

# Stockbridge-Munsee Community

BAND OF THE MOHICAN INDIANS  
TRIBAL COUNCIL OFFICES

## RESOLUTION

April 15, 1997

No. 120-97

Whereas, the Stockbridge-Munsee Community, Band of Mohican Indians, is a federally recognized Indian Tribe, exercising its duties and responsibilities as a sovereign nation under a Constitution approved November 18, 1937; and

Whereas, The Tribe recently established the Stockbridge-Munsee Community Tribal Court; and

Whereas, The Stockbridge-Munsee Tribal Council recognizes the importance of strengthening its inherent right to self-governance by enacting its own laws and ordinances; and

Whereas, The Tribe recently enacted a Probate Code to provide its members and all people within the Tribe's jurisdiction with laws which provide for the testamentary disposition of their property and personal affairs, and

Whereas, It is recognized that the Probate Code is in need of amendment, now

Therefore Be It Resolved, that the Stockbridge-Munsee Tribal Council hereby approves the following amendments to to Probate Code:

To be added to the current code: **Section 12-2-4 Oral Wills.** A will which does not comply with Section 12-2-2 of this Probate code is valid as an oral will under custom if all children, whether residing in testator's home or not, and testator's spouse, if alive, are present at the announcement of the oral will and agree that the testator orally made known the testator's last will before them.

An oral will is also valid under custom if made in the presence of a competent disinterested adult person by a testator who declares at that time that it is his or her wish that their property descend in a specific manner upon the event of the testator's death. "Disinterested" means that the person hearing the oral declaration of testator's intent will not benefit in any way directly or indirectly nor will a spouse or any relative of said disinterested person benefit in any directly or indirectly.

The Court shall hear testimony from the disinterested person who heard such declaration and the Court shall decide the following: (1) whether such testimony is credible; and (2) whether the manner of disposition of testators property is reasonable and customary. If the Court finds that both of the foregoing conditions prevail, the testator's expressed intent shall be carried out as a valid will.

To replace these sections of the current code: **Section 12-6-2 Administration of Intestate Estate.** (c) The following persons, if legally competent, shall be afforded priority in

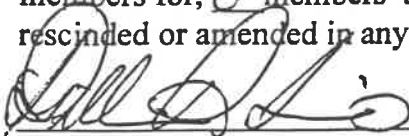
order of their listing for appointment as Administrator: the surviving spouse, any child over 18 years of age, other blood relatives, any adult tribal member, any adult person.

(d) (1) To take constructive or physical possession of all property of the decedent subject to this Probate Code as the Court shall order, taking into consideration the interests of the person or persons who may have occupied the homestead of the decedent at the time of his or her death.

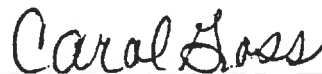
Be It Further Resolved, that these amendments shall be effective immediately upon adoption of this Resolution.

#### CERTIFICATION

I, the undersigned, as Secretary of the Stockbridge-Munsee Tribal Council, do hereby certify that the Tribal Council is comprised of seven members of whom 6, constituting a quorum, were present at a meeting duly called, noticed, and convened on the 15<sup>th</sup> day of April, 1997, and that the foregoing resolution no. 120-97 was adopted at such meeting by a vote of 5 members for, 0 members against, and 0 members abstaining, and that said resolution was not rescinded or amended in any way.



Bill Terrio, Vice-President



Carol Goss, Council Secretary