



NHBP TRIBAL COURT

NOTTAWASEPPI HURON BAND OF THE POTAWATOMI

2221 1 ½ MILE RD. • FULTON, MI 49052

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COURT RULES FOR JUVENILE JUSTICE CODE PROCEEDINGS

CHAPTER 13

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Section 1. Title

- A. This Chapter of Court Rules shall be known as the *Court Rules for Juvenile Justice Code Proceedings*.

Section 2. Purpose, Goals, and Guidance

- A. Pursuant to Title VII, Chapter 3, Article II § 7.3-2 of the *Juvenile Justice Code* (hereinafter identified by § Number), the Nottawaseppi Huron Band of the Potawatomi (NHBP) Tribal Council established the Juvenile Division of the NHBP Tribal Court as juveniles are a valuable tribal resource with the welfare of juveniles a vital concern of the Tribe.
- B. In recognizing that children are the Tribe's most vital and cherished resource and that the Tribe's future depends on the health and well-being of its children, the Tribe affirms the following, pursuant to § 7.3-5 of the *Juvenile Justice Code*:
1. Children have a sacred right to receive the care and guidance necessary for their spiritual, emotional, mental, and physical development.
 2. Feeling pride from their identity as Potawatomi will help them grow into strong, healthy, responsible adult tribal citizens.
 3. The focus shall be on healing the parties rather than punishing the juvenile for his or her behavior, to provide appropriate options at all levels of the juvenile matter regarding treatment, healing and rehabilitation of the minor, their families, and the victim.
- C. Pursuant to 7.3-2 of the *Juvenile Justice Code*, the concentration of the *Juvenile Justice Code* is:

1. To hold juveniles and their parents, guardians and/or custodians responsible for any acts or omissions that harm other persons or disturb the peace and harmony of the Tribe;
 2. To restore any person victimized by an act of a juvenile under this chapter to the position that they were in before the behavior of the juvenile caused them harm;
 3. To rehabilitate all juveniles coming under the authority of this chapter so that their relationship with victims, family and community are healed and restored; and
 4. To provide for community safety and harmony at all times.
- D. Pursuant to § 7.3-3 of the *Juvenile Justice Code*, the goals of the *Juvenile Justice Code* include:
1. Providing a continuum of services, including prevention and early intervention.
 2. Providing procedures for intervention in state court proceedings involving juveniles and for transfer of jurisdiction over minors from state and other tribal courts to the Juvenile Division of the NHBP Tribal Court.
 3. Assisting juveniles with identifying, addressing, and resolving the problems that led to the offense.
 4. Taking such actions that will best serve the emotional and physical healing of juveniles and, whenever possible, preserving and strengthening minors' cultural and ethnic identities.
 5. Focusing on strengthening families and communities by encouraging responsible thinking and, whenever possible, using community-based alternatives to keep juveniles within their homes and communities.
 6. Securing the rights of and ensuring fairness to the minors, parents, guardians, custodians, victims, and other parties who come before the Court under the *Juvenile Justice Code*.
 7. Separating juveniles from the home only when necessary for the juvenile's welfare and in the interests of public safety.
- E. The Tribal Court adopts this Chapter of Court Rules to facilitate proceedings in the Tribal Court and to establish procedures by which the intent and purpose of the *Juvenile Justice Code* can be carried out to benefit all persons coming under the authority of that Code.
- F. The Tribal Council in the adoption of the *Juvenile Justice Code* and the Judicial Branch in the adoption of these Court Rules, affirm that the Tribe strives to be guided by and fulfill

the responsibilities of self-government, including deliberations, decisions, and the overall carrying out of the powers of self-government in a manner that promotes and preserves our Bode'wadmi values and traditions with the rights and limitations contained in the *Juvenile Justice Code* and *Court Rules for Juvenile Justice Code Proceedings* intended to reflect the values in the Seven Grandfather Teachings to ensure that tribal youth and community and other persons participating in youth development within the jurisdiction of the Tribe will be guided by the Seven Grandfather Teachings:

1. Bwakawen — Wisdom
2. Debanawen — Love
3. Kejitwawenindowen — Respect
4. Wedasewen — Bravery
5. Gwekwadzewen — Honesty
6. Edbesendowen — Humility
7. Debwewin — Truth

Section 3. Definitions

- A. This Chapter of Court Rules recognizes and adopts, for the purposes of this Chapter, the definitions found in § 7.3-7 of the *Juvenile Justice Code*, unless otherwise modified by this Chapter.
1. “*Adult*” means a person who is 18 years of age or older or otherwise emancipated by an order of a court of competent jurisdiction.
 2. “*Child*” or “*Children*” is defined as a person or persons less than 18 years old and has not been emancipated by order of a court of competent jurisdiction.
 3. “*Controlled Substance*” is defined pursuant to the Public Act of Michigan, currently defined in the Michigan Statutes as a drug, substance, or immediate precursor included on the list of five schedules. See No. 368 of the Public Act of 1978, as amended and currently located at MCLA §§ 333.7104(2), 333.7201, 333.7214, 333.7216, 333.7218, and 333.7220.
 4. “*Custodian*” means a person, other than a parent or guardian, who has physical custody of the juvenile and is providing shelter and supervision to the juvenile
 5. “*Detention*” means placement of a juvenile in a physically restrictive facility.

6. “*Foster Care Home*” means a facility licensed and approved pursuant to tribal or state law.
7. “*Guardian*” means a person, other than a parent, to whom custody of the child has been given under tribal law or custom or by order of any court.
8. “*Juvenile Division of the NHBP Tribal Court*” means a division of the Tribal Court of the NHBP.
9. “*Kyé batze*” means, as defined in the *NHBP Juvenile Justice Code*, that she or he is mischievous in the Potawatomi language. A juvenile shall have committed *kyé batze* if he or she:
 - a. Has violated any law of the NHBP, the United States, or any other jurisdiction; or
 - b. Has been habitually disobedient or repeatedly refuses to obey the reasonable commands and directives of his/her parent(s), guardian, or custodian, or refuses to learn or adhere to the minor’s traditional or cultural ways; or
 - c. Is habitually truant from school or minor’s place of residence without sufficient cause; or
 - d. Consumes intoxicants or controlled substances; or
 - e. Consistently acts in a manner likely to endanger the health or safety of themselves or others.
10. “*Least Restrictive Alternative*” means restrictions placed on the juvenile must be reasonably related to the Court's objective of correcting *kyé batze* and must be the least intrusive manner of achieving that objective
11. “*Legal Custody*” means the right to care, custody, and control of a juvenile and the duty to provide food, clothing, shelter, ordinary medical care, education, and discipline for a juvenile and, in emergency, to authorize surgery or extraordinary care. The parent(s) of a juvenile are vested with legal custody unless such custody is taken from the parent(s) or limited by court order. Only the parents with legal custody may give temporary physical and/or legal custody of a juvenile to an adult member or the immediate or extended family unless such rights are limited by court order.
12. “*Nonstatus Offense*” means an offense regardless of the age of the offender (for example: shoplifting and assault).

13. “*Notice*” means the method by which the Court informs the parties, attorneys, and others of the date, time, and place of proceedings to be conducted by the Court
 14. “*Parent*” is defined as a person who is legally responsible for the control and care of the minor, including the mother, father, guardian or custodian, including a natural or adoptive parent, but does not include persons whose parental rights have been terminated nor does it include the unwed father whose paternity has not been acknowledged or established.
 15. “*Parental Rights*” refers to legal rights which include responsibilities, duties and obligations between the parent and child.
 16. “*Presenting Officer*” as defined in the *Juvenile Justice Code* is the attorney who represents the Tribe in all matters related to the *Juvenile Justice Code* and acts as the prosecutor in the Tribal Court.
 17. “*Status Offense*” means acts that are offenses only because of the age of the offender. These acts would not be considered offenses if committed by an adult, such as truancy and being out past curfew.
 18. “*Summons*” is the instrument with which the Court directs a party to appear before the Court.
 19. “*Tribal Lands*” refers to the territory of the Tribe and shall encompass the Tribe’s historical land base known as the Pine Creek Potawatomi Reservation in Athens Township, Michigan, and all lands now held or hereafter acquired by or for the Tribe, or held in trust for the Tribe by the United States, including lands in which rights have been reserved or never ceded by the Nottawaseppi Huron Band of the Potawatomi in previous treaties, or as may otherwise be provided under federal law.
 20. “*Violent Crime*” refers to a crime as listed in Chapter 8.6, Criminal Laws, of the Tribal Code.
- B. This Chapter of Court Rules also uses the following definitions that are either modifications of definitions in the *Juvenile Justice Code* or not taken from the *Juvenile Justice Code*.
1. “*American Indian*” and “*Indian*” are interchangeable and mean any member or person eligible for membership of a federally recognized Indian tribe, band or community or Alaska Natives, or any member of a historic tribe or band, or a person considered by the community to be North American Indian.

2. “Attorney” and “Counsel” and “Lawyer” are synonymous and defined under § 7.3-7 of the *Juvenile Justice Code* as any licensed attorney admitted to practice in the Tribal Court, who is an officer of the Court and provides legal assistance to any party during the course of any proceeding under this chapter.
3. “Band” and “Nation” and “Tribe” are synonymous and mean the Nottawaseppi Huron Band of the Potawatomi. (NHBP)
4. “Chief Judge” means the Chief Judge of the Tribal Court or his or her designee.
5. “Court” and “Tribal Court” are synonymous and mean the trial court of the Tribe.
6. “Court Clerk” refers to the Tribal Court Administrator (TCA) or a person designated to perform such duties by the Chief Judge or the TCA.
7. “Calendar Day” and “Day” are synonymous and mean consecutive days of the year, with the end of a period or the date an item is due or a task must be performed due the next business day when it falls on an NHBP-recognized holiday or the Court is otherwise closed.
8. “*Ex parte communications*” mean any communications, either oral or in writing, made to a judge, outside the presence of the parties or their lawyers or without their prior knowledge, concerning a pending or impending matter before the Tribal Court.
9. “*Extended Family*” means a person who is the juvenile's stepparent, stepsibling, half sibling, or other kinship or nonkinship relations recognized by immediate family members with the Court determining whether an individual meets such a definition for the purposes of Juvenile Court proceedings.
10. “*Immediate family*” means domestic partners, parents, grandparents, children, step-children, grandchildren, siblings, mother-in-law, father-in-law, sisters-in-law and brothers-in-law.
11. “*Juvenile*” and “*Minor*” are synonymous and mean a person under eighteen (18) years of age.
12. “*Petition*” means a written, signed and notarized document that includes the information required in the *Juvenile Justice Code*.
13. “*Tribal Supreme Court*” means the appellate court of the Tribe.

Section 4. Jurisdiction

- A. The Juvenile Division of the Tribal Court, also known as the Juvenile Court, shall hear all proceedings under the *Juvenile Justice Code*.
- B. The Juvenile Court has original jurisdiction over proceedings in which a minor is alleged to have committed:
 - 1. A status offense;
 - 2. A nonstatus offense; or
 - 3. Inappropriate behavior.
- C. Pursuant to § 7.3-11 of the *Juvenile Justice Code*, jurisdiction, once exercised by the Juvenile Court over a proceeding involving a juvenile, is continuing and exclusive unless terminated by the Court in one of the following ways:
 - 1. The minor becomes an adult, except where the Juvenile becomes an adult during the proceedings under this Chapter;
 - 2. The Juvenile Court enters an order terminating its jurisdiction;
 - 3. The Juvenile Court enters an order transferring jurisdiction to another court; or
 - 4. The juvenile is arrested for allegedly committing a crime of domestic violence or a violation of a protection order, the *Domestic Violence Code*, Article IX § 7.4-48 – Violations by Juveniles – Arrest, shall govern the proceedings.
 - a. The arrest and prosecution of a juvenile under the *Domestic Violence Code* does not bar proceedings in an appropriate Juvenile Court.
- D. The Juvenile Court may exercise personal jurisdiction over the following categories of persons:
 - 1. Any juvenile who is an enrolled member of the Tribe who is under the age of 18 years, who resides in the same household of an adult who is an enrolled member of the Tribe, and is residing in the Counties of Allegan, Barry, Branch, Calhoun, Kalamazoo, Kent and/or Ottawa.
 - 2. Any juvenile who is eligible for enrollment who is under the age of 18 years, who resides in the same household of an adult who is an enrolled member of the Tribe, and is residing in the Counties of Allegan, Barry, Branch, Calhoun, Kalamazoo, Kent and/or Ottawa.

3. A juvenile who is an enrolled member of the Tribe who is involved in a delinquency proceeding or other status offense proceeding in the Tribal Court or which is transferred to the Tribal Court pursuant to Article V of the *Juvenile Justice Code*.
 4. A juvenile who is eligible for enrollment in the Tribe who is involved in a delinquency proceeding or other status offense proceeding in the Tribal Court or which is transferred to the Tribal Court pursuant to Article V of the *Juvenile Justice Code*.
 5. A non-Indian or nonmember juvenile domiciled or residing within the tribal lands of the Nottawaseppi Huron Band of the Potawatomi Indians in the home of an enrolled member of either the Tribe or any other Indian Tribe.
 6. Any person causing a juvenile to come within the jurisdiction of this chapter/ the *Juvenile Justice Code*, including parent(s), guardian(s), and custodian(s) of juveniles coming under the jurisdiction of this chapter pursuant to Subsection B of this section.
- E. Pursuant to § 7.3-9 of the *Juvenile Justice Code*, procedures in the Juvenile Court shall be governed by these rules, and other Tribal Court Rules, where applicable, that are not in conflict with the *Juvenile Justice Code*.

Section 5. Rights of the Juvenile

- A. The Juvenile has the following rights:
1. To call and cross examine witnesses;
 2. To testify in his or her own defense;
 3. To have a copy of the Petition and other Court documents presented to him or her before any Court action is taken or testimony is heard;
 4. To have a Court appointed attorney appointed for him or her and to consult with that attorney before any Court proceeding;
 5. To remain silent and not be forced to testify against his or her interests;
 6. To challenge any recommendation for detention or removal from the home; and
 7. To be present at Court proceedings as provided in the *Juvenile Justice Code*.

Section 6. Petitions to the Juvenile Court

- A. Pursuant to § 7.3-26 (B) of the *Juvenile Justice Code*, the Presenting Officer is responsible for filing petitions in the Juvenile Court in all instances:
1. If an assessment was conducted pursuant to § 7.3-21 of the *Juvenile Justice Code*, if appropriate, and proved unsuccessful or the case plan was not followed;
 2. By recommendation of the Case Intake Team (“CIT”) pursuant to the procedures in § 7.3-15 through § 7.3-22 of the *Juvenile Justice Code*;
 3. Pursuant to § 7.3-21 (B) of the *Juvenile Justice Code* which states that, if the alleged kyé batze is other than those listed in § 7.3-21 (A) of the *Juvenile Justice Code*, the presumption of the case management shall be with the CIT and complaints will be forwarded to it, with the reservation of discretion maintained by the Presenting Officer to evaluate the case on an individual basis for adjudication, or charge alternatives; or
 4. Pursuant to § 7.3-26 (A) of the *Juvenile Justice Code* with all complaints alleging that a juvenile has committed kyé batze being filed with the NHBP Police Department, investigated accordingly, and immediately forwarded to the Presenting Officer to be reviewed for a determination of legal sufficiency.
- B. Pursuant to § 7.3-27 of the *Juvenile Justice Code*, the Petition shall set forth the following with specificity:
1. The name, birth date, sex, residence and Tribal affiliation of the juvenile;
 2. The name of the Presenting Officer;
 3. The basis for the Court’s jurisdiction;
 4. The specific allegations of the juvenile’s kyé batze, including the citation to the Code section that was violated;
 5. Date, time and location of which the alleged facts occurred;
 6. The names and residence and Tribal affiliation of the juvenile’s parents, guardians or custodians, if known;
 7. The names, relationships, and residences of all known members of the juvenile’s immediate or extended family and all former care givers, if known;
 - a. If the identity, residence or location of any parent, guardian, or custodian is unknown, the name, relationship and address of any known adult relative(s) residing in the same city or county as the juvenile

8. If the juvenile is placed outside of the home under § 7.3-40 of the *Juvenile Justice Code*, the following information shall also be stated in the Petition:
 - a. Where the juvenile is placed, including:
 - i. Name of the facility, if applicable;
 - ii. Type of facility;
 - iii. Address for the facility;
 - iv. Phone number for the facility; and
 - v. The name, title, phone number, email address, or other contact information for any specific contacts at the facility.
 - b. The facts surrounding the placement; and
 - c. The date and time of the placement.
 9. The type of relief requested, including if temporary custody is sought; and
 10. Pursuant to § 7.3-27 (J) of the *Juvenile Justice Code*, the Petition shall state if any matter required to be set forth in § 7.3-27 (A) through § 7.3-27 (H) of the *Juvenile Justice Code* is not known.
- C. Upon proper filing of a Petition in the Juvenile Court, the Tribal Court Administrator (“TCA”), or her or his designee, shall immediately:
1. Complete the applicable sections of the Assignment of Judge form, including information on any cases involving the Juvenile, Siblings, if known, Parent(s), Guardian(s), or Custodian(s), as appropriate.
 2. Forward the Juvenile Court Petition and Assignment of Judge form to the Chief Judge for assignment of the case.
- D. Upon receipt of the Juvenile Court Petition and Assignment of Judge form, the Chief Judge shall:
1. Assign a Tribal Court Judge;
 - a. In assigning the Juvenile Court Petition, the Chief Judge shall strive to assign a Tribal Court Judge that has provided over other matters involving the Juvenile, the Juvenile’s Siblings, Parents, Guardians, and/or Custodians, if any, to provide continuity with the Presiding Judge hearing all evidence presented in the matter without bias, but with knowledge of the family to provide continuity for the benefit of the Juvenile, the family, and the community.

Section 7. Summons for Preliminary Hearing

- A. Upon assignment of a Juvenile Court Petition, the Presiding Judge shall appoint an attorney for the Juvenile.
- B. After an attorney is appointed for the Juvenile, the Presiding Judge shall schedule the Preliminary Hearing pursuant to whether the Juvenile is in custody.
 - 1. If the Juvenile has been taken into custody, the Presiding Judge shall hold the Preliminary Hearing within two (2) days of the date the Petition was filed.
 - b. The TCA shall provide the Summons, with a copy of the Petition, to the NHBP Police Department.
 - i. The NHBP Police Department shall personally serve the Juvenile and the Parents, Guardian, and/or Custodian with whom the Juvenile resides with the Summons and a copy of the Petition.
 - c. The TCA shall serve the Presenting Officer by email.
 - 2. If the Juvenile has not been taken into custody or was released into the custody of the Juvenile's Parent, Guardian, and/or Custodian, the Presiding Judge shall hold the Preliminary Hearing within twenty-one (21) days of the date the Petition was filed.
 - a. The TCA shall provide the Summons, with a copy of the Petition, to the NHBP Police Department; or
 - b. The TCA shall mail the Summons, with a copy of the Petition, to the Juvenile, Parents, Guardian and/or Custodian by mail not less than fourteen (14) days before the date of the Preliminary Hearing.
- E. The TCA shall prepare a summons:
 - 1. That shall be directed to the:
 - a. Juvenile;
 - b. Parents of the Juvenile;
 - c. Guardian of the Juvenile, if applicable;
 - d. Custodian with whom the Juvenile resides;
 - e. Presenting Officer; and
 - f. Juvenile's Attorney.
 - 2. That shall:

- a. Direct the person to whom it is addressed to appear with the juvenile at the time and date set for the preliminary hearing;
 - b. Identify the nature of the proceedings;
 - c. Have a copy of the petition attached to the summons;
 - d. Explain that the Juvenile has a right to an attorney and a right to a trial; and
 - e. Comply with applicable *Court Rules of Civil Procedure*.
- F. Pursuant to § 7.3-28 (A) of the *Juvenile Justice Code*, a Petition under the *Juvenile Justice Code* shall be dismissed without prejudice:
1. If the Preliminary Hearing is not held within two (2) days of the Petition being filed if the Juvenile was taken into custody unless a continuance has been granted; or
 - a. If the Juvenile was taken into custody and a continuance granted, the Petition shall be dismissed without prejudice if the Preliminary Hearing is not held within seven (7) calendar days of the date the Petition was filed
 - b. Pursuant to § 7.3-28 (B) of the *Juvenile Justice Code*, the Court may only grant a continuance of the Preliminary Hearing upon written motion of the Presenting Officer if the Parent, Guardian or Custodian or other material evidence and/or witnesses are unavailable and shall include:
 - i. Information regarding the nature of the material evidence presently unavailable;
 - ii. The names and addresses of unavailable persons or other witnesses; and
 - iii. A showing by the Presenting Officer that he or she has exercised due diligence in his or her attempt to secure the evidence and/or attendance of witnesses.
 2. If the Preliminary Hearing is not held within twenty-one (21) days of the date the Petition was filed when the Juvenile was not taken into custody.

Section 8. Service

- A. Unless there are specific provisions for service in this Chapter of Court Rules, service of a summons is required
1. For an adjudicatory hearing or dispositional hearing:

- a. Twenty-one (21) days for personal service, pursuant to § 7.3-33 (A) (1) of the *Juvenile Justice Code*; or
 - b. Twenty-one (21) days for service by mail, pursuant to § 7.3-33 (A) (1) of the *Juvenile Justice Code*;
2. For service by publication, the notice shall comply with all applicable Tribal Court Rules of Civil Procedure:
 - a. Pursuant to § 7.3-33 (B) of the *Juvenile Justice Code*, the published notice does not require publication of the Petition but must appear one (1) or more times fourteen (14) calendar days prior to the hearing
 - i. Pursuant to § 7.3-33 (B) of the *Juvenile Justice Code*, for a preliminary hearing following a juvenile's removal from the home shall comply with § 7.3-40, § 7.3-41 (A), and § 7.3-41 (B) of the *Juvenile Justice Code*.
- B. Unless there are specific provisions for service in this Chapter of Court Rules, service of a notice for a hearing:
1. Seven (7) days for personal service;
 2. Fourteen (14) days for service by mail; or
 3. Fourteen (14) days for notice on the record at a hearing
 - a. A lesser number of days is permitted if:
 - i. All interested persons are present at the hearing;
 - ii. All interested persons consent on the record to holding the hearing in less than fourteen (14) days; and
 - iii. All interested persons consent on the record to waiving written notice fourteen (14) days in advance of the hearing.
- C. Pursuant to § 7.3-37 of the *Juvenile Justice Code*, a person may waive notice of hearing or service of process.
1. A waiver of notice of hearing or service of process shall be in writing to the Court.
- D. Pursuant to § 7.3-36 of the *Juvenile Justice Code*, the attorney for a party or the Court on its own motion may cause a subpoena to be served on a person whose testimony or appearance is desired.
1. A motion for a subpoena may be submitted on a form provided by the Court or by independent filing and shall contain:

- a. A caption with the name, address, and phone number for the Court, title of the request, and Tribal Court Case Number;
 - b. The name of the case,
 - c. The name and address of the parties, interested persons, or the attorneys for same;
 - d. If the motion for subpoena is being submitted by an attorney, the licensing number for the attorney;
 - e. The name of the individual being subpoenaed;
 - f. The address where the individual shall be served the subpoena;
 - g. Whether the address provided is a residential or business address;
 - h. The signature of the person requesting the subpoena; and
 - i. The date the individual signed the subpoena.
2. If the subpoena is being requested by an attorney, the attorney shall be a Member of the NHBP Tribal Bar.
 3. Advance fees to the person served a subpoena shall not be required in order to compel attendance.

Section 9. Hearings in the Juvenile Court

- A. Pursuant to § 7.3-34 of the *Juvenile Justice Code*, the following individuals shall be entitled to receive notice of and participate in Juvenile Court proceedings:
 1. The Parents of the Juvenile;
 2. The Juvenile;
 3. The Attorney for the Juvenile;
 4. The Legal Guardian or Custodian other than the Parent(s), if any;
 5. The Petitioner;
 6. The Juvenile's Tribe, if different from the Petitioner;
 7. The Victim; and
 8. Any other person the Court may direct to be notified.
- B. Proceedings in the Juvenile Court are closed matters. and.
 1. Juvenile Court proceedings, including hearings, are restricted to the persons identified in the *Juvenile Justice Code* or authorized by the Court.

- a. Juvenile Court proceedings, including hearings, shall not be open to the general public.
 - b. If a person is subpoenaed to testify at a hearing or other Court proceeding, participation shall be restricted to giving testimony unless authorized by the Court to remain in the Court Room.
 - c. An interested person to a Juvenile Court case may request limited review of case materials with permission of the Chief Judge.
 - i. *Juvenile Justice Code* matters are not subject to the Court Information Request process.
 - ii. Access to some documents in a *Juvenile Justice Code* proceeding are limited pursuant to the *Juvenile Justice Code* and this Chapter of Court Rules.
- C. All Juvenile Court hearings shall be recorded.
- 1. Recordings of Juvenile Court proceedings shall not be available to the general public.
 - a. An interested person to a Juvenile Court proceeding may request to listen to the recording of a Juvenile Court proceeding from the Chief Judge.

Section 10. Preliminary Hearing

- A. At the Preliminary Hearing the Juvenile, Parent(s), Guardian and/or Custodian shall receive a copy of the Petition and all other documentation, and the Juvenile Court must determine:
- 1. Whether the Juvenile and Parent(s) and, if applicable, Guardian or Custodian of the Juvenile have been notified of the hearing;
 - 2. Whether probable cause exists to believe that the Juvenile committed the alleged kyé batze;
 - 3. Whether the Juvenile poses a substantial risk of harm to himself or herself or the community; and
 - 4. Whether the current placement is appropriate or if it should comply with Article XIV of the *Juvenile Justice Code*.
- B. Pursuant to § 7.3-42 (B) of the *Juvenile Justice Code*, if the Juvenile's Parent, Guardian or Custodian is not present at the Preliminary Hearing, the Court:

1. Shall determine if the Juvenile's Parent, Guardian and/or Custodian has been notified of the hearing in accordance with Article VIII of the *Juvenile Justice Code*.
 2. Shall make an inquiry into what efforts have been made to notify and to obtain the presence of the Parent, Guardian and/or Custodian.
 - a. If it appears that further efforts are likely to produce the Juvenile's Parent, Guardian and/or Custodian, the Court shall:
 - i. Recess for not more than three (3) calendar days; and
 - ii. The Court shall make efforts to obtain the presence of the Juvenile's Parent, Guardian and/or Custodian.
 3. May conduct the Preliminary Hearing in the parent's absence.
- D. The Juvenile has the following rights at the Preliminary Hearing:
1. To call and cross examine witnesses;
 2. To testify in his or her own defense;
 3. To have a copy of the Petition presented to him or her before any Court action is taken or testimony is heard;
 4. To have a Court appointed attorney appointed for him or her and to consult with that attorney before any Court proceeding;
 5. To remain silent and not be forced to testify against his or her interests;
 6. To challenge any recommendation for detention or removal from the home; and
 7. To be present in Court for the Preliminary Hearing.
- E. Pursuant to § 7.3-40 of the *Juvenile Justice Code*, the Juvenile shall not be removed from the home unless he or she is a threat to himself or herself or for the public safety of the community.
1. If the Juvenile is placed out of the home:
 - a. Reasonable efforts shall be made to notify the Parents or extended family of the Preliminary Hearing following emergency removal as soon as the hearing is scheduled.
 - i. The notice may be in person, in writing, on the record or by telephone.
 - ii. When a party fails to appear in response to a notice of hearing, the Court may order the party's appearance by summons or subpoena.

2. Pursuant to § 7.3-41 (A) of the *Juvenile Justice Code*, if the Juvenile is taken into custody and released to the Parent(s), Guardian and/or Custodian:
 - a. The Court shall conduct the Preliminary Hearing within twenty-one (21) calendar days after filing the Petition. See § 7.3-28A(2).
 - b. After the preliminary hearing is concluded, the Court may determine on its own motion, or based upon the recommendation of the CIT and the Court's acceptance, that a plan be developed for the Juvenile, the Petition shall be held in abeyance until:
 - i. The proceedings conclude; or
 - ii. The Petition is dismissed.
 3. Pursuant to § 7.3-41 (B) of the *Juvenile Justice Code*, if the Juvenile is taken into custody and placed in an out-of-home placement under § 7.3-40 of the *Juvenile Justice Code*:
 - a. The Court shall conduct a preliminary hearing within two (2) calendar days from the date the petition is filed. See § 7.3-28A(1).
 - b. After the preliminary hearing is concluded, the Court may determine on its own motion, or based upon a recommendation of the CIT and the Court's acceptance, that a plan be developed for the Juvenile, the Petition shall be held in abeyance until:
 - i. The proceedings conclude; or
 - ii. The petition is dismissed.
 4. Pursuant to § 7.3-41 (C) of the *Juvenile Justice Code*, if the Juvenile is not being detained for the alleged kyé batze:
 - a. The Court shall conduct the Preliminary Hearing within twenty-one (21) calendar days from the date the petition is filed. See § 7.3-28A(2).
 - b. After the Preliminary Hearing is concluded, the Petition shall be held in abeyance until the Court determines, on its own motion or by recommendation of the CIT, whether a plan can be developed for the juvenile.
- F. Pursuant to § 7.3-41 (D) of the *Juvenile Justice Code*, the Preliminary Hearing may be adjourned for up to fourteen (14) calendar days for good cause shown as determined by the Court.

- G. At the Preliminary Hearing, the Court shall hear testimony concerning:
1. The circumstances that gave rise to the Petition; and
 2. If the Juvenile has been placed, the need for continued placement.
- H. At the Preliminary Hearing, the parties and the Court may call and cross examine witnesses.
- I. At the Preliminary Hearing, the Court shall decide whether to authorize the filing of the Petition.
1. If, at the end of the Preliminary Hearing, the Court finds that probable cause exists to believe the Juvenile has not committed the alleged kyé batze, the Petition shall be dismissed and the juvenile shall be released.
 2. If the Court finds that probable cause exists to believe that the Juvenile may have committed the alleged kyé batze, the Court:
 - a. May order the Juvenile, Parent, Guardian and/or Custodian to appear at an Adjudication Hearing (see Article XI of the *Juvenile Justice Code*) on a date and time set by the Court;
 - b. May release the Juvenile to the custody of either of the Juvenile's Parent(s), Guardian and/or Custodian under such reasonable terms and conditions as are necessary for either physical, emotional or mental well-being of the juvenile; or
 - c. May order placement of the Juvenile, in the least restrictive environment and pursuant to the placement priorities in Article XIV of the *Juvenile Justice Code*, with someone other than the Parent, Guardian and/or Custodian if the Court, after hearing, determines that either of the following conditions exists:
 - i. That the Juvenile poses a substantial risk of harm to himself and the community; or
 - ii. That the removal is necessary to safeguard the Juvenile's health and welfare.
 - d. May change the placement, where the juvenile has been removed from the home, and where such placement does not comply with Article XIV of the *Juvenile Justice Code*.
 - e. The Court may, at any time after conducting the Preliminary Hearing at which probable cause to proceed upon the Petition is found, order the Juvenile to undergo a medical or psychological examination by a qualified professional.

- J. The Rules of Evidence do not apply in preliminary hearings.

Section 11. Transfer of Jurisdiction to the Tribal Court

- A. The Presenting Officer shall serve a copy of requests to transfer jurisdiction from a foreign court to the NHBP Juvenile Court
- B. Upon notice that a foreign court has transferred jurisdiction to the NHBP Juvenile Court, the Court shall proceed pursuant to the provisions in this Chapter for assignment of the Tribal Court Judge, appointment of an attorney for the Juvenile, and scheduling of the Preliminary Hearing.
- C. In addition to the requirements in this Chapter of Court Rules for the Preliminary Hearing, the Court shall make inquiries at the Preliminary Hearing to ensure the NHBP Juvenile Court has jurisdiction.
- D. After the Preliminary Hearing, the Court shall either:
 - 1. Send an Order Accepting Transfer of the case with the Order including; or
 - a. Notice that the Preliminary Hearing was held;
 - b. A finding of jurisdiction;
 - c. The name of the Presiding Judge; and
 - d. Whether the foreign case file has been received;
 - i. If the foreign court case file has not been received, the Order Accepting Transfer shall include a request a copy of all documents in the foreign court case file.
 - 2. Send an Order Declining Transfer of the case.
 - a. Notice that the Preliminary Hearing was held;
 - b. The name of the Presiding Judge; and
 - c. The reasons the NHBP Juvenile Court is declining the case.
- E. The Presiding Judge and TCA may contact the foreign court to:
 - 1. Obtain a copy of the foreign court case file, if not sent by the foreign court;
 - 2. Consult with the Judge that presided over the matter in the foreign court to:
 - a. Obtain clarification or insight into the Juvenile or the facts of the case.

Section 12. Adjudication Hearing

- A. The Court shall conduct an adjudication hearing for the purpose of determining whether the juvenile committed kyé batze.
- B. The Adjudication Hearing shall be held:
 3. Within forty-two (42) calendar days after the Petition is filed with the Court and the Juvenile is in custody; or
 4. Within eighty-four (84) calendar days after the Petition is filed if the Juvenile is not in custody.
 5. The Court may set matters earlier on the Court docket as the interests of justice require.
- C. Pursuant to § 7.3-45 of the *Juvenile Justice Code*, continuances of an adjudication hearing may be granted by the Court but only:
 1. Upon stipulation of the parties; or
 2. Where process cannot be completed; or
 3. If the Court finds that the testimony of a presently unavailable witness is needed; or
 4. One time only for up to fourteen (14) calendar days at a parent's request to allow parent(s) to obtain counsel; or
 5. If, after the filing of the Petition, the Judge refers the case to the CIT to develop a plan for the Juvenile, the proceedings on the Petition may be held in abeyance and the Adjudication Hearing adjourned until the informal proceedings conclude or the petition is dismissed; or
 6. For good cause shown.
- D. The Juvenile may make a plea of admission or of no contest to the allegations contained in the Petition, original or amended, which would establish that the Juvenile has committed the alleged offense.
 1. The Juvenile may only enter a plea of no contest with the permission of the Court.
 2. The plea may be taken at any time after the filing of the Petition.
 3. Before accepting a plea of admission or a plea of no contest, the Court shall advise the juvenile on the record or in writing, which is made a part of the record:
 - a. Of the allegations in the Petition;
 - b. Of the right to a court appointed attorney;
 - c. That if the Court accepts the plea, the Juvenile will give up rights to:

- i. Trial by Judge;
 - ii. To have the Petitioner prove the truth of the allegations beyond a reasonable doubt of the evidence;
 - iii. To have witnesses against him/her; and
 - iv. Have witnesses which might support his/her defense be subpoenaed to testify in Court.
 - d. Of the consequences of the plea
 - 4. The Court shall not accept a plea of admission or no contest until it satisfies itself that:
 - a. The allegations contained in the petition are supported; and
 - b. The plea is knowingly, understandingly, and voluntarily made.
 - 5. Following acceptance and entry of a plea of admission or no contest, the Court shall schedule a disposition hearing in accordance with Article XIII of the *Juvenile Justice Code*.
- E. At the Adjudication Hearing under this Chapter, the Juvenile shall have the following rights:
- 1. To have a Court appointed attorney to represent them;
 - 2. To have a copy of all charges against them and to consult with their attorney before the hearing;
 - 3. To be present in Court for the hearing;
 - 4. To subpoena witnesses on their own behalf and to cross examine witnesses called against them;
 - 5. To testify or not as they choose but that no inference of guilt shall be made by the Court if the Juvenile chooses not to testify;
 - 6. To have only legally admissible evidence admitted in Court; and
 - 7. To be proved to have committed kyé batze or to be determined to come within the jurisdiction of the Court by proof beyond a reasonable doubt.

Section 13. Evidence

- A. Pursuant to § 7.3-48 of the *Juvenile Justice Code*, in a proceeding on a petition a party may:
 - 1. Introduce evidence;

2. Confront and cross examine witnesses; and
 3. Admit or deny allegations made in the Petition.
- B. Pursuant to § 7.3-49 of the *Juvenile Justice Code*, the Court may accept reports and other public records into evidence where such evidence is otherwise unavailable.
1. All relevant evidence may be received or relied upon at the Court's discretion.
 2. The Court shall take into consideration the case service plan and any report by an agency responsible for the care and supervision of the Juvenile.
- C. Pursuant to § 7.3-50 of the *Juvenile Justice Code*, at the disposition phase of the case, the Court may receive and take into consideration materials prepared pursuant to a Court ordered examination, interview, or course of treatment.

Section 14. Disposition Hearing

- A. Pursuant to § 7.3-51 of the *Juvenile Justice Code*, the Court shall hold a hearing not later than thirty (30) calendar days after the Adjudication Hearing and enter an order of disposition after considering the case service plan and other evidence offered at disposition. The Court shall approve a case service plan and may enter such orders as it considers necessary in the interest of the Juvenile.
- B. The Rules of Evidence shall not apply.
- C. If a juvenile has been found to have committed kyé batze, the Court may make the following dispositions, consistent with the placement priorities and least restrictive environment described in Article XIV of the *Juvenile Justice Code*:
1. Permit the Juvenile to remain with the Parent(s), Guardian and/or Custodian, subject to such conditions as the Court may prescribe;
 2. Place the Juvenile with a relative subject with such conditions as the Court may prescribe; or
 3. Place the Juvenile in a group home, residential care facility or juvenile detention facility designated by the Court.
- D. If the Juvenile remains under the jurisdiction of the Court, an order may be amended or supplemented within the authority granted to the Court in this chapter at any time as the Court considers necessary.

Section 15. Dispositional Court Report

- A. Pursuant to § 7.3-52 of the *Juvenile Justice Code*, the NHBP Probation Officer or his or her designee shall prepare a written report describing all reasonable and appropriate alternative dispositions, including reports from the CIT. The report shall contain a specific plan for the care of and assistance to the minor and/or the minor's parent(s), guardian or custodian designed to resolve the problems presented in the petition.
- B. Necessity and benefits findings. The report shall contain a detailed explanation of the necessity for the proposed disposition plan and its benefits to the minor.
- C. Placement recommendations requirements. If the report recommends placement of the juvenile somewhere other than with the juvenile's parent(s), guardian or custodian, it shall state the specific reasons underlying its placement priorities and least restrictive environment provisions as defined in Article XIV of the *Juvenile Justice Code*.
- D. Time frame. The Probation Officer shall present the dispositional court report to the Court at least seven (7) calendar days before the disposition hearing.

Section 16. Disposition Alternatives

- A. Pursuant to § 7.3-53 of the *Juvenile Justice Code*, if the Juvenile has been found to be a juvenile offender, the Court may make the following disposition for any term until the Juvenile reaches the age of 18 or the Court no longer has jurisdiction over the case:
 - 1. Place the Juvenile on probation subject to conditions set by the Court;
 - 2. Order additional services that are necessary to rectify the conditions that caused the Juvenile to commit the kyé batze and continue to have problems;
 - 3. Order additional actions to be taken by the Juvenile, Parent(s), Guardian and/or Custodian to rectify the conditions;
 - 4. Order the Juvenile to perform community service work at the direction of the Juvenile Probation Officer;
 - 5. Order any other measure the Court deems necessary and proper to correct the behavior of the juvenile offender and to insure the safety of the community, where such measure is in the best interest of the Juvenile and consistent with the philosophy and goals of the *Juvenile Justice Code*; or

6. Determine conditions under which records of the disposition may be expunged from the Juvenile's record.

Section 17. Placement

- A. Pursuant to § 7.3-54 of the *Juvenile Justice Code*, if the Juvenile cannot be returned to the Parent(s), Guardian and/or Custodian, the Juvenile shall be placed in the least restrictive setting which most approximates a family and in which the special needs, if any, may be met.
 1. Consistent with the placement priorities described in this Section, efforts shall be made to place the Juvenile in a home or facility within the Michigan counties of Allegan, Barry, Branch, Calhoun, Kalamazoo, Kent, and Ottawa or in other areas in which culturally appropriate services are available.
 2. Efforts shall also be made to place the Juvenile in reasonable proximity to his/her home, taking into account any special needs of the Juvenile.
- B. Pursuant to § 7.3-55 of the *Juvenile Justice Code*, the Juvenile may be placed outside of the home of the Parent(s), Guardian and/or Custodian, pending a Court hearing:
 1. According to the following in order of preference:
 - a. Members of the juvenile's immediate or extended family, who are members of the NHBP, the Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians, Pokagon Band of Potawatomi Indians, or other Potawatomi, Ottawa or Chippewa Tribe; or
 - b. Members of the juvenile's immediate or extended family, who are members of a federally recognized or state historic tribe which is located outside of the State of Michigan, or who are members of a Canadian Indian tribe or band; or
 - c. Other members of the juvenile's immediate or extended family; or
 - d. An Indian family of the Nottawaseppi Huron Band of the Potawatomi which is licensed by the state or a tribe as a foster home or an Indian family otherwise authorized by law to provide care for the juvenile; or
 - e. A facility operated by a licensed Indian Child Welfare services agency; or
 - f. Any other suitable placement that meets the standards established by the tribal government; or
 - g. An approved juvenile detention facility.

2. Placement priorities may be deviated from by the Court based upon a finding of good cause that is in the Juvenile's best interest and that;
 - a. Gives preference to the Juvenile regarding his/her placement; or
 - b. The Court finds that the home of the noncustodial biological parent is an appropriate placement.

Section 18. Disposition Review Hearing

- A. Pursuant to § 7.3-57 of the *Juvenile Justice Code*, the disposition order is to be reviewed at the discretion of the Court, but at least once every sixty (60) calendar days.
- B. Notice of the Review Hearing shall be provided on the record or by ordinary mail as provided in this Chapter of Court Rules.
- C. Unless otherwise ordered, all reports shall be due to the Court not less than two (2) business days prior to the scheduled Review Hearing.
- D. Pursuant to § 7.3-59 of the *Juvenile Justice Code*, the Court shall review on the record the compliance with the case service plan prepared and the previous orders of the Court, including:
 1. Services provided or offered to the Juvenile and the Parent(s), Guardian and/or Custodian and whether the Juvenile, Parent(s), Guardian and/or Custodian has complied with the case service plan.
- E. Pursuant to § 7.3-60 of the *Juvenile Justice Code*, the Court shall determine after review of the case service plan the extent of progress made toward alleviating or mitigating the conditions that caused the juvenile to commit kyé batze. The Court may modify any part of the case service plan.
- F. Pursuant to § 7.3-61 of the *Juvenile Justice Code*, at a review hearing of a Juvenile placed outside of the home:
 1. The Court shall determine the continuing necessity and appropriateness of the Juvenile's placement and shall:
 - a. Order the return of the Juvenile to the custody of the Parent(s);
 - b. Continue the disposition order; or
 - c. Modify the disposition order or enter a new disposition order.

3. If the Juvenile remains in placement, the Court shall determine at the disposition hearings and at each review hearing whether the case should be reviewed before the next review hearing required under this section. In making this determination, the Court shall consider, but not be limited to, all of the following:
 - i. Whether there is a reasonable likelihood that the juvenile may be returned to the home prior to the next review hearing required by this section; or
 - ii. Whether a placement which better meets the placement priorities described in Article XIV of the *Juvenile Justice Code* is available and in the best interests of the juvenile.
- B. Pursuant to § 7.3-62 of the *Juvenile Justice Code*, a disposition order of the Court
1. May be modified, for good cause, upon a showing of a change of circumstances.
 2. The Court may modify a disposition order at any time, upon motion of the following:
 - a. The Juvenile or his/her attorney;
 - b. The Juvenile's Parent(s), Guardian, and/or Custodian;
 - c. The Presenting Officer; or
 - d. The Probation Officer.
 3. If the modification involves a change of custody, the Court shall conduct a hearing to review its disposition order as follows:
 - a. The Court shall review the performance of the Juvenile and review the reports of the Presenting Officer and other persons providing assistance to the Juvenile and the Juvenile's family;
 4. If the request for review of disposition is based upon an alleged violation of a Court order, the Court shall not modify its disposition order unless it finds clear and convincing evidence of the violation.
 - a. Notwithstanding any other provision of law, the juvenile shall have no right to a jury trial in any hearing held under this subsection.

Section 19. Court Authorization for Medical Treatment

- A. Pursuant to § 7.3-64 of the *Juvenile Justice Code*, The Court may authorize medical, psychological or surgical care for a juvenile at any time when:

- B. A physician informs the Court orally or in writing that, in the physician's professional opinion, the life of the child would be greatly endangered without certain treatment; and
- C. A parent, guardian or custodian is not immediately available and cannot be found after reasonable effort in the circumstances of the case; or
- D. The parent(s), guardian or custodian refuses or fails to consent.
- E. Parental use of spiritual treatment to be given consideration. In making its order, the Court shall give due consideration to any treatment being given to the child by prayer, religious practice, or through other traditional spiritual practices, if the spiritual or religious practice that the child or custodian are adherents of rely on this form of treatment in lieu of medical treatment.
- F. If time allows in a situation of this type, the Court shall cause every effort to be made to grant the parent(s), guardian or custodian an immediate informal hearing, but this hearing shall not be allowed to further jeopardize the juvenile's life or health.
- G. Pursuant to § 7.3-65 of the *Juvenile Justice Code*, oral authorization by the Court is sufficient for care or treatment to be given and shall be accepted by any physician or hospital.
- H. Written. After entering any authorization under this section, the Court shall reduce the circumstances, finding and authorization in writing and enter it in the records of the Court and shall cause a copy of the authorization to be given to the appropriate physician, hospital or both.

Section 20. Rehearing

- A. Pursuant to § 7.3-66 of the *Juvenile Justice Code*, the Rules of Civil Procedure shall govern where they are not in conflict with the *Juvenile Justice Code*.
- B. Pursuant to § 7.3-67 of the *Juvenile Justice Code*, a party may seek a rehearing or new trial by filing a written motion stating the basis for relief sought within twenty-eight (28) calendar days after the decision of disposition or supplemental disposition.
 - 1. The Court may entertain an untimely motion for good cause shown.
 - 2. A motion will not be considered unless a matter not previously presented to the Court which if true would cause the Court to reconsider the case.

3. Pursuant to § 7.3-68 of the *Juvenile Justice Code*, all parties must be given notice of the motion in accordance with the *Juvenile Justice Code*.
- C. Pursuant to § 7.3-69 of the *Juvenile Justice Code*, any response by parties must be in writing and filed with the Court and opposing parties within seven (7) calendar days after notice of the motion.
- D. Pursuant to § 7.3-70 of the *Juvenile Justice Code*, the Judge may affirm, modify or vacate the decision previously made at its discretion, in whole or in part, of:
 1. The basis of the record;
 2. The memoranda prepared; or
 3. Hearing on the motion.
- E. Pursuant to § 7.3-71 of the *Juvenile Justice Code*, the Court need not hold a hearing before ruling on a motion.
 1. Any hearing conducted shall be in accordance with the rules for disposition hearings.
- F. The Court shall state the reasons for its decision on the motion on the record or in writing.
- G. Pursuant to § 7.3-72 of the *Juvenile Justice Code*, the Court may stay an order pending a ruling on the motion.

Section 21. Appeals to the Supreme Court

- A. Pursuant to § 7.3-73 of the *Juvenile Justice Code*, unless otherwise stated in the *Juvenile Justice Code*, the appellate procedures found in the NHBPCR-Nine shall apply to all appeals.
- B. Any party to a Juvenile Court Hearing may appeal a final Juvenile Court Order to the Nottawaseppi Huron Band of the Potawatomi Supreme Court.
- C. Pursuant to § 7.3-75 of the *Juvenile Justice Code*, any party seeking to appeal a final Juvenile Court order shall file a written notice of appeal with the Court within twenty-eight (28) calendar days of the final order.
- D. Pursuant to § 7.3-76 of the *Juvenile Justice Code*, the clearly erroneous standard shall be used in reviewing the findings of the Juvenile Court on appeal.
- E. Pursuant to § 7.3-77 of the *Juvenile Justice Code*, for purposes of appeal, a record of proceedings shall be made available to the Juvenile, the Parent(s), Guardian and/or Custodian, the Juvenile's Counsel and others upon Court order.

1. The party seeking the appeal shall pay costs of obtaining the record.
- F. Pursuant to § 7.3-78 of the *Juvenile Justice Code*, a stay of execution of the judgment may be ordered:
1. By the lower Court; or
 2. By the Supreme Court if denied by the lower Court.

Section 22. Peacekeeping - Reserved

Section 23. Jurisdiction of the Tribal Court

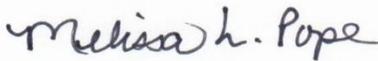
- A. Acceptance of a court appointment or referral from the Court submits the individual, agency, or entity to the NHBP Tribal Court’s jurisdiction as it relates to the Juvenile Court proceedings.

Section 24. Short Title, Effective Date, and Citation Format

- A. Short Title. These Rules are titled “Rules for Juvenile Justice Code Proceedings”.
- B. Effective Date. These Rules become effective when adopted by the Chief Judge of the Nottawaseppi Huron Band of the Potawatomi Tribal Court.
- C. Citation. The official abbreviated citation form to these Rules is: NHBPCR 13.

CERTIFICATE OF ADOPTION

The Chief Judge of the Tribal Court adopts the above Chapter of Court Rules on December 29, 2017.



Hon. Melissa L. Pope, Chief Judge

December 29, 2017
Date of Adoption

JUDICIAL HISTORY

The Chief Judge adopted the *Court Rules for Juvenile Justice Code Proceedings* on December 29, 2017.