

HANNAHVILLE INDIAN COMMUNITY

TITLE IV, CHAPTER 3

REVISED ADOPTION CODE

Contents

4.3.101 Title..... - 2 -

4.3.102 Purpose. .... - 2 -

4.3.103 Definitions. .... - 2 -

4.3.104 Jurisdiction..... - 4 -

4.3.105 Types of Adoption. .... - 5 -

4.3.106 Who May File a Petition?..... - 5 -

4.3.107 Petition; Contents. .... - 5 -

4.3.108 Consent to Adoption..... - 6 -

4.3.109 Termination of a Parent’s Rights; Voluntary; Involuntary..... - 6 -

4.3.110 Investigation and Report..... - 7 -

4.3.111 Hearings; Temporary Placement; Order of Adoption; Confirmation..... - 8 -

4.3.112 Best Interests of a Child Adoptee..... - 10 -

4.3.113 Order Confirming Adoption; Denial of Adoption. .... - 11 -

4.3.114 Effect of Adoption; Grandparents’ Rights..... - 11 -

4.3.115 Change of Name. .... - 12 -

4.3.116 Adult Adoptees..... - 12 -

4.3.117 Confidential Nature of Proceedings and Record; Release of Information. .... - 12 -

4.3.118 Appeals..... - 12 -

4.3.119 Adoption Subsidies..... - 13 -

4.3.120 Customary Adoption..... - 13 -

4.3.121 New Birth Certificate for Adoptee. .... - 14 -

4.3.122 Effective Date..... - 15 -

**HANNAHVILLE INDIAN COMMUNITY  
GENERAL CIVIL CODE - FAMILY/DOMESTIC LAW  
TITLE 4, CHAPTER 3  
REVISED ADOPTION CODE**

**4.3.101 Title.**

Sections 4.3.101 through 4.3.121, including subsections, shall be known as the Hannahville Indian Community Revised Adoption Code and may also be cited as the adoption code. References to this code within these sections and subsections refer to the Hannahville Indian Community Legal Code, which may be cited as “HLC”.

**4.3.102 Purpose.**

The purposes of this adoption code are (a) to protect the rights of adoptees, natural parents and adoptive parents who come within the jurisdiction of the tribal court and (b) to safeguard and promote the best interests of each adoptee. It is the public policy of the Hannahville Indian Community to favor the adoption of children who are enrolled members of the Hannahville Indian Community, or who are eligible for enrollment, or who are descendents of enrolled members, by adoptive parents at least one of whom is an enrolled member of the Hannahville Indian Community, but it is not a mandatory requirement of this code. If a conflict arises between the rights of the adoptee and the rights of another, the rights of the adoptee shall be paramount.

**4.3.103 Definitions.**

As used in this adoption code, the following terms and definitions shall apply:

- (1) Adoptee: The person being adopted, whether a minor or an adult.
- (2) Adult: A person who is 18 years of age or older.
- (3) Best interests of the adoptee: In accordance with the placement preferences stated in §§ 4.3.111 (1) and (2), the sum total of the factors enumerated in section 4.3.112 below, to be considered, evaluated, determined and applied by the court with the ultimate goal of protecting the child’s safety, well-being, general welfare and sense of belonging in a safe, stable, nurturing and, if an Indian Child, to the maximum extent possible, permanent *tribal* environment.
- (4) Born out of wedlock: The status of a person who was conceived and born to a woman who was not married from the conception to the date of birth of that person, or a person whom the tribal court, or another court of competent jurisdiction, has determined to have been born during a marriage but who is not the issue of that marriage.
- (5) Central Adoption Registry: The registry maintained by the Michigan Department of Human Services to control the release of identifying adoption information.
- (6) Child: A person who has not yet reached his or her 18th birthday. An Indian child shall be as defined by that child’s tribe.

- (7) Consent: A written expression of agreement with the court's approval of a pending adoption, to be signed by a child adoptee who is 14 years of age or older, by an adult adoptee, or by a parent whose spouse is adopting that parent's child. It is not a surrender of parental rights.
- (8) Custodial parent: A parent who has the physical custody of a child under the order of any court of competent jurisdiction, including any tribal or state court, or who without a court order, or contrary to a court order, has actual physical custody of the child in an established custodial environment with no objection or dispute by the other parent.
- (9) Eligible for enrollment: The status of a person who is not a member of a federally recognized Indian tribe, but is eligible to be enrolled as a member of that tribe according to the criteria and conditions established by that tribe.
- (10) Established custodial environment: The custodial environment of a child which is established over an appreciable time and in which the child looks to the custodian in that environment for guidance, discipline, the necessities of life and parental comfort. The age of the child, the physical environment and the inclination of the custodian and the child as to the permanency of the relationship shall also be considered.
- (11) Foreign court: The duly constituted court of a foreign jurisdiction.
- (12) Foreign jurisdiction: Any jurisdiction other than the Hannahville Indian Community, including other federally recognized Indian tribes, every state and territory of the United States, and all foreign countries, and further including the subdivisions of each foreign jurisdiction.
- (13) Indian tribe: The Hannahville Indian Community or any federally recognized Indian tribe, band, nation or community of Indians recognized as eligible for services provided by the Secretary of the Interior because of their status as Indians, including any Alaska Native village as defined in 43 USC §1602(c).
- (14) Non-custodial parent: A parent who does not have physical custody of a child.
- (15) Parent: The birth mother of a person who has not been adopted; the adoptive mother of a person who has been adopted; the biological father of a person who has not been adopted, provided he was married to the birth mother at the time of birth and appears on the birth certificate, or if not married at the time of the birth, has either been found to be the father in paternity proceedings in tribal court or in any foreign court, or has joined with the birth mother in properly executing an affidavit of parentage; and the adoptive father of a person who has been adopted. Parent does not include a putative father.
- (16) Petitioner: The person or persons who file an adoption petition with the tribal court.
- (17) Placement: The transfer of physical custody to a prospective adoptive parent or to another person.
- (18) Putative father: A man who, based on probable cause, is suspected or believed to be the natural father of a child who has no legal father.

- (19) Relative: A person who is related to the adoptee within the fifth degree by marriage, blood or adoption. "Fifth degree" means any of the following relationships: parent, grandparent, brother, sister, uncle, aunt, first cousin, great aunt, great uncle, great grandparent, first cousin once removed, great great grandparent, great great uncle, great great aunt, great great great grandparent, including "step" relatives so designated.
- (20) Relinquishment: The voluntary surrender of parental rights pursuant to section 2.2206 of the children's code.
- (21) Tribal Court: The established judicial trial court of the Hannahville Indian Community.
- (22) Tribal interest: The fundamental and sacred tribal interest in determining placement decisions regarding the best interests of its children, including determinations and designations of persons who should provide for the care, custody and control of its children. The Tribe's interest is intended to insure a safe, stable, nurturing and, where possible, permanent *tribal* environment for the tribe's children and to provide for the protection of tribal children, tribal members and tribal customs and traditions.
- (23) Tribal judge: A duly appointed judge of the Hannahville Indian Community tribal court, including a properly appointed visiting judge, who shall preside in all proceedings under the Hannahville Legal Code and in all proceedings otherwise within the inherent jurisdiction of the tribal court.
- (24) Tribal social services: The Department of Social Services of the Hannahville Indian Community, including case workers, employees and representatives of that department.
- (25) Verification: The oath or affirmation of a person made in writing and declaring the truth of a fact or set of facts, which is accomplished by signing and dating the following declaration affixed to a written statement of such fact or facts: "I declare that the statements above are true to the best of my information, knowledge and belief".

#### **4.3.104 Jurisdiction.**

Tribal court shall have jurisdiction in adoption proceedings commenced under this code as follows:

- (1) Tribal court shall have exclusive jurisdiction in adoption proceedings for any child who is under the prior continuing jurisdiction of the tribal court in existing or pending child welfare proceedings under the children's code, whether said proceedings were initiated in the tribal court or were transferred to the tribal court from any foreign court;
- (2) In the absence of an existing or pending child welfare court case which would provide jurisdiction under § (1) above, the tribal court shall have jurisdiction over the adoption of any child over which the court could otherwise assume jurisdiction under section 2.202 of the children's code, as now constituted or as hereafter amended; and
- (3) If jurisdiction isn't established under §§ (1) or (2) above, the tribal court shall have jurisdiction over all adoptions where the person to be adopted, minor or adult, is a resident of the Hannahville Indian Community and is either an enrolled member, eligible for

enrollment or a descendent of the Hannahville Indian Community or another federally recognized Indian tribe.

#### **4.3.105 Types of Adoption.**

This code shall apply the following adoptions:

- (1) Step-parent adoption: The adoption of an adoptee by the spouse of a parent of the adoptee shall be referred to as a “step-parent adoption”. The adopting parent must file the petition for adoption. The petitioner’s spouse who is the adoptee’s parent is not a petitioner but shall sign a written consent to the adoption. If the non-custodial parent of the adoptee is not deceased or if the non-custodial parent’s parental rights have not already been terminated, then that parent’s rights must either be voluntarily relinquished under section 2.2206 of the children’s code or involuntarily terminated as provided in section 4.3.109 below.
- (2) Relative adoption: The adoption of an adoptee by a petitioner who is related to the adoptee within the fifth degree by marriage, blood or adoption, as defined in section 4.3.103 above, shall be referred to as a “relative adoption”. If the adopting relative is married, then his or her spouse shall join in the petition as an adopting parent.
- (3) Direct adoption: The adoption of an adoptee by a petitioner or petitioners who have been selected, designated or approved by a parent of the adoptee, with or without the advice or assistance of a social services agency or department, including public and private agencies and departments, shall be referred to as a “direct adoption”.
- (4) Formal adoption: The adoption by a petitioner or petitioners of an adoptee who is under the jurisdiction of the court and is placed for adoption by the court and which is not otherwise a step-parent, relative or direct adoption.
- (5) Customary adoption: This is a form of permanent adoption based on a traditional tribal custom recognized by the community which, without terminating parental rights, gives a child a permanent parent-child relationship with someone other than the child’s parents and which permanently suspends the rights of a parent or parents to provide for the care, custody and control of the child.

#### **4.3.106 Who May File a Petition?**

Any adult person may file an adoption petition concerning any child or adult person who is within the jurisdiction of the tribal court under section 4.3.104 above. In the case of married persons maintaining a home together, the petition for adoption of a minor child must be a joint petition, except when the adoption is a step-parent adoption. In the adoption of an adult adoptee, the petitioner’s spouse may join in the petition but shall not be required to do so.

#### **4.3.107 Petition; Contents.**

The petition for adoption shall be filed with the tribal court. It shall be signed and verified by each adopting parent and shall contain the following information:

- (1) The full name, residence address, tribal affiliation (if any) and documentary proof of the

date and place of birth of the adoptee.

- (2) The full name, residence address, date and place of birth, tribal affiliation (if any), occupation and documentary proof of marital status of each adopting parent, including the maiden name of an adopting mother.
- (3) The relationship, if any, of the adoptee to the petitioner or petitioners.
- (4) The full name by which the adoptee will be known after adoption.
- (5) A full description and statement of value of all property, if any, owned or possessed by the adoptee to the best knowledge of the petitioner or petitioners.
- (6) The names and residential addresses, if known, of the adoptee's parents.
- (7) Documentary proof of existing consents required under section 4.308 below.
- (8) Documentary proof of the death or prior termination of parental rights of the adoptee's parent or parents.
- (9) If the parental rights of a living parent of the adoptee have not been terminated, the petition must include a factual statement of the grounds for termination of the parental rights of that living parent and a request to terminate said parental rights under section 4.3.109 below. This provision does not apply to the adoptee's parent who is married to the petitioner in a step-parent adoption.
- (10) The name and residence address of the guardian or guardians of the person and/or estate of the adoptee, if any has been appointed.

#### **4.3.108 Consent to Adoption.**

Consent to an adoption is required before the court may enter an order of adoption in the following cases:

- (1) In the adoption of a child who is 14 years of age or older, the child must consent;
- (2) In the adoption of an adult, the adult adoptee must consent to his or her adoption; and
- (3) In a step-parent adoption, the parent of the adoptee who is married to the adopting step-parent must consent to the adoption.

A required consent to an adoption must be signed in the presence of the tribal judge. The judge shall instruct the consenting person as to the nature and consequences of his or her consent. The minority of the consenting person shall not bar or invalidate the consent.

#### **4.3.109 Termination of a Parent's Rights; Voluntary; Involuntary.**

With the exception of a customary adoption where parental rights are not terminated but are permanently suspended, and with the further exception of a parent married to an adopting step-

parent, the parental rights of the living parents of an adoptee must be terminated before an adoption is approved by the tribal court. The termination of parental rights may be accomplished voluntarily or involuntarily, as follows:

- (1) A parent's rights may be voluntarily surrendered under section 2.2206 of the children's code which provides for the voluntary relinquishment of parental rights. Voluntary relinquishment may occur in separate or independent proceedings prior to the filing of an adoption petition, or it may occur during the course of adoption proceedings. The tribal judge may authorize a designated judge who has jurisdiction over adoptions in a foreign court to accept a voluntary relinquishment in accordance with section 2.2206 of the children's code, and said section 2.2206 is hereby amended to so authorize.
- (2) In separate or independent proceedings prior to the filing of an adoption petition in tribal court, a parent's rights may already have been involuntarily terminated in tribal court under chapter 2.22 of the children's code.
- (3) In separate or independent proceedings prior to the filing of an adoption petition in tribal court, a parent's rights may already have been involuntarily terminated in the court of a foreign jurisdiction under the laws of that jurisdiction, including a court of a federally recognized Indian tribe or a court of a state of the United States.
- (4) If parental rights have not been terminated with respect to a child for whom adoption is a reasonable permanency planning goal, then termination proceedings under chapter 2.22 of the children's code may occur concurrently with adoption proceedings under this adoption code. However, an order of adoption shall not be entered in the tribal court until parental rights have been terminated and the time for appeal has expired without the filing of an appeal or until a filed appeal has been denied.
- (5) If the parental rights of the mother of a child born out of wedlock are terminated, voluntarily or involuntarily, or grounds exist for termination proceedings under chapter 2.22 of the children's code, and if the child has no father as defined in § 2.103(13) of the children's code, then proceedings to identify the child's father under the putative father provision of section 2.1607 of the children's code may occur concurrently with adoption proceedings under this adoption code. However, an order of adoption shall not be entered in the tribal court (a) until the father has been identified, his parental rights have been terminated and the time for appeal has expired without the filing of an appeal or until a filed appeal is denied, or (b) until the tribal court, after an investigation by tribal social services and a hearing on the record, determines that the father's identity and whereabouts are unknown and proceedings to terminate the parental rights of an unknown father have been concluded.

#### **4.3.110 Investigation and Report.**

Upon the filing of a petition for adoption, and to the maximum extent possible, giving full effect to the placement preferences stated in section 4.3.111 of this Code, the tribal court shall direct tribal social services to investigate and report to the court regarding (a) the background of the adoptee, (b) the suitability of the adoptee for adoption, (c) the financial ability, moral fitness and physical fitness of the adopting parent or parents, and (d) the suitability of the adopting home to accommodate the adoptee. The investigative report shall be filed with the court no later than 30 days after the court

orders the investigation. Tribal social services shall include recommendations regarding the proposed adoption based upon the placement preferences of this Code and the best interests of the adoptee. The court may also request any local, state, or federal agency to provide assistance in obtaining information as to the suitability of the adopting parent or parents for adoption.

**4.3.111 Hearings; Temporary Placement; Order of Adoption; Confirmation.**

- (1) Upon the filing of an adoption petition, the court may enter such temporary orders as necessary for the health, welfare and safety of the adoptee, including the temporary placement of a child adoptee with the adoptive parents or others. Unless otherwise indicated by other provisions of this Code, and to the maximum extent possible, the court shall ensure that the placement preferences are followed at every stage of the proceedings.
  - (a) Unless the child's tribe specifies a different order of placement, and in the absence of good cause to the contrary, in any foster care or pre-adoptive placement of a child, preference must be given, in descending order as listed below, to placement of the child with:
    - (i) A member of the child's extended family;
    - (ii) A foster home licensed, approved or specified by the child's tribe, whether on or off the reservation;
    - (iii) An Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
    - (iv) An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the child's needs.
  - (b) If any party asserts that good cause not to follow the placement preferences exists, that party shall present clear and convincing evidence on the record in support of the allegation(s). A determination of good cause to depart from the placement preferences must be based on one or more of the following:
    - (i) The request of the child if the child is 14 or more years of age and if the child is able to understand and comprehend the decision that is being made.
    - (ii) The extraordinary physical or emotional needs of the child such as specialized treatment services that may be unavailable in the community where families who meet the criteria live, as established by the testimony of a qualified expert witness; **provided that**, extraordinary physical or emotional needs of the child **does not** include the bonding or attachment that may have occurred as a result of a placement or the fact that the child has for an extended amount of time, been in another placement that does not comply with the placement preferences stated in § (1)(a)(i-iv) of this section.
  - (c) The good cause determination also does not include an independent consideration of the best interest of the child because the preferences reflect the best interests of a child in light of the purposes of this Code as reflected specifically at sections 4.3.102 and

4.3.120 of this Code.

- (i) The court may consider only whether a placement in accordance with the preferences meets the physical, mental and emotional needs of the child; and may not depart from the preferences based on the socio economic status of any placement relative to another placement.
- (2) Unless the child's tribe specifies a different order of placement, and in the absence of good cause to the contrary, preference must be given in an adoptive placement, in descending order as listed below, to placement of the child with §§ (a-d), below. The same considerations shall be applied to this subsection as are expressed in §§ (1)(b) and (c) of this section:
  - (a) A member of the child's extended family;
  - (b) Other members of the child's tribe;
  - (c) Other Indian families, including families of unwed individuals;
  - (d) Others.
- (3) Within 10 days of the court's receipt of the investigative report required under section 4.3.110 above, the court shall fix a time for hearing on the adoption petition. Written notice of said hearing shall be given to the adopting parent or parents, the adoptee's parent in a step-parent adoption, an adoptee who is 14 years of age or older, the guardian or legal custodian of an adoptee who is a child, the adoptee's parent or parents whose rights have not yet been terminated, tribal social services, and any other agency, department or person who has a legal interest in said proceedings. The notice of hearing shall direct such persons to appear at the hearing. The court shall take testimony and receive exhibits.
- (4) If the parental rights of the adoptee's parents have been terminated, whether voluntarily, involuntarily or by death, and if the court is satisfied that (a) the child is suitable for adoption, (b) the adopting parent or parents have the financial ability, physical fitness, moral fitness, and responsibility to be parents, and (c) the best interests of the adoptee will be promoted by the adoption, it may thereupon enter an order of adoption which shall be subject to subsequent confirmation by the court in accordance with section 4.3.113 below. During the time period from entry of the order of adoption and the subsequent entry of the order confirming the adoption, tribal social services shall supervise and monitor the adoptee and the adoptive parents.
- (5) If the rights of one or both parents of the adoptee have not been terminated, the court may (a) take testimony under advisement and receive exhibits, (b) preserve the testimony and exhibits so taken and received, (c) hold the adoption proceedings in abeyance until the rights of the adoptee's parent or parents have been terminated and appeals have run their course or expired, and (d) enter any order the court deems appropriate for the adoptee's continued temporary placement. When parental rights have been terminated, the adoption hearing shall be rescheduled and shall proceed in accordance with §§ (2) and (3) above.
- (6) If the court is not satisfied that the testimony and evidence supports the requirements of §

(3) above, then the adoption shall be denied and the court shall enter such further orders as may be necessary for the adoptee's health, welfare and safety, including temporary placement and modifications to the adoptee's permanency plan.

- (7) Following entry of the order of adoption, a hearing to confirm the adoption shall be held pursuant to notice as provided in section 4.3.113 below.

#### **4.3.112 Best Interests of a Child Adoptee.**

All determinations by the court in adoption proceedings, including entry of the order of adoption and the order confirming the adoption, shall be, to the maximum extent possible, in accordance with the placement preferences provisions as expressed in this Code and §§ 2.1302(1-4) of the Child Protection Code shall address the ultimate goal of protecting the child's safety, well-being, general welfare and sense of belonging in a safe, stable, nurturing and, if an Indian child, to the maximum extent possible, permanent *tribal* environment and shall be made in the best interests of the child. The "best interests of the child adoptee" means the sum total of the factors listed below which the court shall consider, evaluate and determine, to wit:

- (1) The love, affection and other emotional ties existing between the adopting parent or parents and the adoptee;
- (2) The capacity and disposition of the adopting parent or parents to give the adoptee love, affection and guidance;
- (3) The capacity and disposition of the adopting parent or parents to educate the adoptee and to create an environment that fosters the racial identity, culture, heritage and religion (if any) of the adoptee;
- (4) The capacity and disposition of the adopting parent or parents to provide the adoptee with food, clothing, education, permanence, medical care and other material needs;
- (5) Subject to the foster care, pre-adoptive and adoptive placement preferences stated in this Code, the length of time the adoptee has lived in a stable, satisfactory environment, and the desirability of maintaining continuity;
- (6) The permanence as a family unit of the proposed adoptive home;
- (7) The moral fitness of the adopting parent or parents;
- (8) The mental and physical health of the adopting parent or parents;
- (9) The home, school and community record of the adoptee;
- (10) The reasonable preference of the adoptee if the adoptee is 13 years of age or less and if the court considers the adoptee to be of sufficient age to express a preference;
- (11) The ability and willingness of the adopting parent or parents to adopt the adoptee's siblings; and

- (12) Any other factor considered by the court to be relevant to a particular adoption proceeding.

**4.3.113 Order Confirming Adoption; Denial of Adoption.**

- (1) Upon the expiration of 6 months after the date of entry of an order of adoption under section 4.3.111 above, tribal social services, the adoptive parents and the adoptee shall appear personally before the tribal court, pursuant to notice, for a hearing to confirm the adoption. The court shall receive testimony, exhibits and a tribal social services report regarding the welfare of the child, the relationship between the adoptee and the adopting parents, the current status of the adoptive home, and the desire of the adoptive parents to finalize the adoption. If the court is satisfied that the interests of the child are best served by the adoption, a final order confirming adoption shall be entered.
- (2) Upon the request of the adoptive parent or parents or upon the request of tribal social services, the minimum 6 month waiting period, or any portion thereof, may be waived by the court, and the court may proceed to immediate confirmation of the adoption, PROVIDED that the adoptee has spent at least 6 months in the care and temporary custody of the adoptive parents and the court finds such waiver to be in the adoptee's best interests.
- (3) The adoptive parent or parents, or tribal social services, may request an extension of the 6 month waiting period in the adoptee's best interests. Any such extension may not exceed an additional 6 months, after which a final order confirming adoption must be entered or the adoption petition must be denied and a new order for temporary placement must be entered.

**4.3.114 Effect of Adoption; Grandparents' Rights.**

After entry of the order confirming the adoption, the relationships, rights, obligations and other legal consequences between the adoptee, the adoptive parent or parents and the terminated parent or parents shall be as follows:

- (1) The person or persons adopting the adoptee shall then stand in the place of the parent or parents of the adoptee in all legal respects as though the adoptee had been born to the adopting parent or parents, who shall thereafter be liable for all parental duties and shall be entitled to all parental rights.
- (2) There shall be no distinction between the rights and duties of a natural born child and the adopted person, and the adopted person shall thereupon become an heir at law of the adopting parent or parents and an heir at law of the lineal and collateral kindred of the adopting parent or parents.
- (3) An adopted person shall no longer be an heir at law of a parent whose rights have been terminated under this code, or under another code of this or another jurisdiction, and shall no longer be an heir at law of the lineal and collateral kindred of the terminated parent (however, this provision shall not divest any inheritance rights or interests which vested before entry of the order confirming adoption).
- (4) The terminated parent or parents of the adopted child shall thereafter be relieved of all parental responsibilities for such child, including future support but excluding support arrearages which will remain in effect, and shall not be an heir at law of the adoptee.

- (5) This section does not prohibit grandparenting time, and a parent or parents of an adoptee's parent whose rights have been terminated under this code, or under another code of this or another jurisdiction, may seek an order for grandparenting time.
- (6) The status of any person as a tribal member of, or as a person eligible for enrollment in, the Hannahville Indian Community, or any other federally recognized Indian tribe, shall not be affected, modified or abrogated by an adoption under this code or under the code of any other jurisdiction, tribal or state.

**4.3.115 Change of Name.**

A child adopted under this code shall assume the surname of the adopting parent or parents, and his or her other names (first, middle, etc.) may be changed upon request of the adopting parent or parents. A name change request shall be included in the adoption petition and shall be ordered by the court in the order of adoption.

**4.3.116 Adult Adoptees.**

If the adoptee is an adult at the time of the filing of the adoption petition, those provisions of this code which expressly or reasonably apply only to children shall not apply to such adoption. In all other respects, this code shall be applicable to the adoption of an adult adoptee.

**4.3.117 Confidential Nature of Proceedings and Record; Release of Information.**

- (1) Unless the court otherwise orders, all hearings held in proceedings under this adoption code shall be confidential and shall be held in closed session, without the admission of any person other than those persons necessary for the proceedings, including witnesses.
- (2) All records, files, pleadings, papers, documents and information pertaining to proceedings under this code, shall be maintained in a locked file, shall be confidential and shall be withheld from inspection, dissemination or publication, with the exception of the order of adoption, the order confirming adoption, and documents or information authorized by order of the tribal court for good cause shown.
- (3) It is anticipated that matters such as the issuance of a new birth certificate for the adoptee, the adoptive parent's pursuit of adoption subsidies offered by any state or agency, and contacts with the Central Adoption Registry or a similar office in another state are all matters which may require a court order for release of documents and information.
- (4) Records and information may be released upon court order to the adopted person or to his or her adoptive parents when requested for the purpose of establishing entitlement to Indian status, tribal enrollment, federal services to Indians, per capita participation in Indian claims and similar purposes.

**4.3.118 Appeals.**

Appeals of court actions, decisions and orders entered pursuant to this adoption code shall be taken in accordance with the appeals procedure set forth in HLC 1.515.

**4.3.119 Adoption Subsidies.**

It is the intent and purpose of this adoption code to promote, facilitate and accommodate the adopting parent or parents in the application for and the receipt of adoption subsidies from any state of the United States, or any department, agency or subdivision thereof. Nothing in this code shall be deemed or construed to deny, prevent or interfere with the receipt of adoption subsidies in any case. This provision and the entire adoption code shall be liberally interpreted and construed to this end, and the tribal court is granted broad authority to take action and to enter orders as necessary to assist, facilitate and accommodate the application for and the receipt of such adoption subsidies.

**4.3.120 Customary Adoption.**

- (1) It is the fundamental belief of the Hannahville Indian Community that its children are the sacred responsibility of the tribe. One of this community's basic inherent sovereign rights is the right to make decisions regarding the best interests of its children, including determinations and designations of persons who should provide for the care, custody and control of its children. This section is intended to insure a safe, stable, nurturing and permanent environment for the tribe's children and to provide for the protection of tribal children, tribal members and tribal customs and traditions, without the termination of parental rights.
- (2) As an alternative to the termination of parental rights and the adoption of a child in the proceedings specifically defined in section 4.3.105 as "step-parent adoptions", "relative adoptions", "direct adoptions" and "formal adoptions", the proceedings under this section 4.3.120 may be utilized to effect the "customary adoption", as defined in section 4.3.105, of a child who is a tribal member, or who is eligible for enrollment, or who is a descendent of a tribal member.
- (3) In lieu of the termination of parental rights, a customary adoption shall result in the permanent suspension of parental rights and the establishment of a permanent parent-child bond between the adopting parent or parents and the child.
- (4) The suspension of parental rights shall include, but shall not be limited to the following:
  - (a) A permanent suspension of the parental rights of the parent or parents, including the suspension of the right to the care, custody and control of the minor;
  - (b) Authorization for the child to be adopted under this code;
  - (c) A permanent suspension of the right of the parent or parents to have contact with the child, including contact in person, by mail, by telephone or through third parties, until and unless a contact agreement reached between the parent or parents and the adopting parent or parents is approved by the court;
  - (d) An order restraining the parent or parents from contacting the child, the child's adoptive parent or parents and/or the social services agency or agencies possessing information regarding the child, except as provided in a court approved contact agreement reached between the parent or parents and the adopting parent or parents;

- (e) An order terminating a parent's obligation to pay child support, excepting arrearages arising pursuant to an existing support order;
  - (f) An order terminating any prior court order for custody, parenting time or contact with the child;
  - (g) An order that the parent or parents shall have no standing to appear in future legal proceedings involving the child;
  - (h) A provision that the suspension of parental rights does not sever or affect in any way a child's relationship to his or her tribe;
  - (i) A provision that the suspension of parental rights does not sever or affect in any way a child's rights of inheritance from his or her parents; and
  - (j) A finding that the best interests of the child and the child's tribe support the permanent suspension of parental rights.
- (5) A final order of customary adoption shall include, but is not limited to, the following findings and orders:
- (a) That the child has been adopted by the petitioner or petitioners;
  - (b) That the parent-child bond between the petitioner or petitioners and the child is thereby established;
  - (c) That all the rights and responsibilities of the parent-child relationship shall thereafter be permanent and binding, including the right to inherit from each other as heirs at law;
  - (d) An order establishing the child's name; and
  - (e) If an Indian child, an order that the adoptive parent shall ensure the child's meaningful continued contacts with the child's tribe.
- (6) The rights established through customary adoption shall be subject to termination as provided in section 4.3.109 above. The tribal court shall retain jurisdiction to enter further orders as necessary for the health, welfare and safety of the adoptee, including the temporary placement of a child adoptee with others.
- (7) The provisions and procedures of this adoption code shall apply to customary adoptions, excepting only those provisions which are in conflict with this section 4.3.120.

#### **4.3.121 New Birth Certificate for Adoptee.**

The adopting parent or parents shall apply to the director of public or community health, or the department of vital statistics, or other appropriate office of the state in which the adoptee was born, to obtain a certified copy of a new birth certificate for the adoptee. A birth certificate so issued to an adopted person shall not refer to the adoption and shall conform as nearly as possible to the

appearance of birth certificates issued upon birth. This section does not apply to customary adoptions.

**4.3.122 Effective Date.**

This Revised Adoption Code shall be effective as of April 6, 2009, and shall apply to all proceedings commenced thereafter.

Enacted by the Hannahville Indian Community Tribal Council to be effective April 6, 2009. Votes in favor 11; Votes opposed 0; Abstentions 0. Adoption verified:

\_\_\_\_\_  
Kenneth Meshigaud, Tribal Chairperson

\_\_\_\_\_  
Tammy Meshigaud, Tribal Secretary

Enacted as amended by Resolution #04152016-A of the Hannahville Indian Community Tribal Council, meeting in special session with a quorum present, for immediate effect and application to all pending cases, on April 15, 2016, by a vote of 10 yes, 0 no, 0 abstaining.