

**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY
10,005 East Osborn Road
Scottsdale, Arizona 85256**

ORDINANCE NUMBER – SRO-513-2019

AN ORDINANCE TO AMEND SECTION 11-161(a) OF THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY CODE OF ORDINANCES TO RE-EMPHASIZE WHAT COMMUNITY LAW ALREADY REQUIRES REGARDING THE INITIAL PROTECTIVE CUSTODY HEARING PROCESS, IN AN ATTEMPT TO ENCOURAGE THE COMMUNITY COURT TO FOLLOW THE COMMUNITY'S EXISTING LEGAL REQUIRMENTS.

WHEREAS, the Community Council originally enacted SRO-493-2017 on August 9, 2017 with an effective date of October 9, 2017 to implement Title (IV)(E) requirements to assist the Community in receiving Federal reimbursement for its foster care expenses when dependent children are removed from the home; and

WHEREAS, current Community law requires that the initial protective custody hearing must be held within two working days after the filing of a dependency petition, and further requires that the Court determine *at that hearing* whether it is reasonable to believe that allowing the child to remain in the home is contrary to the welfare of the child and that reasonable efforts were made to prevent the removal of the child from the home; and

WHEREAS, the Community Court has frequently ignored these requirements and has failed to make this determination in the initial protective custody hearing; and

WHEREAS, in the two years since the Community has implemented SRO-493-2017, about 8 of 37 dependency actions have been compliant with Community law, and directly because of this failure the Community has been disqualified from Federal reimbursement of an initial \$662,000, with a permanent loss of reimbursement of at least \$4.4 Million over the lifetime of the ineligible dependency actions; and

WHEREAS, the purpose of this technical amendment is only to re-emphasize the existing provisions in Section 11-161(a) to ensure compliance with Community law.

BE IT ENACTED:

Chapter 11-161(a) of the Salt River Pima-Maricopa Indian Community Code of Ordinances is repealed and replaced by this new 11-161(a) as follows:

Sec. 11-161. Protective custody hearing.

(a) *Time and purpose.* A hearing shall be held regarding the removal of a child from his or her home before the end of the second working day following the filing of the dependency petition. The purpose of the protective custody hearing is to allow a judge to review the decision to remove the child from the home and to determine whether it is reasonable to believe that allowing the child to remain in the home is contrary to the welfare of the child and that reasonable efforts were made to prevent the removal of the child from the home. The Court must make this determination at this protective custody hearing, regardless of whether the hearing is continued or not.

C E R T I F I C A T I O N

Pursuant to the authority contained in Article VII, Sections 1 (c)(5) and 1(c)(6), of the Constitution of the Salt River Pima-Maricopa Indian Community, ratified by the Tribe, February 28, 1990, and approved by the Secretary of the Interior, March 19, 1990, the foregoing resolution was adopted this 28th day of August 2019, in a duly called meeting held by the Community Council in Salt River, Arizona at which a quorum of 9 members were present by a vote of 9 for, 0 opposed, 0 abstentions, and 0 excused.

**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY COUNCIL**



Martin Harvier, President

ATTEST:



Erica Harvier, Secretary

