

TITLE 8: FAMILY CODE

Chapter 8.3

TERMINATION OF PARENTAL RIGHTS

Sections:

8.3.1	Jurisdiction.
8.3.2	Petitions.
8.3.3	Rights of Parties.
8.3.4	Pretermination Report and Hearing Notification.
8.3.5	Termination Hearing.
8.3.6	Burden of Proof.
8.3.7	Dispositional Alternatives.
8.3.8	Order Final.
8.3.9	Enrollment Unaffected.
8.3.10	Record Open.
8.3.11	Relinquishment of Parental Rights.

8.3.1. Jurisdiction. The Suquamish Tribal Youth Court has jurisdiction over this chapter pursuant to STC §§8.1.4-8.1.6. (Res. 94-156 (part), passed Nov. 21, 1994; reference to prior §8.1.5 corrected to §§8.1.4-8.1.6, Jul. 14, 2008)

8.3.2. Petitions. (a) Parental rights to a child may be terminated by the Suquamish Youth Court according to the procedure in this chapter. Proceedings to terminate parental rights shall be initiated by the presenting officer of the Tribe with the filing of a petition. The petition shall include:

- (1) The name, sex, date of birth, and residence, if any, of the youth;
- (2) The names and addresses of the youth's parents;
- (3) The names and addresses of any:
 - (A) Custodian of the youth; and
 - (B) Guardian *ad litem* of the youth;
- (4) If the youth is in foster or shelter care, the place of detention or shelter care and the time he or she was taken into custody; and
- (5) A short statement of the facts which form the basis for the petition.

(b) A petition to terminate parental rights shall be filed by the tribal presenting officer. The presenting officer may act on the written request of a youth's parent or legal custodian or when the filing of the petition is deemed in the best interests of the youth. If

the petition is initiated at the request of the parent, a copy of the voluntary relinquishment or consent to adoption executed by a parent shall accompany the petition. (Res. 83-090 §V.A, passed Dec. 5, 1983; renumbered by Res. 94-156 (part), passed Nov. 21, 1994)

8.3.3. Rights of parties. Any person whose rights as a parent are subject to termination by the Court shall have the following rights and shall be advised of these rights at his or her first appearance before the Court:

(a) The right to be informed of the allegations in the petition and of the possible consequences if the allegations are found to be true;

(b) The right to legal representation at his or her own expense and not at the Tribe's expense;

(c) The right to testify or to remain silent and the right to know that any statement may be used against him or her; and

(d) The right to present witnesses and to cross-examine witnesses. (Res. 83-090 §V.B, passed Dec. 5, 1983; renumbered by Res. 94-156 (part), passed Nov. 21, 1994)

8.3.4. Pretermination Report and Hearing Notification. (a) The Court shall immediately order the preparation of a pretermination report by the counselor.

(b) The counselor shall review all relevant court records and consult with the youth's parents or custodian and any other person who has had prior contacts with the youth and his or her parents or custodian to determine whether termination of parental rights is consistent with the best interests of the youth.

(c) The counselor shall prepare a written report that shall summarize all of the material reviewed and persons interviewed and shall present the counselor's opinion as to what action is appropriate. The report shall also summarize the professional opinion of any person who has treated or counseled the youth. The report shall be presented to the Court, the youth's representative, and the parents or custodian or their representative at least two (2) days prior to the hearing. (Res. 83-090 §II.C, passed Dec. 5, 1983; renumbered by Res. 94-156 (part), passed Nov. 21, 1994)

8.3.5. Termination Hearing. (a) Hearing Date. The Court shall set a date for the termination hearing not more than twenty (20) days after the Court receives the petition from the presenting officer.

(b) Notification of Hearing. The Court shall notify the following persons of the date and nature of the hearing:

(1) The youth, the youth's parents, and the youth's custodian;

(2) Any person the Court believes necessary for the proper adjudication of the hearing;

(3) Any person the youth or the parents or custodian believes necessary for the proper adjudication of the hearing; and

(4) The presenting officer and counselor.

(c) Continuation. The hearing shall be continued on the motion of the youth, the youth's parents or custodian, or their representative. The hearing may be continued on motion of any party by reason of the unavailability of material evidence or witnesses if the Court finds that every effort has been made to make the materials or witnesses available.

(d) Hearing Procedure. The Court shall conduct the termination hearing for the sole purpose of determining whether parental rights should be terminated. The hearing shall be closed as provided in §8.1.34. The Court shall hear testimony concerning the circumstances stated in the petition and the alleged need for termination of parental rights. (Res. 83-090 §III.D1-D4, passed Dec. 5, 1983; renumbered by Res. 94-156 (part), passed Nov. 21, 1994; reference to prior §8.1.16 corrected to §8.1.34, Jul. 14, 2008)

8.3.6. Burden of Proof. The Court may terminate parental rights to a youth only if it finds beyond reasonable doubt, first, that no corrective measure within the family could improve the circumstances of the youth and, second, that:

(a) The parent has abandoned the youth;

(b) The youth has suffered physical injuries willfully and repeatedly inflicted by the parent(s) upon him or her which caused or created a substantial risk of death, disfigurement, or impairment of bodily function, and it is likely that they will continue;

(c) The parent(s) have allowed or subjected the youth to willful and repeated acts of sexual abuse; or

(d) The parents have relinquished their parental rights as provided in §8.3.11 below.

Expert witness testimony shall be required to support the Court's findings except in the case of voluntary relinquishment. (Res. 83-090 §III.D5, passed Dec. 5, 1983; renumbered by Res. 94-156 (part), passed Nov. 21, 1994)

8.3.7. Dispositional Alternatives. If parental rights to a youth are terminated, the Court shall issue an order that the parents of the youth have no further legal rights or interest in the youth, and it shall place the youth according to the placement alternatives set forth in §8.1.62. (Res. 83-090 §III.D6, passed Dec. 5, 1983; renumbered by Res. 94-

156 (part), passed Nov. 21, 1994; reference to prior §8.2.1 corrected to §8.1.62, Jul. 14, 2008)

8.3.8. Order Final. The termination order constitutes a final order for purpose of appeal. Any appeals shall be as provided in this code. (Res. 83-090 §III.D7, passed Dec. 5, 1983; renumbered by Res. 94-156 (part), passed Nov. 21, 1994)

8.3.9. Enrollment Unaffected. No adjudication of the termination of parental rights shall affect the youth's enrollment status or rights as a member of any tribe or the youth's degree of blood quantum of any tribe. (Res. 83-090 §III.D8, passed Dec. 5, 1983; renumbered by Res. 94-156 (part), passed Nov. 21, 1994)

8.3.10. Record Open. Any youth whose natural parent's rights have been terminated or who has been adopted may, upon reaching age eighteen (18), have access to the Court's records to determine who his or her biological parents are, unless the biological parent(s) have on file an affidavit requesting anonymity. If anonymity has been requested, the youth may still obtain a record of blood quantum and enrollment status but not the identity of the biological parents. (Res. 83-090 §III.D9, passed Dec. 5, 1983; renumbered by Res. 94-156 (part), passed Nov. 21, 1994)

8.3.11. Relinquishment of Parental Rights. Parental rights may be relinquished (voluntarily terminated) by a parent in writing if signed by the parent in the presence and with the approval of the Court. The Court shall question the parents to determine that they understand the nature and finality of relinquishment. Relinquishment shall not be accepted or acknowledged by the Court prior to ten (10) days after the birth of the child. An interpreter shall be provided if the parents do not understand English. (Res. 83-090, §III.E, passed Dec. 5, 1983; renumbered by Res. 94-156 (part), passed Nov. 21, 1994)

Note: The following subsections renumbered for consistency.

- 8.3.2(a)(3)(i)-(ii) changed to 8.3.2(a)(3)(A)-(B)
- 8.3.3(1)-(4) changed to 8.3.3(a)-(d)
- 8.3.6(1)-(4) changed to 8.3.3(a)-(d)