

Bureau of Indian Affairs, Interior

§ 11.911

(d) The minor need not be a witness against, nor otherwise incriminate, himself or herself.

(e) The children's court shall give the minor, and the minor's parent, guardian or custodian the opportunity to introduce evidence, to be heard on their own behalf and to examine witnesses.

§ 11.907 Transfer to Court of Indian Offenses.

(a) The presenting officer or the minor may file a petition requesting the children's court to transfer the minor to the Court of Indian Offenses if the minor is 14 years of age or older and is alleged to have committed an act that would have been considered a crime if committed by an adult.

(b) The children's court shall conduct a hearing to determine whether jurisdiction of the minor should be transferred to the Court of Indian Offenses.

(1) The transfer hearing shall be held no more than 30 days after the petition is filed.

(2) Written notice of the transfer hearing shall be given to the minor and the minor's parents, guardian or custodian at least 72 hours prior to the hearing.

(c) All the rights listed in § 11.906 shall be afforded the parties at the transfer hearing.

(d) The following factors shall be considered when determining whether to transfer jurisdiction of the minor to the Court of Indian Offenses:

(1) The nature and seriousness of the offense with which the minor is charged.

(2) The nature and condition of the minor, as evidenced by his or her age; mental and physical condition; past record of offenses; and responses to past children's court efforts at rehabilitation.

(e) The children's court may transfer jurisdiction of the minor to the Court of Indian Offenses if the children's court finds clear and convincing evidence that both of the following circumstances exist:

(1) There are no reasonable prospects for rehabilitating the minor through resources available to the children's court; and

(2) The offense allegedly committed by the minor evidences a pattern of

conduct which constitutes a substantial danger to the public.

(f) When a minor is transferred to the Court of Indian Offenses, the children's court shall issue a written transfer order containing reasons for its order. The transfer order constitutes a final order for purposes of appeal.

§ 11.908 Court records.

(a) A record of all hearings under §§ 11.900–11.1114 of this part shall be made and preserved.

(b) All children's court records shall be confidential and shall not be open to inspection to anyone but the minor, the minor's parents or guardian, the presenting officer, or others by order of the children's court.

§ 11.909 Law enforcement records.

(a) Law enforcement records and files concerning a minor shall be kept separate from the records and files of adults.

(b) All law enforcement records and files shall be confidential and shall not be open to inspection to anyone but the minor, the minor's parents or guardian, the presenting officer, or others by order of the children's court.

§ 11.910 Expungement.

When a minor who has been the subject of any proceeding before the children's court attains his or her twenty-first birthday, the children's court magistrate shall order the court records and the law enforcement records pertaining to the minor to be destroyed, except for adoption records which shall not be destroyed under any circumstances.

§ 11.911 Appeal.

(a) For purposes of appeal, a record of the proceedings shall be made available to the minor and parents, guardian or custodian. Costs of obtaining the record shall be paid by the party seeking the appeal.

(b) Any party to a children's court hearing may appeal a final order or disposition of the case by filing a written notice of appeal with the children's court within 30 days of the final order of disposition.

(c) No decree or disposition of a hearing shall be stayed by such appeal.