

**Bureau of Indian Affairs, Interior**

**§ 11.900**

but shall not reverse the trial division decision unless the legal error committed affected a substantial right of a party or the outcome of the case.

**§ 11.801 Procedure on appeal.**

(a) An appeal must be taken within 15 days from the judgment appealed from by filing a written notice of appeal with the clerk of the court.

(b) The notice of appeal shall specify the party or parties taking the appeal, shall designate the judgment, or part thereof appealed from, and shall contain a short statement of reasons for the appeal. The clerk of the court shall mail a copy of the notice of appeal to all parties other than parties taking the appeal.

(c) In civil cases, other parties shall have 15 days to respond to the notice of appeal.

(d) In civil cases, the appellant may request the trial division to stay the judgment pending action on the notice of appeal, and, if the appeal is allowed, either party may request the trial division to grant or stay an injunction pending appeal. The trial division may condition a stay or injunction pending appeal on the depositing of cash or bond sufficient to cover damages awarded by the court together with interest.

**§ 11.802 Judgment against surety.**

Any surety to a bond submits himself or herself to the jurisdiction of the Court of Indian Offenses, and irrevocably appoints the clerk of the court as his or her agent upon whom any papers affecting his or her liability on the bond may be served.

**§ 11.803 Record on appeal.**

Within 20 days after a notice of appeal is filed, the clerk of court shall certify and file with the appellate division the record of the case.

**§ 11.804 Briefs and memoranda.**

(a) Within 30 days after the notice of appeal is filed, the appellant may file a written brief in support of his or her appeal. An original and one copy for each appellee shall be filed with the clerk of court who shall mail one copy by registered or certified mail to each appellee.

(b) The appellee shall have 30 days after receipt of the appellant's brief within which to file an answer brief. An original and one copy for each appellant shall be filed with the clerk of the court who shall mail one copy, by registered or certified mail, to each appellant.

**§ 11.805 Oral argument.**

The appellate division shall assign all criminal cases for oral argument. The court may in its discretion assign civil cases for oral argument or may dispose of civil cases on the briefs without argument.

**§ 11.806 Rules of court.**

The chief magistrate of the appellate division shall prescribe all necessary rules concerning the operation of the appellate division and the time and place of meeting of the court.

**Subpart I—Children's Court**

**§ 11.900 Definitions.**

For purposes of sections pertaining to the children's court:

(a) *Abandon* means the leaving of a minor without communication or failing to support a minor for a period of one year or more with no indication of the parents' willingness to assume a parental role.

(b) *Adult* means a person eighteen (18) years or older.

(c) *Counsel* means an attorney admitted to the bar of a state or the District of Columbia or a lay advocate admitted to practice before the Court of Indian Offenses.

(d) *Custodian* means one who has physical custody of a minor and who is providing food, shelter and supervision to the minor.

(e) *Custody* means the power to control the day-to-day activities of the minor.

(f) *Delinquent act* means an act which, if committed by an adult, would be designated a crime under this part or under an ordinance of the tribe.

(g) *Detention* means the placement of a minor in a physically restrictive facility.

(h) *Guardian* means a person other than the minor's parent who is by law responsible for the care of the minor.

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(i) *Guardian ad Litem* means a person appointed by the court to represent the minor's interests before the court.

(j) *Juvenile offender* means a person who commits a delinquent act prior to his or her eighteenth birthday.

(k) *Minor* means:

(1) A person under 18 years of age,

(2) A person 18 years of age or older concerning whom proceedings are commenced in the children's court prior to his or her eighteenth birthday, or

(3) A person 18 years of age or older who is under the continuing jurisdiction of the children's court.

(l) *Minor-in-need-of-care* means a minor who:

(1) Has no parent or guardian available and willing to take care of him or her;

(2) Is unwilling to allow his or her parent or guardian to take care of him or her;

(3) Has suffered or is likely to suffer a physical or emotional injury, inflicted by other than accidental means, which causes or creates a substantial risk of death, disfigurement, impairment of bodily functions or emotional health;

(4) Has not been provided with adequate food, clothing, shelter, medical care, education or supervision by his or her parent, guardian or custodian;

(5) Has been sexually abused;

(6) Has been committing delinquent acts as a result of parental pressure, guidance or approval; or,

(7) Has been committing status offenses.

(m) *Status offense* means an offense which, if committed by an adult, would not be designated a crime under this part or under an ordinance of the tribe.

### § 11.901 The children's court established.

When conducting proceedings under §§ 11.900–11.1114 of this part, the Court of Indian Offenses shall be known as the "Children's Court".

### § 11.902 Non-criminal proceedings.

No adjudication upon the status of any minor in the jurisdiction of the children's court shall be deemed criminal or be deemed a conviction of a crime, unless the children's court refers the matter to the Court of Indian

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Offenses. Neither the disposition nor evidence given before the children's court shall be admissible as evidence against the child in any proceeding in another court.

### § 11.903 Presenting officer.

(a) The agency superintendent and the chief magistrate of the children's court shall jointly appoint a presenting officer to carry out the duties and responsibilities set forth under §§ 11.900–11.1114 of this part. The presenting officer's qualifications shall be the same as the qualifications for the official who acts as prosecutor for the Court of Indian Offenses. The presenting officer may be the same person who acts as prosecutor in the Court of Indian Offenses.

(b) The presenting officer shall represent the tribe in all proceedings under §§ 11.900–11.1114 of this part.

### § 11.904 Guardian ad litem.

The children's court, under any proceeding authorized by this part, shall appoint, for the purposes of the proceeding, a guardian ad litem for a minor, where the court finds that the minor does not have a natural or adoptive parent, guardian or custodian willing and able to exercise effective guardianship, or where the parent, guardian, or custodian has been accused of abusing or neglecting the minor.

### § 11.905 Jurisdiction.

The children's court has exclusive, original jurisdiction of the following proceedings:

(a) Proceedings in which a minor who resides in a community for which the court is established is alleged to be a juvenile offender, unless the children's court transfers jurisdiction to the Court of Indian Offenses pursuant to § 11.907 of this part.

(b) Proceedings in which a minor who resides in a community for which the court is established is alleged to be a minor-in-need-of-care.

### § 11.906 Rights of parties.

(a) In all hearings and proceedings under §§ 11.900–11.1114 of this part the following rights will be observed unless