurture and Discipline

Parents are primarily responsible for nurturing their children and for determining and administering appropriate discipline to their children.

4-3-2 D. Responsibility for Protection

Parents are primarily responsible for protecting their children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, torture, or other cruel, inhuman, or degrading treatment or punishment.

4-3-2 E. Responsibility for Education

Parents are primarily responsible for ensuring that their children have access to appropriate academic, physical, and cultural education, including the responsibility to ensure school attendance.

4-3-2 F. Responsibility to Seek Assistance

Parents have the responsibility to seek assistance from extended family members, the Tribe, or other sources if necessary to guarantee the rights and well-being of their children.

4-3-2 G. Right to Notice

A parent has the right to be timely noticed by the court of any judicial or other proceeding involving a child of that parent, or affecting that parent's parental rights, even if the child is not in the parent's custody at that time.

4-3-2 H. Right to be Heard

A parent has the right to be heard in any judicial or other proceeding involving a child of that parent, or affecting that parent's parental rights, even if the child is not in the parent's custody at that time.

4-3-2 I. Right to Visitation

Whenever a child is temporarily or permanently removed from the custody of one or both parents, each parent shall have the right to reasonable visitation, provided that the Parent's rights have not been terminated and subject to limitations imposed by the court for the child's protection.

4-3-2 J. Right to Seek Assistance

A parent has the right to seek assistance from extended family members, the Tribe, or other sources in the performance of child-rearing responsibilities for the purpose of guaranteeing and promoting the rights and well-being of her children. A parent shall not be penalized solely for seeking or receiving such assistance.

4-3-2 K. Right to Expect Extended Family Assistance

If for any reason a parent is no longer able to care for her child, she has a right to expect that the extended family of both parents will intervene or assist to protect the child's rights and well-being, and to ensure the continuity of the child's upbringing and the maintenance of the child's ethnic, cultural, religious, and linguistic heritage.

4-3-2 L. Right to Expect Tribal Assistance

If for any reason a parent is no longer able to care for her child, she has a right to expect that the Tribe will strive, in conjunction with the child's extended family, to protect the child's rights and well-being, and to ensure the continuity of the child's upbringing and the maintenance of the child's ethnic, cultural, religious, and linguistic heritage.

4-3-3 RESPONSIBILITIES AND RIGHTS OF EXTENDED FAMILY MEMBERS

4-3-3 A. Common Responsibility for Children

Extended family members have secondary, common responsibility for the upbringing and development of children in their family. This includes ensuring each child's inherent right to life, survival, and development and to a standard of living adequate to the child's healthy physical, mental, spiritual, moral, and social development and reflective of the traditions and cultural values of that child's people. The best interests of the child shall be their basic concern.

4-3-3 B. Responsibility to Foster Identity

Extended family members are responsible for helping children acquire and form identities, including name, tribal affiliation, language, and cultural heritage.

4-3-3 C. Responsibility to Nurture and Discipline

Extended family members are secondarily responsible for nurturing children and for administering appropriate discipline to children.

4-3-3 D. Responsibility for Protection

Extended family members are responsible for helping to protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, torture, or other cruel, inhuman, or degrading treatment or punishment.

4-3-3 E. Responsibility to Assist

Extended family members have a responsibility to intervene or assist when necessary to protect a child's rights and well-being, and to ensure the continuity of the child's upbringing and the maintenance of the child's, ethnic, cultural, religious, and linguistic heritage.

4-3-3 F. Right to Notice

Any member of a child's extended family currently residing in the Native Village of Barrow has the right to be timely noticed by the court of any judicial or other proceeding involving that child.

4-3-3 G. Right to be Heard

Any member of a child's extended family who comes forward in a timely manner has the right to be heard in any judicial or other proceeding involving that child.

4-3-3 H. Right to Visitation

Any member of a child's extended family has the right to reasonable visitation with that child. This right shall be subject to limitations imposed by the child's parents or by the court if necessary for the best interests of the child.

4-3-3 I. Right to Request a Family Conference

Any member of a child's extended family has the right to request a family conference pursuant to Subchapter 4-5-2 of this Code.

4-3-4 RESPONSIBILITIES AND RIGHTS OF THE TRIBE

4-3-4 A. Common Responsibility for Children

The Tribe has a common responsibility for the upbringing and development of children. This includes ensuring every child's inherent right to life, survival, and development and to a standard of living adequate to the child's healthy physical, mental, spiritual, moral, and social development and reflective of the traditions and cultural values of the NVB Tribe. In matters concerning children, the best interests of the child shall be the basic concern of the Tribe.

4-3-4 B. Responsibility to Foster Tribal and Cultural Identity

The Tribe is responsible for ensuring that all children are able to learn and benefit from the history, culture, language, Spiritual traditions, and philosophy of the NVB Tribe, and to maintain ties with the Tribe throughout their lives.

4-3-4 C. Responsibility for Protection

The Tribe is responsible for helping to protect all children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, torture, or other cruel, inhuman, or degrading treatment or punishment.

4-3-4 D. Responsibility to Intervene or Assist

The Tribe has a responsibility to intervene or assist when necessary, and to work in conjunction with the child's extended family, to protect that child's rights and well-being, and to ensure the continuity of the child's upbringing and the maintenance of the child's ethnic, cultural, religious, and linguistic heritage.

4-4 INVOLUNTARY PROCEEDINGS

4-4-1 CHILD IN NEED OF AID

4-4-1 A. Child in Need of Aid

The court may find a child to be a child in need of aid (“CINA”) if it finds by a preponderance of the evidence that the child has been subjected to conditions which inflict upon the child or place the child in danger of physical, mental, or emotional harm, including:

1. The parent or custodian has abandoned the child as described in Section 4-4-1 B, and the other parent is absent or has committed conduct or created conditions that cause the child to be a CINA under this Subchapter;
2. The child has been neglected as described in Section 4-4-1 C;
3. The child has suffered medical neglect as described in Section 4-4-1 D;
4. The child is a habitual runaway as described in Section 4-4-1 E;
5. The child has suffered physical abuse as described in Section 4-4-1 F, or there is substantial risk that the child will suffer physical abuse;
6. The child has suffered sexual abuse as described in Section 4-4-1 G, or there is substantial risk that the child will suffer sexual abuse;
7. The child has suffered emotional damage or mental injury as described in Section 4-4-1 H, or there is substantial risk that the child will suffer emotional damage or mental injury;
8. The parent or custodian's ability to parent has been substantially impaired by the addictive or habitual use of an intoxicant, or the addictive or habitual use of an intoxicant has resulted in a substantial risk of harm to the child; and
9. The parent or custodian has a mental illness, serious emotional disturbance, serious physical disability, or mental deficiency of a nature and duration that places the child at substantial risk of harm.

4-4-1 B. Abandonment

The court may find that child has been abandoned if a parent or custodian has shown conscious disregard of parental responsibilities toward the child by failing to provide reasonable support, maintain regular contact, or provide normal supervision, considering the child’s age and need for care by an adult. Abandonment of a child also includes instances when the parent or custodian, without justifiable cause:

1. Left the child with another person without provision for the child’s support and without meaningful communication with the child for a period of three (3) months;
2. Has made only minimal efforts to support and communicate with the

child;

3. Failed for a period of at least six (6) months to maintain regular visitation with the child;
4. Failed to participate in a suitable plan or program designed to reunite the parent or custodian with the child;
5. Left the child without affording means of identifying the child and the child's parent or custodian;
6. Was absent from the home for a period of time that created a substantial risk of serious harm to a child left in the home;
7. Failed to respond to notice of child protection proceedings; or
8. Was willing to provide care, support, or supervision for the child.

For the purposes of this Section, a parent or custodian who is the victim of domestic violence, or who has a child in her care who is the victim of domestic violence, is considered to have justifiable cause to take an action or to fail to take an action that would otherwise be considered to be abandonment of a child if the action or failure to act is necessary to protect the parent or custodian, or a child in her care, from further acts of domestic violence. However, if the parent or custodian does not take reasonable steps to reunify with or provide care for the abandoned child after becoming secure from further acts of domestic violence, the child may be considered abandoned without justifiable cause.

4-4-1 C. Neglect

The court may find that a child has been neglected if the parent or custodian fails to provide the child with adequate food, clothing, shelter, education, medical attention, or other care and control necessary for the child's physical and mental health and development, though :financially able to do so or offered :financial or other reasonable means to do so, or if a caregiver with whom the child has been left is unwilling or unable to provide care, supervision, or support for the child, and the whereabouts of the parent or custodian are unknown.

4-4-1 D. Medical Neglect

The court may find that medical neglect has occurred if the child is in need of medical treatment to cure, alleviate, or prevent substantial physical harm or is in need of treatment for mental injury and the parent or custodian has knowingly failed to provide the treatment.

4-4-1 E. Habitual Runaway

The court may find that a child is a habitual runaway if the child is habitually absent from home or refuses to accept available care and the child's conduct places the child at a substantial risk

4-4-1 F. Physical Abuse

The court may find that a child has suffered physical abuse if the child was the victim of conduct described in AS 11.41.100--11.41.140 [homicide], AS 11.41.200--11.41.230 [assault], AS 11.41.250 [reckless endangerment], AS 11.41.300 [kidnapping], or AS 11.51.100 [endangering the welfare of a child in the first degree, as those statutes read on the date this Code was enacted, and the abuse occurred as a result of conduct of or conditions created by the parent or custodian.

4-4-1 G. Sexual Abuse

The court may find that a child has suffered sexual abuse if the child was the victim of:

1. Conduct described in AS 11.41.410-11.41.432 [sexual assault], AS 11.41.434-11.41.445 [sexual abuse of a minor], AS 11.41.450 [incest], AS 11.41.455 [unlawful exploitation of a child], or AS 11.41.458--11.41.460 [indecent exposure], as those statutes read on the date this code was enacted;
2. Conduct constituting “sexual exploitation” as defined in AS 47.17.290 (permitting child to engage in prostitution; permitting unlawful exploitation of a child], as that statute read on the date this Code was enacted; or
3. Conduct prohibited by AS 11.66.100-11.66.150 [prostitution], as those statutes read on the date this Code was enacted;

and the abuse occurred as a result of conduct of, conditions created by, or failure to adequately supervise by the child's parent or custodian.

If a parent or custodian has actual notice that a person has been convicted of a sex offense against them within the past fifteen (15) years, is registered or required to register as a sex offender under AS 12.63 [registration of sex offenders], as that statute reads on the date this Code was enacted, or is under investigation for a sex offense against a child, and the parent or custodian then allows the child to be left with that person, the court shall presume that the child is at substantial risk of being sexually abused.

4-4-1 H. Emotional Damage and Mental Injury

The court may find that a child has suffered emotional damage or mental injury if the parent or custodian causes the child to suffer any type of emotional or mental harm by:

1. Engaging in a pattern of rejecting, terrorizing, ignoring, or corrupting behavior;
2. Exposing the child to conduct by a household member against another household member that is a minor AS 11.41.100--11.41.140 [homicide], AS 11.41.200--11.41.220 [assault, excluding assault in the fourth degree], AS 11.41.230(a)(1) or (2) [assault in the fourth degree by causing physical injury], or AS 11.41.410-11.41.432 [sexual assault], as those statutes read on the date

this Code was enacted, or any offense having elements similar to those crimes, or an attempt to commit such an offense; or

3. Repeatedly exposing the child to conduct by a household member against another household member that is a crime under AS 11.41.230(a)(3) [assault in the first degree by causing fear of imminent physical injury], AS 11.41.250 [reckless endangerment], or AS 11.41.260-11.41.270 [stalking], as those statutes read on the date this Code was enacted, or any offense having elements similar to those crimes.

4-4-1 I. Limitations on Determinations

The court may not find a child to be a CINA under this Subchapter solely on the basis that the child's family is poor, lacks adequate housing, or exhibits a lifestyle that is different from the generally accepted lifestyle standard of the community where the family lives. However, this section shall not be construed to prevent a court from finding that a child is a CINA if that child has been subjected to any of the conditions described in the foregoing Sections.

4-4-2 DUTIES TO REPORT AND INVESTIGATE

4-4-2 A. Report of Harm

Reports of suspected harm to a child, whether required by law or undertaken voluntarily, shall be made to the Social Services Department or a designee responsible for investigating reports of harm to children.

4-4-2 B. Persons Required to Report

The following persons are required to make a report according to Section 4-4-2 A if they observe anything within their official capacity that gives rise to reasonable suspicion that a child has been or is at risk of harm: physicians, nurses, dentists, optometrists, or any medical or mental health professionals; school principals, school teachers, or other school officials; family advocates; child day care center staff or other child care workers, including foster parents, residential care personnel, or institutional personnel; counselors; peace officers or other law enforcement officials; judges; attorneys, court counselors, court clerks, or other judicial system officials.

4-4-2 C. Other Persons Reporting

Any person who has a reasonable suspicion that a child has been or is at risk of being harmed may elect to make a report of harm to the proper tribal officials.

4-4-2 D. Anonymity

All persons who make a report of harm, who are under no mandatory duty to do so, shall remain anonymous unless the reporter waives her anonymity.

4-4-2 E. Immunity From Liability

All persons or agencies making good faith reports of harm are immune from civil liability and criminal prosecution.

4-4-3. INITIATION OF CINA PROCEEDINGS

4-4-3 A. Report of Harm and Investigation

Prior to filing a CINA petition under this section, the Social Services Department shall receive and immediately investigate all reports of harm to children and, if appropriate, proceed according to the provisions of this Code.

4-4-3 B. Scope of Investigation

The investigation shall cover the child's home environment, history and associations, the present condition of the child and family, and recommendations as to the child's future care. The family advocate shall make conclusions as to the likely future of the family if no intervention occurs. In cases involving the duty of support, the study shall include such matters as earnings, assets, financial obligations, and employment.

4-4-3 C. Outcome of Report and Investigation

Following the report and investigation, the Social Services Department shall pursue one of the following courses of action:

1. Close the case if the Department determines that the child is not a CINA or at risk of becoming a CINA;
2. Keep the case open and offer family support services in order to alleviate the need for a CINA petition;
3. File a CINA petition in accordance with Section 4-4-3 Q.

4-4-3 D. Tribal Representative for Emergency Custody

A tribal representative shall be designated to handle emergency custody of children under this Code. Whenever possible, the representative shall be a law enforcement officer or a Social Services Department staff member. In the absence of a law enforcement officer or a Social Services Department staff member, the tribal representative shall be some other person designated by the head of the Social Services Department.

4-4-3 E. Taking a Child into Emergency Custody

The tribal representative shall take a child into custody if:

1. An emergency custody order has been issued by the court for the child following a hearing pursuant to Section 4-4-3 J;

2. She has reasonable grounds to believe that the child is a CINA and that one or more of the conditions listed in Section 4-4-3 J exist.

4-4-3 F. Notification to Court

Within twelve (12) hours of taking the child into emergency custody, the tribal representative shall file written notice with the court stating that the child has been taken into custody and the reason the child was taken into custody, and recommending one of the following courses of action:

1. That a petition for emergency custody be filed within seventy-two (72) hours from when the child was taken into emergency custody;
2. That the child be released within seventy-two (72) hours from when he was taken into emergency custody.

4-4-3 G. Delivering the Child into Custody

The tribal representative who takes a child into custody shall:

1. Release the child to his parent or custodian immediately when the condition that created the need for emergency custody no longer exists, and issue verbal instructions or warnings as may be appropriate; or
2. Deliver the child immediately to a family advocate or to a shelter care facility designated by the court, or to a medical facility if the child is believed to be in need of medical attention. If the child is not delivered to a family advocate, the tribal representative shall notify the family advocate as soon as possible of the circumstances of the custody and the location of the child.

4-4-3 H. Release of the Child from Custody

The family advocate, immediately upon arranging for custody of the child or upon placement of the child, shall review the need for custody and shall:

1. Notify the parent or custodian as described in Section 4-4-3 N within twenty-four (24) hours of learning that custody of the child has been taken; or
2. If appropriate, release the child to his parent or custodian.

In all cases a child taken into custody under this Section shall be released to his parent or custodian within seventy-two (72) hours of the time he was taken into emergency custody unless the court issues an order following a hearing pursuant to Section 4-4-3 J granting an extension of emergency custody.

4-4-3 I. Emergency Custody Petition

In order to request an extension of emergency custody, the department must file a petition alleging that

probable cause exists to believe that the child is a CINA and that one or more of the conditions listed in Section 4-4-3 J exist.

4-4-3 J. Emergency Custody Hearing

A child may be placed in emergency custody for up to Fifteen (15) days if the court at a hearing finds probable cause to believe that the child is a child in need of aid and one or more of the following conditions exists:

1. The child is suffering from an illness or injury, and no parent or custodian is providing adequate care for him;
2. The child is in imminent danger from his surroundings, removal is necessary for the safety or well-being of the child, or failure to remove the child may result in a substantial risk of harm to the child;
3. The child will be subject to injury or abuse by others or by himself if not placed in custody by the court;
4. The child has been abandoned by his parent or custodian;
5. No parent or custodian is able or willing to provide adequate supervision and care for the child; or
6. The child will run away or be taken beyond the jurisdiction of the court, and will be unavailable for further proceedings.

If a child was taken into emergency custody without a hearing, the court shall conduct a hearing within seventy-two (72) hours from when the child was taken into emergency custody to determine whether the emergency custody was proper.

4-4-3 K. No Finding of Probable Cause

If the court is not satisfied by the facts alleged in the petition that probable cause exists to believe that:

1. The child is a CINA; and
2. One or more of the conditions listed in Section 4-4-3 J has occurred or will occur if the child is released, the court shall order that the child be released immediately.

4-4-3 L. Finding of Probable Cause

If the court finds that probable cause does exist as to both issues, the court shall issue a written finding to that effect and may order an extension of emergency custody for up to fifteen (15) days from the date of the hearing.

4-4-3 M. Emergency Custody Hearings Exempt Court from Notice Requirements

The court is exempt from all notice requirements with respect to emergency custody hearings.

4-4-3 N. Dismissal for Failure to Notify

When a child is taken into emergency custody, the tribal representative shall notify the child's parent or custodian within twenty-four (24) hours. If the parent or custodian cannot be notified in person or via telephone within that time the tribal representative shall cause a written notice containing a statement that the child has been taken into emergency custody, the reasons for the custody, the date and time of the emergency custody hearing, and the telephone number of the Social Services Department to be left at both the parent or custodian's home and, if applicable, place of employment. If the Social Services Department fails to demonstrate proof of notice according to this Section, the court shall release the child to his parent or custodian.

4-4-3 O. Emergency Placement

A child taken into emergency custody may be placed, pending a court hearing, in one of the following placements, listed in order of priority:

1. With extended family members who will be able to protect the health and safety of the child;
2. In a private foster home in the North Slope Borough;
3. In a foster care facility in the North Slope Borough;
4. In a shelter care facility in the North Slope Borough; or
5. In an off-Slope foster home, foster care facility, or shelter and/or treatment care facility.

4-4-3 P. Secure Detention

A child who is in emergency custody or who is determined to be a CINA can be detained in a juvenile detention facility, jail, or prison for any amount of time under this Code to protect the child from harm.

4-4-3 Q. Petition

Except as otherwise provided above, proceedings incases under this Chapter are commenced by filing of a CINA petition or by stipulation of the parties in the form of a petition and affidavit Any person may file a petition under this Section.

Where multiple children from the same family· with same biological parents are alleged to be children in need of aid, one petition shall be filed for all children as stated in 4-4-3 T.

4-4-3 R. Appointment of Guardian Ad Litem or Attorney

The court may appoint an attorney or guardian ad litem to represent the child in any proceeding under this Code.

4-4-3 S. Joining Adults as Parties

The court shall join as a party in any proceeding under this Code any adult necessary for proper disposition of any case heard pursuant to this Code.

4-4-3 T. Consolidation

When more than one child is affected by the same circumstances giving rise to a CINA petition, the proceedings for each child may be consolidated.

4-4-3 U. Dismissal

The court may dismiss a petition at any stage of the proceedings for good cause shown.

4-4-4 REASONABLE EFFORTS

4-4-4 A. Reasonable Efforts to Reunite Required

The Social Services Department shall provide timely, reasonable efforts to unite or reunite any child removed from the home with his parent or custodian. The duty to make reasonable efforts includes the duty to:

1. Identify family support services that will assist the parent or custodian in remedying the conduct or conditions in the home that created the need removal or made the child a CINA;
2. Actively offer the parent or custodian, or refer the parent or custodian to, the services identified under Subsection (1);
3. Refer the parent or custodian to community-based family support services whenever community-based services are available and desired by the parent or custodian; and
4. Document all actions taken by the Department pursuant to Subsections (1), (2), and (3).

4-4-4 B. Aggravated Circumstances

The court may determine that reasonable efforts of the type described in Section 4-4-4 A are not required if the court certifies that one or more of the following aggravated circumstances exist:

1. The parent or custodian has subjected the child to circumstances that pose a substantial risk to the child's health or safety; these circumstances include abandonment, sexual abuse, torture, chronic mental injury, or chronic physical harm;
2. The parent or custodian has:
 - (a) Committed homicide under AS 11.41.100-11.41.130, as those statutes read on the date this Code was enacted, of a parent of the child or of a child;
 - (b) Aided, abetted, attempted, conspired, or solicited under AS 11.16 [parties to crime] or AS 11.31 [attempt, solicitation, and conspiracy], as those statutes read on the date this Code was enacted, to commit homicide as described in (a) of this paragraph;
 - (c) Committed an assault that is a felony under AS 11.41.200-11.41.220, as those statutes read on the date this Code was enacted, and results in serious physical injury to a child; or
 - (d) Committed the conduct described in (a)-(c) of this paragraph that violated a law or ordinance of another jurisdiction having elements similar to an offense described in (a)-(c) of this paragraph.
3. The parent or custodian has, during the past twelve (12) months preceding the permanency hearing, failed to comply with a court order to participate in family support services;
4. The Department has conducted a reasonably diligent search over a time period of at least three (3) months for an unidentified or absent parent and has failed to identify and locate the parent;
5. The parent or custodian is the sole caregiver of the child and the parent or custodian has a mental illness, mental deficiency, or physical illness or disability of such nature and duration that, according to the statement of psychologist or physician, the parent or custodian will be incapable of caring for the child without placing the child at a substantial risk of physical or mental injury even if the department were to provide family support services for the parent or custodian for twelve (12) months;
6. The parent or custodian has previously been convicted of a crime involving a child in this state or in another jurisdiction and after the conviction, the child was returned to the custody of the parent or custodian and was later removed because of an additional substantiated report of physical or sexual abuse by the parent or custodian;
7. The child has suffered substantial physical harm as the result of an abusive or neglectful conduct by the parent or custodian or by a person known to

the parent or custodian and the parent or custodian. knew or should have known that the person was abusing the child;

8. The parental rights of the parent have been terminated with respect to another child because of child abuse or neglect, :the parent has not remedied the conduct or conditions that led to the termination of parental rights, and the parent has demonstrated an inability to protect the child from substantial harm or the risk of substantial harm;
9. The child has been removed from the home on at least two previous occasions, family support services were offered or provided to the parent or custodian at those times, and the parent or custodian has demonstrated an inability to protect the child from substantial harm or the risk of substantial harm; or
10. The parent or custodian is incarcerated or is unavailable to care for the child during a significant period of the child's minority, considering the child's age and need for care by an adult.

4-4-4 C. Hearing and Certification of Applicability/Non-Applicability of Adoption and Safe Families Act

In any CINA proceeding where the court has ordered an out-of-home placement, the Social Services Department may file a motion alleging that aggravated circumstances exist and that the federal Adoption and Safe Families Act (“ASFA”) applies to the proceedings.

Upon receipt of such a motion, the court shall hold a hearing on ASFA applicability within seven (7) days from the filing of the motion. The purpose of this hearing is to determine whether the parent or custodian of the child is entitled to receive services from the Social Services Department in order to gain a return of the child to the home or a future placement of the child in the home.- If the Social Services Department proves by clear and convincing evidence, or if the parent or custodian makes an admission to the court, that one or more of the aggravated circumstances exist, the court shall certify the existence of the aggravated circumstance(s)

4-4-4 D. Certification of Cases Transferred Under Indian Child Welfare Act

In those cases transferred to the Tribal Court under the Indian Child Welfare Act (“ICWA”), 25 U.S.C. 1911 (b), the court may adopt the state court's certification of ASFA applicability or may conduct its own hearing into the applicability of ASFA under this Subchapter.

4-4-4 E. Effect of Certification

If the court certifies the existence of one or more of the aggravated circumstances defined in Section 4-4-4 B, reasonable efforts to unite or reunite the child with that parent or custodian are not required unless the court makes a specific finding, by clear and convincing evidence, that reasonable efforts are consistent with the permanency plan for the child and would be in the child's best interest.

4-4-4 F. Effect on Other Parent or Custodian

A finding of the existence of an aggravated circumstance with regard to one parent or custodian does not impair the rights of any other parent or custodian to reasonable reunification efforts under this Subchapter.

4-4-4 G. Effect on Visitation Rights

After a finding of the existence of an aggravated circumstance with regard to a parent or custodian, the court may deny that parent or custodian visitation rights with respect to any child who has been adjudicated a CINA.

4-4-4 H. Notice

All parents and custodians of a child shall be entitled to notice of a hearing on ASFA applicability. Extended family members residing in the Native Village of Barrow shall also be entitled to the same notice. Notice shall be provided by the court and shall conform to the requirements in Section 3-14 D of the Native Village of Barrow Iñupiat Traditional Government Tribal Judicial Code.

4-4-4 I. Permanency Planning

In any case where the court has certified the existence of one or more aggravated circumstances and reasonable efforts to unite or reunite are not required, the Department shall commence permanency planning within thirty (30) days from this certification. In all other cases, the Department shall commence permanency planning within the time frames dictated by Subchapter 4-4-1 I of this Code.

4-4-4 J. Alternative Permanency Plan

The Department may develop and implement an alternative permanency plan for the child while simultaneously making reasonable efforts to unite or reunite the child with his parent or custodian.

4-4-4 K. Tribal Interest in Non-Termination

It is the policy of the NVB Tribe in all CINA proceedings to prefer Iñuguq or placement with an extended family member over Tiguaq or any other proceeding requiring termination of parental rights. This policy is intended to counteract the damaging effects of termination as detailed in ICWA and to ensure that each child subject to the jurisdiction of the court maintains ties to the tribal community, maintains extended family relationships within the Tribe, and retains all membership, inheritance, and shareholder rights.

4-4-5 ADJUDICATION

4-4-5 A. Purpose of Adjudication Hearing

The court shall conduct an adjudication hearing for the purpose of determining:

1. Whether the child is a child in need of aid; and
2. Whether the best interests of the child would be served by an out of home placement pending further proceedings.

The petitioner must prove by a preponderance of the evidence that the acts or circumstances alleged in the petition are true and that those acts or circumstances support a finding that the child is a CINA as defined in Section 4-4-1 A.

4-4-5 B. Time Limits

A hearing on a CINA petition shall be held within Fifteen (15) days from when the court ordered emergency custody. If a child has not been placed in emergency custody, the hearing on the CINA petition shall be held within fifteen (15) days of the filing of a petition.

The court may order a continuance upon a showing of good cause by either party. In determining what constitutes good cause, the court shall also consider the age of the child and the effect any delay might have on the child. A continuance ordered under this Section shall not have the effect of granting an extension of emergency custody.

4-4-5 C. Attendance of Parent or Custodian

If the child's parent or custodian is not present at the adjudication hearing, the court shall determine what efforts have been made to notify the parent or custodian and to obtain her presence. If it appears that further efforts are likely to produce her appearance in court, **the court shall recess for not more than twenty-four (24) hours and shall direct the presenting officer or the family advocate to make continued efforts to obtain the presence of the parent :or custodian.**

4-4-5 D. Dismissal of Petition and Release of Child

If the court determines that there is not a preponderance of the evidence to believe that the child is a child in need of aid, the petition shall be dismissed without prejudice and the child released to his parent or custodian.

4-4-5 E. Effect of CINA Adjudication

If the court finds by a preponderance of the evidence that the child is a child in need of aid, the court shall issue a written finding to that effect and shall make a determination as to placement of the child in a setting which is consistent with the child's best interests and which is the least restrictive setting for the child, pursuant to Subchapter 4-4-8 of this Code.

4-4-5 F. Final Judgment

A finding by the court that a child is a child in need of aid shall be considered to be a final order for purposes of appeal.

4-4-5 G. Development of Case Plan

If the court makes a finding that a preponderance of the evidence exists the child is a CINA, the Social Services Department must develop and file a case plan within fifteen (15) days of the preliminary determination. The case plan shall be reviewed by the court every ninety (90) days at status/review hearings to monitor the plan's continued appropriateness and the family's compliance with it.

4-4-5 H. Orders Directed at Adults

The court may order the parent or custodian of a child adjudicated a CINA to submit to counseling, comply with their case plan, participate in any counseling or other treatment program ordered by the court and, if the child is committed for institutionalization, to participate in any institutional treatment or counseling program, including attendance at the site of the institution.

4-4-5 I. Responsibility for Support

The court may order the parent or custodian of a child adjudicated a CINA to pay the reasonable cost or part of the cost of court proceedings, and support and/or treatment of the child if the child is placed with an agency or institution, or an individual other than the parent or custodian, and the parent or custodian has not demonstrated to the court that she is unable to pay.

4-4-5 J. Enforcement

The court may enforce any of its orders issued under this Subchapter by use of its contempt power.

4-4-5 K. Ward of the Court

A child adjudged by the court to be a CINA may be made a ward of the court upon adjudication or at any time thereafter while the court retains jurisdiction over the child.

4-4-5 L. Appointment of Temporary Guardian

Where the child has been made a ward of the court, or where the parent consents to guardianship, the court may, in the best interests of the child, appoint the Department of Social Services or an individual to be the child's temporary guardian according to the procedures set forth in Subchapter 4-5-3. The court shall specify the duties and powers of the guardian in its order. The court shall also specify an expiration date in its order.

4-4-5 M. Child Care Reimbursement

The court may order that the Social Services Department disburse monthly reimbursement payments to the person to whom physical custody is granted under this Code, provided sufficient funds have been appropriated by the Council. The disbursements must be used by the person or agency with physical custody of the child for the sole purpose of covering expenses incurred in the care and custody of the child and shall not be used for any other purpose. The use of the funds for any purpose other than that described in this section shall subject the person or agency to contempt

of court and to any penalties or remedies provided by the tribal code.

4-4-6 REFERRAL TO JUVENILE COURT FOR FAMILY IN NEED OF SERVICES

If the facts supporting the petition allege any of the following behaviors or circumstances, alone or in combination with each other, the court shall make a referral to the Native Village of Barrow juvenile court by filing a family in need of services (“FINS”) petition in that court:

1. Truancy, as defined in Section 1-1C of the Native Village of Barrow Tribe Delinquency Prevention and Rehabilitation Code;
2. A breakdown of the parent-child relationship based on the refusal of the parent or custodian to permit a child to live with them, the child’s refusal to live with his parent or custodian, physical altercations between the child and another family member, or disobedient and incorrigible behavior on the part of the child; or
3. The child and/or family are in need of treatment, rehabilitation, or services not presently being received and the intervention of the juvenile court is essential to provide the treatment, rehabilitation, or services.

The existence of sustaining of a petition in the juvenile court shall have no legal effect on proceedings under this Code, but the family advocate shall, wherever possible, work together with the juvenile outreach/intake officer to determine the best case plan for the child.

4-4-7 DISPOSITION

4-4-7 A. Pre-Disposition Reports

The family advocate shall prepare a report to the court concerning the disposition of a child adjudicated to be a CINA. The pre-disposition report shall be filed at the least five (5) days before the disposition hearing the report shall include a case plan which contains a specific plan for the care and assistance to the child and his parent or custodian which is calculated to resolve the problems presented in the petition, which is least restrictive to the child, and which is consistent with the Tribe’s and the child’s best interests. Copies of the pre-disposition reports shall be made available to the child, or the child’s legal representative, and the child’s parent or custodian at least two (2) days before a disposition hearing. Any party may submit a separate pre-disposition report to the court in the same time period set out in this Section.

4-4-7 B. Purpose of Disposition Hearing

The court shall conduct a hearing for the purpose of determining the disposition that will serve the best interests of the child. The disposition order shall specify whether the child was made a ward of the court and the placement of the child and may remain in effect for up to one (1) year.

4-4-7 C. Time Limits

The disposition hearing shall be held within twenty (20) days of the adjudication of the child as a CINA, except that the court may order a continuance upon a showing of good cause by either party. In determining what constitutes good cause, the court shall also consider the age of the child and the effect any delay might have on the child.

4-4-7 D. Exceptions

Upon request of any of the parties or of the presenting officer, or if the court determines that this would be in the best interest of the child, the court may hold a disposition hearing immediately after the adjudication on the CINA petition. This shall only be granted in extraordinary circumstances.

4-4-8 PLACEMENT

4-4-8 A. Placement to be Determined at Each Hearing

Where the child has been adjudicated a CINA, the Social Services Department shall recommend which placement serves the best interest of the child. The court shall review and approve the placement at each hearing. Where the court has appointed the Department as the child's guardian, the Department shall notify the court of the current and planned placement of the child.

4-4-8 B. Placement Options

The court shall choose from the following placement options in order of priority:

1. **In-Home Placement with Supervision.** Permit the child to remain with his parent or custodian under protective supervision subject to such limitations and conditions as the court may prescribe.
2. **Extended Family Member Placement.** Place the child with an extended family member under protective supervision within the North Slope Borough subject to such limitations and conditions as the court may prescribe.
3. **Foster Home.** Place the child in a foster home under protective supervision within the North Slope Borough, subject to such limitations and conditions and conditions as the court may prescribe.
4. **Residential Facility.** Place the child in a residential facility under protective supervision as designated by the court.
5. **Off-Slope Placement.** Place the child in an extended family member's home or a foster home off-Slope, subject to such limitations and conditions as the court may prescribe.
6. **Emancipation.** Order that the Social Services Department consider initiating either full or partial emancipation.

4-4-8 C. Placement in Secure Facility

The court may authorize the Department to place a child in a secure residential facility or detention or mental health facility if the court finds, based on the testimony of a mental health professional, that:

1. The child is suffering from mental illness and, as a result, is likely to cause serious harm to himself or to another person;
2. There is no reasonably available, appropriate and less restrictive alternative for the child's treatment or less restrictive alternatives have been tried and have failed; and
3. There is reason to believe that the child's mental condition could be improved by the course of treatment or would deteriorate if untreated.

A court shall review a placement under this Section at least every ninety (90) days and may only continue the placement if the finding described above is made. The court shall transfer the child from the facility immediately if the mental health professional determines that that the child would no longer benefit from the course of treatment or that the child's needs could be met in a less restrictive setting.

4-4-8 D. Conditions Set by the Court

Any conditions or limitations which the court may set upon a child, his parent or custodian, or any other party pursuant to this Code shall be designed to improve the condition of the child. Such conditions or limitations include but are not limited to: counseling or therapy; restrictions on visitation with one or both parents; payment of support or other necessary costs; attendance at school; participation in tribally-sponsored or designated activities; curfew; or any other dispositions as set out in this Code.

4-4-8 E. Off-Slope Agreements

Whenever a child is placed. In an off-Slope home or facility, the court shall require the party receiving custody of the child to sign an agreement that the child will be returned to the court upon court order, and submitting to tribal jurisdiction. Absent-such a signed agreement, any person or institution shall be deemed to have consented to tribal jurisdiction by virtue of having accepted placement under this Code.

4-4-8 F. Notice of Transfer of Custody

The removal of the child: from the parent's home, change of the child's placement or a determination affecting the parental or custodial rights of a parent or custodian shall require notice of such change to the parent or custodian. A review hearing shall be conducted on such change upon the written request of any party.

4-4-9 STATUS/REVIEW HEARINGS

4-4-9 A. Purpose of Status/Review Hearings

Status/review hearings shall be held for the purpose of reviewing the child's placement and:

1. Determining the continuing need for and appropriateness of jurisdiction, wardship, and placement;
2. Determining the extent of compliance with the case plan;
3. Determining the extent of progress made toward easing or lessening the conduct or conditions creating the need for removal; and
4. Projecting a likely date by which the child may be returned home or placed for adoption or other permanent placement.

CINA status, wardship, and placement shall be considered appropriate unless the parent or custodian can establish by a preponderance of the evidence that child is no longer in need of care or that the child should be returned to the parent or custodian. The court may consider any recommendations on these issues by the Social Services Department, the parent or custodian's treatment or efforts at rehabilitation, expert testimony, and any other evidence.

4-4-9 B. Time Limits

Status/review hearings shall be held within ninety (90) days of a CINA adjudication and every ninety (90) days thereafter until the first permanency hearing. An interested party may request a disposition review at any time, and such review shall be granted at the discretion of the court.

4-4-9 C. Modification, Revocation, or Extension of Existing Order

The court may modify, revoke, or extend an existing order, including ordering additional services to facilitate the return of the child to his parent or custodian, upon motion by either party or upon its own motion if it determines that such modification, revocation, or extension is in the child's best interest, except that the court may not extend award ship or placement order beyond a time limit specified in this Code if extension would violate that Section.

4-4-10 CONTESTED CASE PLAN HEARING

4-4-10 A. Purpose of Contested Case Plan Hearing

A contested case plan hearing shall be held at the request of any parent, custodian, or extended family member involved in the case, or at the request of the child, to determine by a preponderance of the evidence whether the recommended case plan serves the best interests of the child in the least restrictive setting. At the hearing, the court shall review any evidence and testimony presented to make this determination.

4-4-10 B. Time Limits

A request for a contested case plan hearing may be filed at any time prior to the first permanency planning hearing. A contested case plan hearing shall be held within fifteen (15) days of any party filing a request, and may be combined with a status/review hearing.

4-4-10C. New Case Plan and Disposition Hearing

If the court determines that the recommended case plan does not serve the best interests of the child in the least restrictive setting, the court shall order the Department of Social Services to file a new case plan within fifteen (15) days and shall schedule a new disposition hearing within twenty (20) days.

4-4-11 PERMANENCY HEARINGS

4-4-11 A. Duties of the Social Services Department

The Social Services Department shall have the duty to recommend permanent placement options for a child within the jurisdiction of the court. The family advocate shall submit a report at least five (5) days prior to each permanency hearing conducted under Section 4- 4-11 B. This report shall include a discussion of compliance with the placement preferences of the Tribe, the long-term prospects of reuniting the child with his family, the placement options available to the child, and the family advocate's recommendations as to which permanent placement would serve the best interests of the child.

4-4-11 B. Purpose of Permanency Hearing

The court shall hold a permanency planning hearing for the purpose of determining the adequacy of the recommended permanency plan for the child. The court shall consider the following permanency options in order of priority:

1. Uniting or reuniting the child with a parent who has not been found to have committed an aggravated circumstance under Section 4-4-4 B;
2. Placing the child with an extended family member or another family for an Inuq adoption;
3. Placing the child with an extended family member;
4. Terminating the parental or custodial rights of the parent or custodian in accordance with the procedures in Subchapter 4-4-13 and ordering the Department of Social Services to petition for a Tiguaq adoption pursuant to Section 4-4-14 B; or
5. Continuing the child in foster care in order to facilitate family reunification or where no adoptive or extended family member placement is available.

4-4-11 C. Limitation on Removal

Before a permanency plan may be pursued that requires permanent removal from the home, petitioner must prove by clear and convincing evidence that reasonable efforts to unite or reunite the child with his parent or custodian have been offered and that despite those efforts, the parent or custodian has not sufficiently remedied the conduct or conditions that necessitated removal of the child, unless reasonable efforts are not required due to certification of an aggravated circumstance under Section 4-4-4 C, and that returning home is not an option.

4-4-11 D. Time Limits

The first permanency hearing shall be held within twelve (12) months from the date the child entered foster care. Where the court has certified the existence of aggravated circumstances under Section 4-4-4 C and reasonable efforts are not required, the first permanency hearing shall be held within thirty (30) days of ASFA certification.

In determining the beginning date of a child's foster care placement for purposes of this Section, the Social Services Department shall use the earlier of the following dates:

1. The date that the child was adjudicated a CINA; or
2. Sixty (60) days after the child was removed from the home.

In cases where the Tribal Court has obtained jurisdiction under ICWA, the Department shall use the date that the state court adjudicated the child a CINA or a dependent child, or sixty (60) days after the date the child entered into state or county foster care.

4-4-11 E. Subsequent Permanency Hearings

Subsequent permanency hearings shall be conducted by the court at least every six (6) months after the initial permanency hearing for the purpose of assessing the appropriateness of the placement, the continued appropriateness and extent of compliance with the permanency plan for the child, the extent of compliance with the case plan, and the adequacy of services provided to the child. By the end of the fifteenth (15th) month of foster care, a decision regarding the long-term placement of the child shall be made.

4-4-11 F. Exceptions

Subsequent permanency hearings need not be held if child has been adopted, has been permanently placed with an extended family member, or has been reunited with his parents, provided the initial disposition hearing required under this Code has been held, and provided further the court explicitly orders that no further permanency hearings are required.

4-4-12 PERMANENCY OPTIONS

4-4-12 A. Policy

Where reunification is not possible, it shall be the policy of the Tribe to prefer Iñuguq or placement with an extended family member as the permanent placement for tribal children, where appropriate, over Tiguaq.

4-4-12 B. Iñuguq

Iñuguq, meaning “to raise” refers to a traditional Inupiat adoption process in which a child gains, but does not lose, a parent. If it determines that Iñuguq is the permanency option that would serve the best interests of the child, the court may grant parental rights to another party according to the procedures set forth in Subchapter 4-5-5. This procedure shall not terminate the rights of the birth parent.

4-4-12 C. Extended Family Placement

The NVB Tribe recognizes the inherent responsibilities and rights of extended family members with respect to children, as outlined in Subchapter 4-3-3, and thus consider placement with an extended family member, independent of any additional legal process or status, as a suitable permanent placement for a child under this Subchapter. If it determines that placement with an extended family member is the permanency option that would serve the best interests of the child, the court may place the child permanently with an extended family member. If necessary in order to clarify this traditional understanding of extended family member’s rights for external purposes, the court may also appoint an extended family member as the guardian of a child pursuant to Subchapter 4-S-3. Placement with an extended family member under this section shall not be considered foster care.

4-4-12 D. Tiguaq

Tiguaq, meaning “to adopt,” refers to an adoption process in which a child gains a new parent and the parental rights of the birth parent are terminated. If it determines that Tiguaq is the permanency option that would serve the best interests of the child, the court may initiate proceedings to terminate parental rights in accordance with Subchapter 4-4-13 and may grant parental rights to another party according to the procedures set forth in Subchapter 4-5-6. If granted, the adoptive parent shall be granted all parental rights, subject only to the rights of the extended family.

Tiguaq shall be presumed inappropriate for a child over one (1) year of age, and the petitioner must convince the court beyond a reasonable doubt that termination of parental rights is in the best interest of the child.

4-4-12 E. Long Term Foster Care

In cases where a child's parent or custodian has shown substantial progress and compliance with the case plan, rehabilitative efforts have been successful to date, and additional foster care placement is likely to result in reunification of the family, the child may be placed in a long-term foster care for a period not to exceed two years.

In cases where reunification is unlikely to result or where reasonable efforts to unite or reunite are not required and where no adoptive placement is available a child may be placed in a long-term foster care until he reaches the age of eighteen (18). The court may extend jurisdiction pursuant to Section 4-4-12 H, until the child reaches the age of twenty-one (21). The child may be asked to participate in tribal life skills program or an independent living program along with a financial management class.

At the time a child is placed in foster care, subsequent permanency hearings must be scheduled at least every six (6) months.

4-4-12 F. Termination of Parental Rights After Specified Period

The Social Services Department shall file a petition seeking termination of parental rights in accordance with the procedures set forth in Subchapter 4-4-13 in any case where:

1. The court has made a finding of the existence of an aggravated circumstance under Section 4-4-4 C, reasonable efforts are not required, and the court has made a finding at a permanency hearing that Tiguaq is the most appropriate permanency plan;
2. The child in question has been in foster care for fifteen (15) of the most recent twenty-two (22) months; or
3. The court has determined that the child is abandoned under Section 4-4-1 and the child is younger than six (6) years of age.

In determining the beginning date of a child's foster care placement for purposes of this Section, the Social Services Department shall use the earlier of the following dates:

1. The date that the child was adjudicated a CINA; or
2. Sixty (60) days after the child was removed from the home

In those cases where the Tribal Court has obtained jurisdiction pursuant to a transfer of jurisdiction under ICWA, the Department shall use the date that the state court adjudicated the child a CINA or a dependent child, or sixty (60) days after the date the child entered into state or county foster care.

4-4-12 G. Termination of Jurisdiction

When a child adjudicated to be a CINA has been successfully adopted in either an Iñuguq or a Tiguaq proceeding, has been permanently placed with an extended family member, or has been reunited with his parents and the court determines that judicial supervision is no longer necessary because the child is no longer a CINA or at risk of becoming a CINA, the court shall terminate its jurisdiction over that child.

4-4-12 H. Expiration and Extension of Jurisdiction

The jurisdiction of the court over a child adjudicated to be a CINA shall expire When that child reaches the age of eighteen (18) if it has not already been terminated, except that the court may order an extension of jurisdiction if necessary to serve the best interests of the child. Such an extension may last until the child reaches the age of twenty-one (21).

4-4-13 INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

4-4-13 A. Policy Against Involuntary Termination

Involuntary termination of parental rights over a child is a serious matter and an action that the court may take only after all remedies have been exhausted in the attempt to maintain the stability of the family or to maintain a minimum level of positive contact between the child and his birth parents.

4-4-13 B. Petition to Terminate Parental Rights

Proceedings under this Subchapter shall be initiated when the Department of Social Services files a petition to terminate parental rights.

4-4-13 C. Purpose of Termination Hearing

The purpose of a termination hearing is to determine whether grounds for termination exists as set out in this Subchapter.

4-4-13 D. Time Limits

A termination of parental rights hearing shall be held within six (6) months after a petition to terminate is filed.

4-4-13 E. Best Interest of the Child

In considering terminating the rights of a parent, the court shall give primary consideration to the best interests of the child as shown by health, safety, physical, cultural, mental, and emotional conditions and needs.

4-4-13 F. Family Advocate Reports

The family advocate shall prepare and present a written report to-the court at least ten (10) days before the termination of parental rights hearing. The report shall contain opinions of all professionals consulted with recommendations to the court, social history of the parent and child, and all other pertinent facts. A copy shall be available to the parent whose rights may be terminated at least ten (10) days before the hearing.

4-4-13 G. Additional Reports

A parent whose rights may be terminated may also file a written report. A copy shall be made available to the presenting officer at the same time it is filed. The court may order other individuals or agencies to submit written reports. All reports shall be filed ten (10) days prior to the hearing and shall be made available to the parent whose rights may be terminated at the same time they are filed.

4-4-13 H. Required Showings

In order for the court to involuntarily terminate parental rights, the petitioner must prove each of the following elements beyond a reasonable doubt:

1. Unfitness. The parent is unfit, or the conduct or condition of the parent is such as to render him or her unable to care for the child and such conduct or condition is unlikely to change within one (1) year, and continued contact between the child and the parent on any basis is not in the child's best interest. In determining unfitness, the court may consider, but is not limited to, any of the following:
 - (a) Abandonment of the child;
 - (b) Emotional illness, mental illness, physical disability, or mental deficiency of the parent of such duration or nature as to render the parent unable to care for the ongoing physical, mental, and emotional needs of the child within one (1) year from the date of determination of illness or disability;
 - (c) Abuse or neglect of the child as defined by this Code;
 - (d) Excessive use of intoxicating liquors or illegal substances over a period of one (1) or more years;
 - (e) Imprisonment of a single parent for a significant period of time, considering the child's age and need for supervision, including whether the parent has made other provisions for care;
 - (f) Adjudication by a court, or a plea of guilty by a parent to a charge that the parent intentionally, recklessly, willfully, or wantonly caused the death or injury of a child's sibling or parent;
 - (g) Failure of the parent to provide a home or reasonable substitute physical care and maintenance;
 - (h) Failure of the parent to maintain regular visitation or other contact with the child as designated in a plan to reunite the child with the parent;

- (i) Failure of the parent to maintain consistent contact or communication with the child over a period of one (1) year;
 - (j) Success or lack of success of rehabilitation efforts.
2. Reasonable Efforts.
- (a) The parent has been provided with reasonable efforts as described in Section 4-4-4 A to unite or reunite her with the child;
 - (b) This showing may not be required where the court has previously certified the existence of an aggravated circumstance under Section 4-4-4 C.

4-4-13 I. Termination Not Required

Once the above elements have been proven, the court may decline to terminate parental rights in the following situations:

- 1. The child is being cared for by an extended family member or an liiuguq adoptive home is available and appropriate;
- 2. Reasonable efforts to unite or reunite are required and the Tribe has not provided the child's parent with those services that the Social Services Department deems necessary for the safe return of the child; or
- 3. The Social Services Department has documented a compelling reason why termination is not in the child's best interest.

4-4-13 J. Compelling Reasons Not to Terminate

The following factors may constitute compelling reasons why termination is not in the child's best interest:

- 1. The parent who committed an aggravated circumstance as defined in Section 4-4-4 B did so over five (5) years ago and has substantially rehabilitated herself and could provide a safe home for the child if continued services were provided;
- 2. The parent has successfully completed a drug or alcohol rehabilitation program and has remained sober for at least six (6) months after the completion of the program and could provide a safe home for the child if continued services were provided;
- 3. The parent of the child has been the victim of documented domestic abuse and that abuse impaired her ability to provide for her child and could provide a safe home for the child if continued services were provided.

These factors do not constitute an exhaustive listing of all possible compelling reasons why termination is not in the child's best interest.

4-4-13 K. Termination Where Parent Unknown

The rights of the parent may be terminated as provided herein if the court finds the child was left under such circumstances that the identity of the parent is unknown and cannot be ascertained, despite diligent searching, and the parent has not come forward to claim the child within six (6) months.

4-4-13 L. No Effect on Enrollment, Inheritance, or Shareholder Rights

No termination of parental rights shall affect a child's enrollment status as a member of the Tribe, a child's degree of blood quantum, a child's right to inherit from his or her birth parents, or a child's rights as a shareholder in a Native corporation.

4-4-13 M. Extended Family Rights

When the parental rights of a parent are terminated, the extended family of that parent shall retain rights to reasonable visitation and contact with the child unless the court determines that such visitation or contact would create a risk of harm to the child. If the court determines that such visitation or contact would create a risk of harm to the child, the court may temporarily limit these rights by issuing a restraining order or terminate these rights permanently according to the procedures for termination of parental rights.

4-4-14 ADOPTION IN INVOLUNTARY PROCEEDINGS

4-4-14 A. Iñuguq

If it is determined that Iñuguq is the permanency option that serves the best interest of the child, and if either birth parent refuses to consent to an Iñuguq adoption, the court may, upon petition by the other birth parent or a potential adoptive parent, terminate the parental rights of the non-consenting parent according to the procedures in Subchapter 4-4-13 in order to enable the other parent to proceed with an Iñuguq adoption. Once both birth parents have consented and their parental rights have been terminated, the court shall proceed according to the provisions for voluntary Iñuguq adoption in Subchapter 4.5.5.

4-4-14 B. Tiguaq

If the court determines that Tiguaq is the permanency option that serves the best interest of the child, or if the court determines that Iñuguq is not a feasible option under the circumstances, the court may terminate the parental rights of the birth parent according to the procedures in Subchapter 4-4-13 and proceed according to the procedure for voluntary Tiguaq adoption in Subchapter 4-5-6.

4-5 VOLUNTARY PROCEEDINGS

4-5-1 APPOINTMENT OF GUARDIAN AD LITEM

In any voluntary proceeding under this Code, or any rehearing or appeal thereon, the court may appoint a guardian ad litem to represent the child.

4-5-2 FAMILY CONFERENCE

4-5-2 A. Family Conference by Request or Order

The court may appoint a mediator or facilitator to conduct family conferences concerning any child within its jurisdiction. Family conferences may be conducted by request or by order of the court.

4-5-2 B. Notice

The court shall provide notice specifying the date, time, and location of the family conference to all parties whose rights may be affected by any decisions reached in the family conference, including parents, custodians, and extended family members residing in the Native Village of Barrow.

4-5-2 C. Purpose of Family Conference

The purpose of a family conference is to allow a judge or other court-appointed mediator or facilitator to facilitate discussion among the family members present in order to resolve any disputes regarding the child or in furtherance of an agreement concerning the care, custody, or discipline of the child.

4-5-2 D. Effect of Agreement

Any agreement reached during or as a result of a voluntary family conference shall be enforceable only by the parties to the agreement as a private contract. Any agreement reached during or as a result of a court-ordered family conference shall be enforceable as an order of the court.

4-5-3 GUARDIANSHIP

4-5-3 A. Power to Appoint; Petition

The court may, where it can be shown by clear and convincing evidence that guardianship is in the best interest of the child, appoint a guardian of the person and/or property of a child. A guardian may only be appointed upon petition and upon obtaining consent of the child's parent, unless the child has been made a ward of the court. Any person may file a petition on behalf of a child requesting that the court appoint a guardian for that child. If the child is at least fourteen (14) years of age, he may file a petition for a guardian on his own behalf. A petition for guardianship shall contain the following specific information:

1. The name, age, and address of the child;
2. The name and address of petitioner and petitioner's relationship to the child;
3. Where the petition requests appointment of a specific guardian, the name and address of the proposed guardian, the proposed guardian's relationship to the child, and the proposed guardian's qualifications to serve as guardian;
4. Any effect appointment of a guardian may have on a child's school district or school enrollment;
5. Proof of parental consent or proof that the child is a ward of the court;
6. Information about the child's parents, their whereabouts and if missing or absent, the circumstance surrounding their absence and whether any court has entered an order limiting or terminating their parental rights;
7. A complete accounting of the child's property; and
8. Any other information the court would deem relevant to the guardianship decision.

4-5-3 B. Notice

Before making such appointment, the court must provide timely notice to any person whose parental or custodial rights with respect to the child may be limited by the guardianship, to the child if the child is at least fourteen (14) years old, and to extended family members residing in the Native Village of Barrow.

4-5-3 C. Selection of Guardian

If the child is under the age of fourteen (14) years, the court may nominate or appoint his guardian. If he is fourteen (14) years of age or older, he may nominate his own guardian. The court shall consider the child's choice of guardian and shall approve the child's choice unless it finds reasonable grounds not to do so. If the guardian nominated by the child is not approved by the court, if the child's chosen guardian resides off-Slope, or if the child does not nominate a guardian, the court may nominate and appoint the guardian in the same manner as if the child were under the age of fourteen (14) years. When a guardian has been appointed by the court for a child under the age of fourteen (14) years, the child, at any time after he attains that age, may nominate his own guardian, subject to the approval of the court.

4-5-3 D. Criteria for Appointment as a Guardian

A guardian may be appointed only after the court has been satisfied that that the proposed guardian is willing and able to perform the duties and assume the Powers enumerated in this Subchapter and that the guardian will act in the child's best interest. A guardian shall be an individual, except that the court may appoint the Social Services Department as the temporary

guardian of a child who has been made a ward of the court.

4-5-3 E. Duties of Guardian

A guardian shall act at all times in the child's best interest and exercise reasonable care, diligence, and prudence. Except as otherwise limited by the court, a guardian shall:

1. Become or remain personally acquainted with the child and maintain sufficient contact with the child to know of the child's capacities, limitations, needs, opportunities, and physical and mental health;
2. Take reasonable care of the child's personal effects and bring a protective proceeding if necessary to protect other property of the child;
3. Expend money of the child which has been received by the guardian for the child's current needs for support, care, education, health, and welfare;
4. Conserve any excess money of the child's for the child's future needs, but if a guardian of property has been separately appointed, the guardian shall pay the money at least quarterly to the guardian of property to be conserved for the child's needs;
5. Report the condition of the ward and account for money and other assets in the guardian's possession or subject to the guardian's control, as ordered by the court on application of any person interested in the child's welfare or as otherwise required; and
6. Inform the court of any change in the child's custodial dwelling or address.

4-5-3 F. Powers of Guardian

Except as otherwise limited by the court, a guardian has the powers of the parent regarding the child's support, care, education, and welfare. A guardian may:

1. Apply for and receive money for the support of the child;
2. If otherwise consistent with the terms of any other court order relating to the child's custody, take custody of the child, but may only move the child's custodial dwelling outside the Native Village of Barrow upon express authorization by the court;
3. Take action to compel support for the child;
4. Consent to medical treatment or other care, treatment, or service for the child;
5. Consent to the marriage of the child;
6. If reasonable under all the circumstances, delegate to the child certain responsibilities for decisions affecting the child's well-being.

These powers are in addition to the rights of the parent. The guardian shall have final decision-making power with respect to the child while the guardianship order is in effect.

4-5-3 G. Rights and Immunities of Guardian

A guardian need not use the guardian's personal funds for the child's expenses. A guardian is entitled to reasonable compensation for services as a guardian and to reimbursement for room, board, clothing, and other necessities provided to the child by the guardian, but only as approved by the court. If a guardian of property has been separately appointed, the guardian of property may use the child's funds to reimburse the guardian without order of the court. A guardian is not liable to a third party for acts of the child solely by reason of guardianship.

4-5-3 H. Contents of Order

An order appointing a guardian of a child must specify the duties and powers of the guardian and must contain an expiration date or a statement that guardianship is intended to last until the child reaches the age of eighteen (18) years or when the court's Jurisdiction expires, whichever comes later.

4-5-3 I. Guardian of Property

The court will appoint Native Village of Barrow's Social Services Department as the guardian to manage the child's property and/or estate. The guardian of property shall be responsible for the care and management of the child's property until such child reaches at the age of eighteen (18) years, marries, is emancipated by the court, or until the guardian is legally discharged, provided, however, that said guardian shall not have the authority, without express written consent of the court, to dispose of any real property and/or estate the child in any manner.

4-5-3 J. Standby Guardian

A parent may consent to a standby guardian for the child. A standby guardianship order shall become effective upon the death of the parent or other specified contingency.

4-5-3 K. Written Reports

Any guardian appointed pursuant to this Section shall submit a written report to the court within thirty (30) days of appointment and annually thereafter. The guardian shall recommend in her reports whether the guardianship should continue. The court may also order status/review hearings or visits to monitor the guardianship.

4-5-3 L. Termination/Expiration of Guardianship

A guardianship terminates upon adoption or emancipation of the child, when the child reaches eighteen (18) years of age, unless the court has specifically extended its jurisdiction past the child's attainment of majority, or upon the death of the child.

4-5-4 RELINQUISHMENT OF PARENTAL RIGHTS

4-5-4 A. Petition

A parent desiring to voluntarily give up parental rights to a child may file a petition for relinquishment with the court. When a petition for relinquishment is filed, the court may terminate the parental rights of the petitioner after a hearing to determine whether the relinquishment is voluntary.

4-5-4 B. Purpose of Hearing

The purpose of a relinquishment hearing shall be to determine, by examining the evidence and questioning the petitioner and any other people present, whether the relinquishment of parental rights is knowing and voluntary. The purpose of a relinquishment hearing shall be to determine, by examining the evidence and questioning the petitioner and any other people present, whether the relinquishment of parental rights is knowing and voluntary.

4-5-4 C. Waiver of Hearing

A petitioner may waive in writing, before a judge of the court, the right to appear at a hearing, the right to notice of hearing, or both, and the court shall assure that such waiver is knowing and voluntary.

4-5-4 D. Limitations on Granting the Petition

A petition for relinquishment of parental rights shall not be granted until the court is satisfied that:

1. The child is at least ten (10) days old; and
2. The consequences of the parent's actions have been fully explained to and are understood by the parent, such action is in the best interest of the child, and social services and counseling have been offered to the parent, if appropriate.

4-5-4 E. Time Limits

A relinquishment hearing shall be held within **thirty (30) days** from the filing of the petition, or sooner if the court has reason to believe that the child may be at risk of harm.

4-5-4 F. Counseling

In any proceeding for relinquishment of parental rights, if the court has reasonable doubt as to the emotional state of the petitioner or the petitioner's ability to understand the consequences of her decision, the court shall place the child with the Social Services Department for a period not to exceed thirty (30) days in order to allow the parent to consider the decision. Further, the court shall order legal and psychological counseling for the parent in order to assure itself of the parent's

understanding of the consequences of the decision and a report of the results of such counseling shall be made to the court.

4-5-4 G. Procedures after Counseling

Immediately after the end of the thirty (30) day period, based upon the report received by the court, the court shall either:

1. Return custody of the child to the parent;
2. Process the petition for relinquishment of parental rights; or
3. Extend the period for no more than thirty (30) additional days to allow additional counseling. At the expiration of the additional counseling and based upon the results of the counseling reports, the court shall proceed according to one of the two options above.

4-5-4 H. Conditional Relinquishment/Consent to Adoption

A parent desiring to relinquish parental rights in order for the child to be adopted by a specific, predetermined family may file a petition for conditional relinquishment/consent to adoption. Such a petition shall be granted only if the desired adoption can be successfully achieved.

4-5-4 I. Judgment and Placement

If parental rights to a child are relinquished, the court shall issue a judgment detailing its decision and the reasons for the decision, and shall proceed according to the voluntary adoption procedures in Subchapter 4-5-5 or 4-5-6. If no adoptive family is available and no birth parent remains to care for the child, the Social Services Department shall file a CINA petition alleging that the child has been abandoned. If the petition is sustained, the child shall be made a ward of the court and placed according to permanency options in Subchapter 44-12.

4-5-4 J. No Effect on Enrollment, Inheritance, or Shareholder Rights

No relinquishment of parental rights shall affect a child's enrollment status as a member of the Tribe, a child's degree of blood quantum, a child's right to inherit from his or her birth parents, or a child's rights as a shareholder in a Native corporation. All funds incurred (dividends) from any tribe or corporation or state will be kept in trust until the age of (18) eighteen. At the age of (18) eighteen, he/she will take and pass a budget or finance class prior to the funds being released to assure the court the fundamentals have been understood.

4-5-4 K. Extended Family Rights

When the parental rights of a parent are terminated, the extended family of that parent shall retain rights to reasonable visitation and contact with the child unless the court determines that such visitation or contact would create a risk of harm to the child. If the court determines that such visitation or contact would create a risk of harm to the child, the court may temporarily limit these

rights by issuing a restraining order or terminate these rights permanently according to the procedures for termination of parental rights.

4-5-4 L. Final Judgment

A judgment granting a voluntary relinquishment of parental rights is a final order for purposes of appeal.

4-5-5 IÑUGUQ

4-5-5 A. Definition

Iñuguq, meaning “to raise”, “refers to a traditional Iñupiat adoption process in which a child gains, but does not lose a parent. This procedure shall not terminate the rights of the birth parent.

4-5-5 B. Who May Adopt

Any adult at least ten (10) years older than the child in question may file a petition for Iñuguq adoption. Where the petitioner has made an agreement with the birth parent, the birth parent shall be made a party to the petition. In the case of married persons maintaining a home together, both spouses shall be petitioners except that, if one of the spouses is the birth parent of the child to be adopted, the birth parent shall not be a party to the petition. A married person legally separated may adopt without the participation of her spouse.

The court shall order the Social Services Department to perform a background check on all prospective adoptive parents in order to ensure the safety of the child, and no person shall be approved as an adoptive parent under this Code if a background check reveals any of the following:

1. Felony conviction for child abuse or neglect;
2. Felony conviction for spousal abuse;
3. Felony conviction for crimes against children, including child pornography;
4. Felony conviction for a crime involving violence, including rape, sexual abuse, or homicide; or
5. Felony conviction of assault, battery, or a drug-related offenses within the last five (5) years.

4-5-5 C. Petition

Proceedings under this Subchapter shall commence when a petition for adoption is filed with the court. A petition for adoption shall contain:

1. A citation to the specific Section of this Code giving the court jurisdiction over the proceedings;
2. The full name, residence, place of birth, date of birth and sex of the child, with attached documentary proof of the date and place of birth;

3. Documentary proof of the child's membership status in the Tribe, if such proof exists;
4. A written statement by the prospective adoptive parent stating her full name, residence, date and place of birth, occupation, and relationship to the child with attached documentary proof of marital status, provided this not be interpreted to prohibit single parent adoptions, and tribal membership status;
5. Written statement of consent from all persons whose consent is required by Section 4-5-5 D;
6. A written statement by the birth parent specifying the reasons why the birth parent cannot or does not want to raise the child;
7. An agreement by the prospective adoptive parent of the desire that a relationship of parent and child be established;
8. A full description and statement of value of all property owned, possessed, or held in trust by and for the child;
9. A report by the Social Services Department indicating the results of the borne study conducted pursuant to Section 4-5-5; and
10. A brief and concise statement of the facts which may aid the court in its determination.

4-5-5 D. Valid Consent Required

In order to be valid, consent must be written and voluntary. Valid consent to lñuguq Adoption is required of:

1. Each birth or prospective adoptive parent whose parental rights have not been involuntarily terminated, who has not voluntarily relinquished her parental rights, or who has not been declared incompetent;
2. The guardian or custodian, if empowered to consent;
3. The court, if the guardian or custodian is not empowered to consent; and
4. The child, if he or she is over fourteen (14) years of age.

Written consents shall be attached to the petition for adoption. Written consent to an adoption shall be signed and acknowledged before a Notary Public. An interpreter shall be provided if required by the court. The court shall have authority to inquire as to the circumstances behind the signing of a consent under this Section.

4-5-5 E. Purpose of Hearing

The purpose of an Iñuguq hearing shall be to determine, by examining all persons appearing before the court and all evidence presented, whether the child is suitable for adoption, whether the consent of all parties is valid, whether the adoptive parent is financially, morally and physically fit to adopt, whether the best interests of the child will be promoted by the adoption, and how best to allocate parental rights and responsibilities between the parents. If the parties have already come to an agreement regarding allocation of parental rights, the court shall review their agreement at the hearing.

4-5-5 F. Time Limits

An Iñuguq hearing shall be held within ninety (90) days of receipt of an Iñuguq petition.

4-5-5 G. Notice

The petitioner shall serve notice on any potential adoptive parents, the child, the birth parents, any extended family members entitled to notice under Section 4-3-3 F, any guardian or custodian, and anyone else with significant involvement in the child's life.

4-5-5 H. Appearances

Petitioners shall appear personally at the hearing. Any birth parents whose parental rights have not been terminated or relinquished shall also appear personally. Any extended family members or other persons with significant involvement in the child's life may also be present.

4-5-5 J. Social Services Department Reports

The family advocate shall prepare and present to the court within sixty (60) days of the filing of an Iñuguq petition a report concerning the suitability of the child for adoption, as well as the financial, moral, and physical fitness and general background of the potential adoptive home and adoptive parents. A home study shall be conducted as part of this procedure. The family advocate shall contact appropriate agencies and individuals that have relevant knowledge and such contacts and relevant knowledge and such contacts and relevant information shall be included in the report. The family advocate shall make written recommendations on the proposed adoption.

4-5-5 K. Other Agencies or Individuals

The court may order other agencies or individuals to prepare and file written reports with the court to aid in the court's determination of the suitability of the proposed adoption.

4-5-5 L. Copies of Reports

Copies of all reports shall be served on the petitioner at the same time they are presented to the court.

4-5-5 M. CINA Investigation

Where facts alleged in a petition for voluntary l̄nguq, or evidence presented at an l̄nguq hearing, gives rise to a reasonable suspicion that the child is a child in need of aid as defined in Subchapter 4-4-1. the court shall request that the Department of Social Services initiate an investigation and may postpone any voluntary proceeding pending the outcome of that investigation.

4-5-5 M. Granting Petition

If the court is satisfied that it is in the best interest of the child to grant the petition, the court may enter a final decree of adoption as follows:

1. In the case of a child who has lived with the adoptive parent for more than one year before the adoption petition was filed, the final decree of adoption shall be entered immediately; and
2. In all other cases, the court shall appoint the potential adoptive parent to be the child's guardian pursuant to Subchapter 4-5-3 and shall allow the child to live with the potential adoptive parent for at least one year; at that time, the court shall request a supplemental report and, if the court determines that the best interest of the child is served, shall enter the final decree of adoption immediately.

4-5-5 N. Contents of Order

The order of adoption order shall contain the following:

1. Such facts necessary to establish that the adoptive home and parents are capable of providing proper care for the child, as shown by the investigation reports and the findings of the court upon the evidence produced at the hearings.
2. A finding that valid consent was given by all parties whose consent is required by Section 4-5-5 D.
3. The rights, duties, and powers of the natural and adoptive parents. If the parties come to an agreement as to these rights and responsibilities, the court shall approve the agreement. Unless the order expressly provides otherwise, the adoptive parent shall have the final say in all decisions about the child's life and shall have physical custody of the child. The birth parents shall retain visitation rights.
4. An agreement by the birth parents and the adoptive parents to request and attend a family conference as described in Subchapter 4-5-2 in the event of a disagreement concerning the child's care or upbringing, or upon a petition to modify the order.
5. The specific effect of the adoption on the parental rights of anyone not present at the hearing.
6. Any arrangements made by the Tribe for subsidy or support of the adoptive family until the child turns 18 years old.

4-5-5 O. Living Arrangements

When the child who has been placed in the physical custody of an adoptive-parent reaches fourteen (14) years of age, the child may petition the court to modify the Iñuguq order to allow the child to live with his/her birth parent. The court shall amend the custody order to reflect the child's choice unless it finds a compelling reason not to, including a risk of harm to the child.

4-5-5 P. Name and Legal Status of Child

Children adopted under this Subchapter may assume the surname of the persons by whom they are adopted. They shall be entitled to the same rights as natural children of the persons adopting them. However, Iñuguq adoption does not confer tribal membership status on adopted children who would not be otherwise eligible. Iñuguq adoption does not terminate the rights of natural extended family members of the child, unless those rights are specifically terminated by the court.

4-5-6 Q. No Effect on Enrollment, Inheritance, or Shareholder Rights

Iñuguq adoption shall not affect a child's enrollment status as a member of the Tribe, a child's degree of blood quantum, a child's right to inherit from his or her birth parents, or a child's rights as a shareholder in a Native corporation. -

4-5-5 R. Transfer and Reversion of Parental Rights

If both birth parents dies or is otherwise incapacitated, all parental rights shall be transferred to the adoptive parent. If both adoptive parents die or is otherwise incapacitated, all parental rights shall revert to the birthparents.

4-5-5 S. Denying Petition

If satisfied that the Iñuguq adoption requested will not be in the best interests of the child, the court shall deny the petition. If necessary, the court may request that the Social Services Department assist in the placement and care of the child.

4-5-5 T. Challenging an Iñuguq Adoption

Any party whose parental, custodial, or extended family rights are limited or terminated by an Iñuguq adoption may file a motion for rehearing. A motion for rehearing must be filed within ninety (90) days from when the adoption was granted. Where a motion for rehearing alleges a defect in notice which may affect the validity of the proceedings or questions the validity of consent, and the allegation is supported by evidence, the court shall grant the motion.

4-5-5 U. Withdrawal of Consent

Valid consent cannot be withdrawn after the entry of a final order of adoption. Valid consent may be withdrawn prior to the final order of adoption upon a showing by a preponderance of the evidence that the best interests of the child require the consent to adoption be voided.

4-5-6 TIGUAQ

4-5-6 A. Definition

Tiguaq, meaning “to adopt,” refers to an adoption process in which a child gains a new parent and the parental rights of the birth parent are terminated. If a Tiguaq adoption is granted, the adoptive parent shall be granted full parental rights, subject only to the rights of the extended family. Except for the recognition of extended family member rights and the child's retention of inheritance and shareholder rights. Tiguaq adoption is designed to reflect federal and state definitions of adoption, with the exception of property held in trust by NVB Social Services until the age of eighteen (18) years.

4-5-6 B. Who May Adopt

Any adult at least ten (10) years older than the child in question may file a petition to adopt. In the case of married persons maintaining a home together, both spouses shall be petitioners except that, if one of the spouses is the birth parent of the child to be adopted, the birth parent shall not be a party to the petition. A married person legally separated may adopt without the participation of her spouse.

The court shall order the Social Services Department to perform a background check on all prospective adoptive parents in order to ensure the safety of the child, and no person shall be approved as an adoptive parent under this Code if a background check reveals any of the following:

1. Felony conviction for child abuse or neglect;
2. Felony conviction for spousal abuse;
3. Felony conviction for crimes against children, including child pornography;
4. Felony conviction for a crime involving violence, including rape, sexual abuse, or homicide; or
5. Felony conviction of assault, battery, or a drug-related offenses within the last five (5) years.

4-5-6 C. Order of Preference for Adoption

Preference in adoption shall be given to the following people in order:

1. Extended family members who are tribal members,
2. Any other extended family members;
3. Any other Alaska Natives; or

4. Any other Native Americans

4-5-6 D. Petition

Proceedings under this Subchapter shall commence when a petition for Tiguaq adoption is filed with the court. A petition for adoption shall contain:

1. A citation to the specific Section of this Code giving the court jurisdiction of the proceedings;
2. The full name, residence, place of birth, date of birth and sex of the child, with attached documentary proof of the date and place of birth;
3. Documentary proof of the child's membership status in the Tribe, if such proof exists;
4. A written statement by the prospective adoptive parent stating his/her full name, residence, date and place of birth, occupation, and relationship to the child, with attached documentary proof of marital status, provided this not be interpreted to prohibit single parent adoptions, and tribal membership status;
5. Proof of termination or relinquishment of parental rights, or conditional relinquishment/consent to adoption, of both birth parents;
6. A written statement of consent from all other persons whose consent is required by 4-5-6 E;
7. An agreement by the prospective adoptive parent of the desire that a relationship of parent and child be established;
8. A report by the Social Services Department indicating the results of the home study conducted pursuant to Section 4-5-6 J; and
9. A brief and concise statement of the facts which may aid the court in its determination.

4-5-6 D (1). Property Held in Trust

A full description and statement of value of all property owned, possessed, or held in trust by and for the child with the exception of the child's dividends (ANCSA Corporation, Tribal, and State PFD) which will be kept in trust with the NVB's Social Services Department in trust until the age of eighteen (18) years of age. At the age of eighteen (18), the child must attend a life skills class and a financial management class related to managing a budget in order to receive the 100% of funds.

4-5-6 E. Valid Consent Required

In order to be valid, consent must be written and voluntary. Valid consent to Tiguaq adoption is required of:

1. Each prospective adoptive parent;
2. The guardian or custodian, if empowered to consent;
3. The court, if the guardian or custodian is not empowered to consent; and
4. The child, if he or she is over fourteen (14) years of age.

Written consents shall be attached to the petition for adoption. Written consent to an adoption shall be signed and acknowledged before a Notary Public. An interpreter shall be provided if required by the court. The court shall have authority to inquire as to the circumstance behind the signing of a consent under this Section.

4-5-6 F. Conditional Relinquishment/Consent to Adoption

The court must obtain a conditional relinquishment/consent to adoption pursuant to Section 4-5-4 H: from each birth parent whose parental rights have not previously been relinquished or terminated, and who has not been declared incompetent by the court.

4-5-6 G. Purpose of Hearing

The purpose of a Tiguaq hearing shall be to determine, by examining all persons appearing before the court and all evidence presented, whether the child is suitable for adoption, whether the consent of all parties is valid, whether the adoptive parent is financially, morally and physically fit to adopt, and whether the best interests of the child will be promoted by the adoption.

4-5-6 H. Time Limits

A Tiguaq hearing shall be held within ninety (90) days of receipt of Tiguaq petition.

4-5-6 I. Appearances

Petitioners shall appear personally or telephonically at the hearing. Any birth parents whose parental rights have not previously been terminated or relinquished shall also appear personally. Any extended family members or other persons with significant involvement in the child's life may also be present.

4-5-6 J. Social Services Department Reports

The family advocate shall prepare and present to the court within sixty (60) days of the filing of

Tiguaq petition a report concerning the suitability of the child for adoption, as well as the financial, moral, and physical fitness and general background of the potential adoptive home and adoptive parents. A home study shall be conducted as part of this procedure. The family advocate shall contact appropriate agencies and individuals that have relevant knowledge and such contacts and relevant information shall be included in the report. The family advocate shall make written recommendations on the proposed adoption. In addition, the family advocate will make annual home visits until the age of eighteen (18). A 50% subsidy will continue so as long as the adoptive parents allow the family advocate to meet with the child once annually.

4-5-6 K. Other Agencies or Individuals

The court may order other agencies or individuals to prepare and file written reports with the court to aid in the court's determination of the suitability of the proposed adoption.

4-5-6 L. Copies of Reports

Copies of all reports shall be served on the petitioner at the same time they are presented to the court

4-5-6- M. Granting Petition

If the court is satisfied that it is in the best interest of the child to grant the petition, the court may enter a final decree of adoption as follows:

1. In the case of a child who has lived with the adoptive parent for more than one year before the adoption petition has filed, the final decree of adoption shall be entered immediately; and
2. In all other cases, the court shall appoint the potential adoptive parent as the child's guardian for at least one year; at that time, the court shall request a supplemental report and, if the court determines that the best interest of the child is served, shall enter the final decree of adoption immediately.

4-5-6 N. Contents of Order

The final order of adoption shall include:

1. A statement that all parental rights have been transferred to the adoptive parents with the exception of the property and assets held in trust; and
2. Such facts necessary to establish that the child is eligible and suitable for adoption, and that the adoptive home and parents are adequate and capable of providing the proper care of the child, as shown by the investigation reports and the findings of the court upon the evidence produced at the hearings.

4-5-6 O. Denying Petition

If satisfied that the Tiguaq adoption requested will not be in the best interests of the child, the court shall deny the petition. If necessary, the court may order the Department of Social Services to assist in the placement and care of the child.

4-5-6 P Challenging a Tiguaq Adoption

Any party who's parental, custodial, or extended family rights are limited or terminated by a Tiguaq adoption may file a motion for rehearing. A motion for rehearing must be filed within one (1) year from when the adoption was granted. Where a motion for rehearing alleges a defect in notice which may affect the validity of the proceedings or questions the validity of consent, and the allegation is supported by evidence, the court shall grant the motion.

4-5-6 Q. Withdrawal of Consent

Valid consent cannot be withdrawn after the entry of a final order of adoption. Valid consent may be withdrawn prior to the final order of adoption upon a showing by a preponderance of the evidence that the best interests of the child require the consent to adoption be voided.

4-5-6 R. Confidentiality of Records

All records, reports, proceedings, and orders relating to a Tiguaq adoption are confidential, permanent records of the court; these records shall be sealed and shall not be available for release for inspection by the public, except by order of the court.

4-5-6 S. Release of Information; Notice to Birth Parent

Information contained in such records shall be released upon petition to the court by the adopted person after reaching the age of eighteen (18), upon petition of an extended family member, or upon order of the court upon showing of good cause by other persons who have petitioned for such information. In any case, the biological parent(s) shall be given notice by the court of a petition for release of information or notice of intent to issue such information. Where the petitioner is not the adopted child or an extended family member, the birth parent must consent in writing to the release of information, unless the court determines that the need for information is greater than the birth parent's rights to privacy. Where consent of the birth parent cannot be obtained, the court may refuse to divulge the birth parents name but release other information so long as the information will not lead to the discovery of the birth parent's name.

4-5-6 T. Adoptive Birth Certificate; Release of Original Certificate

Within five (5) days of the final decree of adoption entered by the court, the tribal or state agency that issued the original certificate of birth shall be notified by the court clerk that the adoption has taken place and given the full name, sex, date of birth, and names of birth parents, in order that a new record of birth in the new name and with the name or names of the adoptive parents may be recorded. The issuing agency shall be provided with a certified copy of the final decree of adoption.

4-5-6 U. Name and Legal Status of Child

Children adopted under this Subchapter shall assume the surname of the persons by whom they are adopted, unless the court orders otherwise. They shall be entitled to the same rights as natural children of the persons adopting them. However, Tiguaq adoption does not confer tribal membership status on adopted children who would not be otherwise eligible. Tiguaq adoption does not terminate the rights of natural extended family members of the child, unless those rights are specifically terminated by the court.

4-6 MISCELLANEOUS PROVISIONS

4-6-1 RECORDS AND CONFIDENTIALITY

4-6-1 A. Numbering of Petitions

Petitions filed under. This Code shall be assigned a combination of three (3) numbers as follows:

1. The first number shall designate the year in which the petition was filed on behalf of the child;
2. The second series of letters and numbers shall designate the type of petition and the sequential order of filing as a CINA or voluntary petition in the given year; and
3. The third number shall designate the sibling group to which the child belongs. A sibling group shall consist of all children who share at least one parent.

4-6-1 B. Confidentiality of Court Records

All court records are confidential and shall not be open by any person except for the following:

1. The child and his attorneys;
2. The child's parent or custodian and her attorney;
3. The tribal family advocate and the tribal attorney;
4. The guardian ad litem;
5. The presenting officer;
6. Other court personnel, in connection with the case; or
7. Any other person the court determines has a valid reason to see such records, where the court has issued a written order detailing the reasons for permitting that person to review the records.

This confidentiality provision applies to all divisions and departments of the Tribe, including social service and law enforcement agencies. This section applies to the release of the names of children, families, or witnesses involved in proceedings under this Code.

All records included within this section shall be kept in a secure place by the court clerk, and shall be released only pursuant to procedures developed by the court. No other release of information shall be permitted without an order of the court.

4-6-1 C. Certain Disclosures Authorized

Disclosure of documents and material to authorized public agencies, whether tribal, federal, or state, in the performance of the official duties of those agencies shall not violate this section.

4-6-1D. Oath of Confidentiality Upon Inspection of Records

Each person who inspects a child's record shall be required to sign a written oath pledging to maintain the confidentiality of the records. Failure to abide by this pledge shall constitute contempt of court.

4-6-1 E. Sealing of Records

All records of the child shall be sealed when the child is no longer subject to the court's jurisdiction and shall remain sealed until further order of the court.

4-6-2 PAYMENT OF FEES AND EXPENSES

There shall be no fee for filing a petition under this Code nor shall any fee be charged by any tribal officer for the service of process or for attendance in court in any such proceedings. Witness fees shall be payable in accordance with the rules of this court. All fees and expenses, including the cost of publication of summons, shall be paid by the parent or custodian of the child before the court, or by the Tribe.

4-6-3 MEDICAL EXAMINATIONS

The court may order a medical and/or psychological examination for a child or any other party before the court if it is determined after a hearing that the party's medical or psychological health are relevant to the issues before the court and such examination shall be paid for by the parent or custodian; or by the Tribe.

4-6-4 APPEALS

4-6-4 A. Appeals from Final Judgments

An appeal may be taken from any final order, decree, or judgment of the children's court under this Code to the Supreme Court. Such appeal shall be governed by the Rules of Procedure. Except as otherwise provided in this Code, the appeal must be taken within one (1) month from the entry of

the order, decree, or judgment appealed from. The name of the child shall not appear in the record on appeal.

4-6-4 B. Stay Pending Appeal

Unless the court stays its order, the pendency of an appeal shall not stay the order or judgment appealed from in the children's court. Where the order or decree appealed from directs a change of custody of a child, the appeal shall be heard and decided at the earliest practicable time.

4-6-4 C. Interlocutory Appeals

A parent or custodian who has been denied unification or reunification efforts under Section 4-4-4 E of this Code because of the court's finding of one or more aggravated circumstances may take an interlocutory appeal of that decision. Such an appeal does not automatically grant a stay of the children's court proceedings, however, and a stay may be granted only upon a finding that a stay would serve the best interest of the child.

4-6-5 SOCIAL SERVICES DEPARTMENT PROGRAM AUTHORIZATIONS

4-6-5 A. Reunification Services

The Social Services Department is hereby authorized to establish, develop, contract for, and/or seek: funding to support reunification services for children and families.

4-6-5 B. Independent Living Programs

The Social Services Department is hereby authorized to establish, develop, contract for, and/or seek: funding to support independent living programs for children who have been made wards of the court under this Code.

4-6-6 REVIEW AND AMENDMENTS

Within six (6) months from the date this Code is adopted, and every six months thereafter for at least two (2) years, the Chief Judge of the Tribal Court shall review this Code to determine the need for amendments and shall submit any proposed amendments to the Tribal Council.

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Native Village of
Barrow's Children's Code

