



**RESOLUTION OF THE GOVERNING BODY
OF THE THREE AFFILIATED TRIBES
OF THE FORT BERTHOLD INDIAN RESERVATION**

A Resolution entitled, "Adoption of new laws - Child Support and Enforcement"

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted a Constitution and By-laws under said Act; and

WHEREAS, Pursuant to Article III, Section 1 of the Constitution and By Laws of the Three Affiliated Tribes, the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, Article I of the Constitution of the Three Affiliated Tribes expressly provides that the jurisdiction of the Three Affiliated Tribes shall extend to all persons and all lands, including lands held in fee, within the exterior boundaries of the Fort Berthold Reservation; and

WHEREAS, Article VI, Section 3 of the Constitution of the Three Affiliated Tribes specifically grants to the Tribal Business Council all necessary sovereign authority – legislative and judicial – for the purpose of exercising the jurisdiction granted by the people of the Three Affiliated Tribes in Article I of the Constitution; and

WHEREAS, Pursuant to Article VI, Section 5 (1) of said Constitution, the Tribal Business Council has the power to adopt resolutions regulating the procedures of the Tribal Business Council and other Tribal agencies and Tribal officials on the Reservation; and

WHEREAS, The Tribal Business Council has established the Three Affiliated Tribes Division of Child Support Enforcement (hereinafter "TAT DCSE") pursuant to Resolutions 05-36-NH and 07-185-VJB "because the children are the most vital resource to the continued existence and integrity of the Three Affiliated Tribes and there exists a compelling interest in promoting and maintaining the health and well-being of tribal children;" and

WHEREAS, The Tribal Business Council acknowledges the financial difficulties and hardships that tribal children and families face from the lack of a formal child support enforcement program within the Fort Berthold Reservation; and

Highlights from DOMESTIC RELATIONS CODE Title V as prepared by NTJRC consultant, Catherine Bryan.

- ❖ Sections 5-4-0 through 5-4-61 of this chapter speak to the federal regulations at 45 CFR 309.90(a)(1) and 45 CFR 309.100 and are based on an updated Uniform Parentage Code. The current FBTC, Chapter 5-17 (Uniform Parentage Act) partially meets the federal regulations. However, the genetic testing provisions and those on the voluntary acknowledgment of paternity in the current code, among others, are outdated and based on old ND law.
- ❖ Proposed Code - Title 5, Chapter 6 - Tribal Child Support Guidelines: Sections 0 through 20 of this chapter speak to the federal regulations at 45 CFR 309.105. The current FBTC does not have a uniform set of guidelines. Under the federal regulations, 45 CFR Part 309.105, Tribes must have a uniform set of child support guidelines (enacted as code or promulgated as court rule for example) to be eligible for funding as a comprehensive program.
- ❖ Proposed Code - Title 5, Chapter 6 - Tribal Child Support Act - Sections 0 through 75 of this Chapter speak to the federal regulations at 45 CFR 309. The current FBTC child support chapters - Chapters 5-08.1 (Civil Remedies for Child Support), 5-09 (Parent and Child), and 5-12.1 (Reciprocal Enforcement of Support) - are outdated and do not address several components required under the federal regulations. For example, the current code does not sufficiently address modification of a child support order, income withholding and employer duties, location of NCPs, CPs, and assets, collection and distribution (including handling arrearages), and full faith and credit and registration of child support orders from foreign jurisdictions. The current code regarding registration of foreign child support orders is based on old ND law which was created decades ago before the adoption of UIFSA by states or PWRORA which is the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). For the first time in the history of the title IV-D program, PRWORA authorized tribes and tribal organizations to operate child support enforcement programs like states do.
- ❖ In addition, the code does not speak to the creation and duties/responsibilities of the TAT DCSE.

FEDERAL REQUIREMENTS TRACKING TABLE

For the Three Affiliated Tribes Child Support Enforcement Comprehensive Plan – Fiscal Year 2008

THREE AFFILIATED TRIBES COMPLIANCE WITH 45 CFR PART 309			
FEDERAL REQUIREMENT DESCRIPTION & CFR CITATION	EXHIBITS <u>ATTACHMENT 6</u>	FORT BERTHOLD TRIBAL CODE <u>ATTACHMENT 7</u>	POLICY & PROCEDURES MANUAL <u>ATTACHMENT 8</u>
1. Description of the population subject to the jurisdiction of the Tribal Court for child support purposes as specified under §§ 309.65 (a)(1) and 309.70.	See Part II - Attachment 6, Exhibits for a copy of the TAT certification statement attesting to the number of tribal children subject to the jurisdiction of the Fort Berthold District Court.	<p>Scope of Jurisdiction:</p> <ul style="list-style-type: none"> ▪ Title I – Tribal Court: § 1-3, page 2 ▪ Tribal Parentage Code: § 5-4-3, pages 4-5 ▪ Tribal Child Support Code: § 5-5-3, pages 5-6 <p>Definition of Child</p> <ul style="list-style-type: none"> ▪ Tribal Parentage Code: § 5-4-2.2(d), page 2 ▪ Tribal Child Support Code: § 5-5-2.2(c), page 2 ▪ Tribal Child Support Guidelines: § 5-6-2.1, page 1 	<ul style="list-style-type: none"> ▪ Chapter I-IV ▪ Appendix B (definition of child)
2. Evidence that the Tribe or Tribal organization has in place procedures for accepting all applications for IV-D services and promptly providing IV-D services required by law and regulation under §309.75.	N/A	<ul style="list-style-type: none"> ▪ Tribal Child Support Code: § 5-5-14.2, pages 9-10 	<ul style="list-style-type: none"> ▪ Chapter II
3. Assurance that the due process rights of the individuals involved will be protected in all activities of the Tribal IV-D program, including establishment of paternity, and establishment, modification, and enforcement of support orders under §309.65(a)(3).	N/A	<ul style="list-style-type: none"> ▪ Title II Civil Rules: § 2-1, pages 12-13 ▪ Tribal Parentage Code: § 5-4-10, page 8 ▪ Tribal Child Support Code: <ul style="list-style-type: none"> ○ § 5-5-38, page 21 ○ § 5-5-40, page 22 ○ § 5-5-42, page 23 ○ § 5-5-47.3, page 26 ○ § 5-5-50, page 27 ○ § 5-5-57, page 30 	<ul style="list-style-type: none"> ▪ Chapter V-B

THREE AFFILIATED TRIBES COMPLIANCE WITH 45 CFR PART 309			
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		<ul style="list-style-type: none"> ○ § 5-5-59, pages 30-31 ○ § 5-5-61, page 32 ○ § 5-5-63, pages 32-33 ○ § 5-5-66, page 37 ○ § 5-5-70.2, page 38 ○ § 5-5-74.7, page 41 ○ § 5-5-74.8, page 42 	
<p>4. Administrative and management procedures as specified under §309.80.</p> <p><i>Structure of the child support agency & distribution of responsibilities</i></p> <p><i>Insurance policy for employee theft</i></p> <p><i>Provision of notices of support collected</i></p> <p><i>Certification of compliance with the Single Audit Act and OMB Circular A-133</i></p> <p><i>Application fee requirements</i></p>	<p><u>See Part I - Attachment 4, TAT DCSE Job Descriptions or Attachment 8, Appendix D</u></p> <p><u>See Part II - Attachment 6, Exhibits</u></p> <p>N/A</p> <p><u>See Part II - Attachment 6, Exhibits</u> for this certification statement.</p> <p>N/A</p>	<ul style="list-style-type: none"> ▪ Tribal Child Support Code: §§ 5-5-12 and 5-5-14, pages 9-11 <p>Code: N/A</p> <p>Code: N/A</p> <p>Code: N/A</p> <p>Code: N/A</p>	<ul style="list-style-type: none"> ▪ Chapter I-B ▪ Appendix D ▪ Chapter I-V ▪ Chapter VII-E ▪ Chapter I-X ▪ Chapter II-A (TAT DCSE will not charge a IV-D application fee)
<p>5. Safeguarding procedures as specified under §309.80.</p>	<p><u>See Part II - Attachment 6, Exhibits</u> for the TAT Personnel Policies Manual on the confidentiality policy (Chapter 1, Section C) and employee discipline policies (Chapter 7, Sections A-E).</p>	<ul style="list-style-type: none"> ▪ Tribal Child Support Code: §§ 5-5-4, -5, -6, -7, pages 6-7 ▪ Tribal Parentage Code: §§ 5-4-4, -5, -6, -7, pages 5-7 	<ul style="list-style-type: none"> ▪ Chapter II-III ▪ Appendix F-1
<p>6. Assurance that the Tribe or Tribal organization will</p>	N/A	<ul style="list-style-type: none"> ▪ Tribal Child Support Code: § 	<ul style="list-style-type: none"> ▪ Chapter I-VI

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maintain records as specified under §309.85.		5-5-14.6, page 10	
7. Copies of all applicable Tribal laws and regulations as specified under §309.90.			
<i>Paternity:</i>	N/A	<ul style="list-style-type: none"> ▪ Tribal Child Support Code: §§ 5-4-0 to 5-4-61 	<ul style="list-style-type: none"> ▪ Chapter IV
<i>Establishment & Modification of Support:</i>	N/A	<ul style="list-style-type: none"> ▪ Tribal Child Support Guidelines: §§ 5-6-0 to 5-6-20 ▪ Tribal Child Support Code: §§ 5-5-30 to 5-5-42, pages 18-23 	<ul style="list-style-type: none"> ▪ Chapters V and VI-A Appendices E, F
<i>Enforcement</i>	N/A	<ul style="list-style-type: none"> ▪ Tribal Child Support Code: §§ 5-5-50 to 5-5-72, pages 27-40 	<ul style="list-style-type: none"> ▪ Chapters V-C, VI-D, and VI-E
<i>Location</i>	N/A	<ul style="list-style-type: none"> ▪ Tribal Child Support Code: § 5-5-45, page 24 	<ul style="list-style-type: none"> ▪ Chapter III
8. Procedures for the location of non-custodial parents as specified under §309.95.	N/A	<ul style="list-style-type: none"> ▪ Cross reference the Tribal Child Support Code, 5-5-45, page 24 	<ul style="list-style-type: none"> ▪ Chapter III ▪ Appendix C and F-3
9. Procedures for the establishment of paternity as specified under §309.100.	<u>See Part II - Attachment 6, Exhibits</u> for a copy of the genetic testing vendor agreement (Orchid).	<ul style="list-style-type: none"> ▪ Cross reference the Tribal Parentage Code: §§ 5-5-0 to 5-5-61 	<ul style="list-style-type: none"> ▪ Chapter IV ▪ Appendix F-4
10. Guidelines for the establishment and modification of child support obligations as specified under §309.105.	N/A	<ul style="list-style-type: none"> ▪ Tribal Child Support Guidelines: §§ 5-6-0 to 5-6-20 ▪ Tribal Child Support Code: §§ 5-5-30 to 5-5-42, pages 18-23 	<ul style="list-style-type: none"> ▪ Chapters V and VI-A ▪ Appendix E
11. Procedures for income withholding as specified under §309.110.	N/A	<ul style="list-style-type: none"> ▪ Cross reference the Tribal Child Support Code: §§ 5-5-55 to 5-5-69, pages 29-38 	<ul style="list-style-type: none"> ▪ Chapters V-C, VI-D, VI-E
12. Procedures for the distribution of child support collections as specified under §309.115.	N/A	<ul style="list-style-type: none"> ▪ Cross reference the Tribal Child Support Code: §§ 5-5-47 and -48, pages 25-26 	<ul style="list-style-type: none"> ▪ Chapter VII
13. Procedures for intergovernmental case processing as specified under §309.120.	N/A	<ul style="list-style-type: none"> ▪ Cross reference the Tribal Child Support Code: § 5-5- 	<ul style="list-style-type: none"> ▪ Chapter IX

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		14.9, page 10 and §§ 5-5-73, -74, -75, pages 40-44	
14. Tribally-determined performance targets for paternity establishment, support order establishment, amount of current support to be collected, amount of past due support to be collected, and any other performance measures a Tribe or Tribal organization may want to submit pursuant § 309.65(a)(14) .	<u>See Part II - Attachment 9</u> for the TAT DCSE Quality Assurance Plan, a tool to assist the TAT DCSE in meeting performance targets.	<ul style="list-style-type: none"> ▪ Tribal Child Support Code: § 5-5-14.7, page 10 	<ul style="list-style-type: none"> ▪ Chapter XI
➤ Statistical and narrative reporting requirements that apply to Tribal IV-D programs under 309.170 .	N/A	N/A	<ul style="list-style-type: none"> ▪ Chapter X ▪ Appendix G



RESOLUTION NO. 07-223-VJB

WHEREAS, It has been a substantial period of time since the child support provisions of the Fort Berthold Tribal Code were updated, amended, and revised to reflect the changes in policy, procedure, and other law that occur over time in the area of child support and enforcement; and

WHEREAS, Revisions to the child support law would also allow for compliance with the federal laws applicable to TAT DCSE's Start-Up Grant; and

WHEREAS, Policies and procedures for TAT DCSE will be developed to follow the new Tribal laws with regard to child support and will ensure compliance with federal grant provisions; and

WHEREAS, The newly developed child support laws, after review by the Tribal Legal Department, have been presented to the Tribal Business Council and are attached to this Resolution; and

WHEREAS, The Tribal Business Council finds that there is a need for update, amendment, and revision of the current child support laws of the Tribes in the best interests of the welfare and benefit of the Tribes and the enrolled members thereof; and

WHEREAS, Based on its review and discussion of the attached provisions, it is the considered judgment of the Tribal Business Council that such provisions should be approved and adopted and added to the Code of Laws of the Three Affiliated Tribes.

NOW, THEREFORE, BE IT RESOLVED that the Tribal Business Council of the Three Affiliated Tribes hereby approves and adopts the attached Tribal Parentage Act, Tribal Child Support Act, and Tribal Child Support Guidelines which are to be added to the Fort Berthold Tribal Code (the Code of Laws of the Three Affiliated Tribes) as chapters 24, 25, and 26 of Title V and are forthwith incorporated into the Code of Laws of the Three Affiliated Tribes and are to be effective immediately; and

BE IT FURTHER RESOLVED, that Subchapter 5-08.1, "Civil Remedies for Child Support," Subchapter 5-09, "Parent and Child," Subchapter 5-12.1, "Civil Remedies for Child Support," and Subchapter 5-17, "Uniform Parentage Act" of the Fort Berthold Tribal Code are hereby rescinded and repealed.

CERTIFICATION




RESOLUTION NO. 07-223-VJB

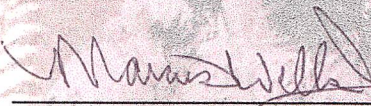
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 5 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 26th day of November, 2007; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [] Voting. [] Not voting.

Dated this 26th day of November, 2007.

ATTEST:


Tribal Secretary, V. Judy Brugh
Tribal Business Council
Three Affiliated Tribes


Tribal Chairman, Marcus Wells Jr.
Tribal Business Council
Three Affiliated Tribes

