

## TITLE 6. FAMILY RELATIONS

### CHAPTER 1. PURPOSE AND DEFINITION

6 M.P.T.L. ch. 1 § 1

#### § 1. Purpose and Definitions

a. The Mashantucket Pequot Tribe finds that the Tribe's interest over family relations is an integral part of tribal self-government and the Tribe's history and culture, that it is exceedingly important to the Tribe to support the preservation of families, that families thrive when they receive appropriate emotional and financial support, and that the lives of children and families improve by strengthening parental responsibility for family and child support. The Tribe encourages the development of tribal law and policies and procedures that protect and preserve the continuity of family and promote a uniform, efficient and equitable recognition and implementation of these responsibilities.

b. Unless otherwise stated or required by the context, the words and phrases used in this Law shall have the same meaning of words and phrases as defined in the Child Welfare Law, 5 M.P.T.L. ch. 1.

6 M.P.T.L. ch. 1 § 2

#### § 2. Jurisdiction over Family Relations

a. In addition to the jurisdiction of the family court authorized in the Child Welfare Law, 5 M.P.T.L. ch. 1, the family court shall have jurisdiction over all family relations matters affecting or involving a Tribal Member and: dissolution or annulment of a marriage; support; custody of a minor Child regardless of whether the parents are married or whether the minor Child resides or is domiciled on the Mashantucket Pequot Reservation; appointment and removal of guardians; all rights and remedies for establishing paternity; termination of parental rights; and all other matters within the jurisdiction of the tribal court concerning Children or family relations.

b. The family court shall have the authority to issue all orders necessary to ensure the welfare and safety of Children and families within the jurisdiction of the Tribe, including the issuance of subpoenas and orders of restriction, the imposition of fines and sanctions for contempt, and such other orders as may be appropriate.

c. The family court shall, pursuant to 28 U.S.C. § 1738B, recognize and enforce child support orders and may, under the principle of comity, recognize and enforce public records and other judicial decrees applicable to family relation matters of any court of competent jurisdiction as provided by this Law.

d. For the purposes of any investigation or pre-trial conference, the family court judge may employ the services of court personnel, or request

participation from the Mashantucket Pequot Child Protection Services, as well as the Tribe's medical and public health staff, as the Court deems necessary. Such family relations personnel shall also be available to assist in any probate matter.

e. In any family relations matter, the judge may retain jurisdiction thereof until its final disposition, as the court deems necessary.

6 M.P.T.L. ch. 1 § 3

### **§ 3. Investigations**

a. In any pending family relations matter, the judge may cause an investigation to be made with respect to any circumstance of the matter which may be helpful, material or relevant to the proper disposition of the case. Such investigation may include an examination of the parentage of any Child, the Child's age, habits and history, inquiry into the home conditions, habits and character of the Child's parents or guardians, and an evaluation of the Child's mental or physical condition.

b. In any action for dissolution of a marriage, such investigation may include an examination into the age, habits, family history of the parties, and the financial ability of the parties to furnish support to either the spouse or any dependent child.

c. Whenever an investigation has been ordered, the case shall not be disposed of until the report has been filed as hereinafter provided and counsel and the parties have had a reasonable opportunity to examine it prior to the time the case is to be heard. Any report of an investigation shall be filed with the court clerk and mailed to all counsel of record.

6 M.P.T.L. ch. 1 § 4

### **§ 4. Records and Hearing**

The court shall, upon the request of either party or counsel for any minor Child, or if the judge presiding over the case determines that the welfare of any Children involved or the nature of the case so requires, direct the hearing of any matter under this Law to be heard in chambers or in court from which the public and press have been excluded. The records and papers in any family relations matter shall be kept confidential and not open to inspection, except upon order of the court for good cause.

## **CHAPTER 2. RESTRAINING ORDERS**

**§ 1. Relief from Abuse by Family or Household Member**

- a. Any Family or Household Member who has been subjected to a threat of physical injury, stalking, or other abuse by another Family or Household Member may make an application to the tribal court for relief under this Section.
- b. "Family or Household Member" means (A) spouses, former spouses; (B) parents and their children; (C) persons eighteen years of age or older related by blood or marriage; (D) persons sixteen years of age or older other than those persons in subparagraph (C) presently residing together or who have resided together; (E) persons who have a child in common regardless of whether they are or have been married or have lived together at any time; and (F) persons in, or have recently been in, a dating relationship.

**§ 2. Court Orders, Duration**

- a. An application filed pursuant to § 1(a) shall be accompanied by an affidavit made under oath which includes a brief statement of the conditions from which relief is sought. If an applicant alleges an immediate and present physical danger to the applicant, the court may issue an Ex Parte Order granting such relief as it deems appropriate and schedule a hearing within the next five (5) calendar days. Otherwise, upon receipt of the application, the court shall order that a hearing on the application be held not later than ten (10) calendar days from the date of the order.
- b. If the applicant requests a postponement of a hearing on the application for a restraining order and the court grants it, any Ex Parte Order shall not be continued except upon agreement of the parties or by order of the court for good cause shown.
- c. In its discretion, the court may make such orders as it deems appropriate and necessary for the protection of the applicant and such dependent children or other persons as the court deems necessary. Such orders may include temporary child custody or visitation rights and such relief may include, but is not limited to, an order restraining the respondent from:
  - (1) imposing any restraint upon the person or liberty of the applicant;
  - (2) threatening, harassing, assaulting, molesting, or attacking the applicant; or
  - (3) entering the family home or the home of the applicant.
- d. Every order of the court made in accordance with this Section shall contain the following language: "Violation of this order constitutes a criminal offense punishable to the full extent of the law."

e. Upon the granting of an Ex Parte Order the court shall provide two certified copies of the order to the applicant. Upon the granting of an order after notice and hearing the court shall provide two certified copies of the order to the applicant and a copy to the respondent. The court shall send a certified copy of all restraining orders to the appropriate law enforcement agency within forty-eight (48) hours of its issuance.

6 M.P.T.L. ch. 2 § 3

**§ 3. Extension of an Order**

No order of the court shall exceed ninety (90) days except that an order may be extended by the court, upon the motion of the applicant, for additional time as the court deems necessary.

6 M.P.T.L. ch. 2 § 4

**§ 4. Service**

a. If the respondent resides or works on the Mashantucket Pequot Reservation, the tribal police shall serve notice of the hearing, a copy of the application, and any Ex Parte Order issued on the respondent not less than five (5) business days before the hearing.

b. If the respondent does not work or reside on the Mashantucket Pequot Reservation, the applicant shall cause such notice to be served on the respondent not less than five (5) business days before the hearing.

c. If the respondent has not appeared upon the initial application, service of a motion to extend an order may be made by certified or registered mail directed to the respondent at his or her last known address.

6 M.P.T.L. ch. 2 § 5

**§ 5. Contempt and Violation**

a. When a motion for contempt is filed for violation of a restraining order there shall be an expedited hearing. Such hearings shall be held within two (2) business days of service of the motion on the respondent, provided service on the respondent is made not less than twenty-four (24) hours before the hearing.

b. If the court finds the respondent in violation of an order, the court may impose such sanctions as the court deems appropriate.

c. An action under this Section shall not preclude the applicant from seeking any other civil or criminal relief.

**CHAPTER 3. MARRIAGES**

**§ 1. Governing Law**

Upon enactment of this law or any amendment thereto, the provisions herein shall govern all matters relating to the performance of marriages on the Mashantucket Pequot Reservation.

**§ 2. Authority to Perform Marriages**

a. Persons Authorized to Perform Marriages. Mashantucket Pequot Tribal officials authorized to join persons in marriage include Tribal Council Members, former Tribal Council Members, the Chair or Vice Chair of the Elders Council, and other officiators who are certified by the Tribal Clerk as having the authority to perform marriages on the Mashantucket Pequot Reservation pursuant to this Law.

b. Qualifications of Officiators. Persons authorized to perform marriages, other than Tribal officials, shall meet the following qualifications:

- (1) if a Mashantucket Pequot Tribal member, be in good standing with the Tribe, and ordained or licensed and in good standing with his or her religious affiliation, which affiliation is recognized by a state, tribe or other jurisdiction within the United States, or licensed to perform marriages under the laws of a state, tribe or other jurisdiction within the United States.
- (2) if not a Mashantucket Pequot Tribal member, be ordained or licensed and in good standing with his or her religious affiliation, which affiliation is recognized by a state, tribe or other jurisdiction within the United States, or licensed to perform marriages under the laws of a state, tribe or other jurisdiction within the United States.
- (3) if an official from a federally-recognized Indian tribe, other than the Mashantucket Pequot Tribal Nation, the person must be authorized to perform marriages under the laws of a federally-recognized Indian tribe.

c. Application. Qualified officiators, other than Mashantucket Pequot Tribal officials under Section 2(a) of this Chapter, seeking authority to perform marriages on the Mashantucket Pequot Reservation shall file an application with the Tribal Clerk and certify his or her familiarity with the Tribal Law, in particular, 6 M.P.T.L. ch. 3, and shall submit such application and a seventy five dollar (\$75.00) application fee to the Tribal Clerk. Officiators shall update any changes to their personal information, or information regarding his or her good standing with his or her religious affiliation or jurisdiction of licensure with the Tribal Clerk within thirty (30) calendar days of the change or five (5) calendar days prior to performing a marriage on the Reservation, whichever occurs sooner.

d. Certification Procedure.

- (1) Upon review and determination that the qualifications have been satisfied and the application is in order, the Tribal Clerk shall certify the application and administer the Oath of office to the Officiator.
- (2) Each Officiator, after taking the Oath, shall furnish his or her signature to the Tribal Clerk upon a certificate prescribed and provided by the Tribal Clerk, provided that failure to take the Oath or to furnish a signature to the Tribal Clerk shall disqualify such person from performing marriages on the Mashantucket Pequot Reservation.
- (3) The Tribal Clerk shall keep a record of the names of Officiators having been certified as having the authority to perform marriages pursuant to this Law.
- (4) The Tribal Clerk shall transmit a copy of the certificate to the Officiator.
- (5) The certificate shall be sufficient evidence that the Officiator is duly authorized to perform marriages on the Mashantucket Pequot Reservation and Officiators shall cause the certificate to be displayed to any person who seeks his or her service to marry.
- (6) Such certification shall be valid for a period of three (3) years, at which time the Officiator may renew his or her certification providing that he or she remains in good standing with the Tribe and with his or her religious affiliation or the jurisdiction in which he or she is licensed.

e. Authority of Tribal Officials and Officiators.

- (1) Tribal Officials and Officiators may perform marriages on the Mashantucket Pequot Reservation provided that persons being married have obtained a tribal marriage license pursuant to this Law.
- (2) Tribal Officials and Officiators may accept a modest gift or remuneration for their services, but shall not perform such services for profit or commercial purposes.

6 M.P.T.L. ch. 3 § 3

**§ 3. Marriage License Required**

a. Two persons may be joined in marriage on the Mashantucket Pequot Reservation provided that:

- (1) both applicants have attained the age of 18 years;
- (2) both applicants have complied with the license requirements of this law;

- (3) neither applicant is married;
- (4) the marriage is performed by an authorized Tribal Official or Officiator pursuant to tribal law;
- (5) the marriage is not between a person and such person's parent, grandparent, child, grandchild, sibling, parent's sibling, sibling's child, stepparent, or stepchild; and
- (6) neither applicant is under the supervision or control of a conservator or, if under said supervision and control, the conservator provides written consent to such marriage.

6 M.P.T.L. ch. 3 § 4

#### **§ 4. Requirements for Issuance of Marriage License**

a. The Tribal Clerk shall issue a marriage license when both applicants have appeared before the Clerk, applied for a license, and provided the requisite information as provided in this Law. The application shall be dated, signed and sworn to, or affirmed by, each applicant. In the event that the applicants submit applications separately, the first dated application shall be deemed the date of the application and the license shall be valid for sixty-five(65) calendar days from the date of application.

b. The application shall state each applicant' name, age, tribal affiliation (if any), address, birth place, marital status (including whether divorced, annulled or widowed and proof of that status), conservatorship or guardianship status, if any; and both applicants shall submit proof of identification as required by the Tribal Clerk. Any person who intentionally provides false information may be subject to the full penalties provided by Tribal law.

c. Marriage license applications and copies of the marriage license shall be filed with the Tribal Clerk as part of the official records of the Tribe, and a duplicate original marriage license shall be given to the married parties. Certified copies of a marriage license may be obtained from the Tribal Clerk for a fee as established in 41 M.P.T.L. ch. 2 § 5(b). The Tribal Clerk may also charge a reasonable fee for certified copies of any other records held by the Tribal Clerk; provided that the Tribal Clerk shall publish a schedule for any such fees charged.

6 M.P.T.L. ch. 3 § 5

#### **§ 5. Marriage Certificate**

The person who joins any persons in marriage shall certify upon the marriage license certificate the fact, time and place of the marriage, and return it to the Tribal Clerk for filing within ten (10) business days of the marriage ceremony.

6 M.P.T.L. ch. 3 § 6

**§ 6. Recognition of Marriages Performed off the Reservation**

All marriages celebrated off of the Mashantucket Pequot Reservation shall be recognized as valid pursuant to Tribal law, provided the marriage was legal in the jurisdiction where celebrated and consistent with Tribal customs and policy.

6 M.P.T.L. ch. 3 § 7

**§ 7. Validation of Marriages Performed**

All marriages performed on the Mashantucket Pequot Reservation prior to June 1, 2002, pursuant to a state marriage license, are hereby recognized as valid pursuant to Tribal law.

**CHAPTER 4. DISSOLUTION OF MARRIAGE AND ANNULMENT**

6 M.P.T.L. ch. 4 § 1

**§ 1. Jurisdiction**

a. The tribal court shall have jurisdiction over all complaints seeking a decree of dissolution of marriage or annulment, provided that at least one party to the action is a member of the Tribe.

b. Whenever the requirements of subsection (a) are met and one (1) party to the action resides out of, or is absent from, the Mashantucket Pequot Reservation, or that person's whereabouts are not known, the judge may issue an order requiring notice to that party, as he deems reasonable. After the notice has been given and proved to the court, the court may hear the complaint if it finds that the absent party has received actual notice that the complaint is pending. If it appears that the absent party has not received or has refused to accept such notice, the court may hear the case, provided that, if it finds cause, the court may order such further notice to be given as it deems reasonable and continue the complaint until the order is complied with.

6 M.P.T.L. ch. 4 § 2

**§ 2. Grounds for Dissolution of Marriage or Annulment**

a. A marriage is dissolved only by the death of one of the parties or by a decree of dissolution of marriage. A decree of dissolution of marriage shall be granted upon a finding that the marriage has broken down irretrievably.



b. An annulment shall be granted if the marriage is void or voidable under the laws of the Tribe or of the state in which the marriage was performed.

6 M.P.T.L. ch. 4 § 3

**§ 3. Service and Filing of Complaint**

A proceeding for dissolution of marriage or annulment shall be commenced by the filing and service of a complaint in the tribal court.

6 M.P.T.L. ch. 4 § 4

**§ 4. Private Hearing**

When necessitated by the interests of justice and the persons involved, the court shall, upon its own motion or a motion of either party or of counsel for any minor Child, direct the hearing of any matter under this part to be private, and thereupon shall exclude all persons except the officers of the court, the court reporter, their witnesses, and counsel.

6 M.P.T.L. ch. 4 § 5

**§ 5. Stipulation of Parties and Finding of Irretrievable Breakdown**

a. In any action for dissolution of marriage, the court shall make a finding that a marriage breakdown has occurred where the parties, and not their attorneys, execute a written stipulation that their marriage has broken down irretrievably or, where both parties are physically present in court, stipulate that their marriage has broken down irretrievably, and the parties have submitted an agreement concerning the custody, care, education, visitation, maintenance or support of their children, if any, and concerning spousal support and the disposition of property.

b. The testimony of either party in support of that conclusion shall be sufficient.

c. In any case in which the court finds, after hearing, that a cause enumerated in Section 2 of this Chapter exists, the court shall enter a decree dissolving the marriage or granting an annulment.

6 M.P.T.L. ch. 4 § 6

**§ 6. Waiting Period**

a. Ninety (90) days following the service of the complaint for dissolution of marriage, or after six months, where proceedings have been stayed under Section 7(b), the court may proceed on the complaint, the case may be heard, and a decree granted thereon.

b. Nothing herein shall prevent any interlocutory proceeding within the ninety (90) day period; nor shall the 90-day or the six-month period apply in actions for annulment.

6 M.P.T.L. ch. 4 § 7

**§ 7. Conciliation Period**

a. On or after the answer to the complaint seeking the dissolution of a marriage is filed and prior to the expiration of the ninety (90) day period specified in Section 6 of this Chapter, either spouse may submit a request for conciliation to the court. The court shall thereafter enter an order that the parties meet with a conciliator mutually acceptable to them or, if the parties cannot agree as to a conciliator, with a conciliator named by the court. The conciliator shall be a person experienced in marriage counseling.

b. Within such ninety (90) day period or within 30 days of the request, whichever is later, there shall be two mandatory consultations with the conciliator by each party to explore the possibility of reconciliation or of resolving the problems which might lead to continuing conflicts following the dissolution of the marriage. Failure of either party to attend these consultations, except for good cause, shall preclude further action on the complaint for six months from the date the answer was filed; provided the court may terminate such stay upon motion of either party and for good cause shown. Further consultations may be held with the consent of both parties.

c. All communications during these consultations shall be absolutely privileged, except that the conciliator shall report to the court whether or not the parties attended the consultations.

d. The reasonable fees of the conciliator shall be paid by one or both of the parties as the court directs.

e. The court may establish a registry of mediation services as a reference to parties filing for dissolution of marriage to address property, financial, Child custody, and visitation issues.

6 M.P.T.L. ch. 4 § 8

**§ 8. Restoration of Former Name**

At the time of entering a decree dissolving a marriage or granting an annulment, or any time after entering such a decree, the court shall, upon the request or motion of the spouse whose name is to be changed, restore the birth name or former name of such spouse.

6 M.P.T.L. ch. 4 § 9

**§ 9. Review of Agreements; Incorporation into Decree**

a. In any case under this Law where the parties have submitted to the court an agreement concerning the custody, care, education, visitation, maintenance or support of any of their Children or concerning spousal support or the disposition of property, the court shall inquire into the financial resources and actual needs of the spouses and their respective fitness to have physical custody of or rights of visitation with any minor Child, in order to determine whether the agreement of the spouses is fair and equitable under the circumstances.

b. If the court finds the agreement fair and equitable, it shall become part of the court file, and if the agreement is in writing, it shall be incorporated by reference into the order or decree of the court.

c. If the court finds that the agreement is not fair and equitable, it shall make such orders as to finances and custody as the circumstances require.

d. If the agreement is in writing and provides for the care, education, maintenance or support of a Child beyond the age of 18, it may also be incorporated or otherwise made a part of any order and shall be enforceable to the same extent as any other provision of such order or decree.

6 M.P.T.L. ch. 4 § 10

**§ 10. Effect of Decree**

A decree of annulment or dissolution shall give the parties the status of unmarried persons and they may marry again.

6 M.P.T.L. ch. 4 § 11

**§ 11. Notice of Court Decrees**

The court clerk shall, on or before the 15th day of each month, file a notice with the Tribal Clerk of each dissolution or annulment of marriage granted in the preceding month, stating the names and addresses of the parties to the marriage, the date of granting of the dissolution or annulment, and any name

change granted by the court. Before a final decree is entered, the parties or their attorneys shall supply the court clerk with such information as is necessary to complete the notice.

## **CHAPTER 5. CHILD CUSTODY**

6 M.P.T.L. ch. 5 § 1

### **§ 1. Jurisdiction**

a. The family court shall have jurisdiction over all actions concerning the care and custody of minor Children provided that at least one party to the action is a member of the Tribe.

b. The family court shall have jurisdiction under §1(a) of this Chapter regardless of whether the parents of the minor Child are married or the minor Child resides, or is domiciled, on the Mashantucket Pequot Reservation.

6 M.P.T.L. ch. 5 § 2

### **§ 2. Legal Counsel for Minor Children**

a. The court may appoint legal counsel for any minor Children of the parties at any time after the answer is filed in a dissolution of marriage, annulment, or child custody matter, if the court deems it to be in the best interest of the Child or Children. The court may appoint legal counsel on its own motion, the recommendation of MPTN's Child Protection Services, at the request of either of the parties or of the legal guardian of any Child, or at the request of any Child who is of sufficient age capable of making an intelligent request. The reasonable fees of the appointed legal counsel shall be paid by one or both of the parties as the court directs.

b. Notwithstanding subsection (a), in any case before the court where it finds that the custody, care, education, visitation, or support of a minor Child is in actual controversy, the court may make any order regarding the matter in controversy prior to the appointment of counsel where it finds immediate action necessary in the best interest of any Child.

c. Counsel for the Child or Children shall be heard on all matters pertaining to the interest of any child so long as the court deems such representation to be in the best interest of the Child.

6 M.P.T.L. ch. 5 § 3

**§ 3. Orders Regarding Custody and Care of Minor Children**

- a. In any controversy before the court as to the care or custody of a minor Child, and at any time after an answer is filed in response to any complaint under this Chapter, the court may make or modify any proper order regarding the education, support care, custody, and visitation of the Child. Orders pertaining to the care and custody of the Child may include directives to ensure that the Child's cultural identity and heritage are preserved.
- b. The court may assign the custody of any Child to the parents jointly, to either parent, or to a third party, according to its best judgment upon the facts of the case and subject to such conditions and limitations as it deems equitable. The court may also make any order granting the right of visitation of any Child to a third party, including, but not limited to, grandparents.
- c. In making or modifying any order with respect to custody, care, or visitation, the court shall be guided by the best interests of the Child, giving consideration to the wishes of the Child of sufficient age and maturity; and, the circumstances, if relevant, of the parents.
- d. Where the parents of a minor Child live separately, regardless of whether they are married to each other, the court may, on the petition of either party and after notice given to the other, make any order as to the custody, care, education, visitation, and support of any minor Child of the parties.
- e. In determining whether a Child is in need of support and, if so, the respective abilities of the parents to provide support, the court shall take into consideration all the factors enumerated in Section 4 of Chapter 6 of this Law.
- f. A parent not granted custody of a minor Child shall not be denied the right of access to the academic, medical, hospital or other health records of such minor Child unless otherwise ordered by the court for good cause shown.

6 M.P.T.L. ch. 5 § 4

**§ 4. Joint Custody**

- a. For the purposes of this Section, "joint custody" means an order awarding legal custody of the minor Child to both parents, providing for joint decision-making by the parents and providing that physical custody shall be shared by the parents in such a way as to assure the Child of continuing contact with both parents. The court may award joint legal custody without awarding joint physical custody.
- b. There shall be a presumption that joint custody is in the best interests of a minor Child where the parents have agreed to an award of joint custody or so agreed in court at a hearing for the purpose of determining the custody of the minor Child. If the court declines to enter an order awarding joint custody

pursuant to this Section, the court shall state in its decision the reasons for denial of an award of joint custody.

6 M.P.T.L. ch. 5 § 5

**§ 5. Non-Parent Custody**

a. In any dispute as to the custody of a minor Child involving a parent and a non-parent, there shall be a presumption that it is in the best interests of the Child to be in the custody of the parent, which presumption may be rebutted by showing that it would be detrimental to the Child to permit the parent to have custody.

b. In any proceeding as to the custody of a minor Child, and on any complaint under this Chapter, the court may allow a third party with a significant interest in the matter to intervene upon motion. The court may award full or partial custody, care, education, and visitation rights of such Child to such third party upon such terms and conditions as it deems to be in the best interests of the Child.

6 M.P.T.L. ch. 5 § 6

**§ 6. Visitation Rights**

a. The court may grant the right of visitation of any Child or Children to any person, upon an application of such person if the court finds that it is in the best interests of the Child. Such order shall be according to the court's best judgment based upon the facts of the case and subject to such conditions and limitations as it deems equitable, provided the granting of such visitation rights shall not be contingent upon any order of financial support by the court.

b. Visitation rights granted in accordance with this Section shall not be deemed to have created parental rights in the person to whom such visitation rights are granted.

6 M.P.T.L. ch. 5 § 7

**§ 7. Orders Regarding Children and Support in Annulment Cases**

In any petition for annulment, the court may make such order regarding any child of the marriage and concerning any support as it might make in an action for dissolution of marriage. The Child of any void or voidable marriage shall be deemed legitimate.

## CHAPTER 6. SUPPORT OF CHILD AND/OR SPOUSE

6 M.P.T.L. ch. 6 § 1

### § 1. Support and Use of Family Home Pending Decree

During the pendency of any complaint or petition under this Law, and after a hearing duly held, the court may award alimony and/or support to either party from the date of filing an application thereof with the court. In determining the award, the court shall consider the factors enumerated in Sections 2, 3, and 4 of this Chapter. The court also may award exclusive use of the family home to either of the parties, provided that a non-tribal member spouse may be awarded use of tribal housing only when such party also has been given custody of any minor tribal member children during their minority, and provided further that such use shall be in accordance with Tribal Housing Authority's policies and regulations.

6 M.P.T.L. ch. 6 § 2

### § 2. Assignment of Property

a. At the time of entering a decree dissolving or annulling a marriage, the court may assign to either party all or any part of the estate of the other. The court may require that title to any non-trust real property pass to either party or may order the sale of such non-trust real property when, in the court's judgment, it is the proper mode to carry the decree into effect.

b. In determining the nature and value of the property, if any, to be assigned, the court, after hearing the evidence and witnesses, shall consider the following factors:

- (1) the length of the marriage;
- (2) the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties;
- (3) the opportunity of each for future acquisition of capital assets and income;
- (4) and the tribal interests, if any, in such property.
- (5) The court shall also consider the contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates.

**§ 3. Alimony**

a. At the time of entering the decree dissolving or annulling a marriage, the court may order either party to pay alimony to the other, in addition to or in lieu of an award pursuant to Section 2 of this Chapter.

b. In determining whether alimony shall be awarded and the duration and amount of the award, the court shall hear the evidence and witnesses, if any, of each party, and, except as provided in any approved stipulation, shall consider the following factors:

- (1) the length of the marriage;
- (2) the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties;
- (3) and the award, if any, which the court may make pursuant to Section 1 of this Chapter;
- (4) the tribal interests, if any, in the source of income;
- (5) and, in the case of a parent to whom the custody of minor Children has been awarded, the desirability of such parent securing employment.

**§ 4. Parents' Obligation for Support of Minor Child**

a. Upon, or subsequent to, entering the decree dissolving a marriage, annulling a marriage, and/or award of custody, the court may order the parent(s) of a minor Child to financially support the Child according to their respective abilities, if the Child is in need of such financial support.

b. In determining whether a Child is in need of financial support, and if in need, the respective abilities of the parents to provide such support and the amount and duration thereof, the court shall consider the following factors:

- (1) the age, health, earning capacity, amount and sources of income, vocational skills, employability of each of the parents;
- (2) the age, health, educational status and expectation, , and other needs of the Child; and
- (3) any tribal interests in or benefits available to either of the parents or minor Child, including, but not limited to, health care and education.

c. In making its determination of financial support for a minor Child, the court shall be guided by the State of Connecticut's Child Support and Arrearage Guidelines. If the court deviates from the Child Support and Arrearage



Guidelines, the court shall make a specific finding on the record that the application of the guidelines would be inequitable or inappropriate.

d. The court shall make and enforce the decree for the financial support of the Child as it considers just. The court may order either parent to name any minor Child as a beneficiary of any medical or dental or benefit plan carried by such parent or available to such parent on a group basis through employment.

e. Whenever an obligor is before the court in proceedings to establish, modify, or enforce a support order, and such order is not secured by a wage assignment or garnishment, the court may require the obligor to execute such wage and earning assignment.

6 M.P.T.L. ch. 6 § 5

#### **§ 5. Modification of Alimony or Support Orders and Judgments**

a. Unless and to the extent that the decree precludes modification, any final order for the payment of periodic alimony or financial support for a minor Child may at any time thereafter be modified by the court upon a showing of a significant change in the circumstances of either party. In determining whether to modify a child support order, the court shall consider the division of real and personal property between the parties set forth in the final decree, if any, and the benefits accruing to the Child as a result of such division.

b. In an action for dissolution or annulment of marriage in which a final judgment has been entered providing for the payment of alimony by one party, the court may, in its discretion and upon notice and hearing, modify, suspend, reduce or terminate such alimony if it is shown that the party receiving alimony is living under circumstances which the court finds has resulted in a change of circumstances that has significantly altered the financial needs of that party.

c. No order for periodic payment of child support or alimony may be subject to retroactive modification, except that the court may order modification with respect to any period during which there is a pending motion for modification from the date of service of notice of such pending motion upon the opposing party.

6 M.P.T.L. ch. 6 § 6

#### **§ 6. Contempt Orders**

When any person is found in contempt of an order of the court, the court may award to the petitioner a reasonable attorney's fee and the fees of the officer serving the contempt citation, such sums to be paid by the person found in contempt. The costs of commitment of any person imprisoned for contempt of court by reason of failure to comply with such an order shall be paid by the Tribe.

## CHAPTER 7. PATERNITY PROCEEDINGS

6 M.P.T.L. ch. 7 § 1

### § 1. Determination of Paternity and Support

The Mashantucket Pequot Family Court shall have jurisdiction over all suits brought to determine the paternity of a child, provided that the putative father is a Tribal Member. A judgment of the court establishing the identity of the father of the child shall be conclusive of that fact in all subsequent determinations of support and inheritance.

6 M.P.T.L. ch. 7 § 2

### § 2. Proceedings

a. Paternity proceedings are commenced by filing a complaint alleging that the person named as therein is the father of the child and petitioning the court to issue an Order of Paternity.

b. An action under this Chapter may be brought by any person having an interest in the matter or by the tribal prosecutor in the name of the Mashantucket Pequot Tribe.

c. The court shall schedule a hearing on the matter, which shall be closed to the public.

d. The testimony of both the mother and putative father shall be solicited in connection with such proceeding.

6 M.P.T.L. ch. 7 § 3

### § 3. Blood Tests

a. In any proceeding in which a question of paternity is an issue, the court, upon motion of any party, may order the mother, her child, and the putative father or the husband of the mother to submit to one or more blood grouping tests, to be made by a qualified physician or other qualified person designated by the court, to determine whether or not the putative father or husband of the mother can be excluded as being the father of the child. The results of such tests shall be admissible in evidence only in cases where such results establish definite exclusion of the putative father or such husband as the father of the child.

b. In any proceeding in which a question of paternity is an issue, the court, upon motion of any party, may order genetic tests, which shall mean human leukocyte antigen tests, or DNA tests, to be performed, unless a putative father or husband has been excluded by prior blood grouping tests. Such tests shall be made by a hospital, accredited laboratory, qualified physician, or

other qualified person designated by the court, to determine whether or not the putative father or husband is the father of the child. The results of such tests shall be admissible in evidence to establish either definite exclusion of the putative father or husband, or as evidence that he is the father of the child.

c. The costs of the blood tests shall be chargeable against the party making the motion.

6 M.P.T.L. ch. 7 § 4

#### **§ 4. Presumption of Paternity**

A rebuttal presumption of paternity exists where one or more of the following factors are present:

a. the child is born during the marriage of the parties or within three hundred (300) days of the termination of the marriage;

b. the child is born to parties who attempted to marry but whose marriage is or could be declared void;

c. the child is born to parties who have married or attempted to marry after the child's birth and the putative father has (i) acknowledged paternity in writing, (ii) consented to be named as the father on the child's birth certificate, or (iii) been ordered to pay child support;

d. the putative father has openly held out the child as his natural child; or

e. the putative father has signed a written acknowledgement of paternity.

6 M.P.T.L. ch. 7 § 5

#### **§ 5. Judgment and Order of the Court**

a. If the putative father is found to be the biological father of the child, the court shall make an Order of Paternity.

b. The court may order the father of the child to stand charged with the support and maintenance of such child, with the assistance of the mother if she is financially able, as the court finds, in accordance with the child support provisions of this Law.

6 M.P.T.L. ch. 7 § 6

#### **§ 6. Acknowledgment of Paternity**

In lieu of or in conclusion of a paternity proceeding, the written acknowledgement of paternity executed by the putative father of the child when accompanied by an attested waiver of the right to a hearing and the right to an

attorney, and a written affirmation of paternity executed and sworn or affirmed to by the mother of the child and filed with the court, shall have the same force and effect as a judgment of the court.

6 M.P.T.L. ch. 7 § 7

**§ 7. Agreement to Support**

a. In conclusion of a paternity proceeding, or in lieu of a contested support hearing, a written acknowledgment of support of the child in accordance with Tribal child support procedures under this Law, together with provisions for any reimbursement for past due support based on ability to pay, and any reasonable expense of prosecution of the petition and such acknowledgment shall have the same force and effect, retroactively or prospectively in accordance with such agreement as an order of support by the court.

b. Wage executions and earning assignments in accordance with the tribal child support procedures under this Law shall be available in paternity proceedings.

6 M.P.T.L. ch. 7 § 8

**§ 8. Registration and Enforcement of Foreign Paternity Judgments**

a. Any party to an action in which a paternity judgment from another jurisdiction was rendered may register the foreign paternity judgment in the court without payment of a filing fee or other cost to the party. The court shall maintain a registry of paternity judgments from other jurisdictions.

b. The party shall file a certified copy of the foreign paternity judgment and a certification that such judgment is final and has not been modified, altered, amended, set aside, or vacated and that the enforcement of such judgment has not been stayed or suspended. Such certificate shall set forth the full name and last known address of the other party to the judgment.

c. Such foreign paternity judgment so registered shall become a judgment of the Mashantucket Pequot Tribal Court and shall be enforced and otherwise treated in the same manner as a judgment of the court.

d. Within five (5) business days of the filing of the judgment and certification, the party filing such judgment and certification shall notify the other party to the paternity action of the filing of such judgment by registered or certified mail to the party's last known address or by personal service. The court shall not enforce any such foreign paternity judgment until proof of service has been filed with the court.

## CHAPTER 8. EMANCIPATION

6 M.P.T.L. ch. 8 § 1

### § 1. Petition and Summons

a. Any minor Child who has attained the age of sixteen (16) years may petition the court for a determination that he be emancipated. The petition for emancipation shall set forth with specificity:

- (1) the name, sex, date and place of birth, present address and tribal affiliation of the minor Child;
- (2) the names, dates of birth, addresses, and tribal affiliation of the minor Child's parents or guardian;
- (3) the facts upon which emancipation is sought, and the basis for the court's jurisdiction.

b. Upon the filing of the petition, the court shall cause a notice to be issued to the minor Child and the minor Child's parents or guardian.

6 M.P.T.L. ch. 8 § 2

### § 2. Hearing

a. Upon the filing of a petition for emancipation, the court shall set a time for hearing the petition. The time for the hearing shall not be more than thirty (30) calendar days after the filing of the petition.

b. The court shall cause a notice of the hearing to be given to the minor Child, the parents or guardian of the minor Child; or any other person whom the court deems appropriate. The notice shall state that the minor Child seeking emancipation has the right to be represented by counsel.

c. Notice of the hearing and a copy of the petition, certified by the petitioner or his attorney or the court clerk, shall be served at least ten(10) business days before the date of the hearing by personal service on the persons enumerated in subsection (b) of this Section. If personal service cannot be reasonably effected or the address of any person is unknown, a judge or court clerk shall order notice to be given by registered or certified mail, return receipt requested, or if no such address is known, in a newspaper of general circulation in the region where the court is located.

d. Notice and appearance may be waived by a parent in writing before the court, provided that such parent has been apprised by the court of the meaning and consequences of the emancipation action. The parent who has executed such a waiver shall not be required to appear at the subsequent hearing.

**§ 3. Conduct of Hearing; Investigation and Report**

a. At the hearing held on the petition for emancipation, any party to whom notice was given shall have the right to appear and be heard with respect to the petition. If a parent who is consenting to the emancipation appears at the hearing, the court shall explain to the parent the meaning and consequences of emancipation.

b. Upon finding at the hearing or at anytime during the pendency of the petition that reasonable cause exists to warrant an investigation into the circumstances upon which emancipation is sought, the court may request Child Protective Services (CPS), as the court deems necessary, to make an investigation and written report to the court within forty-five(45) calendar days from receipt of such request. The report shall indicate the physical, mental and emotional, and financial condition of the minor Child and shall contain such facts as may be relevant to determine whether the proposed emancipation will be in the best interests of the minor child.

c. If such a report is requested, the court shall schedule a hearing on the results of the investigation not more than thirty (30) days from the date of the expiration of the forty-five (45) day time period or receipt of the report, whichever is earlier. The court shall give reasonable notice of the investigation hearing to all parties to the first hearing at least ten (10) days before the date of the investigation hearing.

d. The report shall be admissible in evidence, subject to the right of any interested party to require that the Director of CPS or other person who drafted the report appear as a witness and subject himself or herself to examination.

e. At either the hearing on the investigation or the first hearing, if no investigation and report has been requested, the court may approve the petition for emancipation if it finds that emancipation is in the best interests of the minor Child.

f. If the court denies a petition for emancipation, it may refer the matter to CPS to assess the needs of the minor Child.

**§ 4. Order and Effect of Emancipation**

a. The court shall make written findings in determining whether emancipation would be in the best interests of the minor Child. The court shall thereafter enter an order declaring the minor Child emancipated if the court finds that:

- (1) emancipation is in the best interests of the minor Child;
- (2) the minor Child has entered into a valid marriage or is on active duty with the armed forces of the United States of America; or

(3) the minor Child willingly lives separate and apart from his parents or guardian, with or without their consent, and that the minor Child is managing his own financial affairs, regardless of the source of any lawful income.

b. An order that a minor Child is emancipated shall have the following effects: the minor Child shall be free of control by his parents or guardian; the minor Child may consent to medical, dental, or psychiatric care without parental consent, knowledge, or liability; the minor Child shall be entitled to his own earnings and to establish his own residence; the minor Child may enter into a binding contract, buy and sell real and personal property, execute releases, sue and be sued in his own name; the minor Child shall be deemed eligible to secure a marriage license, register a motor vehicle, and enlist in the armed services of the United States of America; the minor Child may not thereafter be the subject of a petition as a neglected, abused, dependent or uncared for minor Child; the parents of the minor Child shall no longer be the guardians of the minor Child and shall be relieved of any obligations respecting the minor Child's school attendance and support; and the minor Child shall be emancipated for the purposes of parental liability for the minor Child's acts.

c. An order that a minor Child is emancipated shall not change the minor Child's eligibility for tribal housing and incentive benefits or other tribal benefits as determined by tribal law or policy.

## **CHAPTER 9. RECOGNITION AND ENFORCEMENT OF FOREIGN SUPPORT ORDERS**

6 M.P.T.L. ch. 9 § 1

### **§ 1. Definitions**

The following words and phrases are defined as follows:

a. "Child" means an individual, whether over or under the age of majority, who is owed or alleged to be owed a duty of support by the individual's parent or who is alleged to be a beneficiary of an income withholding order directed to the parent.

b. "Court" means a court, administrative agency, or a quasi-judicial entity, or a Native American traditional dispute resolution forum authorized to establish, enforce, or modify support orders or to determine paternity, and which maintains a reviewable record of its proceedings.

c. "Dependent" means a spouse, former spouse, or child entitled to payments under a judgment or support order.

d. "Disposable Income" means that part of the income of an individual remaining after deduction from that income of amounts required to be withheld for the payment of federal, state and local income taxes, employment taxes, retirement contributions, group life and health insurance premiums.

e. "Duty of Support" means an obligation imposed or imposable by law to provide support for a child or dependent.

f. "Foreign Support Order" means any judgment, decree or order of a court of competent jurisdiction of any state or federally-recognized Indian tribe in any family relations matter involving the paternity, custody, care, education, visitation, maintenance, support of a child or dependent, or the disposition of property of the parties to an existing or terminated marriage, in which both parties have entered an appearance.

g. "Income" means any periodic form of payment due to an individual from any source, including, but not limited to, earnings, workers' compensation and disability benefits, or payments pursuant to a pension or retirement program.

h. "Income Withholding Order" means an order or other legal process directed to an Obligor's employer or payer to withhold support from the income of the Obligor.

i. "Issuing Court" means the court which issues an income withholding order or renders a judgment determining paternity.

j. "Obligor" means an individual, or the estate of a decedent, who owes a duty of Support

k. "Payer" means the Mashantucket Pequot Tribe, its enterprises, governmental divisions or departments thereof, including the Mashantucket Pequot Gaming Enterprise, but does not include any entity established under the laws of any state.

l. "Request for Information" means information requested by a Court to be used in the calculation or enforcement of a Support Order. m. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

n. "Support" means monetary support, health care, arrearages, or reimbursement and may include related costs and fees, interest, attorney's fees, and other relief for the benefit of a child.

o. "Support Order" means a court order, judgment, or decree, including an agreement approved by the court that requires payment to a child or dependent from the income of the Obligor.

6 M.P.T.L. ch. 9 § 2

## **§ 2. Request for Information**

a. Upon receipt of Request for Information, the Payer shall provide a copy of the request to the Obligor within three (3) business days of receipt.

b. The Payer shall complete the employment-related sections on the Request for Information and return it to the Office of Legal Counsel, which will ensure it is returned to the proper Court.



**§ 3. Recognition of Foreign Support Orders**

a. The Mashantucket (Western) Pequot Tribe hereby recognizes a foreign support judgment, and a support or income withholding order issued by a court of another tribe or State provided that such judgment or order does not contravene the public policy of the Tribe. Any party to an action in which a foreign support judgment, or support or income withholding order has been rendered may send such judgment or order to the Department of Finance of the Obligor's Payer without filing or registering the judgment or order in the tribal court, and such Payer shall withhold against the disposable income of the Obligor and distribute the funds as directed in the order.

b. Such Foreign Support Order shall not be modified or altered unless the court has jurisdiction, which shall be determined according to 12 M.P.T.L. ch. 1, § 1, the Mashantucket Pequot Civil Actions law, and 28 U.S.C. § 1738B, the Full Faith and Credit for Child Support Orders Act.

**§ 4. Employer/Payer's Compliance**

a. Upon receipt of an Income Withholding Order, the Obligor's Payer shall immediately provide a copy of the order to the Obligor.

b. The Payer shall withhold against the Obligor's disposable income and distribute the funds as directed in the Income Withholding Order by complying with the terms of the Order which specify:

- (1) the duration and amount of periodic payments of current support or other obligation, stated as a sum certain;
- (2) the person or agency designated to receive payments and the address to which the payments are to be forwarded;
- (3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the Obligor to provide health insurance coverage for the child or dependent;
- (4) the amount of periodic payments of fees and costs for a support enforcement agency, court or state, and attorney, stated as sums certain; and
- (5) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

6 M.P.T.L. ch. 9 § 5

**§ 5. Maximum Amount of Withholding. Time Periods. Priority of Multiple Orders**

In determining the maximum amount permitted to be withheld from the Obligor's Disposable Income for any time period which is subject to an Income Withholding Order, the time periods within which the Payer must implement the support order, the priorities for withholding and allocating income withheld for multiple child support Obligees, and any other withholding terms or conditions not specified in the order, the Payer shall comply with Section 1673 of Title 15 of the United States Code, to the extent such provisions do not contravene tribal law.

6 M.P.T.L. ch. 9 § 6

**§ 6. Immunity from Liability**

A Payer who complies with an Income Withholding Order that is valid on its face shall be immune from civil liability with regard to the Payer's withholding of support from the Obligor's income.

6 M.P.T.L. ch. 9 § 7

**§ 7. Contest by Obligor**

a. An Obligor may contest the validity or enforcement of an Income Withholding Order issued by a tribunal of another tribe or State and received directly by an Payer in the same manner as if the order had been issued by the tribal court.

b. The Obligor shall give notice of the contest to:

- (1) a support enforcement agency providing services to the Obligee;
- (2) each Payer that has directly issued payments on the Income withholding Order or if no person or agency is designated, to the Obligee.

6 M.P.T.L. ch. 9 § 8

**§ 8. Fees and Costs**

A party seeking to register or enforce an Income Withholding Order shall not be required to pay a registration or filing fee or the costs of service within the Mashantucket Pequot Reservation.

## CHAPTER 10. CHANGE OF NAME

6 M.P.T.L. ch. 10 § 1

### § 1. Authority to Grant Change of Name

In addition to its authority to grant a change of name in a dissolution of marriage matter, the family court shall have jurisdiction over petitions for a change of name made by Tribal Members, and may change the name of the petitioner, who shall thereafter be known by the name prescribed by the court in its decree.

6 M.P.T.L. ch. 10 § 2

### § 2. Change of Name by Minor Child

In all proceedings for a change of name brought on behalf of a minor child who has not been emancipated under this Law, the parents of such child shall be necessary parties, shall be cited in the petition, and shall be served with the petition either by personal service or by mailing a copy of the petition to the parent's last-known address by registered or certified mail.

6 M.P.T.L. ch. 10 § 3

### § 3. Petition for Change of Name

a. The Petition for Change of Name by a Tribal Member shall contain the following information:

- (1) the name of the petitioner, and if a minor child, the names of the minor child's parents;
- (2) the petitioner's address, and if a minor child, the addresses of the minor child's parents;
- (3) the reasons for requesting the change of name;
- (4) the name by which petitioner has generally been known by, usually uses for motor vehicle license and registration, and in which the petitioner contracts bills, credit cards and bank accounts;
- (5) the proposed name, and if it has been used, the manner in which the name has been used and length of time of such use; and
- (6) a statement that the petitioner has no past due debts, bears a good reputation in the community, has no purpose in making this application except to conform the petitioner's legal name to that by which he wants to be generally known (or other reason), disclosure of any arrest or conviction within the seven years preceding the petition,

and disclosure of any registration as a sex offender in any jurisdiction.

b. Any interested party may file a response to the petition within twenty (20) business days from the service date.

6 M.P.T.L. ch. 10 § 4

**§ 4. Giving Public Notice**

The family court shall publish on pequotathome.com and request the Tribal Council Secretary mail a notice to Tribal Members that a petition for a change of name has been filed. Such publication and mailing of notice shall occur once and shall contain only a statement that a petition has been filed by the petitioner, and shall not disclose any information from the petition.

6 M.P.T.L. ch. 10 § 5

**§ 5. Decision on the Petition**

The court shall grant such petition for change of name unless it finds that it would result in injury to another person's legal rights. The court shall provide notice of the court's decision to the Tribal Clerk.

**CHAPTER 11. MISCELLANEOUS**

6 M.P.T.L. ch. 11 § 1

**§ 1. Forms**

The chief judge of the tribal court shall prepare forms, including instructions in plain language, for applying to the court for any complaint, remedy or relief available under this Law.

6 M.P.T.L. ch. 11 § 2

**§ 2. Payment of Attorney's Fees**

In any proceeding seeking relief under the provisions of this Law, the court may order either spouse or, if such proceeding concerns the custody, care, education, visitation or support of a minor child, either parent, to pay the reasonable attorney's fees of the other or of the child in accordance with their respective financial abilities.

6 M.P.T.L. ch. 11 § 3

**§ 3. Appeals**

Appeals from decisions by the family court under this Law may be made by any party in accordance with the rules governing the Court of Appeals.

6 M.P.T.L. ch. 11 § 4

**§ 4. Application of Law**

All actions brought under this Law shall be determined by the court in accordance with tribal law. The court may be guided, but not bound by, the principles of law applicable to similar claims arising under the laws of other tribes, states, or of the United States.

**Historical and Statutory Notes**

**Derivation.**

Effective October 23, 1995, TCR102395-03 enacted the "Family Relations Ordinance".

**Amendments.**

Effective April 29, 2010, TCR042910-02 of 03 amended 6 M.P.T.L. ch. 3 replacing ch. 3 in its entirety.

Effective July 9, 2015, TCR070915-02 of 08 amended 6 M.P.T.L. ch. 3 § 4(c) to reflect that the fee for certified copies of marriage certificates is found in 41 M.P.T.L. ch. 2 § 5(b).

Effective September 22, 2016 TCR092216-03 of 06 amended 6 M.P.T.L. making various changes throughout.

Effective May 24, 2018, TCR052418-01 of 01 amended 6 M.P.T.L. ch. 3 § 2a adding former Tribal Council Members as persons authorized to officiate marriages.