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Section 1. Marriage defined

Marriage is a personal relation arising out of a civil contract to which the consent of parties legally competent of contracting and of entering into it is necessary, and the marriage relation shall only be entered into, maintained or abrogated as provided by law.

Section 2. Consanguinity

Marriages between ancestors and descendants of any degree, of a stepfather with a stepdaughter, stepmother with stepson, between uncles and nieces, aunts and nephews, except in cases where such relationship is only by marriage, between brothers and sisters of the half as well as the whole blood, and first cousins are declared to be incestuous, illegal and void, and are expressly prohibited. Provided, that any marriage of first cousins performed in another tribe or a state authorizing such marriages, which is otherwise legal, is hereby recognized as valid and binding in the Choctaw Nation of Oklahoma as of the date of such

marriage.

Section 3. Who may marry

A. Any unmarried person who is at least eighteen (18) years of age and not otherwise disqualified is capable of contracting and consenting to marriage with a person of the opposite sex.

B. 1. Except as otherwise provided by this subsection, no person under the age of eighteen (18) years shall enter into the marriage relation, nor shall any license issue therefor, except:

a. upon the consent and authority expressly given by the parent or guardian of such underage applicant in the presence of the authority issuing such license,

b. upon the written consent of the parent or guardian of such underage applicant executed and acknowledged in person before a judge of the Choctaw Nation or the court clerk of the district or appeals court within the Choctaw Nation of Oklahoma,

c. if the parent or guardian resides outside of the Choctaw Nation of Oklahoma, upon the written consent of the parent or guardian executed before a judge or clerk of a court of record. The executed foreign consent shall be duly authenticated in the same manner as proof of documents from foreign jurisdictions,

d. if the certificate of a duly licensed medical doctor or osteopath, acknowledged in the manner provided by law for the acknowledgment of deeds, and stating that such parent or guardian is unable by reason of health or incapacity to be present in person, is presented to such licensing authority, upon the written consent of the parent or guardian, acknowledged in the same manner as the accompanying medical certificate,

e. if the parent or guardian is on active duty with the Armed Forces of the United States, upon the written permission of the parent or guardian, acknowledged in the manner provided by law for acknowledgment of deeds by military personnel authorized to administer oaths. Such permission shall be presented to the licensing authority, accompanied by a certificate executed by a commissioned officer in command of the applicant, to the effect that the parent or guardian is on active duty in the Armed Forces of the United States, or

f. upon affidavit of three (3) reputable persons stating that both parents of the minor are deceased, or mentally incompetent, or their whereabouts are unknown to the minor, and that no guardian has theretofore been appointed for the minor. A judge of the Choctaw Nation may in his or her discretion consent to the marriage in the same manner as in all cases in which consent may be given by a parent or guardian.

2. Every person under the age of sixteen (16) years is expressly forbidden and prohibited from entering into the marriage relation except when authorized by the court:

a. in settlement of a suit for seduction or paternity, or

b. if the unmarried female is pregnant, or has given birth to an illegitimate child and at least one parent of each minor, or the guardian or custodian of such child, is present before the court and has an opportunity to present evidence in the event such parent, guardian, or custodian objects to the issuance of a marriage license. If they are not present the parent, guardian, or custodian may be given notice of the hearing at the discretion of the court.

3. A parent or a guardian of any child under the age of eighteen (18) years who is in the custody of the Department of Children and Family Services shall not be eligible to consent to the marriage of such minor child as required by the provisions of this subsection.

4. Any certificate or written permission required by this subsection shall be retained by the official issuing the marriage license.

C. No marriage may be authorized when such marriage would be incestuous under this chapter.

Section 3.1. Recognition of marriage between persons of same gender prohibited

A marriage between persons of the same gender performed in another tribe, a state, or in any other forum shall not be recognized as valid and binding in the Choctaw Nation of Oklahoma.

Section 4. License required

No person shall enter into or contract the marriage relation, nor shall any person perform or solemnize the ceremony of any marriage in the Choctaw Nation without a license being first issued by the clerk of the district court of the Choctaw Nation authorizing the marriage between the persons named in such license.

Section 5. Application--Fees--Issuance of license and certificate

A. Persons desiring to be married in the Choctaw Nation of Oklahoma shall submit an application in writing signed and sworn to in person before the clerk of the district court by both of the parties setting forth:

1. The place of residence of each party;

2. The full legal name and the age of each party as they appear upon or are calculable from a certified copy of the birth certificate, the current driver license or identification card, the current passport or visa, or any other certificate, license or document issued by or existing

pursuant to the laws of any Indian tribe, any nation or of any state, or political subdivision thereof, accepted as proof of identity and age; and

3. For each party, the full name by which the party will be known after the marriage, which shall become the full legal name of the party upon the filing of the marriage license and certificate with the court, as required by law.

B. Upon application pursuant to this section and the payment of fees as required, if the clerk of the district court is satisfied of the truth and sufficiency of the application and that there is no legal impediment to such marriage, the court clerk shall issue the marriage license authorizing the marriage and a marriage certificate, which shall be incorporated as one document. As required by law, the marriage certificate shall be completed immediately following the marriage, and the marriage license and certificate shall be returned to the court clerk.

C. In the event that one or both of the parties are under legal age, the application shall have been on file in the court clerk's office for a period of not less than seventy-two (72) hours prior to issuance of the marriage license.

D. The marriage license shall be valid in any county or part of any county as the case may be of the State of Oklahoma that is within the Choctaw Nation of Oklahoma.

Section 6. License--Contents

A. The marriage license provided for in this title shall contain:

1. The date of its issuance;

2. The name of the court issuing the license, and the name of the city or town and county in which the court is located;

3. The full legal names of the persons authorized to be married by the license, the full legal names by which the persons will be known after the marriage, their ages, and their places of residence;

4. Directions to any person authorized by law to perform and solemnize the marriage ceremony;

5. The date by which the completed marriage certificate, along with the marriage license, shall be returned to the judge or court, which shall not be more than thirty (30) days from the date of its issuance; and

6. Any other information, declarations, seals and signatures, as required by law.

B. The marriage certificate provided for in this title shall contain appropriate wording

and blanks to be completed and endorsed, as required by Section 8 of this title, by the person solemnizing or performing the marriage ceremony, the witnesses, and the persons who have been married.

Section 7. Solemnization of marriages

A. All marriages must be contracted by a formal ceremony performed or solemnized in the presence of at least two adult, competent persons as witnesses, by a judge or retired judge of any court of the Choctaw Nation of Oklahoma, or an ordained or authorized preacher or minister of the Gospel, priest or other ecclesiastical dignitary of any denomination who has been duly ordained or authorized by the church to which he or she belongs to preach the Gospel, or a rabbi and who is at least eighteen (18) years of age.

B. 1. The preacher, minister, priest, rabbi, or ecclesiastical dignitary shall have filed in the office of the court clerk of the Choctaw Nation or of the State of Oklahoma a copy of the credentials or authority from his or her church or synagogue authorizing him or her to solemnize marriages.

2. The filing by preachers, ministers, priests, rabbis, or ecclesiastical dignitaries shall be effective in and for all counties, or parts of counties as the case may be, of the State of Oklahoma that are located within the Choctaw Nation of Oklahoma; provided, no fee shall be charged for such recording.

C. No person herein authorized to perform or solemnize a marriage ceremony shall do so unless the license issued therefor be first delivered into his or her possession nor unless he or she has good reason to believe the persons presenting themselves before him or her for marriage are the identical persons named in the license, and for whose marriage the same was issued, and that there is no legal objection or impediment to such marriage.

D. Marriages between persons belonging to the society called Friends, or Quakers, the spiritual assembly of the Baha'is, or the Church of Jesus Christ of Latter Day Saints, which have no ordained minister, may be solemnized by the persons and in the manner prescribed by and practiced in any such society, church, or assembly.

Section 8. Endorsement and return of license

A. The person performing or solemnizing the marriage ceremony shall, immediately upon the completion of the ceremony, endorse upon the license authorizing the marriage:

1. His or her name and official or clerical designation;

2. The court of which he or she is the judge or retired judge, or the congregation or body of which he or she is pastor, preacher, minister, priest, rabbi or dignitary; provided, that the authority to perform or solemnize marriages shall be coextensive with the congregation

or body of which he or she is pastor, preacher, minister, priest, rabbi or dignitary; provided further, that all marriages solemnized among the society called Friends or Quakers, the spiritual assembly of the Baha'is, or the Church of Jesus Christ of Latter-day Saints, in the form heretofore practiced and in use in their meetings shall be good and valid. One person chosen by such society, assembly, or church shall be responsible for completing the marriage certificate pursuant to this section in the same manner as a minister or other person authorized to perform marriages;

3. The town or city and county where the court, congregation, body, society, assembly, or church is located; and

4. His or her signature along with his or her official or clerical designation.

B. The witnesses to the ceremony shall endorse the marriage certificate, attesting to their presence at the ceremony, with their names and addresses.

C. The persons who have been married in the ceremony shall endorse the marriage certificate with the names by which they are to be known from the time of the marriage, as evidenced on the marriage license.

D. The marriage license, along with the completed marriage certificate shall be transmitted without delay to the clerk of the district court.

Section 9. Records--Return of original

The clerk of the district court shall make a complete record of the application, license, and certificate thereon, on an optical disc, microfilm, microfiche, imaging, or in a book kept by the clerk for that purpose, properly indexed; and the record of the license shall be made before it is delivered to the person procuring the same, and the record of the certificate shall be made upon the return of the license; provided, that all records pertaining to the issuance of such license shall be open to public inspection during office hours; provided further, that after recording of the original license and completed certificate as hereinbefore required, it shall be returned to the persons to whom the same was issued, with the issuing officer's certificate on the back thereof showing the book and page where the same has been recorded.

Section 10. Evidence before issue of license

If the clerk of the district court shall be in doubt of the legal capacity of the parties for whose marriage a license is sought, to enter into the marriage relation, such clerk shall require additional evidence to that contained in the application, and shall cause said evidence to be presented to any judge of the Choctaw Nation of Oklahoma who may swear and examine witnesses or require affidavits in proof of the legality of such marriage, and unless satisfied of the legality thereof, he or she shall not issue a license therefor.

Section 11. Copy of record--Admission as evidence

Copies of any record required to be made and kept under the provisions of this act shall be received as evidence in all courts of the Choctaw Nation of Oklahoma.

Section 12. Penalty for performing unlawful marriage

Any minister of the Gospel, or other person authorized to solemnize the rites of matrimony within the Choctaw Nation of Oklahoma, who shall knowingly solemnize the rites of matrimony between persons prohibited by law from intermarrying shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding Five Hundred Dollars ($500.00) and by imprisonment for not more than six (6) months and shall never be authorized to solemnize the rites of matrimony within the Choctaw Nation of Oklahoma from and after such conviction.

Section 13. Miscellaneous offenses--Penalties

Any judge of the Choctaw Nation, or clerk of the district court, knowingly issuing any marriage license, or concealing any record thereof, contrary to the provisions of this act, or any person knowingly performing or solemnizing the marriage ceremony contrary to any of the provisions of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment for not less than thirty (30) days nor more than one (1) year or by both such fine and imprisonment.

Section 14. Soliciting in or near courthouse or grounds prohibited

It shall be unlawful for any person to solicit directly or indirectly within any courthouse, premises or grounds or lots on which a courthouse may be located for himself or for and on behalf of any minister of the Gospel or other person, the performance of a marriage ceremony.

Section 15. Punishment for violations

Any person violating this act shall be guilty of a misdemeanor and shall be punished by a fine of up to Five Hundred Dollars ($500.00) for the first conviction, and for any second or subsequent conviction by a fine of not less than Two Hundred Fifty Dollars ($250.00) nor more than Five Hundred Dollars ($500.00).

Section 16. Injunction against violations

In addition to the penalty provided in Section 17 hereof for a violation of this act, a cause of action shall exist in favor of any member of the Choctaw Nation of Oklahoma, or in favor of the Choctaw Nation of Oklahoma on the relation of the Chief to apply to the district court for an injunction restraining the violation of this act.

Section 17. Unlawful sales of papers or instruments relating to marriage licenses--Penalty

It shall be unlawful for the court clerk, any deputy or employee thereof, or of any other person to sell, offer for sale, or permit the sale of any paper or instrument relating, directly or indirectly, to marriage licenses issued from the office of said court clerk except the license herein. Provided, any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment for not less than five (5) days nor more than thirty (30) days, or by both such fine and imprisonment.

Section 18. Computation of time

The time within which an act is to be done, as provided for in this act, shall be computed by excluding the first day and including the last day. If the last day is a legal holiday or a day on which the office of the court clerk is closed, it shall be excluded.

Section 19. Issuance of license--Delivery to person officiating--Return to licensing authority

Marriage licenses shall be issued to all applicants who are entitled under the laws of the Choctaw Nation of Oklahoma to apply for a marriage license and to contract matrimony. Any person obtaining a marriage license from the court clerk shall deliver the license, within ten (10) days from the date of issue, to the clergy or other qualified person who is to officiate before the marriage can be performed. The license issued shall be returned or caused to be returned by the clergy or other qualified person who officiated the marriage to the licensing authority who issued the same within five (5) days succeeding the date of the performance of the marriage therein authorized. Any person or persons who shall willfully neglect to make such return within the time above required shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than One Hundred Dollars ($100.00) for each and every offense.

Divorce and Alimony

Section 100. Dissolution of Marriage Act

This act may be cited as the Choctaw Nation Dissolution of Marriage Act.

Section 101. Grounds for dissolution of marriage

The district court may grant a dissolution of marriage for any of the following causes:

1. Abandonment for one (1) year.

2. Adultery.

3. Impotency.

4. When the wife at the time of her marriage, was pregnant by another than her husband.

5. Extreme cruelty.

6. Fraudulent contract.

7. Incompatibility.

8. Habitual drunkenness.

9. Gross neglect of duty.

10. Imprisonment of the other party in a state or federal penal institution under sentence thereto for the commission of a felony at the time the petition is filed.

11. The procurement of a final dissolution of marriage decree without the Choctaw Nation of Oklahoma by a husband or wife which does not in the Choctaw Nation of Oklahoma release the other party from the obligations of the marriage.

12. Insanity for a period of five (5) years, the insane person having been a resident of a hospital, sanitarium, facility or institution for the insane and affected with a type of insanity with a poor prognosis for recovery; provided, that no dissolution of marriage shall be granted because of insanity until after a thorough examination of such insane person by three physicians, one of which physicians shall be a superintendent of the hospital, sanitarium, facility or institution in which the insane defendant is confined, and the other two physicians to be appointed by the court before whom the action is pending, any two of such physicians shall agree that such insane person, at the time the petition in the dissolution of marriage action is filed, has a poor prognosis for recovery; provided, further, however, that no dissolution of marriage shall be granted on this ground to any person whose husband or wife is a resident of a hospital, sanitarium, facility or institution unless the person applying for

such dissolution of marriage shall have been an actual resident of the Choctaw Nation of Oklahoma for at least five (5) years prior to the commencement of an action; and provided further, that a decree granted on this ground shall not relieve the successful party from contributing to the support and maintenance of the defendant. The court shall appoint a guardian ad litem to represent the insane defendant, which appointment shall be made at least ten (10) days before any decree is entered.

Section 102. General Jurisdiction

A. The courts of the Choctaw Nation shall have jurisdiction over all issues within this title wherein a Choctaw Indian is the defendant regardless of the domicile of such person.

B. The courts of the Choctaw Nation shall have jurisdiction over all issues within this title where the defendant is an Indian and has resided within the territorial jurisdiction of the Choctaw Nation of Oklahoma, as set forth in the Constitution of the Choctaw Nation, for ninety (90) days immediately preceding the filing of the action.

C. The courts of the Choctaw Nation shall have jurisdiction over all issues within this title wherein non-Indian defendants consent in writing to the jurisdiction of the Court.

D. Jurisdiction is determined to have vested at the time of filing an action provided that:

1. A written consent that is required by a defendant relates back to the date of filing if the consent is given after filing. Nothing shall prevent a consent being given in advance of filing.

2. Service of process must be accomplished within six (6) months of filing and must meet the due process standards of the United States federal government or the case is deemed dismissed for lack of service.

Section 103. Continuing Jurisdiction

A. Once the courts of the Choctaw Nation have exercised jurisdiction under this title, the courts may retain jurisdiction over all issued so long as outstanding issues remain between the parties.

B. Once consent is given by any party to the courts of the Choctaw Nation for purposes of exercising jurisdiction under this title, the consent may not be withdrawn. A person requesting affirmative relief in writing is deemed to have consented to the jurisdiction of the court of the Choctaw Nation whether said party be the petitioner or the respondent.

C. Residency is only an issue for jurisdiction at the initiation of a case. Once jurisdiction attaches, jurisdiction remains.

D. A Choctaw Indian may not avoid jurisdiction after the same attaches by subsequent action of renouncing tribal affiliation or membership.

Section 104. Exercise of Jurisdiction

At any time a judge of the Choctaw Nation of Oklahoma determines that the exercise of jurisdiction under this title is not in the best interests of the Choctaw Nation, the judge may decline to exercise jurisdiction if one or more of the following findings is specifically made:

A. The orders sought by the petitioner or respondent will be impossible for the court to enforce;

B. Another jurisdiction is available and provides a more convenient forum for the parties;

C. Another jurisdiction is attempting to exercise authority over the issues addressed and comity should be extended to allow such court to act; or

D. The court is without the financial means to adequately address the case.

Section 105. Petition and summons

A. A proceeding for dissolution of marriage, an annulment of a marriage, or a legal separation shall be titled "In re the Marriage of __________ and __________".

B. The initial pleading in all proceedings under this title shall be denominated a petition. The person filing the petition shall be called the petitioner. A responsive pleading shall be denominated a response. The person filing the responsive pleading shall be called the respondent. Other pleadings shall be denominated as provided in the Rules of Civil Procedure, except as otherwise provided in this section.

C. The petition must be verified as true, by the affidavit of the petitioner.

D. A summons may issue thereon, and shall be served, or publication made, as in other civil cases.

E. Wherever it occurs in this title or in any other title of the Choctaw Nation Statutes or in any forms or court documents prepared pursuant to the provisions of the Choctaw Nation Statutes, the term "divorce" shall mean and be deemed to refer to a "dissolution of marriage" unless the context or subject matter otherwise requires.

Section 106. Response

A. The respondent, in his or her response, may allege a cause for a dissolution of marriage, annulment of the marriage or legal separation against the petitioner, and may have the same relief thereupon as he or she would be entitled to for a like cause if he or she were the petitioner.

B. When a new matter is set forth in the answer, it shall be verified as to such new matter by the affidavit of the respondent.

Section 107. Actions where minor child involved--Delayed final order--Waiver--Completion of educational program--Exceptions

A. 1. In an action for dissolution of marriage where minor children are involved, the court shall not issue a final order thereon for at least ninety (90) days from the date of filing the petition unless the ninety (90) days is waived by the court for good cause shown and without objection by either party.

2. The court may require that within the ninety (90) day period specified by this section, the parties attend and complete an educational program as specified by this title.

B. This section shall not apply to dissolution of marriages filed for any of the following causes:

1. Abandonment for one (1) year;

2. Extreme cruelty;

3. Habitual drunkenness;

4. Imprisonment of the other party in a penal institution under sentence thereto for the commission of a felony at the time the petition is filed;

5. The procurement of a final dissolution of marriage decree outside the Choctaw Nation of Oklahoma by a husband or wife which does not in the Choctaw Nation of Oklahoma release the other party from the obligations of the marriage;

6. Insanity for a period of five (5) years, the insane person having been an inmate of an institution for the insane, or an inmate of a private sanitarium, and affected with a type of insanity with a poor prognosis for recovery;

7. Conviction of any crime involving child physical and/or sexual abuse that is committed upon a child of either party to the dissolution of marriage by either party to the dissolution of marriage; or

8. A child of either party has been adjudicated deprived by any court of competent jurisdiction as a result of the actions of either party to the dissolution of marriage and the party has not successfully completed the service and treatment plan required by the court.

C. After a petition has been filed in an action for dissolution of marriage where minor children are involved, the court may make any such temporary order concerning property, children, support and expenses of the suit as provided for in this title, to be enforced during the pendency of the action, as may be right and proper.

D. The court may issue a final order in an action for dissolution of marriage where minor children are involved before the ninety (90) day time period set forth in subsection A of this section has expired, if the parties voluntarily participate in marital or family counseling and the court finds reconciliation is unlikely.

Section 107.1. Actions where minor child involved--Court ordered educational program

In all actions for dissolution of marriage, separate maintenance, guardianship, paternity, custody or visitation, including modifications or enforcements of a prior court order, where the interest of a child under eighteen (18) years of age is involved, the court may require all adult parties to attend an educational program concerning, as appropriate, the impact of separate parenting and co-parenting on children, the implications for visitation and conflict management, development of children, separate financial responsibility for children and such other instruction as deemed necessary by the court. The program shall be educational in nature and not designed for individual therapy.

Section 107.2. Appointment of guardian ad litem--Referral to mediation or counseling--Definitions--False accusations of child abuse or neglect

A. 1. In any proceeding when the custody or visitation of a minor child or children is contested by any party, the court may appoint an attorney at law as guardian ad litem upon motion of the court or upon application of any party to appear for and represent the minor children.

2. The guardian ad litem may be appointed to objectively advocate on behalf of the child and act as an officer of the court to investigate all matters concerning the best interests of the child. In addition to other duties required by the court and as specified by the court, a guardian ad litem shall have the following responsibilities:

a. review documents, reports, records and other information relevant to the case, meet with and observe the child in appropriate settings, and interview parents, caregivers and health care providers and any other person with knowledge relevant to the case including, but not limited to, teachers, counselors and child care providers,

b. advocate for the best interests of the child by participating in the case, attending

any hearings in the matter and advocating for appropriate services for the child when necessary,

c. monitor the best interests of the child throughout any judicial proceeding,

d. present written reports to the parties and court prior to trial or at any other time as specified by the court on the best interests of the child that include conclusions and recommendations and the facts upon which they are based, and

e. the guardian ad litem shall, as much as possible, maintain confidentiality of information related to the case and is not subject to discovery pursuant to the Choctaw Nation Discovery Code.

3. Expenses, costs, and attorney fees for the guardian ad litem may be allocated among the parties as determined by the court.

B. When property, separate maintenance, or custody is at issue, the court:

1. May refer the issue or issues to mediation if feasible unless a party asserts or it appears to the court that domestic violence or child abuse has occurred, in which event the court shall halt or suspend professional mediation unless the court specifically finds that:

a. the following three conditions are satisfied:

(1) the professional mediator has substantial training concerning the effects of domestic violence or child abuse on victims,

(2) a party who is or alleges to be the victim of domestic violence is capable of negotiating with the other party in mediation, either alone or with assistance, without suffering an imbalance of power as a result of the alleged domestic violence, and

(3) the mediation process contains appropriate provisions and conditions to protect against an imbalance of power between parties resulting from the alleged domestic violence or child abuse, or

b. in the case of domestic violence involving parents, the parent who is or alleges to be the victim requests mediation and the mediator is informed of the alleged domestic violence; and

2. When custody is at issue, the court may order, in addition to or in lieu of the provisions of paragraph 1 of this subsection, that each of the parties undergo individual counseling in a manner that the court deems appropriate, if the court finds that the parties can afford the counseling.

C. As used in this section:

1. “Child abuse” or “neglect” shall have the same meaning as such terms are defined by the Choctaw Nation Children’s Code or shall mean the child has been adjudicated deprived as a result of the actions or omission of either parent pursuant to the Choctaw Nation Children’s Code; and

2. “Domestic violence” shall mean the threat of the infliction of physical injury, any act of physical harm or the creation of a reasonable fear thereof, or the intentional infliction of emotional distress by a parent or a present or former member of the household of the child, against the child or another member of the household, including coercive control by a parent involving physical, sexual, psychological, emotional, economic or financial abuse.

D. During any proceeding concerning child custody, should it be determined by the court that a party has intentionally made a false or frivolous accusation to the court of child abuse or neglect against the other party, the court shall proceed with any or all of the following:

1. Find the accusing party in contempt for perjury and refer for prosecution;

2. Consider the false allegations in determining custody; and

3. Award the obligation to pay all court costs and legal expenses encumbered by both parties arising from the allegations to the accusing party.

Section 107.3. Motion for an emergency custody hearing

A. In a court proceeding concerning child custody or visitation, a motion for an emergency custody hearing shall include an independent report, if available, to include but not be limited to, a police report or a report from the Department of Children and Family Services, that demonstrates that the child is in surroundings which endanger the safety of the child and that if such conditions continue, the child would likely be subject to irreparable harm. If there is no such report, the motion shall include a notarized affidavit from an individual with personal knowledge that the child is in surroundings which endanger the safety of the child and that not granting the motion would likely cause irreparable harm to the child. Upon receipt of the motion for emergency custody with supporting documentation, the court shall have seventy-two (72) hours to conduct a hearing, or shall hold the hearing as soon thereafter as is practical.

B. If the court finds that any relevant information provided to the court upon which the court relied to make its emergency custody decision to be false, the court shall assess against the movant all costs, attorney fees, and other expenses incurred as a result of such emergency custody hearing. The movant shall pay all such costs, fees and expenses within thirty (30) days. Failure to make such payment shall be grounds for contempt, punishable by six (6) months in jail, a fine not to exceed One Thousand Dollars ($1,000.00), or both such imprisonment and fine.

Section 108. Parties in equal wrong--Custody of children--Disposition of property

If it appears to the court upon hearing that the parties appear to be in equal wrong such reason shall not be a basis for refusing to grant a dissolution of marriage, but if a dissolution of marriage is granted in such circumstances, it shall be granted to both parties. In any such case or where the court grants alimony without a dissolution of marriage or in any case where a dissolution of marriage is refused, the court may for good cause shown make such order as may be proper for the custody, maintenance and education of the children, and for the control and equitable division and disposition of the property of the parties, or of either of them, as may be proper, equitable and just, having due regard to the time and manner of acquiring such property, whether the title thereto be in either or both of said parties.

Section 109. Awarding custody or appointing guardian--Joint custody--Domestic violence, stalking, or harassment--Court considerations

A. In awarding the custody of a minor unmarried child or in appointing a general guardian for said child, the court shall consider what appears to be in the best interests of the physical, mental and moral welfare of the child.

B. The court, pursuant to the provisions of subsection A of this section, may grant the care, custody, and control of a child to either parent or to the parents jointly.

For the purposes of this section, the terms joint custody and joint care, custody, and control mean the sharing by parents in all or some of the aspects of physical and legal care, custody, and control of their children.

C. If either or both parents have requested joint custody, said parents shall file with the court their plans for the exercise of joint care, custody, and control of their child. The parents of the child may submit a plan jointly, or either parent or both parents may submit separate plans. Any plan shall include but is not limited to provisions detailing the physical living arrangements for the child, child support obligations, medical and dental care for the child, school placement, and visitation rights. A plan shall be accompanied by an affidavit signed by each parent stating that said parent agrees to the plan and will abide by its terms. The plan and affidavit shall be filed with the petition for a dissolution of marriage or legal separation or after said petition is filed.

D. The court shall issue a final plan for the exercise of joint care, custody, and control of the child or children, based upon the plan submitted by the parents, separately or jointly, with appropriate changes deemed by the court to be in the best interests of the child. The court also may reject a request for joint custody and proceed as if the request for joint custody had not been made.

E. The parents having joint custody of the child may modify the terms of the plan for joint care, custody, and control. The modification to the plan shall be filed with the court and

included with the plan. If the court determines the modifications are in the best interests of the child, the court shall approve the modifications.

F. The court also may modify the terms of the plan for joint care, custody, and control upon the request of one parent. The court shall not modify the plan unless the modifications are in the best interests of the child.

G. 1. The court may terminate a joint custody decree upon the request of one or both of the parents or whenever the court determines said decree is not in the best interests of the child.

2. Upon termination of a joint custody decree, the court shall proceed and issue a modified decree for the care, custody, and control of the child as if no such joint custody decree had been made.

H. In the event of a dispute between the parents having joint custody of a child as to the interpretation of a provision of said plan, the court may appoint an arbitrator to resolve said dispute. The arbitrator shall be a disinterested person knowledgeable in domestic relations law and family counseling. The determination of the arbitrator shall be final and binding on the parties to the proceedings until further order of the court.

If a parent refuses to consent to arbitration, the court may terminate the joint custody decree.

I. 1. In every proceeding in which there is a dispute as to the custody of a minor child, a determination by the court that domestic violence, stalking, or harassment has occurred raises a rebuttable presumption that sole custody, joint legal or physical custody, or any shared parenting plan with the perpetrator of domestic violence, harassing or stalking behavior is detrimental and not in the best interest of the child, and it is in the best interest of the child to reside with the parent who is not a perpetrator of domestic violence, harassing or stalking behavior.

2. For the purposes of this subsection:

a. “domestic violence” means the threat of the infliction of physical injury, any act of physical harm or the creation of a reasonable fear thereof, or the intentional infliction of emotional distress by a parent or a present or former member of the household of the child, against the child or another member of the household, including coercive control by a parent involving physical, sexual, psychological, emotional, economic or financial abuse,

b. “stalking” means the willful course of conduct by a parent who repeatedly follows or harasses another person, and

c. “harassment” means a knowing and willful course or pattern of conduct by a parent directed at another parent which seriously alarms or is a nuisance to the person, and which serves no legitimate purpose including, but not limited to, harassing or obscene telephone

calls or conduct that would cause a reasonable person to have a fear of death or bodily injury.

3. If a parent is absent or relocates as a result of an act of domestic violence by the other parent, the absence or relocation shall not be a factor that weighs against the parent in determining custody or visitation.

4. The court shall consider, as a primary factor, the safety and well-being of the child and of the parent who is the victim of domestic violence or stalking behavior, in addition to other facts regarding the best interest of the child.

5. The court shall consider the history of the parent causing physical harm, bodily injury, assault, verbal threats, stalking, or harassing behavior, or the fear of physical harm, bodily injury, or assault to another person, including the minor child, in determining issues regarding custody and visitation.

Section 109.1. Custody during parents' separation

If the parents of a minor unmarried child are separated without being divorced, the judge of the district court, upon application of either parent, may issue any civil process necessary to inquire into the custody of said minor unmarried child. The court may award the custody of said child to either party or both, in accordance with the best interests of the child, for such time and pursuant to such regulations as the case may require. The decision of the judge shall be guided by the rules prescribed in this act.

Section 109.2. Paternity determination

Except as otherwise provided by law, in any action concerning the custody of a minor unmarried child or the determination of child support, the court may determine if the parties to the action are the parents of the children. If the parties to the action are the parents of the children, the court may determine which party should have custody of said children, may award child support to the parent to whom it awards custody, and may make an appropriate order for payment of costs and attorney's fees.

Section 109.3. Custody, guardianship or visitation cases--Evidence of domestic abuse

In every case involving the custody of, guardianship of or visitation with a child, the court shall consider evidence of domestic abuse, stalking and/or harassing behavior properly brought before it. If the occurrence of domestic abuse, stalking or harassing behavior is established by a preponderance of the evidence, there shall be a rebuttable presumption that it is not in the best interest of the child to have custody, guardianship, or unsupervised visitation granted to the person against whom domestic abuse, stalking or harassing behavior has been established.

Section 109.4. Grandparental visitation rights

A. 1. Pursuant to the provisions of this section, any grandparent of an unmarried minor child may seek and be granted reasonable visitation rights to the child which visitation rights may be independent of either parent of the child if:

a. the district court deems it to be in the best interest of the child pursuant to subsection E of this section, and

b. there is a showing of parental unfitness, or the grandparent has rebutted, by clear and convincing evidence, the presumption that the fit parent is acting in the best interests of the child by showing that the child would suffer harm or potential harm without the granting of visitation rights to the grandparent of the child, and

c. the intact nuclear family has been disrupted in that one or more of the following conditions has occurred:

(1) an action for dissolution of marriage, separate maintenance or annulment involving the grandchild's parents is pending before the court, and the grandparent had a preexisting relationship with the child that predates the filing of the action for dissolution of marriage, separate maintenance or annulment,

(2) the grandchild's parents are divorced, separated under a judgment of separate maintenance, or have had their marriage annulled,

(3) the grandchild's parent who is a child of the grandparent is deceased, and the grandparent had a preexisting relationship with the child that predates the death of the deceased parent unless the death of the mother was due to complications related to the birth of the child,

(4) except as otherwise provided in subsection C or D of this section, legal custody of the grandchild has been given to a person other than the grandchild's parent, or the grandchild does not reside in the home of a parent of the child,

(5) one of the grandchild's parents has had a felony conviction and been incarcerated in the Department of Corrections and the grandparent had a preexisting relationship with the child that predates the incarceration,

(6) grandparent had custody of the grandchild, whether or not the grandparent had custody under a court order, and there exists a strong, continuous grandparental relationship between the grandparent and the child,

(7) the grandchild's parent has deserted the other parent for more than one (1) year and there exists a strong, continuous grandparental relationship between the grandparent and the child,

(8) except as otherwise provided in subsection D of this section, the grandchild's parents have never been married, are not residing in the same household and there exists a strong, continuous grandparental relationship between the grandparent and the child, or

(9) except as otherwise provided by subsection D of this section, the parental rights of one or both parents of the child have been terminated, and the court determines that there is a strong, continuous relationship between the child and the parent of the person whose parental rights have been terminated.

2. The right of visitation to any grandparent of an unmarried minor child shall be granted only so far as that right is authorized and provided by order of the district court.

B. Under no circumstances shall any judge grant the right of visitation to any grandparent if the child is a member of an intact nuclear family and both parents of the child object to the granting of visitation.

C. If one natural parent is deceased and the surviving natural parent remarries, any subsequent adoption proceedings shall not terminate any preexisting court-granted grandparental rights belonging to the parents of the deceased natural parent unless the termination of visitation rights is ordered by the court having jurisdiction over the adoption after opportunity to be heard, and the court determines it to be in the best interest of the child.

D. 1. If the child has been born out of wedlock and the parental rights of the father of the child have been terminated, the parents of the father of the child shall not have a right of visitation authorized by this section to the child unless:

a. the father of the child has been judicially determined to be the father of the child, and

b. the court determines that a previous grandparental relationship existed between the grandparent and the child.

2. If the child is born out of wedlock and the parental rights of the mother of the child have been terminated, the parents of the mother of the child shall not have a right of visitation authorized by this section to the child unless the court determines that a previous grandparental relationship existed between the grandparent and the child.

3. Except as otherwise provided by this section, the district court shall not grant to any grandparent of an unmarried minor child, visitation rights to that child:

a. subsequent to the final order of adoption of the child; provided however, any subsequent adoption proceedings shall not terminate any prior court-granted grandparental visitation rights unless the termination of visitation rights is ordered by the court after opportunity to be heard and the district court determines it to be in the best interest of the child, or

b. if the child had been placed for adoption prior to attaining six (6) months of age.

E. 1. In determining the best interest of the minor child, the court shall consider and, if requested, shall make specific findings of fact related to the following factors:

a. the needs of and importance to the child for a continuing preexisting relationship with the grandparent and the age and reasonable preference of the child pursuant to Section 113 of this title,

b. the willingness of the grandparent or grandparents to encourage a close relationship between the child and the parent or parents,

c. the length, quality and intimacy of the preexisting relationship between the child and the grandparent,

d. the love, affection and emotional ties existing between the parent and child,

e. the motivation and efforts of the grandparent to continue the preexisting relationship with the grandchild,

f. the motivation of parent or parents denying visitation,

g. the mental and physical health of the grandparent or grandparents,

h. the mental and physical health of the child,

i. the mental and physical health of the parent or parents,

j. whether the child is in a permanent, stable, satisfactory family unit and environment,

k. the moral fitness of the parties,

l. the character and behavior of any other person who resides in or frequents the homes of the parties and such person’s interactions with the child,

m. the quantity of visitation time requested and the potential adverse impact the visitation will have on the customary activities of the child, and

n. if both parents are dead, the benefit in maintaining the preexisting relationship.

2. For purposes of this subsection:

a. “harm or potential harm” means a showing that without court-ordered visitation by the grandparent, the child’s emotional, mental or physical well-being could reasonably or would be jeopardized,

b. “intact nuclear family” means a family consisting of the married father and mother of the child,

c. “parental unfitness” includes, but is not limited to, a showing that a parent of the child or a person residing with the parent:

(1) has a chemical or alcohol dependency, for which treatment has not been sought or for which treatment has been unsuccessful,

(2) has a history of violent behavior or domestic abuse,

(3) has an emotional or mental illness that demonstrably impairs judgment or capacity to recognize reality or to control behavior,

(4) has been shown to have failed to provide the child with proper care, guidance and support to the actual detriment of the child. The provisions of this division include, but are not limited to, parental indifference and parental influence on his or her child or lack thereof that exposes such child to unreasonable risk, or

(5) demonstrates conduct or condition which renders him or her unable or unwilling to give a child reasonable parental care. Reasonable parental care requires, at a minimum, that the parent provides nurturing and protection adequate to meet the child’s physical, emotional and mental health.

The determination of parental unfitness pursuant to this subparagraph shall not be that which is equivalent for the termination of parental rights, and

d. “preexisting relationship” means occurring or existing prior to the filing of the petition for grandparental visitation.

F. 1. The district court is vested with jurisdiction to issue orders granting grandparental visitation rights and to enforce visitation rights, upon the filing of a verified petition for visitation rights or enforcement thereof. Notice as ordered by the court shall be given to the person or parent having custody of the child.

2. When a grandparent of a child has been granted visitation rights pursuant to this section and those rights are unreasonably denied or otherwise unreasonably interfered with by any parent of the child, the grandparent may file with the court a motion for enforcement of visitation rights. Upon filing of the motion, the court shall set an initial hearing on the motion. At the initial hearing, the court shall direct mediation and set a hearing on the merits of the motion.

3. After completion of any mediation pursuant to paragraph 2 of this subsection, the mediator shall submit the record of mediation termination and a summary of the parties’ agreement, if any, to the court. Upon receipt of the record of mediation termination, the court

shall enter an order in accordance with the parties' agreement, if any.

4. Notice of a hearing pursuant to paragraph 2 or 3 of this subsection shall be given to the parties at their last-known address or as otherwise ordered by the court, at least ten (10) days prior to the date set by the court for hearing on the motion. Provided, the court may direct a shorter notice period if the court deems such shorter notice period to be appropriate under the circumstances.

5. Appearance at any court hearing pursuant to this subsection shall be a waiver of the notice requirements prior to such hearing.

6. If the court finds that visitation rights of the grandparent have been unreasonably denied or otherwise unreasonably interfered with by the parent, the court shall enter an order providing for one or more of the following:

a. a specific visitation schedule,

b. compensating visitation time for the visitation denied or otherwise interfered with, which time may be of the same type as the visitation denied or otherwise interfered with, including but not limited to holiday, weekday, weekend, summer, and may be at the convenience of the grandparent,

c. posting of a bond, either cash or with sufficient sureties, conditioned upon compliance with the order granting visitation rights, or

d. assessment of reasonable attorney fees, mediation costs, and court costs to enforce visitation rights against the parent.

7. If the court finds that the motion for enforcement of visitation rights has been unreasonably filed or pursued by the grandparent, the court may assess reasonable attorney fees, mediation costs, and court costs against the grandparent.

G. In addition to any other remedy authorized by this section or otherwise provided by law, any party violating an order of the court made pursuant to this section, upon conviction thereof, shall be guilty of contempt of court.

H. Any transportation costs or other costs arising from any visitation ordered pursuant to this section shall be paid by the grandparent or grandparents requesting such visitation.

I. In any action for grandparental visitation pursuant to this section, the court may award attorney fees and costs, as the court deems equitable.

J. For the purposes of this section, the term "grandparent" shall include "great-grandparent".

Section 109.5. Voluntary relinquishment of physical custody--Presumption

When an order has been entered which provides for payment of child support and the legal custodian places physical custody of the child with any person, subject to the provisions of the Choctaw Nation Children's Code or this title, without obtaining a modification of the order to change legal custody, the placement of the physical custody, by operation of law, shall create a presumption that such person with whom the child was placed has legal physical custody of the child for the purposes of the payment of child support and the obligee shall remit such child support obligation to the person with whom the placement was made.

Section 109.6. Certain information and records to be available to both custodial and non-custodial parent

Any information or any record relating to a minor child which is available to the custodial parent of the child, upon request, shall also be provided the non-custodial parent of the child. Provided, however, that this right may be restricted by the court, upon application, if such action is deemed necessary in the best interests of the child. For the purpose of this section, "information" and "record" shall include, but not be limited to, information and records kept by the school, physician and medical facility of the minor child.

Section 110. Automatic temporary injunction--Temporary orders

A. 1. Except as otherwise provided by this subsection, upon the filing of a petition for dissolution of marriage, annulment of a marriage or legal separation by the petitioner and upon personal service of the petition and summons on the respondent, or upon waiver and acceptance of service by the respondent, an automatic temporary injunction shall be in effect against both parties pursuant to the provisions of this section:

a. restraining the parties from transferring, encumbering, concealing, or in any way disposing of, without the written consent of the other party or an order of the court, any marital property, except in the usual course of business, for the purpose of retaining an attorney for the case or for the necessities of life and requiring each party to notify the other party of any proposed extraordinary expenditures and to account to the court for all extraordinary expenditures made after the injunction is in effect,

b. restraining the parties from:

(1) intentionally or knowingly damaging or destroying the tangible property of the parties, or of either of them, including, but not limited to, any document that represents or embodies anything of value,

(2) making any withdrawal for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account,

(3) withdrawing or borrowing in any manner all or any part of the cash surrender value of any life insurance policies on either party or their children,

4) changing or in any manner altering the beneficiary designation on any life insurance policies on the life of either party or any of their children,

(5) canceling, altering, or in any manner affecting any casualty, automobile, or health insurance policies insuring the parties' property or persons,

(6) opening or diverting mail addressed to the other party, and

(7) signing or endorsing the other party's name on any negotiable instrument, check, or draft, such as tax refunds, insurance payments, and dividends, or attempting to negotiate any negotiable instruments payable to either party without the personal signature of the other party,

c. requiring the parties to maintain all presently existing health, property, life and other insurance which the individual is presently carrying on any member of this family unit, and to cooperate as necessary in the filing and processing of claims. Any employer-provided health insurance currently in existence shall remain in full force and effect for all family members,

d. enjoining both parties from molesting or disturbing the peace of the other party or of the children to the marriage,

e. restraining both parties from disrupting or withdrawing their children from an educational facility and programs where the children historically have been enrolled, or day care,

f. restraining both parties from hiding or secreting their children from the other party, and

g. restraining both parties from removing the minor children of the parties, if any, beyond the jurisdiction of the Choctaw Nation of Oklahoma, acting directly or in concert with others, except for vacations of two (2) weeks or less duration, without the prior written consent of the other party, which shall not be unreasonably withheld.

2. a. The provisions of the automatic temporary injunction shall be printed as an attachment to the summons and the petition and entitled "Automatic Temporary Injunction Notice".

b. The automatic temporary injunction notice shall contain a provision which will allow the parties to waive the automatic temporary injunction. In addition, the provision must state that unless both parties have agreed and have signed their names in the space provided, that the automatic temporary injunction will be effective. Along with the waiver provision,

the notice shall contain a check box and space available for the signatures of the parties.

3. The automatic temporary injunction shall become an order of the court upon fulfillment of the requirements of paragraph 1 of this subsection unless and until:

a. the automatic temporary injunction is waived by the parties. Both parties must indicate on the automatic temporary injunction notice in the space provided that the parties have both agreed to waive the automatic temporary injunction. Each party must sign his or her own name on the notice in the space provided, or

b. a party, no later than three (3) days after service on the party, files an objection to the injunction and requests a hearing. Provided, the automatic temporary injunction shall remain in effect until the hearing and a judge orders the injunction removed.

4. The automatic temporary injunction shall be dissolved upon the granting of the dissolution of marriage, final order of legal separation or other final order.

5. Nothing in this subsection shall preclude either party from applying to the court for further temporary orders, pursuant to this section, an expanded automatic temporary injunction, or modification or revocation thereto.

6. a. With regard to an automatic temporary injunction, when a petition for dissolution of marriage, annulment of a marriage, or a legal separation is filed and served, a peace officer shall use every reasonable means to enforce the injunction which enjoins both parties from molesting or disturbing the peace of the other party or the children of the marriage against a petitioner or respondent, whenever:

(1) there is exhibited by a respondent or by the petitioner to the peace officer a copy of the petition or summons, with an attached Temporary Injunction Notice, duly filed and issued pursuant to this section, together with a certified copy of the affidavit of service of process or a certified copy of the waiver and acceptance of service, and

(2) the peace officer has cause to believe that a violation of the automatic temporary injunction has occurred.

b. A peace officer shall not be held civilly or criminally liable for his or her action pursuant to this paragraph if his or her action is in good faith and without malice.

B. After a petition has been filed in an action for dissolution of marriage or legal separation either party may request the court to issue:

1. A temporary order:

a. regarding child custody, support or visitation,

b. regarding spousal maintenance,

c. regarding payment of debt,

d. regarding possession of property,

e. regarding attorney fees, and

f. providing other injunctive relief proper in the circumstances.

All applications for temporary orders shall set forth the factual basis for the application and shall be verified by the party seeking relief. The application and a notice of hearing shall be served on the other party in any manner provided for in the Rules of Civil Procedure.

The court shall not issue a temporary order until at least five (5) days' notice of hearing is given to the other party.

After notice and hearing, a court may issue a temporary order granting the relief as provided by this paragraph; and/or

2. A temporary restraining order. If the court finds on the basis of a verified application and testimony of witnesses that irreparable harm will result to the moving party, or a child of a party if no order is issued before the adverse party or attorney for the adverse party can be heard in opposition, the court may issue a temporary restraining order which shall become immediately effective and enforceable without requiring notice and opportunity to be heard to the other party. Provided, for the purposes of this section, no minor child or children temporarily residing in a licensed, certified domestic violence shelter in the state shall be removed by an ex parte order. If a temporary restraining order is issued pursuant to this paragraph, the motion for a temporary order shall be set within ten (10) days.

C. Any temporary orders and the automatic temporary injunction, or specific terms thereof, may be vacated or modified prior to or in conjunction with a final decree on a showing by either party of facts necessary for vacation or modification. Temporary orders and the automatic temporary injunction terminate when the final judgment on all issues, except attorney fees and costs, is rendered or when the action is dismissed. The court may reserve jurisdiction to rule on an application for a contempt citation for a violation of a temporary order or the automatic temporary injunction which is filed any time prior to the time the temporary order or injunction terminates.

D. Upon granting a decree of dissolution of marriage, annulment of a marriage, or legal separation, the court may require either party to pay such reasonable expenses of the other as may be just and proper under the circumstances.

E. The court may in its discretion make additional orders relative to the expenses of any such subsequent actions, including but not limited to writs of habeas corpus, brought by the parties or their attorneys, for the enforcement or modification of any interlocutory or final

orders in the dissolution of marriage action made for the benefit of either party or their respective attorneys.

Section 110.1. Shared parenting--Policy

It is the policy of the Choctaw Nation of Oklahoma to assure that minor children have frequent and continuing contact with parents who have shown the ability to act in the best interests of their children and to encourage parents to share in the rights and responsibilities of rearing their children after the parents have separated or dissolved their marriage, provided that the parents agree to cooperate and that domestic violence, stalking, or harassing behaviors as defined in this title are not present in the parental relationship. To effectuate this policy, if requested by a parent, the court may provide substantially equal access to the minor children to both parents at a temporary order hearing, unless the court finds that shared parenting would be detrimental to the child.

Section 110.1a. Choctaw Nation Child Supervised Visitation Program--Policy--Definitions

A. This section shall be known and may be cited as the "Choctaw Nation Child Supervised Visitation Program".

B. It is the policy of the Choctaw Nation of Oklahoma to ensure that the health, safety, and welfare of the child is paramount when supervised visitation is ordered by the court.

C. For purposes of the Choctaw Nation Child Supervised Visitation Program:

1. "Supervised visitation" means the court-ordered contact between a non-custodial parent and one or more children of such parent in the presence of a third-party person who is responsible for observing and overseeing the visitation in order to provide for the safety of the child and any other parties during the visitation. The court may require supervised visitation when deemed necessary by the court to protect the child or other parties;

2. An "alcohol-dependent person" is one who uses alcoholic beverages to such an extent that it impairs the health, family life, or occupation of the person and compromises the health and safety of the community;

3. A "drug-dependent person" means a person who is using a controlled substance as presently defined in Section 102 of the Federal Controlled Substances Act and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled substance on an intermittent or continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence; and

4. “Domestic abuse” means any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who are family or household members or who are or were in a dating relationship.

D. 1. The district judge may select trained volunteers to provide supervised visitation pursuant to the Choctaw Nation Child Supervised Visitation Program.

2. The district judge may appoint supervised visitation teams to:

a. identify public and private entities which will be willing to provide location sites for purposes of the Choctaw Nation Child Supervised Visitation Program,

b. identify individuals who will be willing to serve as third-party persons to observe and oversee court-ordered supervised visitations,

c. establish training requirements for volunteers,

d. identify programs which may be available for the training of the volunteers including, but not limited to, the Department of Children and Family Services, Office of the Attorney General, child advocacy centers, domestic violence groups, and the Department of Mental Health and Substance Abuse Services,

e. develop written protocols for handling supervised visitations so as to provide safety of the child and other parties during the supervised visitation,

f. develop application forms for volunteers applying for the Choctaw Nation Child Supervised Visitation Program. Information listed on the form shall include, but not be limited to:

(1) name, address and phone number of the volunteer,

(2) volunteer’s place of employment and phone number,

(3) areas of expertise,

(4) listing of professional training in areas including, but not limited to, child abuse, domestic abuse, alcohol or drug abuse, mental illness or conflict management,

(5) consent form specifying release of information, and

(6) professional references, and

g. identify which information of the parties and the child will be confidential and which may be available to others.

3. From recommendations of the teams established pursuant to this subsection, the district judge may authorize one or more public or private agencies to provide location sites for the Choctaw Nation Child Supervised Visitation Program. The district judge may require either party requesting supervised visitation of a child to identify a trained third-party volunteer to observe and oversee the visitation. The district court shall not:

a. require any tribal agency or tribal employee to observe and oversee any supervised visitation, or

b. appoint a third party to observe and oversee a supervised visitation who has not received the training as specified by the supervised visitation team unless agreed to by the parties.

4. A participating public or private agency location site may charge a fee for each visit.

E. The protocols for supervised visitation established by the supervised visitation teams may require that:

1. The location site require each participant who has court-ordered supervised visitation for a child and who is participating in the supervised visitation program to sign a time log upon arrival and departure. The agency location site must have an employee assigned to verify identification of each participant, initial each signature, and record the time of each person's arrival and departure; and

2. The agency location site shall also contain information on each client case including, but not limited to:

a. a copy of the court order requiring supervised visitation, and

b. name of individuals authorized to pick up or deliver a child to the agency location site for supervised visitation.

F. The supervised visitation teams may include, but not be limited to:

1. Mental health professionals;

2. Police officers or other law enforcement agents;

3. Medical personnel;

4. Child protective services workers;

5. Child advocacy individuals; and

6. The prosecutor or designee.

G. The district judge, the supervised visitation teams created pursuant to this section and/or the clerk of the district court may develop an informational brochure outlining the provisions of the Choctaw Nation Child Supervised Visitation Program and procedures to be used by volunteers. The brochure may be distributed through the district court, social service agency centers, health clinics, hospitals, crisis or counseling centers, and community action agencies.

H. Except for acts of dishonesty, willful criminal acts, or gross negligence, no member of a supervised visitation team or volunteer shall be charged personally with any liability whatsoever by reason of any act or omission committed or suffered in the performance of the duties pursuant to the provisions of this section.

I. The provisions of this section shall not apply to cases subject to the Choctaw Nation Children's Code and the Choctaw Nation Juvenile Code.

Section 110.2. Blood, saliva, urine or any other tests--Child custody or visitation

In any action in which the custody of or the visitation with a child is a relevant fact and at issue, the court may order the mother, the child or father to submit to blood, saliva, urine or any other test deemed necessary by the court in determining that the custody of or visitation with the child will be in the best interests of the child. If so ordered and any party or child refuses to submit to such tests, the court may enforce its order if the rights of others and the interests of justice so require unless such individual is found to have good cause for refusing to cooperate.

Section 111. Indirect contempt for disobedience of certain orders relating to dissolution of marriage or separate maintenance actions

Any order pertaining to the division of property pursuant to a dissolution of marriage or separate maintenance action, if willfully disobeyed, may be enforced as an indirect contempt of court.

Section 111.1. Minimum visitation between non-custodial parent and child--Domestic violence or stalking--Failure to pay child support--Enforcement of visitation order

A. 1. Any order providing for the visitation of a non-custodial parent with any of the children of such non-custodial parent shall provide a specified minimum amount of visitation between the non-custodial parent and the child unless the court determines otherwise.

2. Except for good cause shown and when in the best interests of the child, the order shall encourage additional visitations of the non-custodial parent and the child and in

addition encourage liberal telephone communications between the non-custodial parent and the child.

3. The court may award visitation by a non-custodial parent who was determined to have committed domestic violence or engaged in stalking behavior as defined in this title, if the court is able to provide for the safety of the child and the parent who is the victim of that domestic violence.

4. In a visitation order, the court shall provide for the safety of the minor child and victim of domestic violence, stalking, or harassment as defined in this title, and subject to the provisions of this title, may:

a. order the exchange of a child to be facilitated by a third party where the parents do not have any contact with each other,

b. order an exchange of a child to occur in a protected setting,

c. order visitation supervised by another person or agency,

d. order the abusive, stalking, or harassing parent to pay a fee to help defray the costs of supervised visitation or other costs of child exchanges, including compensating third parties,

e. order the abusive, stalking, or harassing parent to attend and complete, to the satisfaction of the court, an intervention program for batterers certified by the Office of the Attorney General,

f. prohibit unsupervised or overnight visitation until the abusive, stalking, or harassing parent has successfully completed a specialized program for abusers and the parent has neither threatened nor exhibited violence for a substantial period of time,

g. order the abusive, stalking, or harassing parent to abstain from the possession or consumption of alcohol or controlled substances during the visitation and for twenty-four (24) hours preceding visitation,

h. order the abusive, stalking, or harassing parent to complete a danger/lethality assessment by a qualified mental health professional, and

i. impose any other condition that is deemed necessary to provide for the safety of the child, the victim of domestic violence, stalking, or harassing behavior, or another household member.

5. The court shall not order a victim of domestic violence, stalking, or harassment to be present during child visitation exchange if the victim of domestic violence, stalking, or harassment objects to being present.

6. Visitation shall be terminated if:

a. the abusive, stalking, or harassing parent repeatedly violates the terms and conditions of visitation,

b. the child becomes severely distressed in response to visitation, including the determination by a mental health professional or certified domestic violence specialist that visitation with the abusive, stalking, or harassing parent is causing the child severe distress which is not in the best interest of the child, or

c. there are clear indications that the abusive, stalking, or harassing parent has threatened to either harm or flee with the child, or has threatened to harm the custodial parent.

7. Whether or not visitation is allowed, the court shall order the address of the child and the victim of domestic violence, stalking, or harassing behavior to be kept confidential if requested.

a. The court may order that the address of a victim of domestic violence, stalking, or harassing behavior be kept confidential if requested.

b. The abusive, stalking, or harassing parent may be denied access to the medical and educational records of the child if those records may be used to determine the location of the child.

B. 1. Except for good cause shown, when a non-custodial parent who is ordered to pay child support and who is awarded visitation rights fails to pay child support, the custodial parent shall not refuse to honor the visitation rights of the non-custodial parent.

2. When a custodial parent refuses to honor the visitation rights of the non-custodial parent, the non-custodial parent shall not fail to pay any ordered child support or alimony.

C. 1. Violation of an order providing for the payment of child support or providing for the visitation of a non-custodial parent with any of the children of such non-custodial parent may be prosecuted as indirect civil contempt of court or as otherwise deemed appropriate by the court.

2. Any person who refuses to allow his or her child to be transported by an intoxicated driver shall have an affirmative defense to a contempt of court proceeding in a dissolution of marriage or custody action.

3. Unless good cause is shown for the noncompliance, the prevailing party shall be entitled to recover court costs and attorney fees expended in enforcing the order and any other reasonable costs and expenses incurred in connection with the denied child support or denied visitation as authorized by the court.

Section 111.1A. Standard visitation schedule--Advisory guidelines

A. The Court of Appeals shall develop a standard visitation schedule and advisory guidelines which may be used by the District Court of the Choctaw Nation of Oklahoma.

B. The standard visitation schedule should include a minimum graduated visitation schedule for children under the age of five (5) years and a minimum graduated visitation schedule for children five (5) years of age through seventeen (17) years of age. In addition, the standard visitation schedule should address:

1. Midweek and weekend time-sharing;

2. Differing geographical residences of the custodian and non-custodian of the child requesting visitation;

3. Holidays, including Friday and Monday holidays;

4. Summer vacation break;

5. Midterm school breaks;

6. Notice requirements and authorized reasons for cancellations of visitation;

7. Transportation and transportation costs, including pick up and return of the child;

8. Religious, school, and extracurricular activities;

9. Grandparent and relative contact;

10. The birthday of the child;

11. Sibling visitation schedules;

12. Special circumstances, including, but not limited to, emergencies; and

13. Any other standards deemed necessary by the Administrative Director of the Courts.

C. 1. The Court of Appeals shall develop advisory guidelines for use by the District Court when parties to any action concerning the custody of a child are unable to mutually agree upon a visitation schedule.

2. The advisory guidelines should include the following considerations at a minimum:

a. a preference for visitation schedules that are mutually agreed upon by both parents over a court-imposed solution,

b. a visitation schedule which should maximize the continuity and stability of the life of the child,

c. special considerations should be given to each parent to make the child available to attend family functions, including funerals, weddings, family reunions, religious holidays, important ceremonies, and other significant events in the life of the child or in the life of either parent which may inadvertently conflict with the visitation schedule,

d. a visitation schedule which will not interrupt the regular school hours of the child,

e. a visitation schedule should reasonably accommodate the work schedule of both parents and may increase the visitation time allowed to the non-custodial parent but should not diminish the standardized visitation schedule provided in Section 111.1 of this title,

f. a visitation schedule should reasonably accommodate the distance between the parties and the expense of exercising visitation,

g. each parent should permit and encourage liberal electronic contact during reasonable hours and uncensored mail privileges with the child, and

h. each parent should be entitled to an equal division of major religious holidays celebrated by the parents, and the parent who celebrates a religious holiday that the other parent does not celebrate shall have the right to be together with the child on the religious holiday.

D. The Court of Appeals shall:

1. Make the standard visitation schedule and advisory guidelines available to the District Court of the Choctaw Nation of Oklahoma; and

2. Periodically review and update the guidelines as deemed necessary.

Section 111.2. Civil action for child stealing

Any person who is not a party to a child custody proceeding, and who intentionally removes, causes the removal of, assists in the removal of, or detains any child under eighteen (18) years of age with intent to deny another person's right to custody of the child or visitation under an existing court order shall be liable in an action at law. Remedies available pursuant to this section are in addition to any other remedies available by law or equity and may include, but shall not be limited to, the following:

1. Damages for loss of service, society, and companionship;

2. Compensatory damages for reasonable expenses incurred in searching for the

missing child or attending court hearings; and

3. The prevailing party in such action shall be awarded reasonable attorney fees.

Section 111.3. Interference with visitation rights of non-custodial parent--Motion for enforcement

A. When a non-custodial parent has been granted visitation rights and those rights are denied or otherwise interfered with by the custodial parent, in addition to the remedy provided in subsection B of Section 111.1 of this title, the non-custodial parent may file with the court clerk a motion for enforcement of visitation rights. The motion shall be filed on a form provided by the court clerk. Upon filing of the motion, the court shall immediately:

1. Issue ex parte an order for mediation; or

2. Set a hearing on the motion, which shall be not more than twenty-one (21) days after the filing of the motion.

B. Within five (5) days of termination of mediation ordered pursuant to paragraph 1 of subsection A of this section, the mediator shall submit the record of termination and a summary of the parties' agreement, if any, to the court. Upon receipt of the record of termination, the court shall enter an order in accordance with the parties' agreement, if any, or set the matter for hearing, which shall be not more than ten (10) days after the record of termination is received by the court.

C. Notice of a hearing pursuant to subsection A or B of this section shall be given to all interested parties by certified mail, return receipt requested, or as ordered by the court.

D. If the court finds that visitation rights of the non-custodial parent have been unreasonably denied or otherwise interfered with by the custodial parent, the court shall enter an order providing for one or more of the following:

1. A specific visitation schedule;

2. Compensating visitation time for the visitation denied or otherwise interfered with, which time shall be of the same type (e.g. holiday, weekday, weekend, summer) as the visitation denied or otherwise interfered with, and shall be at the convenience of the non-custodial parent;

3. Posting of a bond, either cash or with sufficient sureties, conditioned upon compliance with the order granting visitation rights;

4. Assessment of reasonable attorney fees, mediation costs, and court costs to enforce visitation rights against the custodial parent;

5. Attendance of one or both parents at counseling or educational sessions which focus on the impact of visitation disputes on children;

6. Supervised visitation; or

7. Any other remedy the court considers appropriate, which may include an order which modifies a prior order granting child custody.

E. If the court finds that the motion for enforcement of visitation rights has been unreasonably filed or pursued by the non-custodial parent, the court may assess reasonable attorney fees, mediation costs, and court costs against the non-custodial parent.

F. Final disposition of a motion filed pursuant to this section shall take place no later than forty-five (45) days after filing of the motion.

G. The Court of Appeals shall develop the form required by subsection A of this section to be used for a motion to enforce visitation rights.

Section 111.4. Protection of child from child abuse or neglect or domestic violence by parent--Suspension of visitation

A. A parent who, in good faith and with a reasonable belief supported by fact, determines that the child of that parent is the victim of child abuse or neglect, or suffers from effects of domestic violence, may take necessary actions to protect the child, including refusing to permit visitation.

B. In cases in which there is evidence to substantiate suspected or confirmed child abuse or neglect, visitation shall be suspended.

Section 112. Care and custody of children

A. A petition or cross-petition for a dissolution of marriage, legal separation, or annulment must state whether or not the parties have minor children of the marriage. If there are minor children of the marriage, the court:

1. Shall make provision for guardianship, custody, medical care, support and education of the children;

2. Unless not in the best interests of the children, may provide for the visitation of the non-custodial parent with any of the children of the non-custodial parent; and

3. May modify or change any order whenever circumstances render the change proper either before or after final judgment in the action; provided, that the amount of the periodic child support payment shall not be modified retroactively or payment of all or a portion of

the past due amount waived, except by mutual agreement of the obligor and obligee, or if the obligee has assigned child support rights to the Department of Children and Family Services or other entity, by agreement of the Department or other entity. Unless the parties agree to the contrary, a completed child support computation form provided for in Section 120 of this title shall be required to be filed with the child support order.

The social security numbers of both parents and the child shall be included on the child support order summary form provided for in Section 120 of this title, which shall be submitted to the Central Case Registry as provided for in Section 112A of this title with all child support or paternity orders.

B. In any action in which there are minor unmarried children in awarding or modifying the custody of the child or in appointing a general guardian for the child, the court shall be guided by the provisions of Section 112.5 of this title and shall consider what appears to be in the best interests of the child.

C. 1. When it is in the best interests of a minor unmarried child, the court shall:

a. assure children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and

b. encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

2. There shall be neither a legal preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody.

3. When in the best interests of the child, custody shall be awarded in a way which assures the frequent and continuing contact of the child with both parents. When awarding custody to either parent, the court:

a. shall consider, among other facts, which parent is more likely to allow the child or children frequent and continuing contact with the non-custodial parent, and

b. shall not prefer a parent as a custodian of the child because of the gender of that parent.

4. In any action, there shall be neither a legal preference or a presumption for or against private or public school or home-schooling in awarding the custody of a child, or in appointing a general guardian for the child.

5. Notwithstanding any custody determination made pursuant to the Choctaw Nation Children's Code, when a custodial parent of a child is required to be separated from a child due to military service, a court shall not enter a final order modifying an existing custody order until such time as the custodial parent has completed the term of duty requiring separation. For purposes of this paragraph:

a. in the case of a parent who is a member of the Army, Navy, Air Force, Marine Corps or Coast Guard, the term “military service” means a combat deployment, contingency operation, or natural disaster requiring the use of orders that do not permit any family member to accompany the member, and

b. in the case of a parent who is a member of the National Guard, the term “military service” means service under a call to active service authorized by the President of the United States or the Secretary of Defense for a period of more than thirty (30) consecutive days under 32 U.S.C. 502(f) for purposes of responding to a national emergency declared by the President and supported by federal funds. “Military service” shall include any period during which a member is absent from duty on account of sickness, wounds, leave or other lawful cause.

6. In making an order for custody, the court shall require compliance with Section 112.3 of this title.

D. 1. Except for good cause shown, a pattern of failure to allow court-ordered visitation may be determined to be contrary to the best interests of the child and as such may be grounds for modification of the child custody order.

2. For any action brought pursuant to the provisions of this section which the court determines to be contrary to the best interests of the child, the prevailing party shall be entitled to recover court costs, attorney fees and any other reasonable costs and expenses incurred with the action.

E. Except as otherwise provided by Section 112.1A of this title, any child shall be entitled to support by the parents until the child reaches eighteen (18) years of age. If a child is regularly enrolled in and attending high school, or is obtaining a high school education by other means, or is enrolled and attending an alternative high school education program as a full-time student, the child shall be entitled to support by the parents until the child graduates from high school or until the age of twenty (20) years, whichever occurs first. Full-time attendance shall include regularly scheduled breaks from the school year. No hearing or further order is required to extend support pursuant to this subsection after the child reaches the age of eighteen (18) years.

F. In any case in which a child support order or custody order or both is entered, enforced or modified, the court may make a determination of the arrearages of child support.

Section 112.1. Definitions--Child support--Parental rights and duties--Actions and jurisdiction

A. In this section:

1. “Adult child” means a child eighteen (18) years of age or older.

2. “Child” means a son or daughter of any age.

B. 1. The court may order either or both parents to provide for the support of a child for an indefinite period and may determine the rights and duties of the parents if the court finds that:

a. the child, whether institutionalized or not, requires substantial care and personal supervision because of a mental or physical disability and will not be capable of self-support, and

b. the disability exists, or the cause of the disability is known to exist, on or before the eighteenth birthday of the child.

2. A court that orders support under this section shall designate a parent of the child or another person having physical custody or guardianship of the child under a court order to receive the support for the child. The court may designate a child who is eighteen (18) years of age or older to receive the support directly.

C. 1. A suit provided by this section may be filed only by:

a. a parent of the child or another person having physical custody or guardianship of the child under a court order, or

b. the child if the child:

(1) is eighteen (18) years of age or older,

(2) does not have a mental disability, and

(3) is determined by the court to be capable of managing the child’s financial affairs.

2. The parent, the child, if the child is eighteen (18) years of age or older, or other person may not transfer or assign the cause of action to any person, including a governmental or private entity or agency, except for an assignment made to the Title IV-D agency.

D. 1. A suit under this section may be filed:

a. regardless of the age of the child, and

b. as an independent cause of action or joined with any other claim or remedy provided by this title.

2. If no court has continuing, exclusive jurisdiction of the child, an action under this section may be filed as an original suit.

3. If there is a court of continuing, exclusive jurisdiction, an action under this section may be filed as a suit for modification pursuant to Section 115 of this title.

E. In determining the amount of support to be paid after a child's eighteenth birthday, the specific terms and conditions of that support, and the rights and duties of both parents with respect to the support of the child, the court shall determine and give special consideration to:

1. Any existing or future needs of the adult child directly related to the adult child's mental or physical disability and the substantial care and personal supervision directly required by or related to that disability;

2. Whether the parent pays for or will pay for the care or supervision of the adult child or provides or will provide substantial care or personal supervision of the adult child;

3. The financial resources available to both parents for the support, care, and supervision of the adult child; and

4. Any other financial resources or other resources or programs available for the support, care, and supervision of the adult child.

F. An order provided by this section may contain provisions governing the rights and duties of both parents with respect to the support of the child and may be modified or enforced in the same manner as any other order provided by this title.

Section 112.2. Evidence of ongoing domestic abuse or child abuse--Determinations relating to convicted sex offenders--Presumption

A. In every case involving the custody of, guardianship of, or visitation with, a child, the court shall consider for determining the custody of, guardianship of, or the visitation with, a child whether any person seeking custody, or who has custody of, guardianship of, or visitation with, a child.

1. Is or has the person been required to register as a Sex Offender under the laws of any state, or tribe, or of the federal government;

2. Has the person been convicted of a violent crime or a crime involving a child victim;

3. Is the person an alcohol-dependent person or a drug-dependent person as established by clear and convincing evidence and who can be expected in the near future to inflict or attempt to inflict serious bodily harm to himself or herself or another person as a result of such dependency;

4. Has been convicted of domestic abuse within the past five (5) years;

5. Is the person residing with an individual who is or has been required to register as a Sex Offender under the laws of any state, or tribe, or of the federal government;

6. Is the person residing with a person who has been convicted of a violent crime or a crime involving a child victim; or

7. Is the person residing with a person who has been convicted of domestic abuse within the past five (5) years.

B. There shall be a rebuttable presumption that it is not in the best interests of the child to have custody or guardianship granted to a person who:

1. Is subject to or has been required to register as a Sex Offender under the laws of any state, or tribe, or of the federal government;

2. Has been convicted of a violent crime or a crime involving a child victim;

3. Is an alcohol-dependent person or a drug-dependent person as established by clear and convincing evidence and who can be expected in the near future to inflict or attempt to inflict serious bodily harm to himself or herself or another person as a result of such dependency;

4. Has been convicted of domestic abuse within the past five (5) years;

5. Is residing with a person who is or has been has been required to register as a Sex Offender under the laws of any state, or tribe, or of the federal government;

6. Is residing with a person who has been convicted of a violent crime or a crime involving a child victim; or

7. Is residing with a person convicted of domestic abuse within the past five (5) years.

. Custody of, guardianship of, or visitation with a child shall not be granted to any person if it is established that the custody, guardianship or visitation will likely expose the child to a foreseeable risk of material harm.

D. Except as otherwise provided by the Choctaw Nation Child Supervised Visitation Program, court-ordered supervised visitation shall be governed by the Choctaw Nation Child Supervised Visitation Program.

E. For purposes of this section:

1. An "alcohol-dependent person" is one who uses alcoholic beverages to such an extent that it impairs the health, family life, or occupation of the person and compromises the health and safety of the community;

2. "Domestic abuse" means any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who are family or household members or who are or were in a dating relationship;

3. A "drug-dependent person" means a person who is using a controlled substance as presently defined in Section 102 of the Federal Controlled Substances Act and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled substance on an intermittent or continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence; and

. "Supervised visitation" means the court-ordered contact between a non-custodial parent and one or more children of such parent in the presence of a third-party person who is responsible for observing and overseeing the visitation in order to provide for the safety of the child and any other parties during the visitation. The court may require supervised visitation when deemed necessary by the court to protect the child or other parties.

Section 112.2A. Parent's right to change child's residence

A parent entitled to the custody of a child has a right to change his residence, subject to the power of the district court to restrain a removal which would prejudice the rights or welfare of the child.

Section 112.3. Notice of proposed relocation or change of residence

A. As used in this section:

1. "Change of residence address" means a change in the primary residence of an adult;

2. "Child" means a child under the age of eighteen (18) who has not been judicially emancipated;

3. "Person entitled to custody of or visitation with a child" means a person so entitled by virtue of a court order or by an express agreement that is subject to court enforcement;

4. "Principal residence of a child" means:

a. the location designated by a court to be the primary residence of the child,

b. in the absence of a court order, the location at which the parties have expressly

agreed that the child will primarily reside, or

c. in the absence of a court order or an express agreement, the location, if any, at which the child, preceding the time involved, lived with the child's parents, a parent, or a person acting as parent for at least six (6) consecutive months and, in the case of a child less than six (6) months old, the location at which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period; and

5. "Relocation" means a change in the principal residence of a child over seventy-five (75) miles from the child's principal residence for a period of sixty (60) days or more, but does not include a temporary absence from the principal residence.

B. 1. Except as otherwise provided by this section, a person who has the right to establish the principal residence of the child shall notify every other person entitled to visitation with the child of a proposed relocation of the child's principal residence as required by this section.

2. Except as otherwise provided by this section, an adult entitled to visitation with a child shall notify every other person entitled to custody of or visitation with the child of an intended change in the primary residence address of the adult as required by this section.

C. 1. Except as provided by this section, notice of a proposed relocation of the principal residence of a child or notice of an intended change of the primary residence address of an adult must be given:

a. by mail to the last-known address of the person to be notified, and

b. no later than:

(1) the sixtieth day before the date of the intended move or proposed relocation, or

(2) the tenth day after the date that the person knows the information required to be furnished pursuant to this subsection, if the person did not know and could not reasonably have known the information in sufficient time to comply with the sixty-day notice, and it is not reasonably possible to extend the time for relocation of the child.

2. Except as provided by this section, the following information, if available, must be included with the notice of intended relocation of the child or change of primary residence of an adult:

a. the intended new residence, including the specific address, if known,

b. the mailing address, if not the same,

c. the home telephone number, if known,

d. the date of the intended move or proposed relocation,

e. a brief statement of the specific reasons for the proposed relocation of a child, if applicable,

f. a proposal for a revised schedule of visitation with the child, if any, and

g. a warning to the non-relocating parent that an objection to the relocation must be made within thirty (30) days or the relocation will be permitted.

3. A person required to give notice of a proposed relocation or change of residence address under this subsection has a continuing duty to provide a change in or addition to the information required by this subsection as that information becomes known.

D. An order issued by a court directed to a person entitled to custody of or visitation with a child shall include the following or substantially similar terms:

"You, as a party in this action, are ordered to notify every other party to this action in writing of a proposed relocation of the child, change of your primary residence address, and the following information:

1. The intended new residence, including the specific address, if known;

2. The mailing address, if not the same;

3. The home telephone number, if known;

4. The date of the intended move or proposed relocation;

5. A brief statement of the specific reasons for the proposed relocation of a child, if applicable; and

6. A proposal for a revised schedule of visitation with the child, if any.

You are further ordered to give written notice of the proposed relocation or change of residence address on or before the sixtieth day before a proposed change. If you do not know and could not have reasonably known of the change in sufficient time to provide a sixty-day notice, you are ordered to give written notice of the change on or before the tenth day after the date that you know of the change.

Your obligation to furnish this information to every other party continues as long as you, or any other person, by virtue of this order, are entitled to custody of or visitation with a child covered by this order.

Your failure to obey the order of this court to provide every other party with notice of

information regarding the proposed relocation or change of residence address may result in further litigation to enforce the order, including contempt of court.

In addition, your failure to notify of a relocation of the child may be taken into account in a modification of custody of, visitation with, possession of, or access to the child. Reasonable costs and attorney fees also may be assessed against you if you fail to give the required notice.

If you, as the non-relocating parent, do not file a proceeding seeking a temporary or permanent order to prevent the relocation within thirty (30) days after receipt of notice of the intent of the other party to relocate the residence of the child, relocation is authorized."

E. 1. On a finding by the court that the health, safety, or liberty of a person or a child would be unreasonably put at risk by the disclosure of the required identifying information in conjunction with a proposed relocation of the child or change of residence of an adult, the court may order that:

a. the specific residence address and telephone number of the child or of the adult and other identifying information shall not be disclosed in the pleadings, other documents filed in the proceeding, or the final order, except for an in camera disclosure,

b. the notice requirements provided by this article be waived to the extent necessary to protect confidentiality and the health, safety or liberty of a person or child, and

c. any other remedial action that the court considers necessary to facilitate the legitimate needs of the parties and the best interest of the child.

2. If appropriate, the court may conduct an ex parte hearing pursuant to this subsection.

F. 1. The court may consider a failure to provide notice of a proposed relocation of a child as provided by this section as:

a. a factor in making its determination regarding the relocation of a child,

b. a factor in determining whether custody or visitation should be modified,

c. a basis for ordering the return of the child if the relocation has taken place without notice, and

d. sufficient cause to order the person seeking to relocate the child to pay reasonable expenses and attorney fees incurred by the person objecting to the relocation.

2. In addition to the sanctions provided by this subsection, the court may make a finding of contempt if a party violates the notice requirement required by this section and may impose the sanctions authorized for contempt of a court order.

G. 1. The person entitled to custody of a child may relocate the principal residence of a child after providing notice as provided by this section unless a parent entitled to notice files a proceeding seeking a temporary or permanent order to prevent the relocation within thirty (30) days after receipt of the notice.

2. A parent entitled by court order or written agreement to visitation with a child may file a proceeding objecting to a proposed relocation of the principal residence of a child and seek a temporary or permanent order to prevent the relocation.

3. If relocation of the child is proposed, a nonparent entitled by court order or written agreement to visitation with a child may file a proceeding to obtain a revised schedule of visitation, but may not object to the proposed relocation or seek a temporary or permanent order to prevent the relocation.

4. A proceeding filed pursuant to this subsection must be filed within thirty (30) days of receipt of notice of a proposed relocation.

H. 1. The court may grant a temporary order restraining the relocation of a child, or ordering return of the child if a relocation has previously taken place, if the court finds:

a. the required notice of a proposed relocation of a child as provided by this section was not provided in a timely manner and the parties have not presented an agreed-upon revised schedule for visitation with the child for the court's approval,

b. the child already has been relocated without notice, agreement of the parties, or court approval, or

c. from an examination of the evidence presented at the temporary hearing there is a likelihood that on final hearing the court will not approve the relocation of the primary residence of the child.

2. The court may grant a temporary order permitting the relocation of the child pending final hearing if the court:

a. finds that the required notice of a proposed relocation of a child as provided by this section was provided in a timely manner and issues an order for a revised schedule for temporary visitation with the child, and

b. finds from an examination of the evidence presented at the temporary hearing there is a likelihood that on final hearing the court will approve the relocation of the primary residence of the child.

I. A proposed relocation of a child may be a factor in considering a change of custody.

J. 1. In reaching its decision regarding a proposed relocation, the court shall consider the following factors:

a. the nature, quality, extent of involvement, and duration of the child's relationship with the person proposing to relocate and with the non-relocating person, siblings, and other significant persons in the child's life,

b. the age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child,

c. the feasibility of preserving the relationship between the non-relocating person and the child through suitable visitation arrangements, considering the logistics and financial circumstances of the parties,

d. the child's preference, taking into consideration the age and maturity of the child,

e. whether there is an established pattern of conduct of the person seeking the relocation, either to promote or thwart the relationship of the child and the non-relocating person,

f. whether the relocation of the child will enhance the general quality of life for both the custodial party seeking the relocation and the child, including but not limited to financial or emotional benefit or educational opportunity,

g. the reasons of each person for seeking or opposing the relocation, and

h. any other factor affecting the best interest of the child.

2. The court may not:

a. give undue weight to the temporary relocation as a factor in reaching its final decision, if the court has issued a temporary order authorizing a party seeking to relocate a child to move before final judgment is issued, or

b. consider whether the person seeking relocation of the child has declared that he or she will not relocate if relocation of the child is denied.

K. The relocating person has the burden of proof that the proposed relocation is made in good faith. If that burden of proof is met, the burden shifts to the non-relocating person to show that the proposed relocation is not in the best interest of the child.

L. 1. After notice and a reasonable opportunity to respond, the court may impose a sanction on a person proposing a relocation of the child or objecting to a proposed relocation of a child if it determines that the proposal was made or the objection was filed:

a. to harass a person or to cause unnecessary delay or needless increase in the cost of litigation,

b. without being warranted by existing law or was based on frivolous argument, or

c. based on allegations and other factual contentions which had no evidentiary support or, if specifically so identified, could not have been reasonably believed to be likely to have evidentiary support after further investigation.

2. A sanction imposed under this subsection shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. The sanction may include directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the other party of some or all of the reasonable attorney fees and other expenses incurred as a direct result of the violation.

M. If the issue of relocation is presented at the initial hearing to determine custody of and visitation with a child, the court shall apply the factors set forth in this section in making its initial determination.

N. 1. The provisions of this section apply to an order regarding custody of or visitation with a child issued:

a. after the effective date of this act, and

b. before the effective date of this act, if the existing custody order or enforceable agreement does not expressly govern the relocation of the child or there is a change in the primary residence address of an adult affected by the order.

2. To the extent that a provision of this section conflicts with an existing custody order or enforceable agreement, this section does not apply to the terms of that order or agreement that govern relocation of the child or a change in the primary residence address of an adult.

Section 112.4. No duty to maintain stepchildren

A stepparent is not required to maintain his or her spouse’s children from a prior relationship.

Section 112.5. Custody or guardianship--Order of preference--Death of custodial parent--Preference of child--Evidence of domestic abuse--Registered sex offenders

A. Custody or guardianship of a child may be awarded to:

1. A parent or to both parents jointly;

2. A grandparent;

3. A person who was indicated by the wishes of a deceased parent;

4. A relative of either parent;

5. The person in whose home the child has been living in a wholesome and stable environment including but not limited to a foster parent; or

6. Any other person deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child.

B. In applying subsection A of this section, a court shall award custody or guardianship of a child to a parent, unless a nonparent proves by clear and convincing evidence that:

1. For a period of at least twelve (12) months out of the last fourteen (14) months immediately preceding the commencement of the custody or guardianship proceeding, the parent has willfully failed, refused, or neglected to contribute to the support of the child:

a. in substantial compliance with a support provision or an order entered by a court of competent jurisdiction adjudicating the duty, amount, and manner of support, or

b. according to the financial ability of the parent to contribute to the support of the child if no provision for support is entered by a court of competent jurisdiction, or an order of modification subsequent thereto.

For purposes of this paragraph, incidental or token financial contributions shall not be considered in establishing whether a parent has satisfied his or her obligation under subparagraphs a and b of this paragraph; or

2. a. the child has been left in the physical custody of a nonparent by a parent or parents of the child for one (1) year or more, excluding parents on active duty in the military, and

b. the parent or parents have not maintained regular visitation or communication with the child.

For purposes of this paragraph, incidental or token visits or communications shall not be considered in determining whether a parent or parents have regularly maintained visitation or communication.

C. In applying subsection A of this section, a court shall award custody or guardianship of a child to a parent, unless the court finds that the parent is affirmatively unfit.

There shall be a rebuttable presumption that a parent is affirmatively unfit if the parent:

1. Is or has been required to register as a Sex Offender by a federal, state, or tribal law;

2. Has been convicted of a violent crime or a crime involving a child victim;

3. Is an alcohol-dependent person or a drug-dependent person as established by clear and convincing evidence and who can be expected in the near future to inflict or attempt to inflict serious bodily harm to himself or herself or another person as a result of such dependency;

4. Has been convicted of domestic abuse within the past five (5) years;

5. Is residing with a person who is or has been required to register as a Sex Offender by a federal, state, or tribal law;

6. Is residing with a person who has been convicted of a violent crime or a crime involving a child victim; or

7. Is residing with a person who has been convicted of domestic abuse within the past five (5) years.

D. Subject to subsection E of this section, a custody determination made in accordance with subsections B and C of this section shall not be modified unless the person seeking the modification proves that:

1. Since the making of the order sought to be modified, there has been a permanent, material, and substantial change of conditions that directly affects the best interests of the child; and

2. That as a result of such change of circumstances, the child would be substantially better off with regard to its temporal, mental, and moral welfare if custody were modified.

3. If the custody determination made in accordance with subsections B and C indicates that custody is temporary, the determination may be modified upon a showing that the conditions which led to the custody or guardianship determination no longer exist.

Section 112.6. Awarding of attorney fees and costs--Victim of domestic violence or stalking

In a dissolution of marriage or separate maintenance or custody proceeding, a victim of domestic violence or stalking shall be entitled to reasonable attorney fees and costs after the filing of a petition, upon application and a showing by a preponderance of evidence that the party is currently being stalked or has been stalked or is the victim of domestic abuse.

The court shall order that the attorney fees and costs of the victimized party for the proceeding be substantially paid for by the abusing party prior to and after the entry of a final order.

Section 113. Preference of child

A. In any action or proceeding in which a court must determine custody or limits of or period of visitation, the child may express a preference as to which of its parents the child wishes to have custody.

B. 1. The court shall determine whether the best interest of the child will be served by the child's expression of preference as to which parent should have custody or limits of or period of visitation rights of either parent. If the court so finds, the child may express such preference or give other testimony.

2. If the child is of a sufficient age to form an intelligent preference, the court shall consider the expression of preference or other testimony of the child in determining custody or limits of or period of visitation. The court shall not be bound by the child's choice and may take other facts into consideration in awarding custody or limits of or period of visitation. However, if the child is of a sufficient age to form an intelligent preference and the court does not follow the expression of preference of the child as to custody, or limits of visitation, the court shall make specific findings of fact supporting such action if requested by either party.

3. There shall be a rebuttable presumption that a child who is twelve (12) years of age or older is of a sufficient age to form an intelligent preference.

C. If the child expresses a preference or gives testimony, such preference or testimony may be taken by the court in chambers without the parents or other parties present. If attorneys are not allowed to be present, the court shall state, for the record, the reasons for their exclusion. At the request of either party, a record shall be made of any such proceeding in chambers

Section 114. Interest on delinquent court-ordered child support payments and payments of suit money

Court-ordered child support payments and court-ordered payments of suit moneys shall draw interest at the rate of ten percent (10%) per year from the date they become delinquent, and the interest shall be collected in the same manner as the payments upon which the interest accrues.

Section 115. Order for child support or modification of order--Provision for income assignment

A. Every order providing for the support of a minor child or a modification of such order may contain an immediate income assignment provision if child support services are being provided under any tribal or state law, regardless of whether support payments by such parent are in arrears.

B. In all child support cases arising out of an action for dissolution of marriage, paternity or other proceeding in which services are not being provided under a tribal or state child support plan, the district court may order the wage of the obligor subject to immediate income assignment, regardless of whether support payments by such parent are in arrears, unless:

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

2. A written agreement is reached between the parties which provides for an alternative arrangement.

C. The obligated party may execute a voluntary income assignment at any time. The voluntary assignment shall be filed with the district court and shall take effect after service on the payor, as required by law.

Section 116. Security, bond or other guarantee for child support

The district court may order a person obligated to support a minor child to post a security, bond, or other guarantee in a form and amount satisfactory to the court to ensure the payment of child support.

Section 117. Modification, suspension or termination of order for income assignment

A. Except as otherwise provided by subsection B of this section, the person obligated to pay support or the person entitled to the support may petition the district court to:

1. Modify, suspend, or terminate the order for income assignment because of a modification, suspension, or termination of the underlying order for support; or

2. Modify the amount of income to be withheld to reflect payment in full of the delinquency by income assignment or otherwise; or

3. Suspend the order for income assignment because of inability to deliver income withheld to the person entitled to support payments due to the failure of the person entitled to support to provide a mailing address or other means of delivery.

B. If the income assignment has been initiated by any tribal or state agency, the district court shall notify said tribal or state agency prior to the termination, modification, or

suspension of the income assignment order.

Section 118. Child support guidelines

A. There shall be a rebuttable presumption in any judicial proceeding for the award of child support, that the amount of the award which would result from the application of the following guidelines is the correct amount of child support to be awarded.

B. The Schedule of Basic Child Support Obligations assumes that all families incur certain child-rearing expenses and includes in the basic child support obligation an average amount to cover these expenses for various levels of the parents' combined income and number of children, comprised of housing, food, transportation, basic public educational expenses, clothing, and entertainment.

Section 118A. Definitions

As used in this act:

1. "Adjusted Gross Income" (AGI) means the net determination of the income of a parent, calculated by modifying the gross income of the parent as follows:

a. adding to the gross income of the parent any social security benefit paid to the child on the account of the parent,

b. deducting from gross income the amount of any support alimony arising in a prior case to the extent that payment is actually made,

c. deducting from gross income any deductions as set forth for other children for whom the parent is legally responsible and is actually supporting, pursuant to Section 118C of this act, and

d. deducting the amount of reasonable expenses of the parties attributable to debt service for preexisting, jointly acquired debt of the parents;

2. "Base child support obligation" means the amount of support displayed on the Schedule of Basic Child Support Obligations which corresponds to the combined AGI of both parents and the number of children for whom support is being determined. This amount is rebuttably presumed to be the appropriate amount of basic child support to be provided by both parents in the case immediately under consideration, prior to consideration of any adjustments for medical and child care costs, and any other additional expenses;

3. "Current Monthly Child Support Obligation" means the base child support obligation and the proportional share of any medical insurance and annualized child care costs;

4. “Custodial person” means a parent or third-party caretaker who has physical custody of a child more than one hundred eighty-two (182) days per year;

5. “Non-custodial parent” means a parent who has physical custody of a child one hundred eighty-two (182) days per year or less;

6. “Obligor” means the person who is required to make payments under an order for support;

7. “Obligee” or “person entitled” means:

a. a person to whom a support debt or support obligation is owed,

b. the Department of Children and Family Services or a public agency of any tribe or state that has the right to receive current or accrued support payments or that is providing support enforcement services, or

c. a person designated in a support order or as otherwise specified by the court;

8. “Other contributions” means recurring monthly medical expenses and visitation transportation costs that are not included in the current monthly child support obligation;

9. “Overnight” means the child is in the physical custody and control of a parent for an overnight period of at least twelve (12) hours, and that parent has made a reasonable expenditure of resources for the care of the child;

10. “Parent” means an individual who has a parent-child relationship under the Uniform Parentage Act;

11. “Parenting time adjustment” means an adjustment to the base child support amount based upon parenting time; and

12. “Payor” means any person or entity paying monies, income, or earnings to an obligor. In the case of a self-employed person, the “payor” and “obligor” may be the same person.

Section 118B. Computation of gross income--Imputed income--Self-employment income--Fringe benefits--Social Security Title II benefits

A. As used in this act:

1. “Gross income” includes earned and passive income from any source, except as excluded in this section;

2. “Earned income” is defined as income received from labor or the sale of goods or services and includes, but is not limited to, income from:

a. salaries,

b. wages,

c. tips

d. commissions,

e. bonuses,

f. severance pay, and

g. military pay, including hostile fire or imminent danger pay, combat pay, family separation pay, or hardship duty location pay; and

3. “Passive income” is defined as all other income and includes, but is not limited to, income from:

a. dividends,

b. pensions,

c. rent,

d. interest income,

e. trust income,

f. support alimony being received from someone other than the other parent in this case,

g. annuities,

h. social security benefits,

i. workers’ compensation benefits,

j. unemployment insurance benefits,

k. disability insurance benefits,

l. gifts,

m. prizes,

n. gambling winnings,

o. lottery winnings, and

p. royalties.

B. Income specifically excluded is:

1. Actual child support received for children not before the court;

2. Adoption Assistance subsidy paid by the Department of Children and Family Services;

3. Benefits received from means-tested public assistance programs including, but not limited to:

a. Temporary Assistance for Needy Families (TANF),

b. Supplemental Security Income (SSI),

c. Food Stamps, and

d. General Assistance and State Supplemental Payments for Aged, Blind and the Disabled;

4. The income of the child from any source, including, but not limited to, trust income and social security benefits drawn on the disability of the child; and

5. Payments received by the parent for the care of foster children.

C. 1. For purposes of computing gross income of the parents, gross income shall include for each parent whichever is the most equitable of:

a. all actual monthly income described in this section, plus such overtime and supplemental income as the court deems equitable,

b. the average of the gross monthly income for the time actually employed during the previous three (3) years,

c. the minimum wage paid for a forty-hour week, or

d. gross monthly income imputed as set forth in subsection D of this section.

2. If a parent is permanently physically or mentally incapacitated, the child support

obligation shall be computed on the basis of actual monthly gross income.

D. Imputed income.

1. Instead of using the actual or average income of a parent, the court may impute gross income to a parent under the provisions of this section if equitable.

2. The following factors may be considered by the court when making a determination of willful and voluntary underemployment or unemployment:

a. whether a parent has been determined by the court to be willfully or voluntarily underemployed or unemployed, including whether unemployment or underemployment for the purpose of pursuing additional training or education is reasonable in light of the obligation of the parent to support his or her children and, to this end, whether the training or education will ultimately benefit the child in the case immediately under consideration by increasing the parent's level of support for that child in the future,

b. when there is no reliable evidence of income,

c. the past and present employment of the parent,

d. the education, training, and ability to work of the parent,

e. the lifestyle of the parent, including ownership of valuable assets and resources, whether in the name of the parent or the current spouse of the parent, that appears inappropriate or unreasonable for the income claimed by the parent,

f. the role of the parent as caretaker of a handicapped or seriously ill child of that parent, or any other handicapped or seriously ill relative for whom that parent has assumed the role of caretaker which eliminates or substantially reduces the ability of the parent to work outside the home, and the need of that parent to continue in that role in the future, or

g. any additional factors deemed relevant to the particular circumstances of the case.

E. Self-employment income.

1. Income from self-employment includes income from, but not limited to, business operations, work as an independent contractor or consultant, sales of goods or services, and rental properties, less ordinary and reasonable expenses necessary to produce such income.

2. A determination of business income for tax purposes shall not control for purposes of determining a child support obligation. Amounts allowed by the Internal Revenue Service for accelerated depreciation or investment tax credits shall not be considered reasonable expenses.

3. The district court shall deduct from self-employment gross income an amount

equal to the employer contribution for F.I.C.A. tax which an employer would withhold from an employee's earnings on an equivalent gross income amount.

F. Fringe benefits.

1. Fringe benefits for inclusion as income or in-kind remuneration received by a parent in the course of employment, or operation of a trade or business, shall be counted as income if they significantly reduce personal living expenses.

2. Such fringe benefits might include, but are not limited to, company car, housing, or room and board.

3. Basic Allowance for Housing, Basic Allowance for Subsistence, and Variable Housing Allowances for service members are considered income for the purposes of determining child support.

4. Fringe benefits do not include employee benefits that are typically added to the salary, wage, or other compensation that a parent may receive as a standard added benefit, such as employer contributions to portions of health insurance premiums or employer contributions to a retirement or pension plan.

G. Social Security Title II benefits.

1. Social Security Title II benefits received by a child shall be included as income to the parent on whose account the benefit of the child is drawn and applied against the support obligation ordered to be paid by that parent. If the benefit of the child is drawn from the disability of the child, the benefit of the child is not added to the income of either parent and not deducted from the obligation of either parent.

2. Child support greater than social security benefit.

If the child support award due after calculating the child support guidelines is greater than the social security benefit received on behalf of the child, the obligor shall be required to pay the amount exceeding the social security benefit as part of the child support award in the case.

3. Child support equal to or less than social security benefits.

a. If the child support award due after calculating the child support guidelines is less than or equal to the social security benefit received on behalf of the child, the child support obligation of that parent is met and no additional child support amount must be paid by that parent.

b. Any social security benefit amounts which are greater than the support ordered by the court shall be retained by the caretaker for the benefit of the child and shall not be used as a reason for decreasing the child support order or reducing arrearages.

c. The child support computation form shall include a notation regarding the use of social security benefits as offset.

4. a. Calculation of child support as provided in subsection F of this section shall be effective no earlier than the date on which the motion to modify was filed.

b. The court may determine if, under the circumstances of the case, it is appropriate to credit social security benefits paid to the custodial person prior to a modification of child support against the past-due child support obligation of the non-custodial parent.

c. The non-custodial parent shall not receive credit for any social security benefits paid directly to the child.

d. Any credit granted by the court pursuant to subparagraph b of this paragraph shall be limited to the time period during which the social security benefit was paid, or the time period covered by a lump sum for past social security benefits.

Section 118C. Deductions from gross income for qualified other children

A. Deductions for other children of either parent who are qualified under this section may be considered by the court for the purpose of reducing the gross income of the parent. Adjustments are available for a child:

1. Who is the biological, legal, or adopted child of the parent;

2. Who was born prior to the child in the case under consideration;

3. Whom the parent is actually supporting; and

4. Who is not before the court to set, modify, or enforce support in the case immediately under consideration.

B. Children for whom support is being determined in the case under consideration, stepchildren, and other minors in the home that the parent has no legal obligation to support shall not be considered in the calculation of this deduction.

C. If the court finds a parent has a parent-child relationship with a child not before the court, the court may grant a deduction for that child as set forth in subsection D of this section.

D. Calculation of deduction for qualified other children.

1. Out-of-home children.

a. To receive a deduction against gross income for child support provided pursuant to

a court order for qualified other children whose primary residence is not in the home of the parent seeking deduction, the parent shall establish the existence of a support order and provide documented proof of support paid for the other child consistently over a reasonable and extended period of time prior to the initiation of the proceeding that is immediately under consideration by the tribunal, but in any event, such time period shall not be less than twelve (12) months.

b. Documented proof of support includes:

(1) physical evidence of monetary payments to the caretaker of the child, such as canceled checks or money orders, and

(2) evidence of payment of child support under another child support order, such as a payment history from a tribunal clerk or child support office or from the Internet child support payment history of the Department of Children and Family Services or a like agency of any Indian tribe or state of the United States.

c. The available deduction against gross income for either parent's qualified children not in the home of the parent is the actual documented court-ordered current monthly child support obligation of the qualified other children, averaged to a monthly amount of support paid over the most recent twelve-month period.

2. In-home children.

a. To receive a deduction against gross income for qualified prior-born other children whose primary residence is with the parent seeking deduction, but who are not part of the case being determined, the parent must establish a legal duty of support and that the child resides with the parent more than fifty percent (50%) of the time. Documents that may be used to establish that the parent and child share the same residence include the school or medical records showing the address of the child and the utility bills of the parents mailed to the same address, court orders reflecting the parent is the primary residential parent or that the parent shares the parenting time of the child fifty percent (50%) of the time.

b. The deduction for other qualified children shall be computed as a hypothetical child support order calculated using the deduction worksheet, the gross income of the parents, the total number of qualified other children living in the home of the parent, and the Child Support Guideline Schedule. The deduction worksheet shall be prepared by the Department of Children and Family Services and shall be published by the clerk of the district court.

c. The available deduction against gross income for the qualified in-home children of either parent is seventy-five percent (75%) of a hypothetical support order calculated according to these Guidelines, using the Deduction Worksheet, the gross income of the parent less any self-employment taxes paid, the total number of qualified other children living in the home of the parents, and the Child Support Guideline Schedule.

Section 118D. Computation of child support as percentage of parents' combined gross income--Prospective adjustment--Transportation expenses--Support order summary form

A. All child support shall be computed as a percentage of the combined gross income of both parents. The Child Support Guideline Schedule as provided in Section 119 of this Title shall be used for such computation. The child support obligation of each parent shall be computed. The share of the obligor shall be paid monthly to the obligee and shall be due on a specific date.

B. In cases in which one parent has sole physical custody, the adjusted monthly gross income of both parents shall be added together and the Child Support Guideline Schedule consulted for the total combined base monthly obligation for child support.

C. After the total combined child support is determined, the percentage share of each parent shall be allocated by computing the percentage contribution of each parent to the combined adjusted gross income and allocating that same percentage to the child support obligation to determine the base child support obligation of each parent.

D. 1. In cases of split physical custody, where each parent is awarded physical custody of at least one of the children for whom the parents are responsible, the child support obligation for each parent shall be calculated by application of the child support guidelines for each custodial arrangement.

2. The parent with the larger child support obligation shall pay the difference between the two amounts to the parent with the smaller child support obligation.

E. Child support shall be computed as set forth in subsections A through D of this section in every case, regardless of whether the custodial arrangement is designated as sole custody or joint custody.

F. The court, to the extent reasonably possible, shall make provision in an order for prospective adjustment of support to address any foreseen changes including, but not limited to, changes in medical insurance, child care expenses, medical expenses, extraordinary costs, and the satisfaction of jointly acquired debt of the parents used as a deduction from the gross income of a parent.

G. Transportation expenses of a child between the homes of the parents may be divided between the parents in proportion to their adjusted gross income, so long as the payment of such expenses does not significantly reduce the ability of the custodial parent to provide for the basic needs of the child.

H. The social security numbers of both parents and the children who are the subject of a paternity or child support order shall be included in the support order summary form provided for in Section 120 of this Title.

I. A completed support order summary form shall be presented to the judge with all paternity and child support orders where the Department of Children and Family Services is not a necessary party pursuant to Section 112 of this Title. No such order shall be signed by the judge without presentation of the form.

Section 118E. Parenting time adjustment--Reduction in child support obligation

A. Parenting time adjustment.

1. The adjustment may be granted based upon a court order or agreement that the non-custodial parent is granted at least one hundred twenty-one (121) overnights of parenting time per twelve-month period with the children in the case under consideration.

2. Average parenting time. If there are multiple children for whom support is being calculated, and the parent seeking the parenting time adjustment is spending a different amount of time with each child, then an annual average of parenting time with all of the children shall be calculated.

B. In cases of split physical custody, either parent may be eligible for a parenting time adjustment.

C. Parenting time adjustments are not mandatory, but presumptive. The presumption may be rebutted in a case where the circumstances indicate the adjustment is not in the best interest of the child or that the increased parenting time by the non-custodial parent does not result in greater expenditures which would justify a reduction in the support obligation.

D. Reduction in child support obligation for additional parenting time.

1. If the parent receiving the parenting time adjustment is granted one hundred twenty-one (121) or more overnights of parenting time per twelve-month period with a child, or an average of one hundred twenty-one (121) overnights with all applicable children, a reduction to the child support obligation of the parent may be made as set forth in this section.

2. A parenting time adjustment shall be made to the base monthly child support obligation by the following formula: The total combined base monthly child support obligation shall be multiplied by a factor determined by the number of overnights granted to the non-custodial parent. The result shall be designated the adjusted combined child support obligation. In a case where the non-custodial parent is granted:

a. one hundred twenty-one (121) overnights to one hundred thirty-one (131) overnights, the factor shall be two (2),

b. one hundred thirty-two (132) overnights to one hundred forty-three (143) overnights, the factor shall be one and three-quarters (1.75), or

c. one hundred forty-four (144) or more overnights, the factor shall be one and one-half (1.5).

3. To determine the adjusted child support obligation of each parent, the adjusted combined child support obligation shall be divided between the parents in proportion to their respective adjusted gross incomes.

4. a. The percentage of time a child spends with each parent shall be calculated by determining the number of overnights for each parent and dividing that number by three hundred sixty-five (365).

b. The share of the adjusted combined child support obligation for each parent shall then be multiplied by the percentage of time the child spends with the other parent to determine the base child support obligation owed to the other parent.

c. The respective adjusted base child support obligations for each parent are then offset, with the parent owing more base child support paying the difference between the two amounts to the other parent. The base child support obligation of the parent owing the lesser amount is then set at zero dollars ($0.00).

5. The parent owing the greater amount of base child support shall pay the difference between the two amounts as a child support order. In no event shall the provisions of this paragraph be construed to authorize or allow the payment of child support by a parent having more than two hundred five (205) overnights.

E. 1. Failure to exercise or exercising more than the number of overnights upon which the parenting time adjustment is based, is a material change of circumstances.

2. If the court finds that the obligor has failed to exercise a significant number of the overnights provided in the court order necessary to receive the parenting time adjustment, in a proceeding to modify the child support order, the court may establish the amount that the obligor has underpaid due to the application of the parenting time adjustment as a child support judgment that may be enforced in the same manner as any other child support judgment.

3. The court may rule that the obligor will not receive the parenting time adjustment for the next twelve-month period. After a twelve-month period during which the obligor did not receive the parenting time adjustment, the obligor may petition the court to modify the child support order. The obligor may be granted a prospective parenting time adjustment upon a showing that the obligor has actually exercised the threshold number of overnights in the preceding twelve months. No retroactive modification or credit from the child support guidelines amount shall be granted based on this section.

Section 118F. Medical support order

A. The court shall enter a medical support order in any case in which an ongoing child support order is entered or modified. Medical support, for the purpose of this section, is defined as health insurance, cash medical support, or a combination of both.

1. “Health insurance” includes:

a. fee for service,

b. health maintenance organization,

c. preferred provider organization, and

d. other types of coverage, including, but not limited to, Indian Health Services or Defense Eligibility Enrollment Reporting System (DEERS), which is available to either parent under which medical services could be provided to the dependent children.

2. “Cash medical support” means:

a. an amount ordered to be paid toward the cost of health coverage provided by a public entity or by a person other than the parents through employment or otherwise, or

b. fixed periodic payments for ongoing medical costs.

B. In entering a temporary order, the court shall order that any health insurance coverage in effect for the child continue in effect pending the entering of a final order, unless the court finds that the existing health insurance coverage is not reasonable in cost or is not accessible as defined in subsection D of this section. If there is no health insurance coverage in effect for the child or if the insurance in effect is not available at a reasonable cost or is not accessible, the court shall order health care coverage for the child as provided in this subsection, unless the court makes a written finding that good cause exists not to enter a temporary medical support order.

C. On entering a final order, the court shall:

1. Make specific orders with respect to the manner in which health care coverage is to be provided for the child, in accordance with the priorities identified in subsection F of this section; and

2. Require the parent ordered to provide health care coverage for the child as provided under this section to produce evidence to the court’s satisfaction that the parent has applied for or secured health insurance or has otherwise taken necessary action to provide for health care coverage for the child, as ordered by the court.

D. When the court enters a medical support order, the medical support order must be reasonable in cost and accessible.

1. "Reasonable in cost" means that the actual premium cost paid by the insured does not exceed five percent (5%) of the gross income of the responsible parent. To calculate the actual premium cost of the health insurance, the court shall:

a. deduct from the total insurance premium the cost of coverage for the parent and any other adults in the household,

b. divide the remainder by the number of dependent children being covered, and

c. multiply the amount per child by the number of children in the child support case under consideration.

2. "Accessible health insurance" means that:

a. there are available providers appropriate to meet the primary individual health care needs of the children no more than sixty (60) miles one way from the primary residence of the children.

b. If a parent has available health coverage which includes an option that would be accessible to the child, but the parent has not currently enrolled in that option, the court may require the parent to change existing coverage to an option that is accessible to the child.

3. If the parties agree or the court finds good cause exists, the court may order medical coverage in excess of the five percent (5%) cost standard or the sixty-mile distance standard.

E. The court shall consider the cost and quality of health insurance coverage available to the parties and shall give priority to health insurance coverage available through the employment of one of the parties if the coverage meets the standards in subsection D of this section. If both parents have coverage available, the court shall give priority to the preference of the custodial person.

F. In determining the manner in which health care coverage for the child is to be ordered, the court shall enter an order in accordance with the following priorities and subsection D of this section, unless a party shows good cause why a particular order would not be in the best interest of the child:

1. If health insurance is available for the child through the employment of a parent or membership in a union, trade association, or other organization, the court shall order that parent to enroll the child in the health insurance of the parent;

2. If health insurance is not available for the child under paragraph 1 of this subsection but is available to a parent from another source, the court may order that parent to provide health insurance for the child;

3. If the court finds that neither parent has access to private health insurance at a reasonable cost, the court shall order the parent awarded the exclusive right to designate the child's primary residence or, to the extent permitted by law, the other parent to apply immediately on behalf of the child for participation in a government medical assistance program or health plan. If the child participates in a government medical assistance program or health plan, the court shall order cash medical support under paragraph 4 of this subsection, in accordance with rules promulgated by the Choctaw Nation Health Services Authority and the Choctaw Nation Department of Children and Family Services;

4. Cash medical support.

a. If health insurance coverage is not available for the child under paragraph 1 or 2 of this subsection, the court shall determine the amount to be treated as the actual monthly medical costs for the child and order the obligor to pay, in addition to the obligors current child support obligation, an amount as cash medical support for the child.

b. The cash medical support order shall not exceed the pro rata share of the actual monthly medical expenses paid for the child, or five percent (5%) of the gross monthly income of the obligor, whichever is less.

c. (1) In determining the actual monthly medical costs for the child, the court shall determine:

(a) for children who are participating in a government medical assistance program or health plan, an amount consistent with rules promulgated by the Choctaw Nation Health Services Authority determining the rates established for the cost of providing medical care through a government medical assistance program or health plan, or

(b) for children who are not participating in a government medical assistance program or health plan, an amount consistent with rules promulgated by the Department of Children and Family Services determining the average monthly cost of health care for uninsured children.

(2) The court may also consider:

(a) proof of past medical expenses incurred by either parent for the child,

(b) the current state of the health of the child, and

(c) any medical conditions of the child that would result in an increased monthly medical cost.

G. An order requiring the payment of cash medical support under paragraph 4 of subsection F of this section must allow the obligor to discontinue payment of the cash medical support if:

1. Health insurance for the child becomes available to the obligor at a reasonable cost; and

2. The obligor:

a. enrolls the child in the insurance plan, and

b. provides the obligee and, in a Title IV-D case, the Title IV-D agency, the information required under paragraph 2 of subsection C of this section.

H. 1. The actual health insurance premium for the child shall be allocated between the parents in the same proportion as their adjusted gross income and shall be added to the base child support obligation.

2. If the obligor pays the health insurance premium, the obligor shall receive credit against the base child support obligation for the allocated share of the health insurance premium for which the obligee is responsible.

3. If the obligee pays the health insurance premium, the obligor shall pay the allocated share of the health insurance premium to the obligee in addition to the base child support obligation.

4. The parent providing the health insurance coverage shall furnish to the other parent and to the Child Support Enforcement Division of the Department of Children and Family Services, if services are being provided pursuant to Title IV, Part D of the Social Security Act, 42 U.S.C. Section 601 et seq., with timely written documentation of any change in the amount of the health insurance cost premium, carrier, or benefits within thirty (30) days of the date of the change. Upon receiving timely notification of the change of cost, the other parent is responsible for his or her percentage share of the changed cost of the health insurance.

5. If the court finds that the obligor has underpaid child support due to changes in the cost of health insurance, the amount of underpayment may established by the court and enforced in the same manner as any other delinquent child support judgment. If the court finds that the obligor has overpaid due to changes in health insurance coverage cost, the overpayment shall be satisfied:

a. by offset against any past-due child support owed to the obligee, or

b. by adjustment to the future child support amount over a thirty-six-month period.

I. Reasonable and necessary medical, dental, orthodontic, optometric, psychological, or any other physical or mental health expenses of the child incurred by either parent and not paid or reimbursed by insurance or included in a cash medical support order pursuant to paragraph 4 of subsection F of this section shall be allocated in the same proportion as the

adjusted gross income of the parents as separate items that are not added to the base child support obligation. If reimbursement is required, the parent who incurs the expense shall provide the other parent with proof of the expense within forty-five (45) days of receiving the Explanation of Benefits from the insurance provider or other proof of the expense if the expense is not covered by insurance. The parent responsible for reimbursement shall pay his or her portion of the expense within forty-five (45) days of receipt of documentation of the expense.

J. In addition to any other sanctions ordered by the court, a parent incurring uninsured dependent health expenses or increased insurance premiums may be denied the right to receive credit or reimbursement for the expense or increased premium if that parent fails to comply with subsections H and I of this section.

K. The parent desiring an adjustment to the ongoing child support order due to a change in the amount of dependent health insurance premium shall initiate a review of the order in accordance with Section 118I of this Title.

Section 118G. Actual annualized child care expenses

A. The district court shall determine the actual annualized child care expenses reasonably necessary to enable either or both parents to:

1. Be employed;

2. Seek employment; or

3. Attend school or training to enhance employment income.

B. When a parent is participating in a child care subsidy program, the district court shall determine the amount to be treated as actual child care costs incurred. The district court may use schedules prepared by the Department of Children and Family Services or consider other competent evidence as necessary to carry out this section. When applying the schedule to determine the family share copayment amount, the share of the base monthly obligation for child support of the non-responsible parent and the gross income of the obligee shall be considered as the monthly income of the obligee. The actual child care costs incurred shall be the family share copayment amount indicated on the schedule which shall be allocated and paid monthly in the same proportion as base child support. The Department of Children and Family Services shall promulgate rules, as necessary, to implement the provisions of this section.

C. The actual annualized child care costs incurred for the purposes authorized by this section shall be allocated and added to the base child support order, and shall be part of the final child support order.

D. The district court shall require the parent incurring child care expenses to notify

the obligor within forty-five (45) days of any change in the amount of the child care costs that would affect the annualized child care amount as determined in the order.

E. A parent may be allowed to provide child care incurred during employment, employment search, or while the other parent is attending school or training if the court determines it would lead to a significant reduction in the actual annualized child care cost.

Section 118H. Deviation from guidelines child support amount

A. No deviation in the amount of the child support obligation shall be made which seriously impairs the ability of the obligee in the case under consideration to maintain minimally adequate housing, food, and clothing for the children being supported by the order or to provide other basic necessities, as determined by the court.

B. 1. The district court may deviate from the amount of child support indicated by the child support guidelines if the deviation is in the best interests of the child, and:

2. a. the amount of support so indicated is unjust or inappropriate under the circumstances,

b. the parties are represented by counsel and have agreed to a different disposition, or

c. one party is represented by counsel and the deviation benefits the unrepresented party.

C. If the district court deviates from the amount of child support indicated by the child support guidelines, the court shall make specific findings of fact supporting such action. The findings of fact shall include:

1. The reasons the court deviated from the presumptive amount of child support that would have been paid pursuant to the guidelines,

2. The amount of child support that would have been required under the guidelines if the presumptive amount had not been rebutted, and

3. A finding by the court that states how, in its determination:

a. the best interests of the child who is subject to the support award determination are served by deviation from the presumptive guideline amount, and

b. application of the guidelines would be unjust or inappropriate in the particular case before the tribunal.

D. In instances of extreme economic hardship, deviation from the guidelines may be considered when the court finds the deviation is supported by the evidence and is not

detrimental to the best interests of the child before the court.

E. If a parent is residing with a child with extraordinary medical needs not covered by insurance or other special needs, the court must consider all resources available for meeting such needs, including those available from public agencies and other responsible adults.

F. In cases where the child is in the legal custody of the Department of Children and Family Services, the child protection or foster care agency of another Indian tribe or of a state or territory, or any other child-caring entity, public or private, the court may consider a deviation from the presumptive child support order if the deviation will assist in accomplishing a permanency plan or foster care plan for the child that has a goal of returning the child to the parent, and the parents need to establish an adequate household or to otherwise adequately prepare herself or himself for the return of the child clearly justifies a deviation for this purpose.

G. Extraordinary educational expenses.

1. Extraordinary educational expenses may be added to the presumptive child support as a deviation. Extraordinary educational expenses include, but are not limited to, tuition, room and board, books, fees, and other reasonable and necessary expenses associated with special needs education for a child with a disability that are appropriate to the financial abilities of the parent.

2. In determining the amount of deviation for extraordinary educational expenses, scholarships, grants, stipends, and other cost-reducing programs received by or on behalf of the child shall be considered.

H. Special expenses.

1. Special expenses incurred for child rearing which can be quantified may be added to the child support obligation as a deviation from the Current Monthly Child Support Obligation. Such expenses include, but are not limited to, private school tuition, camp, music or art lessons, travel, school-sponsored extra-curricular activities, such as band, clubs, and athletics, and other activities intended to enhance the athletic, social or cultural development of a child, but that are not otherwise required to be used in calculating the child support order as are health insurance premiums and work-related child care costs.

2. Some factors the court may consider in determining whether to deviate for such extraordinary expenses include: a history of expenditure for such activities, the financial ability of the parents to provide such activities, and that the child has exhibited an extraordinary aptitude for the activity.

3. In determining the amount of deviation for extraordinary educational expenses, scholarships, grants, stipends, and other cost-reducing programs received by or on behalf of the child shall be considered.

Section 118I. Modification of child support orders

A. 1. Child support orders may be modified upon a material change in circumstances which includes, but is not limited to, an increase or decrease in the needs of the child, an increase or decrease in the income of the parents, changes in actual annualized child care expenses, changes in the cost of medical or dental insurance, or when one of the children in the child support order reaches the age of majority or otherwise ceases to be entitled to support pursuant to the support order.

2. Modification of the Child Support Guideline Schedule shall not alone be a material change in circumstances for child support orders.

3. An order of modification shall be effective upon the date the motion to modify was filed, unless the parties agree to the contrary or the court makes a specific finding of fact that the material change of circumstance did not occur until a later date.

B. 1. A child support order shall not be modified retroactively regardless of whether support was ordered in a temporary order, a decree of dissolution of marriage, an order establishing paternity, modification of an order of support, or other action to establish or to enforce support.

2. All final orders shall state whether past-due support and interest have accrued pursuant to any temporary order and the amount due, if any; however, failure to state a past-due amount shall not bar collection of that amount after entry of the final support order.

C. The amount of a child support order shall not be construed to be an amount per child unless specified by the district or administrative court in the order. A child reaching the age of majority or otherwise ceasing to be entitled to support pursuant to the support order shall constitute a material change in circumstances, but shall not automatically serve to modify the order. When the last child of the parents ceases to be entitled to support, the child support obligation is automatically terminated as to prospective child support only.

D. 1. When a child support order is entered or modified, the parents may agree or the district court may require a periodic exchange of information for an informal review and adjustment process.

2. When an existing child support order does not contain a provision which requires an informal review and adjustment process, either parent may request the other parent to provide the information necessary for the informal review and adjustment process. Information shall be provided to the requesting parent within forty-five (45) days of the request.

3. Requested information may include verification of income, proof and cost of medical insurance of the children, and current and projected child care costs. If shared parenting time has been awarded by the court, documentation of past and prospective

overnight visits shall be exchanged.

4. Exchange of requested information may occur once a year or less often, by regular mail.

5. a. If the parents agree to a modification of a child support order, their agreement shall be in writing using standard modification forms and the child support computation form provided for in Section 120 of this Title.

b. The standard modification forms and the standard child support computation form shall be submitted to the district court. The court shall review the modification forms to confirm that the child support obligation complies with the child support guidelines and that all necessary parties pursuant to Section 112 of this Title have been notified. If the court approves the modification forms, they shall be filed with the court.

Section 118.1. Disclosure of financial status

In any proceeding to establish or modify a support order, each party shall completely disclose his or her financial status.

Section 118.2. Reserved

Section 118.3. Request for wage and tax information

On or after April 15th of each year, the obligor or obligee may make a written request to the other party for the other party's previous tax year W-2 forms, 1099 form, or other wage and tax information. This request shall be served upon the other party in the same manner prescribed for the service of summons in a civil action, and the original request shall be filed in the court file. The party receiving such a written request shall provide the requesting party a copy of the requested information by certified mail within ten (10) days of receiving the written request. If a motion to modify child support is subsequently filed by the requesting party, and it is shown to the court that the non-moving party failed to comply with this section, the court may award the moving party his or her attorney fees and costs incurred as a result of the failure to provide requested information.

Section 118.4. Assignment of child support--Attorney fees

A. Child support or any claim thereto shall not be directly or indirectly assigned, unless the assignment is to a public agency of the Choctaw Nation or of another Indian tribe or of a state of the United States because the public agency has provided Temporary Assistance for Needy Families or some similar support. Any assignment of child support to the Department of Children and Family Services shall have first priority over any prior or

subsequent assignment.

B. Child support may be assigned to an attorney for the purpose of providing legal representation in child support proceedings. The assignment shall be consistent with the Choctaw Nation Rules of Professional Conduct and shall not exceed fifty percent (50%) of the net amount of the child support collected and remitted to the obligee.

Section 119. Computation of child support obligations

A. Child support shall be computed in accordance with the following Child Support Guideline Schedule:

SCHEDULE OF BASIC

CHILD SUPPORT OBLIGATIONS

If Combined Gross Monthly	Total Support Amount					
Income is equal to or above	One Child	Two Children	Three Children	Four Children	Five Children	Six Children or More
50	50	50	50	50	50	50
650	50	50	50	88	118	141
700	50	50	101	122	154	176
750	61	107	132	156	198	207
800	94	141	165	190	239	242
850	127	174	199	224	274	276
900	159	207	232	258	308	311
950	192	240	265	291	342	345
1,000	206	272	298	325	375	379
1,050	215	305	332	359	409	414
1,100	224	326	365	392	443	448
1,150	232	338	397	425	476	481
1,200	241	351	415	458	497	515
1,250	249	363	430	475	515	551
1,300	257	375	443	490	531	568
1,350	265	386	457	504	547	585
1,400	273	397	470	519	562	602
1,450	280	408	483	533	578	618

1,500	288	419	496	548	594	635
1,550	296	430	509	562	609	652
1,600	304	442	522	576	625	669
1,650	312	453	535	591	640	685
1,700	319	464	548	605	656	702
1,750	327	475	561	620	672	719
1,800	335	486	574	634	687	735
1,850	343	497	587	648	703	752
1,900	351	509	600	663	718	769
1,950	358	520	613	677	734	785
2,000	366	531	626	691	750	802
2,050	374	542	639	706	765	819
2,100	382	554	652	720	781	835
2,150	390	565	665	735	796	852
2,200	398	576	678	749	812	869
2,250	406	587	691	763	828	886
2,300	414	599	704	778	843	902
2,350	422	610	717	792	859	919
2,400	430	621	730	807	874	936
2,450	437	632	743	821	890	952
2,500	445	643	755	835	905	968
2,550	451	653	768	848	919	984
2,600	458	663	780	862	934	1,000
2,650	465	673	792	875	949	1,015
2,700	472	683	804	888	963	1,030
2,750	477	691	814	900	975	1,043
2,800	483	700	824	911	987	1,056
2,850	489	708	834	922	999	1,069
2,900	494	716	844	933	1,011	1,082
2,950	500	725	854	944	1,023	1,095
3,000	505	733	864	955	1,035	1,107
3,050	511	741	874	966	1,047	1,120
3,100	517	749	884	977	1,059	1,133
3,150	521	756	892	986	1,069	1,143
3,200	525	761	897	992	1,075	1,150
3,250	528	766	903	998	1,081	1,157
3,300	532	771	908	1,003	1,088	1,164
3,350	535	776	913	1,009	1,094	1,170
3,400	539	780	919	1,015	1,100	1,177

3,450	543	785	924	1,021	1,107	1,184
3,500	546	790	929	1,027	1,113	1,191
3,550	550	795	935	1,033	1,119	1,198
3,600	553	800	940	1,039	1,126	1,205
3,650	557	805	945	1,045	1,132	1,211
3,700	560	809	951	1,050	1,139	1,218
3,750	564	814	956	1,056	1,145	1,225
3,800	567	819	961	1,062	1,151	1,232
3,850	571	824	966	1,068	1,158	1,239
3,900	574	828	972	1,074	1,164	1,245
3,950	577	832	977	1,079	1,170	1,252
4,000	580	837	982	1,085	1,176	1,258
4,050	583	841	987	1,090	1,182	1,265
4,100	586	845	992	1,096	1,188	1,271
4,150	589	850	997	1,102	1,194	1,278
4,200	592	854	1,002	1,107	1,200	1,284
4,250	595	859	1,007	1,113	1,206	1,291
4,300	598	863	1,012	1,119	1,213	1,297
4,350	601	867	1,017	1,124	1,219	1,304
4,400	604	872	1,023	1,130	1,225	1,311
4,450	607	876	1,028	1,136	1,231	1,317
4,500	610	880	1,033	1,141	1,237	1,324
4,550	613	885	1,038	1,147	1,243	1,330
4,600	617	890	1,044	1,154	1,250	1,338
4,650	622	897	1,052	1,162	1,260	1,348
4,700	626	903	1,059	1,171	1,269	1,358
4,750	631	910	1,067	1,179	1,278	1,368
4,800	636	916	1,075	1,188	1,287	1,377
4,850	640	923	1,082	1,196	1,296	1,387
4,900	645	930	1,090	1,205	1,306	1,397
4,950	650	936	1,098	1,213	1,315	1,407
5,000	654	943	1,105	1,222	1,324	1,417
5,050	659	950	1,113	1,230	1,333	1,427
5,100	664	956	1,121	1,239	1,343	1,437
5,150	668	963	1,129	1,247	1,352	1,446
5,200	673	969	1,136	1,256	1,361	1,456
5,250	678	976	1,144	1,264	1,370	1,466
5,300	682	982	1,151	1,272	1,379	1,475
5,350	686	987	1,157	1,279	1,386	1,483

5,400	689	992	1,163	1,285	1,393	1,490
5,450	692	997	1,168	1,291	1,400	1,498
5,500	696	1,002	1,174	1,297	1,406	1,505
5,550	699	1,007	1,180	1,304	1,413	1,512
5,600	703	1,012	1,185	1,310	1,420	1,519
5,650	706	1,017	1,191	1,316	1,427	1,527
5,700	709	1,022	1,197	1,322	1,433	1,534
5,750	713	1,027	1,203	1,329	1,441	1,542
5,800	717	1,032	1,209	1,336	1,448	1,550
5,850	721	1,038	1,216	1,343	1,456	1,558
5,900	724	1,043	1,222	1,350	1,464	1,566
5,950	728	1,049	1,228	1,357	1,471	1,574
6,000	732	1,054	1,234	1,364	1,479	1,582
6,050	736	1,060	1,241	1,371	1,487	1,591
6,100	741	1,067	1,249	1,380	1,496	1,601
6,150	746	1,074	1,257	1,389	1,506	1,612
6,200	751	1,081	1,266	1,398	1,516	1,622
6,250	756	1,088	1,274	1,407	1,526	1,633
6,300	761	1,095	1,282	1,417	1,536	1,643
6,350	765	1,102	1,290	1,426	1,545	1,653
6,400	770	1,109	1,298	1,435	1,555	1,664
6,450	775	1,116	1,306	1,444	1,565	1,674
6,500	780	1,123	1,315	1,453	1,575	1,685
6,550	785	1,130	1,323	1,462	1,584	1,695
6,600	790	1,137	1,331	1,471	1,594	1,706
6,650	795	1,144	1,339	1,480	1,604	1,716
6,700	800	1,151	1,347	1,489	1,614	1,727
6,750	805	1,158	1,355	1,498	1,623	1,737
6,800	810	1,165	1,364	1,507	1,633	1,748
6,850	815	1,172	1,372	1,516	1,643	1,758
6,900	819	1,179	1,380	1,525	1,653	1,768
6,950	824	1,186	1,388	1,534	1,663	1,779
7,000	829	1,193	1,396	1,543	1,672	1,789
7,050	834	1,200	1,404	1,552	1,682	1,800
7,100	838	1,206	1,411	1,560	1,691	1,809
7,150	842	1,211	1,418	1,567	1,698	1,817
7,200	846	1,217	1,424	1,574	1,706	1,825
7,250	850	1,222	1,430	1,581	1,713	1,833
7,300	853	1,228	1,437	1,588	1,721	1,842

7,350	857	1,233	1,443	1,595	1,729	1,850
7,400	861	1,238	1,450	1,602	1,736	1,858
7,450	864	1,244	1,456	1,609	1,744	1,866
7,500	868	1,249	1,462	1,616	1,751	1,874
7,550	872	1,254	1,469	1,623	1,759	1,882
7,600	875	1,260	1,475	1,630	1,767	1,890
7,650	879	1,265	1,481	1,637	1,774	1,899
7,700	883	1,270	1,488	1,644	1,782	1,907
7,750	887	1,276	1,494	1,651	1,790	1,915
7,800	890	1,281	1,500	1,658	1,797	1,923
7,850	894	1,287	1,507	1,665	1,805	1,931
7,900	898	1,292	1,513	1,672	1,812	1,939
7,950	901	1,297	1,519	1,679	1,820	1,947
8,000	905	1,303	1,526	1,686	1,828	1,955
8,050	909	1,308	1,532	1,693	1,835	1,964
8,100	912	1,313	1,538	1,700	1,843	1,972
8,150	916	1,319	1,545	1,707	1,850	1,980
8,200	920	1,324	1,551	1,714	1,858	1,988
8,250	924	1,330	1,557	1,721	1,866	1,996
8,300	927	1,335	1,564	1,728	1,873	2,004
8,350	931	1,340	1,570	1,735	1,881	2,012
8,400	935	1,346	1,577	1,742	1,888	2,021
8,450	938	1,351	1,583	1,749	1,896	2,029
8,500	943	1,357	1,590	1,757	1,905	2,038
8,550	949	1,363	1,597	1,765	1,913	2,047
8,600	954	1,369	1,605	1,773	1,922	2,057
8,650	959	1,375	1,612	1,781	1,931	2,066
8,700	964	1,381	1,619	1,789	1,939	2,075
8,750	969	1,387	1,626	1,797	1,948	2,084
8,800	974	1,393	1,633	1,805	1,957	2,093
8,850	979	1,399	1,641	1,813	1,965	2,103
8,900	984	1,405	1,648	1,821	1,974	2,112
8,950	989	1,411	1,655	1,829	1,982	2,121
9,000	995	1,417	1,662	1,837	1,991	2,130
9,050	1,000	1,423	1,669	1,845	2,000	2,140
9,100	1,005	1,429	1,677	1,853	2,008	2,149
9,150	1,010	1,435	1,684	1,861	2,017	2,158
9,200	1,015	1,441	1,691	1,869	2,026	2,167
9,250	1,020	1,447	1,698	1,877	2,034	2,177

9,300	1,025	1,453	1,706	1,885	2,043	2,186
9,350	1,030	1,459	1,713	1,893	2,052	2,195
9,400	1,035	1,465	1,720	1,901	2,060	2,204
9,450	1,040	1,471	1,727	1,909	2,069	2,214
9,500	1,046	1,477	1,734	1,917	2,077	2,223
9,550	1,051	1,483	1,742	1,924	2,086	2,232
9,600	1,056	1,489	1,749	1,932	2,095	2,241
9,650	1,061	1,495	1,756	1,940	2,103	2,251
9,700	1,066	1,501	1,763	1,948	2,112	2,260
9,750	1,071	1,507	1,770	1,956	2,121	2,269
9,800	1,076	1,513	1,778	1,964	2,129	2,278
9,850	1,081	1,519	1,785	1,972	2,138	2,288
9,900	1,086	1,525	1,792	1,980	2,147	2,297
9,950	1,091	1,531	1,799	1,988	2,155	2,306
10,000	1,097	1,537	1,807	1,996	2,164	2,315
10,050	1,102	1,543	1,814	2,004	2,173	2,325
10,100	1,107	1,549	1,821	2,012	2,181	2,334
10,150	1,112	1,555	1,828	2,020	2,190	2,343
10,200	1,117	1,561	1,835	2,028	2,198	2,352
10,250	1,122	1,567	1,843	2,036	2,207	2,362
10,300	1,127	1,574	1,850	2,044	2,216	2,371
10,350	1,132	1,580	1,857	2,052	2,224	2,380
10,400	1,137	1,586	1,864	2,060	2,233	2,389
10,450	1,142	1,592	1,871	2,068	2,242	2,399
10,500	1,148	1,598	1,879	2,076	2,250	2,408
10,550	1,153	1,604	1,886	2,084	2,259	2,417
10,600	1,158	1,610	1,893	2,092	2,268	2,426
10,650	1,163	1,616	1,900	2,100	2,276	2,436
10,700	1,168	1,622	1,907	2,108	2,285	2,445
10,750	1,173	1,628	1,915	2,116	2,293	2,454
10,800	1,178	1,634	1,922	2,124	2,302	2,463
10,850	1,183	1,640	1,929	2,132	2,311	2,473
10,900	1,188	1,646	1,936	2,140	2,319	2,482
10,950	1,193	1,652	1,944	2,148	2,328	2,491
11,000	1,199	1,658	1,951	2,156	2,337	2,500
11,050	1,204	1,664	1,958	2,164	2,345	2,509
11,100	1,209	1,670	1,965	2,172	2,354	2,519
11,150	1,214	1,676	1,972	2,180	2,363	2,528
11,200	1,219	1,682	1,980	2,188	2,371	2,537

11,250	1,221	1,686	1,984	2,193	2,377	2,543
11,300	1,223	1,689	1,898	2,197	2,382	2,549
11,350	1,225	1,693	1,993	2,202	2,387	2,554
11,400	1,227	1,697	1,997	2,207	2,392	2,560
11,450	1,229	1,700	2,001	2,212	2,397	2,565
11,500	1,231	1,704	2,006	2,216	2,403	2,571
11,550	1,233	1,708	2,010	2,221	2,408	2,576
11,600	1,235	1,711	2,014	2,226	2,413	2,582
11,650	1,237	1,715	2,019	2,231	2,418	2,587
11,700	1,239	1,719	2,023	2,235	2,423	2,593
11,750	1,241	1,723	2,027	2,240	2,428	2,598
11,800	1,243	1,726	2,031	2,245	2,433	2,604
11,850	1,245	1,730	2,036	2,249	2,438	2,609
11,900	1,247	1,734	2,040	2,254	2,444	2,615
11,950	1,249	1,737	2,044	2,259	2,449	2,620
12,000	1,251	1,741	2,049	2,264	2,454	2,626
12,050	1,253	1,745	2,053	2,268	2,459	2,631
12,100	1,255	1,748	2,057	2,273	2,464	2,637
12,150	1,257	1,752	2,061	2,278	2,469	2,642
12,200	1,259	1,756	2,066	2,283	2,474	2,648
12,250	1,261	1,759	2,070	2,287	2,479	2,653
12,300	1,263	1,763	2,074	2,292	2,485	2,659
12,350	1,265	1,767	2,079	2,297	2,490	2,664
12,400	1,267	1,770	2,083	2,302	2,495	2,669
12,450	1,270	1,774	2,087	2,306	2,500	2,675
12,500	1,272	1,778	2,091	2,311	2,505	2,680
12,550	1,274	1,781	2,096	2,316	2,510	2,686
12,600	1,276	1,785	2,100	2,320	2,515	2,691
12,650	1,278	1,789	2,104	2,325	2,520	2,697
12,700	1,280	1,792	2,109	2,330	2,526	2,702
12,750	1,282	1,796	2,113	2,335	2,531	2,708
12,800	1,284	1,800	2,117	2,339	2,536	2,713
12,850	1,286	1,803	2,121	2,344	2,541	2,719
12,900	1,288	1,807	2,126	2,349	2,546	2,724
12,950	1,290	1,811	2,130	2,354	2,551	2,730
13,000	1,292	1,814	2,134	2,358	2,556	2,735
13,050	1,294	1,818	2,138	2,363	2,562	2,741
13,100	1,296	1,822	2,143	2,368	2,567	2,746
13,150	1,298	1,825	2,147	2,372	2,572	2,752

13,200	1,300	1,829	2,151	2,377	2,577	2,757
13,250	1,302	1,833	2,156	2,382	2,582	2,763
13,300	1,304	1,836	2,160	2,387	2,587	2,768
13,350	1,306	1,840	2,164	2,391	2,592	2,774
13,400	1,308	1,844	2,168	2,396	2,597	2,779
13,450	1,310	1,847	2,173	2,401	2,603	2,785
13,500	1,312	1,851	2,177	2,406	2,608	2,790
13,550	1,314	1,855	2,181	2,410	2,613	2,796
13,600	1,316	1,858	2,186	2,415	2,618	2,801
13,650	1,318	1,862	2,190	2,420	2,623	2,807
13,700	1,320	1,866	2,194	2,425	2,628	2,812
13,750	1,322	1,869	2,198	2,429	2,633	2,818
13,800	1,324	1,873	2,203	2,434	2,638	2,823
13,850	1,326	1,877	2,207	2,439	2,644	2,829
13,900	1,328	1,880	2,211	2,443	2,649	2,834
13,950	1,330	1,884	2,216	2,448	2,654	2,840
14,000	1,332	1,888	2,220	2,453	2,659	2,845
14,050	1,334	1,891	2,224	2,458	2,664	2,851
14,100	1,336	1,895	2,228	2,462	2,669	2,856
14,150	1,338	1,899	2,233	2,467	2,674	2,862
14,200	1,340	1,902	2,237	2,472	2,679	2,867
14,250	1,342	1,906	2,240	2,477	2,685	2,873
14,300	1,344	1,910	2,246	2,481	2,690	2,878
14,350	1,346	1,913	2,250	2,486	2,695	2,884
14,400	1,348	1,917	2,254	2,491	2,700	2,889
14,450	1,350	1,921	2,258	2,496	2,705	2,894
14,500	1,352	1,924	2,263	2,500	2,710	2,900
14,550	1,354	1,928	2,267	2,505	2,715	2,905
14,600	1,356	1,932	2,271	2,510	2,721	2,911
14,650	1,358	1,935	2,276	2,514	2,726	2,916
14,700	1,360	1,939	2,280	2,519	2,731	2,922
14,750	1,362	1,943	2,284	2,524	2,736	2,927
14,800	1,364	1,946	2,288	2,529	2,741	2,933
14,850	1,366	1,950	2,293	2,533	2,746	2,938
14,900	1,368	1,954	2,297	2,538	2,751	2,944
14,950	1,370	1,957	2,301	2,543	2,756	2,949
15,000	1,372	1,961	2,305	2,548	2,762	2,955

B. If combined gross monthly income exceeds Fifteen Thousand Dollars

($15,000.00), the child support shall be that amount computed for a monthly income of Fifteen Thousand Dollars ($15,000.00) and an additional amount determined by the court.

C. If there are more than six children, the child support shall be that amount computed for six children and an additional amount determined by the court.

Section 120. Child support forms

A. A child support computation form shall be signed by the judge and incorporated as a part of all orders which establish or modify a child support obligation.

B. 1. A support order summary form shall be prepared by the attorney of record or the pro se litigant and presented to the judge with all orders which establish paternity or establish, modify or enforce a child support obligation. No paternity or child support order shall be signed by the judge without presentation of the support order summary form.

2. Standard forms for motions to modify child support and orders modifying child support shall be used by all parents for any agreements submitted to the court for approval as a part of the informal review and adjustment process provided in Section 118 of this Title.

3. The forms specified by this subsection shall be prepared by the Department of Children and Family Services and shall be published by the clerk of the district court.

Parenting Coordinator Act

Section 120.1. Parenting Coordinator Act--Short title

Sections 120.1 through 120.5 of this Title shall be known and may be cited as the “Parenting Coordinator Act”.

Section 120.2. Definitions

As used in the Parenting Coordinator Act:

1. “Parenting coordinator” means an impartial third party qualified pursuant to subsection A of Section 120.6 of this Title appointed by the court to assist parties in resolving issues and deciding disputed issues pursuant to the provisions of the Parenting Coordinator Act relating to parenting and other family issues in any action for dissolution of marriage, legal separation, paternity, or guardianship where a minor child is involved; and

2. “High-conflict case” means any action for dissolution of marriage, legal separation, paternity, or guardianship where minor children are involved and the parties demonstrate a

pattern of ongoing:

a. litigation,

b. anger and distrust,

c. verbal abuse,

d. physical aggression or threats of physical aggression,

e. difficulty in communicating about and cooperating in the care of their children, or

f. conditions that in the discretion of the court warrant the appointment of a parenting coordinator.

Section 120.3. Appointment of parenting coordinator--Party agreement--Authority--Meetings--Parental rights--Removal

A. In any action for dissolution of marriage, legal separation, paternity, or guardianship where minor children are involved, the court may, upon its own motion, or by motion or agreement of the parties, appoint a parenting coordinator to assist the parties in resolving issues and decide disputed issues pursuant to the provisions of the Parenting Coordinator Act related to parenting or other family issues in the case except as provided in subsection B of this section, and subsection A of Section 120.5 of this Title.

B. The court shall not appoint a parenting coordinator if any party objects, unless:

1. The court makes specific findings that the case is a high-conflict case; and

2. The court makes specific findings that the appointment of a parenting coordinator is in the best interest of any minor child in the case.

C. 1. The authority of a parenting coordinator shall be specified in the order appointing the parenting coordinator and limited to matters that will aid the parties in:

a. identifying disputed issues,

b. reducing misunderstandings,

c. clarifying priorities,

d. exploring possibilities for compromise,

e. developing methods of collaboration in parenting, and

f. complying with the court's order of custody, visitation, or guardianship.

2. The appointment of a parenting coordinator shall not divest the court of its exclusive jurisdiction to determine fundamental issues of custody, visitation, and support, and the authority to exercise management and control of the case.

3. The parenting coordinator shall not make any modification to any order, judgment or decree; however, the parenting coordinator may allow the parties to make minor temporary departures from a parenting plan if authorized by the court to do so. The appointment order should specify those matters which the parenting coordinator is authorized to determine. The order shall specify which determinations will be immediately effective and which will require an opportunity for court review prior to taking effect.

D. The parties may limit the decision-making authority of the parenting coordinator to specific issues or areas if the parenting coordinator is being appointed pursuant to agreement of the parties.

E. Meetings between the parenting coordinator and the parties need not follow any specific procedures and the meetings may be informal. All communication between the parties and the parenting coordinator shall not be confidential.

F. Nothing in the Parenting Coordinator Act shall abrogate the custodial or non-custodial parent's rights or any court-ordered visitation given to grandparents or other persons except as specifically addressed in the order appointing the parenting coordinator.

G. 1. Except as otherwise provided by this subsection, the court shall reserve the right to remove the parenting coordinator in its own discretion.

2. The court may remove the parenting coordinator upon the request and agreement of both parties. Upon the motion of either party, or upon the court's own motion, and for good cause shown, the court may remove the parenting coordinator.

Section 120.4. Report of decision

A. A report of the decisions and recommendations made by the parenting coordinator shall be filed with the court within twenty (20) days, with copies of the report provided to the parties or their counsel. There shall be no ex parte communication with the court.

B. Any decisions made by the parenting coordinator authorized by the court order and issued pursuant to the provisions of the Parenting Coordinator Act shall be binding on the parties until further order of the court.

C. 1. Any party may file with the court and serve on the parenting coordinator and all other parties an objection to the parenting coordinator's report within ten (10) days after the parenting coordinator provides the report to the parties, or within another time as the court

may direct.

2. Responses to the objections shall be filed with the court and served on the parenting coordinator and all other parties within ten (10) days after the objection is served.

D. The court shall review any objections to the report and any responses submitted to those objections to the report and shall thereafter enter appropriate orders.

Section 120.5. Fees

A. 1. No parenting coordinator shall be appointed unless the court finds that the parties have the means to pay the fees of the parenting coordinator.

2. The Choctaw Nation of Oklahoma shall assume no financial responsibility for payment of fees to the parenting coordinator; except that, in cases of hardship, the court, if feasible, may appoint a parenting coordinator to serve on a volunteer basis.

B. 1. The fees of the parenting coordinator shall be allocated between the parties with the relative percentages determined pursuant to the child support guidelines.

2. The court may allocate the fees between the parties differently upon a finding of good cause by the court or good cause set forth in the parenting coordinator's report.

Section 120.6. Qualifications

A. The District Judge may adopt rules governing the qualifications of a parenting coordinator; provided, however, the qualifications adopted shall not exceed the qualifications established in subsection B of this section.

B. To be qualified as a parenting coordinator, a person shall:

1. Have a master's degree in a mental health or behavioral health field, shall have training and experience in family mediation and shall be a certified mediator under the laws of the Choctaw Nation of Oklahoma or of some other Indian tribe, state or of the United States; or

2. Be a licensed mental health professional or licensed attorney practicing in an area related to families.

C. Parenting coordinators who are not licensed attorneys shall not be considered as engaging in the unauthorized practice of law while performing actions within the scope of his or her duties as a parenting coordinator.

Section 120.7. Court expert--Procedures

A. As used in this section, “court expert” means a parenting coordinator, guardian ad litem, custody evaluator or any other person appointed by the court in a custody or visitation proceeding involving children.

B. Before the court appoints an individual as a court expert, the following disclosures shall be made by the candidate to the parties:

1. A disclosure of any prior relationships with any party, attorney or judge in the pending action;

2. A complete resume disclosing all personal and professional qualifications to serve as a court expert;

3. Any suspensions from practice, reprimands, or other formal punishments resulting from an adjudication of complaints filed against the person with the professional licensing board or other organization authorized to receive complaints regarding the performance of the individual in question; and

4. Any criminal convictions within the past ten (10) years and inclusion on any sexual offender list.

C. A party may file an objection to the appointment of a proposed court expert within fifteen (15) days after the receipt of the disclosures required by subsection B of this section. Upon filing an objection to the proposed court expert, the court shall set the matter for hearing. If requested, the party objecting to the appointment of the proposed court expert shall be entitled to discovery related to the qualifications and appropriateness of the proposed court expert prior to hearing.

Section 121. Restoration of maiden or former name--Alimony--Division of property

A. When a dissolution of marriage is granted, the decree shall restore:

1. To the wife her maiden or former name, if her name was changed as a result of the marriage and if she so desires;

2. To the husband his former name, if his name was changed as a result of the marriage and if he so desires.

B. The court shall enter its decree confirming in each spouse the property owned by him or her before marriage and the undisposed-of property acquired after marriage by him or her in his or her own right. Either spouse may be allowed such alimony out of real and personal property of the other as the court shall think reasonable, having due regard to the value of such property at the time of the dissolution of marriage. Alimony may be allowed

from real or personal property, or both, or in the form of money judgment, payable either in gross or in installments, as the court may deem just and equitable. As to such property, whether real or personal, which has been acquired by the parties jointly during their marriage, whether the title thereto be in either or both of said parties, the court shall, subject to a valid ante nuptial contract in writing, make such division between the parties as may appear just and reasonable, by a division of the property in kind, or by setting the same apart to one of the parties, and requiring the other thereof to be paid such sum as may be just and proper to effect a fair and just division thereof. The court may set apart a portion of the separate estate of a spouse to the other spouse for the support of the children of the marriage where custody resides with that spouse.

Section 122. Effect of dissolution of marriage

A dissolution of marriage granted at the instance of one party shall operate as a dissolution of the marriage contract as to both, and shall be a bar to any claim of either party in or to the property of the other, except in cases where actual fraud shall have been committed by or on behalf of the successful party.

Section 123. Remarriage and cohabitation--Appeal from judgment

It shall be unlawful for either party to an action for dissolution of marriage whose former husband or wife is living to marry in the Choctaw Nation of Oklahoma a person other than the former spouse before the dissolution of marriage was granted within six (6) months from date of decree of dissolution of marriage granted in the Choctaw Nation of Oklahoma, or to cohabit with such other person in the Choctaw Nation of Oklahoma during said period if the marriage took place in any state or Indian tribe; and if an appeal be commenced from said decree, it shall be unlawful for either party to such cause to marry any other person and cohabit with such person in the Choctaw Nation of Oklahoma until the expiration of thirty (30) days from the date on which final judgment shall be rendered pursuant to such appeal. Any person violating the provisions of this section by such marriage shall be deemed guilty of the crime of bigamy. Any person violating the provisions of this section by such cohabitation shall be deemed guilty of the crime of adultery.

An appeal from a judgment granting or denying a dissolution of marriage shall be made in the same manner as in any other civil case.

Section 124. Bigamy a crime

Every person convicted of bigamy as such offense is defined in Section 123 of this Title shall be guilty of a felony and shall be punished by for a term of not less than ten (10) days nor more than one (1) year.

Section 125. Reserved

Section 126. Remarriage within six months as ground for annulment

A marriage wherein one of the parties had not been divorced for six (6) months shall hereafter in the Choctaw Nation of Oklahoma be ground for annulment of marriage by either party.

Section 127. Time when judgments in dissolution of marriage actions become final--Effect of appeal

Every decree of dissolution of marriage shall recite the day and date when the judgment was rendered. If an appeal be taken from a judgment granting or denying a dissolution of marriage, that part of the judgment does not become final and take effect until the appeal is determined. If an appeal be taken from any part of a judgment in a dissolution of marriage action except the granting of the dissolution of marriage, the dissolution of marriage shall be final and take effect from the date the decree of dissolution of marriage is rendered, provided neither party thereto may marry another person until six (6) months after the date the decree of dissolution of marriage is rendered; that part of the judgment appealed shall not become final and take effect until the appeal be determined.

Section 128. Avoidance of marriage of incompetents

When either of the parties to a marriage shall be incapable, from want of age or understanding, of contracting such marriage, the same may be declared void by the district court, in an action brought by the incapable party or by the parent or guardian of such party. Cohabitation after such incapacity ceases, shall be a sufficient defense to any such action.

Section 129. Alimony without dissolution of marriage

The wife or husband may obtain alimony from the other without a dissolution of marriage, in an action brought for that purpose in the district court, for any of the causes for which a dissolution of marriage may be granted. Either may make the same defense to such action as he might to an action for dissolution of marriage, and may, for sufficient cause, obtain a dissolution of marriage from the other in such action.

Section 130. Evidence

Upon the trial of an action for a dissolution of marriage, or for alimony the court may admit proof of the admissions of the parties to be received in evidence, carefully excluding such as shall appear to have been obtained by connivance, fraud, coercion or other improper

means. Proof of cohabitation, and reputation of the marriage of the parties, may be received as evidence of the marriage. But no dissolution of marriage shall be granted without proof.

Section 131. Residency in dissolution of marriage cases

A married person who meets the residence requirements prescribed by law for bringing a dissolution of marriage action in the Choctaw Nation of Oklahoma may seek a dissolution of marriage in the Choctaw Nation of Oklahoma, though the other spouse resides elsewhere.

Section 132. Parties may testify

In any action for dissolution of marriage hereafter tried, the parties thereto, or either of them, shall be competent to testify in like manner, respecting any fact necessary or proper to be proven, as parties to other civil actions are allowed to testify.

Section 133. Setting aside of dissolution of marriage decrees upon petition of parties

When a decree of dissolution of marriage has been issued by the district court, said court is hereby authorized to dissolve said decree at any future time, in or out of the term wherein the decree was granted, provided that both parties to the dissolution of marriage action file a petition, signed by both parties, asking that said decree be set aside and held for naught. And further provided that both parties seeking to have the decree set aside shall make proof to the court that neither one has married a third party during the time since the issuance of the decree of dissolution of marriage.

Section 134. Alimony payments--Designation of support and property payments--Termination of support--Cohabitation by former spouse--Modification of support--Disposable retired or retainer military pay

A. In any dissolution of marriage decree which provides for periodic alimony payments, the court shall plainly state, at the time of entering the original decree, the dollar amount of all or a portion of each payment which is designated as support and the dollar amount of all or a portion of the payment which is a payment pertaining to a division of property. The court shall specify in the decree that the payments pertaining to a division of property shall continue until completed. Payments pertaining to a division of property are irrevocable and not subject to subsequent modification by the court making the award. An order for the payment of money pursuant to a dissolution of marriage decree, whether designated as support or designated as pertaining to a division of property shall not be a lien against the real property of the person ordered to make such payments unless the court order specifically provides for a lien on real property. An arrearage in payments of support reduced to a judgment may be a lien against the real property of the person ordered to make such

payments.

B. The court shall also provide in the dissolution of marriage decree that upon the death or remarriage of the recipient, the payments for support, if not already accrued, shall terminate. The court shall order the judgment for the payment of support to be terminated, and the lien released upon the presentation of proper proof of death of the recipient unless a proper claim is made for any amount of past-due support payments by an executor, administrator, or heir within ninety (90) days from the date of death of the recipient. Upon proper application the court shall order payment of support terminated and the lien discharged after remarriage of the recipient, unless the recipient can make a proper showing that some amount of support is still needed and that circumstances have not rendered payment of the same inequitable, provided the recipient commences an action for such determination, within ninety (90) days of the date of such remarriage.

C. The voluntary cohabitation of a former spouse with a member of the opposite sex shall be a ground to modify provisions of a final judgment or order for alimony as support. If voluntary cohabitation is alleged in a motion to modify the payment of support, the court shall have jurisdiction to reduce or terminate future support payments upon proof of substantial change of circumstances of either party to the dissolution of marriage relating to need for support or ability to support. As used in this subsection, the term cohabitation means the dwelling together continuously and habitually of a man and a woman who are in a private conjugal relationship not solemnized as a marriage according to law, or not necessarily meeting all the standards of a common-law marriage. The petitioner shall make application for modification and shall follow notification procedures used in other dissolution of marriage decree modification actions. The court that entered the dissolution of marriage decree shall have jurisdiction over the modification application.

D. Except as otherwise provided in subsection C of this section, the provisions of any dissolution of marriage decree pertaining to the payment of alimony as support may be modified upon proof of changed circumstances relating to the need for support or ability to support which are substantial and continuing so as to make the terms of the decree unreasonable to either party. Modification by the court of any dissolution of marriage decree pertaining to the payment of alimony as support, pursuant to the provisions of this subsection, may extend to the terms of the payments and to the total amount awarded; provided however, such modification shall only have prospective application.

E. Pursuant to the federal Uniformed Services Former Spouses' Protection Act, 10 U.S.C., Section 1408, a court may treat disposable retired or retainer pay payable to a military member either as property solely of the member or as property of the member and the spouse of the member. If the court determines that the disposable retired or retainer pay of a military member is marital property, the court shall award an amount consistent with the rank, pay grade, and time of service of the member at the time of separation.

F. The provisions of subsection D of this section shall have retrospective and prospective application with regards to modifications for the purpose of obtaining support or payments pertaining to a division of property on dissolution of marriage decrees. There shall

be a two-year statute of limitations, beginning on the date of the final dissolution of marriage decree, for a party to apply for division of disposable retired or retainer pay.

G. The provisions of subsections C and D of this section shall have retrospective and prospective application with regards to modifications of the provisions of a final judgment or order for alimony as support, or of a dissolution of marriage decree pertaining to the payment of alimony as support, regardless of the date that the order, judgment, or decree was entered.

Section 135. Lien for arrearage in child support payments

A. Any payment or installment of child support ordered pursuant to any order, judgment, or decree of the court or by an administrative order of the Choctaw Nation of Oklahoma or by any state Department of Human Services, or like state agency, is, on and after the date it becomes past due, a judgment by operation of law. Judgments for past due support shall:

1. Have the full force and effect of any other judgment, including the ability to be enforced by any method available under the laws of the Choctaw Nation to enforce and collect money judgments; and

2. Be entitled to full faith and credit as a judgment in the Choctaw Nation of Oklahoma.

3. An order that provides for payment of child support, if willfully disobeyed, may be enforced by indirect civil contempt proceedings, notwithstanding that the support payment is a judgment on and after the date it becomes past due. Any amounts determined to be past due by the court may subsequently be enforced by indirect civil contempt proceedings.

B. An arrearage payment schedule set by the court or by an administrative order shall not exceed three (3) years, unless imposition of a payment schedule would be unjust, inequitable, unreasonable, or inappropriate under the circumstances, or not in the best interests of the child or children involved. When making this determination, reasonable support obligations of either parent for other children in the custody of the parent may be considered. If an arrearage payment schedule that exceeds three (3) years is set, specific findings of fact supporting the action shall be made.

Section 136. Mailing of alimony and support payments--Evidence of support payments--Income assignment fee

A. If a judicial order, judgment or decree directs that the payment of child support, alimony, temporary support or any similar type of payment be made through the office of the court clerk, then it shall be the duty of the court to transmit such payments to the payee by first class United States mail, if requested to do so by the payee. Such payments shall be mailed to the payee at the address specified in writing by the payee. In the event of a change

in address of the payee it shall be the duty of the payee to furnish to the court clerk in writing the new address of the payee.

B. A report of child support payments with a certificate of authenticity executed by the court clerk is admissible into evidence in court or in an administrative proceeding as self-authenticated.

C. A fee not to exceed Twenty-five Dollars ($25.00) shall be charged and collected for any post decree application to initiate an income assignment in addition to any other fees authorized by law. The fee shall not be charged or collected for income assignments requested at the time of the filing of the original petition or entered at the time of a dissolution of marriage decree. The person entitled to support is entitled to collect said fees paid pursuant to this subsection from the person obligated to pay support through civil proceedings.

Section 137. Past due payments to operate as judgments--Cessation of lien after period of years--Duration of arrearage payment schedules

A. Any payment or installment of child support ordered pursuant to any order, judgment, or decree of the district court or administrative order of the Department of Children and Family Services is, on and after the date it becomes past due, a judgment by operation of law. Judgments for past due support shall:

1. Have the full force and effect of any other judgment of the Choctaw Nation of Oklahoma, including the ability to be enforced by any method available under the laws of the Choctaw Nation of Oklahoma to enforce and collect money judgments; and

2. Be entitled to full faith and credit as a judgment in the Choctaw Nation of Oklahoma and in any state.

B. A child support judgment shall not become dormant for any purpose, except that it shall cease to be a lien upon real property five (5) years from the date it is filed of record with the county clerk in the county of the State of Oklahoma where the property is located, unless the judgment lien is extended in accordance with the Choctaw Nation Statutes.

1. Except as otherwise provided by court order, a judgment for past due child support shall be enforceable until paid in full.

2. An order that provides for payment of child support, if willfully disobeyed, may be enforced by indirect civil contempt proceedings, notwithstanding that the support payment is a judgment on and after the date it becomes past due. After the implementation of the Centralized Support Registry, any amounts determined to be past due by the Department of Children and Family Services may subsequently be enforced by indirect civil contempt proceedings.

C. An arrearage payment schedule set by a court or administrative order shall not exceed three (3) years, unless imposition of a payment schedule would be unjust, inequitable, unreasonable, or inappropriate under the circumstances, or not in the best interests of the child or children involved. When making this determination, reasonable support obligations of either parent for other children in the custody of the parent may be considered. If an arrearage payment schedule that exceeds three (3) years is set, specific findings of fact supporting the action shall be made.

Section 138. Recording of costs in child support enforcement cases--Assessment against non-prevailing party

Costs incurred in a child support enforcement case in which a party is represented by an office operated by or for the benefit of the Choctaw Nation Department of Children and Family Services shall be recorded by the court clerk. The reasonable costs may be assessed by the court against the non-prevailing party at the conclusion of the proceedings.

Section 139. Legal right to child support

The Tribal Council finds and declares that child support is a basic legal right of the tribe's parents and children, that mothers and fathers have a legal obligation to provide financial support for their children and that child support payments can have a substantial impact on child poverty and welfare expenditures. It is therefore the Tribal Council's intent to encourage payment of child support and to increase the amount of financial support collected for children by authorizing the district court of the Choctaw Nation of Oklahoma pursuant to this act and pursuant to Section 728 of Title 12 of the Oklahoma Statutes to order the revocation, suspension, non-issuance or nonrenewal of an occupational, professional, business or any recreational license or permit, or permit including, but not limited to, a hunting and fishing license or other authorization issued pursuant to any tribal or state wildlife conservation code or any similar laws, and certificates of title for vessels and motors and other licenses of registration issued pursuant to any tribal or state vessel and motor registration laws, and the driving privilege of, or to order probation for, a parent who is in noncompliance with an order for support for at least ninety (90) days or failing, after receiving appropriate notice to comply with subpoenas or warrants relating to paternity or child support proceedings.

Section 139.1. Revocation, suspension, non-issuance, or nonrenewal of license or placement of obligor on probation as remedy for noncompliance with support order

A. As used in this section:

1. "Licensing board" means any bureau, department, division, board, agency or commission that issues a license;

2. “Noncompliance with an order for support” means that the obligor has failed to make child support payments required by a child support order in an amount equal to the child support payable for at least ninety (90) days or has failed to make full payments pursuant to a court-ordered payment plan for at least ninety (90) days or has failed to obtain or maintain health insurance coverage as required by an order for support for at least ninety (90) days or has failed, after receiving appropriate notice to comply with subpoenas or orders relating to paternity or child support proceedings or has failed to comply with an order to submit to genetic testing to determine paternity;

3. “Order for support” means any judgment or order for the support of dependent children or an order to submit to genetic testing to determine paternity issued by any court of the Choctaw Nation of Oklahoma, of any other Indian tribe, or of any state, or any judgment or order issued in accordance with an administrative procedure established by tribal or state law that affords substantial due process and is subject to judicial review;

4. “License” means a license, certificate, registration, permit, approval or other similar document issued by a licensing board granting to an individual a right or privilege to engage in a profession, occupation, or business, or any recreational license or permit including, but not limited to, a hunting and fishing license or other similar authorization, certificates of title for vessels and motors and other licenses or, or a driver license or other permit issued by a tribe or a state;

5. “Obligor” means the person who is required to make payments or comply with other provisions of an order for support;

6. “Choctaw Nation Department of Children and Family Services” means the tribal agency designated to administer a plan for child support;

7. “Person entitled” means:

a. a person to whom a support debt or support obligation is owed,

b. the Choctaw Nation Department of Children and Family Services or a public agency of another Indian tribe or of any state that has the right to receive current or accrued support payments or that is providing support enforcement services, or

c. a person designated in a support order or as otherwise specified by the court; and

8. “Payment plan” includes, but is not limited to, a plan approved by the court that provides sufficient security to ensure compliance with a support order and/or that incorporates voluntary or involuntary income assignment or a similar plan for periodic payment on an arrearage and, if applicable, current and future support.

B. 1. Except as otherwise provided by this subsection, the District Court of the Choctaw Nation of Oklahoma is hereby authorized to order the revocation, suspension, non-issuance or nonrenewal of a license or the placement of the obligor on probation who is in

noncompliance with an order for support.

2. If the obligor is a licensed attorney, the court shall report the matter to the Bar Association of the appropriate state and/or Indian tribe to revoke or suspend the professional license of the obligor or other appropriate action in accordance with the rules of professional conduct and disciplinary proceedings.

3. Pursuant to Section 6-201.1 of Title 47 and Section 728 or Title 12 of the Oklahoma Statutes, the district court of the Choctaw Nation of Oklahoma is hereby authorized to order the revocation or suspension of a driver license of an obligor who is in noncompliance with an order of support.

4. The remedy under this section is in addition to any other enforcement remedy available to the court.

C. 1. At any hearing involving the support of a child, if the district court finds evidence presented at the hearing that an obligor is in noncompliance with an order for support and the obligor is licensed by any licensing board, the court, in addition to any other enforcement action available, shall suspend or revoke the license of the obligor who is in noncompliance with the order of support or place the obligor on probation pursuant to paragraph 2 of this subsection.

2. a. To be placed on probation, the obligor shall agree to a payment plan to:

(1) make all future child support payments as required by the current order during the period of probation, and

(2) pay the full amount of the arrearage:

(a) by lump sum by a date certain, if the court determines the obligor has the ability, or

(b) by making monthly payments in addition to the monthly child support amount pursuant to Section 137 of this title.

b. The payments required to be made pursuant to this section shall continue until the child support arrearage and interest which was the subject of the license revocation action have been paid in full.

3. If the obligor is placed on probation, the obligor shall be allowed to practice or continue to practice the profession, occupation or business of the obligor, or to operate a motor vehicle. If the court orders probation, the appropriate licensing board shall not be notified and no action is required of that board.

4. Probation shall be conditioned upon full compliance with the order. If the court grants probation, the probationary period shall not exceed three (3) years.

5. If the obligor is placed on probation, the obligee or Choctaw Nation Department of Children and Family Services may request a hearing at any time to review the status of the obligor's compliance with the payment plan and to request immediate suspension or revocation of the obligor's license. The obligor shall be served with notice of the hearing by regular mail to the obligor's address of record, which shall be included on all orders that relate to child support, paternity or child custody orders.

6. If, by the completion of time allotted for the probationary period, the obligor has failed to fully comply with the terms of probation, the licenses of the obligor shall be automatically suspended or revoked without further hearing. If the licenses of the obligor are suspended or revoked, the obligor may thereafter apply for reinstatement in compliance with subsection D or E of this section.

D. When all support due is paid in full and the obligor has complied with all other provisions of the order for support, the obligor, the obligee or the Choctaw Nation Department of Children and Family Services may file a motion with the court for reinstatement of the obligor's licenses or termination of probation and the motion shall be set for hearing. If the court finds the obligor has paid all support due in full and has complied with all other provisions of the order for support, the court shall reinstate the obligor's licenses or terminate the probation.

E. 1. An obligor whose licenses have been suspended or revoked may file a motion with the court for reinstatement of the licenses of the obligor prior to payment in full of all support due and the motion shall be set for hearing.

2. The court may reinstate the licenses of the obligor if the obligor has:

a. paid the current child support and the monthly arrearage payments each month for the current month and two (2) months immediately preceding, or paid an amount equivalent to three (3) months of child support and arrearage payments which satisfies the current child support and monthly arrearage payments for the current month and two (2) months immediately preceding,

b. disclosed all information regarding health insurance availability and obtained and maintained health insurance coverage required by an order for support,

c. complied with all subpoenas and orders relating to paternity or child support proceedings,

d. complied with all orders to submit to genetic testing to determine paternity, and

e. disclosed all employment and address information.

3. If the court terminates the order of suspension, revocation, non-issuance or nonrenewal, it shall place the obligor on probation, conditioned upon compliance with any

payment plan and the provisions of the order for support.

4. If the obligor fails to comply with the terms of probation, the court may refuse to reinstate the licenses and driving privileges of the obligor unless the obligor makes additional payments in an amount determined by the court to be sufficient to ensure future compliance, and the obligor complies with the other terms set by the court.

F. The obligor shall serve on the custodian or the tribe a copy of the motion for reinstatement of the licenses of the obligor and notice of hearing pursuant to Section 2005 of Title 12 of the Choctaw Nation Statutes, or if there is an address of record, by regular mail to the address of record on file with the central case registry.

G. If the court orders termination of the order of suspension or revocation, the obligor shall send a copy of the order reinstating the licenses of the obligor to the licensing board, the custodian and Choctaw Nation Department of Children and Family Services.

H. Entry of this order does not limit the ability of the court to issue a new order requiring the licensing board to revoke or suspend the license of the same obligor in the event of another delinquency or failure to comply.

I. Upon receipt of a court order to suspend or revoke the license of an obligor, the licensing board shall comply with the order by:

1. Determining if the licensing board has issued a license to the individual whose name appears on the order for support;

2. Notifying the obligor of the suspension or revocation;

3. Demanding surrender of the license, if required;

4. Entering the suspension or revocation of the license on the appropriate records; and

5. Reporting the suspension or revocation of the license as appropriate.

J. Upon receipt of a court order to not issue or not renew the license of an obligor, the licensing board shall implement by:

1. Determining if the licensing board has received an application for issuance or renewal of a license from the individual whose name appears on the order of support;

2. Notifying the obligor of the non-issuance or nonrenewal; and

3. Entering the non-issuance or nonrenewal of the license as appropriate.

K. An order, issued by the court, directing the licensing board to suspend, revoke, not issue or not renew the license of the obligor shall be processed and implemented by the

licensing board without any additional review or hearing and shall continue until the court or appellate court advises the licensing board by order that the suspension, revocation, non-issuance or nonrenewal is terminated.

L. The licensing board has no jurisdiction to modify, remand, reverse, vacate, or stay the order of the court for the suspension, revocation, non-issuance or nonrenewal of a license.

M. In the event of suspension, revocation, non-issuance or nonrenewal of a license, any funds paid by the obligor to the licensing board for costs related to issuance, renewal, or maintenance of a license shall not be refunded to the obligor.

N. A licensing board may charge the obligor a fee to cover the administrative costs incurred by the licensing board to administer the provisions of this section.

O. Each licensing board shall promulgate rules necessary for the implementation and administration of this section.

P. The licensing board is exempt from liability to the obligor for activities conducted in compliance with Section 139 et seq. of this title.

Q. The provisions of this section may be used to revoke or suspend the licenses and driving privileges of the custodian of a child who fails to comply with an order to submit to genetic testing to determine paternity.

R. A final order entered pursuant to this section may be appealed to the Court of Appeals of the Choctaw Nation pursuant to Section 990A of Title 12 of the Choctaw Nation Statutes.

Section 140. Problem-solving court program--Participation by obligors of state child support plan

A. In cases in which child support services are being provided for the benefit of the child, the district court may order the obligor to participate in the problem-solving court program of the Department of Children and Family Services. The problem-solving court program is an immediate and highly structured judicial intervention process for the obligor and requires completion of a participation agreement by the obligor and monitoring by the court. A problem-solving court program differs in practice and design from the traditional adversarial prosecution and trial systems. The problem-solving court program uses a team approach administered by the judge in cooperation with a child support enforcement attorney and a child support court liaison who focuses on removing the obstacles causing the nonpayment of the obligor. The obligors in this program shall be required to sign an agreement to participate in this program. The court liaisons assess the needs of the obligor, develop a community referral network, make referrals, monitor the compliance of the obligor in the program, and provide status reports to the court.

B. Participation in the problem-solving court program shall not act as a stay of federally mandated automated enforcement remedies. The child support obligation of the obligor shall not be suspended or abated during participation in the program.

Deployed Parents Custody and Visitation Act

Section 150. Deployed Parents Custody and Visitation Act

Sections 150 through 150.10 of this act shall be known and may be cited as the "Deployed Parents Custody and Visitation Act".

Section 150.1. Definitions

As used in the Deployed Parents Custody and Visitation Act:

1. "Close and substantial relationship" means a relationship in which a bond has been forged between the child and the other person by regular contact or communication;

2. "Custodial responsibility" refers to legal custody, physical custody or visitation rights with respect to a child;

3. "Deploying parent" means a legal parent of a minor child or the legal guardian of a child, who is a member of the United States Armed Forces and who is deployed or has been notified of an impending deployment;

4. "Deployment" means the temporary transfer of a servicemember in compliance with official orders to another location in support of combat, contingency operation, or natural disaster requiring the use of orders for a period of more than thirty (30) consecutive days, during which family members are not authorized to accompany the servicemember at government expense. Deployment shall include any period during which a servicemember is absent from duty on account of sickness, wounds, leave or other lawful cause;

5. "Guardian" means a person who has been appointed as a guardian of a minor or incapacitated adult pursuant to the Choctaw Nation Tribal Guardianship and Conservatorship Act. The term shall include a limited guardian, but shall not include a guardian ad litem;

6. "Non-deploying parent" means a legal parent or guardian who is not deployed and who has a child or ward in common with a deploying parent;

7. "Servicemember" means a member of either:

a. the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard, or

b. the active or reserve components of the National Guard; and

8. “Visitation” means the right to take a child for a limited period of time to a place other than the habitual residence of the child.

Section 150.2. Jurisdiction to Enter Order Regarding Custodial Responsibility

The district court of the Choctaw Nation of Oklahoma may enter an order regarding custodial responsibility pursuant to the Deployed Parents Custody and Visitation Act only where the court has jurisdiction pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), Sections 500-101 through 500-402 of this title. If the district court of the Choctaw Nation of Oklahoma has rendered a temporary order regarding custodial responsibility pursuant to the Deployed Parents Custody and Visitation Act, the deploying parent shall be deemed to reside in the Choctaw Nation of Oklahoma for the purposes of the UCCJEA during the duration of the deployment. If a court of another state or of another Indian Tribe has rendered a temporary order regarding custodial responsibility pursuant to deployment, this court shall deem the deploying parent to reside in the rendering state for the purposes of the UCCJEA during the duration of the deployment. This section does not prohibit the exercise of temporary emergency jurisdiction by a court of the Choctaw Nation of Oklahoma under the UCCJEA.

Section 150.3. designation of Family Member or Other Person to Exercise Deployed Parent’s Visitation Rights

A. In order to ensure an ongoing relationship with the child while deployed, pursuant to the Deployed Parents Custody and Visitation Act, upon application to the court by the deploying parent, the court shall designate a family member or another person with a close and substantial relationship to the child to exercise his or her visitation rights, unless the court determines it is not in the best interests of the child.

B. Visitation awarded pursuant to this section derives from the deploying parent’s own right to custodial responsibility. Neither this section nor a court order permitting designation shall be deemed to create any separate or permanent rights to visitation.

Section 150.4. Notice of Deployment Provided to Non-deploying Parent

A. A deploying parent shall provide a copy of the deployment orders to the other parent within ten (10) days of receipt. When the deployment date is less than ten (10) days after receipt of the orders, a copy shall immediately be provided to the other parent.

B. If a valid court order requires that the address or contact information of the non-deploying parent be kept confidential, the notification shall be made to the court only. The court shall notify the non-deploying parent, or counsel for the non-deploying parent, if the deploying parent is prohibited from directly contacting the non-deploying parent.

Section 150.5. Expedited Hearing

Following a deploying parent's receiving notice of deployment, either a deploying parent or non-deploying parent may request an expedited hearing to be heard within ten (10) days or prior to deployment, whichever occurs first, on any matter pertaining to custodial or visitation responsibility. The application shall include the date on which the deployment began or begins. If the date of deployment is uncertain, the approximate date shall be included. The court shall grant a request for an expedited hearing if the deploying parent's ability, or anticipated ability, to appear in person at a regularly scheduled hearing would be prevented by the deployment or preparation for the deployment. If the deployed or deploying parent is seeking the right to designate a family member to determine visitation, then the name of the family member or another person with a close and substantial relationship to the child shall be stated in the application.

Section 150.6. Temporary Custody Orders-Election to Proceed by Electronic Communications-Privilege of Deploying Parent

A. Upon proper motion made pursuant to Section 150.5 of this act, the court shall enter temporary orders regarding custody, visitation and child support.

B. A deploying parent who is entitled to a stay in civil proceedings pursuant to the Servicemembers Civil Relief Act, 50 U.S.C. App., Sections 501 through 596, may elect to proceed while the deploying parent is unavailable to appear in the geographical location in which the litigation is pursued and may seek relief and provide evidence through video conferencing, Internet camera, e-mail, telephone, or other reasonable electronic means.

C. Except for the privilege offered to the deployed servicemember in subsection B of this section, the court shall factor the same consideration and conduct the temporary order hearing as provided in Section 112 of this title. Hearings conducted pursuant to this section shall be considered non-evidentiary hearings and the standard rules of evidence shall not apply.

D. 1. If a prior judicial custody or visitation order contains provisions for custodial responsibility of the child in the event of deployment, those provisions shall not be modified by the court unless:

a. a subsequent substantial change of circumstances has occurred after the prior judicial custody or visitation order was issued, or

b. a showing that enforcement of the provisions of the prior judicial custody or visitation order would result in substantial harm to the child.

2. If the deploying parent and the non-deploying parent have previously agreed in writing to provisions for the custodial responsibility of the child in the event of deployment, there shall be a rebuttable presumption that the agreement is in the best interest of the child. The presumption may be overcome only if the court makes specific findings of fact establishing that the agreement is not in the best interest of the child.

E. When entering a temporary order for custodial responsibility prior to or during a deployment, the court shall:

1. Identify the nature of the deployment that is the basis for the order;

2. Specify that the order is temporary;

3. Specify the contact between the deploying parent and the child during deployment, including the means by which the deploying parent may remain in communication with the child, such as electronic communication by Internet camera, telephone, e-mail and other available means; and

4. Order liberal contact between the deploying parent and child when the deploying parent is on leave or is otherwise available, consistent with the best interest of the child.

F. In an order granting designation of a family member or another person with a close and substantial relationship to the child to exercise visitation rights pursuant to Section 150.8 of this act, the court shall:

1. Set out a process to resolve any disputes that may arise between the person receiving visitation and the non-deploying parent;

2. Identify the nature of the deployment that is the basis for the order; and

3. Specify that the order is a temporary order and shall terminate ten (10) days after notice has been provided to the non-deploying parent of the end of the deployment.

G. If the matter before the court concerns a post-dissolution modification of custody or visitation, the court shall not modify the previously ordered custody or visitation arrangement until the expiration of the servicemember's deployment, unless the child is at risk of serious irreparable harm.

H. If the court has rendered a temporary order regarding custodial responsibility pursuant to the Deployed Parents Custody and Visitation Act, any nondeploying parent or any third party to whom the court has assigned primary custodial responsibility, visitation or limited contact shall notify the court of any change of address until the termination of the temporary order.

Section 150.7. Court Authority to Make Certain Orders

A. A court that renders an order on custodial responsibility under the Deployed Parents Custody and Visitation Act may, on motion of either party and with appropriate jurisdiction under the Uniform Interstate Family Support Act ("UIFSA"):

1. Enter a temporary order for child support consistent with Choctaw Nation Child Support Guidelines; and

2. Require the deploying parent to enroll the child to receive military dependent benefits.

B. Any order entered on child support pursuant to this section shall state that such order shall terminate following the child's return to the deploying parent upon conclusion of deployment.

Section 150.8. Family Member Visitation-Designation by Deployed Parent-Unusual Travel Costs-Appearance at hearing-Rebuttable Presumptions-Enforcement of Temporary order

A. If the deploying parent moves to designate a family member or another person with a close and substantial relationship with the child to exercise visitation rights, the court shall grant reasonable visitation to a member of the family of the child, including a stepparent or step sibling, with whom the child has a close and substantial relationship as defined in the Deployed Parents Custody and Visitation Act.

B. Any visitation ordered by the court pursuant to this section shall be temporary in nature and shall not exceed or be less than the amount of custodial time granted to the deploying parent under any existing permanent order or agreement between the parents, with the exception that the court may take into account unusual travel time required to transport the child between the non-deploying parent and the family members allowed visitation.

C. The person designated by the deploying parent to exercise visitation shall appear at the temporary order hearing.

D. Rebuttable presumptions for proceedings under the Deployed Parents Custody and Visitation Act:

1. In post-dissolution proceedings, there shall be a rebuttable presumption that it is in the best interests of the child for a stepparent to exercise the deployed parent's parental duties;

2. There shall be a rebuttable presumption that if the person designated by the deployed or deploying party meets the requirements of subsection A of this section, then it shall be in the best interest of the child that the person receive visitation; and

3. There shall be a rebuttable presumption that visitation by a family member who has perpetrated domestic violence against a spouse, a child, a domestic living partner, or is otherwise subject to registration requirements of the Sex Offenders Registration Act of the Choctaw Nation of Oklahoma, of any state, of any other Indian tribe, or of the United States is not in the best interest of the child.

E. Any temporary order issued under the Deployed Parents Custody and Visitation Act shall be enforced as any other orders relating to the care, custody and control of the child.

Section 150.9. Completion of Deployment-Notice-Termination of Temporary Order

A. The deploying parent shall notify the non-deploying parent of the completion of the deployment. If the deploying parent is unable to locate the non-deploying parent, the deploying parent shall notify the court of the return.

B. A temporary modification order granted in accordance with the Deployed Parents Custody and Visitation Act shall terminate by operation of law ten (10) days after notice has been provided to the non-deploying parent of the completion of deployment and the original terms of the prior custody or visitation order shall be automatically reinstated.

Section 150.10. Penalties and Sanctions for Bad Faith or Failure to Comply with Act or Court Order

If the court finds that a party to a proceeding under the Deployed Parents Custody and Visitation Act has acted in bad faith or otherwise deliberately failed to comply with the terms of the Deployed Parents Custody and Visitation Act or a court order issued under the Deployed Parents Custody and Visitation Act, the court may assess attorney fees and costs against the opposing party and order any other appropriate sanctions.

Husband and Wife

Section 201. Mutual Obligations

Husband and wife contract towards each other obligations of mutual respect, fidelity and support.

Section 202. Duty to Support

The husband must support himself and his wife out of the community property or out of his separate property or by his labor. The wife must support the husband when he has not

deserted her out of the community property or out of her separate property when he has no community or separate property and he is unable from infirmity to support himself.

Section 203. Separate Property

Except as mentioned in the preceding section neither husband nor wife has any interest in the separate property of the other, but neither can be excluded from the other's dwelling.

Section 204. Contracts

Either husband or wife may enter into any engagement or transaction with the other, or with any other person, respecting property, which either might, if unmarried, subject, in transactions between themselves, to the general rules which control the actions of persons occupying confidential relations with each other as defined by the law of trusts.

Section 205. Relations cannot be Altered by Contract--Separation Agreements

A husband and wife cannot, by any contract with each other, alter their legal relations, except as to property, and except that they may agree in writing to an immediate separation, and may make provision for the support of either of them and of their children during such separation.

Section 206. Mutual Consent as Consideration for Separation Agreement

The mutual consent of the parties is a sufficient consideration for such an agreement as is mentioned in the last section.

Section 207. Manner of Holding Property--Inventory of Separate Property

A husband and wife may hold property as joint tenants, tenants in common, or as community property.

A full and complete inventory of the separate personal property of either spouse may be made out and signed by such spouse, acknowledged or proved in the manner provided by law for the acknowledgment or proof of a grant of real property; and recorded in the office of the county clerk of the county in the State of Oklahoma in which the parties reside. The filing of the inventory in the county clerk's office is notice and prima facie evidence of the title of the party filing such inventory.

Section 208. Liability for acts and debts of spouse--Curtesy and dower abolished

A. Neither husband nor wife, as such, is answerable for the acts of the other.

B. The separate property of the husband is liable for the debts of the husband contracted before or after marriage, but is not liable for the debts of the wife contracted before the marriage.

C. The separate property of the wife is liable for the debts of the wife contracted before or after marriage, but is not liable for the debts of the husband contracted before the marriage.

D. No estate is allowed the husband as tenant by curtesy, upon the death of his wife, nor is any estate in dower allotted to the wife upon the death of her husband.

Section 209. Joint and Several Liability of Husband and Wife

Husband and wife shall be jointly and severally liable for debts incurred on account of necessaries furnished to either spouse unless otherwise provided by law or court order.

Section 210. Parent's Liability for Value of Child's Necessaries

If a parent neglects to provide articles necessary for his child who is under his charge, according to his circumstances, a third person may in good faith supply such necessaries and recover the reasonable value thereof from the parent.

Section 211. Liability on Abandonment or Separation by Agreement

A husband abandoned by his wife is not liable for her support until she offers to return, unless she was justified by his misconduct, in abandoning him; nor is he liable for her support when she is living separate from him, by agreement, unless such support is stipulated in the agreement.

Section 212. Management, Sale or Encumbrance of Property of One by the Other, When

In case the husband or wife abandons the other and removes from the Choctaw Nation of Oklahoma, and is absent therefrom for one (1) year, without providing for the maintenance and support of his or her family, or is sentenced to imprisonment either in any jail or penitentiary for the period of one (1) year or more, the district court may, on application by affidavit of such husband or wife, setting forth fully the facts, supported by such other testimony as the court may deem necessary, authorize him or her to manage,

control, sell or encumber the property of the said husband or wife for the support and maintenance of the family, and for the purpose of paying debts contracted prior to such abandonment or imprisonment. Notice of such proceedings shall be given the opposite party, and shall be served as summonses are served in ordinary actions.

Section 213. Contracts Binding on both--Liability for Acts--Suits and Proceedings

All contracts, sales or encumbrances made by either husband or wife by virtue of the power contemplated and granted by order of the court as provided in the preceding section, shall be binding on both, and during such absence or imprisonment the person acting under such power may sue and be sued thereon, and for all acts done the property of both shall be liable, and execution may be levied or attachment issued thereon according to statute. No suit or proceedings shall abate or be in any way affected by the return or release of the person confined, but he or she may be permitted to prosecute or defend jointly with the other.

Section 214. Order Set Aside, When

The husband or wife affected by the proceedings contemplated in the two preceding sections, may have the order or decree of the court set aside or annulled by affidavit of such party, setting forth fully the facts and supported by such other testimony as the court shall deem proper. Notice of such proceedings to set aside and annul such order must be given the person in whose favor the same was granted, and shall be served as summons are served in ordinary actions. The setting aside of such decree or order shall in no wise affect any act done thereunder.

Section 215. Rights of Married Women

Woman shall retain the same legal existence and legal personality after marriage as before marriage, and shall receive the same protection of all her rights as a woman, which her husband does as a man; and for any injury sustained to her reputation, person, property, character or any natural right, her own medical expenses, and by reason of loss of consortium, she shall have the same right to appeal in her own name alone to the courts of law or equity for redress and protection that her husband has to appeal in his own name alone.

Choctaw Nation Centralized Support Registry Act

Section 410. Short title

This act shall be known as the “Choctaw Nation Centralized Support Registry Act”.

Section 411. Payment of Support through Registry

A. The Department of Children and Family Services shall maintain a Centralized Support Registry to receive, allocate and distribute support payments. All child support, spousal support, and related support payments shall be paid through the Registry as follows:

1. In all cases in which child support services are being provided under a child support plan operating in accordance with Title IV, part D, of the Federal Social Security Act, as amended, 42 U.S.C., Section 651, et seq., to provide child support services, parent location services, and paternity determinations services to enable participation in programs established by federal law; and

2. In all other cases in which support is being paid by income withholding.

B. When child support enforcement services are being provided in accordance with Title IV, part D, of the Federal Social Security Act, as amended, 42 U.S.C., Section 651, et seq., all monies owed for child support shall continue to be paid through the Registry until child support is no longer owed.

C. Any party desiring child support, spousal support, or related support payments to be paid through the Registry may request the court to order the payments to be made through the Registry. Upon such request the court shall order payments to be made through the Registry.

D. The Registry shall maintain the following information on all cases in which support is paid through the Registry. This information shall include, but not be limited to:

1. Names, social security numbers and dates of birth for both parents and the children for whom support is ordered;

2. The amount of periodic support owed under the order;

3. Case identification numbers; and

4. Payment address.

E. In all cases, except those being enforced under a child support plan as provided in in accordance with Title IV, part D, of the Federal Social Security Act, as amended, 42 U.S.C., Section 651, et seq., employers shall provide the Registry with a copy of a notice of income assignment. Employers, parties, and obligees to an order, upon request, shall provide additional information necessary for the Registry to identify and properly allocate and distribute payments.

F. An obligee, pursuant to a judgment, decree, or order in which payment of support is required by this section to be paid through the Registry or whose support is being paid through the Registry, shall provide information as directed by the Department of Children

and Family Services necessary to properly allocate and distribute the payments.

G. All payments made through the Registry shall be allocated and distributed in accordance with Department of Children and Family Services' policy and federal regulations.

H. The Department of Children and Family Services shall promulgate rules as necessary to implement the provisions of this section.

Uniform Child Custody Jurisdiction and Enforcement Act
Article 1. General Provisions

Section 500-101. Short title

SHORT TITLE

This act may be cited as the "Uniform Child Custody Jurisdiction and Enforcement Act".

Section 500-102. Definitions

DEFINITIONS

Unless the context otherwise requires, as used in this act the following terms shall be defined as follows:

1. "Abandoned" means left without provision for reasonable and necessary care or supervision;

2. "Child" means an individual who has not attained eighteen (18) years of age;

3. "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual;

4. "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Article 3 of this act;

5. "Commencement" means the filing of the first pleading in a proceeding;

6. “Court” means an entity authorized under the law of a state or Indian tribe to establish, enforce, or modify a child custody determination;

7. “Home state” means the state in which a child lived with a parent or a person acting as a parent for at least six (6) consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six (6) months of age, the term means the state in which the child lived from birth with the parent or person acting as a parent. A period of temporary absence of the parent or person acting as a parent is part of the period;

8. “Initial determination” means the first child custody determination concerning a particular child;

9. “Issuing court” means the court that makes a child custody determination for which enforcement is sought under this act;

10. “Issuing state” means the state in which a child custody determination is made;

11. “Modification” means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination;

12. “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, including any governmental subdivision, agency, instrumentality, or public corporation, or any other legal or commercial entity;

13. “Person acting as a parent” means a person, other than a parent, who:

a. has physical custody of the child or has had physical custody for a period of six (6) consecutive months, including any temporary absence, within one (1) year immediately before the commencement of a child custody proceeding, and

b. has been awarded legal custody by a court or claims a right to legal custody under the law of the Choctaw Nation of Oklahoma;

14. “Physical custody” means the physical care and supervision of a child;

15. “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;

16. “Tribe” means an Indian tribe or band, or Alaskan Native village, which is recognized by federal law or formally acknowledged by a state; and

17. “Warrant” means an order issued by a court authorizing law enforcement officers

to take physical custody of a child.

Section 500-103. Proceedings governed by other law

PROCEEDINGS GOVERNED BY OTHER LAW

This act does not apply to an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

Section 500-104. Application to Indian tribes

APPLICATION TO INDIAN TRIBES

A. A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, is not subject to this act to the extent that it is governed by the Indian Child Welfare Act.

B. A court of the Choctaw Nation of Oklahoma shall treat a tribe as if it were a state of the United States for purposes of applying Articles 1 and 2 of this act.

C. A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this act must be recognized and enforced under Article 3 of this act.

Section 500-105. International application of act

INTERNATIONAL APPLICATION OF ACT

A. A court of the Choctaw Nation of Oklahoma shall treat a foreign country as if it were a state of the United States for purposes of applying Articles 1 and 2 of this act.

B. Except as otherwise provided in subsection C of this section, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this act must be recognized and enforced under Article 3 of this act.

C. A court of the Choctaw Nation of Oklahoma need not apply this act if the child custody law of a foreign country violates fundamental principles of human rights.

Section 500-106. Effect of child custody determination

EFFECT OF CHILD CUSTODY DETERMINATION

A child custody determination made by a court of the Choctaw Nation of Oklahoma that had jurisdiction under this act binds all persons who have been served in accordance with the laws of the Choctaw Nation of Oklahoma or notified in accordance with Section 500-108 of this act or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

Section 500-107. Priority

PRIORITY

If a question of existence or exercise of jurisdiction under this act is raised in a child custody proceeding, the question, upon request of a party, must be given priority on the court's calendar and handled expeditiously.

Section 500-108. Notice to persons outside state

NOTICE TO PERSONS OUTSIDE STATE

A. Notice required for the exercise of jurisdiction when a person is outside the Choctaw Nation of Oklahoma may be given in the manner provided in Section 2004 of Title 12 of the Choctaw Nation Statutes or by the law of the state in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

B. Proof of service may be made in the manner provided in Section 2004 of Title 12 of the Choctaw Nation Statutes or by the law of the state in which the service is made.

C. Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

Section 500-109. Appearance and limited immunity

APPEARANCE AND LIMITED IMMUNITY

A. A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination is not subject to personal jurisdiction in the Choctaw Nation of Oklahoma for another proceeding or purpose solely by reason of having participated, or having been physically present for the purpose of participating, in the proceeding.

B. A person who is subject to personal jurisdiction in the Choctaw Nation of Oklahoma on a basis other than physical presence is not immune from service of process in

the Choctaw Nation of Oklahoma. A party present in the Choctaw Nation of Oklahoma who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

C. The immunity granted by subsection A of this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this act committed by an individual while present in the Choctaw Nation of Oklahoma.

Section 500-110. Communication between courts

COMMUNICATION BETWEEN COURTS

A. A court of the Choctaw Nation of Oklahoma may communicate with a court in another state concerning a proceeding arising under this act.

B. The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

C. Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

D. Except as otherwise provided in subsection C of this section, a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

E. For the purposes of this section, “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.

Section 500-111. Taking testimony in another state

TAKING TESTIMONY IN ANOTHER STATE

A. In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in the Choctaw Nation of Oklahoma for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

B. A court of the Choctaw Nation of Oklahoma may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual, or other electronic means

before a designated court or at another location in that state. A court of the Choctaw Nation of Oklahoma shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

C. Documentary evidence transmitted from another state to a court of the Choctaw Nation of Oklahoma by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

Section 500-112. Cooperation between courts--Preservation of records

COOPERATION BETWEEN COURTS; PRESERVATION OF RECORDS

A. A court of the Choctaw Nation of Oklahoma may request the appropriate court of another state to:

1. Hold an evidentiary hearing;

2. Order a person to produce or give evidence pursuant to procedures of that state;

3. Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;

4. Forward to the court of the Choctaw Nation of Oklahoma a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and

5. Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

B. Upon request of a court of another state, a court of the Choctaw Nation of Oklahoma may hold a hearing or enter an order described in subsection A of this section.

C. Travel and other necessary and reasonable expenses incurred under subsections A and B of this section may be assessed against the parties according to the laws of the Choctaw Nation of Oklahoma.

D. A court of the Choctaw Nation of Oklahoma shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains eighteen (18) years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

Article 2. Jurisdiction

Section 500-201. Initial child custody jurisdiction

INITIAL CHILD CUSTODY JURISDICTION

A. Except as otherwise provided in Section 500-204 of this act, a court of the Choctaw Nation of Oklahoma has jurisdiction to make an initial child custody determination only if:

1. The Choctaw Nation of Oklahoma is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six (6) months before the commencement of the proceeding and the child is absent from the Choctaw Nation of Oklahoma, but a parent or person acting as a parent continues to live in the Choctaw Nation of Oklahoma;

2. A court of another state does not have jurisdiction under paragraph 1 of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that the Choctaw Nation of Oklahoma is the more appropriate forum under Section 500-207 or 500-208 of this act, and:

a. the child and the child’s parents, or the child and at least one parent or a person acting as a parent, have a significant connection with the Choctaw Nation of Oklahoma other than mere physical presence, and

b. substantial evidence is available in the Choctaw Nation of Oklahoma concerning the child’s care, protection, training, and personal relationships;

3. All courts having jurisdiction under paragraph 1 or 2 of this subsection have declined to exercise jurisdiction on the ground that a court of the Choctaw Nation of Oklahoma is the more appropriate forum to determine the custody of the child under Section 500-207 or 500-208 of this act; or

4. No court of any other state would have jurisdiction under the criteria specified in paragraph 1, 2, or 3 of this subsection.

B. Subsection A of this section is the exclusive jurisdictional basis for making a child custody determination by a court of the Choctaw Nation of Oklahoma.

C. Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

Section 500-202. Exclusive, continuing jurisdiction

EXCLUSIVE, CONTINUING JURISDICTION

A. Except as otherwise provided in Section 500-204 of this act, a court of the

Choctaw Nation of Oklahoma which has made a child custody determination consistent with Section 500-201 or 500-203 of this act has exclusive, continuing jurisdiction over the determination until:

1. A court of the Choctaw Nation of Oklahoma determines that neither the child, the child and one parent, nor the child and a person acting as a parent have a significant connection with the Choctaw Nation of Oklahoma and that substantial evidence is no longer available in the Choctaw Nation of Oklahoma concerning the child's care, protection, training, and personal relationships; or

2. A court of the Choctaw Nation of Oklahoma or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the Choctaw Nation of Oklahoma.

B. A court of the Choctaw Nation of Oklahoma which has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under Section 500-201 of this act.

Section 500-203. Jurisdiction to modify determination

JURISDICTION TO MODIFY DETERMINATION

Except as otherwise provided in Section 500-204 of this act, a court of the Choctaw Nation of Oklahoma may not modify a child custody determination made by a court of another state unless a court of the Choctaw Nation of Oklahoma has jurisdiction to make an initial determination under paragraph 1 or 2 of subsection A of Section 500-201 of this act and:

1. The court of the other state determines it no longer has exclusive, continuing jurisdiction under Section 500-202 of this act or that a court of the Choctaw Nation of Oklahoma would be a more convenient forum under Section 500-207 of this act; or

2. A court of the Choctaw Nation of Oklahoma or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

Section 500-204. Temporary emergency jurisdiction

TEMPORARY EMERGENCY JURISDICTION

A. A court of the Choctaw Nation of Oklahoma has temporary emergency jurisdiction if the child is present in the Choctaw Nation of Oklahoma and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent

of the child, is subjected to or threatened with mistreatment or abuse.

B. If there is no previous child custody determination that is entitled to be enforced under this act and a child custody proceeding has not been commenced in a court of a state having jurisdiction under Sections 500-201 through 500-203 of this act, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under Sections 13 through 15 of this act. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under Sections 500-201 through 500-203 of this act, a child custody determination made under this section becomes a final determination, if it so provides and the Choctaw Nation of Oklahoma becomes the home state of the child.

C. If there is a previous child custody determination that is entitled to be enforced under this act, or a child custody proceeding has been commenced in a court of a state having jurisdiction under Sections 500-201 through 500-203 of this act, any order issued by a court of the Choctaw Nation of Oklahoma under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under Sections 500-201 through 500-203 of this act. The order issued in the Choctaw Nation of Oklahoma remains in effect until an order is obtained from the other state within the period specified or the period expires.

D. A court of the Choctaw Nation of Oklahoma which has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under Sections 500-201 through 500-203 of this act, shall immediately communicate with the other court. A court of the Choctaw Nation of Oklahoma which is exercising jurisdiction pursuant to Sections 500-201 through 500-203 of this act, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

Section 500-205. Notice--Opportunity to be heard--Joinder

NOTICE; OPPORTUNITY TO BE HEARD; JOINDER

A. Before a child custody determination is made under this act, notice and an opportunity to be heard in accordance with the standards of Section 500-108 of this act must be given to all persons entitled to notice under the law of the Choctaw Nation of Oklahoma as in child custody proceedings between residents of the Choctaw Nation of Oklahoma, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

B. This act does not govern the enforceability of a child custody determination made

without notice or an opportunity to be heard.

C. The obligation to join a party and the right to intervene as a party in a child custody proceeding under this act are governed by the law of the Choctaw Nation of Oklahoma as in child custody proceedings between residents of the Choctaw Nation of Oklahoma.

Section 500-206. Simultaneous proceedings

SIMULTANEOUS PROCEEDINGS

A. Except as otherwise provided in Section 500-204 of this act, a court of the Choctaw Nation of Oklahoma may not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this act, unless the proceeding has been terminated or is stayed by the court of the other state because a court of the Choctaw Nation of Oklahoma is a more convenient forum under Section 500-207 of this act.

B. Except as otherwise provided in Section 500-204 of this act, a court of the Choctaw Nation of Oklahoma, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to Section 500-209 of this act. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this act, the court of the Choctaw Nation of Oklahoma shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this act does not determine that the court of the Choctaw Nation of Oklahoma is a more appropriate forum, the court of the Choctaw Nation of Oklahoma shall dismiss the proceeding.

C. In a proceeding to modify a child custody determination, a court of the Choctaw Nation of Oklahoma shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

1. Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

2. Enjoin the parties from continuing with the proceeding for enforcement; or

3. Proceed with the modification under conditions it considers appropriate.

Section 500-207. Inconvenient forum

INCONVENIENT FORUM

A. A court of the Choctaw Nation of Oklahoma which has jurisdiction under this act to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon the motion of a party, the court's own motion, or request of another court.

B. Before determining whether it is an inconvenient forum, a court of the Choctaw Nation of Oklahoma shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

1. Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

2. The length of time the child has resided outside the Choctaw Nation of Oklahoma;

3. The distance between the court in the Choctaw Nation of Oklahoma and the court in the state that would assume jurisdiction;

4. The relative financial circumstances of the parties;

5. Any agreement of the parties as to which state should assume jurisdiction;

6. The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

7. The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

8. The familiarity of the court of each state with the facts and issues in the pending litigation.

C. If a court of the Choctaw Nation of Oklahoma determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

D. A court of the Choctaw Nation of Oklahoma may decline to exercise its jurisdiction under this act if a child custody determination is incidental to an action for dissolution of marriage or another proceeding while still retaining jurisdiction over the dissolution of marriage or other proceeding.

Section 500-208. Jurisdiction declined by reason of conduct

JURISDICTION DECLINED BY REASON OF CONDUCT

A. Except as otherwise provided in Section 500-204 of this act or by another law of the Choctaw Nation of Oklahoma, if a court of the Choctaw Nation of Oklahoma has jurisdiction under this act because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

1. The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

2. A court of the state otherwise having jurisdiction under Sections 500-201 through 500-203 of this act determines that the Choctaw Nation of Oklahoma is a more appropriate forum under Section 500-207 of this act; or

3. No court of any other state would have jurisdiction under the criteria specified in Sections 500-201 through 500-204 of this act.

B. If a court of the Choctaw Nation of Oklahoma declines to exercise its jurisdiction pursuant to subsection A of this section, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under Sections 500-201 through 500-204 of this act.

C. If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection A of this section, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against the Choctaw Nation of Oklahoma unless authorized by law other than this act.

Section 500-209. Information to be submitted to court

INFORMATION TO BE SUBMITTED TO COURT

A. In a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five (5) years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:

1. Has participated, as a party or witness or in any other capacity, in any other

proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child custody determination, if any;

2. Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions, and, if so, identify the court, the case number, and the nature of the proceeding; and

3. Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

B. If the information required by subsection A of this section is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

C. If the declaration as to any of the items described in paragraphs 1 through 3 of subsection A of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

D. Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

E. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

Section 500-210. Appearance of parties and child

APPEARANCE OF PARTIES AND CHILD

A. In a child custody proceeding in the Choctaw Nation of Oklahoma, the court may order a party to the proceeding who is in the Choctaw Nation of Oklahoma to appear before the court in person with or without the child. The court may order any person who is in the Choctaw Nation of Oklahoma and who has physical custody or control of the child to appear in person with the child.

B. If a party to a child custody proceeding whose presence is desired by the court is outside the Choctaw Nation of Oklahoma, the court may order that a notice given pursuant to Section 500-108 of this act include a statement directing the party to appear in person with or

without the child and informing the party that failure to appear may result in a decision adverse to the party.

C. The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

D. If a party to a child custody proceeding who is outside the Choctaw Nation of Oklahoma is directed to appear under subsection B of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

Article 3. Enforcement

Section 500-301. Definitions

DEFINITIONS

In this article:

1. "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

2. "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

Section 500-302. Enforcement under Hague Convention

ENFORCEMENT UNDER HAGUE CONVENTION

Under this article a court of the Choctaw Nation of Oklahoma may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

Section 500-303. Duty to enforce

DUTY TO ENFORCE

A. A court of the Choctaw Nation of Oklahoma shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in

substantial conformity with this act or the determination was made under factual circumstances meeting the jurisdictional standards of this act and the determination has not been modified in accordance with this act.

B. A court of the Choctaw Nation of Oklahoma may utilize any remedy available under other laws of the Choctaw Nation of Oklahoma to enforce a child custody determination made by a court of another state. The remedies provided in this article are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

Section 500-304. Temporary visitation

TEMPORARY VISITATION

A. A court of the Choctaw Nation of Oklahoma which does not have jurisdiction to modify a child custody determination, may issue a temporary order enforcing:

1. A visitation schedule made by a court of another state; or

2. The visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

B. If a court of the Choctaw Nation of Oklahoma makes an order under paragraph 2 of subsection A of this section, it shall specify in the order a period of time that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Article 2 of this act. The order remains in effect until an order is obtained from the other court or the time period expires.

Section 500-305. Registration of child custody determination

REGISTRATION OF CHILD CUSTODY DETERMINATION

A. A child custody determination issued by a court of another state may be registered in the Choctaw Nation of Oklahoma, with or without a simultaneous request for enforcement, by sending to the appropriate court in the Choctaw Nation of Oklahoma:

1. A letter or other document requesting registration;

2. Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

3. Except as otherwise provided in Section 500-209 of this act, the name and address of the person seeking registration and any parent or person acting as a parent who has been

awarded custody or visitation in the child custody determination sought to be registered.

B. On receipt of the documents required by subsection A of this section, the registering court shall:

1. Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

2. Serve notice upon the persons named pursuant to paragraph 3 subsection A of this section and provide them with an opportunity to contest the registration in accordance with this section.

C. The notice required by paragraph 2 of subsection B of this section must state that:

1. A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of the Choctaw Nation of Oklahoma;

2. A hearing to contest the validity of the registered determination must be requested within twenty (20) days after service of notice; and

3. Failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

D. A person seeking to contest the validity of a registered order must request a hearing within twenty (20) days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

1. The issuing court did not have jurisdiction under Article 2 of this act;

2. The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2 of this act; or

3. The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of Section 500-108 of this act, in the proceedings before the court that issued the order for which registration is sought.

E. If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

F. 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.

Section 500-306. Enforcement of registered determination

ENFORCEMENT OF REGISTERED DETERMINATION

A. A court of the Choctaw Nation of Oklahoma may grant any relief normally available under the laws of the Choctaw Nation of Oklahoma to enforce a registered child custody determination made by a court of another state.

B. A court of the Choctaw Nation of Oklahoma shall recognize and enforce, but may not modify, except in accordance with Article 2 of this act, a registered child custody determination of a court of another state.

Section 500-307. Simultaneous proceedings

SIMULTANEOUS PROCEEDINGS

If a proceeding for enforcement under this article is commenced in a court of the Choctaw Nation of Oklahoma and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under Article 2 of this act, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

Section 500-308. Expedited enforcement of child custody determination

EXPEDITED ENFORCEMENT OF CHILD CUSTODY DETERMINATION

A. A petition under this article must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

B. A petition for enforcement of a child custody determination must state:

1. Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

2. Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this act and, if so, identify the court, the case number, and the nature of the proceeding;

3. Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number,

and the nature of the proceeding;

4. The present physical address of the child and the respondent, if known;

5. Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought; and

6. If the child custody determination has been registered and confirmed under Section 500-305 of this act, the date and place of registration.

C. Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

D. An order issued under subsection C of this section must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under Section 500-312 of this act, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

1. The child custody determination has not been registered and confirmed under Section 27 of this act and that:

a. the issuing court did not have jurisdiction under Article 2 of this act,

b. the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2 of this act, or

c. the respondent was entitled to notice, but notice was not given in accordance with the standards of Section 500-108 of this act, in the proceedings before the court that issued the order for which enforcement is sought; or

2. The child custody determination for which enforcement is sought was registered and confirmed under Section 500-305 of this act, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2 of this act.

Section 500-309. Service of petition and order

SERVICE OF PETITION AND ORDER

Except as otherwise provided in Section 500-311 of this act, the petition and order shall be served upon the respondent and any person who has physical custody of the child in the manner provided in Section 2004 of Title 12 of the Choctaw Nation Statutes.

Section 500-310. Hearing and order

HEARING AND ORDER

A. Unless the court issues a temporary emergency order pursuant to Section 500-204 of this act, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

1. The child custody determination has not been registered and confirmed under Section 500-305 of this act and that:

a. the issuing court did not have jurisdiction under Article 2 of this act,

b. the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2 of this act, or

c. the respondent was entitled to notice, but notice was not given in accordance with the standards of Section 500-108 of this act, in the proceedings before the court that issued the order for which enforcement is sought; or

2. The child custody determination for which enforcement is sought was registered and confirmed under Section 500-305 of this act, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2 of this act.

B. The court shall award the fees, costs, and expenses authorized under Section 500-312 of this act and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

C. If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

D. A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this article.

Section 500-311. Warrant to take physical custody of child

WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD

A. Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is imminently likely to suffer serious physical harm or be removed from the Choctaw Nation of Oklahoma.

B. If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from the Choctaw Nation of Oklahoma it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by subsection B of Section 500-308 of this act.

C. A warrant to take physical custody of a child must:

1. Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

2. Direct law enforcement officers to take physical custody of the child immediately; and

3. Provide for the placement of the child pending final relief.

D. The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

E. A warrant to take physical custody of a child is enforceable throughout the Choctaw Nation of Oklahoma. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

F. The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

Section 500-312. Costs, fees, and expenses

COSTS, FEES, AND EXPENSES

A. The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication

expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

B. The court may not assess fees, costs, or expenses against a state unless authorized by laws other than this act.

Section 500-313. Recognition and enforcement

RECOGNITION AND ENFORCEMENT

A court of the Choctaw Nation of Oklahoma shall accord full faith and credit to an order issued by another state and consistent with this act which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2 of this act.

Section 500-314. Appeals

APPEALS

An appeal may be taken from a final order in a proceeding under this article in accordance with appellate procedures in other civil cases. Unless the court enters a temporary emergency order under Section 500-204 of this act, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

Section 500-315. Role of prosecutor

ROLE OF PROSECUTOR

A. In a case arising under this act or involving the Hague Convention on the Civil Aspects of International Child Abduction, the prosecutor may take any lawful action, including resorting to a proceeding under this article or any other available civil proceeding, to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

1. An existing child custody determination;

2. A request to do so from a court in a pending child custody proceeding;

3. A reasonable belief that a criminal statute has been violated; or

4. A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

B. A prosecutor acting under this section acts on behalf of the court and may not represent any party.

Section 500-316. Role of law enforcement

ROLE OF LAW ENFORCEMENT

At the request of a prosecutor acting under Section 500-215 of this act, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist the prosecutor with responsibilities under Section 500-315 of this act.

Section 500-317. Costs and expenses

COSTS AND EXPENSES

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor and law enforcement officer under Section 500-315 or 500-316 of this act.

Article 4. Miscellaneous Provisions

Section 500-401. Application and construction

APPLICATION AND CONSTRUCTION

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 500-402. Transitional provision

TRANSITIONAL PROVISION

A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination which was commenced before the effective date of this act is governed by the law in effect at the time the motion or other request was made.

Uniform Interstate Family Support Act

Article 1. General Provisions

Section 601-100. Short title

This act may be cited as the Uniform Interstate Family Support Act.

Section 601-101. Definitions

In the Uniform Interstate Family Support Act:

1. “Child” means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual’s parent or who is or is alleged to be the beneficiary of a support order directed to the parent;

2. “Child support order” means a support order for a child, including a child who has attained the age of majority under the law of the issuing state;

3. “Duty of support” means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support;

4. “Home state” means the state in which a child lived with a parent or a person acting as parent for at least six (6) consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six (6) months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period;

5. “Income” includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of the Choctaw Nation of Oklahoma;

6. “Income-withholding order” means an order or other legal process directed to an obligor’s employer or other debtor, as defined by the income-withholding law of the Choctaw Nation of Oklahoma, to withhold support from the income of the obligor;

7. “Initiating state” means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this act or a law or procedure substantially similar to this act;

8. “Initiating tribunal” means the authorized tribunal in an initiating state;

9. “Issuing state” means the state in which a tribunal issues a support order or renders a judgment determining parentage;

10. “Issuing tribunal” means the tribunal that issues a support order or renders a judgment determining parentage;

11. “Law” includes decisional and statutory law and rules and regulations having the force of law;

12. “Obligee” means:

a. an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered,

b. a state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee, or

c. an individual seeking a judgment determining parentage of the individual’s child;

13. “Obligor” means an individual, or the estate of a decedent:

a. who owes or is alleged to owe a duty of support,

b. who is alleged but has not been adjudicated to be a parent of a child, or

c. who is liable under a support order;

14. “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity;

15. “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;

16. “Register” means to record or file a support order or judgment determining parentage in the appropriate location for the recording or filing of foreign judgments generally or foreign support orders specifically;

17. “Registering tribunal” means a tribunal in which a support order is registered;

18. “Responding state” means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state pursuant to the Uniform Interstate Family Support Act or a law or procedure substantially similar to the Uniform Interstate Family Support Act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act;

19. “Responding tribunal” means the authorized tribunal in a responding state;

20. “Spousal support order” means a support order for a spouse or former spouse of

the obligor;

21. “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. The term includes:

a. an Indian tribe, and

b. a foreign country or political subdivision that:

(1) has been declared to be a foreign reciprocating country or political subdivision under federal law,

(2) has established a reciprocal arrangement for child support with the Choctaw Nation of Oklahoma pursuant to the Uniform Interstate Family Support Act, or

(3) has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures pursuant to the Uniform Interstate Family Support Act;

22. “Support enforcement agency” means a public official or agency authorized to seek:

a. enforcement of support orders or laws relating to the duty of support,

b. establishment or modification of child support,

c. determination of parentage,

d. location of obligors or their assets, or

e. determination of the controlling child support order;

23. “Support order” means a judgment, decree, order or directive, whether temporary, final, or subject to modification, issued by a tribunal for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney’s fees, and other relief; and

24. “Tribunal” means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Section 601-102. Tribunals of the Choctaw Nation of Oklahoma

The district court and the Department of Children and Family Services are the

tribunals of the Choctaw Nation of Oklahoma.

Section 601-103. Remedies cumulative

A. Remedies provided by this act are cumulative and do not affect the availability of remedies under other law, including the recognition of a support order of a foreign country or political subdivision on the basis of comity.

B. This act does not:

1. Provide the exclusive method of establishing or enforcing a support order under the laws of the Choctaw Nation of Oklahoma; or

2. Grant a tribunal of the Choctaw Nation of Oklahoma jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this act.

Article 2. Jurisdiction

Section 601-201. Bases for jurisdiction over nonresident

A. In a proceeding to establish or enforce a support order or to determine parentage, a tribunal of the Choctaw Nation of Oklahoma may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

1. The individual is personally served with summons within the Choctaw Nation of Oklahoma;

2. The individual submits to the jurisdiction of the Choctaw Nation of Oklahoma by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

3. The individual resided with the child in the Choctaw Nation of Oklahoma;

4. The individual resided in the Choctaw Nation of Oklahoma and provided prenatal expenses or support for the child;

5. The child resides in the Choctaw Nation of Oklahoma as a result of the acts or directives of the individual;

6. The individual engaged in sexual intercourse in the Choctaw Nation of Oklahoma and the child may have been conceived by that act of intercourse;

7. The individual asserted parentage in the putative father registry maintained in the

Choctaw Nation of Oklahoma by the appropriate agency; or

8. There is any other basis consistent with the constitutions of the Choctaw Nation of Oklahoma and the United States for the exercise of personal jurisdiction.

B. The bases of personal jurisdiction set forth in subsection A of this section or in any other law of the Choctaw Nation of Oklahoma may not be used to acquire personal jurisdiction for a tribunal of the state to modify a child support order of another state unless the requirements of Section 601-611 of this title or Section 601-615 of this act are met.

Section 601-202. Duration of jurisdiction

Personal jurisdiction acquired by a tribunal of the Choctaw Nation of Oklahoma in a proceeding under this act or other law of the Choctaw Nation of Oklahoma relating to a support order continues as long as a tribunal of the Choctaw Nation of Oklahoma has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by Sections 601-205 and 601-206 of this title and Section 601-211 of this act.

Section 601-203. Initiating and responding tribunal of the Choctaw Nation of Oklahoma

Under this act, a tribunal of the Choctaw Nation of Oklahoma may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

Section 601-204. Simultaneous proceedings in another state

A. A tribunal of the Choctaw Nation of Oklahoma may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

1. The petition or comparable pleading in the Choctaw Nation of Oklahoma is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

2. The contesting party timely challenges the exercise of jurisdiction in the other state; and

3. If relevant, the Choctaw Nation of Oklahoma is the home state of the child.

B. A tribunal of the Choctaw Nation of Oklahoma may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or

comparable pleading is filed in another state if:

1. The petition or comparable pleading in the other state is filed before the expiration of the time allowed in the Choctaw Nation of Oklahoma for filing a responsive pleading challenging the exercise of jurisdiction by the Choctaw Nation of Oklahoma;

2. The contesting party timely challenges the exercise of jurisdiction in the Choctaw Nation of Oklahoma; and

3. If relevant, the other state is the home state of the child.

Section 601-205. Continuing, exclusive jurisdiction--Controlling order

A. A tribunal of the Choctaw Nation of Oklahoma that has issued a support order consistent with the law of the Choctaw Nation of Oklahoma has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order and:

1. At the time of the filing of a request for modification, the Choctaw Nation of Oklahoma is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

2. Even if the Choctaw Nation of Oklahoma is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of the Choctaw Nation of Oklahoma may continue to exercise jurisdiction to modify its order.

B. A tribunal of the Choctaw Nation of Oklahoma issuing a child support order consistent with the law of the Choctaw Nation of Oklahoma may not exercise continuing, exclusive jurisdiction to modify the order if:

1. All of the parties who are individuals file consent in a record with the tribunal of the Choctaw Nation of Oklahoma that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or

2. Its order is not the controlling order.

C. If a tribunal of another state which has issued a child support order pursuant to a law substantially similar to this act which modifies a child support order of a tribunal of the Choctaw Nation of Oklahoma, tribunals of the Choctaw Nation of Oklahoma shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

D. A tribunal of the Choctaw Nation of Oklahoma that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a

tribunal of another state to modify a support order issued in that state.

E. A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

Section 601-206. Request for enforcement of order by tribunal of other state

A. A tribunal of the Choctaw Nation of Oklahoma that has issued a child support order consistent with the law of the Choctaw Nation of Oklahoma may serve as an initiating tribunal to request a tribunal of another state to enforce:

1. The order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to this act; or

2. A money judgment for arrears of support and interest on the order accrued before a determination that an order of another state is the controlling order.

B. A tribunal of the Choctaw Nation of Oklahoma having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

Section 601-207. Determination of controlling order

A. If a proceeding is brought pursuant to the Uniform Interstate Family Support Act and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.

B. If a proceeding is brought pursuant to the Uniform Interstate Family Support Act, and two or more child support orders have been issued by tribunals of the Choctaw Nation of Oklahoma or another state with regard to the same obligor and same child, a tribunal of the Choctaw Nation of Oklahoma having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls:

1. If only one of the tribunals would have continuing, exclusive jurisdiction pursuant to the Uniform Interstate Family Support Act, the order of that tribunal controls and must be so recognized;

2. If more than one of the tribunals would have continuing, exclusive jurisdiction pursuant to the Uniform Interstate Family Support Act:

a. an order issued by a tribunal in the current home state of the child controls, but

b. if an order has not been issued in the current home state of the child, the order most recently issued controls; and

3. If none of the tribunals would have continuing, exclusive jurisdiction pursuant to the Uniform Interstate Family Support Act, the tribunal of the Choctaw Nation of Oklahoma shall issue a child support order, which controls.

C. If two or more child support orders have been issued for the same obligor and same child, upon request of a party who is an individual or a support enforcement agency, a tribunal of the Choctaw Nation of Oklahoma having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection B of this section. The request may be filed with a registration for enforcement or registration for modification pursuant to Article 6 of this title, or may be filed as a separate proceeding.

D. A request to determine which is the controlling order must be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

E. The tribunal that issued the controlling order under subsection A, B, or C of this section has continuing jurisdiction to the extent provided in Section 601-205 or 601-206 of this title.

F. A tribunal of the Choctaw Nation of Oklahoma that determines by order which is the controlling order under paragraph 1 or 2 of subsection B or subsection C of this section, or that issues a new controlling order under paragraph 3 of subsection B of this section, shall state in that order:

1. The basis upon which the tribunal made its determination;

2. The amount of prospective support, if any; and

3. The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by Section 601-209 of this title.

G. Within thirty (30) days after issuance of an order determining which is the controlling order, the party obtaining the order shall file a certified copy of it in each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency obtaining the order that 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 controlling order.

H. An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this act.

Section 601-208. Child support orders for two or more obligees

In responding to registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of the Choctaw Nation of Oklahoma shall enforce those orders in the same manner as if the orders had been issued by a tribunal of the Choctaw Nation of Oklahoma.

Section 601-209. Credit for payments

A tribunal of the Choctaw Nation of Oklahoma shall credit amounts collected for a particular period pursuant to any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this or another state.

Section 601-210. Receipt of evidence from another state--Applicable law

A tribunal of the Choctaw Nation of Oklahoma exercising personal jurisdiction over a nonresident in a proceeding under this act, under other law of the Choctaw Nation of Oklahoma relating to a support order, or recognizing a support order of a foreign country or political subdivision on the basis of comity may receive evidence from another state pursuant to Section 601-316 of this Title of the Choctaw Nation Statutes, communicate with a tribunal of another state pursuant to Section 601-317 of this Title of the Choctaw Nation Statutes, and obtain discovery through a tribunal of another state pursuant to Section 601-318 of this Title of the Choctaw Nation Statutes. In all other respects, Articles 3 through 7 of this title do not apply and the tribunal shall apply the procedural and substantive law of the Choctaw Nation of Oklahoma.

Section 601-211. Modification of spousal support order--Request for enforcement to tribunal of another state

A. A tribunal of the Choctaw Nation of Oklahoma issuing a spousal support order consistent with the law of the Choctaw Nation of Oklahoma has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

B. A tribunal of the Choctaw Nation of Oklahoma may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

C. A tribunal of the Choctaw Nation of Oklahoma that has continuing, exclusive jurisdiction over a spousal support order may serve as:

1. An initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in the Choctaw Nation of Oklahoma; or

2. A responding tribunal to enforce or modify its own spousal support order.

Article 3. General Civil Provisions

Section 601-301. Proceedings under this act

A. Except as otherwise provided in this act, this article applies to all proceedings under this act.

B. An individual petitioner or a support enforcement agency may initiate a proceeding authorized under this act by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.

Section 601-302. Action by minor parent

A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor’s child.

Section 601-303. Application of law of the Choctaw Nation of Oklahoma

Except as otherwise provided in this act, a responding tribunal of the Choctaw Nation of Oklahoma shall:

1. Apply the procedural and substantive law generally applicable to similar proceedings originating in the Choctaw Nation of Oklahoma and may exercise all powers and provide all remedies available in those proceedings; and

2. Determine the duty of support and the amount payable in accordance with the law and support guidelines of the Choctaw Nation of Oklahoma.

Section 601-304. Duties of initiating tribunal

A. Upon the filing of a petition authorized by the Uniform Interstate Family Support Act, an initiating tribunal of the Choctaw Nation of Oklahoma shall forward the petition and its accompanying documents:

1. To the responding tribunal or appropriate support enforcement agency in the

responding state; or

2. If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

B. If requested by the responding tribunal, a tribunal of the Choctaw Nation of Oklahoma shall issue a certificate or other document and make findings required by the law of the responding state. If the responding state is a foreign country or political subdivision, upon request the tribunal shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding state.

Section 601-305. Duties and powers of responding tribunal

A. When a responding tribunal of the Choctaw Nation of Oklahoma receives a petition or comparable pleading from an initiating tribunal or directly pursuant to subsection B of Section 601-301 of this title, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

B. A responding tribunal of the Choctaw Nation of Oklahoma, to the extent not prohibited by other law, may do one or more of the following:

1. Issue or enforce a support order, modify a child support order, determine the controlling child support order, or determine parentage;

2. Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

3. Order income withholding;

4. Determine the amount of any arrearages, and specify a method of payment;

5. Enforce orders by civil or criminal contempt, or both;

6. Set aside property for satisfaction of the support order;

7. Place liens and order execution on the obligor’s property;

8. Order an obligor to keep the tribunal informed of the obligor’s current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

9. Issue a bench warrant for an obligor who has failed after proper notice to appear at

a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

10. Order the obligor to seek appropriate employment by specified methods;

11. Award reasonable attorney’s fees and other fees and costs; and

12. Grant any other available remedy.

C. A responding tribunal of the Choctaw Nation of Oklahoma shall include in a support order issued pursuant to the Uniform Interstate Family Support Act, or in the documents accompanying the order, the calculations on which the support order is based.

D. A responding tribunal of the Choctaw Nation of Oklahoma may not condition the payment of a support order issued pursuant to the Uniform Interstate Family Support Act upon compliance by a party with provisions for visitation.

E. If a responding tribunal of the Choctaw Nation of Oklahoma issues an order pursuant to the Uniform Interstate Family Support Act, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

F. If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of the Choctaw Nation of Oklahoma shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

Section 601-306. Inappropriate tribunal

If a petition or comparable pleading is received by an inappropriate tribunal of the Choctaw Nation of Oklahoma, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal in the Choctaw Nation of Oklahoma or another state and notify the petitioner where and when the pleading was sent.

Section 601-307. Duties of support enforcement agency

A. A support enforcement agency of the Choctaw Nation of Oklahoma, upon request, shall provide services to a petitioner in a proceeding pursuant to the Uniform Interstate Family Support Act.

B. A support enforcement agency of the Choctaw Nation of Oklahoma that is providing services to the petitioner shall:

1. Take all steps necessary to enable an appropriate tribunal in the Choctaw Nation of Oklahoma or another state to obtain jurisdiction over the respondent;

2. Request an appropriate tribunal to set a date, time, and place for a hearing;

3. Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

4. Within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

5. Within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

6. Notify the petitioner if jurisdiction over the respondent cannot be obtained.

C. A support enforcement agency of the Choctaw Nation of Oklahoma that requests registration of a child support order in the Choctaw Nation of Oklahoma for enforcement or for modification shall make reasonable efforts:

1. To ensure that the order to be registered is the controlling order; or

2. If two or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

D. A support enforcement agency of the Choctaw Nation of Oklahoma that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

E. A support enforcement agency of the Choctaw Nation of Oklahoma shall request a tribunal of the Choctaw Nation of Oklahoma to issue a child support order and an income-withholding order that redirect payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to Section 601-319 of this title.

F. The Uniform Interstate Family Support Act does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Section 601-308. Powers of Tribal Prosecutor

A. If the tribal prosecutor determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the tribal prosecutor may order the

agency to perform its duties under this act or may provide those services directly to the individual.

B. The tribal prosecutor may determine that a foreign country or political subdivision has established a reciprocal arrangement for child support with the Choctaw Nation of Oklahoma and take appropriate action for notification of the determination.

Section 601-309. Private counsel

An individual may employ private counsel to represent the individual in proceedings authorized by this act.

Section 601-310. Duties of state information agency

A. The Child Support Enforcement Division of the Department of Children and Family Services is the state information agency under this act.

B. The state information agency shall:

1. Compile and maintain a current list, including addresses, of the tribunals in the Choctaw Nation of Oklahoma which have jurisdiction under this act and any support enforcement agencies in the Choctaw Nation of Oklahoma and transmit a copy to the state information agency of every other state;

2. Maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;

3. Forward to the appropriate tribunal in the county in the Choctaw Nation of Oklahoma in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this act received from an initiating tribunal or the state information agency of the initiating state; and

4. Obtain information concerning the location of the obligor and the obligor's property within the Choctaw Nation of Oklahoma not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

Section 601-311. Petition--Contents and accompanying documents

A. In a proceeding under this act, a petitioner seeking to establish a support order, to determine parentage, or to register and modify a support order of another state must file a petition. Unless otherwise ordered under Section 601-312 of this title, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, social security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

B. The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Section 601-312. Sealing of information

If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by the disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

Section 601-313. Costs and fees

A. The petitioner may not be required to pay a filing fee or other costs.

B. If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney’s fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee’s witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney’s fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney’s own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

C. The tribunal shall order the payment of costs and reasonable attorney’s fees if it determines that a hearing was requested primarily for delay. In a proceeding under Sections 601-601 through 601-612 of this title, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

Section 601-314. Limited immunity of petitioner

A. Participation by a petitioner in a proceeding under this act before a responding

tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

B. A petitioner is not amenable to service of civil process while physically present in the Choctaw Nation of Oklahoma to participate in a proceeding under this act.

C. The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this act committed by a party while present in the Choctaw Nation of Oklahoma to participate in the proceeding.

Section 601-315. Nonparentage as defense

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this act.

Section 601-316. Special rules of evidence and procedure

A. The physical presence of a nonresident party who is an individual in a tribunal of the Choctaw Nation of Oklahoma is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

B. An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing in another state.

C. A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

D. Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten (10) days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

E. Documentary evidence transmitted from another state to a tribunal of the Choctaw Nation of Oklahoma by telephone, telecopier, or other means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

F. In a proceeding under this act, a tribunal of the Choctaw Nation of Oklahoma shall permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that

state. A tribunal of the Choctaw Nation of Oklahoma shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

G. If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

H. A privilege against disclosure of communications between spouses does not apply in a proceeding under this act.

I. The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this act.

J. A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

Section 601-317. Communications between tribunals

A tribunal of the Choctaw Nation of Oklahoma may communicate with a tribunal of another state or foreign country or political subdivision in a record, or by telephone or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state or foreign country or political subdivision. A tribunal of the Choctaw Nation of Oklahoma may furnish similar information by similar means to a tribunal of another state or foreign country or political subdivision.

Section 601-318. Assistance with discovery

A tribunal of the Choctaw Nation of Oklahoma may:

1. Request a tribunal of another state to assist in obtaining discovery; and

2. Upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

Section 601-319. Receipt and disbursement of payments--Payment to enforcement agency of another state--Certified statement

A. A support enforcement agency or tribunal of the Choctaw Nation of Oklahoma shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

B. If neither the obligor, nor the obligee who is an individual, nor the child resides in the Choctaw Nation of Oklahoma, upon request from the support enforcement agency of the Choctaw Nation of Oklahoma or another state, the support enforcement agency of the Choctaw Nation of Oklahoma or a tribunal of the Choctaw Nation of Oklahoma shall:

1. Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and

2. Issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

C. The support enforcement agency of the Choctaw Nation of Oklahoma receiving redirected payments from another state pursuant to a law similar to subsection B of this section shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

Article 4. Establishment of Support Order

Section 601-401. Petition to establish support order

A. If a support order entitled to recognition under this act has not been issued, a responding tribunal of the Choctaw Nation of Oklahoma may issue a support order if:

1. The individual seeking the order resides in another state; or

2. The support enforcement agency seeking the order is located in another state.

B. The tribunal may issue a temporary child support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

1. A presumed father of the child;

2. Petitioning to have his paternity adjudicated;

3. Identified as the father of the child through genetic testing;

4. An alleged father who has declined to submit to genetic testing;

5. Shown by clear and convincing evidence to be the father of the child;

6. An acknowledged father;

7. The mother of the child; or

8. An individual who has been ordered to pay child support in a previous proceeding

and the order has not been reversed or vacated.

C. Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to Section 601-305 of this title.

Article 5. Enforcement of Another state's Order Without Registration

Section 601-501. Recognition of income-withholding order issued in another state

An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person defined as the obligor's employer under the income-withholding law of the Choctaw Nation of Oklahoma without first filing a petition or comparable pleading or registering the order with a tribunal of the Choctaw Nation of Oklahoma.

Section 601-502. Employer obligations

A. Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

B. The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of the Choctaw Nation of Oklahoma.

C. Except as otherwise provided in subsection D of this section and Section 601-503 of this title, the employer shall withhold and distribute the funds as directed in the withholding order by complying with the terms of the order which specify:

1. The duration and amount of periodic payments of current child support, stated as a sum certain;

2. The person designated to receive payments and the address to which the payments are to be forwarded;

3. Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

4. The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sum certain; and

5. The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

D. An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

1. The employer's fee for processing an income-withholding order;

2. The maximum amount permitted to be withheld from the obligor's income; and

3. The times within which the employer must implement the withholding order and forward the child support payment.

Section 601-503. Two or more income-withholding orders

If an obligor's employer receives two or more income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for two or more child support obligees.

Section 601-504. Employer's civil liability limited

An employer who complies with an income-withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

Section 601-505. Willful non-compliance

An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of the Choctaw Nation of Oklahoma.

Section 601-506. Contest of order

A. An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in the Choctaw Nation of Oklahoma by registering the order in a tribunal of the Choctaw Nation of Oklahoma and filing a contest to that order as provided in Article 6 of this title, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of the Choctaw Nation of Oklahoma.

B. The obligor shall give notice of the contest to:

1. A support enforcement agency providing services to the obligee;

2. Each employer that has directly received an income-withholding order relating to the obligor; and

3. The person designated to receive payments in the income-withholding order or if no person is designated, to the obligee.

Section 601-507. Administrative enforcement of orders

A. A party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of the Choctaw Nation of Oklahoma.

B. Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of the Choctaw Nation of Oklahoma to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to the Uniform Interstate Family Support Act.

Article 6. Registration, Enforcement and Modification of Support Orders

Section 601-601. Registration of order for enforcement

A support order or an income-withholding order issued by a tribunal of another state may be registered in the Choctaw Nation of Oklahoma for enforcement.

Section 601-602. Procedure to register order for enforcement

A. A support order or income-withholding order of another state may be registered in the Choctaw Nation of Oklahoma by sending the following records and information to the appropriate tribunal in the Choctaw Nation of Oklahoma:

1. A letter of transmittal to the tribunal requesting registration and enforcement;

2. Two copies, including one certified copy, of the order to be registered, including any modification of the order;

3. A sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;

4. The name of the obligor and, if known:

a. the obligor’s address and social security number,

b. the name and address of the obligor’s employer and any other source of income of the obligor, and

c. a description and the location of property of the obligor in the Choctaw Nation of Oklahoma not exempt from execution; and

5. Except as otherwise provided in Section 601-312 of this title, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

B. On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

C. A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of the Choctaw Nation of Oklahoma may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

D. If two or more orders are in effect, the person requesting registration shall:

1. Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

2. Specify the order alleged to be the controlling order, if any; and

3. Specify the amount of consolidated arrears, if any.

E. A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

Section 601-603. Effect of registration for enforcement

A. A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of the Choctaw Nation of Oklahoma.

B. A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of the Choctaw Nation of Oklahoma.

C. Except as otherwise provided in this article, a tribunal of the Choctaw Nation of Oklahoma shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

Section 601-604. Law, procedures, and remedies to be applied

A. Except as otherwise provided in subsection B of this section, the law of the issuing state governs:

1. The nature, extent, amount, and duration of current payments under a registered support order;

2. The computation and payment of arrearages and accrual of interest on the arrearages under the support order; and

3. The existence and satisfaction of other obligations under the support order.

B. In a proceeding for arrears under a registered support, the statute of limitation of the Choctaw Nation of Oklahoma or of the issuing state, whichever is longer, applies.

C. A responding tribunal of the Choctaw Nation of Oklahoma shall apply the procedures and remedies of the Choctaw Nation of Oklahoma to enforce current support and collect arrears and interest due on a support order of another state registered in the Choctaw Nation of Oklahoma.

D. After a tribunal of this or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of the Choctaw Nation of Oklahoma shall prospectively apply the law of the state issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

Section 601-605. Notice of registration of order

A. When a support order or income-withholding order issued in another state is registered, the registering tribunal 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. A 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 a tribunal of the Choctaw Nation of Oklahoma;

2. That a hearing to contest the validity or enforcement of the registered order must be

requested within twenty (20) days after the date of mailing or personal service of the 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. If the registering party asserts that two or more orders are in effect, a notice shall also:

1. Identify the two or more orders and the order alleged by the registering person to be the controlling order and the consolidated arrears, if any;

2. Notify the nonregistering party of the right to a determination of which is the controlling order;

3. State that the procedures provided in subsection B of this section apply to the determination of which is the controlling order; and

4. State that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

D. Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to the income-withholding law of the Choctaw Nation of Oklahoma.

Section 601-606. 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 Choctaw Nation of Oklahoma shall request a hearing within twenty (20) days after the date of mailing or personal service of 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 Section 601-607 of this title.

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 registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

Section 601-607. Contest of 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 the Choctaw Nation of Oklahoma to the remedy sought;

6. Full or partial payment has been made;

7. The statute of limitation under Section 601-604 of this title precludes enforcement of some or all of the alleged arrearages; or

8. The alleged controlling order is not the controlling order.

B. If a party presents evidence establishing a full or partial defense under subsection A of this section, a tribunal 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 the Choctaw Nation of Oklahoma.

C. If the contesting party does not establish a defense under subsection A of this section to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

Section 601-608. Confirmed order

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.

Section 601-609. Procedure to register child support order of another state for modification

A party or support enforcement agency seeking to modify, or to modify and enforce,

a child support order issued in another state shall register that order in the Choctaw Nation of Oklahoma in the same manner provided in Part A of this article 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.

Section 601-610. Effect of registration for modification

A tribunal of the Choctaw Nation of Oklahoma may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of the Choctaw Nation of Oklahoma, but the registered order may be modified only if the requirements of Section 601-611 or 601-613 of this title or Section 601-606 of this act have been met.

Section 601-611. Modification of child support order of another state

A. If Section 601-613 of this title does not apply, except as otherwise provided in Section 601-606 of this act, upon petition a tribunal of the Choctaw Nation of Oklahoma may modify a child support order issued in another state which is registered in the Choctaw Nation of Oklahoma if, after notice and hearing, the tribunal finds that:

1. The following requirements are met:

a. neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state,

b. a petitioner who is a nonresident of the Choctaw Nation of Oklahoma seeks modification, and

c. the respondent is subject to the personal jurisdiction of the tribunal of the Choctaw Nation of Oklahoma; or

2. The Choctaw Nation of Oklahoma is the state of residence of the child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of the Choctaw Nation of Oklahoma and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of the Choctaw Nation of Oklahoma to modify the support order and assume continuing, exclusive jurisdiction.

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 a tribunal of the Choctaw Nation of Oklahoma and the order may be enforced and satisfied in the same manner.

C. Except as otherwise provided in Section 601-606 of this act, a tribunal of the Choctaw Nation of Oklahoma may not modify any aspect of a child support order that may

not be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the same obligor and same child, the order that controls and must be so recognized under Section 601-207 of this title establishes the aspects of the support order which are nonmodifiable.

D. In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by the order precludes imposition of a further obligation of support by a tribunal of the Choctaw Nation of Oklahoma.

E. On issuance of an order by a tribunal of the Choctaw Nation of Oklahoma modifying a child support order issued in another state, the tribunal of the Choctaw Nation of Oklahoma becomes the tribunal having continuing, exclusive jurisdiction.

Section 601-612. Recognition of order modified in another state

If a child support order issued by a tribunal of the Choctaw Nation of Oklahoma is modified by a tribunal of another state which assumed jurisdiction pursuant to the Uniform Interstate Family Support Act, a tribunal of the Choctaw Nation of Oklahoma:

1. May enforce its order that was modified only as to arrears and interest accruing before the modification;

2. May provide appropriate relief for violations of its order which occurred before the effective date of the modification; and

3. Shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

Section 601-613. Jurisdiction--Applicability of provisions

A. If all of the parties who are individuals reside in the Choctaw Nation of Oklahoma and the child does not reside in the issuing state, a tribunal of the Choctaw Nation of Oklahoma has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

B. A tribunal of the Choctaw Nation of Oklahoma exercising jurisdiction under this section shall apply the provisions of Sections 601-101 through 601-209 of this title, and the procedural and substantive law of the Choctaw Nation of Oklahoma to the proceeding for enforcement or modification. Sections 601-301 through 601-507 and 601-701 through 601-802 of this title do not apply.

Section 601-614. Filing of modified child support order

Within thirty (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.

Section 601-615. Modification of order made by foreign country or political subdivision that is a state

A. If a foreign country or political subdivision that is a state will not or may not modify its order pursuant to its laws, a tribunal of the Choctaw Nation of Oklahoma may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether or not the consent to modification of a child support order otherwise required of the individual pursuant to Section 601-611 of this Title has been given or whether the individual seeking modification is a resident of the Choctaw Nation of Oklahoma or of the foreign country or political subdivision.

B. An order issued pursuant to this section is the controlling order.

Article 7. Proceedings to Determine Parentage

Section 601-701. Proceeding to determine parentage

A court of the Choctaw Nation of Oklahoma authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage brought under this act or a law or procedure substantially similar to this act.

Article 8. Interstate Rendition

Section 601-801. Grounds for rendition

A. For purposes of this article, “governor” includes an individual performing the functions of governor, chief, or the executive authority of a state covered by this act.

B. The Chief of the Choctaw Nation of Oklahoma may:

1. Demand that the governor of another state surrender an individual found in the other state who is charged criminally in the Choctaw Nation of Oklahoma with having failed to provide for the support of an obligee; or

2. On the demand by the governor of another state, surrender an individual found in the Choctaw Nation of Oklahoma who is charged criminally in the other state with having failed to provide for the support of an obligee.

C. A provision for extradition of individuals not inconsistent with this act applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

Section 601-802. Condition of rendition

A. Before making a demand that the governor of another state surrender an individual charged criminally in the Choctaw Nation of Oklahoma with having failed to provide for the support of an obligee, the Chief of the Choctaw Nation of Oklahoma may require a prosecutor of the Choctaw Nation of Oklahoma to demonstrate that at least sixty (60) days previously the obligee had initiated proceedings for support pursuant to this act or that the proceeding would be of no avail.

B. If, under this act or a law substantially similar to this act, the governor of another state makes a demand that the Chief of the Choctaw Nation of Oklahoma surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the Chief may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the Chief may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

C. If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the Chief may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the Chief may decline to honor the demand if the individual is complying with the support order.

Article 9. Miscellaneous Provisions

Section 601-901. Uniformity of application and construction

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.