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DOMESTIC RELATIONS CODE
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TITLE VIII

DOMESTIC RELATIONS CODE

Chapter 1. MARRIAGE

8-1-1 Short Title

This Code may be cited as the Northern Cheyenne Uniform Marriage and Divorce Act.

8-1-2 Purpose

This act shall be liberally construed and applied to promote its underlying purposes, which are to:

- A. Provide adequate procedures for the solemnization or declaration and registration of marriage;
- B. Strengthen and preserve the integrity of marriage and safeguard family relationships;
- C. Promote the amicable settlement of disputes that have arisen between parties to a marriage;
- D. Mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of marriage;
- E. Make reasonable provision for spouses and minor children during and after litigation; and
- F. Make the law of legal dissolution of marriage effective for dealing with the realities of matrimonial experience by making ir retrievable breakdown of the marriage relationship the sole basis for its dissolution.

8-1-3 Application of the Northern Cheyenne Code of Civil Procedure

- A. The Northern Cheyenne Code of Civil Procedure applies to all proceedings under this Code unless otherwise provided in this Code.
- B. A proceeding for dissolution of marriage, legal separation, or declaration of invalidity of marriage shall be entitled "In Re The Marriage of _____ and _____." A custody or support proceeding shall be entitled "In Re The Custody or Support of _____."
- C. The initial pleading in all proceedings under this Code shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in

other matters under this Code shall be denominated as provided in the Civil Procedure Code.

8-1-4 Uniformity of Application and Construction

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among those reservations and states which enact it.

8-1-5 Formalities

Marriage is a personal relationship between a man and a woman arising out of a civil contract to which the consent of the parties is essential. A marriage license, solemnized or declared and registered as provided in this act is valid in the Northern Cheyenne Reservation. A marriage may be contracted, maintained, invalidated, or dissolved only as provided by the law of the Northern Cheyenne Reservation.

8-1-6 Form of Application, License, Certificate, and Consent [*As amended by Ord. DOI 3(98)*]

- A. The Trial Court (hereinafter "Court") of the Northern Cheyenne Court shall prescribe the form for an application for a marriage license, which shall include the following information:
1. Name, sex, address, date and place of birth of each party to the proposed marriage;
 2. If either party has previously married, his name and the date, place, and court in which the marriage was dissolved or declared invalid or the date and place of death of the former spouse;
 3. Name and address of the parents or guardian of each party;
 4. Whether the parties are related to each other, if so, their relationship;
 5. Name and date of birth of any child, of whom both parties are parents, born prior to the making of the application unless their parental rights and the parent and child relationship with respect to the child have been terminated.
 6. Each applicant must provide a medical certificate from a qualified physician who is licensed to practice medicine or any other person authorized by law to make such a medical certificate, which certificate shall state that the applicant has been given such an examination, including a standard serological test, which shall consist of a test for rubella immunity and syphilis, made not more than twenty (20) days before the date of issuance of the license, and

that the report of the results of the serological test has been exhibited to the applicant and that each party to the proposed marriage contract has examined the report of the serological test of the other party to the proposed contract.

- B. The Court shall provide the forms for the marriage license, the marriage certificate, and the consent to marriage, or the declaration of marriage.

8-1-7 License to Marry [As amended by Ord. DOI 3(98)]

When a marriage application has been completed and signed by both parties to a prospective marriage, and at least one (1) party has appeared before the Court Clerk, the Clerk shall issue a license to marry.

8-1-8 Effective Date of License

A license to marry becomes effective throughout the Northern Cheyenne Reservation three (3) days after the date of issuance, unless the Court orders that the license is effective when issued, and expires one hundred eighty (180) days after it becomes effective.

8-1-9 Judicial Approval

- A. Any person eighteen (18) years or older is eligible to apply for a license to marry. In addition, the Court may order the Court Clerk to issue a marriage license and a marriage certificate form to a party aged sixteen (16) or seventeen (17) years who has no parent capable of consenting to his marriage, or has the consent of both parents, or of the parent having the actual care, custody, and control, or of his guardian. The Court may require both parties to participate in a reasonable period of marriage counseling with a designated person as a condition of the order for issuance of marriage license and a marriage certificate form. [As amended by Ord. DOI 3(98)]
- B. A marriage license and a marriage certificate form may be issued under this section only if the Court finds that the underaged party is capable of assuming the responsibilities of marriage and that marriage will serve his best interest. Pregnancy alone does not establish that the best interest of the party will be served.
- C. The Court shall authorize performance of a marriage by proxy upon the showing required by the provisions on solemnization.

8-1-10 Solemnization and Registration

- A. A marriage may be solemnized by a Judge of the Northern Cheyenne Court, by a public official whose powers include [cont'd on p. VIII-7]

solemnization, by a Justice of the Peace, or in accordance with any mode of solemnization recognized by any religious denomination, Reservation government or native group. Either the person solemnizing the marriage, or, if no individual acting alone solemnized the marriage, a party to the marriage shall complete the marriage certificate form and forward it to the Clerk of Court.

- B. If a party to the marriage is unable to be present at the solemnization he may authorize in writing a third person to act as his proxy. If the person solemnizing the marriage is satisfied that the absent party is unable to be present and has consented to the marriage he may solemnize the marriage by proxy. If he is not satisfied, the parties may petition the Court for an order permitting the marriage to be solemnized by proxy.
- C. Upon receipt of the marriage certificate, the Clerk of Court shall register the marriage.
- D. The solemnization of the marriage is not invalidated by the fact that the person solemnizing the marriage was not legally qualified to solemnize it if either party to the marriage believed him to be so qualified. No particular form of solemnization is required so long as both parties declare in the presence of the person solemnizing the marriage that they take each other as husband and wife.

8-1-11 Existing Marriages

- A. All marriages performed other than as provided for in this Code, which are valid under the laws of the jurisdiction where and when performed, are valid within the jurisdiction of the Northern Cheyenne Reservation.
- B. All marriages performed on the Reservation prior to the effective date of this Code, including those perfected according to Reservation custom, are valid for all purposes under this code.

8-1-12 Declaration of Marriage without Solemnization

- A. A person desiring to consummate a marriage by written declaration without the solemnization provided for in 8-1-10 must, prior to executing the declaration, meet all other provisions of the Northern Cheyenne Domestic Relations Code, and a certificate attesting to this shall be attached to the declaration and shall be filed by the Clerk of Court when the contract is executed on the Northern Cheyenne Reservation. A declaration of marriage must contain the following:
 - 1. The names, ages, and residence of the parties;

2. The fact of marriage;
3. The name of the father and maiden name of the mother of both parties and addresses of each;
4. A statement that both parties are legally competent to enter into the marriage contract.

B. The declaration must be signed by the parties and attested by at least two witnesses and formally acknowledged before a Judge of the Northern Cheyenne Court. [As amended by Ord. DOI 3(98)]

8-1-13 Declaration — Acknowledged and Recorded [As amended by Ord. DOI 3(98)]

The written declaration of marriage shall be filed by the Court Clerk and shall serve and be processed as an official record of the marriage of the parties so long as all pertinent provisions of this Code are met.

8-1-14 Validity of Common Law Marriage

Common law marriages are not invalidated by this Code.

8-1-15 Prohibited Marriages

A. The following marriages are prohibited:

1. A marriage entered into prior to the dissolution of an earlier marriage of one or more of the parties.
2. Marriages between parents and children, between brothers and sisters of the one-half as well as the whole blood, and between uncles and nieces, or aunts and nephews, are incestuous and void from the beginning, whether the relationship is legitimate or illegitimate.
3. All marriages between first cousins.

B. Parties to a marriage prohibited under this section who cohabit after removal of the impediment are lawfully married as of the date of the removal of the impediment.

C. Children born of a prohibited marriage are legitimate.

8-1-16 Declaration of Invalidity

A. The Court shall enter its decree declaring the invalidity of a marriage entered into under the following circumstances:

1. A party lacked capacity to consent to marriage because of the influence of alcohol, drugs or other incapacitating substances, or a party was induced to enter into a [cont'd on p. VIII-9]

marriage by force or duress, or by fraud involving the essentials of marriage;

2. A party lacked the physical capacity to consummate the marriage by sexual intercourse, and at the time the marriage was entered into, the other party did not know of the incapacity;
 3. A party was under the age of sixteen (16) or was age sixteen (16) or seventeen (17) and did not have the consent of his parents or guardian or judicial approval; or
 4. The marriage is prohibited.
- B. A declaration of invalidity may be sought by either party, the legal spouse in case of a bigamous marriage, the Tribal Prosecutor, or a child of either party, at any time prior to the death of one of the parties. [*As amended by Ord. DOI 3(98)*]
- C. Children born of a marriage declared invalid are legitimate.
- D. In no event may a declaration of invalidity be sought after the death of either party to the marriage.
- E. A marriage declared invalid under this Code shall be found invalid as of the date of the marriage, except the Court may determine that a nonretroactive decree better serves the interest of all of the parties under the circumstances. The provisions of the Code relating to property disposition, maintenance, support and child custody on dissolution of marriage are applicable to decrees of invalidity.

8-1-17 Putative Spouse

Any person who has cohabited with another to whom he is not legally married and had a good faith belief that he was married to that person is a putative spouse until knowledge of the fact that he was not legally married terminates his status and prevents acquisition of further rights. A putative spouse acquires the rights conferred upon a legal spouse. If there is a legal spouse or other putative spouse the Court shall apportion property, maintenance, and support rights among the parties as appropriate under the circumstances.

Chapter 2. DISSOLUTION OF MARRIAGE, SEPARATION, DISPOSITION OF PROPERTY, CHILD SUPPORT, MAINTENANCE

8-2-1 Dissolution of Marriage — Separation

- A. The Court shall enter a decree of dissolution of marriage when:
1. The Court determines that one of the parties, at the time the action is commenced, has been domiciled within the

Northern Cheyenne Reservation for 90 days;

2. The Court finds that the marriage is irretrievably broken, and these findings are supported by evidence; and
 3. The Court has made determinations concerning child custody and support, maintenance of either spouse, and disposition of property, or set a date for a separate hearing to complete such matters.
- B. If a party requests a decree of separation rather than a decree of dissolution of marriage the Court shall grant the decree in that form unless the other objects.

8-2-2 Procedure - Commencement-Pleadings-Abolition of Existing Defenses

- A. The certified petition in a proceeding for dissolution of marriage or separation shall allege the marriage is irretrievably broken and shall set forth:
1. The age, occupation, and residence of each party and his length of residence within the Reservation;
 2. The date of the marriage and the place at which it was registered;
 3. Facts which place jurisdiction in the Court under the Northern Cheyenne Civil Procedure Code and section 8-2-1;
 4. A statement that the marriage is irretrievably broken under 8-2-1;
 5. The names, ages, and addresses of all living children of the marriage and whether or not the wife is pregnant;
 6. Any arrangements as to support, custody and visitation, and maintenance; and
 7. The relief sought.
- B. Either or both parties to the marriage may initiate the proceeding.
- C. If a proceeding is commenced by one of the parties, the other party must be served in the manner provided by the Northern Cheyenne Civil Procedure Code, and may, within twenty (20) days of receiving the service, file a response. No decree shall be entered until twenty (20) days after the date of service.
- D. Previously existing defenses to divorce and separation, including

but not limited to connivance, collusion, recrimination, insanity, and lapse of time are abolished.

- E. The Court may join additional parties to gather information in order to exercise its authority to implement this Code.

8-2-3 Temporary Order to Temporary Injunction

- A. In a proceeding for dissolution of marriage or separation, either party may move for temporary maintenance or temporary support of a child of the marriage entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.
- B. Either as a part of the motion for temporary maintenance or support, or by a separate motion accompanied by an affidavit as a factual basis for the motion, either party may request the Court to issue a temporary injunction which:
1. Restrains any person from transferring, encumbering, concealing, or otherwise disposing of any property except in the usual course of business or for the necessities of life, and if so restrained, requiring him to notify the moving party of any extraordinary expenditures made after the order is issued;
 2. Enjoins a party from molesting or disturbing the peace of the other party, a child, or any other person, concerned in the proceeding;
 3. Excludes a party from the family home or from the home of one of the parties upon the showing that physical or emotional harm would otherwise result;
 4. Enjoins a party from removing a child from the jurisdiction of the court; or
 5. Provides other injunctive relief under the circumstances.
- C. The Court may issue a temporary injunction without requiring notice to the other party if it determines that irreparable injury will result to the moving party if the injunction is not issued immediately.
- D. A response may be filed within twenty (20) days after service or at a time specified in the temporary injunction.
- E. On the basis of the facts alleged in accordance with this section, the Court may issue a temporary maintenance or support order, or a temporary injunction in amounts and on terms just and proper in the circumstances.

F. A temporary order or temporary injunction:

1. Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings on the proceedings;
2. May be revoked or modified before final decree on a showing by sworn affidavit of the facts necessary to revocation or modification of a final decree under this Code;
3. Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

8-2-4 Irretrievable Breakdown

- A. If both of the parties have stated under oath, affirmation, by petition or otherwise that the marriage is irretrievably broken, or one of the parties has so stated and the other has not denied it, the Court shall determine whether the marriage is irretrievably broken.
- B. If one of the parties has denied under oath or affirmation that the marriage is irretrievably broken the Court shall consider all relevant factors as to the prospect for reconciliation and shall:
 1. Determine whether the marriage is irretrievably broken; or
 2. Continue the matter for further hearing no earlier than thirty (30) days nor more than sixty (60) days from the date that the denial of irretrievable breakdown is received. The Court may suggest to the parties that they seek counseling. At the further hearing date the Court shall make a finding of whether or not the marriage is irretrievably broken.
- C. A finding of irretrievable breakdown is a determination that there is no reasonable prospect of reconciliation.

8-2-5 Separation Agreement

- A. To promote amicable settlement of disputes between parties the parties may enter into a written separation agreement containing provisions for disposition of property, support, custody and visitation of their children, and maintenance.
- B. In a proceeding for dissolution of marriage or for legal separation, the terms of the separation agreement, except those providing for the support, custody, and visitation of children, are binding upon the Court unless it finds that due to the economic circumstances of the parties or any relevant

circumstances that the separation agreement is unconscionable.

- C. If the Court finds the separation agreement is appropriate under all of the circumstances:
1. Its terms shall be set forth in the decree of dissolution or legal separation and the parties shall be ordered to perform them, except when the agreement itself provides to the contrary;
 2. If the agreement provides that its terms shall be set forth in the final decree, the decree shall identify the agreement, and incorporate its terms in the final decree, stating that the terms are appropriate under all of the circumstances.
- D. Terms of the agreement set forth in the decree are viewed as a contract and are enforceable by all remedies available for enforcement of a judgment, including contempt of court.
- E. If the Court finds that the separation agreement is not appropriate under all of the circumstances it may request the parties to submit a revised agreement or make orders for the disposition of property, maintenance, and support.
- F. Except for terms concerning the support, custody, or visitation of children, the decree may expressly preclude or limit modification of terms set forth in the decree if the separation agreement expressly states that preference.

8-2-6 Disposition of Property

- A. In a proceeding for a dissolution of marriage, separation, or disposition of property following a decree of dissolution of marriage or separation the Court, without regard to marital misconduct, shall apportion between the parties all property and assets belonging to either or both regardless of how or when the property or assets were acquired or whether the title is in the name of the husband, wife, or both. In making the apportionment the Court shall consider:
1. The duration of the marriage;
 2. Antenuptial agreements, if any, of the parties;
 3. The age, health, occupation, amount and source of income, skills and employability, liabilities and needs of each of the parties;
 4. Child custody provisions; and child support provisions;
 5. Whether or not the apportionment is in lieu of or in

addition to maintenance;

6. The contribution or dissipation of value of the respective estates; and
 7. The contribution of a spouse as a homemaker or to the family unit.
- B. The Court may protect and promote the best interest of a child by setting aside a portion of the property or assets or either or both parties in a separate fund or trust for the support, maintenance, educational, and general welfare of any minor, dependent, or incompetent children of the parties.

8-2-7 Maintenance

- A. In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following a final decree in a dissolution of marriage the Court may grant a maintenance order for either spouse only if it finds that the spouse seeking maintenance:
1. Lacks sufficient property to provide for his reasonable needs; and
 2. Is unable to support himself through appropriate employment or is a custodian of a child whose condition or circumstances make it appropriate that the custodian not seek employment outside the home.
- B. The maintenance order shall be in an amount and for a period of time that the Court deems just, without regard to marital misconduct, after considering all relevant facts including:
1. The financial resources of the party seeking maintenance, including marital property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that child's custodian;
 2. The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;
 3. The standard of living established during the marriage;
 4. The duration of the marriage;
 5. The age, and the physical and emotional condition of the spouse seeking maintenance; and
 6. The ability of the spouse from whom maintenance is

sought to meet his needs while meeting those of the spouse seeking maintenance.

8-2-8 Child Support

In a proceeding for dissolution of marriage, separation, maintenance or child support, the Court may order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for his support, without regard to marital misconduct, and after considering all relevant circumstances.

8-2-9 Representation of the Child

The Court may, upon its own motion or the motion of an interested person, appoint an attorney or lay representative authorized to practice before the Court to represent the interest of a minor child. The Court shall enter an order for expenses and fees in favor of the child's attorney or lay representative. The order shall be made against either or both parents except when one or both of the parties is indigent.

8-2-10 Payment of Maintenance or Support to the Court

- A. Upon its own motion or upon the motion of either party, the Court may order at any time that the maintenance or support payments shall be paid to the Clerk of Court as trustee for the remittance to the person entitled to receive the payments.
- B. The Clerk of Court shall maintain records showing the amount of the payments, the date payments are required to be made, the date payments are received by the Court, and the date of the distribution of the payment to the person entitled to receive the payments, and the names and addresses of the parties affected by the order.
- C. The parties subject to the order shall inform the Clerk of Court of any change of address or other condition which may affect the administration of the order.

8-2-11 Assignments

The Court may order the person obligated to pay support or maintenance to make an assignment of a part of his periodic earnings or trust income to the person entitled to receive the payments. The assignment is binding on an employer, trustee, or other payer of the funds two (2) weeks after the service upon him of notice that it has been made. The payer shall withhold from the earnings or trust income payable to the person obligated to support the amount specified in the assignment, and shall transmit the payment to the person specified in the order. The payer may deduct from each payment a sum not exceeding one dollar (\$1.00) as reimbursement for cost. An employer shall not discharge or otherwise discipline an employee as the result of a wage or salary assignment authorized by Court order.

8-2-12 Cost -- Attorney's Fees

The Court, after considering the financial resources of both parties, may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this Code and for attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after entry of judgment. The Court may order that the amount be paid directly to the attorney, who may enforce the order in his name.

8-2-13 Decree

- A. A decree of dissolution of marriage or separation is final when entered, subject to the right of appeal. Appeal from the decree of dissolution which does not challenge the finding that the marriage is irretrievably broken does not delay the finality of the provisions of the decree which dissolves the marriage beyond the time for appealing from that provision. Either party may remarry pending appeal.
- B. No sooner than six (6) months after entry of a decree of separation, the Court on motion of either party shall convert a separation to a decree of dissolution of marriage.
- C. The Clerk of Court shall give notice of the entry of the decree of dissolution or separation to the appropriate official where the marriage is registered with the request that he enter the fact of dissolution in the appropriate record.
- D. Upon request by a wife whose marriage is dissolved or declared invalid, the Court shall order her maiden name or a former name restored.

8-2-14 Independence of Provisions of Decree or Temporary Order

If a party fails to comply with a provision of a decree or temporary order or injunction, the obligation of the other party as to payments for support or maintenance or to permit visitation is not suspended; but he may move the Court to grant an appropriate order.

8-2-15 Modification and Termination of Provisions for Maintenance, Support, and Property Disposition

- A. Except as otherwise provided in this Code, the provisions of any decree concerning maintenance or support may be modified by a Court only as to installments accruing subsequent to the motion for modification and either:
 1. Upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable; or

2. Upon written consent of the parties. The provisions as to property disposition may not be revoked or modified by the Court except:
 - a. Upon written consent of the parties; or
 - b. If the Court finds the existence of conditions that justify a reopening of a judgment under the Northern Cheyenne Reservation Code.
- B. Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.
- C. Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child, but not by the death of the parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump sum payment to the extent that the Court determines is appropriate in the circumstances.

Chapter 3 CHILD CUSTODY

8-3-1 Jurisdiction - Commencement of Proceedings.

- A. The Northern Cheyenne Reservation Court has jurisdiction to make a child custody determination by initial or modification decree if:
 1. The Northern Cheyenne Reservation:
 - a. Is the home of the child at the time of commencement of the proceedings in Reservation Court; or
 - b. Has been the child's home within six (6) months before commencement of proceedings and the child is absent from this home because of his removal or retention by a person claiming custody or for other reasons, and a parent or person acting as parent continues to live within the Northern Cheyenne Reservation;
 2. It is in the best interest of the child that the Court assumes jurisdiction because:
 - a. The child and his parents or the child and at least one contestant have a significant connection with the Northern Cheyenne Reservation; and

- b. There is substantial evidence concerning the child's present or future care, protection, training, and personal relationships available to the Court;
 - 3. The child is physically present within the Reservation; and:
 - a. Has been abandoned; or
 - b. It is necessary in an emergency to protect him because he has been subjected to or threatened with mistreatment or abuse or is neglected or dependent; or
 - 4. No state or other tribal government has jurisdiction under provisions substantially in accord with this Code, or another state or reservation has declined to exercise jurisdiction on the grounds that the Northern Cheyenne Reservation is the more appropriate forum to determine custody of the child.
- B. Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody in the Northern Cheyenne Court.
- C. A child custody proceeding is commenced in the Court:
- 1. By a parent filing a petition for
 - a. Dissolution or legal separation; or
 - b. Custody of the child; or
 - 2. By a person other than a parent, but only if he is not in the physical custody of one of his parents.
- D. Notice of the child custody proceeding shall be given to the child's parents, guardian, custodian, those persons having physical custody of the child, and all other parties who may appear, be heard and file pleadings. Upon showing of good cause, the Court may permit intervention of other interested parties.

8-3-2 Best Interest of the Child

The Court shall determine custody in accordance with the best interest of the child; relevant factors include but are not limited to:

- A. The wishes of the child's parents;
- B. The wishes of the child as to his custodian;

- C. The interaction and relationship of the child with his parent or parents, his siblings, his extended family, and any other person who may significantly affect the child's best interest;
- D. The child's adjustment to his home, school and community;
- E. The mental and physical health of all individuals involved;
- F. Whether or not the child has been incorporated into the home of one of the parents.

8-3-3 Temporary Orders

- A. A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in this Code. The Court may award temporary custody after a hearing determining the best interests of the child, or, if there is no objection, solely upon the basis of the affidavits.
- B. If a proceeding for dissolution of marriage or a legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the Court finds that circumstances of the parents and the best interest of the child require that a custody decree be issued.
- C. If a custody proceeding commenced in the absence of a petition for dissolution of marriage or legal separation is dismissed, any temporary custody order is vacated.

8-3-4 Interviews

- A. The Court may interview the child in chambers to ascertain the child's wishes as to his custodian and as to visitation. The Court may permit counsel to be present at the interview. The Court shall make a record of the interview and make that record part of the record of the entire proceeding.
- B. The Court may seek the advice of professional personnel, whether or not employed by the Court on a regular basis. The advice given shall be in writing and made available by the Court to counsel upon request. The counsel may examine as a witness any professional personnel consulted by the Court.

8-3-5 Investigations and Reports

- A. In contested custody proceedings, if a parent or child's custodian so requests, the Court may order an investigation and report concerning custodial arrangements of the child. The investigation and report may be made by the Northern

Cheyenne Social Services or the appropriate county welfare department.

- B. The investigator may consult any person who may have information about the child and his potential custodial arrangements. Upon order of the Court the investigator may refer the child to professional personnel for evaluation and advice as to the best interest of the child. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child without obtaining the consent of the parent or the child's custodian, except the child must consent if he has reached the age of sixteen (16) unless the Court determines that he lacks the mental capacity to consent. The investigator's report may be received as evidence at the custody hearing.
- C. The Court shall mail the investigator's report to counsel and to any party with a substantial interest in the outcome of the proceedings who is not represented by counsel, at least ten (10) days prior to the hearing. The investigator shall make available to counsel and the appropriate parties not represented by counsel, the investigator's file of underlying data, and reports, complete text of diagnostic information, and the names and addresses of all persons who the investigator has consulted. Any party to the proceeding may call the investigator and any person who he has consulted for cross-examination. A party may not waive his right of cross-examination prior to the hearing.

8-3-6 Hearings

- A. The Court may order one of the parties or both of the parties to pay the travel costs and other necessary expenses incurred by any person whose presence at the hearing the Court deems necessary to determine the best interest of the child.
- B. The Court shall determine questions of law and fact without a jury. If it determines that a public hearing will be detrimental to the child's best interest the Court may exclude the public from a custody hearing admitting only persons who have a direct and legitimate interest in the particular case or legitimate educational or research interest in the work of the court.
- C. When the Court determines the child's welfare is best protected by keeping the records of interviews, reports, investigations, or testimony confidential in a custody proceeding the Court may make an order sealing the record.

8-3-7. Parental Visitation

- A. A parent not granted custody of the child is entitled to

reasonable visitation rights unless after a hearing the Court determines that visitation would endanger the child's physical, mental, moral, or emotional health.

- B. The Court may modify an order granting or denying visitation rights whenever modification would serve the best interest of the child. The Court shall not restrict a parent's visitation rights unless it determines that the visitation would seriously endanger the child's physical, mental, moral, or emotional health.

8-3-8 Grandparent - Extended Family - Former Custodian - Visitation

Visitation rights may be granted to a child's grandparents, a former custodian, or extended family members when the Court finds such visitation to be in the best interest of the child.

8-3-9 Determination of Custody upon Death of Custodial Parent

- A. Upon the death of a parent granted custody of a child the child becomes a ward of the Northern Cheyenne Reservation. The Northern Cheyenne Court may award physical custody to any of the following:
1. The noncustodial natural parent;
 2. The surviving spouse of the deceased custodial parent;
 3. A person nominated by the will of the deceased custodial parent;
 4. Any person nominated by the child if the child is at least twelve (12) years old;
 5. Any other person if that person has actual physical control over the child;
 6. Any other party whom, upon showing of good cause, the court permits to intervene as an interested party.
- B. The noncustodial parent shall be a party in any proceeding brought under this section.
- C. Upon the death of a parent granted custody of a child, any of the parties listed in subsection (A) may request a custody hearing and seek custody of the child.

8-3-10 Award of Joint or Separate Custody

In custody disputes involving both parents of a minor child, custody shall be awarded to the following according to the best interests of the child; and the Court may require the submission to the Court of a plan for the

implementation of the custody order:

- A. To either parent. In making an award to either parent, the Court shall consider, along with the factors set out in 8-3-2, which parent is more likely to allow the child frequent and continuing contact with the noncustodial parent and may not prefer a parent as custodian because of the parent's sex or tribal status.
- B. To both parents jointly pursuant to 8-3-11.

8-3-11 Joint Custody - Modification - Consultation with Professionals

- A. Upon application of both parents for joint custody the Court shall consider whether or not joint custody is in the best interests of the minor child. If the Court declines to award joint custody it shall state in its decision the reasons for denial of joint custody.
- B. For the purposes of this section, "joint custody" means an order awarding custody of the minor child to both parents and providing that the residency of the child shall be shared by the parents in such a way as to assure the child frequent and continuing (but not necessarily equal) contact with both parents.
- C. Any order for joint custody may be modified to terminate the joint custody.
- D. The court may direct the parties to consult with appropriate professionals for the purpose of assisting the parties to formulate a plan for implementation of the custody order or to resolve any controversy that has arisen in the implementation of a plan for custody, with the consent of both parties.

8-3-12 Access to Records by Noncustodial Parent

Access to records and information pertaining to a minor child, including but not limited to medical, dental, law enforcement, and school records, may not be denied to a parent because such parent is not the child's custodial parent.

8-3-13 Judicial Supervision

- A. Except as otherwise agreed by the parties in writing at the time of the custody decree, the custodian may determine the child's upbringing, including his education, health care, and religious training, unless the Court, after a hearing, finds, upon motion by the noncustodial parent, that in the absence of a specific limitation of the custodian's authority, the child's physical health would be endangered or his emotional development significantly impaired.

- B. If both parents or all contestants agree to the order, or if the Court finds the absence of the order would cause a risk that the child's physical health would be endangered or his emotional development significantly impaired, the Court may order the Northern Cheyenne Social Services or the appropriate county welfare department to exercise continuing supervision over the case to assure that the custodial and/or visitation terms of the decree are carried out.

8-3-14 Modification

- A. No motion to modify a custody decree may be made earlier than two (2) years after its date unless the Court permits it to be made on the basis of affidavits that there is reason to believe that the child's present environment may endanger seriously his physical, mental, moral or emotional health.
- B. The Court shall not modify a prior custody decree unless it finds upon the basis of facts that have arisen since the prior decree or that were unknown to the Court at the time of the prior decree, that a change has occurred in the circumstances of the child or his custodian, and that modification is necessary to serve the best interests of the child. In applying these standards, the Court shall retain the custodian appointed under the prior decree unless:
1. The custodian agrees to the modification;
 2. The child has been integrated into the family of the petitioner with consent of the custodian; or
 3. The child's present environment endangers his physical, mental, moral or emotional health, and the harm likely to be caused by a change of environment is outweighed by its advantages to the child.
- C. Attorney fees and costs shall be assessed against the party seeking modification if the Court finds that the modification action is vexatious and constitutes harassment.

8-3-15 Affidavit Practice

A party seeking a temporary custody order or modification of a custody decree shall file an affidavit setting forth facts supporting the requested order or modification and shall give notice, together with a copy of his affidavit to other parties to the proceeding who may file opposing affidavits. The Court shall deny the motion unless it finds an adequate cause for hearing the motion as established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested order or modification should not be granted.

8-3-16 Application

- A. This Code applies to all proceedings commenced on or after the date of its approval by the Secretary of the Interior.
- B. This act applies to all pending actions and proceedings prior to its effective date on which a judgment has not been entered. Pending actions for dissolution of marriage or separation are deemed to have been commenced on the basis of irretrievable breakdown. Evidence adduced after the effective date of this Code shall be in compliance with the Code.
- C. This Code applies to all proceedings commenced after its effective date for the modification of a judgment or order entered prior to the effective date of this Code.
- D. In any action or proceeding in which an appeal was pending or a new hearing was ordered prior to the effective date of this Code, the provisions in effect at the time of the order sustaining the appeal or the new hearing govern the appeal, the new hearing, and any subsequent hearing or appeal.

Chapter 4. CHILD CUSTODY JURISDICTION

8-4-1 Purpose --Construction

- A. The general purposes of this section are to:
 - 1. Avoid jurisdictional confusion with courts of other tribes and states in matters of child custody which have in the past resulted in the shifting of children from place to place with harmful effects on their well being;
 - 2. Promote cooperation with courts of other tribes and states to the end that an appropriate forum will be provided as it serves the best interest of the child;
 - 3. Discourage, as much as possible continuing controversies over child custody and encourage a stable home environment and secure family relationships for the child;
 - 4. Deter abductions and other unilateral removals of children undertaken to obtain custody awards;
 - 5. Avoid relitigation of custody decisions of this court, other tribal courts and state courts in so far as is feasible;
 - 6. Promote and expand the exchange of information and other forms of mutual assistance between this court, and

other tribal courts and state courts concerned with the same child.

- B. This Code section does not constitute waiver of any provisions of the Indian Child Welfare Act.
- C. This Code section will not be construed as a waiver of any jurisdiction of the Northern Cheyenne Tribal Court.
- D. Provisions of this Code section apply only to child custody jurisdiction and shall be applied to serve the best interest of the child.

8-4-2 Definitions

- A. Contestant - a person, including a parent, who claims a right to custody or visitation rights with respect to a child.
- B. Custody Determination - a court decision and court orders and instructions providing for the custody of a child, including visitation rights. It does not include a decision relating to child support or any other monetary obligation of any person.
- C. Custody Proceeding - a proceeding in which a custody determination is one of several issues, such as an action for dissolution of marriage or legal separation. A custody proceeding may include issues of adoption and guardianship concerning a tribal member. A custody proceeding does not include issues such as dependent, abused, neglected, abandoned delinquent children or children in need of care.
- D. Decree or Custody Decree - a child custody determination contained in a judicial decree or order made in a custody proceeding and includes an initial decree and a modification decree.
- E. Home Place - the place where the child, immediately preceding the time involved, lived with his parents, a parent, or a person acting as parent for at least six (6) consecutive months and in the case of a child less than six (6) months old the place where the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six (6) month or other period.
- F. Initial Decree - the first custody decree concerning a particular child.
- G. Modification Decree - a custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court.

- H. Physical Custody - actual possession and control of a child.
- I. Person Acting as a Parent - a person other than a parent who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody.

8-4-3 Notice and Opportunity to be Heard

Before making a decree under this section, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons are outside the exterior boundaries of the Northern Cheyenne Reservation, notice and opportunity to be heard shall be given pursuant to the Northern Cheyenne Civil Procedure Code.

8-4-4 Simultaneous Proceedings in Other Courts

- A. Subject to the limitations in 8-4-1 the Northern Cheyenne Court may not exercise its jurisdiction under this section if at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another tribe or of a state exercising jurisdiction in conformity with this Code unless the proceeding is stayed by the other court because the Northern Cheyenne Court is a more appropriate forum, or the other court has taken no action for a period in excess of one (1) year, or for other reasons relating to the best interest of the child.
- B. Before hearing the petition in a custody proceeding, the Northern Cheyenne Court shall examine the pleadings and other information supplied by the parties and shall consult the child custody registry established under this Code concerning the pendency of proceedings with respect to the child in other courts. If the Court has reason to believe that proceedings may be pending in another court, it shall direct an inquiry to that court administrator or other appropriate personnel.
- C. If the Court is informed during the course of its proceeding that a proceeding concerning the custody of the child was pending in another court before the Northern Cheyenne Court assumed jurisdiction, it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that information be exchanged. If a custody decree has been made in the Northern Cheyenne Court before being informed of a pending proceeding in another court, it shall immediately inform that court of the fact. If the Northern Cheyenne Court is informed that a proceeding was commenced in another tribal court or in a state court after it assumed jurisdiction, it shall inform the other court to the end that the issues may be litigated in the more appropriate forum.

8-4-5 Inconvenient Forum

- A. When the Northern Cheyenne Court has jurisdiction under this section to make an initial or modification decree it may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that another tribal court or a state court is a more appropriate forum.
- B. A finding of inconvenient forum may be made upon the Court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.
- C. In determining if it is an inconvenient forum, the Court shall consider if it is in the best interest of the child that another tribal court or state court assume jurisdiction. For this purpose it may take into account the following factors, among others:
 - 1. If another location is or recently was the child's home place;
 - 2. If another court has a closer connection with the child and one or more of the contestants;
 - 3. If substantial evidence concerning the child's present or future care, protection, training, and personal relationships is more readily available in another court;
 - 4. If the parties have agreed on another forum which is no less appropriate; and
 - 5. If the exercise of jurisdiction by the Court would contravene any of the purposes stated in 8-4-1.
- D. Before determining whether to decline or retain jurisdiction, the Court may communicate with another court and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to parties.
- E. If the Court finds that it is an inconvenient forum and that another court is a more appropriate forum, it may dismiss the proceedings or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named court or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.

- F. The court may decline to exercise its jurisdiction under this chapter if a custody determination is incidental to an action for divorce or another proceeding while retaining jurisdiction over the divorce or other proceeding.
- G. Upon dismissal or stay of proceedings under this section the court shall inform the court found to be the more appropriate forum of this fact.
- H. Any communication received from another court informing this Court of a finding of inconvenient forum because this court is the more appropriate forum shall be filed in the custody registry of the Court. Upon assuming jurisdiction, the Court shall inform the original court of this fact.

8-4-6 Jurisdiction Declined by Reason of Conduct

- A. If the petitioner for an initial decree has wrongfully taken the child from another reservation or state or has engaged in similar reprehensible conduct, the Court may decline to exercise jurisdiction if this is just and proper under the circumstances.
- B. Unless required in the interest of the child, the court may not exercise its jurisdiction to modify a custody decree of another court if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody, or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another tribal court or state court, the Court may decline to exercise its jurisdiction if this is just and proper under the circumstances.
- C. In appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorney's fees, incurred by other parties or their witnesses.

8-4-7 Information Under Oath to be Submitted to the Court

- A. Each party in a custody proceeding in his first pleading or in an affidavit attached to that pleading shall give information under oath as to the child's present address, the places where the child has lived within the last 5 years, and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit each party shall further declare under oath whether:
 - 1. He has participated (as a party, witness, or in any other capacity) in any other litigation concerning the custody

of the same child in this or any other court;

2. He has information of any custody proceeding concerning the child pending in another court; and
 3. He knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.
- B. If the declaration as to any of the above items is in the affirmative, the declarant shall give additional information under oath as required by the Court. The Court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the Court's jurisdiction and the disposition of the case.
- C. Each party has a continuing duty to inform the Court of any custody proceeding concerning the child in this or any other location of which he obtained information during this proceeding.

8-4-8 Additional Parties

If the Court learns from information furnished by the parties under 8-4-7 or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child it shall order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his joinder as a party. If the person joined as a party is outside the Northern Cheyenne Reservation he shall be served with process or otherwise notified in accordance with the Northern Cheyenne Civil Procedure Code.

8-4-9 Appearance of Parties and Child

- A. The Court may order any party to the proceeding who is inside this reservation to appear personally before the Court. If that party has physical custody of the child, the Court may order that he appear personally with the child.
- B. If a party to the proceeding whose presence is desired by the Court is outside this reservation with or without the child, the Court may order that the notice given under the Northern Cheyenne Civil Procedure Code include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.
- C. If a party to the proceeding who is outside this reservation is directed to appear under subsection (B) of this section or desires to appear personally before the Court with or without the child, the Court may require another party to pay to the

Clerk of the Court travel and other necessary expenses of the party so appearing and of the child, if this is just and proper under the circumstances.

8-4-10 Legal Effect of Custody Decree

A custody decree rendered by the Northern Cheyenne Court under proper jurisdiction binds all parties who have been served on the reservation or notified in accordance with 8-4-3 or who have submitted to the jurisdiction of the Court and who have been given an opportunity to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this Code.

8-4-11 Recognition of Off-Reservation Custody Decrees

The Northern Cheyenne Court shall recognize and enforce an initial or modification decree of a court which assumed jurisdiction under statutory provisions substantially in accord with this Code which was made under factual circumstances meeting the standards of this Code, so long as this decree has not been modified, except when the other tribal or state court has refused to recognize decrees of the Northern Cheyenne Court.

8-4-12 Modification of Custody Decree of Another Court

- A. If another tribal court or a state court has made a custody decree, the Northern Cheyenne Court may not modify that decree unless it appears to the court that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this code or has declined to assume jurisdiction to modify the decree and the Northern Cheyenne Court has jurisdiction.
- B. If the Northern Cheyenne Court is authorized under subsection (A) of this section and 8-4-1 to modify a custody decree of another court it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it.

8-4-13 Filing and Enforcement of Custody Decree of Another Court

- A. A certified copy of a custody decree of another tribal court or a state court may be filed in the office of the Clerk of Court. The Clerk shall treat the decree in the same manner as a custody decree of the Northern Cheyenne Court. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by the Northern Cheyenne Court.
- B. A person violating a custody decree of another court, which

has been filed with the Northern Cheyenne Court, which makes it necessary to enforce the decree in the Northern Cheyenne Court may be required to pay necessary travel and other expenses, including attorney's fees, incurred by the party entitled to the custody or his witnesses.

8-4-14 Registry of Custody Decrees and Proceedings of Other Courts

The Clerk of the Northern Cheyenne Court shall maintain a registry in which he shall enter the following:

- A. Certified copies of custody decrees of other courts received for filing;
- B. Communications as to the pendency of custody proceedings in other courts;
- C. Communications concerning a finding of inconvenient forum by another court; and
- D. Other communications or documents concerning custody proceedings in another court which may affect the jurisdiction determinations of the Northern Cheyenne Court or the disposition to be made by it in a custody proceeding.

8-4-15 Certified Copies of Custody Decree

The Clerk of the Northern Cheyenne Court, at the request of the court of a state or of another tribal court or at the request of any person who is affected by or has a legitimate interest in a custody decree, shall certify and forward a copy of the decree to that court or person.

8-4-16 Taking Testimony Off-Reservation

In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses, including parties and the child, by deposition or otherwise, in a location off of the Northern Cheyenne Reservation. The court on its own motion may direct that the testimony of a person be taken off of the reservation and may prescribe the manner in which and the terms upon which the testimony shall be taken.

8-4-17 Hearings and Studies Off-Reservation -- Orders to Appear

- A. The Northern Cheyenne Court may request the appropriate court of another tribe or of a state to hold a hearing or appoint a special master to hold a hearing to adduce evidence to order a party to produce or give evidence under procedures of that court, or to have social studies made with respect to the custody of a child involved in proceedings pending in the Northern Cheyenne Court; and to forward to the Northern Cheyenne Court certified copies of the transcript of the record

of the hearing, the evidence otherwise adduced, or of any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties or if necessary, ordered paid by the Northern Cheyenne Reservation.

- B. The Court may request the appropriate court of another tribe or a state court to order a party to custody proceedings pending in the Northern Cheyenne Court to appear in the proceedings and, if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid.

8-4-18 Assistance to Other Courts

- A. Upon request of another tribal court or of a state court which is competent to hear custody matters the Northern Cheyenne Court may order a resident of the Northern Cheyenne Reservation to appear at a hearing to adduce evidence or to produce or give evidence under other procedures available under the Northern Cheyenne Codes or may request social studies to be made for use in a custody proceeding in another tribal court or a state court. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced and any social studies prepared shall be forwarded by the Clerk of the Court to the requesting court. The Court may condition compliance with the request upon assurance by another court that necessary expenses will be advanced or reimbursed.
- B. A resident of the Northern Cheyenne Reservation may voluntarily give his testimony or statement in the Northern Cheyenne Court for use in a custody proceeding off of the Northern Cheyenne Reservation.
- C. Upon request of the court of another tribe or of a state court the Northern Cheyenne Court may order a person in residence on the Northern Cheyenne Reservation to appear with the child in a custody proceeding off of the Reservation. The Court may condition compliance with the request upon assurance by the other court that travel and other necessary expenses will be advanced or reimbursed.

8-4-19 Preservation of Documents for Use in Other Courts

In any custody proceedings in the Northern Cheyenne Court the Court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents. Upon appropriate request of another tribal court or of a state court, the Court shall forward to the other court certified copies of any or all of such documents.

8-4-20 Request for Records of Another Court

If a custody decree has been rendered in another court concerning a child involved in a custody proceeding pending in the Northern Cheyenne Court, the Court upon taking jurisdiction of the case shall request of the other court a certified copy of the transcript of any court record and other documents mentioned in 8-4-19.

8-4-21 Priority

A custody proceeding which raises a question of the existence or exercise of jurisdiction under this Code shall be given calendar priority and handled expeditiously.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

NORTHERN CHEYENNE AGENCY
LAME DEER, MONTANA 59043

IN REPLY REFER TO:
Law Enforcement Services

JAN - 8 1990

Mr. Edwin Dahle, President
Northern Cheyenne Tribal Council
Lame Deer, Montana 59043

Dear Mr. Dahle:

Attached is the original of Northern Cheyenne Tribal Ordinance 5(90) enacted by the Northern Cheyenne Tribal Council on December 19, 1989 and received in this office on January 3, 1990.

Ordinance No. 5(90) pertains to amending the Law and Order Code Title VIII - Domestic Relations.

Upon review, I approve Ordinance 5(90) as written and enacted under authority of Article IV, Section 1(i) of the Northern Cheyenne Tribal Constitution and By-Laws.

We have retained sufficient copies for our files and submission to the Billings Area Office for review in accordance with your Tribal Constitution and By-Laws.

Sincerely,

James L. Stiles
Superintendent

Attachments

TRIBAL COUNCIL OF THE NORTHERN CHEYENNE
NORTHERN CHEYENNE RESERVATION
LAME DEER, MONTANA

ORDINANCE NO. 5 (90)

AN ORDINANCE OF THE NORTHERN CHEYENNE TRIBAL COUNCIL AMENDING THE
LAW AND ORDER CODE - TITLE VIII - DOMESTIC RELATIONS.

WHEREAS, from time to time certain modifications must be made in
the substantive laws that govern the Northern Cheyenne
Reservation: and,

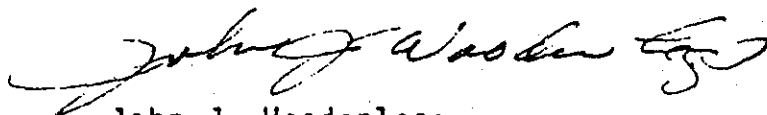
WHEREAS, the potential is great for a couple who is dissolving
their marriage to have the court award a part of the
marital estate to a non-member and if the marital
property is trust realty that property will go out
of trust; now,

BE IT ORDAINED by the Northern Cheyenne Tribal Council that the
following ordinance is hereby adopted as follows:

8-2-6 Disposition of Property

8. The Court shall determine whether during
the marriage the couple acquired any trust
realty within the exterior boundaries of
the Northern Cheyenne Reservation, and, if
such property was acquired, the Court, in
dividing the marital property, shall divide
the property in such a way that if one of
the petitioners is a non-member of the
Northern Cheyenne Tribe then no trust realty
shall be awarded to the non-member.

PASSED, ADOPTED AND APPROVED by the Northern Cheyenne Tribal Council
by 12 votes for passage and adoption and no vote against
passage and adoption this 19th day of December, 1989.



John J. Woodenlegs,
Acting Vice-President
Northern Cheyenne Tribal Council

ATTEST:


Norma Wolfchief, Secretary
Northern Cheyenne Tribal Council

APPROVED: 

JAN - 8 1990

ACTING SUPERINTENDENT