

**C-2 Adoption
Procedure and review checklist for Adoption**

Resources: Squaxin Island Code Chapter 10.20

Critical path:

- Petition is filed.**
- Hearing is scheduled within 60 days.**
- Court Clerk provides notice of hearing at least 20 days prior to the hearing.**
- Pre-Adoption Report is waived under the Extended Family Exception**
- Pre-Adoption Report is required.**
- ICW seeks recommendations of social service staff.**
- ICW conducts a complete home study.**
- ICW seeks recommendations, if any, from Tribal Council.**
- ICW serves pre-adoption report at least 10 days prior to the hearing.**
- Any one else may serve their own pre-adoption report at least 10 days prior to the hearing.**
- Conduct hearing.**
- Satisfy grounds for entering a decree of adoption.**
- Enter temporary decree of adoption.**
- Notify Bureau of Vital Statistics and Bureau of Indian Affairs.**
- Review in one-year**
- Decree becomes final and permanent.**

1. Beginning – confirm that the youth is eligible to be adopted.

A youth may be adopted only if he or she:

- Has no parents by reason of death;**
- Has no parents because the parent-child relationship was voluntarily terminated; or**
- Has no parents because the parent-child relationship was involuntarily terminated.**

The Code is not clear whether a child is eligible for adoption when one parent has died or had the parent-child relationship terminated and the other parent is alive and in a parent-child relationship.

The Court has entered decrees of adoption in such cases in the Youth Court. [insert any additional information]

2. Beginning – prepare and file a petition to adopt.

To start an action to adopt a youth, a petition must be prepared. A petition should be prepared by the person promoting the adoption. If the petitioner is a member of the youth's extended family, the court may waive the requirement for a pre-adoptive report. The petition must include:

- The name, birth date, residence, and tribal status of the youth who is the subject of the petition;
- The name, birth date, residence, and tribal status, if known, of the youth's parent(s), guardian or custodian;
- The full name to be given to the child to be adopted;
- The name, age, place and duration of residence and the tribal status of the petitioner(s);
- The relation, if any, of the petitioner(s) to the youth;
- A description of any previous civil proceedings (tribal or state) involving the care or custody of the youth to be adopted and the results of those proceedings; and
- The reasons the petitioner(s) desire to adopt the youth.
- The petition should be signed and verified by the applicant. For example, "I have read the foregoing petition and to the best of my knowledge it is true and accurate."

3. Once the petition is filed – notice is given.

File the petition with the Court.

When the petition is received, the Court Clerk shall immediately notify the ICW.

When the petition is received, the Court Clerk shall set a date no more than 60 days from the date the petition was received, unless the Court extends the date.

When the Court date is set the Court Clerk shall give notice of the hearing date to the following people, at least 20 days before the hearing:

- The petitioner(s)
- The youth;
- The youth's parent(s), guardian or custodian;
- Any person the Court deems necessary for proper adjudication;
- Any person the parties believe necessary for the hearing;
- The Indian Child Welfare Office; and
- The Squaxin Island Tribe's presenting ICW officer or, if none is assigned then the Squaxin Island Legal Department.

The notice must include the date, time, and place of the hearing, and a copy of the petition.

3. The Pre-Adoption Report Not Required – Extended Family Exception.

When the petitioner is a member of the youth's extended family, the court, in its discretion,

may waive the formal written requirements for the pre-adoptive report and require only such oral information from the Indian Child Welfare worker and social services staff as the court deems necessary. SITC § 10.20.010 (F)(7).

Extended family is defined in 10.04.040 as,

This term shall be defined by the law or custom of the Indian youth's tribe, or in the absence of such law or custom, shall be a person who has reached the age of eighteen (18) and who is the youth's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

If the petitioner is the youth's grandparent, aunt, uncle, brother or sister, brother-in-law or sister-in-law, niece, nephew, first or second cousin or step-parent then the need for a Pre-Adoption report may be waived.

4. The Pre-Adoption Report.

ICW must prepare a Pre-Adoption. The time period is short. The hearing will be less than 60 days away, and needs to be filed at least 10 days prior to the hearing. Thus, ICW will have 50 days or less to complete its work.

When the petition or notice of a petition is received by the ICW, ICW shall immediately begin preparation of a pre-adoption report.

ICW shall consult with social services staff.

ICW shall consult with the youth's parents, guardian and or custodian.

ICW shall consult with all social services, health, and education personnel who have had prior professional contacts with the youth and or his or her parent(s), guardian or custodian to determine if adoption is in the best interests of the youth.

ICW may review any of the youth's prior court record.

ICW shall present its preliminary findings and recommendations to Tribal Council and obtain from the Tribal Council its determination whether it opposes the petition.

Thereafter, ICW shall prepare and finalize a written Pre-Adoption Report including the professional opinions of all personnel consulted, whether Council opposes the petition and the recommendation of ICW.

10 days prior to the hearing, the Pre-Adoption Report shall be submitted by the ICW to:

- The petitioner(s);
- The youth;
- The youth's parent(s), guardian or custodian;

- Any person the Court deems necessary for proper adjudication;
- Any person the parties believe necessary for the hearing;
- The Squaxin Island Court Clerk;
- The Indian Child Welfare Office; and
- The Squaxin Island Tribe's presenting ICW officer or, if none is assigned then the Squaxin Island Legal Department.

The Court Clerk may receive additional reports from any party which include his or her recommendation.

5. The Pre-Adoption Hearing.

The Pre-Adoption hearing is conducted consistent with the Youth Code. The Court shall consider all pre-adoption reports submitted for review. All parties shall be given the opportunity to contest the factual contents and conclusions of the pre-adoption reports.

The grounds for adoption and the burden of proof are set by statute. The Pre-Adoption Report should consider and speak to the following standards:

The Court may enter a Decree of Adoption if it finds that:

- All of the necessary procedures have been followed;
- The Squaxin Island Tribal Council does not oppose the adoption; and
- Adoption is in the best interest of the youth.

6. Temporary Decree of Adoption.

If the Court grants the petition for adoption, the decree will be temporary for one year. The Court will conduct a review hearing and [not clear here what standard applies] and thereafter enter a permanent decree.

7. Permanent Decree of Adoption.

After one year in temporary adoption status, the Court will enter a Permanent Decree of Adoption [this could be automatic]. A decree must include certain matters, including a provision that the Bureau of Vital Statistics and the Bureau of Indian Affairs be contacted.

Chapter 10.20

ADOPTION

Sections:

10.20.010 General provisions.

10.20.010 General provisions.

A. Petition—Who May File. Any person eighteen (18) years or older wishing to adopt a youth may file a petition with the Tribal Court requesting that he or she be appointed as a guardian. If the petitioner is married, his or her spouse must also be at least eighteen (18) years old and must sign the petition, unless the spouse's whereabouts is unknown or unless waived by the Court. "Spouse" for purposes here includes common law spouses. "Common law spouse" for purposes of this code means parties to a marriage recognized under tribal custom or parties to a relationship wherein the couple reside together and intend to reside together as a family.

B. Petition—Contents. The adoption petition shall include:

1. The name, date of birth, residence and tribal status of the youth;
2. The full name to be given to the child to be adopted;
3. The name, age, place and duration of residence and the tribal status of the petitioner(s);
4. The relation, if any, of the petitioner(s) to the youth;
5. The names and addresses, if known, of all persons whose consent is required; and proof of consent, if given;
6. A description of any previous civil proceedings involving the care or custody of the youth to be adopted and the results of these proceedings;
7. The reasons the petitioner(s) desire(s) to adopt the youth.

C. Availability for Adoption. A youth may be adopted only if he has no parents by reason of death or by the voluntary or involuntary termination of the parent-child relationship. The Court may conduct a hearing as provided under Chapter 10.16, Termination of Parental Rights, prior to or in consolidation with an adoption hearing.

D. Setting the Hearing. When the Court receives the petition for adoption, it shall set a date for the adoption hearing, which shall not be more than sixty (60) days after the Court receives the petition, unless extended for good cause shown.

E. Notice of Hearing. Notice of the hearing shall be given by the court clerk or other person designated by the Tribe to perform this duty as provided under Section 10.04.110, Service, at least twenty (20) days before the hearing. The notice shall include the date, time and place of the hearing, and a copy of the petition. The notice shall be served on:

1. The petitioner(s);
2. The youth;
3. The youth's parent(s), guardian or custodian;
4. The presenting officer;
5. Any person the court deems necessary for proper adjudication; and
6. Any person the parties believe necessary for the hearing.

F. Pre-Adoption Report. The Indian Child Welfare worker, in consultation with the social services staff, shall prepare a pre-adoption report. In preparing the report, the Indian Child Welfare worker shall conduct a complete home study including all information reasonably available concerning:

1. The physical and mental condition of the youth, the petitioner(s) and the petitioner(s)' family;
2. The parent(s) of the youth;
3. The home environment, family life, health facilities and resources of the

petitioner(s);

4. The youth's cultural heritage and tribal status;
5. The marital status of the petitioner(s), if married, and divorce, if any. The names and ages of other children, both natural and adopted, of the petitioner(s);
6. The recommendation, if any, of the Squaxin Island Tribal Council regarding the adoption; and
7. Any other facts and circumstances relating to the propriety and advisability of the adoption.

When the petitioner(s) is a member of the youth's extended family, the court, in its discretion, may waive the formal written requirements for the pre-adoptive report and require only such oral information from the Indian Child Welfare worker and social services staff as the court deems necessary.

G. Pre-Adoption Report—Service. The Indian Child Welfare worker shall mail the pre-adoption report to the Court and all parties to the proceedings at least ten (10) days before the hearing.

H. Additional Reports. Any party may file a report which shall include his or her recommendations for consideration by the Court.

I. Adoption Hearing—Purpose. The Court shall conduct the adoption hearing to determine whether adoption is in the best interest of the youth.

J. Adoption Hearing—Conduct. The hearing shall be private and closed. The following procedural rules apply: Sections 10.08.030F, Testimony, 10.08.030G through J, Rules of Evidence, Section 10.08.030K, Admissibility of Statements, Sections 10.08.030L through M, Questioning Witnesses, 10.08.030N, Written Testimony, and 10.08.030O, Rules for Discovery.

K. Grounds for Entering Decree of Adoption. The Court may enter a decree of adoption if it finds that all necessary procedures have been followed, that the Squaxin Island tribal council does not oppose it, and that it would be in the best interest of the youth.

L. Denial of Adoption Petition. If the adoption petition is denied, the Court shall specifically state the reasons for the denial and shall designate who shall have custody of the youth.

M. Decree of Adoption. If the Court grants the petition for adoption, the decree shall include:

1. Such facts as are necessary to establish the youth is available for adoption, and that the adoptive home and parents are adequate and capable of providing proper care of the youth;
2. A provision that the Bureau of Vital Statistics of the state where the child was born and the Bureau of Indian Affairs shall be notified of the adoption and a certified copy of the decree shall be mailed to those offices; and
3. That such adoption remain temporary for one year from date of entry of such decree, and shall become permanent at the expiration of the one-year period.
4. A provision changing the legal name of the person adopted may be included.

N. Effect of Decree of Adoption. A decree of adoption has the following effect: It creates the relationship between the adopted person and the petitioner and all relatives of the petitioner, that would have existed if the adopted person were a legitimate blood descendant of the petitioner. This relationship shall be created for all purposes, including inheritance and applicability of statutes, documents, and instruments, whether executed before or after entry of the adoption decree, that do not expressly exclude an adopted person by their terms.

O. Adoption Records. All records, reports, proceedings, and orders in adoption cases are confidential and shall not be available for release or inspection. Information contained in such records may be released upon petition to the Tribal Court by the adopted person after reaching legal majority. However, information may be released as necessary to amend the child's birth certificate. (Res. 86-26 (part))

SQUAXIN ISLAND TRIBAL COURT
YOUTH COURT
SQUAXIN ISLAND RESERVATION

IN RE: WELFARE OF:

Case No.: CI-

_____, an Indian child

PETITION TO ADOPT SITC § 10.20

_____, Petitioner

Note on Motion Calendar:
DAY, MONTH, YEAR TIME

COMES NOW _____, the Petitioner, files this petition consistent with the Squaxin Island Tribe's Youth Code Chapter 10.20, and alleges:

1. The Youth's name:
The Youth's birth date:
The Youth's residence:
The Youth's tribal status:
2. The Youth's mother:
The Youth's mother's birth date:
The Youth's mother's residence:
The Youth's mother's tribal status:

The Youth's father:
The Youth's father's birth date:
The Youth's father's residence:
The Youth's father's tribal status:
3. The full name to be given to the Youth to be adopted is:

1 4. The Petitioner's name:
The Petitioner's age:
2 The Petitioners place of residence:
How long has the petitioner lived at that residence:
3 Petitioner's tribal status:

4 5. The relation, if any, of the Petitioner(s) to the Youth:

5 6. A description of any previous civil proceedings (tribal or state) involving the care or custody of
the Youth to be adopted and the results of those proceedings:

6 [list all state and/or tribal court proceedings by case name and number]

7
8 7. The reasons the Petitioner(s) desire to adopt the Youth:

9
10
11
12
13 8. The names and addresses of all persons having or claiming any right of custody, control,
visitation, support or other legal interest in the Youth; and those whose consent is required
14 (attach notarized consents):

15
16 9. The Youth's mother is deceased: [check one] Yes or No
The Youth's mother's parental rights were voluntarily terminated: [check one] Yes or No
17 The Youth's mother's parental rights were involuntarily terminated: [check one] Yes or No .

18 10. The Youth's father is deceased: [check one] Yes or No
The Youth's father's parental rights were voluntarily terminated: [check one] Yes or No
19 The Youth's father's parental rights were involuntarily terminated: [check one] Yes or No .

20
21 If parental rights have been terminated, a certified copy of the court order terminating parental
rights must be attached.

22
23 11. Petitioner is a member of the Youth's extended family: [check one] Yes or No .

24 Describe how:
25

1 12. Other information that may be helpful to the Court:
2
3

4 A copy of this petition will be filed by the Court Clerk with the Squaxin Island Tribal Indian Child
5 Welfare Office for it to begin work on a Pre-Adoption Report. See SITC § 10.20. _____. To complete the
6 Pre-Adoption Report, ICW will conduct a complete home study, confer with social service staff and
7 confer with the Squaxin Island Tribal Council.

8 By filing this Petition I authorize and consent to [need a better consent form here] necessary to
9 complete the duties described in Chapter 10.20.

10 _____ [Check if applicable] The Petitioner is a member of the Youth's extended family and
11 requests that the Court waive the requirement of a formal Pre-Adoption Report.

12 By filing this petition with the Squaxin Island Tribal Court, I consent and submit to the personal
13 and subject matter jurisdiction of that Court; and further agree to honor and obey all orders of the Court
14 pertaining to the care and custody of the Youth. Finally, I understand and agree that if and when this
15 petition is granted by the court, the Youth remains under the continuing jurisdiction of the Squaxin
16 Island Tribal Court until the later of (a) the expiration of any applicable Youth Court Order or (b) the
17 Youth reaches the age of eighteen.

18 Wherefore, based on the foregoing, the Petitioner requests that the Court: [check all that apply]

19 _____ Waive the requirement of a Pre-Adoption Report;

20 _____ Grant this petition and enter a Decree of Adoption

21 _____ Change the Youth's legal name from _____ to _____

22 _____ Other: _____

23 I have read the foregoing petition and to the best of my knowledge it is true and accurate.

24 RESPECTFULLY SUBMITTED this _ day of _____, 2006.

25 _____
Print name: _____
Petitioner

1 THE HONORABLE ANITA ESTUPINAN NEAL

2
3
4
5
6
7 SQUAXIN ISLAND TRIBAL COURT
8 YOUTH COURT
9 SQUAXIN ISLAND RESERVATION

10 IN RE: ADOPTION:

Case No.: CI-06-01-015

11 _____, an Indian child

TRIBE'S RESPONSE TO _____ PETITION TO
ADOPT SITC § 10.20

12 _____, Petitioner

Note on Motion Calendar:
Wednesday, March 29, 2006 9:30 AM

13
14
15 Comes now the Squaxin Island Tribe, through its Indian Child Welfare (ICW) offices, and
16 responds to _____ petition to adopt the minor child _____ filed on _____ pursuant to Squaxin
17 Island Tribe's Youth Code § 10.20.

18 **1. Jurisdiction.** The child is an Indian child within the meaning of SITC § _____. The
19 petitioner is an enrolled member of the Squaxin Island Tribe. The child's birth mother is an enrolled
20 member of the _____ Indian Tribe. The Squaxin Island Youth Court has jurisdiction pursuant
21 to SITC § _____.

22 **2. Eligibility.** The child's birth father filed a petition for the voluntary termination of his
23 parental rights with this petition for adoption. Assuming that the petition for voluntary termination is
24 granted, the child is eligible for adoption under SITC § _____.

1 **3. Pre-Adoption Report.** The ICW completed its Pre-Adoption report filed herewith. In
2 preparing the report the ICW consulted with the youth's birth mother, the petitioner, the terminating birth
3 father, social services staff, health professionals and educators. The ICW also conferred with the Tribal
4 Council. The Tribal Council does not oppose the adopt; rather, it recommends that the petition be
5 granted. The ICW Pre-Adoption Report concludes that the adoption as in the best interests of the
6 youth and that the petition should be granted.

7 **4. Temporary Decree of Adoption.** The ICW recommends that the Court grant the
8 petition for adoption upon entry of the order terminating the parental rights of the birth father. The ICW
9 recommends, consistent with SITC § ___ that the decree be effective for one year and subject to a
10 review hearing no less than one year after the entry of its order granting the petition. The ICW further
11 recommends that the adoption decree become effective by its own terms if, at the one-year review
12 hearing, the youth's circumstances and conditions have not changed so much that the Tribal Council
13 opposes the permanent decree and/or the permanent decree is no longer in the best interests of the
14 child. The ICW files a proposed order herewith.

15 Respectfully submitted this ___ day of ____, 2006.

16
17 _____
18 Kevin R. Lyon
19 Attorney for the Squaxin Island Tribe
20 WSBA No. 15076
21
22
23
24
25

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I filed the foregoing document with the Clerk of the Court and with _____,
the petitioner; _____, the birth mother; _____, the terminating birth father,
_____, ICW Case Worker, and Raymond Peters, Executive Director Squaxin Island Tribe, by inter-
office mail or first class mail on _____, 2006.

DATED this ___ day of _____, 2006.

Kevin R. Lyon, WSBA # 15076
Squaxin Island Legal Department
SE 3711 Old Olympic Highway
Shelton, WA 98584
Telephone: (360) 432-1771
Fax: (360) 432-3699
E-mail: klyon@squaxin.nsn.us

DRAFT

7 SQUAXIN ISLAND TRIBAL COURT
8 YOUTH COURT
9 SQUAXIN ISLAND RESERVATION

10 IN RE: ADOPTION OF:

Case No.: CI-06-01-015

11 _____, an Indian child

PROPOSED DECREE OF ADOPTION SITC §
10.20

12 _____, Petitioner

Note on Motion Calendar:
[DATE AND TIME]

13
14
15 This matter having come before the Court on the petition of _____, and the Court having
16 considered the Petition, the pleadings on file, the ICW Pre-Adoption Report, the Petitioner, the
17 Petitioner's advocate _____, and [list others attending] attending, and considering the
18 arguments presented, the Court makes the following findings of fact and conclusions of law, and enters
19 a decree of adoption as follows:

20 **1. Findings of Fact.**

21 1.1 The Youth's father's parental rights were voluntarily terminated.

22 1.2 The petition for adoption was filed and signed by the petitioner Steve Sigo and his
23 common law spouse Andrea Wilbur Sigo. § 10.20.010 A.

24 1.3 The Youth's name:
The Youth's birth date:
The Youth's residence:
25 The Youth's tribal status:

1 1.4 The Youth's mother:
2 The Youth's mother's birth date:
3 The Youth's mother's residence:
4 The Youth's mother's tribal status:

5 1.5 The Youth's father:
6 The Youth's father's birth date:
7 The Youth's father's residence:
8 The Youth's father's tribal status:

9 1.6 The full name to be given to the Youth to be adopted is:

10 1.7 The Petitioner's name:
11 The Petitioner's age:
12 The Petitioner's place of residence:
13 The petitioner has lived at that residence for ____ year.
14 Petitioner's tribal status:

15 1.8 The Petitioner is related to the youth by: _____.
16 The Petitioner is not related to the youth.

17 1.9 Petitioner is [is not] a member of the Youth's extended family.

18 1.10 A description of any previous civil proceedings (tribal or state) involving the care or
19 custody of the Youth to be adopted and the results of those proceedings:

20 [list all state and/or tribal court proceedings by case name and number]

21 1.11 The Petitioner(s) desire to adopt the Youth because:

22 [list]

23 1.12 The names and addresses of all persons having or claiming any right of custody, control,
24 visitation, support or other legal interest in the Youth; and those whose consent is required are:

25 [list]

1.13 The Squaxin Island Tribal Council does not oppose the petition.

1.14 Notice was given to all affected parties of the hearing and an opportunity to participate,
the hearing was timely held, and an opportunity to be heard was given to all.

1.15 The Squaxin Island Tribal Courts recognize state court orders.

1 **2. Conclusions of Law.**

2 2.1 The Squaxin Island Tribal Court and its Youth Division have jurisdiction over the subject
3 matter of the petition and over the petitioner and the youth to be adopted.

4 2.2 The Youth is available for adoption. § 10.20.010(C) and (M)(1).

5 2.3 All necessary procedures were followed including due process as required by the Indian
6 Civil Rights Act of 196. § 10.20.010 (K).

7 2.4 The Squaxin Island Tribal Court provides for recognition and implementation of orders,
8 judgments and decrees of the superior courts of the state of Washington.

9 2.5 The Squaxin Island Tribal Council does not oppose the petition. § 10.20.010 (K).

10 2.6 The adoptive home and parents are adequate and capable or providing proper care of
11 the youth. . § 10.20.010 (K) and (M)(1).

12 2.7 Adoption of the youth _____ by _____ would be in the best interests of the youth. . §
13 10.20.010 (K).

14
15 **WHEREFORE, THE COURT ENTERS THE FOLLOWING DECREE:**

16 A. A decree of adoption shall entering where the youth ____ shall be the adopted child of
17 Steve Sigo.

18 B. The child's name shall be changed from _____ to _____.

19 C. The Squaxin Island Tribe's Clerk's Office shall notify and provide a certified copy of this
20 decree to the Washington Bureau of Vital Statistics and to the Bureau of Indian Affairs within 5 days of
21 the entry of this decree. This Court also determines that this decree was entered into, and the
22 procedures incident to its entry, fully satisfy the requirements of Washington Civil Rule 82.5 recognizing
23 and implementing tribal court orders. The Squaxin Island Tribe's Clerk's Office shall do all acts
24 necessary to have this Court's decree entered into, recognized and implemented by the courts of the
25 state of Washington. This Court further

1 D. This decree is a temporary decree and subject to review on March 29, 2007, or the first
2 regularly scheduled Youth Court date thereafter if court is not to be held on March 29, 2007 and, unless
3 a motion is filed on or before March 19, 2007, by the Squaxin Island Tribal Council that it opposes entry
4 of the permanent decree or by the ICW that the conditions and terms have changed such that a
5 permanent decree is no longer in the best interests of the youth, a permanent decree shall be entered.

6 E. This decree shall be effective immediately.

7 Dated _____, 2006.

8
9 Judge Anita Estupinan Neal

10
11 Presented by:
12 Kevin R. Lyon
13 Attorney for the Squaxin Island Tribe

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