

TITLE 8. FAMILY CODE

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Chapter 8.1

SUQUAMISH FAMILY COURT — YOUTH IN NEED OF CARE

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FINDINGS AND PURPOSE

8.1.1. Suquamish Family Court. This title establishes a division of the Suquamish Tribal Court to be known as the Suquamish Family Court. The Suquamish Family Court consists of the judges of the Suquamish Tribal Court. (Res. 98-004 §8.1.010, passed Feb. 2, 1998)

8.1.2. Family Court Judges. Judges of the Suquamish Family Court have the same qualifications, powers, and duties as judges of the Suquamish Tribal Court. (Res. 98-004 §8.1.020, passed Feb. 2, 1998)

8.1.3. Source of Jurisdictional Power. The Suquamish Family Court’s jurisdiction derives from the inherent, pre-Columbian-based sovereignty of the Suquamish Indian Tribe. (Res. 98-004 §8.1.030, passed Feb. 2, 1998)

8.1.4. Subject Matter Jurisdiction. The Suquamish Family Court has jurisdiction over cases arising under this code, cases arising under 25 USC 1901 et seq., cases arising under other Suquamish tribal laws specifically providing for disposition by the Suquamish Family Court, and any actions arising under Suquamish tribal customs and traditions affecting family and child welfare. (Res. 98-004 §8.1.040, passed Feb. 2, 1998)

8.1.5. Territorial Jurisdiction. The Suquamish Family Court’s territorial jurisdiction is limited only by the Constitution of the Suquamish Indian Tribe and by the Suquamish Tribal Council’s express action as expressed in S.T.C. Chapter 3.2 et seq. (Res. 98-004 §8.1.050, passed Feb. 2, 1998)

8.1.6. Personal Jurisdiction. The Suquamish Family Court’s jurisdiction over persons is limited only by the Constitution of the Suquamish Indian Tribe and by the Suquamish Tribal Council’s express action as expressed in S.T.C. Chapter 3.2 et seq. The Suquamish Family Court, as a division of the Suquamish Tribal Court, is also vested

with jurisdiction over persons as set forth in 25 USC 1901 et seq. (Res. 98-004 §8.1.060, passed Feb. 2, 1998)

8.1.7. Jurisdictional Questions. The Suquamish Family Court has the power to decide questions of jurisdiction which may be raised under this code. The Suquamish Indian Tribe intends to vest the Suquamish Family Court with the fullest jurisdiction possible in order to protect the children and families of the Suquamish Indian Tribe and the Indian community residing within the exterior boundaries of the Port Madison Reservation. (Res. 98-004 §8.1.070, passed Feb. 2, 1998)

8.1.8. Legislative Findings. The Suquamish Tribal Council finds that family, in its broadest sense, is the most important resource and advocate for the well-being of youth. Therefore, in most instances, the preservation of a youth's family will, in turn, promote the well-being of the youth. However, there will undoubtedly be instances in which the value of family preservation and the value of a youth's well-being conflict. In such instances, the Suquamish Family Court must ensure that the youth's well-being takes precedence. (Res. 98-004 §8.1.080, passed Feb. 2, 1998)

8.1.9. Policy Statement. At the heart of sovereignty lies the Tribe's ability to ensure the welfare of Suquamish youth and Indian youth residing within the Port Madison Reservation. Nothing is more central to the protection of tribal self-government or the control of the Tribe's internal relations than the ability to ensure that our tribal community's future adults are well cared for. (Res. 98-004 §8.1.090, passed Feb. 2, 1998)

8.1.10. (Reserved)

8.1.11. (Reserved)

DEFINITIONS — TCW

8.1.12. Definitions. For the purposes of this title, the following words and phrases have the following meanings unless otherwise defined in a chapter:

(a) "Abandonment" means:

(1) For a child who is an infant between three (3) and twenty-four (24) months of age, the parent has not initiated any direct contact since the infant was released from the hospital after birth; or

(2) For a child over twenty-four (24) months old, the parent has not initiated any substantial direct contact with the child for any significant period of time, and there has been a substantial period of prolonged absence.

(3) The Court should take into consideration whether the parent made arrangements for the reasonable care, control, and supervision of the child, or

whether the parent did not have an ability to exercise their parental rights and responsibilities.

(4) For purposes of this subsection, a “direct contact” means an in-person visit with the child.

(b) “Adult” means any person who is either eighteen (18) years of age or older, married, or otherwise emancipated.

(c) “Custodian” means any person who has been entrusted with the care of a youth under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been given by the youth’s parent.

(d) “Delinquent act” means an act which, if committed by an adult, would be a crime under any title of the Suquamish Tribal Code, provided, however, that traffic offenses and fishing offenses are not delinquent acts but will proceed in adult tribal court regardless of the defendant’s age.

(e) “Domicile/residence” is determined in accordance with tribal law and custom. In the absence of other factors clearly demonstrating an intent to establish a permanent home outside the exterior boundaries of the Port Madison Reservation, a person’s domicile/residence will be considered to be within the exterior boundaries of the Port Madison Reservation.

(f) “Extended family member” means the youth’s grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or step-parent, and any other person who is considered a family member under tribal law or custom.

(g) “Guardian” means a person, usually other than the youth’s parent, to whom the Court has given certain rights and duties to care for the youth and/or the youth’s property.

(h) “Guardian *ad litem*” means a person appointed by the Suquamish Family Court to represent a youth’s interests throughout any proceeding held under this title.

(i) “Indian youth” means a youth who is:

(1) A member of a federally recognized Indian tribe or is eligible for membership in an Indian tribe;

(2) An Eskimo, Aleut, or Alaskan native;

(3) Determined eligible to be found an Indian by the Secretary of Interior;

(4) A Canadian Indian;

(5) A person considered to be an Indian by a federally or non-federally recognized tribe or by an urban Indian or Alaskan native community organization; or

(6) A child residing or domiciled within the exterior boundaries of the Port Madison Reservation whose parent is (1) residing or domiciled within the exterior boundaries of the Port Madison Reservation; and (2) a member of a federally recognized Indian tribe or eligible for membership in a federally recognized Indian tribe; an Eskimo, Aleut, or Alaskan Native; determined eligible to be found an Indian by the Secretary of Interior; a Canadian Indian; or a person considered to be an Indian by a federally or non-federally recognized Indian tribe or by an urban Indian or Alaskan native community organization.

(j) “Least restrictive environment” means any placement, including a relative’s home, foster care home, or other shelter care facility, that is the least physically restrictive to a youth and most closely approximates the normal conditions of healthy family life.

(k) “Party” means a youth, parent, guardian, custodian, the TCW case worker, and the Suquamish Indian Tribe, by and through its authorized representatives.

(l) “Presenting officer” means a person appointed by the Tribal Council according to §8.1.16 to fulfill the duties set forth in §8.1.17.

(m) “Suquamish youth” means any youth who is a member of or eligible for membership in the Suquamish Indian Tribe, regardless of the youth’s residence or domicile.

(n) “Tribal Child Welfare (TCW) case worker” means a person designated by the Tribal Council according to §8.1.14 to fulfill the duties set forth in §8.1.15.

(o) “Tribe” means the Suquamish Indian Tribe of the Port Madison Reservation, as represented by the Suquamish Tribal Council according to the powers set forth in Article III, Section 1 of the Suquamish Constitution.

(p) “Youth” means a person under the age of eighteen (18) years; a person eighteen (18) years of age or older concerning whom proceedings are started in the Suquamish Family Court before the person’s eighteenth birthday; and any person eighteen (18) years of age through twenty (20) years of age under the Suquamish Family Court’s continuing jurisdiction.

(q) “Youth offender” means a person who commits a delinquent act before the person’s eighteenth (18th) birthday.

(r) “Youth in Need of Care” means a youth who:

(1) Has been neglected. This term includes but is not limited to a youth who:

(A) Has no parent, guardian, or custodian willing, available, and able to provide adequate care for the youth.

(B) Is not receiving the food, clothing, shelter, medical care, education, or supervision needed for the youth's well-being or development. "Education" includes the parent's responsibility to send the youth to school regularly or the responsibility of a parent to ensure that the youth is participating in a community-accepted alternative schooling program.

(C) Is an infant who is failing to thrive.

(D) Is knowingly left by a parent, guardian, or custodian with a babysitter who is intoxicated, irresponsible, or below the age of twelve (12).

(E) Is doing the work of a parent in running a household because the parent refuses to act as a parent.

(F) Is exposed to a dangerous situation due to the negligence of the youth's parent(s) or guardian(s).

(G) Has a parent(s) or guardian(s) who misuses benefits intended for the youth, such as selling or squandering food stamps or commodities, and such misuse results in neglect as defined in (1) of this subsection.

(H) Is an unborn or nursing child whose mother is using alcohol or nonprescribed drugs, or prescribed drugs in a manner inconsistent with the prescription, to an extent that the fetus or baby is likely to be endangered.

(I) Is an unborn child whose mother is not receiving "adequate prenatal care" as that term is commonly understood by qualified medical professionals.

(J) Is allowed access to alcohol, marijuana, or controlled substances as defined in Suquamish Criminal Code §7.26.1 by the youth's parent(s), guardian(s), or custodian(s), or through the negligence of the parent(s), guardian(s), or custodian(s).

(K) Is suffering from head lice to an extent that the youth's well-being is likely to be endangered.

(L) Has been committing delinquent acts as a result of parental or custodial neglect, pressure, guidance, or approval.

(M) Is an unborn child whose mother is subject to “domestic violence,” as that term is defined in Suquamish Criminal Code §7.28.1, to an extent that the fetus’ physical well-being is likely to be endangered.

(2) Has been physically abused. This term includes but is not limited to:

(A) Any bruising, welting, abrasion, lesions, burns, broken bones, or other bodily damage not clearly caused by pure accident;

(B) Giving inappropriate food, drink, or drugs, or causing a child to suffer from malnutrition; or

(C) Unreasonable punishment. In determining whether punishment is unreasonable, the Court will consider the child’s age, size, and condition; the circumstances surrounding the punishment at issue; and the location of any injury the parent or guardian has caused. Unreasonable punishment includes but is not limited to the following acts: excessive spanking or slapping; any hitting with a closed fist; any kicking, throwing, burning, or cutting of a youth; or an act that is likely to cause and which does cause bodily harm greater than transient pain or minor, temporary marks.

(3) Has been emotionally maltreated. Emotional maltreatment impairs a youth’s psychological growth and development. Both community values and professional expertise should be considered when deciding whether emotional maltreatment has taken place. Some indicators of emotional maltreatment are:

(A) The youth’s social relationships are seriously impaired: very low self-esteem, a consistent pattern of emotional difficulties such as listlessness, apathy, depression, and self-deprecating remarks

(B) Serious inability of the youth to respond appropriately to others: for example, the child cowers or ingratiates himself to adults, or the child is excessively aggressive

(C) Rejection: the parent or guardian refuses to accept the child

(D) Ignoring: the parent or guardian deprives the child of essential responsiveness which stifles the child’s emotional growth and development

(E) Ridicule/Terrorizing: making verbal assaults creating a climate of fear, bullying the child, name-calling, destroying the child's possessions, attacking beloved people or pets, or making derogatory remarks about the cultural heritage of the youth or the youth's parents

(F) Isolating: cutting a youth off from normal social experiences, preventing a youth from forming friendships, locking a youth out of the home, or causing a youth to leave home because of partying in the home

(G) Corrupting: teaching a child socially deviant behavior, such as aggression, delinquency, or sexual precociousness, by rewarding that behavior

(H) Penalizing a child for positive, normal behavior

(I) Discouraging the attachment between caregiver and infant to the extent that failure to thrive, neglect, or physical abuse are likely to follow

(4) Has been sexually abused. Sexual abuse, as defined in this section, occurs when a parent, guardian, or custodian either perpetrates the sexual abuse or sexual abuse occurs as a result of the parent, guardian, or custodian's negligence. Sexual abuse, as defined in this section, includes but is not limited to:

(A) Contacts or interactions between a youth and an adult when the perpetrator or another person is using the youth for sexual stimulation.

(B) Sexual contact between a youth under the age of eighteen (18) and a person who is forty-eight (48) months or more older than the youth, or between a youth under the age of eighteen (18) and any person in a position of power or control over the youth.

(C) The inappropriate exposure of the perpetrator's genitals, or any other sexual act, in a youth's presence. "Exposure," as used in this section, requires intentional conduct.

(D) Obscene calls, jokes, or sexual propositions to a youth.

(E) Enticing a youth to become the object of child pornography or any type of sexual positioning for photos. "Entice," as used in this section, means to wrongfully solicit, persuade, procure, allure, attract, coax, or seduce another to commit an act.

(F) Forcing a youth to witness obscene sexual acts. "Forcing," as used in this section, requires intentional conduct.

(G) French kissing, handling genitals for the perpetrator's and/or victim's sexual gratification, and mouth-to-genital contact.

(H) Oral, anal, or vaginal rape, including statutory rape as defined in S.T.C. Chapter 7.17.

(I) Subjecting a youth to sexual maiming or sexual bondage.

(5) Has been missing from the youth's residence for at least twenty-four (24) hours without the permission or authority of the youth's parent, guardian, or custodian.

(6) Has not been obeying the reasonable rules of the home established by the youth's parent, guardian, or other custodian to the point where assistance outside the immediate family is needed or requested by the parent, guardian, or other custodian.

(7) Has been habitually truant from school.

(8) Has engaged in alcohol or drug abuse.

(9) Is an unborn child who, upon birth, will be a youth in need of care as defined within this section. (Res. 98-004 §8.2.010, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.13 Recognition of Informal Temporary Placement. This code recognizes that a parent may need to place a child with another caregiver for a brief or long time. This is not in itself grounds for a youth-in-need-of-care action, provided that the substitute caregiver is adequately caring for the child. However, the community still expects a parent who has placed a child with another person because that parent is unable to adequately care for that child to work toward becoming a good parent. Should the parent demonstrate an unwillingness to work towards becoming a good parent, the Tribe may initiate proceedings according to this title. (Res. 98-004 §8.2.015, passed Feb. 2, 1998)

8.1.14. TCW Case Workers — Appointment. The Tribal Council will employ or appoint one or more Tribal Child Welfare case workers to carry out the duties and responsibilities set forth in this code. (Res. 98-004 §8.2.020, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.15. TCW Case Workers — Duties. Tribal Child Welfare case workers will:

(a) Conduct investigations as provided in this code. However, this section does not prevent Suquamish police officers from conducting investigations as provided in this code.

(b) Make reports as provided in this code.

(c) Place a youth out of home as provided in this code.

(d) Perform case work and such other duties in connection with the care, custody, or transportation of youths as this code requires.

(e) Make recommendations to the presenting officer on actions to take in family court.

(f) Testify in the Suquamish Family Court at the direction of the presenting officer or the Court.

(g) Testify in courts of other jurisdictions at the direction of the Suquamish Family Court or the Suquamish Indian Tribe's presenting officer in matters involving wards of the Suquamish Family Court or in matters involving youths who are Suquamish members or who are eligible for membership in the Suquamish Indian Tribe.

(h) Perform such other duties as this code may require.

(i) Perform other tasks involving the well-being of youth, depending upon availability of resources and staff time within the Suquamish TCW Department. (Res. 98-004 §8.2.030, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.16. Presenting Officer — Appointment. The Tribal Council will appoint or employ a presenting officer to represent the Suquamish Indian Tribe in all matters arising under this code. The presenting officer must have the same qualifications as the tribal prosecutor. If the presenting officer is unavailable, the tribal attorney or an assistant tribal attorney may represent the Suquamish Indian Tribe in all matters arising under this code. (Res. 98-004 §8.2.040, passed Feb. 2, 1998)

8.1.17. Presenting Officer — Duties. The presenting officer will:

(a) File petitions and other pleadings with the Suquamish Family Court as provided in this code;

(b) Represent the Suquamish Indian Tribe in all proceedings arising under this code;

(c) Represent the Suquamish Indian Tribe in courts of other jurisdictions in matters involving wards of the Suquamish Family Court or in matters involving youths who are Suquamish Tribal members or who are eligible for membership in the Suquamish Indian Tribe;

(d) Advise the Suquamish TCW Department and Suquamish Law Enforcement Department in matters arising under this code; and

(e) Perform such other duties as the Court or this code may require. (Res. 98-004 §8.2.050, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.18. Duty to Report Abuse and Neglect. The care of youths is both a family and a tribal responsibility. Any person who has reason to suspect that a youth has been abused or neglected must immediately report the abuse or neglect to Suquamish law enforcement, the Suquamish TCW Department, or the Suquamish Indian Tribe's presenting officer. (Res. 98-004 §8.2.060, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.19. Mandatory Reporters. Reporting under §8.1.18 is mandatory for all medical and mental health professionals; court personnel; foster parents; law enforcement; and Suquamish tribal employees (including persons working on contract for the Suquamish Indian Tribe) who perform services for the Port Madison Reservation in the areas of education, health, and human services. (Res. 98-004 §8.2.070, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.20. Immunity. All persons who report youth abuse or neglect in good faith are immune from civil liability and criminal prosecution. (Res. 98-004 §8.2.080, passed Feb. 2, 1998)

8.1.21. Sanctions for Not Reporting. Any person who is required to report youth abuse or neglect under §8.1.18 and who knowingly fails to report youth abuse or neglect is subject to a civil fine not to exceed five thousand dollars (\$5,000). (Res. 98-004 §8.2.090, passed Feb. 2, 1998)

8.1.22. Contents of the Report. A report of abuse or neglect may be made orally but should be followed by a written report including:

(a) The child's name, age, address, and tribal status, if known;

(b) A plain statement of the facts on which the report is based, including the date, time, and location of the events, and;

(c) The reporter's name. (Res. 98-004 §8.2.100, passed Feb. 2, 1998)

8.1.23. Confidentiality Policy. Youth abuse or neglect reports are confidential. Subject to the provisions of §8.1.24, reports involving abuse or neglect of a youth will be initially reviewed by only the TCW Department, Suquamish law enforcement officers, and/or the Suquamish presenting officer. Subsequent to initial review, youth abuse and neglect reports may be used to bring actions under this code. The names of those reporting abuse and neglect under §8.1.18 will remain confidential, unless the reporter has

agreed otherwise. However, the names of mandatory reporters, as defined in §8.1.19, may be disclosed without the reporter's consent if the presenting officer considers it necessary in order to bring an action under this code or to otherwise ensure the safety and well-being of the youth who is the subject of the report. (Res. 98-004 §8.2.110, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.24. Interagency Cooperation. The confidentiality requirements set forth in §8.1.23 will not be interpreted to hamper cooperation between agencies that is necessary to properly investigate youth abuse and neglect. Where there is a conflict between confidentiality and the need for communication between agencies and departments, the youth's protection is the overriding consideration. (Res. 98-004 §8.2.120, passed Feb. 2, 1998)

8.1.25. Case Staffings. (a) Regardless of the confidentiality requirements set forth in this chapter, the following persons may attend case staffings upon the invitation of a TCW case worker assigned to the case at issue:

(1) Employees of the Suquamish Human Services Department whose professional duties are relevant to an investigation, predispositional report, or review hearing report required under this title, or the resolution of a case filed under this title; or

(2) Anyone whose presence is determined to be necessary by the TCW case worker assigned to the case for an investigation, predispositional report, review hearing report, or the resolution of a case filed under this title.

(b) Any persons who attend a case staffing according to §8.1.25(a) must sign confidentiality agreements in which they agree that any information learned through a case staffing must remain confidential. The confidentiality agreement must also contain a consent to jurisdiction allowing the Suquamish Family Court to impose contempt sanctions for not abiding by the agreement's terms. (Res. 98-004 §8.2.130, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.26. Parents' Attendance at Case Staffings. A parent, guardian, custodian, or guardian *ad litem* may attend a case staffing at the invitation of the TCW case worker. The TCW case worker has the authority to determine the amount of involvement a parent, guardian, custodian, or guardian *ad litem* may have in a case staffing. Parents who attend case staffings are not subject to the confidentiality requirements set forth in §8.1.25(b). (Res. 98-004 §8.2.140, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

COURT PROCEEDINGS INVOLVING JUVENILES — CONFIDENTIALITY

8.1.27. Rules of Evidence. Except where otherwise provided in this chapter, the rules of evidence of the Suquamish Tribal Court (S.T.C. 3.8) apply to the Suquamish Family Court. (Res. 98-004 §8.3.010, passed Feb. 2, 1998)

8.1.28. No Right to a Jury. There is no right to a jury trial in any proceeding before the Suquamish Family Court. (Res. 98-004 §8.3.020, passed Feb. 2, 1998)

8.1.29. Contempt of Court. The Suquamish Family Court has the power to find any person in contempt of court according to the provisions of S.T.C. §3.8.21. (Res. 98-004 §8.3.030, passed Feb. 2, 1998)

8.1.30. Bench Warrant. A family court judge may issue a bench warrant upon finding a person in contempt according to §8.1.29. (Res. 98-004 §8.3.040, passed Feb. 2, 1998)

8.1.31. Notice. In all proceedings before the Suquamish Family Court initiated under this title where a youth is the subject of the proceedings, notice must be given to the youth; the youth's parent, guardian, or custodian; and their attorneys or spokespersons, if any, within the time limits required for that particular proceeding. (Res. 98-004 §8.3.050, passed Feb. 2, 1998)

8.1.32. Service. Except as otherwise expressly provided in this code, every pleading, motion, notice, and similar paper which is required or permitted to be served upon a person must be served in the following manner:

(a) By personally delivering a copy to the person to be served by handing it to the person's counsel, or to the person directly; or by leaving it at the person's office with the person's secretary or other person; or if the person to be served has no office, leaving it at the person's dwelling place or usual place of residence with some person of suitable age and discretion who resides there;

(b) By certified mail, return receipt requested, postage prepaid, and properly addressed to the last known residence of the person to be served, followed by a copy sent via regular first class mail; or

(c) Any method the Court approves as reasonable if the above methods are unsuccessful.

Personal service of documents on the Tribe's behalf may be made by tribal law enforcement. (Res. 98-004 §8.3.060, passed Feb. 2, 1998)

8.1.33. Nature of Proceedings Involving Juveniles. No adjudication on the status of any youth in the Suquamish Family Court may be considered criminal unless the Suquamish Family Court declines jurisdiction over a cause filed under the youth offender chapter of the Suquamish Tribal Code and remands the matter to adult criminal court. (Res. 98-004 §8.3.070, passed Feb. 2, 1998)

8.1.34. Hearings Closed to the General Public — Parents' Presence Required. (a) Except as provided in part (b) of this section, hearings before the Suquamish Family Court, in all cases where a youth is the subject of the proceedings, will be closed to all

persons except the parties, their counsel, the TCW case worker(s), and witnesses the parties call. However, the Court and the parties may agree to allow the presence of other persons.

(b) Members of the youth's extended family, as that term is defined in §8.1.12, will have the opportunity to be present at all proceedings under this title involving the youth unless a party objects and for good cause shown. Members of the youth's family will have an opportunity to address the Suquamish Family Court on issues concerning placement, family protection plans, dispositional requirements, and informal agreements. This requirement is intended to be applied with flexibility, since it is not practical to give all extended family members notice of proceedings under this code. However, the TCW case worker(s), court personnel, tribal agencies, and agencies working with the Tribe will give respect and consideration to family members and work in partnership with families to protect children in all proceedings under this chapter.

(c) The parent(s), custodian(s), or guardian(s) must be present at all such hearings unless the Court waives this requirement for good cause shown. (Res. 98-004 §8.3.080, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.35. Continuances — When to Order. Except as otherwise expressly provided, the Court may continue any proceeding:

(a) Upon the motion of a party if there is a finding that good reason exists for the continuance, such as allowing time to give adequate notice or to produce material evidence or witnesses currently unavailable; or

(b) Upon the Court's own motion if it considers it to be in the youth's best interest. (Res. 98-004 §8.3.090, passed Feb. 2, 1998)

8.1.36. Effect of a Continuance. A continuance suspends the time limits for holding hearings and filing documents. (Res. 98-004 §8.3.100, passed Feb. 2, 1998)

8.1.37. Records. Unless otherwise provided under this title, records created or maintained under this title are confidential and are not open to inspection to anyone but the following, except as the Court may order in the youth's best interest or upon the showing of exceptional circumstances:

- (a) The youth;
- (b) The parent, custodian, or guardian;
- (c) The TCW case worker;
- (d) The presenting officer;

(e) Employees of the Suquamish Human Services Department who are directly involved in the cause to which the records relate;

(f) The spokesperson or attorney for any party who is admitted to practice before the Suquamish Tribal Court and who has entered a notice of appearance; or

(g) The guardian *ad litem* for any party. (Res. 98-004 §8.3.110, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

RIGHTS OF PARTIES

8.1.38. Rights. Unless otherwise expressly provided in this title, all youths, parents, guardians, and custodians are entitled to the following rights in all proceedings under this code:

(a) The right to have an attorney or spokesperson admitted to practice before the Suquamish Tribal Court advise and represent them, at their expense;

(b) The opportunity to subpoena witnesses;

(c) The opportunity to discover, offer, and inspect evidence;

(d) The opportunity to present arguments and statements; and

(e) The opportunity to question all witnesses.

At the youth's first appearance before the Court, the Court will inform the youth and the youth's parent, guardian, or custodian of their rights under this section. (Res. 98-004 §8.4.010, passed Feb. 2, 1998)

YOUTH-IN-NEED-OF-CARE PROCEEDINGS

8.1.39. Complaint. All youth-in-need-of-care proceedings must be initiated by the filing of a complaint signed by the presenting officer, a Suquamish tribal attorney, or a TCW case worker. (Res. 98-004 §8.5.005, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.40. Contents of the Complaint. The complaint must include:

(a) The name, age, tribal status, and address of the youth who is the subject of the complaint, if known;

(b) A plain and concise statement of the facts upon which the complaint is based, including the date, time, and location at which the alleged facts occurred; and

(c) The name of the complainant. (Res. 98-004 §8.5.010, passed Feb. 2, 1998)

8.1.41. Amendment of the Complaint. Because youth-in-need-of-care investigations routinely continue beyond the date of the filing of a complaint, the Tribe may amend the complaint to reflect newly discovered evidence, provided that the Tribe gives reasonable notice to all parties. (Res. 98-004 §8.5.015, passed Feb. 2, 1998)

8.1.42. Presumption in Favor of Providing Protection. When there is a question of whether a youth is a youth in need of care, the presumption must be in favor of providing protection for the youth. (Res. 98-004 §8.5.016, passed Feb. 2, 1998)

8.1.43. Child Protective Services. The TCW case worker may work in cooperation with a person or agency to provide child protective services to the Suquamish Family Court such as emergency removal of a child for out-of-home placement and investigation of child abuse and neglect. The duties and authority of the cooperating person or agency will be set forth by agreement with the Suquamish TCW Department. The Tribal Council must first approve any such agreement. (Res. 98-004 §8.5.020, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.44. Receipt of a Referral by TCW Case Worker. (a) Upon receiving notice from any source that a youth is in need of care, the TCW case worker must determine within twenty-four (24) hours whether further action on the complaint or notice is necessary and will advise the presenting officer of this determination.

(b) The TCW case worker may request an agency, according to §8.1.43, and law enforcement to conduct or assist in conducting the investigation. If the TCW case worker or Suquamish law enforcement officer reasonably believes that a youth is in an emergency situation and requires out-of-home placement, the TCW case worker or Suquamish law enforcement officer will:

(1) Request an emergency custody order if there is time and a judge or judicial officer is available; or

(2) Immediately place the youth in an out-of-home placement. The TCW case worker may request assistance of an agency, according to §8.1.43, and law enforcement in making that placement.

(3) If the youth's parent, guardian, or custodian has not been notified, the TCW case worker must inform that person or persons at the earliest possible time and return the youth to that person if such action is appropriate.

(4) If a youth is taken into custody and it is unlikely that the youth will be released to the youth's parent, guardian, or custodian within two (2) working days, the TCW case worker, the presenting officer, or other authorized person must immediately file a request for a first hearing. (Res. 98-004 §8.5.030, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.45. Receipt of a Referral by Law Enforcement. Upon receiving notice from any source that a youth is in need of care, law enforcement must take the following steps:

(a) Law enforcement will immediately investigate the complaint. If law enforcement has probable cause to believe that a youth is in need of care based on this investigation, law enforcement will immediately notify a TCW case worker. If a TCW case worker is not available, law enforcement will notify an agency, according to §8.1.43. Based on the investigation, law enforcement will complete a detailed written report. A copy will be delivered to the TCW case worker within three (3) working days of the date the referral was received.

(b) If the Suquamish law enforcement officer reasonably believes that a youth is in an emergency situation and requires out-of-home placement, the officer will:

(1) Request an emergency custody order if there is time and a judge or judicial officer is available; or

(2) Immediately consult with the TCW case worker or an agency, according to §8.1.43, regarding placing the youth out-of-home. If the TCW case worker cannot be reached, the officer may place the youth out-of-home but must continue attempts to notify the TCW case worker. The youth will be placed in a facility that a member of the Tribal Child Welfare Department has approved for emergency out-of-home placement in the particular case. The TCW staff may set a list of persons to contact in emergency placements and provide the list to law enforcement.

(c) If the youth's parent, guardian, or custodian has not been notified, that person must be notified at the earliest possible time, and the youth must be returned to that person if such action is appropriate. (Res. 98-004 §8.5.040, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.46. Emergency Custody Orders — Grounds. A family court judge or judicial officer may issue an emergency custody order upon a sworn oral or written statement of facts showing probable cause to believe the youth is in need of care and that the youth's health, safety, and welfare may be seriously endangered if not taken into custody. (Res. 98-004 §8.5.050, passed Feb. 2, 1998)

8.1.47. Emergency Custody Orders — Content. The emergency custody order must specifically name the youth to be taken into custody, be signed by the judge or judicial officer, state the date and time issued, and name the person or persons authorized to take the youth into custody. The judge or judicial officer may transmit an emergency custody order by telephone, computer, or fax. (Res. 98-004 §8.5.060, passed Feb. 2, 1998)

8.1.48. Emergency Custody Orders — Service and Duration. An emergency custody order must be executed within seventy-two (72) hours after being issued. A youth taken

into custody under an emergency custody order may be held until the conclusion of the first hearing or as the Court orders. (Res. 98-004 §8.5.070, passed Feb. 2, 1998)

8.1.49. Emergency Protective Orders — Grounds. A family court judge or judicial officer will issue an emergency protective order upon a sworn oral or written statement of facts showing probable cause to believe the youth is in need of care and that the relief requested in the motion is critically important for the youth's well-being. (Res. 98-004 §8.5.080, passed Feb. 2, 1998)

8.1.50. Emergency Protective Orders — Content. The emergency protective order must specifically name the youth, be signed by the judge or judicial officer, state the date and time issued, set forth the change in legal custody, and set forth the conditions that the parties must fulfill before the first hearing. The judge or judicial officer may transmit an emergency protective order by telephone, computer, or fax. (Res. 98-004 §8.5.090, passed Feb. 2, 1998)

8.1.51. Emergency Protective Orders — Service and Duration. An emergency protective order must be executed within seventy-two (72) hours after being issued. (Res. 98-004 §8.5.100, passed Feb. 2, 1998)

8.1.52. Request for First Hearing. A request for first hearing must be filed with the Court within seventy-two (72) hours of the execution of an emergency custody order or an emergency protective order. (Res. 98-004 §8.5.110, passed Feb. 2, 1998)

FIRST HEARING

8.1.53. Purpose of First Hearing. If a request for a first hearing is filed under this chapter, the Court must make the following determination at that hearing:

- (a) The tribal status of the youth;
- (b) Whether there is probable cause to believe the youth is a youth in need of care;
- (c) The best interest of the youth with regard to any action to be taken; and
- (d) Whether continued out-of-home placement is necessary pending further proceedings. (Res. 98-004 §8.6.010, passed Feb. 2, 1998)

8.1.54. Rules of Evidence Relaxed. The rules of evidence, as set forth in §8.1.27, will be relaxed. However, the Court may rely on the rules of evidence in determining what weight to give evidence. (Res. 98-004 §8.6.015, passed Feb. 2, 1998)

8.1.55. Request for First Hearing — Contents. A request for a first hearing must include:

(a) The youth's name, birth date, residence, domicile, and tribal status, if known;

(b) The name and residence of the youth's parent(s), guardian(s), or custodian(s);

(c) A citation to the specific section of this code and the facts that give the Court jurisdiction over the proceeding;

(d) A plain and concise statement of the facts that support the allegation that the youth is in need of care; and

(e) If the youth is in out-of-home placement, the time the youth was taken into custody. (Res. 98-004 §8.6.020, passed Feb. 2, 1998)

8.1.56. First Hearing — Time of Hearing. A first hearing must be conducted within seven (7) working days of filing a request for a first hearing if the youth is placed out of the home, unless a judge or judicial officer is unavailable, in which case the hearing will take place at the next scheduled court date. A first hearing must be conducted within fourteen (14) working days if the youth is not placed out of the home, unless a judge or judicial officer is unavailable, in which case the hearing will take place at the next scheduled court date. (Res. 98-004 §8.6.030, passed Feb. 2, 1998)

8.1.57. Notice. Notice of the first hearing must be given to the parties at least three (3) days before the hearing by the court clerk or a person the Tribal Council has appointed to fulfill these duties under §8.1.32. The notice must include:

(a) The name of the court;

(b) A copy of the complaint;

(c) A copy of the request for first hearing; and

(d) The date, time, and place of the first hearing. (Res. 98-004 §8.6.040, passed Feb. 2, 1998)

8.1.58. Presence of Parent, Guardian, or Custodian. If the youth's parent(s), guardian, or custodian are not present at the first hearing, the Court will determine what efforts have been made to notify and to obtain the presence of the parent(s), guardian, or custodian. If it appears that further efforts are likely to produce the parent(s), guardian, or custodian, the hearing will be recessed for a reasonable period of time, and the Court will direct continued efforts to obtain the presence of the parent(s), guardian, or custodian. If the parent(s), guardian, or custodian is not produced after a reasonable recess, the first hearing will proceed without delay. (Res. 98-004 §8.6.050, passed Feb. 2, 1998)

8.1.59. Presence of Counsel — Continuance. The Suquamish Family Court may not continue a first hearing solely to allow a party to obtain legal representation; however, a party who appears at a first hearing without legal representation does not waive his or her right to appeal any procedural or substantive error made at the first hearing by failing to make objections during the hearing. (Res. 98-004 §8.6.060, passed Feb. 2, 1998)

8.1.60. Court's Findings — Release of Youth. If the Court finds that there is not probable cause to believe the youth is in need of care, the youth will be released to the custody of the youth's parent(s), guardian(s), or custodian(s). (Res. 98-004 §8.6.070, passed Feb. 2, 1998)

8.1.61. Court's Findings — Youth in Need of Care. If the Court finds that there is probable cause to believe that the youth is in need of care, it may order:

(a) That the youth be released to the youth's parent(s), guardian(s), or other custodian(s) pending further proceedings.

(b) That out-of-home placement be continued, if the Court finds that there is probable cause to believe that:

(1) No parent, guardian, custodian, or other person is able, willing, or available to provide adequate supervision of and care for the youth;

(2) The youth will run away or otherwise be unavailable for further proceedings;

(3) The youth will be in an emergency situation if returned to the youth's parent(s), guardian(s), or other custodian(s);

(4) The youth will cause serious damage to persons or property;

(5) The youth requires medical care, treatment, or evaluation or other services that the youth could not otherwise receive if remaining in the custody of the youth's parent(s), guardian(s), or other custodian(s); or

(6) The youth has been abandoned.

(c) That any person who poses a threat to the youth's well-being be restrained from contacting the youth. Such an order may be entered to protect a youth in the youth's home or while in an out-of-home placement.

(d) That the youth and the parent, guardian, or other custodian, or any other interested person within the Court's jurisdiction, attend mediation and will advise the parties as to the date, time, and place of such mediation.

(e) Any other action necessary for the protection and well-being of the youth and the family including but not limited to evaluation and treatment, including involuntary residential treatment, of substance abuse, mental illness, and emotional disturbance; classes; mandatory school attendance; visitation orders; and other services or activities for the benefit of the youth and the family. The Court may make a particular placement conditional on compliance with any of its orders.

The parties must keep the Court informed of any changes in their whereabouts and mailing addresses. (Res. 98-004 §8.6.080, passed Feb. 2, 1998)

8.1.62. Out-of-home Placement. If a youth is placed out-of-home, the Court must follow the placement preferences below:

(a) The home of an extended family member, provided that among equally qualified extended family members, those residing on or closest to the reservation will have priority;

(b) A private home recommended by the tribal Human Services staff and the Tribal Child Welfare Department (this will usually be a responsible member of the youth's extended family);

(c) A foster home the Tribe has approved or licensed; or

(d) Any other facility the Tribe has approved. (Res. 98-004 §8.6.090, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.63. Fact-finding Hearing — Scheduling at First Hearing. If it appears a petition for fact-finding will soon be filed upon the findings at the first hearing, the Court will set a date and time for the fact-finding hearing; will advise the parties of the date, time, and place of the hearing; and will order the parties' attendance at the hearing. If the parent, guardian, or other custodian is not present at the first hearing, notice of the fact-finding hearing may be served in accordance with §8.1.57. (Res. 98-004 §8.6.100, passed Feb. 2, 1998)

8.1.64. Petition for Fact-finding Hearing — When to File. A petition for a fact-finding hearing must be filed within five (5) working days of the first hearing. (Res. 98-004 §8.6.110, passed Feb. 2, 1998)

FACT-FINDING HEARINGS

8.1.65. Purpose. The Court will conduct a fact-finding hearing for the purpose of determining whether a youth is in need of care. (Res. 98-004 §8.7.010, passed Feb. 2, 1998)

8.1.66. Request for Fact-finding Hearing. A request for a fact-finding hearing may be started at the first hearing under §8.1.53 or by a petition filed by the presenting officer or

the TCW case worker. (Res. 98-004 §8.7.020, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.67. Petition — Contents. A petition for fact-finding hearing must include:

- (a) The youth's name, birth date, residence, domicile, and tribal status.
- (b) The names, residences, and tribal status of the youth's parent(s), guardian, or custodian, if known.
- (c) A citation to the specific section of this code and the facts which give the Court jurisdiction over the proceeding.
- (d) A detailed statement of facts and reasons which support the allegation that the youth is a youth in need of care. However, if a request for first hearing was filed previously, the petition may incorporate the contents of the request by reference.
- (e) If the youth is in out-of-home placement, the placement's location and the time taken into custody. (Res. 98-004 §8.7.030, passed Feb. 2, 1998)

8.1.68. Time of Hearing. If the youth is in out-of-home placement, the Court must set the date for hearing within thirty (30) days of receiving the petition. If the youth is not placed outside of his or her usual residence, the Court must set the date for hearing within sixty (60) days of receiving the petition. (Res. 98-004 §8.7.040, passed Feb. 2, 1998)

8.1.69. Notice. Notice of the fact-finding hearing must be served as specified under §8.1.32 at least five (5) working days before the hearing by the court clerk or other person the Tribe has designated to perform this duty. The notice must include the name of the court; the date, time, and place of the hearing; and a copy of the petition. The notice must be served on:

- (a) The youth's parent(s), guardian, or custodian;
- (b) Any person the Court believes necessary for the hearing;
- (c) Any person the parties believe necessary for the hearing; and
- (d) The TCW case worker. (Res. 98-004 §8.7.050, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.70. Burden of Proof. The Tribe bears the burden of proving, by clear and convincing evidence, that the youth is a youth in need of care. (Res. 98-004 §8.7.070, passed Feb. 2, 1998)

FAMILY PROTECTION PLAN

8.1.71. Proposed Family Protection Plan. The TCW case worker will prepare a written plan describing all reasonable and appropriate alternatives for caring for the youth and assisting the youth's family. It must explain why the plan is necessary and its benefits to the youth and to the family. It must fully explain any recommendations for placement of the youth. The professional opinions of all persons consulted will be included. The TCW case worker must file the report with the Court and provide copies to all parties at least seven (7) days before any hearing on the plan. (Res. 98-004 §8.8.010, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.72. Other Proposed Plans. Any party who is involved with a youth-in-need-of-care case may make recommendations to the Court in the form of a proposed family protection plan. Copies must be provided to all parties to the case at least three (3) days before any hearing on the plan. (Res. 98-004 §8.8.020, passed Feb. 2, 1998)

8.1.73. Hearing for Family Protection Plan. A hearing must be held no sooner than ten (10) days and no longer than thirty (30) days after the fact-finding hearing to decide what plan will best meet the youth's needs and assist the youth's family. The Court will determine the scheduling and will direct the court clerk to notify the parties. The Court will hear testimony and consider all proposed family protection plans filed. All parties will have an opportunity to contest the facts and conclusions presented in each plan. (Res. 98-004 §8.8.030, passed Feb. 2, 1998)

8.1.74. Court-ordered Family Protection Plan (Disposition). If a youth has been determined to be in need of care, the Court will order a family protection plan for the youth's protection and well-being. The plan may either allow the child to remain with the youth's parent(s), guardian, or custodian, subject to any limitations and conditions the Court may order; or the Court may order an out-of-home placement subject to the following placement preferences:

(a) The home of an extended family member, subject to any limitations and conditions the Court may order; provided that among equally qualified extended family members, those residing on or closest to the reservation will have priority;

(b) A private home recommended by the tribal Human Services staff and the Tribal Child Welfare Department, subject to any limitations and conditions the Court may order;

(c) A foster home the Tribe has approved or licensed, subject to any limitations and conditions the Court may order; or

(d) Any other facility the Tribe has approved, subject to any limitations and conditions the Court may order.

The Court may make other orders necessary for the protection and well-being of the youth and family. Such orders may include but are not limited to: evaluation and

treatment, including involuntary residential treatment, of substance abuse, mental illness, and emotional disturbance; parenting classes; mandatory school attendance; mediation; visitation orders; restraining orders; and other services or activities for the benefit of the youth and the family. The Court may make a particular placement conditional on compliance with any of the above orders. (Res. 98-004 §8.8.040, passed Feb. 2, 1998)

8.1.75. Placement Contingent on Consent of Jurisdiction. Placement of a youth with anyone who does not reside within the jurisdiction of the Port Madison Reservation will be contingent on the person's written agreement to accept the Suquamish Family Court's jurisdiction and to cooperate fully with the TCW case worker and law enforcement. (Res. 98-004 §8.8.050, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.76. Review Hearing. The Court will conduct a hearing to review its family protection plan at least once every six (6) months, or earlier upon any party's motion. The Court will review whether the parties are complying with the plan and will consider whether modification of the order is necessary for the youth's best interests and to strengthen the youth's family. (Res. 98-004 §8.8.060, passed Feb. 2, 1998)

8.1.77. Review Hearing Reports. The TCW case worker who is staffing the case must submit a written report to the Court and the parties no later than five (5) days before a review hearing. (Res. 98-004 §8.8.065, passed Feb. 2, 1998; amended by Res. 2024-437, passed Sep. 16, 2024)

8.1.78. Closing a Case. If a moving party can establish by clear and convincing evidence that there is no longer a factual basis for the Court to find that a youth is in need of care, the Court must close the case. (Res. 98-004 §8.8.070, passed Feb. 2, 1998)

Note: Res. 2024-437 removed §§ 8.1.79-8.1.89, which covered informal resolution via mediation conference and were originally enacted by Res. 98-004, passed Feb. 2, 1998.