WAGANAKISING ODAWAK STATUTE 2000-09
DIRECT CONSENT AND OPEN ADOPTIONS

SECTION I: PURPOSE

The purpose of this statute is to allow for the voluntary adoptive placement of Tribal children to foster their stability and well being, and, whenever appropriate, provide for the continued contact between the adopted child, the child's biological parents, grand-parents, and/or other members of the extended family.

SECTION II. DEFINITIONS

A. "Court" means the Tribal Court of the Little Traverse Bay Bands of Odawa Indians.

B. "Parent" means the biological parent of a child.

C. "Petitioner" means a person who files a petition to adopt a child.

D. "Child" means a person less than eighteen years of age.

E. The terms "parent"and "petitioner," include the plural unless inconsistent with the context where such terms appear.

SECTION III. PETITION FOR ADOPTION

A. An adoption proceeding is commenced when a person, or if married, husband and wife jointly, who desires to adopt a child over whom the Tribal Court properly exercises jurisdiction, files a petition for adoption in the Court. Petitioner must serve the petition on the biological parents of the child whose rights have not been terminated by a court of competent jurisdiction,

and the Child Welfare Commission of the Little Traverse Bay Bands of Odawa Indians.

B. Contents of Petition. The petition for adoption shall be verified by each petitioner and shall contain the following information:

1. The name, date and place of birth, and place of residence of each petitioner, including the maiden name of the adopting mother.

2. The name, date and place of birth, and place of residence if known of the adoptee.

3. The relationship, if any, of the adoptee to the petitioner.

4. The full name by which the adoptee shall be known after adoption.

5. The full description of the property, if any, of the adoptee.

6. The names of the parents of the adoptee and the place of residence of each living parent if known, and whether, to the best of Petitioner's knowledge, the parents intend to consent to adoption by petitioner.

7. The name and place of residence of the guardian or attorney of the person or estate of the adoptee, if any has been appointed.

8. Simultaneously with the Petition or a soon as practicable thereafter, the petitioner shall file with the Court a copy of a pre-placement assessment prepared in accordance with section III of this statute, of the petitioner completed or updated within 1 year before the petition is filed with a finding that the petitioner is suitable to be a parent of an adoptee.

SECTION IV. PRE-PLACEMENT ASSESSMENT

A. The Court shall not order a pre-adoptive placement until it receives and reviews a pre-placement assessment either prepared by the Tribal Social Services Department or prepared by a social services agency of a different jurisdiction and approved by the Tribal Social Services Department.

B. A pre-placement assessment must contain the following information:

1. Age, nationality, race or ethnicity, any religious preference, and tribal affiliation, if any.

2. Marital and family status and history, including the presence of other children or adults in the household and the relationship of those individuals to the adoptive parent.

3. Physical and mental health, including any history of substance abuse.

4. Educational and employment history and any special skills and interests.

5. Property and income, including outstanding financial obligations as indicated in a current financial report provided by the individual.

6. Reason for wanting to adopt.

7. Whether the individual has ever been the respondent in a domestic violence proceeding or a proceeding concerning a child who was allegedly abused, dependent, deprived, neglected, abandoned, or delinquent, and the outcome of the proceeding.

8. Whether the individual has ever been convicted of a crime.

9. Any fact or circumstance that raises a specific concern about the suitability of the individual as an adoptive parent, including the quality of the environment in the home, the functioning of other children in the household, and any aspect of the individual's familial, social, psychological, or financial circumstances that may be relevant to a determination that the individual is not suitable. A specific concern is one that suggests that placement of any child, or a particular child, in the home of the individual would pose a risk of harm to the physical or psychological well-being of the child.

SECTION V. CONSENT OF BIOLOGICAL PARENTS

A. A biological parent whose parental rights to a child being considered for adoption have not been terminated by a court of competent jurisdiction may voluntarily consent to the adoption of the child by petitioner.

B. Requirements for validity. A consent to adoption must be executed either:

1. In the presence of the Court after the Court explains:

   a. The consent may result immediately in a pre-adoptive placement with petitioner. Once the pre-adoptive placement is ordered by the Court, the parent will have no legally enforceable right to visit or have any contact with the child, unless ordered under Section V of this Statute.

   b. The consent may result in a final order of adoption. Upon entry of the final adoption order, the parent shall have no legally recognized relationship to the child, and have no legally enforceable right to visit or have any contact with the child, unless ordered under Section V of this Statute.

   c. If for any reason prior to the entry of a final adoption order, petitioner does not retain custody of the child, the child will be returned to the custody of the biological parent unless the biological parent is also subject to involuntary removal under the Child Welfare Code (WOTC 5.101 *et seq.*)

2. Outside of the presence of the Court, with two witnesses and notarized, and containing such statements and under such circumstances as the Court is assured that the consent was voluntarily executed and that the parent fully understood the ramifications set out in subsection III(A)(1) above.

C. Consent conditioned on open adoption. A consent to adoption may be expressly conditioned on entry of an order of the Court approving an open adoption agreement between the parent and petitioner under Section V of this Statute.

SECTION VI. OPEN ADOPTION AGREEMENTS

Simultaneously with, or prior to, the execution of a consent to adoptive placement, the parent and petitioner may execute an open adoption agreement that sets out post adoption visitation rights of the parent and/or other named members of the child's biological family. Upon accepting a consent conditioned on such agreement, the Court shall enter the open adoption agreement as a fully enforceable order of the Court. Provided, if the Court finds that such agreement would significantly threaten the safety of the child, the Court may refuse to accept the consent or enter the open adoption order. In such situations, an adoptive placement can only proceed following involuntary termination of parental rights under the provisions of the Child Welfare Code (WOTC 5.101 *et seq.*)

SECTION VII. PRE-ADOPTIVE PLACEMENT AND ASSESSMENT

A. After holding a hearing on the Petition, finding that the pre-placement assessment indicates the suitability of the Petitioner to adopt the child, accepting the consent of the parent, and, if applicable, entering an open adoption agreement order, the Court shall order a pre-adoptive placement of the child with Petitioner. During the pre-adoptive placement, Petitioner's rights to care for the child shall be equivalent to those of a legally appointed guardian. The parent and/or members of the child's biological extended family, shall have no rights to visit the child

unless specified in an agreement ordered by the Court under Section V.

B. Between 150-180 days from the commencement of the pre-adoptive placement, the Tribal Social Services Department shall prepare and file in the Court a pre-adoptive placement assessment to update the information contained in the pre-placement assessment and assess the functioning of the child while actually in the care and custody of petitioner. The assessment may be prepared by a social services agency of a different jurisdiction if approved by the Tribal Social Services Department.

SECTION VIII. FINAL ADOPTION ORDER

A. No sooner than six months after the commencement of the pre-adoptive placement the Court shall hold a hearing to determine whether to enter a final order of adoption. If the pre-adoptive placement assessment finds petitioner suitable to adopt the child, and petitioner reaffirms his/her commitment to adopt the child thereby assuming full legal and moral responsibility for the parental care and upbringing of the child, the Court shall enter an order terminating the parental rights of the biological parent and a final order of adoption naming petitioner as the adoptive parent of the child. If the child is an enrolled member, or eligible to be an enrolled member in the Little Traverse Bay Bands of Odawa Indians, such final order shall contain a provision prohibiting the adoptive parent from disenrolling or failing to enroll the child.

B. Effect of Final Order of Adoption. Upon entry of the final order of adoption, the adoptive parent shall from that date forward have the same legal relationship with, authority over, and responsibility for, the adopted child as would a biological parent over a child. From that date forward the biological parent shall have no legal relationship to the child, and the parent and child's biological family shall have no legally enforceable right to visit the child except as stated in a Court ordered open adoption agreement under Section V.

C. Tribal membership. Unless otherwise specified in Tribal law, membership rights are

determined by the child's biological family, and are not affected by adoption of the child.

SECTION IX. RETURN OF CHILD TO PARENT

If for any reason petitioner is unable or unwilling to carry through with the adoption, the Court shall order the child returned to the care and custody of the child's biological parent unless the child is also placed outside of parental care pursuant to an involuntary proceeding under the Child Welfare Code (WOTC 5.101 *et seq.*).

SECTION X. ADOPTION RECORDS

Until the adoptee reaches the age of eighteen, records of adoption proceedings may only be accessed by the adoptive parent or subsequent legal guardian of the child for good cause, which shall include family related medical information, and by the Tribal Enrollment Department or enrollment departments of other Indian tribes, to the extent necessary to confirm eligibility for enrollment. Enrollment Departments shall keep such records strictly confidential. At any time after reaching the age of eighteen, the adoptee may review and/or copy any records in his/her adoption file.

Certification

As Tribal Chairman and Tribal Secretary, the undersigned certify that this Statute was duly enacted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on July 23, 2000, at which a quorum was present, by a vote of 7 in favor, 0 opposed, and 0 abstentions as recorded by this roll call.

	In Favor	Opposed	Abstained	Absent
George Anthony	X			
Gerald Chingwa	X			
Dorothy Gasco	X			
Janet Shomin	X			
Rita Shananaquet	X			
Susan Wysocki	X			
Alice Yellowbank	X			

Date: 8/7/00

Gerald Chingwa, Tribal Chairman

Dorothy Gasco, Tribal Secretary