

# BAD RIVER BAND OF LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS

CHIEF BLACKBIRD CENTER

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RESOLUTION NO. 10-14-14-330

## Authorizing the Revisions of Bad River Children's Code Chapter 125

**WHEREAS:** the Bad River Band of Lake Superior Tribe of Chippewa Indians is a federally recognized Indian tribe with a Constitution enacted pursuant to the Indian Reorganization Act of 1934, 25 U.S.C. Section 476; and

**WHEREAS:** Article VI, Section 1 (q) of the Bad River Tribal Constitution authorizes the Tribal Council to promulgate and enforce ordinances, which shall be subject to review by the Secretary of the Interior, governing the conduct of members of the Bad River Band, and of non-members of the Reservation providing for the maintenance of law and order; and

**WHEREAS:** the governing body of the Bad River Band seeks to provide for the welfare, care and protection of children and families on the reservation; and

**WHEREAS:** the Bad River Children Code Chapter 125 is intended to ensure a safe, nurturing and permanent environment to our children

**NOW THEREFORE BE IT RESOLVED,** that the Tribal Council hereby approves the revisions of the Bad River Children's Code Chapter 125 with the inclusion of Customary Adoption and Prenatal Exposure which will promote the welfare of children and families of the Bad River Reservation.

### CERTIFICATION

I, the undersigned as Secretary of the Bad River Band of the Lake Superior Tribe of Chippewa Indians, an Indian Tribe organized under Section 16 of the Indian Reorganization Act, hereby certify that the Tribal Council is composed of seven members, of whom 7 members, constituting a quorum were present at a meeting hereof duly called, noticed, convened, and held on the 14 day of October, 2014, that the foregoing resolution was duly adopted at said meeting by an affirmative vote of 6 members; 0 against; and 0 abstaining, and that the said resolution has not been rescinded or amended.

  
Rae Ann Maday, Secretary  
Bad River Tribal Council

statement of the child upon reasonable notice.

### **Section 125.20 - Psychological and Other Examinations**

The Court may in any proceeding under this chapter, order any child and the child's parents, guardians, or custodians, to submit to a psychological, mental, or developmental examination, or to a drug and alcohol abuse evaluation, if the court reasonably believes that any condition that may be illuminated by such an examination would assist in the adjudication or disposition of the case. The costs to any affected person of any such exam, if approved by the court, shall be paid by the Tribe, if the costs are not covered by a third-party payer.

### **Section 125.21 - Termination or Suspension of Parental Rights**

(a) Termination of parental rights means that, pursuant to court order, all rights, powers, privileges, immunities, duties, and obligations existing between parent and child are permanently severed; however, tribal membership, rights, privileges, entitlements, or obligations shall not be affected by such termination.

(b) Termination of parental rights may be ordered only in a proceeding where the petition clearly states that the petitioner is seeking an order of termination of parental rights, and where the mother and father have been summoned to appear before the Children's Court. No termination of the parental rights of an unadjudicated or unacknowledged father may be ordered without evidence and findings as to paternity of the child to the satisfaction of the court.

(c) Suspension of Parental Rights means that pursuant to court order, all rights powers, privileges, immunities, duties, and obligations existing between parent and child are suspended as agreed by biological parent; however tribal membership, rights, privileges, entitlements, or obligations shall not be affected by such suspension for the child(ren).

of adoption.

(4) The final order shall include a provision ordering the adoptive parents to maintain the child's relationship to the Tribe.

### **Section 125.23A. Customary Adoption**

**(a) Guiding Philosophy for Customary Adoption**

(1) It is the fundamental belief of the Bad River Band of Lake Superior Chippewa Indians that its children are the sacred responsibility of the Tribe.

(2) One of the Bad River Band of Lake Superior Chippewa's basic inherent sovereign rights is the right to make decisions regarding the best interests of its children including who should provide for the care, custody and control of its children. This section is intended to assure a safe, stable, nurturing, and permanent environment for the tribe's children and to provide for the protection of our children, our people, and our way of life.

(3) The principles that shall guide decisions pursuant to this code are: protection of the child's safety, well-being and welfare and their sense of belonging; preservation of the child's identity as a tribal member and member of an extended family and clan; preservation of the culture, religion, language, values, clan system and relationships of the Tribe.

(4) As an exercise of its inherent sovereignty the Bad River Band has the authority and jurisdiction to formally delegate the authority of its Children's Court to adjudicate its own customary practices regarding child rearing and child custody.

**(b) Purpose of Customary Adoption**

Section 125.23A. Customary Adoption shall be liberally interpreted and construed as an exercise of the inherent sovereign authority of the Bad River Band of Lake Superior Chippewa to

fulfill the following express purposes:

(1) To embody and promote the basic traditional values of the Bad River Band of Lake Superior Chippewa regarding the protection and care of the tribe's children. The Bad River Band of Lake Superior Chippewa believes that it is the responsibility of the tribe, the tribal communities and extended families to protect, care for, and nurture our children.

(2) To promote the belief of the Bad River Band of Lake Superior Chippewa that children deserve a sense of permanency and belonging throughout their lives and at the same time they deserve to have knowledge about their unique cultural heritage including their tribal customs, history, language, religion, and values.

(3) To provide for the best interests of the tribe, tribal communities and the tribe's children.

(4) To afford judicial processes which allow for formal adjudications that address the issues of the rights, responsibilities, care, custody and control of minor children when the biological parents are unable or unwilling to provide a safe, stable nurturing and permanent environment for their children by conferring jurisdiction upon the Bad River Children's Court to hear and adjudicate such matters.

**(c) Petition for Customary Adoption**

(1) Any adult may file a petition with the Clerk of Court seeking an order for the customary adoption of a minor child whose parents' parental rights have been terminated or suspended. The petition shall contain the following information:

(a) The name, address, and telephone number of the child's tribe;

(b) The name, address, and telephone number and age of the child to be

adopted;

(c) The name, address, and telephone number of the petitioner and the petitioner's relationship, if any, to the child;

(d) The name, address, and telephone number of any other relatives who may have an interest in the care, custody and control of the minor child;

(e) The proposed name of the adoptee after the entry of the final order of customary adoption;

(f) A statement or a copy of the final order suspending or terminating the parental rights of the biological parent(s);

(g) A statement as to why a final order for customary adoption is in the best interests of the child and the best interest of the child's tribe;

(h) A statement as to basis for the customary adoption supported by a home study, medical doctor, psychiatric doctor, child protection worker, family member and/or psychological reports or testimony;

(i) A statement that no similar action is pending in a tribal or state court having jurisdiction over the child.

(2) The petition shall be filed with the Clerk of Court with copies served by the petitioner, on the child welfare coordinator; appropriate family members, if any; caretaker, if any; and appropriate agencies of the Band which may have an interest in the proceeding or be of assistance to the Court in adjudicating the matter. The petition shall be served in the manner provided for in the Bad River Rules of Civil Procedure.

(d) Notice of Hearing on Petition for Customary Adoption. Upon the filing of a

petition seeking an order for a customary adoption of a minor child, the Clerk of Court shall schedule a hearing to be held and shall cause written notice of such hearing to be served upon the petitioner; the child's tribe; appropriate family members, if any; caretaker, if any; and appropriate agencies of the Band which may either have an interest in the proceedings or be of assistance to the court in adjudicating the matter. Such notice shall be served in the manner provided for in Bad River Tribal Court Code, Section 111.4.

**(e) Hearing on Petition for Customary Adoption**

**(1) Attendance at Hearing**

**(a)** The child who is the subject of a petition for customary adoption, agencies, petitioner and any appropriate family members including siblings may be present at the hearing in person or by telephone.

**(b)** The petitioner shall be present at the hearing. The petitioner's failure to appear shall be grounds for dismissal of the petition.

**(2) Conduct of Hearing.**

**(a)** The court shall inform the parties of their rights under this code of the nature and consequences of the proceedings.

**(b)** The court shall further inform all other parties of their rights under the Tribal Code and pursuant to the Indian Civil Rights Act, 25 U.S.C., Section 1301-1303 (1968), as amended, including the right to summon and cross-examine witnesses.

**(c)** The rules of evidence of the Tribal Court shall apply.

**(d)** The burden of proving the allegation of the petition shall be upon the petitioner and the standard of proof shall be clear and convincing evidence.

(e) The court may continue the hearing, upon a showing of good cause, at the request of any party to the proceeding and enter such temporary orders, if any, as may be deemed just and reasonable to carry out the purposes of this Section.

(h) Final Order for Customary Adoption

If the court determines that it is in the best interests of the child and the child's tribe, it shall issue a final order for a customary adoption. Such an order may include, but is not limited, to the following:

A statement that the child has been adopted by the petitioner(s) and that the parent-child bond is hereby established and that all of the rights and responsibilities of that relationship shall exist upon the entry of such a final order.

(j) Certification of a Customary Adoption

(1) A customary adoption, conducted in a manner consistent with this Section is a long-established, continued, reasonable process and considered by the people of the Bad River Band to be binding and authentic, and may be certified by the Children's Court as having the same effect as an adoption order issued by this court so long as it is in the best interests of the child and the child's tribe.

(2) A decree certifying a customary adoption has the same effect as a decree or final order of customary adoption issued by this court.

**Section 125.24 Ineligible Children**

(a) Any child who does not fall within the definition of "child" under section 125.06(a), or whose tribe has objected to jurisdiction under section 125.055, shall be subject to this chapter only if present on the Bad River Reservation and only for the following purposes:

(1) Taking into custody for the purpose of protecting the ineligible child from imminent physical or emotional harm,

(2) Making emergency placement necessary to protect the child,

(3) Referral or placement to an appropriate tribal, state, or other child welfare agency.

(b) A report of the conditions requiring action under subsection (a) shall be filed immediately with the Ashland County Department of Social Services.

#### **Section 125.25 - Indian Child Welfare Act**

(a) The child welfare coordinator is designated as agent for service of notices concerning child welfare proceedings as provided under the Indian Child Welfare Act.

(b) Upon receipt of such notice, the child welfare coordinator may consult with such tribal staff as may be necessary to determine the eligibility of the child named in such notices.

(c) Upon a determination that the notice received concerns a child defined under this Code, the child welfare coordinator shall consult with the Children's Court, tribal attorney, and Child Welfare Committee for the purpose of determining whether to intervene or seek transfer of the proceeding to the Children's Court.

(d) The child welfare coordinator shall determine whether to seek transfer, which determination, upon petition or motion of a person with an interest in the child, may be reviewed and reversed by the Children's Court.

(e) In any non-tribal proceeding, where transfer of jurisdiction is denied or not sought, the child welfare coordinator shall maintain a record of all information gathered, actions taken and documents received.