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**Procedures for Implementation of Reciprocal Child Support Enforcement
Agreement Between the Nisqually Tribe and the State of Washington**
6/19/97

Chapter 1.00 General Provisions

1.01 Purpose

These procedures implement the Reciprocal Child Support Enforcement Agreement entered into by the Nisqually Indian Tribe (Tribe) and the Washington State Department of Social and Health Services, Office of Support Enforcement (Department) on May 15, 1992. The Tribe entered into this agreement for the purposes of determining support obligations based on Tribal culture and tradition, and allowing for the garnishment of wages of Tribal employees who are not in compliance with support obligations. These procedures are in the best interests of Indian families and Indian children who have a right and a need to receive required support.

1.02 Jurisdiction

The Nisqually Tribal Court shall have jurisdiction over cases arising under these procedures. The jurisdiction of the Tribal Court over persons and territory is limited only by federal law and the Constitution of the Nisqually Indian Tribe. The Tribal Court shall have the power to decide questions of jurisdiction which may be raised under these procedures.

1.03 Severability

If any part of these procedures or their application to any person or circumstance is held to be invalid, the remainder of these procedures or their application to other persons or circumstances shall not be affected.

Chapter 2.00 General Court Procedures

2.01 Form of Pleadings

All pleadings used in these procedures shall be in the form of the appendices attached hereto.

2.02 Hearings

(1) The provisions of the Nisqually Law and Order Code governing civil proceedings shall apply in all hearings held in accordance with these procedures. Any inconsistencies between the provisions of the Law and Order Code and these procedures shall be governed by these procedures.

2.03 Marital Communications Not Privileged

Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under these procedures.

Chapter 3.00 Child Support Enforcement

3.01 Initiating an Enforcement Action

(1) The Department may initiate a child support enforcement action in the Tribal Court when: (a) the dependent child, responsible parent or custodian works or resides within the exterior boundaries of the Nisqually Reservation; and (b) the custodian or dependent child has received public assistance on behalf of the child or has applied for support enforcement services with the Department.

(2) To initiate a child support enforcement action in Tribal Court the Department shall file with the Court:

- (a) Three copies of an Application for Order Accepting Child Support Order as a Judgment of the Nisqually Tribal Court. The Application shall include supporting documents (the original order, debt calculations, child support schedule worksheets, etc.).
- (b) Three copies of a Motion for Order to Show Cause.
- (c) A \$30.00 filing fee.

(3) Upon receipt of the Application and Motion for Order to Show Cause, the Court Clerk shall docket the case for the next available Court date and cause the Court to review the application to determine whether it sets forth facts from which it may be determined that the Responsible Parent owes a duty of support.

(4) If the Court finds there are facts from which it may be determined that the Responsible Parent owes a duty of support, the Court will schedule a hearing to be held within sixty (60) days of the filing date and issue an Order to Show Cause to the Responsible Parent.

3.02 Service of Order to Show Cause

(1) No later than twenty (20) days prior to the date set for hearing, the Department shall serve the responsible parent and all other necessary parties with copies of the following:

- (a) The Application for Order Accepting Child Support Order as a Judgment of the Nisqually Tribal Court with support documents;
- (b) The Motion for Order the Show Cause; and
- (c) The Order to Show Cause.

- (2) Service shall be made as follows:
- (a) In person, by utilization of Tribal law enforcement; or
 - (b) By sending a copy by certified mail, return receipt requested, and by regular mail.

3.03 Show Cause Hearing Disposition

After due consideration of all relevant evidence presented at the show cause hearing, the Court shall proceed as follows:

- (1) If the Court determines that the Application correctly states the amount of support owing and all procedural requirements have been met in Tribal Court and the underlying action, the Court shall issue an Order Accepting Child Support Order as Judgment of the Nisqually Tribal Court.
- (2) If the Court determines that the Application incorrectly states the amount of support owing or that procedural requirements have not been met, the Court shall deny the application.
- (3) If the Court determines that the Order is in need of prospective modification because of a defense based on Tribal custom, change of circumstances, or any other defense not barred by the doctrine of res judicata, the Court shall proceed as follows. Res Judicata shall not bar defenses based on tribal custom:
 - (a) If the original child support order is an order of the Tribal Court, or the parties consent to a modification of the child support order by the Tribal Court, the Court shall schedule a modification hearing to be held not later than thirty (30) days after the date of the show cause hearing. The Court shall notify the parties of the date, time and place set for hearing. For a consent to a modification to be valid, all necessary parties (including the State if the State has an interest in the case) must consent in writing.
 - (b) If the original child support order is not an order of the Tribal Court and the parties do not consent to a modification of the child support order, it shall deny the Application.
 - (c) The Court's power to modify the order is limited to the modification of the child support obligation. The Court may not revisit custody or visitation issues decided by the state court.
- (4) If the Court determines that there is a defense based on Tribal custom, and the parties do not consent to a modification of the child support order, the Court may, in the alternative to section 301(b), issue an order to enforce the State's order, applying Tribal custom. This order will not modify the state child support order but will apply for the purposes of collecting child support from the judgment debtor while he or she is within the

jurisdiction of the Tribal court. The determination of the Court will be binding on the State for the enforcement of support monies to be paid by the judgment debtor. When the judgment debtor is in full compliance with an existing Tribal court order and there is a pre-existing arrearage, or an arrearage that will accrue based on the difference between the original state order and the new Tribal court order, the Department will stay all other normal available collection remedies except for the Federal Income tax refund offset. The Department will also notify the credit bureau that a settlement has been reached and release any liens filed against the debtor's property. In the event that the Internal Revenue Service withholds a tax refund from an individual who is in full compliance with a Tribal court order, the debtor may request a hearing in Tribal court to determine whether the offset shall be released. Notice of this hearing shall be provided to the Department and all interested parties.

(5) The Court may order immediate wage withholding if the Court determines that there is a strong likelihood that the obligation will not otherwise be paid.

3.04 Modification of Order

After due consideration of all relevant evidence presented at the modification hearing, the Court shall proceed as follows:

- (1) When determining the support obligation, the Tribal Court shall consider the resources of both parents and the needs of the child(ren). The Tribal Court may establish a child support schedule to be used in calculating child support.
- (2) The Court shall also consider Tribal custom in determining the support obligation. Tribal custom considerations include, but are not limited to, the amount of non-monetary support (food, clothing, etc.) provided by the responsible parent, the amount of support, monetary and otherwise, provided by other members of the responsible parent's family, and the seasonal nature of the responsible parent's employment.
- (3) When specific information regarding the responsible parent's financial situation is not available, the Tribal Court shall impute the responsible parent's support obligation using demographic data specific to the Nisqually Indian Tribe.

3.05 Enforcement of Tribal Court Order

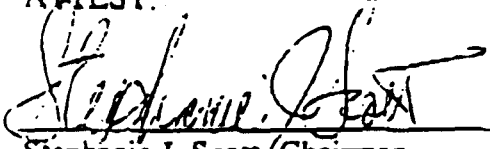
All child support obligations affirmed or established by the Tribal Court in accordance with these procedures shall be paid to the Washington State Support Registry. If the responsible parent is more than fifteen (15) days delinquent in paying the obligation and is employed by the Nisqually Tribe or a Nisqually Tribal enterprise, the Department may issue a Notice of Payroll Deduction without further notice to the responsible parent.

Income withholding for child support obligations has priority over any wage assignment, garnishment, attachment, or other legal process.

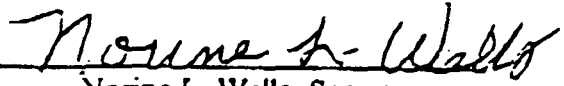
Certification

I certify that the above child support enforcement procedures were adopted at a regular meeting of the Nisqually Tribal Council held on the 9 day of July, 1997 on the Nisqually Indian Reservation, Washington, at which time a quorum was present and voting 5 FOR 2 AGAINST 0 ABSTENTIONS.

ATTEST:



Stephanie J. Scott, Chairman
Nisqually Indian Tribe



Norine L. Wells, Secretary
Nisqually Indian Tribe