

WAGANAKISING ODAWAK STATUTE 2009-013
CHILD WELFARE COMMISSION

SECTION I. SHORT TITLE AND PURPOSE

A. Short Title

This Statute may be cited as the “Child Welfare Commission Act” and amends WOS 1996006.

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. DEFINITIONS

A. “Department” means the Human Services Department.

B. “Emergency” means an unexpected situation that requires immediate action.

SECTION III. 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

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. 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 to be expended upon Commission duties and the qualifications of the appointed Commissioners.

C. Oath of Office. Upon appointment, The Tribal Court 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 Citizen to fill the remaining term of office.

E. Removal. Members may be removed in accordance with applicable laws.

SECTION IV. DUTIES OF THE CHILD WELFARE COMMISSION

The Child Welfare Commission shall have the following duties:

A. Shall be the licensing and monitoring body of community based shelter facilities including: group, shelter, foster, adoptive homes, and child placing agencies in consultation with the Department and other applicable entities.

B. Be advised of pending state court proceedings as provided in the Indian Child Welfare Act and may make recommendations to the Tribal Prosecutor regarding intervention in such proceedings and transfer of jurisdiction from state court to the Tribal Court.

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. Make recommendations to the Tribal Prosecutor regarding the need to take formal Court action to protect a child.

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- E. Make case management recommendation to the Tribal Social worker regarding the care, custody and supervision of Tribal children under court jurisdiction.
- F. Make recommendations for programs and services to the Department.
- G. Engage in further activities as directed by the Tribal Council to protect and improve the welfare of Tribal Children.

SECTION V. LICENSING OF CHILD PLACEMENT

- A. The Commission may license community based shelter facilities that provide a safe and loving home that will be nurturing to children.
- B. The Commission shall develop regulations for issuing and monitoring facility licenses that shall be submitted to Tribal Council for approval. Such regulations shall include minimal home safety standards and qualifications for license holders.

SECTION VI. NOTICE

A. Pending State Court Proceedings. The Tribal Prosecutor 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 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.

SECTION VII. MEETINGS, EMERGENCY MEETINGS, VOTING, INVESTIGATION, CONFLICTS OF INTEREST, CONFIDENTIAL RECORDS

A. Meetings. The Child Welfare Commission shall meet 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. Emergency Meetings. Emergency meetings shall be held for any urgent matter that meets the definition of an emergency meeting.

C. 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 brought before the Commission. A quorum shall consist of two (2) members, with one member being 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.

D. 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 Department. When requested by the Commission, the Department shall provide the Commission with all written reports and studies on Tribal families and children. The Commission may direct the Department 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.

E. 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.

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

records kept by the Commission. Confidential records may be reviewed by an auditor and such auditor shall adhere to any applicable Code of Conduct standards.

SECTION VIII. 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.

SECTION IX: EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval which ever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this 2009-013 Child Welfare Commission

Statute was duly passed by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on May 3, 2009 at which a quorum was present, by a vote of 6 in favor, 3 opposed, 0 abstentions, and 0 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Harrington, Jr.	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Melvin L. Kiogima	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Dexter McNamara	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Marvin Mulholland	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Rita Shananaquet	<u> </u>	<u>X</u>	<u> </u>	<u> </u>
Alice Yellowbank	<u> </u>	<u>X</u>	<u> </u>	<u> </u>
Gerald V. Chingwa	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Regina Gasco Bentley	<u> </u>	<u>X</u>	<u> </u>	<u> </u>
Beatrice A. Law	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

Date: May 5, 2009

Beatrice Law, Legislative Leader

Date: May 3, 2009

Regina Gasco Bentley, Secretary

Received by the Executive Office on May 6, 2009 by Lisa Flynn

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: June 1, 2009

Frank Ettawageshik, Tribal Chairperson