



Bois Forte

TRIBAL GOVERNMENT

RESOLUTION NO. 59-2025

Adopting Revisions to the Bois Forte Elder Justice Code

WHEREAS, the Bois Forte Band of the Minnesota Chippewa Tribe (the “Band”) is a federally-recognized Indian tribe organized under the Indian Reorganization Act of 1934 and operating under the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe; and

WHEREAS, as the Band’s governing body, the Bois Forte Reservation Tribal Council (“RTC”) has the authority to enact laws to protect Elders and Vulnerable Adults within the Band’s jurisdiction from abuse, neglect, and financial exploitation; and

WHEREAS, the RTC desires to amend the Elder Justice Code to strengthen the protections for Elders and Vulnerable Adults within the Band’s jurisdiction, including providing for Guardianship of Elders and Vulnerable Adults, expanding specific inter-agency procedures for reporting, response, and investigation of Elder and Vulnerable Adult abuse crimes, and expanding the definitions of crimes that constitute abuse, neglect, and financial exploitation of Elders or Vulnerable Adults; and

WHEREAS, agencies of the Band with a direct interest in the protection of Elders and Vulnerable Adults, including Victim Services, the Tribal Court, and Tribal law enforcement, have had the opportunity to provide direct feedback on proposed revisions to the Elder Justice Code; and


WHEREAS, on October 4, 2024, the RTC published these revisions to the Elder Justice Code for public comment, and as of December 3, 2024, when the public comment period closed, had received no comments; and

WHEREAS, the RTC now desires to adopt the proposed revisions to the Elder Justice Code.

NOW THEREFORE BE IT RESOLVED that the Bois Forte Reservation Tribal Council hereby amends the Elder Justice Code, as shown in the Elder Justice Code as amended and attached hereto as Exhibit A.

Certification

We do hereby certify that the foregoing resolution was duly presented and enacted by a vote of 4 for, 0 against, 0 abstaining, at a meeting of the Bois Forte Reservation Tribal Council, a quorum being present, held on January 2, 2025 at Nett Lake, Minnesota.

DocuSigned by:

B58AD3BCD19445C...
Cathy Chavers
Chairwoman

DocuSigned by:

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Tara Geshick
Secretary-Treasurer

CHAPTER XV – TRIBAL ELDER AND VULNERABLE ADULT CIVIL PROTECTION CODE

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CHAPTER XV – TRIBAL ELDER AND VULNERABLE ADULT CIVIL PROTECTION CODE

Part 1 – General Provisions.

1501.01. Title. This Chapter shall be known as the Bois Forte Elder and Vulnerable Adult Civil Protection Code.

1501.02. Policy and Purpose. It is the policy of the Bois Forte Band of Chippewa to hold our elders in high esteem. The elders of our community are the custodians of Tribal history, culture, and traditions which are vital to Native Culture. It is also the policy of the Bois Forte Band of Chippewa to protect those vulnerable adults who exceed the age of 18 and cannot protect themselves because of mental or physical impairments. Accordingly, the purpose of this Chapter is to establish the processes and civil remedies required protect those elders and vulnerable adults over which the Bois Forte Band of Chippewa may exercise jurisdiction. This Chapter shall be liberally construed to affect its policies and purposes.

1501.03. Definitions. For the purposes of this Chapter, the following definitions shall apply:

- (a) “Abuse” means any conduct, which is not performed for a lawful, medical, or therapeutic purpose, that:
 - (1) Inflicts, or could reasonably be expected to inflict, physical pain or injury to an elder or vulnerable adult, including hitting, slapping, biting, kicking, pinching, or similar types of conduct;
 - (2) Inflicts, or could reasonably be expected to inflict, emotional distress or mental anguish to an elder or vulnerable adult, including by using words or conduct that a reasonable person would find cruel, disparaging, derogatory, humiliating, harassing, or threatening;
 - (3) Results in the unreasonable confinement or involuntary seclusion of an elder or vulnerable adult, including separating victim from other persons against the victim’s will or against the will of the victim’s legal representative; or
 - (4) Constitutes the commission of any one of the following offenses, as prescribed by the Bois Forte Tribal Code, against an elder or vulnerable adult: Attempts to commit an act of abuse (Section 601.01); Conspiracy to commit an act of abuse (Section 602.01); any form of Assault defined in Sections 603.01 through 603.06; Stalking (Section 603.08); Criminal Homicide (Section 603.09); Robbery (Section 604.01); Abduction (Section 605.01); Depriving Another of Custodial or Parental Rights (Section 606.01); Domestic Violence (Section 607.01 and Chapter XII, Section 1201); Criminal Sexual Conduct (Section 610.02); Sexual Assault (Section 610.03); Indecent Exposure (Section 610.05); Prostitution and Sex Trafficking (Section 610.09); Incest (Section 612.01); Obscene or Harassing Communications (Section 654.01); or Coercion (Section 655.01).

- (b) “Bad faith” means acting with intentional dishonesty or purpose, or with the intent to undermine or contravene one’s duty or obligation.
- (c) “Bois Forte Elder Services” means the Bois Forte Band of Chippewa’s agency or officials responsible for providing services to elders and vulnerable adults under this Chapter.
- (d) “Bois Forte Police Department” means the law enforcement agency charged with exercising the criminal or civil jurisdiction of the Bois Forte Band of Chippewa and enforcing the Bois Forte Tribal Code.
- (e) “Caretaker” means a person who, by operation of federal, state, or tribal law, tribal custom, or their own volition, has care, custody, or control of, or who stands in a position of trust with, an elder or vulnerable adult.
- (f) “Elder” means any person who is fifty-five (55) years of age or older.
- (g) “Emergency” means the reasonable conclusion based on specific facts that an elder or vulnerable adult is at risk of immediate injury, loss, or damage if such risk is not previously eliminated, mitigated, or otherwise addressed.
- (h) “Family” means relationships based on bloodline and marriage, such as parents, spouses, children, grandchildren, grandparents, in-laws, siblings, aunts, uncles, nieces, nephews, and cousins, and other familial relationships recognized by tribal law, custom, or tradition.
- (i) “Financial exploitation” means:
 - (1) The improper or unauthorized use, withholding, or disposition of an elder or vulnerable adult’s funds, property, or resources;
 - (2) Forcing, compelling, coercing, or enticing an elder or vulnerable adult to perform services, or withholding or disposing of his or her funds, property, or resources, for the profit or advantage of another;
 - (3) A caretaker’s failure, without lawful excuse or reason, to use or manage an elder or vulnerable adult’s funds, property, or resources in the manner prescribed by the elder or vulnerable adult; or
 - (4) Using the property or personal identifying information of an elder or vulnerable adult to commit, or committing against an elder or vulnerable adult, any one of the following offenses, as prescribed by the Bois Forte Tribal Code: Theft (Section 629.01); Forgery (Section 637.01); Obtaining Signature by False Pretense (Section 637.02); or Fraudulent Statements (Section 638.01).

- (j) “Good faith” means acting with honesty in belief or purpose or in faithfulness to one’s duty or obligation.
- (k) “Least restrictive alternative” means employing the least restrictive method of intervention that protects the health, safety, and welfare of an elder or vulnerable adult and protects the freedom, independence, and dignity of the elder or vulnerable adult. The least restrictive alternative preserves or creates an environment which is most like the elder or vulnerable adult’s home setting while simultaneously, to the extent possible, supporting the elder or vulnerable adult’s physical, mental, and emotional wellbeing.
- (l) “Neglect” means:
 - (1) A caretaker’s wanton, reckless, or grossly negligent failure to provide for the basic needs of an elder or vulnerable adult by not supplying the resources, services, or supervision necessary to maintain the victim’s physical, emotional, and mental health, including the failure to provide services or resources that are central to the practice of the victim’s customs, traditions, or religion; or
 - (2) An act or omission by any person that, without lawful excuse, either interferes with or prevents the delivery of services or resources that are necessary to maintain an elder or vulnerable adult’s physical, emotional, and mental health.
- (m) “Protective order” means an order issued pursuant to this Chapter with terms intended to protect the health, safety, or welfare of an elder or vulnerable adult.
- (n) “Protective services” means services, provided or arranged by the Bois Forte Elder Services with the consent of the recipient or with the appropriate legal authority, that are necessary to protect an elder or vulnerable adult from abuse, financial exploitation, or neglect, which include investigations, mental or physical health evaluations, and the mobilization of other services, social services, case management, or other protections or services consistent with this Chapter.
- (o) “Vulnerable adult” means any person who is eighteen (18) years or older who is unable to make decisions or take action to protect him or herself from abuse, neglect, or financial exploitation due to a physical or mental impairment, illness, or chronic condition, including alcoholism or chemical dependency, a developmental disability, or a cognitive degenerative condition.

1501.04. Closed Proceedings. The Tribal Court may, sua sponte or upon motion of a party, order any hearing held pursuant to this Chapter closed and seal all associated records if it finds that the need for privacy outweighs any public interest in open proceedings.

Part 2 – Reporting; Response; Investigations; Providing Protective Services.

1502.01. Duty to Report; Method; Immunity for Reporting.

- (a) Duty to Report. Any person who reasonably suspects that a vulnerable adult is being abused, financially exploited, or neglected has a duty to make a report to Bois Forte Elder Services and/or the Bois Forte Police Department. The following persons must make such a report:
- (1) The elder or vulnerable adult's family or caretaker;
 - (2) An elected official of the Bois Forte Band of Chippewa;
 - (3) Any person or agency who provide services or counsel to elders or vulnerable adults, including employees of the Bois Forte Band of Chippewa, agents of the Bois Forte Police Department, agents of Bois Forte Elder Services, Bois Forte Elder Services, employees or contractors who provide medical care, attorneys, accountants, property managers, financial institutions, and religious practitioners.
- (b) Method. A report may be made orally or in writing. A report may be made anonymously.
- (c) Confidentiality. The identity of a person who makes a report shall not be released, unless the reporter consents to the release or the Bois Forte Tribal Court orders the disclosure after finding the need to protect the elder or vulnerable adult outweighs the reporter's interest in confidentiality.
- (d) Immunity. No one who in good faith makes a report, provides information or records in support of the report, or testifies in a court proceeding about the suspected abuse, financial exploitation, or neglect may be held criminally or civilly liable.

1502.02. Elder Services and Police Department Mutual Reporting Mandate.

- (a) Reporting Mandate. Bois Forte Elder Services shall deliver any report of suspected abuse, financial exploitation, or neglect that it receives or develops internally, including an investigatory report developed under Section 1502.03, to the Bois Forte Police Department within thirty-six (36) hours of receiving or developing the report. Likewise, the Bois Forte Police Department shall deliver any report of suspected abuse, financial exploitation, or neglect that it receives, irrespective of how the report was delivered or the report's source, to Bois Forte Elder Services within thirty-six (36) hours of receiving the report.
- (b) Content of Report. A report may be delivered in any reasonable manner, provided that the entity delivering the report shall include, to the extent possible, the following information in the report:
- (1) The name, age, address, and contact information of the elder or vulnerable adult involved, the person making the report, and the caretaker involved, if any;
 - (2) The name of the alleged perpetrator or perpetrators;

(3) The nature and extent of any injury, whether physical, emotional, financial, to the elder or vulnerable adult; and

(4) Any other pertinent information.

No report shall be deemed a public record and in no case shall the name of the person originally making the report be revealed to person or entity other than Bois Forte Elder Services and the Bois Forte Police Department, unless such person specifically requests or consents to such disclosure or unless the report or information therein is used in a public judicial proceeding resulting from the report.

1502.03. Bois Forte Elder Services Response to Report.

(a) Mandatory Investigation. Bois Forte Elder Services shall begin an investigation upon receiving a report of abuse, financial exploitation, or neglect in order to evaluate and determine whether protective services are necessary.

(b) Timing. Bois Forte Elder Services shall initiate the investigation immediately if the report alleges that an elder or vulnerable adult is at risk of immediate injury, loss, or damage, and promptly in all other circumstances, provided that any investigation must be initiated within seventy-two (72) hours of receiving a report.

(c) Manner. An investigation shall, at a minimum, consist of the following:

(1) Personal interviews of the elder or vulnerable adult, their caretaker(s), and others who know about the allegations. Bois Forte Elder Services has the authority to interview the elder or vulnerable adult with no other people present.

(2) An assessment of the elder or vulnerable adult's living conditions.

(3) An examination of medical records or other documents that may assist in the investigation's purpose. To this end, the staff of any agency, organization, or department of the Bois Forte Band of Chippewa shall, consistent with applicable data privacy laws, cooperate fully with Bois Forte Elder Services.

(d) Investigatory Report: Bois Forte Elder Services shall complete an investigatory report within thirty (30) days for allegations of abuse or neglect, and forty-five (45) days for allegations of financial exploitation. The investigatory report shall include, to the extent possible:

(1) The names, addresses or locations, and contact information for the elders or vulnerable adults, caretakers, witnesses, and alleged perpetrators;

(2) The physical, mental, and emotional condition of the elder or vulnerable adult;

- (3) The elder or vulnerable adult's living conditions;
- (4) Findings and determinations on whether there is a good faith basis to conclude that the alleged act(s) of abuse, financial exploitation, or neglect in fact occurred; and
- (5) Determinations on whether to provide protective services to the elder or vulnerable adult and, if so, which services.

1502.04. General Duties of the Bois Forte Tribal Court and Police Department.

- (a) Bois Forte Tribal Court Duty to Deliver Orders to Tribal Officials. In accordance with the duty prescribed under Chapter VI, Section 609.01, the Court shall promptly deliver any order issued under this Chapter XV or any order issued under Chapter VI, Section 609.01 to the Bois Forte Police Department and Bois Forte Elder Services.
- (b) Bois Forte Police Department Response to Report or Order. Upon receipt of an order, report, or investigation delivered to it, the Bois Forte Police Department shall conduct the investigation required under Chapter VI, Section 609.01 to determine whether there is probable cause to prosecute an offense under the Bois Forte Tribal Code, subject to the limitations provided therein.

1502.05. Providing Protective Services with Elder or Vulnerable Adult's Consent. If Bois Forte Elder Services determines that an elder or vulnerable adult is in need of protective services, the agency may, subject to available resources, immediately provide or arrange for the relevant protective services, provided that the elder or vulnerable adult consents to those services.

1502.06. Elder or Vulnerable Adult's Refusal to Consent or Withdrawal of Consent. An elder or vulnerable adult may refuse to accept protective services, even if there is a good faith basis to conclude that the person has been or is being abused, financially exploited, or neglected, provided that the person has the capacity to consent and to understand the nature of the services offered. Bois Forte Elder Services shall cease providing protective services to an elder or vulnerable adult who withdraws their consent to receive such services.

1502.07. Caretaker's Interference or Refusal.

- (a) Petition to Prohibit Caretaker's Interference or Refusal. If the caretaker of an elder or vulnerable adult who has consented to protective services interferes with or refuses to allow for the provision of such services, Bois Forte Elder Services may, in coordination with the Tribal Prosecutor, petition the Bois Forte Tribal Court for an order prohibiting the caretaker from interfering with or refusing the provision of protective services to the elder or vulnerable adult.
 - (1) *Petition's Contents.* The petition must allege specific facts to show that the elder or vulnerable adult is in need of protective services, the person has consented to receiving those services, and the caretaker is interfering with or refusing to allow the person to receive those services.

- (2) *Summons.* Within two (2) days of filing the petition, the Bois Forte Tribal Court shall issue a summons commanding the caretaker to appear before the Court at a specified day, time, and place. The hearing must be held within fourteen (14) days of the petition's filing.
 - (3) *Service of Summons.* The summons, petition, and notice of hearing shall be served on the caretaker and the elder or vulnerable adult by the Bois Forte Police Department or by any person who is at least eighteen (18) years old and is not a party or anticipated to be a witness in the case in accordance with Chapter II, Part A, Section 213 of the Bois Forte Tribal Code. Service on the caretaker must be accomplished at least seven (7) days prior to the hearing. An affidavit of service shall be filed with the Bois Forte Tribal Court at or before the hearing.
 - (4) *Answer.* The respondent may file an answer to the petition prior to the hearing. Any answer filed shall be served on the petitioner in accordance with the service requirements in Chapter II, Part A, Section 213 of the Bois Forte Tribal Code.
 - (5) *Hearing; Burden of Proof; Order.* Upon conducting the hearing, the Bois Forte Tribal Court must determine whether the petitioner has established by clear and convincing evidence that the caretaker refused to allow for or interfered with protective services.
- (b) Emergency/Ex Parte Petition to Prohibit Caretaker's Interference or Refusal. If there is an emergency and a caretaker is refusing to allow for or interfering with the provision of protective services, Bois Forte Elder Services may, in coordination with the Tribal Prosecutor, file an ex parte petition requesting the Bois Forte Tribal Court to issue an immediate order forbidding the caretaker from interfering with or refusing the provision of protective services.
- (1) *Petition's Contents.* In an ex parte petition, Bois Forte Elder Services must allege specific facts to show that the elder or vulnerable adult is in need of protective services, the person has consented to receiving those services, and the caretaker is interfering with or refusing to allow the person to receive those services.
 - (2) *Ex Parte Emergency Order; Summons.* If there is a reasonable factual basis to conclude that an emergency exists and a caretaker is refusing to allow for or interfering with the provision of protective services, the Bois Forte Tribal Court may, no later than two (2) days after the petition's filing, issue an ex parte order granting the petition. At the same time that an ex parte order is issued, the Bois Forte Tribal Court shall issue a summons commanding the caretaker to appear before the Court at a specified day, time, and place. The hearing must be held within fourteen (14) days of the date the ex parte order is issued.
 - (3) *Service of Summons.* The summons, petition, and notice of hearing shall be served on the caretaker and the elder or vulnerable adult by the Bois Forte Police Department or

by any person who is at least eighteen (18) years old and is not a party or anticipated to be a witness in the case in accordance with service requirements in Chapter II, Part A, Section 213 of the Bois Forte Tribal Code. Service on the caretaker must be accomplished at least five (5) days prior to the hearing. An affidavit of service shall be filed with the Bois Forte Tribal Court at or before the hearing.

- (4) *Answer.* The respondent may file an answer to the petition prior to the hearing. Any answer filed shall be served on the petitioner in accordance with the service requirements in Chapter II, Part A, Section 213 of the Bois Forte Tribal Code.
- (5) *Hearing; Burden of Proof; Order.* Upon conducting the hearing, the Bois Forte Tribal Court may affirm its ex parte order if the petitioner establishes by clear and convincing evidence that a caretaker has refused to allow for or interfered with protective services. The ex parte order shall remain in effect until the hearing is held and a new order is entered, the ex parte order is dismissed or modified by the Bois Forte Tribal Court, or Bois Forte Elder Services voluntarily dismisses the ex parte order.

1502.08. Order for Providing Protective Services to Vulnerable Adults.

- (a) Petition to Compel Protective Services. If Bois Forte Elder Services determines that a vulnerable adult, including an elder who is a vulnerable adult, is being abused, financially exploited, or neglected, the agency, in coordination with the Tribal Prosecutor, may petition the Bois Forte Tribal Court for an order authorizing the agency to provide protective services.
 - (1) *Contents.* The petition must, at a minimum:
 - (A) Allege specific facts showing that the person who is the subject of the petition is in fact a vulnerable adult;
 - (B) Allege specific facts showing that the vulnerable adult is experiencing abuse, financial exploitation, or neglect that warrant protective services; and
 - (C) Specify the protective services that will be provided to address the abuse, financial exploitation, or neglect that the vulnerable adult is experiencing.
 - (2) *Summons.* Within two (2) days of filing the petition, the Bois Forte Tribal Court shall issue a summons commanding the vulnerable adult to appear before the Court at a specified date, time, and place. The hearing must be held within fourteen (14) days from the date the petition was filed.
 - (3) *Service of Summons.* The summons, petition, and notice of hearing shall be served on the vulnerable adult and their caretaker, if known, by the Bois Forte Police Department or by any person who is at least eighteen (18) years old and is not a party or anticipated to be a witness in the case in accordance with the service requirements

in Section 213 of the Bois Forte Tribal Code. Service on the vulnerable adult must be accomplished at least seven (7) days prior to the hearing. An affidavit of service shall be filed with the Bois Forte Tribal Court at or before the hearing.

- (4) *Answer.* The respondent may file an answer to the petition prior to the hearing. Any answer filed shall be served on the petitioner in accordance with the service requirements in Chapter II, Part A, Section 213 of the Bois Forte Tribal Code.
- (5) *Hearing; Burden of Proof; Order.* Upon conducting the hearing, the Bois Forte Tribal Court must determine whether the petitioner established by clear and convincing evidence that the vulnerable adult needs protective services to address an act of abuse, financial exploitation, or neglect. The order shall include, at a minimum, findings and conclusions on:
 - (A) Whether the respondent is a vulnerable adult;
 - (B) Whether the respondent is experiencing abuse, financial exploitation, or neglect that warrant protective services; and
 - (C) The protective services that Bois Forte Elder Services may, directly or by arrangement, provide to the respondent.

The order may address any other issues or impose any other terms that the Court deems necessary, including whether Bois Forte Elder Services should develop and submit a plan for providing the least restrictive alternative form(s) of protective services to the respondent and comply with that plan.

- (6) *Review Hearing.* Within sixty (60) days of the entry of the order, the Bois Forte Tribal Court shall conduct a review hearing to determine whether services are still necessary, to determine whether the services provided are the least restrictive alternative available, and to monitor compliance with the order. For good cause shown, the Bois Forte Tribal Court may extend an order for protective services for additional sixty (60) day terms, provided the Court holds a review hearing prior to granting an extension.
- (b) Emergency/Ex Parte Order for Protective Services. If Bois Forte Elder Services determines that a vulnerable adult, including an elder who is a vulnerable adult, needs protective services due to an emergency, the agency may file an ex parte petition requesting the Bois Forte Tribal Court to issue an ex parte order for the immediate provision of protective services to the vulnerable adult.

- (1) *Contents.* The petition must, at a minimum:
 - (A) Include the same information required under Section 1502.08(a)(1), above;
 - (B) Allege specific facts showing that an emergency exists; and

- (C) Describe the agency's attempts to locate the caretaker(s) or person(s) authorized by law to act on the respondent's behalf, and secure from them the services or consent to the provision of such services.
- (2) *Ex Parte Emergency Order; Summons.* If there is a reasonable factual basis to conclude that the vulnerable adult needs protective services due to an emergency, the Bois Forte Tribal Court may immediately issue an ex parte order granting the petition. At the same time that an ex parte order is issued, the Bois Forte Tribal Court shall issue a summons commanding the vulnerable adult to appear before the Court at a specified day, time, and place. The hearing must be held within fourteen (14) days of the date the ex parte order is issued.
- (3) *Service of Summons.* The summons, petition, and notice of hearing shall be served on the vulnerable adult and caretaker(s), if known, by the Bois Forte Police Department or by any person who is at least eighteen (18) years old and is not a party or anticipated to be a witness in the case in accordance with service requirements in Section 213 of the Bois Forte Tribal Code. Service on the vulnerable adult must be accomplished at least five (5) days prior to the hearing. An affidavit of service shall be filed with the Bois Forte Tribal Court at or before the hearing.
- (4) *Answer.* The respondent may file an answer to the petition prior to the hearing. Any answer filed shall be served on the petitioner in accordance with the service requirements in Chapter II, Part A, Section 213 of the Bois Forte Tribal Code.
- (5) *Hearing; Burden of Proof; Order.* Upon conducting the hearing, the Bois Forte Tribal Court may issue an order affirming the petition if the petitioner establishes by clear and convincing evidence that the vulnerable adult needs protective services due to an emergency or to address an ongoing act of abuse, financial exploitation, or neglect. The ex parte order shall remain in effect until the hearing is held and a new order is entered, the ex parte order is dismissed or modified by the Bois Forte Tribal Court, or Bois Forte Elder Services voluntarily dismisses the ex parte order.
- (6) *Review Hearing.* Within sixty (60) days of the entry of the ex parte order, the Bois Forte Tribal Court shall conduct a review hearing to determine whether the services are still necessary, to determine whether the services provided are the least restrictive alternative available, and to monitor compliance with the order. For good cause shown, the Bois Forte Tribal Court may extend an ex parte order for additional sixty (60) day terms, provided the Court holds a review hearing prior to granting an extension.
- (c) Lease Restrictive Alternative Form. In delivering protective services pursuant to an order issued under this Section 1502.08, Bois Forte Elder Services shall, to the greatest extent possible, provide the services that constitute the least restrictive alternative.

- (d) Authority to Enter Premises. Bois Forte Elder Services may enter the premises of a respondent named in an order issued under this Section 1502.08 without the vulnerable adult, caretaker, or family's consent. If requested by the agency, the Bois Forte Police Department shall accompany Bois Forte Elder Services in entering the premises.
- (e) Right to Counsel. In addition to those rights guaranteed under the Bois Forte Tribal Code to respondents in a civil action, a vulnerable adult who is a respondent named in a petition filed under this Section 1502.08 has the right to counsel. If the vulnerable adult cannot afford an attorney, the Bois Forte Tribal Court shall appoint an attorney to the vulnerable adult at the expense of the Bois Forte Band of Chippewa. The Bois Forte Tribal Court may, in its discretion, otherwise appoint an attorney or guardian ad litem to a vulnerable adult.

1502.09. Orders for Protective Placement of Vulnerable Adults.

- (a) Petition for Protective Placement. If Bois Forte Elder Services determines that a vulnerable adult, including an elder who is a vulnerable adult, needs protective placement to address acts of abuse, financial exploitation, or neglect, the agency may, in coordination with the Tribal Prosecutor, petition the Bois Forte Tribal Court for a protective placement order.
 - (1) *Contents.* The petition for a protective placement order must, at a minimum:
 - (A) Include the facts and information required under Section 1502.08(a)(1), above;
 - (B) Allege specific facts showing that the protective placement is necessary to address the abuse, financial exploitation, or neglect of the vulnerable adult;
 - (C) Describe the agency's attempts to locate the caretaker(s) or person(s) authorized by law to act on the respondent's behalf, and secure from them the services or consent to the provision of such services.
 - (D) Specify the placement facility or type, its location, and services provided there;
and
 - (E) Discuss whether the protective placement is the least restrictive alternative form of service available to address the need and, if not, why protective placement remains justified.
 - (2) *Summons.* Within two (2) days of filing the petition, the Bois Forte Tribal Court shall issue a summons commanding the vulnerable adult to appear before the Court at a specified date, time, and place. The hearing must be held within fourteen (14) days from the date the petition was filed.
 - (3) *Service of Summons.* The summons, petition, and notice of hearing shall be served on the vulnerable adult and their caretaker(s), if known, by the Bois Forte Police

Department or by any person who is at least eighteen (18) years old and is not a party or anticipated to be a witness in the case in accordance with the service requirements in Section 213 of the Bois Forte Tribal Code. Service on the vulnerable adult must occur at least seven (7) days prior to the hearing. An affidavit of service shall be filed with the Bois Forte Tribal Court at or before the hearing.

(4) *Answer.* The respondent may file an answer to the petition prior to the hearing. Any answer filed shall be served on the petitioner in accordance with the service requirements in Chapter II, Part A, Section 213 of the Bois Forte Tribal Code.

(5) *Hearing; Burden of Proof; Order.* Upon conducting the hearing, the Bois Forte Tribal Court must determine whether the petitioner has established by clear and convincing evidence that a vulnerable adult needs protective placement to address acts of abuse, financial exploitation, or neglect. The order shall include, at a minimum, findings and conclusions on:

(A) Whether the respondent is a vulnerable adult;

(B) Whether the respondent is experiencing abuse, financial exploitation, or neglect that warrant protective placement;

(C) Whether protective placement is the least restrictive alternative form of services available to address the need and, if not, the reasons why protective placement remains justified;

(D) The protective placement that Bois Forte Elder Services is authorized to implement; and

(E) Any other issues or terms that the Court deems necessary.

(6) *Review Hearing.* Within sixty (60) days of the entry of the order, the Bois Forte Tribal Court shall conduct a review hearing to determine if services are still necessary. For good cause shown, the Bois Forte Tribal Court may extend an order for protective services for additional sixty (60) day terms, provided the Court holds a review hearing prior to granting an extension.

(b) Emergency/Ex Parte Order for Protective Placement. If Bois Forte Elder Services determines that a vulnerable adult needs protective placement due to an emergency, the agency may file an ex parte petition requesting the Bois Forte Tribal Court to issue an ex parte order authorizing the agency to immediately implement the protective placement.

(1) *Contents.* The petition must, at a minimum:

(A) Include the same facts and information required under 1502.09(a)(1)(A)-(E);

(B) Allege specific facts showing that an emergency exists.

- (2) *Ex Parte Order; Summons.* If there is a reasonable factual basis to conclude that the vulnerable adult needs protective placement due to an emergency, the Bois Forte Tribal Court may immediately issue an ex parte order granting the protective placement. At the same time that an ex parte order is issued, the Bois Forte Tribal Court shall issue a summons commanding the vulnerable adult to appear before the Court at a specified day, time, and place. The hearing must be held within fourteen (14) days from the date the order is issued.
 - (3) *Service of Summons.* The order, petition, summons, and notice of hearing shall be served on the vulnerable adult and caretaker(s), if known, by the Bois Forte Police Department or by any person who is at least eighteen (18) years old and is not a party or anticipated to be a witness in the case in accordance with service requirements in Section 213 of the Bois Forte Tribal Code. Service on the vulnerable adult must be accomplished at least five (5) days prior to the hearing. An affidavit of service shall be filed with the Bois Forte Tribal Court at or before the hearing.
 - (4) *Answer.* The respondent may file an answer to the petition prior to the hearing. Any answer filed shall be served on the petitioner in accordance with the service requirements in Chapter II, Part A, Section 213 of the Bois Forte Tribal Code.
 - (5) *Hearing; Burden of Proof; Order.* Upon conducting the hearing, the Bois Forte Tribal Court may affirm the ex parte order if the petitioner establishes by clear and convincing evidence that the vulnerable adult needs protective services due to an emergency or to otherwise address acts of abuse, financial exploitation, or neglect. The ex parte order shall remain in effect until the hearing is held and a new order is entered, the ex parte order is dismissed or modified by the Bois Forte Tribal Court, or Bois Forte Elder Services voluntarily dismisses the ex parte order.
 - (6) *Review Hearing.* Within sixty (60) days of the entry of the ex parte order, the Bois Forte Tribal Court shall conduct a review hearing to determine whether the services are still necessary, to determine whether the services provided are the least restrictive alternative available, and to monitor compliance with the order. For good cause shown, the Bois Forte Tribal Court may extend an ex parte order for additional sixty (60) day terms, provided the Court holds a review hearing prior to granting an extension.
- (c) Authority to Enter Premises. Bois Forte Elder Services may enter the premises of a respondent named in an order issued under this Section 1502.09 without the vulnerable adult, caretaker, or family's consent. If requested by the agency, the Bois Forte Police Department shall accompany Bois Forte Elder Services in entering the premises.
- (d) Right to Counsel. In addition to those rights guaranteed under the Bois Forte Tribal Code to respondents in a civil action, a vulnerable adult who is a respondent named in a

petition filed under this Section 1502.09 has the right to counsel. If the vulnerable adult cannot afford an attorney, the Bois Forte Tribal Court shall appoint an attorney to the vulnerable adult at the expense of the Bois Forte Band of Chippewa. The Bois Forte Tribal Court may, in its discretion, otherwise appoint an attorney or guardian ad litem to a vulnerable adult.

Part 3 – Elder or Vulnerable Adult Civil Protection Orders.

1503.01. Purpose. The purpose of this Part 3 is to delineate the process that persons may use to obtain civil protection orders designed to protect an elder or vulnerable adult who has been the victim of abuse, financial exploitation, or neglect.

1503.02. Elder or Vulnerable Adult Civil Protection Order.

- (a) Commencement. An action for an elder or vulnerable adult civil protection order is commenced where a petition, as described in Section 1503.02(b), or a motion filed in an existing civil action, alleges that a civil protection order is necessary to prevent the elder or vulnerable adult from suffering an act of abuse, financial exploitation, or neglect, and is filed by one of the following petitioners:
- (1) The elder or vulnerable adult who is the victim of abuse, financial exploitation, or neglect that has occurred within the territory subject to the jurisdiction of the Bois Forte Band of Chippewa;
 - (2) A duly appointed guardian of an elder or vulnerable adult victim, an attorney-in-fact of an elder or vulnerable adult victim who acts within the authority of a power of attorney, a duly appointed guardian ad litem for the elder or vulnerable adult victim, or other person with the legal authority to seek the relief on behalf of the elder or vulnerable adult victim; or
 - (3) The Bois Forte Elder Services, in coordination with the Tribal Prosecutor, in either of the following circumstances:
 - (A) If the elder or vulnerable adult has provided written authorization to the agency to act on his or her behalf; or
 - (B) On behalf of a vulnerable adult.
- (b) Petition's Contents. The petition for a civil protection order must, at a minimum, identify the respondent, the elder or vulnerable adult, and allege specific facts showing that the civil protection order is necessary to prevent the elder or vulnerable adult from suffering an act of abuse, financial exploitation, or neglect, including that respondent has committed such acts in the past.
- (c) Process for Action on Petition.

- (1) *Summons*. Within two (2) days of filing the petition, the Bois Forte Tribal Court shall issue a summons commanding the respondent to appear before the Court at a specified date, time, and place. The hearing must be held within fourteen (14) days from the date the petition was filed.
 - (2) *Service of Summons*. The summons, petition, and notice of hearing shall be served on the respondent by the Bois Forte Police Department or by any person who is at least eighteen (18) years old and is not a party or anticipated to be a witness in the case in accordance with the service requirements in Section 213 of the Bois Forte Tribal Code. The respondent must be served at least seven (7) days prior to the hearing. An affidavit of service shall be filed with the Bois Forte Tribal Court at or before the hearing.
 - (3) *Answer*. The respondent may file an answer to the petition prior to the hearing. Any answer filed shall be served on the petitioner in accordance with the service requirements in Section 213 of the Bois Forte Tribal Code.
- (d) Order; Burden of Proof; Relief.
- (1) *Burden of Proof*. Upon conducting the hearing, the Bois Forte Tribal Court must determine whether the petitioner has established by clear and convincing evidence that the civil protection order against the respondent is necessary to protect the elder or vulnerable adult from abuse, financial exploitation, or neglect.
 - (2) *Order's Contents*. A civil protection order shall:
 - (A) Be endorsed with the date and hour of issuance;
 - (B) Identify the respondent and the elder or vulnerable adult protected by the order;
 - (C) Make findings on the specific abuse, financial exploitation, and/or neglect suffered by the elder or vulnerable adult, and state the reason why the order is necessary to address the offense specified; and
 - (D) Specify the term or duration of the order.
 - (3) *Relief*. The civil protection order may include any of the following types of terms:
 - (A) An order enjoining the respondent from engaging in any act that contributes to the abuse, financial exploitation, or neglect of an elder or vulnerable adult, including abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, destroying personal property, contacting, either directly or indirectly, by mail, email, social media, or otherwise, or coming within a specified distance of, or disturbing the peace of, the elder or vulnerable adult;

- (B) An order excluding the respondent from the elder or vulnerable adult's residence, dwelling, or other location frequented by the elder or vulnerable adult, provided, however that the order shall not be issued if legal or equitable title to, or lease of, the residence or dwelling is in the sole name of the respondent;
- (C) An order enjoining the respondent from specified behavior that the Court determines is necessary to prevent further abuse, financial exploitation, or neglect of the elder, or necessary to effectuate the orders described in Section 1503.02(d)(3)(A)-(B), above.
- (e) Duration. A civil protection order issued under this Section 1503.02 shall be effective for a fixed period of time that may not exceed twelve (12) months, subject to termination or modification by further order of the Bois Forte Tribal Court. The failure to state the expiration date on the face of the protective order creates an order with a duration of twelve (12) months from the date of issuance, provided, however that any protective order set to expire on a day the Court is not open for business shall expire at the close of the Court's next business day.
- (f) Renewal, Modification, and/or Termination.
- (1) *Renewal.* An elder or vulnerable adult civil protection order issued under this Section 1503.02, including an order previously renewed, may be renewed upon the request of a petitioner described in Section 1503.02(a) for an additional fixed time period not to exceed twelve (12) months without a showing of additional abuse, financial exploitation, or neglect, subject to modification and termination by order of the Bois Forte Tribal Court. The request for renewal may be brought at any time before the expiration of the underlying order.
- (2) *Modification and/or Termination.* A petitioner described in Section 1503.02(a) or a respondent subject to an order may move the Bois Forte Tribal Court to modify or terminate a protective order issued under this Part 3. Upon the motion, the Bois Forte Tribal Court shall issue a notice of motion and hearing. If the respondent moves to modify or terminate a protective order before the date it naturally expires, then the petitioner for the underlying order and the person protected by the underlying order shall be served with the notice of motion and hearing in accordance with Section 213 of the Bois Forte Tribal Code. If service is not timely effectuated, the Court shall deny the motion without prejudice or continue the hearing until service is accomplished. The Bois Forte Tribal Court may modify or terminate a protective order if the petitioner establishes by clear and convincing evidence that the protective order is no longer necessary to protect the elder or vulnerable adult from abuse, financial exploitation, or neglect.
- (g) Special Evidentiary Rules Apply at Hearing on Protective Order. A petitioner commencing an action for a civil protection order may move the Bois Forte Tribal Court for an order permitting a video tape deposition of the elder or vulnerable adult be taken consistent with the procedures, conditions, and requirements of Chapter VI, Section

609.01, Subd. 4. A video tape deposition ordered by the Court shall be admissible as evidence in establishing proof necessary for a protective order to be issued under this Chapter.

- (h) Right to Counsel. In addition to those rights guaranteed under the Bois Forte Tribal Code to respondents in a civil action, a respondent named in a petition filed under this Part 3 has the right to counsel. If the respondent cannot afford an attorney, the Bois Forte Tribal Court shall appoint an attorney to the respondent at the expense of the Bois Forte Band of Chippewa.

1503.03. Emergency/Ex Parte Elder or Vulnerable Adult Civil Protection Order.

- (a) Issuance of an Emergency Ex Parte Civil Protection Order. Either upon the request of a person or agency identified in Section 1503.02(a), or upon the Court's own motion, the Bois Forte Tribal Court may immediately, without evidence of service on the respondent, issue an emergency ex parte civil protection order if there is a reasonable factual basis to support that the order is necessary to prevent the elder or vulnerable adult from suffering an immediate or ongoing act of abuse, financial exploitation, or neglect.
- (b) Restraints Authorized; Order's Contents; Summons; Duration.
- (1) *Restraints Authorized.* The emergency ex parte civil protection order may include any of the terms described in Section 1503.02(d)(3).
- (2) *Order's Contents; Summons.* Each emergency ex parte civil protection order shall:
- (A) Be endorsed with the date and hour of issuance;
 - (B) Identify the respondent and the elder or vulnerable adult protected by the order;
 - (C) Make findings on the specific abuse, financial exploitation, and/or neglect suffered by the elder or vulnerable adult;
 - (D) Make findings on the emergency that necessitates the emergency protective order;
 - (E) Summons the respondent to appear before the Court at a specified date, time, and place for hearing on the order; and
 - (F) Expire by its own terms within thirty (30) days of issuance.
- (3) *Duration.* An emergency ex parte civil protection order shall be effective for a fixed period of time that may not exceed thirty (30) days, subject to earlier termination, modification, or extension by order of the Bois Forte Tribal Court, written stipulation submitted by the parties, or voluntary dismissal by the petitioner.
- (c) Process for and Hearing on the Emergency Order.

- (1) *Service of Summons.* The order, petition, summons, and notice of hearing shall be served on the respondent by the Bois Forte Police Department or by any person who is at least eighteen (18) years old and is not a party or anticipated to be a witness in the case in accordance with the service requirements in Section 213 of the Bois Forte Tribal Code. The respondent must be served at least seven (7) days prior to the hearing. An affidavit of service shall be filed with the Bois Forte Tribal Court at or before the hearing.
- (2) *Answer.* The respondent may file an answer to the petition prior to the hearing. Any answer filed shall be served on the petitioner in accordance with the service requirements in Section 213 of the Bois Forte Tribal Code.
- (3) *Hearing; Burden of Proof; Order.* Upon conducting the hearing, the Bois Forte Tribal Court may affirm the emergency ex parte order if it concludes based on clear and convincing evidence that the elder or vulnerable adult needs the protective order due to an emergency. Alternatively, the Court may issue a civil protection order, pursuant to and subject to the limitations imposed by Section 1503.02, if it concludes based on clear and convincing evidence that the order is otherwise necessary to protect the elder or vulnerable adult from abuse, financial exploitation, or neglect.

1503.04. Notice to Bois Forte Police Department and Bois Forte Elder Services. The Bois Forte Tribal Court shall deliver a copy of each civil protection order, or extension, modification, or termination thereof, to the Bois Forte Police Department and Bois Forte Elder Services. A civil protection order issued under Section 1503.02 shall be delivered within forty-eight (48) hours of its issuance and an emergency ex parte order issued under Section 1503.03 shall be delivered by the close of the business day on which the order was granted.

Part 4 – Elder or Vulnerable Adult Guardianship

1504.01. Jurisdiction. The Bois Forte Tribal Court shall have jurisdiction over all petitions for guardianship of the person and/or estate of an elder or vulnerable adult. The Tribal Court may appoint a guardian of the estate of anyone subject to guardianship, whether a resident of the Bois Forte reservation or not, if any of the estate is located on the Reservation. Separate guardians of the person and of the estate of a protected elder or vulnerable adult may be appointed.

1504.02. Petition for Guardianship of an Elder or Vulnerable Adult.

- (a) Any person, including Bois Forte Elder Services, may file a petition for guardianship of an elder or vulnerable adult.
- (b) Grounds for Appointment of a Guardian. The Bois Forte Tribal Court may appoint a Guardian for an elder or vulnerable adult if:

- (1) The elder or vulnerable adult is incapable of caring for himself or herself, such incapability is a significant impediment to his or her health and well-being, and such incapability is not a temporary condition; or
 - (2) For purposes of appointment of a guardian of the estate for an elder or vulnerable person, the person is unable or unwilling to competently administer his or her financial affairs.
- (c) Contents of Guardianship Petition. The petition for guardianship of an elder or vulnerable adult shall include the following, as best the petitioner is able to ascertain in good faith:
- (1) The full name, address, phone number or other contact information, date of birth, and Tribal affiliation, if any, of the proposed protected elder or vulnerable adult;
 - (2) The full name, address, phone number or other contact information, date of birth, and relationship to the proposed protected elder or vulnerable adult;
 - (3) The names and addresses of other persons known to have an interest in the petition for appointment of guardian for the proposed protected elder or vulnerable adult;
 - (4) The basis for the Court's jurisdiction;
 - (5) A statement of the reason(s) that the appointment of guardian is sought, including, but not limited to:
 - (A) Any facts or evidence showing that the elder or vulnerable adult is incapable of caring for himself or herself, that such incapability is a significant impediment to his or her health and well-being, and that such incapability is not a temporary condition; and/or
 - (B) Any facts or evidence showing that the elder or vulnerable adult is unable or unwilling to competently administer his or her financial affairs;
 - (6) A statement of whether the petitioner seeks the appointment of a guardian of the person, guardian of the estate, or both;
 - (7) A statement of whom, if not the petitioner, the petitioner recommends or seeks to have appointed as such guardian;
 - (8) A full description and statement of value of the elder or vulnerable adult's assets and liabilities, with an estimate of the value of any property owned,

possessed or in which the elder or vulnerable adult has an interest, including any income and receivables to which the elder or vulnerable adult is entitled.

(d) Process for Action on Petition for Guardianship.

- (1) *Summons.* Within two (2) days of filing the petition, the Bois Forte Tribal Court shall issue a summons commanding the proposed protected elder or vulnerable adult and other interested parties to appear before the Court at a specified date, time, and place for hearing on the petition.
- (2) *Service of Summons.* The summons, petition, and notice of hearing shall be served on the respondent and all persons listed in the petition to have an interest in the matter by the Bois Forte Police Department or by any person who is at least eighteen (18) years old and is not a party or anticipated to be a witness in the case in accordance with the service requirements in Section 213 of the Bois Forte Tribal Code.
- (3) *Hearing.* The Bois Forte Tribal Court shall hold a hearing on the petition within thirty (30) days from the date the petition was filed. Based on review of all pleadings, records, testimony, and other evidence submitted to the Court, the Tribal Court shall appoint a Guardian at the hearing if it finds by clear and convincing that grounds for appointment exists.
- (4) *Right to Counsel.* In addition to those rights guaranteed under the Bois Forte Tribal Code to respondents in a civil action, an elder or vulnerable adult named in a petition filed under this Part 4 has the right to counsel. If the proposed protected person cannot afford an attorney, the Bois Forte Tribal Court shall appoint an attorney to the proposed protected person at the expense of the Bois Forte Band of Chippewa.

(e) Order Appointing Guardian for Elder or Vulnerable Adult.

- (1) *Grounds for Appointment.* The order of appointment shall set forth the Court's findings for grounds for appointment.
- (2) *Scope of Appointment.* The order of appointment shall grant only those powers to the guardian deemed necessary by the Court to protect the elder or vulnerable adult's safety, health, and welfare.
- (3) *Duration.* Unless specified otherwise in the Court's order of appointment, a guardianship shall continue and the guardian shall have the powers and duties herein described until the protected person deceases or until the guardianship is terminated or the guardian is otherwise discharged by the Court.

1504.03. Emergency Appointment of Guardian. If a person does not have a guardian, an emergency exists, as defined by Section 1501.03(g), and no other person appears to have legal

authority to act in the circumstances, the Tribal Court shall provide reasonable notice consistent with the exigencies of the situation to the person alleged to be legally incapacitated and other interested parties known to the Court at that time and shall hold an emergency hearing. Upon a showing that the person is legally incapacitated and that grounds for appointment of a guardian exist, the Court may appoint a temporary guardian. The authority of the temporary guardian shall be limited to the performance of duties respecting specific property, or to the performance of particular acts, as stated in the order of appointment. Unless extended for good cause shown, a temporary guardianship shall not last more than fourteen (14) days and shall terminate, if applicable, upon appointment of a permanent guardian.

1504.04. Individuals Eligible to serve as Guardian.

- (a) In selecting an appropriate guardian, the Tribal Court shall prioritize appointment of an individual who has an already existing relationship or connection to the proposed protected elder or vulnerable adult and, giving due consideration to the mental capacity of the protected person, the wishes of the proposed protected elder or vulnerable adult.
- (b) The Tribal Court shall appoint a guardian based on the best interests of the proposed protected elder or vulnerable adult. The following persons are eligible to serve as guardian of an elder or vulnerable adult:
 - (1) An adult family member of the elder or vulnerable adult;
 - (2) An adult with whom the protected elder or vulnerable adult has resided with for more than six (6) months before the filing of the petition;
 - (3) A caretaker of the elder or vulnerable adult;
 - (4) Bois Forte Elder Services; or
 - (5) Any other suitable adult or a professional guardian.
- (c) The following individuals may not be appointed as a guardian of an elder or vulnerable adult, unless the Tribal Court orders otherwise pursuant to Section 1504(d):
 - (1) Any person who has been convicted of abuse, neglect, or financial exploitation of an elder or vulnerable adult;
 - (2) Any person who has been convicted of any crime of sexual violence;
 - (3) Any person who has been convicted of a violent felony;
 - (4) Any person against whom a substantiated finding by Bois Forte Elder Services or any other governmental agency of:

- (A) Abuse, neglect, or financial exploitation of an elder or vulnerable adult;
 - (B) Domestic violence against a family member;
 - (C) Neglect or abuse against a child; or
 - (D) Debilitating substance abuse.
- (5) Any person who has been convicted in the past five (5) years of any of the following crimes: Attempts to commit an act of abuse (Section 601.01); Conspiracy to commit an act of abuse (Section 602.01); any form of Assault defined in Sections 603.01 through 603.06; Stalking (Section 603.08); Criminal Homicide (Section 603.09); Robbery (Section 604.01); Abduction (Section 605.01); Depriving Another of Custodial or Parental Rights (Section 606.01); Domestic Violence (Section 607.01 and Chapter XII, Section 1201); Criminal Sexual Conduct (Section 610.02); Sexual Assault (Section 610.03); Indecent Exposure (Section 610.05); Prostitution and Sex Trafficking (Section 610.09); Incest (Section 612.01); Obscene or Harassing Communications (Section 654.01); or Coercion (Section 655.01).
- (d) The Tribal Court may appoint as guardian an individual otherwise ineligible under Section 1504.05(c) if it finds the following:
- (1) The individual is otherwise eligible to serve as guardian under Section 1504.04(a) and (b);
 - (2) The individual is capable to be guardian;
 - (3) The individual is a relative or loved one of the elder or vulnerable adult; and
 - (4) The individual has demonstrated rehabilitation from the disqualifying crime.

1504.05. Powers and Duties of a Guardian.

- (a) Powers of the Guardian. A guardian shall be subject to the control and direction of the Bois Forte Tribal Court order at all times and in all things. The Tribal Court order of appointment may grant to a guardian only those powers necessary to provide for the demonstrated needs of the protected elder or vulnerable adult. The duties and powers of a guardian and the limitations on a guardian include, but are not limited to:
- (1) The guardian shall have the power to have custody of the protected person and the power to establish a place of abode for the protected elder or vulnerable adult within or outside the Bois Forte Reservation;

- (2) The guardian shall have the power to revoke, suspend, or terminate all or any part of a durable power of attorney of which the protected person is the principal with the same power the principal would have if the principal were not incapacitated;
 - (3) The guardian shall have the power to give any necessary consent for necessary medical or other professional care, counsel, treatment, or service, provided the guardian shall not have the power to consent to any medical care for the protected elder or vulnerable adult which violates the known conscientious, religious, or moral belief of the protected person;
 - (4) The guardian shall not have the power to revoke the health care directive of a protected person absent a Tribal Court order.
- (b) Duties of the Guardian. Guardians shall, on behalf of the protected elder or vulnerable adult as limited by an order for appointment:
- (1) Have a fiduciary duty to manage the estate in the best interest of the protected person;
 - (2) Have access to and ability to sign and authorize all financial and bank accounts, income streams, and any other income source designed to benefit the protected person;
 - (3) Ensure all housing, medical, grocery, pharmaceutical, and other costs related to the cost of living are paid from the protected person's estate;
 - (4) Provide for the protected person's care, comfort, and maintenance needs, including food, clothing, shelter, health care, transportation, social and recreational requirements, tribal customs and traditional needs, religious needs, and, whenever appropriate, training, education, and habilitation or rehabilitation;
 - (5) Take reasonable care of the protected person's personal property, including, but not limited to, clothing, furniture, vehicles, and other personal effects;
 - (6) Ensure the funds of any protected person be used solely for the support of the protected person; and
 - (7) Any other reasonable duties as needed or as ordered by the Court in a manner according to the circumstances and station in life of such protected person.

1504.06. Reporting Duties of the Guardian. The guardian shall have a duty to keep and maintain detailed records of all transactions and activity conducted on the behalf of the protected elder or vulnerable adult. The guardian shall at the initial review hearing, additional review hearings, and as otherwise ordered by the Tribal Court, make copies of such records make to the

court and other interested parties. Except for medical related expenses, any gifts, transactions, or purchases over the amount of \$1,000.00 on behalf of the protected person must first be approved by the Tribal Court.

1504.07. Review Hearings.

- (a) Initial Review Hearing. Within ninety (90) days of appointment of a guardian for an elder or vulnerable adult, the Tribal Court shall hold an initial review hearing. Two weeks prior to the hearing, the guardian shall provide to the Tribal Court a report detailing all actions taken by the guardian on behalf of the protected elder or vulnerable adult. Based on the report provided by the guardian and any other reliable evidence received, the Tribal Court may in its discretion amend the order of appointment to grant or remove powers of the guardian or to otherwise amend the order as necessary to protect elder or vulnerable adult's safety, health, and welfare.
- (b) Additional Review Hearings. Additional review hearings may occur at the discretion of the Tribal Court but shall occur, at a minimum, on an annual basis.

1504.08. Reimbursement for Guardian. The Court may order monthly reimbursement payments to the person or agency appointed as guardian of the protected elder or vulnerable adult, provided that sufficient funds have been appropriated by the Band. Such payments must be used by the guardian for the sole purpose of covering expenses incurred in the care and custody of the protected elder or vulnerable adult and shall not be used for any other purpose. The use of such payment for any purpose other than that described in this Section shall subject the guardian to contempt of court proceedings and any applicable criminal or civil penalties provided by the Bois Forte Tribal Code.

1504.09. Termination of Guardianship.

- (a) By Death. A guardianship shall terminate upon the death of the protected elder or vulnerable adult.
- (b) By Restored Capacity. When a protected elder or vulnerable adult's capacity is restored, the protected person, guardian, or other interested person, including the Bois Forte Elder Services, may petition for termination of guardianship. Upon receipt of a petition for termination, the Tribal Court shall issue a summons and set the matter for hearing consistent with process required to commencement a guardianship pursuant to Section 1504.02(d) herein. The Tribal Court shall, upon clear and convincing evidence, terminate the guardianship if the protected person's capacity has been restored and grounds for appointment no longer exist. The Tribal Court may, upon clear and convincing evidence, amend an order for appointment as deemed necessary if the protected person's capacity has been partially restored.

1504.10. Removal and Resignation of Guardian.

- (a) Removal. The Bois Forte Tribal Court shall remove a guardian who is found, after a hearing and by a preponderance of the evidence, to have negligently managed the affairs of the protected elder or vulnerable adult, to have intentionally caused physical, emotional, mental, or financial harm to the protected elder or vulnerable adult, or to have failed in their fiduciary care or duties and in any legal duties owed by guardian pursuant to this Section or by court order. Any person with personal information as to the actions of the guardian, including Bois Forte Elder Services, may petition for the guardian's removal.
- (b) Resignation. A guardian may, at any time, request to resign as guardian. No guardian shall be dismissed by the Tribal Court until a new guardian is appointed.

Part 5 – Rights of Elders and Vulnerable Adults

1505.01. Rights of Elders and Vulnerable Adults. In addition to the specific rights provided herein, rights provided to victims of abuse of an elder or vulnerable adult provided in Section 609.01, subd. 5, of the Bois Forte Tribe Code, and those rights guaranteed under the Bois Forte Tribal Code to parties in a civil action, elders and vulnerable adult shall have the following rights:

- (a) An elder or vulnerable adult shall be informed of an abuse investigation before it begins unless an emergency exists. If an emergency exists, notice must be given using a means reasonably calculated to give actual notice as soon as possible but no later than 72 hours.
- (b) An elder or vulnerable adult shall have the right to receive, at no cost, copies of any order, report, or investigation filed with Tribal Court.
- (c) Unless found to have a legal incapacity or subject to an order to compel protective services, as provided herein, elders or vulnerable adults may voluntarily refuse to accept protective services.
- (d) An elder or vulnerable adult shall have the right to be informed by the Tribal Court of all hearing dates and continuances and to attend all proceedings in which the elder or vulnerable adult is a party.
- (e) The elder or vulnerable adult shall have the right to request an independent medical, psychological, or psychiatric evaluations at their own expense.
- (f) In a petition to appoint a guardian, the proposed protected elder or vulnerable adult shall have the right to express his or her desired guardian.