

**WAGANAKISING ODAWAK STATUTE 1996006
CHILD WELFARE COMMISSION**

SECTION I: SHORT TITLE AND PURPOSE

A. Short Title. This Statute may be cited as the "Child Welfare Commission Act."

B. Purpose. Children are the Tribe's most vital and cherished resource. The Tribe's future depends on the health and well-being of its children. Children have a sacred right to receive the care and guidance necessary for their spiritual, emotional, mental and physical development. Feeling pride from their identity as Odawa will help them grow into strong, healthy responsible adult Tribal members. The purpose of the Child Welfare Commission created under this statute is to protect and promote the welfare of Tribal children and families by fully exercising the Tribe's rights and responsibilities under the Indian Child Welfare Act of 1978 and Tribal Law.

SECTION II: CREATION OF CHILD WELFARE COMMISSION

A. Creation of Commission. The Tribal Council hereby creates the Child Welfare Commission, which shall consist of five (5) Tribal members at least eighteen years of age appointed by the Tribal Council. Members of the Tribal Council may be appointed to the Commission.

B. Term and compensation. Members of the Child Welfare Commission shall be appointed to serve for three (3) year terms. Members may be reappointed for additional terms without limitation. Provided, to stagger terms, when the Tribal Council makes initial appointments, two people shall be appointed to two (2) year terms, and three people shall be appointed to three (3) year terms. All appointments thereafter shall be for three (3) year terms. One of the Commission members shall be appointed by the Commission to serve as Chairperson for a one year term. There shall be no limit on reappointment as long as the chairperson remains on the Commission. The Tribal Council may determine and authorize compensation to be paid to members of the Commission based upon the Tribal Council's determination of the time required to be expended upon Commission duties and the qualifications of the appointed Commissioners.

C. Oath of Office. Immediately upon appointment, the Tribal Chairman shall administer the oath of office to the members of the Child Welfare Commission which oath of office shall include a commitment to uphold the Constitution and laws of the Little Traverse Bay Bands of

Odawa Indians and to perform faithfully and diligently the duties and responsibilities set forth in this Statute.

D. Vacancies. In the event a vacancy occurs in the Child Welfare Commission, by virtue of death, resignation or removal, the Tribal Council shall appoint a qualified Tribal member to fill the remaining term of office.

E. Removal. Members of the Child Welfare Commission shall not be removed during their terms of office except for misconduct, or neglect of duties, including violation of any provision of this Statute or other applicable Tribal law. The procedure for removal shall be as follows:

a. In the event the Tribal Council has cause to suspect that a member may be subject to removal for one or more of the reasons specified in this section, or upon receipt of a petition signed by at least twenty (20) members of the Little Traverse Bay Bands of Odawa Indians alleging the same, or receipt of a petition by two members of the Child Welfare Commission alleging the same, the Chairman of the Little Traverse Bay Bands of Odawa Indians shall call a special meeting of the Tribal Council to deal with a request to remove the member.

b. In the event the Tribal Council determines that a sufficient number of valid signatures are affixed to the petition and that the charges set forth in the petition, if verified, constitute grounds for removal of the Commissioner from his or her appointed position, the Tribal Council shall set a date for hearing the charges on the petition and shall provide notice to the member of the Child Welfare Commission whose removal is being sought.

c. Notice to the member whose removal is being sought shall be served no later than two (2) weeks prior to the date set for the hearing, shall include the date, time and location of the hearing, shall attach a full and complete copy of a statement of the Tribal Council or the petition seeking removal, and shall attach a copy of the rules to be followed during the hearing. Upon good cause shown, the Tribal Council may postpone the hearing to a later date. Notice shall also advise the recipient of the availability of Tribal Council subpoena power to require the presence of any witness or the production of any document which the recipient deems necessary in order to attempt to defend against the charges contained in the

petition.

d. The Tribal Council shall also provide copies of the notice to the other members of the Child Welfare Commission and to each member of the Little Traverse Bay Bands of Odawa Indians who signed the petition, advising each of them of the opportunity to appear and to present evidence, either in support of the charges against the member of the Child Welfare Commission whose removal is sought or in support of the defense of such member. Any person who has properly signed such petition shall have the ability to request the Tribal Council to issue a subpoena to require the presence of witnesses or production of documents deemed necessary to support the charges contained in the petition.

e. The Tribal Council shall preside at the hearing of the charges contained in any such petition and shall allow as much time as necessary for the testimony of witnesses and presentation of evidence in support of the charges, as much time as necessary for the testimony of witnesses and presentation of evidence to refute the charges, and such time as the Tribal Council deems appropriate for summary statements and arguments. At any time, the Tribal Council may recess the hearing until a later time certain. At the request of the member whose removal is at issue, the hearing may be held in closed session. The Tribal Council also may elect to receive in closed session any evidence public disclosure of which might compromise any on-going law-enforcement investigation.

f. Upon the conclusion of the presentation of evidence and of summary statements and arguments, the Tribal Council shall deliberate in closed session and shall either dismiss the petition or shall remove the member charged in the petition from the Child Welfare Commission, upon such findings of fact as may be appropriate. The decision of the Tribal Council shall be final.

SECTION III: DUTIES OF THE CHILD WELFARE COMMISSION

The Child Welfare Commission shall have the following duties:

A. Be advised of pending state court proceedings as provided in the Indian Child Welfare

Act and make recommendations to the Tribal prosecutor and Tribal Court regarding intervention in such proceedings and transfer of jurisdiction from state court to the Tribal Court.

- B. Monitor child welfare proceedings involving tribal members in the state or tribal courts.
- C. Advise the Tribal Council and Tribal Court on child welfare matters and recommend statutes, policies and procedures to protect children and help families.
- D. Conduct informal conferences with children and parents, guardians, or custodians to explore alternatives to formal court jurisdiction for resolving concerns about the proper care and supervision of children.
- E. Make recommendations to the Tribal Court regarding the need to take formal Court action to protect a child.
- F. Make case management recommendations with Tribal Social workers and officials regarding the care, custody and supervision of tribal children under court jurisdiction, including recommendations as to a case plan, guardianship, placement and termination of parental rights. The Commission may review case plans developed by social workers and make alternative recommendations to the Tribal Court if the social worker and Commission are not in agreement.
- G. License and monitor group, shelter, foster and adoptive homes and child placing agencies in consultation with social workers and other applicable Tribal entities.
- H. Engage in further activities as directed by the Tribal Council to protect and improve the welfare of Tribal Children.

SECTION IV. NOTICE AND STAFFING

A. Pending State Court Proceedings. The Tribal Council and Tribal Administrative Staff shall insure that the Chairperson of the Commission receives notice of all proceedings pending in State Court where the Tribe has been notified under the Indian Child Welfare Act.

B. Children domiciled on the Reservation. Tribal social services staff or the Tribal prosecutor

shall notify the Commission of all instances where they believe Tribal Court action may be necessary to protect a child domiciled on the Reservation.

C. Administrative Staff. The Tribal Council is authorized to assign administrative staff to assist the Commission.

SECTION V: MEETINGS, VOTING, INVESTIGATION, CONFLICTS OF INTEREST, CONFIDENTIAL RECORDS

A. Meetings. The Child Welfare Commission shall meet at least one time per month. Provided, the Commission may on its own decide to convene as often as necessary to carry out its duties. Due to the confidential nature of the business conducted by the Child Welfare Commission, meetings or portions of meetings where specific cases are being discussed shall be closed to all persons other than those whose participation is necessary and appropriate to the specific case.

B. Voting. Actions of the Child Welfare Commission shall be decided by a majority vote of those present at the meeting. The Chair is entitled to vote on all matters before the Commission. A quorum shall consist of three (3) members including the Chair. Provided, an action may be ratified by non-attending members. If ratification is sought, all non-attending members shall be contacted personally, or by phone or fax, and all ratifications shall be reduced to writing and placed in the minutes and approved at the next regularly scheduled Commission meeting.

C. Investigation. The Commission shall not be involved in gathering information on Tribal families and children outside of Commission meetings. Field work, such as home studies, shall be conducted by Tribal social services staff. When requested by the Commission, social services staff shall provide the Commission with all written reports and studies on Tribal families and children. The Commission may direct social services staff to gather additional information where appropriate. All members shall have access to the same information. If Commission members are contacted individually, they shall refer inquiries to the appropriate Tribal official or staff member.

D. Conflicts of Interest. Commission members who are serving as foster parents or

guardians may participate in the review of the status of children under their own care only to the extent as any other foster parent or guardian. Commission members shall not participate in the review of the status of children under the care of members of their immediate family (father, step-father, father-in-law, mother, step-mother, mother-in-law, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, child, step-child) and may absent themselves in any situation where their relationship with individuals before the Commission may interfere with their objectivity, or the Commissioner otherwise believes that he/she has or appears to have a conflict of interest.

E. Confidential Records. All records of the Commission involving specific child welfare matters shall be kept strictly confidential. Only the Tribal Court may review or receive copies of written records kept by the Commission.

SECTION VI: SAVINGS CLAUSE

In the event that any phrase, provision, part, paragraph, subsection or section of this ordinance is found by a court of competent jurisdiction to violate the Constitution, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, paragraph, subsection or section shall be considered to stand alone and to be deleted from this ordinance, the entirety of the balance of the ordinance to remain in full and binding force and effect.

Certification

As Tribal Chairman and Tribal Secretary, the undersigned certify that this Child Welfare Commission 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 June 23, 1996, 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	<u>✓</u>	_____	_____	_____
Patricia Dyer-Deckrow	<u>✓</u>	_____	_____	_____
Frank Ettawageshik	<u>✓</u>	_____	_____	_____
Barry Laughlin	<u>✓</u>	_____	_____	_____
Shirley Oldman	<u>✓</u>	_____	_____	_____
Janet Shomin	<u>✓</u>	_____	_____	_____
Alice Yellowbank	<u>✓</u>	_____	_____	_____

Date: 6-23-96

Frank Ettawageshik, Tribal Chairman

Barry Laughlin, Tribal Secretary