

TITLE V

DOMESTIC RELATIONS CODE

CHAPTER 24 – TRIBAL PARENTAGE ACT

5-24-0. Title

Title 5, Chapter 24 shall be referred to as the Tribal Parentage Act of the Mandan, Hidatsa and Arikara Nation of the Fort Berthold Indian Reservation.

5-24-1. Purpose

The Tribal Parentage Act of the Mandan, Hidatsa and Arikara Nation shall be liberally interpreted and construed to fulfill the following purposes:

1. To establish a confidential process by which the parental heritage of the children of the Mandan, Hidatsa and Arikara Nation may be identified;
2. To ensure that the interests of children are protected to the fullest extent of the law;
3. To assert Tribal jurisdiction over the establishment of parentage of tribal children;
4. To ensure the future of the Mandan, Hidatsa and Arikara Nation by delegating the authority to the Three Affiliated Tribes Division of Child Support Enforcement to effectively fulfill the purposes of this Chapter.
5. Establishment of paternity under this section has no effect on tribal enrollment or membership; it is used for child support purposes.

5-24-2. Definitions

1. Terms under this Chapter shall be liberally construed so as not to limit the jurisdiction of the Fort Berthold District Court over tribal children, and to facilitate the authority of the District Court to act to protect the interests of tribal children and their families. When interpreting terms not defined by this Chapter, the District Court shall take into consideration tribal laws and customs. Unless in conflict with applicable tribal law, terms not specifically defined in this Chapter shall be defined according to their normal usage, or as defined in the federal regulations for Tribal Child Support Enforcement Programs found at 45 CFR § 309 et seq.
2. For purposes of Tribal Parentage Act, the following definitions apply:

a. **"Acknowledged father"** means a man who has established a father-child relationship under sections of [Title 5, Chapter 24](#).

- b. **"Adjudicated father"** means a man who has been adjudicated by a court of competent jurisdiction to be the father of a child.
- c. **"Alleged father"** means a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined. The term does not include a presumed father or a man whose parental rights have been terminated or declared not to exist.
- d. **"Child"** means an individual of any age whose parentage may be determined under the sections of this Chapter.
- e. **"Defendant"** means the person against whom a civil or criminal proceeding is begun.
- f. **"Determination of parentage"** means the establishment of the parent-child relationship by the signing of an acknowledgment of paternity under the sections of this Chapter or adjudication by the court.
- g. **"District Court"** means the Fort Berthold District Court or Tribal Court of the Mandan, Hidatsa and Arikara Nation.
- h. **"Division"** means the Three Affiliated Tribes Division of Child Support Enforcement.
- i. **"Duress"** means use of physical or psychological force to coerce a person to sign an acknowledgment of paternity.
- j. **"Effective date"** means when the acknowledgment of paternity is fully executed, by the later of the signature dates.
- k. **"Ethnic or racial group"** means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of the individual's ancestry or that is so identified by other information.
- l. **"Former parent"** means an acknowledged father who successfully rescinded or challenged an acknowledgment of paternity under this Chapter, a presumed father whose parentage was successfully rebutted under this Chapter, or an adjudicated father whose parentage was disestablished after an order issued under this Chapter was vacated.
- m. **"Fort Berthold District Court"** means the District Court or Tribal Court of the Mandan, Hidatsa and Arikara Nation.
- n. **"Fraud"** means an intentional misrepresentation of a material fact that could not have been discovered with reasonable diligence and was reasonably relied on by a person who signed an acknowledgment of paternity.
- o. **"Genetic testing"** means an analysis of genetic markers to exclude or identify a man as the father or a woman as the mother of a child. The term includes an analysis of one or a combination of the following:
 - (1) Deoxyribonucleic acid, and
 - (2) Blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.

- p. **"Man"** means a male individual of any age.
- q. **"Mandan, Hidatsa and Arikara Nation"** means the Three Affiliated Tribes of the Fort Berthold Indian Reservation.
- r. **"Material mistake of fact"** means a mistake as to the facts that could not have been known at the time a signatory executed an acknowledgment of paternity.
- s. **"Parent"** means an individual who has established a parent-child relationship under the sections of this Chapter.
- t. **"Parent-child relationship"** means the legal relationship between a child and a parent of the child. The term includes the mother-child relationship and the father-child relationship.
- u. **"Paternity index"** means the likelihood of paternity calculated by computing the ratio between:
 1. The likelihood that the tested man is the father, based on the genetic markers of the tested man, mother, and child, conditioned on the hypothesis that the tested man is the father of the child, and
 2. The likelihood that the tested man is not the father, based on the genetic markers of the tested man, mother, and child, conditioned on the hypothesis that the tested man is not the father of the child and that the father is of the same ethnic or racial group as the tested man.
- v. **"Plaintiff"** means the person who brings an action, complains or sues in a civil case.
- w. **"Presumed father"** means a man who, by operation of law under Section 5-4-13 of this Chapter, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding.
- x. **"Probability of paternity"** means the measure, for the ethnic or racial group, to which the alleged father belongs, of the probability that the man in question is the father of the child, compared with a random, unrelated man of the same ethnic or racial group, expressed as a percentage incorporating the paternity index and a prior probability.
- y. **"Record"** means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- z. **"Signatory"** means an individual who authenticates a record and is bound by its terms.
- aa. **"State"** means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

- bb. **“TAT DCSE”** means the Three Affiliated Tribes Division of Child Support Enforcement.
- cc. **“Three Affiliated Tribes”** means the Mandan, Hidatsa Arikara Nation, which is federally recognized as the “Three Affiliated Tribes.”
- dd. **“Three Affiliated Tribes Division of Child Support Enforcement”** means the Tribal Child Support Agency, which provides child support enforcement services to children and families and is authorized to seek:
 - (1) Location of obligors or their assets and obligees;
 - (2) Determination of parentage;
 - (3) Establishment or modification of child support; or
 - (4) Enforcement of support orders or laws relating to the duty of support.
- ee. **“Title IV-A”** refers to title IV-A of the Social Security Act under which the federal government provides funds to Tribes and States to provide temporary financial assistance to families using federal dollars.
- ff. **“Title IV-D”** means title IV-D of the Social Security Act, under which the federal government provides funds to tribes and states to administer child support programs that provide services related to child support.
- gg. **“Title IV-E”** refers to title IV-E of the Social Security Act under which the federal government provides funds to tribes and states to assist with the costs of operating foster care programs.
- hh. **“Title XIX”** refers to title XIX of the Social Security Act under which the federal government provides funds to states to provide medical care assistance through a state-operated and administered program that provides medical benefits for certain indigent or low-income persons in need of health and medical care.

5-24-3. Jurisdiction of the Fort Berthold District Court and the Three Affiliated Tribes Division of Child Support Enforcement

1. *Subject Matter Jurisdiction.* The Fort Berthold District Court and the TAT DCSE shall have jurisdiction over any proceeding arising under this Chapter and actions arising under the customs and traditions of the Mandan, Hidatsa and Arikara Nation affecting the determination of parentage in this Tribe. The Fort Berthold District Court and the TAT DCSE shall apply the law of this Tribe to adjudicate parentage. The applicable law does not depend on:
 - a. The place of birth of the child; or
 - b. The past or present residence of the child.

2. *Personal Jurisdiction.* An individual may not be adjudicated to be a parent unless the Fort Berthold District Court has personal jurisdiction over the individual. The Fort Berthold District Court may exercise personal jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if:
 - a. The individual is personally served with a summons within the exterior boundaries of the Mandan, Hidatsa and Arikara Nation;
 - b. The individual submits to the jurisdiction of this Tribe by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
 - c. The individual resided with the child within the exterior boundaries of the Fort Berthold Indian Reservation;
 - d. The individual resided within the exterior boundaries of the Fort Berthold Indian Reservation and provided prenatal expenses or support for the child;
 - e. The child resides within the exterior boundaries of the Fort Berthold Indian Reservation as a result of the acts or directives of the individual;
 - f. The individual engaged in sexual intercourse within the exterior boundaries of the Fort Berthold Indian Reservation and the child may have been conceived by that act of intercourse; or
 - g. There is any other basis consistent with the constitutions of this Tribe and the United States for the exercise of personal jurisdiction.
3. Lack of jurisdiction over one individual does not preclude the court from making an adjudication of parentage binding on another individual over whom the court has personal jurisdiction.
4. This Chapter does not create, enlarge, or diminish parental rights or duties under other laws of this Tribe.
5. The District Court has the authority to punish for contempt, committed in or out of the Court's presence.
6. Whenever state, federal, and other tribal courts have jurisdiction over any of the matters provided for in this Chapter, the District Court shall have concurrent jurisdiction over the same matters, to the extent consistent with federal law.
7. The limitations on jurisdiction contained in this Chapter are not intended to reflect the Mandan, Hidatsa and Arikara Nation's view as to the legally permissible limits of tribal jurisdiction.

5-24-4. Protection of Participants – Confidentiality of Case Records.

1. The case records of the District Court and the Three Affiliated Tribes Division of Child Support Enforcement concerning the actions taken under this Chapter must be kept confidential except as provided in this Chapter.
2. The District Court and the Three Affiliated Tribes Division of Child Support Enforcement shall not release information on the whereabouts of one party or the child to another party against whom a protective order with respect to the former party or the child has been entered.
3. The District Court and the Three Affiliated Tribes Division of Child Support Enforcement shall not release information on the whereabouts of one party or the child to another person if the court or TAT DCSE has reason to believe that the release of the information to that person may result in physical or emotional harm to the party or child.

5-24-5. Authorized Release of Case Records and Other Information

1. The use or disclosure of personal information received or maintained by the Three Affiliated Division of Child Support Enforcement and the Fort Berthold District Court shall be limited to purposes directly connected with the Three Affiliated Tribes Division of Child Support Enforcement and the Fort Berthold District Court or titles IV-A, XIX, and IV-E, and for purposes prescribed by the Secretary in regulations.
2. Records of the Three Affiliated Tribes Division of Child Support Enforcement, including case notes and correspondence, may be disclosed to the following persons and entities, unless otherwise protected by this section:
 - a. TAT DCSE Staff;
 - b. Fort Berthold District Court Judges;
 - c. Fort Berthold District Court Clerks and Court Administrator for filing purposes;
 - d. Tribal Social Services agencies
 - e. TAT Federal Programs Executive Officer;
 - f. State of North Dakota IV-D employees directly connected with the administration of Titles IV-D, IV-A, and XIX programs, as outlined in the TAT – ND cooperative agreement and addendums;
 - g. A court having jurisdiction in parentage, support or abandonment proceedings or actions;
 - h. The legal guardian, attorney, or agent of a child; or
 - i. An agency of the federal government or any other state or tribal child support enforcement IV-D program engaged in the establishment of paternity, a child support obligation, or the enforcement of support for a child in a case.
3. The TAT DCSE and Fort Berthold District Court may limit the information disclosed to persons, agencies, and entities named in this section to that

information necessary to accomplish the purposes for which it is requested or for which it is being disclosed. Nothing in this section gives these entities or persons the right to review or copy the complete case record.

4. A final order in a proceeding [under sections 5-24-38 through 5-24-59](#) is available for public inspection. Other Fort Berthold District Court papers and records are available only with the consent of the parties or on order of the Court for good cause.

5-24-6. Publication of Proceedings

Upon order of the court, service by publication may be accomplished by publication of the contents of the summons once a week for two (2) consecutive weeks in a newspaper with a local circulation in the county where the action is brought. The final publication shall not be less than ten (10) days before the hearing.

When providing service by publication, the names of children in the matter shall not be disclosed. Only the child's initials shall be published. An extra copy of the complaint or paper must be left with the court for the party.

5-24-7. Penalty for Unauthorized Disclosure

1. Any person, including but not limited to any tribal employee, elected officials, court employees, and employees of the Three Affiliated Tribes Division of Child Support Enforcement, who willfully discloses otherwise confidential information related to an action to determine parentage, other than expressly authorized and provided for under this Chapter, commits a Class III Misdemeanor.
2. Any person found guilty of an unauthorized disclosure of information may be subject to a civil fine not to exceed one hundred (\$100.00) dollars in addition to any disciplinary actions authorized under the tribal personnel policies and procedures manual.

5-24-8. Contempt of Court

1. Willful and unjustifiable misbehavior by any person which disrupts, obstructs, or otherwise interferes with the conduct of any proceeding under this Chapter conducted by the Fort Berthold District Court, or which obstructs or interferes with the administration of justice by the District Court, or which constitutes disobedience or resistance to or interference with any lawful summons, subpoena, process, order, rule,

decree or command of the District Court shall constitute contempt of court.

2. When contempt of court is committed in the presence of such court it may be punished summarily by that court. In such case, an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt and prescribing the punishment.
3. When it appears to the District Court that a contempt of court may have been committed out of the presence of the Court, the District Court may issue a summons to the person so charged directing him to appear at a time and place designated for a hearing on the matter. The Court shall conduct a hearing, and if it finds him guilty of contempt, an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment.
4. Any person found in contempt of court as specified in this section may be subject to a civil fine not to exceed one hundred (\$100.00) dollars and sentenced to serve no more than thirty (30) days in jail. A person may be subject to additional fines or jail time for subsequent violations of court orders.

5-24-9. Rights of the Parties

Except as otherwise expressly provided in this Chapter, all parties, and their counsel, or other persons they have selected to represent them, shall be entitled to the following rights in every proceeding under this Chapter:

1. A statement by the Court to the parties to the action that they have the right under this Chapter to have a lawyer or other persons they have selected to represent them at the proceeding, but that they may have to pay for such representation.
2. If it appears that the party cannot pay for counsel, the Court shall inform him or her of any available services which provide representation, if known.
3. The opportunity to introduce, examine and cross-examine witnesses.
4. The opportunity to discover, offer or inspect evidence.
5. The opportunity to present arguments and statements.

5-24-10. Notice, Summons, and Complaint

1. Summons:

In an action for determination of parentage, the summons must specify the name of the court in which the action is brought, contain the title of action specifying the name of the parties set forth the allegations against the defendant, and must contain of the rights enumerated under

sections **5-24-09**. It must also state that the defendant has thirty (30) days after service of process within which to appear and defend by serving upon the plaintiff an answer or other proper response and that failure to do so may result in judgment by default for the relief demanded in the petition.

2. Notice of Hearing:

A notice of hearing in an action to determine parentage must specify the name of the court in which the action is brought, contain the title of the action specifying the name of the parties and a notice of the rights enumerated under section **5-24-09, and the time and date of hearing**. The party requesting the hearing must serve the notice on the other parties at least thirty (30) days prior to hearing and state that failure to appear and defend at such hearing may result in judgment by default against the party failing to appear and defend.

3. Contents of Summons

The summons shall contain the following information and be in substantially the following form:

"(A) You have been named in a petition alleging paternity. A judgment of paternity would legally designate the child as your child, grant parental rights to you, create the right of inheritance for the child, obligate you to pay child support until the child reaches the age of eighteen (18), or until the child graduates from high school or its equivalent up to age twenty (20), and make your failure to pay child support punishable by contempt of court.

You may request genetic tests which will indicate the probability that you are or not the father of the child. The Court will order genetic tests on request by you, or any other party. Any person who refuses to take court-ordered genetic tests may be punished for contempt of court.

The plaintiff has the burden of proving by clear and convincing evidence that you are the father. If a genetic test shows that you are not excluded as the father and that the statistical probability of your being the father is ninety-nine point nine (99.9%) or higher, you are rebuttably presumed to be the father.

(B) The following defenses are available to you:

- (1). That you were sterile or impotent at the time of conception;
- (2). That you did not have sexual intercourse with the mother of the child during the conception period; or
- (3). That another man did have sexual intercourse with the mother of the child during the conception period.

(C) If you fail to appear at any stage of the proceedings, including a scheduled genetic test, the Court may enter a default judgment finding you to be the father. A default judgment will take effect thirty (30) days after it was served on or mailed to you, unless within those thirty (30) days you present yourself to the Court and establish good cause for your failure to appear or present yourself for the genetic test.

(D) You must respond to this summons and petition by serving a copy of your written response on the person signing this summons and by filing the original with the clerk of court. If you do not serve your written response within (30) days after the date of this summons was served on you, exclusive of the day of service, the court may enter an order of default against you, and the court may, without further notice to you, enter a decree and approve or provide for the relief requested in the petition.

(E) If you wish to seek the advice of an attorney on this matter, you should do so promptly so that your written response, if any, may be served on time.

This summons is issued pursuant to Section 5-24-10 of the Tribal Code of the Three Affiliated Tribes.

4. Contents of Complaint.

The complaint shall contain the following:

- a. The name of the natural mother of the minor child.
- b. The name and date of birth of minor child.
- c. That the responding party is alleged to be the biological father of the minor child.

- d. That the parties engaged in sexual intercourse with each other at or about the probably time of conception.
- e. The residence of the responding party.
- f. That no other Defendant is subject to an order for the support of the minor child.
- g. That there is a request that an order or the child support be established at this time.
- h. That the responding party be adjudged to be the biological father of the minor child.
- i. That the responding party shall provide satisfactory health insurance for the minor child if such insurance is available at a reasonable cost.
- j. That if necessary the appropriate Registrar of Vital Statistics prepares an amended birth certificate consistent with the judgment of the Court.
- k. Costs of suit and other such relief as this Court deems appropriate.

5-24-11. Establishment of Parent-Child Relationship

- 1. The mother-child relationship is established between a woman and a child by:
 - a. The woman's having given birth to the child;
 - b. An adjudication of the woman's maternity;
 - c. Adoption of the child by the woman; or
 - d. As otherwise provided by law.
- 2. Provisions of this Chapter relating to determination of paternity apply to determinations of maternity.
- 3. The father-child relationship is established between a man and a child by:
 - a. An un rebutted presumption of the man's paternity of the child under [section 5-24-14](#) of this Chapter;
 - b. An effective acknowledgment of paternity by the man under [sections 5-24-16 through 5-24-26](#) of this Chapter, unless the acknowledgment has been timely rescinded or successfully challenged;
 - c. An adjudication of the man's paternity;
 - d. Adoption of the child by the man; or
 - e. As otherwise provided by law

5-24-12. No Discrimination Based on Marital Status

A child born to parents who are not married to each other has the same rights under the law as a child born to parents who are married to each other.

5-24-13. Consequences of Establishment of Parentage

Unless parental rights are terminated, a parent-child relationship established under this Chapter applies for all purposes, except as otherwise provided by the laws of this Tribe.

5-24-14. Presumption of Paternity

1. A man is presumed to be the father of a child if:

- a. He and the mother of the child are married to each other and the child is born during the marriage;
- b. He and the mother of the child were married to each other and the child is born within three hundred (300) days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution of marriage or after decree of separation;
- c. Before the birth of the child, he and the mother of the child married each other in apparent compliance with Tribal law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within three hundred (300) days after its termination by death, annulment, declaration of invalidity, a decree of separation, or dissolution of marriage;
- d. After the birth of the child, he and the mother of the child married each other in apparent compliance with Tribal law, whether or not the marriage is or could be declared invalid, and he voluntarily asserted his paternity of the child, and:
 - (1) The assertion is in a record filed with the Fort Berthold District Court, the TAT DCSE, the tribal office, or the state department of health.
 - (2) He agreed to be and is named as the child's father on the child's birth certificate, or
 - (3) He promised in a record to support the child as his own; or
- e. He openly held out the child as his own and the community accepted him as the child's father.

2. A presumption of paternity established under this section may be rebutted only by an adjudication under [sections 5-24-38 through 5-24-59](#) of this Chapter.

5-24-15. Tribal acknowledgment and denial of paternity – Duties of the TAT DCSE

1. The Three Affiliated Tribes Division of Child Support Enforcement and Fort Berthold District Court must provide an alleged father the opportunity to voluntarily acknowledge paternity pursuant to 45 CFR 309.100(a)(2);
2. The Three Affiliated Tribes Division of Child Support Enforcement shall prescribe standard forms that parents may sign to acknowledge or deny paternity and that shall be filed with the Three Affiliated Tribes Division of Child Support Enforcement and the Fort Berthold District Court.
3. A valid acknowledgment of paternity, rescission of acknowledgment of paternity, or denial of paternity is not affected by a later modification of the prescribed form.

5-24-16. Tribal acknowledgment of paternity - Execution

1. The mother of a child and a man claiming to be the genetic father of the child may execute a tribal acknowledgement of paternity with intent to establish the man's paternity.
2. A tribal acknowledgment of paternity shall:
 - a. Be in a record;
 - b. Be signed and notarized under penalty of perjury by the mother and by the man seeking to establish his paternity;
 - c. State that the child whose paternity is being acknowledged:
 - (1) Does not have a presumed father, or has a presumed father whose full name is stated, and
 - (2) Does not have another acknowledged or adjudicated father;
 - d. State whether there has been genetic testing and, if so, that the acknowledging man's claim of paternity is consistent with the results of the testing; and
 - e. State that the signatories understand that the acknowledgment is the equivalent of a judicial adjudication of paternity of the child and that after the rescission period has ended, a challenge to the acknowledgment is permitted only on the basis of fraud, duress, or material mistake of fact.
3. The Three Affiliated Tribes Division of Child Support Enforcement and the Fort Berthold District Court shall instruct the parties to send the notarized Tribal Acknowledgment of Paternity form to the state department of health to request the amendment of the birth record of the child, if appropriate.

5-24-17. Denial of Paternity

A presumed father may sign a denial of his paternity. The denial is valid only if:

1. A tribal acknowledgment of paternity signed, or otherwise authenticated, by another man is filed pursuant to [section 5-24-19](#) of this Chapter; and
2. The denial is in a record, and is signed, or otherwise authenticated, under penalty of perjury; and
3. The denial states facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child; and
4. The presumed father has not previously:
 - a. Acknowledged his paternity, unless the previous acknowledgment has been rescinded pursuant to [section 5-24-21](#) of this act or successfully challenged pursuant to [section 5-24-22](#) of this act, or
 - b. Been adjudicated to be the father of the child.

5-24-18. Rules for Acknowledgment and Denial of Paternity

1. An acknowledgment of paternity and a denial of paternity may be executed separately or simultaneously. If the acknowledgment and denial are both necessary, neither is valid until both are executed.
2. An acknowledgment of paternity or a denial of paternity may be signed before the birth of the child.
3. Subject to subsection 1 of this section, an acknowledgment of paternity or denial of paternity takes effect on the birth of the child or the execution of the document, whichever occurs later.
4. An acknowledgment of paternity or denial of paternity signed by a minor is valid if it is otherwise in compliance with this Chapter.
5. An acknowledgment of paternity or denial of paternity may be completed for a child who was not born within the exterior boundaries of the Fort Berthold Reservation.

5-24-19. Effect of Tribal Acknowledgment or Denial of Paternity

1. Except as otherwise provided in [sections 5-24-21 and 5-24-22](#) of this Chapter, a valid tribal acknowledgment of paternity filed with the Three Affiliated Tribes Division of Child Support Enforcement or the Fort Berthold District Court is equivalent to an adjudication of paternity of a child and confers upon the acknowledged father all of the rights and duties of a parent and must be recognized as a basis for a support order in any proceeding to establish, enforce, or modify a support order.
2. Except as otherwise provided in [sections 5-24-21 and 5-24-22](#) of this Chapter, a valid denial of paternity by a presumed father filed with the

Three Affiliated Tribes Division of Child Support Enforcement or the Fort Berthold District Court when executed in conjunction with a valid tribal acknowledgment of paternity is equivalent to an adjudication of the nonpaternity of the presumed father and discharges the presumed father from all rights and duties of a parent.

5-24-20. No Filing Fee

The Three Affiliated Tribes Division of Child Support Enforcement shall not charge for filing a tribal acknowledgment of paternity, denial of paternity, rescission of acknowledgment of paternity, or rescission of denial of paternity.

5-24-21. Proceeding for rescission

A signatory may rescind an acknowledgment of paternity or denial of paternity by commencing a proceeding to rescind before the earlier of:

1. Sixty days after the effective date of the acknowledgment or denial, as provided in [section 5-24-18](#); or
2. Within ten days after the first hearing, in a proceeding to which the signatory is a party, before a court to adjudicate an issue relating to the child, including a proceeding that establishes support.

5-24-22. Challenge after expiration of period for rescission

1. After the period for rescission under [section 5-24-21](#) has expired, a signatory of a tribal acknowledgment of paternity or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only on the basis of fraud, duress, or material mistake of fact.
2. There is no time limitation on when a party may commence a proceeding to challenge the tribal acknowledgment or denial of paternity as provided for in [subsection 1 of this section](#).
3. A party challenging an acknowledgment of paternity or denial of paternity has the burden of proof.

5-24-23. Procedure for rescission or challenge

1. Every signatory to a tribal acknowledgment of paternity and any related denial of paternity shall be made a party to a proceeding to challenge the acknowledgment or denial.
2. For the purpose of challenging a tribal acknowledgment of paternity or a denial of paternity, a signatory submits to personal jurisdiction of this Tribe by signing the acknowledgment or denial.

3. Except for good cause shown, during the pendency of a proceeding to challenge a tribal acknowledgment of paternity or denial of paternity, the Fort Berthold District Court shall not suspend the legal responsibilities of a signatory arising from the acknowledgment, including the duty to pay child support. Any assigned or unassigned arrears shall continue until further order of the court.
4. A proceeding to challenge a tribal acknowledgment of paternity or denial of paternity shall be conducted in the same manner as a proceeding to adjudicate parentage under this Chapter.
5. At the conclusion of a proceeding to rescind a tribal acknowledgment of paternity or denial of paternity, the Fort Berthold District Court shall instruct the parties to send the tribal court order to the state department of health to request the amendment of the birth record of the child, if appropriate.

5-24-24. Full Faith and Credit

In any proceeding in which paternity or denial of paternity of a child is alleged, the Fort Berthold District Court shall give full faith and credit to a determination of paternity or nonpaternity by another tribe or state, made before a determination of paternity under the laws of this Tribe, whether established through voluntary acknowledgment or through administrative or judicial processes. The paternity or nonpaternity determination made by the other jurisdiction must be in compliance with the law of that jurisdiction and due process satisfied.

5-24-25. Release of Information

The Three Affiliated Tribes Division of Child Support Enforcement and the Fort Berthold District Court may release copies of the acknowledgment of paternity or denial of paternity to a signatory of the acknowledgment or denial and to appropriate state and tribal courts or other state or tribal child support programs.

5-24-26. Adoption of rules – Reserved

5-24-27. Scope of genetic testing

[Sections 5-24-27 through 5-24-37](#) govern genetic testing of an individual to determine parentage, whether the individual:

1. Voluntarily submits to testing; or
2. Is tested pursuant to an order of the Fort Berthold District Court.

5-24-28. Order for genetic testing

1. The Fort Berthold District Court may order genetic testing.
2. Except as otherwise provided in [sections 5-24-27 through 5-24-59](#), the Fort Berthold District Court shall order the child and other designated individuals to submit to genetic testing if the request for testing is supported by the sworn statement of a party to the proceeding:
 - a. Alleging paternity and stating facts establishing a reasonable probability of the requisite sexual contact between the individuals;
or
 - b. Denying paternity and stating facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child.
3. If a request for genetic testing of a child is made before the birth of the child, the Fort Berthold District Court may not order in utero testing.
4. If two or more men are subject to court-ordered genetic testing, the testing may be ordered concurrently or sequentially.

5-24-29. Requirements for genetic testing

1. Genetic testing must be of a type reasonably relied upon by experts in the field of genetic testing and performed in a testing laboratory accredited by:
 - a. The American association of blood banks, or a successor to its functions;
 - b. The American society for histocompatibility and immunogenetics, or a successor to its functions; or
 - c. An accrediting body designated by the federal secretary of health and human services.
2. A specimen used in genetic testing may consist of one or more samples, or a combination of samples, of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the testing need not be of the same kind for each individual undergoing genetic testing.
3. Based on the ethnic or racial group of an individual, the testing laboratory shall determine the data bases from which to select frequencies for use in calculation of the probability of paternity. If there is a disagreement as to the testing laboratory's choice, the following rules apply:
 - a. The individual objecting may require the testing laboratory, within thirty days after receipt of the report of the test, to recalculate the probability of paternity using an ethnic or racial group different from that used by the laboratory. The cost of any retesting shall be the responsibility of the individual who objected.
 - b. The individual objecting to the testing laboratory's initial choice shall:

- (1) If the frequencies are not available to the testing laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies; or
 - (2) Engage another testing laboratory to perform the calculations.
- c. The testing laboratory may use its own statistical estimate if there is a question regarding which ethnic or racial group is appropriate. If available, the testing laboratory shall calculate the frequencies using statistics for any other ethnic or racial group requested.
4. If, after recalculation using a different ethnic or racial group, genetic testing does not rebuttably identify a man as the father of a child under [section 5-24-31](#), an individual who has been tested may be required to submit to additional genetic testing.

5-24-30. Report of genetic testing

1. A report of genetic testing must be in a record and signed under penalty of perjury by a designee of the testing laboratory. A report made under the requirements of [sections 5-24-27 through 5-24-37](#) of this Chapter is self-authenticating.
2. Documentation from the testing laboratory of the following information is sufficient to establish a reliable chain of custody that allows the results of genetic testing to be admissible without testimony:
 - a. The names and photographs of the individuals whose specimens have been taken;
 - b. The names of the individuals who collected the specimens;
 - c. The places and dates the specimens were collected;
 - d. The names of the individuals who received the specimens in the testing laboratory; and
 - e. The dates the specimens were received.

5-24-31. Genetic testing results – Rebuttal

1. Under this Chapter, a man is rebuttably identified as the father of a child if the genetic testing complies with [sections 5-24-27 through 5-24-37](#) and the results disclose that:
 - a. The man has at least a ninety-nine percent probability of paternity, using a prior probability of five-tenths, as calculated by using the combined paternity index obtained in the testing; and
 - b. A combined paternity index of at least one hundred to one.
2. A man identified under subsection 1 as the father of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of [sections 5-24-27 through 5-24-37](#) which:

- a. Excludes the man as a genetic father of the child; or
 - b. Identifies another man as the possible father of the child.
3. Except as otherwise provided in [section 5-24-36](#), if more than one man is identified by genetic testing as the possible father of the child, the Fort Berthold District Court shall order them to submit to further genetic testing to identify the genetic father.

5-24-32. Costs of genetic testing

1. Subject to assessment of costs under [sections 5-24-38 through 5-24-59](#) of this Chapter, the cost of initial genetic testing must be advanced:
 - a. By the Three Affiliated Tribes Division of Child Support Enforcement in a proceeding in which that Division is providing services;
 - b. By the individual who made the request;
 - c. As agreed by the parties; or
 - d. As ordered by the Fort Berthold District Court.
2. In cases in which the cost is advanced by the Three Affiliated Tribes Division of Child Support Enforcement, the Division may seek reimbursement from a man who is rebuttably identified as the father or mother intentionally misrepresents a man as the father.

5-24-33. Additional genetic testing

1. The Fort Berthold District Court shall order additional genetic testing upon the request of a party who contests the result of the original testing.
2. If the previous genetic testing identified a man as the father of the child under [section 5-24-31](#), the court or division may not order additional testing unless the party provides advance payment for the testing.

5-24-34. Genetic testing when specimens not available

1. Subject to subsection 2, if a genetic-testing specimen is not available from a man who may be the father of a child, for good cause and under circumstances the Fort Berthold District Court considers to be just, the Court may order the following individuals to submit specimens for genetic testing:
 - a. The parents of the man;
 - b. Brothers and sisters of the man;
 - c. Other children of the man and their mothers; and
 - d. Other relatives of the man necessary to complete genetic testing.
2. Issuance of an order under this section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

5-24-35. Deceased individual

For good cause shown, the court may order genetic testing of a deceased individual.

5-24-36. Identical brothers

1. The Fort Berthold District Court may order genetic testing of a brother of a man identified as the father of a child if the man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child.
2. If each brother satisfies the requirements as the identified father of the child under [section 5-24-31](#) without consideration of another identical brother being identified as the father of the child, the court may rely on non-genetic evidence to adjudicate which brother is the father of the child.

5-24-37. Confidentiality of genetic testing

The report of genetic testing for parentage is confidential. An individual who knowingly releases an identifiable specimen of another individual for any purpose other than that relevant to the proceeding regarding parentage without a court order or the written permission of the individual who furnished the specimen is deemed to have violated the client's confidentiality and is subject to [section 5-24-7](#) of this Chapter.

5-24-38. Proceeding to adjudicate the parentage of a child – Authorization

A civil proceeding may be maintained to adjudicate the parentage of a child. The proceeding is governed by the [Three Affiliated Tribes Rules of Civil Procedure, Title II, Chapter 1](#).

5-24-39. Standing to maintain proceeding

Subject to [sections 5-24-16 through 5-24-26](#) and [sections 5-24-42 and 5-24-44](#), a proceeding to adjudicate parentage may be maintained by:

1. The child;
2. The mother of the child;
3. A man whose paternity of the child is to be adjudicated;
4. The Three Affiliated Tribes Division of Child Support Enforcement;
5. An authorized adoption agency or licensed child-placing agency; or
6. A representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor.

5-24-40. Parties to proceeding

The following individuals must be joined as parties in a proceeding to adjudicate parentage:

1. The mother of the child; and
2. A man whose paternity of the child is to be adjudicated.

5-24-41. No limitation – Child having no presumed acknowledged, or adjudicated father

A proceeding to adjudicate the parentage of a child having no presumed, acknowledged, or adjudicated father may be commenced at any time, even after:

1. The child becomes an adult, but only if the child initiates the proceeding; or
2. An earlier proceeding to adjudicate paternity has been dismissed based on the application of a statute of limitation then in effect.

5-24-42. Limitation – Child having presumed father

1. Except as otherwise provided in subsection 2, a proceeding brought by a presumed father, the mother, or another individual to adjudicate the parentage of a child having a presumed father must be commenced not later than three years after the birth of the child.
2. A proceeding seeking to disprove the father-child relationship between a child and the child's presumed father may be maintained at any time if the Fort Berthold District Court determines that:
 - a. The presumed father and the mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception; and
 - b. The presumed father never openly held out the child as his own.
3. For purposes of this section and [section 5-24-43](#), an action to establish support for a child is a proceeding to adjudicate parentage if the child's presumed father raises nonpaternity as a defense to the action.

5-24-43. Authority to deny motion for genetic testing

1. In a proceeding to adjudicate the parentage of a child having a presumed father or to challenge the paternity of a child having an acknowledged father, the Fort Berthold District Court may deny a motion seeking an order for genetic testing of the mother, the child, and the presumed or acknowledged father if the Court determines that:

- a. The conduct of the mother or the presumed or acknowledged father estops that party from denying parentage; and
 - b. It would be inequitable to disprove the father-child relationship between the child and the presumed or acknowledged father.
2. In determining whether to deny a motion seeking an order for genetic testing under this section, the Court shall consider the best interest of the child, including the following factors:
 - a. The length of time between the proceeding to adjudicate parentage and the time that the presumed or acknowledged father was placed on notice that he might not be the genetic father;
 - b. The length of time during which the presumed or acknowledged father has assumed the role of father of the child;
 - c. The facts surrounding the presumed or acknowledged father's discovery of his possible nonpaternity;
 - d. The nature of the relationship between the child and the presumed or acknowledged father;
 - e. The age of the child;
 - f. The harm that may result to the child if presumed or acknowledged paternity is successfully disproved;
 - g. The nature of the relationship between the child and any alleged father;
 - h. The extent to which the passage of time reduces the chances of establishing the paternity of another man and a child support obligation in favor of the child; and
 - i. Other factors that may affect the qualities arising from the disruption of the father-child relationship between the child and the presumed or acknowledged father or the chance of other harm to the child.
3. In a proceeding involving the application of this section, the court may appoint a guardian ad litem or approve an advocate for a child who has no parent, guardian, or custodian appearing on behalf of the child, or whose interests conflict with the interests of the parent, guardian, or custodian or when it appears to the court that the child's best interests warrant such an appointment, and funding is available for such appointments.
4. Denial of a motion seeking an order for genetic testing must be based on clear and convincing evidence.
5. If the Court denies a motion seeking an order for genetic testing, it shall issue an order adjudicating the presumed or acknowledged father to be the father of the child.
6. Upon receipt of an order adjudicating the presumed or acknowledged father, said father may object by filing a written request for hearing

within ten days of the date of the order and the District Court shall hold a hearing within ten business days after the date of request.

5-24-44. Limitation – Child having acknowledged or adjudicated father

1. If a child has an acknowledged father, a signatory to the acknowledgment of paternity or denial of paternity may commence a proceeding seeking to rescind the acknowledgment or denial or challenge the paternity of the child only within the time allowed under [section 5-24-21](#) or [5-24-22](#).
2. If a child has an acknowledged father or an adjudicated father, an individual, other than the child, who is neither a signatory to the acknowledgment of a paternity nor a party to the adjudication and who seeks an adjudication of paternity of the child must commence a proceeding not later than three years after the effective date of the acknowledgment or adjudication.
3. A proceeding under this section is subject to the application of the principles of estoppel established in [section 5-24-43](#).

5-24-45. Joinder of proceedings

A proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, legal separation or separate maintenance, probate or administration of an estate, or other appropriate proceeding.

5-24-46. Proceeding before birth

A proceeding to determine parentage may be commenced before the birth of the child, but may not be concluded until after the birth of the child. The following actions may be taken before the birth of the child:

1. Service of process;
2. Discovery; and
3. Except as prohibited by [section 5-24-28](#), collection of specimens for genetic testing.

5-24-47. Child as party – Representation

1. A minor child is a permissible party, but is not a necessary party to a proceeding under [sections 5-24-38 through 5-24--59](#).
2. The Fort Berthold District Court shall appoint a guardian ad litem to represent a minor or incapacitated child if the child is a party or the Court finds that the interests of the child are not adequately represented. The

Court may apportion the costs of the guardian ad litem between the parties as appropriate. The court may appoint a guardian ad litem or approve an advocate for a child who has no parent, guardian, or custodian appearing on behalf of the child, or whose interests conflict with the interests of the parent, guardian, or custodian, or when it appears to the court that the child's best interests warrant such an appointment and funding is available for such appointments.

5-24-48. Admissibility of results of genetic testing – Expenses

1. Except as otherwise provided in subsection 3, a record of a genetic-testing expert is admissible as evidence of the truth of the facts asserted in the report unless a party objects to its admission within fourteen days after its receipt by the objecting party and cites specific grounds for exclusion. The admissibility of the report is not affected by whether the testing was performed:
 - a. Voluntarily or pursuant to an order of the court or a support enforcement agency; or
 - b. Before or after the commencement of the proceeding.
2. A party objecting to the results of genetic testing may call one or more genetic-testing experts to testify in person or by telephone, videoconference, deposition, or another method approved by the court. Unless otherwise ordered by the court, the party offering the testimony bears the expense for the expert testifying.
3. If a child has a presumed, acknowledged, or adjudicated father, the results of genetic testing are inadmissible to adjudicate parentage unless performed:
 - a. With the consent of both the mother and the presumed, acknowledged, or adjudicated father; or
 - b. Pursuant to an order of the Court under [section 5-24-28](#).
4. Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child which are furnished to the adverse party not less than ten days before the date of a hearing are admissible to establish:
 - a. The amount of the charges billed; and
 - b. That the charges were reasonable, necessary, and customary.

5-24-49. Consequences of declining genetic testing

1. An order for genetic testing is enforceable by contempt.
2. If an individual whose paternity is being determined declines to submit to genetic testing ordered by the Fort Berthold District Court, the Court for that reason may adjudicate parentage contrary to the position of that individual.

3. Genetic testing of the mother of a child is not a condition precedent to testing the child and a man whose paternity is being determined. If the mother is unavailable or declines to submit to genetic testing, the Court may order the testing of the child and every man whose paternity is being adjudicated.

5-24-50. Admission of paternity authorized

1. A defendant in a proceeding to adjudicate parentage may admit to the paternity of a child by filing a pleading to that effect or by admitting paternity under penalty of perjury when making an appearance or during a hearing.
2. If the Fort Berthold District Court finds that the admission of paternity satisfies the requirements of this section and finds that there is no reason to question the admission, the Court shall issue an order adjudicating the child to be the child of the man admitting paternity.

5-24-51. Temporary Order

1. In a proceeding under [sections 5-24-38 through 5-24-59](#), the Fort Berthold District Court shall issue a temporary order for support of a child if the order is appropriate and the individual ordered to pay support is:
 - a. A presumed father of the child;
 - b. Petitioning to have his paternity adjudicated;
 - c. Identified as the father through genetic testing under [section 5-24-31](#);
 - d. An alleged father who has declined to submit to genetic testing;
 - e. Shown by clear and convincing evidence to be the father of the child; or
 - f. The mother of the child.
2. A temporary order may include provisions for custody and visitation as provided by other law of this Tribe.

5-24-52. Rules for adjudication of paternity

The Fort Berthold District Court shall apply the following rules to adjudicate the paternity of a child:

1. The paternity of a child having a presumed, acknowledged, or adjudicated father may be disproved only by admissible results of genetic testing excluding that man as the father of the child or identifying another man as the father of the child.

2. Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man identified as the father of a child under [section 5-24-31](#) must be adjudicated the father of the child.
3. If the Court finds that genetic testing under [section 5-24-31](#) neither identifies nor excludes a man as the father of a child, the Court may not dismiss the proceeding. In that event, the results of genetic testing, and other evidence, are admissible to adjudicate the issue of paternity.
4. Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man excluded as the father of a child by genetic testing must be adjudicated not to be the father of the child.

5-24-53. Jury prohibited

The Fort Berthold District Court, without a jury, shall adjudicate paternity of a child.

5-24-54. Closed Hearings

The following rules apply to paternity hearings:

- 1) The mother of the child and the alleged father(s) may be compelled to testify at the hearing.
- 2) Testimony of a physician concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged.
- 3) The hearing shall be closed unless all parties agree otherwise.

5-24-55. Order on default

The Fort Berthold District Court shall issue an order adjudicating the paternity of a man who:

1. After service of process, is in default; and
2. Is found by the Court to be the father of a child.

5-24-56. Dismissal for want of prosecution

The Fort Berthold District Court may issue an order dismissing a proceeding commenced under this Chapter for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and has only the effect of a dismissal without prejudice.

5-24-57. Order adjudicating parentage

1. The Fort Berthold District Court shall issue an order adjudicating whether a man alleged or claiming to be the father is the parent of the child.
2. An order adjudicating parentage must identify the child by name and date of birth.
3. The order must include the social security numbers of the child, if one has been established and the individuals determined to be the child's parents.
4. The order may contain any other provisions in the best interest of the child, including payment of support, payment of expenses of the mother's pregnancy and confinement, custody of the child, visitation with the child, and furnishing of bond or other security for payment of support. A support order must be based on a monthly amount, but can be payable in an amount consistent with the child support guidelines established under Title V, Chapter 6, of the Fort Berthold Tribal Code and must be subject to Title V, Chapter 5 of the Fort Berthold Tribal Code. All remedies for the enforcement of support, custody, and visitation orders under Title V, Chapter 5 apply. The Court has continuing jurisdiction to modify an order for future support of the child, subject to Title V, Chapter 5, and custody of and visitation of the child.
5. Except as otherwise provided in subsection 6, the Court may assess filing fees, reasonable attorney's fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under [sections 5-24-38 through 5-24-59](#). The Court may award attorney's fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.
6. The Court may not assess fees, costs, or expenses against the Three Affiliated Tribes Division of Child Support Enforcement, except as provided by other law.
7. On request of a party and for good cause shown, the Court may order that the name of the child be changed.
8. If the order of the Court is at variance with the child's birth certificate, the Court shall instruct the parties of the order to send the order to the state department of health to request an amended birth registration.
9. An order adjudicating parentage must be filed with the state department of health.

5-24-58. Binding effect of determination of parentage

1. Except as otherwise provided in subsection 2, a determination of parentage is binding on:
 - a. All signatories to an acknowledgment or denial of paternity as provided in [sections 5-24-15 through 5-24-26](#); and
 - b. All parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of [section 5-24-3](#).

2. A child is not bound by a determination of parentage under this Chapter unless:
 - a. The determination was based on an unrestricted acknowledgment of paternity and the acknowledgment is consistent with the results of genetic testing;
 - b. The adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown; or
 - c. The child was a party or was represented in the proceeding determining parentage by a guardian ad litem.
3. In a proceeding to dissolve a marriage, the Court is deemed to have made an adjudication of the parentage of a child if the Court acts under circumstances that satisfy the jurisdictional requirements of [section 5-24-3](#) and other applicable Tribal law, and the final order:
 - a. Expressly identifies a child as a "child of the marriage", "issue of the marriage", or similar words indicating that the husband is the father of the child; or
 - b. Provides for support of the child, custody of the child, or visitation with the child by the husband unless paternity is specifically disclaimed in the order.
4. Except as otherwise provided in subsection 2, a determination of parentage may be a defense in a subsequent proceeding seeking to adjudicate parentage by an individual who was not a party to the earlier proceeding.
5. A party to an adjudication of paternity may challenge the adjudication only under law of the Three Affiliated Tribes relating to appeal, vacation of judgments, or other judicial review.

5-24-59. Liability for collection of support

1. As used in this section, "former parent" means an acknowledged father who successfully rescinded or challenged an acknowledgment of paternity under this Chapter, a presumed father whose parentage was successfully rebutted under this Chapter, or an adjudicated father whose parentage was disestablished after an order issued under this Chapter was vacated.
2. The Mandan, Hidatsa and Arikara Nation is not liable for child support that was collected from or on behalf of a former parent and disbursed to an obligee as under [Title V, Chapter 5, of the Fort Berthold Tribal Code](#).
3. The Mandan, Hidatsa and Arikara Nation is not liable for child support that was collected from or on behalf of a former parent and retained by the Tribe unless ordered by a Court after being presented with genetic test results that would otherwise be admissible under this Chapter showing that the former parent is not the genetic parent of the child.

5-24-60. Application of the Tribal Parentage Act

A proceeding to acknowledge paternity or adjudicate parentage, which was commenced or executed before the effective date of this Act but not closed, shall be governed by this Act.

5-24-61. Repeal of Fort Berthold Tribal Code, Chapter 5-17, Uniform Parentage Code

The Tribal Parentage Act, Title 5, Chapter 24 of the Fort Berthold Tribal Code, hereby repeals the Uniform Parentage Code, Chapter 5-17, of the Fort Berthold Tribal Code.

TITLE V

DOMESTIC RELATIONS CODE

CHAPTER 25 – TRIBAL CHILD SUPPORT ACT

GENERAL PROVISIONS

5-25-0. Title

Title 5, Chapter 5 shall be referred to as the Tribal Child Support Act of the Three Affiliated Tribes of the Fort Berthold Indian Reservation.

5-25-1. Purpose

1. The Three Affiliated Tribes has enacted this Chapter, recognizing that Tribal Children are the Tribe's most important resource and their support is of paramount importance to the Tribe. The purpose of this Chapter is to provide and assure that all children within the jurisdiction of the Three Affiliated Tribes Division of Child Support Enforcement and the Fort Berthold District Court shall receive adequate support needed to prepare such children to take their places as responsible adult members of the Tribe, to preserve and strengthen family ties whenever possible; and to preserve and strengthen the child's cultural and Tribal identity wherever possible.
2. The Tribal Child Support Act of the Mandan, Hidatsa and Arikara Nation shall be liberally interpreted and construed to fulfill the following purposes:
 - a. To provide for the adequate support of the children within the jurisdiction of the Mandan, Hidatsa and Arikara Nation;
 - b. To motivate parents to meet the financial and emotional needs of their children;
 - c. To compel, when necessary, the parent of a child to perform the moral and legal duties owed to the child;
 - d. To promote fairness to the children and families seeking services from the Three Affiliated Tribes Division of Child Support Enforcement and who come before the Fort Berthold District Court for actions under this Chapter;
 - e. To exercise tribal sovereignty in working with foreign jurisdictions with the goal of providing a continuum of child support services to tribal children whether they reside on or off the Fort Berthold Indian Reservation; and
 - f. To provide for the supervision and administration of child support functions on a tribal-wide basis.

5-25-2. Definitions

1. Terms under this Chapter shall be liberally construed so as not to limit the jurisdiction of the Fort Berthold District Court over tribal children, and to facilitate the authority of the District Court to act to protect the interests of tribal children and their families. When interpreting terms not defined by this Chapter, the District Court shall take into consideration tribal laws and customs. Unless in conflict with applicable tribal law, terms not specifically defined in this Chapter shall be defined according to their normal usage, or as defined in the federal regulations for Tribal Child Support Enforcement Programs found at 45 CFR § 309 et seq.
2. For purposes of Tribal Child Support Enforcement Act, the following definitions apply:
 - a. **"Arrears Case Record"** means the case record that is maintained by the TAT DCSE and houses records related to child support arrears.
 - b. **"Business day"** means every day that is not a Saturday, Sunday or legal holiday.
 - c. **"Child"** means:
 - (1) A person under 18 years of age; and
 - (2) A person 18 or more years of age with respect to whom a child support order has been issued pursuant to the laws of a Tribe or State.
 - d. **"Child support"** means payments for the support of children, including payments for health insurance coverage or other medical support, however denominated, if the payment is required by the order of a court or other governmental agency having authority to issue such orders.
 - e. **"Court"** means the Fort Berthold District Court of the Three Affiliated Tribes (Mandan, Hidatsa, and Arikara Nation).
 - f. **"Defendant"** means the person against whom a civil or criminal proceeding is begun.
 - g. **"Delinquent"** means a situation which occurs on the first working day after the day upon which a child support payment was identified as due and unpaid, and the total amount of unpaid child support is at least equal to the amount of child support payable in one month.
 - h. **"Disposable income"** means gross income less deductions required by law for taxes and social security.
 - i. **"District Court"** means the Fort Berthold District Court of the Three Affiliated Tribes.
 - j. **"Employer"** means income payer.

- k. **"Fort Berthold District Court"** means the Tribal Court of the Three Affiliated Tribes (Mandan, Hidatsa, and Arikara Nation).
- l. **"Health care coverage"** means health care benefits that are provided by a health plan. Health care coverage does not include any form of public medical assistance.
- m. **"Income"** means any form of payment, regardless of source, owed to an obligor, including any earned, unearned, taxable or nontaxable income, workforce safety and insurance benefits, disability benefits, unemployment compensation benefits, annuity and retirement benefits, but excluding public assistance benefits administered under state law.
- n. **"Income payer"** means any person, partnership, firm, corporation, limited liability company, association, political subdivision, or department or agency of a tribe, state, or federal government owing income to an obligor and includes an obligor if the obligor is self-employed.
- o. **"Issuing state"** means the state in which a tribunal issues a support order or renders a judgment determining parentage.
- p. **"Issuing tribe"** means the tribe in which a tribunal issues a support order or renders a judgment determining parentage.
- q. **"Issuing tribunal"** means the tribunal that issues a support order or renders a judgment determining parentage.
- r. **"Medical support"** means providing health care coverage for a child by carrying health care coverage for the child or by contributing to the cost of health care coverage, public coverage, unreimbursed medical expenses, and uninsured medical expenses of the child.
- s. **"Monthly support obligation"** means an amount of child support ordered by a court in a proceeding to establish or modify a child support obligation, including amounts that are deferred for payment at a later date. The term is defined without regard to any amount of child support that an obligor is required to pay to avoid being held in contempt of court.
- t. **"Obligee"** means a person, including a tribe, state, or political subdivision, to whom a duty of support is owed.
- u. **"Obligor"** means any person owing a duty of support.
- v. **"Past-due support"** means child support that is not paid by the earlier of:
 - (1) The date a court order established under law requires payment to be made; or
 - (2) The last day of the month or other period the payment was intended to cover.
- w. **"Payday"** means the day upon which the income payer pays or otherwise credits the obligor.

- x. **“Plaintiff”** means the person who brings an action, complains or sues in a civil case.
- y. **“Public assistance”** means temporary financial assistance given to needy persons by a tribal or state government agency.
- z. **“Public coverage”** means health care benefits provided by any form of federal, state, or tribal medical assistance. Medical benefits provided by the federal Indian Health Service (IHS) are considered public coverage.
- aa. **“Register”** means to file a support order or judgment determining parentage in the office of the court manager or administrator.
- bb. **“Registering tribunal”** means a tribal or state tribunal in which a support order is registered.
- cc. **“Service member”** means a member of the National Guard or a reserve unit of the United States armed forces and "active duty service" means an order to active duty under United States Code title 10.
- dd. **“TAT DCSE”** means the Three Affiliated Tribes Division of Child Support Enforcement.
- ee. **“Three Affiliated Tribes”** means the Mandan, Hidatsa Arikara Nation, which is federally recognized as the “Three Affiliated Tribes.”
- ff. **“Three Affiliated Tribes Division of Child Support Enforcement”** means the Tribal Child Support Agency, which provides child support enforcement services to children and families and is authorized to seek:
 - (1) Location of obligors or their assets and obligees;
 - (2) Determination of parentage;
 - (3) Establishment or modification of child support; or
 - (4) Enforcement of support orders or laws relating to the duty of support.
- gg. **“Title IV-A”** refers to title IV-A of the Social Security Act under which the federal government provides funds to Tribes and States to provide temporary financial assistance to families using federal dollars.
- hh. **“Title IV-D”** means title IV-D of the Social Security Act, under which the federal government provides funds to tribes and states to administer child support programs that provide services related to child support.
- ii. **“Title IV-E”** refers to title IV-E of the Social Security Act under which the federal government provides funds to tribes and states to assist with the costs of operating foster care programs.

- jj. **“Title XIX”** refers to title XIX of the Social Security Act under which the federal government provides funds to states to provide medical care assistance through a state-operated and administered program that provides medical benefits for certain indigent or low-income persons in need of health and medical care.
- kk. **“Tribal Court”** means the Fort Berthold District Court of the Three Affiliated Tribes.
- ll. **“Tribe”** means the Three Affiliated Tribes (Mandan, Hidatsa, and Arikara Nation) of the Fort Berthold Indian Reservation.
- mm. **“Tribunal”** means a tribal or state court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.
- nn. **“Uninsured medical expenses”** means a joint child's reasonable and necessary health-related expenses if the joint child is not covered by a health plan or public coverage when the expenses are incurred.
- oo. **Unreimbursed medical expenses** means a joint child's reasonable and necessary health-related expenses if a joint child is covered by a health plan or public coverage and the plan or coverage does not pay for the total cost of the expenses when the expenses are incurred. Unreimbursed medical expenses do not include the cost of premiums. Unreimbursed medical expenses include, but are not limited to, deductibles, co-payments, and expenses for orthodontia, and prescription eyeglasses and contact lenses, but not over-the-counter medications if coverage is under a health plan.

5-25-3. **Jurisdiction of the Fort Berthold District Court**

The Fort Berthold District Court shall have jurisdiction over any proceeding or case arising under this Chapter and actions arising under the customs and traditions of the Mandan, Hidatsa and Arikara Nation affecting the establishment and enforcement of support.

1. In a proceeding to establish, enforce, or modify a support order or to determine parentage, the Fort Berthold District Court may exercise personal jurisdiction over a non-resident individual or the individual's guardian or conservator if:
 - a. The individual is personally served with a summons within the exterior boundaries of the Fort Berthold Indian Reservation;

- b. The individual submits to the jurisdiction of the Tribe by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
 - c. The individual resided with the child within the exterior boundaries of the Fort Berthold Indian Reservation;
 - d. The individual resided within the exterior boundaries of the Fort Berthold Indian Reservation and provided prenatal expenses or support for the child;
 - e. The child resides within the exterior boundaries of the Fort Berthold Indian Reservation as a result of the acts or directives of the individual;
 - f. The individual engaged in sexual intercourse within the exterior boundaries of the Fort Berthold Indian Reservation and the child may have been conceived by that act of intercourse; or
 - g. There is any other basis consistent with the constitution or laws of the Tribe and the United States for the exercise of personal jurisdiction.
2. The District Court has the authority to punish for contempt, committed in or out of the Court's presence.
3. Whenever state, federal, and other tribal courts have jurisdiction over any of the matters provided for in this Chapter, the District Court shall have concurrent jurisdiction over the same matters, to the extent consistent with federal law.
4. The limitations on jurisdiction contained in this Chapter are not intended to reflect the Three Affiliated Tribes view as to the legally permissible limits of tribal jurisdiction.

5-25-4. Protection of Participants – Confidentiality of Case Records.

1. The case records of the District Court and the Three Affiliated Tribes Division of Child Support Enforcement concerning the actions taken under this Chapter must be kept confidential except as provided in this Chapter.
2. The District Court and the Three Affiliated Tribes Division of Child Support Enforcement shall not release information on the whereabouts of one party or the child to another party against whom a protective order with respect to the former party or the child has been entered.
3. The District Court and the Three Affiliated Tribes Division of Child Support Enforcement shall not release information on the whereabouts of one party or the child to another person if the court or TAT DCSE has reason to believe that the release of the

information to that person may result in physical or emotional harm to the party or child.

5-25-5. Authorized Release of Case Records and Other Information

1. The use or disclosure of personal information received or maintained by the Three Affiliated Division of Child Support Enforcement and the Fort Berthold District Court shall be limited to purposes directly connected with the Three Affiliated Tribes Division of Child Support Enforcement and the Fort Berthold District Court or titles IV-A, XIX, and IV-E with the administration of other programs or purposes prescribed by the Secretary in regulations.
2. Records, including case notes and correspondence, may be disclosed to the following persons and entities, unless otherwise protected by this section:
 - f. TAT DCSE Staff;
 - c. Fort Berthold District Court Judges;
 - d. Fort Berthold District Court Clerks and Court Administrator for filing purposes;
 - e. Tribal Social Services agencies
 - f. TAT Federal Programs Executive Officer;
 - g. State of North Dakota IV-D employees directly connected with the administration of Titles IV-D, IV-A, and XIX programs, as outlined in the TAT – ND cooperative agreement and addendums;
 - h. A court having jurisdiction in parentage, support or abandonment proceedings or actions;
 - i. The legal guardian, attorney, or agent of a child; or
 - j. An agency of the federal government or any other state or tribal child support enforcement IV-D program engaged in the establishment of paternity, a child support obligation, or the enforcement of support for a child in a case.
3. The TAT DCSE and Fort Berthold District Court may limit the information disclosed to persons, agencies, and entities named in this section to that information necessary to accomplish the purposes for which it is requested or for which it is being disclosed. Nothing in this section gives these entities or persons the right to review or copy the complete case record.

5-25-6. Publication of Proceedings

Upon order of the court, service by publication may be accomplished by publication of the contents of the summons once a week for two (2) consecutive weeks in a newspaper with a local circulation in the county where the action is brought. The final publication shall not be less than ten (10) days before the hearing.

When providing service by publication, the names of children in the matter shall not be disclosed. Only the child's initials shall be published. An extra copy of the complaint or paper must be left with the court for the party.

5-25-7. Penalty for Unauthorized Disclosure

1. Any person, including but not limited to any tribal employee, elected officials, court employees, and employees of the Three Affiliated Tribes Division of Child Support Enforcement, who willfully discloses otherwise confidential information related to an action to determine parentage, other than expressly authorized and provided for under this Chapter, commits a Class III Misdemeanor.
2. Any person found guilty of an unauthorized disclosure of information may be subject to a civil fine not to exceed one hundred (\$100.00) dollars in addition to any disciplinary actions authorized under the tribal personnel policies and procedures manual.

5-25-8. Contempt of Court

1. Willful and unjustifiable misbehavior by any person which disrupts, obstructs, or otherwise interferes with the conduct of any proceeding under this Chapter conducted by the Fort Berthold District Court, or which obstructs or interferes with the administration of justice by the District Court, or which constitutes disobedience or resistance to or interference with any lawful summons, subpoena, process, order, rule, decree or command of the District Court shall constitute contempt of court.

2. When contempt of court is committed in the presence of such court it may be punished summarily by that court. In such case, an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt and prescribing the punishment.

3. When it appears to the District Court that a contempt of court may have been committed out of the presence of the Court, the

District Court may issue a summons to the person so charged directing him to appear at a time and place designated for a hearing on the matter. The Court shall conduct a hearing, and if it finds him guilty of contempt, an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment.

4. Any person found in contempt of court as specified in this section may be subject to a civil fine not to exceed one hundred (\$100.00) dollars and sentenced to serve no more than thirty (30) days in jail. A person may be subject to additional fines or jail time for subsequent violations of court orders.

5-25-9. Rights of the Parties

Except as otherwise expressly provided in this Chapter, all parties, and their counsel, or other persons they have selected to represent them, shall be entitled to the following rights in every proceeding under this Chapter:

1. A statement by the Court to the parties to the action that they have the right under this Chapter to have a lawyer or other persons they have selected to represent them at the proceeding, but that they may have to pay for such representation.
2. If it appears that the party cannot pay for counsel, the Court shall inform him or her of any available services which provide representation.
3. The opportunity to introduce, examine and cross-examine witnesses.
4. The opportunity to discover, offer or inspect evidence.
5. The opportunity to present arguments and statements.

5-25-10. Attorney represents Tribe's interest in the enforcement of child support obligations.

In any action brought to establish paternity, secure repayment of governmental benefits paid, secure current or future support of children, or establish, enforce, or modify a child support obligation, the TAT DCSE may employ or contract with a licensed attorney. An attorney so employed or contracted represents the interest of the Tribe in the enforcement of child support obligations. Nothing in this section may be construed to modify confidentiality required of the TAT DCSE. Representation by the employed or contracted attorney may not be construed to create an attorney-client relationship between the

attorney and any party or witness to the action, other than the Tribe, regardless of the name in which the action is brought.

5-25-11. Summons, Procedures and Order:

1. **Summons:** In an action for determination of child support, the summons must specify the name of the court in which the action is brought, contain the title of action specifying the name of the parties set forth the allegations against the defendant, and must contain a notice of the rights enumerated under section **5-25-09**. It must also state that the defendant has thirty (30) days after service of process within which to appear and defend by serving upon the plaintiff an answer or other proper response and that failure to do so may result in judgment by default for the relief demanded in the petition.

2. **Notice of Hearing:** A notice of hearing in an action to determine parentage must specify the name of the court in which the action is brought, contain the title of the action specifying the name of the parties and a notice of the rights enumerated under section **5-24-09, and the time and date of hearing**. The party requesting the hearing must serve the notice on the other parties at least thirty (30) days prior to hearing and state that failure to appear and defend at such hearing may result in judgment by default against the party failing to appear and defend.

3. Hearing Procedures:

a. The factual determinations made at the hearing shall be limited to the income and expense information necessary to determine the appropriate level of support according to the Three Affiliated Tribes Division of Child Support Enforcement Guidelines.

b. In child support matters the Court shall not be limited to discovery with the consent of both parties, but shall also have the power to utilize mandatory discovery procedures to obtain any information relevant to the establishment or enforcement of child support. These procedures shall include the following:

(1) The inspection of property, examination and production of pertinent records, books, information, or evidence.

(2) The subpoena of any person for testimony under oath, for production of documents or things.

(3) Punishment by contempt for refusal to comply with the discovery order of the Court.

c. Both parties have the right to representation at their own expense. Representatives may be those authorized by the Court to appear before it and officers of the Child Support Enforcement Agencies or tribal officials authorized to by the Three Affiliated Tribes to represent those seeking Child support on the Fort Berthold Indian Reservation.

3. Content and Effects of Order:

a. Payments under a child support order shall be made to the Three Affiliated Tribes Division of Child Support Enforcement (TAT DCSE) for distribution to the custodial parent or other resident guardian of the child. The Court may, however, order payments to be made elsewhere if there is a showing that it is in the best interest of the child. The Court may also order that the information required to be provided in section [5-25-10\(2\)\(b\)](#) shall not be released to a party if the Court finds that release of such information is reasonably likely to result in physical or emotional harm to the child or the child's custodian.

b. Each order for child support or maintenance payments shall include an order that the non-custodial parent and custodial parent notify the TAT DCSE of any change of employer or change of address within ten (10) days of such change. Each party may request and receive this information from the TAT DCSE unless there is a court order prohibiting the release of such information to that party.

c. In the event the order contains a determination of child support obligation, the order shall be in favor of the child through his or her custodial parent or guardian when the Three Affiliated Tribes, or other federal or state agency, is not making Temporary Assistance to Needy Families (TANF) payments on behalf of the child. The payments may be disbursed by the TAT DCSE to another party or through trust if there is a showing that payments to the custodial parent or guardian are not in the best interests of the child. The non-custodial parent has the burden of showing that the custodial parent is not the most appropriate trustee of child support payments for the child.

d. The custodial parent who receives TANF benefits on his or her own behalf or for the benefit of a child shall assign child support rights for the TANF beneficiary child to the Three Affiliated Tribes or other federal or state agency which makes TANF payments to the custodial parent, with the exception of any portion of the payment passed through to the custodial parent.

e. In the event the order contains a determination of child support obligation, the order shall provide for automatic wage withholding. Wages shall not be subject to withholding only where:

(1) One of the parties demonstrates and the court finds that there is good cause not to require immediate income withholding; or

(2) The parties reach a written agreement which provides for an alternative arrangement.

f. Child Support orders entered before the effective date of these codes may also be made subject to automatic wage withholding upon a finding of good cause by the Court upon request of either parent.

TAT DCSE – ORGANIZATION, MISSION, AUTHORITY, AND RESPONSIBILITIES

5-25-12. Organization of the Three Affiliated Tribes Division of Child Support Enforcement (TAT DCSE)

The TAT DCSE shall consist of a central office located in New Town on the Fort Berthold Indian Reservation. The TAT DCSE may open satellite offices at other locations for the proper and efficient operation of the division as long as federal funding of the TAT DCSE continues and is adequate.

5-25-13. Mission of the TAT DCSE

The Mandan, Hidatsa and Arikara Nation believe our children to be holy. Following tradition, it is the mission of the TAT DCSE to make a difference in the lives of our children by promoting their emotional, physical, mental and spiritual well being and by motivating parents to provide their children with support as required by law.

5-25-14. Authority and Responsibility of the TAT DCSE – Provision of child support enforcement services and cooperation with other child support programs

The TAT DCSE has the authority and responsibility to provide child support enforcement services to the community and to cooperate with other tribal and state child support programs. The duties of the TAT DCSE include:

1. To act as the official agency for the Tribe in any child support enforcement activities initiated by the federal government not otherwise by law made the responsibility of another tribal agency.
2. To provide for or arrange for prompt services to children and families who come to the TAT DCSE for assistance. The services the TAT DCSE shall provide include establishing paternity, where necessary, locating parents who are legally liable for the support of the child, and securing and distributing support for the child through income withholding and other means. The TAT DCSE shall not refuse an application for IV-D services but may refer an application to the appropriate jurisdiction if it is determined that the District Court does not have jurisdiction or that the TAT DCSE requires assistance from another jurisdiction to carry out the purpose of an order.
3. To respond to and extend prompt services to other child support enforcement IV-D agencies that refer IV-D cases to the TAT DCSE for assistance. The TAT DCSE may negotiate working agreements with other jurisdictions, political subdivisions, and private entities. Such agreements shall be subject to approval by the Tribal Business Council and Federal Programs Executive Officer or their successor.
4. To administer income withholding and the receipt and disbursement of child support payments.
5. To create and maintain a central payment center for the purpose of receiving, processing, and disbursing payments, and for maintaining a record of payments, in all cases in which the Court orders that payments for child support be made. The central payment center is authorized to engage in the electronic transfer of funds for the receipt and disbursement of funds.
6. To create and maintain a case record which contains records necessary for the proper and efficient operation of the TAT DCSE and to ensure compliance with the TAT DCSE Comprehensive Tribal Plan. The TAT DCSE shall comply with the retention and access requirements of 45 CFR 74.53, including retaining records for at least three years. The case record must contain records with respect to:
 - a. Applications for child support services;
 - b. Efforts to locate non-custodial parents;
 - c. Actions taken to establish paternity and obtain and enforce support;
 - d. Amounts owed, arrearages, amounts and sources of support collections, and the distribution of such collections;
 - e. IV-D program expenditures;
 - f. Any fees charged and collected, if applicable; and
 - g. Statistical, fiscal, and other records necessary for reporting and accountability required by the Secretary.

7. To establish and implement a set of performance measurements for paternity establishment, support order establishment, amount of current support collected, amount of past due support collected, and any other performance measurements in order to ensure the proper and efficient operation of the TAT DCSE and to incorporate into federal reports.
8. To respond to and extend prompt services to other child support enforcement IV-D agencies which refer IV-D cases to the TAT DCSE for assistance.
9. To cooperate with and seek the cooperation and involvement of all appropriate public and private agencies including other tribal and state IV-D agencies, social services, public assistance, foster care, law enforcement and any other agency or organization providing or concerned with child support enforcement with the goal of providing services, effectively carrying out its duties, and achieving the purposes of this Chapter and other child support laws under tribal law. The TAT DCSE may negotiate working agreements with other jurisdictions, political subdivisions, and private entities. Such agreements shall be subject to approval by the Tribal Business Council and the Federal Programs Executive Officer or their successor.
10. The TAT DCSE shall continue to seek federal funding of the child support division where possible and appropriate by completing all required reports and annual comprehensive plans addressing compliance by the TAT DCSE with federal regulations on tribal child support enforcement.
11. The TAT DCSE shall develop and implement policy and procedures and forms necessary to carry out the responsibilities of the TAT DCSE in conformity with the tribal code, the TAT Comprehensive Tribal Plan, and all other federal and tribal child support regulations.
12. The TAT DCSE shall work jointly with the Tribal Council to seek supplemental agency funding subject to the discretion of the Tribal Council.

5-25-15. Tribal Automated System Requirements – Reserved

5-25-16. Reporting Arrearages – Reserved

CUSTODY OF CHILD

5-25-17. Custody of Legitimate Child

The father and mother of a legitimate unmarried minor child are entitled equally to the child's custody, services, and earnings, and neither can transfer such custody, services, and earnings to any other

person, without the written consent of the other, except in case of death, desertion, or abandonment.

5-25-18. Custody of Illegitimate Child

When maternity and paternity of an illegitimate child are positively established, the custody rights must be equal as between mother and father and must serve the best interests of the child. The custodial parent is entitled to the child's services and earnings.

5-25-19. Rights of Grandparents

1. The grandparents and great-grandparents of an unmarried minor may be granted reasonable visitation rights to the minor by the District Court upon a finding that visitation would be in the best interests of the minor and would not interfere with the parent-child relationship. The Court shall consider the amount of personal contact that has occurred between the grandparents or great-grandparents and the minor and the minor's parents.
2. This section does not apply to agency adoptions or when the minor has been adopted by a person other than a stepparent or grandparent.
3. Any visitation rights granted under this section before the adoption of the minor may be terminated upon the adoption if termination of the rights is in the best interest of the minor.
4. An application for visitation rights under this section may be considered by the District Court in conjunction with a divorce proceeding involving the parent of the minor child. If the District Court retains jurisdiction over the custodial placement of the minor child or children by virtue of any prior proceedings, the rights conferred by this section may be enforced by the grandparents or the great-grandparents through motion under the prior proceeding.
5. Joinder of grandparents or of great-grandparents awarded visitation rights under this section must occur in any proceeding to terminate parental rights.

5-25-20. Priority of Custody of Father and Mother

The husband and father and wife and mother have equal rights with regard to the care, custody, education, and control of the children of the marriage, while such husband and wife live separate and apart from each other, and when they so live in a state of separation without being divorced, the District Court or judge thereof, upon application of

either, may grant a writ of habeas corpus to inquire into the custody of any minor unmarried child of the marriage, and may award the custody of such child to either for such time and under such regulations as the case may require. The decision of the Court or judge must be guided by the rules provided by law for awarding the custody of a minor or the appointment of a general guardian.

5-25-21. Awarding Custody – Best Interests and Welfare of Child

An order for custody of an unmarried minor child entered pursuant to this Chapter must award the custody of the child to a person, agency, organization, or institution as will, in the opinion of the judge; promote the best interests and welfare of the child. Between the mother and father, whether natural or adoptive, there is no presumption as to who will better promote the best interests and welfare of the child.

5-25-22. Best Interests and Welfare of Child – Court Consideration – Factors

1. For the purpose of custody, the best interests and welfare of the child is determined by the Court's consideration and evaluation of all factors affecting the best interests and welfare of the child. These factors include all of the following when applicable:
 - a. The love, affection, and other emotional ties existing between the parents and child.
 - b. The capacity and disposition of the parents to give the child love, affection, and guidance and to continue the education of the child.
 - c. The disposition of the parents to provide the child with food, clothing, medical care, or other remedial care recognized and permitted under the laws of this Tribe in lieu of medical care, and other material needs.
 - d. The length of time the child has lived in a stable satisfactory environment and the desirability of maintaining continuity.
 - e. The permanence, as a family unit, of the existing or proposed custodial home.
 - f. The moral fitness of the parents.
 - g. The mental and physical health of the parents.
 - h. The home, school, and community record of the child.
 - i. The reasonable preference of the child, if the Court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.
 - j. Evidence of domestic violence. In awarding custody or granting rights of visitation, the Court shall consider evidence of domestic violence. If the Court finds credible evidence that domestic

violence has occurred, and there exists one incident of domestic violence which resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, this combination creates a rebuttable presumption that a parent who has perpetrated domestic violence may not be awarded sole or joint custody of a child. This presumption may be overcome only by clear and convincing evidence that the best interests of the child require that parent's participation as a custodial parent. The Court shall cite specific findings of fact to show that the custody or visitation arrangement best protects the child and the parent or other family or household member who is the victim of domestic violence. If necessary to protect the welfare of the child, custody may be awarded to a suitable third person, provided that the person would not allow access to a violent parent except as ordered by the Court. If the Court awards custody to a third person, the Court shall give priority to the child's nearest suitable adult relative. The fact that the abused parent suffers from the effects of the abuse may not be grounds for denying that parent custody. The Court may consider, but is not bound by, a finding of domestic violence in another proceeding under other tribal law.

- k. The interaction and interrelationship, or the potential for interaction and interrelationship, of the child with any person who resides in, is present, or frequents the household of a parent and who may significantly affect the child's best interests. The Court shall consider that person's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault, on other persons.
 - l. The making of false allegations not made in good faith, by one parent against the other, of harm to a child.
 - m. Any other factors considered by the Court to be relevant to a particular child custody dispute.
2. In any proceeding under this Chapter, the Court, at any stage of the proceedings after final judgment, may make orders about what security is to be given for the care, custody, and support of the unmarried minor children of the marriage as from the circumstances of the parties and the nature of the case is equitable.

5-25-23. Parental Custody and Visitation Rights and Duties

1. Each parent of a child has the following custody and visitation rights and duties:

- a. Right to access and obtain copies of the child's educational, medical, dental, religious, insurance, and other records or information.
 - b. Right to attend educational conferences concerning the child. This right does not require any school to hold a separate conference with each parent.
 - c. Right to reasonable access to the child by written, telephonic, and electronic means.
 - d. Duty to inform the other parent as soon as reasonably possible of a serious accident or serious illness for which the child receives health care treatment. The parent shall provide to the other parent a description of the serious accident or serious illness, the time of the serious accident or serious illness, and the name and location of the treating health care provider.
 - e. Duty to immediately inform the other parent of a change in residential telephone number and address.
 - f. Duty to keep the other parent informed of the name and address of the school the child attends.
2. The District Court shall include in an order establishing or modifying visitation the rights and duties listed in this section; however, the Court may restrict or exclude any right or duty listed in this section if the order states the reason in support of the restriction or exclusion. The Court shall consider any domestic violence protection orders relating to the parties when determining whether to restrict or exclude any right or duty listed in this section.

5-25-24. Custody Investigations and Reports – Costs

1. In contested custody proceedings the District Court may, upon the request of either party, or, upon its own motion, order an investigation and report concerning custodial arrangements for the child. The investigation and report may be made, on request, by the Three Affiliated Tribes Children and Family Services Department or other Tribal or professional social services agency experienced in counseling children and families, staff of the juvenile court, a public health officer, school officials, or other private person deemed qualified to make the investigation.
2. The investigator may consult any person who may have information about the child and any potential custody arrangements, and upon order of the Court may refer the child to any professional personnel for diagnosis.
3. The Court shall mail the investigator's report to counsel and to any party not represented by counsel at least thirty days before the hearing. The investigator shall make available to any such counsel

or party the complete file of data and reports underlying the investigator's report and the names and addresses of all persons whom the investigator has consulted. A party may call the investigator and any person whom the investigator has consulted for cross-examination at the hearing. A party may not waive the party's right of cross-examination before the hearing.

4. If an investigation or report is ordered pursuant to this section, the court shall allocate cost based on the financial circumstances of both parties.

5-25-25. Appointment of Guardian Ad Litem or Child Custody Investigator for Children in Custody, Support , and Visitation Proceedings – Immunity

1. In any action for an annulment, divorce, legal separation, or other action affecting marriage, when either party has reason for special concern as to the future of the minor children, and in any action when the custody or visitation of children is contested, either party to the action may petition the District Court for the appointment of a guardian ad litem to represent the children concerning custody, support, and visitation. The Court, in its discretion, may appoint a guardian ad litem or child custody investigator on its own motion.
2. If appointed, a guardian ad litem shall serve as an advocate of the children's best interests. If appointed, the child custody investigator shall provide those services as requested by the District Court in conjunction with related tribal laws on child welfare protection.
3. The Court may direct either or both parties to pay the guardian ad litem or child custody investigator a fee established by the Court.
4. Any guardian ad litem or child custody investigator appointed under this section who acts in good faith in making a report to the court is immune from any civil liability resulting from the report. For the purpose of determining good faith, the good faith of the guardian ad litem or child custody investigator is a disputable presumption.

5-25-26. Allegation of Harm to Child – Effect

If the District Court finds that an allegation of harm to a child by one parent against the other is false and not made in good faith, the Court shall order the parent making the false allegation to pay Court costs and reasonable attorney's fees incurred by the other parent in responding to the allegation.

5-25-27. Limitations on Post-judgment Custody Modifications

1. Unless agreed to in writing by the parties, no motion to modify a custody order may be made earlier than two years after the date of entry of an order establishing custody, except in accordance with [subsection 3 of this section](#).
2. Unless agreed to in writing by the parties, if a motion for modification has been disposed of upon its merits, no subsequent motion may be filed within two years of disposition of the prior motion, except in accordance with [subsection 3 of this section](#).
3. The time limitation in [subsections 1 and 2](#) does not apply if the District Court finds:
 - a. The persistent and willful denial or interference with visitation;
 - b. The child's present environment may endanger the child's physical or emotional health or impair the child's emotional development; or
 - c. The primary physical care of the child has changed to the other parent for longer than six months.
4. A party seeking modification of a custody order shall serve and file moving papers and supporting affidavits and shall give notice to the other party to the proceeding. Either party may request an evidentiary hearing within ten (10) business days after the initial pleadings are served upon the opposing party, which shall be held prior to the Court making its findings of fact and conclusions of law to allow or deny the requested modification. If no hearing is requested, the matter may be presented to the Court upon briefs and without oral argument or evidentiary hearing and the Court shall deny the motion unless the Court finds the moving party has established a prima facie case justifying a modification.
5. The Court may not modify a prior custody order within the two-year period following the date of entry of an order establishing custody unless the Court finds the modification is necessary to serve the best interest of the child and:
 - a. The persistent and willful denial or interference with visitation;
 - b. The child's present environment may endanger the child's physical or emotional health or impair the child's emotional development; or
 - c. The primary physical care of the child has changed to the other parent for longer than six months.
6. The Court may modify a prior custody order after the two-year period following the date of entry of an order establishing custody if the Court finds:
 - a. On the basis of facts that have arisen since the prior order or which were unknown to the Court at the time of the prior order, a material change has occurred in the circumstances of the child or the parties; and

- b. The modification is necessary to serve the best interest of the child.
7. The Court may modify a prior custody order at any time if the Court finds a stipulated agreement by the parties to modify the custody is in the best interest of the child.
8. Upon a motion to modify custody under this section, the burden of proof is on the moving party.
9. If a motion for change of custody is filed during the time a parent is in active duty service, the Court may not enter an order modifying or amending a previous judgment or order, or issue a new order, which changes the child's placement that existed on the date the parent was called to active duty service, except the Court may enter a temporary custody order that is in the best interest of the child. The temporary custody order must explicitly provide that custody must be restored to the service member upon the service member's release from active duty service, unless the Court finds by clear and convincing evidence that restoration of custody would not be in the best interest of the child. If an original custody decision is pending and the service member is alerted for active duty service, or is absent for active duty service, the Court may not issue a permanent custody order until the return of the service member from active duty. The Court may issue a temporary custody order in the best interest of the child for the time period of the active duty service. This section does not prevent a service member from consenting to a modification of custody that continues past discharge or release from active duty service or to agreeing to a permanent custody order before release from active duty service.

5-25-28. Residence of Child

A parent entitled to the custody of a child may not change the legal residence of the child from the Three Affiliated Tribes to another state or tribe except upon order of the District Court or with the consent of the non-custodial parent, if the non-custodial parent has been given visitation rights by the decree. A court order is not required if the non-custodial parent:

1. Has not exercised visitation rights for a period of one year; or
2. Has moved to another state and is more than fifty miles from the residence of the custodial parent.

5-25-29. Interference with visitation – Attorney's fees – Enforcement remedies and tools

In any proceeding in which child visitation is properly in dispute between the parents of a child, the District Court may award the non-custodial parent reasonable attorney's fees and costs if the Court determines there has been willful and persistent denial of visitation rights by the custodial parent with respect to the child. The District Court may use any remedy that is available to enforce a child support order and which is appropriate to enforce visitation.

ESTABLISHMENT & MODIFICATION OF CHILD SUPPORT

5-25-30. Mutual Duty to Support Children

Parents shall give their children support and education suitable to the child's circumstances. The Court may compel either or both of the parents to provide for the support of their children by establishing a child support order upon an application of the tribal child support guidelines in [Title V, Chapter 26, of the Fort Berthold Tribal Code](#).

5-25-31. Liability of Stepparent For Support

A stepparent is not bound to maintain the spouse's child(ren) unless the child is received into the stepparent's family. If the stepparent receives the child into the family, the stepparent is liable, to the extent of the stepparent's ability, to support the child during the marriage and so long thereafter as they remain in the stepparent's family. Such liability may be enforced against the stepparent by any person furnishing necessaries to such children. If the children are received into the stepparent's family and supported by the stepparent, it is presumed that the stepparent does so as a parent, in which case the children are not liable to the stepparent for their support, nor the stepparent to them for their services. The legal obligation of a natural or adoptive parent to support that person's children is not affected by the liability imposed upon their stepparent by this section.

5-25-32. Termination of Parental Rights – Duty of Support

A termination of parental rights does not terminate the duty of either parent to support the child before the child's adoption unless that duty is specially terminated by order of the Court after notice of a proposed termination or relinquishment is given to the Three Affiliated Tribes Children and Family Services in the manner appropriate for the service of process in a civil action under the laws of this Tribe. A termination of a child support obligation under this section does not relieve a parent of the duty to pay any unpaid child support.

5-25-33. Support For Children After Majority – Retroactive Application

1. A judgment or order requiring the payment of child support until the child attains majority continues as to the child until the end of the month during which the child is graduated from high school or attains the age of nineteen years, whichever occurs first, if:
 - a. The child is enrolled and attending high school and is eighteen years of age prior to the date the child is expected to be graduated; and
 - b. The child resides with the person to whom the duty of support is owed.
2. A judgment or order may require payment of child support after majority under the circumstances described in [subsection 1 of this section](#).
3. The person to whom the duty of support is owed under either [subsection 1 or 2 of this section](#) may file an affidavit with the District Court stating that the requirements of [subsection 1](#) are met, the school in which the child is enrolled, and the anticipated date of the child's graduation. Upon filing of the affidavit, the child support resumes pursuant to [subsection 1](#) or pursuant to the terms of a judgment or order described in [subsection 2](#). A fee may not be charged for filing such an affidavit.
4. The obligee or moving party shall serve the affidavit by first-class mail upon the person owing the duty of support. If at any time thereafter the person owing the duty of support files a motion with the District Court, supported by that person's affidavit that the child is no longer enrolled in or attending high school, the Court shall determine if the child is enrolled in and attending high school and shall enter an order accordingly.
5. This section applies to child support orders concerning children described in [subsection 1 or 2 of this section](#), regardless of the date of entry of the order, provided that the affidavit described in [subsection 3 of this section](#) is filed not later than ninety days after the child graduates from high school or reaches age nineteen, whichever occurs first.
6. This section does not preclude the entry of an order for child support which continues after the child reaches age eighteen, if the parties agree, or if the Court determines the support to be appropriate.
7. For purposes of this section, a child is treated as being in school during summer vacation if the child was enrolled in and attending school and did not graduate from high school at the end of the school period immediately preceding the summer vacation.

5-25-34. Support by Tribe – Liability of parent's estate

If a parent chargeable with the support of a child dies leaving it chargeable upon the Tribe and leaving an estate sufficient for its support, the TAT DCSE, in the name of the Tribe, may claim provision for its support from the parent's estate by civil action, and for this purpose may have the same remedies as any creditor against that estate and against the heirs, devisees, and next of kin of the parent.

5-25-35. Allowance to parent for support of child

The District Court may direct an allowance to be made to a parent of a child out of the child's property for its past or future support and education on such conditions as may be proper, whenever such direction is for the child's benefit.

5-25-36. Duration of Child Support Obligations

Unless dates for the commencement or termination of a child support obligation are specified by the District Court's order, a judgment or order requiring the payment of child support is effective as to the child in the month in which the order is signed and continues until the end of the month in which the support obligation terminates.

5-25-37. Periodic Review of Child Support Orders

1. Each child support order must be reviewed by the TAT DCSE no less frequently than thirty-six months after the establishment of the order or the most recent amendment or review of the order by the District Court or TAT DCSE unless:
 - a. In the case of an order with respect to which there is in effect an assignment of the child support for receipt of public assistance, the TAT DCSE has determined that a review is not in the best interests of the child and neither the obligor nor the obligee has requested review; or
 - b. In the case of any other order neither the obligor nor the obligee has requested review.
2. Each child support order, in which there is in effect public assistance or with respect to which either the obligor or the obligee has requested review, must be reviewed by the TAT DCSE if:
 - a. More than twelve months have passed since the establishment of the order or the most recent amendment or review of that order by the Court or the TAT DCSE, whichever is later; and
 - b. The order provides for no child support and was based on a finding that the obligor has no ability to pay child support.

3. If, upon review, the TAT DCSE determines that the order provides for child support payments in an amount that is inconsistent with the amount that would be required under [Title 5, Chapter 26, of the Fort Berthold Tribal Code](#), the TAT DCSE may seek an amendment of the order. If the order provides for child support payments in an amount less than eighty-five percent of the amount that would be required by those guidelines, the TAT DCSE shall seek an amendment of the order.
4. If a child support order sought to be amended was entered at least one year before the filing of a motion or petition for amendment, the Court shall order the amendment of the child support order to conform the amount of child support payment to that required under the child support guidelines, whether or not the motion or petition for amendment arises out of a periodic review of a child support order, and whether or not a material change of circumstances has taken place, unless the presumption that the correct amount of child support would result from the application of the child support guidelines is rebutted. If a motion or petition for amendment is filed within one year of the entry of the order sought to be amended, the party seeking amendment must also show a material change of circumstances.
5. A determination that a child who is the subject of a child support order is eligible for public assistance provided by any state or tribal government agency, constitutes a material change of circumstances.
6. The availability of health insurance at reasonable cost to a child who is the subject of a child support order constitutes a material change of circumstances. The need to provide for a child's health care needs, through health insurance or other means, constitutes a material change of circumstances.

5-25-38. Notice of Periodic Review of Child Support Orders

1. The TAT DCSE shall provide written notice that a child support order being enforced by the TAT DCSE may be subject to review under [section 5-25-37](#). The notice may be sent by first-class mail to the obligor and the obligee, at the addresses they have most recently provided to the TAT DCSE, at least thirty days before the commencement of the review.
2. The notice to the obligor must inform the obligor of the duty to furnish the information required by [section 5-25-39](#) and that a failure to furnish the required information may result in the entry of an order compelling the furnishing of the information. The notice must also inform the obligor that the review determination will be mailed to

the obligor following the review. The notice must be accompanied by an income report form, together with instructions for the accurate completion of the income report form.

5-25-39. Obligor's Duties Upon Review – Failure to Provide Information

1. The obligor shall provide information to the TAT DCSE concerning the obligor's income, which is sufficient to accomplish the review, no later than five working days before the date of review. The information must be furnished by providing an income report, in the form and manner required by the TAT DCSE, accurately completed and attested to by the obligor, earnings statements secured from the obligor's current income payer if the obligor changed employment after the end of the latest income tax year for which the obligor filed a return, and providing:
 - a. A copy of the latest income tax return, filed with the internal revenue service or any state official administering a state income tax if the obligor pays state income tax, which accurately reports the obligor's income for a fiscal year ending no more than seventeen months prior to the date of the review; or
 - b. A written authorization by which the TAT DCSE may secure a verified copy of the latest income tax return, filed with the tax commissioner, which accurately reports the obligor's income for a fiscal year ending no more than seventeen months prior to the date of review.
2. If the obligor has not produced information under [subsection 1 of this section](#) concerning the obligor's income, sufficient to accomplish the review, the TAT DCSE may base its review determination on the assumption that the obligor's income has increased at the rate of ten percent per year since the child support order under review was entered or last modified.

5-25-40. Notice of Review Determination

1. Following review, the TAT DCSE shall promptly provide written notice of its determination on review. The notice may be sent by first-class mail to the obligor and the obligee, at the addresses they have most recently provided to the TAT DCSE.
2. If the TAT DCSE has made a determination that no amendment to the amount of child support should be sought, the notice must inform the obligor and the obligee of the right of each to challenge that determination by seeking an amendment to the amount of

child support, from the District Court, at any time before the termination of the support order.

3. If the TAT DCSE has made a determination to seek an amendment in the amount of child support, the notice must be mailed at least thirty days before the date of a hearing on a motion for amendment made by the child support agency under [section 5-25-37](#), and must inform the obligor and the obligee of the right of each to challenge that determination by opposing that amendment before the Court. The notice to the obligor must be accompanied by:
 - a. A proposed modification of the child support order to provide for payment of child support in the amount required under the child support guidelines;
 - b. A document by which the obligor may consent to the proposed modification; and
 - c. An address and telephone number that the obligor may use to receive information from or schedule a meeting with the TAT DCSE staff.

5-25-41. Motion for Amendment of Child Support Order – How made – Presumption When Obligor’s Income Unknown

1. Upon a determination by the TAT DCSE, made under [section 5-25-37](#), that it may or must seek amendment of a child support order, the TAT DCSE may file and serve a motion and supporting documents.
2. The District Court may determine the motion based upon the files, records, and evidence received in consideration of the motion. If the TAT DCSE certifies that, despite diligent efforts to secure reliable information concerning the obligor's income, the obligor has not produced such information, and if the obligor provides the District Court with no reliable evidence concerning the obligor's income, it is presumed that the obligor's income has increased at the rate of ten percent per year since the child support order was entered or last modified.

5-25-42. Request For Review – Notice of Right to Request Review

1. An obligor or an obligee may request review under [section 5-25-37](#), by applying to the TAT DCSE for child support services, and indicating, in the manner there provided, a desire to have a child support order reviewed. Each judgment or order issued by the District Court which includes an order for child support must include

a statement advising of the right to request a review under this section.

2. If a party to a child support matter is receiving services from the TAT DCSE and an order for current child support has issued out of that matter, the TAT DCSE shall provide notice of the right to request a review or further review of that child support order, to the obligor and obligee, not more than three years after the most recent child support order, review of that child support order, or notice of right to request a review of that child support order.

DUTY TO REPORT RECEIPT OF PUBLIC ASSISTANCE TO THE TAT DCSE

5-25-43. Notice to the TAT DCSE – Receipt of Public Assistance

The obligor/obligee shall notify the TAT DCSE of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving public assistance or applies for it subsequent to the commencement of the proceeding. The notice must contain the full names of the parties to the proceeding, their Social Security account numbers, and their birth dates. After receipt of the notice, the District Court shall set child support by applying the guidelines under [Title 5, Chapter 26 of the Fort Berthold Tribal Code](#). The District Court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. The District Court shall approve a child support stipulation of the parties if each party is represented by independent counsel, unless the stipulation does not meet the conditions of [Title 5, Chapter 26 of the Fort Berthold Tribal Code](#). In other cases the District Court shall determine and order child support in a specific dollar amount in accordance with the guidelines and the other factors set forth in [Title 5, Chapter 26 of the Fort Berthold Tribal Code](#) and any departure therefrom.

5-25-44. Failure of Notice

If the District Court in a dissolution, legal separation or determination of parentage proceeding, finds before issuing the order for judgment and decree, that notification of the receipt of public assistance has not been given to the TAT DCSE, the Court shall set child support as provided in [Title 5, Chapter 26 of the Fort Berthold Tribal Code](#). In those proceedings in which no notification has been made pursuant to [section 5-25-43](#) and in which the TAT DCSE determines that the judgment is lower than the child support required by the guidelines in

[Title 5, Chapter 26 of the Fort Berthold Tribal Code](#), it shall move the Court for a redetermination of the support payments ordered so that the support payments comply with the guidelines.

LOCATION OF A MISSING OBLIGOR, ASSETS, AND OBLIGEEES BY THE TAT DCSE

5-25-45. Location Activities of the TAT DCSE

1. The TAT DCSE must attempt to locate obligors, obligees, or sources of income and/or assets when location is required to take necessary action in a case.
2. Location of an obligor is deemed necessary whenever the TAT DCSE has no verified address or employer for obligor. Location of an obligee is deemed necessary when forms mailed to the last known address of the obligee are repeatedly returned "undeliverable" with no forwarding address or when child support collections disbursed to the obligee are returned "undeliverable" from the last known address. Location of an obligor's source(s) of income may be necessary for the establishment of a child support obligation or when enforcement of a child support obligation is required.
3. All sources of locate available to the TAT DCSE should be used to perform locate actions.

PAYMENTS, COLLECTIONS, ARREARS, INCOME WITHHOLDING, ENFORCEMENT REMEDIES

5-25-46. Monthly amount of child support due

1. If there is a current monthly support obligation, the total amount of child support due in each month is the sum of the obligor's current monthly support obligation as calculated under the tribal child support guidelines under [Title 5, Chapter 26, of the Fort Berthold Tribal Code](#); and
 - a. The amount the obligor is ordered to pay toward any outstanding arrearage; or
 - b. If no order to repay an arrearage exists, an amount for application to any arrearage equal to twenty percent of the obligor's current monthly support obligation; or
2. If there is no current monthly support obligation, the total amount of child support due in each month is:
 - a. An amount equal to the greater of:
 - (1) The amount the obligor is ordered to pay toward any outstanding arrearage; or

- (2) The sum of the obligor's most recent monthly support obligation and twenty percent of the obligor's most recent monthly support obligation;
 - b. An amount the obligor is ordered to pay toward an arrearage during periods when the supported child resides with the obligor pursuant to a court order; or
 - c. An amount the obligor is ordered to pay toward an arrearage if that amount is included in an order issued when there is no current monthly support obligation.
3. The total amount of child support due in each month under this section may be increased at the request of the obligor to repay an arrearage or by agreement with TAT DCSE.

5-25-47. Mandatory payment of child support obligations to the TAT DCSE distribution unit

1. In any action in which the District Court orders that payments for child support be made, including, but not limited to, a support order establishing an order for past support or reimbursement of public assistance, the District Court shall provide in its order that the payments be paid to the TAT DCSE distribution unit for remittance to the obligee.
2. Each party subject to the order shall immediately inform the TAT DCSE distribution unit of the party's:
 - a. Social security number;
 - b. Date of birth;
 - c. Residential and mailing addresses and any change of address;
 - d. Telephone number;
 - e. Motor vehicle operator's license number;
 - f. Employer's name, address, and telephone number; and
 - g. Change of any other condition which may affect the proper administration of this Chapter.
3. Each order for payment of child support must notify each party of the requirements in [subsection 2 of this section](#) and require the party to provide the information within ten days from the date of the order or ten days after any change in the information.
4. The requirements of [subsection 2 of this section](#) continue in effect until all child support obligations have been satisfied with respect to each child subject to the order.
5. The obligor or other income payer shall identify the obligor on the check or remittance by name, income payer number, and Social Security number, and shall comply with the income withholding laws of this Chapter.

6. A notice may be directed to any person or entity submitting a check drawn on insufficient funds stating that future payment must be paid by cash or certified funds. The TAT DCSE distribution unit and the TAT DCSE may refuse a check from a person or entity that has been given notice that payments must be in cash or certified funds.
7. A copy of the record of payments maintained by the TAT DCSE distribution unit is admissible evidence in court as proof of payments made through the TAT DCSE distribution unit without the need of testimony to prove authenticity.
8. If support payments have not been disbursed to an obligee because the obligee is not located, the TAT DCSE shall continue locate efforts following established policy and procedures for locate.

5-25-48. Collections and distribution

1. Upon receipt of child support payments as provided for in [section 5-25-47](#), the TAT DCSE must, in a timely manner:
 - a. Apply collections first to satisfy current support obligations; and
 - b. Pay all support collections to the family unless the TAT DCSE has received a request for assistance in collecting support on behalf of the family from another tribal or state child support enforcement IV-D agency.
2. Monthly amounts received by the TAT DCSE from the obligor that are greater than the monthly amount of public assistance granted to the obligee must be remitted to the obligee.
3. *Exception.* When the collections stem from a federal income tax refund offset, they must be applied to satisfy child support arrearages.

5-25-49. Overpayments

If child support or maintenance is not assigned and an obligor has overpaid a child support or maintenance obligation because of a modification or error in the amount owed, the TAT DCSE shall:

1. Apply the amount of the overpayment to reduce the amount of any child support or maintenance-related arrearages or debts owed to the obligee; and
2. If an overpayment exists after the reduction of any arrearage or debt, reduce the amount of the child support remitted to the obligee by an amount no greater than 20 percent of the current monthly support or maintenance obligation and remit this amount to the obligor until the overpayment is reduced to zero.

5-25-50. Arrears

1. Whenever there is failure to make the payments as required under [section 5-25-47](#), the court may, and upon request of the obligee or TAT DCSE, shall send notice of the arrears by first-class mail, with affidavit of service, to the person required to make the payments, or upon a written motion to the District Court judge, may issue a citation for contempt of court against the person who has failed to make the payments as provided under this Chapter. The citation may be served on that person by first-class mail with affidavit of service to the person's last-known address.
2. Remedies available for the collection and enforcement of support in this Chapter apply to cases with arrearages, including those in which the child or children for whom support is owed are emancipated and the obligor owes past support or has an accumulated arrearage as of the date of the youngest child's emancipation. Child support arrearages under this section may include arrearages for child support, medical support, child care, and unreimbursed medical expenses.

5-25-51. Child support order – Required interest statement on arrears

Each judgment or order requiring the payment of child support may include a statement that the child support obligation will accrue interest if not timely paid. Accrual of interest and validity of the order are not affected by a failure to include the statement required by this section.

5-25-52. Interest waived on arrearages

The TAT DCSE may suspend or waive judgment interest on an arrearage as part of an amnesty program, as an incentive for satisfying a child support obligation or complying with a payment plan, or if the TAT DCSE determines that the judgment interest is not collectible through commercially reasonable efforts. Any judgment interest that is suspended or waived under this subsection may be reinstated by the District Court at any time or by the TAT DCSE if the obligor has failed to comply with a payment plan.

5-25-53. Offsets of child support

1. Notwithstanding [section 5-25-68](#), the District Court may order that a specific amount of past-due child support owed by an obligor to an obligee be offset by an equal amount of past-due child support

- owed to the obligor by the obligee. An order for an offset is permitted under this subsection only if:
- a. The proposed offset is limited to past-due child support and does not apply to child support owed in the current month or owed in any future month;
 - b. The proposed offset does not include any past-due child support that has been assigned;
 - c. Neither party whose past-due child support obligation will be reduced or eliminated by the proposed offset owes past-due child support to another obligee; and
 - d. The opportunity to offset past-due child support under this section has not been used by either party as an incentive to avoid paying child support in the month in which it is due.
2. The order must include a specific finding that the proposed offset serves the best interests of the children to whom the obligor and obligee owe a duty of support.
 3. The Tribal court may issue an order at the request of the TAT/DCSE to offset the past-due child support if neither party objects after being notified by first class mail of the proposed offset.
 4. Past-due child support owed by an obligor to an obligee may not be offset by past-due child support owed to the obligor by the obligee except as permitted in this section.
 5. An obligor's child support obligation for the current month or for a future month may not be offset by past-due child support or other debts owed to the obligor by an obligee unless the District Court orders the offset as a method of satisfying an overpayment of child support that results from the establishment or reduction of a child support obligation.
 6. An offset of child support under this section is considered a payment of child support by both the obligor and the obligee. A copy of the order for an offset must be provided to the TAT DCSE distribution unit.
 7. As used in this section, "child support" does not include spousal support.

5-25-54. Agreements to waive child support

An agreement purporting to relieve an obligor of any current or future duty of child support is void and may not be enforced. An agreement purporting to waive past-due child support is void and may not be enforced unless the child support obligee and any assignee of the obligee have consented to the agreement in writing and the agreement has been approved by the District Court. A copy of the

order of approval must be provided to the TAT DCSE distribution unit. As used in this section, "child support" does not include spousal support.

5-25-55. Income withholding order

When a judgment or order requires the payment of child support, it may be enforced by an income withholding order, as provided in this Chapter, in addition to any other remedies provided by tribal law.

5-25-56. Immediate income withholding

1. Except as provided in [subsection 2 or 3 of this section](#), each judgment or order which requires the payment of child support subjects the income of the obligor to income withholding, regardless of whether the obligor's support payments are delinquent.
2. If a party to a proceeding, who would otherwise be subject to immediate income withholding under [subsection 1 of this section](#), demonstrates, and the District Court finds that there is good cause not to require immediate withholding, or if the parties, including any assignee of support rights, reach a written agreement that provides for an alternative arrangement for assuring the regular payment of child support, the District Court need not subject the income of the obligor to immediate withholding and shall enter a written finding to this effect.
3. If an obligor, who would otherwise be subject to immediate income withholding under [subsection 1 of this section](#) in at least one case in which services are being provided by a child support agency under title IV-D, demonstrates, and the TAT DCSE finds there is good cause not to require immediate income withholding, the TAT DCSE may enter into a written agreement with an obligor that provides for an alternate payment arrangement in lieu of immediate income withholding.
4. Notwithstanding [section 5-25-59 of this Chapter](#), any failure to comply with an agreement under this subsection subjects the income of the obligor to income withholding under this section.
5. A finding that there is good cause not to require immediate income withholding under [subsection 2 or 3 of this section](#) must be based on at least:
 - a. A written determination that, and an explanation of why, implementing immediate income withholding would not be in the best interests of the child;
 - b. Proof of timely payment of previously ordered support, if any; and

- c. A requirement that the obligor keep the clerk of court and the TAT DCSE informed of any employment-related health insurance to which the obligor has access.
- 6. A written agreement for an alternative arrangement for assuring the regular payment of child support is effective only if the agreement at least, in addition to other conditions the parties agree to:
 - a. Provides that the obligor shall keep the clerk of court and the TAT DCSE informed of any employment-related health insurance to which the obligor has access;
 - b. Describes the provisions by which regular payment of child support is assured; and
 - c. Is reviewed and approved by the District Court and entered into the Court's records.

5-25-57. Subsequent income withholding order – Provision of notice of impact of income withholding law to obligors

Each judgment or order issued by the District Court which includes an order for support of minor children, but which does not require immediate income withholding, must include a statement that a delinquency in payment of the support due or the approved request of the obligee will result in an income withholding order being issued in accordance with this Chapter.

5-25-58. Requests by obligee for income withholding – Approval – Procedures and standards

- 1. An obligee may apply to the TAT DCSE for approval of an income withholding request. The income of the obligor becomes subject to income withholding on the date an approved request is made.
- 2. The TAT DCSE shall establish procedures and standards for the approval of obligee requests for income withholding. The standards established must include consideration of:
 - a. An obligor's threat to discontinue child support payments; and
 - b. An obligor's having made child support payments sufficient to avoid a delinquency but insufficient to conform to the ordered amount.
- 3. Upon application of an obligee requesting income withholding, the TAT DCSE shall promptly approve or disapprove the request. The TAT DCSE may not approve the obligee's request in a case where the District Court has determined that there is good cause not to require immediate income withholding unless the Court first changes its determination.

5-25-59. Procedure – Notice to obligor

1. If immediate income withholding under [section 5-25-56](#) has not been implemented and an obligor is delinquent, if an obligee's request for income withholding is approved, or if the District Court changes its finding that there is good cause not to require immediate income withholding, the TAT DCSE shall serve the notice required under this section upon the obligor whenever issuing an income withholding order. The notice must state:
 - a. That the obligor is delinquent in the payment of child support, that a request for withholding has been made by the obligee and approved by the TAT DCSE, or that there is no longer good cause not to require immediate income withholding, as the case may be, and the obligor is therefore subject to an income withholding order on all income.
 - b. The amount of child support owed and the amount of arrearage, if any.
 - c. The total amount of money that will be withheld by the income payer from the obligor's income in each month as determined under [section 5-25-46](#).
 - d. That the income payer may withhold an additional sum of three dollars to cover the income payer's expenses.
 - e. That the income withholding order has been issued without further order of the District Court.
 - f. That the obligor may contest the issuance of the income withholding order by filing a written request for hearing within ten days of the date of the notice made under this section.
 - g. That if the obligor contests the income withholding order pursuant to [section 5-25-60](#), a hearing will be held and the court will determine and issue an order consistent with the requirements of [section 5-25-60](#).
 - h. That the income withholding order applies to any current or subsequent income payer or period of employment.

5-25-60. Hearing upon obligor's request

1. If the obligor files a request for a hearing within ten days of the date of the notice made pursuant to [section 5-25-59](#), the District Court shall hold a hearing within ten business days after the date of the request. The District Court may order that the income withholding order be withdrawn if at the hearing the obligor establishes:
 - a. In a case where withholding would be based on an alleged delinquency, that there has been a mistake in the identity of the obligor; or

- b. In a case where an approved request for withholding has been made by the obligee, that the approval of the request constituted an abuse of discretion.
2. If at the hearing the obligor establishes that there is an overstatement in the amount of support stated to be owed by the obligor, the District Court may amend the amount to be withheld.
3. In the absence of a finding of a mistake of fact in a case where withholding would be based on an alleged delinquency, or in the absence of an abuse of discretion in the approval of an obligee's request for withholding, the District Court shall confirm the income withholding order. Payment of past-due support after issuance of notice under [section 5-25-59](#) may not be the basis for an order that the income withholding order be withdrawn.
4. An obligor is not precluded, by [subsection 1](#), from seeking appropriate relief from a judgment or order affecting a child support obligation nor is the District Court precluded from granting such relief. An obligor's request for such relief, whether made by motion under [Title II, Chapter II, Civil Rules of the Fort Berthold Tribal Code](#), or otherwise, may not be considered during the hearing described in [subsection 1](#).

5-25-61. Form – Effect of income withholding order

An income withholding order must be issued in the name of the Three Affiliated Tribes using the standard federal income withholding form for notice of the order prescribed by the secretary of the United States department of health and human services under authority of 42 U.S.C. 666(b)(6)(A)(ii), contain only the information necessary for the income payer to comply with the income withholding order, and be directed to all current and subsequent income payers of the obligor. The income withholding order is binding on the income payer until further notice by the TAT DCSE and applies to all current and subsequent periods in which income is owed the obligor by the income payer. The income withholding order has priority over any other legal process against the same income.

5-25-62. Voluntary income withholding for support – Limitations

An obligor may execute a document voluntarily authorizing income withholding from current or future income due the obligor from an income payer in an amount sufficient to meet any child support obligation imposed by the District Court or otherwise. An income withholding authorization made under this section is binding on the income payer one week after service upon the income payer by first-

class mail, or in any other manner agreed to by the income payer, of a true copy of the executed income withholding authorization. The income payer shall deduct the sum or sums specified and pay them as specified by the income withholding authorization and any applicable imposition of a support obligation by a court. In addition, the income payer may deduct a fee of three dollars per month from the obligor's income to cover expenses involved in transmitting payment. Compliance by an income payer with an income withholding authorization issued under this section discharges the income payer's liability to the obligor for that portion of the obligor's income. The income payer may not use the income withholding authorization as a basis for any disciplinary action against the obligor.

5-25-63. Service of income withholding order on income payer

1. The TAT DCSE shall serve the income withholding order on the income payer by first-class mail or in any other manner agreed to by the income payer, and upon the obligor by first-class mail to the obligor's last-known address.
2. If the obligor is subject to immediate income withholding under [section 5-25-56](#), an income withholding order must be served on any known income payer within two business days of the date of receipt of information necessary to carry out income withholding. Subject to the provisions of [section 5-25-66](#), if service of an income withholding order has been or may have been properly made under this section, an income withholding order must be served on any subsequently identified income payer within two business days of the date of receipt of information necessary to carry out income withholding.
3. An income withholding order may also be issued and served at the request of the obligor.
4. The income payer shall withhold a stated amount, determined under [section 5-25-46](#), from the obligor's income at the time the obligor is paid for transmittal to the TAT DCSE within seven business days of the date the obligor is paid, together with a report of the date upon which the amount was withheld from the obligor's income.
5. The income payer may also withhold and retain an additional sum of three dollars per month from the obligor's income to cover expenses involved in transmitting payment.
6. The amount to be withheld, including amounts to cover expenses involved in transmitting payment, may not exceed fifty percent of the obligor's disposable income from this income payer as provided under the Consumer Credit Protection Act (15 U.S.C. 1673(b)), but a

payment of an amount less than the ordered amount must be accompanied by a written calculation disclosing any of the obligor's income and disposable income which is payable by the income payer.

7. The income payer shall begin withholding no later than the first payday that occurs after service of the income withholding order.
8. If the income payer is served with more than one income withholding order issued under this Chapter on a single obligor and the combined total amount to be paid under the income withholding orders exceeds fifty percent of the obligor's disposable income, the income payer shall withhold the maximum amount permitted under the Consumer Credit Protection Act (15 U.S.C. 1673(b)) and transmit to the TAT DCSE that portion thereof which the obligee's claim bears to the combined total of all claims.
9. The income payer shall notify the TAT DCSE in writing of the termination of a duty to pay income to the obligor within seven business days of the termination. The notification must include the name and address of the obligor's subsequent income payer, if known.
10. If the income payer is subject to income withholding orders for more than one obligor, the income payer may combine in a single payment the amounts for all obligors who have been ordered to pay the TAT DCSE with identification of the amount attributed to each obligor.

5-25-64. Income withholding - Duties and liabilities of income payer under income withholding order

1. Any income payer failing to comply with this section or [section 5-25-63](#) may be punished for contempt of court. The District Court shall first afford such income payer a reasonable opportunity to purge itself of such contempt.
2. Any income payer who fails or refuses to deliver income pursuant to an income withholding order, when such income payer has had in its possession such income, is personally liable for the amount of such income which the income payer failed or refused to deliver, together with costs, interest, and reasonable attorney's fees. If an income payer fails or refuses to deliver income for more than fourteen business days after the date an obligor is paid, the District Court shall award damages in an amount equal to two hundred dollars or actual damages caused by the violation, whichever is greater, in addition to costs, interest, late fees, and reasonable attorney's fees. Any damages awarded under this subsection must be reduced by the amount of any late fees for the same payment

which have been collected by the TAT DCSE under [subsection 10 of this section](#). Any damages collected by the TAT DCSE under this subsection must be paid to the TAT DCSE distribution unit for distribution under [section 5-25-47](#) and any remaining balance must be paid to the obligor. If an income payer has failed to deliver income for more than one obligor, any damages collected under this section must be divided equally among all affected obligors.

3. Any employer who refuses to employ, dismisses, demotes, disciplines, or in any way penalizes an obligor on account of any proceeding to collect child support, on account of any order or orders entered by the District Court in such proceeding, on account of the employer's compliance with such order or orders, or on account of an income withholding order, is liable to the obligor for all damages, together with costs, interest thereon, and reasonable attorney's fees resulting from the employer's action. The employer may be required to make full restitution to the aggrieved obligor, including reinstatements and back pay.
4. An income payer may be enjoined by the District Court from continuing any action in violation of [section 5-25-63 of this Chapter](#).
5. Any contempt proceeding against an income payer under this section must be commenced within one year after the income payer's act or failure to act upon which such proceeding is based.
6. Compliance by an income payer with an income withholding order operates as a discharge of the income payer's liability to the obligor as to that portion of the obligor's income so affected.
7. Upon receipt of an order for support entered in another tribe or state and the registration of the foreign order with the District Court, the TAT DCSE shall initiate income withholding.
 - a. An income payer within the exterior boundaries of the Fort Berthold Indian Reservation shall withhold income based on foreign court orders for withholding that have been registered in the Fort Berthold District Court.
 - b. An employer receiving an income withholding notice from another tribe or state that has been registered in the Fort Berthold District Court shall withhold and distribute the funds as directed in the withholding notice and shall apply the law of the obligor's principal place of employment when determining:
 - (1) The employer's fee for processing an income withholding notice;
 - (2) The maximum amount permitted to be withheld from the obligor's income; and
 - (3) Deadlines for implementing and forwarding the child support payment.

- c. An obligor may contest withholding under this subsection as provided for in this section.
 - d. An employer receiving an income withholding order or notice from another tribe or state that has not been registered in the Fort Berthold District Court must forward the order or notice to the TAT DCSE for registration before withholding and distributing the funds under the order.
8. An income payer who has been served with an income withholding order issued under [section 5-25-61](#) for an obligor which includes an amount for past-due support shall notify the TAT DCSE before making any lump sum payment of one thousand dollars or more to the obligor. "Lump sum payment" includes pay in lieu of vacation or other leave, bonus, commission, and any other payment to an obligor but does not include periodic payments made on regular paydays as compensation for services and does not include reimbursement for expenses incurred by the obligor on behalf of the income payer.
- a. An income payer who provides notice of a lump sum payment to the TAT DCSE under this subsection may not make more than one-half of the payment to the obligor for thirty days from the date of the notice to TAT DCSE or until the income payer receives written authorization from the TAT DCSE to make the lump sum payment to the obligor, whichever occurs first.
 - b. Notwithstanding [paragraph a of this subsection](#), an income payer who provides notice of a lump sum payment to the TAT DCSE under this subsection may not make a lump sum payment to an obligor if the income payer has been notified that an execution, garnishment, attachment, or other process has been initiated regarding the lump sum payment to satisfy a child support obligation of the obligor.
 - c. An income payer who owes a lump sum payment under this subsection is subject to the duties and liabilities in this section unless the context indicates otherwise.
 - d. This subsection does not apply to any portion of a lump sum payment that must be paid to satisfy an income withholding order issued under [section 5-25-61](#).
9. An employer who complies with an income withholding order that is regular on its face is not subject to civil liability to any individual or agency for conduct in compliance with the order.
10. An income payer who fails to deliver income for more than seven business days after the date one or more obligors are paid may be charged a late fee equal to twenty-five dollars per obligor for each additional business day the payment is delinquent or seventy-five dollars for each additional business day the payment is delinquent,

whichever is greater. A late fee charged under this subsection is payable fifteen days after service on the employer, by first-class mail, of notice of the imposition of the late fee. Failure to pay a late fee under this subsection may be punished as a contempt of court. Any late fee collected by the TAT DCSE under this subsection must be paid to the TAT DCSE distribution unit for distribution under [section 5-25-47](#) and any remaining balance must be paid to the obligor. If an income payer has failed to deliver income for more than one obligor, any late fees collected under this section must be divided equally among all affected obligors.

5-25-65. Requests for information from income payer

1. The TAT DCSE may mail a request for information to the income payer in any matter in which it secures reliable information that the income payer may be indebted to an obligor. The request must identify the obligor by name, and, if known, address and social security number.
2. Within ten days after receipt of a request for information issued under [subsection 1](#), an income payer shall provide the requester with a written statement informing the requester whether or not the income payer is, or within the one hundred eighty days immediately preceding receipt of the request has been, an income payer with respect to that obligor. If the income payer is, or within the previous one hundred eighty days has been, an income payer with respect to that obligor, the income payer shall furnish information to the requester, including:
 - a. The amount of any income currently paid to the obligor, calculated on a monthly basis;
 - b. The total amount of income paid to the obligor in the twelve months preceding the month in which the request is received;
 - c. Information regarding any health insurance that may be made available to the obligor's children through the income payer;
 - d. The social security number under which payment of any income by the income payer to the obligor is reported;
 - e. The obligor's address; and
 - f. If the income payer is no longer an income payer with respect to that obligor, the date of last payment and any forwarding address.
3. Any income payer failing to comply with any requirements of this section may be punished for contempt of court. The District Court shall first afford such income payer a reasonable opportunity to purge itself of contempt.

4. A proceeding against an income payer under this section may be commenced upon motion by the TAT DCSE and must be commenced within ninety days after the income payer's act or failure to act upon which such proceeding is based.

5-25-66. Amendment – Termination of income withholding order

Upon amendment or termination of an income withholding order, the TAT DCSE shall send appropriate notice to the income payer. An income withholding order is to be amended by the TAT DCSE when the total amount of money to be withheld is changed by elimination of arrearages or by court-ordered change in amount of child support. An income withholding order is to be terminated when the duty to support ceases and all child support arrearages have been paid. When two or more income payers have been subjected to income withholding orders with respect to a child support obligation, the TAT DCSE shall suspend the income withholding order directed to one or more income payers, provided that the amount of child support withheld by the remaining income payer or payers equals the amount determined under [section 5-25-46](#). The TAT DCSE shall immediately reinstate any suspended income withholding order should any child support obligation of the obligor thereafter become delinquent. The TAT DCSE shall provide a copy of the reinstated income withholding order, by first-class mail, to the obligor and the income payer.

5-25-67. Interstate income withholding – Initiation by the Three Affiliated Tribes to another jurisdiction

On application of a resident of this Tribe, an obligee or an obligor of a support order issued by this Tribe, or an agency to which an obligee has assigned support rights, the TAT DCSE shall request the child support enforcement agency of another tribe or state in which the obligor of a support order derives income to enter the order for the purpose of obtaining income withholding against such income. The TAT DCSE shall make that request within twenty days of the later of the date income withholding is determined appropriate or the date of receipt of any information necessary to carry out withholding. The TAT DCSE shall compile and transmit to the child support agency of the other tribe or state all documentation required to enter an order for this purpose. The TAT DCSE shall also transmit to the child support agency of the other tribe or state certified copies of any subsequent modifications of the support order. If the TAT DCSE receives notice that the obligor is contesting the income withholding in another tribe or

state, it shall immediately notify the individual obligee of the date, time, and place of the hearings and of the obligee's right to attend.

5-25-68. Child support exempt from process

A child support obligation owed to an obligee who is a judgment debtor may not be subject to execution, garnishment, attachment, or other process except to satisfy that child support obligation.

5-25-69. Transfers of funds for payment of child support

If the District Court determines that income withholding under this Chapter is inapplicable, ineffective, or insufficient to ensure monthly payment of child support as determined under [section 5-25-46](#), the District Court may, and upon request of the TAT DCSE shall, order an obligor to identify or establish a deposit account that allows for periodic transfers of funds for payment of child support and to execute any necessary agreement for preauthorized transfers of funds from the account to the TAT DCSE distribution unit for the payment of child support. An obligor who fails to comply with this section or make sufficient funds available to satisfy any preauthorized transfer, or who stops payment or revokes authorization for any preauthorized transfer, may be punished for contempt of court.

CIVIL REMEDIES FOR CHILD SUPPORT

5-25-70. Administrative Seek Employment Orders

1. For any support order being enforced by the TAT DCSE, the TAT DCSE may seek a court order requiring the obligor to seek employment if:
 - a. Employment of the obligor cannot be verified;
 - b. The obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments; and
 - c. The obligor is not in compliance with a written payment plan.
2. Upon proper notice being given to the obligor, the District Court may enter a seek employment order if it finds that the obligor has not provided proof of gainful employment and has not consented to an order for income withholding under this Chapter or entered into a written payment plan approved by the District Court or the TAT DCSE.
3. The order to seek employment shall:

- a. Order that the obligor seek employment within a determinate amount of time;
- b. Order that the obligor file with the TAT DCSE on a weekly basis a report of at least five new attempts to find employment or of having found employment, which report must include the names, addresses, and telephone numbers of any employers or businesses with whom the obligor attempted to seek employment and the name of the individual contact to whom the obligor made application for employment or to whom an inquiry was directed;
- c. Notify the obligor that failure to comply with the order is evidence of a willful failure to pay support under this Chapter;
- d. Order that the obligor provide the TAT DCSE with verification of any reason for noncompliance with the order; and
- e. Specify the duration of the order, not to exceed three months.

5-25-71. Driver's License and Occupational License Suspension, Motor Vehicle Lien

At the request of an obligee and if the TAT DCSE determines that the obligor is in arrears in court-ordered child support in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and not in compliance with a written approved payment agreement pursuant to this Chapter, the TAT DCSE is authorized to request assistance from a state child support enforcement IV-D agency in the pursuit of the suspension of the obligor's driver's license or occupational license. The TAT DCSE is also authorized to request assistance from a state IV-D agency to seek a motor vehicle lien against the obligor.

5-25-72. Contempt Proceedings for Nonpayment of Support

1. If a person against whom an order or decree for support has been entered under this Chapter, or a comparable law from another jurisdiction, is in arrears in court-ordered child support or maintenance payments in an amount equal to or greater than the obligor's total monthly support and maintenance payments and is not in compliance with a written payment plan approved by the District Court or the TAT DCSE, the person may be cited and punished by the District Court for contempt under this section, [section 5-25-8 of this Chapter](#), or other tribal law. Failure to comply with a seek employment order entered under this Chapter is evidence of willful failure to pay support.

2. If the District Court cites a person for contempt under this section the Court may order the performance of community service work up to 32 hours per week for six weeks for each finding of contempt if the obligor:
 - a. Is able to work full time;
 - b. Works an average of less than 32 hours per week; and
 - c. Has actual weekly gross income averaging less than 40 times the federal minimum hourly wage under United States Code, title 29, section 206(a)(1), or is voluntarily earning less than the obligor has the ability to earn, as determined by the District Court.
3. An obligor is presumed to be able to work full time. The obligor has the burden of proving inability to work full time.
4. A person ordered to do community service work under this section may, during the six-week period, apply to the District Court or the TAT DCSE to be released from the community service work requirement if the person:
 - (1) Provides proof to the District Court or the TAT DCSE that the person is gainfully employed and submits to an order for income withholding under this Chapter;
 - (2) Enters into a written payment plan regarding both current support and arrearages approved by the District Court or the TAT DCSE; or
 - (3) Provides proof to the District Court or the TAT DCSE that, subsequent to entry of the order, the person's circumstances have so changed that the person is no longer able to fulfill the terms of the community service order.
3. The performance of community service work does not relieve a child support obligor of any unpaid accrued or accruing support obligation.

INTERGOVERNMENTAL CHILD SUPPORT CASES – AFFORDING FULL FAITH AND CREDIT

5-25-73. Full Faith and Credit of Foreign Child Support Orders

1. The TAT DCSE and District Court shall recognize child support orders issued by other tribes and states, in accordance with the requirements under the Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1738B.
2. The TAT DCSE shall extend the full range of services available under its IV-D plan to respond to all requests from, and cooperate with, other tribal and state IV-D agencies.

5-25-74. Registration of Foreign Order for Enforcement

1. A support order or an income-withholding order issued by a tribunal of another tribe or state may be registered in the Fort Berthold District Court for enforcement.
2. A support order or income-withholding order of another tribe or state may be registered in the Fort Berthold District Court by sending the following documents and information to the Fort Berthold District Court:
 - a. A letter of transmittal to the tribunal requesting registration and enforcement;
 - b. Two copies, including one certified copy, of all orders to be registered, including any modification of an order;
 - c. A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;
 - d. The name of the obligor and, if known:
 - (1) The obligor's address and Social Security number;
 - (2) The obligor's date of birth;
 - (3) The name and address of the obligor's employer and any other source of income of the obligor; and
 - (4) A description and the location of property of the obligor within the external boundaries of the Fort Berthold Indian Reservation not exempt from execution; and
 - (5) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.
3. On receipt of a request for registration, the Fort Berthold District Court shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.
4. A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this tribe may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.
5. *Effect of registration for enforcement.*
 - a. A support order or income-withholding order issued in another tribe or state is registered when the order is filed in the Fort Berthold District Court.
 - b. A registered order issued in another tribe or state is enforceable in the same manner and is subject to the same procedures as an order issued by the Fort Berthold District Court.
 - c. Except as otherwise provided in this Chapter, the Fort Berthold District Court shall recognize and enforce, but may not modify, a

registered order if the tribunal that issued the order had jurisdiction.

6. *Choice of law.*

- a. The law of the tribe or state that issued the order governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.
- b. In a proceeding for arrearages, the statute of limitation under the laws of the Three Affiliated Tribes or of the state that issued the order, whichever is longer, applies.

7. *Notice of registration of order.*

- a. When a support order or income-withholding order issued in another tribe or state is registered in the Fort Berthold District Court, this Court shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.
- b. The notice must inform the nonregistering party:
 - (1) That a registered order is enforceable as of the date of registration in the same manner as an order issued by the Fort Berthold District Court;
 - (2) That a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after notice;
 - (3) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and
 - (4) Of the amount of any alleged arrearages.
- c. Upon registration of an income-withholding order for enforcement, the Fort Berthold District Court as the registering tribunal shall notify the obligor's employer pursuant to this Chapter.

8. *Procedure to contest validity or enforcement of registered order.*

- a. A nonregistering party seeking to contest the validity or enforcement of a registered order in the Fort Berthold District Court shall request a hearing within 20 days after notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to this section.

- b. If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.
 - c. If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the Fort Berthold District Court shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.
9. *Burden on party contesting the registration or enforcement.*
- a. A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:
 - (1) The issuing tribunal lacked personal jurisdiction over the contesting party;
 - (2) The order was obtained by fraud;
 - (3) The order has been vacated, suspended, or modified by a later order;
 - (4) The issuing tribunal has stayed the order pending appeal;
 - (5) There is a defense under the law of this tribe to the remedy sought;
 - (6) Full or partial payment has been made; or
 - (7) The statute of limitation precludes enforcement of some or all of the arrearages.
 - b. If a party presents evidence establishing a full or partial defense under this section, the Fort Berthold District Court may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this tribe.
 - c. If the contesting party does not establish a defense under this section to the validity or enforcement of the order, the Fort Berthold District Court shall issue an order confirming the order of the issuing tribunal.
10. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

5-25-75. Registration and Modification of Child Support Order

- 1. A party or the TAT DCSE seeking to modify, or to modify and enforce, a child support order issued in another tribe or state shall register that order in the Fort Berthold District Court in the same manner provided in [section 5-25-74](#) of this Chapter if the order has not been

registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

2. The Fort Berthold District Court may enforce a child support order of another tribe or state registered for purposes of modification, in the same manner as if the order had been issued by the Fort Berthold District Court, but the registered order may be modified only if the requirements of this section have been met.
3. *Modification of child support order of another tribe or state.*
 - a. After a child support order issued in another tribe or state has been registered in the Fort Berthold District Court, the District Court may modify that order after notice and hearing, it finds that:
 - (1) The following requirements are met:
 - (a) The child, the individual obligee, and the obligor do not reside in the issuing tribe or state;
 - (b) A obligor/obligee who is a nonresident of this reservation seeks modification; and
 - (c) The defendant is subject to the personal jurisdiction of the tribe; or
 - (2) The child, or a party who is an individual, is subject to the personal jurisdiction of the Fort Berthold District Court and all of the parties who are individuals have filed written consents with the Fort Berthold District Court to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing tribe or state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures in this Chapter, the consent otherwise required of an individual residing within the external boundaries of the Fort Berthold Indian Reservation is not required for the Fort Berthold District Court to assume jurisdiction to modify the child support order.
 - b. Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by the Fort Berthold District Court and the order may be enforced and satisfied in the same manner.
 - c. On issuance of an order modifying a child support order issued in another tribe or state, the Fort Berthold District Court becomes the tribunal of continuing, exclusive jurisdiction.
4. The Fort Berthold District Court shall recognize a modification of its earlier child support order by a tribunal of another tribe or state which assumed jurisdiction under the Full Faith and Credit for Child

Support Orders Act, 28 U.S.C. § 1538B and, upon request, except as otherwise provided in this Chapter, shall:

- a. Enforce the order that was modified only as to amounts accruing before the modification;
 - b. Enforce only nonmodifiable aspects of that order;
 - c. Provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and
 - d. Recognize the modifying order of the other tribe or state, upon registration, for the purpose of enforcement.
5. If all of the parties who are individuals reside within the external boundaries of the Fort Berthold Indian Reservation and the child does not reside in the issuing tribe or state, the Fort Berthold District Court has jurisdiction to enforce and to modify the issuing tribe or state's child support order in a proceeding to register that order. The Fort Berthold District Court exercising jurisdiction as provided in this section shall apply the Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1538B to the enforcement or modification proceeding and the Court shall apply the procedural and substantive law of this Tribe.
6. Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

5-25-76. Repeal of Fort Berthold Tribal Code Provisions

The Tribal Child Support Act, Title V, Chapter 25 of the Fort Berthold Tribal Code repeals Subchapter 5-08.1, "Civil Remedies for Child Support," Subchapter 5-09, "Parent and Child," and Subchapter 5-12.1, "Civil Remedies for Child Support," Of Title V of the Fort Berthold Tribal Code.

**TITLE V
DOMESTIC RELATIONS CODE**

CHAPTER 26 – TRIBAL CHILD SUPPORT GUIDELINES

5-26-0. Title

Title 5, Chapter 6, shall be referred to as the Tribal Child Support Guidelines of the Three Affiliated Tribes.

5-26-1. Purpose

The Tribal Child Support Guidelines of the Three Affiliated Tribes shall be liberally interpreted and construed to fulfill the following purposes:

1. To establish a uniform set of child support guidelines for use by the Fort Berthold District Court in setting and modifying a child support obligation.
2. To use the child support guidelines to ensure consistent and uniform child support obligations across the community and families of similar circumstances.

5-26-2. Definitions

Terms under this Chapter shall be liberally construed so as not to limit the jurisdiction of the Fort Berthold District Court over tribal children, and to facilitate the authority of the District Court to act to protect the interests of tribal children and their families. When interpreting terms not defined by this Chapter, the District Court shall take into consideration tribal laws and customs. Unless in conflict with applicable tribal law, terms not specifically defined in this Chapter shall be defined according to their normal usage, or as defined in the federal regulations for Tribal Child Support Enforcement Programs found at 45 CFR § 309 et seq.

1. **"Child"** means
 - a. A person under 18 years of age; and
 - b. A person 18 or more years of age with respect to whom a child support order has been issued pursuant to the laws of a Tribe or State.
2. **"Child living with obligor"** means the obligor's child who lives with the obligor most of the year.
3. **"Children's benefits"** means a payment, to or on behalf of a child of the person whose income is being determined, made by a government, insurance company, trust, pension fund, or similar entity, derivative of the parent's benefits or a result of the relationship of parent and child between such person and such child. Children's benefits do not mean

benefits received from public assistance programs that are means tested or provided in the form of subsidy payments made to adoptive parents.

4. **“Custodial parent”** means a parent who acts as the primary caregiver on a regular basis for a proportion of time greater than the obligor, regardless of custody descriptions such as “shared” or “joint” custody given in relevant judgments, decrees, or orders.
5. **“Equal Physical Custody”** means each parent has physical custody of the child, or if there are multiple children, of all the children exactly fifty percent of the time.
6. **“Extended Visitation”** means visitation between an obligor and a child living with an obligee scheduled by court order to exceed sixty of ninety consecutive nights or an annual total of one hundred sixty-four nights.
7. **“Gross Income”** means:
 - a. Income from any source, in any form, but does not mean:
 - (1) Benefits received from public assistance programs that are means tested such as temporary assistance for needy families, supplemental security income, and food stamps, or that are provided in the form of subsidy payments made to adoptive parents;
 - (2) Employee benefits over which the employee does not have significant influence or control over the nature or amount unless:
 - (a) That benefit may be liquidated; and
 - (b) Liquidation of that benefit does not result in the employee incurring an income tax penalty; or
 - (3) Child support payments.
 - b. Examples of gross income include salaries, wages, overtime wages, commissions, bonuses, employee benefits, currently deferred income, dividends, severance pay, pensions, interest, trust income, annuities income, gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, distributions of retirement benefits, receipt of previously deferred income to the extent not previously considered in determining a child support obligation for the child whose support is under consideration, veterans' benefits (including gratuitous benefits), casino and bingo winnings, gifts and prizes, spousal support payments received, refundable tax credits, value of in-kind income received on a regular basis, children's benefits, income imputed based upon earning capacity, military subsistence payments, net income from self-employment, and any form of federal or tribal trust benefits derived from a person's status as an enrolled member of any federally recognized Tribe (e.g. general assistance payments, oil or other mineral royalties, agricultural leases, water leases, etc.)

- c. For purposes of this subsection, income tax due or paid is not an income tax penalty.
8. **“Health care coverage”** means health care benefits that are provided by a health plan. Health care coverage does not include any form of public medical assistance.
9. **“In-kind income”** means the receipt from employment or income-producing activity of any valuable right, property or property interest, other than money or money’s worth, including forgiveness of debt (other than through bankruptcy), use of property, including living quarters at no charge or less than the customary charge, and the use of consumable property or services at no charge or less than the customary charge.
10. **“Net income”** means total gross annual income less:
- a. A hypothetical federal income tax obligation based on the obligor’s gross income, reduced by that part of the obligor’s gross income that is not subject to federal income tax and reduced by deductions allowed in arriving at adjusted gross income under the Internal Revenue Code, and applying:
- (1) A standard deduction for the tax filing status of single;
 - (2) One exemption for the obligor;
 - (3) (a) One additional exemption for each child, as defined in this section, that the obligor is allowed to claim pursuant to a court order unless the obligor and obligee alternate claiming the exemption for the child pursuant to the court order, in which case, an amount equal to one-half of the exemption; or
 - (b) If there is no court order allocating the exemption, or if it is unknown whether there is such a court order, then one additional exemption for each child, as defined in this section, actually claimed on a disclosed tax return or one additional exemption for each child, as defined in this section, if a tax return is not disclosed;
 - (4) Tax tables for a single individual for the most recent year published by the Internal Revenue Service, reduced by one child tax credit for each child’s exemption considered under paragraph (3) of this section, provided such child is a qualifying child for purposes of the child tax credit, if a tax return is not disclosed.
- b. In those cases where the obligor is responsible for paying state income taxes, a hypothetical state income tax obligation equal to fourteen percent of the amount determined under subdivision a without reduction for child tax credits;

- c. A hypothetical obligation for Federal Insurance Contributions Act (FICA), Railroad Retirement Tax Act (RRTA) tier I and tier II, Medicare, and self-employment tax obligations based on that part of the obligor's gross income that is subject to FICA, RRTA, Medicare, or self-employment tax under the Internal Revenue Code;
 - d. A portion of premium payments, made by the person whose income is being determined, for health insurance policies or health service contracts, intended to afford coverage for the child or children for whom support is being sought, determined by:
 - (1) If the cost of single coverage for the obligor and the number of persons associated with the premium payment are known:
 - (a) Reducing the premium payment by the cost for single coverage for the obligor;
 - (b) Dividing the difference by the total number of persons, exclusive of the obligor, associated with the premium payment; and
 - (c) Multiplying the result times the number of insured children for whom support is being sought; or
 - (2) If the cost of single coverage for the obligor is not known:
 - (a) Dividing the payment by the total number of persons covered; and
 - (b) Multiplying the result times the number of insured children for whom support is being sought;
 - e. Payments made on actual medical expenses of the child or children for whom support is sought to the extent it is reasonably likely similar expenses will continue;
 - f. Union dues and occupational license fees if required as a condition of employment;
 - g. Employee retirement contributions, deducted from the employee's compensation and not otherwise deducted from the employee's compensation and not otherwise deducted under this subsection, to the extent required as a condition of employment;
 - h. Employee expenses for special equipment or clothing required as a condition of employment or for lodging expenses incurred when engaged in travel required as a condition of employment (limited to the current per diem rates for lodging established by the U.S. General Services Administration, "GSA"); and
 - i. Employer reimbursed out-of-pocket expenses of employment, if included in gross income, but excluded from adjusted gross income on the obligor's federal income tax return.
11. **"Medical support"** means providing health care coverage for a child by carrying health care coverage for the child or by contributing to the cost of health care coverage, public coverage, unreimbursed medical expenses, and uninsured medical expenses of the child.

12. **“Non-cash support”** means non-cash child support provided to a family in the nature of goods and/or services rather than in cash. Non-cash support directly contributes to the needs of a child. Non-cash support may include services such as making repairs to automobiles or a home, the clearing or upkeep of property, providing a means for travel, providing needed resources for a child’s participation in Tribal customs and practices, or other goods or services that contribute to the needs of a child, and can be reasonably assigned a cash value.
13. **“Obligee”** means a person, including a tribe or state, to whom a duty of support is owed or is alleged to be owed.
14. **“Obligor”** means any person owing a duty of support or who is alleged to owe a duty of support.
15. **“Public coverage”** means health care benefits provided by any form of federal, state, or tribal medical assistance. Medical benefits provided by the federal Indian Health Service (IHS) is considered public coverage.
16. **“Self-employment”** means employment that results in an obligor earning income from any business organization or entity which the obligor is, to a significant extent, able to directly or indirectly control. For purposes of this Chapter, it also includes any activity that generates income from rental property, royalties, business gains, partnerships, trusts, corporations, and any other organization or entity regardless of form and regardless of whether such activity would be considered self-employment activity under the Internal Revenue Code.
17. **“Split custody”** means a situation where the parents have more than one child in common, and where each parent has sole custody of at least one child.
18. **“Uninsured medical expenses”** means a child’s reasonable and necessary health-related expenses if the child is not covered by a health plan or public coverage when the expenses are incurred.
19. **Unreimbursed medical expenses** means a child’s reasonable and necessary health-related expenses if a child is covered by a health plan or public coverage and the plan or coverage does not pay for the total cost of the expenses when the expenses are incurred. Unreimbursed medical expenses do not include the cost of premiums. Unreimbursed medical expenses include, but are not limited to, deductibles, co-payments, and expenses for orthodontia, and prescription eyeglasses and contact lenses, but not over-the-counter medications if coverage is under a health plan.
20. **“Voluntary Change in Employment”** means a change of employment made for the purpose of reducing the obligor’s child support obligation, taking into consideration the obligor’s work history, education, health, age, state reasons for unemployment or underemployment, likely employment status if the family before the Court were intact, and any other relevant factors.

5-26-3. Determination of Support Amount – General Instructions

1. Except as provided in this section, calculations of child support obligations provided for under this chapter consider and assume that one parent acts as the custodial parent and the other parent contributes payment of child support to the child's care.
2. Calculations assume that the care given to the child during temporary periods when the child resides with the obligor or the obligor's relatives do not substitute for the child support.
3. Net income received by an obligor from all sources must be considered in the determination of the child support obligation.
4. The result of all calculations which determine a monetary amount ending in fifty cents or more must be rounded up to the nearest whole dollar, and must otherwise be rounded down to the nearest whole dollar.
5. In applying the child support guidelines, an obligor's monthly net income amount ending in fifty dollars or more must be rounded up to the nearest one hundred dollars, and must otherwise be rounded down to the nearest one hundred dollars.
6. The annual total of all income considered in determining a child support obligation must be determined and then divided by twelve in order to determine the obligor's monthly net income.
7. Income must be sufficiently documented through the use of tax returns, current wage statement, and other information to fully apprise the court of all gross income. Where gross income is subject to fluctuation, regardless of whether the obligor is employed or self-employed, information reflecting and covering a period of time sufficient to reveal the likely extent of fluctuations must be provided.
8. Calculations made under this chapter are ordinarily based upon recent past circumstances because past circumstances are typically a reliable indicator of future circumstances, particularly circumstances concerning income. If circumstances that materially affect the child support obligation have changed in the recent past or are very likely to change in the near future, consideration may be given to the new or likely future circumstances.
9. Determination of a child support obligation is appropriate in any matter where the child and both of the child's parents do not reside together.
10. Each child support order must include a statement of the net income of the obligor used to determine the child support obligation, and how that net income was determined.
11. A payment of children's benefits made to or on behalf of a child who is not living with the obligor must be credited as a payment toward the obligor's child support obligation in the month (or other period) the payment is intended to cover, but may not be credited as a payment toward the child support obligation for any other month or period.

12.No amount may be deducted to determine net income unless that amount is included in gross income.

5-26-4. Determination of child support obligation – Split custody

A child support obligation must be determined for the child or children in each parent's custody. The lesser obligation is then subtracted from the greater. The difference is the child support amount owed by the parent with the greater obligation. The offset of child support obligations in this section is for payment purposes only and must be discontinued for any month in which the rights to support of a child for whom the obligation was determined are assigned to a government agency as a condition of receiving public assistance.

5-26-5. Minimum support level

A support obligation should be established in each case where the obligor has any income. Even though the obligor's payment is far from sufficient to meet the child's needs, considerations of tribal policy or custom and tradition require that all parents understand the parental duty to support children to the extent of the parent's ability. Equally important considerations of tribal policy or custom and tradition require the fostering of relationships between parents and children which may arise out of the recognition of parental duty.

5-26-6. Non-cash support

1. A non-cash support payment may satisfy a set child support obligation only if:
 - a. The obligor has no identifiable source of income as defined under [sections 5-26-2.7 or 5-26-2.9](#) of this Chapter;
 - b. The Court states the specific dollar amount of the child support obligation in the written order;
 - c. The obligor, obligee, and Court agree to the non-cash support payment in the written order;
 - d. The Court describes in the written order the type(s) of non-cash support that will be permitted to satisfy the underlying specific dollar amount of the child support order;
 - e. The Court provides in the written order that the non-cash support payments will not be permitted to satisfy assigned child support obligations; and
 - f. The Court provides in the written order that the obligor may satisfy the set child support obligation with non-cash support payments 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.

2. The obligor must make three job contacts each week during the period in which the obligor will satisfy the set child support obligation through non-cash support payments. The obligor must provide the Three Affiliated Tribes Division of Child Support with evidence of the requisite job contacts.

5-26-7. Determination of net income from self-employment

1. Net Income from self-employment means total income, for internal revenue and child support determination purposes, of the obligor:
 - a. Reduced by that amount, if any, of:
 - (1) That total income that is not the obligor's income or that is otherwise included in gross income;
 - (2) With respect to a partnership or a small business corporation for which an election under 26 U.S.C. section 1362(a) is in effect and over which the obligor is not able to exercise direct or indirect control to a significant extent, that income of the partnership or small business corporation which is not available, and has not yet been disrupted, to the obligor; and
 - b. Increased by that amount, if any, for:
 - (1) Business expenses attributable to the obligor or a member of the obligor's household for employee's or proprietor's benefits, pensions, and profit-sharing plans;
 - (2) Payments made from the obligor's self-employment activity to a member of the obligor's household, other than the obligor, to the extent the payment exceeds the fair market value of the service furnished by the household member; and
 - (3) With respect to a corporation that pays its own tax over which the obligor is able to exercise direct or indirect control to a significant extent, the taxable income of the corporation, less the corporation's federal income tax, multiplied by seventy percent of the obligor's ownership interest in the corporation.
2. "Member of the obligor's household" includes any individual who shares the obligor's home a substantial part of the time, without regard to whether that individual maintains another home.
3. If the tax returns are not available or do not reasonably reflect the income from self-employment, profit and loss statements which more accurately reflect the current status must be used.
4. Self-employment activities may experience significant changes in production and income over time. To the extent that information is reasonably available, the average of the most recent five years of each self-employment activity, if undertaken on a substantially similar scale, must be used to determine self-employment income. When self-employment activity has not been operated on a substantially similar scale for five years, a shorter period may be used.

5. When averaging self-employment income pursuant to [subsection 4 above](#), no amount may be included in income for one year that was previously included in income for any other year during the period being averaged.
6. When less than three years were averaged under [subsection 4 above](#), a loss resulting from the averaging may be used to reduce income that is not related to self-employment only if the loss is not related to a hobby activity and monthly gross income, reduced by one-twelfth of the average annual self-employment loss, equals or exceeds the greatest of:
 - a. A monthly amount equal to one hundred sixty-seven times the hourly federal minimum wage;
 - b. An amount equal to six-tenths of prevailing gross earnings of persons with similar work history and occupational qualifications who work in any place within one hundred miles of the obligor's actual place of residence; or
 - c. An amount equal to eighty percent of the obligor's greatest average gross monthly earnings, calculated without using self-employment losses, in any twelve consecutive months beginning on or after thirty-six months before commencement of the proceeding before the court.
7. When three or more years were averaged under [subsection 4 of this section](#), a loss resulting from the averaging may be used to reduce income that is not related to self-employment only if the loss is not related to a hobby activity, losses were calculated for no more than forty percent of the years averaged, and monthly gross income, reduced by one-twelfth of the average annual self-employment loss, equals or exceeds the greatest of:
 - a. A monthly amount equal to one hundred sixty-seven times the hourly federal minimum wage;
 - b. An amount equal to six-tenths of prevailing gross earnings of persons with similar work history and occupational qualifications who work in any place within one hundred miles of the obligor's actual place of residence; or
 - c. An amount equal to ninety percent of the obligor's greatest average gross monthly earnings, calculated without using self-employment losses, in any twelve consecutive months beginning on or after thirty-six months before commencement of the proceeding before the court.
8. For purposes of [subsections 6 and 7 of this section](#), an activity is presumed to be a hobby activity if the result from averaging is a loss. The presumption may be rebutted if the obligor shows that the activity is not done primarily for enjoyment purposes, is a vocation and not an avocation and, in the context of the child support obligation, there is a reasonable expectation that the children will receive long-term benefits.

5-26-8. Determining the cost of supporting a child living with the obligor

The cost of supporting child(ren) living with the obligor, who are not also child(ren) of the obligee, may be deducted from net income under [subsection 4 of section 5-26-9](#) and shall be calculated by establishing a hypothetical child support obligation for those children using the obligor's net income as applied to the Schedule under this Chapter. The resulting hypothetical calculation will then further reduce the obligor's net income by subtracting said amount from the initial net income.

5-26-9. Determination of support amount in multiple-family cases

1. This section must be used to determine the child support amount presumed to be the correct amount of child support in all cases involving an obligor who:
 - a. Owes duties of support payable to two or more obligees; or
 - b. Owes a duty of support to at least one obligee and also owes a duty of support to a child living with the obligor who is not also the child of that obligee.
2. If the Court consolidates proceedings involving an obligor and two or more obligees, the Court must determine all obligations that may be determined in the consolidated proceeding without regard to whom the initial moving party may be.
3. A hypothetical amount that reflects the cost of supporting children living with the obligor, as determined under [section 5-26-8](#), and a hypothetical amount due to each obligee under this Chapter must first be determined for the children living with the obligor and each obligee, whether or not the obligee is a party to the proceeding, assuming for purposes of that determination:
 - a. The obligor has no support obligations except to the obligee in question;
 - b. The guidelines amount is not rebutted; and
 - c. The obligor does not have extended visitation.
4. A hypothetical amount due to each obligee under this Chapter must next be determined for each obligee who is a party to the proceeding, assuming for purposes of that determination:
 - a. The obligor's net income is reduced by:
 - (1) The amount of child support due to all other obligees, as determined under [subsection 3](#); and
 - (2) The cost of supporting a child living with the obligor, who is not also the child of that obligee, as determined under [section 5-26-8](#).
 - b. The guidelines amount is not rebutted;

- c. Any support amount otherwise determined to be less than one dollar is determined to be one dollar; and
 - d. The obligor does not have extended visitation.
 - e. Evidence is provided to the Court demonstrating that the obligor is appropriately paying all child support owed to the other obligee(s).
5.
 - a. Except as provided in [subdivision b of this subsection](#), for each obligee before the court, the support obligation presumed to be the correct amount of child support is equal to one-half of the total of the two amounts determined, with respect to that obligee, under [subsections 3 and 4 of this section](#).
 - b. Any necessary determination under this section must be made before an adjustment for extended visitation appropriate under [section 5-26-12](#). The “amount otherwise due under this Chapter,” for purposes of [section 5-26-12](#), is equal to one-half of the total of the two amounts determined, with respect to that obligation, under [subsections 3 and 4 of this section](#).
 6. The fact that the obligor is required to pay, or pays a different amount than the hypothetical amounts determined under [subsections 3 and 4 of this section](#) is not a basis for deviation from the procedure described in this section.
 7. When determined a support amount under [paragraph 1 of subsection 4\(a\)](#) of this section, consider only children to whom an obligor owes a current monthly support obligation pursuant to a support order and other children under the age of eighteen to whom an obligor owes a duty of support.

5-26-10. Imputing income based on earning capacity

1. An obligor is presumed to be underemployed if the obligor’s gross income from earnings is less than a monthly amount equal to one hundred sixty-seven times the federal hourly minimum wage.
2. Except as provided in [subsections 3, 4, and 7](#) of this section, gross income based on earning capacity equal to a monthly amount equal to one hundred sixty-seven times the hourly federal minimum wage, less actual gross earnings, must be imputed to an obligor who is unemployed or underemployed.
3. Monthly gross income based on earning capacity may be imputed in an amount less than would be imputed under [subsection 2](#) if the obligor shows:
 - a. The reasonable cost of child care equals or exceeds seventy percent of the income which would otherwise be imputed where the care is for the obligor’s child:
 - (1) Who is in the physical custody of the obligor;
 - (2) Who is under the age of fourteen; and

- (3) For whom there is no other adult caretaker in the parent's home available to meet the child's needs during absence due to employment.
 - b. The obligor suffers from a disability sufficient in severity to reasonably preclude the obligor from gainful employment that produces average monthly gross earnings equal to one hundred sixty-seven times the hourly federal minimum wage.
 - c. The unusual emotional or physical needs of a minor child of the obligor require the obligor's presence in the home for a proportion of the time so great as to preclude the obligor for gainful employment that produces average monthly gross earnings equal to one hundred sixty-seven times the hourly federal minimum wage.
4. Gross income based on earning capacity may not be imputed if the obligor shows that the obligor has average monthly gross earnings equal to or greater than one hundred sixty-seven times the hourly federal minimum wage and is not underemployed.
5. Monthly gross income based on earning capacity may not be imputed under [subsection 2](#) in an amount greater than one-half of one hundred sixty-seven times the federal hourly minimum wage, less actual gross earnings, if the obligor is under eighteen years of age or is under nineteen years of age and enrolled in and attending high school.
6. If the obligor fails, upon reasonable request made in any proceeding to establish a child support obligation, to furnish reliable information concerning the obligor's gross income from earnings, income based on earning capacity equal to the greatest of [subsections 2\(a\) and 2\(b\)](#) of this section must be imputed.
7. If the obligor fails, upon reasonable request made in any proceeding to review a child support obligation, to furnish reliable information concerning the obligor's gross income from earnings, and if that information cannot be reasonably obtained from sources other than the obligor, income must be imputed based on the greatest of a monthly amount equal to one hundred sixty-seven times the federal hourly minimum wage or the obligor's net income, at the time the child support order was entered or last modified, increased at the rate of ten percent per year.
8. 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 greatest average monthly earnings, in any twelve consecutive months beginning on or after twenty-four months before commencement of the proceeding before the Court, for which reliable evidence is provided, less actual monthly gross earnings, may be imputed without a showing that the obligor is unemployed or underemployed. 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.

9. Imputed income based on earning capacity is an example of gross income and is subject to the deductions from gross income set forth in [subsection 10 of section 5-26-2](#).

5-26-11. Income of spouse

The income and financial circumstances of the spouse of an obligor should not be considered as income for child support purposes unless the spouse's income and financial circumstances are, to a significant extent, subject to control by the obligor as where the obligor is a principal in a business employing the spouse.

5-26-12. Adjustment for extended visitation

1. For purposes of this section, "extended visitation" means visitation between an obligor and a child living with an obligee scheduled by court order to exceed sixty of ninety consecutive nights or an annual total of one hundred sixty-four nights.
2. Notwithstanding any other provision of this Chapter, if a court order provides for extended visitation between an obligor and a child living with an obligee, the support obligation presumed to be the correct child support amount due on behalf of all children of the obligor living with the obligee must be determined under this subsection.
 - a. Determine the amount otherwise due under this Chapter from the obligor for those children.
 - b. Divide the amount determined under [subdivision a of this subsection](#) by the number of those children.
 - c. For each child, multiply the number of that child's visitation nights times **.32** and subtract the resulting amount from three hundred sixty-five.
 - d. Divide the result determined under [subdivision c of this subsection](#) by three hundred sixty-five.
 - e. Multiply the amount determined under [subdivision b of this subsection](#) times each decimal fraction determined under [subdivision d of this subsection](#).
 - f. Total all amounts determined under [subdivision e of this subsection](#).

5-26-13. Equal physical custody - Determination of child support obligation

1. A child support obligation must be determined as described in this section in all cases in which a court orders each parent to have equal physical custody of their child or children. Equal physical custody means each parent has physical custody of the child, or if there are multiple children, all of the children, exactly fifty percent of the time.

2. A child support obligation for each parent must be calculated under this Chapter assuming the other parent is the custodial parent of the child or children subject to the equal physical custody order. The lesser obligation is then subtracted from the greater. The difference is the child support amount owed by the parent with the greater obligation.
3. Each parent is an obligee to the extent of the other parent's calculated obligation.
4. Each parent is an obligor to the extent of that parent's calculated obligation.
5. The offset of child support obligations in this section is for payment purposes only and must be discontinued for any month in which the rights to support of a child for whom the obligation was determined are assigned to a government agency as a condition of receiving public assistance.

5-26-14. Medical support included in child support obligation

1. A child support obligation set upon application of this Chapter shall address the child's health care coverage and reimbursement for medical support provided to the child by the obligee, Three Affiliated Tribes, another tribe, or a state.
2. The child support order may require the obligor to provide satisfactory health care coverage whenever that coverage is available at reasonable cost or becomes available at reasonable cost.
3. After verification of a child's unreimbursed or uninsured medical expenses, the Court may order these expenses to be paid by the obligor as part of child support obligation in addition to the regular child support required or ordered.
4. If the obligee is an individual with physical custody of the child, the obligee must be required to provide satisfactory health care coverage whenever that coverage is available at no or nominal cost.
5. If an order issued requires an obligee to provide health care coverage and the obligee's child(ren) has been received into the stepparent's family under [section 5-25-32](#) of the Fort Berthold Tribal Code Tribal Child Support Guidelines, any coverage that is available to the stepparent for the obligee's children is considered to be available to the obligee and is enforceable against the stepparent by the TAT DCSE or another IV-D agency.
6. If the Court orders the obligor to pay the minimum support level under [section 5-26-5 of this Chapter](#), the obligor is presumed unable to pay medical support.
7. If an obligor is paying the premium for a child's health care coverage pursuant to a child support order or otherwise, the obligor's gross income shall be reduced by the amount of the premium paid for the health care coverage of the child.

8. This application of this section is not meant to impair a child's ability to apply for and receive state public coverage or medical support under the Indian Health Service of the U.S. Department of Health and Human Services.
9. The TAT DCSE shall take necessary steps to implement, modify, and enforce an order for dependent health care coverage whenever the child receives benefits through a state's temporary assistance for needy families, tribal or state foster care, or tribal or state medical assistance, or upon application of the obligee to the TAT DCSE.

5-26-15. Uncontested proceedings

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, credible evidence describing the obligor's income and financial circumstances, which demonstrates that the uncontested or agreed amount of child support conforms to the requirements of this Chapter, must be presented.

5-26-16. Rebuttal of guideline amount

1. The child support amount provided for under this Chapter is presumed to be the correct amount of child support.
2. No rebuttal of the guidelines may be based upon evidence of factors described or applied in this Chapter, **except** in [subsection 3 of this section](#), or upon:
 - a. The subsistence needs, work expenses, and daily living expenses of the obligor; or
 - b. The income of the obligee, which is reflected in a substantial monetary and nonmonetary contribution to the child's basic care and needs by virtue of being a custodial parent.
3. The presumption that the amount of child support that would result from the application of this Chapter, except for this subsection, is the correct amount of child support is rebutted only if a preponderance of the evidence in a contested matter establishes, taking into consideration the best interests of the child, that the child support amount established under the guidelines schedule is not the correct amount due to the existence of one or more of the following criteria:
 - a. The increased need if support for more than six children is sought in the matter before the Court;
 - b. The increased ability of an obligor, with a monthly net income which exceeds twelve thousand five hundred dollars, to provide child support;
 - c. The increased need if educational costs have been voluntarily incurred at private schools with the prior written concurrence of the obligor;

- d. The increased needs of children with disabling conditions or chronic illness;
 - e. The increased needs of children age twelve and older;
 - f. The increased needs of children related to the cost of child care, purchased by the obligee, for reasonable purposes related to employment, job search, education, or training;
 - g. The increased ability of an obligor, who is able to secure additional income from assets, to provide child support;
 - h. The increased ability of an obligor, who has engaged in an asset transaction for the purpose of reducing the obligor's income available for payment of child support, to provide child support;
 - i. The reduced ability of the obligor to provide support due to travel expenses incurred predominantly for the purpose of visiting a child who is the subject of the order taking into consideration the amount of court-ordered visitation and, when such history is available, actual expenses and practices of the parties;
 - j. The reduced ability of the obligor to pay child support due to a situation, over which the obligor has little or no control, which requires the obligor to incur a continued or fixed expense for other than subsistence needs, work expenses, or daily living expenses, and which is not otherwise described in this subsection;
 - k. The reduced ability of the obligor to provide support due to the obligor's health needs, to the extent that the costs of meeting those health care needs:
 - (1) Exceed ten percent of the obligor's gross income;
 - (2) Have been incurred and are reasonably certain to continue to be incurred by the obligor;
 - (3) Are not subject to payment or reimbursement from any source except the obligor's income; and
 - (4) Are necessary to prevent or delay the death of the obligor or to avoid a significant loss of income to the obligor; or
 - l. The reduced ability of the obligor to provide support when calculation of the obligation otherwise reflects consideration of atypical overtime wages or nonrecurring bonuses over which the obligor does not have significant influence or control.
4. Assets may not be considered under [subsection 3\(g\) and 3\(h\) of this section](#), to the extent they:
- a. Are exempt under other Tribal law or policy;
 - b. Consist of necessary household goods and furnishings; or
 - c. Include one motor vehicle in which the obligor owns an equity not in excess of twenty thousand dollars.
5. For purposes of [subsection 3\(h\) of this section](#), a transaction is presumed to have been made for the purpose of reducing the obligor's income available for the payment of child support if:

- a. The transaction occurred after the birth of a child entitled to support;
 - b. The transaction occurred no more than twenty-four months before the commencement of the proceeding that initially established the support order; and
 - c. The obligor's income is **less** than it likely would have been if the transaction had not taken place.
6. For purposes of [subsection 3\(j\) of this section](#), a situation over which the obligor has little or no control does not exist if the situation arises out of spousal support payments, discretionary purchases, or illegal activity.
 7. For purposes of [subsection 3\(a\) through 3\(f\)](#) of this section, any adjustment shall be made to the child support amount resulting from application of this Chapter.
 8. For purposes of [subsection 3\(g\) through 3\(l\)](#), any adjustment shall be made to the obligor's net income.
 9. A written finding or a specific finding on the record must be made if the Court determines that the presumption has been rebutted. The finding must:
 - a. State the child support amount determined through application of the guidelines schedule under this Chapter;
 - b. Identify the criteria that rebut the presumption of correctness of that amount; and
 - c. State the child support amount determined after application of the criteria that rebut the presumption.

5-26-17. Parental responsibility for children in foster care or guardianship care

1. Purpose:

It is important that parents maintain a tie to and responsibility for their child when that child is in foster care. Financial responsibility for the support of that child is one component of the maintenance of the relationship of parent and child. Parents of a child subject to a guardianship order under Tribal law remain financially responsible for the support of the child.
2. In order to determine monthly net income, it is first necessary to identify the parent or parents who have financial responsibility for any child entering foster care or guardianship care, and to determine the net income of those financially responsible parents. If the parents of a child in foster care or guardianship care reside together, and neither parent has a duty to support any child who does not either reside with the parents or receive foster care or guardianship care, the income of the parents must be combined and treated as the income of the obligor. In all other cases, each parent is treated as an obligor, and each parent's support obligation must be separately determined.

3. Unless [subsection 4](#) of this section applies to the obligor, the net income and the total number of children are applied to the child support guidelines schedule in this Chapter to determine the child support amount. That child support amount is then divided by the total number of children to determine the child support obligation for each child in foster care or guardianship care. For purposes of this subsection, the **“total number of children”** means:
 - a. If a child entering foster care or guardianship care resides in the obligor’s home, the total number of children residing in the obligor’s home to whom the obligor owes a duty of support, including the child or children entering foster care or guardianship care, plus any other full siblings of the child or children entering foster care or guardianship care to whom the obligor owes a duty of support who are not residing in the obligor’s home; or
 - b. If no child entering foster care or guardianship care resides in the obligor’s home, the child or children entering foster care or guardianship care plus the full siblings of the child or children entering foster care or guardianship care to whom the obligor owes a duty of support.
4. If an obligor owes a duty of support to any child other than the child or children described in [subsection 3\(a\) or 3\(b\)](#) of this section, as applicable to that obligor, the support obligation must be determined through application of [section 5-26-9 of this Chapter](#) such that:
 - a. The total number of children, as described in [subsection 3\(a\) or 3\(b\)](#) of this section, as applicable to that obligor, are treated as one obligee; and
 - b. The amount resulting from the application of [section 5-26-9](#) of this Chapter for the children described in [subsection 3\(a\) or 3\(b\)](#) of this section, as applicable to that obligor, is divided by the total number of such children to determine the child support obligation for each child in foster care or guardianship care.
5. For purposes of [subsection 3](#), a full sibling of the child or children entering foster care or guardianship care is a brother or sister who has both parents in common with the child or children entering foster care or guardianship care.

5-26-18. Forms

The Three Affiliated Division of Child Support Enforcement shall prescribe forms to be used for the calculation of child support obligations pursuant to this Chapter.

5-26-19. Review of the child support guidelines

1. The child support guidelines and schedule under this Chapter shall be reviewed and revised, if appropriate, at least once every four years.

2. The Three Affiliated Tribes Division of Child Support Enforcement is responsible for notifying the Judicial Committee of the Mandan, Hidatsa, and Arikara Tribal Council when a review of the guidelines is necessary.
3. The Judicial Committee shall convene a drafting advisory committee that includes members of the Judicial Committee appointed by the Chairman of the Tribal Council, employees of the Fort Berthold District Court appointed by the Chief Judge, and employees of the Three Affiliated Tribes Division of Child Support Enforcement appointed by the Division Director.
4. The drafting advisory committee shall be responsible for undertaking the guidelines review and revisions, and seeking Tribal Council ratification.

5-26-20. Guidelines Schedule – Determining the child support amount

The amount of child support payable by the obligor is determined by the application of the following schedule to the obligor's monthly net income and the number of children for whom support is being sought in the matter before the Court.

Obligor's Monthly Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six or More Children
100 or less	14	17	20	22	24	26
200	28	34	40	44	48	52
300	42	51	60	66	72	78
400	56	68	80	88	96	104
500	75	90	105	120	130	140
600	102	126	144	162	174	192
700	133	161	189	210	231	252
800	168	200	232	264	288	320
900	207	252	288	324	360	387
1000	250	300	350	390	430	470
1100	266	328	384	428	470	511
1200	282	356	418	465	510	553
1300	298	385	452	503	550	594
1400	314	412	486	540	590	635
1500	330	441	520	578	630	677
1600	346	469	554	616	669	718
1700	362	497	588	653	709	759
1800	378	526	622	691	749	800
1900	394	554	656	728	789	842
2000	411	582	690	766	829	883
2100	427	610	724	804	869	924
2200	443	638	758	841	909	966
2300	459	667	792	879	949	1007
2400	475	695	826	916	989	1048
2500	492	723	860	954	1029	1090
2600	508	751	893	992	1068	1131
2700	524	779	927	1029	1108	1172
2800	540	808	961	1067	1148	1213
2900	556	836	995	1104	1188	1255
3000	572	864	1029	1142	1228	1296

3100	588	892	1063	1180	1268	1337
3200	604	920	1097	1217	1308	1379
3300	620	949	1131	1255	1348	1420
3400	636	977	1165	1292	1388	1461
3500	653	1005	1199	1330	1428	1503
3600	669	1033	1232	1368	1467	1544
3700	685	1061	1266	1405	1507	1585
3800	701	1090	11300	1443	1547	1626
3900	717	1118	1334	1480	1587	1668
4000	733	1146	1368	1518	1627	1709
4100	749	1174	1402	1556	1667	1750
4200	765	1202	1436	1593	1707	1792
4300	781	1231	1470	1631	1747	1833
4400	797	1259	1504	1668	1787	1874
4500	814	1287	1538	1706	1827	1916
4600	830	1315	1571	1744	1866	1957
4700	846	1343	1605	1781	1906	1998
4800	862	1372	1639	1819	1946	2039
4900	878	1400	1673	1856	1986	2081
5000	894	1428	1707	1894	2026	2122
5100	910	1456	1741	1932	2066	2163
5200	926	1484	1775	1969	2106	2205
5300	942	1513	1809	2007	2146	2246
5400	958	1541	1843	2044	2186	2287
5500	975	1569	1877	2082	2226	2329
5600	991	1597	1910	2120	2265	2370
5700	1007	1625	1944	2157	2305	2411
5800	1023	1654	1978	2195	2345	2453
5900	1039	1682	2012	2232	2385	2494
6000	1055	1710	2046	2270	2425	2535
6100	1071	1738	2080	2308	2465	2576
6200	1087	1766	2114	2345	2505	2618
6300	1103	1795	2148	2383	2545	2659
6400	1119	1823	2182	2420	2585	2700
6500	1136	1851	2216	2458	2625	2742
6600	1152	1879	2249	2496	2664	2783
6700	1168	1907	2283	2533	2704	2824
6800	1184	1936	2317	2571	2744	2865
6900	1200	1964	2351	2608	2784	2907
7000	1216	1992	2385	2646	2824	2948
7100	1232	2020	2419	2684	2864	2989
7200	1248	2048	2453	2721	2904	3031
7300	1264	2077	2487	2759	2944	3072
7400	1280	2105	2521	2796	2984	3113
7500	1297	2133	2555	2834	3024	3155
7600	1313	2161	2588	2872	3063	3196
7700	1329	2189	2622	2909	3103	3237
7800	1345	2218	2656	2947	3143	3278
7900	1361	2246	2690	2984	3183	3320
8000	1377	2274	2724	3022	3223	3361
8100	1393	2302	2758	3060	3263	3402
8200	1409	2330	2792	3097	3303	3444
8300	1425	2359	2826	3135	3343	3485
8400	1441	2387	2860	3172	3383	3526
8500	1458	2415	2894	3210	3423	3568
8600	1474	2443	2927	3248	3462	3609

8700	1490	2471	2961	3285	3502	3650
8800	1506	2500	2995	3323	3542	3691
8900	1522	2528	3029	3360	3582	3733
9000	1538	2556	3063	3398	3622	3774
9100	1554	2584	3097	3436	3662	3815
9200	1570	2612	3131	3473	3702	3857
9300	1586	2641	3165	3511	3742	3898
9400	1602	2669	3199	3548	3782	3939
9500	1619	2697	3233	3586	3822	3981
9600	1635	2725	3266	3624	3861	4022
9700	1651	2753	3300	3661	3901	4063
9800	1667	2782	3334	3699	3941	4104
9900	1683	2809	3368	3736	3981	4146
10000	1699	2838	3402	3774	4021	4187
10100	1715	2866	3436	3812	4061	4228
10200	1731	2894	3470	3849	4101	4270
10300	1747	2923	3504	3887	4141	4311
10400	1763	2951	3538	3924	4181	4352
10500	1780	2979	3572	3962	4221	4394
10600	1796	3007	3605	4000	4260	4435
10700	1812	3035	3639	4037	4300	4476
10800	1828	3064	3673	4075	4340	4517
10900	1844	3092	3707	4112	4380	4559
11000	1860	3120	3741	4150	4420	4600
11100	1876	3148	3775	4188	4460	4641
11200	1892	3176	3809	4225	4500	4683
11300	1908	3205	3843	4263	4540	4724
11400	1924	3233	3877	4300	4580	4765
11500	1941	3261	3911	4338	4620	4807
11600	1957	3289	3945	4376	4659	4848
11700	1973	3317	3978	4413	4699	4889
11800	1989	3346	4012	4451	4739	4930
11900	2005	3374	4046	4488	4779	4972
12000	2021	3402	4080	4526	4819	5013
12100	2037	3430	4114	4564	4859	5054
12200	2053	3458	4148	4601	4899	5096
12300	2069	3487	4182	4639	4939	5137
12400	2085	3515	4216	4676	4979	5178
12500 or more	2102	3543	4250	4714	5019	5220