



## RESOLUTION NO. 18-111-FWF

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

#### Resolution Entitled, *“Amending the Domestic Relations Code”*

**WHEREAS,** This nation having accepted the Indian Reorganization Act of June 18, 1934, and the Authority under said Act; and

**WHEREAS,** The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and the enrolled members thereof; and

**WHEREAS,** Title I, Chapter 5 of the Fort Berthold Tribal Code specifically authorizes and establishes the Three Affiliated Tribes Division of Child Support (TAT DCSE) with authority and responsibility to provide child support enforcement services; and

**WHEREAS,** Chapter 5-26 provides the Tribal Child Support Guidelines, and such guidelines are to be reviewed by the Three Affiliated Tribes at least once every four (4) years; and

**WHEREAS,** The Three Affiliated Tribes did formulate a committee, per tribal council motion, on the 17<sup>th</sup> day of February, 2016 to review the Tribal Child Support Guidelines and said committee was represented by Council members Cory Spotted Bear and Frank Grady, has agreed that certain modifications of the Tribal Child Support Guidelines are necessary to ensure consistent and uniform child support obligations; and

**WHEREAS,** The proposed modifications to modify and re-enact Chapter 5-26 of Title V. – Domestic Relations code were approved at second reading, on Motion of Councilwoman Monica Mayer, and a second by Councilman Mervin Packineau, on July 24, 2017, on a vote of 4-0, with 3 abstentions; and

**WHEREAS,** Pursuant to the Three Affiliated Tribes Procedures for Enacting Tribal Code, the Code changes were submitted to a Notice and Comment period, including publication a total of four (4) times: (December 6, 2017; December 13, 2017; January 31, 2017; and February 7, 2018.) and is now ready for a third and final reading and enactment.



## RESOLUTION NO. 18-111-FWF

**NOW, THEREFORE BE IT RESOLVED**, the Tribal Business Council of the Three Affiliated Tribes does hereby modify and re-enact Chapter 5-26 of Title V – Domestic Relations Code, as follows:

- 5-26-2 Definition – 6. “Extended Visitation” – re-define as visitation between the obligor and a child living with the oblige, of sixty or more nights on an annual basis.
- 5-26-2 Definitions - 7. “Gross Income” - eliminate overtime wages, gifts and prizes, and value of in-kind income received on a regular basis from the definition of gross income.
- 5-26-2 Definitions - 10. “Net Income” – net income shall be defined as gross annual income, less:
- Hypothetical Federal income tax obligation.
  - Hypothetical Federal Insurance Contributions Act (FICA).
  - Medicare taxes.
  - Portion of Health Insurance to afford coverage for child(ren) for whom support is sought.
  - Actual medical expenses of child.
  - Employee retirement contributions.
- 5-26-02 (16) Add in a definition for “Reasonable Cost of Health Insurance” to mean a cost equal to or less than Five Percent (5%) of “Gross Income”. Re-number remaining definitions.
- 5-26-6 (1) f. – eliminate a portion of the statutory language, as follows: “for a **maximum** of three consecutive months, and that after the expiration of the three month period, the obligor will be responsible for satisfying the specific dollar amount of the child support order in cash”.
- 5-26-6 (2) Delete and remove sub-section (2.) reference in its entirety from Guidelines.
- 5-26-7 (4) Modify language from “most recent five years” and substitute with “most recent three years”.
- 5-26-9 (2) Modify language to read as follows: If the Court is appraised of the fact that an obligor has a support obligation for three or more obligees, the court must consolidate the proceedings to set up equal support obligations for all cases, factoring in the number of children to support. In doing so, the total obligation imposed upon the obligor may not exceed fifty percent (50%) of net income of obligor.



## RESOLUTION NO. 18-111-FWF

- 5-26-19 (8.) **Modify section to read as follows:** Notwithstanding subsections 3 and 4 of this section, if an obligor makes a voluntary change in employment resulting in reduction of income, monthly gross income equal to one hundred percent of the obligor's average monthly earnings for the previous twelve month period will be used as evidence, unless the obligor enrolls as a full time student at an institution of higher learning and makes progress toward a degree. In those cases involving a student, the court may input at minimum wage. If an obligor suffers a non-voluntary change of employment, based upon no fault to himself, the court may use actual monthly gross earnings. The burden of proof is on the obligor to show that the change in employment was not made for the purpose of reducing the obligor's child support obligation.
- 5-26-12 Delete the current language and re-enact section for the allowance of an adjustment to the child support obligation for any obligor that has overnight visitation with a child living with an obligee for a total of sixty nights or more in an annual period.
- 5-26-14 (2.) Add language to end of section 2. The term "Reasonable Cost of Health Insurance" shall be defined as a cost that is equal to or less than five percent (5%) of annual "Gross Income".
- 5-26-15 Change the statutory language as follows: In a proceeding where the obligor appears, but does not resist the child support amount sought by the obligee, and in proceedings where the parties agree or stipulate to a child support amount, the amount agreed upon shall be the amount to be set by the Court, even if the agreed amount of child support fails to conform to the requirements of this Chapter.
- 5-26-16 (2.a.) Modify rebuttal factor for the court to consider to grant a deviation based upon living expenses of the obligor. If the rental cost of housing of obligor shall exceed thirty percent (30%) of the "Gross Income" of the obligor, such additional cost may be considered by the court to reduce the net income of the obligor.
- 5-26-20 Obligational monthly sums as set forth in the Guideline Schedules shall be rounded as follows: Monthly sums ending in a 1 or 2 will be rounded down to 0; sums ending in 3 or 4 shall be rounded up to 5; sums ending in 6 or 7 shall be rounded down to 5; and sums ending in 8 or 9 shall be rounded up to 10.

**BE IT FINALLY RESOLVED**, that the Tribal Business Council hereby finds that such legislative action is in the best interest of our tribal children.



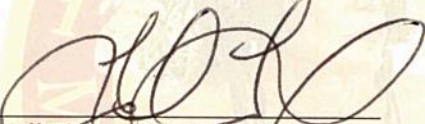
RESOLUTION NO. 18-111-FWF

CERTIFICATION

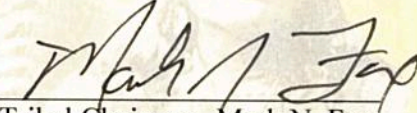
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum 6 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 10<sup>th</sup> day of May 2018, that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 2 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ X ] Voting. [ ] Not voting.

Dated this 10<sup>th</sup> day of May, 2018.

  
Tribal Secretary, Fred W. Fox  
Tribal Business Council  
Three Affiliated Tribes

ATTEST:

  
Tribal Chairman, Mark N. Fox  
Tribal Business Council  
Three Affiliated Tribes

