1		WAGANAKISING ODAWAK STATUTE # 2021-XXX		
2	GKA	NDPARENT and GRANDCHILD VISITATION STATUTE		
<i>3</i>				
5	SECTION I.	PURPOSE		
6				
7	The purposes of thi	s Statute are to establish a cause of action for Grandparent and Grandchild		
8	Visitation, and to s	et forth the criteria for granting a request for Grandparent and Grandchild		
9	Visitation.			
10				
11				
12	SECTION II.	DECLARATION OF VALUES AND GRANDCHILD'S RIGHTS		
13				
14	<b>A.</b> Grandchildre	en are the Tribe's most vital and cherished resource. The Tribe's future depends		
15	on the health and we	ell-being of its grandchildren.		
16				
17		en have a sacred right to receive the care and guidance necessary for their		
18	•	mental, and physical development by preserving their interest in the culture,		
19	•	ns of the Tribe. Feeling pride from their identity as Odawak will help them		
20	grow into adult Trib	oal Citizens who are strong, healthy, and responsible.		
21				
22	CECTION III	DEFINITIONS		
23	SECTION III.	DEFINITIONS		
24	For the numerous of	Sthis Statute only, the following would and physics shall have the magnines		
25		This Statute only, the following words and phrases shall have the meanings		
<ul><li>26</li><li>27</li></ul>	delineated below. The plural encompasses the singular, and the singular encompasses the plura wherever appropriate.			
28	wнеге ver арргорна			
29	<b>A.</b> "Grandchild	"means a person who is less than eighteen (18) years of age, has not been		
30		ourt of competent jurisdiction, and is either (1) a Tribal Citizen or (2) eligible		
31		e Tribe under Article V, Subsection A of the LTBB Constitution.		
32	1			
33	<b>B.</b> "Grandparer	nt" means the parent of the grandchild's father or mother, who is a Tribal		
34	Citizen.			
35				
36	1 0 1			
	1 Grandparent a	and Grandchild Visitation as sponsored by Councilor Tamara Kiogima  Treasurer Marcella Reyes		

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1	C.	"Reservation" means all lands within the boundaries of the reservations for Little Traverse
2	as set	out in Article I, paragraphs third and fourth of the Treaty of 1855, 11 Stat. 621, plus any
3	lands s	set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the
4	event 1	that the 1836 reservation is determined to include lands which are not included within the
5	1855 1	reservation, plus any lands outside of those boundaries which are now or in the future
6	declare	ed to be Little Traverse reservation by the Department of the Interior or an act of Congress.
7		
8	D.	"Tribal Citizen" means a person is who an enrolled member of the Little Traverse Bay
9	Bands	of Odawa Indians.
10		
11	<b>E.</b>	"Tribal Court" means the Tribal Court of the Little Traverse Bay Bands of Odawa Indians.
12		
13	F.	"Tribe", "Tribal" or "LTBB" means the Little Traverse Bay Bands of Odawa Indians.
14		
15		
16	SECT	ION IV. JURISDICTION
17		
18	A.	Tribal Court shall have jurisdiction if the action involves a grandchild and the petition is
19	filed b	y a grandparent requesting a court order for Grandparent and Grandchild Visitation within
20	the Tri	be's Reservation.
21		
22	В.	Jurisdiction once exercised by the Court is continuing and exclusive unless terminated by
23	the Co	ourt. Full faith and credit shall apply to the Court's order for Grandparent and Grandchild
24	Visitat	ion.
25		
26		
27	SECT	ION V. CAUSE OF ACTION
28		
29	A.	A cause of action is created when a grandparent seeks Grandparent and Grandchild
30	Visitat	ion involving a grandchild under one (1) or more of the following circumstances:
31		
32		1. An action for divorce, separate maintenance, or annulment involving the
33		grandchild's parents is pending before the court.
34		
35		2. The grandchild's parents are divorced, separated under a judgment of separate
	2	Grandparent and Grandchild Visitation as sponsored by Councilor Tamara Kiogima

1	maintenance, or have had their marriage annulled.			
2				
3	<b>3.</b> The grandchild's parent who is a grandchild of the grandparents is deceased.			
4				
5	4. The grandchild's parents have never been married, they are not residing in the			
6	same household, and paternity has been established by the completion of an			
7	acknowledgment of parentage, or by a determination by a court of competent jurisdiction			
8	that the individual is the father of the grandchild.			
9				
10	5. The legal custody of the grandchild has been given to a person other than the			
11	grandchild's parent, or the grandchild is placed outside of and does not reside in the home			
12	of a parent, with the exception of a placement of a grandchild for adoption which			
13	terminates the right of a grandparent to commence an action for Grandparent and			
14	Grandchild Visitation.			
15				
16	<b>B.</b> A court shall not permit a parent of a father who has never been married to the			
17	grandchild's mother to seek an order for Grandparent and Grandchild Visitation, unless the father			
18	has completed an acknowledgment of parentage, or the father has been determined to be the			
19	father by a court of competent jurisdiction.			
20				
21	C. The court shall not permit the parent of a putative father to seek an order for Grandparent			
22	and Grandchild Visitation unless the putative father has provided substantial and regular support			
23	or care in accordance with the putative father's ability to provide the support or care.			
24	D. Adamia of a soundability of a soundability of the state of the state of the sound of a			
25	<b>D.</b> Adoption of a grandchild by a stepparent, does not terminate the right of the parent of a			
26	deceased parent of the grandchild to commence an action for Grandparent and Grandchild			
27	Visitation with that grandchild.			
<ul><li>28</li><li>29</li></ul>				
30	SECTION VI. FILING OF PETITION			
31	SECTION VI. FILING OF LETITION			
32	<b>A.</b> A grandparent seeking a Grandparent and Grandchild Visitation order shall commence			
33	an action for Grandparent and Grandchild Visitation, by filing a petition with Tribal Court.			
34	an action for Orangement and Orangemia Violation, of thing a petition with those Court.			
J .				

The petition for Grandparent and Grandchild Visitation shall be accompanied by an

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B.

1	affidavit se	etting forth	facts	supporting	the	requested	order.
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**C.** The grandparent shall give notice of the filing to each person who has legal custody of the grandchild.

**D.** A party having legal custody may file an opposing affidavit.

**E.** By the Court on its own motion, the Court may utilize alternative dispute resolution or Peacekeeping, or may hold a hearing. At the hearing, parties submitting affidavits shall be allowed an opportunity to be heard.

**F.** The grandparent must show that they have established custodial environment for the grandchild.

In order to give deference to the decisions of fit parents, it is that a fit parent's decision to G. deny Grandparent and Grandchild Visitation does not create a substantial risk of harm to the grandchild's spiritual, emotional, mental, physical development, and preserve interest in the culture, history and traditions of the Tribe. To rebut the presumption, a grandparent filing a petition must prove by a preponderance of the evidence that the parent's decision to deny Grandparent and Grandchild Visitation creates a substantial risk of harm to the grandchild's spiritual, emotional, mental, physical development and preserve interest in the culture, history and traditions of the Tribe. If the grandparent does not overcome the presumption, the court shall

dismiss the petition.

**H.** If both fit parents sign an affidavit stating that they oppose an order for grandparenting time, the court shall dismiss petition seeking an order for Grandparent and Grandchild Visitation. This does not apply if one (1) of the fit parents is a stepparent who adopted a grandchild and the grandparent seeking the order is the natural or adoptive parent of a parent of the grandchild who is deceased or whose parental rights have been terminated.

- I. If the court finds that a grandparent has met the standard for rebutting the presumption of preponderance of the evidence, the court shall consider whether it is in the best interests of the grandchild to enter an order for Grandparent and Grandchild Visitation. If the court finds by a preponderance of the evidence that it is in the best interests of the grandchild to enter a Grandparent and Grandchild Visitation order, the court shall enter an order providing for
  - 4 Grandparent and Grandchild Visitation as sponsored by Councilor Tamara Kiogima

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1	reason	able gra	andparenting time of the grandchild by the grandparent by general or specific terms
2	and co	nditions	s.
3			
4	J.	In dete	ermining the best interests of the grandchild, the court shall consider all of the
5	follow	ing:	
6			
7		1.	The love, affection, and other emotional ties existing between the grandparent and
8		the gra	andchild.
9			
10		2.	The length and quality of the prior relationship between the grandchild and the
11		grandp	parent, the role performed by the grandparent, and the existing emotional ties of the
12		grando	child to the grandparent.
13			
14		3.	The grandparent's moral fitness.
15			
16		4.	The grandparent's mental and physical health.
17			
18		5.	The grandchild's reasonable preference, if the court considers the grandchild to be
19		of suff	icient age to express a preference.
20			
21		6.	The effect on the grandchild of hostility between the grandparent and the parent of
22		the gra	andchild.
23			
24		7.	The willingness of the grandparent, except in the case of abuse or neglect, to
25		encour	rage a close relationship between the grandchild and the parent or parents of the
26		grando	child.
27			
28		8.	Any history of physical, emotional, or sexual abuse or neglect of any grandchild
29		by the	grandparent.
30			
31		9.	Whether the parent's decision to deny, or lack of an offer of, grandparenting time
32		is relat	ted to the grandchild's well-being or is for some other unrelated reason.
33			

3	culture on an ongoing basis.
4	
5	11. Any other factor relevant to the physical and psychological well-being of the
6	grandchild.
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8	
9	SECTION VII. PROHIBITIONS
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11	A. A grandparent may not file a petition more than once every two (2) years, absent a showing
12	of good cause. If the court finds there is good cause to allow a grandparent to file more than one
13	(1) petition in a two (2)-year period, the court shall allow the filing and shall consider the petition.
14	
15	B. A Grandparent and Grandchild Visitation order does not create parental rights in the
16	individual or individuals to whom Grandparent and Grandchild Visitation are granted. The entry
17	of a Grandparent and Grandchild Visitation order does not prevent a court of competent
18	jurisdiction from acting upon the custody of the grandchild, the parental rights of the grandchild,
19	or the adoption of the grandchild.
20	
21	
22	SECTION VIII. MODIFICATION OR TERMINATION
23	
24	A. A court shall not modify or terminate a Grandparent and Grandchild Visitation order
25	unless it finds by a preponderance of the evidence, on the basis of facts that have arisen since
26	entry of the Grandparent and Grandchild Visitation order or were unknown to the court at the time
27	it entered that order, that a change has occurred in the circumstances of the grandchild or his or
28	her custodian and that a modification or termination of the existing order is necessary to avoid
29	creating a substantial risk of harm to the grandchild's spiritual, emotional, mental, physical
30	development and preserve interest in the culture, history and traditions of the Tribe.
31	D. The cond we differ a section of Condenses and Condenses delia Victoria and selection
32	<b>B.</b> The court modifying or terminating a Grandparent and Grandchild Visitation order shall
33	include specific findings of fact in its order in support of its decision.
34	
35	SECTION IV COURT DECORD
36	SECTION IX. COURT RECORD  6 Grandparent and Grandchild Visitation as sponsored by Councilor Tamara Kiogima
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To preserve the opportunity for the grandchild to learn about their culture and

heritage, and to become productive adult members of the Tribe, by experiencing their

**10.** 

1	
2	The Court shall make a record of its analysis and findings including the reasons for granting or
3	denying a Grandparent and Grandchild Visitation petition.
4	
5	
6	SECTION X. SEVERABILITY
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8	If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason
9	held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be
10	deemed a separate, distinct and independent provision and such holding shall not affect the validit
11	of the remaining portions thereof.
12	
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14	SECTION XI. EFFECTIVE DATE
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16	Effective upon signature of the Executive or thirty (30) days from Tribal Council approva
17	whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council overrid
18	of the veto.
19	
20	
21	CERTIFICATION