

Subpart K—Minor-in-Need-of-Care Procedure

§ 11.1100 Complaint.

A complaint must be filed by a law enforcement officer or by the presenting officer and sworn to by a person who has knowledge of the facts alleged. The complaint shall be signed by the complaining witness and shall contain:

- (a) A citation to the specific section of this part which gives the children's court jurisdiction of the proceedings;
- (b) The name, age and address of the minor who is the subject of the complaint, if known; and
- (c) A plain and concise statement of the facts upon which the allegations are based, including the date, time and location at which the alleged facts occurred.

§ 11.1101 Warrant.

The children's court may issue a warrant, directing that a minor be taken into custody if the children's court finds there is probable cause to believe the minor is a minor-in-need-of-care.

§ 11.1102 Custody.

A minor may be taken into custody by a law enforcement officer if:

- (a) The officer has reasonable grounds to believe that the minor is a minor-in-need-of-care and that the minor is in immediate danger from his or her surroundings and that removal is necessary; or
- (b) A warrant pursuant to § 11.1101 of this part has been issued for the minor.

§ 11.1103 Law enforcement officer's duties.

Upon taking a minor into custody the officer shall:

- (a) Release the minor to the minor's parents, guardian or custodian and issue a verbal advice or warning as may be appropriate, unless shelter care is necessary.
- (b) If the minor is not released, make immediate and recurring efforts to notify the minor's parents, guardian or custodian to inform them that the minor has been taken into custody and inform them of their right to be present with the minor until an investigation to determine the need for shelter care is made by the children's court.

ter care is made by the children's court.

§ 11.1104 Shelter care.

(a) A minor alleged to be a minor-in-need-of-care may be detained, pending a court hearing, in the following places:

- (1) A foster care facility authorized under tribal or state law to provide foster care, group care or protective residence;
- (2) A private family home approved by the tribe; or
- (3) A shelter care facility operated by a licensed child welfare services agency and approved by the tribe.

(b) A minor alleged to be a minor-in-need-of care may not be detained in a jail or other facility used for the detention of adults. If such minor is detained in a facility used for the detention of juvenile offenders, he or she must be detained in a room separate from juvenile offenders, and routine inspection of the room where the minor is detained must be conducted every 30 minutes to assure his or her safety and welfare.

§ 11.1105 Preliminary inquiry.

(a) If a minor is placed in shelter care, the children's court shall conduct a preliminary inquiry with 24 hours for the purpose of determining:

- (1) Whether probable cause exists to believe the minor is a minor-in-need-of care; and
- (2) Whether continued shelter care is necessary pending further proceedings.

(b) If a minor has been released to the parents, guardian or custodian, the children's court shall conduct a preliminary inquiry within three days after receipt of the complaint for the sole purpose of determining whether probable cause exists to believe the minor is a minor-in-need-of-care.

(c) If the minor's parents, guardian or custodian is not present at the preliminary inquiry, the children's court shall determine what efforts have been made to notify and obtain the presence of the parent, guardian or custodian. If it appears that further efforts are likely to produce the parent, guardian or custodian, the children's court shall recess for no more than 24 hours and direct that continued efforts be made to