

TEMPORARY PLACEMENT

S.W.S.F. CODE
 Amendment
 New Adoption
 Judicial Approved
02-06-85
 Council Adopted
02-06-85

41-01-01 WHO MAY FILE A PETITION.

Any person having knowledge of the circumstances may file a petition with a Court of jurisdiction, the Tribal Human Services Board, Bureau of Indian Affairs, Branch of Welfare, or the Roberts County Welfare Board for the temporary or emergency foster care placement of children. If any emergency exists, the Tribal Human Services Board, Bureau of Indian Affairs, Branch of Welfare, or the Roberts County Welfare Board may provide for the immediate placement of a child without Court order pending hearing by the Court.

41-02-01 CONTENTS OF THE PETITION

The petition for the temporary placement of a child shall include information in accordance with Chapter 39, Section 39-03-01 through 39-04-07 and the grounds on which the temporary placement is sought.

41-03-01 SOCIAL STUDY PRIOR TO HEARING

A social study shall be conducted in accordance with Chapter 39, Section 39-08-01.

41-04-01 NOTICE

Within five (5) days after the social study has been submitted, the Court shall set the time and place for a hearing and shall comply with the notice provisions of Chapter 39, 39-09-01.

41-05-01 HEARING

The hearing shall be conducted in accordance with Chapter 39, Section 39-10-01.

41-06-01 DISPOSITION OF THE PETITION

A petition for temporary placement of a child may be granted:

1. In accordance with Chapter 39, Section 39-04-01; and
2. In other petitions, where the Court finds that any child under twenty-one (21) years of age is without proper guardianship due to the unavailability or incapacity of the parent or guardian caused from death, incarceration, in correction institutions, jails, mental institutions, insanity, or mental defect, abandonment, or other causes. (Abandonment defined: see Chapter 39, Section 39-12-01, 1.)

- 41-07-01 GUARDIANSHIP OF DESTITUTE OR DEPENDENT CHILDREN**
The guardianship of the person and the custody of a destitute or dependent child may be committed to the Tribal Human Services Board by an order of the Juvenile Court.
- 41-08-01 ORDER OF TEMPORARY PLACEMENT**
Following the hearing on the petition, the Court shall enter such order as the circumstances warrant, and, in the event the Court determines that the child should be temporarily placed, its order shall include proper findings relative to service of notice, appearances, the grounds on which the decision is made, and conclusions of law.
- 41-08-02** Subsequent to the issuance of such order, the Court shall, by separate order, proceed to arrange care for such child temporarily and, if necessary, shall forthwith cause search to be made for parent or guardian, if parent or guardian cannot be found, or is unable to, or refuses to make suitable provisions as seems for the best interest of such child within the provisions of this Chapter.
- 41-09-01 VISITATION RIGHTS**
When temporary placements are granted pursuant to Section 41-08-01 of this Chapter, parental-child access to one another shall be authorized at all reasonable times in order to promote the best interests of the child and the parent and the maintenance of the parent-child relationship during parental rehabilitation or of institutionalization.
- 41-10-01 TEMPORARY PLACEMENT TERMINATED**
A natural parent or parents or guardian, in accordance with the Tribal custom, may petition the Court for termination of the temporary placement. The Court shall order a social study to be conducted and a hearing to be held to determine whether the parent(s) or guardian have been rehabilitated. If rehabilitation has been successful, the Court placement order and providing for the restoration of custody to the natural parent, parents, or guardian. Depending upon the circumstances, should rehabilitation efforts be unsuccessful within a period of six (6) months to one (1) year, after the temporary placement order, the Court shall rescind the temporary placement and proceed to arrange for permanent placement under the provisions of Chapter 39.
- 41-10-02** When a child is without parent or guardian due to death, abandonment or non-appointment, the Court shall proceed to arrange permanent placement for the child as if the child's parent-child relationship had been terminated.

41-11-01

SEVERABILITY

If any clause, sentence, paragraph, section, or part of this code shall, for any reason be adjudicated by any Court of competent jurisdiction, to be invalid or unconstitutional, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgement shall have been rendered.

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