



Walker River Paiute Tribe

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**RESOLUTION OF THE GOVERNING BODY
OF THE
WALKER RIVER PAIUTE TRIBE
RESOLUTION NO. WR-88-2021**

BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE WALKER RIVER PAIUTE TRIBE THAT:

WHEREAS, the governing body of the Walker River Paiute Tribe (“Tribe”) is organized under the provisions of the Indian Reorganization Act of June, 1934, as amended, to exercise certain rights of home rule and to be responsible for the promotion of the economic and social welfare of its members, and

WHEREAS, the Tribe’s Constitution and By-Laws create the foundation for the governance of the Tribe and the framework for all Tribal operations and authorizes the Walker River Paiute Tribal Council to act on behalf of the Walker River Paiute Tribe and to promulgate ordinances for the purpose of safeguarding the peace and safety of residents of the Reservation, and

WHEREAS: pursuant to this power, the Tribal Council has created a Law & Order Code and other laws and ordinances to govern the conduct of people within the Tribe’s jurisdiction, and

WHEREAS: the Tribal Council has recognized the importance of reviewing and updating the Law & Order Code to ensure the Code meets the Tribe’s needs and best serves to protect the interests of the Tribe, its members and persons living, visiting and working on Tribal lands, and

WHEREAS: to meet this goal, the Tribal Council drafted a new Title 10 of the Law & Order Code titled “Juvenile Proceedings” addressing jurisdiction over adults and children, and

WHEREAS: the new proposed Title 10 was posted for at least thirty days to allow for public comment, the Tribal Council considered the comments and is now prepared to take action to approve Title 10, and

NOW THEREFORE BE IT RESOLVED by the Walker River Tribal Council, the governing body of the Walker River Paiute Tribe, hereby adopts, approves and promulgates the attached version of Title 10 titled "Juvenile Proceedings" of the Tribe's Law and Order Code, which shall go into effect upon approval of the Bureau of Indian Affairs, and which shall supersede and replace any and all prior versions of Title 10, and


BE IT FURTHER RESOLVED that the Walker River Tribal Council hereby directs that the Tribal Court make Title 10 of the Law & Order Code available to those Tribal members and attorneys/advocates who request a copy. The expense for each copy will be at the cost of the requester, and

BE IT FURTHER RESOLVED, that the Tribal Chairwoman or her designee is hereby authorized to effectuate any and all administrative actions necessary for the implementation of this resolution and the approved Title 10 of the Law & Order Code, and

BE IT FINALLY RESOLVED, that nothing in this resolution shall be construed as a waiver of the sovereign immunity of the Tribe.

CERTIFICATION

It is hereby certified that the foregoing Resolution of the Walker River Paiute Tribal Council, composed of seven members, of whom 5, constituting a quorum, were present at a meeting held on the 12th day of August, 2021, and that the foregoing resolution was adopted by the affirmative vote of 4-FOR, 0-AGAINST, and 0-ABSTENTIONS, pursuant to the authority contained in Article VI, Section 1(e), of the Constitution and By-Laws of the Walker River Paiute Tribe, approved March 26, 1937.


Gina L. Wachsmuth, Tribal Council Secretary
WALKER RIVER PAIUTE TRIBE



Walker River Paiute Tribe
Tribal Court

Title 10 Juvenile Proceedings

Title 10 Approved by Walker River Tribal Council on August 12, 2021
Resolution No.: WR-88-2021
Effective: _____, 2021

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WALKER RIVER PAIUTE TRIBE

LAW AND ORDER CODE

Title 10 – Juvenile Proceedings

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LAW AND ORDER CODE

TITLE 10

JUVENILE PROCEEDINGS

10-10- JURISDICTION

10-10-010 Jurisdiction Over Children – When sitting as the Juvenile Court, the Tribal Court shall have jurisdiction over all allegedly delinquent or dependent children and all delinquent or dependent children, whether Indian or non-Indian, who are within the exterior boundaries of the Reservation.

10-10-020 Jurisdiction Over Adults – When sitting as the Juvenile Court, the Tribal Court shall have such jurisdiction over adults whether Indian or non-Indian and whether within or without the exterior boundaries of the Reservation, as is incidental to its jurisdiction as set forth in Section 10-10-010, and as may be necessary to accomplish the purposes of the Title.

10-20- DEFINITIONS

10-20-010 Adult – A person who as attained the age of 18 years.

10-20-020 Child or Juvenile – A person under the age of 18 years.

10-20-030 Delinquent Child – Any child who has committed an act which would be an offense if committed by an adult, or who has committed an act specifically designated an act of juvenile delinquency by this Title.

10-20-040 Dependent Child – A child:

- (a) who has been abandoned by his or her parents, guardian, and/or custodian; or,
- (b) who is being or has been subjected to cruelty, or physical, sexual, or emotional abuse, by or with the knowledge or acquiescence of his or her parents, guardian, or custodian; or,
- (c) who lacks the parental care and control necessary for his or her well-being because of the failure or inability of his or her parents, guardian, or custodian to provide such care and control; or,
- (d) who for any reason is deprived of the subsistence, education, medical care, or any care or necessities essential to his or her well-being; or,
- (e) whose parents, guardian, and/or custodian are for any reason unable to discharge their parental responsibilities to and for the child; or,

(f) who has been placed for care or adoption in violation of law.

10-20-050 Parental Care and Control – The supervision, direction, discipline, and responsibility for welfare which reasonably must be exercised by a parent, guardian or custodian for the well-being of a child.

10-20-060 Parental Responsibility -The duty of a parent, guardian or custodian to supervise, control, care for discipline, and provide the necessities of life for a child.

10-20-070 Juvenile Court – The Tribal Court when sitting to hear cases arising under this Juvenile Code.

10-30 COMPLAINTS OF DELINQUENCY AND DEPENDENCY –

10-30-010 Form and Contents –

(a) Form – Complaints of delinquency of dependency shall comply with any form established by rule of the Juvenile Court, and shall contain the information required in subsection (b).

(b) Contents -- Complaints of delinquency or dependency shall contain at least the following information:

(1) The name age, and address, if known, of the child alleged to be delinquent or dependent;

(2) The name and address, if known, of the parent, guardian, and/or custodian of the child;

(3) For complaints of delinquency:

(A) A statement of the nature of the alleged offense, with sufficient factual detail to establish that an offense probably has been committed, and

(B) A citation of the specific provision of the Tribal Law and Order Code violated by the alleged offense;

(4) For complaints of dependency:

(A) A statement of the facts and circumstances upon which the allegation of dependency is based, with sufficient factual detail to establish that the child probably is dependent as defined in Section 10-20-040; and

(B) A citation of the specific provision of this Title upon which the dependency is based;

(5) The name and address of the person filing the complaint;

(6) The signature of the person filing the complaint, certifying that the information contained in the complaint is true and correct to the best of his knowledge.

10-30-020 Filing of Complaints –

(a) Complaints shall be filed with the Court Clerk, or with some other official designated by the Court Clerk and approved by the Tribal Judge.

(b) A complaint may be filed by any person who has personal knowledge of the facts set forth in the complaint, or by a law enforcement officer or social services worker acting upon his own knowledge, or in response to information received from any person, after investigation of such information to verify its correctness.

10-30-030 Custody of a Child Before Filing of a Complaint –

(a) Standards –

(1) Allegedly delinquent children may be detained or placed in custody before the filing of a complaint if such detention is necessary for the welfare of the child or for the safety and protection of the public.

(2) Allegedly dependent children may be removed from the custody of their parents, guardian, or custodian or may be detained before the filing of a complaint if such action is necessary for the safety, health, or welfare of the child.

(3) Before the filing of a complaint, allegedly delinquent or dependent children may be detained, placed in custody, or removed from the custody of their parents, guardian or custodian only by a Tribal law enforcement officer, social services worker or other person designated by the Tribal Council.

(b) Time Limit – An allegedly delinquent or dependent child may be detained or placed in custody only for the period of time reasonably necessary to

determine whether a complaint should be filed. In no event may such detention exceed twenty-four (24) hours in length.

(c) Place of Detention – An allegedly delinquent child may be detained or placed in custody, only in detention facilities approved pursuant to Chapter 10-100 of this Title and shall be confined in an area separate and distinct from any area where adults are confined. An allegedly dependent child shall be detained or placed in custody, only in a facility approved pursuant to Chapter 10-100, and shall not be kept in custody with allegedly delinquent children.

(d) Advisement of Rights – Allegedly delinquent or dependent children, at the time they are detained or placed in custody, shall be advised:

(1) of the reason that they have been taken into custody,

(2) of their right to retain a representative as counsel, at their own expense,

(3) of their right to refuse to answer the questions and to avoid self-incrimination and the right to remain silent.

(e) Informing of Parents, Guardian, or Custodian – When an allegedly delinquent or dependent child is detained or placed in custody, the parents, guardian or custodian of the child shall be notified immediately if possible, and in any case as soon as practical, that the child is in custody, and the reason for and circumstances surrounding such action. When so notified the parents, guardian, or custodian shall be advised of their rights to retain a representative as counsel, to refuse to answer questions, and to avoid self-incrimination, and also shall be advised that the child has the same rights.

10-30-040 Preliminary Investigation of Complaints –

A Tribal law enforcement officer or social services worker shall conduct an investigation of all complaints filed, to determine whether the allegations of the complaint are correct.

10-30-050 Custody of Child After Filing of Complaint of Delinquency or Dependency –

(a) Grounds for taking into custody – Following the filing of a complaint of delinquency or dependency, an allegedly delinquent or dependent child may be taken into or retained in custody only if such custody is necessary for the safety, health, or welfare of the child or of other persons or is essential for the safety of the community.

(b) Procedure –

- (1) Complaints of Delinquency – Upon being taken into custody, an allegedly delinquent child shall immediately be advised of his right to retain a representative as counsel, his right to refuse to answer questions and his right to avoid self-incrimination. As soon as practical after a child is taken into custody, the parents, guardian, or custodian of the child shall be notified that the child is in custody, shall be provided, free of charge with a copy of the complaint, shall be advised of the circumstances surrounding the alleged offense, and shall be advised of the child's rights.
- (2) Complaints of Dependency – Upon being taken into custody, an allegedly dependent child, if of sufficient age and understanding, shall be advised of the allegations of dependency, the circumstances upon which these allegations are based, and the right of the child to retain a representative as counsel. As soon as practical after an allegedly dependent child is taken into custody, the parents, custodians or guardians of such child shall be provided free of charge with a copy of the complaint, shall be advised of the circumstances upon which the allegation of dependency is based, and shall be advised of their right to retain a representative as counsel, their right to refuse to answer questions, and their right to avoid self-incrimination.

(c) Place of Custody –

- (1) An allegedly delinquent child, if taken into custody, shall be detained in a detention facility approved pursuant to Chapter 10-100 of this Title and shall be confined in an area separate and distinct from any area where adults are confined.
- (2) An allegedly dependent child, if taken into custody, shall be placed in the temporary custody of any relative by blood or marriage of the child's parents, guardian, or custodian, or in a foster home or custody facility approved pursuant to Chapter 10-100 of this Title. Placement in the temporary custody of a relative shall be preferred; such placement shall be subject to the continuing supervision of the social services agency. Allegedly dependent children shall not be retained in custody in the same facility with allegedly delinquent children.

(d) Preference for Release of Child from Custody –

In all cases, release of an allegedly delinquent or dependent child from detention or foster care custody to the temporary custody of the child's parents, guardian or custodian shall be favored. In the case of an allegedly dependent child, preference shall be given to the placement of the child in the temporary custody of a relative of the parents, guardian, or custodian, if the welfare of the child requires that it be removed from the custody of its parents, guardian, or custodian.

(e) Mandatory Release of Child From Detention or Custody –

If an allegedly delinquent or dependent child is in custody as provided in this section, the complaint of delinquency or dependency must be disposed of by the law enforcement officer or social services worker, as provided in Section 10-30-060, within ten (10) working days of the commencement of custody. If the complaint is not so disposed of, the child shall be released into the custody of its parents, guardian, or custodian no later than 7:00 p.m. of the tenth working day. In addition, the complaint shall be dismissed, and no complaint based on the same facts, shall be filed concerning that child unless a petition is filed within ten (10) working days of the commencement of custody. If the parent, guardian or custodian is not available to take custody of the child, the child shall then be treated as an allegedly dependent child, and the law enforcement officer or social services worker shall make every effort to locate the child's parent, guardian, or custodian.

(f) Continuing Custody – The custody provisions set forth in this Section 10-30-050 shall be applicable until the end of a disposition hearing conducted pursuant to Chapter 10-60.

10-30-060 Disposition of Complaints –

(a) Following the completion of a preliminary investigation, the law enforcement officer or social services worker shall make one of the following dispositions on the complaint:

- (1) Dismissal;
- (2) An informal conference attended by the officer or worker, the allegedly delinquent or dependent child, the parents, guardian, or custodian of the child, the parents, or both, if desired by either;
- (3) Filing of a petition of delinquency or dependency.

(b) If an informal conference is held, no petition of delinquency or dependency shall be filed, based upon the facts alleged in that complaint, if:

(1) A disposition or resolution of the complaint is agreed to in writing by all parties at the conference; and

(2) All actions required on the part of any party to implement the disposition or resolution are carried out or completed.

10-30-070 Report of Disposition of Complaints – All complaints of delinquency or dependency, reports of the disposition of complaints, and reports of the substance of all informal conferences conducted and dispositions or resolutions made, shall be provided to the Juvenile Court at least once per week.

10-40 PETITIONS OF DELINQUENCY OR DEPENDENCY

10-40-010 Filing – Petitions of delinquency or dependency shall be filed with the Clerk of the Juvenile Court. Petitions may be filed only by a law enforcement officer or social services worker, after a preliminary investigation, consideration of the complaint, and a determination that the matter cannot be resolved by an informal conference.

10-40-020 Form and Contents –

(a) Form – A petition of delinquency or dependency shall comply with any form established by Juvenile Court rule and shall contain the information required in subsection (b).

(b) Contents – A petition shall include the following:

(1) A caption or heading which clearly identifies the child involved and states the nature of the petition;

(2) Data concerning the child, including the name, date of birth, and permanent residence address, if known;

(3) Data concerning the parents, guardian, or custodian of the child, including their names, addresses, and relationships to the child, if known;

(4) The present custodial status of the child, and the length of time the child has been in custody or detention;

- (5) Specific facts sufficient to invoke the jurisdiction of the Juvenile Court, and to establish that probable cause exists for the filing of the petition;
- (6) A statement by the law enforcement officer or social services worker explaining why disposition by an informal conference was not appropriate.

10-40-030 Service of Petitions - The following persons shall be served with a copy of a petition of delinquency or dependency:

- (a) The allegedly delinquent or dependent child;
- (b) The parent, guardian, and/or custodian of the child if known; or if not known, the most closely related known blood relative; and
- (c) The person in actual physical custody of the child.

10-50 HEARINGS UPON PETITIONS OF DELINQUENCY OR DEPENDENCY -

10-50-010 Time of Hearings -

- (a) Time Limit - The Juvenile Court shall hold a hearing upon every petition filed within fourteen (14) days after filing. If a hearing is not held as required, the petition shall be dismissed and no petition based upon the same facts subsequently shall be filed concerning the child named in the complaint.
- (b) Times Excluded from Limit - The following times shall be excluded from computation of the time limit established in Section 10-50-010(a):
 - (1) Delays resulting from legal action concerning the child;
 - (2) Continuances requested by the child's representative in delinquency proceedings;
 - (3) Continuances requested by the child's representative or the parent's, guardian's or custodian's representative in dependency proceedings;
 - (4) Periods during which the child is absent from the jurisdiction;
 - (5) Continuances agreed to by all parties;

(6) Such other periods of time as are necessary and appropriate, in the discretion of the Court, to further the ends of justice, and which will not prejudice any party.

(c) Continuances –

(1) Defined – Continuances are delays in the holding of a hearing.

(2) Granting Continuances -- In the discretion of the Court, continuances may be granted after the start of a hearing upon application of any party or upon motion of the Court. Continuances shall not be granted for the purpose or with the effect of avoiding the application of Section 10-50-010(a). The agreement of all parties to the granting of a continuance shall be required unless clear injustice would result from the denial of a continuance.

10-50-020 Conduct of Hearings -- Hearings upon petitions of delinquency or dependency shall be conducted by the Juvenile Court. Such hearings upon petitions of delinquency or dependency shall be conducted without a jury, and there shall be no right to a jury trial in any Juvenile Court proceeding.

10-50-030 Persons Permitted to Attend Hearings – The following persons shall be permitted to attend hearings upon petitions of delinquency or dependency:

- (a) The allegedly delinquent or dependent child, and the representative for the child;
- (b) The parents, guardian, or custodian of the child, and the representative for the parents, guardian, or custodian;
- (c) The Tribal prosecutor and any law enforcement personnel involved in the case; and
- (d) Any social services agency personnel involved in the case;
- (e) Any other interested persons, with the permission of and in the discretion of the Court.

10-50-040 Rights of Parties at Delinquency and Dependency Hearings –

An allegedly delinquent or dependent child, and the parents, guardian, or custodian of such a child, each are individually entitled to all rights of a criminal

defendant at a hearing upon a petition and at all stages of every juvenile proceeding, except as otherwise specifically provided in this Title.

- 10-50-050 Evidence at Delinquency and Dependency Hearings – Evidence at hearings upon petition of delinquency or dependency shall be admissible in accord with the rules of evidence set forth in Title 6 of this Code.
- 10-50-060 Procedure at Delinquency and Dependency Hearings – Procedure at hearings upon petitions of delinquency or dependency shall be in accord with general rules of Court established pursuant to Title 1 of this Code and such special Juvenile Court rules as may be established by the Court and approved by the Tribal Council. The Juvenile Court is authorized to establish appropriate rules not in conflict with this Title, subject to approval by the Tribal Council.
- 10-50-070 Findings of Juvenile Court – After hearing and considering the evidence introduced at trial, the Juvenile Court shall make a finding. The finding shall state that an allegedly dependent child is or is not dependent, or that an allegedly delinquent child is or is not delinquent. Upon motion of the Court, and with the agreement of all parties, a hearing may be continued for an agreed period of up to three (3) months before the making of a finding; at the end of the agreed time a finding shall be made in every juvenile proceeding, except as otherwise specifically provided in this Title.
- 10-50-080 Standard of Proof to be Applied by the Juvenile Court --
- (a) In hearings upon delinquency petitions – To find that a child is delinquent, the Court must find that the evidence establishes beyond a reasonable doubt that the child committed the acts alleged in the complaint and/or petition of delinquency, which acts would have been offenses if committed by an adult, or which acts are specifically made acts of juvenile delinquency by this Title.
 - (b) In hearings upon dependency petitions – to find that a child is dependent, the Court must find that the evidence establishes that it is more probable than not that the allegations of dependency in the complaint and petition are true and correct, which allegations constitute dependency as defined in this Title.
- 10-50-090 Appeals of Findings – Findings made by the Juvenile Court may be appealed in the same manner as provided in the Tribal Code for the appeal of criminal convictions. In all appeal proceedings, the Appeals Court shall conduct closed sessions and shall follow all the provisions of this Title relating to the confidentiality of Juvenile Court proceedings.

10-60 DISPOSITION OF CASES AFTER FINDING OF DELINQUENCY OR
DEPENDENCY

- 10-60-010 Pre-Disposition Reports- To aid in the proper disposition of a case following a finding of delinquency or dependency, the Court may request the preparation of a pre-disposition report. Such a report shall be prepared by the social services agency or Juvenile Probation office at the direction of the Court. The report shall contain all relevant information concerning the history and present condition of the child and of the child's parent, guardian, or custodian, and other relatives of the child, which will assist the Judge in making a proper disposition of the case. The report shall also list the Tribal and community resources that are available to implement a disposition, and may, if requested by the Judge, include a suggested disposition. A pre-disposition report shall not be prepared before a finding is made. A copy of the pre-disposition report shall be provided to the child, the parents, guardian, or custodian of the child, and the representatives of each, no less than 48 hours before the disposition hearing.
- 10-60-020 Disposition Hearing- Except with good cause, within and no more than two (2) weeks after a finding of delinquency or dependency is made, the Juvenile Court shall conduct a disposition hearing. At the disposition hearing, the Court shall consider the pre-disposition report, if any, and shall receive any additional evidence that the parties wish to present relating to an appropriate disposition for the case. The procedure followed and rules of evidence applied at a disposition hearing shall be the same as at delinquency and dependency hearings.
- 10-60-030 Dispositions for Children Adjudged Delinquent – The Juvenile Court shall take legal custody of a child found delinquent. A child found delinquent may be returned to the physical custody of his parents, guardian or custodian, or may be placed in an approved foster home or in an approved detention facility. Any type of placement may be combined with continued supervision by social services personnel of such type and in such manner as the Court may specify. The Court may direct such other disposition and impose such other conditions as are fair and equitable, serve the interest of rehabilitating the delinquent child and protecting the community. If a child is removed from the physical custody of his parents, guardian, or custodian, reasonable rights of visitation shall be afforded to such parents, guardian, or custodian.
- 10-60-040 Dispositions of Children Adjudged Dependent- The Juvenile Court shall take legal custody of a child found dependent. A child found dependent may be returned to physical custody of his parents, guardian, or custodian, may be placed in the physical custody of a relative by blood or marriage of his parent, guardian, or custodian, or may be placed in an approved foster care home. Any type of placement may be combined with continued supervision by social services

personnel of such type and in such manner as the Court may specify. The Court may direct such other disposition and impose such other conditions as are fair and equitable, serve the best interest of the child, and promote family integrity and stability. If a child is removed from the physical custody of his parents, guardian, or custodian, reasonable rights of visitation shall be afforded to such parents, guardian, or custodian.

10-60-050 Continuing Jurisdiction of Juvenile Court – Following any disposition of a case after a finding of delinquency or dependency, the Juvenile Court shall retain legal custody of and continuing jurisdiction over the child, subject to review as provided in Section 10-60-060.

10-60-060 Review of Disposition and Jurisdiction by the Juvenile Court –

- (a) Following the imposition of any disposition by the Juvenile Court, such disposition, and the continuing jurisdiction of the Court, shall be subject to review:
 - (1) In the discretion of the Court, at any time; upon motion of any party to the hearing; upon motion of any person or agency which would have been a proper party to the hearing; or upon the Court's own motion; and
 - (2) At least every six (6) months.
- (b) Review pursuant to this section shall be based upon the files and pleadings of the case, and upon such further information as may be submitted to the Court, or obtained at the direction of the Court. Further information may be submitted by any person or agency that was a party to the hearings or that would have been a proper party to the hearing.
- (c) All parties to the hearing shall receive written notice no less than ten (10) days before a review is conducted, and upon the written request of any party, or person or agency that would have been a proper party, the review shall be conducted before the Juvenile Court in the same manner as a disposition hearing.

10-60-070 Termination of Dispositions and Jurisdiction of the Court -

- (a) The jurisdiction of the Juvenile Court, and any disposition imposed as a result of a finding of delinquency or dependency, shall be terminated:
 - (1) In the sole discretion of the Court, by order of the Court, following a review or otherwise;

(2) Upon the attainment of the age of eighteen (18) by a child found to be dependent: or

(3) Upon the attainment of the age of eighteen (18) by a child found to be delinquent, except that if the Juvenile Court specifically so provides in its disposition of a case, the Court may continue such a disposition for six (6) months after the child attains the age of eighteen (18).

(b) When the jurisdiction of the Juvenile Court is terminated as provided in subsection (a), legal custody of the child shall return to the person or persons who had legal custody when the Juvenile Court took jurisdiction. Legal custody shall end when a person attains the age of 18 years, although a disposition may be continued beyond that time as provided in subsection 10-60-070(a)(3).

10-60-080 Appeals of Dispositions – Dispositions imposed by the Juvenile Court may be appealed in the manner set forth in Section 10-50-090 for the appeal of Juvenile Court findings. Appeals of findings and disposition may be combined and considered together by the Appeals Court.

10-70 PROCEEDINGS AND RECORDS OF JUVENILE COURT –

10-70-010 Closed Proceedings – Proceedings of the Juvenile Court shall be conducted in closed session and shall not be open to the public.

10-70-020 Closed Records; Availability to Certain Persons –

(a) Records of the Juvenile Court shall be closed, shall not be accessible to the general public, shall not be subject to the disclosure or inspection as public records, and shall not be used in any other proceedings.

(b) Nothing in this section shall prevent a child who is the subject of Juvenile Court proceedings, the parent, guardian, or custodian of such child, the representative of the child or his parents, guardian, or custodian, or any person authorized in writing by the child or his parents, guardian, or custodian, from inspecting and copying such records.

10-70-030 Disclosure of Involvement in Juvenile Court Proceedings –

The involvement of a person in Juvenile Court proceedings, and the existence of Juvenile Court records relating to a person, do not have to be disclosed in response to requests for information about involvement in legal proceedings, or for any other purpose.

- 10-70-040 Destruction of Records – Records of the Juvenile Court shall be physically destroyed within one (1) week after the first anniversary of the termination of Juvenile Court jurisdiction over the child.
- 10-70-050 Unauthorized Release or Publication of Juvenile Court Records an Offense – The release of Juvenile Court records, except in the manner provided in subsection 10-70-020(b), or any publication of such records, shall be a Class C offense and shall be punishable as set forth in Title 4, Criminal Procedure.
- 10-80 TERMINATION OF PARENTAL RIGHTS –
- 10-80-010 Definition; Effect of Decree – An action for termination of parental rights is a proceeding to permanently terminate the relationship of parent and child. The effect of a decree of termination of parental rights is to permanently end the parent-child relationship, to relieve the parent of all rights and responsibilities with respect to the child, and to sever all legal relationships, including but not limited to inheritance, between the parent and child.
- 10-80-020 Grounds for Termination – The parental rights of a parent shall be terminated only if the court finds that the evidence presented at the hearing establishes beyond a reasonable doubt that it will be harmful to the child if the parental rights are not terminated.
- 10-80-030 Initiation of Termination Action –
- (a) General Provisions – A proceeding for termination of parental rights shall be commenced by a petition filed with the Juvenile Court. Petitions may be filed by the social services agency or by any person seeking to adopt the child involved. The following conditions must exist before such a petition may be filed:
- (1) There must have been a prior finding of dependency by the Juvenile Court; and
 - (2) There must have been a disposition involving placement of the child with some person other than the parent whose rights are sought to be terminated, which disposition was of at least one (1) year duration.
- (b) Termination of Parental Rights of an Absent Parent - Notwithstanding the provisions of subsection 10-80-030(a), a parent who has the custody of a child may file a petition to terminate the parental rights of an absent parent of the child. The following conditions must exist before such a petition may be filed:

- (1) The parent filing the petition must have had actual physical custody of the child for at least the preceding twenty-four (24) months; and
- (2) For at least the preceding twenty-four (24) months, the absent parent must have been absent from the household where the child lived, must not have had actual physical custody of the child, must have failed to contribute to the support of the child, and must have shown no interest in the child.

10-80-040 Petition for Termination of Parental Rights – Form and Contents –

A petition for termination of parental rights may be in a form established by rule of the Juvenile Court, and shall contain at least the following information:

- (a) The name, address, and present custodial status of the child;
- (b) The name(s) and address (es) of the parent (s) whose rights are sought to be terminated; or a statement that this information could not be determined by diligent search;
- (c) A summary of prior dependency petition(s) involving the child, if any, and the disposition of such petitions;
- (d) A summary of the custodial status of the child since the filing of the first dependency petition relating to the child, or for the preceding twenty-four (24) months, if no such dependency petitions have been filed;
- (e) A concise statement of the facts and circumstances which are the basis for the petition for termination.

10-80-050 Notice to Parents –

The parent or parents whose rights are sought to be terminated each shall be served with a copy of the petition for termination no less than thirty (30) days before the date set for hearing of the petition. If the whereabouts of such parent or parents are unknown and cannot be determined by diligent search, notice may be given by:

- (a) Posting notice of the pending termination action at two prominent locations on the Reservation;
- (b) Publishing such notice at least once a week in a newspaper of general circulation on the Reservation, within the county, or within the State Indian community, for a period of three (3) weeks; and

- (e) Providing actual written notice to the parents' nearest known blood relative, if any.

10-80-060 Hearing Upon Petition for Termination of Parental Rights –

The following procedures and standards shall be applicable in actions for termination of parental rights:

- (a) Scope – The hearing upon a petition for termination shall consider and determine whether grounds exist for termination of parental rights, as set forth in Section 10-80-020.
- (b) Procedure – The hearing shall be conducted by the Juvenile Court only, without a jury. All provisions of this Title 10 relating to Juvenile Court procedure, including but not limited to those requiring closed proceedings and close records, shall apply.
- (c) Rights of Parents – At a termination hearing, the parent (s) whose rights are to be terminated shall have all the rights of a criminal defendant, except as otherwise specifically provided in this Title 10.
- (d) Evidence Considered – At a termination hearing, the rules of evidence established in Title 6, Evidence shall be applicable.

10-80-070 Intervention in Termination Hearing by Person Claiming Parenthood –

- (a) Proper Parties to Intervene – A person who claims parenthood of a child shall be allowed to intervene in a termination proceeding as a matter of right.
- (b) Supplementary Hearing Upon Parenthood of Intervenor – When a person intervenes in a termination hearing pursuant to this section, a supplementary hearing shall be held by the Court to consider the assertion of parenthood. Such hearing shall be conducted in accord with the rules and standards established for determination of parenthood in Title 9, Domestic Relations.
- (c) Standard of Proof; Effect of Decree – If the supplementary hearing establishes that it is more probable than not that the person claiming parenthood is in fact a parent of the child, a decree of parenthood shall be entered by the Court. Such decree shall have the force and effect of establishing parental rights and relationships between the child and the claiming party.

10-80-080 Disposition of Petition for Termination by Juvenile Court --

The Juvenile Court may make the following dispositions in a proceeding for termination of parental rights:

- (a) Dismissal of the petition;
- (b) Entry of an Order of Termination of Parental Rights;
- (c) Other dispositions, including but not limited to continuances for a specific period of time, which serve the best interest of the child.

10-80-090 Effect of an Order of Termination of Parental Rights --

- (a) An Order of Termination of parental rights shall have the effect of permanently ending the parent-child relationship, relieving the terminated parent of all rights and responsibilities with respect to the child, and of severing all legal relationships including but not limited to rights of inheritance between the parent and child. Upon entry of an Order of Termination, the Court shall direct the entry of a notation upon the child's birth certificate and other birth records, referring to the court record of the termination proceeding. Such notation shall not be included on any birth certificate subsequently issued when the child is adopted. The child shall retain and continue to use its original last name until adopted or until the last name is changed in a Court proceeding, unless the Court shall specifically order the use of another last name.
- (b) Upon entry of any Order of Termination, legal custody of the child shall be as follows:
 - (1) In a parent whose parental rights have not been terminated;
 - (2) If there is no such parent in the Juvenile Court, with care and control of the child to be in the social services agency, except when the Juvenile Court specifically orders otherwise.

10-80-100 Voluntary Termination of Parental Rights --

- (a) Notwithstanding any other provisions of this Chapter 10-80, a parent may voluntarily terminate his or her parental rights. A voluntary termination of parental rights may be accomplished only by one of the following two procedures:

(1) By submission to the Juvenile Court of a written statement signed by the parent seeking to terminate his or her rights. Such a statement shall explicitly state that the parent voluntarily seeks to terminate his or her parental rights with respect to a specifically named child, that the parent is not acting under fraud, duress, or undue influence or for monetary gain, that the parent fully realizes the irrevocable nature of a termination of parental rights, and that the parent fully consents to such termination of rights. The statement shall be signed by the parent and the parent's signature shall be notarized. In the discretion of the Juvenile Court, a parent completing such a statement also may be required to appear before the Juvenile Court, or a Juvenile Court of any other jurisdiction to affirm the statement under oath before a judge, subject to inquiry by a judge as to the parent's understanding of the nature of termination, as to the voluntary nature of the statement, as to the parent's motives, and as to any other pertinent matters; or

(2) By personal appearance of the parent before the Judge of the Juvenile Court. At such an appearance the parent shall affirm, under oath, that he or she voluntarily seeks to terminate his or her parental rights with respect to a specifically named child, that he or she is not acting under fraud, duress, or undue influence, or for monetary gain, and that he or she fully consents to such termination of rights. The Judge may examine the parent as to his or her understanding of the nature of termination, as to the parent's motives, and as to other pertinent matters.

(b) An order of voluntary termination shall be entered only after the Judge is satisfied that the termination of rights is completely voluntary, is fully understood by the parent, and is not a result of fraud, duress, undue influence, or possible or actual monetary gain. The Judge must also find that the termination of parental rights is in the best interests of the child. An Order of Voluntary Termination has the same effect as an Order of Termination.

10-90 USE OF PROFESSIONAL SERVICES BY THE JUVENILE COURT –

10-90-010 Definitions –

(a) Professional Personnel – Members of those health services professions licensed by the State of Nevada or by any other jurisdiction; attorneys; persons who have had specialized training or experience in providing child welfare services; and other persons recognized by the Juvenile Court as regularly providing child welfare services.

(b) Social Services Agency – An agency or organization, funded from any source, that utilizes professional personnel to provide child welfare services, including the Tribe’s Social Services Department.

(c) Social Services Personnel – Professional personnel who are employed by a social services agency, or other employees of a social services agency who work under the direction and supervision of professional personnel in regularly providing child welfare services.

10-90-020 Use of Services --

(a) The Juvenile Court is authorized and directed to utilize, to the fullest extent it deems practical in the implementation of this Title 10, the services of social services agencies and personnel and professional personnel.

(b) The services of social services agencies and personnel and professional personnel shall be utilized to the maximum extent feasible by law enforcement personnel in the implementation of this Title 10.

10-90-030 Designation of Social Services Agency – The Tribal Council each year may designate by resolution the social services agency the services of which shall be used by the Juvenile Court. The Juvenile Court shall exclusively use the services of any agency so designated. In the absence of any such resolution, the Tribe’s Social Services Department shall act as the social services agency used by the Juvenile Court.

10-90-040 Duties and Responsibilities of Social Services Agency –

(a) A social services agency that undertakes to provide service to the Juvenile Court, whether by Tribal Council resolution of designation or otherwise, shall have the following duties and responsibilities:

(1) To assist the Juvenile Court as that Court may direct;

(2) To prepare such preliminary investigation reports as may be appropriate, and such predisposition reports as may be requested by the Juvenile Court; and

(3) To provide such post-disposition services as may be directed by the Juvenile Court.

(b) Subsection (a) shall not require a social services agency to provide services other than those for which the Tribal Council or Bureau of Indian Affairs has

contracted or which the social services agency normally and customarily provides in the absence of or notwithstanding a contract.

10-100 FACILITIES FOR CUSTODY OR DETENTION OF CHILDREN --

10-100-010 Definitions --

- (a) Foster Care Facility – Any arrangement for the care and custody of up to six (6) children in a situation that is not the home of the parents, guardian, or custodian of the children.
- (b) Group Home Facility – Any arrangement for the care and custody of from seven (7) to fifteen (15) children in a situation which is not the home of the parents, guardian, or custodian of the children.
- (c) Institutional Facility – Any arrangement for the care and custody of a child in a situation where the primary function of that is the restraint of the child, or the prevention of the infliction of harm or damage to other persons or property by the child.

10-100-020 Establishment of Standards and Rules for Custody and Detention Facilities --

- (a) The Juvenile Court shall direct the designated social services agency to establish standards for and rules regarding foster care, group home, institutional, and detention facilities. Such standards and rules shall be in full force and effect unless disapproved by the Tribal Council upon review.
- (b) The rules and standards established pursuant to this Section 10-100-020 may regulate all aspects of the facilities defined in Section 10-100-010, relating to the welfare, health and safety of the children in custody in such facilities. Standards and rules adopted pursuant to this section shall be made available in written form to any person requesting a copy of them, and shall be available for inspection at the office of the Clerk of the Court.

10-100-030 Approval of Custody and Detention Facilities --

- (a) Approval Procedure – Those foster care and detention facilities that comply with the standards and rules adopted pursuant to Section 10-100-020, shall be approved by the Juvenile Court, following investigation by the designated social services agency and recommendation for approval. Facilities that do not meet the standards and requirements of Section 10-100-020 shall not be approved.

- (b) Inspection Prior to Approval – Prior to approval, custody and detention facilities may be required to allow inspection by the designated social services agency, to permit that agency to make its recommendation to the Juvenile Court.
- (c) Annual Review of Approval – The Juvenile Court shall reconsider the approval of each facility at least once each year, and shall reapprove only those facilities which continue to meet the requirements established pursuant to Section 10-100-020, and which are recommended for reapproval by the designated social services agency.
- (d) Records of Approval or Disapproval – Notwithstanding any other provisions of this Title 10, all records and proceedings of the Juvenile Court relating to approval or disapproval of custody and detention facilities shall be open and public.

10-100-040 Use of Custody and Detention Facilities – No child shall be placed in any custody or detention facility unless such facility has been approved to Section 10-100-030. In cases of emergency, the Juvenile Court may direct the placement of a child in a non-approved custody or detention facility for a period of not more than three (3) days. However, pursuant to this section, no child shall be placed in any area of any custody or detention facility that area is also used for the custody or detention of adults.

10-110 SCHOOL ATTENDANCE –

10-110-010 Duty to Attend School; Excuses –

- (a) It is the duty of every child between the ages of six (6) and seventeen (17) years residing on the Reservation, to attend school regularly, unless excused from doing so in accordance with Nevada Revised Statutes 392.050-392.110. Regularly shall mean during the full period and hours that school is in session (including required distance learning), excluding religious holidays and traditional Tribal ceremonies as verified by the Tribe. It is the duty of the parent, legal guardian, or custodian of every child to assure the school attendance of such child, in compliance with this section.
- (b) Excuses – The parent, legal guardian, or custodian of any child shall provide to school authorities a written explanation of the reason for any absence of such child from school. The school principal or his designated representative shall determine whether such absence is excused because of illness or other circumstances making such absence reasonable.

- (c) The Tribal Council or Tribal Court shall also have authority to request a doctor's note from the student(s) who are absent for ten (10) consecutive/non-consecutive days in a school semester because of illness or injury, verifying the absences are health related.

10-110-020 Attendance Standards and Records – It is the duty of each school principal, or his designated representative:

- (a) No later than the beginning of each school year, to establish and to provide to parents and pupils in written form a non-exclusive list of reasonable excuses for absence; and
- (b) During the school year, to maintain accurate and complete records of pupil attendance.

10-110-030 Notices of Truancy –

- (a) It is the duty of each school principal, or his designated representative:
 - (1) To determine whether each absence of a pupil is excused; and,
 - (2) To notify in writing the parent, legal guardian or custodian of any child who has been absent without reasonable excuse.
- (b) Notice of unexcused absences given pursuant to Subsection (a)(2), above, shall be sufficiently specific to inform the parents, guardian, or custodian of the child involved of dates, times, and circumstances of any unexcused absence, and shall state that the child is considered to have been a truant child upon that occasion.

10-110-040 Truant Children –

- (a) Truancy is prohibited on the Reservation. It shall be unlawful for any person to cause, assist, or enable a child to be truant.
- (b) A truant child is a child:
 - (1) Whose absence from school has not been excused, and
 - (2) Whose parent, legal guardian, or custodian has been given written notice of such absence in accord with Section 10-110-030 or been given notice

by the Tribe either in writing or verbally if the child has been taken into custody in accordance with Section 10-110-050.

- (c) For purposes of this Section 10-110-040, each day, and/or intermittent attendance during the day carried on for the purpose of defeating the intent of the Tribe's requirements to attend school, during which a child is absent without excuse for any period of time may be considered a separate occurrence of truancy.

10-110-050 Taking Absent Children Into Custody --

- (a) During school hours, any Tribal Police Officer, or other person specifically authorized by the Tribal Council may apprehend and take into custody without a warrant any child who is not at such child's normal residence and in probable violation of Section 10-110-010(a).
- (b) Upon apprehending an absent child, the apprehending officer or employee may decline to take the child into custody if he considers such custody unwarranted. In each such case, the officer or employee shall investigate the circumstances of the incident, and shall include the full results of his investigation and a description of his actions in the written report required by Section 10-110-050(d).
- (c) Any child taken into custody pursuant to this Section 10-110-050 shall be delivered immediately to the appropriate school official who may or may not have reported the truancy of the child. If the child cannot be delivered to such school official during regular school hours, the child instead shall be delivered immediately to his parents, guardian, or custodian.

In addition, if a child under the age of 12 is found truant, Tribal Law Enforcement shall issue a citation to his or her parent or caregiver. If a child 12 years of age or older is found truant, Tribal Law Enforcement shall issue a citation to the child. Tribal Law Enforcement shall issue a citation to any person(s) who aids or contributes to a child's truancy. A Tribal Court hearing shall be required. Appearance shall be mandatory by both the child and his or her parent/legal guardian/legal custodian.

- (d) A written report of all actions taken pursuant to this Section 10-110-050, including the facts and circumstances of any decision to not take into custody a child who is apprehended shall be made to the designated social services agency within two (2) working days of such actions.

10-110-060 Truancy Proceedings --

- (a) Proceedings – The Juvenile Court shall hear and consider habitual truancy petitions in the same manner and following the same procedures utilized when other petitions are heard by the Juvenile Court. All parties to such proceedings shall have all of the rights provided to parties in other Juvenile Court proceedings.
- (b) Decree of Truancy – If the Juvenile Court finds that the evidence presented at the hearing establishes that it is more probable than not that a child is a truant, as defined in Section 10-110-0040(b), the Court shall enter a decree finding that the child is a truant and proceed with sentencing the child and associated individuals as outlined in Section 10-110-070.
- (c) Effects of Decree of Habitual Truancy – If a child is found to be truant on more than three (3) occasions in one school year, the Court shall declare the child habitually truant. The Juvenile Court may make any disposition regarding custody, placement and supervision of the child that will assure future school attendance by the child. Preference shall be given to a disposition that provides for the custody of the child by parents, guardian or blood relatives.

10-110-070 Truancy Offenses

- (a) Failure to Attend School – Any child convicted of truancy shall be subject to a minimum penalty of community service hours equal to the number of school hours truant.
- (b) Failure of Parents, Guardian, or Custodians to Comply With Duty to Assure School Attendance – The intentional failure of any parent, guardian or custodian of a child to assure the school attendance of such child is a Class D offense. Any person guilty of failing to assure school attendance may be prosecuted and punished as provided in Title 4 and Title 5 of this Code. In addition to the standard penalties of a Class D offense, the Court may impose other remedies, including but not limited to, drug and alcohol assessments, counseling, home detention, restricted access to the Reservation and referrals to the appropriate child welfare agency for investigation into the family's home. If a child is found to be habitually truant, the community service penalties shall automatically double.
- (c) Inducing Truancy – Intentional or knowing action by any person, including a child over the age of 12, to induce a child to be truant is a Class D offense.

Any person guilty of inducing truancy may be prosecuted and punished as provided in Title 4 and Title 5 of this Code. In addition to the standard penalties of a Class D offense, the Court may impose other remedies, including but not limited to, drug and alcohol assessments, counseling, home detention, restricted access to the Reservation and referrals to the appropriate child welfare agency for investigation into the family's home.

10-120 ACTS OF JUVENILE DELINQUENCY –

Pursuant to Section 10-20-030, the following offenses are specifically designated as acts of Juvenile Delinquency.

10-120-010 Possession of Consumption of Alcoholic Beverages –

(a) Offense – Any juvenile who possesses or consumes any alcoholic beverage is guilty of an act of juvenile delinquency, and shall be subject to disposition as provided in this Title 10.

(b) Exemption – The provisions of this section 10-20-010 shall not apply to a juvenile who consumes non-intoxicating amounts of an alcoholic beverage:

(1) as part of a recognized religious ceremony or celebration.

(2) When such alcoholic beverage is intentionally provided by the juvenile's parent, guardian, or custodian and is consumed in the juvenile's home.

10-120-020 Curfew Violation –

(a) Offense – Any juvenile who violates a curfew established by this section 10-120-020, is guilty of an act of juvenile delinquency, and shall be subject to disposition as provided in this Title 10.

(b) Establishment of Curfew –

(1) No juvenile sixteen (16) years of age or older shall be about on the Reservation between the hours of twelve midnight (12:00 a.m.) and six a.m. (6:00 a.m.) except as provided in subsection (c) below.

(2) No juvenile twelve (12) years of age or older but not yet sixteen (16) years of age shall be about on the Reservation between the hours of eleven p.m. (11:00 p.m.) and six a.m. (6:00 a.m.), except as provided in subsection (c) below.

(3) No juvenile under the age of twelve (12) years shall be about on the Reservation between the hours of ten p.m. (10:00 p.m.) and six a.m. (6:00 a.m.), except as provided in subsection (c) below.

(c) Exemption from Curfews –

(1) General Exemptions - The curfews established in subsection (b), above, shall not apply to:

(A) any juvenile who is in the company of his parent, guardian or custodian;

(B) any juvenile who is proceeding directly to his home from any scheduled school, religious or tribal activity and is so proceeding without delay;

(C) any juvenile who is in the home of another with the permission of the juvenile's parent, guardian or custodian and the person residing in the home where the juvenile is found; or

(D) any juvenile who is in the company of an adult, if the juvenile's parent, guardian, or custodian has knowledge of the juvenile's whereabouts and has given express permission for the juvenile to be away from his home or place of residence on that particular occasion.

(2) Special Exemptions – By resolution, the Tribal Council may establish special exemptions from the curfews established in subsection (b), above to allow juveniles to attend or participate in governmental, educational, or cultural events, or in other events of general public interest.

(d) Definitions – For the purpose of this section 10-120-020, the term “about on the Reservation” shall mean being away from the residence or usual place of abode of the person involved.

10-120-030 Possession of a Controlled Substance –

(a) Any juvenile is guilty of a controlled substances offense if he has in his possession, either for use or for sale, any controlled substance listed in schedules I, II, III, IV, and V of 21 U.S.C. § 812, or the successor to schedules, I, II, III, IV, and V of 21 U.S.C. § 812, without a prescription from a doctor or other person licensed to prescribe medicine.

(b) The provisions in subsection (a) above shall not apply to possession of one (1) ounce or less of marijuana.

10-120-040 Possession of Marijuana –

Any juvenile is guilty of possession, if he has in his possession one ounce or less of marijuana, except if in compliance with Law and Order Code Title 23 – Use of Marijuana.

10-120-050 Sexual Assault --

(a) Any juvenile is guilty of sexual assault if he or she has sexual intercourse as defined in Title 5-30-090(b), with any other juvenile, male or female, against the will of such other.

(b) Offense -- Any juvenile who is found guilty of Sexual Assault shall be subject to disposition as provided in this Title 10.

10-130 RESTITUTION

10-130-010 Liability for Incurred Damages –

(a) A child found to be delinquent, and the parents or guardian who have custody of such child, shall be jointly and severally liable for all damages to persons or public or private property resulting from the acts of willful misconduct of the child upon which the finding of delinquency is based.

(b) As a part of the proceedings involving a delinquent child, the Juvenile Court shall have jurisdiction over a delinquent child, and over the parents or guardian having custody of such a child, to enter jointly and severally for all damages described in subsection (a), above, as restitution to the persons suffering such damages.

(c) The liability of the parents or guardians having custody of a child, arising under subsection (a), above, shall not exceed the sum of ten-thousand dollars (\$10,000) for any one willful act of the child.

(d) The liability arising under subsection (a), above, shall also include any other liabilities that may exist or arise under law.

(e) In the event that the parent or guardian of any juvenile adjudged delinquent fails to make restitution in the amount so ordered by the Juvenile Court, he or she shall be guilty of Failure to Obey a Lawful Order of the Juvenile Court, and shall be held in Contempt of Court.

(1) In the event of willful contempt, the parent, guardian or custodian shall be held liable for said restitution in addition to charges of Contempt of Court.

10-130-020 Failure to Obey Orders of Restitution –

- (a) Any person subject to the jurisdiction of the Juvenile Court, whether an adult or a minor child, who without good reason fails to obey a lawful order, subpoena, warrant, or command of the Juvenile Court, having had notice of the order, subpoena, warrant, or command, is guilty of contempt of the Juvenile Court.
- (b) Contempt of the Juvenile Court may be punished by a fine of not more than one hundred dollars (\$100.00), imprisonment or detention for not more than three (3) days, or both. No person shall be found guilty of contempt of the Juvenile Court except after being given reasonable notice of the alleged contempt and being afforded a hearing before the Juvenile Court, at which the person shall have the right to be represented by the representative of his or her choice, at his or her own expense.

CERTIFICATION

As a duly-elected official of the Walker River Paiute Tribe, I do hereby certify that at a meeting duly called, noticed, and convened on the 12th day of August 2021, at which time a quorum of 5 was present, the Title 10, Juvenile Proceedings was duly amended by a vote of 4-FOR, 0-AGAINST, and 0-ABSTENTIONS, and said Code has not been rescinded or amended in any form.

Amber Jones
Tribal Council Chairperson

8/20/2021
Date

ATTEST:

Sean H. Stackman
Tribal Secretary

8/20/21
Date