

Article IX. Long-Term Out-of-Home Placement of a Child

4.05.640 General.

This article deals with long-term out-of-home placement options for a child that is either involved in a youth-in-need-of-care case or a private cause of action. There are three long-term options: legal guardianship after a youth-in-need-of-care case or a private legal guardianship, customary adoption or legal adoption. In all cases, under this section, the best interests of the child shall guide the Court's decision.

4.05.650 Home study for all permanency options.

~~The petitioner(s) shall arrange to have a home study report prepared by beda?chelh. The report shall be in writing and contain the professional opinions of all persons consulted. The home study report shall contain the below information as well as beda?chelh's recommendation with enumerated responses to all factors of the best interest of the child standard as defined under this chapter:~~

- ~~(1) The physical and mental condition of the child, petitioner(s) and persons living in the petitioner's home;~~
- ~~(2) How long the child has been residing in the petitioner's home, and the circumstances necessitating the permanency needs of the child; this may be filed in seal with the Court separately if it is confidential;~~
- ~~(3) The home environment, family life, access to health services, and resources of the petitioner(s);~~
- ~~(4) The child's and petitioner's cultural heritage and Tribal status;~~
- ~~(5) The marital status of the petitioner(s);~~
- ~~(6) The names and ages of the petitioner's children and of any other persons residing with the petitioner(s);~~
- ~~(7) Information from health, education, and social service personnel who have had prior professional contacts with the child and petitioner(s);~~
- ~~(8) A check of the criminal records and Child Protective Services (CPS) records, if any, of the petitioner(s);~~
- ~~(9) Any criminal, CPS or reported history of alcohol or drug abuse in petitioner's household; and~~

~~(10) The opinion of the child if he or she is over the age of 14, and whether he or she should be given an opportunity to provide this opinion in person to the Court in chambers.~~

~~The home study shall be filed in Court at least 10 days prior to the hearing date and be served on the petitioner(s). Children who are age 14 and older and the subject of the home study shall be served with the home study recommendations only with any confidential information as to the petitioners redacted. Respondent parents may request a copy of the home study recommendations only with any confidential information as to the petitioners redacted. [Res. 2020-554].~~

4.05.65060 ~~Legal Youth-in-need-of-care~~ guardianship.

(1) Purpose. ~~For all guardianship cases, a~~ A youth-in-need-of-care guardianship should provide ~~permanence, youth-in-need-of-care with~~ a stable home, and ~~a responsible and emotionally supportive caregiver home while maintaining the youth's connection to their family, their culture, and the Tulalip Tribes to the child~~ without terminating a parent's rights.

~~For youth-in-need-of-care, T~~here is a presumption that a youth-in-need-of-care guardianship is in the child's best interest if the following has occurred:

- (a) The child has been adjudicated a youth-in-need-of-care;
- (b) The parent was given the requisite time period to reunify with the child; and
- (c) The permanent plan for the child was changed from return home to a permanent plan of guardianship.

(2) Scope. This section applies to ~~both adjudicated youth-in-need-of-care and private guardianships. An adjudicated youth-in-need-of-care guardianship may impose additional requirements or consideration and will be specified. A private guardianship cannot be considered if the child is a court-adjudicated youth-in-need-of-care.~~

4.05.66070 Procedures for filing a petition for youth-in-need-of-care guardianship – All cases.

(1) Who May File a Petition for Guardianship and Standing.

- (a) Any person petitioning for legal guardianship must be an adult and establish:
 - (i) ~~He or she is~~They are a relative of the youth or ~~has~~ves established a significant familial relationship with the youth as defined within this chapter;

(ii) ~~The petitioner has~~They have current ~~custody o~~placement of the child by a court order;
and

(iii) The case plan for the youth's dependency matter is guardianship.

(2) Contents of the Petition. A petition for guardianship shall be verified under oath by the petitioner(s) and shall contain the following information:

(a) The full name, residence, enrollment status ~~of the youth~~, date and place of birth, and sex of the child, ~~with attached birth certificate for the child (for current youth in need of care birth certificate need not be attached to the petition);~~

(b) The names of the persons with whom the child has lived, the residences at which the child has lived for the previous year, and the length of time the child has lived with each person and at each residence;

(c) The names and residences of the child's legal parents, guardians, or custodians, ~~and in addition~~, the names and residences of putative fathers, if any;

(d) The full name, residence, date and place of birth, and occupation of the petitioner(s), statement of petitioner(s) relationship to the child, and petitioner's Tribal membership, if applicable. The petitioner(s) may request that their address be confidential ~~and use beda?chel's address consistent with current policies;~~

(e) A statement by petitioner(s) of the desire that a relationship of legal guardian and child be established between petitioner(s) and the child;

(f) A plan to maintain the child's ties with their family, to include:

(i) A family time plan must be included outlining what the family time will include, if there is current family involvement; and

(ii) In the future, should family come forward, what steps will be taken to ensure family time begins;

(g) A plan to maintain the child's ties to the Tribes, and their culture.

(3) Summons and Notice of Hearing.

(a) The Court Clerk shall set a preliminary hearing within 30 days and issue summons and notice of the preliminary hearing upon filing the petition. If the petitioner files a motion for publication

and the motion is granted, then the clerk shall set the preliminary hearing within 60 days to allow for publication. Notice shall include:

- (i) The date, time, and place of the hearing and a copy of the petition for guardianship; and
- (ii) A statement to the effect that the rights of the parent(s) may be affected, that certain persons are proposed to be appointed as guardian(s) in the proceedings, and that if the parent(s) fail to appear at the time and place specified in the summons, the Court may appoint those persons as guardian(s) and take any other action that is authorized by law.

(4) Service of the Petition, Summons, and Notice of Hearing for Guardianship.

(a) Guardianship petitioner(s) shall be responsible to have the petition, summons, and notice of hearing for guardianship personally served on:

- (i) The child's parent(s);
- (ii) The child who is the subject of the petition for guardianship if they are 124 years of age or older;
- (iii) bedachelh or the Office of the Reservation Attorney;
- (iv) Any person the parties or the Court deems necessary for proper adjudication; and
- (v) If the child is not enrolled in the Tulalip Tribes, any Tribe in which the child is enrolled or in which the child is may be eligible for enrollment.

(b) If any party who is required to be personally served is not within the exterior boundaries of the Reservation, service shall be by certified mail, return receipt requested, or by any other means reasonably designed to give summons and notice.

(c) If any party's current address is unknown, the petition shall be published in a regularly published newspaper of the last known area the party resided in or in the See-Yaht-Sub pursuant to TTC [2.10.030](#).

(d) Service shall be made by any person over the age of 18 who is not a party to the proceedings.

(e) As soon as practicable, proof of service shall be filed with the Clerk of Court indicating the date, time, and place of service.

4.05.67080 Preliminary Guardianship hearings.

(1) At the preliminary guardianship hearing the following will occur:

(a) Determination of standing of petitioner; ~~and-~~

(b) Order that beda?chelh prepare a home study.

~~(c) Set provisions as necessary for temporary guardianship for non-youth-in-need-of-care if necessary pending the final guardianship hearing.~~

4.05.680 beda?chelh prepared home study.

The petitioner(s) shall make themselves available to beda?chelh for the home study report prepared by beda?chelh. The home study shall be in writing and contain the professional opinions of all persons consulted.

The home study shall contain the below information with enumerated responses to all factors of the best interest of the child standard as defined under TTC 4.05.040:

(1) The physical and mental condition of the child, petitioner(s), and persons living in the petitioner(s) home;

(2) How long the child has been residing in the petitioner(s) home, and the circumstances necessitating the permanency needs of the child; this may be filed in seal with the Court separately if it is confidential;

(3) The home environment, family life, access to health services, and resources of the petitioner(s);

(4) The child's and petitioner(s) cultural heritage and Tribal status;

(5) The marital status of the petitioner(s);

(6) The names and ages of the petitioner(s) children residing with the petitioner(s) and of any other persons residing with the petitioner(s);

(7) Information from health, education, and social service personnel who have had prior professional contacts with the child and petitioner(s);

(8) How the petitioner(s) have kept the child connected to their culture and to the Tulalip Tribes, to include specific examples and a Cultural Connectivity Plan outlining how petitioner(s) will continue to ensure the child remains connected to their culture and to the Tulalip Tribes;

(9) How the petitioner(s) have kept the child connected to their parents, siblings, and family members to include specific examples and a Family Connectivity Plan outlining how petitioner(s) will continue to keep the child connected to their parents, siblings, and family members as defined in TTC 4.05.030(28);

(10) A check of the criminal records and Child Protective Services (CPS) records, if any, of the petitioner(s);

(11) Any criminal, CPS or reported history of alcohol or drug abuse in petitioner(s) household;

(12) The opinion of the child shall be clearly stated in the home study if they are 12 and older, and the child shall be given an opportunity to provide their opinion in person to the Court in chambers; and

(13) The opinion of the child may be clearly stated in the home study if they are younger than 12, and they may be given an opportunity to provide their opinion in person to the Court in chambers; and

(14) beda?chel's recommendation.

The home study shall be filed in Court at least 10 days prior to the hearing date and be served on the petitioner(s). Children who are age 12 and older and the subject of the home study shall be served with the home study recommendations only with any confidential information as to the petitioner(s) redacted. If represented, youth(s) attorney(s) shall be served with the home study recommendations, the Cultural Connectivity Plan, and Family Connectivity Plan only, with any confidential information as to the petitioner(s) redacted. Respondent parents may request a copy of the home study recommendations only with any confidential information as to the petitioner(s) redacted.

4.05.700 Child's preference.

~~(2) Child's Preference for Guardian.~~ When the child who is the subject of the petition for guardianship is 12 years of age or older, the Court shall consider ~~his or her~~their preference in appointing a guardian. The child may provide this preference to the Court through beda?chel, a GAL, or attorney, or appear in court to provide their opinion to the judge under any of the options available in **TTC 4.05.360**.

4.05.710 (3) Youth in need of care guardianship establishment hHearing.

(1a) Procedure at Hearing. Petitioner(s) and beda?chel shall appear personally at the hearing.

(2b) Judicial Determination. The Court shall review the home study, case file, and any records filed to make a determination by a preponderance of the evidence as to whether the guardianship is in the best interests of the child as defined under TTC [4.05.040](#).

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Guardians agreeing to love/support their child regardless of gender identity or who they love?

(3e) Order. An order establishing guardianship shall be considered a final order for the purposes of appeal.

4.05.720690 Terms and rights of guardian.

(1) A youth-in-need-of-care guardian appointed by the Court shall have the custody of, and be responsible for the care of, the child and the following additional duties:

(a) Safeguarding the care and management of ~~his/her~~the child's property from the date of the guardianship's establishment until the child reaches the age of 18, marries, is emancipated by the Court, or until the guardian is legally discharged, or custody is transferred back to ~~bedac?chelh~~; provided, that the guardian shall not have the authority, without express consent of the Court, to dispose of any real property or Tribal member benefits of the child in any manner.

(i) Out-of-Court Guardianship Review. ~~bedac?chelh~~ shall review guardianship cases no less than semiannually for a period of three years. ~~bedac?chelh~~ shall keep an internal record of guardianship reviews ~~and~~ ~~but~~ need not file them with the Court. Guardians may request a copy of their reviews; however, the birth parents are not entitled to a copy of these reviews. If any continuing support or services are determined to be needed by ~~the guardianship review team~~~~bedac?chelh~~ or ~~requested by~~ the guardian, the review period may be extended past three years. For all cases in which a ~~C~~cultural Connectivity and ~~F~~family Connectivity ~~P~~plan ~~has~~es not been filed with the Court, regardless of when the guardianship was granted, ~~the guardianship social worker~~~~bedac?chelh~~ shall work with the guardian(s) to create a plan and file it with the Court.

(i) Out-of-Court Guardian Check-Ins. After the three-year review period, bedac?chelh shall perform yearly informal check-ins with the guardian(s) and the youth, for all youth aged 12 and older.

~~(ii) Judicial Review. bedac?chelh shall have the ability to file motions in guardianship cases to request judicial review of a case to address any concerns that may arise. The Court may order the guardian(s) to participate and comply with services to alleviate such concerns.~~

(b) The guardian shall also have the authority to consent to the medical, dental, mental health, behavioral health care, ~~care~~ and treatment of the child, and to otherwise have those rights of a parent of the child.

(c) A Ccultural Connectivity and Ffamily Connectivity Pplan will be required and incorporated ~~as an attachment to the home study~~into the Guardianship Establishment Order.

(d) The Court may order a guardian to let the parent(s) have family time or contact the child, but the Court may also put limits or other conditions on the family time, such as requiring that any family time be supervised. ~~The time and frequency of parental visitation is often up to the guardian (or the Court) to decide. Parents may, in some cases, regain custody of their child in the future if the Court determines the guardianship is no longer in their child's best interests.~~

(e) Per Capita. Guardians shall receive current Tribal member per capita on behalf of the child in accordance with Chapter 5.20 TTC. Per capita distributions that were deposited into the child's trust account under **TTC 4.05.1150** cannot be pulled out of the youth's minor's trust account.

(f) General Welfare Act Payments. General Welfare Act payments for assistance to Tulalip Tribal member children for health, welfare and/or education are provided at the discretion of the Board of Directors (BOD). If such payments are authorized, it shall be by resolution from the BOD and shall be distributed to the child's legal guardian(s) on their behalf.

(g) Name Change. The guardian shall not legally change or add to the birth name of the minor child, unless it is to change the child's surname to their Tulalip family's last name and the change is supported by the child's blood relatives or as outlined in **TTC 4.05.720(i)** immediately below.

(i) Gender Affirming Name Change. The guardian shall have authority to legally change only the first and/or middle name of the youth to support the youth's gender identity.

4.05.730 Adding a Co-Guardian

4.05.740 Removing a Co-Guardian

4.05.750 Judicial Review

beda?chelh shall have the ability to file motions in guardianship cases to request judicial review of a case to address any concerns that may arise; beda?chelh may file such motions at any time during the guardianship until the child in guardianship reaches the age of eighteen (18).

(1) Notice of Hearing. The Court Clerk shall set a Judicial Review Hearing within two weeks of beda?chelh filing a request for Judicial Review and issue a notice of Judicial Review Hearing.

(2) Service of the Request for Judicial Review and Notice of Hearing.

a. beda?chelh shall be responsible for serving the motion for judicial review and notice of judicial review on the guardian(s); service may be by hand delivery, certified mail

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return receipt requested, electronic means, or by any other means reasonably designed to give summons and notice.

i. If any party's current address is unknown, the party shall be provided notice of via publication in the See-Yaht-Sub or a regularly published newspaper of the last known area the party resided in, pursuant to TTC 2.10.030.

b. The Court may appoint an attorney for the youth who is the subject of the judicial review if in the youth's best interest to do so.

(3) At the first Judicial Review Hearing, the Court:

a. Shall determine whether there is good cause to open a judicial review and if it is in the youth's best interest;

b. May order the guardian(s) and youth to participate in services to alleviate the concerns outlined in beda?chel's motion for judicial review;

c. May grant beda?chel temporary placement authority should there be clear and convincing evidence that it is not in the youth's best interest to reside in the guardian(s) home;

d. May grant beda?chel temporary authority to access the youth's medical, dental, mental health, behavioral health, treatment, and educational records; and

b.e. May authorization beda?chel to provide for the youth's medical, dental, mental health, behavioral health, treatment, and educational needs.

f. May set a next Guardianship Judicial Review hearing for within three (3) months and order beda?chel to file a Report to the Court for Guardianship Judicial Review hearing ten (10) days before the next hearing.

(4) At each subsequent Judicial Review Hearing, the Court shall review:

a. The progress of all parties with services and if any additional supports are needed;

b. If the youth is not residing in the guardian(s) home, the Court will determine the extent of progress made toward eliminating the need for removal of the child from the guardian(s) home;

c. The efforts by beda?chelh to assist the guardian(s) in remedying the concerns that lead to the judicial review; and

d. The continuing need for judicial review and whether judicial review continues to be in the youth's best interest.

(5) Judicial Review Report.

a. beda?chelh shall prepare a judicial review report before each guardianship judicial review hearing, which report shall be filed and served on the guardian(s) 10 calendar days before the hearing, except by order of the Court.

i. Youth aged twelve (12) and older, or if represented by a youth's attorney, will be served a redacted copy of the report to include their information only.

ii. The parent may request a redacted copy of the report to not include any of the guardian(s) confidential information.

b. beda?chelh's report shall provide supportive documentation and shall summarize the history of the case since the last hearing and shall detail efforts made in the reporting period to provide services to the child and family.

c. A party may prepare their own report summarizing their history since the last hearing which shall be filed and served on the parties in the manner immediately above.

d. A party that disputes the content of beda?chelh's report may request a short continuance and must file and serve a written response outlining their dispute five (5) days prior to the Judicial Review Hearing or as ordered by the Court.

4.05.7600 Termination of youth in need of care guardianship.

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(1) Termination of the Guardianship Order.

(a) Relinquishment of Guardianship. A guardian may not motion the Court for relinquishment of guardianship of a child until they have had a family resource meeting with their guardianship social worker beda?chelh and Family Haven to assess additional services and resources that are available to and may be helpful for the guardian(s) and youth to maintain the guardianship. If the youth is twelve (12) or older, they will be invited to the family resource meeting. The

guardian(s) must work with Family Haven and beda?chelh for 90 days prior to filing a motion to relinquish guardianship in Court.

(i) The Court will review the motion, efforts made to maintain the guardianship, and documentation of services provided to the family and child in chambers to determine if there is prima facie evidence to substantiate the setting of a hearing. Guidelines to guide the Court shall be set by court rule. If there is prima facie evidence to substantiate the setting of a hearing, then the Court shall set a preliminary hearing on the motion within two weeks and issue a summons.

(ii) The guardian(s) must serve the parent(s) and beda?chelh with the motion to relinquish and summons for the hearing.

(iii) In the event a child is being relinquished for needs which the guardian cannot manage, beda?chelh may request the Court issue a temporary order authorizing beda?chelh to access the youth's medical, mental health, behavioral health, treatment, and educational records to secure services for the youth and the most fitting placement for the youth.

(iv) In the event a child is being relinquished because they no longer reside in the Guardian's home, beda?chelh may request the Court issue a temporary order authorizing beda?chelh to have placement authority to place the youth.

(v) The Court will determine whether good cause exists and if relinquishment is in the best interest of the child.

(b) Dismissal of Guardianship by Parent(s)' Motion.

(i) Age of Child Who May Motion to Dismiss Guardianship.

(1) If the child was under the age of three at the time of removal from their parent(s), and if the parent(s) did not engage in services or did not have family time with the child while a youth-in-need-of-care, then the parent(s) cannot seek return of their child from guardianship.

(2) If the child was under the age of three at the time of removal from their home and the parent(s) did engage in services or did have family time with the child while a youth-in-need-of-care, then the parent(s) can seek return of their child from guardianship if they can prove that they have now complied with their youth-in-need-of-care case plan services.

~~(3) If the child was older than the age of three at the time of removal and has been in their placement home guardianship for more than three years, and the parent(s) did not engage in services or have family time with the child while a youth-in-need-of-care, then the parent(s) cannot seek return of their child from guardianship unless exceptional circumstances exist. Exceptional circumstances must be demonstrated by the parent and approved by the Court. In the case where parent(s) can no longer seek return home of their child, they can still seek a healthy relationship with the child through a beda?chelh approved mediator between the biological parent(s) and guardian(s).~~

~~(4) If the child was older than the age of three at the time of removal and the parent(s) did engage in services or have family time with the child while a youth-in-need-of-care, then the parent(s) can seek return of their child from guardianship if they can prove that they have now complied with their youth-in-need-of-care case plan services.~~

~~(5) In the case where parent(s) can no longer seek return home of their child, they can still seek a healthy relationship with the child through a Yehaw' between the biological parent(s) and guardian(s).~~

~~(ii) In a youth-in-need-of-care guardianship, a parent who has complied with the services required from the adjudicatory and case plan, or otherwise can demonstrate a substantial change of circumstances, may move for dismissal of the guardianship. In all other cases there must be shown a substantial change of circumstances as a preliminary matter.~~

~~(iii) Parents Who May Motion to Dismiss Guardianship. The parent(s) must provide documentation that they have completed their youth-in-need-of-care case plan services and requirements. Prior to the parent serving the guardian(s), the Court will review these documents and the underlying dependency in chambers to determine if there is prima facie evidence to substantiate the setting of a hearing. Guidelines to guide the Court shall be set by court rule. If the evidence is sufficient, then a hearing shall be set and the parent(s) must serve the guardian(s) with the court date and motion, and the parent(s) must serve beda?chelh with the court date, motion, and the supporting evidence. If the child was placed out of the home as a result of a drug or alcohol issue, then the parent must demonstrate one year of documented sobriety of clean urinalysis results and treatment records before return home will be considered.~~

(iv) The presumption at this hearing is that the child should remain with their guardian if the child has been in the guardian(s) care for over three years or a majority of the child's life.

(v) To overcome this presumption the parent must show by clear and convincing evidence that termination of the guardianship is in the child's best interest. Any costs associated with a parent obtaining documentary proof, such as evaluations or professional recommendations, that termination of the guardianship is in the child's best interest shall be borne by the parent.

(c) Dismissal of Guardianship on beda?chel's Motion. beda?chel may motion the Court to dismiss the guardianship on the grounds that there has been a substantial change of circumstances and dismissal is in the best interest of the child. The standard of proof shall be clear and convincing evidence.

(i) Emergency Motion to Dismiss. beda?chel may motion the Court for to dismiss the guardianship on an emergency basis if there is probable cause to believe the youth is in imminent risk or has been subject to abandonment, neglect, or abuse. The Court Clerks shall set a hearing for no later than 72 hours after the motion is filed.

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(2) Upon Relinquishment or Dismissal.

(a) ~~If the child has previously been adjudicated as a YINC, The youth-in-need-of-care matter will~~ reopen, and the child's permanent plan order will remain in effect, including all required services previously ordered of the parents.

(i) beda?chel shall be responsible for placing the child and reviewing the permanent plan order.

(ii) A permanent plan review hearing will be held within ~~30~~ 45 days of the dismissed guardianship. A beda?chel report to court for a permanent plan review shall be filed ~~10~~ 5 days prior to the hearing.

~~(b) For a non-youth-in-need-of-care guardianship, the Court shall set subsequent hearings, with the first to be held within 30 days to establish a hearing schedule for the child. The Court shall notify beda?chel if there is no parent or other guardian willing or able to care for the child prior to the relinquishment or dismissal of the guardianship.~~

~~(be)~~ The child's per capita shall be distributed to the child's minor trust account pending further court order. If the child receives General Welfare Act payments per resolution of the Board of Directors, the payments shall go to whoever has physical custody of the youth at the time of distribution. If the youth is not in a placement home but in a facility/treatment center or institution the money shall be ~~held by beda?chel~~ placed in a payee services account and used for the benefit of the youth.

4.05.75010 Continuing court jurisdiction and ~~the guardianship~~ beda?chelh review team.

After guardianship is granted, beda?chelh and the Court retain jurisdiction until the child turns 18 or is adopted but no further Court review is required unless there is a change of circumstances or a request for Court review is made by ~~the~~ beda?chelh guardianship team.

~~Visits~~ Family Time with Children in Guardianship. beda?chelh finds it is in a child's best interest to maintain a connection to their parent(s) and family through family time to strengthen a child's sense of identity, place in the world, stability and psychological well-being throughout their life. beda?chelh shall administratively review requests for family time per this section.

(1) Rights and Obligations of the Guardian. Guardians should provide regular family time and contact with the child's parents and family. Guardians generally have legal custody of a child and are responsible for the well-being of that child. If guardians have any questions or concerns about family visits time, they should contact beda?chelh the guardianship review team as outlined below in **TTC 4.05.750(3)**.

(2) Family Member ~~Visitation~~ Time and Contact. Relatives or anyone who has a significant familial relationship with a child may request family time directly from the guardian ~~or through~~ beda?chelh.

(3) ~~Visitation~~ Family Connectivity Planning and Conflict Resolution. If needed, beda?chelh shall help guardian(s) and parents or relatives set up family connectivity plans that are in the child's best interest, ~~if there are safety concerns, issues or if help is needed to make contact with each other to support visitation and long-term relationship development so long as it is in the best interest of the child to do so~~. After beda?chelh has worked with the guardians and parents or relatives and a voluntary visitation-family connectivity plan could not be implemented, then the guardian(s), parent(s), relative(s), and/or beda?chelh may file a motion with the Court to request the Court impose, enforce, or amend a family connectivity visitation plan. The Court shall set a hearing within two weeks of a motion for family connectivity being filed. The Court shall give substantial weight to beda?chelh regarding Family Connectivity plans.

(4) Moving Out of Tulalip Tribes' Area. Forty-five days prior to moving outside of Western Washington, the guardian(s) shall notify beda?chelh of the move, the reason for the move, and the plan the guardian has in place for maintaining the child's connection with their family and culture. If the guardian(s) fails to notify beda?chelh, a hearing may be set to determine whether the child should be allowed to move with the guardian(s) or should be returned to beda?chelh's care. Any time the guardian(s) and youth move the guardian(s) shall notify Enrollment and the Court of their address change.

4.05.760 Private Guardianship.

(1) Purpose. Private guardianships provide families with the ability to plan for how best to address their children's needs.

There is a presumption that guardianship is in the child's best interest if:

- (a) The parent(s) agreed to guardianship; and
- (b) The child, if the child is age 12 or older, supports the guardianship.

(2) Scope. This section applies to private guardianship. Private guardianship cannot be considered if there is an active youth-in-need-of-care dependency case or youth-in-need-of-care guardianship case involving the child, or if the child has been in a dependency case which is currently held in abeyance.

4.05.770 Procedures for filing a petition for guardianship – All cases.

(1) Who May File a Petition for Private Guardianship and Standing.

- (a) Any person petitioning for private guardianship must be an adult and must establish:
 - (i) They are a relative of the youth or have established a significant familial relationship with the youth as defined within this chapter; and
 - (ii) They have written agreement of the custodial parent(s) with proof attached.

(2) Contents of the Petition. A petition for private guardianship shall be verified under oath by the petitioner(s) and shall contain the following information:

- (a) The full name, residence, enrollment status, date and place of birth, and sex of the child, with a copy of the child's birth certificate attached;
- (b) The names of the persons with whom the child has lived, the residences at which the child has lived for the previous year, and the length of time the child has lived with each person and at each residence;
- (c) The names, tribal statuses, and residences of the child's legal parents, guardian(s), or custodian(s) and the names, tribal statuses, and residences of putative fathers, if any;
- (d) The full name, residence, date and place of birth, occupation of the petitioner(s), statement of relationship to the child, and petitioner's Tribal membership, if applicable. The petitioner can request that their address be confidential;
- (e) A statement by petitioner(s) of the desire that a relationship of legal guardian and child be established between petitioner(s) and the child;
- (f) A plan to maintain the child's ties with their family to include:
 - (i) If there is current family involvement then a family time plan must be included outlining what that family time will include; and

(ii) In the future, should family come forward, what steps will be taken to ensure family time begins; and

(g) A plan to maintain the child's ties to the Tribes, and their culture.

(3) Summons and Notice of Hearing.

(a) The Court Clerk shall set a preliminary hearing within 30 days and issue summons and notice of the preliminary hearing upon filing the petition. If the petitioner files a motion for publication and the motion is granted then the clerk shall set the preliminary hearing within 60 days to allow for publication. Notice shall include:

(i) The date, time, and place of the hearing and a copy of the petition for guardianship; and

(ii) A statement to the effect that the rights of the parent(s) may be affected, that certain persons are proposed to be appointed as guardian(s) in the proceedings, and that if the parent(s) fail to appear at the time and place specified in the summons, the Court may appoint those persons as guardian(s) and take any other action that is authorized by law.

(4) Service of the Petition, Summons and Notice of Hearing for Guardianship.

(a) Guardianship petitioner(s) shall be responsible to have the petition, summons and notice of hearing for guardianship personally served on:

(i) The child's parent(s);

(ii) The child who is the subject of the petition for guardianship if they are 12 years of age or older;

(iii) The Office of the Reservation Attorney;

(iv) Any person the parties or the Court deems necessary for proper adjudication; and

(v) If the child is not enrolled in the Tulalip Tribes, any Tribe in which the child is enrolled or in which the child may be eligible for enrollment.

(b) If any party required to be personally served is not within the Reservation's exterior boundaries, service shall be by certified mail, return receipt requested, or by any other means reasonably designed to give summons and notice.

(c) If any party's current address is unknown, the petition shall be published in the See-Yaht-Sub or in a regularly published newspaper of the last known area in which the party resided in pursuant to TTC 2.10.0302.10.030.

(d) Service shall be made by anyone over 18 who is not a party to the proceedings.

(e) As soon as practicable, proof of service shall be filed with the Clerk of Court indicating the date, time, and place of service.

4.05.780 Private Guardianship preliminary hearings.

(1) At the preliminary guardianship hearing the following will occur:

(a) Determination of standing of petitioner;

(b) Order that petitioner(s) contract out to a service provider other than beda?chelh to have a home study completed at their own expense; and

(c) Set provisions as necessary for temporary guardianship pending the final guardianship hearing.

4.05.790 Contracted out home study.

The petitioner(s) shall arrange to have a home study report prepared at their own expense. The home study shall be written and contain the professional opinions of all persons consulted.

All home study reports shall contain the below information with enumerated responses to all factors of the best interest of the child standard as outlined in TTC 4.05.040:

(1) The physical and mental condition of the child, petitioner(s) and persons living in the petitioner's home;

(2) How long the child has been residing in the petitioner(s) home, and the circumstances necessitating the permanency needs of the child; this information may be filed in seal with the Court separately if it is confidential;

(3) The home environment, family life, access to health services, and resources of the petitioner(s);

(4) The child's and petitioner(s) cultural heritage and Tribal status;

(5) The marital status of the petitioner(s);

(6) The names and ages of the petitioner(s) children residing with the petitioner(s) and of any other persons residing with the petitioner(s);

(7) Information from health, education, and social service personnel who have had prior professional contacts with the child and petitioner(s);

(8) How the petitioner(s) have kept the child connected to their culture and to the Tulalip Tribes, to include specific examples and a Cultural Connectivity Plan outlining how petitioner(s) will continue to ensure the child remains connected to their culture and to the Tulalip Tribes;

(9) How the petitioner(s) have kept the child connected to their parents, siblings, and family members, to include specific examples and a Family Connectivity Plan outlining how petitioner(s) will continue to keep the child connected to their parents, siblings, and family members as defined in [TTC 4.05.030\(28\)](#);

(10) A check of the criminal records and Child Protective Services (CPS) records, if any, of the petitioner(s);

(11) Any criminal, CPS or reported history of alcohol or drug abuse in petitioner's household;

(12) The opinion of the child shall be clearly stated in the home study if they are 12 and older, and they should be given an opportunity to provide this opinion in person to the Court in chambers; and

(13) The opinion of the child may be clearly stated in the home study if they are younger than 12, and they may be given an opportunity to provide this opinion in person to the Court in chambers.

Petitioner(s) shall file the home study with the Court at least 10 days prior to the hearing date. Children who are age 12 and older and the subject of the home study shall be served with the home study recommendations only with any confidential information as to the petitioner(s) redacted. Respondent parents may request a copy of the home study recommendations only with any confidential information as to the petitioner(s) redacted.

4.05.800 Child's preference for guardian.

When the child who is the subject of the petition for private guardianship is 12 years of age or older, the Court shall consider their preference in appointing a guardian. The child may provide their preference to the Court through a guardian ad litem or attorney or appear in court to provide their opinion to the judge under any of the options available in **TTC 4.05.360**.

4.05.810. Privat guardianship establishment hearing.

(1) Procedure at Hearing. Petitioner(s) must appear personally at the hearing.

(2) Judicial Determination. The Court shall review the home study, case file and any records filed to make a determination by a preponderance of the evidence as to whether the guardianship is agreed to by the parties and is in the best interests of the child as defined under **TTC 4.05.040**.

(3e) Order. An order establishing guardianship shall be considered a final order for the purposes of appeal.

4.05.820 Terms and rights of private guardian.

(1) A guardian appointed by the Court shall have the custody of, and be responsible for the care of, the child and the following additional duties:

(a) Safeguarding the care and management of the child's property from the date of the guardianship's establishment until the child reaches the age of 18, marries, is emancipated by the Court, or until the guardian is legally discharged; provided, that the guardian shall not have the authority, without express consent of the Court, to dispose of any real property or Tribal member benefits of the child in any manner.

(i) Yearly Reviews. The Court shall set a hearing date for a yearly review of the private guardianship. The Guardian(s) shall file a report to the Court 10 days prior to the yearly review hearing outlining how the youth is doing (to include educational, medical, dental, behavioral health, mental health, and treatment care updates for the youth), what family

time the youth is having, what cultural activities the youth has attended, and how the youth has remained connected to their extended family and culture. The Guardian shall submit documentation supporting the information in the yearly report.

(ii) Judicial Review. The guardian(s), parent(s), or youth shall have the ability to motion the Court for review of the guardianship at any time. The Court Clerks shall set a hearing within two weeks of a motion for guardianship judicial review being filed and issue a notice of hearing. The person motioning the Court for judicial review will be responsible for serving the parties with the motion and notice of hearing.

(b) The guardian shall also have the authority to consent to the medical care, behavioral health care, mental health care, and treatment of the child, and to otherwise have those rights of a parent of the child.

(c) A Cultural Connectivity and Family Connectivity Plan will be required and incorporated into the Guardianship Establishment Order.

(d) The Court may order a guardian to let the parent(s) have family time or contact the child, but the Court may also put limits or other conditions on the family time, such as requiring that any family time be supervised.

(e) Per Capita. Guardians shall receive current Tribal member per capita on behalf of the child in accordance with Chapter 5.20 TTC. Per capita distributions that were deposited into the child's trust account under **TTC 4.05.1150** cannot be pulled out of the youth's minor's trust account.

(f) General Welfare Act Payments. General Welfare Act payments for assistance to Tulalip Tribal member children for health, welfare and/or education are provided at the discretion of the Board of Directors (BOD). If such payments are authorized, it shall be by resolution from the BOD and shall be distributed to the child's legal guardian(s) on their behalf.

(g) Name Change. The guardian shall not legally change or add to the birth name of the minor child, unless it is to change the child's surname to their Tulalip family's last name and is supported by the child's blood relatives or as outlined in **TTC 4.05.820(i)** below:

(i) Gender Affirming Name Change. The guardian shall have authority to legally change only the first or middle name of the minor child to support the child's gender identity.

4.05.830 Adding Co-Guardian

4.05.840 Removing Co-Guardian

4.05.850 Termination of guardianship.

(1) Termination of the Guardianship Order.

(a) Relinquishment of Guardianship. The guardian(s) must provide proof that they attempted to work with a service provider for 90 days prior to filing a motion to relinquish guardianship in Court. The Court will review the motion, efforts made to maintain the guardianship, and documentation of

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services provided to the family and child in chambers to determine if there is prima facie evidence to substantiate the setting of a hearing. Guidelines to guide the Court shall be set by court rule. If the evidence is sufficient, the Court shall set a preliminary hearing on motion within two weeks and issue a summons. The guardian must serve the parent(s) with the motion to relinquish and summons for the hearing. The Court will determine whether good cause exists and if relinquishment is in the best interest of the child, prior to the relinquishment of the guardianship. The Court shall call in an intake to 1-866-END-HARM if there is no suitable parent or other guardian willing or able to care for the child prior to the relinquishment or dismissal of the guardianship.

(b) Dismissal of Guardianship by Parent(s)' Motion.

(i) The parent(s) must provide documentation that the reason the Guardianship was entered into has been remedied or alleviated. If the child was placed out of the home because of the parent(s)' substance use, then the parent(s) must demonstrate one year of documented sobriety and treatment records before returning home to the parent(s) will be considered. Prior to the parent(s) serving the guardian(s) with the Motion to Dismiss the guardianship, the Court will review in chambers the documentation the parent(s) provided to determine if there is prima facie evidence to substantiate the setting of a hearing. Guidelines to guide the Court shall be set by court rule. If the evidence is sufficient, then a hearing shall be set, and the parent(s) must serve the guardian(s) with the court date and motion, but the parent(s) do not have to serve the guardian(s) with their supporting evidence.

(iv) The presumption at this hearing is that the guardianship is in the child's best interest if the guardianship has been in place for three consecutive years or more.

(v) To overcome this presumption the parent(s) must show by clear and convincing evidence that termination of the guardianship and returning the youth home to the parent(s) is in the child's best interest. Any costs associated with a parent obtaining documentary proof, such as evaluations or professional recommendations, that termination of the guardianship and returning home to the parent(s) is in the child's best interest shall be borne by the parent(s).

(2) Upon Relinquishment or Dismissal. The Court shall set any necessary subsequent hearings, with the first hearing to be held within 30 days to establish a hearing schedule for the child. The Court shall call in an intake to 1-866-END-HARM if there is no parent or other guardian willing or able to care for the child prior to the relinquishment or dismissal of the guardianship.

(c) The child's per capita shall be distributed to the child's minor trust account pending further court order. If the child receives General Welfare Act payments per resolution of the Board of Directors, the payments shall go to whoever has physical custody of the youth at the time of distribution.

4.05.860 Continuing court jurisdiction and the guardianship review team.

After private guardianship is granted, the Court retains jurisdiction until the child turns 18 or is adopted.

Family Connectivity with Children in Guardianship. It is in a child's best interest to maintain a connection to their parent(s) and family through family time to strengthen a child's sense of identity, place in the world, stability and psychological well-being throughout their life.

(1) Rights and Obligations of the Guardian. Guardians should provide regular family time and contact with the child's parents and family. Guardians generally have legal custody of a child and are responsible for the well-being of that child. If guardians have any questions or concerns about family time, they may file a motion with the Court to set mediation or a Yehaw'.

(2) Family Connectivity and Contact. Relatives or anyone who has a significant familial relationship with a child may request family time directly from the guardian(s).

(3) Family Connectivity Planning and Conflict Resolution. Guardian(s), parents, relatives, or the youth may file a motion with the Court to request the Court impose, enforce, or amend a family connectivity plan.

(4) Moving Out of Tulalip Tribes' Area. Forty-five days prior to moving outside of Western Washington, the guardian(s) shall notify the parent(s), the Tulalip Tribes, and the Tribal Court of the move, the reason for the move, and the plan the guardian has in place for maintaining the child's connection with their family and culture. If the guardian family fails to notify the parent(s), the Tulalip Tribes, and the Tribal Court, then a hearing will be set to determine whether the child should be allowed to move with the guardian(s) or whether the child should be returned to the parent(s) or placed in a new guardianship.

(5) Moving Anywhere. Any time the guardian(s) and youth move, the guardian(s) shall notify Enrollment and the Tribal Court of their address change.