

CHAPTER 2 - GENERAL PROVISIONS

201 JURISDICTION

A. Except as otherwise provided by law, the Court shall have exclusive original jurisdiction in proceedings in which the child resides within the territorial jurisdiction of the Oneida Indian Nation and is alleged to be a "juvenile offender" as defined in Section 102 of this Code.

B. The Court shall have exclusive original jurisdiction over an individual who is a parent, guardian or custodian of a child alleged to be a juvenile offender in a proceeding under this Code and who resides or is found within the territorial jurisdiction of the Oneida Indian Nation.

202 NON-CRIMINAL PROCEEDING

No adjudication upon the status of any child shall be deemed criminal or be deemed a conviction of a crime.

203 RIGHTS OF THE JUVENILE OFFENDER IN PROCEEDINGS UNDER THIS CODE

A. Privilege against self-incrimination. A child alleged to be a juvenile offender shall from the time of being taken into custody be accorded and advised of the privilege against self-incrimination and from the time the child is taken into custody shall not be questioned except to determine identity, to determine the name(s) and location of the child's parent or custodian, or to conduct medical assessment or treatment for alcohol or substance abuse under this Code when the child's health and well-being are in serious jeopardy.

B. Admissibility of Evidence. In a proceeding on a petition alleging that a child is a juvenile offender:

1. an out-of-Court statement that would be inadmissible in a criminal matter in the Court shall not be received in evidence;

2. evidence illegally seized or obtained shall not be received in evidence to establish the allegations of a petition;

3. neither the fact that the child has at any time been a party in another jurisdiction to a "Child in Need of Care," "Person in Need of Supervision," child abuse or neglect proceeding, or any comparable proceeding, nor any information obtained during the pendency of such proceedings, shall be received into evidence.

C. Fingerprinting and Photographs. The child shall not be fingerprinted nor photographed for any reason arising out of any proceeding or custody pursuant to this Code.

D. Right to Retain Counsel. The child and his parent, guardian or custodian shall be advised by the Court that the child may be represented by counsel at all stages of the proceedings. If counsel is not retained for the child, or if it does not appear that counsel will be retained, the Court shall appoint counsel for the child.

204 INSPECTION OF COURT RECORDS

A. Records Open for Inspection. Records of Court proceedings shall be open to inspection by the child, parents, guardian, or custodian, attorneys and other parties in proceedings before the Court, and to any agency to which legal custody of the child has been transferred.

B. Records Not Open for Inspection. Probation records and all other reports of social and clinical studies shall not be open to inspection, except by order of the Court.

205 EXPUNGEMENT OF RECORDS

Any child who has been adjudicated as a juvenile offender, who was taken into custody on an allegation of being a juvenile offender, or who was the subject of a proceeding as an alleged juvenile offender, may petition the Court for the expungement of his record according to Court rules.

206 EXCLUSION OF CERTAIN STATEMENTS BY ALLEGED JUVENILE OFFENDER

No statements or admissions of a child made in the absence of his counsel during interrogation by a law enforcement official concerning acts alleged to have been committed by the child which would constitute a crime if committed by an adult shall be admissible in evidence against that child unless:

- (1) a parent, guardian or custodian of the child was present at such interrogation; and
- (2) the child and his parent, guardian or custodian were advised of the child's right to remain silent and that any statements made may be used against the child in a Court of law; and
- (3) the child and his parent, guardian or custodian were advised of the child's right to have an attorney present during the interrogation.

207 CONTEMPT

Any parent, custodian or guardian who fails or refuses to comply with any diversion plan, probation, or any other requirement pursuant to this Code, may be held in contempt and subject to a civil fine in an amount up to \$500 for each failure or refusal.

208 TRANSFER

A. In the interest of justice, any case which may have been originally filed in another court may, upon order of this Court and with the consent of the transferring court, be transferred from another court to this Court upon motion of the Nation Prosecutor or by consent or stipulation of the Nation Prosecutor and the alleged juvenile offender by and through the parent(s), guardian, custodian or legal counsel of the alleged juvenile offender.

B. The motion for transfer shall state the grounds for transfer and set forth the order sought.

C. The motion shall be accompanied by, if available, a certified copy of all documents filed in the other court proceeding from which the transfer is sought.

D. The Court may order a hearing upon the motion or enter any other order, upon the motion, consent or stipulation.

E. The order of the Court issued pursuant to this Section shall be final and not subject to review by any court nor appealable to the Oneida Indian Nation Appellate Court.