

TITLE 20. YOUTH JUSTICE

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TITLE 20. YOUTH JUSTICE

ARTICLE I

GENERAL PROVISIONS

LEGISLATIVE HISTORY:

[NOTE: Except as otherwise noted, the provisions of Article I, Title 20 were enacted by the Tribal Council on August 30, 2017 by Res. No 22-2017.]

CHAPTER 1. GENERAL PROVISIONS

Sec. 20-1101. Act, How Cited.

(a) Sections 20-1101 to 20-4301 shall be known and may be cited as the *Sac and Fox Tribe of the Mississippi in Iowa Youth Justice Act*.

Sec. 20-1102. Findings.

(a) The young people of the Sac and Fox Tribe of the Mississippi in Iowa of the Meskwaki Settlement are the Tribe's most vital resource and because of their importance to the Tribe, their welfare shall be prioritized in a manner consistent in preserving the entire Tribe as a whole. Whenever a minor child is routed through the Meskwaki Nation Juvenile Court the Court shall facilitate justice that shall be consistent with the youth's mental, physical, emotional, and spiritual needs. It is the ultimate goal of the Court, and the Tribe, to turn juvenile offenders into productive Tribal members.

(b) The Meskwaki youth are sacred. They are the lifeblood of our future as a society and a Nation. It is therefore critical to ensure that the Meskwaki youth receive nurturing guidance, and access to resources essential to their success as individuals and as members and descendants of the Nation. The Meskwaki Nation Juvenile Court provides a Tribal forum which recognizes and applies Meskwaki values and beliefs to resolve problems or disputes, and brings healing to Meskwaki youth and their families. This shall be achieved by helping connect the youth with Meskwaki values, helping the youth develop a sense of belonging within the Nation, and helping to restore health and balance to Meskwaki youth and their families.

(c) The law as it pertains to the Meskwaki youth shall be applied in the spirit of rehabilitating the youth who have temporarily lost their way, and ensuring that the Meskwaki youth receive nurturing, guidance, and support from the youth's family, clan, and the Tribe. In instances where a pattern of strife or neglect has manifested in a youth's life, the Meskwaki Nation Juvenile Court shall ensure that the youth receives support from members of the youth's family, clan, and/or the Tribe, so that the Meskwaki youth know that they are not alone on their journey. The Meskwaki Nation Juvenile Court is not a forum for placing blame, it is a forum for the community to instill a sense of hope in the Meskwaki youth, so that they may continue on a positive path, full of possibility.

Sec. 20-1103. Purpose

(a) This Title and laws relating to proceedings under this title shall be liberally construed to carry out the following purposes:

(1) To secure for each youth coming before the Meskwaki Nation Juvenile Court such care, guidance, and safety as shall serve his/her welfare, including the youth's spiritual, emotional, mental, and physical well-being;

(2) To recognize that the Tribe's youth deserve a sense of respect, love, stability, and belonging and are entitled to knowledge about their unique spiritual, and cultural heritage, Tribal customs and traditions, history, language, religion, and values;

(3) To remove from youth the legal consequences of delinquent behavior and to provide a continuum of services for youth and their families, with an emphasis on prevention, early intervention, and community-based solutions that shall provide support and assist the youth in the development of competencies which shall enable the youth to become a responsible member of the community;

(4) To improve any conditions which may be contributing to a youth's delinquency, including conditions within the youth's home;

(5) To encourage parents to develop the wisdom and strength to act for the welfare of their youth; and

(6) To provide for the best interests of the Tribe, to promote and strengthen ties within the community, including family ties, and to help recognize, encourage, and restore the Meskwaki ways of being.

Sec. 20-1104. Definitions

(a) "Detention" is a holding or temporary placement of a youth in a facility other than the youth's own home for the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody by law enforcement.

(b) "Detention Facility" is a physically restricting facility designed to prevent a youth from departing at their own will.

(c) "Guardian Ad Litem" For the purposes of any Juvenile Court proceedings under this Act, the Court may appoint a Guardian Ad Litem for those youth who do not have a natural or adoptive parent, guardian or custodian willing and able to attend informal and/or formal Juvenile Court sessions.

(d) "Juvenile Offender" is any youth who commits a Delinquent Act or Status Offense prior to his or her eighteenth (18TH) birthday.

(e) "Juvenile Probation Officer" is an Officer of the Juvenile Court who is responsible for monitoring adjudicated juvenile offenders for compliance and periodic reviews of treatment plans and/or other orders of the Juvenile Court. The Juvenile Probation Officer shall report to the Juvenile Court of any non-compliance and/or completion of all probation requirements.

(f) "Legal Guardian" is any person or persons that have temporary legal physical custody or legal physical custody of the Youth.

(g) “Parent” is the natural or adoptive parents, but does not include a person whose parental rights that have been voluntarily or involuntarily terminated by an Order of any Court.

(h) “Prosecutor” is the Tribal Prosecutor who represents the Sac and Fox Tribe of the Mississippi in Iowa in all proceedings under this Act.

(i) “Probable Cause” is a reasonable ground to suspect a youth has committed or is committing a crime or that a place contains specific items connected with a crime.

(j) “Probable Cause Hearing” is a probable cause hearing wherein the Tribe’s burden of proof is met when sufficient facts have been established that would lead a Finder of Fact to believe the alleged Juvenile Offender may have committed the Delinquent Act.

(k) “Youth” is any person under the age of eighteen (18) years old.

Sec. 20-1105. Jurisdiction

(a) The Meskwaki Nation Juvenile Court shall have original jurisdiction of all proceedings in which a minor child is alleged to be a Juvenile Offender, unless the Juvenile Court transfers jurisdiction to Adult Meskwaki Nation Tribal Court, pursuant of this Act.

Sec. 20-1106. Sovereign Immunity

(a) Nothing in this Title shall be construed as limiting, waiving, or abrogating the sovereignty or the sovereign immunity of the Sac and Fox Tribe of the Mississippi in Iowa or any of its agencies, departments, officials, or employees.

Sec. 20-1107. Severability

(a) If any article, chapter, section, or provision of this Title or amendment made by this Title is held invalid, the remaining articles, chapters, sections or provisions of this Title and amendments made by this Title shall continue in full force and effect.

CHAPTER 2. TRANSFER OF JURISDICTION

Sec. 20-1201. Discretionary Transfer From Other Jurisdiction

(a) Upon the filing of a Motion Requesting Transfer and the petition or complaint from the jurisdiction in which the case ordinated, the Juvenile Court may, in its discretion, accept the transfer of a case from another jurisdiction where the Juvenile Court finds beyond a preponderance of the evidence that:

(1) The Juvenile Court has sufficient resources to provide the appropriate services for the rehabilitation of the youth and to ensure the security of the community;

(2) The Tribe would not be unduly burdened by the requested transfer; and

(3) The transferring jurisdiction has provided sufficient assurances that no further prosecution shall occur in the originating jurisdiction with respect to the matter upon successful transfer of the case.

Sec. 20-1202. Transfer of Violent Felonies To Other Jurisdictions

(a) Following a probable cause finding on the underlying offense, the Juvenile Court may order the transfer of a case originating in the Juvenile Court to another jurisdiction upon any interested party's Motion Requesting Transfer. The motion shall set forth the jurisdiction of the proposed transfer and shall allege facts and conduct that, if true, would constitute a violent felony as defined herein:

(1) Any crime punishable by imprisonment for a term exceeding one (1) year under federal law, when the use, attempted use, or threatened use of physical force against the person of another is an element of the crime; or the crime alleged involves the use or carrying of a firearm, knife, or destructive device; or

(2) Any crime punishable by imprisonment for a term exceeding one (1) year under federal law, when the crime alleged involves violent conduct that presents a serious threat of physical injury to another person.

Sec. 20-1203. Contested Transfer Hearing

(a) The youth is entitled to respond, through counsel, to the Motion Requesting Transfer within seven (7) days of the date of filing, or from the time counsel is appointed, whichever is later. Within ten (10) days of the filing of the Motion Requesting Transfer, the youth is entitled to a hearing at which time the Juvenile Court may determine the appropriateness of the proposed transfer. At the hearing, the Tribe bears the burden of establishing that the facts and alleged conduct, if true, would satisfy the elements set forth in this Act. A transfer shall be granted upon a finding, by clear and convincing evidence, that the Juvenile Court would be an inappropriate forum for the youth, given the following factors:

(1) The seriousness of the offense alleged;

(2) The youth's prior adjudications involving the threat of force or serious bodily injury; and

(3) The available resources are insufficient to rehabilitate the youth and to maintain the security of the community.

Sec. 20-1204. Ruling on Motion to Transfer

(a) The Juvenile Court shall issue a written Order on the Motion Requesting Transfer within three (3) days of the Contested Transfer Hearing. Upon granting the Motion to Transfer, the jurisdiction of the Juvenile Court shall terminate. However, the case shall remain in the exclusive jurisdiction of the Juvenile Court where:

(1) There are insufficient facts to support a finding of probable cause that the youth engaged in the conduct alleged;

(2) The facts and circumstances alleged, if true, do not satisfy the requirements of Sec. 20-1202(a)(1) or (a)(2); or

(3) The Tribe did not establish, by clear and convincing evidence, that the Juvenile Court would be an inappropriate forum for the youth in light of factors set forth in Sec. 20-1203(a)(1-3).

Sec. 20-1205. Written Waiver of Contested Hearing and Consent to Transfer

(a) The youth may waive the Contested Transfer Hearing and provide written notice of consent to transfer when the waiver is made knowingly, and voluntarily.

Sec. 20-1206. Transfer Within Seventy-Two (72) Hours

(a) Within three (3) working days of a Juvenile Court's Order granting transfer, the Tribe shall file a Motion to Transfer in the appropriate jurisdiction or follow such other procedure as prescribed by the jurisdiction receiving transfer. Where the youth files written notice of consent to transfer through counsel, the Tribe need not wait for a ruling on the Motion to Transfer, but may immediately take action in order to effectuate the transfer.

TITLE 20. YOUTH JUSTICE

ARTICLE II

PROCESS AND PROCEDURE

LEGISLATIVE HISTORY:

[NOTE: Except as otherwise noted, the provisions of Article II, Title 20 were enacted by the Tribal Council on August 20, 2017 by Res. No.22-2017.]

CHAPTER 1. ARRESTS AND DETAINMENT OF JUVENILE OFFENDERS

Sec. 20-2101. Arrest with a Warrant

(a) A warrant may be entered directing that the juvenile be taken into custody if the Meskwaki Nation Juvenile Court finds that there is probable cause to believe the juvenile committed the delinquent act alleged in the complaint and the Court finds one or more of the following:

(1) The juvenile allegedly committed an act, that if, committed by an adult would be a criminal offense;

(2) A juvenile has violated a valid court order or any treatment/after care agreement;

(3) Detention is required to protect the juvenile, other person, or property;

(4) There are no adequate assurances that the juvenile shall appear for court when required; or

(5) The law enforcement officer has probable cause to believe that the juvenile has committed an offense.

Sec. 20-2102. Arrest without a Warrant

(a) A Meskwaki Nation Police Department Police Officer may arrest a juvenile without a warrant when that Police Officer or the Juvenile Probation Officer has probable cause to believe a delinquent act has been committed by the juvenile. This arrest without a warrant shall have occurred within a reasonable amount of time the delinquent act allegedly occurred.

CHAPTER 2. INFORMAL AND FORMAL PROCEEDINGS

Sec. 20-2201. Informal Proceedings

(a) When a youth has committed a delinquent act the Tribal Prosecutor shall have the duty to decide whether the youth shall be referred to Informal Proceedings taking into consideration what would be in the best interest of the youth and the nature of the charge.

(b) Once it is decided that an informal proceedings are appropriate , the matter shall be referred to the Juvenile Probation Officer who shall send out notice of the informal proceeding's time, date, and place to the youth and his/her parent/legal guardian.

(c) The informal agreement shall be in writing, signed by the youth and his/her parent/legal guardian and the Juvenile Probation Officer.

(d) At the informal proceeding, the youth's rights as articulated in Sec. 20-2702, shall be read.

(e) All parties involved in the informal proceeding shall be made aware of its voluntary status. Any youth and/or his/her parent/legal guardian cannot be compelled into entering an informal agreement. The youth and/or his/her parent/legal guardian shall be informed that if an informal agreement is not reached, the Tribal Prosecutor may still file a petition under the formal proceedings of this Act.

(f) At the informal proceeding, the Juvenile Probation Officer may ask the youth and his/her parent/legal guardian to consider the following as part of the informal agreement:

- (1) The youth be referred to a community service provider;
- (2) The youth be ordered to terms of supervision with the Juvenile Probation Office;
- (3) That restitution be imposed on the youth;
- (4) Other alternative disposition be imposed with cultural awareness be given the highest priority; and/or

(g) Dispositions. The following dispositions may be imposed by this informal proceeding that may include, but is not in any way limited to:

- (1) Probation;
- (2) Restitution, if applicable;
- (3) House arrest (with all time requirements clearly specified);
- (4) Chemical dependency evaluation with associated recommendations that shall be adhered to;
- (5) Community service, when appropriate;
- (6) Other evaluation, treatment, and/or counseling; and/or
- (7) Cultural awareness activities, which shall ultimately be considered with the highest priority.

(h) The Juvenile Probation Officer shall review the youth's progress. If at any time during the duration of the Informal Agreement the youth has not adhered to the Informal Agreement, then the Juvenile Probation Officer shall refer the matter to the Prosecutor to file a Petition to proceed to a Formal Hearing.

Sec. 20-2202. Formal Proceedings

(a) Petition. A petition initiating formal proceedings that allege a youth to be delinquent or otherwise in need of supervision shall be entitled "In the matter of _____, a youth" and shall set forth with specificity the charge or offense that shall include the following information to be valid:

- (1) Name of Offense the youth allegedly committed;
- (2) Statement of facts constituting the offense in ordinary and concise language;
- (3) Statement of the time, date, and place the offense allegedly occurred;
- (4) Names and addresses (both residential and mailing) of the youth and the youth's parent/legal guardian;
- (5) Whether the youth is in detention or in shelter care; and
- (6) A list of witnesses who shall be used in proving the charges alleged.

(b) Court Date and Summons.

(1) Upon receipt of the Petition the Court shall set a time and place within five (5) business days for the preliminary inquiry hearing, which shall constitute an initial appearance. All subsequent hearings shall be set and held within a reasonable amount of time, unless there is good cause to continue the hearing. The Meskwaki Nation Juvenile Court Judge has the sole discretion to determine what constitutes 'good cause' for the purposes of continuing any subsequent hearings.

(2) Summons. The Court, upon filing the Petition, shall have the youth and the youth's parent/legal guardian served with a copy of the Petition. The summons shall contain the date, time, and place for the Youth to answer to the allegation(s) articulated in the Petition.

(c) The Preliminary Inquiry.

(1) The Preliminary Inquiry shall serve as an Initial Appearance for the youth accused of committing a delinquent act. The youth shall answer to the alleged delinquent act with either a plead of "Admit" (which is the equivalent of guilty in an adult court) or "Deny" (which is the same as not guilty in an adult court).

(A) If the youth Admits, then a Disposition Hearing for purposes of determining the amount of punishment shall be scheduled within a reasonable amount of time.

(B) If the youth Denies, then the matter shall proceed to an Adjudicatory Hearing and shall be set within a reasonable amount of time, where the Meskwaki Nation Juvenile Court Judge shall serve as the trier of fact for purposes of determining whether the Youth is to have been found responsible (which is the equivalent of guilty in an adult court) of the alleged delinquent act(s).

(2) When an Arrest has taken place prior to a Preliminary Inquiry, and where the Youth is placed in detention or shelter care by the Meskwaki Nation Police Department or by the Juvenile Probation Officer, there shall be, at a minimum, a probable cause hearing to determine whether or not detainment shall continue. If further detainment is necessary, then another twenty-four (24) hour period shall be given for a preliminary inquiry, excluding weekends, and holidays.

(3) If an Arrest has taken place and the Youth has been released to his/her parent/legal guardian, then the Meskwaki Nation Juvenile Court shall schedule a Preliminary Inquiry within five (5) business days.

(4) Written notice of the Preliminary Inquiry shall be given to the Youth and his/her parent/legal guardian as soon as the time for the Preliminary Inquiry has been established. The written notice, at a minimum, shall include:

(A) Name of the Court;

(B) Time, date, and location for the Preliminary Inquiry;

(C) Brief statement of the allegations made against the Youth; and

(D) Written notice of the Preliminary Inquiry can be served by an Officer of the Court, Meskwaki Nation Police Department, or through certified mail to the last known address of the Youth's parent/legal guardian.

(d) Transfer to Adult Meskwaki Nation Tribal Court.

(1) The Prosecutor may file a petition requesting the Meskwaki Nation Juvenile Court transfer jurisdiction of the Youth to the Adult Meskwaki Nation Tribal Court. This Petition shall be referred to as "Petition to Transfer Jurisdiction." In order for such a transfer to be valid, the Youth shall be fourteen (14) years of age at the time of the transfer and the youth shall have allegedly committed the delinquent act within the exterior boundaries of the Meskwaki Settlement.

(2) The Meskwaki Nation Juvenile Court shall conduct a hearing to determine whether jurisdiction of the Youth shall be transferred to the Adult Meskwaki Nation Tribal Court.

(A) The Transfer hearing shall be held within a reasonable amount of time from when the Petition to Transfer is filed.

(B) Written notice of the Transfer hearing shall be given to the youth's parent/legal guardian as least five (5) days prior to the scheduled hearing.

(C) At the Transfer hearing, the following rights shall be read to the Youth and his/her parent/legal guardian:

(i) The Youth has the right to remain silent. Anything the Youth says can and may be held against him/her in any subsequent hearings;

(ii) The Youth and his/her parent/legal guardian have a right to legal counsel at their own expense;

(iii) The Youth need not be a witness against himself/herself; and

(iv) The Youth and his/her parent/legal guardian have the right to appeal the outcome of the Transfer hearing. The Transfer Order, shall constitute the Final Record for purposes of an appeal to the Meskwaki Nation Tribal Court of Appeals.

(3) Prior to the Transfer hearing, a study and report shall be submitted in writing by the Prosecutor. Such information shall include:

(A) The nature and seriousness of the offense in which the Youth is charged;

(B) The nature and condition of the Youth as evidenced by his/her age, mental, and physical conditions, past record of offenses and response to past Meskwaki Nation Juvenile Court efforts at rehabilitation.

(4) The Meskwaki Nation Juvenile Court may transfer jurisdiction of the Youth to Adult Meskwaki Nation Tribal Court, if the Juvenile Court finds clear and convincing evidence that both of the following circumstances exist:

(A) There are no reasonable prospects for rehabilitation of the Youth through resources available to the Juvenile Court; and

(B) The offense allegedly committed by the Youth evidences a pattern of conduct which constitutes a substantial danger to the public.

(e) Adjudicatory Hearing. The Meskwaki Nation Juvenile Court shall conduct an adjudicatory hearing for the sole purpose of determining the responsibility or not of the Youth. The Adjudicatory hearing shall be private and closed.

(1) The following rights shall be read to the Youth and his/her parent/legal guardian prior to the initiation of the Adjudicatory hearing:

(A) The Youth has the right to remain silent. Anything the Youth says can and may be held against him/her in any subsequent hearings;

(B) The Youth and his/her parent/legal guardian have a right to legal counsel at their own expense;

(C) The Youth need not be a witness against himself/herself; and

(D) The Youth and his/her parent/legal guardian have the right to appeal the outcome of the Adjudicatory hearing. The Adjudicatory Order shall constitute the Final Record for purposes of an appeal to the Meskwaki Nation Tribal Court of Appeals.

(2) Burden of Proof. The Prosecutor shall prove their case against the Youth beyond a reasonable doubt in order to adjudicate the Youth as a Juvenile Offender. The Prosecutor may use police officer reports, witnesses, and any other admissible evidence to prove his/her case in chief.

(3) The Youth, parent/legal guardian, and any legal counsel retained by the Youth shall be entitled to introduce evidence to be heard on their own behalf and to cross-examine any adverse witnesses.

(4) Admission by Youth. If the Youth admits to the allegations of charges set forth in the Petition, then the Court may proceed to the Disposition Hearing.

(5) Conclusion of an Adjudicatory Hearing. At the end of the Adjudicatory hearing the Meskwaki Nation Juvenile Court Judge, who is the sole finder of the facts, shall either find that the Youth to be a Juvenile Offender, or Dismiss the case.

(A) If the Youth is found to be a Juvenile Offender at the conclusion of the Adjudicatory hearing, then the Court shall set a Disposition hearing date within a reasonable amount of time.

(B) If the Youth is found to have not committed any of the charges alleged in the Petition, then the Meskwaki Nation Juvenile Court Judge shall dismiss the matter.

Sec. 20-2203. Recording of Adjudicatory Hearing.

(a) Only Adjudicatory hearings shall be recorded by whatever means necessary to ensure a record is preserved for possible appeal to the Meskwaki Nation Tribal Court of Appeals.

Sec. 20-2204. Closed Proceedings.

(a) Adjudicatory hearings shall be closed to the public. Only the Youth, parent/legal guardian, relevant Court staff, witnesses and the Representative of the Youth may attend an Adjudicatory hearing.

Sec. 20-2205. Youth Presence Mandatory.

(a) The Youth shall be present with their parent/legal guardian at every formal proceeding.

Sec. 20-2206. Application of Rules of Evidence.

(a) At the formal hearing the Sac and Fox Tribe of the Mississippi in Iowa Tribal Court Rules shall apply.

CHAPTER 3. DISPOSITION HEARING**Sec. 20-2301. Disposition Hearing**

(a) Disposition hearing scheduled. If the Youth admits (which is the equivalent of a guilty plea in adult court) at the Preliminary Inquiry or if the Youth is found to be a Youth Offender at a formal hearing (Adjudicatory Hearing), then the Meskwaki Nation Juvenile Court shall schedule a Disposition Hearing. Furthermore, the Juvenile Court may also schedule a Disposition Hearing when the Youth violates Probation, or other Orders of the Juvenile Court.

(b) When Conducted. As soon as practical, the Juvenile Court shall conduct a Disposition hearing for purposes of sentencing the Youth. Such issues that may be considered when scheduling a Disposition hearing may include but is not limited to:

- (1) Time to serve the Prosecutor's witnesses;
- (2) Availability of evidence;
- (3) Availability of pre-disposition report for the Youth; and/or
- (4) Availability of the Juvenile Court docket.

(c) Before the Disposition hearing, the Juvenile Court shall direct a pre-disposition report be made in writing by the Juvenile Probation Officer, and submitted to the Juvenile Court the Youth, and parent/legal guardian.

Sec. 20-2302. Pre-Disposition Report

(a) The Juvenile Probation Officer shall prepare a written petition describing all reasonable and appropriate dispositions.

(b) The report shall contain a specific plan for the care of and assistance to the Youth calculated to resolve the problems presented in the Petition.

Sec. 20-2303. Disposition

(a) The Juvenile Court may enter its judgment making one or more of the following dispositions be imposed on the Youth:

- (1) Place the Youth on probation;
- (2) Place the Youth in a Detention Facility or Shelter;
- (3) Place the Youth in an Institution or Agency designated by the Juvenile Court;
- (4) Require the Youth to pay restitution. The Juvenile Court may review the following factors when determining whether the Youth shall restitution:
 - (A) Age;
 - (B) Ability of the Youth and/-or parent/legal guardian to pay the amount of damage to the victim and/-or the victim's personal real property; and
 - (C) When determining amount of damage to personal and/-or real property, fair market value shall be used.
- (5) Place the Youth in a Youth Healing to Wellness Court after one or more drug and/-or alcohol related offenses;
- (6) Community Service. In lieu of fines and/-or fees when necessary;
- (7) Cultural Awareness. To participate, observe, listen, or otherwise interact with another person who is knowledgeable in the traditions and cultural activities and/-or ceremonies of the Meskwaki Nation. Cultural Awareness as an alternative sentence shall be prioritized.
- (8) Any other legal remedies as allowable by law for purposes of administering justice on the Meskwaki Settlement.

CHAPTER 4. PROBATION AND PROBATION OFFICERS

Sec. 20-2401. Causes for Probation

(a) When a Youth has been adjudicated a Juvenile Offender, the Juvenile Court shall assign the matter to a Juvenile Probation Officer who shall be required to inquire about the holistic welfare of the Youth.

Sec. 20-2402. Juvenile Probation Officers

(a) Juvenile Probation Officers shall have the following authority, which shall include but is not limited to:

- (1) Looking after the interests of all the delinquent Youth of the Meskwaki Settlement;
- (2) Make investigations and file petitions when it is believed a Youth may have violated probation;
- (3) Furnish the Juvenile Court with information and assistance when requested by the Juvenile Court Judge;
- (4) Administer urinalysis tests on Youth when Ordered by the Juvenile Court;
and
- (5) Prepare and present pre-disposition reports to the Juvenile Court.

CHAPTER 5. PROBATION REVOCATION**Sec. 20-2501. Violation of Probation**

(a) When it is believed that a Youth may have violated probation, the Juvenile Probation Officer, and/or the Prosecutor shall petition the Juvenile Court for a Probation Revocation Hearing.

Sec. 20-2502. Probation Revocation Hearing

(a) When Scheduled. Once a Petition for a Probation Revocation Hearing has been received by the Juvenile Court, a hearing shall be scheduled in a timely manner. Notice shall be given to the Youth and parent/legal guardian as to the time, date, and place of such hearing.

(b) Outcome of the Probation Revocation Hearing

(1) If the Juvenile Court Judge finds that the Youth did not violate his/her probation, then the matter shall be dismissed.

(2) If the Juvenile Court Judge finds that the Youth did indeed violate his/her probation, then the matter shall proceed immediately into a Disposition Hearing.

(c) Disposition of Probation Revocation Hearing.

(1) Any disposition given to a Youth who has been found to have violated his/her probation, shall be consistent with this Act, and may include Contempt of Court.

CHAPTER 6. CONTEMPT OF COURT

Sec. 20-2601. Contempt of Court

(a) Any willful disobedience or interference with any Order the Juvenile Court shall constitute Contempt of Court.

(b) The Juvenile Court may punish the Youth and/or the Youth's parent/legal guardian for In-Court and/or Out-of-Court Civil and/or Criminal Contempt of Court.

CHAPTER 7. RIGHTS OF THE YOUTH

Sec. 20-2701. Youth Rights

(a) In addition to the rights set forth in the Indian Civil Rights Act (1968 as amended), 25 U.S.C. §§ 1301-1304, and the rights set forth in this Chapter, the youth subject to the jurisdiction of the Juvenile Court shall enjoy the same rights as if the youth were appearing in federal court in the 8th Circuit. Additionally, the youth of the Meskwaki Tribe have the right to be treated with dignity and respect and to be in a safe and supportive environment.

Sec. 20-2702. Juvenile Offender Rights When Taken into Custody

(a) When a youth is taken into custody for questioning upon a matter that could result in a petition and/or complaint being filed against the youth, the following rights shall be advised:

(1) The youth has the right to remain silent and anything he/she says can and may be used against him/her;

(2) The youth and his/her parent(s)/legal guardian(s) have the right to legal counsel at their own expense; and

(3) The youth and his/her parent(s)/legal guardian(s) have the right to be informed of the charges and any consequences of those charges against the youth.

(4) It is not necessary to obtain parental permission prior to the questioning of a tribal youth by a police officer or juvenile probation officer.

(b) Detainment of any alleged youth offender shall require an immediate hearing. If the youth is not released to his/her parent/legal guardian, a probable cause hearing shall be held within twenty-four (24) hours excluding weekends and holidays.

(c) During any detainment of an alleged juvenile offender, notice shall be given to the youth's parent/guardian that the youth has been taken into custody.

(d) Continued detainment of youth permitted. At the probable cause hearing, the Court may continue to detain the youth, if necessary, otherwise the youth shall be released into the custody of his/her parent/legal guardian.

(e) Unavailability of Bail. When a youth is detained in a prescribed detention facility, bail shall not be available.

Sec. 20-2703. Due Process Rights

(a) In all proceedings conducted pursuant to the provisions of this Act, the parties shall have the right to procedural and substantive Due Process, including but not limited to:

- (1) The right to adequate notice of all proceedings, and the opportunity to be heard before an unbiased finder of fact;
- (2) The right to discovery and all filings at least three (3) days prior to any hearing;
- (3) The right to testify, the right to subpoena witnesses, and the right to introduce evidence on the party's own behalf;
- (4) The right to cross-examine witnesses; and
- (5) The right to findings which are based solely upon evidence properly admitted in hearings before the Juvenile Court.

Sec. 20-2704. Right to Counsel

(a) All youth subject to the jurisdiction of the Juvenile Court have the right to counsel; where the youth cannot afford counsel, the Juvenile Court shall appoint qualified counsel to represent the youth at the time of the first appearance, where counsel has not already been appointed or retained to represent the youth.

(b) Prior to the youth's first appearance before the Juvenile Court, a designated Youth Advocate may be authorized to represent the youth, without formal appointment by the Juvenile Court, in any proceedings in which the youth has a right to counsel under the provisions of this Act.

(c) Upon presentation by counsel for the youth of either an order of appointment or a court order specifically allowing such access, any Tribal agency, department, authority, institution, school, or health care provider shall permit counsel for the youth to inspect and copy any records relating to the youth involved in the case.

Sec. 20-2705. Privilege Against Self-Incrimination

(a) Youth coming within jurisdiction of the Juvenile Court shall be accorded and advised of the privilege against self-incrimination, and the youth's exercise of the privilege shall not be used against the youth in any proceedings conducted pursuant to the provisions of this Act. Additionally, statements, admissions, confessions, or other incriminating information obtained from the youth in the course of any screening, assessment, evaluation, or treatment

undertaken in conjunction with proceedings under this Act, including but not limited to court-ordered proceedings, shall be excluded from evidence.

Sec. 20-2706. Fingerprinting and Photographs

(a) A youth shall not be fingerprinted or photographed, nor have any bodily sample taken, for purposes of identification in connection with any matter coming within the provisions of this Act, except by written order of the Juvenile Court. Fingerprints, photographs, or bodily samples taken pursuant to a written order of the Juvenile Court shall be obtained only in the manner prescribed by the Juvenile Court and shall only be used only as specified in the written order.

Sec. 20-2707. Court Records

(a) A record of all formal hearings and proceedings under this Act, shall be made and kept separate from adult files.

(b) All Juvenile Court records shall be confidential and shall not be open to inspection to any but the following:

- (1) The Youth;
- (2) The Youth's parent/legal guardian;
- (3) The Public Defender or other Advocate for the Youth;
- (4) The Prosecutor for the Meskwaki Nation;
- (5) The Juvenile Probation Officer; and
- (6) The Meskwaki Nation Police Department.
- (7) The Guardian Ad Litem for the youth.

(c) Any outside federal and/or state law enforcement agencies, shall request in writing any records under this Act.

Sec. 20-2708. Exceptions to Confidentiality

(a) Confidentiality may be waived upon the knowing, intelligent, and voluntary written consent of the youth. Additionally, the Youth may enter a written agreement waiving confidentiality for a specific purpose and the Juvenile Court may, on a case-by-case basis, enter an order permitting the inspection of records and files which would otherwise be confidential, following:

- (1) A hearing on the matter, where the youth shall have the right to be represented by counsel; and
- (2) A finding by the Juvenile Court that such inspection is in the best interests of the youth.

Sec. 20-2709. Limitations on Publication

(a) The name, picture, place of residence, or any other identifying information concerning any youth shall not be published in any newspaper, newsletter, electronic publication, or internet site, and shall not be given for any other publicity, unless the youth and the youth's parent, guardian, or custodian have expressly waived the right to remain anonymous in writing, or unless the disclosure is limited to the youth's initials and date of birth for purposes of notice by publication or through other official methods of notification through the Juvenile Court.

Sec. 20-2710. Limitation on Parental Access to Records

(a) The Juvenile Court may enter an order prohibiting an interested party from inspecting specific records or files pertaining to proceedings conducted pursuant to the provisions of this Act following:

- (1) A hearing, at which time the youth shall be represented by counsel;
and
- (2) A finding by the Juvenile Court that there is a reasonable possibility that such inspection would jeopardize the mental or physical welfare of the youth.

Sec. 20-2711. Expungement

(a) All records and files pertaining to any proceedings conducted pursuant to the provisions of this Act, including but not limited to law enforcement records and court files, shall be expunged when the youth reaches twenty-one (21) years of age, or when any outstanding restitution amount has been satisfied, whichever is later. Additionally, the youth may petition the Court for Expungement in accordance with the procedure set forth in this Act.

Sec. 20-2712. Youth Cases Heard Separately from Adult Cases

(a) Youth cases shall be heard separately from adult cases, and reasonable efforts shall be taken to ensure that the youth does not come into contact with adult defendants during the pendency of the youth's case.

CHAPTER 8. PARENTAL RIGHTS AND RESPONSIBILITIES**Sec. 20-2801. Parental Responsibility to Prevent Delinquency**

(a) A youth's parent, guardian, or custodian has a responsibility to exercise reasonable care, guidance, and supervision in order to prevent the youth from committing a status offense, or delinquent act.

Sec. 20-2802. Parental Responsibilities, Generally

(a) The parent, guardian, or custodian of any youth coming within the jurisdiction of the Juvenile Court may be ordered to appear before the Juvenile Court to show cause why they should not be held in contempt for willful failure to fulfill any of the following responsibilities:

- (1) To attend all Juvenile Court hearings involving the youth, unless the appearance was excused by the Juvenile Court for good cause;
- (2) To make reasonable efforts to bring the youth before the Juvenile Court when so ordered;
- (3) To make reasonable efforts to prevent the youth from possessing and/or consuming alcohol;
- (4) To keep drugs out of the home and out of the possession of the youth, except prescription drugs when used as prescribed;
- (5) To require the youth to attend school, to assist the youth in obtaining the appropriate transportation to school, and to make reasonable efforts to prevent the youth from being absent from school without parental or school permission;
- (6) To monitor the youth's compliance with all orders entered or conditions imposed by the Juvenile Court, and to make all reasonable efforts to ensure that the youth complies with such orders or conditions;
- (7) To comply with the Juvenile Court's orders;
- (8) To assist with the cost of supporting the youth, unless parental rights have been legally terminated or suspended, or where the youth has been granted emancipation;
- (9) To keep the Juvenile Probation Officer updated with all change of addresses and current contact information.

Sec. 20-2803. Violation of Parental Duties or Responsibilities

(a) When it is shown by a preponderance of evidence that there has been a willful violation of this Chapter, or when a parent admits to such violation, the parent may be subject to a civil fine in an amount not to exceed five hundred (\$500.00) dollars. The fine may be paid in cash or may be garnished from the parent's per capita distribution and, when imposed, such fine shall be applied to offset the cost of services which may be used to rehabilitate the youth. This fine may be imposed upon motion of the Juvenile Court, or upon request of any interested party when there is an action pending in any forum under this Act.

CHAPTER 9. STATUS OFFENSES**Sec. 20-2901. Status Offense Defined**

(a) A status offense shall be punishable by a maximum fine of five hundred (\$500.00) dollars, and shall under no circumstances include custody or detention, unless otherwise expressly permitted by this Act. A status offense may include other conditions ordered by the Juvenile Court as set forth in this Act, and for purposes of this Act, a status offense shall be defined as an act under this Chapter that would not constitute a crime, if committed by an adult.

Sec. 20-2902. Youth in Possession of Alcohol or Tobacco

(a) Youth shall not buy or attempt to buy alcohol, liquor, and/or commercial tobacco products; or possess, transport, and/or consume such products. However, a youth who possesses and/or consumes tobacco product for ceremonial purposes is not guilty of an offense under this provision.

Sec. 20-2903. Youth in Possession of Firearms

(a) Youth shall not possess or discharge any firearms on the Meskwaki Settlement, unless the youth possesses and/or discharges the firearm under the supervision of a parent, guardian, or other responsible adult.

Sec. 20-2904. Youth Gambling

(a) Youth shall not participate in the underage gambling or betting for money.

Sec. 20-2905. Youth Curfew

(a) Unless accompanied by a responsible adult, no youth shall be in a public place between the hours of 11 p.m. and 5 a.m., except where:

(1) The youth is travelling home within one (1) hour before or one (1) hour after the conclusion of an activity at any of the following locations:

- (A) Work;
- (B) School;
- (C) Place of religious activity;
- (D) Place of government or political activity; or

(2) The youth is on an emergency errand for a responsible adult.

Sec. 20-2906. Truancy

(a) All youth seventeen (17) years of age or younger residing on the Meskwaki Settlement shall attend school full-time when school is in session, up to completion of secondary school, unless the youth has been excused from attendance by the school for any of the following reasons:

(1) The youth is attending another state-certified school;

(2) The youth is engaged in a home-based instruction, consisting of planned and supervised instructional and related educational activities in accord with accepted standards;

(3) The superintendent of the school district in which the youth resides has excused the youth from attendance because:

(A) The youth is physically, and/or mentally unable to attend school;

(B) The youth is attending a residential school certified to meet the needs of the youth;

(C) The youth is detained in a secure detention facility, or other correctional facility;

(D) The youth has been temporarily excused upon the request of his/her parent, guardian, or custodian for purposes agreed upon by the school authorities and the parent, guardian, or custodian;

(E) The youth is sixteen (16) years of age or older and is regularly and lawfully employed, and the parent agrees that the youth should not be required to attend school, or the youth is emancipated in accordance with this Act;

(F) The youth is sixteen (16) years of age or older and has already met graduation requirements in accordance with state board of education rules and regulations.

Sec. 20-2907. Runaway

(a) A youth shall be considered a runaway when the youth has intentionally:

(1) Abandoned a placement, or custody order by the Juvenile Court or any other court having jurisdiction over the youth; or

(2) Been absent from the youth's home without good cause and without the consent of the youth's parent, guardian, or custodian.

CHAPTER 10. DELINQUENT ACTS**Sec. 20-21001. Delinquent Acts**

(a) Any act that would constitute a criminal offense as set forth by Title 13, if committed by an adult shall constitute a delinquent act for purposes of this Chapter.

Sec. 20-21002. Maximum Penalty

(a) A delinquent act constituting an offense under this Chapter shall be punishable by a maximum fine of one thousand (\$1,000.00) dollars and may include other conditions as set forth by the Juvenile Court, including secure detention for the lesser of one (1) year, or the maximum period for which an adult would be subject to incarceration for the same offense.

Sec. 20-21003. Multiple Status Offenses

(a) The Tribe may file a petition alleging that the youth is a multiple status offender, which shall constitute a delinquent act under this Chapter, under the following circumstances:

(1) When, prior to disposition of a pending status offense, the youth is alleged to have committed additional status offenses on at least two (2) separate occasions; or

(2) When the youth is alleged to have committed three (3) or more status offenses within a one (1) year period.

CHAPTER 11. DEFENSES**Sec. 20-21101. Defenses**

(a) A youth subject to the jurisdiction of the Juvenile Court shall be entitled to every defense available to an adult.

Sec. 20-21102. Additional Defenses Available to Minors

(a) A youth may assert as a defense that, at the time of the offense alleged, the youth was acting at the direction of a parent, guardian, custodian, or other adult.

TITLE 20. YOUTH JUSTICE

ARTICLE III

EMANCIPATION

LEGISLATIVE HISTORY:

[NOTE: Except as otherwise noted, the provisions of Article III, Title 20 were enacted by the Tribal Council on August 30, 2017 by Res. No.22-2017.]

CHAPTER 1. EMANCIPATION

Sec. 20-3101. Purpose

(a) The purpose of this Chapter is to permit youth subject to the jurisdiction of the Juvenile Court the ability to petition the Juvenile Court to request the status of an emancipated person for limited, or general purposes when the youth is at least sixteen (16) years of age and is capable of self-support, including management of the youth's own financial affairs.

Sec. 20-3102. Contents of Petition

(a) The petition for emancipation may be filed by any youth who would qualify under this Act. The contents of the youth's Petition Requesting Emancipation shall state:

- (1) The name, age, address and date of birth of the youth;
- (2) The name and address of each living parent of the youth;
- (3) The name and address of the youth's guardian or custodian, if any;
- (4) The reasons why emancipation would be in the best interest of the youth;
- (5) The purpose for which emancipation is sought;
- (6) The income and housing plan of the youth;
- (7) How the youth shall pay for medicine and health care costs through insurance or other programs, if emancipated.

Sec. 20-3103. Consent or Written Recommendation

(a) The youth shall obtain the consent of each living parent, guardian, or custodian having control of the person or property of the youth, or an affidavit from Meskwaki Family Services or other appropriate party or service provider recommending emancipation and setting forth a factual basis for such recommendation.

Sec. 20-3104. Applicable Standard

(a) Subject to the provisions of this Chapter, the Juvenile Court may remove the disabilities of minority if, upon hearing, such action is found to be in the best interests of the youth. Emancipation may be for general purposes, or for a limited purpose specified by the Juvenile Court.

Sec. 20-3105. Rights of Emancipated Youth

(a) Except for specific constitutional and statutory age requirements, including but not limited to, voting, General Council membership, and use of alcoholic beverages and/or tobacco, a youth who has been emancipated for general purposes has the power and capacity of an adult including the right to control himself/herself and his/her property, the right to be domiciled where he/she desires, the right to receive and control all earnings, the right to sue and to be sued, and the capacity to contract.

TITLE 20. YOUTH JUSTICE

ARTICLE IV

LEGISLATIVE HISTORY

LEGISLATIVE HISTORY:

[NOTE: Except as otherwise noted, the provisions of Article IV, Title 20 were enacted by the Tribal Council on August 30, 2017 by Res. No.22-2017.]

CHAPTER 1. AMENDMENTS

Sec. 20-4101. Amending Title 20 – Youth Justice

(a) This Title may be amended at any time, but all amendments shall not be effective until approved by the Tribal Council.

CHAPTER 2. LEGISLATIVE HISTORY

Sec. 20-4201. Original Enactment of Title 20 – Youth Justice

(a) [NOTE: Except as otherwise noted, the provisions Sec. 20-1101 to 20-4101, Articles I-IV, Title 20 were enacted on August 30, 2017 by Res. No. 22-2017.]

CHAPTER 3. AMENDMENTS TO THE ORIGINAL ENACTMENT OF TITLE 20

Sec. 20-4301. Further Amendments to Title 20 – Youth Justice

(a) Reserved for future Resolutions.