

Chapter X

DIVORCE

1001. JURISDICTION OF THE TRIBAL COURT. A judgment of divorce shall not be granted by the Tribal Court in an action for divorce unless the defendant has resided within the exterior boundaries of the reservation of the Bay Mills Indian Community for 180 days immediately proceeding the filing of the complaint.

1002. GROUND, PLEADING, JUDGMENT.

A. A complaint for divorce may be filed in the Tribal Court upon the allegation that there has been a breakdown of the marriage relationship to the extent that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved. In the complaint, the plaintiff shall make no other explanation of the grounds for divorce other than the use of the above language.

B. The defendant, by answer, may either admit the grounds for divorce alleged or deny them without further explanation. An admission by the defendant is not binding on the Court's determination.

C. The Tribal Court shall enter a judgment dissolving the bonds of matrimony if evidence is presented in open court that there has been a breakdown in the marriage relationship to the extent that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.

1003. HEARING ON COMPLAINT FOR DIVORCE.

A. No testimony shall be taken in any case for divorce until the expiration of sixty (60) days from the time of filing the complaint.

B. In any case in which there are dependent children under the age of eighteen (18) years, no testimony shall be taken until the expiration of six (6) months from the day the complaint is filed. In cases of unusual hardship or such compelling necessity as shall appeal to the conscience of the Court, upon filing a petition requesting a

hearing before the expiration of the six-month period, the Court may take testimony at any time after the expiration of sixty (60) days from the filing of the complaint for divorce.

1004. POWERS OF THE TRIBAL COURT PENDING HEARING. Upon the petition of either party in a divorce action, the Tribal Court may enter orders upon the following matters:

- A. It may require either party to pay such sums as shall be deemed necessary to conserve any real or personal property owned by the parties, or either of them, during the pendency of the suit;
- B. It may make such order concerning the care and custody of the minor children of the parties and their suitable maintenance as shall be deemed just, proper and necessary for their benefit.

1005. ALIMONY.

- A. In every suit for divorce, the Court may require either party to pay alimony for the suitable maintenance of the adverse party.
- B. An award of alimony may be terminated by the Court as of the date the party receiving alimony remarries unless a contrary agreement is specifically stated in the judgment of divorce.

1006. THE CUSTODY OF MINOR CHILDREN; SUPPORT.

- A. The Court shall have jurisdiction to award custody of the minor children of the marriage to one of the parties or to a third person until each child has attained the age of eighteen (18) years and may require either parent to pay such allowance as may be deemed proper for the support of each child shall have attained that age and, in exceptional circumstances, require payment of such an allowance for any child after he/she attains that age.
- B. The Tribal Court may, on petition of either of the parents, revise and alter such decree concerning the care, custody, and maintenance of the children, or any of them and make a new decree concerning them, as the circumstances of the parents, and/or the benefit of the children shall require.

1007. REAL AND PERSONAL PROPERTY. Upon a divorce from the bonds of matrimony, the Court may make a further judgment for restoring to either

party the whole, or such parts as it shall deem just and reasonable, of the real and personal property that shall have come to either party by reason of the marriage, or for awarding to either party by reason of the marriage, or for awarding to either party the value thereof, to be paid by either party in money.

1008. FAILURE TO COMPLY WITH COURT ORDER. When either party to a divorce proceeding shall fail willfully to comply with an order of the Tribal Court, the other party may file a petition with the Court alleging such failure. The Court shall then issue notice to the party against whom such petition is made, which shall include a copy of the petition, and setting a date for hearing upon the petition. At the hearing, the Court shall take testimony as to the alleged failure to comply with its order, and issue any order which it shall deem just and proper under the circumstances. In any case in which the party alleged to be in violation of a Court order does not appear to explain his/her actions, the Court shall not issue any order which places that person in jeopardy of his/her liberty.
1009. LEGITIMACY OF CHILDREN. The legitimacy, as that term is defined under the laws of the State of Michigan, of all children begotten before the commencement of any action for divorce shall be presumed, unless and until the contrary is shown. If legitimacy is an issue in an action under this Chapter, any testimony shall be taken in a closed session of the Tribal Court.