

CHAPTER 69 – JUVENILE OFFENDERS

Sec. 69.1 Taking a Child into Custody for a Juvenile Offense

1. A law enforcement officer may take a child into custody for a juvenile offense when:
 - a. the child commits a juvenile offense in the presence of the officer;
 - b. the officer has a reasonable suspicion to believe that a juvenile offense has been committed by the child to be detained; or
 - c. the Children's Court has issued an appropriate custody order or warrant.
2. The taking of a child into custody under the provisions of this Section shall not be considered an arrest.
3. A law enforcement officer taking a child into custody shall notify the child's parent, guardian, or custodian as soon as possible.

Enacted by Res. No. 2019-021, May 10, 2019; approved by Sec'y April 21, 2020.

Sec. 69.2 Provision of Rights

At the time that a law enforcement office takes a child into custody as an alleged juvenile offender, the officer shall inform the child that:

1. the child has the right to remain silent;
2. anything the child says can be used against the child in court;
3. the child has a right to the presence of his parent, guardian, or custodian and/or counsel during questioning; and
4. the child has the right to an advocate or attorney at his or her own expense.

Enacted by Res. No. 2019-021, May 10, 2019; approved by Sec'y April 21, 2020.

Sec. 69.3 Release or Detention

1. Except where the immediate welfare of the child or the protection of the community requires that the child be detained, the child shall be released to the custody of his or her parent, guardian, custodian or other person approved by the Children's Court, on the promise of the person either orally or in writing to bring the child to court at any time as the Children's Court may direct. The Children's Court may require a bail or bond to be posted.
2. If the immediate welfare of the child or the protection of the community requires the detention of the child, then the law enforcement officer shall:

- a. Deliver the child to a place of detention as provided in Section 68.4; and
- b. Deliver the child to a medical facility if the child is believed to need prompt medical treatment, or is under the influence of alcohol or other substances;
- c. Notify the Children's Court and the parent, guardian, or custodian of the child of the place of detention as soon as possible.

Enacted by Res. No. 2019-021, May 10, 2019; approved by Sec'y April 21, 2020.

Sec. 69.4 Place of Detention

A child may be detained in one of the following places:

1. A place designated by the Children's Court as suitable for the care of the child; or
2. A room entirely separate from adults in a detention facility, which must provide twenty-four (24) hour coverage.

Enacted by Res. No. 2019-021, May 10, 2019; approved by Sec'y April 21, 2020.

Sec. 69.5 Detention Hearing

1. Within twenty-four (24) hours after a child has been taken into custody pursuant to this Chapter and detained, the Children's Court shall hold a detention hearing to determine whether the child should be released or detained pending the adjudicatory hearing.
2. No child may be held longer than forty-eight (48) hours unless a petition has been filed.
3. The Children's Court shall inform the child of the accusations against him or her.
4. The child may present evidence of personal recognizance or of the ability of his or her parent, guardian, or custodian to provide adequate supervision.
5. The Children's Court shall release the child to the child's parent, guardian, or custodian unless:
 - a. The act is serious enough to warrant continued detention; and
 - b. There is probable cause to believe the child has committed the act alleged; and
 - c. Either:
 - i. There is reasonable cause to believe that the child will run away so that he or she will be unavailable for further proceedings; or
 - ii. There is reasonable cause to believe that the child will commit a serious act causing damage to persons or property.

6. The Children's Court shall issue a written order stating the reasons for the continued detention or release of the child. If the Children's Court determines to continue the child's detention, the order shall include the physical location and length of time of detention. If the Children's Court determines to release the child, the order shall state the conditions for release, if any, including, as applicable, the identity of the person to whom the child is released, where the child will stay pending the proceedings, curfew, compliance with Pueblo laws, and other conditions necessary to insure the child's safety and appearance before the Children's Court.

Enacted by Res. No. 2019-021, May 10, 2019; approved by Sec'y April 21, 2020.

Sec. 69.6 Initiation of Proceedings

Proceedings under this Chapter 69 (Juvenile Offenders) shall be initiated by the filing of a petition by a law enforcement officer of a petition in conformity with Section 65.15, above.

Enacted by Res. No. 2019-021, May 10, 2019; approved by Sec'y April 21, 2020.

Sec. 69.7 Transfer to Tribal Court

1. The Children's Court shall transfer to the Tribal Court any case involving a person alleged to have committed a juvenile offense who was actually eighteen (18) years of age or older at the time of the offense.

2. The Children's Court may transfer to the Tribal Court any case involving a child sixteen (16) years of age or older who is alleged to have committed a serious or violent juvenile offense when, after a hearing conducted in accordance with Sec. 65.13, the Tribal Court determines that:

a. There are no reasonable prospects for rehabilitating the child through the resources available to the juvenile court; and

b. The offense(s) allegedly committed by the child evidence a pattern of conduct that constitutes a substantial danger to the public.

3. An order transferring a case to Tribal Court must be in writing and contain specific findings with regard to the factors set forth at Sec. 69.7(2).

Enacted by Res. No. 2019-021, May 10, 2019; approved by Sec'y April 21, 2020.

Sec. 69.8 Adjudicatory Hearing

1. The Children's Court shall hold an adjudicatory hearing on a petition to determine whether a child has committed a juvenile offense. The hearing shall be conducted in accordance with Sec. 65.13.

2. If the child is in custody, the hearing shall be held within ten (10) days after the petition was filed; if the child is not in custody, the adjudicatory hearing shall be held within thirty (30) days after the petition was filed.

3. For good cause, the Children's Court may extend the time for the commencement of an adjudicatory hearing one time, by up to five (5) days when the child is in custody, and by fifteen (15) days when the child is not in custody.

4. Before accepting an admission by the child to the allegations of the delinquency petition, the Children's Court shall ask the child, in language the child will easily understand, whether:

- a. The child understands his or her rights under Section 68.2 of this Title;
- b. The child's admission is voluntary; and
- c. The child understands the consequences of an admission.

5. The Children's Court shall not accept an admission until it determines, based on the child's answers to the foregoing and other relevant circumstances that:

- a. The child voluntarily, intelligently, and knowingly admits all facts necessary to constitute a basis for the Children's Court jurisdiction; and
- b. The child has not set forth facts, which if found to be true, would be a defense to the allegations in the petition.

6. If at the conclusion of the presentation of evidence, the Children's Court does not find by beyond a reasonable doubt that the child has committed a juvenile offense, then the court shall dismiss the petition with prejudice. If the Children's Court determines beyond a reasonable doubt that an offense has been committed, but that the child was actually eighteen (18) years of age or older at the time of the offense, the Children's Court shall transfer the case to the Tribal Court.

7. If the Children's Court finds on the basis of a valid admission of the allegations in the petition or on the basis of proof beyond a reasonable doubt that a child has committed a juvenile offense, the court shall either proceed immediately to a disposition of the case or schedule a disposition hearing in accordance with Section 68.9, below.

Enacted by Res. No. 2019-021, May 10, 2019; approved by Sec'y April 21, 2020.

Sec. 69.9 Disposition Hearing

1. If not held in conjunction with the adjudicatory hearing at which the child was found to be a juvenile offender, the Children's Court shall hold a disposition hearing within 30 days after the adjudicatory hearing.

2. For good cause, the Children's Court may extend the time for the commencement of a disposition hearing one time, by up to five (5) days when the child is in custody, and by fifteen (15) days when the child is not in custody.

3. If the Children's Court opts to schedule a disposition hearing rather than proceed immediately to a disposition of the case, it may order:

- a. A predisposition study and report concerning the child;
- b. A medical assessment of the child;
- c. An evaluation of the child by a qualified psychiatrist, psychologist, or other licensed professional; and/or
- d. An examination and/or evaluation of the parents, guardians, or custodians of a child by a physician, psychiatrist, or psychologist.

4. Any such study, examination, or evaluation shall be conducted on an outpatient basis unless the Children's Court determines that placement in a hospital or other appropriate facility is necessary, in which case the Children's Court may order the transfer of a child adjudicated as a juvenile offender to a hospital or other appropriate facility for a period of not more than thirty (30) days for such study, examination, or evaluation, and may continue the disposition hearing for a period not to exceed sixty (60) days.

5. If the Children's Court adjudicates the child as a juvenile offender, it shall make one or more of the following dispositions that it determines are in the best interest of the child:

- a. Permit the child to remain with his or her parent, guardian, or custodian, subject to such conditions and limitations as the court may prescribe;
- b. Place the child in the legal custody of a relative or other suitable person subject to such conditions and limitations as the court may prescribe;
- c. Order the child, parent, guardian, and/or custodian to pay restitution for actual damages suffered due to the juvenile offense;
- d. Impose a fine;
- e. Order the child to perform community service;
- f. Prohibit the child from operating a motor vehicle within the external boundaries of the Pueblo;
- g. Order the child to attend a course designed to improve driving skills;
- h. Place the child under the supervision of a juvenile probation officer, the Department, the Santa Clara Pueblo Behavioral Health Program, and/or other suitable person; and/or

i. If the child is in need of special treatment and care for his physical or mental health, refer the child for such treatment.

6. The child's parent, guardian, or custodian and any person or entity that has legal custody of a child shall report to the Children's Court, as the court may direct.

Enacted by Res. No. 2019-021, May 10, 2019; approved by Sec'y April 21, 2020.

Sec. 69.10 Disposition Orders

1. At the conclusion of the initial disposition hearing and any disposition review hearing, the Children's Court shall prepare a written disposition order.

2. All disposition orders shall be for an indeterminate period unless otherwise specified by the Children's Court.

3. A disposition order is a final order for purposes of appeal.

4. The Children's Court shall review disposition orders at least once every six (6) months. The Children's Court may hold a hearing to modify, revoke, or extend a disposition order at any time upon the motion of the child, the child's parents, guardian or custodian, or the juvenile probation officer.

5. All review hearings and hearings to modify, revoke, or extend the disposition order shall be conducted in accordance with Section 69.9.

Enacted by Res. No. 2019-021, May 10, 2019; approved by Sec'y April 21, 2020.

Sec. 69.11 Effect of Proceedings under this Chapter

1. An adjudication that a child is a juvenile offender shall not be deemed a conviction of a crime, nor shall it impose any civil disabilities ordinarily resulting from the conviction of a crime.

2. Neither the disposition of the child nor any evidence given by the child before the Children's Court shall be admissible as evidence against the child in any case or proceeding in any other court, including the Tribal Court.

3. Nothing in this Section shall be construed to relate to subsequent proceedings in the Children's Court, or to preclude the Children's Court from disclosing information to qualified persons if the court considers such disclosures to be in the best interest of the child.

4. The protections of this Section do not apply to matters transferred to the Tribal Court pursuant to Section 69.7.

Enacted by Res. No. 2019-021, May 10, 2019; approved by Sec'y April 21, 2020.

Sec. 69.12 Expungement

The Children's Court may expunge the adjudication of a juvenile offender at any time that it deems advisable.

Enacted by Res. No. 2019-021, May 10, 2019; approved by Sec'y April 21, 2020.