

SUMMARY OF PROPOSED AMENDMENTS TO THE PROTECTIVE CUSTODY CODE

Current Version of Code	Proposed Amendment	Reasoning
Title 8 is currently named the “Protective Custody Code”	Amend the name of Title 8 to “Protective Services Code”	-This name more accurately describes what the Title governs as a whole: Adult Protection, Guardianships & Conservatorships, Mental Health Services, and Alcohol and Substance Abuse Treatment.
New Section	8-1-102. Definitions - Consolidates all definitions from the current version and creates a definition list for the entire Code.	-The current Code provides various definitions within different articles. -This combines definitions and expands the definitions to 35 for more clarity.
8-1-101. Jurisdiction.	8-1-103. Tribal Court Authority This amendment expands the Tribe’s authority to provide protection orders to those living off the Reservation.	-States Tribal Court Authority for those living on the Reservation and Tribal members that live outside the Reservation. -In the current Code, Tribal Court authority referenced guardianships only.
8-1-104. Requirements	8-1-104. Jurisdiction. Applies jurisdiction to those members on the Reservation and also over those that file for guardianship or conservatorship, including non-Tribal members.	This amendment intends to expand jurisdiction over any person that files for guardianship, including persons that consent to Tribal jurisdiction.
Article 4. Elder and At-Risk Adult Protection.	Article 2. At-Risk Adult Protection.	-This amendment reorganizes the Code so that Articles 2 and 3, both regarding adult protection and guardianships, are together.
8-4-111. Rights of Elders, At-Risk Adults, Their Families and Caretakers.	8-2-104(4). Rights of At-risk adults, Their families, and Caretakers - Allows Tribal Court to attach conditions to the family	This amendment prevents intimidation, harassment, or undue influence by those that may be influencing the At-risk adult.

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	members that can appear at court proceedings.	
8-4-116. Coordination of Investigation.	8-2-109. Responsibilities and Duties of Tribal Social Services. -When an individual is at-risk of mistreatment or self-neglect, and the individual does not consent to services, Social Services may petition the Court to provide services and take guardianship or conservatorship, when necessary.	Allows Social Services to intervene, petition the Court to provide services, and take custody when the person refuses services and no one else will petition to provide services.
8-4-118. Petition for an Adult Emergency Protection Order.	8-2-111. Petition for an Emergency Adult Protection Order. -Adds language allowing for the Tribe to file in other Courts besides Tribal Court.	Expands Tribe's ability to file in other Courts outside the Reservation to assist Tribal members in other jurisdictions.
8-4-123. Elder and At-risk Adult Protection Team.	8-2-116. At-Risk Adult Protection Team. -Removes the requirement that every report be investigated by the Team and requires that the Team review only those cases where the Department has recommended services.	-This allows for more efficiency and a better use of the Team's time and resources.
Article 1. Guardianship.	Article 3-Adult Guardianship and Conservatorships. -Adds "Conservatorship" to the heading.	-Changes the structure of the Code so that articles involving Tribal Services (Adult Guardianships and Adult Protective Services) are together.

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		-Allows Tribal Court to order conservatorship so that individuals or the Tribe may manage the property of At-risk adults.
8-1-102. Petition.	8-3-101. Petition. -Expands the requirements for what must be included in a petition for guardianship or conservatorship.	Creates consistency and clarity for the Court and those filing in Tribal Court.
New section.	8-3-104. Pre-Hearing Procedures. -New language that sets the procedures and rights, including counsel for At-risk adult.	Clarifies the procedure, timelines, and rights such as the right to a hearing within 21 days and the right to counsel.
New section.	8-3-105. Professional Evaluation. -New language that allows the Tribal Court or the At-risk Adult to order a professional evaluation of the property, circumstance or other matters alleged in the petition.	This allows for an independent review of the At-risk adult's mental health, health, or property to assist the Court in making a determination on guardianship or conservatorship.
New section.	8-3-106. Hearings. Sets the requirements for the hearing to determine guardianship or conservatorship over an adult.	Expands the requirements for the hearings to include that the At-risk adult is present, that the hearing is closed, and provide exceptions for when the At-risk adult does not have to attend.
8-1-104. Requirements	8-3-107. Appointment of a Guardian or Conservator or both. -Changes the age eligible to be a guardian from 21 to 18.	-This amendment changes the age restriction to allow family members such as siblings to take guardianship when needed.

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	<p>-Requires background checks for potential guardians.</p> <p>-Allows Social Services to become guardian or conservator in the absence of other qualified people.</p>	<p>-Increases the safety of the At-risk adult by requiring a background check.</p> <p>-Allow Social Services to take Guardianship when no one else is able or willing to take care of the At-risk adult.</p>
New Section	<p>8-3-110. Emergency Guardian or Conservator.</p> <p>-Sets a procedure for the appointment of emergency guardians or conservators.</p>	<p>-The current Code has no provisions for emergency proceedings.</p> <p>-The amendment allows for emergency guardianship for no longer than 60 days and creates the procedure and the rights for the At-risk adult.</p>
New section.	<p>8-3-111. Removal and Replacement of Guardian or Conservator.</p> <p>-Sets the procedure for removal of a guardian or conservator.</p>	<p>-The current Code does not have a process to remove a guardian or conservator that is not acting in the best interest of the Protected adult.</p> <p>-This amendment allows the Court, the adult, or other interested parties to request a removal or limit the guardian's duties and substitute a replacement.</p>
New section	<p>8-3-115. Administration of Conservatorships and Guardianships.</p> <p>-Requires the guardian to file a report to Tribal Court regarding the administration of the adult and adult's estate.</p> <p>-Sets requirements for the report.</p>	<p>-To ensure that the guardian is performing the duties as ordered by the Court.</p>
New section.	<p>8-3-118. Termination or Change in Appointment of Guardian or Conservator.</p>	<p>-The current Code has no provisions allowing for the removal or replacement of a guardian</p> <p>-This amendment sets a process to terminate or replace the guardian for certain reasons.</p>

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New section	8-3-119. Death of Guardian or Individual subject to Conservatorship	<ul style="list-style-type: none"> -Currently there is no formal process for a conservator to conclude their duties after the death of a person under guardianship. -This sets a process for final duties of a guardian that include providing a will to the Court.
New section	8-3-121. Guardian Ad Litem.	This allows for the appointment of a Guardian Ad Litem to act on behalf of an adult if the Court feels the interests of the adult are not represented.
Article 2. Mental Health Services.	Article 4. Mental Health Services.	Relocates this Article to be aligned more closely with provisions used by Tribal Health and Behavioral Health.
8-2-101. Voluntary Application For Mental Health Services.	8-4-102. Allow minors, 12 or older to consent to outpatient mental health services.	<ul style="list-style-type: none"> -This amendment updates the current Code which states that a person 15 years old can consent. -This change is consistent with other jurisdictions.
8-2-103. Emergency Procedures.	<p>8-4-104. Emergency Procedure.</p> <ul style="list-style-type: none"> -Adds language that allows others besides law enforcement, including an Intervening Professional, to commit someone in need of treatment for an evaluation. -Allows an Intervening professional or Peace officer to take a person with a Mental health disorder to transport to an emergency health facility. 	<ul style="list-style-type: none"> -The current Code allows only peace officers to commit someone in need of treatment. -This expands those that are allowed to recommend commitment to Intervening professionals. -This amendment states the process in detail for initiating an emergency commitment.

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New Section	8-4-106. Emergency Transportation and Application For Emergency Commitment and Peace Officers and Emergency Medical Service Providers. -Provides in detail, the process for when a Peace officer or Medical Services Provider may take a person into protective custody.	The current version does not have a detailed process strictly for Peace officers and medical service providers to commit a person.
New Section	8-4-110. Certification for Involuntary Long -Term Treatment. -This amendment states the process for long-term commitments.	
New Section	8-4-111. Treatment Facilities and Medical/Psychiatric Care. -Allows for a facility to administer medication in accordance with laws of the jurisdiction where the facility is located.	-The current version is silent on a facility involuntarily administering medication to a patient. -This amendment allows for this so long as it meets the needs of the patient and allows the family to participate in the treatment.
New Section	8-4-115. Appeals. -Allows for the person committed to long-term or short-term treatment to appeal the commitment to Tribal Court.	The current version of the Code has no appeal rights for those committed.
New Section	8-4-119. Payment for Court appointed attorneys. -Requires Tribal Court to pay for those that are eligible for court-appointed attorneys.	This allows anyone committed under this section to apply for and be appointed an attorney if they cannot afford one.

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Article 3. Alcoholism and Intoxication Treatment.	Article 5. Alcohol and Other Substance Use Treatment.	<ul style="list-style-type: none"> -Relocates former Article 3 to Article 5 to place these provisions with Article 4. Mental Health Services. -Amends the heading to include substances other than alcohol.
8-3-103. Powers of the Southern Ute Indian Tribal Council.	8-5-101. Authority and Role of the Tribal Health Department. -Allow Tribal Health instead of Tribal Council to coordinate with other agencies.	<ul style="list-style-type: none"> -The current version requires Tribal Council to establish programs and coordinate with other alcoholism programs. -This amendment delegates these duties to Tribal Health.
8-3-105. Standards for Public and Private Treatment Facilities, Enforcement Procedures, and Penalties.	8-5-102. Standards and Approval and Use of Treatment Facilities. -Allow Tribal Health to set standards and inspect facilities for use.	<ul style="list-style-type: none"> -The current Code requires that Tribal Council or its designee set standards and maintain lists of approved facilities. -This amendment delegates these duties to Tribal Health.
New Article	Article 6. Penalties. -Allows Tribal Court to create a schedule of penalties for violations of this Code.	<ul style="list-style-type: none"> -This gives Tribal Court the authority to assess fines for any person that violates this Code.