

Washoe Tribe of Nevada and California

Law & Order Code

TITLE 9 – DOMESTIC RELATIONS

9-10 MARRIAGE

9-10-010 Scope

This Chapter 9-10 establishes the requirements for a valid marriage and the procedures that must be followed by all persons wishing to enter into a valid marriage.

9-10-020 Consent

The consent of both parties is required before there can be a valid marriage. The parties must have the ability to consent.

9-10-030 Ability To Consent

The following persons are legally incapable of giving a valid consent to the marriage contract, and therefore shall not be issued a license:

- (a) A person under eighteen (18) years of age. However, a parent or guardian may give a valid consent for a person between the age of sixteen and eighteen.
- (b) A person who lacks mental capacity because of mental disease or defect of either- a temporary or permanent nature. Absent any other factor, a person suffering from epilepsy shall not be considered as lacking mental capacity.
- (c) A person whose mental capacity is seriously impaired by drugs or alcohol.

9-10-040 Court Orders

- (a) Availability of Court Orders - In the event that a parent or guardian will not consent to the marriage of a person under eighteen (18) years of age, or if there is no parent or guardian or if the person wanting to be married is under sixteen years of age, a Tribal Court order permitting the marriage may be obtained by filing a petition with the Tribal Court Clerk.

- (b) Contents of Petition - The petition shall state the names of the parties who wish to be married, their ages, the name of the parent(s) or guardian(s), the reason the consent of the parent(s) or guardian(s) could not be obtained, and the reason the marriage should be permitted.
- (c) Procedure - The Clerk shall give the petition to the Tribal Judge immediately after filing. The Judge may schedule a hearing if more information is required. The hearing shall be held within 5 days from the day the petition is filed and the judge shall announce his decision within 5 days from the date of the hearing. The Judge shall order that the marriage be permitted if a sufficient reason is given. Pregnancy, while it is a factor to be considered, is neither determinative nor required.

9-10-050 Marriage Licenses

- (a) Requirement - A marriage license is required before a marriage ceremony may be performed within this jurisdiction.
- (b) Procedure - Persons wishing to marry shall request a license from the Tribal Court Clerk. The license shall be on a form approved by the Tribal Judge. The Clerk shall issue a license as long as he or she is satisfied as to the parties' ability to consent.
- (c) Contents - The license shall state the names of the parties, their ages, and their addresses, and the names of a party's parent(s) or guardian(s), when necessary. The license shall be signed and dated by the Tribal Court Clerk.
- (d) Denial of License - If the Tribal Court Clerk refuses to issue a license because he or she is not satisfied as to the parties' ability to consent, the parties may request a hearing before the Tribal Court. Said hearing shall be held within five (5) days. The Tribal Judge shall resolve all disputes as to marriage license.
- (e) Certificate of Marriage - The Tribal Court Clerk shall issue a blank certificate of marriage at the same time the license is issued. The certificate shall be on a form approved by the Tribal Judge. The certificate shall contain a space to fill in the names of the parties and their ages, and their tribe, the name and title of the person performing the ceremony, and shall contain a statement that the parties consent to the establishment of the relationship of husband and wife between themselves, such statement to be signed by the parties at the time of the ceremony. The certificate shall also include a space for the signature of the person performing the ceremony and for the date the ceremony was performed, and spaces for the signatures of the two persons who witness the marriage ceremony, and a space for signature of the Tribal Court Clerk.
- (f) Time Limit for Validity - A license is valid for thirty (30) days. A ceremony performed with a license issued more than 30 days previously is not valid.

- (g) The fee for issuing and filing a license shall be \$20.

9-10-060 Validity Of Licenses Issued Outside The Jurisdiction

License issued outside this jurisdiction may not be used for ceremonies performed within this jurisdiction.

9-10-070 Marriage Ceremonies

- (a) No particular form of ceremony is required. However, the parties must express their consent to the establishment of the relationship of husband and wife between themselves.
- (b) Any religious practitioner, or any Tribal Judge or the Tribal Chairman may perform a marriage ceremony.
- (c) Persons wishing to marry must present their valid license to the person performing the ceremony.
- (d) The ceremony shall be witnessed by two adult persons.

9-10-080 Certificate Of Marriage

- (a) Persons authorized by Section 9-10-070 to perform marriage ceremonies shall request the marriage certificate from the couple, and shall see that it is properly filled out and signed.
- (b) The original of the certificate shall be given to the parties and three (3) copies shall be given to the Tribal Court Clerk. The Clerk shall retain one copy in the Court files and shall file one copy with the county recorder.

9-10-090 Marriage Entered Into Outside This Jurisdiction

Marriages entered into outside this jurisdiction are valid within this jurisdiction if they are valid in the jurisdiction in which they were entered into.

9-10-100 Marriages Entered Into Prior To The Adoption of This Title 9

Marriages entered into on this Reservation prior to the adoption of this Title 9, whether by formal ceremony, Indian custom or otherwise, are valid if they were valid when entered into.

9-20 INDIAN CUSTOM MARRIAGE AND DIVORCE

9-20-020 Scope

This Chapter 9-20 codifies Tribal customs pertaining to marriage and divorce.

9-20-020 Validity Of Indian Custom Marriages

Marriages according to Indian Custom are valid.

9-20-030 Certificates Of Indian Custom Marriage

- (a) Requirements - Persons who have lived together as husband and wife for one (1) year or more may request a certificate from the Tribal Court or the Tribal Chairperson stating that they are married according to Indian Custom.
- (b) Procedure - The Court or the Chairperson shall require affidavits from three (3) persons who know the couple before issuing a certificate of Indian Custom marriage. The affidavits must state the names of the couple, the name of the affiant, the length of time the affiant has known the couple, and the length of time the affiant has known the couple to be living together as husband and wife. If the affidavits establish that the requirements of subsection (a) have been met, the Tribal Judge or Chairperson shall issue a certificate of Indian Custom marriage to the couple and shall file a copy of the certificate with the Western Nevada Agency of the Bureau of Indian Affairs and with the county recorder.

9-20-040 Indian Custom Divorce Or Dissolution

Indian Custom divorce or dissolution is not recognized. Persons who have been married according to Indian Custom, who wish to dissolve their marriage, must request a dissolution from the Tribal Court in accordance with the procedures set forth in Chapter 9-60. However, any Indian Custom divorce which occurred prior to the adoption of this Title 9 is valid if it was valid at the time it occurred.

9-20-050 Property Rights

Persons who have married according to Indian Custom shall have the same property rights as persons who are formally married, as set forth in Chapter 9-30 of this Title. Such rights shall be retroactive to the time the couple first began to live together.

9-30 RIGHTS OF HUSBAND AND WIFE**9-30-010 Scope**

This Chapter 9-30 establishes the property rights of each party to a marriage.

9-30-020 Community Property

- (a) Defined - All property acquired after the marriage by either the husband, the

wife, or both, while they are living together as husband and wife, is community property, with the exception of the property described in Section 9-30-030.

- (b) Rights in Community Property:
 - (1) The husband and the wife have present, existing, and equal interests in all community property.
 - (2) The husband and the wife have an equal right to manage community property.
 - (3) One spouse may give to the other spouse the right to control a particular community asset. This agreement must be in writing and signed by both parties, and shall be filed with the Tribal Court Clerk.
 - (4) Neither spouse may make a substantial gift of community property without the written consent of the other spouse or any other gift of community property without the consent of the other spouse. A gift made without the necessary consent is void.
- (c) Joint Agreement of Spouses Required for Certain Transactions - Notwithstanding any other provision of this Section 9-30-020, neither spouse may sell or encumber in any way community household goods, furnishings, appliances, automobiles, or any real property, unless the other spouse jointly executes the agreement involved. Any agreement which is not jointly executed is void.

9-30-030 Separate Property

- (a) Defined - All property owned by either the husband or the wife before marriage, or acquired afterwards by gift, by will, or through the laws of inheritance of any jurisdiction, together with the rents, interest, or profits therefrom, is the separate property of the owner.
- (b) Rights in Separate Property - The owner has exclusive control and management of his or her separate property.

9-30-040 Community Debts

- (a) Defined - Community debts are those debts jointly undertaken by the husband and wife, debts incurred in the purchase of community property, and debts incurred in the support of the husband and/or wife and/or their children, while the husband and wife are living together.
- (b) Responsibility for Community Debts – The husband and wife are jointly and equally responsible for community debts. In any action in which both spouses are parties, the court may require that the community property, or if there is insufficient community property, the separate property of the husband and/or the wife, be used to pay community debts.

9-30-050 Separate Debts

- (a) Defined - All debts undertaken by the husband or the wife, individually, except for any debts described in Section 9-30-040 above, are separate debts.
- (b) Responsibility for Separate Debts - The Court shall not require the separate property of the wife to be used to pay the debts of the husband, nor shall it require that separate property of the husband be used to pay the debts of the wife, unless the owner of the separate property has previously agreed in writing that his or her separate property may be used to pay for the debts of his *or* her spouse.

9-30-060 Individual Property Agreements

Spouses may create their own agreements as to property and alter the provisions in this Chapter 9-30. Such property agreements must be in writing, must be signed by the parties, and must specifically itemize the assets to be affected.

9-30-070 Applicability Of This Chapter 9-30 To Indian Trust Land And Money And To Tribal Assignments

The provisions of this Chapter 9-30 are generally not applicable to interests in Indian trust land, to money held in trust for Indian individuals, or to assignments or other interests in Tribal lands. However, if the husband and/or wife acquire an interest in Indian trust land, an interest in money held in trust for Indian individuals, or an assignment or other interest in Tribal lands, and such acquisition is within the definition of community property as set forth in Section 9-30-020, such interests may be treated as community property, as long as such treatment is not in conflict with federal law or with the Tribe's Constitution.

9-40 VOID MARRIAGES**9-40-010 Definition**

A void marriage is a marriage which is not valid for any legal purpose. A void marriage does not create any property rights or obligations, other than to support any children that may be born of the marriage.

9-40-020 Marriages Which Are Void

- (a) Bigamous and incestuous marriages are void.

(b) Definitions -

- (1) A bigamous marriage is one that is entered into by any person who is already married, i.e., the person's prior marriage has not been annulled or dissolved, and the prior spouse is still alive.
- (2) An incestuous marriage is one between a parent and a child, or a brother and sister of the whole or half blood, or an uncle and niece or aunt and nephew of the whole or half blood, or between first cousins.
- (3) For purposes of this Chapter 9-40, an aunt is defined as the sister of the person's parent, an uncle is defined as the brother of the person's parent, and a first cousin is the child of the person's aunt or uncle.

9-40-030 Court Declaration Of Voidness

Either party to a void marriage may file a petition with the Clerk requesting that the marriage be declared void. However, the void marriage is of no legal effect whether or not the parties obtain a Court order declaring it void.

9-40-040 Jurisdiction Of The Tribal Court To Declare Marriages Void

- (a) The Tribal Court has jurisdiction to declare void any marriage described in Section 9-40-020 which was entered into on this Territory of the Tribe.
- (b) The Tribal Court has jurisdiction to declare void any marriage described in Section 9-40-020 which was not entered into on this Reservation, if either of the parties to the marriage have resided on this Reservation for at least six (6) weeks immediately preceding the filing of the petition.

9-40-050 Procedure

- (a) A petition requesting that a marriage be declared void shall be filed with the Clerk. It must conform to the requirements of Section 9-40-060.
- (b) A summons shall be issued and served on the other spouse, in accordance with Title 2, Civil procedure, unless the other spouse joins in the petition.
- (c) The Trial Court shall hold a hearing if the matter is contested, but may grant the order without a hearing if the matter is not contested, and evidence as to the bigamous or incestuous character of the marriage is presented with the petition.
- (d) If the matter is contested, the Court shall issue an order declaring the marriage void, if the evidence indicates that it is more likely than not that the marriage is incestuous or bigamous.
- (e) Any order as to property, child support and/or custody, or damages shall be made in accordance with Sections 9-40-070, and 9-40-080, and 9-40-090.

9-40-060 Form Of Petition

- (a) Required Contents of Petition - A petition requesting the Court to declare a marriage void shall be verified and shall state:
 - (1) The names, ages, and residences of the parties to the marriage;
 - (2) The date and place of the marriage;
 - (3) An allegation as to the Court's jurisdiction; and
 - (4) The reason the marriage should be declared void.
- (b) Additional Contents - The petition may include:
 - (1) Requests as to division of property and debts;
 - (2) Requests as to child custody and/or support; and
 - (3) Allegations as to damages.
- (c) Petitions Must Be Signed - The petition must be signed by one or both of the parties to the marriage.

9-40-070 Property And Debts Of Void Marriages

- (a) Community Property Rules Do Not Apply - Because a void marriage is of no legal effect there is no community property. However, the Court shall ordinarily give to each person one-half or the equivalent value of one-half of what would be community property if the marriage were valid.
- (b) Division of Debts - The Court shall ordinarily divide equally between the parties responsibility for all debts that would be community debts if the marriage were valid.
- (c) Discretionary Equitable Awards - The Court may, in its discretion, award to one party more than one-half of what would be community property if the marriage were valid if the party also assumes more than one-half of the debts, or if it would be fair and equitable to do so.
- (d) In spite of the above provisions, the parties may make their own agreement as to division of property and/or debts, but such agreements are subject to review and approval by the Court.

9-40-080. Children Of Void Marriages

- (a) Support Obligations - Parties to a void marriage have the same obligations to support their children as if the marriage were valid.
- (b) Custody - The standards set forth in Chapter 9-70 of this Title should be followed to determine custody and/or support of any children.
- (c) Legitimacy - Children of a void marriage are legitimate for all purposes.

9-40-090 Damages

- (a) Any person who knowingly contracts a bigamous marriage shall pay damages of \$250 to the other party to the bigamous marriage, if that other party was without knowledge of the bigamous nature of the marriage.
- (b) Any person who knowingly contracts a bigamous marriage shall pay damages of \$250 to the spouse from the first marriage, if that spouse has sued or commences to sue for divorce or annulment.
- (c) Any party to a void marriage who is injured thereby, shall receive such other damages as can be proven, in addition to any damages under (a) above.

9-40-100 Filing Of Order

Orders obtained pursuant to this Chapter 9-40 shall be filed with the Tribal Court Clerk. The Tribal Court Clerk shall file a copy with the county recorder.

9-50 ANNULMENT**9-50-010 Reasons For Annulment Of Marriages**

The Court may grant an annulment of a marriage for the following reasons:

- (a) Lack of ability to consent because of age.
- (b) Lack of ability to consent because of mental disease or defect.
- (c) Lack of ability to consent because of serious mental impairment due to the use of drugs or alcohol.
- (d) Force or fraud in obtaining consent to the marriage.

9-50-020 Jurisdiction Of The Tribal Court

- (a) The Tribal Court has jurisdiction to annul any marriage which was entered within the territory of the Tribe.
- (b) The Tribal Court has jurisdiction to annul any marriage which was not entered into on this Reservation if either of the parties to the marriage have resided within the territory of the Tribe for at least six (6) weeks immediately preceding the filing of the complaint.

9-50-030 Commencement Of Annulment Actions

An action to obtain an annulment must be commenced within the following time

periods and by the following persons:

- (a) For cause described in Section 9-50-010, subsection (a), by the under age party before reaching the age of twenty (20) or by the parent or guardian of the under age party before the party reaches eighteen (18). However, a parent, guardian or party may not commence an annulment action if a court order was obtained pursuant to section 9-10-040 of if he gave his consent to the marriage pursuant to Section 9-10-030, subsection (a).
- (b) For cause described in Section 9-50-010, subsection (b), by the party lacking capacity within two years of regaining capacity, or by the guardian of the person lacking capacity within two years of the marriage.
- (c) For cause described in Section 9-50-010, subsection (c), by the party not freely consenting within two months of the marriage.
- (d) For cause described in Section 9-50-010, subsection (d), by the party not freely consenting within two years of the marriage.

9-50-040 Procedure

- (a) A complaint requesting that a marriage be annulled shall be filed with the Clerk. It must conform to the requirements of Section 9-50-050.
- (b) A summons shall be issued and served in accordance with Title 2, Civil Procedure on any party to the marriage not joining in the complaint.
- (c) The Court shall hold a hearing whether or not the matter is contested.
- (d) If the Court is satisfied that the evidence indicates that it is more likely than not that the allegations in the complaint are true and is satisfied as to the Court's jurisdiction, the annulment shall be granted.
- (e) Any orders as to child custody and/or support shall be in compliance with Chapter 9-70 of this Title.
- (f) Any order as to damages shall be in accordance with Section 9-50-080 below.
- (g) Any order as to property and debts shall be in accordance with the standards set forth in Section 9-60-070.
- (h) The Court shall restore the wife's former name if requested to do so by the wife or her representative.

9-50-050 Form Of Complaint

- (a) The Complaint shall be verified and shall contain the following where applicable:
 - (1) The names of the parties to the marriage;
 - (2) The date of the marriage;
 - (3) The place of the marriage;
 - (4) Whether there are any minor children;
 - (5) The reason for the requested annulment;
 - (6) An allegation as to the Tribal Court's jurisdiction; and
 - (7) If the person filing the complaint is not one of the parties to the marriage, the relationship of that person to the parties.
- (b) Additional Contents - The Complaint may include:
 - (1) A description of any property or debts to be divided by the court;
 - (2) Any requests as to child custody and/or support; and
 - (3) Any allegations as to damages;
 - (4) A request that the wife's former name be restored.

9-50-060 Effect Of An Order Of Annulment

- (a) After an annulment the parties are restored to the status of single and unmarried persons.
- (b) Children of an annulled marriage are legitimate for all purposes.

9-50-070 Alimony Not Awarded

Neither party to an annulled marriage shall be required to pay alimony.

9-50-080 Damages

Any person who is damaged because of a marriage that is subsequently annulled, may receive such damages as can be proven.

9-50-090 Filing Of Annulment Orders

The order of annulment shall be filed in the Tribal Court Clerk's office. The Tribal Court Clerk shall file a copy with the county recorder.

9-60 DISSOLUTION OF MARRIAGE**9-60-010 Reasons For Dissolution**

A dissolution of marriage may be granted if either party of the marriage is incompatible.

9-60-020 Jurisdiction Of The Tribal Court

The Tribal Court shall have jurisdiction to dissolve any marriage described in Section 9-60-010 if:

- (a) Either of the parties to the marriage has resided on this Reservation for at least six (6) weeks preceding the filing of the complaint, or
- (b) This Reservation was the last place that the parties lived together as husband and wife, or
- (c) This Reservation was the place the marriage was entered into.
- (d) Either party of the marriage is a tribal member.

9-60-030 Procedure

- (a) A complaint requesting a dissolution shall be filed with the Clerk. It must conform to the requirements of Section 9-60-040.
- (b) A summons shall be issued and served in accordance with Title 2, Civil Procedure on the other party to the marriage.
- (c) The Court shall hold a hearing whether or not the matter is contested.
- (d) The dissolution shall be granted if the Court is satisfied that it has jurisdiction, and if the complaint substantially satisfies the requirements of Section 9-60-040.
- (e) Any order as to child support or custody shall be in accordance with Chapter 9-70 of this Title.
- (f) Any order as to property or debts shall be in accordance with Section 9-60-070 below.
- (g) The Court shall restore the wife's former name if requested to do so by the wife or her representative.

9-60-040 Form Of Complaint

- (a) Required Contents - A complaint for dissolution of marriage shall be verified and shall contain:
 - (1) The names of the parties to the marriage;
 - (2) The date of the marriage;
 - (3) The place of the marriage;
 - (4) Whether there are any minor children;
 - (5) An allegation of the Court's jurisdiction; and

- (6) An allegation of the incompatibility in the marriage.
- (b) Additional Contents - The complaint may contain:
 - (1) A description of any property or debts to be divided by the Court;
 - (2) Any requests as to child custody and/or support;
 - (3) Any requests for alimony.
 - (4) A request that the wife's former name be restored.

9-60-050 Evidence Considered.

- (a) Fault is irrelevant and no evidence as to fault will be heard by the Court.
- (b) Testimony must be given, by a person who is not a party to the marriage, as to the facts required under Section 9-60-020 above.
- (c) No evidence as to the failure of the marriage need be present by the party requesting the dissolution.

9-60-060 Alimony

- (a) Alimony may be awarded to either party as part of the order granting the dissolution.
- (b) Alimony may be awarded for a limited time and in a limited amount and is conditioned on necessity and ability to pay.
- (c) Alimony terminates automatically on the remarriage of the party receiving it, or upon the death of either party. It may be terminated at any time by the Court, if the necessity for it no longer exists, upon motion by the person paying alimony.
- (d) Alimony does not terminate because of the remarriage of the person paying the alimony.

9-60-070 Division Of Property And Debts

- (a) Ordinarily, one-half or the equivalent of one-half of the community property as defined in this Title 9 shall be given to each party. If the community property includes interests described in Section 9-30-070, the Court may order a party to request a transfer of such interests. However, such transfers must conform to the requirements of federal law and the Tribe's Constitution.
- (b) All separate property remains the property of its owner.

- (c) Ordinarily, community debtors shall be divided so that each party is responsible for an equal share.
- (d) All separate debts remain the responsibility of the party who incurred them.
- (e) The Court may, in its discretion, award more than half of the community property to one party, if that party also assumes more than half of the community debts, or if it would be fair and equitable to do so.
- (f) In spite of the above provisions, the parties may make their own agreement as to division of property and/or debts, but such agreements are subject to review and approval by the Court.

9-60-080 Effect

The effect of an order of dissolution is to restore the parties to the status of single and unmarried persons.

9-60-090 Filing Of Orders

The order granting the dissolution shall be filed in the Tribal Court Clerk's office. The Tribal Court Clerk shall file a copy with the county recorder.

9-60-100 Tribal Custom Divorces

Tribal custom divorces or dissolutions are not recognized and have no legal effect. Subject, however, to the provisions of 9-20-040.

9-70 CUSTODY AND SUPPORT OF CHILDREN

9-70-010 Nature Of Action

A proceeding for custody and/or support of children may be joined with a proceeding under any other Chapter of this Title 9, or may be commenced as a separate proceeding.

9-10-020 Proper Parties To Commence Action

The following persons may bring an action for custody and/or support of a child:

- (a) The child.
- (b) Either parent.

- (c) Any person who provides one-half of the total support of the child. Support means those items necessary and essential to the child's well-being, including such items as food and lodging. However, a social service agency may bring an action only for support, and only to recoup any payments made by the agency on behalf of the child.

9-70-030 Procedure

- (a) A petition concerning child custody and/or support shall be filed with the Clerk. It must conform to the requirements of section 9-70-040.
- (b) A summons shall be issued and served in accordance with Title 2, Civil Procedure on all interested persons, including but not limited to the child's parents, grandparents, and any other person with whom the child resides.
- (c) A hearing shall be held whether or not the matter is contested.
- (d) At the hearing the Court shall first determine if there is compliance with Sections 9-70-020 and 9-70-030 above, and then shall make its order based on the standards in section 9-70-050 and/or Section 9-70-070 below.

9-70-040 Form Of Petition

The petition shall be verified and state the following information, if known:

- (a) The name, age, place of birth and residence of the child;
- (b) The name, age, residence, and relationship to the child of the person having physical custody;
- (c) The name, age, residence and relationship to the child of the person seeking custody, if a custody order is sought;
- (d) The name, age, residence and relationship to the child of the person to be charged with the support obligation, if a support order is sought;
- (e) The name, age, residence and relationship to the child of the person bringing the petition; and
- (f) The reason(s) custody and/or support is sought.

9-70-050 Standards To Be Applied And Evidence Considered In Determining Custody

- (a) The Court shall "make its decision based on what will be in the best interests of the child.

- (b) The wishes of the child, though not decisive, will be given a substantial amount of weight.
- (c) No presumptions as to the greater or lesser suitability of one sex or the other as a custodian shall be used.
- (d) No presumptions as to the suitability of persons of particular ages shall be used.
- (e) Reasons for annulments or dissolutions irrelevant in custody proceedings.
- (f) Custody may be given to a non-parent only if neither parent wants the child and they have both waived their rights in writing, or the child is found to be a dependent child in accordance with Title 10, Juvenile Proceedings.
- (g) If custody is to be given to a non-parent, grandparents or other relatives shall be preferred over non-relatives as custodians of the child.
- (h) The child shall not be removed from the reservation, unless there is not suitable person on the reservation to act as custodian.
- (i) The Judge may request a social services report, which will be admissible in evidence, to aid him in his determination of custody. A copy of such report must be given to every interested party at least 48 hours before the hearing.

9-70-060 Visitation Rights

The non-custodial parent, and any other interested relative may be given reasonable rights of visitation upon a showing to the Court of interest in the child.

9-70-070 Support Obligations

- (a) Nature of obligation - Both parents of a child have a continuing obligation to support their child until the child is 18 years of age. This obligation is not affected by the parent's remarriage, and is not affected by any award of custody of the child.
- (b) Determination of obligation - The Court shall consider the amount of support which is reasonably necessary, and the financial resources of each parent. The Court shall then require each parent to pay a just and reasonable amount for the support of the child.

9-70-080 Modification Of Support And Custody Orders

Support and custody orders are modifiable due to changed circumstances upon petition to the Court according to the procedures set out in this Chapter 9-70.

9-70-090 Enforcement Of Support Orders

The Court may use its contempt power to enforce a support order.

9-70-100 Filing And Service Of Custody And Support Orders

Custody and support orders shall be filed with the Tribal Court Clerk and served upon all parties whose obligations are affected by them.

9-80 DETERMINATION OF PARENTHOOD**9-80-010 Purpose And Applicability**

- (a) The purpose of this Chapter 9-80 is to establish the relationship of parent and child.
- (b) An action under this Chapter 9-80 may be joined with a proceeding for custody and/or support under Chapter 9-70. "

9-80-020 Proper Parties To Bring Action

The following persons may bring an action under this Chapter 9-80:

- (a) The child.
- (b) Either parent.
- (c) Any person who provides one-half of the total support of the child. Support means those items necessary and essential to the child's well-being, including such items as food and lodging. A social service agency is a proper party to bring an action under this section.

9-80-030 Procedure

- (a) A petition alleging parenthood shall be filed with the Clerk. It must conform to the requirements of Section 9-80-040.
- (b) A summons shall be issued and served on any parent who does not join in the Petition in accordance with Title 2, Civil Procedure.
- (c) A hearing shall be held whether or not the matter is contested.

- (d) The Court shall issue a decree of parenthood if a preponderance of the evidence indicates that a parental relationship exists.

9-80-040 Form Of Petition

The petition shall be verified and contain the following:

- (a) The name, age, place of birth and residence of the child;
- (b) The name, age, place of birth and residence of the alleged parent;
- (c) The name, age, residence and relationship to the child of the person bringing the petition; and
- (d) A short statement of the facts on which the allegation of parenthood is based.

9-80-050 Admissible Evidence

The following types of evidence are admissible in an action to determine parenthood:

- (a) Medical and scientific evidence, if reliable.
- (b) Actions or words on the part of the purported parent that indicate a parental relationship.
- (c) Any other evidence that is helpful to the court and is admissible in a civil action under Title 6, Evidence.

9-80-060 Effect Of Decree

The effect of a decree of parenthood is to establish the relationship of parent and child with all the attendant rights and responsibilities, including all inheritance rights.

9-80-070 Filing Of Decrees

All decrees of parenthood shall be filed with the Tribal Court Clerk and shall be served on all persons affected by them.

9-90 ADOPTION OF MINOR CHILDREN**9-90-010 Scope**

This Chapter 9-90 sets forth the procedures for establishing the relationship of parent and child, between a child and an adult other than a natural parent of the child.

9-90-020 Procedure

- (a) A petition requesting an adoption shall be filed with the Clerk. It must comply with the requirements of Section 9-90-030.
- (b) A summons shall be issued and served, in accordance with Title 2, Civil Procedure, on the natural parents, and grandparents, any person with whom the child resides, and any other interested person(s), unless they have signed affidavits of consent.
- (c) A hearing shall be held whether or not the matter is contested.
- (d) The hearing shall be held in closed court.

9-90-030 Form Of Petition

The petition shall be verified and shall contain:

- (a) The name, age, date and place of birth of the child if known, with documentary proof if possible;
- (b) The name(s), age(s) of the person(s) seeking to adopt;
- (c) The name(s) and address(es) of the natural parents, if known;
- (d) Any affidavits of consent as required by Section 9-90-040;
- (e) A statement of any real or personal property owned by the child;
- (f) A request that the relationship of parent and child be established; and,
- (g) A statement describing the home environment of the petitioner(s).

9-90-040 Affidavit Of Consent

- (a) The consent(s), by affidavit, of the following person(s) is required when applicable:
 - (l) Of the child if he or she is 14 years of age or over.

- (2) Of each of the natural parents, unless their parental rights have been judicially terminated.
 - (3) Of the spouse of the adopting party, unless the spouse joins in the petition.
- (b) Any consent obtained prior to the birth of the child or for two weeks thereafter is void.

9-90-050 Standards Applied And Evidence Considered

- (a) A petition for adoption shall be granted if the adoption would be in the best interest of the child.
- (b) No petition for adoption shall be granted until such time the child has resided in the home of petitioner for at least six (6) months.
- (c) Single persons of either sex may adopt a child.
- (d) Adopting parents who are married must be at least ten (10) years older than the child.
- (e) Adopting single persons must be at least 15 years older than. The minor child, unless the minor child is the brother, sister, nephew, niece, or first cousin of the adopting single person.
- (f) There is no upper age limit on suitability as an adoptive parent.
- (g) Grandparents and other relatives shall be preferred as adoptive parents over non-relatives.
- (h) The court may request a social services report on the adoptive parents, which shall be admitted into evidence, to aid in the determination of whether or not the adoption would be in the best interest of the child. A copy of such report must be given to every interested party at least 48 hours before the hearing.

9-90-060 Temporary Decrees Of Adoption

- (a) If the Court feels that the best interest of the child would be served, it may issue a temporary decree of adoption.
- (b) Such decree is valid for six (6) months, at which time another hearing must be held and a permanent decree granted or denied.

9-90-070 Effect Of Entry Of Decree

- (a) Establishment of the Relationship of Parent and Child - A temporary or permanent decree of adoption establishes the relationship of parent and child between the parties.
- (b) Inheritance Rights - After the entry of a permanent decree of adoption, an adopted child inherits from and through the adoptive parent(s), and adoptive parent(s) inherit from and through the adopted child. **The adopted child does not inherit from and through the adopted child.** The adopted child does not inherit from or through the natural parent(s), and the natural parent(s) do not inherit from or through the adopted child.
- (c) Stepparent Adoptions - When a stepparent adopts a child, it does not affect the relationship between the child and the natural parent who is the spouse of the stepparent.

9-90-080 Report Of Adoption; Amendment Or Annulment Of Adoption To State Registrar

- (a) After an order or decree of adoption. has been entered, the court shall direct the petitioner or his attorney to prepare a report of adoption on a form prescribed and furnished by the state registrar of vital statistics. The report shall:
 - (1) Identify the original certificate of birth of the person adopted;
 - (2) Provide sufficient information to prepare a new certificate of birth- for the person adopted;
 - (3) Identify the order or decree of adoption; and
 - (4) Be certified by the Clerk of the Court.
- (b) The Washoe Tribe Social Services Department shall provide the petitioner or his attorney with any factual information which will assist in the preparation of the report required in subsection (a).
- (c) If an order or decree of adoption is amended or annulled, the petitioner or his attorney, shall prepare a report to the state registrar of vital statistics which includes sufficient information to identify the original order or decree of adoption and the provisions of that decree which were amended or annulled.
- (d) The petitioner or his attorney shall forward all reports required by the provisions of this section to the state registrar of vital statistics not later than the 10th day of the month next following the month in which the order or decree was ,entered, or more frequently if requested by the state registrar, together with any related material the state registrar may require.

9-90-090 Right To Tribal Membership'

Adoption shall not destroy any rights that a child has to enroll as a Tribal member due to the blood inherited from his natural parents.

9-100 ADOPTION OF ADULTS**9-100-010 Scope**

This Chapter 9-100 sets forth the procedures for establishing the relationship of parent and child, between persons 18 years of age or over:

9-100-020 Consents

No consents are required except that of the adopted person and that of the adopting person(s).

9-100-030 Procedure

- (a) A petition requesting an adoption shall be filed with the Clerk. It must comply with the requirements of Section 9-100-040.
- (b) Notice shall be given to the natural parents.
- (c) The Court shall hold a hearing and shall issue the decree of adoption, unless it finds that one of the parties does not understand the effect of adoption, or if there is evidence of lack of consent.

9-100-040 Form Of Petition

The petition shall be verified and shall state:

- (a) The name, age, and residence of the person to be adopted;
- (b) The name(s), age(s), and residence of the person(s) wishing to adopt; and
- (c) A request that the relationship of parent and child be established.

9-100-050 Effect Of Entry Of Decree

- (a) Establishment of the Relationship of Parent and Child - A decree of adoption establishes the relationship of parent and child between parties.
- (b) Inheritance Rights - Adopted adults inherit from and through their adoptive parent(s) and the adoptive parent(s) inherit from and through the adopted adult. Adopted adults do not inherit from or through their natural

parent(s) and the natural parent(s) do not inherit from or through the adopted adult.

9-100-060 Filing Of Decrees

All decrees obtained pursuant to this Chapter 9-100 shall be filed with the Tribal Court Clerk. The Tribal Court Clerk shall file a copy with the county recorder.

9-110 GUARDIANSHIP

9-110-010 Scope

This Chapter 9-11 establishes the procedure for the appointment of guardians for minor persons, or for adults who are unable to manage their property and business affairs and/or physically care for themselves.

9-110-020 Commencement Of The Action

Any person may file a petition for a guardianship, including the person to be placed under the guardianship.

9-110-030 Procedure

- (a) A petition requesting a guardianship shall be filed with the Clerk. It shall comply with the requirements of Section 9-110-040.
- (b) If the proposed ward is an adult, a summons shall be issued and served in accordance with Title 2, Civil Procedure on all persons who would be interested heirs of the proposed ward under the provisions of Title 12, Probate.
- (c) If the proposed ward is a child, a summons shall be issued and served, in accordance with Title 2, Civil Procedure, on the natural parents, unless they join in the petition.
- (d) The Court shall hold a hearing whether or not the matter is contested.

9-110-040 Form of Petition

The petition shall be verified and shall state:

- (a) The name, age, and residence of the proposed ward;
- (b) Whether the proposed guardianship is of the property and business affairs and/or of the physical care of the proposed ward and the reason therefore;

- (c) The name, age and relationship to the proposed ward of the person filing the petition;
- (d) The name of a proposed' guardian, and the relationship of the proposed ward to the proposed guardian;
- (e) A description of the proposed ward's income and property.

9-110-050 Standards Applied

- (a) The petitioner must show that a guardianship is necessary for the well-being of the person and/or the management of his or her property and business affairs.
- (b) The necessity of the guardianship must be shown by clear and convincing evidence.

9-110-060 Selection And Approval Of Guardians

- (a) The Court shall appoint a guardian only after the hearing required by Section 9-110-030 (d). The Court may approve the guardian suggested by the petition, or may appoint any other person, as the best interests of the ward require. Wards 14 years of age or over may suggest their own guardian.
- (b) If the ward's estate exceeds \$10,000 in value, a financial institution may be appointed to manage it.
- (c) The duties of the guardian may be split, with one person chosen to care for the individual and another person or an institution chosen to manage the property.

9-110-070 Duties Of A Guardian

- (a) General - The duties of a guardian shall be set forth below, depending on the age of ward, the reason for the guardianship, and whether or not the duties of the guardian are split.
- (b) Guardians of the Person - Guardians of a ward's physical person are responsible for providing the necessities of life to the ward, and shall have the authority to enroll a ward in school, to consent to medical treatment, to obtain any state or Indian benefits for the ward, and to exercise similar duties' and authority.

- (c) Guardians of the Estate – Guardians of a ward's property or business affairs shall manage the ward's property in the manner in which a prudent person would manage his own property.
- (d) Other Specific Duties - In addition to the duties listed above the Court may enumerate specific duties for the guardian in its order, if such duties would be in the best interest of the ward.

9-110-080 Costs And Fees

Guardians may request the Court to approve payment for costs and fees arising from the management of property, and as reasonable compensation for their services. The financial assets of the ward shall be used to pay any fees, costs, or compensation approved by the Court.

9-110-090 Posting Of Bond

Guardians may be required by the Court to post a bond, to insure protection of the ward's property.

9-110-100 Change Of Guardian

Persons placed under a guardianship may petition the Court at any time for a change of guardian.

9-110-110 Review Of Guardianships

All guardianships shall be reviewed by the Court at least once every 12 months as to continued necessity and as to the suitability of the guardian unless the court determines that a longer period of time is satisfactory. The Tribal Court Clerk shall keep a calendar on which the review dates shall be entered. The guardian, ward, and other interested parties shall receive at least two weeks notice of any review.

9-110-120 Termination Of Guardianships

- (a) Guardianships of Minors
 - (1) Upon turning eighteen (18) years of age, a minor may petition the Court and have his or her guardianship terminated, unless there is a reason for the guardianship in addition to age.
 - (2) Parents or guardians may petition the Court at any time to terminate the guardianship of children or wards if the necessity for the guardianship no longer exists.
- (b) Guardianships of Adults - An adult may petition the Court and have his or her guardianship terminated when the ward regains ability to manage his

or her property or business affairs and/or physically care for himself or herself.

- (c) Guardianships of Minors and Adults - The Court may terminate a guardianship on its own motion, in conjunction with any review conducted in accord with Section 9-110-110.

9-110-130 Temporary Guardianships

- (a) Defined - A temporary guardianship over either the business affairs or the physical care of a person may be granted, on petition, but without notice or hearing, for up to three (3) months. All aspects of a temporary guardianship are the same as for a permanent one, except to petition is required for termination.
- (b) Procedure - The petition must be accompanied by a written consent from the natural parents if the proposed ward is a child, or a written consent from the proposed ward if the ward is an adult.
- (c) Conversion into Permanent Guardianships - A new petition must be filed to change a temporary guardianship into a permanent one, and a full hearing must be held.
- (d) Temporary Guardianships Over Minors - Notwithstanding any other provision of Chapter 9-110, a temporary guardianship over the physical care of a minor may be granted by the person having care, custody and control of the minor for a period of up to six (6) months, without a petition to the Court. Such guardianship must be in writing; signed by the person granting it; must specify the period for which it is to exist; and must state that it is only over the physical care of the minor. If there are two people who have care, custody and control of the minor, they must both sign the guardianship.

9-110-140 Filing Of Guardianships

All Court Orders as to guardianships and all guardianships must be filed with the Tribal Court Clerk and must be served on the guardian, ward, and other interested parties.

9-120 FAMILY PROTECTION ORDINANCE

9-120-010 Scope of Ordinance

An order of protection is a court order that an abuser stop hurting, threatening and harassing a victim of domestic abuse. This order may be obtained without a

lawyer from the Tribal Court. A temporary order shall last thirty (30) days, and an extended order up to one year. Temporary orders shall be subject to a review hearing within two (2) working days upon written request of the restrained party. Violation of the terms of the order shall be a misdemeanor and arrest for violation is mandatory. The victim shall not be required to make a citizen's arrest. The appropriate Law Enforcement Officer shall make the arrest in cases of a violation of such orders.

[Enacted 1/10/92, by Resolution No.]

9-120-020 Definitions

Definitions as used in NRS 33.017 to 33.100, inclusive, unless the context otherwise requires:

1. "Extended order" means an extended order for protection against domestic violence.
2. "Temporary order" means a temporary order for protection against domestic violence.
3. Court means the Tribal Court of the Washoe Tribe of Nevada and California unless otherwise noted.

[Enacted 1/10/92, by Resolution No.]

9-120-030 Acts Which Constitute Domestic Violence

Domestic violence occurs when a person commits one of the following against or upon another to whom he/she is related by blood or marriage, with whom he/she is or was actually residing or with whom he/she has a child in common, or upon his/her minor child or a minor child of that person:

1. Battery
2. Assault
3. Compelling the other by force or threat of force to perform an act from which he/she has the right to refrain or to refrain from an act which he/she has the right to perform
4. Sexual Assault
5. Knowing purposeful or reckless course of conduct to harass the other
6. False imprisonment

7. Unlawful entry of the other's residence or forcible entry against the other's will.

[Enacted 1/10/92, by Resolution No.]

9-120-040 Requirements for issuance of temporary and extended orders:

1. If it appears to the satisfaction of the court from specific facts shown by a verified application that an act of domestic violence has occurred or there exists a threat of domestic violence, the court may grant a temporary or extended order for protection against domestic violence.
2. The court may require the applicant or the adverse party or both, to appear before it before determining whether to grant the temporary or extended order and shall give all parties prior written notice of such orders or any hearing relating to the motion.
3. A temporary order may be granted with or without notice to the adverse party provided that the restrained party shall have the right to a hearing within two (2) working days of the court's receipt of a written request for such hearing. An extended order may only be granted after notice to the adverse party and a hearing on the application.
4. The court shall rule upon an application for a temporary order within one (1) judicial day after it is filed.

[Enacted 1/10/92, by Resolution No.]

9-120-050 Contents of order; interlocutory appeal:

1. The court by a temporary order may:
 - (a) Enjoin the adverse party from threatening, physically injuring or harassing the applicant or minor child, either directly or through an agent;
 - (b) Exclude the adverse party from the applicant's place of residence;
 - (c) Prohibit the adverse party from entering the residence, school or place of employment of the applicant or minor child and order him to stay away from any specified place frequented regularly by them;
 - (d) If jurisdictionally appropriate under grant temporary custody of the minor child to the applicant; and
 - (e) Order such other relief as it deems necessary in the circumstance.
2. The court in an extended order may grant any relief enumerated in subsection one (1) and:

- (a) Specify arrangements for visitation of the minor child by the adverse party and require supervision of that visitation by a third party if necessary; and
- (b) Order the adverse party to:
 - 1. Avoid or limit communication with the applicant or minor child;
 - 2. Pay rent or make payments on a mortgage on the applicant's place of residence or pay for the support of the applicant or minor child if he/she is found to have a duty to support the applicant of minor child.

[Enacted 1/10/92, by Resolution No.]

9-120-060 No Requirement of Action for Dissolution of Marriage

Orders issued pursuant to this section shall not preclude other action; consolidation with other actions:

- 1. A temporary or extended order may be granted under NRS 33.020 without regard to whether an action for divorce, annulment or marriage or separate maintenance has been filed respecting the applicant and the adverse party.
- 2. A temporary or extended order shall be in addition to, and not in lieu of, any other available civil or criminal action. No applicant shall be barred from seeking the order contemplated herein because of other pending proceedings.
- 3. An application for a temporary or extended order may be consolidated with another civil action if the court deems it appropriate under the circumstances.

[Enacted 1/10/92, by Resolution No.]

9-120-070 Assessment of Court Costs and Fees; Duty of Clerk to Assist Parties

- 1. The payment of all costs and official fees shall be deferred for any applicant for a temporary or extended order. After any hearing and no later than final disposition of the application or order, the court shall assess the costs and fees against one or both of the parties at its discretion as justice may require.
- 2. The clerk of the court shall provide each party, free of cost, with information about the:
 - (a) The availability and limitations relating to temporary and extended orders;

- (b) The procedure for filing an application for an order and a hearing thereon;
 - (c) The right to proceed without legal counsel or in the alternative, to retain counsel.
- 3. The clerk of the court or other person designated by the court shall assist any party in completing and filing the application, affidavit and request for hearing and any other paper or pleading necessary to initiate or respond to an application for a temporary or extended order. This assistance shall be limited to assistance in preparing documents or completing forms. The clerk shall not render any advice or service that require the professional judgment or an attorney.

[Enacted 1/10/92, by Resolution No.]

9-120-080 Notice of Order to Law Enforcement Agency; Service of Order; Copy of Order for Applicant and Adverse Party

- 1. The court shall transmit, by the end of the next business day after the order is issued, a copy of the temporary or extended order to the Tribal Police or other law enforcement agency which has jurisdiction over the residence of the applicant and/or any minor child.
- 2. The court shall order the appropriate Tribal Police or other law enforcement agency to serve the adverse party personally with any temporary order. Service of an application for an extended order and the notice of hearing thereon shall be served upon the adverse party pursuant to the Rules of Civil Procedure of the Tribe.
- 3. The clerk of the court shall issue, without fee, a copy of the temporary or extended order to both the applicant and the adverse party.

9-120-090 Inclusion in Order of Requirement of Arrest; Verification of Notice to Adverse Party

- 1. Every temporary or extended order shall include a provision ordering any Tribal Police Officer or other Law Enforcement Officer who witnesses a violation of any provision of the order to arrest the adverse party upon satisfactory proof that the party was advised with the order.
- 2. If a Tribal Police Officer or other Law Enforcement Officer cannot verify that the adverse party was served with a copy of the application and order, he shall:
 - (a) Inform the adverse party of the specific terms of the order; and
 - (b) Inform the adverse party that he now has notice of the provisions of the order and that a violation of the order will result in his arrest.

Information concerning the date and time of the notice and the name and identifying number of the officer who gives the notice must be provided in writing to the applicant and noted in the records of the law enforcement agency and the court.

[Enacted 1/10/92, by Resolution No.]

9-120-100 Expiration, Conversion, Modification and Dissolution Order; Hearing

1. A temporary order expires within such time, not to exceed thirty (30) days, as the court fixes. If an application for an extended order is filed within the period of a temporary order, the temporary order shall remain in effect pending a hearing on the extended order.
2. Within five (5) days notice to the party who obtained a temporary order, an adverse party may appear and request its termination or modification. Such motion shall be heard and the court will determine such motion as expeditiously as the ends of justice require provided however that this section shall not interfere with an adverse party's request to a hearing within two (2) days after the initial issuance of a temporary order set forth in this ordinance.
3. Any extended order shall expire within such time, not to exceed one (1) year, as the court shall fix.
4. Notwithstanding any provision of this section either party may apply to the court for the supervised reunification of the household members affected by the order as provided in section 33.110.

[Enacted 1/10/92, by Resolution No.]

9-120-110 Duty of Court

The Duty of the Court is to accept facts on which foreign order for protection is based. Upon application by the protected party, the Tribal Court shall accept an order for protection against domestic violence issued by a court of another jurisdiction as prima facie evidence of the facts on which it is based and shall issue its own temporary or extended order as those facts may warrant provided that it shall follow all the other provisions of this title as to notice and right to hearing.

[Enacted 1/10/92, by Resolution No.]

9-120-120 Penalties for violation of order:

1. Any person who violates a temporary or extended order is guilty of a Class C Offense, unless a more severe penalty is prescribed by law for the act which constitutes the violation of the order. If the violation is accompanied by a violent physical act by the adverse party against a person protected by the order, the court shall:
 - (a) Impose on the adverse party a fine of \$500.00 or require him/her to perform a minimum of 100 hours of work for the community;
 - (b) Sentence him to imprisonment in jail for not fewer than five (5) days nor more than six (6) months;
 - (c) Order him to reimburse the applicant, in an amount as determined by the court, for all costs and attorney's fees incurred by the applicant in seeking to enforce the temporary or extended order and for all medical expenses of the applicant and any minor child incurred as a result of the violent physical act; and
 - (d) Order him to participate in and complete a program of professional counseling, at his own expense, if such counseling is available.
2. The adverse party shall comply with the order for reimbursement of the applicant before paying a fine imposed pursuant to this section.

[Enacted 1/10/92, by Resolution No.]

9-120-130 Dissolution of Extended Orders and Related Provisions

1. Either party to an extended order may after twenty (20) days, file an application with the court to modify an existing extended order to allow for the supervised reunification of the household members. Such an order may be granted only after notice and a hearing at which both parties appear before the court. The court may modify an order as provided for herein so long as both parties consent. The court may utilize the services of the Department of Social Services, the Health Clinic and such other resources as may be available in referring parties for evaluation, counseling, treatment, and monitoring of the orders of the court.

[Enacted 1/10/92, by Resolution No.]

9-120-140 Gender and Number

1. The masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include others wherever the context so indicates.

[Enacted 1/10/92, by Resolution No.]