

RESOLUTION NUMBER **TMBC1043-12-14** OF THE DULY ELECTED AND CERTIFIED  
GOVERNING BODY OF THE TURTLE MOUNTAIN BAND OF CHIPPEWA

- WHEREAS, The Turtle Mountain Band of Chippewa Indians, hereinafter referred to as the tribe, is an unincorporated Band of Indians acting under a revised Constitution and Bylaws approved by the Secretary of the Interior of June 16, 1959, and amendments thereto approved; and
- WHEREAS, Article IX (a) Section 1 of the Turtle Mountain Constitution and by-laws empowers the Tribal Council with the authority to represent the Band and to negotiate with federal, state, and local government and with private persons; and
- WHEREAS, Article VII Section 1 of the Turtle Mountain Constitution and Bylaws requires a 30-day comment period prior to the adoption of any ordinances or amendments to the Tribal Code, whether proposed by resolution or otherwise. Adoption must occur through a roll call vote of the Tribal Council at a publicly held meeting; and
- WHEREAS, the Tribe by Resolution No. TMBC998-10-14 placed the proposed amendments out for a thirty (30) day comment period to add the following language to Title 9, Section 9.0429 (4) Voiding Determination. Presumption of paternity to include a procedure to provide remedy for father's adjudged paternity by fraud, duress or mistake and add: Section 9.0811 (7) Mistake, Fraud, or Duress as follows:

**9.0429 (4) VOIDING DETERMINATION.**

(a) A determination of paternity that arises under this section may be voided at any time upon a motion or petition stating facts that show fraud, duress or a mistake of fact. The burden of proof shall be upon the movant. Such burden shall be clear and convincing evidence.

(b) If a court in a proceeding under par. (a) determines that the male is not the father of the child, the court shall vacate any order entered under sub. (1) with respect to the male. The court or the child support agency shall notify the state registrar, in the manner provided in this code to remove the male's name as the father of the child from the child's birth certificate. No paternity action may thereafter be brought against the male with respect to the child.

And shall also be amended to add at

**9.0811 (7) Mistake, Fraud, or Duress.**

(a) A determination of paternity that arises under this section may be voided at any time upon a motion or petition stating facts that show fraud, duress or a mistake of fact. The burden of proof shall be upon the movant. Such burden shall be clear and convincing evidence.

(b) If a court in a proceeding under par. (a) determines that the male is not the father of the child, the court shall vacate any order entered under sub. (1) with respect to the male. The court or the child support agency shall notify the state registrar, in the manner provided in this code to remove the male's name as the father of the child from the child's birth certificate. No paternity action may thereafter be brought against the male with respect to the child; now


THEREFORE BE IT RESOLVED that the Tribe is approving amendments to Title 9, Section 9.0429 (4) and Section 9.0811 (7).

CERTIFICATION

I, the undersigned Tribal Secretary of the Turtle Mountain Band of Chippewa Indians, do hereby certify that the Tribal Council is composed of nine (9) members of whom *nine (9)* constituting a quorum were present at a meeting duly called, convened and held on the *7<sup>th</sup> day of December, 2014* that the foregoing resolution was adopted by an affirmative vote of *eight (8) in favor* - Representatives Troy DeCoteau, Edward Falcon, Cindy Malaterre, Jim Baker, Elmer Davis, Jr., Patrick J. Marcellais, Carson Belgarde and Zelma Peltier; with the Chairman not voting.

  
Jolean A. Morin, Tribal Secretary *12/9/14*

SIGNED INTO LAW/Dated this *10<sup>th</sup>* day of *December*, 2014  
 VETOED/Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

  
Richard W. McCloud, Tribal Chairman