

TITLE 1
COMANCHE
NATION TRIBAL
COURTS

TITLE 1 COMANCHE NATION COURTS

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Section 1.01 Authorization

There is hereby established, ordained, and activated pursuant to the Constitution of the Comanche Nation the Judicial Branch of the Government of the Comanche Nation with a lower Court known as the District Court and an upper Court known as the Appellate Court.

Section 1.02. Definitions

The following words have the meanings given below when used in this Title, unless a different meaning is obvious from the context:

- A. "Appellate Court" shall mean the Court of last resort to which appeals may be taken from the District Court: The judicial decisions of the Appellate Court are final and are not subject to further appeal.
- B. "Clerk" shall mean the Court Clerk/Court Administrator of the Court.
- C. "Code" shall mean the Statutory laws of the Comanche Nation.
- D. "Comanche Nation Tribal Court" shall mean the District and Appellate Courts of the Comanche Nation.
- E. "Constitution" shall mean the Constitution and By-Laws of the Comanche Nation.
- F. "District Court" shall mean the lower or general trial Court operating within the jurisdiction of the Comanche Nation.
- G. "He, "him", and "his" shall mean the masculine, feminine and neuter forms as appropriate unless a particular masculine, feminine or neuter form is necessary for the phrase to have meaning.
- H. "Jurisdiction" shall mean the Indian Country within the territorial jurisdiction of the Comanche Nation.

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Section 1.03. Territorial Jurisdiction

The Territorial Jurisdiction of the Comanche Nation Courts shall extend to all Comanche Treaty lands and all territory described as Indian Country within the meaning of Section 1151 of Title 18 of the United States Code over which the Comanche Nation has authority, including tribal or individual, trust, non-trust and restricted land, and including all land owned by tribal agencies in their own name, all waters, airspace, minerals and wildlife (vegetation), and any other such land, or interest in land, which may be subsequently acquired by virtue of Executive Order, a declaration or regulation of the United States Department of Interior, a declaration or order of a Court of competent jurisdiction, by purchase, gift, relinquishment, or by any other lawful means and shall include all Comanche Treaty lands over which the Comanche Nation retains jurisdiction.

Section 1.04. Civil Jurisdiction

The Courts shall have general civil jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the Comanche Nation including the tribal common law, over all general civil claims which arise within the tribal jurisdiction, and over all transitory claims in which the defendant may be served within the tribal jurisdiction. Personal jurisdiction shall exist over all defendants served within the territorial jurisdiction of the Court, served anywhere in cases arising within the territorial jurisdiction of the Comanche Nation, and/or over all persons consenting to such jurisdiction. The act of entry within the territorial jurisdiction of the Court shall be considered consent to the jurisdiction of the Court with respect to any civil action arising out of such entry. The act of entry upon the territorial jurisdiction by an extraterritorial seller, merchant, or their agent(s) shall be considered consent by the seller or merchant to the jurisdiction of this Court for any dispute arising out of any sale or commercial transaction regardless of where the sale or transaction was entered into or took place.

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Section 1.05. Criminal Jurisdiction

The Courts shall have original jurisdiction over all criminal offenses enumerated and defined in any ordinance adopted by the Comanche Nation insofar as not prohibited by federal law and shall specifically include jurisdiction over all individuals as may be authorized by applicable Federal Law. All persons subject to criminal prosecution shall have the right to competent qualified legal representation before the Comanche Court.

Section 1.06. Probate Jurisdiction

To the extent permitted by federal law the Courts shall have probate jurisdiction over all of the personal property located within the jurisdiction of the Court at the time of death, and the personal property, wherever located, of any person who is domiciled within the boundaries of the jurisdiction of the Court at the time of death.

Section 1.07. Jurisdiction of Comanche Children and Family Relations

The Children and Family Relations Division of the District Court shall have exclusive original jurisdiction in all proceedings and matters relating to family matters and to child custody proceedings as defined in Title 4 Section 107(c), to matters affecting dependent or neglected children, to children in need of supervision, when such children are found within the jurisdiction of the Court, or when jurisdiction is transferred to the Court pursuant to law. The Appellate Court shall hear appeals in Children's and Family Relations cases as in other civil actions.

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Section 1.08. Law to Be Applied

The Courts shall apply the Tribal Constitution, and the provision of all statutory law heretofore or hereafter adopted by the Comanche Nation. In matters not covered by Tribal Statute, the Court shall apply traditional tribal customs and usages, which shall be called the Common Law. When in doubt as to the Tribal Common Law, the Court may request the advice of counselors and tribal elders familiar with them. In any dispute not covered by the Tribal Constitution, Tribal Statute, or Tribal Common Law, the Court may apply any laws of the United States or any State which would be cognizable in the Courts of general jurisdiction therein, and any regulation of the Department of Interior which may be of general or specific applicability. Upon this Code becoming effective, neither Part 11 of Title 25 of the Code of Federal Regulations, except those Sections thereof which are effective when the Tribe receives certain funding from the Bureau of Indian Affairs, nor State law shall be binding upon the Court unless specifically incorporated into Tribal law by Tribal statute or be a decision of the Tribal Courts adopting some federal or state law as Tribal Common Law.

Section 1.09. Amendments

The Comanche Nation Business Committee shall have the authority to alter, amend, or repeal any provision of this Act or to add new sections to this Act in its discretion, provided that any changes to this Code during the pendency of an action will not have any application to an action in process.

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Section 2.01. Composition of Comanche Nation Tribal Court.

The Comanche Nation Court shall be composed of a District Court which shall consist of the Chief Judge, and two (2) Associate District Judges. Special Judges and Magistrates may be appointed by law. Appeals from decisions of the District Court shall be heard by a panel of three Appellate Judges which shall be comprised of a Presiding Appellate Judge and two (2) Associate Appellate Judges who were not involved in the trial of the case. The Appellate Court will have original jurisdiction over Comanche Nation Constitutional questions.

Section 2.02. Minimum Qualifications of the Comanche Nation Judges

The Chief Judge of the District Court and the Judges of the Appellate Court shall:

- A. Be an enrolled member of the Comanche Nation;
- B. Be a graduate of an ABA accredited Law School and a member in good standing of a State Bar Association; and
- C. Have no less than five (5) years' experience as a licensed attorney.

All other Judges and Special Magistrates of the Comanche Nation Court shall:

- A. Be an enrolled member of a federally recognized Indian Tribe;
- B. Be a graduate of an ABA accredited Law School and a member in good standing of a State Bar Association; and
- C. Have no less than five years (5) years' experience as a licensed attorney.

Special Children's Court Judges shall:

- A. Be an enrolled member of the Comanche Nation;
- B. Be familiar with the Constitution, Code, common laws, customs and traditional child rearing practices of the Comanche Nation;
- C. Shall serve at the request of the Chief Judge of the District Court in the Children and Family Relations Division (Children's Court) of the District Court;

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- D. Shall be empaneled with the Chief Judge of the District Court to hear Children's Court Cases pursuant to Title 4 of the Comanche Nation Tribal Court Code;
- E. May be empaneled with other Judges and / or Special Magistrates at the request of the presiding Judge or Special Magistrate to hear Children's Court Cases pursuant to Title 4 of the Comanche Nation Tribal Court Code

Section 2.03. Manner of Selection of Judges

Judges of the Comanche Nation District and Appellate Courts shall be nominated by the Chief Judge of the District Court and confirmed by the Comanche Nation Business Committee. Special Judges and Magistrates serving on the Court in special circumstances are not subject to this requirement.

Section 2.04. Initial and Succeeding Terms of Office

- A. Except as provided in subsection (B) of this section, the initial term of office for the first District Court Chief Judge appointed following adoption of this code shall be two (2) years and the initial term for the Associate Judges shall be one (1) year. The terms of the initial Appellate Judges appointed following adoption of this code shall be one (1) year for one Judge, two (2) years for one Judge and three (3) years for the Presiding Judge. The Comanche Business Committee shall designate the terms for each of the initial Associate Appellate Judges appointed following the adoption of this Code.
- B. Terms of office for all Judges of the Tribal District Court and the Appellate Court after expiration of the initial terms described in subsection (A) above, shall be four (4) years, subject to renewal.
- C. Judges shall continue in office until their successors are duly appointed and installed in office, or until they have died, resigned, or been removed from office.

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- D. In the event that the Tribal Comanche Business Committee has appointed any Judge (who is qualified) to the Tribal Court prior to the adoption of this code, such Judge shall continue to serve for a one-year term commencing with the adoption of this code.

Section 2.05 Vacancies in Judicial Offices

Vacancies in a Judicial Office shall be filled in the following manner:

- A. Within thirty days after a vacancy occurs in a Judicial Office the Chief Judge of the District Court shall cause a notice of the vacancy stating the minimum qualifications, and any other pertinent information to be published on the Tribal Website, and in a local newspaper and to other publications that primarily publish to an Indian audience for two (2) consecutive weeks. Copies of the notice shall be posted at the Tribal Office and such other places as the Chief Judge of the District Court shall direct. The notice shall direct that inquires, nominations and applications be directed to the Chief Judge of the District Court who shall keep a permanent record of responses to such notices.
- B. No sooner than twenty (20), nor more than thirty (30) days after the date on which last required notice was published or posted, the Chief Judge of the District Court shall within ten (10) days nominate a qualified candidate for the vacant Judicial Office for confirmation at the next regular or special meeting of the Comanche Business Committee.
- C. The Chief Judge of the District Court shall review the qualifications of the nominees, and may interview nominees at their discretion. In making a selection, the Chief Judge of the District Court shall give preference to qualified candidates who:

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1. Have more formal education and experience in the legal field particularly to Native American Law.
 2. By interview have shown that they are familiar with the Constitution, Code and Common Laws of the Comanche Nation.
 3. Have demonstrated decision making ability.
- D. If the nominee for the Judicial Office is confirmed by the Comanche Business Committee, the nominee shall be sworn into office by the Chief District Court Judge, or the next ranking available Judge of the Appellate Court.
- E. If the nominee(s) is not confirmed, the Chief Judge of the District Court shall republish the notice or establish a new list of eligible candidates, or he may reconsider the candidates on the list gathered from the previous notice. The nomination/Legislative confirmation process shall continue until a suitable nominee is confirmed.
- F. Upon the expiration of a judicial term of office, the Judicial Officer is entitled upon request, filed with the Chief Judge of the District Court not less than sixty days prior to the expiration of his term to be considered for confirmation to a new term at the next meeting of the Comanche Business Committee at which a quorum is present. If the Comanche Business Committee does not confirm the outgoing officer, they shall so declare and direct the Chief Judge of the District Court to begin the selection process. The outgoing judicial officer's term shall expire upon confirmation of the new Judge.

Section 2.06. Oath of Office

Before assuming office each Judge, Special Judge, and Magistrate shall take an oath to support and protect the Constitution of the Comanche Nation and to administer justice in all causes

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coming before him with integrity and fairness, without regard to the persons before him to be administered by the Chief Judge or the next ranking available Judge of the Appellate Court as soon after confirmation as may be practical.

Section 2.07. Duties and Powers of Judges

All Judges of the District Court and Appellate Court in cases within their authority shall have the duty and power to conduct all court proceedings, and issue all orders and papers incident thereto, in order to administer justice in all matters within the jurisdiction of the Comanche Court.

In doing so the Court shall:

- A. Be responsible for creating and maintaining rules of the Court, not in conflict with the Tribal Code or the Rules of the Appellate Court regulating conduct in the District Court, for the orderly and efficient administration of justice. Such rules must be filed in the office of the Comanche Nation Tribal Secretary Treasurer and the District Court Clerk before becoming effective.
- B. Hold Court regularly at a designated time and place.
- C. Have the power to administer oaths, conduct hearings, and otherwise undertake all duties and exercise all authority of a judicial officer under the law.
- D. Hear and decide all cases properly brought before the Court.
- E. Enter all appropriate orders and judgments.
- F. Issue all appropriate warrants and subpoenas.
- G. Keep all Court and other records as may be required.
- H. Perform the duties of the Clerk in his absence.
- I. Subject to the confirmation of the Appellate Court, to appoint such Magistrates as may be necessary for the convenient functioning of the Court. These Magistrates shall have the authority to issue arrest and search warrants, search warrants for the

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protection of children, emergency custody orders in children's cases, temporary commitments of persons accused of offenses, to conduct arraignments in criminal or juvenile delinquency cases, and to act on such ex parte, summary, or other matters as may be determined by Rule of the Appellate Court.

Section 2.08. Compensation of Judges

- A. The compensation of all Judges of the District Court and Appellate Court shall be set by appropriate legislation of the Comanche Business Committee. No Judge shall have his compensation reduced during his term of office, except that if funds be unavailable for appropriation, the compensation of all judicial officers may be reduced proportionally to the availability of funds.
- B. The compensation of all Magistrates shall be set by order of the Appellate Court from available appropriated funds.

Section 2.09. Removal of Judges

- A. The Judges of the Comanche Nation Court shall be removed only for cause by the Comanche Business Committee upon the recommendation of at least three (3) Judges of the Comanche Nation Court. The Comanche Business Committee may not remove a Judge of the Comanche Nation Court independently, but the complaining three (3) Judges of the Comanche Nation Court must first recommend the removal, and the Comanche Business Committee must then concur. The term "cause" shall include any reason sufficient for disbarment of an Attorney from the Bar of the Comanche Nation Court, or a violation of the Canons of Judicial Ethics promulgated by the American Bar Association.
- B. Magistrates shall serve at the pleasure of the District Court.

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Section 2.10. Disqualifications, Conflict of Interest

- A. No Judge shall hear any case when he has a direct financial, personal or other interest in the outcome of such case or is related by blood or marriage to one or both of the parties as: husband; wife; son; daughter; father; mother; brother; sister; grandfather; grandmother; or any other legal dependent. A Judge should attempt to prevent even the appearance of partiality or impropriety.
- B. Either party of interest in such case or the Judge may raise the question of conflict of interest. Upon decision by the Judge concerned or the Appellate Court that disqualification is appropriate, another Judge shall be assigned to hear the matter before the Court.
- C. Any Judge otherwise disqualified because he is related to one or more of the parties in one of the relationships enumerated in subsection (A) of this Section, may hear a case if all parties are informed of the blood or marriage relationship on the record in open Court and of their right to have a different Judge hear the case, and consent to further action by that Judge in the case in open Court upon the record, or in a writing filed in the record, in spite of the conflict of interest.

Section 2.11. Decisions

- A. Each decision of the District Court at trial shall be recorded on a form approved by the Appellate Court for such purpose, or embodied in written findings of fact and conclusions of law containing all the information required by the approved form. The form shall provide for recording the date of the decision, the case number, the names of all parties, substance of the complaint, the relevant facts found by the Court to be true, the Court's decision, and the conclusions of law supporting the Court's decision.

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- B. In a case tried to the Appellate Court, the Presiding Judge shall sign such form or decision indicating that the decision is the true decision to a majority of the trial panel on the case whether or not the Presiding Judge agreed with that decision.
- C. The decision form or the written findings of fact and conclusions of law shall be placed in the case file as an official document of the case.

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Section 2.12. Records

The Comanche Nation Court shall be a Court of Record. To preserve such records:

- A. In all Court proceedings, the Court Reporter, which may be the Clerk in the absence of an official Court Reporter, shall record the proceedings of the Court by electronic or stenographic means. The recording shall be identified by case number and kept for five (5) years for use in appeals or collateral proceedings in which the events of the hearing are in issue. At the close of each hearing, or as otherwise specified, the Reporter shall cause a transcript to be made of the recording upon the request of any party or the Court as a permanent part of the case record at the expense of the requesting party. Court Reporters may be licensed by the Appellate Court, and shall be allowed such fees from the Parties for their services as shall be set by Rule of the Appellate Court.
- B. To preserve the integrity of the electronic record, the Reporter shall store the recording in a safe place and release it only to the relevant Court or pursuant to an Order of a Comanche Nation Judge.
- C. The Clerk shall keep in a file bearing the case name and number every written document filed in the case.
- D. All Court records shall be public records except as otherwise provided by law.
- E. After five (5) years, at least (1) one copy of all court records including judgments, pleadings and appearances, shall be reproduced on computer tape or disk, microfilm, microfiche or similar space saving electronic record keeping method, and all paper copies of said reproduced records may be disposed of.

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- F. The Appellate Court shall provide for the publication in books or similar reporters of all of its decisions and opinions in cases before it, and the opinions and decisions of the District Court which would be useful to the Bar of the Court and the public.

Section 2.13. Files

- A. Except as otherwise provided by law, such as in juvenile cases, Court files on a particular case are generally open to the public. Any person may inspect the records of a case and obtain copies of documents contained therein during normal business hours.
- B. Any persons desiring to inspect the records of a case or obtain copies thereof may inspect such files only during the ordinary working hours of the Clerk, or a Judge and in their presence to insure the integrity of Court records under no circumstance shall anyone, except a Judge, attorney or the Clerk taking a file to a Judge in his chambers or a courtroom, take a file from the Clerk's office.
- C. A copy of any document contained in such a file may be obtained from the Clerk by any person for a reasonable copy fee, to be set by rule of the Appellate Court. The Clerk is hereby authorized to certify under the seal of his office that such copies are accurate reproductions of those documents on file in his office. The Appellate Court by rule may provide for such certification.

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Section 2.14. Motion Day

Unless conditions make it impractical, the District Court shall establish regular times and places, at intervals sufficiently frequent for the prompt dispatch of business, at which motions requiring notice and hearing may be heard and disposed. Nothing herein shall preclude the Judge from making orders for the advancement, conduct, and hearing of actions upon proper notice, if any, at a time or place other than the regularly established time and place for such motions. Additionally, the Court may make provision by rule or order for the submission and determination of motions without oral hearing upon brief written statements of reasons in support and opposition.

Section 2.15. Practice before the Comanche Court

The Appellate Court, after conferring with the District Court, shall make rules which shall govern who may practice before the District Court and the Appellate Court and how indigent criminal defendants may have competent qualified legal counsel appointed to represent them in Comanche Court. Such rules shall be filed in the office of the Comanche Nation Tribal Secretary Treasurer and the office of the Clerk of the Comanche Nation Court. Said rules shall include any procedures or form necessary for the efficient, orderly, and just resolution of cases under this Code and shall be filed of record in the Court Clerk/Court Administrator's office. Said Court rules shall include a Code of Judicial Ethics and shall be made available to the public by publication on the Comanche Nation Tribal Court website or other appropriate measures determined by the Comanche Nation Tribal Court.

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Section 3.01. Court Clerk/Court Administrator; Duties; Deputy Court Clerk.

- A. Court Clerk/Court Administrator and Deputy Court Clerk; General Functions. The Court Clerk/Court Administrator performs all functions of a Court Clerk and an administrator for the Comanche Nation Tribal Court as described herein. The Court Clerk/Court Administrator shall also perform such other duties as stated in the Court Clerk/Court Administrator's job description and such additional duties specified in writing and approved by the Comanche Nation Appellate Court. The Court Clerk/Court Administrator shall be supervised by the Chief Judge of the Comanche Nation District Court; provided that nothing herein shall be construed to affect the position of any person serving as Court Clerk/Court Administrator as of the effective date of this Code; provided further that the Court Clerk/Court Administrator shall not be the same person who serves as the Comanche Nation Tribal Administrator. The Chief Judge of the Comanche Nation District Court may designate a person to serve as Deputy Court Clerk to perform such duties as required in the absence of the Court Clerk/Court Administrator.
- B. Filing and Preservation of Documents; Requests for Documents. It is the duty of the Court Clerk/Court Administrator to file together and carefully preserve in his office, all papers delivered to him for that purpose in every proceeding in the Comanche Nation Tribal Court. The Court Clerk/Court Administrator shall endorse upon every paper filed with him, the day of filing it; and upon every order for a provisional remedy, and upon every undertaking given under the same, the day of its return to his office. Any request for production of court documents, whether by subpoena or otherwise, shall be done by submission of a petition to the Court setting forth the document required and the reasons for the request. The Judge assigned to

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that case or in that Judge's absence, the Chief Judge of the District / Appellate Court shall make a determination of the relevancy of the request and may grant or deny the petition by written order.

- C. Numbering and Maintenance of Case files. The Court Clerk/Court Administrator shall keep the petition, the process, return, the pleadings subsequent thereto, reports, verdicts, orders, judgments, and all material acts and proceedings of the court in a separate case file for each child custody proceeding, which shall be marked with the title and number of the case. The Court Clerk/Court Administrator shall maintain any documentary or physical evidence admitted into evidence by the Court during hearings at a secure location separate and apart from the case files. Case files shall be numbered in accordance with a numbering system. Each case number shall contain an appropriate identifying prefix, followed by a hyphen and the last two digits of the calendar year in which the case was filed followed by a hyphen and the consecutive number of the case. Beginning January 1 of each calendar year, the last two digits of the calendar year designation shall be changed and the consecutive case number for each type of prefix shall begin again with the number one (1).
- D. Filing of Documents. The Court Clerk/Court Administrator shall date stamp immediately upon receipt each document filed in the case file. The Court Clerk/Court Administrator shall accept legible facsimile and e-filed transmissions of documents for filing in the casefile; provided that such documents are sent directly to a facsimile machine or dedicated Tribal Court e-mail in the Court Clerk/Court Administrator's office designated for that purpose and not accessible

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to the public; and provided further that the original pleading shall be mailed or otherwise delivered to the Court Clerk/Court Administrator within ten business days of the date of filing of the facsimile or e-filed copy. If the Court Clerk/Court Administrator discovers a pleading or other paper which has been filed or submitted for filing that bears an incorrect case number or other incorrect identifying data, the Court Clerk/Court Administrator shall correct the case number or other incorrect identifying data and enter a notation on the docket sheet of both cases recording the correction. The corrected pleading or other paper shall be placed in the court file bearing the corrected case number.

- E. Seal of Court Clerk/Court Administrator; Certification. The Court Clerk/Court Administrator shall keep a seal, to be furnished by the Comanche Nation Tribal Court, which shall reference the "Comanche Nation Tribal Court." The seal may be either metallic or nonmetallic. Every instrument, document, record, paper or other thing required to be certified by the court or by the Court Clerk/Court Administrator shall contain the seal of the Court Clerk/Court Administrator. The Court Clerk/Court Administrator is authorized to certify the authenticity of copies of the journal record and copies of the original instruments that are part of the court file. Such certified copies may be received in evidence with the same effect as the original would have had and without further identification by the party desiring to offer it.
- F. Dockets and Journals. In addition to any other records required by this Code or the rules of the Comanche Nation Tribal Court, the Court Clerk/Court Administrator shall keep the following records:

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- (1) Case Docket. On the case docket the Court Clerk/Court Administrator shall enter the case style of each action in the order in which it is brought. The docket sheets for each action shall include the title and date for every document filed in the case, including all judgments and orders of the court. Either a Judge or the clerk shall prepare a court minute during or immediately following each hearing in a case, for placement in the case docket in order to record all actions taken by the Court. The Court Clerk shall issue a copy of the court minute to the parties or their counsel of record no later than the next business day following the date of the hearing. The case docket may be kept entirely on computer or other appropriate medium. Paper copies of case dockets in the custody of the Court Clerk/Court Administrator may be destroyed after being stored on at least two electronic disks or other appropriate medium. One electronic copy of the case docket shall be maintained in the Court Clerk/Court Administrator's office and one electronic copy shall be updated monthly and stored by the Court Clerk/Court Administrator in a bank or other appropriate local repository for reproduction in the event that the copy in the Court Clerk/Court Administrator's office is destroyed or becomes unusable. Any notes, excluding court minutes, taken by the Judges during proceedings shall not be included in the court file or official records, but may be maintained by the Court Clerk/Court Administrator in separate administrative files or notebooks under the name of each Judge, arranged chronologically in order of case file numbers, which shall be for the use of the Judge who took the

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notes contained therein and for the use of the Court Clerk/Court Administrator for preparation of orders at the direction and subject to approval of the Chief Judge.

(2) Trial Docket. The Court Clerk/Court Administrator shall maintain a Trial Docket, listing the dates scheduled for all hearings and trials in all judicial proceedings filed in the Comanche Nation Tribal Court, including references to continuances of hearings granted, if any.

G. Process; Writs and Provisional Remedies. The Court Clerk/Court Administrator shall sign, date, seal, certify and issue process of every kind, including summons and subpoenas. The Court Clerk/Court Administrator shall also sign, date, seal, certify and issue all writs and orders for provisional remedies, including habeas corpus proceedings seeking custody of a child; provided that said documents shall first be prepared by the party or his attorney who is seeking the issuance of such process, writ or order. The Court Clerk/Court Administrator shall, upon the return of every summons, subpoena, writ or order pertaining to writs, enter upon the case docket whether or not service has been made; and, if the document has been served, the name of the person upon whom the document was served and the day and manner of the service upon such person. The entry shall be evidence in case of the loss of the document. The style of all documents issued in accordance with this section shall be "Comanche Nation Tribal Court."

H. Development of Legal Forms. The Court Clerk/Court Administrator shall develop legal forms with the assistance of the Prosecutor and shall maintain said forms at the Court Clerk/Court Administrator's Office. The forms shall be presented to the

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Chief Judge of the District Court for approval. The Court Clerk/Court Administrator shall assist parties not represented by legal counsel in obtaining the forms; provided that a notice shall be posted in the Court Clerk/Court Administrator's Office stating: "The Court Clerk/Court Administrator is not an attorney or qualified to provide legal advice or assistance to any person, but may answer general questions concerning the completion of legal forms available to the public by the Court Clerk/Court Administrator's Office."

- I. Case Statistics. The Court Clerk/Court Administrator of record shall furnish without cost to the Indian Child Welfare Department, hereinafter referred to as ICWD, such statistical and other information related to cases filed with the Comanche Nation Tribal Court as the ICWD may request for purposes of applying for or meeting grant requirements and for preparation of the ICWD's reports, including without limitation quarterly reports containing the number and classification of cases filed during the quarter, the number and classification of court cases dismissed during the quarter, and the number and classification of cases pending before the Comanche Nation Tribal Court as of the end of each quarter of the calendar year.
- J. Acceptance of Payments. The Court Clerk/Court Administrator is authorized to accept monies paid in accordance with any judgment, order, settlement, distribution or decree for the use and benefit of, and to the credit of, any party entitled to payment pursuant to a proceeding before the Comanche Nation Tribal Court, and to pay out such money as specified by order of the Comanche Nation Tribal Court; provided that the Court Clerk/Court Administrator shall maintain a separate bank

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account for this purpose and shall account separately for the funds of each party who is the beneficiary of the funds. Such order may be made by the Court in the original cause in which the funds were credited, and the Court may direct the Court Clerk/Court Administrator to make payment of the same in installments or in one lump sum as may be deemed appropriate.

Section 4.01. Comanche Nation Tribal Court Budget and Financial Account.

- A. Annual Budget. The Chief District Judge and the Court Clerk/Court Administrator shall prepare an annual budget to be submitted for approval of the Comanche Business Committee in accordance with the Constitution and laws of the Comanche Nation.
- B. Establishment of Comanche Nation Tribal Court Account. Beginning on as soon as practicable after the establishment of the Comanche Nation Tribal Court there shall be established a separate account entitled "Comanche Nation Tribal Court Account," which shall consist of all approved annual budget funding from the Comanche Nation, all monies which may be received as court costs or fines, any grant funding from the federal government and any other monies designated by Comanche law for deposit into the account; provided that nothing herein shall be construed to authorize or require the payment of any filing fees in proceedings filed in the Comanche Nation Tribal Court. All monies accruing to the credit of the Comanche Nation Tribal Court Account shall be expended by the Court Clerk/Court Administrator, upon the approval of the Chief Judge, for the lawful operation and expenses of the Comanche Nation Tribal Court, the Court Clerk/Court Administrator's office or for such other purposes required by specific grants or contracts received by the Comanche Nation Tribal Court.

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- C. Separate Accounts. The Comanche Nation Tribal Court Account shall be divided into separate accounts as deemed necessary by the Court or as required by any accounting policies, procedures or law of the Comanche Nation, which shall include without limitation a separate account for payments to the Comanche Nation Tribal Court for the benefit of third parties.
- D. Administration of Comanche Nation Tribal Court Account. Payments from the Comanche Nation Tribal Court Account shall be made only upon approval by the Court Clerk/Court Administrator and Chief Judge of the District Court. In its administration of the Comanche Nation Tribal Court Account, the Chief Judge of the District Court and Court Clerk/Court Administrator shall comply with the accounting policies and procedures established in accordance with law of the Comanche Nation. The Chief Judge of the District Court and Court Clerk/Court Administrator shall furnish to the Comanche Business Committee quarterly and annual financial statements of all funds within the Comanche Nation Tribal Court's control, which shall disclose cumulative receipts and disbursements, cash balances, and such other fiscal information as the Comanche Business Committee may require.
- E. Banking. The Comanche Nation Tribal Court shall be authorized to maintain separate bank accounts in interest-bearing accounts of one or more banking facilities, investment and/or other commercial financial institutions selected and approved by at least two Judges of the Comanche Nation Tribal Court and to cause all disbursements from said accounts to be made in accordance with the law of the Comanche Nation.

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Section 5.01. Prosecutor.

- A. Establishment. The office of the Comanche Nation Prosecutor is hereby established.
- B. Qualifications. In order to be eligible to hold the office of Prosecutor, a person shall be an enrolled member of a federally recognized Indian Tribe, be a graduate of an accredited law school, be a duly licensed attorney in good standing in a bar association of a state court of competent jurisdiction for the five (5) years immediately preceding the appointment, have prior experience in the practice of Native American Indian law and experience in child welfare matters and be at least twenty-eight (28) years old.
- C. Appointment; Term. The Court Clerk/Court Administrator shall advertise the position for the Prosecutor. At least two Judges of the Comanche Nation Tribal Court shall review applications submitted and interview qualified applicants. The Judges shall forward the applications of all qualified applicants with their recommendations to the Comanche Business Committee, which may also interview prospective candidates if it desires, for final decision and appointment. The Prosecutor shall hold office for a term of two (2) years beginning on the date of appointment by the Comanche Business Committee; provided that the Prosecutor may remain in office beyond the term expiration until his successor is appointed and assumes the duties of the Prosecutor. A person who has served as Prosecutor for all or a portion of a two (2) year term may serve for an unlimited number of two (2) year terms.
- D. Duties; Independent Office. The Prosecutor shall represent the interests of the Comanche Nation in all criminal matters, and the interests of a Comanche child in

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all involuntary child custody proceedings and other proceedings before the Comanche Nation Tribal Court. The Prosecutor may represent the Nation in voluntary child custody proceedings before the Comanche Nation Tribal Court. The Prosecutor may represent the Nation in voluntary or involuntary child custody proceedings in other jurisdictions in which the Nation has intervened. The Prosecutor may at his discretion meet with ICW workers for case staffing, permanency planning meetings and annual reviews. The office of Prosecutor shall be an independent office that is not subject to directives from any official, employee, independent contractor, agency or branch of the Comanche Nation. The Prosecutor shall consider the recommendations of ICW workers but shall exercise independent professional judgment regarding the welfare of children that are subject to, or potentially subject to, Comanche Nation Tribal Court proceedings.

- E. Removal. The Prosecutor may be removed from office, with or without disqualification to hold that office in the future, prior to the expiration of his term for any of the following causes: conviction of a crime other than a misdemeanor traffic offense in any court of competent jurisdiction; habitual or willful neglect of duty; gross partiality in office; oppression in office; corruption in office; extortion or willful overcharge of fees in office; willful maladministration; habitual drunkenness or drug abuse; or failure to produce and account for all public funds and property in his hands at any settlement or inspection authorized or required by law of the Comanche Nation. The Comanche Business Committee may commence proceedings for the removal of the Prosecutor from office upon receipt of testimony, affidavit or other written statement by a third party or third parties

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alleging facts, that if true, would constitute cause for removal as described in this subsection. Under no circumstances shall the Comanche Business Committee make inquiry or receive or hear evidence that would violate the confidentiality requirements of this Code. Prior to removal, the Comanche Business Committee shall issue a written complaint specifying in detail the grounds for the proposed removal and a notice of hearing, which shall be delivered to the Prosecutor at least ten (10) days prior to the hearing date. The Comanche Business Committee may, if sufficient cause appears from testimony or affidavits presented to the Committee, order the suspension of the Prosecutor from the functions of his office until the determination of the matter. The Prosecutor must appear at the time appointed in the notice, and answer the complaint, unless, for sufficient cause, the Comanche Business Committee assigns another day for that purpose. If the Prosecutor admits the allegations concerning the cause for his removal, refuses to answer the petition, or does not appear the Comanche Business Committee may order his removal from office. If the Prosecutor denies the matters charged, the Comanche Business Committee must proceed with a hearing to determine whether the Prosecutor has committed an act or omission constituting grounds for removal. If the Comanche Business Committee finds that the Prosecutor committed such an act or omission, the Comanche Business Committee shall issue a written decision stating the facts supporting grounds for removal, ordering the Prosecutor's removal from office, and declaring the office vacant; otherwise, the Comanche Business Committee shall issue a written decision stating that there is no cause for removal of the Prosecutor.

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The decision of the Comanche Business Committee shall be final, and the Prosecutor shall not be entitled to judicial review.

Nothing herein shall preclude the Comanche Business Committee from accepting the resignation of the Prosecutor or from declining to reappoint the Prosecutor for a subsequent term upon expiration of his term of office.

Section 6.01 Cooperation by Tribal Employees.

- A. No employee of the Comanche Nation may obstruct, interfere with, or control the functions of the Comanche Nation Court.
- B. Employees of the Comanche Nation shall assist the court, upon its request, in the preparation and presentation of facts in the case and in the proper treatment of individual offenders.

Section 7.01 Payment of Judgments from Individual Indian Money Accounts.

- A. The Comanche Nation Court may make application to the superintendent who administers the Individual Indian Money account of a defendant who has failed to satisfy a money judgment from the court to obtain payment of the judgment from funds in the defendant's account. The court shall certify the record of the case to the superintendent. If the superintendent so directs, the disbursing agent shall pay over to the injured party the amount of the judgment or such lesser amount as may be specified by the superintendent.
- B. A judgment of the Comanche Nation Court shall be considered a lawful debt in all proceedings held by the Department of the Interior or by the Comanche Nation Court to distribute decedents' estates.

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Section 8.01 Disposition of Fines and Court Costs.

All Fines and Court costs assessed shall be paid over to the Court Clerk/Court Administrator for deposit the in the "Comanche Nation Tribal Court Accounts" account. The Court Clerk/Court Administrator shall keep an account of all such deposits and withdrawals available for public inspection.