

BISHOP PAIUTE TRIBE
TITLE 5 – Children, Family, and Elder Welfare
CHAPTER 5.6 – Tribal Customary Adoption Ordinance
ENACTED BY TRIBAL COUNCIL: February 2, 2021

TABLE OF CONTENTS

Tribal Customary Adoption Ordinance

Section 1. Title.....	1
Section 2. Authority.....	1
Section 3. Purpose.....	1
Section 4. Power of the Courts.....	1
Section 5. Affirmation of Tribal Customary Adoptions	2
Section 6. Power to Remand for Amendment	2
Section 7. Court Resolution of Disagreements.....	2
Section 8. Bishop Paiute Social Services.....	2
Section 9. No Prohibition or Amendment to Other Ordinances....	2
Section 10. Applicable Law	3

Section 1. Title

This Ordinance shall be known as the Bishop Paiute Tribal Court, Tribal Customary Adoption Ordinance.

Section 2. Authority

The Bishop Paiute Tribe (“Tribe”), in the exercise of its sovereign authority, hereby establishes the procedures under which the Tribe Court, as a matter of tribal law, shall have jurisdiction to review and authorize Tribal Customary Adoptions. Once this Ordinance is adopted by the Bishop Paiute Tribal Council, it shall be within the jurisdiction of the Bishop Paiute Tribal Court.

Section 3. Purpose

This Ordinance confirms the authority of the Bishop Paiute Tribal Courts as the Tribal entity with authority to hear and affirm and take other actions as necessary in regard to Tribal Customary Adoptions that may be undertaken by and through child welfare cases subject to state court jurisdiction and to which state Tribal Customary Adoption statutes are applied, specifically California Welfare & Institutions Code Section 366.24.

Section 4. Power of the Courts

The Bishop Paiute Tribal Courts shall have, in addition to the powers which are inherent in the Courts and the powers delegated by and through other tribal ordinances, laws and directives from the Tribal Council, the power to review the Record of any and all state court child welfare cases the subject of which is a Bishop Paiute Tribal member and for which a Tribal Customary Adoption Order has been filed with the Courts. This power shall include but not be limited to the noticing and convening of hearings regarding same, collecting

and weighing evidence, compelling testimony consistent with the Tribal Court, Rules of Court and the Tribal Court Ordinance and issuing Court Orders.

Section 5. Affirmation of Tribal Customary Adoptions

The Courts shall undertake to affirm any Tribal Customary Adoption Order under its review as expeditiously as possible and to comply with California Welfare & Institutions Code 366.24 timelines for review and finalization of Tribal Customary Adoption Orders. As with all child welfare related matters, the Courts shall give priority to hearings and actions necessary for finalization of Tribal Customary Adoption Orders.

Section 6. Power to Remand for Amendment

The Courts' authority to review the Tribal Customary Adoption Order is specifically to affirm that there has been due process afforded to the parties before the Court in the development of the Tribal Customary Adoption Order and that no provision of the Tribal Customary Adoption Order is contrary to widely held public policy, Tribal Law, Tribal custom or tradition or would be detrimental to the best interests of the Indian Child. If the Court reviewing the Tribal Customary Adoption Order finds that affirmation by the Tribal Court cannot be forthcoming as the Tribal Customary Adoption Order is contrary to widely held public policy, Tribal Law, Tribal custom or tradition or would be detrimental to the best interests of the Indian Child, the Court shall remand the Tribal Customary Adoption Order back to Bishop Paiute Social Services for amendment. The Court does not have the authority to unilaterally amend the Tribal Customary Adoption Order.

Section 7. Court Resolution of Disagreements

Recognizing the limitation on the Courts' authority to unilaterally amend the Tribal Customary Adoption Order, Section 6.0 herein; in the event there arises among the parties an inability to reach agreement regarding the necessary contents of the Tribal Customary Adoption Order such disagreement will be referred to the Court by Bishop Paiute Social Services with a request of the Court to facilitate resolution. The Court maintains discretion to set a hearing at which the Court will facilitate resolution of the disagreement and/or rule on such disagreements and the contents of the Tribal Customary Adoption Order that shall be filed in the state court action.

Section 8. Bishop Paiute Social Services

Bishop Paiute Social Services shall, to facilitate the Courts' review and affirmation of Tribal Customary Adoptions, promulgate from time to time, and seek Council approval thereof, Policies and Procedures for the timely processing of Tribal Customary Adoptions. The Court shall facilitate compliance with said Policies and Procedures so long as such facilitation or compliance is consistent with Bishop Paiute Tribal Court, Rules of Court, Court procedures for the operation of the Court and other duly enacted Tribal law.

Section 9. No Prohibition or Amendment to Other Ordinances

Nothing herein shall be construed as having the effect of reversing, barring or discouraging other types permanency planning or permanent plans for a tribal child, whether under state law or through custom and tradition. This Ordinance shall apply specifically to those cases where Bishop Paiute Social Services has

identified Tribal Customary Adoption by and through the state courts as the preferred permanent plan for the subject tribal child.

Section 10. Applicable Law

The Courts of the Bishop Paiute Tribe shall apply the ordinances and Policies and Procedures adopted by the Bishop Paiute Tribe, and, where applicable, the customs and traditions of the Bishop Paiute Tribe, together with the law and applicable regulations as required by the laws of the United States.

Legislative History:

1/20/21	Ordinance reviewed for Public Hearing (x2)
1/22/21	Ordinance reviewed for Public Hearing
2/2/21	Enacted as Tribal Customary Adoption Ordinance by Tribal Resolution No. 2021-01.