



**BEAR RIVER BAND
OF THE ROHNERVILLE RANCHERIA**

PATERNITY AND CHILD SUPPORT CODE

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ARTICLE I. PATERNITY

4.20.01 PURPOSE OF PATERNITY

The purpose of this article is to ensure that the father of each Bear River Band child or child residing on the Rohnerville Rancheria is identified and paternity established to protect the best interest of all children regarding such matters as enrollment, customs and traditions of the Tribe, survivorship and inheritance, health, support, and Social Security benefits. Indian children are the most vital and valued resource to the continued existence, the future, and integrity of the Bear River Band of the Rohnerville Rancheria. The Tribe has a compelling interest in promoting and maintaining the health and well-being of all Bear River Band children.

4.20.02 JURISDICTION

The Bear River Band Tribal Court shall have jurisdiction over any action to determine paternity under this article. Any person who has sexual intercourse within the lands of the Rohnerville Rancheria with a person who is a member or is eligible to become a member of the Bear River Band of the Rohnerville Rancheria thereby submits to the jurisdiction of the Tribal Court as to an action brought under this article with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by statute, personal jurisdiction may be acquired by personal service of summons outside the Reservation or by service in accordance with the Tribal law as now or hereafter amended.

4.20.03 GENERAL PROVISIONS

1. Statute of Limitations - No statute of limitations applies to an action to establish paternity.
2. Determination of Maternity - The provisions of this article may be applied to determinations of maternity.

4.20.04 PROCEDURE FOR PATERNITY PROCEEDINGS

Any paternity action under this article is a civil action governed by Rules of Court for the Bear River Band Tribal Court. Unless otherwise provided, the civil rules in Rules of Court for the Bear River Band Tribal Court shall apply to all proceedings under this article.

4.20.05 DEFINITIONS – PATERNITY

1. *Alleged Father* means any man who might be the biological father of a child.
2. *Adult Child* means a child 18 years or older.
3. *Child* means a person who up to and including at least 18 years old who has not been emancipated by order of a court of competent jurisdiction or by legal marriage.
4. *Court* refers to the Bear River Band Tribal Court.
5. *Establishing Paternity* means identifying the father of a child and legally determining that he is the father.
6. *Genetic Testing* means a DNA paternity test or other approved testing used to establish that the alleged father is the child's biological father with a probability of paternity of 99 percent or higher.
7. *Party* means the parent, guardian, child, Bear River Band of the Rohnerville Rancheria, Bear River Band Tribe, or Bear River Band Child Support Services to whom certain

rights accrue, including, but not limited to, with certain restrictions and limitations: the right to be notified of proceedings; to retain counsel or, in some cases, to secure Court-approved spokespersons; to appear and present evidence; to call, examine, and cross-examine witnesses; the unlimited or restricted right to discovery and the inspection of records; and the right to request a hearing or appeal a final order.

8. *Paternity* means fatherhood.
9. *Presumption* means a fact assumed to be true under law.

4.20.06 PRESUMPTION OF PATERNITY

A man is presumed to be the natural father of a child if:

1. He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, divorce, or dissolution, or after a decree of separation is entered by a Court;
2. Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born within 300 days after the termination of cohabitation;
3. After the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
 - a. He has acknowledged his paternity of the child in writing filed with the Registrar of Vital Statistics or the Bear River Band Tribal Enrollment Office;
 - b. With his consent, he is named as the child's father on the child's birth certificate; or
 - c. He is obligated to support the child under a written voluntary promise or by Court order.
4. He acknowledges his paternity of the child in a writing filed with the Registrar of Vital Statistics, or the Bear River Band Tribal Enrollment Office, who shall promptly inform the mother of the filing of the acknowledgment, and she does not dispute the acknowledgment within a reasonable time after being informed thereof, in a writing filed with the Registrar of Vital Statistics. If another man is presumed under subsection 1., 2., 3. or 4. of this Section to be the child's father, such acknowledgment shall give rise to the presumption of paternity only with the written consent of the otherwise presumed father or after such other presumption has been rebutted.

A presumption under this Section may be rebutted in an appropriate action by a preponderance of evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a Court decree establishing paternity of the child by another man or an order of the Court disestablishing paternity.

4.20.07 GOOD CAUSE NOT TO ESTABLISH PATERNITY

A woman may be excused from submitting to genetic testing or from identifying or locating the father of her child when there is good cause not to reveal his identity or location. The Court may hold a closed, ex parte hearing to determine whether good cause exists. “Good cause” may include, but is not limited to:

1. Cases involving domestic violence;
2. Cases involving incest or rape;
3. Cases in which legal proceedings for adoption are pending; or
4. Cases where identification of the father is not in the best interest of the child.

4.20.08 ARTIFICIAL INSEMINATION

1. **Husband and Child Relationship:** If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of the child thereby conceived. The husband’s consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the date of the insemination, and file the husband’s consent with the Registrar of Vital Statistics, where it shall be kept confidential and in a sealed file.
2. **Donor and Child Relationship:** The donor of semen provided to a licensed physician for use in artificial insemination of a woman other than the donor’s wife is treated in law as if he were not the natural father of a child thereby conceived, unless the donor and the woman agree in writing that said donor shall be the father. The agreement must be in writing and signed by the donor and the woman. The physician shall certify their signatures and the date of the insemination and file the agreement with the Registrar of Vital Statistics, where it shall be kept confidential and in a sealed file.
3. **Administrative Record:** The failure of the licensed physician to perform any administrative act required by this Section shall not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a Court or of a file held by the supervising physician or elsewhere, are subject to inspection only in exceptional cases upon an order of the Court for good cause shown.

4.20.09 AGREED PATERNITY ORDER

The parties may submit an agreed order establishing the paternity of a child. Before deciding whether to approve the agreed order, the Judge shall discuss the agreed order with each party and shall:

1. Explain the proposed agreed order in detail and the consequences of the order and of the person’s failure to comply with agreed terms;
2. Assure that the person’s consent to the proposed agreed order is not the result of coercion, threat, duress, fraud, over-reaching, or improper promise on the part of any person;
3. Explain the person’s right to a spokesperson at their own expense;
4. Explain the burden of proof as to each issue;

5. Explain that once the person agrees to the proposed order and it is signed and entered by the Court, it will be too late for the person to change his or her mind.

If the Court finds that any consent was not truly voluntary, the agreed order shall not be entered and the case shall proceed to a hearing.

4.20.10 PATERNITY PETITION

1. Generally. A paternity proceeding under this article may stand alone as a separate proceeding or it may be joined with an action to determine child support at the request of the alleged father or the child's mother. Paternity proceedings may also be joined with an action for divorce, dissolution, annulment, declaration of invalidity, separate maintenance, child-parent relationship, support, or any other civil action in which paternity is an issue including proceedings in Juvenile Court.
2. Who May File Petition. A petition to request the Court to establish paternity may be filed by:
 - a. An adult child or a child's legal guardian;
 - b. The child's natural mother;
 - c. An alleged father of the child; or
 - d. Any Tribal agency with an interest in determining parentage.
3. Contents of Petition. A petition to establish paternity, prepared on a form approved by the Court, shall state:
 - a. The names, ages, addresses, and tribal affiliations, if any, of the natural mother, the alleged father(s), the child, all others who have legal rights of custody, visitation, or support of the child, and of the petitioner;
 - b. Whether the natural mother and the alleged father are or were married, and the dates of marriage, separation, and divorce, if any;
 - c. Whether the natural mother and alleged father agree that the alleged father is the natural father of the child; and
 - d. Whether there are other Court or administrative paternity proceedings or State paternity affidavits concerning the child or whether parental rights have been terminated.

A certified copy of the child's birth certificate shall be attached to the petition or provided to the Court at least 10 days before the first hearing.

4. Service and Summons. All parties, including the child if over 18 years of age, the biological mother, and the man alleged in the petition to be the natural father, shall be served with the petition and a summons. The summons shall notify the party that the party must respond to the summons and petition by filing an answer with the Court and serving it on all parties. The summons shall further notify the party that, if the written response is not filed with the Court within 21 days after receipt of the summons and petition, the Court may, without that party's response, enter a judgment of paternity by default only if it has admitted evidence of genetic testing statistically proving that the man alleged in the petition is the biological father.

4.20.11 PATERNITY HEARING

The following rules shall apply to paternity hearings:

1. Only those persons the Court finds to have a legitimate interest in the proceedings may attend hearings under this article. Bear River Band Child Support Services staff may be present at paternity hearings;
2. The mother of the child and the alleged father may be compelled to testify or to provide DNA samples at the paternity hearing;
3. Testimony of a health care provider concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged for purposes of admitting this evidence; and
4. The Court may enter a judgment of paternity by default only if it has admitted evidence of genetic testing statistically proving that the man alleged in the petition to be the natural father is the biological father.

4.20.12 EVIDENCE RELATING TO PATERNITY

Genetic tests are the preferred method of establishing paternity. Evidence relating to paternity may include:

1. Genetic test results, weighted in accordance with evidence of the statistical probability of the alleged father's paternity;
2. Evidence of sexual intercourse between the mother and alleged father at any possible time of conception;
3. An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy;
4. Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the Court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests; and
5. Any other evidence relevant to the issue of paternity of the child.

4.20.13 GENETIC TESTING

In all paternity proceedings, the Court shall require the child, mother, and alleged father(s) to submit to genetic tests, unless good cause exists not to require such testing. The following requirements apply to genetic testing under this Section:

1. Lab Accredited. The tests shall be performed by an accredited paternity genetic testing lab that performs legally and medically acceptable tests, approved by the Bear River Band of the Rohnerville Rancheria or the Court.
2. Admission into Evidence. Unless a party objects to the results of genetic tests in writing at least five days before the hearing, the tests shall be admitted as evidence of paternity without the need for foundation testimony or other proof of authenticity.
3. Affidavit of Genetic Expert. The results of genetic tests must be accompanied by an affidavit from the expert describing the expert's qualifications and analyzing and

interpreting the results as well as documentation of the chain of custody of the genetic samples.

4. Contempt of Court. Failure to submit to genetic tests when required by the Court may constitute contempt of Court.

4.20.14 PATERNITY ORDER

The judgment or order of the Court determining whether or not a party is a parent of a child shall be based on a preponderance of the evidence. If the judgment or order of the Court establishes a different father than that on the child's birth certificate, the Court shall send the order to the Department of Vital Statistics of the state in which the child was born.

4.20.15 DISESTABLISHMENT OF PRESUMED PATERNITY

A man presumed to be a child's father under Section 4.20.06 of this Code may bring an action for the purpose of declaring the nonexistence of the father and child relationship only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party. Any other interested party may bring an action at any time for the purpose of declaring the existence or nonexistence of the father and child relationship. Regardless of its terms, no agreement between an alleged or presumed father and the mother or child shall bar an action under this Section. If an action under this Section is brought before the birth of the child, all proceedings may be stayed until after the birth, except service of process and discovery, including the taking of depositions.

4.20.16 PATERNITY RECORDS

The records filed in a paternity action shall be confidential. Only parties to the case may obtain copies.

4.20.17 PATERNITY ESTABLISHED BY OTHER JURISDICTIONS

Properly issued court and administrative orders, judgments, or decrees of other Tribes, states, or federal agencies establishing paternity will be given full faith and credit. Such orders will be considered properly issued when the issuing court or administrative agency had personal jurisdiction over the person claimed to be bound by the foreign order, subject matter jurisdiction over the matter, proper service of process under the law of the issuing jurisdiction was made on such person, and the order was issued according to the laws of that jurisdiction and does not violate the public policy of the Bear River Band of the Rohnerville Rancheria. The Court shall not, however, recognize any paternity judgments entered by default in the absence of evidence of genetic testing statistically proving that the man alleged is actually the biological father.

ARTICLE II. CHILD SUPPORT

4.20.18 PURPOSE OF CHILD SUPPORT

The purpose of this article is to:

1. Establish the legal duty for parents to provide financial support for the needs of their children;
2. Establish objective and consistent standards to determine support amounts for children

3. Provide an efficient legal process by giving the court and parents guidance in setting the levels of child support orders and encouraging agreed resolutions;
4. Balance the needs of the children to be supported with the needs of the obligor parent so as not to make child support orders so burdensome for the parents obligated to pay to meet their obligations; and
5. Provide for the reciprocal recognition and enforcement of foreign child support orders and judgments.

The establishment of these duties, standards, and legal processes is in the best interests of Indian families, and especially Indian children, who have a right and need to receive support from their parents.

4.20.19 JURISDICTION

1. The Tribal Court shall have subject matter jurisdiction over any action to establish or enforce child support under this article [Res. 23-07].
2. In addition to jurisdiction established in the Act Establishing the Judiciary Section 5.0., the Court shall have personal jurisdiction over the following persons:
 - a. Any person who is a parent of a child, wherever the child is domiciled, if either parent of the child is a member of, or eligible for membership in, the Bear River Band of the Rohnerville Rancheria.
 - b. Any person who is the parent of a child who is a member of, or eligible for membership in, the Bear River Band of the Rohnerville Rancheria.
 - c. Any person who has assets or the right to assets located within the boundaries of the Rohnerville Rancheria, or income or the right to income generating from:
 - i. The Bear River Band of the Rohnerville Rancheria or any of its agencies, enterprises, or businesses; or
 - ii. An employer operating within the boundaries of the Rohnerville Rancheria.
 - d. Any person over whom personal jurisdiction may be obtained according to any other method provided by the Bear River Band Tribal Code as now established and hereafter amended.

4.20.20 GENERAL PROVISIONS

1. Every parent has a duty to support each and every child of that parent:
 - a. Until the child reaches the age of 18;
 - b. Until the child graduates from high school or its equivalent up to the age of 19; or
 - c. Under extraordinary circumstances, and under the discretion of the Court, until the age of 24 for post-secondary education or medical expenses. Factors to be considered for extended child support include income of the parents, aptitude, ability, and health of the adult child, and parental expectations.
2. Statute of Limitations:
 - a. As to the custodial parents or others acting on behalf of the child, no statute of limitations shall apply to an action for the enforcement of child support for any child from birth until the child reaches the age of 18, or 19, if enrolled in high

school or its equivalent, or the age of 24, if the Court has issued an order for extended child support.

- b. As to children acting on their own behalf, the statute of limitations for a child's right of action for child support shall be tolled while the child is in infancy, and shall not begin to run until that child has reached the age of 18.
- c. An obligee parent who obtains a judgment or order from the Court for accrued child support may have an execution, garnishment, or other legal process issued upon that judgment or order at any time within 10 years of the eighteenth birthday of the youngest child named in the order for whom support is ordered.

4.20.21 PROCEDURE FOR CHILD SUPPORT PROCEEDINGS

Any child support action under this article is a civil action governed by the Rules of Court for the Bear River Band Tribal Court. Unless otherwise provided, the civil rules in the Rules of Court for the Bear River Band Tribal Court shall apply to all proceedings under this article.

4.20.22 DEFINITIONS – CHILD SUPPORT

1. *Adjusted Gross Income* means gross income minus allowable deductions as specified in this article.
2. *Basic Child Support Obligation* means the monthly child support obligation of a parent calculated pursuant to the Child Support Guidelines, excluding amounts for day care, health care, and extraordinary expenses as set forth in Section 4.20.25 of this Code.
3. *Child* means a person dependent on the financial support of at least one parent for their basic needs and for whom a support order has been established or for whom a duty of support is owed.
4. *Child Support* means the financial obligation that noncustodial parent owes toward his or her children, whether such obligation is established through a judicial or administrative process or by stipulation of the noncustodial parent. The financial obligation of a noncustodial parent shall be met through the payment of monies and/or through the provision of other services or resources, as ordered by the Court or as agreed by the parties.
5. *Child Support Program* refers to Bear River Band Child Support Services, designated by the Bear River Band Tribal Council to administer and enforce this Code.
6. *Child Support Guidelines* or *Guidelines* means all child support guidelines, schedules, and worksheets approved by the Bear River Band Tribal Council. These guidelines may be modified upon approval from the Bear River Band Tribal Council.
7. *Court* means the Bear River Band Tribal Court.
8. *Custodial Parent* means the person who holds legal custody of the child or children pursuant to a Court order, or who exercises primary physical custody of the child or children on the basis of an agreement between the parents or by the absence of one parent. A legal guardian or custodian with primary physical custody of the child or children and standing in the position of the parent shall have the same rights to child support as a custodial parent.
9. *Employer* means all persons or entities who agree to compensate another for services performed.

10. *Extraordinary Medical, Dental and Counseling Expenses* means uninsured expenses exceeding a total amount of \$100.00 per child per month.
11. *Non-Cash Support* or *In-Kind Support* is support provided to a family in the nature of goods and/or service, rather than in cash, but which, nonetheless, has a certain and specific dollar value.
12. *Noncustodial Parent* means a parent of a child, whether or not conceived during the course of marriage, who does not hold legal custody of the child pursuant to a Court order, or who does not exercise physical custody of the child on the basis of agreement between the parents or by the absence of one parent.
13. *Obligee* means the person or agency with the right to receive child support payments.
14. *Obligor* means the person with an obligation to pay child support.
15. *Party* means the parent, guardian, custodian, child, or Tribal Child Support Program to whom certain rights accrue, including, but not limited to, with certain restrictions and limitations: the right to be notified of proceedings; to retain counsel or, in some cases, to secure Court-approved spokespersons; to appear and present evidence, to call, examine, and cross-examine witnesses; the unlimited or restricted right to discovery and the inspection of records; and the right to request a hearing or appeal a final order.
16. *Parenthood* means the position, function, and standing of a parent.
17. *Post-Secondary Education* means for the purposes of this article educational instruction sought after having obtained a high school diploma or GED, to include a four-year degree program, a two-year degree program or vocational instruction leading to a degree or certificate of completion.
18. *Shared Custody* means a legal custody arrangement or a custody agreement between the parties in which each parent regularly has the child(ren) in his or her care for at least 12 24-hour days per month.
19. *Tribe* means the Bear River Band of the Rohnerville Rancheria.

4.20.23 BEAR RIVER BAND CHILD SUPPORT SERVICES

The Bear River Band Child Support Services Program is established to carry out the purposes set out in this article. The Program shall be operated in compliance with Title IV-D of the Federal Social Security Act (42 U.S.C. 651) for the establishment of paternity, establishment and modification of child support obligations, enforcement of child support obligations, and location of custodial and noncustodial parents.

1. Authority. Upon request of the parent, an obligee, an obligor, or a Tribal or State agency with authority to make such a request, the Child Support Program may initiate legal action; join a legal action; or otherwise act to establish parenthood of a child, locate a noncustodial parent, or to establish, modify, or enforce a child support obligation. In such an action, the Child Support Program does not represent the requesting party or any other party to the action, but instead acts on behalf of the child.
 - a. Upon the request of the Bear River Band Child Support Services, the Bear River Band of the Rohnerville Rancheria, any of its agencies, enterprises, or businesses, and any employer operating within the boundaries of the Rohnerville Rancheria shall provide information to assist it in locating obligors, their income, and their

assets. The Bear River Band Child Support Services is further authorized to seek a subpoena from the Court to obtain the names, addresses, employment information, and other necessary data regarding an obligor.

- b. An attorney representing the Bear River Band Child Support Services Program has an attorney-client relationship only and exclusively with the Bear River Band of the Rohnerville Rancheria and with the Bear River Band Child Support Services. The fact that a recipient of services from the Bear River Band Child Support Services might incidentally benefit from the actions of the Bear River Band Child Support Services attorney shall not be construed as legal representation to the recipient, nor as having formed an attorney-client relationship. Any communication between the attorney and a mother, father, alleged father(s), child, or any other party in a paternity or child support action shall not be considered privileged or confidential unless specifically required by Tribal or Federal law.
2. Confidentiality. The Bear River Band Child Support Services shall keep confidential all information and records in its possession except when release is necessary to carry out its duties.
3. Bear River Band Child Support Services Registry. The Bear River Band Child Support Services shall maintain the Bear River Band Child Support Services Registry for receipt and disbursement of child support payments.
4. Program Recommendations and Assistance. The Bear River Band Child Support Services shall prepare a recommendation about the child support and day care, health insurance obligation and extraordinary expenses for each case, using a form developed by the Program. In making its recommendation, the Child Support Program shall be guided by the Bear River Band Child Support Services Guidelines and Schedule. The Program's recommendation shall be filed with the petition whenever possible. The Program shall make assistance available to parents in developing agreements for child support, day care, health insurance and extraordinary expenses. Parents may obtain these services before they file a petition or they may be referred by the Court.

4.20.24 CONFIDENTIALITY

1. Generally. The Court may order that the address and other location information regarding a party or child shall not be released if the Court finds that release of such information is reasonably likely to result in physical or emotional harm to the child or to the party. In such instances, the information shall not be available for public view and the Court may designate those persons who are allowed access.
2. Hearings. Only those persons the Court finds to have a legitimate interest in the proceedings may attend hearings under this article. Bear River Band Child Support Services staff may be present at child support hearings.
3. Financial Records. The Court shall make provision for the confidentiality of financial records filed by the parties, so that they are secure from view by the general public but may be reviewed by the parties to the case and the Bear River Band Child Support Services Program, solely for the purpose of establishing, modifying, enforcing, or distributing child support.

4.20.25 CHILD SUPPORT GUIDELINES AND SCHEDULE

The Bear River Band Child Support Services shall establish child support guidelines and a schedule for adoption by the Bear River Band Tribal Council. The guidelines shall set the scale of child support contributions and shall be used to provide consistent and fair calculations to determine the amount an obligor parent must pay for support of his or her child pursuant to this article. The guidelines shall place a duty for child support upon either or both parents based on their respective financial resources and the custodial arrangements for the child(ren).

The guidelines and schedule must, at a minimum:

1. Take into consideration all income of both parents;
2. Be based on specific descriptive and numeric criteria and result in a computation of an amount of child support which is sufficient to meet the basic needs of the child
3. Provide for the actual child care expenses reasonably necessary to enable both parents to maintain employment or to conduct an active search for employment;
4. Provide a sufficient basis to support written findings for the award of child support;
5. Provide for a minimum amount of monthly child support, not less than \$25.00 per child, to establish the principle that every parent, regardless of income, has an obligation to provide financial support for a child; and
6. Provide for an imputed income to be applied to an obligor parent when the Court has no reliable evidence upon which to base a child support award.

The Bear River Band Child Support Services Program shall review its guidelines and schedule, if appropriate, at least once every four years to ensure that they remain current and shall make recommendations for revisions, as appropriate, to the Bear River Band Tribal Council.

4.20.26 DETERMINATION OF INCOME FOR CHILD SUPPORT OBLIGATIONS

1. **Gross Income.** Gross income for child support obligations shall include income from any source, and may include, but is not limited to, income from salaries, wages, commissions, stipends, bonuses, dividends, severance pay, taxable per capita payments, Indian general welfare benefits received from the Tribe, interest, trust income, including income received from land held in trust by the United States or subject to a restriction against alienation, annuities, deferred compensation, capital gains, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, gaming winnings, prizes, and spousal maintenance. Notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a support obligation, gross income also includes periodic payments from pension programs, retirement programs, and insurance policies. A specific cash value shall be assigned to noncash benefits. Seasonal income, overtime income, or fluctuating income shall be averaged. When income from a full-time job is consistent with income during the marriage, income earned as the result of overtime hours or a second job may be disregarded.
 - a. **Exclusions.** Gross income shall not include the following: benefits received from public assistance programs including, but not limited to, TANF, supplemental

- security income, food stamps, or any other program exempted by Federal law; income of a parent's new spouse; and sums received as child support.
- b. Self-Employment. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required to produce income.
 - c. Underemployment. If a parent is unemployed or working below full earning capacity, the Court may consider the reasons. Among other factors, the Court may consider whether the parent declined to accept or pursue employment or training opportunities, and the parent's job skills, training, work history, education, health, and age. If the Court finds that earnings are reduced as a matter of choice and not for reasonable cause, the Court shall attribute income to a parent up to his or her earning capacity.
 - d. Imputed Income. If the Court has no reliable evidence concerning a parent's income, the Court shall impute income as set forth in the Child Support Guidelines.
2. Adjusted Gross Income. Adjusted gross income includes gross income minus the following deductions:
- a. United States income taxes;
 - b. Tribal, State, or local income taxes
 - c. FICA;
 - d. Health insurance premiums to the extent paid by an obligor for the benefit of the child;
 - e. State industrial insurance premiums;
 - f. Child support paid for another child to the extent actually paid;
 - g. Court-ordered spousal maintenance to the extent actually paid;
 - h. Mandatory union and professional dues, and mandatory pension plan payments; and
 - i. The amount of reasonable expense of an obligor for preexisting, jointly acquired debt of the parents to the extent payment of the debt is actually made. When a deduction for debt service is made, the Court may provide for prospective upward adjustments of support based on the anticipated reduction or elimination of the debt service.

4.20.27 CALCULATION OF CHILD SUPPORT OBLIGATION

1. To establish or modify child support, the Child Support Guidelines shall be applied to determine the amount of child support due. In every case, a minimum amount of child support shall be ordered as provided in the Child Support Guidelines.
2. The basic child support obligation shall be calculated based on the income of the obligor parent. Unemployment or underemployment shall not excuse an obligor parent from the obligation to provide child support.
3. The basic child support obligation shall be based on physical custody of the child(ren) arrangements as follows:

- a. For primary custody situations, the basic child support obligation shall be calculated using the noncustodial parent's income. The Court may consider a motion for partial abatement of child support for visitation schedules allowing for the child to reside with the noncustodial parent for periods exceeding one month or longer during a one-year period. A month shall mean a calendar month of consecutive days.
 - b. For shared custody arrangements, the basic child support obligation shall be calculated using the income of both parents. In shared custody situations, each parent's percentage of custody is equal to the number of 24-hour days spent by the child(ren) with each respective parent divided by 365.
 - c. For divided custody situations, the basic child support obligation shall be calculated using the income of both parents. When one parent has primary physical custody of one child(ren) and the other parent has primary physical custody of the other child(ren), then all attempts shall be made to insure that the amount of support is equal between the children.
 - d. Imputed Income. If the Court has no reliable evidence concerning a parent's income, the Court shall impute to that parent a median income as set forth in the Child Support Guidelines.
4. Child Care. The costs of providing reasonable child care on behalf of the children due to employment or job search of either parent shall be paid by each parent in proportion to his or her income, in addition to the basic child support obligation.
5. Health Insurance.
 - a. Each parent shall take the steps necessary to enroll the child(ren) for medical coverage under Indian Health Services (IHS) if the child(ren) is eligible.
 - i. Medical coverage under IHS shall satisfy the requirement to provide health care for the child(ren).
 - b. Each parent shall enroll the child(ren) into any medical or dental insurance program that is available, at no costs to the parent, through the parent's employer or union.
 - c. If the child(ren) cannot be covered under the conditions outlined in subsection 5 a. and 5 b. of this Section, the Court may order a parent to pay the cost of providing health insurance for the child(ren) in proportion to his or her income, in addition to the basic child support obligation.
6. Extraordinary Expenses. The child support obligation may also include payment of the following extraordinary expenses not covered by the basic child support obligation by each parent in proportion to his or her income:
 - a. Extraordinary medical, dental and counseling expenses incurred on behalf of the child(ren), including substance abuse counseling and treatment.
 - b. Transportation and communication expenses necessary for long distance visitation or time sharing
 - c. Other special expenses, including but not limited to, traditional cultural activity expenses and educational or extracurricular expenses.

7. Post-Secondary Education Expenses. The Court shall have discretion to order a parent to pay up to 50 percent of post-secondary education expenses for a child through the completion of post-secondary education up to the child's twenty-fourth birthday if there is no significant hardship to the obligor parent. Factors to be considered include income of both parents, aptitude and ability of the child, and parental expectations.
8. Non-Cash Payments or "In-Kind Support." A portion of a monthly child support obligation can be paid with in-kind support or non-cash goods or services by an obligor parent, if agreed to by the parties in writing with the Court having final authority to grant or deny the in-kind contribution agreement. In-kind support may include, but is not limited to, food, clothing, shelter, fuel, or firewood. No monthly child support obligation can be paid solely by in-kind goods and services. The maximum percentage that will be allowed for in-kind goods and services during a one month period will be 50 percent of the total child support obligation. The Court shall assign a cash value to all in-kind payments using current market rates for similar goods and services in the local area. In-kind support will not be permitted to satisfy assigned support obligations.

4.20.28 INITIATING A CHILD SUPPORT ACTION

1. An action to establish child support may be initiated at any time before the child in question has his or her twenty-fourth birthday, and shall be prospective in nature
2. Who May File. Any parent, guardian, emancipated child or agency authorized to enforce the child support laws of the Bear River Band of the Rohnerville Rancheria may file a petition for establishment of child support under this article. The child support petition may be filed as a separate proceeding, or in connection with a petition for:
 - a. Dissolution or annulment;
 - b. Paternity; or
 - c. Child custody.

Regardless of the type of proceeding in which a petition for establishment of child support is filed, all child support matters shall be governed by this article.

3. Contents of Petition. A petition for establishment of child support shall contain:
 - a. The name, address, tribal affiliation, date and place of birth, and Social Security number of the petitioner, the responding party, and the child for whom support is requested;
 - b. The child support obligation requested or agreed upon;
 - c. The proposed provision of health insurance for the child;
 - d. Any proposed work-related day care or extraordinary medical or educational expenses
 - e. The date proposed for the child support obligation to begin;
 - f. The proposed frequency of payment;
 - g. A statement whether child support payments should be made by automatic wage withholding, automatic garnishment of per capita, or by direct payment from these resources to the Bear River Band Child Support Services Program;

- h. A statement that priority of child support payments shall be deducted by automatic wage withholding first and if not available, then it shall be deducted from per capita disbursement.
 - i. A statement that in cases requesting garnishment of per capita that the case has been transferred from the California Superior Court pursuant to California Rule of Court 5.372 and closure of the county local child support agency case pursuant to 45 CFR § 303.11(b)(21).
 - j. A statement whether any of the following proceedings involving the parents or the child are pending or have taken place in any court or administrative agency, and if so, the date, name, and place of the Court or agency:
 - 1) Child custody proceeding;
 - 2) Child support proceeding;
 - 3) Paternity establishment or disestablishment proceeding;
 - 4) Proceeding requesting a domestic violence protective order or no-contact order; or
 - 5) Proceeding requesting a restraining order involving the child or a party;
 - k. All financial information required by the Bear River Band Child Support Services Program
 - l. Authorization for the release of all financial records to the Bear River Band Tribal Court and the Bear River Band Child Support Services Program;
 - m. A statement regarding which parent should be allowed to claim the child as a dependent for income tax purposes; and
 - n. The recommendation of the Bear River Band Child Support Services Program regarding child support, health insurance coverage, day care, and extraordinary expenses.
4. Service and Summons. The petitioner shall serve a copy of the petition and summons upon the parent against whom child support is to be established. The summons shall inform the respondent of the following:
- a. That if the respondent chooses not to appear at the hearing or to enter a defense to the petition challenging the authority of the Court to hear the matter by the date of the hearing, the hearing shall proceed on the basis of the petitioner's evidence;
 - b. That an order of child support may obligate the respondent to pay child support until the child reaches the age of majority or until the child graduates from high school or its equivalent up to age 19 pursuant to Section 4.20.20 subsection 2. a. of this Code;
 - c. That if the obligor fails to pay child support under an order, the Court may authorize suspension or denial of an obligor's licenses, intercept of federal income taxes, and/or withholding against income;
 - d. That respondent's employer or others with evidence of the parent's income may be subpoenaed to provide the Court with records of his or her income;
 - e. That if there is no reliable evidence of the respondent's income, income will be imputed according to the Child Support Guidelines and Schedule;

- f. That if the parent's income is reduced as a matter of choice and not for reasonable cause, the Court will attribute income up to the parent's earning capacity
- g. That he or she may enter into an agreed child support order as allowed in this article; and
- h. That an answer must be filed with the Court and served on the petitioning party within 21 days of the date of service of the petition and a copy served on the petitioning party.

4.20.29 AGREED CHILD SUPPORT ORDER

1. Generally. The parties are encouraged to reach agreement to fulfill their financial obligations to their child(ren) as a noncustodial parent is more likely to remain connected with his/her child(ren) if he/she has developed an agreement with the other parent regarding an appropriate child support obligation.
In lieu of a contested hearing under this article, the parties may enter into an agreement as to the level of child support obligation in accordance with this Section. The Court shall not approve an agreement that provides for an amount of child support that is substantially less than that provided in the Child Support Guidelines and Schedule unless it meets the procedures required for a deviation under Section 4.20.37 of this Code.
2. Role of Child Support Program. The Bear River Band Child Support Services Program shall assist the parties to develop the agreement under the Child Support Guidelines and Schedule.
3. Form. The signed agreement shall be submitted to the Court for approval and entry of the order. The voluntary agreement shall not be valid until approved by the Court. The agreed order shall have the same force as any other order issued by the Court.
4. Court Review. The Court may hold a hearing to review the agreed order and ensure that the parties understand the terms of the proposed order.
 - a. The Court shall not approve the proposed agreed order unless the Court determines that the agreement is in the best-interests of the child(ren); and
 - b. If the Court finds that any consent was not truly voluntary, the agreed order shall not be entered and the case shall proceed to a hearing.

4.20.30 CASE TRANSFER

1. In General. The Bear River Band Child Support Services Program shall attempt to obtain the transfer of appropriate child support cases involving Tribal members from other jurisdictions. The Program shall be responsible for identifying Tribal members who are noncustodial parents or potential fathers in state child support cases, and may initiate a case transfer procedure for the identified cases. Upon receiving from a state or Tribal child support agency a written request to verify Tribal membership for a noncustodial parent or potential parent, the Tribe shall verify Tribal enrollment and may request the child support agency to transfer or refer by intergovernmental request the case to the Tribe.
2. Transfer of Case for Garnishment of Per Capita. Cases processed for garnishment of per capita requires transfer of the child support case from the California Superior Court

pursuant to California Rule of Court 5.372 and closure of the county local child support agency case pursuant to 45 CFR § 303.11(b)(21).

4.20.31 SETTING THE INITIAL CHILD SUPPORT HEARING

The Court shall set the initial child support hearing within 45 calendar days after the petition was filed. The Court may continue or set the initial child support hearing beyond 45 days if continued for good cause.

4.20.32 NOTICE TO CHILD SUPPORT SERVICES

The Court shall provide the Bear River Band Child Support Services Program with a copy of the petition, response, financial information and all other documents filed in a child support case and it shall provide the Program with notice of all hearings in a child support case. The Court will direct the Bear River Band Child Support Services Program to provide a recommended child support obligation and review such recommendation prior to issuance of a permanent order of child support.

4.20.33 CHILD SUPPORT HEARING

The Court shall review the contents of the petition and hear any additional evidence to establish the child support obligation by applying the Bear River Band Child Support Services Guidelines and Schedule to the circumstances of the parties. The standard of proof for establishment of the amount of the child support obligation shall be by a preponderance of the evidence.

4.20.34 DEFAULT CHILD SUPPORT ORDER

When the respondent fails to appear or otherwise defend, the Court may enter a default child support order. The Court may enter a default child support order based upon the evidence contained in the child support petition and the recommendation of the Bear River Band Child Support Services Program, and upon finding the following:

1. The respondent was given proper service of the petition and summons and proper notice of the hearing; and
2. If the respondent is the father of the child, he is either on the child(ren)'s birth certificate or his paternity of the child(ren) has been legally adjudicated.

The default order may be suspended or vacated upon a showing of good cause or disestablishment of paternity.

4.20.35 TEMPORARY SUPPORT ORDER

1. Pending a final order establishing a child support obligation or modification of a child support obligation, if paternity is not at issue in the action, a custodial parent may move under expedited procedures for temporary child support. The motion must be accompanied by a sworn statement setting out the factual basis for the motion and the amount of support and other relief requested.
2. In determining the amount of a temporary support order, the Court shall apply the Child Support Guidelines based on the information available at the time.

3. A temporary support order does not prejudice the rights of any party that are to be determined at subsequent hearings in the proceeding. The temporary order may be rescinded or modified upon a showing of good cause.

4.20.36 CONTENT AND EFFECT OF CHILD SUPPORT ORDER

1. A child support order shall include:
 - a. The child support obligation of one or both parties, including:
 - i. The total amount of cash to be paid to the other party;
 - ii. The amount of the cash payment which is allocated to the basic child support obligation pursuant to the Bear River Band Child Support Services Guidelines and Schedule;
 - iii. Whether or not the basic child support obligation is a deviation from the Bear River Band Child Support Services Guidelines and Schedule pursuant to Section 4.20.37 of this Code;
 - iv. The amount of the cash payment which is allocated to work-related day care, health insurance or extraordinary expenses, if any;
 - v. The amount to be paid to third parties for day care, health insurance, or extraordinary expenses, if any; and
 - vi. The amount of noncash payments or “in-kind support” to be provided to the other party, if any.
 - b. The starting date of the child support obligation which shall begin accruing from the time of filing the original petition with the Court.
 - c. The frequency of child support payments;
 - d. The duration and amount of any pre-filing child support obligation;
 - e. A statement that the child support order is final for purposes of appeal.
2. Payments under a child support order shall be made to the Bear River Band Child Support Services Program for distribution to the custodial parent or other obligee.
3. A child support order shall be in favor of the child through his or her custodial parent or guardian and shall follow the child if custody changes to a subsequent custodial parent.
4. A child support order shall provide for automatic wage withholding and attachment of any gaming winnings and income tax refunds as a means for execution on any unpaid child support obligation. Wages shall not be subjected to withholding when:
 - a. One of the parties demonstrates and the Court finds that there is good cause not to require immediate income withholding;
 - b. The parties reach a written agreement that provides for an alternative agreement.
5. Pre-Filing Arrears.
 - a. The Court may limit the noncustodial parent’s liability for past support to the child to the proportion of the expenses already incurred as the Court deems just.
 - b. The Court may not order payment for support provided or expenses incurred more than five years prior to the commencement of a child support action. Any period of time in which the responsible party has concealed himself or avoided the jurisdiction of the Court under this article shall not be included within the five-year period.

- c. The Court shall not limit or affect in any manner the right of nonparties to seek reimbursement for support and other services previously furnished to the child.

4.20.37 DEVIATION FROM CHILD SUPPORT GUIDELINES AND SCHEDULE

1. The amount of child support calculated from the Child Support Guidelines and Schedule is presumptively correct, but that presumption may be rebutted in accordance with this Section. The Court may order child support in an amount different from that which is provided in the Child Support Guidelines and Schedule, only if:
 - a. The party requesting deviation shows by a preponderance of the evidence that application of the guidelines is inappropriate, unjust, or causes substantial hardship in the particular case;
 - b. Deviation is in the best interest of the child;
 - c. The Court enters written findings of the reasons justifying deviation under this Section; and
 - d. The Court sets out in its order what the monthly support obligation would have been under the schedule without the deviation and what the Court is ordering as the monthly support obligation with the deviation.
2. Whenever application of the Child Support Guidelines set forth in this Section requires a person to pay to another person more than 35 percent of his or her adjusted gross income for current support, there shall be a presumption of a substantial hardship.
3. Employment status shall not be a cause for a finding of substantial hardship where the court determines that the person contesting application of the Guidelines is voluntarily unemployed, voluntarily under-employed, or has declined to accept or pursue employment opportunities. In such cases, the Court shall attribute to the obligor parent that amount of income that the obligor parent is reasonably capable of earning and calculate a child support award based on this amount.

4.20.38 SUSPENSION OF CHILD SUPPORT OBLIGATIONS

The Court shall have the discretion to temporarily suspend the child support obligation of an obligor parent in the following exceptional circumstances if:

1. The obligor parent is, or will be, in an in-patient treatment facility for more than 45 days
2. The child(ren) entitled to support has been removed from the care of the obligor parent by a tribal or state child welfare agency and the parent is in compliance with a reunification plan;
3. The obligor parent is currently confined in a jail, prison or correctional facility and is serving a sentence greater than six months of incarceration; or
4. The obligor parent is not currently incarcerated, but has been sentenced to a term of incarceration greater than six months.

4.20.39 ENFORCEMENT OF CHILD SUPPORT ORDERS

1. Income Withholding.
 - a. Automatic Wage Withholding.
 - i. In cases where a support order has been issued or modified at the request of the Bear River Band Tribal Child Support Services Program under the

- IV-D plan, or is being enforced under such plan, there shall be an immediate income withholding order issued by the Court in an amount necessary to comply with the child support order.
- ii. In addition to the amount to be withheld to pay the current month's obligation, the amount withheld must also include an amount to be applied toward liquidation of any overdue support or arrears.
 - iii. Income shall not be subject to withholding in any case where:
 - 1) Either the custodial or noncustodial parent demonstrates, and the Court enters a finding, that there is good cause not to require immediate income withholding; or
 - 2) A signed written agreement is reached between the noncustodial and custodial parent, which provides for an alternative arrangement, and is reviewed and entered into the record by the Court.
 - iv. Where immediate income withholding is not in place, the income of the noncustodial parent shall become subject to withholding, at the earliest, on the date on which the payments which the noncustodial parent has failed to make under a tribal support order are at least equal to the support payable for one month.
- b. Garnishment of Per Capita. Cases processed for garnishment of per capita requires transfer of the child support case from the California Superior Court pursuant to California Rule of Court 5.372 and closure of the county local child support agency case pursuant to 45 CFR § 303.11(b)(21)
 - c. Voluntary Garnishment of Per Capita. The obligor parent may voluntarily choose to have per capita disbursements garnished to satisfy any child support obligation.
 - d. Automatic Garnishment of Per Capita. In cases where a support order has been issued or modified at the request of the Bear River Band Tribal Child Support Services Program under the IV-D plan, or is being enforced under such plan, the amount garnished shall be up to 50 percent of per capita if the obligor parent has not paid child support payments in three or more consecutive months or \$1,000 or more in arrears is owed to the custodial parent. However, per capita garnishments cannot be used to satisfy Tribal or State child support arrears.
 - e. To initiate income/per capita withholding, within 35 days of the issuance of the withholding order, the Bear River Band Child Support Services Program shall serve the noncustodial parent's employer and/or the Bear River Band Finance Department:
 - i. Notice using the most current version of the standard federal income withholding form; and
 - ii. A copy of the automatic wage withholding order.
 - f. Income withholding must comply with the procedural due process requirements established by tribal law.
 - g. The Bear River Band Finance Department shall not garnish more than 50 percent of an individual's income and/or per capita disbursements.

- h. The total amount to be withheld shall not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act (15 U.S.C. § 1673(b)) but may be set at a lower amount as described in subsection f. of this Section.
 - i. The only basis for contesting a withholding is a mistake of fact, which for purposes of this paragraph, means an error in the amount of current or overdue support or in the identity of the alleged noncustodial parent.
 - j. Priority of garnishment shall be applied in the following order
 - i. Wages first; and then
 - ii. Per capita disbursements.
 - k. No employer shall refuse to honor a wage withholding order or voluntary wage assignment executed pursuant to this article. An employer shall begin withholding within 14 days after service of a wage withholding order or voluntary wage assignment made pursuant to this article.
 - l. Any employer failing to withhold income in accordance with the provisions of the income withholding order shall be liable for the accumulated amount of support money that should have been withheld from the obligor parent-employee's earnings. Failure to withhold income may be found where the employer:
 - i. Fails or refuses, after being served with a wage assignment order, to deduct promptly and remit from the unpaid earnings the amounts of money required in the order;
 - ii. Fails or refuses to submit an answer to the notice of wage assignment after being served; or
 - iii. Is unwilling to comply with the other requirements of this chapter.
 - m. An employer shall be subject to a fine not to exceed \$500.00, if it is determined by a preponderance of evidence that the employer discharged an obligor parent from employment, refused to employ, or subjected any obligor parent to disciplinary action because of withholding. The action may be brought by the Bear River Band Child Support Services Program using the rules of procedure for adjudicating civil infractions.
 - n. An employer who repeatedly fails to withhold child support as required may have his tribal business license revoked or suspended until compliance is assured.
2. Allocation of Withholding. The Bear River Band Tribal Child Support Services Program shall allocate withheld amounts across multiple withholding orders to ensure that in no case shall allocation result in a withholding for one of the support obligations not being implemented.
3. Duty to Process Foreign Withholding Orders. The Bear River Band Child Support Services Program shall be responsible for receiving and processing income withholding orders from states, tribes, and other entities, and ensuring orders are properly and promptly served on employers within the Tribe's jurisdiction after the underlying child support order is given full faith and credit by the Bear River Band Tribal Court or the obligor parent voluntarily agrees to paying the foreign withholding order.

4. Refunds. The Bear River Band Child Support Services Program will promptly refund amounts which have been improperly withheld.
5. Termination of Withholding. The Bear River Band Child Support Services Program will promptly terminate income withholding in cases where there is no longer a current order for support and all arrearages have been satisfied.
6. Seizure of Property. Upon issuance of a written order of execution, nonexempt real and personal property may be seized and sold in a reasonable manner after notice to the owner in payment of a child support obligation that has been adjudicated delinquent by the Court. Ceremonial or religious property and real property held in trust for individuals are exempt from writs of execution.
7. Suspension or Denial of Licenses. Three or more refusals to comply with child support orders by an obligor parent may result in the suspension or denial of occupational, fishing and hunting, recreational and motor vehicle licenses. A court order to suspend or deny tribally issued licenses shall be binding on and given effect by the tribal licensing department or agency. The Bear River Band Child Support Services Program shall send orders affecting licenses issued by other tribal, state or federal agencies for enforcement by those agencies.
8. Interest on Past Due Support. Past due support does not incur any interest charges.

4.20.40 ENFORCEMENT HEARINGS

1. Motion for Enforcement Hearing. An obligee or the Bear River Band Child Support Services Program may file a motion for the Court to enforce payment of a child support order. The moving party must serve the parties with a copy of the motion and notice of the hearing. The Court shall set a hearing no sooner than 21 days after the moving party files the motion regarding the proposed enforcement action.
The motion for enforcement hearing shall inform the obligor parent of the following:
 - a. The terms of the child support enforcement order sought to be enforced
 - b. The enforcement action(s) sought to be utilized;
 - c. The period and total amount of the delinquency;
 - d. The procedures to avoid implementation of enforcement action(s); and
 - e. If the obligor parent chooses not to appear at the enforcement hearing or enter a defense to the motion for enforcement, the hearing shall proceed on the basis of the petitioner's evidence.
2. Enforcement Hearing. If the moving party meets the burden of proving that the child support obligation is at least 30 days overdue in an amount equal to one month's child support obligation or that the party has a history of noncompliance, by a preponderance of the evidence, the Court may find an obligor in contempt and order any one or several of the remedies available at law, including, but not limited to:
 - a. Wage withholding (if not already in place);
 - b. Garnishment of per capita compliant with Section 4.20.39 subsection b. through d. of this Code (if not already in place);
 - c. Referral of the case for intercept of any tax refund owed to the obligor (if not already referred);
 - d. Attachment of assets;

- e. Suspension of licenses;
 - f. Publication of obligor parent's name in a local newspaper;
 - g. Verification of income;
 - h. Proof of reasonable efforts to secure employment; and
 - i. Incarceration.
3. Grounds for challenging the enforcement motion shall be limited to:
 - a. A mistake of fact or error in the amount of current or overdue support;
 - b. A mistake of fact in the identity of the alleged obligor parent; or
 - c. Evidence of a court approved agreement between the obligor parent and the obligee parent for an alternative method of payment, as provided in this chapter.
 4. The Court may only stay the enforcement order if it finds that the obligor parent has met the burden of showing good cause why enforcement actions should not be ordered. The Court shall issue written findings stating the reasons for such good cause.

The Court may order further hearings to monitor compliance with all child support orders.

4.20.41 MODIFICATION OF CHILD SUPPORT ORDERS

When there has been a substantial change in the income of the paying party or other factors that determined the original support obligation, a party may request, by motion, modification of a Bear River Band Tribal Court child support order.

1. Motion for Modification. A motion for a modification of child support shall be accompanied by an affidavit setting forth the factual basis for the motion and the modification requested. The moving party shall serve the other parties who would be affected by the modification request with the motion and Notice of Hearing. The Court shall set a hearing no sooner than 21 days after the moving party filed the motion.
2. Modification Hearing. The moving party has the burden to prove the grounds for modification of the order. Grounds for modification of a child support order include:
 - a. A substantial increase or decrease in the adjusted gross income that was the basis of the current support order;
 - b. A change in custody of a child;
 - c. A change in the Bear River Band Child Support Services Guidelines and Schedule; or
 - d. Other substantial change in circumstance that justifies a modification.
3. Financial Information. Both parties shall file updated financial information forms at least 10 days before the modification hearing, except that:
 - a. In agreed modification orders, no financial information need be filed with the Court; and
 - b. A party is not required to provide his or her financial information as part of the Court record provided the party has made full and complete financial disclosure to the Bear River Band Child Support Services Program and the Program has certified that it has reviewed the financial information and its recommendation is based upon that information.

4.20.42 FULL FAITH AND CREDIT FOR FOREIGN CHILD SUPPORT ORDERS

Properly issued court and administrative orders, judgments or decrees of other Indian tribes, states or Federal agencies that relate to child support will be given full faith and credit pursuant to 28 U.S.C. 1738B. Such orders will be considered properly issued when the issuing court or administrative agency had personal jurisdiction over the person claimed to be bound by the foreign order, subject matter jurisdiction over the matter, proper service of process under the law of the issuing jurisdiction was made on such person, and the order was issued according to the laws of that jurisdiction and does not violate the public policy of the Bear River Band of the Rohnerville Rancheria.

The party seeking registration of a foreign order shall file a certified copy of the underlying order with the Tribal Court Clerk along with 30-day summons to be served upon the obligor parent. A foreign order is authenticated by reasonable proof that the document rendered to the Clerk of Court is a true copy of the foreign order as it is recorded in the agency or court of the issuing jurisdiction. A certified copy of the original order from the issuing court shall constitute sufficient evidence of authenticity.

Any party to such a foreign order may, within 30 days of the service of such order, judgment and/or decree upon the other party, apply for hearing on the order before the Tribal Court. Upon such application, the Tribal Court shall hold a hearing to determine the validity of such order, judgment, and/or decree, and shall consider issues raised by the other party, including, but not limited to, the jurisdiction of the foreign court and whether such order, judgment, and/or decree is contrary to the laws, both written and customary, of the Bear River Band of the Rohnerville Rancheria.

Unless defects in jurisdiction are apparent on the face of the foreign order, the person contesting enforcement of the order has the burden of showing the order is not valid. Upon a failure to respond to notice of the order and to timely contest it, the Court shall enforce the foreign order.

Where a foreign order is invalid by reason of lack of personal jurisdiction in the agency or court of the issuing jurisdiction, the Court may adopt some or all of its provisions as an original order of the Court to the extent that it does not violate the public policy of the Bear River Band of the Rohnerville Rancheria.

4.20.43 SOVEREIGN IMMUNITY

Nothing in this Code shall be construed as a waiver of sovereign immunity of the Bear River Band of the Rohnerville Rancheria.

C*E*R*T*I*F*I*C*A*T*I*O*N

This is to certify that the Bear River Band of the Rohnerville Rancheria Tribal Council duly assembled in Loleta, CA and adopted the foregoing document on November 26, 2024 by a vote of 6 For, 0 Against, 0 Abstentions and 1 Absent.

Josefina Frank

Josefina Frank, Chairperson

Aileen Meyer

Aileen Meyer, Vice-Chairperson

Dakota McGinnis, Jr.

Dakota McGinnis, Jr., Secretary

M. Wortmon

Maggie Wortmon, Treasurer

John D. McGinnis

John D. McGinnis, Member-at-Large 1

Edward Bowie

Edward Bowie, Member-at-Large 2

Derek Bowman

Derek Bowman, Member at Large 3