WHITE EARTH BAND OF OJIBWE
MARRIAGE CODE

TITLE 6:
CHAPTER 1
SHORT TITLE, PURPOSE AND DEFINITIONS

Section 1. Short Title

Title 18 shall be entitled "The Marriage Code"

Section 2. Purpose

The Marriage Code shall be liberally interpreted and construed to fulfill the following expressed purposes:

(a) To unite two people in the sanctity of marriage
(b) To ensure that off-reservation courts will be willing to acknowledge the marriage by establishing this code;
(c) To recognize and acknowledge the tribal customs and traditions of the White Earth Band of Ojibwe with regard to marriage.

Section 3. Definitions

(a) "Adult": A person eighteen (18) years old, or otherwise emancipated by order of a court of competent jurisdiction.

(b) "Child": A person who is less than eighteen (18) years of age.

(c) "Certificate": A written document as to proof of the marriage.

(d) "Civil": Relating to the rights of private individuals and to legal proceedings involving these rights as distinguished from criminal, military, or international courts, proceedings, or rules.

(e) "Contract": The writing or document containing a legally enforceable agreement between two or more parties.

(f) "Guardian": A person assigned by a court of law, other than a parent, having the duty and authority to provide care and control of a child.

(g) "holy person": A person who is recognized and acknowledged by the tribal community as a spiritual person.

(h) "Indian": Any person who is a member or is eligible to become a member of a federally recognized Indian tribe, band or community, or Alaska Natives, or a person considered by the community to be Indian.

(i) "License": A document that is obtained before the ceremony that authorizes the marriage.

(j) "Parent": Includes a natural or adoptive parent, but does not include persons whose parental rights have been terminated, nor does it include the unwed father whose paternity has not been acknowledged or established.

(k) "Reservation": The White Earth Reservation in Minnesota.

(l) "Solemnize": To perform with formal ceremonies or rites.

(m) "Tribal Council": The tribal council of the White Earth Band of Ojibwe.

(n) "Tribal Court": The tribal court of the White Earth Band of Ojibwe Indians.

CHAPTER 2
JURISDICTION

Section 1 The tribal court shall have jurisdiction to conduct or certify a marriage of any of the following:

(a) A party to the marriage who is an enrolled member of the White Earth Band of Ojibwe.

(b) A party of the marriage who lives within the exterior boundary of the White Earth Reservation.

(c) A party of the marriage who lives near the exterior boundary of the White Earth Reservation.

(d) If both parties agree to subject themselves to the jurisdiction of the court.

CHAPTER 3
MARRIAGE REQUIREMENTS

Section 1. Valid Marriages

(a) A valid marriage is a civil contract between a man and a woman to which the consent of the parties, capable in law of contracting, is essential.

(b) Marriage may be contracted only after a license has been obtained, and only after the marriage is contracted in the presence of two witness and solemnized by one who is authorized, or by one who either party or both parties in good faith believes to be authorized.

(c) A common law marriage is one in which a man and woman have lived together and held themselves out as husband and wife. The White Earth Band of Ojibwe (does/does not) recognize common law marriages.

Section 2 Persons capable of contracting

(a) Every person who has attained the full age of 18 years is capable of contracting marriage, if other wise competent.

(b) A person of the full age of 16 years may, with the consent of the person's parent(s) or guardian.

Section 3 Prohibited marriages

(a) A marriage entered into before the dissolution of an earlier marriage becomes final.

(b) A marriage between an ancestor and descendant who are closer than second cousins, whether the relationship is by half or whole blood.

(c) A marriage entered into by persons who have been found mentally incompetent.

Section 4 Who may perform marriages

(a) Marriages can be solemnized by:

(1) any judge of court record of the White Earth Band of Ojibwe Tribal Court.
(2) a licensed or ordained minister of any religious denomination
(3) a holy person chosen by the parties to the marriage
(4) any tribal council member by civil ceremony.

CHAPTER 4
LICENSE AND MARRIAGE CERTIFICATES

Section 1 License

(a) Before any person authorized to perform the marriage ceremony, a license shall be obtained from the court.

Section 2 Application for license

(a) Application for marriage shall contain the following information:

(1) the full names of the parties and the sex of each party;
(2) the current mailing address of each party;
(3) their date of birth;
(4) if either party has been previously married, the party's married name and the date, place and court in which the marriage was dissolved or annulled or place of death of former spouse;
(5) if either party is a minor, the name and address of the minor's parents or guardian;
(6) the address of the bride and groom after the marriage to which the court shall send a certified copy of the marriage certificate.

(b) Term of License and fee

(1) After the court has examined the marriage application and no legal impediments were found; the court shall issue the license, containing the full names of the parties before and after marriage, and county and state of residence, with tribal court seal attached, and make a record of the date of issuance.
(2) The license will be valid for six months.
(3) If the license is not used within the six months due to illness or other extenuating circumstances, it may be surrendered to the court and a new license will be issued at no additional cost.
(4) The Clerk of Court shall collect an applicant fee of $25 for the issuing, recording, and filing of all papers required.

Section 10 Marriage certificate

(a) The person solemnizing a marriage shall prepare and sign three certificate containing the full names before and after the marriage, the county and state of residence of both parties, and the date and place of marriage.

(b) Each certificate shall contain the signatures of at least two witnesses who are at least 16 years of age.

(c) The person solemnizing the marriage will give one copy to the court administrator and a copy to each party.

(d) Every person who solemnizes a marriage and neglects to deliver the certificate to the tribal court recorder within 5 days of the ceremony will be fined a sum not exceeding $100.

WHITE EARTH BAND OF OJIBWE
FAMILY RELATIONS CODE

TITLE 6A:
CHAPTER 1
SHORT TITLE, PURPOSE AND DEFINITIONS

Section 1. Short Title

Title 19 shall be entitled "The Family Relations Code"

Section 2. Purpose

The Family Relations Code shall be liberally interpreted and construed to fulfill the following expressed purposes:

(a) To regulate the civil contract of marriage.
(b) To ensure the rights and fairness to the parties and their children under the provisions of this code.
(c) To regulate the division of property owned by the parties during the marriage.

Section 3. Definitions

(a) "Adult": A person eighteen (18) years old or older.

(b) "Alimony": Support or maintenance that one spouse pays another after they have been separated or divorced.

(c) "Annulment": A declaration that a marriage never existed.

(d) "Child": A person who is less than eighteen (18) years of age.

(e) "Civil": Relating to the rights of private individuals and to legal proceedings involving these rights as distinguished from criminal, military, or international courts, proceedings, or rules.

(f) "Contract": The writing or document containing a legally enforceable agreement between two or more parties.

(g) "Custody": Responsibility for the well-being and general welfare of a child.

(h) "Custody determination": A court decision and court orders and instructions providing for the custody of a child.

(i) "Custody proceeding": A proceeding in which a custody determination is one of several issues, such as an action for dissolution, divorce, or separation, and includes proceedings involving children who are in need of protection or services, domestic abuse and paternity.

(j) "Custodial parent": The person, also known as the custodian, who has the physical custody of his or her biological or legal child at any particular time.

(k) "Dissolution": The act or process of terminating a marriage

(l) "Divorce": The termination of a marital relationship by a court judgment or decree.

(m) "Guardian": A person assigned by a court of law, other than a parent, having the duty and authority to provide care and control of a child.

(n) "Imputed Income": The estimated earning ability of a parent based on the parents prior earnings history, education, and job skills, and on the availability for an individual with the parent's qualifications.

(o) "Income": Any form of periodic payment to an individual including, but not limited to: wages, salaries, payments to an independent contractor, commissions and pension payments.

(p) "Indian": Any person who is a member or is eligible to become a member of a federally recognized Indian tribe, band or community, or Alaska Natives, or a person considered by the community to be Indian.

(q) "Joint Legal Custody": Both parents have equal rights and responsibilities, including the rights to participate in major decisions determining the child's upbringing, including education, health care, and religious training.

(r) "Joint Physical Custody": Both parents have equal rights and responsibilities regarding the residence and daily care of their child (ren).

(s) "Legal Separation:" A court order allowing a married couple to live separately and establishing their rights and duties while separated.

(t) "License": A document that is obtained before the ceremony that authorizes the marriage.

(u) "Nullity": An act of having no legal effect.

(v) "Parent": Includes a natural or adoptive parent, but does not include persons whose parental rights have been terminated, nor does it include the unwed father whose paternity has not been acknowledged or established.

(w) "Reservation": The White Earth Reservation.

(x) "Residence": The place in which one lives and maintains a permanent home.

(y) "Solemnize": To perform with formal ceremonies or rites.

(z) "Stand by-Custodian": A person(s) named by a custodian or designator as temporary custodian of a child or children.

(aa) "Tribal Council": The tribal council of the White Earth Band of Ojibwe.

(bb) "Tribal Court": The tribal court of the White Earth Band of Ojibwe.

(cc) "Void Marriage": A marriage that was void from its inception; a marriage that is invalid whether or not a court declares its invalidity.

(dd) "Voidable Marriage": A marriage that can be annulled because of its invalidity but which remains valid until a court declares it invalid.

CHAPTER 2
JURISDICTION

Section 1. The tribal court and tribal council shall have jurisdiction to conduct or certify a marriage of any of the following:

(a) A party to the marriage who is an enrolled member of the White Earth Band of Ojibwe.

(b) A party of the marriage who lives within the exterior boundaries of the White Earth Reservation.

(c) A party of the marriage who lives near the exterior boundary of the White Earth Reservation.

(d) Two parties who agree to subject themselves to the jurisdiction of the court for the purpose of entering into a marriage contract or to obtain a divorce.

CHAPTER 3
VOID AND VOIDABLE MARRIAGES

Section 1. Void Marriages

(a) All marriages which are prohibited by law on account of consanguinity, meaning of close relation, or on account of either or both parties being under the age established for marriage, or on account of either party having a husband or wife still living, if solemnized, shall be absolutely void, without any decree of divorce or other legal proceeding; provided that, if any person whose husband or wife has been absent for five (5) successive years, without being known to such person to be living during that time, marriages during the lifetime of such absent husband or wife, the marriage shall be void only from the time that its nullity is duly adjudged.

Section 2. Voidable Marriages

A marriage shall be declared voidable under the following circumstances:

(a) A party lacked capacity to consent to the marriage at the time the marriage was solemnized due to:

1. a mental incapacity and the other party did not know of the incapacity;
   or
2. being under the influence of alcohol, drugs, or other incapacitating substances; or
3. because consent of either party was obtained by duress, force or fraud.

(b) A party lacks the physical capacity to consummate the marriage and the other party at the time of the marriage did not know of the incapacity.

(c) A party was under the age of marriage.

CHAPTER 4
LEGAL SEPARATION

Section 1. Effect of a Separation Agreement

(a) To promote the friendly settlement of disputes between parties to a marriage, the parties may enter into a written separation agreement containing provisions for the disposition of any property owned by either of them, maintenance of either of them, and support, custody and visitation of their children.

(b) In a proceeding for dissolution of marriage or for legal separation, the terms of the separation agreement, except those providing for the support, custody and visitation of children, are binding upon the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties, on their own motion or on request by the court, that the separation agreement is unfair.

(c) If the court finds the separation agreement unfair as to disposition of property or maintenance, it may request the parties submit a revised separation agreement or make the order for the disposition of property or maintenance.

(d) If the court finds that the separation agreement is fair as to disposition of property or maintenance, and that it is reasonable as to support, custody and visitation of the children, the separation agreement shall be set forth or incorporated by reference in the decree of dissolution or legal separation and the parties shall be ordered to perform them. If the separation agreement provides that its terms shall not be set forth in the decree, the decree shall identify the separation agreement as incorporated by reference and state that the court has found the terms as to property disposition and maintenance not unfair and the terms as to support, custody and visitation of children are reasonable.

(e) Terms of the agreement set forth or incorporated by reference in the decree are enforceable by all remedies available for enforcement of a judgment, including contempt.

CHAPTER 5
ANNULMENT

Section 1. Action to Annul

When the validity of a marriage is disputed for any of the causes mentioned in Section 1 or 2 of Chapter 3 of the Family Relations code, either party, may begin an action in the White Earth Tribal Court to annul the same. In such action the complaint shall be filed and proceedings had thereon as in actions for divorce and upon proof of the nullity of the marriage, it shall be adjudged null and void.

Section 2. Insufficient Grounds for Annulment

(a) No marriage shall be adjudged a nullity on the ground that one of the parties was under the age of legal consent if it appears that the parties had voluntarily lived together as husband and wife after having attained such age;

(b) The marriage of any insane person shall not be adjudged void after restoration to reason, if it appears that the parties freely cohabited together as husband and wife after such restoration.

CHAPTER 6
DIVORCE

Section 1. Grounds for Divorce

An irretrievable breakdown is a finding that there is no reasonable prospect of reconciliation that must be supported by sworn testimony of one of the parties.

(a) A judge may, at the discretion of the court, require marriage counseling before a declaration of irretrievable breakdown is made, however, if there is a domestic abuse in the marriage, this may not be appropriate.

(b) A judge may require the parties to go through mediation, which is a process where a neutral third person assists and encourages parties in conflict to reach a settlement of the dispute that is satisfactory to both parties, unless domestic abuse is prevalent in the marital relationship.

CHAPTER 7
PROCEDURE FOR ANNULMENT AND DIVORCE

Section 1. Commencement of Action

(a) Any person applying for annulment or divorce shall deposit with the clerk of the White Earth Tribal Court, twenty-five dollars ($25.00) at the time of the action; and in case the defendant files a cross-complaint or answer, the clerk will require the defendant to pay into the court a fee of twenty-five dollars ($25.00) also. The court has the discretion to waive all or a portion of the filing fee if indigence is proven, keeping in mind that no person shall be barred from the court because of lack of funds.

(b) The complaining party shall file with the clerk a verified complaint concisely stating his or her cause of action and thereupon, the clerk shall issue a summons in the name of the White Earth Tribal Court to the defendant informing him or her of the pendency of the action and the summons shall concisely state the grounds upon which annulment or divorce has been requested.

Section 2. Requisites of the Complaint or Petition for Divorce or Annulment

(a) The name and address of the petitioner, and whether the child support or spousal maintenance is involved, the petitioner's social security number, and any other prior names.

(b) The name and, if known, the address of the respondent, and where child support or spousal maintenance in involved, the respondent's social security number, and any other prior names;

(c) The place, including county, and date of the party's marriage.

(d) The name, social security number, age and date of birth of each living minor or dependent child of the parties born before the marriage of born or adopted after the marriage, and a reference to the expected date of the birth of a child of the parties conceived during the marriage but not yet born.

(e) Whether or not a separate proceeding for dissolution is pending in a court other than the White Earth Tribal Court.

(f) There was an irretrievable breakdown of the marriage relationship.

(g) Any temporary or permanent maintenance, child support, child custody, disposition of property, attorney fees, costs, and disbursements applied for, without setting forth amounts.

(h) Whether an order for protection is in effect and, if so, the jurisdiction in which it was entered.

(i) If either party has a retirement or pension account, the name and address of the agent along with the amount of each account.

Section 3. Service of Process

(a) Service by mail can be commenced by mailing a copy of the summons and petition to the person to be served by certified mail.

(b) Personal service is made by delivering a copy of the summons and petition personally, or by leaving a copy at the person's residence with someone of suitable age who is residing there.

(c) If a personal service cannot be made then the service can be accomplished through publication through the tribal, local, or other comparable newspaper that would be seen by the party being served after the other

(b) The marriage of any insane person shall not be adjudged void after restoration to reason, if it appears that the parties freely cohabited together as husband and wife after such restoration.

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(b) A judge may require the parties to go through mediation, which is a process where a neutral third person assists and encourages parties in conflict to reach a settlement of the dispute that is satisfactory to both parties, unless domestic abuse is prevalent in the marital relationship.

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(b) The complaining party shall file with the clerk a verified complaint concisely stating his or her cause of action and thereupon, the clerk shall issue a summons in the name of the White Earth Tribal Court to the defendant informing him or her of the pendency of the action and the summons shall concisely state the grounds upon which annulment or divorce has been requested.

means of service were found to be unsuccessful by the White Earth Tribal Court.

(d) An affidavit of service needs to be filed with the court by the person who accomplished the service. If the service was done by publication, then the service is done by the publisher.

(e) The defendant shall have thirty (30) days in which to answer the complaint from the time of the completed service either personally, posting or by mail.

Section 4. Response

The non-petitioning spouse may file a response to the petition within thirty (30) days of the receipt of the petition. Such response may state the background facts, seek a division of property or custody of children that is different from any proposed by petition or may counterclaim of there are other relevant issues.

CHAPTER 8
COURT PROCEDURES

Section 1. Hearing

(a) In all divorce cases, the court shall order and hold a hearing, unless the parties have agreed to all matters and issues pending in which case the court shall have discretion to enter a decree without a hearing if the court is convinced the stipulation is fair.

(b) The hearing shall be held within a reasonable time after the date of the petition is filed.

(1) Where the custody of the children is an issue, the court has the discretion to order a home study by an appropriate social worker or other professional, to be completed prior to the hearing.

(c) At the hearing, both spouses shall have the opportunity to testify, cross-cross-examine the other spouse and any witnesses, and present documentary evidence.

(d) Each spouse may retain certified legal counsel or an advocate to be otherwise represented in the proceeding.

(e) If the defendant fails to appear and answer within the time required, the case may be heard by the Judge at anytime thereafter, but if the defendant answers the case, then a trial shall be scheduled on the court calendar by the clerk.

(f) The court shall make and enter findings of fact, conclusions of law, and a decree; and the same shall be filed and recorded by the clerk and two certified originals; shall be forwarded to both parties and/or their attorneys or advocates.

Section 2. Default Judgment; Failure to Answer

(a) If the respondent does not appear after the service is duly made and proved, the court may hear and determine the proceeding as a default matter.

(1) default proceedings will be closely scrutinized by the court to insure that the respondent's intentions are not disregarded.

(2) the excuse of mistake or neglect, when service has been properly accomplished, shall not be grounds to vacate judgment.

Section 3. Judgment and Divorce of Annulment

Whenever the marriage shall be declared void or dissolved, the White Earth Tribal Court shall have the power to impose further judgment as follows:

(a) For the future care and custody of the minor children of the marriage as it may deem just and proper. No preference in custody will be given to either parent based on gender;

(b) For the recovery from the party not granted the care and custody of the child (ren), such amount of money, to contribute to future care, medical expenses, and education;

(c) For future spousal maintenance for a reasonable amount of time deemed just and proper;

(d) For the approval of any property settlement between the parties or recovery and delivery to each of the parties any of their personal property in the possession or control of the other at the time of the judgment;

(e) For the division or other disposition between the parties of the real and personal property that is deemed fair and just;

(f) The tribal court shall have authority to change the name of any persons upon the petition of such persons or upon the petition of the parents of the minor. The order granting such name change shall be kept as a permanent record, and a copy of such order shall be filed with the Clerk of Court.

Section 4. Setting Aside of Modifying Judgment

At any time before a divorce judgment becomes final, the court or Judge, upon complaint of either party, shall have the power to set aside, alter or modify so much of the judgment as may provide for the appointment of a trustee or trustees for the care and custody of minor child(ren), or the support or education and for the maintenance of either party to the action; provided, however, that said judgment shall be a final judgment as to any installment or payments of money or payments of property provided for therein which have accrued up to the time either party shall file an action with the court to set the Judgment aside or alter or modify the same.

Section 5. Temporary Hearings

If temporary relief is desired, but no agreement between the parties can be reached, either party may request by motion, and the court may grant, pending the final disposition, a temporary order:

(1) for the temporary custody and visitation rights of the minor children of the parties;

(2) for the temporary maintenance of either spouse;

(3) for temporary child support of the children of the parties;

(4) to award the temporary use and possession, exclusive or otherwise, of the family home, furniture, household goods, automobiles, and other property of the parties;

(5) to restrain one or both parties from transferring, encumbering, concealing, or disposing of property, except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the temporary order has been served or communicated in an open court.

(6) to exclude a party from the family home of the parties or from the home of the other party;

(7) to require one party or both parties to perform or not to perform such additional acts as will facilitate the just and speedy disposition of the proceedings or protect the parties or their children from physical or emotional harm.

CHAPTER 9
CHILD CUSTODY

Section 1. Custody Action

In any action for annulment or divorce, the White Earth Tribal Court shall have authority to determine the custody of any child of the marriage, any child born out of wedlock, or any other child in the custody of either party who are under the age of eighteen (18) years of age.

Section 2. Factors in Determining Custody

(a) When joint legal or joint physical custody is sought, the court shall consider the following relevant factors:

(1) the ability of the parents to cooperate in the rearing of the child(ren);

(2) the reasonable preference of the child if the child is of a sufficient age;

(3) the interaction and relationship of the child with a parent or parents, siblings, and any other person who may significantly affect the child's best interests;

(4) the ability of the child to have a stable, satisfactory living environment;

(5) the permanence of the proposed custodial home;

(6) the capacity and disposition of the parties to give the child love, affection, guidance, and to continue educating and raising the child in the child's culture and religion, if any.

Section 3 Visitation Rights

(a) In all divorce or annulment proceedings, subsequent to the commencement of the action and continuing during the minority of the child, the court may, upon the request of the non-custodial parent, grant such rights as will enable the child and the non-custodial parent to maintain such child to parent relationship as will be beneficial to the child.

(b) A parent's failure to pay support because of the parent's inability to do so shall not be sufficient cause for denial of visitation, unless such inability is willful.

(c) The custodial parent shall present the child for visitation by the non-non-custodial parent, as such time as the court directs or was agreed upon.

(d) Proof of an unwarranted denial of or interference with duly established visitation may constitute contempt of court and may be cause for reversal of custody.

(e) Supervised visits may be ordered if warranted by the court.

Section 4. Guardian Ad Litem

At any stage of the proceedings conducted under this code, the court may appoint separate counsel or a spokesperson for the child, without affecting the right to counsel of the parents, guardians or other legal custodians, to act as guardian ad litem representing the child's best interests.

Section 5. Stand-by Custodian

(a) A Stand-by Custodian may be appointed by a designator. A designator is defined as the person who has physical and/or legal custody of named children.

(b) The designator shall list his/her name, the children's name, date of birth and social security number.

(c) The designator shall list the other parent with that parent's name, address, date of death, if applicable or date of termination of parental rights.

(d) The other parent shall be notified of the designation or petition of a stand-by **by** custodian. If unable to locate the other parent, the petitioner may publish notice in a local newspaper.

(e) The stand-by custodian is granted authority to act for 60 days following the occurrence of the triggering event as co-custodian with the designator or in the event of his/her death, as custodian of his/her children.

(f) The designator may name an alternate stand-by custodian to assume temporary custody if the named custodian is unable to fulfill their duties as temporary custodian.

(g) The custodial parent or designator shall list the "triggering event" such as "my death" or such other triggering event. The custodial parent shall be of sound mind.

(h) The designation shall be signed by two (2) witnesses with their addresses listed.

(i) The stand-by custodian must accept the nomination as stand-by or temporary custodian and must sign and date the designation document.

(j) The stand-by custodian must file a petition with the court for continued custody within 60 days of the triggering event

(k) The designation must be filed with tribal court within 14 days of signing. Tribal court may conduct a hearing on the designation of a stand-by custodian within 14 days. If unable to have a hearing within 14 days, the court may enter an ex-parte order if exigent circumstances warrant it, ie imminent death of the designator (within 48 hours).

CHAPTER 10
CHILD SUPPORT

Section 1 Child Support Factors

(a) In a proceeding for dissolution of marriage, legal separation, maintenance, or child support, the court may order either or both parents owing a duty of support to a child, born to or adopted by the parents, to pay an amount reasonable and necessary for his support, without regard to marital misconduct, after considering all relevant factors, including:

(1) the financial resources and needs of the child;

(2) the financial resources and needs of the custodial parent;

(3) the standard of living the child would have enjoyed had the marriage not been dissolved;

(4) the physical and emotional condition of the child, and the educational needs;

(5) the financial resources and needs of the non-custodial parent;

(6) excessive or abnormal expenditures, destruction, concealment or fraudulent disposition or community, joint tenancy, and other property held in common.

Section 2. Child Support Guidelines

The court shall enter an award for child support payments in accordance with the provisions of this Section. The court may order either or both parents owing a duty of support to a child to pay an amount of money, which is reasonable or necessary for the child's support. This Section shall be limited to prospective child support payments calculated from the filing date of the petition. The court shall derive a specific dollar amount for child support by multiplying the obligor's net income by the percentage indicated in the following guidelines:

WHITE EARTH TRIBAL COURT
CHILD SUPPORT PAYMENT GUIDELINES
MONTHLY PAYMENTS

Pay Net Monthly $550 and below	Number of Children						
	1	**2**	**3**	**4**	**5**	**6**	**7 or more**
$550 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
$551-600	16%	19%	22%	25%	28%	30%	32%
$601-650	17%	21%	24%	27%	29%	32%	34%
$651-700	18%	22%	25%	28%	31%	34%	36%
$701-750	19%	23%	27%	30%	33%	36%	38%
$751-800	20%	24%	28%	31%	35%	38%	40%
$801-850	21%	25%	29%	33%	36%	40%	42%
$851-900	22%	27%	31%	34%	38%	41%	44%
$901-950	23%	28%	32%	36%	40%	43%	46%
$951-1000	24%	29%	34%	38%	41%	45%	48%
$1001-5000	25%	30%	35%	39%	43%	47%	50%

Section 3. Deviation from Guidelines

In addition to the Child Support Guidelines, the court may take into consideration the following facts in setting or modifying child support or in determining whether to deviate from the guidelines:

(a) All earnings, income, and resource of the parents, including real and personal property;

(b) The financial needs and resources, physical and emotional condition, and educational needs of the child(ren) to be supported;

(c) Whether or not the parents have separate households;

(d) Which parent receives the income taxation dependency exemption and what financial benefit the parent receives from it;

(e) The parents' debts owed to private creditors;

(f) The non-custodial parent's earning capacity based on past earnings or lack of earnings.

Section 4. Court Findings on Child Support

(a) The court shall make written findings concerning the amount of the obligor's income used as the basis for the guidelines calculation any evidentiary factors affecting the determination of child support.

(b) If the court deviates from the guidelines, the court shall make written findings regarding the amount of support calculated under the guidelines, the reason for the deviation, and how the deviation serves the best interests of the child.

(c) If the court finds that a parent is voluntarily unemployed or underemployed, child support can be calculated based on a determination of imputed income by showing:

(1) it is temporary and will ultimately lead to an increase in income;

(2) a bona fide career change outweighs the adverse effect of the parent's diminished income;

(3) if thecourt is unable to determine or estimate the earning ability of a parent, the court may calculate child support based on full-time employment of forty (40) hours per week at the federal minimum wage;

(4) if a parent is a recipient of public assistance or is physically or mentally incapacitated, child support may be reserved.

Section 5. Child Support Modifications

(a) An order for child support can be modified based on a cost of living increase and the adjustment shall specify the cost-of living index to be applied.

(b) The court may order an employer or payor of funds to withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support or maintenance obligation until any arrearage is paid.

(c) The terms of a child support order can be modified by the party seeking modification upon showing to the court substantial change in circumstances of the party (s) since the date of the support order.

CHAPTER 11
DIVISION OF PROPERTY

Section 1. Disposition of Property

Upon a divorce or annulment, the court may make such disposition of the property of the parties acquired during the marriage as shall appear just and equitable, having regard to the nature and determination of the issues in the case, the amount of alimony or support money, if any, awarded in the judgment, the manner by which said property was acquired and the persons paying or supplying the consideration therefore, the charges or liens imposed to secure payment of alimony or support money, and all the facts and circumstances of the case.

Section 2. Household Good, Furniture and Other Property

Upon a divorce or annulment, the court may award to either spouse the household goods and furniture of the parties acquired during the marriage, and may also order and decree to either spouse such part of the real and personal estate of the other not acquired during the marriage, not exceeding in present value, one-half thereof, as it deems just and reasonable, having regard to the amount of property decreed under Section 1 of this Chapter, the amount of alimony and support money awarded, if any, the character and situation of the parties, the nature and determination of the issues, and all other circumstances of the case.

Section 3. Homestead

The court, having due regard to all the circumstances and the custody of any child(ren)of the parties, exclusive or otherwise, upon a final decree of divorce or annulment, may award the homestead to either party for such a period of time that may be determined by the court.

Section 4. Pension Plans

(a) The division of marital property that represents pension plan benefits or rights in the form of future pension plan payments:

(1) is payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;

(2) is not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient;

(3) is not payable in a lump sum amount from pension plan assets attributable in any fashion to a spouse with the status

of an active member, deferred retiree, or recipient of a pension plan;

(4) if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee; and

(5) in the case of public pension plan, benefits or rights, may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable.

The individual retirement account plans may provide in its plan document, if published and made generally available, for an alternative marital property division or distribution of individual retirement account plan assets. If an alternative division or distribution procedure is provided, it applies in place of paragraph (a), clause (5).

White Earth Reservation Tribal Council

Resolution No. 001-01-024

WHEREAS, The White Earth Reservation Tribal Council is duly empowered as the governing body for the White Earth Reservation pursuant to Article VI, Section 1 of the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe, as amended March 3, 1964; and

WHEREAS, The White Earth Band seeks to recognize and acknowledge the tribal customs and traditions in regards to marriage and to ensure the right and fairness to the parties and their children.

WHEREAS, The White Earth Band wishes to establish the Marriage and Family Relations Code in order to protect the rights and fairness to the parties and their children.

NOW THEREFORE, IT IS HEREBY RESOLVED that the White Earth Reservation Tribal Council approves the White Earth Band of Ojibwa's Family Relations Code for the health, safety and welfare of the residents of the White Earth Reservation.

We do hereby certify that the foregoing resolution was duly acted upon by a vote of for, r, 0 _ against, 0 silent, a quorum being present at a meeting held _____ t _____ 2001, at Minnesota.

Doyle Turner, Chairman

Erma Vizenor, Secretary/Treasurer

WHITE EARTH BAND OF OJIBWE TRIBAL CODE
TITLE 6 - FAMILY RELATIONS CODE

CHAPTER 10C – WHITE EARTH CHILD SUPPORT ACT

GENERAL

6-10C-0. Title

This Chapter shall be referred to as the "White Earth Nation Child Support Act."

6-10C-1. Definitions

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

   a. "Apportioned veterans' benefits" means the amount the Veterans Administration deducts from the veteran's award and disburses to the child or the child's representative payee. The apportionment of veterans' benefits shall be that determined by the Veterans Administration and governed by U.S. Code of Federal Regulations, title 38, sections 3.450 to 3.458.
   b. "Arrears" means the amount that accrues pursuant to an obligor's failure to comply with a support order. Past support contained in a support order are arrears if the court order does not contain repayment terms. Arrears also arise by the obligor's failure to comply with the terms of a court order for repayment of past support. An obligor's failure to comply with the terms for repayment of amounts owed for past support turns the entire amount owed into arrears.
   c. "Basic support" means the basic support obligation computed under section 6-6-10C-21 of this Chapter. Basic support includes the dollar amount ordered for a child's housing, food, clothing, transportation, and education costs, and other expenses relating to the child's care. Basic support does not include monetary contributions for a child's child care expenses and medical and dental expenses.
   d. "Child" means an individual under 18 years of age, an individual under age 20 who is still attending secondary school, or an individual who, by reason of physical or mental condition, is incapable of self-support.
   e. "Court" means the Tribal Court of the White Earth Nation.
   f. "Financial institution" means a savings association, bank, trust company, credit union, industrial loan and thrift company, bank and trust company, or savings association, and includes a branch or detached facility of a financial institution.

g. "Gross income" means the income of the parent calculated under section 6-10C-14 14 of this Chapter.

h. "Health care coverage" means health care benefits that are provided by a health plan. Health care coverage does not include any form of public medical assistance.

i. "Health plan" means a group health plan governed under the federal Employee Retirement Income Security Act of 1974 (ERISA), a self-insured plan or a policy, contract, or certificate issued by a community-integrated service network licensed by a state. Health plan includes plans:

(1) Provided on an individual and group basis;
(2) Provided by an employer or union;
(3) Purchased in the private market; and
(4) Available to a person eligible to carry insurance for the joint child.

Health plan includes a plan providing for dependent-only dental or vision coverage and a plan provided through a party's spouse or parent.

j. "Income withholding only services" means the services provided by the WEN CSEP to collect payments pursuant to a support order but does not include other enforcement services provided by the WEN CSEP for IV-D cases. Notices required for income withholding under this section shall be initiated by the applicant for services.

k. "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

l. "Issuing tribe" means the tribe in which a tribunal issues a support order or renders a judgment determining parentage.

m. "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

n. "IV-D case" means a case where a party has applied for child support services from the child support enforcement agency or has assigned to the Tribe or State rights to child support because of the receipt of public assistance under title IV-D of the Social Security Act, United States Code, title 45, section 309.

o. "Joint child" means the dependent child who is the child of both parents in the support proceeding. In cases where support is sought from only one parent of a child, a joint child is the child for whom support is sought.

p. "Medical support" means providing health care coverage for a joint child by carrying health care coverage for the joint child or by contributing to the cost of health care coverage, public coverage, unreimbursed medical expenses, and uninsured medical expenses of the joint child.

q. "Medical support notice or order" means a notice issued by the WEN CSEP or a court order issued by the White Earth Tribal Court to enforce health insurance provisions of a support order.

r. "Non-cash support" means non-cash child support provided to a family in the nature of goods and/or services rather than in cash. Non-cash support directly [illegible] the needs automobiles of a child. or a home, the [illegible] may include keep [illegible] of property, such to

providing a means for travel, providing needed resources for a child's participation in Tribal customs and practices, or other goods or services that contribute to the needs of a child, and can be reasonably assigned a cash value.

s. "Nonjoint child" means the legal child of one, but not both of the parents in the support proceeding. Nonjoint child does not include stepchildren.

t. "Obligee" means a person or tribal or state agency to which payments for maintenance or support are owed.

u. "Obligor" means a person obligated to pay maintenance or support. A person who has primary physical custody of a child is presumed not to be an obligor for purposes of a child support order under section 6-10C-21, unless section 6-10C-22, 22, subsection 4, applies or the Court makes specific written findings to overcome this presumption. For purposes of ordering medical support under this Chapter, a parent who has primary physical custody of a child may be an obligor subject to a payment agreement under section 6-10C-44.

v. **"Parental income for determining child support" or "PICS" means gross** income minus deductions for nonjoint children allowed under section 6-10C-20.

w. "Payor of funds" means a person or entity that provides funds to an obligor, including an employer as defined under chapter 24, section 3401(d), of the Internal Revenue Code, an independent contractor, payor of workers' compensation benefits or unemployment insurance benefits, or a financial institution.

x. Primary physical custody. The parent or caregiver having "primary physical custody" means the parent or caregiver who provides the primary residence for a child and is responsible for the majority of the day-to-day decisions concerning a child.

y. "Public coverage" means health care benefits provided by any form of federal, state, or tribal medical assistance. Medical benefits provided by the federal Indian Health Service (IHS) is considered public coverage.

z. "Public assistance" means temporary financial assistance given to needy persons by a tribal or state government agency.

aa. "Register" means to file a support order or judgment determining parentage in the office of the court manager or administrator.

bb. "Registering tribunal" means a tribal or state tribunal in which a support order is registered.

cc. "Social Security benefits" means the monthly retirement, survivors, or disability insurance benefits that the Social Security Administration provides to a parent for that parent's own benefit or for the benefit of a joint child. Social Security benefits do not include Supplemental Security Income benefits that the Social Security Administration provides to a parent for the parent's own benefit or to a parent due to the disability of a child.

dd. "Support money" or "child support" means an amount for basic support, child care support, and medical support pursuant to:

(1) An award in a dissolution, legal separation, annulment, or parentage proceeding for the care, support and education of any child of the marriage or of the parties to the proceeding; or
(2) Support ordered under other tribal law.

ee. "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or administrative agency of competent jurisdiction:

(1) For the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing tribe or state;
(2) For a child and the parent with whom the child is living, that provides for monetary support, child care, medical support, arrearages, or reimbursement; or
(3) For the maintenance of a spouse or former spouse.

The support order may include related costs and fees, income withholding, and other relief.

ff. "Survivors' and dependents' educational assistance" means funds disbursed by the Veterans Administration under United States Code, title 38, chapter 35, to the child or the child's representative payee.
gg. "TANF" means the Temporary Assistance to Needy Families provided to families under title IV-A of the Social Security Act.
hhh. "Title IV-A" refers to title IV-A of the Social Security Act under which the federal government provides funds to Tribes and States to provide temporary financial assistance to families using federal dollars. Title IV-A is also known as "TANF" or Temporary Assistance to Needy Families.
ii. "Title IV-D" means title IV-D of the Social Security Act, under which the federal government provides funds to tribes and states to administer child support programs that provide services related to child support.
jj. "Title IV-E" refers to title IV-E of the Social Security Act under which the federal government provides funds to tribes and states to assist with the costs of operating foster care programs.
kkk. "Title XIX" refers to title XIX of the Social Security Act under which the federal government provides funds to states to provide medical care assistance through a state-operated and administered program that provides medical benefits for certain indigent or low-income persons in need of health and medical care.
ll. "Tribal Child Support Program" means the White Earth Nation Child Support Enforcement Program, which provides child support enforcement services to children and families.
mm. "Tribal Court" means the White Earth Tribal Court of the White Earth Nation.
nn. "Tribe" means the White Earth Nation.

oo. "Tribunal" means a tribal or state court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

pp. "Unclaimed support funds" means any support payments collected by the WEN CSEP from the obligor, which have not been disbursed to the obligee.

qq. "Uninsured medical expenses" means a joint child's reasonable and necessary health-related expenses if the joint child is not covered by a health plan or public coverage when the expenses are incurred.

rr. Unreimbursed medical expenses means a joint child's reasonable and necessary health-related expenses if a joint child is covered by a health plan or public coverage and the plan or coverage does not pay for the total cost of the expenses when the expenses are incurred. Unreimbursed medical expenses do not include the cost of premiums. Unreimbursed medical expenses include, but are not limited to, deductibles, co-payments, and expenses for orthodontia, and prescription eyeglasses and contact lenses, but not over-the-counter medications if coverage is under a health plan.

ss. "WEN CSEP" means the White Earth Nation Child Support Enforcement Program.

tt. "White Earth Child Support Enforcement Payment Center" means the tribal unit responsible for receiving, processing, and disbursing payments, and for maintaining a record of payments, in all cases in which the Court orders that payments for child support be made.

uu. "White Earth Nation Child Support Enforcement Program" means the tribal child support program which provides child support enforcement services to children and families and is authorized to seek:

(1) Location of obligors or their assets and obligees;
(2) Determination of parentage;
(3) Establishment or modification of child support; or
(4) Enforcement of support orders or laws relating to the duty of support.

6-10C-2. Findings and Purpose

The White Earth Nation has enacted this chapter recognizing the following:

1. The Tribe has historically placed a great emphasis on the needs of its youth and families;
2. Under traditional Ojibwe values, children are viewed as sacred and they are the Tribe's most important resource;
3. The White Earth Nation has a compelling interest to promote and maintain the health and well-being of tribal children and families;
4. The White Earth Nation acknowledges the financial difficulties and hardship facing many tribal children due to a lack of parental support;
5. The non-support of tribal children by their parents is not in keeping with Ojibwe

6. The White Earth Nation finds that it is in the best interests of the Tribe to make laws which govern the establishment of child support and the enforcement of child support;
7. The purpose of the White Earth Family Relations Code, Title 6, Chapter 10C, is to utilize the civil justice system, including the White Earth Family Relations Code, and the White Earth Nation Child Support Enforcement Program ("WEN CSEP") to set standards of behavior within the family that are consistent with traditional Objiwe values and that motivate parents to provide their children with regular and adequate child support in accordance with their resources and abilities;
8. It is also the goal of this code to facilitate the opening of the lines of communication among the Tribal Court, the WEN CSEP and other Tribal and State programs to enhance the quality of child support services provided to the White Earth community;
9. The White Earth Nation enacts this Chapter to reaffirm tribal sovereignty and tribal self-determination by providing for the exercise of the greatest possible Tribal jurisdiction over the greatest number of child support cases involving tribal children and families.

6-10C-3. Repeal -Chapter 10 of the White Earth Domestic Relations Code

Chapter 10 of the White Earth Family Relations Code is hereby repealed and replaced by Chapter 10C, which shall hereinafter apply to all actions filed in Tribal Court pertaining to the establishment, enforcement, or modification of child support and maintenance obligations, the location of the obligor, obligee, and any assets and the collection and distribution of support payments.

6-10C-4. Authority And Jurisdiction of the White Earth Nation Child Support Program and Tribal Court

1. The White Earth Nation has the inherent authority to protect its political integrity and provide for the welfare of its children.
2. The White Earth Tribal Court has jurisdiction over any action brought in Tribal Court under this Chapter.
3. The action to establish, modify, or enforce a child support obligation may be joined with an action for divorce, annulment, legal separation, custody under the White Earth Family Relations Code.
4. The Tribal Court and WEN CSEP may assert jurisdiction under this Chapter over:
   a. All members or persons eligible for membership in the White Earth Nation or the Minnesota Chippewa Tribe;
   b. Any person eligible for membership in any federal or state recognized tribe coming under the jurisdiction of the White Earth Nation;
   c. Any person who is alleged to be a parent of a child, including any unborn child, whose parenting partner is a member or eligible for membership in the White Earth Nation or the Minnesota Chippewa Tribe, or who is a member or eligible

for membership in any federal or state recognized tribe coming under the jurisdiction of the White Earth Nation;

d. Any person who knowingly consents to become subject to the jurisdiction of the White Earth Tribal Court or the WEN CSEP.

5. The Tribal Court may exercise personal jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if:
   a. The individual is personally served with a summons within the exterior boundaries of the White Earth Reservation;
   b. The individual submits to the jurisdiction of the White Earth Nation by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
   c. The individual resided with the child within the exterior boundaries of the White Earth Reservation;
   d. The individual resided within the exterior boundaries of the White Earth Reservation and provided prenatal expenses or support for the child;
   e. The child resides within the exterior boundaries of the White Earth Reservation as a result of the acts or directives of the individual;
   f. The individual engaged in sexual intercourse within the exterior boundaries of the White Earth Reservation and the child may have been conceived by that act of intercourse; or
   g. There is any other basis consistent with the constitutions of the Tribe and the United States for the exercise of personal jurisdiction.
6. The Tribal Court has the authority to punish for contempt, committed in or out of the Court's presence.
7. Whenever state, federal, and other tribal courts have jurisdiction over any of the matters provided for in this Chapter, the Tribal Court shall have concurrent jurisdiction over the same matters, to the extent consistent with federal law.

6-10C-5. Sovereign Immunity of the White Earth Nation

Nothing in this Chapter shall abrogate or otherwise impair the sovereign immunity of the White Earth Nation.

6-10C-6. Protection of Participants – Hearings And Records; Confidentiality

1. Notwithstanding any other law concerning public hearings and records, any hearing or trial held under this Chapter shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the Tribal Court or of a file in the WEN CSEP or elsewhere, are subject to inspection only upon consent of the Tribal Court and all interested persons, or in exceptional cases only upon an order of the Tribal Court for good cause shown.

2. Indication of domestic violence. In all actions under this Chapter in which the WEN CSEP provides services to a party or parties to the action, notwithstanding statutory or other authorization for the child support program to release private data on the location of a party to the action, information on the location of one party may not be released by the WEN CSEP to the other party if the tribal child support program has:
   a. Knowledge that a protective order with respect to the other party or child has been entered; or
   b. Reason to believe that the release of the information may result in physical or emotional harm to the other party or child.
3. Authorized Release of Case Records and Other Information.
   a. The use or disclosure of personal information received or maintained by the WEN CSEP and the White Earth Tribal Court shall be limited to purposes directly connected with the WEN CSEP and the White Earth Tribal Court or titles IV-A, XIX, and IV-E, and for purposes prescribed by the Secretary in federal regulations.
   b. Records of the WEN CSEP, including case notes and correspondence, may be disclosed to the following persons and entities, unless otherwise protected by this section:

      (1) WEN CSEP Staff;
      (2) White Earth Tribal Court Judges;
      (3) White Earth Tribal Court Clerks and Court Manager for filing purposes;
      (4) Tribal Social Services agencies
      (5) State of Minnesota IV-D employees directly connected with the administration of Titles IV-D, IV-A, IV-E, and XIX programs, as outlined in the cooperative agreement between Minnesota and the White Earth Nation;
      (6) A court having jurisdiction in parentage, support or abandonment proceedings or actions;
      (7) The legal guardian, attorney, or agent of a child; or
      (8) An agency of the federal government or any other state or tribal child support enforcement IV-D program engaged in the establishment of paternity, a child support obligation, or the enforcement of support for a child in a case.
4. The WEN CSEP and White Earth Tribal Court may limit the information disclosed to persons, agencies, and entities named in this section to that information necessary to accomplish the purposes for which it is requested or for which it is being disclosed. Nothing in this section gives these entities or persons the right to review or copy the complete case record.
5. A final order in a proceeding under this Chapter is available for public inspection. Other White Earth Tribal Court papers and records are available only with the consent of the parties or on order of the Court for good cause.

6-10C-7. <u>Publication of Proceedings</u>

When providing service by publication, the names of children in the matter shall not be disclosed. Only the child's initials shall be published.

6-10C-8. Penalty for Unauthorized Disclosure

Any person, including but not limited to any tribal employee, elected officials, court employees, and employees of the WEN CSEP, who willfully discloses otherwise confidential information related to an action to establish, modify, or enforce child support, other than expressly authorized and provided for under this Chapter, and who is found guilty of an unauthorized disclosure of information may be subject to a civil fine not to exceed five hundred ($500.00) dollars.

6-10C-9. Rights of the Parties

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

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

6-10C-10. Provision of Legal Services by the WEN CSEP; Service of Process

1. General. The provision of services under the WEN CSEP that includes services by an attorney or an attorney's representative employed by, under contract to, or representing the WEN CSEP does not create an attorney-client relationship with any party other than the WEN CSEP.
   a. Attorneys employed by or under contract with the WEN CSEP have an affirmative duty to inform applicants and recipients of services under the WEN CSEP that no attorney-client relationship exists between the attorney and the applicant or recipient;
   b. This section applies to all legal services provided by the WEN CSEP; and
   c. The written notice must inform the individual applicant or recipient of services that no attorney-client relationship exists between the attorney and the applicant or recipient, the protection of participants' information and records under section 6-10C-6 of this Chapter, and that the individual has a right to have an attorney represent the individual.

2. Access to address for service of process. If there is an IV-D case, a party may obtain an ex parte order under this subsection. The party may obtain an ex parte order requiring the WEN CSEP to serve legal documents on the other party by mail if the party submits a sworn affidavit to the Court stating that:
   a. The party needs to serve legal process in a support proceeding and does not have access to the address of the other party;
   b. The party has made reasonable efforts to locate the other party; and
   c. The other party is not represented by counsel.
3. The WEN CSEP shall serve legal documents provided by the moving party at the last known address of the other party upon receipt of a court order under paragraph (a). The WEN CSEP shall provide for appropriate service and shall certify to all parties the date of service by mail. The WEN CSEP's proof of service must not include the place or address of service.

6-10C-11. Notice

All parties to a proceeding under this Chapter shall receive written notice of the time and place of a proceeding and shall receive written notice of their right to be heard at such a proceeding. Child support notices sent by the WEN CSEP which do not require service are sufficient notice when issued and mailed by first class mail to the person's last known address.

ESTABLISHING A CHILD SUPPORT OBLIGATION - Computation of Gross Income and Support Using the Child Support Guidelines and Schedule

6-10C-12. <u>Mutual Duty to Support Children</u>

Parents shall give their children support and education suitable to the child's circumstances. The Court may compel either or both parents to provide for the support of their children.

6-10C-13. <u>Minor Children; Support</u>

1. Order. Upon a decree of dissolution, legal separation, or annulment, the Court shall make a further order which is just and proper concerning the maintenance of the minor children as provided by this Chapter, and for the maintenance of any child of the parties as defined as support money under section 6-10C-1(dd) of this Chapter. The Court may make any child support order a lien or charge upon the property of the obligor, either at the time of the entry of the judgment or by subsequent order upon proper application.
2. Seasonal income. The Court shall establish the annual support of an obligor with a seasonal income so that the obligor makes either the same monthly payments throughout the year or monthly payments that reflect variations in income.

3. Satisfaction of child support obligation. The Court may conclude that an obligor has satisfied a child support obligation by providing a home, care, and support for the child while the child is living with the obligor, if the Court finds that the child was integrated into the family of the obligor with the consent of the obligee and child support payments were not assigned to the WEN CSEP or another tribal or state agency.
4. Other custodians. If a child resides with a person other than a parent and the court approves of the custody arrangement, the Court may order child support payments to be made to the custodian regardless of whether the person has legal custody.
5. Adjustment to support order. A support order issued under this section may provide that during any period of time of 30 consecutive days or longer that the child is residing with the obligor, the amount of support otherwise due under the order may be reduced.

6-10C-14. <u>Award of Maintenance or Support Money</u>

1. Contents of order. Every award of maintenance or support money in a judgment of dissolution or legal separation shall clearly designate whether the same is maintenance or support money, or what part of the award is maintenance and what part is support money. An award of payments from future income or earnings of the parent with whom the child resides is presumed to be maintenance and an award of payments from the future income or earnings of the parent with whom the child does not reside is presumed to be support money, unless otherwise designated by the Court. In a judgment of dissolution or legal separation the Court may determine, as one of the issues of the case, whether or not either spouse is entitled to an award of maintenance notwithstanding that no award is then made, or it may reserve jurisdiction of the issue of maintenance for determination at a later date.
2. Notice of address or residence change. Every obligor shall notify the obligee and the WEN CSEP, if applicable, of a change of address or residence within 60 days of the address or residence change. The Court may waive or modify the requirements of this subdivision by order if necessary to protect the obligor from contact by the obligee.
3. Determination of controlling order. The WEN CSEP or a party may request the Court to determine a controlling order in situations in which more than one order involving the same obligor and child exists. The Court shall presume that the latest order that involves the same obligor and joint child is controlling, subject to contrary proof.

6-10C-15. <u>Providing Income Information</u>

1. In any case where the parties have joint children for which a child support order must be determined, the parties shall serve and file with their initial pleadings or motion documents, a financial affidavit, disclosing all sources of gross income for purposes of calculating gross income under this Chapter. The financial affidavit shall include relevant supporting documentation including but not limited to, pay stubs for the most recent three

months, employer statements, or statements of receipts and expenses if self-self-employed. Documentation of earnings and income also include relevant copies of each parent's most recent federal tax returns, including W-2 forms, 1099 forms, unemployment benefit statements, workers' compensation statements, and all other documents evidencing earnings or income as received that provide verification for the financial affidavit. The WEN CSEP shall prepare a financial affidavit form that must be used by the parties for disclosing information under this section.

2. In addition to the requirements of subsection 1 of this section, at any time after an action seeking child support has been commenced or when a child support order is in effect, a party or the WEN CSEP may require the other party to give them a copy of the party's most recent federal tax returns that were filed with the Internal Revenue Service. The party shall provide a copy of the tax returns within 30 days of receipt of the request unless the request is not made in good faith. A request under this paragraph may not be made more than once every two years, in the absence of good cause.
3. If a parent under the jurisdiction of the Court does not serve and file the financial affidavit with the parent's initial pleading or motion documents, the Court shall set income for that parent based on credible evidence before the Court or in accordance with section 6-10C-19 of this Chapter. Credible evidence may include documentation of current or recent income and wage reports and the testimony of the other parent concerning recent earnings and income levels. The Court may consider credible evidence from one party that the financial affidavit submitted by the other party is false or inaccurate.
4. If the Court determines that a party does not have access to documents that are required to be disclosed under this section, the Court may consider the testimony of that party as credible evidence of that party's income.

6-10C-16. Calculation of Gross Income

1. Subject to the exclusions and deductions in this section, gross income includes any form of periodic payment to an individual, including, but not limited to, salaries, wages, commissions, self-employment income, workers' compensation, unemployment benefits, annuity payments, military and naval retirement, pension and disability payments, spousal maintenance received under a previous order or the current proceeding, Social Security or veterans benefits provided for a joint child, and potential income under section 6-10C-19, gaming winnings, and any form of federal or tribal trust benefits derived from a person's status as an enrolled member of any federally recognized Tribe, including but not limited to general assistance payments, oil or other mineral royalties, agricultural leases, and water leases. Salaries, wages, commissions, or other compensation paid by third parties shall be based upon gross income before participation in an employer-sponsored benefit plan that allows an employee to pay for a benefit or expense using pretax dollars, such as flexible spending plans and health savings accounts. No deductions shall be allowed for contributions to pensions, 401-K, IRA, or other retirement benefits.

2. Gross income does not include compensation received by a party for employment in excess of a 40-hour work week, provided that:
   a. Child support is ordered in an amount at least equal to the guideline amount based on gross income not excluded under this section; and
   b. The party demonstrates, and the Court finds, that:
      (1) The excess employment began after the filing of the petition for dissolution or legal separation or a petition related to custody, parenting time, or support;
      (2) The excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;
      (3) The excess employment is voluntary and not a condition of employment;
      (4) The excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and
      (5) The party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation.
3. Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business shall be counted as income if they reduce personal living expenses.
4. Gross income may be calculated on either an annual or monthly basis. Weekly income shall be translated to monthly income by multiplying the weekly income by 4.33.
5. Gross income does not include a child support payment received by a party. It is a rebuttable presumption that adoption assistance payments, guardianship assistance payments, and foster care subsidies are not gross income.
6. Gross income does not include the income of the obligor's spouse and the obligee's spouse.
7. Child support or spousal maintenance payments ordered by a Court for a nonjoint child or former spouse or ordered payable to the other party as part of the current proceeding are deducted from other periodic payments received by a party for purposes of determining gross income.
8. Gross income does not include state or tribal public assistance received based on need.

6-10C-17. <u>Income from Self-Employment or Operation of a Business</u>

For purposes of section 6-10C-16, income from self-employment or operation of a business, including joint ownership of a partnership or closely held corporation, is defined as gross receipts minus costs of goods sold minus ordinary and necessary expenses required for self-employment or business operation. Specifically excluded from ordinary and necessary expenses are amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits, or any other business gross expenses determined by the Court to be inappropriate or excessive seeking for

to deduct an expense, including depreciation, has the burden of proving, if challenged, that the expense is ordinary and necessary.

6-10C-18. Social Security or Veterans' Benefit Payments Received on Behalf of the Child

1. The amount of the monthly Social Security benefits or apportioned veterans' benefits provided for a joint child shall be included in the gross income of the parent on whose eligibility the benefits are based.
2. The amount of the monthly survivors' and dependents' educational assistance provided for a joint child shall be included in the gross income of the parent on whose eligibility the benefits are based.
3. If Social Security or apportioned veterans' benefits are provided for a joint child based on the eligibility of the obligor, and are received by the obligee as a representative payee for the child or by the child attending school, then the amount of the benefits shall also be subtracted from the obligor's net child support obligation as calculated pursuant to section 6-10C-21.
4. If the survivors' and dependents' educational assistance is provided for a joint child based on the eligibility of the obligor, and is received by the obligee as a representative payee for the child or by the child attending school, then the amount of the assistance shall also be subtracted from the obligor's net child support obligation as calculated under section 6-10C-21.

6-10C-19. Potential Income

1. General. If a parent is voluntarily unemployed, underemployed, or employed on a less than full-time basis, or there is no direct evidence of any income, child support must be calculated based on a determination of potential income. For purposes of this determination, it is rebuttably presumed that a parent can be gainfully employed on a full-time basis. As used in this section, "full time" means 40 hours of work in a week except in those industries, trades, or professions in which most employers, due to custom, practice, or agreement, use a normal work week of more or less than 40 hours in a week.
2. Methods. Determination of potential income must be made according to one of three methods, as appropriate:
   a. The parent's probable earnings level based on employment potential, recent work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community;
   b. If a parent is receiving unemployment compensation or workers' compensation, that parent's income may be calculated using the actual amount of the unemployment compensation or workers' compensation benefit received; or
   c. The amount of income a parent could earn working full time at 150 percent of the current federal or state minimum wage, whichever is higher.

3. Parent not considered voluntarily unemployed or underemployed. A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that:
   a. Unemployment or underemployment is temporary and will ultimately lead to an increase in income; or
   b. The unemployment or underemployment represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child.
4. TANF recipient. If the parent of a joint child is a recipient of a temporary assistance to a needy family (TANF) cash grant, no potential income is to be imputed to that parent.
5. Caretaker. If a parent stays at home to care for a child who is subject to the child support order, the Court may consider the following factors when determining whether the parent is voluntarily unemployed or underemployed:
   a. The parties' parenting and child care arrangements before the child support action;
   b. The stay-at-home parent's employment history, recency of employment, earnings, and the availability of jobs within the community for an individual with the parent's qualifications;
   c. The relationship between the employment-related expenses, including, but not limited to, child care and transportation costs required for the parent to be employed, and the income the stay-at-home parent could receive from available jobs within the community for an individual with the parent's qualifications;
   d. The child's age and health, including whether the child is physically or mentally disabled; and
   e. The availability of child care providers.

   This subsection does not apply if the parent stays at home only to care for other nonjoint children.

6. Economic conditions. A self-employed parent is not considered to be voluntarily unemployed or underemployed if that parent can show that the parent's net self-employment income is lower because of economic conditions that are directly related to the source or sources of that parent's income.

6-10C-20. <u>Deduction from Income for Nonjoint Children</u>

1. When either or both parents are legally responsible for a nonjoint child, a deduction for this obligation shall be calculated under this section if:
   a. The nonjoint child primarily resides in the parent's household; and
   b. The parent is not obligated to pay basic child support for the nonjoint child to the other parent or a legal custodian of the child under an existing child support order.
2. The Court shall use the guidelines schedule in this Chapter to determine the basic child support obligation for the nonjoint child or children by using the gross income of the parent for whom the deduction is being calculated and the number of nonjoint children primarily residing in the parent's household. If the number of nonjoint

children to be used for the determination is greater than two, the determination must be made using the number two instead of the greater number.

3. The deduction for nonjoint children is 50 percent of the guideline amount determined under subsection 2 of this section.

6-10C-21. Computation of Child Support Obligations

1. To determine the presumptive child support obligation of a parent, the Court shall follow the procedure set forth in this section.
2. To determine the obligor's basic support obligation, the Court shall:
   a. Determine the gross income of each parent under section 6-10C-16;
   b. Calculate the parental income for determining child support (PICS) of each parent, by subtracting from the gross income the credit, if any, for each parent's nonjoint children under section 6-10C-20;
   c. Determine the percentage contribution of each parent to the combined PICS by dividing the combined PICS into each parent's PICS;
   d. Determine the combined basic support obligation by application of the child support guideline in this Chapter;
   e. Determine the obligor's share of the basic support obligation by multiplying the percentage figure from subsection 2(c) of this section by the combined basic support obligation in subsection 4 of this section; and
   f. Determine the parenting expense adjustment, if any, as provided in section 6-10C-24, 24, and adjust the obligor's basic support obligation accordingly. If the parenting time of the parties is presumed equal, section 6-10C-24, subsection 3, applies to the calculation of the basic support obligation and a determination of which parent is the obligor.
3. The Court shall determine the child care support obligation for the obligor as provided in section 6-10C-28, if any.
4. The Court shall determine the medical support obligation for each parent as provided in section 6-10C-29, if any. Unreimbursed and uninsured medical expenses are not included in the presumptive amount of support owed by a parent and are calculated and collected as described in section 6-10C-29.
5. The Court shall determine each parent's total child support obligation by adding together each parent's basic support, child care support, and health care coverage obligations as provided in this section.
6. If Social Security benefits or veterans' benefits are received by one parent as a representative payee for a joint child based on the other parent's eligibility, the Court shall subtract the amount of benefits from the other parent's net child support obligation, if any.
7. The final child support order shall separately designate the amount owed for basic support, child care support, and medical support. If applicable, the Court shall use the self-support adjustment and minimum support adjustment under section 6-10C-30 to determine the obligor's child support obligation.

6-10C-22. Guideline Schedule Used in Child Support Determinations

1. Determination of support obligation.
   a. The guideline schedule in this section is a rebuttable presumption that the amount of the award that results from the application of the guideline schedule is the correct amount of child support to be awarded and shall be used in any judicial or administrative proceeding to establish or modify a support obligation under this Chapter. Deviations from the child support guidelines must meet the criteria under section 6-10C-25 of this Chapter.
   b. The basic child support obligation shall be determined by referencing the guideline schedule for the appropriate number of joint children and the combined parental income for determining child support of the parents.
   c. If a child is not in the custody of either parent and a support order is sought against one or both parents, the basic child support obligation shall be determined by referencing the guideline schedule for the appropriate number of joint children, and the parent's individual parental income for determining child support, not the combined parental incomes for determining child support of the parents.
   d. For combined parental incomes for determining child support exceeding $15,000 per month, the presumed basic child support obligations shall be as for parents with combined parental income for determining child support of $15,000 per month. A basic child support obligation in excess of this level may be demonstrated for those reasons set forth in section 6-10C-25.
2. Basic support; guideline schedule. Unless otherwise agreed to by the parents and approved by the Court, when establishing basic support, the Court must order that basic support be divided between the parents based on their proportionate share of the parents' combined monthly parental income for determining child support (PICS). Basic support must be computed using the following guideline schedule:

Combined Parental Income For Determining **Child Support**	**NUMBER OF CHILDREN**					
	ONE	TWO	THREE	FFOUR	FIVE	SIX
$0- $799	$50	$50	$75	$75	$100	$100
800-899	80	129	149	173	201	233
900-999	90	145	167	194	226	262
1,000-1,099	116	161	186	216	251	291
1,100-1,199	145	205	237	275	320	370
1,200-1,299	177	254	294	341	396	459
1,300-1,399	212	309	356	414	480	557
1,400- 1,499	251	368	425	493	573	664
1,500- 1,599	292	433	500	580	673	780
1,600-1,699	337	502	666	773	897	1,040
	85					
1,800- 1,899	436	657	758	880	1,021	1,183

Combined Parental Income For Determining **Child Support**	NUMBER OF CHILDREN					
	ONE	**TWO**	**THREE**	**FOUR**	**FIVE**	**SIX**
1,900- 1,999	490	742	856	994	1,152	1,336
2,000-2,099	516	832	960	1,114	1,292	1,498
2,100-2,199	528	851	981	1,139	1,320	1,531
2,200-2,299	538	867	1,000	1,160	1,346	1,561
2,300-2,399	546	881	1,016	1,179	1,367	1,586
2,400-2,499	554	893	1,029	1,195	1,385	1,608
2,500-2,599	560	903	1,040	1,208	1,400	1,625
2,600-2,699	570	920	1,060	1,230	1,426	1,655
2,700-2,799	580	936	1,078	1,251	1,450	1,683
2,800-2,899	589	950	1,094	1,270	1,472	1,707
2,900-2,999	596	963	1,109	1,287	1,492	1,730
3,000-3,099	603	975	1,122	1,302	1,509	1,749
3,100-3,199	613	991	1,141	1,324	1,535	1,779
3,200-3,299	623	1,007	1,158	1,344	1,558	1,807
3,300-3,399	636	1,021	1,175	1,363	1,581	1,833
3,400-3,499	650	1,034	1,190	1,380	1,601	1,857
3,500-3,599	664	1,047	1,204	1,397	1,621	1,880
3,600-3,699	677	1,062	1,223	1,418	1,646	1,909
3,700-3,799	691	1,077	1,240	1,439	1,670	1,937
3,800-3,899	705	1,081	1,257	1,459	1,693	1,963
3,900-3,999	719	1,104	1,273	1,478	1,715	1,988
4,000-4,099	732	1,116	1,288	1,496	1,736	2,012
4,100-4,199	746	1,132	1,305	1,516	1,759	2,039
4,200-4,299	760	1,147	1,322	1,536	1,781	2,064
4,300-4,399	774	1,161	1,338	1,554	1,802	2,088
4,400- 4,499	787	1,175	1,353	1,572	1,822	2,111
4,500- 4,599	801	1,184	1,368	1,589	1,841	2,133
4,600- 4,699	808	1,200	1,386	1,608	1,864	2,160
4,700- 4,799	814	1,215	1,402	1,627	1,887	2,186
4,800- 4,899	820	1,231	1,419	1,645	1,908	2,212
4,900- 4,999	825	1,246	1,435	1,663	1,930	2,236
5,000- 5,099	831	1,260	1,450	1,680	1,950	2,260
5,100- 5,199	837	1,275	1,468	1,701	1,975	2,289
5,200- 5,299	843	1,290	1,485	1,722	1,999	2,317
5,300- 5,399	849	1,304	1,502	1,743	2,022	2,345
5,400- 5,499	854	1,318	1,518	1,763	2,046	2,372
5,500- 5,599	860	1,331	1,535	1,782	2,068	2,398
5,600- 5,699	866	1,346	1,551	1,801	2,090	2,424
5,700- 5,799	873	1,357	1,568	1,819	2,111	2,449

Combined Parental Income For Determining **Child Support**	NUMBER OF CHILDREN					
	ONE	**TWO**	**TTHREE**	**FOUR**	**FIVE**	**SIX**
5,800- 5,899	881	1,376	1,583	1,837	2,132	2,473
5,900- 5,999	888	1,390	1,599	1,855	2,152	2,497
6,000- 6,099	895	1,404	1,604	1,872	2,172	2,520
6,100- 6,199	902	1,419	1,631	1,892	2,195	2,546
6,200- 6,299	909	1,433	1,645	1,912	2,217	2,572
6,300- 6,399	916	1,448	1,664	1,932	2,239	2,597
6,400- 6,499	923	1,462	1,682	1,951	2,260	2,621
6,500- 6,599	930	1,476	1,697	1,970	2,282	2,646
6,600- 6,699	936	1,490	1,713	1,989	2,305	2,673
6,700- 6,799	943	1,505	1,730	2,009	2,328	2,700
6,800- 6,899	950	1,519	1,746	2,028	2,350	2,727
6,900- 6,999	957	1,533	1,762	2,047	2,379	2,747
7,000- 7,099	963	1,547	1,778	2,065	2,394	2,753
7,100- 7,199	970	1,561	1,795	2,085	2,417	2,758
7,200- 7,299	974	1,574	1,812	2,104	2,439	2,764
7,300- 7,399	980	1,587	1,828	2,123	2,462	2,769
7,400- 7,499	989	1,600	1,844	2,142	2,483	2,775
7,500-7,599	998	1,613	1,860	2,160	2,505	2,781
7,600-7,699	1,006	1,628	1,877	2,180	2,528	2,803
7,700-7,799	1,015	1,643	1,894	2,199	2,550	2,833
7,800-7,899	1,023	1,658	1,911	2,218	2,572	2,864
7,900-7,999	1,032	1,673	1,928	2,237	2,594	2,894
8,000-8,099	1,040	1,688	1,944	2,256	2,616	2,925
8,100-8,199	1,048	1,703	1,960	2,274	2,637	2,955
8,200-8,299	1,056	1,717	1,976	2,293	2,658	2,985
8,300-8,399	1,064	1,731	1,992	2,311	2,679	3,016
8,400-8,499	1,072	1,746	2,008	2,328	2,700	3,046
8,500-8,599	1,080	1,760	2,023	2,346	2,720	3,077
8,600-8,699	1,092	1,780	2,047	2,374	2,752	3,107
8,700-8,799	1,105	1,801	2,071	2,401	2,784	3,138
8,800-8,899	1,118	1,822	2,094	2,429	2,816	3,168
8,900-8,999	1,130	1,842	2,118	2,456	2,848	3,199
9,000-9,099	1,143	1,863	2,142	2,484	2,880	3,223
9,100- 9,199	1,156	1,884	2,166	2,512	2,912	3,243
9,200- 9,299	1,168	1,904	2,190	2,539	2,944	3,263
9,300- 9,399	1,181	1,925	2,213	2,567	2,976	3,284
9,400- 9,499	1,194	1,946	2,237	2,594	3,008	3,304
9,500- 9,599	1,207	1,967	2,261	2,622	3,031	3,324
9,600- 9,699	1,219	1,987	2,285	2,650	3,050	3,345

Combined Parental Income For Determining **Child Support**	**NUMBER OF CHILDREN**					
	ONE	**TWO**	**THREE**	**FOUR**	**FIVE**	**SIX**
9,700- 9,799	1,232	2,008	2,309	2,677	3,069	3,365
9,800- 9,899	1,245	2,029	2,332	2,705	3,087	3,385
9,900- 9,999	1,257	2,049	2,356	2,732	3,106	3,406
10,000-10,099	1,270	2,070	2,380	2,760	3,125	3,426
10,100-10,199	1,283	2,091	2,404	2,788	3,144	3,446
10,200-10,299	1,295	2,111	2,428	2,815	3,162	3,467
10,300-10,399	1,308	2,132	2,451	2,843	3,181	3,487
10,400-10,499	1,321	2,153	2,475	2,870	3,200	3,507
10,500-10,599	1,334	2,174	2,499	2,898	3,218	3,528
10,600-10,699	1,346	2,194	2,523	2,921	3,237	3,548
10,700-10,799	1,359	2,215	2,547	2,938	3,256	3,568
10,800-10,899	1,372	2,236	2,570	2,955	3,274	3,589
10,900-10,999	1,384	2,256	2,594	2,972	3,293	3,609
11,000-11,099	1,397	2,277	2,618	2,989	3,312	3,629
11,100-11,199	1,410	2,294	2,642	3,006	3,331	3,649
11,200-11,299	1,422	2,306	2,666	3,023	3,349	3,667
11,300-11,399	1,435	2,319	2,689	3,040	3,366	3,686
11,400-11,499	1,448	2,331	2,713	3,055	3,383	3,705
11,500-11,599	1,461	2,344	2,735	3,071	3,400	3,723
11,600-11,699	1,473	2,356	2,748	3,087	3,417	3,742
11,700-11,799	1,486	2,367	2,762	3,102	3,435	3,761
11,800-11,899	1,499	2,378	2,775	3,116	3,452	3,780
11,900-11,999	1,511	2,389	2,788	3,131	3,469	3,798
12,000-12,099	1,524	2,401	2,801	3,146	3,485	3,817
12,100-12,199	1,537	2,412	2,814	3,160	3,501	3,836
12,200-12,299	1,549	2,423	2,828	3,175	3,517	3,854
12,300-12,399	1,562	2,434	2,841	3,190	3,534	3,871
12,400-12,499	1,575	2,445	2,854	3,205	3,550	3,889
12,500-12,599	1,588	2,456	2,867	3,219	3,566	3,907
12,600-12,699	1,600	2,467	2,880	3,234	3,582	3,924
12,700-12,799	1,613	2,478	2,894	3,249	3,598	3,942
12,800-12,899	1,626	2,489	2,907	3,264	3,615	3,960
12,900-12,999	1,638	2,500	2,920	3,278	3,631	3,977
13,000-13,099	1,651	2,512	2,933	3,293	3,647	3,995
13,100-13,199	1,664	2,523	2,946	3,308	3,663	4,012
13,200-13,299	1,676	2,534	2,960	3,322	3,679	4,030
13,300-13,399	1,689	2,545	2,973	3,337	3,696	4,048
13,400-13,499	1,702	2,556	2,986	3,352	3,712	4,065
13,500-13,599	1,715	2,567	2,999	3,367	3,728	4,083

Combined Parental Income For Determining **Child Support**	**NUMBER OF CHILDREN**					
	ONE	**TWO**	**THREE**	**FOUR**	**FIVE**	**SIX**
13,600-13,699	1,727	2,578	3,012	3,381	3,744	4,100
13,700-13,799	1,740	2,589	3,026	3,396	3,760	4,118
13,800-13,899	1,753	2,600	3,039	3,411	3,777	4,136
13,900-13,999	1,765	2,611	3,052	3,425	3,793	4,153
14,000-14,099	1,778	2,623	3,065	3,440	3,809	4,171
14,100-14,199	1,791	2,634	3,078	3,455	3,825	4,189
14,200-14,299	1,803	2,645	3,092	3,470	3,841	4,206
14,300-14,399	1,816	2,656	3,105	3,484	3,858	4,224
14,400-14,499	1,829	2,667	3,118	3,499	3,874	4,239
14,500-14,599	1,842	2,678	3,131	3,514	3,889	4,253
14,600-14,699	1,854	2,689	3,144	3,529	3,902	4,268
14,700-14,799	1,864	2,700	3,158	3,541	3,916	4,282
14,800-14,899	1,872	2,711	3,170	3,553	3,929	4,297
14,900-14,999	1,879	2,722	3,181	3,565	3,942	4,311
15,000 or the amount in effect **under subsection 4 of this section**	1,883	2,727	3,186	3,571	3,949	4,319

3. Income cap on determining basic support.
   a. The basic support obligation for parents with a combined parental income for determining child support in excess of the income limit currently in effect under subsection 2 of this section must be the same dollar amount as provided for the parties with a combined parental income for determining child support equal to the income in effect under subsection 2 of this section.
   b. The Court may order a basic support obligation in a child support order in an amount that exceeds the income limit in subsection 2 of this section if it finds that a child has a disability or other substantial, demonstrated need for the additional support for those reasons set forth in section 6-10C-25 of this Chapter and that the additional support will directly benefit the child.
   c. The dollar amount for the cap in subsection 2 of this section must be adjusted on May 1 of every even-numbered year to reflect cost-of-living changes as provided under section 6-10C-31 of this Chapter.
4. More than six children. If a child support proceeding involves more than six children, the Court may derive a support order without specifically following the guideline. However, the Court must consider the basic principles encompassed by the guideline and must consider both parents' needs, resources, and circumstances.
5. Mandatory Review of Guidelines. The child support guidelines and schedule established in this Chapter shall be reviewed and revised, if appropriate, at least once every four years.
   a. The WEN CSEP Administrator is responsible for notifying the White Earth Tribal Court and the Tribal Council when a review of the guidelines 1s necessary.

b. The White Earth Tribal Court shall organize a guidelines review workgroup that includes, at a minimum, employees of the Tribal Court appointed by the Chief Judge and employees of the WEN CSEP appointed by the WEN CSEP Administrator.
c. The guidelines review workgroup shall undertake the guidelines review and revisions and seek timely Tribal Council ratification.

6-10C-23. Non-cash support

A non-cash support payment may satisfy a set child support obligation only where:

1. The obligor and obligee agree to the non-cash support as a form of payment and the Court approves of the non-cash support in the written order;
2. The Court states the specific dollar amount of the child support obligation in the written order;
3. The Court describes in the written order the type(s) of non-cash support that will be permitted to satisfy the underlying specific dollar amount of the child support order and that only 50% of the underlying child support obligation may be met by non-cash support;
4. The Court provides in the written order that the non-cash support will not be permitted to satisfy child support obligations that have been assigned to any tribal or state public agency.

6-10C-24. Parenting Expense Adjustment

1. Presumption. The parenting expense adjustment under this section reflects the presumption that while exercising parenting time, a parent is responsible for and incurs costs of caring for the child, including, but not limited to, food, transportation, recreation, and household expenses. Every child support order shall specify the percentage of parenting time granted to or presumed for each parent. For purposes of this section, the percentage of parenting time means the percentage of time a child is scheduled to spend with the parent during a calendar year according to a court order. Parenting time includes time with the child whether it is designated as visitation, physical custody, or parenting time. The percentage of parenting time may be determined by calculating the number of overnights that a child spends with a parent, or by using a method other than overnights if the parent has significant time periods on separate days where the child is in the parent's physical custody and under the direct care of the parent but does not stay overnight. The Court may consider the age of the child in determining whether a child is with a parent for a significant period of time.
2. No court order for parenting time. If there is no court order awarding parenting time, the Court shall determine the child support award without consideration of the parenting expense adjustment. If a parenting time order is subsequently issued or is

issued in the same proceeding, then the child support order shall include application of the parenting expense adjustment.

3. Calculation of parenting expense adjustment. The obligor is entitled to a parenting expense adjustment calculated as provided in this subsection. The Court shall:
   a. Find the adjustment percentage corresponding to the percentage of parenting time allowed to the obligor below:

PERCENTAGE RANGE OF **PARENTING TIME**	ADJUSTMENT PERCENTAGE
(1) Less than 10 percent	No adjustment
(2) 10 percent to 45 percent	[illegible] percent
(3) 45.1 percent to 50 percent	Presume parenting time is equal

   b. Multiply the adjustment percentage by the obligor's basic child support obligation to arrive at the parenting expense adjustment; and
   c. Subtract the parenting expense adjustment from the obligor's basic child support obligation. The result is the obligor's basic support obligation after parenting expense adjustment.
4. Calculation of basic support when parenting time presumed equal.
   a. If the parenting time is equal and the parental incomes for determining child support of the parents also are equal, no basic support shall be paid unless the court determines that the expenses for the child are not equally shared.
   b. If the parenting time is equal but the parents' parental incomes for determining child support are not equal, the parent having the greater parental income for determining child support shall be obligated for basic child support, calculated as follows:
      (1) Multiply the combined basic support calculated under section 6-10C-21 of this Chapter by 0.75;
      (2) Prorate the amount between the parents based on each parent's proportionate share of the combined PICS; and
      (3) Subtract the lower amount from the higher amount.

      The resulting figure is the obligation after parenting expense adjustment for the parent with the greater parental income for determining child support.

6-10C-25. <u>Deviations from Child Support Guidelines</u>

1. General factors. Among other reasons, deviation from the presumptive child support obligation computed under section 6-10C-21 of this Chapter is intended to encourage prompt and regular payments of child support and to prevent either parent or the joint children from living in poverty. In addition to the child support guidelines and other factors used to calculate the child support obligation under section 6-10C-21, the Court must take into consideration the following factors in setting or modifying child

support or in determining whether to deviate upward or downward from the presumptive child support obligation:

a. All earnings, income, circumstances, and resources of each parent, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of section 6-10C-16(2)(b) of this Chapter;
b. The extraordinary financial needs and resources, physical and emotional condition, and educational needs of the child to be supported;
c. The standard of living the child would enjoy if the parents were currently living together, but recognizing that the parents now have separate households;
d. Which parent receives the income taxation dependency exemption and the financial benefit the parent receives from it;
e. The parents' debts as provided in subsection 2 of this section; and
f. The obligor's total payments for court-ordered child support exceed the limitation set forth in section 6-10C-45 of this Chapter.

2. Debt owed to private creditors.
   a. In establishing or modifying a support obligation, the Court may consider debts owed to private creditors, but only if:
      (1) The right to support has not been assigned to a tribal or state agency;
      (2) The Court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the Court may consider only the amount of debt that is essential to the continuing generation of income; and
      (3) The party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the original debt amount, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.
   b. A schedule prepared under paragraph (a), clause (3) of this subsection, must contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.
   c. Any further departure below the guidelines that is based on a consideration of debts owed to private creditors must not exceed 18 months in duration. After 18 months the support must increase automatically to the level ordered by the Court. This section does not prohibit one or more step increases in support to reflect debt retirement during the 118-month period.
   d. If payment of debt is ordered pursuant to this section, the payment must be ordered to be in the nature of child support.
3. Evidence. The Court may receive evidence on the factors in this section to determine if the guidelines should be exceeded or modified in a particular case.
4. Joint legal custody. An award of joint legal custody is not a reason for deviation from the guidelines.

5. Self-support limitation. If, after payment of income and payroll taxes, the obligor can establish that they do not have enough for the self-support reserve, a downward deviation may be allowed.

6-10C-26. Written Findings by the Tribal Court

1. No deviation. If the Court does not deviate from the presumptive child support obligation computed under section 6-10C-21 of this Chapter, the Court must make written findings that state:
   a. Each parent's gross income;
   b. Each parent's PICS; and
   c. Any other significant evidentiary factors affecting the child support determination.
2. Deviation. If the Court deviates from the presumptive child support obligation computed under section 6-10C-21 of this Chapter, the Court must make written findings that state:
   a. Each parent's gross income;
   b. Each parent's PICS;
   c. The amount of the child support obligation computed under section 6-10C-21 of this Chapter;
   d. The reasons for the deviation; and
   e. How the deviation serves the best interests of the child.
3. Written findings required in every case. The provisions of this section apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The Court must review stipulations presented to it for conformity with section 6-10C-21 of this Chapter. The Court is not required to conduct a hearing, but the parties must provide sufficient documentation to verify the child support determination and to justify any deviation.

6-10C-27. Modification of Orders or Decrees

1. Authority. After an order under this Chapter or other tribal law for maintenance or support money, temporary or permanent, or for the appointment of trustees to receive property awarded as maintenance or support money, the Court may from time to time, on motion of either of the parties, a copy of which is served on the WEN CSEP if payments are made through it, or on motion of the WEN CSEP, modify the order respecting the amount of maintenance or support money, and the payment of it, and also respecting the appropriation and payment of the principal and income of property held in trust, and may make an order respecting these matters which it might have made in the original proceeding, except as herein otherwise provided. A party or the WEN CSEP also may bring a motion for contempt of court if the obligor is in arrears in support or maintenance payments.
2. Modification.

a. The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following, any of which makes the terms unreasonable and unfair:
   (1) Substantially increased or decreased gross income of an obligor or obligee;
   (2) Substantially increased or decreased need of an obligor or obligee or the child or children that are the subject of these proceedings;
   (3) Receipt of tribal or state public assistance.
   (4) A change in the cost of living for either party as measured by the Federal Bureau of Labor Statistics, Midwest Consumer Price Index, as provided under section 6-10C-31 of this Chapter;
   (5) Extraordinary medical expenses of the child not provided for under section 6-10C-29 of this Chapter;
   (6) The addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses; or
   (7) Upon the emancipation of the child, as provided in subsection 5 of this section.

b. It is presumed that there has been a substantial change in circumstances under paragraph (a) of this subsection and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if:
   (1) The application of the child support guidelines in this Chapter of this Chapter, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least $75 per month higher or lower than the current support order or, if the current support order is less than $75, it results in a calculated court order that is at least 20 percent per month higher or lower;
   (2) The medical support provisions of the order established under section 6-6-10C-29 of this Chapter are not enforceable by the WEN CSEP or the obligee;
   (3) Health coverage ordered under section 6-10C-29 of this Chapter is not available to the child for whom the order is established by the parent ordered to provide;
   (4) The existing support obligation is in the form of a statement of percentage and not a specific dollar amount; or
   (5) The gross income of an obligor or obligee has decreased by at least 20 percent through no fault or choice of the party.

c. A child support order is not presumptively modifiable solely because an obligor or obligee becomes responsible for the support of an additional nonjoint child, which is born after an existing order. Section 6-10C-20 of this Chapter shall be considered if other grounds are alleged which allow a modification of support.

d. On a motion for modification of support, the Court:
   (1) Shall apply the guidelines and schedule in this Chapter, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) Shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the Court finds, that:
   (a) The excess employment began after entry of the existing support order;
   (b) The excess employment is voluntary and not a condition of employment;
   (c) The excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;
   (d) The party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;
   (e) In the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this section; and
   (f) In the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

e. A modification of support or maintenance may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the WEN CSEP if tribal or state public assistance is being furnished.

f. Except for an award of the right of occupancy of the homestead, all divisions of real and personal property shall be final, and may be revoked or modified only where the Court finds the existence of conditions that justify reopening a judgment under the laws of this tribe. The Court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property.

g. The Court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

h. Section 6-10C-53 of this Chapter shall govern the award of attorney fees for motions brought under this section.

i. Except as expressly provided, an enactment, amendment, or repeal of law does not constitute a substantial change in the circumstances for purposes of modifying a child support order.

3. Maintenance on death or remarriage. Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

4. Child support on death of obligor. Unless otherwise agreed in writing or expressly provided in the order, provisions for the support of a child are not terminated by the death of a parent obligated to support the child. When a parent obligated to pay

support dies, the amount of support may be modified, revoked, or commuted to a lump sum payment, to the extent just and appropriate in the circumstances.

5. Automatic termination of support.
   a. Unless a court order provides otherwise, a child support obligation in a specific amount per child terminates automatically and without any action by the obligor to reduce, modify, or terminate the order upon the emancipation of the child.
   b. A child support obligation for two or more children that is not a support obligation in a specific amount per child continues in the full amount until the emancipation of the last child for whose benefit the order was made, or until further order of the Court.
   c. The obligor may request a modification of the obligor's child support order upon the emancipation of a child if there are still minor children under the order. The child support obligation shall be determined based on the income of the parties at the time the modification is sought.
6. Form. The Tribal Court shall prepare and make available to court staff, obligors, and persons to whom child support is owed a form to be submitted by the obligor or the person to whom child support is owed in support of a motion for a modification of an order for support or maintenance or for contempt of court.
7. Child care exception. Child care support must be based on the actual child care expenses. The Court may provide that a decrease in the amount of the child care based on a decrease in the actual child care expenses is effective as of the date the expense is decreased.

6-10C-28. <u>Child Care Support</u>

1. Child care costs. Unless otherwise agreed to by the parties and approved by the Court, the Court must order that work-related or education-related child care costs of joint children be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly PICS. Child care costs shall be adjusted by the amount of the estimated federal and state child care credit payable on behalf of a joint child.

   Low-income obligor. If the obligor's PICS meets the income eligibility requirements for child care assistance, the Court must order the obligor to pay the lesser of the following amounts:
   a. The amount of the obligor's monthly co-payment for child care assistance, based on an obligor's monthly PICS and the size of the obligor's household provided that the obligee is actually receiving child care assistance under the basic sliding fee program. For purposes of this subsection, the obligor's household includes the obligor and the number of joint children for whom child support is being ordered; or
   b. The amount of the obligor's child care obligation under subsection 1 of this section.

   Determining costs.

a. The Court must require verification of employment or school attendance and documentation of child care expenses from the obligee and the WEN CSEP, if applicable.
b. If child care expenses fluctuate during the year because of the obligee's seasonal employment or school attendance or extended periods of parenting time with the obligor, the Court must determine child care expenses based on an average monthly cost.
c. The amount allocated for child care expenses is considered child support but is not subject to a cost-of-living adjustment.
dd. The Court may allow the parent with whom the joint child does not reside to care for the joint child while the parent with whom the joint child resides is working or attending school. Allowing the parent with whom the joint child does not reside to care for the joint child is not a reason to deviate from the guidelines.

4. Change in child care.
   a. When a court order provides for child care expenses and the WEN CSEP provides child support enforcement services, the WEN CSEP must suspend collecting the amount allocated for child care expenses when:
      (1) Either party informs the WEN CSEP that no child care costs are being incurred; and
      (2) The WEN CSEP verifies the accuracy of the information with the other party.

      The WEN CSEP will resume collecting child care expenses when either party provides information that child care costs have resumed.

   bb. If the parties provide conflicting information to the WEN CSEP regarding whether child care expenses are being incurred, the WEN CSEP will continue or resume collecting child care expenses. Either party, by motion to the Court, may challenge the suspension or resumption of the collection of child care expenses. If the WEN CSEP suspends collection activities for the amount allocated for child care expenses, all other provisions of the court order remain in effect.
   c. In cases where there is a substantial increase or decrease in child care expenses, the parties may motion the Court to modify the order under section 6-10C-27.

6-10C-29. <u>Medical Support</u>

1. Medical Support Order.
   a. A completed medical support notice issued by the WEN CSEP or a court order that complies with this section qualifies as a medical child support order.
   b. Every order addressing child support must state:
      (1) The names, last known addresses, dates of birth, and Social Security numbers of the parents and the joint child that is a subject of the order

unless the Court prohibits the inclusion of an address or social Security number and orders the parents to provide the address and Social Security number to the administrator of the health plan;

(2) Whether appropriate health care coverage for the joint child is available and, if so, state:
   (a) Which parent must carry health care coverage;
   (b) The cost of premiums and how the cost is allocated between the parents;
   (c) How unreimbursed expenses will be allocated and collected by the parents; and
   (d) The circumstances, if any, under which the obligation to provide health care coverage for the joint child will shift from one parent to the other; and

(3) If appropriate health care coverage is not available for the joint child, whether a contribution for medical support is required.

Determining appropriate health care coverage. Dependent health care coverage is appropriate if it is accessible by the joint child, provides comprehensive coverage, and is reasonable in cost.

Ordering health care coverage.

a. If a joint child is presently enrolled in health care coverage, the Court must order that the parent who currently has the joint child enrolled continue that enrollment unless the parents agree otherwise or a parent requests a change in coverage and the Court determines that other health care coverage is more appropriate.

b. If a joint child is not presently enrolled in health care coverage, upon motion of a parent or the WEN CSEP, the Court must determine whether one or both parents have appropriate health care coverage for the joint child and order the parent with appropriate health care coverage available to carry the coverage for the joint child.

c. If only one parent has appropriate health care coverage available, the Court must order that parent to carry the coverage for the joint child.

d. If both parents have appropriate health care coverage available, the court must order the parent with whom the joint child resides to carry the coverage for the joint child, unless:
   (1) Either parent expresses a preference for coverage available through the parent with whom the joint child does not reside;
   (2) The parent with whom the joint child does not reside is already carrying dependent health care coverage for other children and the cost of contributing to the premiums of the other parent's coverage would cause the parent with whom the joint child does not reside extreme hardship; or
   (3) The parents agree to provide coverage and agree on the allocation of costs.

e. If the parents have health care coverage available for the joint child but do not agree to provide coverage or allocate costs, the Court must determine which parent has the most appropriate health care coverage available and order that

parent to carry coverage for the joint child. If the Court determines that the parents' health care coverage for the joint child is comparable with regard to accessibility and comprehensiveness, the Court must presume that the parent with the least costly health care coverage has the most appropriate health care coverage for the joint child.

f. If neither parent has appropriate health care coverage available, the Court must order the parents to:
   (1) Contribute toward the actual health care costs of the joint children based on a pro rata share; or
   (2) If the joint child is receiving any form of state public medical assistance, the parent with whom the joint child does not reside shall contribute a monthly amount toward the actual cost of medical assistance. The amount of contribution of the noncustodial parent is the amount the noncustodial parent would pay for the child's premiums if the noncustodial parent's PICS income meets the eligibility requirements for public coverage. For purposes of determining the premium amount, the noncustodial parent's household size is equal to one parent plus the child or children who are the subject of the child support order. If the noncustodial parent's PICS income exceeds the eligibility requirements for public coverage, the Court must order the noncustodial parent's contribution toward the full premium cost of the child's or children's coverage. The custodial parent may also have an obligation to contribute to the public coverage and the Court may order the custodial parent to apply for public coverage for the child.

Medical support costs; unreimbursed and uninsured medical expenses.

a. Unless otherwise agreed to by the parties and approved by the Court, the Court must order that the cost of health care coverage and all unreimbursed and uninsured medical expenses under the health plan be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly PICS.
b. If a party owes a joint child support obligation for a child and is ordered to carry health care coverage for the joint child, and the other party is ordered to contribute to the carrying party's cost for coverage, the carrying party's child support payment must be reduced or offset by the amount of the contributing party's contribution.
c. If a party owes a joint child support obligation for a child and is ordered to contribute to the other party's cost for carrying health care coverage for the joint child, the contributing party's child support payment must be increased by the amount of the contribution.
d. If the party ordered to carry health care coverage for the joint child already carries dependent health care coverage for other dependents and would incur no additional premium costs to add the joint child to the existing coverage, the court must not order the other party to contribute to the premium costs for coverage of the joint child.

e. If a party ordered to carry health care coverage for the joint child does not already carry dependent health care coverage but has other dependents who may be added to the ordered coverage, the full premium costs of the dependent health care coverage must be allocated between the parties in proportion to the party's share of the parties' combined PICS, unless the parties agree otherwise.

Notice or court order sent to party's employer, union, or health carrier.

a. The WEN CSEP must forward a copy of the medical support order for health care coverage to the party's employer within 5 business days of the court order.
b. The WEN CSEP is not required to forward a copy of the medical support order to the obligor's employer or union, or to the health carrier, if the Court orders health care coverage for the joint child that is not employer-based or union-based based coverage.

Employer or union requirements.

a. An employer or union must forward the medical support order to its health plan administrator within 10 business days after receipt of the court order.
b. The employer or union and health plan administrator must enroll the joint child as a beneficiary in the health plan, and the employer must withhold any required premiums from the income or wages of the party ordered to carry health care coverage for the joint child.
c. If enrollment of the party ordered to carry health care coverage for a joint child is necessary to obtain dependent health care coverage under the plan, and the party is not enrolled in the health plan, the employer or union must enroll the party in the plan.
d. Enrollment of dependents and, if necessary, the party ordered to carry health care coverage for the joint child must be immediate and not dependent upon open enrollment periods.
e. Failure of the party ordered to carry health care coverage for the joint child to execute any documents necessary to enroll the dependent in the health plan does not affect the obligation of the employer or union and health plan to enroll the dependent in a plan. Information and authorization provided by the WEN CSEP, or by a party or guardian, is valid for the purposes of meeting enrollment requirements of the health plan.
f. An employer or union that is included under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a), may not deny enrollment to the joint child.
g. A new employer or union of a party who is ordered to provide health care coverage for a joint child must enroll the joint child in the party's health plan as required by the court order.

Employer or union liability.

a. An employer or union that willfully fails to comply with the order or notice is liable for any uninsured medical expenses incurred by the dependents while the dependents were eligible to be enrolled in the health plan and for any other premium costs incurred because the employer or union willfully failed to comply with the order or notice.

b. An employer or union that fails to comply with the order or notice is subject to a contempt finding, up to a $250 per day civil penalty, and is subject to a civil penalty of $500 to $5000, in the discretion of the Court, to be paid to the party entitled to reimbursement or the WEN CSEP. Penalties paid to the WEN CSEP are designated for child support enforcement services.

Contesting enrollment.

a. A party may contest a joint child's enrollment in a health plan on the limited grounds that the enrollment is improper due to mistake of fact.
b. If the party chooses to contest the enrollment, the party must do so no later than 15 days after the employer notifies the party of the enrollment.
c. The enrollment must remain in place while the party contests the enrollment.

Disenrollment; continuation of coverage; coverage options.

a. Unless a court order provides otherwise, a child for whom a party is required to provide health care coverage under this section must be covered as a dependent of the party until the child is emancipated, until further order of the Court, or as consistent with the terms of the coverage, or until the health carrier, employer, or union is provided satisfactory written evidence that the court order is no longer in effect.
b. The health plan must provide 30 days' written notice to the joint child's parents, and the WEN CSEP before the health plan disenrolls or eliminates the joint child's coverage.
c. A joint child enrolled in health care coverage under a qualified medical child support order, under this section is a dependent and a qualified beneficiary under the Consolidated Omnibus Budget and Reconciliation Act of 1985 (COBRA), Public Law 99-272. Upon expiration of the order, the joint child is entitled to the opportunity to elect continued coverage that is available under the health plan. The employer or union must provide notice to the parties and the WEN CSEP, if it provides support services on the case, within ten days of the termination date.
d. If a plan administrator reports to the WEN CSEP that there is more than one coverage option available under the health plan, the WEN CSEP, in consultation with the parent with whom the joint child resides, must promptly select coverage from the available options in accordance with this section.

10. Spousal or former spousal coverage. The Court must require the parent with whom the joint child does not reside to provide dependent health care coverage for the benefit of the parent with whom the joint child resides if the parent is ordered to provide dependent health care coverage for the parties' joint child and adding the other parent to the coverage results in no additional premium cost.
11. Disclosure of information.
    a. The parties must provide the WEN CSEP with the following information:
        (1) Information relating to dependent health care coverage or public coverage available for the benefit of the joint child for whom support is sought, including all information required to be included in a medical support order under this section;

(2) Verification that application for court-ordered health care coverage was made within 14 days of the Court's order; and
(3) The reason that a joint child is not enrolled in court-ordered health care coverage, if a joint child is not enrolled in coverage or subsequently loses coverage.

b. Upon request from the WEN CSEP under this section or pursuant to a court order, an employer, union, or plan administrator, including an employer subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a), must provide the WEN CSEP the following information:
(1) Information relating to dependent health care coverage available to a party for the benefit of the joint child for whom support is sought, including all information required to be included in a medical support order under this section; and
(2) Information that will enable the WEN CSEP to determine whether a health plan is appropriate for a joint child, including, but not limited to, all available plan options, any geographic service restrictions, and the location of service providers.

c. The employer, union, or plan administrator must not release information regarding the location or whereabouts of one party to the other party. The employer, union, or plan administrator must provide both parties with insurance identification cards and all necessary written information to enable the parties to utilize the insurance benefits for the covered dependent.

d. The WEN CSEP is authorized to release to a party's employer, union, or health plan information necessary to verify availability of dependent health care coverage, or to establish, modify, or enforce medical support.

e. An employee must disclose to an employer if medical support is required to be withheld under this section and the employer must begin withholding according to the terms of the order. If an employee discloses an obligation to obtain health care coverage and coverage is available through the employer, the employer must make all application processes known to the individual and enroll the employee and dependent in the plan.

12. Child support enforcement services. The WEN CSEP must take necessary steps to establish and enforce an order for medical support if a party completes an application for services from the WEN CSEP.

13. Enforcement of medical support.

a. Remedies available for collecting and enforcing child support apply to medical support.

b. For the purpose of enforcement, the following are additional support:
(1) The costs of individual or group health or hospitalization coverage;
(2) Dental coverage;
(3) Medical costs ordered by the Court to be paid by either party, including health and dental insurance premiums paid by the obligee because of the obligor's failure to obtain coverage as ordered; and

(4) Liabilities established under this subsection.

c. A party who fails to carry court-ordered dependent health care coverage is liable for the joint child's uninsured medical expenses unless a court order provides otherwise. A party's failure to carry court-ordered coverage, or to provide other medical support as ordered, is a basis for modification of a support order under this act.

d. Payments by the health carrier or employer for services rendered to the dependents that are directed to a party not owed reimbursement must be endorsed over to and forwarded to the vendor or appropriate party or the WEN CSEP. A party retaining insurance reimbursement not owed to the party is liable for the amount of the reimbursement.

14. Offset.

a. If a party is the parent with primary physical custody and is ordered to contribute to the other party's cost for carrying health care coverage for the joint child, the other party's child support obligation is subject to an offset.

b. The WEN CSEP may remove the offset to a party's child support obligation when:

(1) The party's court-ordered health care coverage for the joint child terminates;

(2) The party does not enroll the joint child in other health care coverage; and

(3) A modification motion is not pending.

The WEN CSEP must provide notice to the parties of the action.

c. A party may contest the WEN CSEP's action to remove the offset to the child support obligation.

15. Unreimbursed or uninsured medical expenses. This subsection and subsection 16 apply when a court order has determined and ordered the parties' proportionate share and responsibility to contribute to unreimbursed or uninsured medical expenses incurred within two years previous to the court filing. After verification of the unreimbursed or uninsured medical expenses, the Court shall order these expenses to be paid by the obligor as part of child support obligation in addition to the regular child support required or ordered.

16. Enforcing unreimbursed or uninsured medical expenses as arrears.

a. Unreimbursed or uninsured medical expenses enforced under this subsection may be collected as arrearages.

b. If the liable party is the parent with primary physical custody, the unreimbursed or uninsured medical expenses must be deducted from any arrears the requesting party owes the liable party. If unreimbursed or uninsured expenses remain after the deduction, the expenses must be added and collected as arrears owed by the liable party.

c. If the liable party is not the parent with primary physical custody, the unreimbursed or uninsured medical expenses must be added to the current child support amount currently order and collected as arrears owed by the liable party.

6-10C-30. Ability toPay; Self-Support Adjustment

1. Ability to pay. It is a rebuttable presumption that a child support order should not exceed the obligor's ability to pay. To determine the amount of child support the obligor has the ability to pay, the Court shall follow the procedure set out in this section.
   a. The Court shall calculate the obligor's income available for support by subtracting a monthly self-support reserve equal to 120 percent of the federal poverty guidelines for one person from the obligor's gross income. If the obligor's income available for support calculated under this paragraph is equal to or greater than the obligor's support obligation calculated under section 6-10C-21 of this Chapter, the Court shall order child support under section 6-10C-21.
   b. If the obligor's income available for support calculated under paragraph (a) of this subsection is more than the minimum support amount under subsection 2 of this section, but less than the guideline amount under section 6-10C-21, then the Court shall apply a reduction to the child support obligation in the following order, until the support order is equal to the obligor's income available for support:
      (1) Medical support obligation;
      (2) Child care support obligation; and
      (3) Basic support obligation.
   c. If the obligor's income available for support calculated under paragraph (a) of this subsection is equal to or less than the minimum support amount under subsection 2 of this section or if the obligor's gross income is less than 120 percent of the federal poverty guidelines for one person, the minimum support amount under subsection 2 of this section applies.
2. Minimum basic support amount. If the basic support amount applies, the Court must order the following amount as the minimum basic support obligation:
   a. For one or two children, the obligor's basic support obligation is $50 per month;
   b. For three or four children, the obligor's basic support obligation is $75 per month; and
   c. For five or more children, the obligor's basic support obligation is $100 per month.
3. If the Court orders the obligor to pay the minimum basic support amount under subsection 2 of this section, the obligor is presumed unable to pay child care support and medical support.
4. If the Court finds the obligor receives no income and completely lacks the ability to earn income, the minimum basic support amount under subsection 2 of this section does not apply.
5. Exception. This section does not apply to an obligor who is incarcerated.

6-10C-31. Cost-of-Living Adjustments (COLA) in Maintenance or Child Support Order

1. Requirement. An order establishing, modifying, or enforcing maintenance or child support shall provide for a biennial adjustment in the amount to be paid based on a

change in the cost of living. An order that provides for a cost-of-living adjustment shall specify the cost-of-living index to be applied and the date on which the cost-of-living living adjustment shall become effective. The Court shall use the U.S. Bureau of Labor's Midwest Consumer Price Index or another cost-of-living index which it specifically finds is more appropriate. Cost-of-living increases under this section shall be compounded. The Court may also increase the amount by more than the cost-of-living living adjustment by agreement of the parties or by making further findings.

2. Date Effective. The adjustment becomes effective on the first of May of the year in which it is made, for cases in which payment is made to the WEN CSEP. For cases in which payment is not made to the WEN CSEP, application for an adjustment may be made in any month but no application for an adjustment may be made sooner than two years after the date of the dissolution decree. The Court may waive the requirement of the cost-of-living clause if it expressly finds that the obligor's occupation or income, or both, does not provide for cost-of-living adjustment or that the order for maintenance or child support has a provision such as a step increase that has the effect of a cost-of-living clause. The Court may waive a cost-of-living adjustment in a maintenance order if the parties so agree in writing.
3. Notice. No adjustment under this section may be made unless the order provides for it and the WEN CSEP or the obligee, if the obligee is requesting the cost-of-living adjustment, sends notice of the intended adjustment to the obligor at the obligor's last known address at least 30 days before the effective date of the adjustment. The notice shall inform the obligor of the date on which the adjustment will become effective and the procedures for contesting the adjustment.
4. Procedures for contesting adjustment.
   a. To contest cost-of-living adjustments initiated by the WEN CSEP or an obligee who has applied for or is receiving child support and maintenance collection services from the WEN CSEP, other than income withholding only services, the obligor, before the effective date of the adjustment, must:
      (1) File a motion contesting the cost-of-living adjustment with the Tribal Court Manager; and
      (2) Serve the motion by first-class mail on the WEN CSEP and the obligee.
   b. To contest cost-of-living adjustments initiated by an obligee who is not receiving child support and maintenance collection services from the WEN CSEP, or for an obligee who receives income withholding only services from the WEN CSEP, the obligor must, before the effective date of the adjustment:
      (1) File a motion contesting the cost-of-living adjustment with the Tribal Court Manager; and
      (2) Serve the motion by first-class mail on the obligee.

      The hearing shall take place in Tribal Court.
   c. Upon receipt of a motion contesting the cost-of-living adjustment, the cost-of-living living adjustment shall be stayed pending further order of the Court.
   d. The Tribal Court Manager shall make available pro se motion forms for contesting a cost-of-living adjustment under this subsection.

5. Result of hearing. If, at a hearing pursuant to this section, the obligor establishes an insufficient cost of living or other increase in income that prevents fulfillment of the adjusted maintenance or child support obligation, the Court may direct that all or part of the adjustment not take effect. If, at the hearing, the obligor does not establish this insufficient increase in income, the adjustment shall take effect as of the date it would have become effective had no hearing been requested.

DUTY TO REPORT RECEIPT OF PUBLIC ASSISTANCE TO THE WEN CSEP

6-10C-32. Notice to the WEN CSEP - Receipt of Public Assistance

The petitioner shall notify the WEN CSEP of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving public assistance or applies for it subsequent to the commencement of the proceeding. The notice must contain the full names of the parties to the proceeding, their Social Security account numbers, and their birth dates. After receipt of the notice, the Court shall set child support as provided in section 6-10C-22 of this Chapter. The Court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. The Court shall approve a child support stipulation of the parties if each party is represented by independent counsel, unless the stipulation does not meet the conditions of section 6-10C-22. In other cases the Court shall determine and order child support in a specific dollar amount in accordance with the guidelines and the other factors set forth in section 6-10C-22 and any departure therefrom. The Court may also order the obligor to pay child support in the form of a percentage share of the obligor's net bonuses, commissions, or other forms of compensation, in addition to, or if the obligor receives no base pay, in lieu of, an order for a specific dollar amount.

6-10C-33. Failure of Notice

If the Court in a dissolution, legal separation or determination of parentage proceeding, finds before issuing the order for judgment and decree, that notification of the receipt of public assistance has not been given to the WEN CSEP, the Court shall set child support as provided in section 6-10C-22 of this Chapter. In those proceedings in which no notification has been made pursuant to section 6-10C-32 and in which the WEN CSEP determines that the judgment is lower than the child support required by the guidelines in section 6-10C-22, it shall move the Court for a redetermination of the support payments ordered so that the support payments comply with the guidelines.

6-10C-34. Reserved – Assignment of Rights; Intervention by the WEN CSEP
6-10C-35. Reserved – Fees for IV-D Services

LOCATION OF A MISSING OBLIGOR, ASSETS, AND OBLIGEES BY THE WEN CSEP

6-10C-36. Location Activities of the WEN CSEP

1. Requirement. The WEN CSEP must attempt to locate obligors, obligees, or sources of income and/or assets when location is required to take necessary action in a case.
2. When locate is necessary. Location of an obligor is deemed necessary whenever the WEN CSEP has no verified address or employer for obligor. Location of an obligee is deemed necessary when forms mailed to the last known address of the obligee are repeatedly returned "undeliverable" with no forwarding address or when child support collections disbursed to the obligee are returned "undeliverable" from the last known address, as provided under section 6-10C-37(8) of this Chapter. Location of an obligor's source(s) of income may be necessary for the establishment of a child support obligation or when enforcement of a child support obligation is required.
3. Type of locate required. All sources of locate available to the WEN CSEP should be used to perform locate actions.

PAYMENTS, COLLECTIONS, INCOME WITHHOLDING, ARREARS, ENFORCEMENT REMEDIES

6-10C-37. Mandatory Payment of Child Support Obligations to the White Earth Child Support Enforcement Payment Center

1. All payments for child support sent to WEN CSEP Payment Center. In any action in which the Court orders that payments for child support be made, including, but not limited to, a support order establishing an order for past support or reimbursement of public assistance, the Court shall provide in its order that the payments be paid to the WEN CSEP Payment Center for remittance to the obligee.
2. Information required. Each party subject to the order shall immediately inform the WEN CSEP Payment Center of the party's:
   a. Social security number;
   b. Date of birth;
   c. Residential and mailing addresses and any change of address;
   d. Telephone number;
   e. Motor vehicle operator's license number;
   f. Employer's name, address, and telephone number; and
   g. Change of any other condition which may affect the proper administration of this Chapter.
3. Notice in order required. Each order for payment of child support must notify each party of the requirements in subsection 2 of this section and require the party to provide the information within ten days from the date of the order or ten days after any change in the information.
4. Duration of duty to report information. The requirements of subsection 2 of this section continue in effect until all child support obligations have been satisfied with respect to each child subject to the order.

5. Transmittal of funds from the obligor or payor of funds to the WENCSEP Payment Center. The obligor or other payor of funds shall identify the obligor on the check or remittance by name, payor number, and Social Security number, and shall comply with section 6-10C-45 of this Chapter.
6. Sanction for checks drawn on insufficient funds. A notice may be directed to any person or entity submitting a check drawn on insufficient funds stating that future payment must be paid by cash or certified funds. The WEN CSEP Payment Center and the WEN CSEP may refuse a check from a person or entity that has been given notice that payments must be in cash or certified funds.
7. Admissibility of payment records. A copy of the record of payments maintained by the WEN CSEP Payment Center is admissible evidence in court as proof of payments made through the WEN CSEP Payment Center without the need of testimony to prove authenticity.
8. Unclaimed support funds. If support payments have not been disbursed to an obligee because the obligee is not located, the WEN CSEP shall continue locate efforts following established policy and procedures for locate.

6-10C-38. Collections

1. Distribution of Collections. Upon receipt of child support payments as provided for in section 6-10C-37, the WEN CSEP must, in a timely manner:
   a. Apply collections first to satisfy current support obligations; and
   b. Pay all support collections to the family unless the WEN CSEP has received a request for assistance in collecting support on behalf of the family from another tribal or state child support enforcement IV-D agency.
   c. Monthly amounts received by the WEN CSEP from the obligor that are greater than the monthly amount of public assistance granted to the obligee must be remitted to the obligee.
2. Exception. When the collections stem from a federal income tax refund offset, they must be applied to satisfy child support arrearages.

6-10C-39. Overpayments

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

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

6-10C-40. Arrears

1. Notice of arrears. Whenever there is failure to make the payments as required under section 6-10C-37 of this Chapter, the clerk of court may, and upon request of the obligee or WEN CSEP, shall send notice of the arrears by first-class mail, with affidavit of service, to the person required to make the payments, or request a Tribal Court judge to issue a citation for contempt of court against the person who has failed to make the payments as provided under this Chapter. The citation may be served on that person by first-class mail with affidavit of service to the person's last-known address.
2. Remedies for cases with arrears. Remedies available for the collection and enforcement of support in this Chapter apply to cases with arrearages, including those in which the child or children for whom support is owed are emancipated and the obligor owes past support or has an accumulated arrearage as of the date of the youngest child's emancipation. Child support arrearages under this section include arrearages for child support, medical support, child care, and unreimbursed medical expenses.

6-10C-41. Interest on Arrearages

In the discretion of the Tribal Court, arrearages stemming from White Earth Tribal Court orders may not incur interest.

6-10C-42. Reserved – Reporting of Arrears

6-10C-43. Child Support Debt and Arrearage Management

In order to reduce and otherwise manage support debts and arrearages, the parties may, under the approval of the Court and considering the best interests of the child, compromise unpaid support debts or arrearages owed by one party to another, whether or not docketed as a judgment. A party may agree or disagree to compromise only those debts or arrearages owed to that party.

6-10C-44. Payment Agreements

In proposing or approving proposed written payment agreements for purposes of this Chapter, the Court or the WEN CSEP shall take into consideration the amount of the arrearages, the amount of the current support order, any pending request for modification, and the earnings of the obligor. The Court or WEN CSEP shall consider the individual financial circumstances of each obligor in evaluating the obligor's ability to pay any proposed payment agreement and shall propose a reasonable payment agreement tailored to the individual financial circumstances of each obligor. The Court or WEN CSEP also shall consider a graduated payment plan tailored to the individual financial circumstances of each obligor.

6-10C-45. Income Withholding

1. Application. This section applies to all support orders and income withholding issued by the Court.
2. Order. Every support order must address income withholding. Whenever a support order is initially entered or modified, the full amount of the support order must be subject to income withholding from the income of the obligor unless a waiver has been granted by the Court under this section. If the obligee or obligor applies for either full IV-D services or for income withholding only services from the WEN CSEP, the full amount of the support order must be withheld from the income of the obligor and forwarded to the WEN CSEP. Every order for support shall provide for a conspicuous notice of the provisions of this section. An order without this notice remains subject to this section. This section applies regardless of the source of income of the person obligated to pay the support.

   A payor of funds shall implement income withholding according to this section upon receipt of an order for or notice of withholding from the WEN CSEP or Tribal Court. The WEN CSEP and Court shall issue the order and notice of withholding on the standard federal income withholding form.

8. Collection services.
   a. The WEN CSEP shall prepare and make available to the Court a notice of services that explains child support collection services available through the WEN CSEP, including income withholding. Upon receiving a petition for dissolution of marriage or legal separation, the Tribal Court manager shall promptly send the notice of services to the petitioner and respondent at the addresses stated in the petition.
   b. Either the obligee or obligor may at any time apply to the WEN CSEP for either full IV-D services or for income withholding only services.
   c. For those persons applying for income withholding only services, the amount of the support order shall be withheld through income withholding. The WEN CSEP shall explain the service options in this section to the affected parties and encourage the application for full child support collection services.
   d. If the obligee is not a current recipient of public assistance, the person who applied for services may at any time choose to terminate either full IV-D services or income withholding only services regardless of whether income withholding is currently in place. The obligee or obligor may reapply for either full IV-D services or income withholding only services at any time.
   e. When a person terminates IV-D services, if an arrearage for public assistance exists, the WEN CSEP may continue income withholding, as well as use any other enforcement remedy for the collection of child support, until all public assistance arrears are paid in full. Income withholding shall be in an amount equal to 20 percent of the support order in effect at the time the services terminated.
4. Payor of funds responsibilities and liabilities for failure to withhold and discrimination.

a. An order for or notice of withholding is binding on a payor of funds upon receipt. Withholding must begin no later than the first pay period that occurs after 14 days following the date of receipt of the order for or notice of withholding. In the case of a financial institution, preauthorized transfers must occur in accordance with a court-ordered payment schedule.

b. A payor of funds shall withhold from the income payable to the obligor the amount specified in the order or notice of withholding and amounts specified under subsections 5 and 8 of this section and shall remit the amounts withheld to the WEN CSEP within seven business days of the date the obligor is paid the remainder of the income. The payor of funds shall include with the remittance the Social Security number of the obligor and the date the obligor is paid the remainder of the income. The obligor is considered to have paid the amount withheld as of the date the obligor received the remainder of the income. A payor of funds may combine all amounts withheld from one pay period into one payment to the WEN CSEP, but shall separately identify each obligor making payment.

A payor of funds shall not discharge, or refuse to hire, or otherwise discipline an employee as a result of wage or salary withholding authorized by this section. A payor of funds shall be liable to the obligee for any amounts required to be withheld. A payor of funds is liable for reasonable attorney fees of the obligee or WEN CSEP incurred in enforcing the liability under this paragraph. A payor of funds that has failed to comply with the requirements of this section is subject to contempt sanctions under section 6-10C-52 of this Chapter. If the payor of funds is an employer or independent contractor and violates this subsection, the Court may award the obligor twice the wages lost as a result of this violation. If the Court finds a payor of funds violated this subsection, the Court may impose a civil fine of up to $500. The liabilities in this paragraph apply to intentional noncompliance with this section.

If a single employee is subject to multiple withholding orders or multiple notices of withholding for the support of more than one child, the payor of funds shall comply with all of the orders or notices to the extent that the total amount withheld from the obligor's income does not exceed the limits imposed under the Consumer Credit Protection Act, United States Code, title 15, section 1673(b), giving priority to amounts designated in each order or notice as current support as follows:

(1) If the total of the amounts designated in the orders for or notices of withholding as current support exceeds the amount available for income withholding, the payor of funds shall allocate to each order or notice an amount for current support equal to the amount designated in that order or notice as current support, divided by the total of the amounts designated in the orders or notices as current support, multiplied by the amount of the income available for income withholding; and

(2) If the total of the amounts designated in the orders for or notices of withholding as current support does not exceed the amount available for

income withholding, the payor of funds shall pay the amounts designated as current support, and shall allocate to each order or notice an amount for past due support, equal to the amount designated in that order or notice as past due support, divided by the total of the amounts designated in the orders or notices as past due support, multiplied by the amount of income remaining available for income withholding after the payment of current support.

e. When an order for or notice of withholding is in effect and the obligor's employment is terminated, the obligor and the payor of funds shall notify the WEN CSEP of the termination within ten days of the termination date. The termination notice shall include the obligor's home address and the name and address of the obligor's new payor of funds, if known.

f. A payor of funds may deduct one dollar from the obligor's remaining salary for each payment made pursuant to an order for or notice of withholding under this section to cover the expenses of withholding.

5. Child support deposit account. If income withholding is ineffective due to the obligor's method of obtaining income, the Court may order the obligor to identify a child support deposit account owned solely by the obligor, or to establish an account, in a financial institution located on the White Earth Reservation for the purpose of depositing court-ordered child support payments. The Court shall order the obligor to execute an agreement with the appropriate WEN CSEP for preauthorized transfers from the obligor's child support account payable to an account of the WEN CSEP. The Court may order the obligor to disclose to the Court all deposit accounts owned by the obligor in whole or in part in any financial institution. The Court may order the obligor to disclose to the Court the opening or closing of any deposit account owned in whole or in part by the obligor within 30 days of the opening or closing. The Court may order the obligor to execute an agreement with the WEN CSEP for preauthorized transfers from any deposit account owned in whole or in part by the obligor to the obligor's child support deposit account if necessary to satisfy court-ordered child support payments. An obligor who fails to comply with this subsection, fails to deposit funds in at least one deposit account sufficient to pay court-ordered child support, or stops payment or revokes authorization of any preauthorized transfer is subject to contempt of court procedures under this Chapter.

6. Subsequent income withholding.

a. This subsection applies to support orders that do not contain provisions for income withholding.

b. For cases in which the WEN CSEP is providing child support enforcement services to the parties, the income withholding under this subsection shall take effect without prior judicial notice to the obligor and without the need for judicial or administrative hearing. Withholding shall result when:

(1) The obligor requests it in writing to the WEN CSEP; or

(2) The obligee or obligor serves on the WEN CSEP a copy of the notice of income withholding issued by the Tribal Court or registered in the Tribal Court, a copy of the Court's order, and an application to use the WEN CSEP's collection services.

(3) The obligor has failed to make child support payments in an amount equal to the support owed for one month.

c. For cases in which the WEN CSEP is not providing child support services to the parties, income withholding under this subsection shall take effect when an obligee requests it by making a written motion to the Court and the Court finds that previous support has not been paid on a timely consistent basis or that the obligor has threatened expressly or otherwise to stop or reduce payments.

d. The WEN CSEP shall promptly send to the obligor at the obligor's last known address, notice that withholding has commenced. The notice shall include the information provided to the payor of funds in the notice of withholding.

7. Contest – Mistake offact.

a. The obligor may contest withholding the limited grounds that the withholding or the amount withheld is improper due to mistake of fact.

b. The income withholding must remain in place while the obligor contests the withholding.

c. If the Court finds a mistake in the amount of the arrearage to be withheld, the Court shall continue the income withholding, but it shall correct the amount of the arrearage to be withheld.

8. Priority and withholding limits under the Consumer Credit Protection Act.

a. An order for or notice of withholding under this section or execution or garnishment upon a judgment for child support arrearage or pre-adjudicated expenses shall have priority over an attachment, execution, garnishment, or wage assignment and shall not be subject to the statutory limitations on amounts levied against the income of the obligor. Amounts withheld from an employee's income must not exceed the maximum permitted under the Consumer Credit Protection Act, title 15 of the United States Code, section 1673(b).

b. If more than one order for or notice of withholding exists involving the same obligor and child, the WEN CSEP shall enforce the most recent order or notice. An order for or notice of withholding that was previously implemented according to this section shall end as of the date of the most recent order. The WEN CSEP shall notify the payor of funds to withhold under the most recent withholding order or notice.

9. Arrearage order.

a. This section does not prevent the Court from ordering the payor of funds to withhold amounts to satisfy the obligor's previous arrearage in support order payments. This remedy shall not operate to exclude availability of other remedies to enforce judgments. The employer or payor of funds shall withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support or maintenance obligation until the arrearage is paid.

b. Notwithstanding any law to the contrary, funds from income sources included in section 6-10C-1(g) of this Chapter, whether periodic or lump sum, are not exempt from attachment or execution upon a judgment for child support arrearage.

c. Absent an order to the contrary, if an arrearage exists at the time a support order would otherwise terminate, income withholding shall continue in effect or may be

implemented in an amount equal to the support order plus an additional 20 percent of the monthly child support obligation, until all arrears have been paid in full.

10. Lump-sum payments. Before transmittal to the obligor of a lump-sum payment of $500 or more including, but not limited to, severance pay, accumulated sick pay, vacation pay, bonuses, commissions, or other pay or benefits, a payor of funds:
    a. Who has been served with an order for or notice of income withholding under this section shall:
        (1) Notify the WEN CSEP of the lump-sum payment that is to be paid to the obligor;
        (2) Hold the lump-sum payment for 30 days after the date on which the lump-sum sum payment would otherwise have been paid to the obligor; and
        (3) Upon order of the Court, and after a showing of past willful nonpayment of support, pay any specified amount of the lump-sum payment to the WEN CSEP for future support; or
    b. Shall pay the lesser of the amount of the lump-sum payment or the total amount of the judgment and arrearages upon service by United States mail of a sworn affidavit from the WEN CSEP or a court order that includes the following information:
        (1) That a judgment entered pursuant to tribal law exists against the obligor, or that other support arrearages exist;
        (2) The current balance of the judgment or arrearage; and
        (3) That a portion of the judgment or arrearage remains unpaid.
    c. The Consumer Credit Protection Act, title 15 of the United States Code, section 1673(b), does not apply to lump-sum payments.
11. Interstate income withholding.
    a. Upon receipt of an order for support entered in another tribe or state and the registration of the foreign order, the WEN CSEP shall initiate income withholding. A payor of funds within the exterior boundaries of the White Earth Reservation shall withhold income based on foreign court orders for withholding registered in the White Earth Tribal Court.
    b. An employer receiving an income withholding notice from another tribe or state that has been registered in the White Earth Tribal Court shall withhold and distribute the funds as directed in the withholding notice and shall apply the law of the obligor's principal place of employment when determining:
        (1) The employer's fee for processing an income withholding notice;
        (2) The maximum amount permitted to be withheld from the obligor's income; and
        (3) Deadlines for implementing and forwarding the child support payment.
        (4) An obligor may contest withholding under this subsection as provided for in this section.
    cc. An employer receiving an income withholding order or notice from another tribe or state that has not been registered in the White Earth Tribal Court must forward

the order or notice to the WEN CSEP for registration before withholding and distributing the funds under the order.

12. Order terminating income withholding. An order terminating income withholding must specify the effective date of the order and reference the initial order or decree that establishes the support obligation and shall be entered once the following conditions have been met:
    a. The obligor serves written notice of the application for termination of income withholding by mail upon the obligee at the obligee's last known mailing address, and a duplicate copy of the application is served on the WEN CSEP;
    b. The application for termination of income withholding specifies the event that terminates the support obligation, the effective date of the termination of the support obligation, and the applicable provisions of the order or decree that established the support obligation;
    c. The application includes the complete name of the obligor's payor of funds, the business mailing address, the court action and court file number, and the support and collections file number, if known; and
    d. After receipt of the application for termination of income withholding, the obligee or the WEN CSEP fails within 30 days to request a contested hearing on the issue of whether income withholding of support should continue clearly specifying the basis for the continued support obligation and, ex parte, to stay the service of the order terminating income withholding upon the obligor's payor of funds, pending the outcome of the contested hearing.
13. Termination by the WEN CSEP. If the WEN CSEP determines that income withholding is no longer applicable, the WEN CSEP shall promptly notify the obligee and the obligor of intent to terminate income withholding and proceed to issue a notice to the payor of funds terminating income withholding.
14. Contract for service. To carry out the provisions of this section, the WEN CSEP may contract for services, including the use of electronic funds transfer.
15. Waiver of income withholding.
    a. If the WEN CSEP is providing child support enforcement services, the Court may waive the requirements of this section if:
        (1) One party demonstrates and the Court determines there is good cause to waive the requirements of this section or to terminate an order for or notice of income withholding previously entered under this section. The Court must make written findings to include the reasons income withholding would not be in the best interests of the child. In cases involving a modification of support, the Court must also make a finding that support payments have been timely made; or
        (2) The obligee and obligor sign a written agreement providing for an alternative payment arrangement which is reviewed and entered in the record by the Court.
    b. If the Court waives income withholding, the obligee or obligor may at any time request income withholding under this section.

c. In cases where income withholding has been waived, child support payments must continue to be made to the WEN CSEP Payment Center as provided under this Chapter.

16. Nonliability; payor of funds. A payor of funds who complies with an income withholding order or notice of withholding according to this chapter or chapter 518C, that appears regular on its face shall not be subject to civil liability to any individual or agency for taking action in compliance with the order or notice.
17. Electronic transmission. Orders or notices for withholding under this section may be transmitted for enforcement purposes by electronic means.

6-10C-46. <u>Notice of Order</u>

Whenever these laws require service of the Court's order on an employer, union or payor of funds, service of a verified notice of order may be made in lieu thereof. The verified notice shall contain the title of the action, the name of the court, the court file number, the date of the court order, and shall recite the operative provisions of the order.

ADDITIONAL ENFORCEMENT REMEDIES

6-10C-47. <u>Administrative Seek Employment Orders</u>

1. Court order. For any support order being enforced by the WEN CSEP, the WEN CSEP may seek a court order requiring the obligor to seek employment if:
   a. Employment of the obligor cannot be verified;
   b. The obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments; and
   c. The obligor is not in compliance with a written payment plan.

   Upon proper notice being given to the obligor, the Court may enter a seek employment order if it finds that the obligor has not provided proof of gainful employment and has not consented to an order for income withholding under this Chapter or entered into a written payment plan approved by the Court or the WEN CSEP.

2. Contents of order. The order to seek employment shall:
   a. Order that the obligor seek employment within a determinate amount of time;
   b. Order that the obligor file with the WEN CSEP on a weekly basis a report of at least five new attempts to find employment or of having found employment, which report must include the names, addresses, and telephone numbers of any employers or businesses with whom the obligor attempted to seek employment and the name of the individual contact to whom the obligor made application for employment or to whom an inquiry was directed;

c. Notify the obligor that failure to comply with the order is evidence of a willful failure to pay support under this Chapter;
d. Order that the obligor provide the WEN CSEP with verification of any reason for noncompliance with the order; and
e. Specify the duration of the order, not to exceed three months.

6-10C-48. Driver's License and Occupational License Suspension, Motor Vehicle Lien

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

6-10C-49. Recreational License Suspension

1. Obligor in arrears. At the motion of an obligee and if the WEN CSEP determines that the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and not in compliance with a written approved payment agreement pursuant to this Chapter, the Court may order the suspension of the obligor's tribal recreational licenses, including licenses for hunting, fishing, and leeching.
2. Stay of Court's order. The Court's order must be stayed for 60 days in order to allow the obligor to execute a written approved payment agreement pursuant to this Chapter. If the obligor has not executed or is not in compliance with a written payment agreement after the 60 days expires, the Court's order becomes effective and the tribal department responsible for issuing recreational licenses shall suspend the obligor's recreational licenses.
3. The remedy under this section is in addition to any other enforcement remedy available to the Court.
4. An obligee may not bring a motion under this section within 12 months of a denial of a previous motion under this section.
5. Notice required prior to license suspension.
   a. At least 60 days prior to notifying the tribal department responsible for issuing recreational licenses, the WEN CSEP must mail a written notice to the obligor at the obligor's last known address, informing the obligor that it intends to seek suspension of the obligor's recreational licenses and that the obligor must request a hearing within 30 days in order to contest the suspension.
   b. If the obligor makes a written request for a hearing within 30 days of the date of the notice, a court hearing must be held. Notwithstanding any law to the contrary,

the obligor must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the obligor.

c. The notice must include information that apprises the obligor of the requirement to develop a written payment agreement that is approved by the Court or the WEN CSEP regarding child support, maintenance, and any arrearages in order to avoid recreational license suspension. The notice may be served personally or by mail.

d. If the WEN CSEP does not receive a request for a hearing within 30 days of the date of the notice, and the obligor does not execute a written payment agreement pursuant to this Chapter within 60 days of the date of the notice, the WEN CSEP shall direct the tribal department responsible for issuing recreational licenses to suspend the obligor's recreational licenses.

e. At a hearing requested by the obligor under this section, and on finding that the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the Court shall order the tribal department responsible for issuing recreational licenses to suspend the obligor's recreational licenses unless the Court determines that the obligor has executed and is in compliance with a written payment agreement pursuant to this Chapter that is approved by the Court or the WEN CSEP.

6. Reinstatement of recreational licenses. An obligor whose recreational licenses are suspended may:

a. Provide proof to the WEN CSEP that the obligor is in compliance with all written payment agreements pursuant to this Chapter;

b. Bring a motion for reinstatement of the recreational license. At the hearing, if the Court orders reinstatement of the recreational licenses, the Court must establish a written payment agreement pursuant to this Chapter; or

c. Within 15 days of the receipt of that proof or a court order, the WEN CSEP shall inform the tribal department responsible for issuing recreational licenses that the obligor's recreational licenses should no longer be suspended.

Obligor no longer in compliance with a written payment agreement.

a. The recreational licenses of an obligor who fails to remain in compliance with an approved written payment agreement may be suspended. Prior to suspending a license for noncompliance with an approved written payment agreement, the WEN CSEP must mail to the obligor's last known address a written notice that:

(1) The WEN CSEP intends to seek suspension of the obligor's recreational licenses under this section; and

(2) The obligor must request a hearing, within 30 days of the date of the notice, to contest the suspension.

b. If, within 30 days of the date of the notice, the WEN CSEP does not receive a written request for a hearing and the obligor does not comply with an approved written payment agreement, the WEN CSEP must direct the tribal department responsible for issuing recreational licenses to suspend the obligor's recreational

c. If the obligor makes a written request for a hearing within 30 days of the date of the notice, a court hearing must be held. Notwithstanding any law to the contrary, the obligor must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the obligor. The notice may be served personally or by mail at the obligor's last known address.
d. If the obligor appears at the hearing and the Court determines that the obligor has failed to comply with an approved written payment agreement, the Court or WEN CSEP shall notify the tribal department responsible for issuing recreational licenses to suspend the obligor's recreational licenses under this section.
e. If the obligor fails to appear at the hearing, the Court or WEN CSEP notify the tribal department responsible for issuing recreational licenses to suspend the obligor's recreational licenses under this section.

6-10C-50. Security; Sequestration; Contempt

In all cases when support or maintenance payments are ordered, the Court may require sufficient security to be given for the payment of them according to the terms of the order. Upon neglect or refusal to give security, or upon failure to pay the support or support, the Court may sequester the obligor's personal estate and the rents and profits of real estate of the obligor, and appoint a receiver of them. The Court may cause the personal estate and the rents and profits of the real estate to be applied according to the terms of the order. The obligor is presumed to have an income from a source sufficient to pay the support order or maintenance. A child support or maintenance order constitutes prima facie evidence that the obligor has the ability to pay the award. If the obligor disobeys the order, it is prima facie evidence of contempt. The court may cite the obligor for contempt under this Chapter or other tribal law.

6-10C-51. Contempt Proceedings for Nonpayment of Support

1. Grounds. If a person against whom an order or decree for support has been entered under this Chapter, or a comparable law from another jurisdiction, is in arrears in court-ordered child support or maintenance payments in an amount equal to or greater than the obligor's total monthly support and maintenance payments and is not in compliance with a written payment plan approved by the Court or the WEN CSEP, the person may be cited and punished by the Court for contempt under this section or other tribal law. Failure to comply with a seek employment order entered under this Chapter is evidence of willful failure to pay support.
2. Civil fine and confinement. Any person found in contempt of court as specified in this section may be subject to a civil fine not to exceed one thousand ($1000.00) dollars and sentenced to serve no more than thirty (30) days in jail. Alternative forms of confinement such as house arrest, use of an electronic ankle bracelet, or other tracking devices may be ordered in lieu of jail time. A person may be subject to additional fines or confinement for subsequent violations of court orders.
3. Court ordered community service.

a. If the Court cites a person for contempt under this section the Court may order the performance of community service work up to 32 hours per week for six weeks for each finding of contempt if the obligor:

(1) Is able to work full time;
(2) Works an average of less than 32 hours per week; and
(3) Has actual weekly gross income averaging less than 40 times the federal minimum hourly wage under United States Code, title 29, section 206(a)(1), or is voluntarily earning less than the obligor has the ability to earn, as determined by the Court.

b. An obligor is presumed to be able to work full time. The obligor has the burden of proving inability to work full time.

c. A person ordered to do community service work under this section may, during the six-week period, apply to the Court or the WEN CSEP to be released from the community service work requirement if the person:
(1) Provides proof to the Court or the WEN CSEP that the person is gainfully employed and submits to an order for income withholding under this Chapter;
(2) Enters into a written payment plan regarding both current support and arrearages approved by the Court or the WEN CSEP; or
(3) Provides proof to the Court or the WEN CSEP that, subsequent to entry of the order, the person's circumstances have so changed that the person is no longer able to fulfill the terms of the community service order.

d. Continuing obligations. The performance of community service work does not relieve a child support obligor of any unpaid accrued or accruing support obligation.

6-10C-52. Employer Contempt

1. Orders binding. Notices or orders for income withholding or medical support issued under this Chapter are binding on the employer or other payor of funds after the order or notice for income withholding or enforcement of medical support has been transmitted to the employer or payor of funds.
2. Contempt action.
a. An obligee or the WEN CSEP may initiate a contempt action against an employer or payor of funds, within the action that created the support obligation, by serving an order to show cause upon the employer or payor of funds.
b. The employer or payor of funds is presumed to be in contempt:
(1) If the employer, trustee, or payor of funds has intentionally failed to withhold support after receiving the order or notice for income withholding or notice of enforcement of medical support; or
(2) Upon presentation of pay stubs or similar documentation showing the employer or payor of funds withheld support and demonstration that the

employer or payor of funds intentionally failed to remit support to the WEN CSEP.

3. Liability. The employer or payor of funds is liable to the obligee or the WEN CSEP for any amounts required to be withheld that were not paid. The Court may enter judgment against the employer or payor of funds for support not withheld or remitted. An employer, trustee, or payor of funds found guilty of contempt shall be punished by a fine of not more than $250. The Court may also impose other contempt sanctions as authorized under tribal law.

6-10C-53. Attorney's Fees and Collection Costs Recovery

1. A child support obligee is entitled to recover from the obligor reasonable attorney fees and other collection costs incurred to enforce a child support judgment, as provided in this section. In order to recover collection costs under this section, the arrearages must be at least $500 and must be at least 90 days past due. In addition, the arrearages must be a docketed judgment under tribal law. If the obligor pays in full the judgment within 20 days of receipt of notice of entry of judgment, the obligee is not entitled to recover attorney fees or collection costs under this section.
2. Written notice must be provided by any obligee contracting with an attorney or collections entity to enforce a child support judgment to the WEN CSEP, if the WEN CSEP is a party or provides services to a party, within five days of signing a contract for services and within five days of receiving any payments received on a child support judgment. Attorney fees and collection costs obtained under this section are considered child support and entitled to the applicable remedies for collection and enforcement of child support.
3. The obligee shall serve notice of the obligee's intent to recover attorney fees and collections costs by certified or registered mail on the obligor at the obligor's last known address.
4. The notice must include an itemization of the attorney fees and collection costs being sought by the obligee and inform the obligor that the fees and costs will become an additional judgment for child support unless the obligor requests a hearing on the reasonableness of the fees and costs or to contest the child support judgment on grounds limited to mistake of fact within 30 days of mailing of the notice.
5. If the obligor requests a hearing, the only issues to be determined by the Court are whether the attorney fees or collection costs were reasonably incurred by the obligee for the enforcement of a child support judgment against the obligor or the validity of the child support judgment on grounds limited to mistake of fact. The fees and costs may not exceed 30 percent of the arrearages. The Court may modify the amount of attorney fees and costs as appropriate and shall enter judgment accordingly.
6. If the obligor fails to request a hearing within 30 days of mailing of the notice under this section, the amount of the attorney fees or collection costs requested by the obligee in the notice automatically becomes an additional judgment for child support.

6-10C-54. Publication of Names of Delinquent Child Support Obligors

1. Making names public.
   a. At least once each year, the WEN CSEP, in consultation with the White Earth Tribal Attorney, may publish a list of the names and other identifying information of no more than 25 persons who (1) are child support obligors, (2) are at least $10,000 in arrears, (3) are not in compliance with a written payment agreement regarding both current support and arrearages approved by the Court or the WEN CSEP, (4) cannot currently be located by the WEN CSEP for the purposes of enforcing a support order, and (5) have not made a support payment except tax intercept payments, in the preceding 12 months.
   b. Identifying information may include the obligor's name, last known address, amount owed, date of birth, photograph, the number of children for whom support is owed, and any additional information about the obligor that would assist in identifying or locating the obligor. The WEN CSEP and Tribal Attorney may use posters, media presentations, electronic technology, and other means that they determine are appropriate for dissemination of the information, including publication on the Internet. The WEN CSEP and Tribal Attorney may make any or all of the identifying information regarding these persons public. Information regarding an obligor who meets the criteria in this subdivision will only be made public subsequent to that person's selection by the WEN CSEP and Tribal Attorney.
   c. Before making public the name of the obligor, the WEN CSEP shall send a notice to the obligor's last known address which states the WEN CSEP's intention to make public information on the obligor. The notice must also provide an opportunity to have the obligor's name removed from the list by paying the arrearage or by entering into an agreement to pay the arrearage, or by providing information to the WEN CSEP that there is good cause not to make the information public. The notice must include the final date when the payment or agreement can be accepted.
   d. The WEN CSEP shall obtain the written consent of the obligee to make the name of the obligor public.
2. Names published in error. If the WEN CSEP makes public a name under this section which is in error, the WEN CSEP must also offer to publish a printed retraction and a public apology acknowledging that the name was made public in error. If the person whose name was made public in error elects the public retraction and apology, the retraction and apology must appear in the same medium and the same format as the original notice with the name listed in error. In addition to the right of a public retraction and apology, a person whose name was made public in error has a civil action for damages caused by the error.

INTERGOVERNMENTAL CASES - FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS; REGISTRATION OF FOREIGN ORDERS

6-10C-55. <u>Full Faith and Credit of Foreign Child Support Orders</u>

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

6-10C-56. <u>Registration of Foreign Order for Enforcement</u>

1. General rule. A support order or an income-withholding order issued by a tribunal of another tribe or state may be registered in the White Earth Tribal Court for enforcement.
2. Procedure to register order for enforcement.
   a. A support order or income-withholding order of another tribe or state may be registered in the White Earth Tribal Court by sending the following documents and information to the White Earth Tribal Court:
      (1) A letter of transmittal to the tribunal requesting registration and enforcement;
      (2) Two copies, including one certified copy, of all orders to be registered, including any modification of an order;
      (3) A sworn statement by the party seeking 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 obligor's date of birth;
         (c) The name and address of the obligor's employer and any other source of income of the obligor; and
         (d) A description and the location of property of the obligor within the external boundaries of the White Earth Reservation not exempt from execution; and
      (5) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.
   b. On receipt of a request for registration, the White Earth Tribal Court shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.
   c. A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this tribe may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.
3. Effect of registration for enforcement.
   a. A support order or income-withholding order issued in another tribe or state is registered when the order is filed in the White Earth Tribal Court.

b. A registered order issued in another tribe or state is enforceable in the same manner and is subject to the same procedures as an order issued by the White Earth Tribal Court.
c. Except as otherwise provided in this Chapter, the White Earth Tribal Court shall recognize and enforce, but may not modify, a registered order if the tribunal that issued the order had jurisdiction.

4. Choice of law.
   a. The law of the tribe or state that issued the order governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.
   b. In a proceeding for arrearages, the statute of limitation under the laws of the White Earth Nation or of the state that issued the order, whichever is longer, applies.
5. Notice of registration of order.
   a. When a support order or income-withholding order issued in another tribe or state is registered in the White Earth Tribal Court, the White Earth Tribal Court shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.
   b. The notice must inform the nonregistering party:
      (1) That a registered order is enforceable as of the date of registration in the same manner as an order issued by the White Earth Tribal Court;
      (2) That a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after notice;
      (3) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and
      (4) Of the amount of any alleged arrearages.
   c. Upon registration of an income-withholding order for enforcement, the White Earth Tribal Court as the registering tribunal shall notify the obligor's employer pursuant to this Chapter.
6. 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 White Earth Tribal Court shall request a hearing within 20 days after notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to this section.
   bb. 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 White Earth Tribal Court shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

7. Burden on party contesting the registration or enforcement.
   a. A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:
      (1) The issuing tribunal lacked personal jurisdiction over the contesting party;
      (2) The order was obtained by fraud;
      (3) The order has been vacated, suspended, or modified by a later order;
      (4) The issuing tribunal has stayed the order pending appeal;
      (5) There is a defense under the law of this tribe to the remedy sought;
      (6) Full or partial payment has been made; or
      (7) The statute of limitation precludes enforcement of some or all of the arrearages.
   b. If a party presents evidence establishing a full or partial defense under this section, the White Earth Tribal Court may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this tribe.
   c. If the contesting party does not establish a defense under this section to the validity or enforcement of the order, the White Earth Tribal Court shall issue an order confirming the order of the issuing tribunal.
8. 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.

6-10C-57. Registration and Modification of Child Support Order

1. Procedure to register child support order of another tribe or state for modification. A party or the WEN CSEP seeking to modify, or to modify and enforce, a child support order issued in another tribe or state shall register that order in the White Earth Tribal Court in the same manner provided in section 6-10C-56 of this Chapter if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.
2. Effect of registration for modification. The White Earth Tribal Court may enforce a child support order of another tribe or state registered for purposes of modification, in the same manner as if the order had been issued by the White Earth Tribal Court, but the registered order may be modified only if the requirements of this section have been met.
3. Modification of child support order of another tribe or state.
   a. After a child support order issued in another tribe or state has been registered in the White Earth Tribal Court, the White Earth Tribal Court may modify that order after notice and hearing, it finds that:
      (1) The following requirements are met:

(a) The child, the individual obligee, and the obligor do not reside in the issuing tribe or state;
(b) A petitioner who is a nonresident of this tribe seeks modification; and
(c) The respondent is subject to the personal jurisdiction of the tribunal of this state; or

(2) The child, or a party who is an individual, is subject to the personal jurisdiction of the White Earth Tribal Court and all of the parties who are individuals have filed written consents in the issuing tribunal for the White Earth Tribal Court to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing tribe or state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures in this Chapter, the consent otherwise required of an individual residing within the external boundaries of the White Earth Reservation is not required for the White Earth Tribal Court to assume jurisdiction to modify the child support order.

b. Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by the White Earth Tribal Court and the order may be enforced and satisfied in the same manner.

c. On issuance of an order modifying a child support order issued in another tribe or state, the White Earth Tribal Court becomes the tribunal of continuing, exclusive jurisdiction.

4. Recognition of order modified in another tribe or state. The White Earth Tribal Court shall recognize a modification of its earlier child support order by a tribunal of another tribe state which assumed jurisdiction under the Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1538B and, upon request, except as otherwise provided in this Chapter, shall:

a. Enforce the order that was modified only as to amounts accruing before the modification;
b. Enforce only nonmodifiable aspects of that order;
c. Provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and
d. Recognize the modifying order of the other tribe or state, upon registration, for the purpose of enforcement.

5. Jurisdiction to modify support order of another tribe or state when individual parties reside within the external boundaries of the White Earth Reservation.

a. If all of the parties who are individuals reside within the external boundaries of the White Earth Reservation and the child does not reside in the issuing tribe or state, the White Earth Tribal Court has jurisdiction to enforce and to modify the issuing tribe or state's child support order in a proceeding to register that order.
b. The White Earth Tribal Court exercising jurisdiction as provided in this section shall apply the Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1538B to the enforcement or modification proceeding and the Tribal Court shall apply the procedural and substantive law of this tribe.

6. Notice to issuing tribunal of modification. Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

Enacted on December 3, 2007

WHITE EARTH RESERVATION TRIBAL COUNCIL
A/K/A WHITE EARTH BUSINESS COMMITTEE
WHITE EARTH BAND OF CHIPPEWA INDIANS

Resolution No. 019-08-001

WHEREAS, the White Earth Reservation Tribal Council is the duly elected governing body of the White Earth Reservation pursuant to Article IV, Section 1, of the revised constitution of the Minnesota Chippewa Tribe, as amended, and organized under Section 16, of the Act of June 18, 1934 (48 Stat. 984), and

WHEREAS, the White Earth Reservation Tribal Council finds that it is in the best interest of the Tribe to make laws which establish a Tribal support agency in an effort to offer the community effective, fair, accessible, and culturally appropriate child support services, and

WHEREAS, the White Earth Nation Child Support Program has the authority and responsibility to provide child support enforcement services to the White Earth community and to cooperate with other child support program, and

WHEREAS, the White Earth Reservation Tribal Council has determined that it is appropriate to enact a code pertaining to the White Earth Nation Child Support Program, now

THEREFORE BE IT RESOLVED, that the White Earth Reservation Tribal Council hereby approves the Title 6 Family Relations Code, Chapter 10-A White Earth Parentage Act, Chapter 10B-Establishment of the White Earth Nation Child Support Enforcement Program; Duties, Chapter 10C-White Earth Child Support Act.

We do hereby certify that the foregoing resolution was adopted by a vote of ut___ for, ___ against, __ silent, a quorum being present at a special meeting of the White Earth Reservation Tribal Council held on ake y 3____, 2007 in Minnesota.

Erma J. Vizenor, Chairwoman

Franklin B. Heisler, Secretary/Treasurer