

LEECH LAKE BAND OF OJIBWE JUDICIAL CODE

TITLE 4: JUVENILE JUSTICE CODE

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LEECH LAKE BAND OF OJIBWE JUDICIAL CODE

TITLE 4: JUVENILE JUSTICE CODE

4-1 SHORT TITLE, PURPOSE AND DEFINITIONS

4-1 A. Short Title

Title I (Chapters 4-1 through 4-17) shall be entitled "The Juvenile Justice Code" (code).

4-1 B. Purpose

The Juvenile Justice Code shall be liberally interpreted and construed to fulfill the following expressed purposes:

1. To preserve and retain the unity of the family whenever possible and to provide for the care, protection, and wholesome mental and physical development of children coming within the provisions of this code;
2. To remove from children committing juvenile offenses, the legal consequences of criminal behavior and to substitute therefore a program of supervision, care, and rehabilitation consistent with the protection of the Leech Lake Community;
3. To achieve the purposes of this code in a family environment whenever possible, separating the child from the child's parents only when necessary for the child's welfare or in the interests of public safety;
4. To provide judicial and other procedures through which the provisions of this code are executed and enforced and in which the parties are assured a fair hearing and their civil and other legal rights recognized and enforced;
5. To provide a continuum of services for children and their families from prevention to residential treatment, with emphasis whenever possible on prevention, early intervention and community-based alternatives; and;
6. To provide a forum where an Indian child charged to be "delinquent" or a "status offender" in other jurisdictions may be referred for adjudication and/or disposition.
7. To recognize that alcohol and substance abuse is a disease that is both preventable and treatable.

8. To recognize and acknowledge the tribal customs and traditions of the Leech Lake Ojibwe and to utilize the same whenever applicable to promote the well-being of Indian children who come before the Juvenile Division.
9. To provide for culturally specific programming whenever possible.

4-1 C. Definitions

As used in this code:

1. **"Adjudicatory Hearing"**: A proceeding in the juvenile court to determine whether a child has committed a specific "juvenile offense" as set forth in a petition.
2. **"Adult"**: An individual who is eighteen (18) years of age or older.
3. **"Alcohol"**: means distilled spirits, wine, malt beverages and intoxicating liquors.
4. **"Alcohol or Substance Abuse Emergency Shelter or Halfway House"**: An appropriately licensed and supervised emergency shelter or halfway house for the care and treatment of juveniles with regard to alcohol and/or substance abuse problems.
5. **"Band"**: means the Leech Lake Band of Ojibwe.
6. **"Child"**: An individual under the age of eighteen (18) years of age, unless the child has been adjudicated as being habitually truant before the age of eighteen (18), in which case the disposition may not continue for more than one (1) year after the child's (18th) birthday.
 - a. who is subject to the jurisdiction of the Tribal Court pursuant to Leech Lake Band of Ojibwe, Judicial Code, Title I, Part II, Section 1.B, or
 - b. who is residing within the exterior boundaries of the reservation, for whatever reason, in the home of an enrolled member of the Band or an individual eligible for membership in the Band, or other Indians, as defined by Judicial Code, Title I, Part II, Section 1.B of this code, and whose parent(s), guardian, or custodian have consented to the jurisdiction of the Juvenile Division of the Tribal Court. Such consent, once given, may be revoked only with permission of the Court.
7. **"Child Welfare"**: Leech Lake Band of Ojibwe child welfare agency that works child neglect, dependency, and abuse issues both on and off the reservation, submits recommendations to the court.

8. **“Citation”**: means a short form summons and petition issued by a law enforcement officer alleging the commission of a civil offense by a minor.
9. **“Clerk”**: means the Office of the Court Administrator established pursuant to the provisions of Leech Lake Band of Ojibwe, Judicial Code, Title I, Part IV.
10. **“Consent Decree”**: shall mean a court order which suspends a juvenile offender proceeding prior to adjudication and continues the child under supervision under terms and conditions negotiated and agreed to by all parties.
11. **“Continuing Truant”**: a child under the age of eighteen (18) who is subject to compulsory education instruction and is absent from instruction in a school without lawful excuse within a single school year for three (3) days if the child is in elementary school or three (3) or more class periods on three days if the child is in middle school or high school.
12. **“Controlled Substance”**: means a drug, substance, or immediate precursor in Schedules I through V of section 152.02, Minnesota Statutes (2002), or any subsequent amendment thereof.
13. **“Counsel”**: shall mean an advocate, lay advocate, or attorney.
14. **“Custodian”**: A person, other than a parent or guardian, to whom legal custody of the child has been given.
15. **“Detention”**: shall mean the exercise of authority over a child by physically placing him/her in any juvenile facility designated by the court and restricting the child's movement in that facility.
16. **“Dispositional Hearing”**: A proceeding in the juvenile court to determine how to resolve a case after it has been determined at the adjudicatory hearing that the child has committed a specific "juvenile offense(s)".
17. **“Domicile”**: A person's permanent home, legal home or main residence. The domicile of a child is generally that of the custodial parent or guardian. Domicile includes the intent to establish a permanent home or where the parent or guardian considers to be their permanent home. Domicile for purposes of jurisdiction is established at the time of the alleged acts.
18. **“Drug Paraphernalia”**: means all equipment, products, and materials of any kind, except those items used in conjunction with permitted uses of controlled substances under Chapter 152, Minnesota Statutes (2002), or the Uniform Controlled Substances Act, or any subsequent amendments of either, which are knowingly or intentionally used primarily in (a) manufacturing a controlled substance, (b) injecting, ingesting, inhaling, or otherwise

introducing into the human body a controlled substance, (c) testing the strength, effectiveness, or purity of a controlled substance, or (d) enhancing the effect of a controlled substance.

19. **"Foster Home"**: Placement with a family whose home has been licensed to accept placement of children under the age of eighteen (18).
20. **"Guardian"**: A person assigned by a court of law, other than a parent, having the duty and authority to provide care, shelter, and control of a child.
21. **"Group Home"**: A residential detention facility which is licensed to care for children under the age of eighteen (18).
22. **"Habitual Truant"**: a child who is absent from attendance at school without lawful excuse for seven school days if the child is in elementary school or for one or more class periods on seven school days if the child is in middle school, junior high school, or high school, or a child who is 16 or 17 years of age who is absent from attendance at school without lawful excuse for one or more class periods on seven school days and who has not lawfully withdrawn from school.
23. **"Indian"**: means any member of a federally recognized Indian tribe, band or community, or Alaska Natives; or a person considered by the community to be Indian; or recognized as an Indian by the Federal government for any purpose.
24. **"Juvenile Service Coordinator"**: The juvenile counselor, juvenile caseworker, juvenile truancy specialist, or the juvenile probation officer or any other appropriately titled person who performs the duties and responsibilities set forth in section 4-5B of this code.
25. **"Juvenile Facility"**: Any juvenile facility (other than a school) that cares for juveniles or restricts their movement, including secure juvenile detention facilities, alcohol or substance abuse emergency shelter or halfway houses, foster homes, emergency foster homes, group homes, and shelter homes (see individual definitions).
26. **"Juvenile Offender"**: A child who commits a "juvenile offense" prior to the child's eighteenth (18) birthday.
27. **"Juvenile Offense"**: The following are juvenile offenses:
 - a. Underage Possession and/or Consumption of Alcohol and/or Controlled Substances;
 - b. Underage Possession and/or Consumption of Tobacco;
 - c. Prohibited use of Inhalants;
 - d. Prohibited use of Over the Counter Drugs;

- e. Disorderly Conduct;
 - f. Curfew Violation;
 - g. Running Away;
 - h. Continuing Truancy;
 - i. Habitual Truancy
28. **“Juvenile Probation Officer”**: Individual the court may appoint to supervise the juvenile offender.
29. **“Juvenile Shelter Care Facility”**: Any juvenile facility other than a secure juvenile detention facility (see the definitions of "juvenile facility" and "secure juvenile detention facility").
30. **“Law Enforcement Officer”**: means a police officer of the Band or a state, county, or municipal peace officer who has authority to enforce Band laws pursuant to the terms of a cooperative agreement between the Band and a political subdivision of the State of Minnesota.
31. **“Over the Counter Drugs”**: Medications that may be sold directly to a consumer without requiring a prescription.
32. **“Parent”**: Includes a natural or adoptive parent, but does not include persons whose parental rights have been legally terminated or suspended as defined by the Leech Lake Child and Family Protection Code, Section 3-1C, nor does it include the unwed father whose paternity has not been acknowledged or established.
33. **“Probation”**: A legal status created by court order whereby a "juvenile offender" is permitted to remain in his home under prescribed conditions and under the supervision of a person designated by the court. A "juvenile offender" on probation is subject to return to court for further proceedings in the event of his failure to comply with any of the prescribed conditions of probation.
34. **“Protective Supervision”**: A legal status created by court order under which a "juvenile offender" is permitted to remain in his home or is placed with a relative or other suitable individual and supervision and assistance is provided by the court, a health or social services agency or some other agency designated by the court.
35. **“Restitution”**: Financial or other reimbursement by the child to the victim, and is limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical, psychiatric and psychological treatment for injury to persons, and lost wages resulting from injury, which are a direct and proximate result of the delinquent act. Restitution does not include

reimbursement for damages for mental anguish, pain and suffering, or other intangible losses.

36. **"Runaway"**: means an unmarried child under the age of 18 years who is absent from the home of a parent or other lawful placement without the consent of the parent, guardian, or lawful custodian.

37. **"Secure Juvenile Detention Facility"**: A facility which (a) contains locked cells or rooms which are separated by sight and sound from any adult inmates; (b) restricts the movement of those placed in the locked cells or rooms, and (c) complies with the other requirements of the Juvenile Justice and Delinquency Prevention Act, 42 U.S.C. 5601 et. seq.

38. **"Tribal Council"**: The Tribal Council of the Leech Lake Band of Ojibwe.

4-2 JURISDICTION OF THE JUVENILE COURT

4-2 A. Concurrent Jurisdiction

The jurisdiction invoked by this Juvenile Justice Code shall be concurrent with any valid jurisdiction except where the Juvenile Justice Code provides for exclusive jurisdiction as defined by 4-2B over the same of the courts of the United States, any state, or any political subdivision thereof; provided, however, this code does not recognize, grant, or cede jurisdiction to any state or other political or governmental entity in which jurisdiction does not otherwise exist in law.

Inclusion of language, definitions, procedure, or other statutory or administrative provisions of the State of Minnesota or other state or federal entities in this code shall not be deemed an adoption of that law by the Band and shall not be deemed an action deferring to state or federal jurisdiction within the Leech Lake Reservation where such state or federal jurisdiction may be concurrent or does not otherwise exist.

4-2 B. Exclusive Jurisdiction

The juvenile court has exclusive original jurisdiction over all proceedings established in this code in which a child is alleged to or is adjudicated as committing the juvenile offense of underage possession and/or consumption of tobacco as defined by 4-2E, 5 of this code.

4-2 C. Continuing Jurisdiction

Where the Juvenile Court deems it appropriate, it may retain jurisdiction over a child and his/her extended family who leaves the exterior boundaries of the reservation.

4-2 D. Juvenile Offender

Alleged to be a "juvenile offender" as defined in section 4-2B of this code.

4-2 E. Juvenile Offenses

1. Curfew Violation

It shall be a juvenile offense for a child under the age of eighteen (18) years to be unaccompanied by a parent, guardian or custodian in a public or private place or to be in or riding about in a motor vehicle between the hours of 11:00 p.m. and 5:00 a.m. except:

- (a) When in the residence of the parent, guardian or custodian.
- (b) When in a residence or other place where the child intends to spend the night for a lawful purpose with the permission of the minor's parent, guardian or custodian and the permission of the owner or lawful, adult resident of such place.
- (c) When in attendance at, en route to, or returning directly from an organized school, church, civic, youth organization, or tribal function.

2. Continuing Truancy

It shall be a juvenile offense for a child under the age of eighteen (18) who is subject to compulsory education instruction and is absent from instruction in a school without lawful excuse within a single school year for three (3) days if the child is in elementary school or three (3) or more class periods on three days if the child is in middle school or high school.

3. Habitual Truancy

It shall be a juvenile offense for a child under the age of eighteen (18) years who is absent from attendance at school without lawful excuse for seven school days if the child is in elementary school or for one or more class periods on seven school days if the child is in middle school, junior high school, or high school, or a child who is 16 or 17 years of age who is absent from attendance at school without lawful excuse for one or more class periods on seven school days and who has not lawfully withdrawn from school under section.

Lawful school excuses for student absences include:

- (a) Sickness (may require Doctor's note);
- (b) Doctor's visit, including mental health;
- (c) Cultural activities;
- (d) Religious holiday;

- (e) Extreme family emergency

Student Responsibility unless otherwise ordered by the court:

- (a) Attend school every day, every class, and be on time
- (b) Complete required school work
- (c) Ask for assistance when needed

Custodian Responsibility unless otherwise ordered by the court:

- (a) Send your child to school on time;
- (b) Ensure your child's attendance
- (c) Inform the school when your child may need to miss school for a lawful reason;
- (d) Provide notes to the school for lawful school excuses;
- (e) Monitor your child's attendance and progress in school;
- (f) Attend school meetings with your child and follow the recommendations;
- (g) Work cooperatively for the best interest of your child with all service providers.

4. Underage possession and/or Consumption of Alcohol and/or Controlled Substances

It shall be a juvenile offense for a child under the age of eighteen (18) to use, consume, or possess alcohol or intoxicating beverages; controlled substances as defined by 4-1C, 12 of this Code, or prescription medications without the same having been currently prescribed for the minor's use by a licensed medical practitioner; any drug paraphernalia.

5. Underage Possession and/or Consumption of Tobacco

It shall be a juvenile offense for a child under the age of eighteen (18) to use, consume, or possess tobacco in any form, except for traditional and/or religious purposes.

6. Prohibited Use of Inhalants

It shall be a juvenile offense for a child under the age of eighteen (18) to engage in huffing, inhaling, breathing, drinking, or sniffing paint, glue, gasoline, compound, liquid, or chemical containing toluol, hexane, trichloroethylene, acetone, toluene, zylone, freon, ethyl acetate, methyl ethyl ketone, trichlorethane, isopropanol methyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone, butylnitriteor, other similar substances for the intent of inducing symptoms of intoxication, elation, dizziness, paralysis, irrational behavior, or in any manner change, distort, or disturb the hearing, visual or mental processes.

7. Prohibited Use of Over the Counter Drugs

It shall be a juvenile offense for a child under the age of eighteen (18) to use or consume over the counter medication for the intent of inducing symptoms of intoxication, elation, dizziness, paralysis, irrational behavior, or in any manner change, distort, or disturb the hearing, visual or mental process, or any manner other than for its intended purpose.

8. Disorderly Conduct

It shall be a juvenile offense for a child under the age of eighteen (18) to engage in the following in a public or private place, knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct:

- (a) Engages in brawling or fighting; or
- (b) Commits an act with intent to cause fear in another; or
- (c) Disturbs an assembly or meeting, not unlawful in its character; or
- (d) Engages in offensive, obscene, abusive, boisterous, or noisy conduct or in offensive, obscene, or abusive language tending reasonably to arouse alarm, anger, or resentment in others.

A person does not violate this section if the person's disorderly conduct was caused by an epileptic seizure or other valid medical condition.

9. Runaways

It shall be a juvenile offense for an unmarried child under the age of eighteen (18) years who is absent from the home of a parent or other lawful placement without the consent of the parent, guardian, or lawful custodian.

Custodian Responsibilities unless otherwise ordered by the court:

- (a) Report the child to law enforcement right away
- (b) Pay for the child's stay at the facility
- (c) Pay for and arrange for the youth's return home

4-3 JUVENILE COURT PROCEDURE

4-3 A. Non-Criminal Proceedings

No adjudication upon the status of any child in the jurisdiction of the juvenile court shall be deemed criminal or be deemed a conviction of a crime.

4-3 B. Rules of Procedure

The procedures in the juvenile court shall be governed by the rules of procedure for the tribal court which are not in conflict with this code.

4-3 C. Hearing Formality

Hearings in juvenile court shall be held without a jury and may be conducted in an informal manner. The juvenile court shall exclude the general public from the hearings and admit only those persons who have a direct interest in the case or in the work of the juvenile court. The juvenile court files shall be closed to the public. The court may waive the presence of the minor in court at any stage of the proceedings when it is in the best interests of the minor to do so.

4-4 RELATIONS WITH OTHER AGENCIES

4-4 A. Cooperation and Grants

The juvenile court is authorized to cooperate fully with any federal, state, tribal, public or private agency in order to participate in any diversion, restorative justice, rehabilitation or training program(s) and to receive grants-in-aid to carry out the purposes of this code. This authority is subject to the approval of the tribal council if it involves an expenditure of tribal funds.

4-4 B. Social Services

The juvenile court shall utilize such social services as may be furnished by any tribal, federal, or state agency provided that it is economically administered without unnecessary duplication and expense;

4-4 C. Contracts

The juvenile court may negotiate contracts with tribal, federal or state agencies and/or departments on behalf of the tribal council for the care and placement of children whose status is adjudicated by the juvenile court subject to the approval of the tribal council before the expenditure of tribal funds;

4-4 D. Transfers from Other Courts

The juvenile court may accept or decline transfers from other state or tribal courts involving alleged delinquent children or alleged status offenders for the purposes of adjudication and/or disposition.

4-4 E. Transfers to Other Courts

The court may transfer any juvenile matter to a state or tribal court of competent jurisdiction for adjudication and/or disposition when the juvenile division has determined such a transfer to be in the best interest of the juvenile, or, when the

resources available from the Band are insufficient to correct the problem which brought the juvenile before the court.

4-5 JUVENILE COURT PERSONNEL

4-5 A. Juvenile Court Judge

1. Qualifications

The general qualifications for juvenile court judge(s) shall be the same as the qualifications for tribal court judge(s). In addition, juvenile court judges shall have significant prior training and/or experience in juvenile matters.

2. Powers and Duties

In carrying out the duties and powers specifically enumerated under this juvenile justice code, judges of the juvenile court shall have the same duties and powers as judge of the tribal court, including, but not limited to, the contempt power, the power to issue arrest or custody warrants, the power to issue body warrants, the power to issue subpoenas, the power to levy fines, the power to determine financial responsibility, and the power to issue search warrants.

3. Disqualification or Disability

The rules on disqualification or disability of a juvenile court judge shall be the same as those rules that govern tribal court judges. A juvenile court judge must recuse himself or herself if he/she has a familial tie or significant relationship with a party or where his/her objectivity could reasonably be questioned.

4-5 B. Juvenile Service Coordinator

1. Appointment

The court may appoint Juvenile Service Coordinator(s) to carry out the duties and responsibilities set forth in this code. The person(s) carrying out the duties and responsibilities set forth in this section may be labeled "juvenile counselors", "juvenile truancy specialist", "juvenile caseworkers" or "juvenile probation officers" or any other title which the court finds appropriate so long as they perform the duties and responsibilities set forth in this section.

2. Duties

(a) Make investigations as provided in this code or as directed by the court;

- (b) Make reports to the court as provided in this code or as directed by the juvenile court;
- (c) Conduct informal adjustments;
- (d) Provide referrals for counseling services;
- (e) Perform such other duties in connection with the care, custody or transportation of children as the court may require.

3. Prohibited Duties

The Juvenile Service Coordinator shall not be employed as or be required to perform the duties of a prosecutor, juvenile prosecutor or law enforcement official.

4-5 C. Additional Court Personnel

The court may set qualifications and appoint additional juvenile court personnel such as guardian ad litem, court appointed special advocates (CASAs), juvenile advocates, and/or referees whenever the court decides that it is appropriate to do so.

4-6 RIGHTS OF PARTIES IN JUVENILE PROCEEDINGS

4-6 A. Privilege Against Self-Incrimination

A child alleged to be a "juvenile offender" shall from the time of being taken into custody be accorded and advised of the privilege against self-incrimination and from the time the child is taken into custody shall not be questioned except to determine identity, to determine the name(s) of the child's parent or legal custodian, or to conduct medical assessment or treatment for alcohol or substance abuse when the child's health and well-being are in serious jeopardy.

4-6 B. Admissibility of Evidence

In a proceeding on a petition alleging that a child is a "juvenile offender":

1. an out-of-court statement that would be inadmissible in a criminal matter in tribal court shall not be received in evidence;
2. evidence illegally seized or obtained shall not be received in evidence to establish the allegations of a petition;
3. unless advised by counsel, the statements of a child made while in custody to a Juvenile Service Coordinator, including statements made during a preliminary inquiry, informal adjustment or predispositional study, shall not be used against the child in determining the truth of allegations of the petition;

4. a valid out-of-court admission or confession by the child is insufficient to support a finding that the child committed the acts alleged in the petition unless it is corroborated by other evidence;

4-6 C. Fingerprinting and Photographs

A child in custody shall not be fingerprinted nor photographed for criminal identification purposes except by order of the juvenile court. If an order of the juvenile court is given, the fingerprints or photographs shall be used only as specified by the court.

4-6 D. Right to Retain Counsel

In "juvenile offender" cases, the child and his parent, guardian or custodian shall be advised by the court and/or its representative that the child may be represented by counsel at all stages of the proceedings. If counsel is not retained for the child, or if it does not appear that counsel will be retained, the court in its discretion may appoint counsel for the child in accordance with 4-6E2 of this Code.

4-6 E. Explanation of Rights

At his first appearance before the juvenile court, the child alleged to be a "juvenile offender" and the child's parent, guardian or custodian shall be informed by the court of the following:

1. the allegations against him;
2. the right to an advocate or attorney at his own expense;
3. the right to testify or remain silent and that any statement made by him may be used against him;
4. the right to cross-examine witnesses;
5. the right to subpoena witnesses on his own behalf and to introduce evidence on his own behalf; and
6. the possible consequences if the allegations in the petition are found to be true.

4-7 JUVENILE OFFENDER--TAKEN INTO CUSTODY

4-7 A. Taking a Child into Custody

A law enforcement officer may take a child into custody when:

1. the child commits a "juvenile offense" in the presence of the officer; or
2. the officer has a reasonable suspicion to believe a "juvenile offense" has been committed by the child being detained; or
3. an order or warrant has been issued by the court authorizing the taking of a particular child.

4-7 B. Review by Juvenile Service Coordinator

The Juvenile Service Coordinator shall, immediately upon delivery of the child for custody, review the need for continued custody and shall release the child to his parent, guardian or custodian in order to appear at the hearing on a date to be set by the court, unless:

1. the act is serious enough to warrant continued detention and;
2. there is probable cause to believe the child has committed the offense(s) alleged; and
3. there is reasonable cause to believe the child will run away so that he will be unavailable for further proceedings; or
4. there is reasonable cause to believe that the child will commit a serious act causing damage to person or property; or
5. an order has been issued by the court requiring the child to be held at the facility.

4-7 C. Notification of Family

If a child is taken into custody and not released to his parent, guardian or custodian, the person either taking the child into custody or requesting the child be taken into custody shall immediately attempt to notify the child's parent, guardian or custodian, unless there is reasonable cause to believe the child may runaway. All reasonable efforts shall be made to advise the parent, guardian or custodian of the reason for taking the child into custody and the place of continued custody. Such reasonable efforts may include telephone and personal contacts at the-home or place of employment or other locations where the person is known to frequent. If notification cannot be provided to the child's parent, guardian or custodian, the notice shall be given to a member of the extended family of the parent, guardian or custodian and to the child's extended family.

4-7 D. Criteria for Selecting Juvenile Facility

If the Juvenile Service Coordinator determines that there is a need for continued custody of the child, then the following criteria shall be used to determine the appropriate juvenile facility for the child:

1. A child may be housed in a Juvenile Shelter Care or Juvenile Facility as designated by the court only if one of the following conditions exists:
 - (a) one of the conditions described in sections 4-7B exists; or
 - (b) the child is unwilling to return home or to the home of an extended family member; or
 - (c) the child's parent, guardian, custodian, or an extended family member is unavailable, unwilling, or unable to permit the child to return to his home;
 - (d) there is an evident and immediate physical danger to the child in returning home, and all extended family members are unavailable, unwilling, or unable to accept responsibility for temporary care and custody of the child;
 - (e) the child has violated or not complied with an order of the court

3. A child may be referred to an Alcohol or Substance Abuse Emergency Shelter or Halfway House (as defined in this code) if it is determined that there is a need for continued custody of the child and (1) the child is a ward of the court, (2) there is space available in an alcohol or substance abuse emergency shelter or halfway house designated by the court; and (3) the child is not deemed to be a danger to himself or others.

4-8 JUVENILE OFFENDER--DETENTION HEARING

4-8 A. Requirement of Detention Hearing

Where a child who has been taken into custody is not released, a detention hearing shall be convened by the court within seventy-two (72) hours, exclusive of holidays and weekends, of the child's initial detention under chapter 4-7 of this Code.

4-8 B. Purpose of Detention Hearing

The purpose of the detention hearing is to determine:

1. whether probable cause exists to believe the child committed the alleged "juvenile offense"; and
2. whether continued detention is necessary pending further proceedings.

4-8 C. Notice of Detention Hearing

Notice of the detention hearing shall be given to the child and the child's parent, guardian or custodian and the child's counsel as soon as the time for the detention hearing has been set. Notice may be in the form of mail, personal service, fax, and/or phone call. The notice shall contain:

1. the name of the court;
2. the title of the proceedings;
3. a brief statement of the "juvenile offense" the child is alleged to have committed; and
4. the date, time, and place of the detention hearing.

4-8 D. Detention Hearing Procedure

Detention hearings shall be conducted by the juvenile court. At the commencement of the detention hearing, the court shall notify the child and the child's parent, guardian or custodian of their rights under chapter 4-6 of this code. The general public shall be excluded from the proceedings. Only the parties, their counsel, witnesses, and other persons requested by the parties or the court shall be admitted.

4-8 E. Standards to be Considered at Detention Hearing

The court shall consider the evidence at the detention hearing as it pertains to the detention criteria set forth in section 4-7B & 4-7D of this code.

4-8 F. Finding at Detention Hearing

The court shall issue a written finding stating the reasons for release or continued detention of the child. If the court determines that there is a need for continued detention, the court shall specify where the child is to be placed.

4-8 G. Rehearing the Detention Matter

If the child is not released at the detention hearing, and a parent, guardian, or custodian or a relative was not notified of the hearing and did not appear or waive appearance at the hearing the court shall rehear the detention matter without unnecessary delay upon the filing of a motion for rehearing and a declaration stating the relevant facts.

4-9 JUVENILE OFFENDER--INITIATION OF PROCEEDINGS

4-9 A. Investigation by the Juvenile Service Coordinator

The Juvenile Service Coordinator shall make an investigation within twenty-four (24) hours of the detention hearing or the release of the child to his parent, guardian or custodian, to determine whether the interests of the child and the public require that further action be taken. Upon the basis of his investigation, the Juvenile Service Coordinator shall:

1. recommend that no further action be taken; or
2. suggest to the child and the child's parent, guardian or custodian that they appear for an informal adjustment conference under sections 4-9B of this code; or
3. recommend that the juvenile prosecutor file a petition under section 4-9C of this code. The petition shall be filed within forty-eight (48) hours if the child is in custody. If the child has been previously released to his parent, guardian, custodian, relative or responsible adult, the petition shall be filed within ten (10) days.
4. recommend the child and family participate in any services that are in the child's best interests.

4-9 B. Informal Adjustment

1. During the course of the preliminary investigation to determine what further action shall be taken, the Juvenile Service Coordinator shall confer with the child and the child's parent, guardian or custodian for the purpose of effecting adjustments or agreements that make the filing of the petition unnecessary.
2. The juvenile prosecutor shall consider the following factors in determining whether to proceed informally or to file a petition:
 - (a) nature and seriousness of the offense;
 - (b) previous number of contacts with the police, Juvenile Service Coordinator or the court;
 - (c) age and maturity of the child;
 - (d) attitude of the child regarding the offense;
 - (e) willingness of the child to participate in a voluntary program, and;
 - (f) participation and input from the child's parent, guardian or custodian.

4-9 C. Filing and Content of Petition

Formal "juvenile offender" proceedings shall be instituted by a petition filed by the juvenile prosecutor on behalf of the tribe and in the interests of the child. The petition shall be entitled, "In the matter of a child" and shall set forth with specificity:

1. the name, birth date, residence, and tribal affiliation of the child;
2. the names and residences of the child's parent, guardian or custodian;
3. a citation to the specific section(s) of this code which give the court jurisdiction over the proceedings;
4. a citation to this code or other law or ordinance which the child is alleged to have violated;
5. a plain and concise statement of facts upon which the allegations are based, including the date, time and location at which the alleged acts occurred; and
6. whether the child is in custody and, if so, the place of detention and time he was taken into custody.

4-9 D. Issuance of Summons

After a "juvenile offender" petition has been filed, the court shall direct the issuance of summons to:

1. the child;
2. the child's parent, guardian or custodian;
3. the child's counsel;

4-9 E. Content of the Summons

The summons shall contain the name of the court, the title of the proceedings, and the date, time, and place of the hearing. The summons shall also advise the parties of their applicable rights under chapter 4-6 of this code. A copy of the petition shall be attached to the summons.

4-9 F. Service of the Summons

The summons shall be served upon the parties at least five (5) days prior to the hearing. The summons shall be delivered by registered mail or personally by a law enforcement official or appointee of the court. If the summons cannot be delivered by registered mail, it may be by publication. A party, other than the child, may waive service of summons by written stipulation or by voluntary appearance at the hearing.

4-10 JUVENILE OFFENDER -- CONSENT DECREE

4-10 A. Availability of Consent Decree

At any time after the filing of a "juvenile offender" petition, and before the entry of a judgment, the court may, on motion of the juvenile prosecutor or that of counsel for the child, suspend the proceedings and continue the child under supervision in his own home under terms and conditions negotiated with the Juvenile Service Coordinator and agreed to by all the parties affected. The court's order continuing the child under supervision under this section shall be known as a "consent decree."

4-10 B. Objection to Consent Decree

If the child objects to a consent decree, the court shall proceed to findings, adjudication and disposition of the case. If the child does not object, but an objection is made by the juvenile prosecutor, the court shall, after considering the objections and the reasons given proceed to determine whether it is appropriate to enter a consent decree and may, in its discretion, enter the consent decree.

4-10 C. Duration of Consent Decree

A consent decree shall remain in force for six (6) months unless the child is discharged sooner by the Juvenile Service Coordinator. Prior to the expiration of the six (6) months period, and upon the application of the Juvenile Service Coordinator or any other agency supervising the child under a consent decree, the court may extend the decree for an additional six (6) months in the absence of objection to extension by the child. If the child objects to the extension the court shall hold a hearing and make a determination on the issue of extension.

4-10 D. Failure to Fulfill Terms and Conditions

If, either prior to a discharge by the Juvenile Service Coordinator or expiration of the consent decree, the child fails to fulfill the terms of the decree, the juvenile prosecutor may file a petition to revoke the consent decree. Proceedings on the petition shall be conducted according to chapter 4-11 of this code. If the child is found to have violated the terms of the consent decree, the court may:

1. extend the period of the consent decree; or
2. make any other disposition which would have been appropriate in the original proceeding.

4-10 E. New Juvenile Offense Complaint

If either prior to discharge or expiration of the consent decree, a new "juvenile offender" complaint is filed against the child and the Juvenile Service Coordinator

has conducted a preliminary inquiry and authorized the filing of a petition upon a finding that informal adjustment is not in the best interest of the child and public, the juvenile prosecutor may:

1. file a petition to revoke the consent decree in accordance with the section 4-10D of this code; or
2. file a petition on the basis of the new complaint which has been filed against the child.

4-10 F. Dismissal of Petition

A child who is discharged by or who completes a period under supervision without reinstatement of the original "juvenile offense" petition shall not again be proceeded against in any court for the same offense alleged in the petition or an offense based upon the same conduct, and the original petition shall be dismissed with prejudice. Nothing in this section precludes a civil suit against the child for damages arising from this conduct.

4-11 JUVENILE OFFENDER -- ADJUDICATION PROCEEDINGS

4-11 A. Purpose and Conduct of Adjudicatory Hearing

Hearings on "juvenile offender" petitions shall be conducted by the juvenile court. The court shall conduct the adjudicatory hearing for the sole purpose of determining whether the child has committed a "juvenile offense" At the adjudicatory hearing, the child and the child's parent, guardian or custodian shall have the applicable rights listed in chapter 4-6 of this code. The general public shall be excluded from the proceedings. Only the parties, their counsel, witnesses, and other persons requested by the parties shall be admitted.

4-11 B. Time Limitations on Adjudicatory Hearings

If the child remains in custody, the adjudicatory hearing shall be held within ten (10) days of receipt of the "juvenile offender" petition by the juvenile court. If the child is released from custody or was not taken into custody, then the adjudicatory hearing shall be held within thirty (30) days of receipt of the "juvenile offender" petition by the juvenile court.

4-11 C. Notice of Hearing

Notice of the adjudicatory hearing shall be given to the child and the child's parent, guardian or custodian, the child's counsel and any other person the court deems necessary for the hearing at least five (5) days prior to the hearing in accordance with sections 4-9F of this code.

4-11 D. Denial of Allegations

If the allegations in the "juvenile offender" petition are denied, the juvenile court shall set a date for a contested hearing, in accordance with section 4-11B above, to hear evidence on the petition.

4-11 E. Contested Hearings

1. Generally

Contested hearings shall be held as soon after the adjudicatory hearing as is reasonably possible and shall be conducted in an informal manner without sacrificing the due process and equal protection rights of the minor. The Band prosecutor shall represent the Band and/or the petitioner.

2. Discovery and Pre-Trial Motions

Lengthy discovery shall be discouraged. Instead, the Band's prosecutor shall informally make available to the minor or the minor's parent, guardian or custodian or their counsel, all information believed to be relevant to the proceedings, including the names of witnesses known to the prosecutor. A motion may be brought on behalf of the minor to compel the giving of such information if the prosecutor refuses or unreasonably delays. Likewise, the prosecutor may for good cause, serve and file a motion seeking an order limiting or restricting such requirement. Written interrogatories and oral depositions shall not be allowed without a specific order of the court based upon good cause.

3. Burden/Standard of Proof

The petitioner has the burden of proving that the allegations of a juvenile offense having been committed by the minor are more likely to be true than not, that is, by the mere preponderance of the evidence. The minor shall have the same burden as to affirmative defenses raised or claims of mitigating factors.

4. Conduct of the Hearing

The petitioner shall present its case first, followed by the minor. The minor may not be compelled to give testimony against his or her own interests. Witnesses shall be sworn and testify under oath. The court may allow opening statements and/or closing arguments. The matter shall be tried to the court sitting without a jury.

5. Outcome of the hearing

The court shall find that the minor committed a juvenile offense(s) as alleged and proceed to disposition in accordance with chapter 4-13 of this code, or it shall find that the petitioner failed to meet its burden and dismiss the citation or petition with prejudice. If the court finds that the allegations have been proven it may, absent a request for continuance for good cause by any party, proceed to a disposition hearing or it may order a pre-dispositional investigation and report, issuing such interim orders as may be needed to carry out the intent of this code. Additionally, the court shall specify in writing whether the child is to be continued in an out of the home placement pending the disposition hearing.

4-11 F. Admission of Allegations

If the child admits the allegations of the petition, the juvenile court shall consider a disposition only after a finding that:

1. the child fully understands his rights under chapter 4-6 of this code, and fully understands the consequences of his admission;
2. the child voluntarily, intelligently, and knowingly admits all facts necessary to constitute a basis for juvenile court action; and
3. the child has not, in his statements on the allegations, set forth facts, which if found to be true, would be a defense to the allegations.

4-11 G. "Juvenile Offender" Finding After Admission

If the court finds that the child has validly admitted the allegations contained in the petition, the court shall make and record its finding and proceed to disposition in accordance with chapter 4-13 of this code. Absent a request for continuance for good cause by any party, the court may proceed to a disposition hearing or it may order a pre-dispositional investigation and report, issuing such interim orders as may be needed to carry out the intent of this code. Additionally, the court shall specify in writing whether the child is to be continued in an out of the home placement pending the disposition hearing.

4-12 JUVENILE OFFENDER -- PREDISPOSITION STUDIES: REPORTS AND EXAMINATIONS

4-12 A. Predisposition Study and Report

The court shall direct the Juvenile Service Coordinator to prepare a written predisposition study and report for the court concerning the child, the child's family, environment, and any other matter relevant to need for treatment or other appropriate disposition of the case when:

1. the child has been adjudicated as a "juvenile offender"; or
2. a notice of intent to admit the allegations of the petition has been filed.

4-12 B. Contents of Predisposition Study and Report

The report shall contain a specific plan for the child, aimed at resolving the problems presented in the petition. The report shall contain a detailed explanation showing the necessity for the proposed plan of disposition and the benefits to the child under the proposed plan. Preference shall be given to the dispositional alternatives which are least restrictive of the child's freedom and are consistent with the interests of the community.

4-12 C. Medical Assessment and Treatment for Alcohol or Substance Abuse

The juvenile court may order a medical assessment of a child arrested or detained for a "juvenile offense" relating to or involving alcohol or substance abuse to determine the mental or physical state of the child so that appropriate steps can be taken to protect the child's health and well-being.

4-12 D. Pre-Adjudication Examination of Emotionally or Developmentally Disabled Child

Where there is a child that may be emotionally disturbed or developmentally disabled, the court, on a motion by the juvenile prosecutor or that of the child, may order the child to be tested by a qualified psychiatrist, psychologist, children's mental health worker, or licensed psychometrician prior to a hearing on the merits of the petition. An examination made prior to the hearing, or as a part of the predisposition study and report, shall be conducted on an outpatient basis unless the court finds that placement in a hospital or other appropriate facility is necessary.

4-12 E. Pre-Disposition Examinations

The court may order an examination of a child adjudicated as a "juvenile offender" by a physician, psychiatrist or psychologist. The court may also, following the adjudicatory hearing, order the examination by a physician, psychiatrist or psychologist of a parent or custodian who gives his consent and whose ability to care for or supervise a child is an issue before the court at the dispositional hearing.

4-12 F. Transfer for Diagnosis

The court may order that a child adjudicated as a "juvenile offender" be transferred to an appropriate facility for a period of not more than ninety (90) days for purposes of diagnosis with direction that the court be given a written report at the end of that period indicating the disposition which appears most suitable.

4-12 G. Submission of Reports

Evaluations, assessments, dispositional reports and other material to be considered by the court in a juvenile hearing shall be submitted to the court and to the parties no later than two (2) days before the scheduled hearing date. A declaration including reasons why a report has not been completed shall be filed with the court no later than two (2) days before the scheduled hearing date if the report will not be submitted before the deadline. The court may in its discretion dismiss a petition if the necessary reports, evaluations or other material have not been submitted in a timely manner.

4-13 JUVENILE OFFENDER -- DISPOSITION PROCEEDINGS

4-13 A. Purpose and Conduct of Disposition Hearing

Disposition hearings shall be conducted by the juvenile court separate from other proceedings. The court shall conduct the disposition hearing to determine how to resolve a case after it has been determined at the adjudicatory hearing that the child has committed a specific "juvenile offense." The court shall make and record its dispositional order in accordance with sections 4-13E and 4-14 of this code. At the disposition hearing, the child and the child's parent, guardian or custodian shall have the applicable rights listed in chapter 4-6 of this code. The public shall be excluded from the proceedings. Only the parties, their counsel, witnesses, persons requested by the parties, and persons whose presence is deemed necessary by the court shall be admitted.

4-13 B. Time Limitations on Disposition Hearings

If the child remains in custody, the disposition hearing shall be held within ten (10) days after the adjudicatory hearing. If the child is released from custody or was not taken into custody, then the disposition hearing shall be held within sixty (60) days after the adjudicatory hearing or the last disposition hearing.

4-13 C. Notice of Disposition Hearing

Notice of the disposition hearing shall be given to the child and the child's parent, guardian or custodian, the child's counsel and any other person the court deems

necessary for the hearing at least five (5) days prior to the hearing in accordance with sections 4-9F of this code.

4-13 D. Evidence and Reports

In the disposition hearing, the court may consider all relevant and material evidence determining the questions presented, including oral and written reports, and may rely on such evidence to the extent of its probative value even though not otherwise competent. The court shall consider any predisposition report, physician's report or social study it may have ordered and afford the child, the child's parent, guardian or custodian and the child's counsel an opportunity to controvert the factual contents and conclusions of the report(s). The court shall also consider the alternative predisposition report or recommendations prepared by the child or the child's counsel, if any.

4-13 E. Outcome of Disposition Hearing

If a child is found by the court to be a "juvenile offender," the court may impose such conditions as reflective of the traditions and customs of the Band and which are reasonably designed to achieve the purpose and intent of this code. The conditions the court may impose for the child's supervision, care and rehabilitation include but are not limited to the following:

1. permit the child to remain with parent, guardian or custodian, subject to such conditions and limitations as the court may prescribe;
2. restrict the child to his or her residence until further order of the court except as specifically provided in the order;
3. to regularly attend school and maintain passing grades of "C" or better in all courses;
4. require the child seek and/or undergo counseling and treatment, including in-patient treatment, as may be recommended in any chemical dependency, psychiatric or psychological evaluation ordered by the court;
5. place the child in the physical custody of a relative or other suitable person, subject to such conditions and limitations as the court may prescribe;
6. order the child to pay restitution;
7. place the child under protective supervision under such conditions- and limitations as the court may prescribe;
8. place the child on probation under such conditions and limitations as the court may prescribe;

9. require the child to pay up to \$100 dollar fine for the first violation and no more than \$200 dollar fine for any subsequent violation;
10. require the child perform community service in such an amount and of such a nature as the court deems appropriate for the minor's age, circumstances, and conduct;
11. require the child to refrain from associating with named individuals, if any, found by the court to be detrimental to the minor's ability to comply with its orders;
12. require the child abstain from the use and possession of alcohol, drugs, inhalants, and prohibited use of tobacco and over-the counter medication.
13. require the child obey all tribal ordinances and all federal, state, and local laws;
14. require the child to apologize in writing or in a traditional manner or ceremony to any persons who have been victimized by the minor's conduct; including family members, Band officials, and/or community at large;
15. place the child in a juvenile facility designated by the court, including alcohol or substance abuse emergency shelter or halfway house, emergency foster home, foster home, group home, shelter home, or secure juvenile detention facility.
16. referral of the child and his parents, guardian or custodian to an appropriate social services agency for participation in counseling or other treatment program as ordered by the court;
17. require any family members including the minor's parent(s), guardian or custodian, that reside with or are in regular contact with the "juvenile offender" to fully cooperate with the Juvenile Service Coordinator, treatment providers, counselors, educators, or other service providers who are engaged in implementing the conditions of the probation.
18. require any family members that reside with or are in regular contact with the "juvenile offender" undergo random urinalysis, chemical & psychological assessment, parenting classes, attend counseling sessions, and any other services the court deems are in the child's best interest; or
19. require the Juvenile Service Coordinator to staff the case with Leech Lake Child Welfare child protection team; or
20. Order any other services the court deems is in the child's best interest

4-14 JUVENILE OFFENDER -- REVIEW, MODIFICATION, REVOCATION, EXTENSION OR TERMINATION OF DISPOSITIONAL ORDERS

4-14 A. Mandatory Review of Disposition Order

Dispositional orders are to be reviewed at the court's discretion at least once every three (3) months.

4-14 B. Modification, Revocation, or Extension of Disposition Order

The court may hold a hearing to modify, revoke, or extend a disposition order at any time upon the motion of;

1. the child;
2. the child's parent, guardian or custodian;
3. the child's counsel;
4. the Juvenile Service Coordinator;
5. the juvenile prosecutor;
6. the institution, agency or person vested with the legal custody of the child or responsibility for protective supervision; or
7. the court on its own motion.

4-14 C. Hearing to Modify, Revoke or Extend Disposition Order

A hearing to modify, revoke or extend the disposition order shall be conducted according to sections 4-16 of this code.

4-14 D. Automatic Termination of Disposition Order

When the child reaches eighteen (18) years of age, all disposition orders shall automatically terminate, unless the child has been adjudicated as being habitually truant, which case the disposition may not continue for more than one (1) year after the child's (18th) birthday.

4-15 JUVENILE RECORDS

4-15 A. Juvenile Court Records

A record of all hearings under this code shall be made and preserved. All juvenile court records shall be confidential and shall not be open to inspection to any but the following:

1. the child;
2. the child's parent guardian or custodian;

3. the child's counsel;
4. the juvenile court personnel directly involved in the handling of the case;
5. any other person by order of the court, having a legitimate interest in the particular case or the work of the court.

4-15 B. Law Enforcement Records

Law enforcement records and files concerning a child shall be kept separate from the records and files of adults. All law enforcement records shall be confidential and shall not be open to inspection to any but the following:

1. the child;
2. the child's parent guardian or custodian;
3. the child's counsel;
4. law enforcement personnel directly involved in the handling of the case;
5. the juvenile court personnel directly involved in the handling of the case; or
6. any other person by order of the court, having a legitimate interest in the particular case or the work of the court.

4-16 JUVENILE APPEALS

4-16 A. Procedure

Any party to a juvenile court matter must motion the court to reconsider a juvenile court order, including all transfer, adjudication and/or disposition orders before submitting an appeal. All motions to reconsider and any subsequent hearings shall be submitted and conducted in accordance with Tribal Judicial Code, Title II, part 3, Rule 12-14.

4-16 B. Time Limit for Motion to Reconsider

Any party may motion the court to reconsider a juvenile court order, shall file the motion to reconsider with the court within twenty (20) days of the juvenile order or disposition.

4-16 C. Who Can Appeal

Any party to a juvenile court hearing may appeal a court order on the motion to reconsider.

4-16 D. Time Limit for Appeal

Any party wishing to appeal a juvenile court order on the motion to reconsider shall file a written notice of appeal with the court within twenty (20) days of the final order on the motion to reconsider.

4-16 E. Record

For purposes of a motion to reconsider and/or appeal, a record of proceedings shall be made available to the child, his parent, guardian or custodian, and the child's counsel. Costs of obtaining this record shall be paid by the party seeking the motion to reconsider and/or appeal.

4-16 F. Stay of Appeal

Any party to an appeal may motion for a stay of the proceedings within twenty (20) days of the final order on the motion to reconsider. All motions requesting a stay and any subsequent hearings shall be submitted and conducted in accordance with Tribal Judicial Code, Title II, part 3, Rule 12-14.

4-16 G. Conduct of Appeal Proceedings

All appeals shall be conducted in accordance with the tribal code and tribal court rules of procedure so long as those provisions are not in conflict with the provisions of this juvenile code.

4-17 SEVERABILITY

If any provision of this Title, or the application thereof, to any person is held invalid, such invalidity shall not affect the provisions or applications of this Title which can be given effect without the invalid provisions, and to this end the provisions of this Title are declared severable.



**LEECH LAKE RESERVATION TRIBAL COUNCIL
RESOLUTION NO. 2010-160**

**RESOLUTION TO RATIFY
LEECH LAKE BAND OF OJIBWE JUDICIAL CODE 4, JUVENILE JUSTICE CODE**

WHEREAS, the Leech Lake Band of Ojibwe Indians is a Federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934, and operating under the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe; and

WHEREAS, the Leech Lake Reservation Tribal Council is the duly elected and authorized governing body of the Leech Lake Reservation; and

WHEREAS, the Leech Lake Tribal Council is charged with the responsibility of protecting and advocating for the health and welfare of Leech Lake Band members within the Leech Lake Reservation boundaries; and

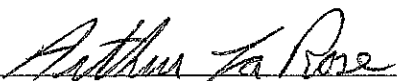
NOW THEREFORE BE IT RESOLVED, that the previous Juvenile Code, Title 4, adopted on January 27, 2004, is hereby rescinded in its entirety.

BE IT FURTHER RESOLVED, the Leech Lake Band of Ojibwe does hereby adopt this Leech Lake Band of Ojibwe Judicial Code, Title 4, Juvenile Justice Code, to be effective April 22, 2010; and

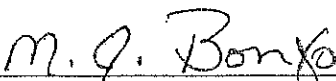
BE IT FURTHER RESOLVED, that the Leech Lake Band of Ojibwe Tribal Court is charged with jurisdiction over actions arising under this Ordinance.

CERTIFICATION

WE DO HEREBY CERTIFY that the foregoing Resolution was duly presented and acted upon by a vote of 4 for, 0 against and 0 silent at a Special Meeting of the Leech Lake Tribal Council, a quorum being present, held on April 22, 2010 at Cass Lake, Minnesota.



Arthur "Archie" LaRose, Chairman
Leech Lake Tribal Council



Michael J. Bongo, Secretary/Treasurer
Leech Lake Tribal Council