



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Executive Conference Room-2nd Floor Norbert Hill Center
August 7, 2019
9:00 a.m.

- I. Call to Order and Approval of the Agenda**
- II. Minutes to be Approved**
July 17, 2019 LOC Meeting Minutes (pg. 2)
- III. Current Business**
 1. Curfew Law (pg. 4)
 2. Child Support Amendments (pg. 32)
- IV. New Submissions**
 1. Children's Burial Fund Policy Amendments (pg. 128)
- V. Additions**
- VI. Administrative Updates**
 3. FY 19 Third Quarterly LOC Report (pg. 136)
- VII. Executive Session**
- VIII. Recess/Adjourn**



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
July 17, 2019
9:00 a.m.

Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King

Excused: Jennifer Webster, Ernest Stevens III

Others Present: Maureen Perkins, Brandon Wisneski, Clorissa Santiago, Jennifer Falck, Kristen Hooker, Leyne Orosco, Rae Skenandore, Lee Cornelius, Michelle Gordon

I. Call to Order and Approval of the Agenda

David P. Jordan called the July 17, 2019 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Kirby Metoxen to adopt the agenda; seconded by Daniel Guzman King. Motion carried unanimously.

II. Minutes to be Approved

Motion by Daniel Guzman King to approve the June 19, 2019 Legislative Operating Committee meeting minutes and forward to the Oneida Business Committee for consideration; seconded by Kirby Metoxen. Motion carried unanimously.

III. Current Business

1. Curfew Law (1:15-4:06)

Motion by Kirby Metoxen to approve the memorandum regarding the Curfew Law financial impact statement dated July 17, 2019; seconded by Daniel Guzman King. Motion carried unanimously.

Motion by Kirby Metoxen to amend the June 13, 2019, directive to the Finance Department to direct the Finance Department to complete a fiscal impact statement within ten (10) business days after the LOC approves a final proposed draft of the Curfew law; seconded by Daniel Guzman King. Motion carried unanimously.

IV. New Submissions

V. Additions

VI. Administrative Items

1. Children's Code Quarterly Update (4:10-10:04)

Motion by Kirby Metoxen to accept the seventh Children's Code Quarterly Update; seconded by Daniel Guzman King. Motion carried unanimously.



2. Oneida Personnel Commission Bi-Monthly Update Memo (10:05-15:20)

Motion by Kirby Metoxen to accept the memorandum as an update on the progress of the Oneida Personnel Commission; seconded by Daniel Guzman King. Motion carried unanimously.

Motion by Kirby Metoxen to move the responsibility of these reports to the Business Committee Support Office; seconded by Daniel Guzman King. Motion carried unanimously.

***Note – David P. Jordan recommends redrafting the memorandum to reflect the subsequent motion.*

VII. Executive Session

VIII. Adjourn

Motion by Daniel Guzman King to adjourn the July 17, 2019 Legislative Operating Committee meeting at 9:15 a.m.; seconded by Kirby Metoxen. Motion carried unanimously.



Legislative Operating Committee
August 7, 2019

Curfew Law

Submission Date: 12/19/18	Public Meeting: 7/18/19
LOC Sponsor: Ernest Stevens III	Emergency Enacted: n/a

Summary: *This was a recommendation from the TAP Law and Policy Subcommittee, to develop a curfew law for the Oneida Nation.*

12/19/18 LOC: Motion by Jennifer Webster add the Curfew Law to the active files list and assign Ernest Stevens III as the sponsor; seconded Ernest Stevens III. Motion carried unanimously.

2/13/19: *Work Meeting.* Present: Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Maureen Perkins. The purpose of this work meeting was to obtain information from the Oneida Police Department regarding any issues that may currently be occurring on the Reservation related to a lack of curfew, as well as discuss OPD's role in potentially enforcing a Curfew law.

2/14/19: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to provide the LOC an update on communications with the Oneida High School's Clan Council, and recent work meeting with OPD. The LOC also discussed potential dates for holding a community meeting potluck on the curfew law.

2/20/19 LOC: Motion by Daniel Guzman King to approve the community meeting notice and direct that a community meeting for the proposed Curfew Law be held on Thursday, March 21, 2019; seconded by Ernest Stevens III. Motion carried unanimously.

3/13/19: *Work Meeting.* Present: Clorissa N. Santiago, Maureen Perkins, student representatives from the Oneida Nation Clan Council. The purpose of this work meeting was to obtain information from the Oneida High School Clan Council regarding their thoughts and opinions on a potential curfew law.

3/21/19: *Work Meeting.* Present: David P. Jordan, Ernest Stevens III, Daniel Guzman King, Jennifer Falck, Clorissa N. Santiago, Maureen Perkins. The purpose of this work meeting was to prepare for tonight's community meeting on the curfew law. The LOC discussed the format for the community meeting, potential discussion points, and questions the LOC members currently have themselves regarding this topic.

3/21/19: *Community Meeting.* Present: David P. Jordan, Lisa Summers, Ernest Stevens III, Daniel Guzman King, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Maureen Perkins. No community members attended the community meeting.

5/1/19: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Maureen Perkins. The purpose of this work meeting was for the LOC to review the draft of the Curfew law. The LOC made policy decisions for curfew, and directed minor changes be made to the draft. The LRO will update the draft and complete a legislative analysis to be brought back in the near future.

- 5/15/19:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Jennifer Falck, Clorissa N. Santiago, Maureen Perkins. The purpose of this work meeting was to review and discuss a couple remaining questions that need to be determined before a draft is finalized. LOC provided direction, and a draft will be finalized and moved forward. On track to bring draft and analysis to June 5, 2019 LOC meeting.
- 6/5/19 LOC:** Motion by Jennifer Webster to accept the draft and legislative analysis of the Curfew law and defer these items to a work meeting for further consideration, replacing page four (4) of the packet with the handout; seconded by Ernie Stevens III. Motion carried unanimously.
- 6/5/19:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Maureen Perkins. The purpose of this work meeting was for the LOC to review the two (2) policy considerations contained in the legislative analysis. LOC discussed other potential amendments and directed that minor revisions be made to the law. Additionally, LOC made a decision as to who will be directed to complete the financial analysis – the Finance Department. A memo regarding the fiscal impact statement to Finance and the public meeting packet will be prepared for the next LOC meeting.
- 6/13/19:** E-Poll Conducted. E-Poll was titled “Approval of the Curfew Law Fiscal Impact Statement Request Memorandum to the Finance Department. The requested action of this e-poll was to approve the Curfew law fiscal impact statement request memorandum, with accompanying updated draft and legislative analysis, and forward to the Finance Department directing that a fiscal impact statement of the proposed Curfew law be prepared and submitted to the LOC by July 18, 2019. The e-poll was approved by David P. Jordan, Kirby Metoxen, Jennifer Webster, and Ernest Stevens III. Daniel Guzman King did not provide a response to the e-poll.
- 6/19/19 LOC:** Motion by Jennifer Webster to approve the public meeting packet and forward the Curfew law to a public meeting to be held on July 18, 2019; seconded by Ernest Stevens III. Motion carried unanimously.
- Motion by Jennifer Webster to enter the June 13, 2019 LOC E-poll titled “Approval of the Curfew Law Fiscal Impact Statement Request Memorandum” results into the record; seconded by Ernest Stevens III. Motion carried unanimously.
- 6/19/19:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Destiny Prendiville. The discussion during this work meeting centered around the LOC’s recent request for a fiscal impact statement to be completed by July 18, 2019 and a strategy for moving forward.
- 6/27/19:** *Work Meeting.* Present: Jennifer Webster, Daniel Guzman King, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Destiny Prendiville, Kristen Hooker, Maureen Perkins. The discussion during this work meeting centered around the update on the LOC’s communication with the Finance Department.
- 7/17/19 LOC:** Motion by Kirby Metoxen to approve the memorandum regarding the Curfew Law financial impact statement dated July 17, 2019; seconded by Daniel Guzman King. Motion carried unanimously.
- Motion by Kirby Metoxen to amend the June 13, 2019, directive to the Finance Department to direct the Finance Department to complete a fiscal impact statement within ten (10) business days after the LOC approves a final proposed draft of the Curfew law; seconded by Daniel Guzman King. Motion carried unanimously.
- 7/18/19:** *Public Meeting Held.* Present: Ernest Stevens III, Brooke Doxtator, Jennifer Falck, Clorissa N. Santiago, Rae Skenandore, Carol Silva, Amy Williams, Bella Mae Williams, Maureen Perkins. One (1) person gave public comment during this public meeting.

Next Steps:

- Accept the public comments and public comment review memorandum and defer to a work meeting or further consideration.



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office, Staff Attorney
DATE: August 7, 2019
RE: Curfew Law: Public Meeting Comment Review

On July 18, 2019, a public meeting was held regarding the proposed Curfew law (“the Law”). The public comment period was then held open until July 25, 2019. This memorandum is submitted as a review of the oral and written comments received within the public meeting and public comment period.

The public meeting draft, public meeting transcript, and written comments received are attached to this memorandum for review.

Comment 1 – Curfew Hours:

308.5-1. Curfew Established. No minor shall be on any public space either on foot or in any vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of the Reservation, unless the minor is accompanied by a parent, guardian, or legal custodian.

308.5-3. Exemptions to Curfew. A minor shall not be in violation of the curfew, if at the time of the alleged violation the minor was:

- (a) in the performance of a duty directed by such parent, guardian, or legal custodian;
- (b) engaged in employment or an employment related activity, or traveling to or returning home from employment;
- (c) engaged in interstate travel;
- (d) attending an educational, cultural, religious, or recreational activity that was supervised by adults, or traveling to or returning home from such activity;
- (e) on the sidewalk in front of his or her home or an adjacent home;
- (f) going to, attending, or returning home from a movie theatre;
- (g) engaged in hunting, fishing, or trapping in accordance with the laws, policies, and rules of the Nation;
- (h) exercising rights protected by the Nation’s Constitution and the United States Constitution, such as free exercise of religion, freedom of speech, and the right of assembly;
- (i) involved in an emergency situation; and/or
- (j) engaged in any other activity as deemed appropriate by the Oneida Police Department officer.

Amy Williams (oral): Hi, my name is Amy Williams. Um, so thanks for the opportunity to allow me to comment. Um, so I did have a chance to review the provisions of the proposal and um my

comment is that I would be in favor of first an earlier time, perhaps four or five o'clock instead of six o'clock. And um, I think the reason is because we have three kids, all of them have had primarily athletic, but as well as academic, responsibilities that are before six o'clock. So, for example, our son has hockey practice at, sometimes practice starts at four or 4:30 a.m. which means leaving the house at four o'clock, so he's out, he's driving around. He's a responsible, you know they are responsible kids doing what they are supposed to be doing.

Response

The commenter requests the Legislative Operating Committee to consider revising the curfew hours to end before 6:00 a.m. to accommodate those minors who may be engaged in athletic or academic extracurricular activities that are held in the early morning hours.

The Legislative Operating Committee determined that the Nation's curfew should be imposed between the hours of 10:00 p.m. and 6:00 a.m. in an effort to be consistent with curfew hours imposed in the surrounding municipalities. A review of local laws demonstrated that the following municipalities impose a curfew during the hours of 10:00 p.m. and 6:00 a.m.:

- Brown County;
- Village of Hobart;
- City of Green Bay;
- City of De Pere;
- Village of Ashwaubenon; and
- Village of Howard.

Consistency in the hours of curfew that are imposed on minors across neighboring municipalities will make it easier for families to ensure they are complying with all laws that may govern across overlapping jurisdictions.

Additionally, the Law accommodates minors who may engage in athletic or academic extracurricular activities that are held during curfew hours through the various exemptions that are provided. The Law provides that a minor shall not be in violation of the curfew, if at the time of the alleged violation the minor was attending an educational, cultural, religious, or recreational activity that was supervised by adults, or traveling to or returning home from such activity. [3 O.C. 308.5-3(d)].

Based on the various exemptions to the curfew hours provided by the Law, there is no recommended revision to the draft, but the Legislative Operating Committee may consider revising the curfew hours if desired.

LOC Consideration

Comment 2 – Police Discretion:

308.5-3. Exemptions to Curfew. A minor shall not be in violation of the curfew, if at the time of the alleged violation the minor was:

- (a) in the performance of a duty directed by such parent, guardian, or legal custodian;
- (b) engaged in employment or an employment related activity, or traveling to or returning home from employment;
- (c) engaged in interstate travel;
- (d) attending an educational, cultural, religious, or recreational activity that was supervised by adults, or traveling to or returning home from such activity;
- (e) on the sidewalk in front of his or her home or an adjacent home;
- (f) going to, attending, or returning home from a movie theatre;
- (g) engaged in hunting, fishing, or trapping in accordance with the laws, policies, and rules of the Nation;
- (h) exercising rights protected by the Nation’s Constitution and the United States Constitution, such as free exercise of religion, freedom of speech, and the right of assembly;
- (i) involved in an emergency situation; and/or
- (j) engaged in any other activity as deemed appropriate by the Oneida Police Department officer.

308.6-2. Warning. The first time a minor is held in custody by an Oneida Police Officer for a curfew violation the Oneida Police Officer shall provide the minor and the minor’s parent, guardian, or legal custodian a warning and advise the minor and parent, guardian, or legal custodian of the provisions of this law and that any subsequent curfew violations may result in the issuance of a citation and the imposition of a penalty.

Amy Williams (oral): Um, so, I understand the spirit of what’s proposed in terms of, in terms of safety. I guess I would, I’m an advocate for also assuring in some ways that the proposed law isn’t too punitive and that there is some sort of discernment in terms of oh my gosh these kids are out here doing what they need to be doing and not be afraid that somehow they are going to get in trouble because they’re out there by themselves, especially the ones that can drive. So, our kids are out running, sometimes they have study groups in the morning, so um perhaps an earlier time, and that would be the first thing. And then as well as to assure that there are provisions or enough movement in the law where um you know whoever, police or whoever is enforcing, aren’t too punitive with kids who are going what they are supposed to be doing.

Response

The commenter encourages the Legislative Operating Committee to ensure that the Law allows the Oneida Police Department enough discretion in the enforcement to ensure that it is not punitive to those minors who are engaging in lawful actions.

The Law was drafted to provide the Oneida Police Department discretion in handling curfew violations. The Law provides various exemptions, or circumstances in which a minor will not

violating curfew if at the time of the alleged violation the minor was engaged in those certain circumstances. [3 O.C. 308.5-3]. One (1) of the many exemptions included in the Law provides that a minor shall not be in violation of the curfew, if at the time of the alleged violation the minor was engaged in any activity as deemed appropriate by the Oneida Police Department officer. [3 O.C. 308.5-3(j)]. This broad exemption provides the Oneida Police Department officer discretion in enforcing the curfew.

The Law further requires that the first time a minor is held in custody by an Oneida Police Department officer for violating curfew, the officer shall issue the minor and the minor's parent, guardian, or legal custodian a warning. [3 O.C. 308.6-2]. The purpose of this warning is to advise the minor and parent, guardian, or legal custodian of the provisions of this law and that any subsequent curfew violation may result in the issuance of a citation and the imposition of a penalty. [3 O.C. 308.6-2].

In addition to the specific provisions of the Law stated above which allow for discretion by the Oneida Police Department, the purpose of this Law is not to simply punish those minors who violate curfew, but to support all drug use prevention initiatives of the Nation by protecting the health, safety, and welfare of persons through the establishment of a curfew for minors in public spaces within the Reservation during certain hours in an effort to minimize the opportunity for harm to come to minors during those hours. [3 O.C. 308.1-2].

The recommendation for a Curfew law was brought to the Legislative Operating Committee by the Nation's Tribal Action Plan - Laws and Policy Subcommittee. The purpose of the Tribal Action Plan is to coordinate a comprehensive prevention and treatment program for alcoholism and other substance abuse that includes not only existing resources, but identifies the additional resources necessary to combat these problems. The Laws and Policy Subcommittee was then assigned the specific responsibility to look at what laws of the Nation should be amended, or created, to better support the Tribal Action Plan. The recommendation to develop a Curfew law came to the Legislative Operating Committee as a result of the discussions from the Laws and Policy Subcommittee which consisted of a cross functional core team that included representatives from the Oneida Business Committee, Oneida Police Department, Governmental Services Division, Oneida Gaming Commission, Family Services, Legislative Reference Office, Human Resources Department, and Retail.

Based on the current provisions of the Law that allow the Oneida Police Department discretion in the enforcement of curfew, there is no recommended revision based on this comment.

LOC Consideration

Comment 3 – Responsibility of Parents, Guardians, and Legal Custodians:

308.5-2. Parental Responsibility. No parent, guardian, or legal custodian shall knowingly permit or fail to take action to prevent the minor from being on any public space either on foot or in any vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of the Reservation.

Amy Williams (oral): So, our kids are usually under the purview of coaches who are telling them where to be and what time, or uh teachers or other study groups. So just that that would be added in addition to parents, guardians, and whatever language is. And that's all.

Response

The Law provides that no minor shall be on any public space either on foot or in any vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of the Reservation, unless the minor is accompanied by a parent, guardian, or legal custodian. [3 O.C. 308.5-1]. The commenter requests that coaches and teachers be added to the designation of “parent, guardian, or legal custodian.”

A parent, guardian, or legal custodian of a minor all have a legal responsibility as to the care and custody of a minor. In addition to the general responsibilities of a parent, guardian, or legal custodian, this Law provides that no parent, guardian, or legal custodian shall knowingly permit or fail to take action to prevent the minor from being on any public space either on foot or in any vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of the Reservation. [3 O.C. 308.5-2]. A teacher or coach does not have the same legal responsibilities for the minor, and therefore including them in this provision would be inappropriate.

The Law does provide various exemptions as to the curfew though, that would allow the minor to participate in an academic or athletic function during curfew hours without violating the law. The Law provides that a minor shall not be in violation of the curfew, if at the time of the alleged violation the minor was attending an educational, cultural, religious, or recreational activity that was supervised by adults, or traveling to or returning home from such activity. [3 O.C. 308.5-3(d)].

Based on section 308.5-3(d) of the Law which allows a minor to be exempted from the curfew if attending an educational, cultural, religious, or recreational activity that was supervised by adults, such as a teacher or a coach, or traveling to or returning home from such activity, there is no recommended revision based on this comment.

LOC Consideration

Comment 4 – Community Service:

308.7. Penalties of Curfew Violations

308.7-1. Upon a finding by the Family Court that a violation of this law has occurred, the minor and/or the minor's parent, guardian, or legal custodian may be subject to the following penalties:

(b) *Community service.* An individual may be ordered to perform community service. Community service can be used in lieu of, or in addition to, a fine.

(1) All community service assignments shall be approved by the Family Court. The Family Court shall give preference to culturally relevant community service assignments and/or community service assignments that focus on the betterment of the individual's community.

(2) The Family Court shall provide the individual a written statement of the terms of the community service order, and a statement that the community service order is monitored.

(3) The Family Court's community service order shall specify:

(A) how many hours of community service the individual is required to complete;

(B) the time frame in which the hours shall be completed;

(C) how the individual shall obtain approval for his or her community service assignment;

(D) how the individual shall report his or her hours; and

(E) any other information the Family Court determines is relevant.

Patricia Degrand (written): Community Service: Community service has been ordered in the past and it was problematic. In child support contempt cases, parties were ordered to complete a set number of community service hours [Rule CS 2.8-2(c)]. The court order indicated that the community service would be monitored by the Oneida Nation Child Support Agency and completed through the Social Services Department. The court later discovered that there were no community service options being offered through the Social Services Department. Prior to ending the community service orders (community service is not being ordered at the present time), the court attempted to locate other community service options through the Nation but nobody expressed any interest in taking people on. I know liability and background check concerns were raised. While I know the judges would participate in discussions regarding community service, I am unsure as to whether they are going to be able to locate a list of options for people to use to complete community service requirements. I know Judge Collins has reached out to some of the other tribal courts and local municipal courts to find out if they are ordering community service and what community service options they utilize, although these options may not be culturally relevant or tied to the Oneida community. It would be useful if one of the Social Services Department employees, such as the Indigenous Cultural Wellness Practitioner, could serve as the intake for the minors ordered to do community service and monitor compliance to avoid a review hearing on every citation.

Response

The commenter expresses concerns that the Family Court Oneida Nation Child Support Agency were unsuccessful with the utilization of community service in the past, and instead suggests that a Social Services Department such as the Indigenous Cultural Wellness Practitioner serve as the intake for the minors ordered to do community service as a result of curfew violations.

The Law provides that the Family Court may order an individual to perform community service as a penalty for curfew violations. [3 O.C. 308.7-1(b)]. When the Family Court orders community service as a penalty the Family Court is responsible for:

- Approving community service assignments and giving preference to culturally relevant community service assignments and/or community service assignments that focus on the betterment of the individual's community; and
 - Providing an individual with a written statement of the terms of the community service which includes the following information:
 - Statement that the community service order is monitored;
 - How many hours of community service the individual is required to complete;
 - The time frame in which the hours shall be completed;
 - How the individual shall obtain approval for his or her community service assignment;
 - How the individual shall report his or her hours; and
 - Any other information the Family Court determines is relevant.
- [3 O.C. 308.7-1(b)(1)-(3)].

Although the Family Court is required to approve community service, the Law does not require the Family Court to find potential community service assignments for individuals. Ultimately, it is up to the individual to secure a community service assignment – whether that community service assignment is within a department of the Nation or held outside of the Nation. The Legislative Operating Committee has previously discussed sending communication to various departments of the Nation encouraging the development of community service opportunities for those individuals who violate curfew, particularly culturally relevant opportunities for those minors who violate curfew. The Legislative Operating Committee also discussed encouraging that any community service opportunity be communicated to the Family Court so that the Family Court can share all available information with those individuals when community service is imposed as a penalty.

In regard to who is monitoring compliance with the community service orders, there is nothing in the Law that would prohibit the Family Court from collaborating with another department such as Social Services and stating in the community service order that someone such as the Indigenous Cultural Wellness Practitioner would be responsible for monitoring the community service. How community service is handled should be addressed through internal processes and procedures and not included in the Law so that there is flexibility in handling community service in the future.

There is no revision to the Law recommended based on this comment. However, it is recommended that the Legislative Operating Committee work on sending communication to various departments regarding the development of community service opportunities.

LOC Consideration

Comment 5 – Alternative to Fines or Community Service:

Patricia Degrand (written): Alternative to Fines or Community Service: It would be nice if there was an alternative to the penalties section that is similar to what the court has done with contempt findings. With the contempt findings, the court is able to allow a person one opportunity to comply or be held in contempt [803.26-3(b)(1)]. Typically the court will find the party in contempt, fine them, and then give them a purge condition such as no more findings of contempt within a period of X months. If the purge condition is satisfied, there is then no contempt finding or fine. Having an option similar to this to use with parents and minors could be useful as the citation could be dismissed if there are no further curfew citations issued within a set period of time.

Response

The commenter requests that the Family Court be allowed to stay the enforcement of a penalty against an individual found to have violated the Curfew law, and then dismiss the curfew citation if the individual can refrain from violating this Law for a period of time as determined by the Family Court.

Whether to allow the Family Court to stay the enforcement of a penalty against an individual found to have violated the Curfew law, and then dismiss the curfew citation if the individual can refrain from violating this Law for a period of time is a policy consideration for the Legislative Operating Committee to make. The Legislative Operating Committee may determine:

1. The Law should remain as currently drafted and not address the Family Court's authority to stay the enforcement of a penalty for a curfew violation.
2. The Law should be amended to allow the Family Court to stay the enforcement of a penalty for a curfew violation. If the Legislative Operating Committee makes this decision, then the following revision should be made to the Law:

308.7-2. *Staying a Curfew Penalty.* The Family Court may stay the enforcement of a penalty issued as a result of a curfew violation for a period of time to be determined by the Family Court. If the individual maintains compliance with the law during the time period in which the penalty is stayed, then the Family Court may dismiss the citation. If the individual commits another violation of the law during the time period in which the penalty is stayed, then the penalty shall go into effect.

LOC Consideration

Comment 6 – Jurisdiction of the Family Court:

308.6-3. Issuance of a Citation. Any subsequent time a minor is held in custody by an Oneida Police Officer for a curfew violation the Oneida Police Officer may issue a citation to the minor and the minor's parent, guardian, or legal custodian.

(a) A citation for a violation of this law and/or any orders issued pursuant to this law may include fines and other penalties, as well as conditional orders made by the Family Court.

308.7. Penalties of Curfew Violations

308.7-1. Upon a finding by the Family Court that a violation of this law has occurred, the minor and/or the minor's parent, guardian, or legal custodian may be subject to the following penalties:

Patricia Degrand (written): Judicial Branch: We had an internal discussion and the Family Court judges recognize that this law could be assigned to the Family Court. I ask that the LRO/LOC reconsider doing so. With the Children's Code going into effect in October, there are a lot of unknowns with the Family Court's caseload. One concern I have is with the permanency plan hearings and the effect those will have on our calendar. We have an initial plan for the scheduling of the 6 and 12 month permanency plan review hearings, but realize that we might have to make adjustments depending on the number of cases that are filed/transferred. As curfew violations are typically general civil cases and the Trial Court can hear those matters [801.5-2(a)], please consider assigning this law to the Trial Court. The Trial Court is already hearing all other citations, some of which could involve minors, and adding the Curfew law to the Trial Court's docket would help with the caseload distribution. Looking back at May – June 2019, the Family Court held court 20 of 22 days with a total of 68 hearings. The Trial Court held court 6 of 22 days with a total of 15 hearings (plus the peacemaking sessions that Judges Hill and Powless have done). If the Curfew Law is left in the Family Court, please don't add any requirements to any upcoming citations law (if there will be one) that would mandate how quickly the Family Court needs to hold a curfew citation hearing so we can hold these on a bimonthly or trimonthly basis.

Response

The commenter asks the Legislative Operating Committee to reconsider the decision to assign jurisdiction of curfew matters to the Family Court, and to instead assign jurisdiction over these matters to the Trial Court.

The Law assigns jurisdiction over curfew matters to the Family Court based on the fact that the Family Court law provides that the Family Court shall administer the judicial authorities and responsibilities of the Nation over all matters pertaining to the family, children and elders, except for probate matters. [8 O.C. 806.4-1]. Since curfew governs the actions of minors and the minors' parents, guardians, or legal custodians, the Legislative Operating Committee determined it was appropriate to assign jurisdiction to the Family Court in order to avoid any conflicts with the Family Court law.

Based on the fact that the Family Court was established for the purpose of administering the judicial authorities and responsibilities of the Nation over all matters pertaining to the family, children and elders, there is no recommended revision based on this comment.

Additionally, the commenter requests that if the Family Court maintains jurisdiction over curfew matters that no timeframes which would mandate when the Family Court is required to hold curfew citation hearings be included in the proposed Citations law the Legislative Operating Committee is currently developing.

The Legislative Operating Committee is currently developing a Citations law which will provide a consistent process for handling citations of the Nation in order to ensure equal and fair treatment to all persons who come before the Judiciary to have their citations resolved. The Legislative Operating Committee does intend to include general timeframes for the citation process in the proposed law so that all citations are handled in a consistent manner. The Legislative Operating Committee is still in the drafting stages for the Citations law, but a public meeting will be held in the future to provide the opportunity to provide input on this subject.

LOC Consideration

Comment 7 – Family Counseling:

308.7. Penalties of Curfew Violations

308.7-1. Upon a finding by the Family Court that a violation of this law has occurred, the minor and/or the minor’s parent, guardian, or legal custodian may be subject to the following penalties:

(c) *Family counseling and/or parenting programs.* An individual may be ordered to participate in a family counseling and/or a parenting program.

Patricia Degrand (written): Family Counseling: We should make Oneida Behavioral Health aware that orders for family counseling could be included in a curfew citation order.

Response

The commenter requests that Oneida Behavioral Health be made aware that orders for family counseling could be included in a curfew citation order.

Orders to participate in family counseling may not be exclusive to family counseling by the Oneida Behavioral Health department. Individuals may use family counseling services from other entities if available.

Although there is no recommended revision to the Law based on this comment, it is recommended that the Legislative Operating Committee communicate with Oneida Behavioral Health and any other relevant department of the Nation so that it is known that curfew citation orders may include referrals for services such as family counseling or parenting programs.

LOC Consideration

Comment 8 – Per Capita Attachment:

308.7. Penalties of Curfew Violations

308.7-1. Upon a finding by the Family Court that a violation of this law has occurred, the minor and/or the minor’s parent, guardian, or legal custodian may be subject to the following penalties:

(a) Fines. An individual may be ordered to pay a fine as a result of a violation of this law. The Oneida Business Committee shall hereby be delegated the authority to adopt through resolution a fine schedule which sets forth specific fine amounts for violations of this law.

(1) All fines shall be paid to the Judiciary.

(2) Fines shall be paid within ninety (90) days after the order is issued or upheld on final appeal, whichever is later.

(A) The ninety (90) day deadline for payment of fines may be extended if an alternative payment plan is approved by the Family Court.

(3) If an individual does not pay his or her fine the Family Court may seek to collect the money owed through the Nation’s garnishment and/or per capita attachment process.

(5) Community service may be substituted for part or all of any fine at the minimum wage rate of the Nation for each hour of community service.

Patricia Degrand (written): Per Capita Attachment: With minors being involved, we may end up with attachment orders that will not be enforceable for several years. For instance, if a minor is fined \$150 and does not pay it, the court could pursue a per capita attachment. If the child is 14 at the time of the curfew violation order and does not pay, the final accounting may be received by the Trust Enrollment Department several years before the attachment will even be possible. The Trust Enrollment Department will need to be made aware of this. If the child involved is not eligible for a per capita payment, collection in some cases may be difficult. Pursuing a garnishment several years later when the child is of working age may not be feasible. The court, several years later, will not know where the 14-year-old who received a curfew violation is working at age 18.

Response

The commenter expresses concerns about the delay in attaching the per capita of a minor or pursuing a garnishment of a minor once that minor reaches the age of eighteen (18) and is working.

The Law provides that if an individual does not pay his or her fine, the Family Court may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process. [3 O.C. 308.7-1(a)(3)]. The purpose of this provision is to allow the Family Court the option to pursue garnishment or per capita attachment for unpaid fines when appropriate. Garnishment and per capita attachment may not be appropriate as a means to address fines owed by a minor child, but may be an appropriate measure to seek unpaid fines from a minor's parent, guardian, or legal custodian. The Family Court is not required to use the Nation's garnishment and/or per capita attachment process, just as the Family Court is not required to impose fines as a penalty for curfew violations. The discretion lies with the Family Court.

Any attempt by the Family Court to attach the per capita of an individual must comply with the provisions found in the Nation's Per Capita law. [1 O.C. 123.4-9(d)]. Any attempt by the Family Court to garnish the wages of an individual must comply with the provisions found in the Nation's Garnishment law. [2 O.C. 204.6].

There is no recommended revision to the Law based on this comment.

LOC Consideration

Comment 9 – Exemptions to Curfew:

308.5-3. Exemptions to Curfew. A minor shall not be in violation of the curfew, if at the time of the alleged violation the minor was:

- (a) in the performance of a duty directed by such parent, guardian, or legal custodian;**

Patricia Degrand (written): Exemptions to Curfew: 308.5-3(a) could give minors an unintended out if their parent or guardian tells them to get out of the house after the curfew goes into effect. Although, in this situation, OPD may only want to cite the parent.

Response

The commenter expresses concern that the exemption to the curfew for a minor in the performance of a duty directed by such parent, guardian, or legal custodian could provide an unintended excuse to those minors violating curfew.

Although the Law provides that it is the responsibility of the parent, guardian, or legal custodian to ensure that the minor is not violating the Nation's curfew [3 O.C. 308.5-2], the Law recognizes

that circumstances may arise in which a parent, guardian, or legal custodian may need the minor to be out during curfew hours and provides the flexibility to do so with the exemption provided for in section 308.5-3(a) of the Law. Ultimately, it is up to the discretion of the Oneida Police Department officer to look at the totality of the circumstances and determine if there is a reasonable belief that a violation of curfew has occurred or if an exemption described in section 308.5-3 applies. [3 O.C. 308.6-3].

Additionally, the commenter states that in the circumstance where an unintended exemption is provided by the parent, the Oneida Police Department Officer may want to only cite the parent.

The Law provides that an Oneida Police Officer may issue a citation to the minor and the minor's parent, guardian, or legal custodian for a curfew violation. [3 O.C. 308.6-1(c)]. Although the Law requires that the citation be issued to both the minor and the minor's parent, guardian, or legal custodian, the Law provides discretion to the Family Court to determine what penalty should be imposed against the minor and/or the minor's parent, guardian, or legal custodian. [3 O.C. 308.7-1]. The Family Court may make the determination that in certain situations penalties should be imposed against the parent, guardian, or legal custodian and not the minor, or vice versa. The Family Court may also make the determination that penalties should be imposed against both the minor and the minor's parent, guardian, or legal custodian. The Family Court is given discretion in the imposition of penalties so that the Family Court can address the specific circumstances of each situation and determine which penalty is most appropriate.

LOC Consideration

Comment 10 – Collection of Fines:

308.7. Penalties of Curfew Violations

308.7-1. Upon a finding by the Family Court that a violation of this law has occurred, the minor and/or the minor's parent, guardian, or legal custodian may be subject to the following penalties:

(a) Fines. An individual may be ordered to pay a fine as a result of a violation of this law. The Oneida Business Committee shall hereby be delegated the authority to adopt through resolution a fine schedule which sets forth specific fine amounts for violations of this law.

(1) All fines shall be paid to the Judiciary.

(2) Fines shall be paid within ninety (90) days after the order is issued or upheld on final appeal, whichever is later.

(A) The ninety (90) day deadline for payment of fines may be extended if an alternative payment plan is approved by the Family Court.

(3) If an individual does not pay his or her fine the Family Court may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process.

(5) Community service may be substituted for part or all of any fine at the minimum wage rate of the Nation for each hour of community service.

Patricia Degrand (written): Fines: 308.7-1(a)(3) allows the Court to collect money owed through the Nation's garnishment and/or per capita attachment process. The Family Court is in the process of developing a process for collecting guardian ad litem fees and may utilize the State Debt Collection program and the Wisconsin Tax Refund Interception Program (TRIP) as they are both available to tribal courts. Can this section be amended to add "or another collection process available to the Court"?

Response

The commenter asks the Legislative Operating Committee to revise the language in section 308.7-1(a)(3) to allow for the Family Court to utilize another collection process since the Family Court is currently developing a process for collecting fees that may utilize the State Debt Collection program and the Wisconsin Tax Refund Interception Program.

It is recommended that the Legislative Operating Committee make the following revision to section 308.7-1(a)(3) to allow more flexibility to the Family Court to use any debt collection process that may be available:

(3) If an individual does not pay his or her fine the Family Court may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process or any other collection process available to the Family Court.

LOC Consideration

Title 3. Health and Public Safety - Chapter 308
T<yethin<tshaw^=late> Kayanl^sla>
We'll put our arms across to stop them
CURFEW

308.1. Purpose and Policy
308.2. Adoption, Amendment, Repeal
308.3. Definitions
308.4. Jurisdiction

308.5. Curfew
308.6. Enforcement of Curfew Violations
308.7. Penalties of Curfew Violations

-
- 1
2 **308.1. Purpose and Policy**
3 308.1-1. *Purpose.* The purpose of this law is to protect the health, safety, and welfare of persons
4 and property within the Reservation by regulating the activities of minors on the Reservation
5 during certain hours, while imposing certain obligations and responsibilities upon the parents,
6 guardians, and/or legal custodians of a minor for the control and supervision of that minor.
7 308.1-2. *Policy.* It is the policy of the Nation to support all drug use prevention initiatives of the
8 Nation by protecting the health, safety, and welfare of persons through the establishment of a
9 curfew for minors in public spaces within the Reservation during certain hours in an effort to
10 minimize the opportunity for harm to come to minors during those hours.
11
12 **308.2. Adoption, Amendment, Repeal**
13 308.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-__.
14 308.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General
15 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
16 308.2-3. Should a provision of this law or the application thereof to any person or circumstances
17 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
18 to have legal force without the invalid portions.
19 308.2-4. In the event of a conflict between a provision of this law and a provision of another law,
20 the provisions of this law shall control.
21 308.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
22
23 **308.3. Definitions**
24 308.3-1. This section shall govern the definitions of words and phrases used within this law. All
25 words not defined herein shall be used in their ordinary and everyday sense.
26 (a) “Court of Appeals” means the branch of the Nation's Judiciary delegated the authority
27 of final appeal within the Nation’s Judiciary, as authorized by Oneida General Tribal
28 Council resolution GTC-03-19-17-A .
29 (b) “Family Court” means the branch of the Nation’s Judiciary delegated the authority to
30 administer the judicial authorities and responsibilities of the Nation related to the family
31 and/or children, as authorized by Oneida General Tribal Council resolution GTC-03-19-
32 17-A.
33 (c) “Guardian” means the person, department, and/or agency appointed the duty and
34 authority of guardianship of a child by a Court for the purpose of managing and caring for
35 the child. A guardian has the right to make major decisions affecting a child including
36 education, religious and cultural upbringing, the right to consent to marriage, to enlistment

37 in the armed forces, to major surgery and medical treatment and to adoption, or make
38 recommendations as to adoption.

39 (d) “Legal custodian” means any person, department, and/or agency, other than a parent
40 or guardian, to whom legal custody of a child has been granted by Court order and has the
41 rights and responsibilities for the following:

42 (1) To have physical custody of the child as determined by the Court, if physical
43 custody is not with the person having legal custody;

44 (2) To protect, educate and discipline the child so long as it is in the child’s best
45 interest; and

46 (3) To provide the child with adequate food, shelter, education, ordinary medical
47 care and other basic needs, according to court order. In an emergency situation, a
48 custodian shall have the authority to consent to surgery as well as any other
49 emergency medical care needs.

50 (e) “Member of the Nation” means an individual enrolled in the Oneida Nation.

51 (f) “Minor” means a person age seventeen (17) years old or younger.

52 (g) “Nation” means the Oneida Nation.

53 (h) “Parent” means the biological or adoptive parent of a child.

54 (j) “Public space” means any public streets, highways, roads, alleys, parks, vacant lots, or
55 any public lands.

56 (j) “Relative” means any person connected with a child by blood, marriage or adoption.

57 (k) “Reservation” means all the property within the exterior boundaries of the Reservation
58 of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566,
59 and any lands added thereto pursuant to federal law.

60 61 **308.4. Jurisdiction**

62 308.4-1. *Personal Jurisdiction.* This law applies to:

63 (a) All members of the Nation, individuals eligible for enrollment in the Nation, and
64 members of other federally-recognized tribes.

65 (b) Individuals leasing, occupying or otherwise using fee land owned by the Nation or by
66 individual members of the Nation; and/or lands held in trust on behalf of the Nation or
67 individual members of the Nation.

68 (c) Individuals who have consented to the jurisdiction of the Nation or as otherwise
69 consistent with federal law. An individual shall be considered to have consented to the
70 jurisdiction of the Nation:

71 (1) By entering into a consensual relationship with the Nation, or with the Nation’s
72 entities, corporations, or members of the Nation, including but not limited to
73 contracts or other agreements; or

74 (2) By other facts which manifest an intent to consent to the authority of the Nation,
75 including failure to raise an objection to the exercise of personal jurisdiction in a
76 timely manner.

77 308.4-2. *Territorial Jurisdiction.* This law extends within the Reservation to all land owned by
78 the Nation and individual trust and/or fee land of a member of the Nation.

79 80 **308.5. Curfew**

81 308.5-1. *Curfew Established.* No minor shall be on any public space either on foot or in any
82 vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of
83 the Reservation, unless the minor is accompanied by a parent, guardian, or legal custodian.

84 308.5-2. *Parental Responsibility*. No parent, guardian, or legal custodian shall knowingly permit
85 or fail to take action to prevent the minor from being on any public space either on foot or in any
86 vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of
87 the Reservation.

88 308.5-3. *Exemptions to Curfew*. A minor shall not be in violation of the curfew, if at the time of
89 the alleged violation the minor was:

- 90 (a) in the performance of a duty directed by such parent, guardian, or legal custodian;
- 91 (b) engaged in employment or an employment related activity, or traveling to or returning
92 home from employment;
- 93 (c) engaged in interstate travel;
- 94 (d) attending an educational, cultural, religious, or recreational activity that was supervised
95 by adults, or traveling to or returning home from such activity;
- 96 (e) on the sidewalk in front of his or her home or an adjacent home;
- 97 (f) going to, attending, or returning home from a movie theatre;
- 98 (g) engaged in hunting, fishing, or trapping in accordance with the laws, policies, and rules
99 of the Nation;
- 100 (h) exercising rights protected by the Nation’s Constitution and the United States
101 Constitution, such as free exercise of religion, freedom of speech, and the right of
102 assembly;
- 103 (i) involved in an emergency situation; and/or
- 104 (j) engaged in any other activity as deemed appropriate by the Oneida Police Department
105 officer.

106

107 **308.6. Enforcement of Curfew Violations**

108 308.6-1. *Enforcement Procedure*. A suspected violation of curfew shall be enforced by the Oneida
109 Police Department in the following ways:

- 110 (a) A minor who is suspected of violating curfew may be stopped by an Oneida Police
111 Officer. No person shall assault, obstruct or flee from any Oneida Police Officer enforcing
112 or attempting to enforce the provisions of this law.
- 113 (b) The Oneida Police Officer shall ask the minor’s name, age, and reason for violating
114 curfew. The minor shall provide the Oneida Police Officer identification if available. No
115 person shall falsely represent his or her name or age to an Oneida Police Officer.
- 116 (c) If the Oneida Police Officer reasonably believes based on the totality of the
117 circumstances that a violation of curfew has occurred and not one of the exemptions in
118 section 308.5-3 apply, the Oneida Police Officer may take custody of the minor for the
119 purpose of returning such minor to the care and custody of a parent, guardian, or legal
120 custodian.
- 121 (d) Once the Oneida Police Officer has taken the minor into his or her custody, the minor
122 shall provide the Oneida Police Officer with contact information for his or her parent,
123 guardian, or legal custodian. The Oneida Police Officer shall contact the minor’s parent,
124 guardian, or legal custodian to come and pick up the minor and take the minor into his or
125 her care and custody. If the minor’s parent, guardian, or legal custodian is unable to pick
126 the minor up, then the Oneida Police Officer may bring the minor home to release the minor
127 to the custody and care of the minor’s parent, guardian, or legal custodian.
- 128 (e) If the Oneida Police Officer is unable to contact the minor’s parent, guardian, or legal
129 custodian after reasonable efforts are made, the Oneida Police Officer shall attempt to

130 locate an adult relative or other responsible adult willing and able to accept the care and
131 custody of the minor, and may release the minor into the care and custody of such person.

132 308.6-2. *Warning.* The first time a minor is held in custody by an Oneida Police Officer for a
133 curfew violation the Oneida Police Officer shall provide the minor and the minor’s parent,
134 guardian, or legal custodian a warning and advise the minor and parent, guardian, or legal
135 custodian of the provisions of this law and that any subsequent curfew violations may result in the
136 issuance of a citation and the imposition of a penalty.

137 308.6-3. *Issuance of a Citation.* Any subsequent time a minor is held in custody by an Oneida
138 Police Officer for a curfew violation the Oneida Police Officer may issue a citation to the minor
139 and the minor’s parent, guardian, or legal custodian.

140 (a) A citation for a violation of this law and/or any orders issued pursuant to this law may
141 include fines and other penalties, as well as conditional orders made by the Family Court.

142 (b) A citation for a violation of this law shall be processed in accordance with the
143 procedure contained in the Nation’s laws and policies governing citations.

144 (c) All citations for violations of this law require a mandatory appearance at the citation
145 pre-hearing by the minor and his or her parent, guardian, or legal custodian.

146

147 **308.7. Penalties of Curfew Violations**

148 308.7-1. Upon a finding by the Family Court that a violation of this law has occurred, the minor
149 and/or the minor’s parent, guardian, or legal custodian may be subject to the following penalties:

150 (a) *Fines.* An individual may be ordered to pay a fine as a result of a violation of this law.
151 The Oneida Business Committee shall hereby be delegated the authority to adopt through
152 resolution a fine schedule which sets forth specific fine amounts for violations of this law.

153 (1) All fines shall be paid to the Judiciary.

154 (2) Fines shall be paid within ninety (90) days after the order is issued or upheld
155 on final appeal, whichever is later.

156 (A) The ninety (90) day deadline for payment of fines may be extended if
157 an alternative payment plan is approved by the Family Court.

158 (3) If an individual does not pay his or her fine the Family Court may seek to collect
159 the money owed through the Nation’s garnishment and/or per capita attachment
160 process.

161 (5) Community service may be substituted for part or all of any fine at the minimum
162 wage rate of the Nation for each hour of community service.

163 (b) *Community service.* An individual may be ordered to perform community service.
164 Community service can be used in lieu of, or in addition to, a fine.

165 (1) All community service assignments shall be approved by the Family Court.
166 The Family Court shall give preference to culturally relevant community service
167 assignments and/or community service assignments that focus on the betterment of
168 the individual’s community.

169 (2) The Family Court shall provide the individual a written statement of the terms
170 of the community service order, and a statement that the community service order
171 is monitored.

172 (3) The Family Court’s community service order shall specify:

173 (A) how many hours of community service the individual is required to
174 complete;

175 (B) the time frame in which the hours shall be completed;

- 176 (C) how the individual shall obtain approval for his or her community
177 service assignment;
178 (D) how the individual shall report his or her hours; and
179 (E) any other information the Family Court determines is relevant.
180 (c) *Family counseling and/or parenting programs.* An individual may be ordered to
181 participate in a family counseling and/or a parenting program.
182 (d) Any other penalty as deemed appropriate by the Family Court.

183
184 *End.*

185
186 _____
187 Adopted – BC-__-__-__-__



**LEGISLATIVE OPERATING COMMITTEE
PUBLIC MEETING
Curfew Law**

Business Committee Conference Room-2nd Floor Norbert Hill Center
July 18, 2019 5:00 p.m.

Present: Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brooke Doxtator, Rae Skenandore, Carol Silva, Amy Williams, Belle Mae Williams, Maureen Perkins.

Ernest Stevens III: Good Evening. The time is 5:00 p.m. and today's date is Thursday, July 18, 2019. I will now call this meeting to order, this public meeting for the proposed Curfew law.

The Legislative Operating Committee is hosting this public meeting to gather feedback from the community. The public meeting is not a question and answer period. The LOC will review and consider all comments received during the public comment period. The LOC will respond to all comments received in a memorandum, which will be submitted in the meeting materials of a future LOC meeting.

All persons who wish to present oral testimony need to register on the sign in sheet at the back of the room. If you leave an email address on the sign in sheet, we can ensure you receive a copy of the memorandum.

Additionally, written comments may be submitted to the Nation's Secretary's Office or to the Legislative Reference Office in person, by U.S. mail, interoffice mail, e-mail or fax as provided on the public meeting notice. These comments must be received by close of business on Thursday, July 25, 2019.

In attendance with the LOC is myself, Ernie Stevens III.

The LOC may impose a time limit for all speakers pursuant to section 109.8-3(c) of the Legislative Procedures Act. As the presiding LOC member, I am imposing a time limit of five (5) minutes. This time limit shall be applied equally to all persons.

We will now begin today's public meeting for the proposed Curfew law. The purpose of this law is to protect the health, safety, and welfare of persons and property within the Reservation by regulating the activities of minors on the Reservation during certain hours, while imposing certain obligations and responsibilities upon the parents, guardians, and/or legal custodians of a minor for the control and supervision of that minor.

Those who wish to speak please come to the microphone. So, if you have any comments at this point, um we don't have any signed up, we don't have any information as far as anyone signing up before the meeting but um this would be the time to do that if you wish to come up and speak. That will be audio recorded for the record and then utilized in our discussions as the LOC.

Yes-

Amy Williams: (inaudible)

Ernest Stevens III: Hold on one second, sorry, wait. Sorry, I can hear you I just want to make sure its recording too. So, you just have to press that little button.

[Speaker moves to table mic after standing mic not working.]

Amy Williams: Is this better?

Ernest Stevens III: Ope, yeah.

Amy Williams: Hi, my name is Amy Williams. Um, so thanks for the opportunity to allow me to comment. Um, so I did have a chance to review the provisions of the proposal and um my comment is that I would be in favor of first an earlier time, perhaps four or five o'clock instead of six o'clock. And um, I think the reason is because we have three kids, all of them have had primarily athletic, but as well as academic, responsibilities that are before six o'clock. So, for example, our son has hockey practice at, sometimes practice starts at four or 4:30 a.m. which means leaving the house at four o'clock, so he's out, he's driving around. He's a responsible, you know they are responsible kids doing what they are supposed to be doing. Um, so, I understand the spirit of what's proposed in terms of, in terms of safety.

I guess I would, I'm an advocate for also assuring in some ways that the proposed law isn't too punitive and that there is some sort of discernment in terms of oh my gosh these kids are out here doing what they need to be doing and not be afraid that somehow they are going to get in trouble because they're out there by themselves, especially the ones that can drive. So, our kids are out running, sometimes they have study groups in the morning, so um perhaps an earlier time, and that would be the first thing. And then as well as to assure that there are provisions or enough movement in the law where um you know whoever, police or whoever is enforcing, aren't too punitive with kids who are going what they are supposed to be doing.

So, our kids are usually under the purview of coaches who are telling them where to be and what time, or uh teachers or other study groups. So just that that would be added in addition to parents, guardians, and whatever language is. And that's all.

Ernest Stevens III: Thank you. Just a quick note, if we do not receive any more speakers I'm probably going to close this out at 5:10 p.m. So, we have about four minutes, so if more people show up we will give them more time to consider comments. So, for those who are here, you have that amount of time if you wish to provide testimony at the mic, thank you.

Okay, it is 5:10 p.m. and seeing that there are no more speakers registered, I just want to take a quick moment just to give everyone in the room one last chance, if you wish to come provide testimony.

Seeing none approaching the mic, I'm gonna go ahead and close out this public meeting for the proposed Curfew law. It is now being closed at 5:10 p.m.

So, uh, written comments may be submitted until close of business day, once again Thursday, July 25, 2019. Thank you for coming.

-End of Meeting-

From: [Patricia K. Degrand](#)
To: [Clorissa N. Santiago](#)
Subject: RE: Curfew Law
Date: Friday, July 26, 2019 7:17:14 AM
Attachments: [image003.png](#)
[image005.png](#)

Yes, I would like to have the comments considered by the Legislative Operating Committee. You may treat them as official public meeting comments unless there is another way to meet with the Legislative Operating Committee to discuss them.

I have an additional comment since my last email and updated some of the language, so here are my updated comments:

- *Community Service*: Community service has been ordered in the past and it was problematic. In child support contempt cases, parties were ordered to complete a set number of community service hours [Rule CS 2.8-2(c)]. The court order indicated that the community service would be monitored by the Oneida Nation Child Support Agency and completed through the Social Services Department. The court later discovered that there were no community service options being offered through the Social Services Department. Prior to ending the community service orders (community service is not being ordered at the present time), the court attempted to locate other community service options through the Nation but nobody expressed any interest in taking people on. I know liability and background check concerns were raised. While I know the judges would participate in discussions regarding community service, I am unsure as to whether they are going to be able to locate a list of options for people to use to complete community service requirements. I know Judge Collins has reached out to some of the other tribal courts and local municipal courts to find out if they are ordering community service and what community service options they utilize, although these options may not be culturally relevant or tied to the Oneida community.

It would be useful if one of the Social Services Department employees, such as the Indigenous Cultural Wellness Practitioner, could serve as the intake for the minors ordered to do community service and monitor compliance to avoid a review hearing on every citation.
- *Alternative to Fines or Community Service*: It would be nice if there was an alternative to the penalties section that is similar to what the court has done with contempt findings. With the contempt findings, the court is able to allow a person one opportunity to comply or be held in contempt [803.26-3(b)(1)]. Typically the court will find the party in contempt, fine them, and then give them a purge condition such as no more findings of contempt within a period of X months. If the purge condition is satisfied, there is then no contempt finding or fine. Having an option similar to this to use with parents and minors could be useful as the citation could be dismissed if there are no further curfew citations issued within a set period of time.
- *Judicial Branch*: We had an internal discussion and the Family Court judges recognize that this law could be assigned to the Family Court. I ask that the LRO/LOC reconsider doing so. With the Children's Code going into effect in October, there are a lot of unknowns with the Family Court's caseload. One concern I have is with the permanency plan hearings and the effect

those will have on our calendar. We have an initial plan for the scheduling of the 6 and 12 month permanency plan review hearings, but realize that we might have to make adjustments depending on the number of cases that are filed/transferred. As curfew violations are typically general civil cases and the Trial Court can hear those matters [801.5-2(a)], please consider assigning this law to the Trial Court. The Trial Court is already hearing all other citations, some of which could involve minors, and adding the Curfew law to the Trial Court's docket would help with the caseload distribution. Looking back at May – June 2019, the Family Court held court 20 of 22 days with a total of 68 hearings. The Trial Court held court 6 of 22 days with a total of 15 hearings (plus the peacemaking sessions that Judges Hill and Powless have done).

If the Curfew Law is left in the Family Court, please don't add any requirements to any upcoming citations law (if there will be one) that would mandate how quickly the Family Court needs to hold a curfew citation hearing so we can hold these on a bimonthly or trimonthly basis.

- Family Counseling: We should make Oneida Behavioral Health aware that orders for family counseling could be included in a curfew citation order.
- Per Capita Attachment: With minors being involved, we may end up with attachment orders that will not be enforceable for several years. For instance, if a minor is fined \$150 and does not pay it, the court could pursue a per capita attachment. If the child is 14 at the time of the curfew violation order and does not pay, the final accounting may be received by the Trust Enrollment Department several years before the attachment will even be possible. The Trust Enrollment Department will need to be made aware of this. If the child involved is not eligible for a per capita payment, collection in some cases may be difficult. Pursuing a garnishment several years later when the child is of working age may not be feasible. The court, several years later, will not know where the 14-year-old who received a curfew violation is working at age 18.
- Exemptions to Curfew: 308.5-3(a) could give minors an unintended out if their parent or guardian tells them to get out of the house after the curfew goes into effect. Although, in this situation, OPD may only want to cite the parent.
- Fines: 308.7-1(a)(3) allows the Court to collect money owed through the Nation's garnishment and/or per capita attachment process. The Family Court is in the process of developing a process for collecting guardian ad litem fees and may utilize the State Debt Collection program and the Wisconsin Tax Refund Interception Program (TRIP) as they are both available to tribal courts. Can this section be amended to add "or another collection process available to the Court"?

Thank you.

Pixie DeGrand
Clerk of Family Court
Oneida Judiciary
(920) 496-7219



From: Clorissa N. Santiago <csantia1@oneidanation.org>
Sent: Thursday, July 25, 2019 1:14 PM
To: Patricia K. Degrand <PDEGRAND@oneidanation.org>
Subject: RE: Curfew Law

Good Afternoon Pixie,

I hope this email finds you well, and you are enjoying your Thursday afternoon. I just wanted to confirm whether or not you wanted the comments you submitted to me on June 18, 2019, regarding the proposed Curfew law to be considered as official public meeting comments and responded to by the Legislative Operating Committee formally through their public comment review memorandum?

Sincerely,

Clorissa N. Santiago
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A good mind. A good heart. A strong fire.

From: Patricia K. Degrand
Sent: Tuesday, June 18, 2019 8:27 AM
To: Clorissa N. Santiago <csantia1@oneidanation.org>
Subject: Curfew Law



Legislative Operating Committee
August 7, 2019

Child Support Law Amendments

Submission Date: 3/7/18	Public Meeting: n/a
LOC Sponsor: David P. Jordan	Emergency Enacted: n/a

Summary: *This item was submitted to the LOC by the Child Support Agency’s attorney. Currently the Child Support Law is accompanied by two rules. The Child Support Agency want to create more rules, and proposed amending the law to include expanded rulemaking authority.*

3/7/18LOC: Motion by Kirby Metoxen to add the Child Support Amendments to the active files list as a high priority and assign David P. Jordan as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

4/5/18: *Work Meeting.* Present: Trina Schuyler, Lisa Peck, Clorissa Santiago, Brandon Wisneski, Michelle Gordon. The purpose of this work meeting was to review potential amendments to the Child Support law.

4/18/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Laura Laitinen-Warren. The purpose of this work meeting was to discuss the Child Support Department’s request for amendments, and determine if administrative rulemaking should be utilized. The drafting attorney will schedule a meeting with the LOC and the Child Support Department to begin discussing policy.

5/17/18: *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck, Michelle Gordon. The purpose of this work meeting was to discuss and determine specific policy amendments the Child Support Department is seeking, and to discuss and determine a plan to move this legislative item forward.

6/8/18: *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck, Michelle Gordon, Hon. Marcus Zielinski. The purpose of this work meeting was to begin discussing the reality of implementing bench warrants and other enforcement mechanisms.

Work Meeting. Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck, Michelle Gordon. The purpose of this work meeting is to begin discussing the potential amendments the Child Support Department wants the LOC to consider.

6/22/18: *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck. The purpose of this work meeting was to continue discussing potential amendments to the Child Support law.

7/13/18: *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck, Mike Hoef. The purpose of this work meeting was to continue discussing potential amendments to the Child Support law.

- 8/9/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck, Michelle Gordon, Hon. Marcus Zielinski, Hon. Robert Collins III, Rich Vanboxtel, Eric Boulanger. The purpose of this work meeting was to discuss the potential of utilizing bench warrants in regard to child support matters.
- 8/17/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck, Michelle Gordon. The purpose of this work meeting was to continue discussing potential amendments to the review, review requested data regarding enforcement of child support, and determine next steps to moving this legislative item forward.
- 9/18/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck. The purpose of this work meeting was to continue discussing potential amendments to the law.
- 10/12/18:** *Work Meeting:* Present: Brandon Wisneski, Trina Schuyler. The purpose of this work meeting was to prepare for and discuss an upcoming work meeting with the LOC.
- 10/26/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch. The purpose of this work meeting was to review the power point and handouts for the upcoming meeting with the LOC.
- 10/31/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Trina Schuyler. During this work meeting Trina gave PowerPoint presentation on Oneida's Child Support Department. The LOC was then presented with policy considerations for proposed amendments regarding enforcement tools and modification of a child support order for an incarcerated parent. The LOC considered the proposed ideas, and directed the LRO to move forward pursuing research and drafting.
- 11/9/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch. The purpose of this work meeting was to discuss the LOC's decisions regarding potential amendments, plan the next steps for moving forward, and plan an upcoming meeting with OPD.
- 12/6/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Michelle Gordon. The purpose of this work meeting was to review drafted enforcement tools language and determine what information needs to be discussed with OPD in an upcoming work meeting scheduled for 12/10/18.
- 12/10/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Michelle Gordon, Eric Boulanger. The purpose of this work meeting was to review drafted enforcement tools language and determine what information needs to be included in the Law. The LRO staff will bring the information collected during this work meeting to the LOC for their consideration.
- 12/19/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski. The purpose of this work meeting was to discuss the 12/10/18 work meeting with Child Support and OPD, and reconsider policy considerations regarding enforcement tools.
- 1/4/19:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Michelle Gordon. The purpose of this work meeting was to discuss the LOC's recent decision to not pursue the addition of proposed enforcement tools, and to begin reviewing the draft from the beginning to discuss other potential amendments.
- 2/1/19:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Michelle Gordon. The purpose of this work meeting was to continue reviewing the law line by line to discuss potential amendments.

- 3/1/19:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Michelle Gordon, Porsche Skenandore-Wheelock. The purpose of this work meeting was to finish reviewing the law line by line to discuss potential amendments. LRO will update the draft with all the proposed revisions.
- 4/5/19:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Porsche Skenandore-Wheelock. The purpose of this work meeting was to review the updated draft to ensure it adequately reflects decisions that were made regarding proposed amendments to the law.
- 4/30/19:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Porsche Skenandore-Wheelock. The purpose of this work meeting was to continue reviewing the updated draft to ensure it adequately reflects the decisions and recommendations that were made regarding the proposed amendments to the law. Department will continue to review the proposed language for compliance, and we will finish the review of the last portion of the draft during the next meeting.
- 5/16/19:** *Work Meeting.* Present: Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Michelle Gordon, JoAnne House, Tsyoshaht Delgado. The purpose of this work meeting was to complete the review of the updated draft to ensure it adequately reflects the decisions and recommendations that were made regarding the proposed amendments to the law. LRO will now update the draft and bring it to the LOC for review and consideration.
- 7/17/19:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to begin reviewing and making decisions to the proposed amendments to the Law.
- 7/18/19:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to continue reviewing and making decisions as to the proposed amendments to the Law.
- 7/25/19:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to continue reviewing and making decisions as to the proposed amendments to the Law.

Next Steps:

- Accept the draft of the proposed amendments to the Child Support law and the legislative analysis and defer to a work meeting for further consideration.

Title 7. Children, Elders and Family - Chapter 704
shakoti?nukú·lale? latiksashúha?
They watch over the children
CHILD SUPPORT

704.1. Purpose and Policy	704.10. Modification of a Child Support Order
704.2. Adoption, Amendment, Repeal	704.11. Modification of a Child Support Order for an Incarcerated Parent
704.3. Definitions	704.12. Compliance Plan
704.4. Jurisdiction	704.13. Enforcement of an Order
704.5. Initiating an Action for Child Support	704.14. Alternative Payment Plans
704.6. Child Support Hearing Procedures	704.15. Administrative Enforcement Action
704.7. Determining the Child Support Obligation	704.16. Family Court Enforcement Action
704.8. Determining the Child Support Obligation in Special Circumstances	704.17. Full Faith and Credit for Foreign Child Support Orders
704.9. Child Support Order	704.18. Right of Appeal

1
2 **704.1. Purpose and Policy**

3 704.1-1. *Purpose.* The purpose of this law is to:

- 4 (a) Establish the legal responsibility of parents to provide financially for their children's
5 general well-being;
6 (b) Make support payments more equitable by ensuring consistent treatment of persons
7 in similar circumstances;
8 (c) Make support payments based on the real earning capability of parents; and
9 (d) Improve the efficiency of child support establishment and enforcement.

10 704.1-2. *Policy.* It is the policy of this law to:

- 11 (a) establish an adequate standard of support for children whose paternity has been
12 established or acknowledged;
13 (b) encourage the use of voluntary agreements to resolve disputes over child support
14 obligations; and
15 (c) limit the use and disclosure of personal information received or maintained by the
16 Nation's Family Court and/or the Oneida Nation Child Support Agency in order to
17 protect the privacy rights of all parties and children who are involved in proceedings or
18 actions under this law.

19
20 **704.2. Adoption, Amendment, Repeal**

21 704.2-1. This law was adopted by the Oneida Business Committee by resolution BC-06-24-09-B
22 and amended by resolutions BC-02-24-10-G, BC-02-23-11-E, BC-06-22-11-K, BC-10-10-12-C,
23 BC-08-13-14-E, and BC-__-__-__-__.

24 704.2-2. This law may be amended or repealed by the Oneida Business Committee or the
25 Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures
26 Act.

27 704.2-3. Should a provision of this law or the application thereof to any person or circumstances
28 be held as invalid, such invalidity shall not affect other provisions of this law which are
29 considered to have legal force without the invalid portions.

30 704.2-4. In the event of a conflict between a provision of this law and a provision of another
31 law, the provisions of this law shall control.

32 704.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
33

34 **704.3. Definitions**

35 704.3-1. This section shall govern the definitions of words and phrases used within this law. All
36 words not defined herein shall be used in their ordinary and everyday sense.

37 (a) “Administrative enforcement action” means enforcement action taken by the Oneida
38 Nation Child Support Agency.

39 (b) “Agency” means the Oneida Nation Child Support Agency established to administer
40 and supervise the Nation’s child support enforcement program.

41 (c) “Alternative payment plan” means a negotiated agreement between the Agency and
42 an obligor, or an order set by the Family Court, to establish terms and conditions for the
43 payment of arrears.

44 (d) “Basic support costs” means food, shelter, clothing, transportation, personal care, and
45 incidental recreational costs.

46 (e) “Business day” means Monday through Friday from 8:00 a.m. to 4:30 p.m.,
47 excluding holidays recognized by the Nation.

48 (f) “Child” means a natural or adopted child of the obligor under the age of eighteen
49 (18), or any person who is less than nineteen (19) years old if he or she is pursuing a high
50 school diploma or its equivalent from an accredited course of instruction.

51 (g) “Child support” means the total financial obligation a parent has towards his or her
52 child as established through judicial and/or administrative processes.

53 (h) “Child Support Obligation of Low-Income Payers Schedule” means the Wisconsin
54 Department of Children and Families Child Support Obligation of Low-Income Payers at
55 the Federal Poverty Guidelines, found in DCF 105 Appendix C.

56 (i) “Child support order” means a judgment of the Family Court or a court of competent
57 jurisdiction ordering payment of child support which provides monetary support, health
58 care, arrearages, or reimbursement, and which may include related costs and fees, interest
59 and penalties, income withholding, attorney’s’ fees and other relief.

60 (j) “Current six (6) month treasury bill rate” means the yield of a U.S. government
61 security with a term of six (6) months.

62 (k) “Custodial parent” means the parent who exercises physical custody of the child
63 pursuant to a custody order, on the basis of agreement between the parents or in the
64 absence of one parent. A legal guardian with primary physical custody of the child or
65 children and standing in the position of the parent shall have the same rights to child
66 support as a custodial parent.

67 (l) “Employer” means any individual, business, government, institution, or other entity
68 paying wages to one or more employees.

69 (m) “Equity” means the fair market value of property minus the liens on that property
70 with priority over the child support lien.

71 (n) “Equivalent care” means a period of time during which the parent cares for the child
72 that is not overnight, but is determined by the court to require the parent to assume the
73 basic support costs that are substantially equivalent to what the parent would spend to
74 care for the child overnight. Blocks of time with the child of at least six (6) hours may be
75 considered the equivalent of a half-day if a meal is provided during that time period. Two
76 (2) half-day blocks may be considered the equivalent of an overnight.

77 (o) “Family Court” means the branch of the Nation’s Judiciary that is designated to
78 handle all matters related to the family and/or children.

79 (p) “Gross income” means any form of payment due to an individual regardless of
80 source, including, but not limited to:

- 81 (1) Salary and wages, including overtime pay;
82 (2) Interest and investment income;
83 (3) Social Security disability and old age insurance benefits under 42 U.S.C.
84 §401 to 433;
85 (4) Net proceeds resulting from worker’s compensation or other personal injury
86 awards intended to replace income;
87 (5) Unemployment insurance;
88 (6) Income continuation benefits;
89 (7) Voluntary deferred compensation and employee contributions to the
90 following: employee benefit plan, profit-sharing, pension or retirement account;
91 (8) Military allowances and veterans disability compensation benefits;
92 (9) Undistributed income of a corporation or any partnership in which the parent
93 has an ownership interest sufficient to individually exercise control or to access
94 the earnings of the business, unless the income included is an asset;
95 (10) Per capita distribution payments;
96 (11) Lease or rental income;
97 (12) Prizes over one thousand dollars (\$1,000); and
98 (13) All other income, whether taxable or not, except that gross income does not
99 include any of the following:
100 (A) Child support;
101 (B) Foster care payments;
102 (C) Kinship care payments;
103 (D) Public assistance benefits, except that child care subsidy payments
104 shall be considered income to a child care provider;
105 (E) Food stamps;
106 (F) Public assistance or financial hardship payments paid by a county or a
107 Nation;
108 (G) Supplemental Security Income under 42 U.S.C. §1381 to 1383(f) and
109 state supplemental payments; or
110 (H) Payments made for social services.
111 (q) “Immediate family member” means an individual’s husband, wife, mother, father,
112 step-mother, step-father, son, daughter, step-son, step-daughter, brother, sister, step-
113 brother, step-sister, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-
114 law, son-in-law, brother-in-law or sister-in-law and any of the these relations attained
115 through legal adoption.
116 (r) “Income withholding” means the process whereby a court order, Family Court order,
117 or voluntary wage assignment directs an employer, bank, or agent holding monies or
118 property of an obligor, to make payments or deliver property to satisfy a child support
119 obligation.
120 (s) “Intact family” means a family in which the child or children and the obligor reside in
121 the same household and the obligor shares his or her income directly with the child or
122 children and has a legal obligation to support the child or children.
123 (t) “Legally incompetent adult” means a person at least eighteen (18) years old who has
124 been declared incompetent by a court of competent jurisdiction because he or she is
125 temporarily or permanently impaired to the extent that the person lacks sufficient
126 understanding to make or communicate responsible personal decisions.
127 (u) “Lien amount” means the difference between the monthly amount of support due and
128 the arrears in a case.

- 129 (v) “Lien docket” means the registry kept by the State of Wisconsin containing the
130 names of people who owe past-due child support.
- 131 (w) “Low-income obligor” means an obligor for whom the Family Court uses the
132 monthly support amount provided in the schedule in the Child Support Obligation of
133 Low-Income Payers Schedule based on the Family Court’s determination that the
134 obligor’s total economic circumstances limit his or her ability to pay support at standard
135 percentages and the obligor’s income is at a level set forth in the schedule in the Child
136 Support Obligation of Low-Income Payers Schedule.
- 137 (x) “Marital child” means a child born during the marriage of his or her parents. In
138 addition, if the father and mother of a non-marital child enter into a lawful marriage or a
139 marriage which appears and they believe is lawful, except where the parental rights of the
140 mother were terminated before either of these circumstances, the child becomes a marital
141 child and shall enjoy all of the rights and privileges of a marital child as if he or she had
142 been born during the marriage of the parents. The children of all marriages declared void
143 under the law are nevertheless marital children.
- 144 (y) “Monthly income” means the obligor’s annual gross income or, if applicable, the
145 obligor’s annual income modified for business expenses; plus the obligor’s annual
146 income imputed based on earning capacity; plus the obligor’s annual income imputed
147 from assets; divided by twelve (12).
- 148 (z) “Nation” means the Oneida Nation.
- 149 (aa) “Non-custodial parent” means the parent of a child who does not hold primary care,
150 custody and/or control of a child.
- 151 (bb) “Non-legally responsible relative” means a relative who assumes responsibility for
152 the care of a child without legal custody, but is not in violation of a court order. A non-
153 legally responsible relative does not include a relative who has physical custody of a
154 child during a court-ordered visitation period.
- 155 (cc) “Obligee” means the person or entity to whom child support is owed.
- 156 (dd) “Obligor” means the person who is obliged to pay child support to the obligee.
- 157 (ee) “Ownership interest” means any personal financial interest.
- 158 (ff) “Parent” means the natural or adoptive parent of the child.
- 159 (gg) “Payor” means a person or entity with a legal obligation, as an employer, buyer of
160 goods, debtor, or otherwise, to pay an obligor.
- 161 (hh) “Reservation” means all lands within the exterior boundaries of the Reservation of
162 the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566,
163 and any lands added thereto pursuant to federal law.
- 164 (ii) “Serial family obligor” means an obligor with an existing legal obligation for child
165 support who incurs an additional legal obligation for child support in a subsequent family
166 as a result of a child support order.
- 167 (jj) “Shared-placement obligor” means a parent who has an ordered period of placement
168 of at least twenty-five percent (25%), is ordered by the Family Court to assume the
169 child’s basic support costs in proportion to the time that the parent has placement of the
170 child and is determined to owe a greater support amount than the other parent.
- 171 (kk) “Split-placement obligor” means an obligor who has two (2) or more children and
172 who has physical placement of one (1) or more children but not all of the children.
- 173 (ll) “Substantial change of income” means the obligor has a significant change in his or
174 her finances that would lead to a change in child support of more than fifteen percent
175 (15%) and fifty dollars (\$50.00) per month.

176 (mm) “Variable costs” means the reasonable costs above basic support costs incurred by
177 or on behalf of a child, including but not limited to, the cost of child care, tuition, a
178 child’s special needs, and other activities that involve substantial cost.

179 (nn) “Threshold” means an amount, expressed as either a percentage of the monthly
180 amount due, a fixed dollar amount, or both, that the lien amount must equal or exceed
181 before an administrative enforcement action may be used to enforce a child support order.
182

183 **704.4. Jurisdiction**

184 704.4-1. The Family Court has jurisdiction over any action brought under this law.

185 704.4-2. *Personal Jurisdiction.* Personal jurisdiction over an individual under this law may be
186 established where one party or a child of the parties is any of the following:

187 (a) a member of the Nation;

188 (b) a resident of the Reservation who is also a member of an Indian tribe, band or
189 community which is recognized by a State or the federal government;

190 (c) a resident of the Reservation who is also the biological parent of a child that is
191 enrolled or is eligible for enrollment with the Nation; or

192 (d) an individual who consents to the jurisdiction of the Family Court by one (1) of the
193 following means:

194 (1) Filing an action with the Family Court;

195 (2) Knowingly and voluntarily giving written consent to the jurisdiction of the
196 Family Court;

197 (3) Entering a notice of appearance before the Family Court in an action without
198 concurrently preserving the defense of lack of personal jurisdiction or filing a
199 motion to dismiss for lack of personal jurisdiction within thirty (30) days of
200 entering the notice of appearance; or

201 (4) Appearing in an action before the Family Court without asserting the defense
202 of lack of personal jurisdiction.

203 704.4-3. Personal jurisdiction over the other party may be established using any method
204 provided by law, including long-arm jurisdiction procedures as provided for in Section 201 of
205 the Uniform Interstate Family Support Act as referred to in 42 U.S.C. §666.

206 704.4-4. *Transfer of Cases from Other Courts.* If personal jurisdiction over the parties has been
207 established under this law, the Family Court has jurisdiction over any action transferred to the
208 Family Court from any court of competent jurisdiction.
209

210 **704.5. Initiating an Action for Child Support**

211 704.5-1. Every parent has a duty to support each and every child of that parent. A child support
212 order may be obtained from the Family Court by either submitting a voluntary agreement to the
213 Family Court for approval or by filing a petition for child support with the Family Court.

214 (a) If a party to the action is a minor or is a legally incompetent adult, the Family Court
215 may appoint a guardian ad litem to represent such party in the action.

216 704.5-2. For assistance in seeking a child support order a party may request the services of the
217 Agency or may be referred to the Agency from an entitlement program.

218 704.5-3. *Initiation of Action by the Agency.*

219 (a) Within seven (7) business days of receiving a completed application for services or a
220 referral, the Agency shall send the non-custodial parent a Letter of Request for Support
221 and Financial Disclosure form.

222 (b) If the non-custodial parent fails to respond to or take action on the Letter of Request
223 for Support and Financial Disclosure form within ten (10) business days, the custodial
224 parent, or the Agency when required by federal law, may initiate a hearing in accordance
225 with this law.

226 (c) If the non-custodial parent responds within the required time period after receiving a
227 Letter of Request for Support and Financial Disclosure form, the parties shall attempt to
228 enter into a voluntary agreement.

229 704.5-4. *Voluntary Agreement.* The parties may enter into a voluntary agreement at any time as
230 to the level of the child support obligation.

231 (a) The Agency shall assist parties in reaching a voluntary agreement upon request or
232 when the parties are referred to the Agency by an entitlement program. Parties may also
233 submit a voluntary agreement to the Family Court for approval without the Agency's
234 assistance.

235 (b) In order for a voluntary agreement to be valid the following conditions shall be met:

236 (1) The agreement shall be in writing, signed, and notarized;

237 (2) If the parties deviate from the percentage standards, the agreement shall state
238 the amount of support that would have been ordered by the percentage standards
239 and the reasons for deviating from the percentage standards;

240 (3) All parties shall sign the agreement free of duress and coercion; and

241 (4) The Family Court shall make written findings that the agreement is
242 appropriate, using the criteria for deviating from standard percentages as a
243 guideline, if applicable.

244 (c) After the agreement is approved and filed by the Family Court, it shall have the same
245 force and effect as an order issued by the Family Court. The obligation of the obligor to
246 pay child support shall commence on the date specified in the agreement, but no later
247 than the date the agreement is approved and filed by the Family Court.

248 704.5-5. *Petition to Establish Child Support.* If the parties do not enter into a voluntary
249 agreement, then a petition to establish child support may be filed with the Family Court. The
250 petition to establish child support may be filed as a separate proceeding or in connection with a
251 petition for child custody.

252 (a) *Initiating an Action with the Family Court.* Any of the following individuals may
253 initiate an action for the establishment of child support by filing a petition with the
254 Family Court:

255 (1) a custodial parent;

256 (2) a child's mother;

257 (3) a child's father;

258 (4) a child's guardian ad litem;

259 (5) a child's non-legally responsible relative;

260 (6) a legally incompetent adult's guardian ad litem; or

261 (7) the Agency.

262 (b) *Requirements of the Petition.* The petition to establish child support shall include the
263 following:

264 (1) The name, date of birth and address of the petitioner and respondent;

265 (A) If the address of the respondent is unknown, other departments of the
266 Nation shall cooperate with the Family Court, at the Family Court's
267 request, to provide the Family Court with the respondent's address. Any
268 such Family Court requests shall be made in such a way which protects

269 the privacy rights of all parties and children who are involved in
270 proceedings or actions under this law.

271 (B) *Nondisclosure of Information in Protected Cases.* Upon a finding,
272 which may be made ex parte, that the health, safety or welfare of a party
273 or child would be unreasonably put at risk by the disclosure of identifying
274 information, or if an existing order so provides, the Family Court shall
275 order that the address of the child or party, or other identifying
276 information, not be disclosed in a pleading or other document filed in a
277 proceeding under this law.

278 (2) A separate form which has the parties and the child's name, date of birth and
279 social security number. This form shall be kept separate from the petition and
280 shall be maintained in a confidential file. The form shall be available only to the
281 parties, the parties' attorneys or advocates, the Agency, or any person authorized
282 by the Family Court to have access to the form.

283 (c) *Hearing Date.* Upon receipt of a petition, the Family Court shall schedule a hearing
284 to determine child support to be held at a time after the filing of the petition and
285 consistent with the manner of service.

286 (d) *Notice.* All parties shall be notified of the petition and of all hearings, and shall be
287 given an opportunity to be heard. Notice initiating an action shall be served by certified
288 mail (return receipt requested) or in person within fifteen (15) calendar days after the
289 petition is filed with the Family Court. All mailing of notice shall include the Family
290 Court clerk's return address, with a request to file answer to that address. Subsequent
291 notice shall be served by first-class mail to the recently verified last-known address of the
292 party.

293 (1) *Certified mail.* Certified mail sent to a party's most recently verified last-
294 known address but returned because it was unclaimed or refused shall constitute
295 constructive service. Certified mail returned for other reasons shall require
296 service by other methods pursuant to the Oneida Judiciary Rules of Civil
297 Procedure.

298 (2) *Publication.* When a responding party cannot be found after diligent attempts
299 and attempts to serve the responding party by certified mail have failed, the
300 petitioner may ask the Family Court to direct the Agency to provide service by
301 publication. If the request is granted, the Agency shall publish the petition in the
302 Nation's newspaper or a newspaper of general circulation in the county of
303 residence of the respondent, if known. Publication shall be designated as a Legal
304 Notice and confidential information shall be redacted.

305 (A) If service by publication is permitted and there is insufficient time for
306 notice and answer pursuant to this law, the Family Court shall re-schedule
307 the hearing appropriately and may permit extended time deadlines for
308 default orders and for hearings in order to provide for fair notice and
309 opportunity for the party to respond.

310 (e) *Summons and Petition.* The summons to be served on the respondent(s), along with
311 the petition, shall include the following notice, in addition to providing a time and date
312 for appearance:

313 (1) That if he or she chooses not to appear at the hearing or enter a defense to the
314 petition challenging the authority of the Family Court to hear the matter by the
315 date of the hearing, the hearing shall proceed on the basis of the petitioner's
316 evidence;

317 (2) That a child support order may require the respondent to pay child support
318 until the child reaches eighteen (18) years of age or until the child graduates from
319 high school, or its equivalent, up to age nineteen (19);

320 (3) That the respondent's license(s) may be suspended or denied for failure to pay
321 child support, in addition to other enforcement actions;

322 (4) That the respondent's employer or others with evidence of the respondent's
323 income may be subpoenaed to provide the Family Court with records of his or her
324 earnings;

325 (5) That if the respondent is unemployed, it shall still be determined that he or
326 she is able to provide some degree of child support and an order of support shall
327 be calculated according to this law unless the Family Court makes written
328 findings ordering otherwise; and

329 (6) That any answer to the petition shall be filed with the Family Court within
330 twenty (20) calendar days of the date of service of the petition, and a copy served
331 on the other party.

332 (f) *Answers.* Answers shall be filed with the Family Court and served on the petitioner
333 within twenty (20) calendar days of the date of service of the petition.

334 (g) *Subpoenas.* Upon request of either party, the Family Court shall issue subpoenas to
335 any person in possession of relevant information to appear or produce documents to the
336 Family Court. Failure to comply with such a subpoena may be punishable as contempt.

337 338 **704.6. Child Support Hearing Procedures**

339 704.6-1. The factual determinations made at a hearing shall be limited to the income and
340 expense information necessary to determine the appropriate level of support according to this
341 law.

342 704.6-2. The Family Court may utilize discovery procedures and contempt powers, as
343 authorized by any law, policy, or rule of the Nation to obtain information relevant to the
344 establishment or enforcement of child support. These procedures may include the following:

345 (a) Issue subpoenas requiring necessary and relevant parties to appear in person and
346 provide testimony;

347 (b) Issue subpoenas requiring the production of evidence;

348 (c) Obtain information about property or assets to assess its value or funding source for
349 lien or seizure actions;

350 (d) Obtain information about the income of any party to the action; and/or

351 (e) Issue contempt findings for failure to comply with the lawful order of the Family
352 Court.

353 704.6-3. Both parties have the right to representation by an attorney and/or advocate at his or her
354 own expense. The Nation shall not be required to pay for any fees and/or expenses incurred by
355 any party in connection with proceedings under this law.

356 704.6-4. *Temporary Orders.* At any time after a child's parentage has been established, the
357 Family Court may make a temporary order for the payment of child support and the child's
358 health care expenses. Before making a temporary order, the Family Court shall consider those
359 factors that the Family Court is required to consider when granting a final child support order. If
360 the Family Court makes a temporary child support order that deviates from the amount of
361 support that would be required by using the percentage standard, the requirements of section
362 704.7-8 shall be complied with.

363 704.6-5. *Default.* If the respondent fails to appear at the hearing upon a showing of valid service
364 and the petitioner presents evidence of the obligation by the absent party, a child support order
365 shall be entered pursuant to the evidence.

366 704.6-6. *Hearings and Records Closed.* Child support proceedings shall be closed to any person
367 other than those necessary to the action or proceeding. Records of child support cases shall
368 remain confidential and shall only be viewed by the parties, the legal guardian of a party who is a
369 minor, the parties' attorney or advocate, Judges and staff assigned to the case, and those other
370 persons who first obtain a written release from a party to view material contained in the record.

371

372 **704.7. Determining the Child Support Obligation**

373 704.7-1. The Family Court shall determine child support payments by using the percentage
374 standards established in section 704.7-2 of this law, except as provided elsewhere in this law.
375 The obligor's monthly income shall be considered in determining his or her child support
376 obligation.

377 704.7-2. *Percentage Standards to Determine the Amount of Child Support.*

378 (a) The following percentages shall be applied to the portion of an obligor's monthly
379 income available for child support that is less than seven thousand dollars (\$7,000):

380 (1) seventeen percent (17%) for one (1) child;

381 (2) twenty-five percent (25%) for two (2) children;

382 (3) twenty-nine percent (29%) for three (3) children;

383 (4) thirty-one percent (31%) for four (4) children; and

384 (5) thirty-four percent (34%) for five (5) or more children.

385 (b) The following percentages shall be applied to the portion of an obligor's monthly
386 income available for child support that is greater than or equal to seven thousand dollars
387 (\$7,000) and less than or equal to twelve thousand five hundred dollars (\$12,500):

388 (1) fourteen percent (14%) for one (1) child;

389 (2) twenty percent (20%) for two (2) children;

390 (3) twenty-three percent (23%) for three (3) children;

391 (4) twenty-five percent (25%) for four (4) children; and

392 (5) twenty-seven percent (27%) for five (5) or more children.

393 (c) The following percentages shall be applied to the portion of an obligor's monthly
394 income available for child support that is greater than twelve thousand five hundred
395 dollars (\$12,500):

396 (1) ten percent (10%) for one (1) child;

397 (2) fifteen percent (15%) for two (2) children;

398 (3) seventeen percent (17%) for three (3) children;

399 (4) nineteen percent (19%) for four (4) children; and

400 (5) twenty percent (20%) for five (5) or more children.

401 704.7-3. *Determining Income Modified for Business Expenses.* In determining an obligor's
402 monthly income, the Family Court may adjust an obligor's gross income as follows:

403 (a) Adding wages paid to dependent household members.

404 (b) Adding undistributed income that the Family Court determines is not reasonably
405 necessary for the growth of the business. The obligor shall have the burden of proof to
406 show that any undistributed income is reasonably necessary for the growth of the
407 business.

408 (c) Reducing gross income by the business expenses that the Family Court determines
409 are reasonably necessary for the production of that income or operation of the business

410 and that may differ from the determination of allowable business expenses for tax
411 purposes.

412 704.7-4. *Determining Income Imputed Based on Earning Capacity.* When an obligor's income
413 is less than the obligor's earning capacity or is unknown, the Family Court may impute income
414 to the obligor at an amount that represents the obligor's ability to earn.

415 (a) The obligor's ability to earn may be based on the obligor's:

416 (1) education, training, and recent work experience;

417 (2) earnings during previous periods;

418 (3) current physical and mental health;

419 (4) history of child care responsibilities as the parent with primary physical
420 placement; and

421 (5) the availability of work in or near the obligor's community.

422 (b) If evidence is presented that due diligence has been exercised to ascertain
423 information on the obligor's actual income or ability to earn and that information is
424 unavailable, the Family Court may impute to the obligor the income that a person would
425 earn by working thirty-five (35) hours per week for the federal minimum hourly wage. In
426 addition to imputed income, the Family Court may order the non- custodial parent to
427 search for a job or participate in a work experience and job training program.

428 (c) If an obligor has gross income or income modified for business expenses below his or
429 her earning capacity, the income imputed based on earning capacity shall be the
430 difference between the obligor's earning capacity and the obligor's gross income or
431 income modified for business expenses.

432 704.7-5. *Determining Income Imputed from Assets.*

433 (a) The Family Court may impute a reasonable earning potential to an obligor's assets if
434 the Family Court finds both of the following:

435 (1) The obligor has ownership and control over any real or personal property,
436 including but not limited to, life insurance, cash and deposit accounts, stocks and
437 bonds, business interests, net proceeds resulting from worker's compensation or
438 other personal injury awards not intended to replace income, and cash and
439 corporate income in a corporation in which the obligor has an ownership interest
440 sufficient to individually exercise control and the cash or corporate income is not
441 included as gross income.

442 (2) The obligor's assets are underproductive and at least one (1) of the following
443 applies:

444 (A) The obligor has diverted income into assets to avoid paying child
445 support.

446 (B) Income from the obligor's assets is necessary to maintain the child or
447 children at the standard of living they would have had if they were living
448 with both parents.

449 (b) The Family Court shall impute income to assets by multiplying the total net value of
450 the assets by the current six (6) month treasury bill rate or any other rate that the Family
451 Court determines is reasonable and subtracting the actual income from the assets that
452 were included as gross income.

453 704.7-6. *Adjustment for Child's Social Security Benefits.* The Family Court may consider
454 benefits received by a child under 42 U.S.C. §402(d) based on a parent's entitlement to federal
455 disability or old-age insurance benefits under 42 U.S.C. §401 to 433 and adjust an obligor's child
456 support obligation by subtracting the amount of the child's benefit. In no case may this
457 adjustment require the obligee to reimburse the obligor for any portion of the child's benefit. If

458 the obligor is receiving the child's benefit, the support amount is either the percentage standard
459 applied to the obligor's income or the amount of the child's benefit, whichever is greater.

460 (a) *Determining the Child Support Obligations of Shared-Placement Parent when the*
461 *Child Receives Social Security Benefits.* If the shared-placement guidelines under section
462 704.8-2 apply, the child's benefit is split between the parents in proportion to the amount
463 of time the child spends with each parent. Add the proportion of the child's benefit that
464 represents the proportion of time the child spends with the parent not receiving the
465 benefit to the support obligation of the parent who is receiving the child's benefit. Child
466 support shall be determined as follows:

467 (1) Determine each parent's monthly income available for child support under
468 section 704.7-2. If a parent has one (1) or more previous child support obligations,
469 determine the parent's monthly income available for child support adjusted for the
470 previous obligations as provided in section 704.8-1. Include the parent's federal
471 disability or old age insurance benefits under 42 U.S.C. §401 to 433 in that
472 parent's income, but do not include the child's benefit under 42 U.S.C. §402 (d)
473 in either parent's income.

474 (2) Multiply each parent's monthly income available for child support by the
475 appropriate percentage standard under section 704.7-2.

476 (3) Multiply each amount determined under section 704.7-6(a)(2) by one hundred
477 and fifty percent (150%).

478 (4) Multiply the amount determined for each parent in section 704.7-6(a)(3) by
479 the proportion of time that the child spends with the other parent.

480 (5) Multiply the amount of the child's benefit by the proportion of the time the
481 child spends with the parent who is not receiving the child's benefit.

482 (6) Add the amount in section 704.7-6(a)(5) to the child support obligation
483 calculated in section 704.7-6(a)(4) for the parent who is receiving the child's
484 benefit.

485 (7) Offset the resulting amounts against each other. The parent with the greater
486 child support obligation is the shared-placement obligor. The shared-placement
487 obligor shall pay either the greater of the amount determined in this subsection or
488 the amount determined using the appropriate percentage standard under section
489 704.7-2.

490 704.7-7. *Claiming Children for Tax Purposes.* The Family Court may address who may claim
491 the child for tax purposes or accept a stipulation entered into by the parties regarding children
492 and taxes.

493 704.7-8. *Deviation from the Percentage Standards.* Upon request by a party, the Family Court
494 may modify the amount of child support payments determined by the percentage standards if,
495 after considering the following factors, the Family Court finds by the greater weight of the
496 credible evidence that use of the percentage standards is unfair to the child or to any of the
497 parties:

- 498 (a) The financial resources of the child;
499 (b) The financial resources of both parents;
500 (c) Maintenance received by either party;
501 (d) The needs of each party in order to support himself or herself at a level equal to or
502 greater than the federal poverty line as established under 42 U.S.C. §9902(2);
503 (e) The needs of any person, other than the child, whom either party is legally obligated
504 to support;

- 505 (f) The standard of living the child would have enjoyed if his or her parents were living
- 506 together;
- 507 (g) The desirability that the custodial parent remain in the home as a full-time parent;
- 508 (h) The cost of day care if the custodial parent works outside the home, or the value of
- 509 custodial services performed by the custodial parent if the custodial parent remains in the
- 510 home;
- 511 (i) The award of substantial periods of physical placement to both parents;
- 512 (j) Extraordinary travel expenses incurred in exercising the right to periods of physical
- 513 placement;
- 514 (k) The physical, mental, and emotional health needs of the child, including any costs for
- 515 health insurance;
- 516 (l) The child's educational needs;
- 517 (m) The tax consequences to each party;
- 518 (n) The best interests of the child;
- 519 (o) The earning capacity of each parent, based on each parent's education, training and
- 520 work experience and the availability of work in or near the parent's community; and
- 521 (p) Any other factors which the Family Court in each case determines are relevant.

522 **704.7-9. Past-due and Arrears obligations.**

- 523 (a) A party may request payment of arrears or past-due child support as follows:
- 524 (1) In an action regarding paternity, back to the date of birth of the child or date
- 525 of application, whichever is later;
- 526 (2) In a child support establishment or modification pursuant to this law, back to
- 527 the date of application, review, or referral; or
- 528 (3) In an establishment or modification of placement pursuant to an action
- 529 regarding divorce, annulment and legal separation or child custody, placement,
- 530 and visitation, back to the date of filing, or as otherwise ordered by the Family
- 531 Court.
- 532 (b) A payment for arrears or a past-due payment shall be set based on the amount due
- 533 and the income available to pay current support.
- 534 (c) Once current child support is ended in any manner prescribed by law, child support
- 535 shall continue to be paid at the same rate, until all arrears or past due child support is paid
- 536 in full.

537

538 **704.8. Determining the Child Support Obligation in Special Circumstances**

539 **704.8-1. Determining the Child Support Obligation of a Serial-Family Obligor.**

- 540 (a) *Applicability.* This applies only if the support obligation being calculated is for
- 541 children from a subsequent family or subsequent paternity judgment or acknowledgment.
- 542 An obligor may not use the provisions of this section as a basis for seeking modification
- 543 of an existing order based on a subsequently incurred legal obligation for child support.
- 544 (b) *Determination.* For a serial-family obligor, the child support obligation incurred for
- 545 a marital or non-marital child in a subsequent family as a result of a child support order
- 546 may be determined as follows:
- 547 (1) Determine the obligor's monthly income.
- 548 (2) Determine the order of the obligor's legal obligations for child support by
- 549 listing them according to the date each obligation is incurred.
- 550 (A) For a marital child, the legal obligation for child support is incurred
- 551 on the child's date of birth.

- 552 (B) For a non-marital child, the legal obligation for child support is
553 incurred on the date that paternity is legally established.
554 (C) For a non-marital child in an intact family, it is incurred on the date of
555 adoption or the date that paternity is legally established.
556 (D) For a non-marital maternal child in an intact family, it is incurred on
557 the child's date of birth.
- 558 (3) Determine the first child support obligation as follows:
559 (A) If the obligor is subject to an existing support order for that legal
560 obligation, except a shared-placement order, the support for that obligation
561 is the monthly amount of that order; or
562 (B) If the obligor is in an intact family or is subject to a shared-placement
563 order, the support is determined by multiplying the appropriate percentage
564 for that number of children by the obligor's monthly income.
- 565 (4) Adjust the monthly income by subtracting the support for the first legal
566 obligation from the obligor's monthly income.
- 567 (5) Determine the second child support obligation as follows:
568 (A) If the obligor is subject to an existing support order for that legal
569 obligation, except a shared-placement order, the support for that obligation
570 is the monthly amount of that order; or
571 (B) If the obligor is in an intact family or is subject to a shared-placement
572 order, the support is determined by multiplying the appropriate percentage
573 for that number of children by the obligor's monthly income.
- 574 (6) Adjust the monthly income a second time by subtracting the support for the
575 second legal obligation from the first adjusted monthly income.
- 576 (7) Repeat the procedure for determining the child support obligation and
577 adjusting the monthly income for each additional legal obligation for child
578 support the serial family obligor has incurred.
- 579 (8) Multiply the appropriate percentage for the number of children subject to the
580 new order by the final adjusted monthly income to determine the new child
581 support obligation.

582 **704.8-2. Determining the Child Support Obligations of Shared-Placement Parents.**

- 583 (a) *Applicability.* The shared-placement formula may be applied when both of the
584 following conditions are met:
585 (1) Both parents have periods of placement of at least twenty-five percent (25%)
586 or ninety-two (92) days a year. When calculating periods of placement based on
587 equivalent care, the total number of overnights may exceed three hundred and
588 sixty-five (365). The period of placement for each parent shall be determined by
589 calculating the number of overnights or equivalent care ordered to be provided by
590 the parent and dividing that number by the total number of overnights in a year.
591 The combined periods of placement for both parents shall equal the total number
592 of overnights.
593 (2) Each parent is ordered by the Family Court to assume the child's basic
594 support costs in proportion to the time that the parent has placement of the child.
- 595 (b) *Determination.* The child support obligations for parents who meet the requirements
596 for the shared-placement formula may be determined as follows:
597 (1) Determine each parent's monthly income.
598 (A) In determining whether to impute income based on earning capacity
599 for an unemployed parent or a parent employed less than full time, the

600 Family Court shall consider benefits to the child of having a parent remain
601 in the home during periods of placement and the additional variable day
602 care costs that would be incurred if the parent worked more.

603 (2) Multiply each parent's monthly income by the appropriate percentage
604 standard.

605 (3) Multiply each amount determined under section 704.8-2(b)(2) by one hundred
606 and fifty percent (150%).

607 (4) Multiply the amount determined for each parent under section 704.8-2(b)(3)
608 by the proportion of the time that the child spends with the other parent to
609 determine each parent's child support obligation.

610 (5) Offset resulting amounts under section 704.8-2(b)(4) against each other. The
611 parent with a greater child support obligation is the shared-placement obligor.
612 The shared-placement obligor shall pay the lesser of the amount determined under
613 this section or the amount determined using the appropriate percentage standard.
614 If the shared-placement obligor is also a low-income obligor, the child support
615 obligation may be the lesser of the amount determined under the shared placement
616 determination or the low-income determination.

617 (6) In addition to the child support obligation determined under section 704.8-
618 2(b)(5), the Family Court shall assign responsibility for payment of the child's
619 variable costs in proportion to each parent's share of physical placement, with due
620 consideration to a disparity in the parents' incomes.

621 (A) The Family Court shall direct the manner of payment of a variable
622 cost order to be either between the parents or from a parent to a third-party
623 service provider.

624 (B) The Family Court shall not direct payment of variable costs to be
625 made to the Agency or the Agency's designee, except as incorporated in
626 the child support order.

627 (7) A change in the child's variable costs shall not in and of itself be considered a
628 substantial change in circumstances sufficient to justify a modification of a
629 judgment or order under section 704.10.

630 **704.8-3. Determining the Child Support Obligations of Split-Placement Parents.**

631 (a) *Applicability.* The split-placement formula may be applied when parents have two
632 (2) or more children and each parent has placement of one (1) or more but not all of the
633 children.

634 (b) *Determination.* The child support obligation for a split-placement parent may be
635 determined as follows:

636 (1) Determine each parent's monthly income.

637 (2) Determine the appropriate percentage standard for the number of total
638 children.

639 (3) Divide the appropriate percentage standard for the number of total children by
640 the total number of children.

641 (4) Multiply the number calculated in section 704.8-3(b)(3) by the number of
642 children placed with each parent.

643 (5) Multiply each parent's monthly income by the number calculated in 704.8-
644 3(b)(4) based on the number of children placed with the other parent to determine
645 each parent's child support obligation; and

646 (6) Offset resulting amounts under section 704.8-3(b)(5) against each other. The
647 parent with a greater child support obligation is the split-placement obligor.

648 704.8-4. *Determining the Child Support Obligation of a Low-Income Obligor.*

649 (a) *Applicability.* If an obligor's total economic circumstances limit his or her ability to
650 pay support at the level determined by the standard percentage standards, then the low-
651 income obligor standards found in the Child Support Obligation of Low-Income Payers
652 Schedule may be used.

653 (b) *Determination.* The Family Court may use the monthly support amount provided in
654 the Child Support Obligation of Low-Income Payers Schedule as the support amount for
655 an obligor with per monthly income at a level set forth in the schedule.

656 (1) If an obligor's monthly income is below the lowest income level in the Child
657 Support Obligation of Low-Income Payers Schedule, the Family Court may set an
658 order at an amount appropriate for the obligor's total economic circumstances.
659 This amount may be lower than the lowest support amount in the Child Support
660 Obligation of Low-Income Payers Schedule
661

662 **704.9. Child Support Order**

663 704.9-1. *Expression of Ordered Support.* The child support amount shall be expressed as a
664 fixed sum.

665 704.9-2. *Interest on Arrears.* The Nation shall not charge an obligor ordered to pay child
666 support interest on any arrears.

667 704.9-3. *Income Withholding.* The child support order shall provide for immediate income
668 withholding.

669 (a) A copy of the Family Court's income withholding order shall be sent by the Agency
670 to a payor within three (3) business days of the entry of the order of the Family Court by
671 mail, fax, or electronic means.

672 (b) An order to withhold income shall be binding against future payors upon actual
673 notice of the income withholding order through notice by mail, fax, or electronic means.

674 (c) Income shall not be subject to withholding only where:

675 (1) One of the parties demonstrates, and the Family Court finds, that there is
676 good cause not to require income withholding due to one of the following:

677 (A) There is an error in the amount of current or overdue support; or

678 (B) The identity of the obligor is mistaken.

679 (2) The parties reach a written agreement which provides for an alternative
680 arrangement that is approved by the Family Court.

681 (d) No payor shall refuse to honor an income withholding order executed pursuant to this
682 law. A payor shall begin withholding income immediately after notice of an income
683 withholding order made pursuant to this law. Within five (5) business days after the
684 payor pays the obligor, the payor shall send the amount withheld to the Wisconsin
685 Support Collections Trust Fund.

686 (e) A payor shall be liable for one hundred percent (100%) of the child support order, or
687 the amount of money that should have been withheld from the obligor's earnings,
688 whichever is the lesser amount, if the payor:

689 (1) Fails or refuses, after being noticed of an income withholding order, to deduct
690 or promptly remit the amounts of money required in the order;

691 (2) Fails or refuses to submit an answer to the notice of income withholding after
692 being noticed; or

693 (3) Is unwilling to comply with the other requirements of this law.

694 (f) A payor shall not discharge from employment, refuse to employ, or otherwise take
695 disciplinary action against any obligor solely because he or she is subject to income
696 withholding.

697 (1) When the Family Court finds that a payor has taken any of these actions, the
698 payor shall be liable for a civil penalty. Any payor who violates any provision of
699 this paragraph shall be liable in a civil action for reasonable damages suffered by
700 an obligor as a result of the violation, and an obligor discharged or demoted in
701 violation of this paragraph shall be entitled to be reinstated to his or her former
702 position.

703 (2) The statute of limitations for actions under this section shall be one (1) year.

704 (g) A payor who repeatedly fails to comply with an income withholding order as
705 required by this law may be subject to a fine, not to exceed five hundred dollars (\$500),
706 or have its Oneida vendor license revoked or suspended, if applicable, until compliance
707 with this law is assured.

708 (1) The vendor license issuing agency shall comply with the Family Court order
709 to revoke or suspend a vendor license.

710 (h) If income withholding is inapplicable, ineffective or insufficient to ensure payment of
711 child support, the Family Court may require the obligor to establish an account for the
712 purpose of transferring child support payments.

713 (i) The total amount withheld under an income withholding order shall not exceed the
714 maximum amount permitted under section 303(b) of the Consumer Credit Protection Act
715 (15 U.S.C. §1673(b)).

716 (j) Non-Indian off-reservation payors shall be subject to income withholding under 28
717 U.S.C. §1738B.

718 704.9-4. *Conditions of the Order.* The Family Court may require a party, or both parties, to use
719 the services available to him or her to obtain and maintain regular employment and/or job
720 training.

721 704.9-5. *Support Order Notice Requirements.* Each order for child support shall include:

722 (a) An order that the obligor and obligee notify the Agency of any change of address or
723 name change within ten (10) business days of such change; and

724 (b) An order that the obligor notify the Agency and the obligee of any change of
725 employer or substantial change of income within ten (10) business days of the change.

726 704.9-6. *Enforcement of Order.* A child support order under this section is enforceable as
727 contempt.

728 704.9-7. *Collection and Distribution of Child Support.* The Agency shall collect and distribute
729 child support monies pursuant to regulations set forth in the Social Security Act 45 CFR
730 309.115.

731 704.9-8. *Trust.* The Family Court may protect and promote the best interests of the minor
732 children by setting aside a portion of the child support that either party is ordered to pay in a
733 separate fund or trust for the support, education, and welfare of such children.

734 704.9-9. *Non-Cash Payments.*

735 (a) Non-cash payments may be used to satisfy part or all of a child support order if the
736 parties and the Family Court agree to allow non-cash payments. Non-cash payments
737 shall not be used to fulfill arrears. If non-cash payments are allowed, the order shall:

738 (1) state the specific dollar amount of the support obligation;

739 (2) state the maximum amount (in dollars) of non-cash payment that the obligee
740 will accept;

741 (3) describe the type of non-cash payment that is permitted;

742 (4) provide that non-cash payment cannot be used to satisfy assigned child
743 support obligations.

744 (b) When both parents are in agreement that non-cash payments may be used to satisfy a
745 child support obligation, the non-cash payment may include, but is not limited, to the
746 following:

747 (1) Clothing;

748 (2) Groceries;

749 (3) Child Care;

750 (4) Deer/Venison;

751 (5) Wood;

752 (6) Transportation;

753 (7) Skilled trades or services, such as car repairs, lawn care and snow removal;
754 and/or

755 (8) Gift cards.

756 (c) When a non-cash payment is used to satisfy part or all of a child support order, the
757 obligor and obligee shall submit any forms required by the Agency within the month that
758 the non-cash payment is made. If there are less than five (5) business days left in the
759 month when a non-cash payment is made, the obligor and obligee have five (5) business
760 days to submit any required forms to the Agency. The Agency shall be responsible for
761 applying the non-cash payment towards the child support order during the appropriate
762 month.

763

764 **704.10. Modification of a Child Support Order**

765 704.10-1. *Review of the Child Support Order.* Every two (2) years, the Agency shall conduct a
766 review of the child support order. The Agency shall notify the non-custodial parent, custodial
767 parent, and any interested party that a review of their child support order shall be conducted.

768 704.10-2. *Modification of Child Support Sought by the Agency.* After the two (2) year review is
769 conducted by the Agency, the Agency shall seek an order to modify the child support obligation
770 if there is a substantial change in circumstances, unless otherwise stipulated by the parties. A
771 substantial change in circumstances includes, but is not limited to:

772 (a) the child's placement is changed;

773 (b) either parent or the child has a significant change in his or her finances that would
774 lead to a change in child support of more than fifteen percent (15%) and fifty dollars
775 (\$50.00) per month;

776 (c) the obligee is receiving public assistance benefits and is required to have a current
777 support order in place;

778 (d) it has been twenty-four (24) months since the date of the last child support order or
779 revision to the child support order, unless the child support amount is expressed as a
780 percentage; or

781 (e) a change has occurred and if the current circumstances had been in place at the time
782 the order was issued, a significantly different order would have been issued.

783 704.10-3. *Modification of Child Support Sought by the Parties.* Either party may file a motion
784 for a modification of a child support order at any time based upon a substantial change of
785 circumstances supported by affidavit.

786 (a) Such motion shall state why the previous decision should be prospectively modified.

787 (b) The motion and affidavit shall be served by the moving party on the responding party
788 by first-class mail to the recently verified last-known address, or by any method provided
789 by law.

790 (c) A hearing date shall be scheduled no sooner than ten (10) calendar days after the date
791 of service.

792 704.10-4. An obligor shall not raise a change in circumstances as a reason not to pay a past due
793 reward. If a child support award becomes unjust due to a substantial change in circumstances of
794 the obligor, the obligor has the duty to file a petition or motion with the Family Court for a
795 changed award at that time.

796

797 **704.11. Modification of a Child Support Order for an Incarcerated Parent**

798 704.11-1. In the event an obligor is incarcerated for one hundred and eighty (180) days or more,
799 the obligor shall have the right to have the Agency review his or her child support order to
800 determine if modification or suspension of the child support order is appropriate.

801 (a) An ordered child support obligation shall be suspended for an incarcerated obligor
802 who has been sentenced to one hundred and eighty (180) days or more and has an income
803 of less than two hundred dollars (\$200) per month.

804 (b) If while incarcerated the obligor's income is two hundred dollars (\$200) or more per
805 month the Agency shall review the order and seek temporary modification of the child
806 support order based on the incarcerated obligor's income, if necessary.

807 (c) Child support obligations shall not be suspended or modified for an obligor who is
808 incarcerated for a criminal offense which includes:

- 809 (1) felony failure to pay support;
810 (2) a crime against a child; and/or
811 (3) a crime against the obligee.

812 (d) Past due child support related debt and/or arrears shall not be suspended or reduced
813 as a result of the obligor's incarceration without stipulation by the parties.

814 704.11-2. *Notification of Review.* Within fifteen (15) business days of the receipt by the Agency
815 of verification of the obligor's incarceration, the Agency shall send out a letter to the parties of
816 the case informing them of the obligor's right to have his or her child support obligation
817 reviewed, and of the Agency's intent to review the current child support order.

818 704.11-3. *Agency Review of Order.* The Agency shall review the obligor's child support order
819 and make one of the following determinations:

820 (a) that the obligor's income while incarcerated is two hundred dollars (\$200) or more
821 per month, and the Agency shall seek temporary modification of the obligor's child
822 support order based on the incarcerated obligor's income, if necessary; or

823 (b) that the obligor's income while incarcerated is less than two hundred dollars (\$200)
824 per month, and the Agency shall seek temporary suspension of the obligor's child support
825 order while incarcerated.

826 704.11-4. *Suspension of Order by the Agency.* If the Agency determines the obligor's income is
827 less than two hundred dollars (\$200) per month while incarcerated, the Agency shall file with the
828 Family Court a Motion and Order to Suspend without a request for a hearing with notice to all
829 parties that the child support order shall be suspended.

830 (a) Either party shall have the right to object to the suspension of the order within ten
831 (10) business days of the date of the notice by filing such objection with the Family Court
832 and providing a copy of the objection to the Agency.

833 (b) If no objection to the suspension is received, the Family Court shall enter the order as
834 proposed.

835 (c) Upon receipt of an objection from either party, the Family Court shall schedule a
836 hearing on the issue.

837 704.11-5. *Modification of Order by the Agency.* If the Agency determines the obligor's income
838 is two hundred dollars (\$200) per month or more while incarcerated, the Agency shall file with
839 the Family Court a Motion and Order to Modify without a request for a hearing with notice to all
840 parties with the proposed modification to the child support order.

841 (a) Either party shall have the right to object to the modification of the order within ten
842 (10) business days of the date of the notice by filing such objection with the Family Court
843 and providing a copy of the objection to the Agency.

844 (b) If no objection to the modification is received, the Family Court shall enter the order
845 as proposed.

846 (c) Upon receipt of an objection from either party, the Family Court shall schedule a
847 hearing on the issue.

848 704.11-6. *Modification of the Order by the Incarcerated Parent.* In addition to the
849 responsibility of the Agency to review and take action on this matter, the incarcerated parent may
850 seek modification of his or her own child support order by filing a motion to modify with the
851 Family Court in accordance with section 704.10-3.

852 704.11-7. If during the term of incarceration, the Agency receives notification of a change in the
853 obligor's employment and/or income, the Agency shall review the obligor's order and determine
854 if the obligor's income is two hundred dollars (\$200) or more per month, and whether it is
855 necessary to temporarily modify or suspend the obligor's child support order.

856 (a) If the Agency determines that suspension of the obligor's order is necessary, then the
857 procedure for filing a Motion and Order to Suspend without a request for a hearing
858 described in section 704.11-4 shall be followed.

859 (b) If the Agency determines that modification of the obligor's order is necessary, then
860 the procedure for filing a Motion and Order to Modify without a request for a hearing
861 described in section 704.11-5 shall be followed.

862 704.11-8. *Reinstatement of Prior Order.* Sixty (60) days after the obligor's release from
863 incarceration, the child support order shall be reinstated to the previous child support order in
864 effect before the suspension or modification of the order based on the obligor's incarceration.

865 (a) The Agency shall send notice to both parties of the obligor's release from
866 incarceration and the intent of the Agency to reinstate the original order.

867 (b) The parties shall have ten (10) business days from the date of the notice from the
868 Agency to file an objection to the reinstatement of the child support order with the
869 Family Court, and to provide a copy of the objection to the reinstatement to the Agency.

870 (c) If no objection is received, the Family Court shall enter the proposed order.

871 (d) Upon receipt of an objection from either party, the Family Court shall schedule a
872 hearing on the issue.

873 704.11-9. If after release from incarceration the obligor's probation or extended supervision is
874 revoked, and he or she is sentenced for a subsequent one hundred and eighty (180) days or more
875 the Agency shall use the provisions of this section to determine if the suspension or modification
876 of the obligor's child support order based on the incarceration of the obligor is appropriate.

877

878 **704.12. Compliance Plan**

879 704.12-1. If at any time the Agency believes an obligor is, or may become, non-compliant with
880 his or her child support order by failing to pay support as ordered or meeting a required
881 obligation or action, the Agency shall attempt to engage with the obligor through the
882 development of a compliance plan.

883 704.12-2. A Letter of Non-Compliance may be sent by the Agency at any time deemed
884 appropriate, but the Agency shall send out the Letter of Non-Compliance at least thirty (30) days
885 prior to the initiation of any enforcement action.

886 (a) The Letter of Non-Compliance shall set out the conditions the party has failed to
887 comply with, outline the enforcement actions that may be taken, and request the party
888 meet with the Agency.

889 (b) If the party does not respond to the Letter within five (5) business days after receipt
890 of the letter, the Agency may proceed with appropriate enforcement action.

891 (c) If the party responds to the Letter, the Agency shall interview the party to determine
892 the reasons and barriers for the non-compliance and create a compliance plan. The
893 compliance plan may include an increase in payment and/or any activity that is necessary
894 to ensure payment, including programs that focus on:

- 895 (1) Employment and training;
896 (2) Social service and mental health;
897 (3) Physical and learning disabilities;
898 (4) Tribal traditions and customs;
899 (5) Family counseling and parenting; and
900 (6) Any other program deemed necessary.

901 (d) If the party successfully completes the compliance plan, no further enforcement
902 action is necessary. However, if the party fails to complete the compliance plan, the
903 Agency shall proceed with appropriate enforcement action.

904

905 **704.13. Enforcement of an Order**

906 704.13-1. An obligor may be subject to enforcement actions when the obligor is at least one (1)
907 month delinquent in paying his or her child support obligation. Enforcement actions may include
908 administrative enforcement action by the Agency and enforcement action by the Family Court.

909 (a) An obligor shall be provided with notice of an enforcement action of at least thirty
910 (30) days before an enforcement action is used, unless another timeline is specified.

911 (b) An enforcement action shall be stayed and/or suspended after notice is given to the
912 obligor if the obligor pays the debt in full or enters into, and maintains, an alternative
913 payment plan and/or a compliance plan with the Agency.

914 704.13-2. *Agency Responsibilities in the Enforcement of an Order.* The Agency shall have the
915 following responsibilities in the enforcement of an order:

- 916 (a) Track and document the progress of an obligor who is under an enforcement action;
917 (b) Take additional enforcement action when an obligor fails to comply with a previous
918 enforcement action;
919 (c) Document the reasons why an enforcement action is not taken, when such action
920 would have been appropriate under the circumstances; and
921 (d) Refund amounts that were improperly withheld, terminate income withholding when
922 appropriate, and allocate amounts across multiple cases.

923 704.13-3. *Notice to the Obligor of Delinquency.* In the event that an obligor owes a debt equal
924 to or exceeding the monthly amount due, the Agency shall send a notice of delinquency to the
925 obligor. The notice of delinquency shall inform the obligor of the following:

- 926 (a) The total amount of the delinquency; and
- 927 (b) The enforcement action that may be taken as a result of the delinquency.

928 704.13-4. *Notice to the Obligor of Enforcement Action.* After the obligor has been noticed of his
929 or her delinquency, and at least thirty (30) days prior to an enforcement being used against an
930 obligor, the Agency shall send a notice of enforcement action to the obligor.

- 931 (a) The notice of enforcement action shall inform the obligor of the following:
 - 932 (1) The total amount of the delinquency;
 - 933 (2) The enforcement action that may be taken as a result of the delinquency;
 - 934 (3) The obligor may request, in writing to the Agency, to negotiate an alternative
935 payment plan with the Agency within ten (10) business days after the notice in
936 order to stay any enforcement action;
 - 937 (4) The obligor has ten (10) business days after the notice of enforcement action
938 to file an objection with the Agency presenting good cause why an arrears
939 payment or other enforcement action should not be implemented. The only
940 allowable objections are:

- 941 (A) There is an error in the amount of current or overdue support; or
 - 942 (B) The identity of the obligor is mistaken.

943 (b) If the obligor does not file an objection or request to negotiate an alternative payment
944 plan:

- 945 (1) the enforcement action shall be taken; and/or
 - 946 (2) an income withholding order, or revised order if one is already in place, shall
947 be imposed on the payor. No more than an additional twenty percent (20%) of the
948 current support payment order can be withheld to satisfy the delinquency
949 provided that the total amount withheld does not exceed forty percent (40%) of
950 the obligor's monthly income.

951 (c) If a permissible objection is filed, the obligor shall be entitled to a hearing before any
952 enforcement action is taken.

953 704.13-5. *Use of Mail for Notices.* The Agency shall send notices related to the delinquency of
954 an obligor and enforcement of a child support order by mail to the last-known mailing address
955 provided by the obligor.

956 (a) If the notice is returned, the Agency shall send notice to the obligor using the current
957 employer mailing address provided by the obligor.

958 (b) If the notice to the obligor mailed to the obligor's employer is returned, the Agency
959 shall use all appropriate tribal, federal, state and local resources to ascertain an obligor's
960 current mailing address.

961 (c) If those resources are used for a period of sixty (60) days and a verified mailing
962 address has not been identified, the Agency may proceed with the administrative
963 enforcement action.

964 704.13-6. *Notice to the Obligee of Enforcement Proceedings.* The Agency shall provide written
965 notice to the obligee when an enforcement action has been initiated against the obligor or when
966 the obligor requests a hearing and the hearing has been scheduled. The notice to the obligee
967 shall be sent at the same time notice is sent to the obligor.

968 704.13-7. *Notice to Individuals Other Than the Obligor with a Recorded Ownership Interest in*
969 *Property.* The Agency shall provide notice related to the seizure of property to any individual,
970 other than the obligor, with a recorded ownership interest in property subject to seizure. The

971 individual may request a hearing for a determination of the proportion of the value of the
972 property that is attributable to his or her net contribution to the property. The hearing shall be
973 requested within thirty (30) days after the notice was received by the individual.
974

975 **704.14. Alternative Payment Plans**

976 704.14-1. *Applicability of Alternative Payment Plans.* When an obligor is subject to
977 administrative enforcement action, he or she may negotiate an alternative payment plan with the
978 Agency.

979 704.14-2. *Negotiation of an Alternative Payment Plan After Receiving Notice of an Enforcement*
980 *Action.*

981 (a) In order to negotiate an alternative payment plan, an obligor shall submit a written
982 request to the Agency.

983 (1) A written request to negotiate an alternative payment plan received by the
984 Agency within ten (10) business days after the date of notice shall stay any
985 administrative enforcement action.

986 (2) If a written request to negotiate an alternative payment plan is received by the
987 Agency more than ten (10) business days after the date of notice, administrative
988 enforcement action may be taken, as long as the requirements for staying or
989 suspension of administrative enforcement actions are met.

990 (b) An obligor may negotiate a plan with the Agency to have a license issued or renewed
991 after it has been restricted, limited, suspended or refused.

992 (c) *Hearings for Negotiations of an Alternative Payment Plan.* The obligor may submit
993 a written request for a hearing with the Family Court regarding negotiations of an
994 alternative payment plan in the following circumstances:

995 (1) The obligor and the Agency have agreed to terms of a plan, but the obligor
996 wants the Family Court to consider the reasonableness of the plan.

997 (A) The obligor may submit this written request for a hearing on the
998 reasonableness of the plan within ten (10) business days after the terms of
999 the plan are agreed upon.

1000 (2) The obligor and the Agency are unable to reach agreement on the terms of a
1001 plan.

1002 (A) The Family Court may order a plan by setting conditions and/or
1003 payments in the amounts and at the times it considers reasonable.

1004 (d) *Proceeding with Administrative Enforcement Actions.* The Agency may continue
1005 with the administrative enforcement action if:

1006 (1) the obligor and the Agency are unable to negotiate a plan;

1007 (2) the Family Court determines that the plan is not reasonable; and/or

1008 (3) the Family Court does not order a plan.

1009 704.14-3. *Disclosure of Income and Assets.* The request to negotiate a plan shall include an
1010 agreement by the obligor to provide the Agency with a full disclosure of income and assets
1011 available. The obligor shall provide complete income and assets information to the Agency
1012 within five (5) business days of the request to negotiate a plan.

1013 704.14-4. *Terms of an Alternative Payment Plan.*

1014 (a) An alternative payment plan may include a lump-sum payment, or periodic payments
1015 on the arrears, or both, subject to the following standards:

1016 (1) The sum of any periodic payment established under the plan and any other
1017 payment of support ordered by the Family Court, when subtracted from the

1018 obligor's gross income, may not leave the obligor below one hundred percent
1019 (100%) of the poverty line established under 42 U.S.C. §9902 (2) unless the
1020 obligor agrees otherwise.

1021 (2) When establishing an alternative payment plan, the Agency shall consider the
1022 factors used by the Family Court in determining whether the use of the percentage
1023 standard is unfair to the child or any of the parties.

1024 (b) Periodic payments under the plan may be made through income withholding in
1025 amounts in addition to the amount ordered in the child support order that is in effect.

1026 704.14-5. *Staying Administrative Enforcement Actions.* Administrative enforcement actions
1027 shall be stayed by the Agency while the obligor and the Agency are negotiating a plan, or, if a
1028 hearing is requested, until the Family Court determination has been made. To stay an
1029 administrative enforcement action means the following:

1030 (a) The obligor shall not be certified for denial, nonrenewal, restriction, or suspension of
1031 any State or Oneida-issued licenses;

1032 (b) Any frozen financial accounts shall remain frozen and shall not be seized; and

1033 (c) Personal property that has been seized shall not be sold.

1034 704.14-6. *Suspension of Administrative Enforcement Actions.*

1035 (a) When a plan has been negotiated between the obligor and the Agency, or the Family
1036 Court has determined that a plan is reasonable or has ordered a plan, the Agency shall
1037 suspend administrative enforcement actions as long as the obligor complies with the plan.

1038 (b) If an obligor makes a full arrears payment, the administrative enforcement action
1039 shall be suspended.

1040 704.14-7. *Default on an Alternative Payment Plan.* In the event that the obligor defaults on the
1041 plan, the Agency shall notify the obligor in writing that an administrative enforcement action
1042 shall be implemented unless the lien is paid in full.

1043 704.14-8. *Renegotiation of an Alternative Payment Plan.* After the entry of an alternative
1044 payment plan, the plan may be renegotiated upon the written request of the obligor or Agency if
1045 the requesting party can show a substantial change in circumstances. A substantial change in
1046 circumstances includes any of the following:

1047 (a) A change in the obligor's income or assets, including the sale or purchase of real or
1048 personal property;

1049 (b) A change in the obligor's earning capacity; and/or

1050 (c) Any other factor that the Agency determines is relevant.

1051

1052 **704.15. Administrative Enforcement Action**

1053 704.15-1. The Agency shall have the authority to use administrative enforcement actions to
1054 enforce a child support order without obtaining an order from the Family Court in the event that
1055 an obligor is at least one (1) month delinquent in paying his or her child support obligations.

1056 704.15-2. *Liens.* The Agency shall have an obligor placed on the lien docket if the obligor owes
1057 a debt in one or more of the obligor's cases equal to or exceeding the monthly amount due or
1058 five hundred dollars (\$500.00), whichever is greater.

1059 (a) *Lien Amount.* The lien amount on the lien docket shall equal the sum of lien amounts
1060 from the cases in which the lien amount meets or exceeds the lien threshold.

1061 (b) *Filing Date.* The filing date on the lien docket is the date that a lien is first docketed
1062 and delivered to the register of deeds. The filing date is the effective date of the lien.

1063 The effective date does not change if the lien amount is adjusted up or down within five
1064 (5) years after the date that the lien is first docketed.

- 1065 (c) *Lien Priority*. The child support lien shall have priority over all other liens on
1066 property except:
- 1067 (1) tax and special assessment liens;
 - 1068 (2) purchase money mortgages;
 - 1069 (3) construction liens;
 - 1070 (4) environmental liens;
 - 1071 (5) liens that are filed or recorded before the child support lien becomes effective;
 - 1072 and
 - 1073 (6) any other lien given priority under the law.
- 1074 (d) Property subject to a lien includes personal property in which the obligor has a
1075 recorded ownership interest.
- 1076 (e) *Effect on a Good Faith Purchaser*. A child support lien is not effective against a
1077 good faith purchaser of titled personal property unless the lien is recorded on the title.
- 1078 (f) *Credit Bureau Reporting*. The Agency may report the total amount of an obligor's
1079 liens to the credit bureau, so long as the lien is fully enforceable and the case is not barred
1080 from credit bureau reporting.
- 1081 (g) *Agency Lien Responsibilities*. The Agency shall be responsible for:
- 1082 (1) updating the lien docket periodically;
 - 1083 (2) providing a copy of the lien docket to the appropriate register of deeds;
 - 1084 (3) responding to inquiries concerning information recorded on the lien docket;
 - 1085 (4) ensuring the satisfaction of a lien is recorded on the lien docket;
 - 1086 (5) renewing a lien if the lien amount equals or exceeds the lien threshold at the
1087 end of the five (5) year effective period;
 - 1088 (A) When a lien is renewed, the date on which the lien is renewed shall
1089 become the effective date of the lien, and a new five (5) year period shall
1090 commence.
 - 1091 (6) sending the obligor a notice when a lien has been renewed; and
 - 1092 (7) developing procedures for releasing a lien and releasing specific property from
1093 a lien.
- 1094 (h) *Financial Record Review*.
- 1095 (1) An obligor may request a financial record review in writing to the Agency
1096 within ten (10) business days of the date of notice of a lien, to determine the
1097 correctness of the financial records in a case.
 - 1098 (2) Upon receiving a request for a financial record review, the Agency shall, at
1099 no charge to the obligor, provide the obligor with:
 - 1100 (A) all relevant financial records;
 - 1101 (B) information explaining how to interpret the records; and
 - 1102 (C) a form the obligor may use to identify any alleged errors in the
1103 records.
 - 1104 (3) Within twenty (20) days after receiving the relevant financial records, the
1105 obligor may:
 - 1106 (A) request a meeting with the Agency to review the financial records and
1107 to discuss any alleged errors; and/or
 - 1108 (B) provide a statement of alleged error on the documents.
 - 1109 (i) The Agency shall review the records to determine whether the
1110 alleged error is correct and provide a written determination within
1111 sixty (60) days after the obligor's request for a financial record

1112 review is received as to whether the lien against the obligor is in
1113 the correct amount.

1114 (4) The Agency may proceed with the lien if:

1115 (A) the obligor does not request a meeting with the Agency or provide a
1116 statement of alleged error within twenty (20) days after receiving the
1117 financial records;

1118 (B) no errors are found in the financial records of the case; or

1119 (C) the arrears exceed the required threshold amount after any errors in
1120 the financial records are corrected.

1121 704.15-3. *Seizure of Property*. The Agency shall have the authority to seize property, whether
1122 an account or personal property, of an obligor. The Agency shall presume that an obligor's
1123 equity or ownership in the property is an equal pro-rata share of the equity or ownership based
1124 on the number of individuals with a recorded ownership interest in the property.

1125 (a) *Account Seizure*. Once a lien is placed against an obligor, the Agency may initiate an
1126 account seizure if the lien amount in the obligor's case equals or exceeds three hundred
1127 percent (300%) of the monthly amount due in the order, or one thousand dollars (\$1,000),
1128 whichever is greater.

1129 (1) The Agency may not issue a notice of seizure unless the sum of the funds in
1130 all of the obligor's financial accounts, minus expected seizure fees and any early
1131 withdrawal penalty, exceeds five hundred dollars (\$500). The first five hundred
1132 dollars (\$500) of each account shall not be frozen and/or seized.

1133 (2) The notice issued by the Agency shall instruct the financial institution of the
1134 following:

1135 (A) The maximum amount frozen in an account may not exceed the
1136 amount specified by the Agency in the notice.

1137 (B) The maximum amount frozen in an account may not exceed the
1138 obligor's ownership interest.

1139 (C) A financial institution is not liable for encumbering or surrendering
1140 any assets held by the financial institution in response to instructions from
1141 the Agency for the purpose of enforcing a child support order.

1142 (b) *Seizure of Personal Property*. Once a lien is placed against an obligor, the Agency
1143 may initiate the seizure of personal property if the lien amount equals or exceeds six
1144 hundred percent (600%) of the monthly amount due in the order.

1145 (1) The Agency may seize personal property if the obligor's equity in the
1146 property, minus expected seizure fees, exceeds five hundred dollars (\$500) per
1147 item total.

1148 (2) Ceremonial or religious property and/or real property are exempt and shall
1149 not be seized by the Agency.

1150 (3) *Process for Seizing Property*. The Agency shall follow the following process
1151 for seizing personal property:

1152 (A) The Agency shall notify the obligor of the intent to request the Family
1153 Court to issue an order of execution for the seizure of property.

1154 (B) The Agency shall request the Family Court to grant a written order of
1155 execution for the seizure of property. The Agency shall provide the Family
1156 Court an affidavit that notice of this request has been provided to the
1157 obligor.

1158 (C) Upon issuance of a written order of execution by the Family Court,
1159 non-exempt personal property may be seized and sold in a reasonable
1160 manner.

1161 704.15-4. *Attachment of Per Capita Payments.* The Agency may initiate the attachment and/or
1162 seizure of per capita payments of members of the Nation in accordance with applicable laws of
1163 the Nation.

1164 704.15-5. *License Suspension.* The Agency may initiate the suspension or denial of both State
1165 and Oneida issued licenses if there is a lien against an obligor that equals or exceeds three
1166 hundred percent (300%) of the monthly amount due in the child support order, or one thousand
1167 dollars (\$1000), whichever is greater.

1168 (a) The types of State or Oneida issued licenses that the Agency may initiate the
1169 suspension or denial of include, but are not limited to, vendor, professional, occupational,
1170 hunting, fishing, recreational, and/or motor vehicle licenses.

1171 (b) The Agency shall not initiate the suspension of an occupational and/or motor vehicle
1172 license if:

1173 (1) there is an order in place that prohibits the suspension of the license;

1174 (2) the obligor has filed for bankruptcy; or

1175 (3) action has already been taken to suspend the license.

1176 (c) When an Oneida-issued license is suspended, that suspension shall be binding on and
1177 given effect by the license issuing agencies. Orders affecting licenses issued by other
1178 governmental agencies shall be sent to such agencies for enforcement.

1179 704.15-6. *Lump-Sum Pension Payments, Judgments, and Settlements Intercepts.* Once an
1180 obligor has been placed on the lien docket the Agency may initiate the intercept of lump-sum
1181 pension payments, judgments and/or settlements.

1182 (a) When initiating the intercept of lump-sum pension payments, judgments and/or
1183 settlements, the Agency shall specify in the notice that the amount withheld from the
1184 lump-sum pension payment, judgment or settlement may not exceed the obligor's
1185 ownership interest in the payment.

1186 704.15-7. *Tax and Lottery Intercepts.* The Agency may coordinate with a federal or state
1187 agency in order to enforce a child support order through a tax and/or lottery intercept. Once an
1188 obligor has been notified that his or her tax refund and/or lottery winnings may be intercepted,
1189 that notice is valid until all arrears are paid in full.

1190 (a) *Federal Tax Intercept.* The Agency may certify a federal tax intercept when the
1191 requirements pertaining to federal tax intercept contained in an agreement between the
1192 State and the Nation have been met.

1193 (b) *Wisconsin State Tax and/or Lottery Intercept.* The Agency may certify a Wisconsin
1194 state tax intercept and/or a Wisconsin state lottery intercept, when the lottery winnings
1195 are one thousand dollars (\$1,000) or more, when the following requirements are met:

1196 (1) The arrears shall be at least one hundred and fifty dollars (\$150);

1197 (2) The arrears shall be at least thirty (30) days old; and

1198 (3) The arrears shall be for a minor child or a child who has reached the age of
1199 eighteen (18) within the last twenty (20) year.

1200 704.15-8. *Passport Denial.* If a federal tax intercept is in place and the obligor owes two
1201 thousand five hundred dollars (\$2,500) or more in arrears, an obligor may be denied a passport.
1202 The arrears must meet the criteria for federal tax intercept in order for passport denial to be used
1203 as an enforcement tool. An obligor shall be removed from the passport denial list if:

1204 (a) The federal tax intercept certification amount is zero (0);

- 1205 (b) The obligor makes a lump-sum payment and/or negotiates a payment plan with the
1206 Agency;
1207 (c) The obligor has to travel abroad because of a life-or-death situation involving an
1208 immediate family member; or
1209 (d) The obligor was denied a passport in error.
1210

1211 **704.16. Family Court Enforcement Action**

1212 704.16-1. If the Agency does not have the authority to conduct the appropriate enforcement
1213 action, or the obligor is unresponsive to the enforcement actions being imposed by the Agency,
1214 the case shall be referred to the Family Court for enforcement. The Family Court may order any
1215 of the enforcement actions the Agency is authorized to implement, in addition to the enforcement
1216 actions described in this section.

1217 704.16-2. *Bonds and Other Guarantees.* The Family Court may require an obligor to provide a
1218 surety, bond or guarantee to secure the payment of arrears, if income withholding is not
1219 applicable, practical, or feasible to secure payment of arrears.

1220 704.16-3. *Claims Against Estates.* The Family Court may approve a claim for past and future
1221 support against an obligor's estate. The Family Court may issue a restraining order against an
1222 estate from which an obligor will inherit.

1223 704.16-4. *Community Service.* The Family Court may order an obligor to perform community
1224 service. The number of hours of work required may not exceed what would be reasonable
1225 considering the amount of arrears the obligor owes. The obligor shall be provided a written
1226 statement of the terms of the community service order and that the community service order is
1227 monitored. The order shall specify:

- 1228 (a) how many hours of community service the obligor is required to complete;
1229 (b) the time frame in which the hours must be completed;
1230 (c) how the obligor will report his or her hours; and
1231 (d) any other information the Family Court determines is relevant.

1232 704.16-5. *Contempt.* An obligor who disobeys a lawful child support order shall be subject to
1233 punishment for contempt of court.

1234 (a) An obligor found in contempt of court may be fined in an amount not to exceed one
1235 thousand dollars (\$1,000.00) per act of contempt and may not exceed five thousand
1236 dollars (\$5,000.00) in total. In instances of continuing contempt, each day shall
1237 constitute a separate act of contempt.

1238 704.16-6. *Incarceration.* The Family Court may order an obligor be incarcerated. Before a jail
1239 sentence is imposed, the Family Court may provide other conditions that require a certain
1240 amount of money be paid or action be taken for an obligor to avoid incarceration.

1241 704.16-7. *Criminal Non-Support.* A criminal non-support action may be initiated, in the
1242 appropriate county, against an obligor who has the ability to pay child support and willfully or
1243 intentionally failed to pay and the obligor knew or reasonably should have known he or she was
1244 legally obligated to provide.
1245

1246 **704.17. Full Faith and Credit for Foreign Child Support Orders**

1247 704.17-1. Child support orders, judgments, or decrees of other federally recognized tribes, and
1248 states that relate to child support shall be recognized and modified in accordance with the
1249 requirements under the Full Faith and Credit for Child Support Orders Act, 28 U.S.C. 1738B.

1250 704.17-2. A foreign order is authenticated by reasonable proof that the document tendered to the
1251 Family Court is a true certified copy of the foreign order as it is recorded in the agency or court

1252 of the issuing jurisdiction. An authentication stamp issued by a court clerk or custodian of
1253 records, or a court seal, is sufficient evidence of authenticity.

1254 704.17-3. Unless defects in jurisdiction are apparent on the face of the foreign order, the person
1255 contesting enforcement of the order has the burden of showing the order is not valid. Upon a
1256 failure to respond to notice of the order and to timely contest it, the Family Court shall enforce it
1257 as an order of the Family Court.

1258 704.17-4. If a foreign order is brought before the Family Court solely for an interpretation of the
1259 terms of the order, and the order has been recognized and given full faith and credit by the
1260 Family Court, the Family Court shall interpret the order by applying the law of the forum that
1261 issued the foreign order.

1262

1263 **704.18. Right of Appeal**

1264 704.18-1. *Appeals of Administrative Enforcement Action.* Any enforcement action implemented
1265 by the Agency may be appealed to the Family Court within thirty (30) calendar days after the
1266 date that the action is enforced. The decision of the Family Court as to the Agency's
1267 administrative enforcement action shall be final and non-appealable.

1268 704.18-2. *Appeals of Family Court Decisions.* A party may appeal a Family Court decision,
1269 other than the decision of the Family Court in regard to administrative enforcement action as
1270 referenced in section 704.18-1, to the Nation's Court of Appeals within thirty (30) calendar days
1271 after the date the Family Court made the decision. The review of the Court of Appeals shall be
1272 based on the record and the original decision of the Family Court.

1273

1274 *End.*

1275 Emergency Adopted - BC-06-30-08-C (Expired)

1276 Emergency Extended - BC-12-10-08-H (Expired)

1277 Permanently Adopted- BC-06-24-09-B

1278 Emergency Amended - BC-10-28-09-E

1279 Amended - BC-02-24-10-G

1280 Amended - BC-06-22-11-K

1281 Amended - BC-10-10-12-C

1282 Amended - BC-08-13-14-E

1283 Amended - BC-__-__-__-__

1284

Title 7. Children, Elders and Family - Chapter 704

CHILD SUPPORT

shakoti'nukú·lale? latiksashúha?

They watch over the children

CHILD SUPPORT

704.1. Purpose and Policy	704.10. Modification of a Child Support Order
704.2. Adoption, Amendment, Repeal, Other Laws and Agency Rules	704.11. Modification of a Child Support Order for an Incarcerated Parent Full Faith and Credit for Foreign Child Support Orders
704.3. Definitions	704.12. Compliance Plan Right of Appeal
704.4. Jurisdiction	704.13. Enforcement of an Order
704.5. Initiating an Action for Child Support Orders	704.14. Alternative Payment Plans
704.6. Child Support Hearing Procedures	704.15. Administrative Enforcement Action
704.7. Determining the Child Support Obligation Determination	704.16. Family Court Enforcement Action
704.8. Determining the Child Support Obligation in Special Circumstances Content and Effect of Order	704.17. Full Faith and Credit for Foreign Child Support Orders
704.9. Enforcement of Child Support Order	704.18. Right of Appeal

1 2 **704.1. Purpose and Policy**

3 704.1-1. *Purpose.* The purposes of this law **are** ~~is~~ to:

- 4 (a) Establish the legal responsibility of parents to provide financially for their children's
5 general well-being;
6 (b) Make support payments more equitable by ensuring consistent treatment of persons in
7 similar circumstances;
8 (c) Make support payments based on the real earning capability of parents; and
9 (d) Improve the efficiency of child support establishment and enforcement.

10 704.1-2. *Policy.* It is the policy of this law to:

- 11 (a) establish an adequate standard of support for children whose paternity has been
12 established or acknowledged;
13 (b) encourage the use of voluntary agreements to resolve disputes over child support
14 obligations; ~~;~~ **and**
15 (c) limit the use and disclosure of personal information received or maintained by the
16 **Nation's** Family Court **and/or** the Oneida ~~Tribe~~ **Nation** Child Support Agency in order to
17 protect the privacy rights of all parties and children who are involved in proceedings or
18 actions under this law.

19 20 **704.2. Adoption, Amendment, Repeal, ~~Other Laws and Agency Rules~~**

21 704.2-1. This law was adopted by the Oneida Business Committee by resolution BC-06-24-09-B
22 and amended by resolutions BC-02-24-10-G, BC-02-23-11-E, BC-06-22-11-K, BC-10-10-12-C,
23 ~~and BC-08-13-14-E, and BC- - - - .~~

24 704.2-2. This law may be amended ~~pursuant to the procedures set out in the Oneida Administrative~~
25 ~~Procedures Act or repealed~~ by the Oneida Business Committee or the Oneida General Tribal
26 Council ~~pursuant to the procedures set out in the Legislative Procedures Act.~~

27 704.2-3. Should a provision of this law or the application thereof to any person or circumstances
28 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
29 to have legal force without the invalid portions.

30 704.2-4. In the event of a conflict between a provision of this law and a provision of another law,
31 ~~ordinance, policy, regulation, rule, resolution, or motion~~, the provisions of this law shall control.

32 ~~Provided that, nothing in this law is intended to repeal or modify any existing law, ordinance,~~
33 ~~policy, regulation, rule, resolution or motion.~~

34 704.2-5. This law is adopted under authority of the Constitution of the Oneida ~~Nation Tribe of~~
35 ~~Indians of Wisconsin.~~

36 ~~704.2-6. Any Agency requirements which would affect individuals outside the Agency and do not~~
37 ~~relate to the internal management of the Agency shall require Oneida Business Committee~~
38 ~~approval in the form of a law or rule.~~

39

40 **704.3. Definitions**

41 704.3-1. This section shall govern the definitions of words and phrases used within this law. All
42 words not defined herein shall be used in their ordinary and everyday sense.

43 (a) ~~“Administrative enforcement action” means enforcement actions taken by the Oneida~~
44 ~~Nation Child Support Agency authorized by federal regulations which are taken to enforce~~
45 ~~a child support order without obtaining an order from the Family Court.~~

46 (b) “Agency” ~~shall mean~~ means the Oneida ~~Nation Tribe~~ Child Support Agency
47 established to administer and supervise the ~~Nation’s Tribe’s~~ child support enforcement
48 program.

49 (c) ~~“Alternative payment plan” or “plan” means a negotiated agreement between the~~
50 ~~Agency and an obligor, or an order set by the Family Court, to establish terms and~~
51 ~~conditions for the payment of arrears.~~

52 (d) ~~“Basic support costs” means food, shelter, clothing, transportation, personal care, and~~
53 ~~incidental recreational costs.~~

54 (e) ~~“Business day” means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding~~
55 ~~holidays recognized by the Nation.~~

56 (f) “Child” ~~shall mean~~ means a natural or adopted child of the obligor under the age of
57 eighteen (18), or any person who is less than nineteen (19) years old if he or she is pursuing
58 a high school diploma or its equivalent from an accredited course of instruction.

59 (g) “Child support” means the total financial obligation a parent has towards his or her
60 child as established through judicial and/or administrative processes.

61 (h) ~~“Child Support Obligation of Low-Income Payers Schedule” means the Wisconsin~~
62 ~~Department of Children and Families Child Support Obligation of Low-Income Payers at~~
63 ~~the Federal Poverty Guidelines, found in DCF 105 Appendix C.~~

64 (i) “Child support order” ~~shall mean~~ means a judgment of the Family Court or a court of
65 competent jurisdiction ordering payment of child support which provides monetary
66 support, health care, arrearages, or reimbursement, and which may include related costs
67 and fees, interest and penalties, income withholding, attorney’s fees and other relief.

68 ~~(e) “Clerk” shall mean the designated clerk in the Family Court who is identified to carry~~
69 ~~out certain provisions in this law.~~

70 (j) ~~“Current six (6) month treasury bill rate” means the yield of a U.S. government security~~
71 ~~with a term of six (6) months.~~

72 (k) “Custodial parent” ~~shall mean~~ means the parent who exercises physical custody of the
73 child pursuant to a custody order, on the basis of agreement between the parents or in the
74 absence of one parent. A legal guardian with primary physical custody of the child or
75 children and standing in the position of the parent shall have the same rights to child support
76 as a custodial parent.

77 (l) “Employer” ~~shall mean~~ means any individual, business, government, institution, or
78 other entity paying wages to one or more employees.

79 (m) “Equity” means the fair market value of property minus the liens on that property with
80 priority over the child support lien.

81 (n) “Equivalent care” means a period of time during which the parent cares for the child
82 that is not overnight, but is determined by the court to require the parent to assume the
83 basic support costs that are substantially equivalent to what the parent would spend to care
84 for the child overnight. Blocks of time with the child of at least six (6) hours may be
85 considered the equivalent of a half-day if a meal is provided during that time period. Two
86 (2) half-day blocks may be considered the equivalent of an overnight.

87 (o) “Family Court” shall mean means the judicial arm branch of the Tribe-Nation’s
88 Judiciary that is designated to handle all matters under this Law related to the family and/or
89 children.

90 (p) “Gross income” shall mean means any form of payment due to an individual regardless
91 of source, including, but not limited to:

- 92 (1) Salary and wages, including overtime pay;
- 93 (2) Interest and investment income;
- 94 (3) Social Security disability and old age insurance benefits under 42 U.S.C. §401
95 to 433;
- 96 (4) Net proceeds resulting from worker’s compensation or other personal injury
97 awards intended to replace income;
- 98 (5) Unemployment insurance;
- 99 (6) Income continuation benefits;
- 100 (7) Voluntary deferred compensation and ~~voluntary~~ employee contributions to the
101 following: employee benefit plan, profit-sharing, pension or retirement account;
- 102 (8) Military allowances and veterans disability compensation benefits;
- 103 (9) Undistributed income of a corporation or any partnership in which the parent
104 has an ownership interest sufficient to individually exercise control or to access the
105 earnings of the business, unless the income included is an asset;
- 106 (10) Per capita distribution payments;
- 107 (11) Lease or rental income;
- 108 (12) Prizes over one thousand dollars (\$1,000); and
- 109 (13) All other income, whether taxable or not, except that gross income does not
110 include any of the following:
 - 111 (A) Child support;
 - 112 (B) Foster care payments;
 - 113 (C) Kinship care payments;
 - 114 (D) Public assistance benefits, except that child care subsidy payments shall
115 be considered income to a child care provider;
 - 116 (E) Food stamps;
 - 117 (F) Public assistance or financial hardship payments paid by a county or a
118 ~~tribe-Nation~~;
 - 119 (G) Supplemental Security Income under 42 U.S.C. §1381 to 1383(f) and
120 state supplemental payments; or
 - 121 (H) Payments made for social services.

122 (q) “Immediate family member” means an individual’s husband, wife, mother, father, step-
123 mother, step-father, son, daughter, step-son, step-daughter, brother, sister, step-brother,
124 step-sister, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-
125 law, brother-in-law or sister-in-law and any of the these relations attained through legal
126 adoption.

- 127 (f) “Income withholding” means the process whereby a court order, Family Court order,
128 or voluntary wage assignment directs an employer, bank, or agent holding monies or
129 property of an obligor, to make payments or deliver property to satisfy a child support
130 obligation.
- 131 (s) “Intact family” means a family in which the child or children and the obligor reside in
132 the same household and the obligor shares his or her income directly with the child or
133 children and has a legal obligation to support the child or children.
- 134 (t) “Legally incompetent adult” ~~shall mean~~ means a person at least eighteen (18) years old
135 who has been declared incompetent by a court of competent jurisdiction because he or she
136 is temporarily or permanently impaired to the extent that the person lacks sufficient
137 understanding to make or communicate responsible personal decisions.
- 138 (u) “Lien amount” means the difference between the monthly amount of support due and
139 the arrears in a case.
- 140 (v) “Lien docket” means the registry kept by the State of Wisconsin containing the names
141 of people who owe past-due child support.
- 142 (w) “Low-income obligor” means an obligor for whom the Family Court uses the monthly
143 support amount provided in the schedule in ~~Appendix A the Child Support Obligation of~~
144 Low-Income Payers Schedule based on the Family Court’s determination that the obligor’s
145 total economic circumstances limit his or her ability to pay support at ~~the level provided~~
146 under 704.7 2(a) standard percentages and the obligor’s income is at a level set forth in the
147 schedule in ~~Appendix A the Child Support Obligation of Low-Income Payers Schedule.~~
- 148 (x) “Marital child” means a child born during the marriage of his or her parents. In
149 addition, if the father and mother of a non-marital child enter into a lawful marriage or a
150 marriage which appears and they believe is lawful, except where the parental rights of the
151 mother were terminated before either of these circumstances, the child becomes a marital
152 child and shall enjoy all of the rights and privileges of a marital child as if he or she had
153 been born during the marriage of the parents. The children of all marriages declared void
154 under the law are nevertheless marital children.
- 155 (y) “Monthly ~~i~~Income” ~~shall mean~~ means the obligor’s annual gross income or, if
156 applicable, the obligor’s annual income modified for business expenses; plus the obligor’s
157 annual income imputed based on earning capacity; plus the obligor’s annual income
158 imputed from assets; divided by twelve (12).
- 159 (z) “Nation” means the Oneida Nation.
- 160 (aa) “Non-~~c~~Custodial ~~p~~Parent” ~~shall mean~~ means the parent of a child who does not hold
161 primary care, custody and/or control of a child.
- 162 (bb) “Non-legally responsible relative” means a relative who assumes responsibility for
163 the care of a child without legal custody, but is not in violation of a court order. ~~A “Non-~~
164 ~~legally responsible relative”~~ does not include a relative who has physical custody of a child
165 during a court-ordered visitation period.
- 166 (cc) “Obligee” ~~shall mean~~ means the person or entity to whom child support is owed.
- 167 (dd) “Obligor” ~~shall mean~~ means the person who is obliged to pay child support to the
168 obligee.
- 169 (ee) “Ownership interest” means any personal financial interest.
- 170 (ff) “Parent” means the natural or adoptive parent of the child.
- 171 (gg) “Payor” ~~shall mean~~ means a person or entity with a legal obligation, as an employer,
172 buyer of goods, debtor, or otherwise, to pay an obligor.
- 173 ~~(r) “Relative” means any person connected with a child by blood, marriage or adoption.~~

174 (hh) “Reservation” ~~shall mean~~ means all lands within the exterior boundaries of the
175 Reservation of the Oneida ~~Nation Tribe of Indians of Wisconsin~~, as created pursuant to the
176 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal
177 law.

178 (ii) “Serial family obligor” means an obligor with an existing legal obligation for child
179 support who incurs an additional legal obligation for child support in a subsequent family
180 as a result of a child support order.

181 (jj) “Shared-placement obligor” means a parent who has an ordered period of placement
182 of at least twenty-five percent (25%), is ordered by the Family Court to assume the child’s
183 basic support costs in proportion to the time that the parent has placement of the child and
184 is determined to owe a greater support amount than the other parent.

185 (kk) “Split-placement obligor” means an obligor who has two (2) or more children and
186 who has physical placement of one (1) or more children but not all of the children.

187 (ll) “Substantial change of income” means the obligor has a significant change in his or
188 her finances that would lead to a change in child support of more than fifteen percent (15%)
189 and fifty dollars (\$50.00) per month.

190 (mm) “Variable costs” means the reasonable costs above basic support costs incurred by
191 or on behalf of a child, including but not limited to, the cost of child care, tuition, a child’s
192 special needs, and other activities that involve substantial cost.

193 (nn) “Threshold” means an amount, expressed as either a percentage of the monthly
194 amount due, a fixed dollar amount, or both, that the lien amount must equal or exceed
195 before an administrative enforcement action may be used to enforce a child support order.

196 ~~(t) “Tribe” or “Tribal” shall mean the Oneida Tribe of Indians of Wisconsin.~~

197 ~~(u) “Wage Withholding” shall mean the process whereby a court order, Family Court~~
198 ~~order or voluntary wage assignment directs an employer, bank or agent holding monies or~~
199 ~~property of an obligor, to make payments or deliver property to satisfy a child support~~
200 ~~obligation.~~

201 202 **704.4. Jurisdiction**

203 704.4-1. The Family Court has jurisdiction over any action brought under this law.

204 704.4-2. *Personal Jurisdiction.* Personal jurisdiction over an individual under this law may be
205 established where one party or a child of the parties is any of the following:

206 (a) a member of the ~~Tribe;~~ Nation;

207 (b) a resident of the Reservation who is also a member of an Indian tribe, band or
208 community which is recognized by a State or the federal government;

209 (c) a resident of the Reservation who is also the biological parent of a child that is enrolled
210 or is eligible for enrollment with the ~~Tribe~~ Nation; ~~or~~

211 (d) an individual who consents to the jurisdiction of the Family Court by one (1) of the
212 following means:

213 (1) Filing an action with the Family Court~~;~~

214 (2) Knowingly and voluntarily giving written consent to the jurisdiction of the
215 Family Court~~;~~

216 (3) Entering a notice of appearance before the Family Court in an action without
217 concurrently preserving the defense of lack of personal jurisdiction or filing a
218 motion to dismiss for lack of personal jurisdiction within thirty (30) days of entering
219 the notice of appearance~~;~~ or

220 (4) Appearing in an action before the Family Court without asserting the defense
221 of lack of personal jurisdiction.

222 704.4-~~23~~. Personal jurisdiction over the other party may be established using any method provided
223 by law, including long-arm jurisdiction procedures as provided for in Section 201 of the Uniform
224 Interstate Family Support Act as referred to in 42 ~~USC Section~~ U.S.C. §666.

225 704.4-~~34~~. *Transfer of Cases from Other Courts*. If personal jurisdiction over the parties has been
226 established under ~~704.4-1 or 704.4-2~~ this law, the Family Court has jurisdiction over any action
227 transferred to the Family Court from any court of competent jurisdiction.

228
229 **704.5. Initiating an Action for Child Support Orders**

230 704.5-1. Every parent has a duty to support each and every child of that parent. A child support
231 order may be obtained from the Family Court by either submitting a voluntary agreement to the
232 Family Court for approval or by filing a petition for child support with the Family Court.

233 (a) If a party to the action is a minor or is a legally incompetent adult, the Family Court
234 may appoint a guardian ad litem to represent such party in the action, ~~in accordance with~~
235 ~~section 705.8 of the Child Custody, Placement and Visitation law~~.

236 704.5-2. A For assistance in seeking a child support order a party may request the services of the
237 Agency or may be referred to the Agency from an entitlement program.

238 704.5-3. *Initiation of Action by the Agency.*

239 (a) Within ~~seven~~ five (5) business days of receiving a completed application for services
240 or a referral, the Agency shall send the non-custodial parent a Letter of Request for Support
241 and Financial Disclosure form.

242 (b) If the non-custodial parent fails to respond to or take action on the Letter ~~within ten~~
243 ~~(10) business days, a second Letter~~ of Request for Support and Financial Disclosure form
244 ~~shall be sent~~.

245 ~~(c) If the non-custodial parent fails to respond to or take action on the second Letter within~~
246 ~~five (5)~~ within ten (10) business days, the custodial parent, or the Agency when required by
247 federal law, may initiate a hearing in accordance with this law.

248 ~~(d)~~ (c) If the non-custodial parent responds within the required time period after receiving a
249 Letter of Request for Support and Financial Disclosure form, the parties shall attempt to
250 enter into a voluntary agreement.

251 704.5-~~34~~. *Voluntary Agreement*. ~~(a)~~ The parties may enter into a voluntary agreement at any time
252 as to the level of the child support obligation.

253 (a) The Agency shall assist parties in reaching a voluntary agreement upon request or when
254 the parties are referred to the Agency by an entitlement program. Parties may also submit
255 a voluntary agreement to the Family Court for approval without the Agency's assistance.

256 (b) In order for a voluntary agreement to be valid the following conditions shall be met:

257 (1) The agreement shall be in writing, signed, and notarized;

258 (2) If the parties deviate from the percentage standards, the agreement shall state
259 the amount of support that would have been ordered by the percentage standards
260 and the reasons for deviating from the percentage standards;

261 (3) All parties shall sign the agreement free of duress and coercion; and

262 (4) The Family Court shall make written findings that the agreement is appropriate,
263 using the criteria for deviating from standard percentages ~~under 704.7-3~~ as a
264 guideline, if applicable.

265 (c) After the agreement is approved and filed by the Family Court, it shall have the same
266 force and effect as an order issued by the Family Court. The obligation of the obligor to

267 pay child support shall commence on the date specified in the agreement, but no later than
268 the date the agreement is approved and filed by the Family Court.

269 704.5-45. ~~Initiating a Hearing~~ Petition to Establish Child Support. If the parties do not enter into
270 a voluntary agreement, then ~~any of the following may initiate an action for the establishment of a~~
271 petition to establish child support ~~by filing a petition~~ may be filed with the Family Court.

- 272 ~~(a) a custodial parent;~~
- 273 ~~(b) a child's natural mother;~~
- 274 ~~(c) a child's father;~~
- 275 ~~(d) a child's guardian ad litem;~~
- 276 ~~(e) a child's non-legally responsible relative;~~
- 277 ~~(f) a legally incompetent adult's guardian ad litem; or~~
- 278 ~~(g) the Agency when required by federal law.~~

279 ~~704.5-5. Petition~~. The petition to establish child support may be filed as a separate proceeding or
280 in connection with a petition for child custody. ~~The petition to establish child support shall include~~
281 ~~the following:~~

282 (a) Initiating an Action with the Family Court. Any of the following individuals may
283 initiate an action for the establishment of child support by filing a petition with the Family
284 Court:

- 285 (1) a custodial parent;
- 286 (2) a child's ~~natural~~ mother;
- 287 (3) a child's father;
- 288 (4) a child's guardian ad litem;
- 289 (5) a child's non-legally responsible relative;
- 290 (6) a legally incompetent adult's guardian ad litem; or
- 291 (7) the Agency when required by federal law.

292 (b) Requirements of the Petition. The petition to establish child support shall include the
293 following:

294 (1) The name, date of birth and address of the petitioner and respondent;
295 ~~(A)~~ If the address of the respondent is unknown, other ~~Tribal~~ departments
296 of the Nation shall cooperate with the Family Court, at the Family Court's
297 request, to provide the Family Court with the respondent's address. Any
298 such Family Court requests shall be made in such a way which protects the
299 privacy rights of all parties and children who are involved in proceedings or
300 actions under this law.

301 (B) Nondisclosure of Information in Protected Cases. Upon a finding,
302 which may be made ex parte, that the health, safety or welfare of a party or
303 child would be unreasonably put at risk by the disclosure of identifying
304 information, or if an existing order so provides, the Family Court shall order
305 that the address of the child or party, or other identifying information, not
306 be disclosed in a pleading or other document filed in a proceeding under
307 this law.

308 ~~(b2)~~ A separate form which has the parties and the child's name, date of birth and
309 social security number. This form shall be kept separate from the petition and shall
310 be maintained in a confidential file. The form shall be available only to the parties,
311 ~~their~~ the parties' attorneys or advocates, the Agency, or any person authorized by
312 the Family Court to have access to the form.

313 ~~704.5-6-~~(c) *Hearing Date.* Upon receipt of a petition, the Family Court shall schedule a
314 hearing to determine child support to be held at a time after the filing of the petition and
315 consistent with the manner of service.

316 ~~704.5-7-~~(d) *Notice.* All parties shall be notified of the petition and of all hearings, and
317 shall be given an opportunity to be heard. Notice initiating an action shall be served by
318 certified mail (return receipt requested) or in person within fifteen (15) calendar days after
319 the petition is filed with the Family Court. All mailing of notice shall include the Family
320 Court clerk's return address, with a request to file answer to that address. Subsequent
321 notice shall be served by first-class mail to the recently verified last-known address of the
322 party.

323 (a1) *Certified mail.* Certified mail sent to a party's most recently verified last-
324 known address but returned because it was unclaimed or refused shall constitute
325 constructive service. Certified mail returned for other reasons shall require service
326 by other methods pursuant to the Oneida Judiciary Rules of Civil Procedure.

327 (b2) *Publication.* When a responding party cannot be found after diligent attempts
328 and attempts to serve the responding party by certified mail have failed, the
329 petitioner may ask the Family Court to direct the Agency to provide service by
330 publication. If the request is granted, the Agency shall publish the petition in the
331 ~~Kalihwisaks-~~Nation's newspaper or a newspaper of general circulation in the
332 county of residence of the respondent, if known. Publication shall be designated as
333 a Legal Notice and confidential information shall be redacted.

334 (1A) If service by publication is permitted and there is insufficient time for
335 notice and answer pursuant to this ~~law~~, the Family Court shall re-schedule
336 the hearing appropriately and may permit extended time deadlines for
337 default orders and for hearings in order to provide for fair notice and
338 opportunity for the party to respond.

339 ~~704.5-8-~~(e) *Summons and Petition.* The summons to be served on the respondent(s), along
340 with the petition, shall include the following notice, in addition to providing a time and
341 date for appearance:

342 (a1) That if he or she chooses not to appear at the hearing or enter a defense to the
343 petition challenging the authority of the Family Court to hear the matter by the date
344 of the hearing, the hearing shall proceed on the basis of the petitioner's evidence;

345 (b2) That a child support order may require the respondent to pay child support
346 until the child reaches eighteen (18) years of age or until the child graduates from
347 high school, or its equivalent, up to age nineteen (19);

348 (c3) That the respondent's license(s) may be suspended or denied for failure to pay
349 child support, in addition to other enforcement actions;

350 (d4) That the respondent's employer or others with evidence of the respondent's
351 income may be subpoenaed to provide the Family Court with records of his or her
352 earnings;

353 (e5) That if the respondent is unemployed, ~~he or she will~~ it shall still be imputed
354 ~~to be~~ determind that he or she is able to provide some degree of child support and
355 an order of support ~~will~~ shall be calculated according to this law unless the Family
356 Court makes written findings ordering otherwise; and

357 (f6) That any answer to the petition shall be filed with the Family Court within
358 twenty (20) calendar days of the date of service of the petition, and a copy served
359 on the other party.

360 ~~704.5-9~~(f) *Answers*. Answers shall be filed with the Family Court and served on the
361 petitioner within twenty (20) calendar days of the date of service of the petition.

362 ~~704.5-10~~(g) *Subpoenas*. Upon request of either party, the Family Court shall issue
363 subpoenas to any person in possession of relevant information to appear or produce
364 documents to the Family Court. Failure to comply with such a subpoena may be punishable
365 as contempt.

366 ~~704.5-11. *Temporary Orders*. At any time after a child's parentage has been established, the~~
367 ~~Family Court may make a temporary order for the payment of child support and the child's health~~
368 ~~care expenses. Before making a temporary order, the Family Court shall consider those factors~~
369 ~~that the Family Court is required to consider when granting a final child support order. If the~~
370 ~~Family Court makes a temporary child support order that deviates from the amount of support that~~
371 ~~would be required by using the percentage standard, the requirements of section 704.7-38 shall be~~
372 ~~complied with.~~

373

374 **704.6. Child Support Hearing Procedures**

375 704.6-1. The factual determinations made at a hearing shall be limited to the income and expense
376 information necessary to determine the appropriate level of support according to this law.

377 704.6-2. The Family Court may utilize discovery procedures and contempt powers, as authorized
378 by any Tribal law, policy, or rule of the Nation to obtain information relevant to the establishment
379 or enforcement of child support. These procedures may include the following:

380 (a) Issue subpoenas requiring necessary and relevant parties to appear in person and
381 provide testimony;

382 (b) Issue subpoenas requiring the production of evidence;

383 (c) Obtain information about property or assets to assess its value or funding source for
384 lien or seizure actions;

385 (d) Obtain information about the income of any party to the action; and/or

386 (e) Issue contempt findings for failure to comply with the lawful order of the Family Court.

387 704.6-3. Both parties have the right to representation by an attorney and/or advocate at his or her
388 their-own expense. The Tribe Nation shall not be required to pay for any fees and/or expenses
389 incurred by any party in connection with proceedings under this law.

390 ~~704.6-4. *Temporary Orders*. At any time after a child's parentage has been established, the Family~~
391 ~~Court may make a temporary order for the payment of child support and the child's health care~~
392 ~~expenses. Before making a temporary order, the Family Court shall consider those factors that the~~
393 ~~Family Court is required to consider when granting a final child support order. If the Family Court~~
394 ~~makes a temporary child support order that deviates from the amount of support that would be~~
395 ~~required by using the percentage standard, the requirements of section 704.7-38 shall be complied~~
396 ~~with.~~

397 ~~704.6-45. *Default*~~. If the respondent fails to appear at the hearing upon a showing of valid service
398 and the petitioner presents evidence of the obligation by the absent party, a child support order
399 shall be entered pursuant to the evidence.

400 ~~704.6-56. *Hearings and Records Closed*~~. Child Support proceedings shall be closed to any
401 person other than those necessary to the action or proceeding. Records of child support cases shall
402 remain confidential and shall only be viewed by the parties, the legal guardian of a party who is a
403 minor, the parties' attorney or advocate, Judges and staff assigned to the case, and those other
404 persons who first obtain a written release from a party to view material contained in the record.

405

406 **704.7. Determining the Child Support Determination Obligation**

407 704.7-1. ~~Except as provided elsewhere in this law, T~~the Family Court shall determine child
408 support payments by using the percentage standards established in section 704.7-2 of this law,
409 except as provided elsewhere in this law. The obligor's monthly income shall be considered in
410 determining his or her child support obligation.

411 704.7-2. *Percentage Standards to Determine the Amount of Child Support.*

412 (a) The following percentages shall be applied to the portion of an obligor's monthly
413 income available for child support that is less than seven thousand dollars (\$7,000):

- 414 (1) seventeen percent (17%) for one (1) child;
- 415 (2) twenty-five percent (25%) for two (2) children;
- 416 (3) twenty-nine percent (29%) for three (3) children;
- 417 (4) thirty-one percent (31%) for four (4) children; and
- 418 (5) thirty-four percent (34%) for five (5) or more children.

419 (b) The following percentages shall be applied to the portion of an obligor's monthly
420 income available for child support that is greater than or equal to seven thousand dollars
421 (\$7,000) and less than or equal to twelve thousand five hundred dollars (\$12,500):

- 422 (1) fourteen percent (14%) for one (1) child;
- 423 (2) twenty percent (20%) for two (2) children;
- 424 (3) twenty-three percent (23%) for three (3) children-;
- 425 (4) twenty-five percent (25%) for four (4) children-; and
- 426 (5) twenty-seven percent (27%) for five (5) or more children.

427 (c) The following percentages shall be applied to the portion of an obligor's monthly
428 income available for child support that is greater than twelve thousand five hundred dollars
429 (\$12,500):

- 430 (1) ten percent (10%) for one (1) child-;
- 431 (2) fifteen percent (15%) for two (2) children-;
- 432 (3) seventeen percent (17%) for three (3) children-;
- 433 (4) nineteen percent (19%) for four (4) children-; and
- 434 (5) twenty percent (20%) for five (5) or more children.

435 704.7-3. ~~1.3-1.~~ *Determining Income Modified for Business Expenses.* In determining an obligor's
436 parent's monthly income, the Family Court may adjust an obligor's parent's gross income as
437 follows:

438 (a) Adding wages paid to dependent household members.

439 (b) Adding undistributed income that the Family Court determines is not reasonably
440 necessary for the growth of the business. The parent obligor shall have the burden of proof
441 to show that any undistributed income is reasonably necessary for the growth of the
442 business.

443 (c) Reducing gross income by the business expenses that the Family Court determines are
444 reasonably necessary for the production of that income or operation of the business and
445 that may differ from the determination of allowable business expenses for tax purposes.

446 704.7-4. *Determining Income Imputed Based on Earning Capacity.* When an obligor's parent's
447 income is less than the parent's obligor's earning capacity or is unknown, the Family Court may
448 impute income to the obligor parent at an amount that represents the parent's obligor's ability to
449 earn.;

450 (a) The obligor's ability to earn may be based on the parent's obligor's:

- 451 (1) education, training, and recent work experience.;
- 452 (2) earnings during previous periods.;

- (3) current physical and mental health;
- (4) history of child care responsibilities as the parent with primary physical placement; and
- (5) the availability of work in or near the obligor's community.

(b) If evidence is presented that due diligence has been exercised to ascertain information on the ~~parent's~~ obligor's actual income or ability to earn and that information is unavailable, the Family Court may impute to the parent obligor the income that a person would earn by working thirty-five (35) hours per week for the federal minimum hourly wage under 29 USC 206 (a)(1). In addition to imputed income, the Family Court may order the non-custodial parent to search for a job or participate in a work experience and job training program.

(c) If an parent obligor has gross income or income modified for business expenses below his or her earning capacity, the income imputed based on earning capacity shall be the difference between the ~~parent's~~ obligor's earning capacity and the ~~parent's~~ obligor's gross income or income modified for business expenses.

704.7-5. Determining Income Imputed from Assets.

(a) The Family Court may impute a reasonable earning potential to an ~~parent's~~ obligor's assets if the Family Court finds both of the following:

(1) The ~~parent~~ obligor has ownership and control over any real or personal property, including but not limited to, life insurance, cash and deposit accounts, stocks and bonds, business interests, net proceeds resulting from worker's compensation or other personal injury awards not intended to replace income, and cash and corporate income in a corporation in which the obligor has an ownership interest sufficient to individually exercise control and the cash or corporate income is not included as gross income.

(2) The ~~parent's~~ obligor's assets are underproductive and at least one (1) of the following applies:

(A) The ~~parent~~ obligor has diverted income into assets to avoid paying child support.

(B) Income from the ~~parent's~~ obligor's assets is necessary to maintain the child or children at the standard of living they would have had if they were living with both parents.

(b) The Family Court shall impute income to assets by multiplying the total net value of the assets by the current six (6) month treasury bill rate or any other rate that the Family Court determines is reasonable and subtracting the actual income from the assets that were included as gross income.

704.7-6. Adjustment for Child's Social Security Benefits. The Family Court may ~~include~~ consider benefits received by a child under 42 U.S.C. §402(d) based on a parent's entitlement to federal disability or old-age insurance benefits under 42 U.S.C. §401 to 433 in the ~~parent's~~ gross income and adjust an obligor's child support obligation by subtracting the amount of the child's benefit. In no case may this adjustment require the obligee to reimburse the obligor for any portion of the child's benefit. If the obligor is receiving the child's benefit, the support amount is either the percentage standard applied to the obligor's income or the amount of the child's benefit, whichever is greater.

(a) Determining the Child Support Obligations of Shared-Placement Parent when the Child Receives Social Security Benefits. If the shared-placement guidelines under section 704.8-2 apply, the child's benefit is split between the parents in proportion to the amount of time the child spends with each parent. Add the proportion of the child's benefit that

501 represents the proportion of time the child spends with the parent not receiving the benefit
502 to the support obligation of the parent who is receiving the child's benefit. Child support
503 shall be determined as follows:

504 (1) Determine each parent's monthly income available for child support under
505 section 704.7-2. If a parent has one (1) or more previous child support obligations,
506 determine the parent's monthly income available for child support adjusted for the
507 previous obligations as provided in section 704.8-1. Include the parent's federal
508 disability or old age insurance benefits under 42 U.S.C. §401 to 433 in that parent's
509 income, but do not include the child's benefit under 42 U.S.C. §402 (d) in either
510 parent's income.

511 (2) Multiply each parent's monthly income available for child support by the
512 appropriate percentage standard under section 704.7-2.

513 (3) Multiply each amount determined under section 704.7-6(a)(2) by one hundred
514 and fifty percent (150%).

515 (4) Multiply the amount determined for each parent in section 704.7-6(a)(3) by the
516 proportion of time that the child spends with the other parent.

517 (5) Multiply the amount of the child's benefit by the proportion of the time the
518 child spends with the parent who is not receiving the child's benefit.

519 (6) Add the amount in section 704.7-6(a)(5) to the child support obligation
520 calculated in section 704.7-6(a)(4) for the parent who is receiving the child's
521 benefit.

522 (7) Offset the resulting amounts against each other. The parent with the greater
523 child support obligation is the shared-placement obligor. The shared-placement
524 obligor shall pay either the greater of the amount determined in this subsection or
525 the amount determined using the appropriate percentage standard under section
526 704.7-2.

527 704.7-7. Claiming Children for Tax Purposes. The Family Court may address who may claim
528 the child for tax purposes or accept a stipulation entered into by the parties regarding children and
529 taxes.

530 704.7-38. Deviation from ~~Standard Factors~~ the Percentage Standards. Upon request by a party,
531 the Family Court may modify the amount of child support payments determined by the percentage
532 standards if, after considering the following factors, the Family Court finds by the greater weight
533 of the credible evidence that use of the percentage standards is unfair to the child or to any of the
534 parties:

- 535 (a) The financial resources of the child;
- 536 (b) The financial resources of both parents;
- 537 (c) Maintenance received by either party;
- 538 (d) The needs of each party in order to support himself or herself at a level equal to or
539 greater than ~~that~~ the federal poverty line as established under 42 U.S.C. §9902 (2);
- 540 (e) The needs of any person, other than the child, whom either party is legally obligated to
541 support;
- 542 (f) The standard of living the child would have enjoyed if his or her parents were living
543 together;
- 544 (g) The desirability that the custodial parent remain in the home as a full-time parent;
- 545 (h) The cost of day care if the ~~eustodian~~ custodial parent works outside the home, or the
546 value of custodial services performed by the ~~eustodian~~ custodial parent if the ~~eustodian~~ custodial parent
547 remains in the home;
- 548 (i) The award of substantial periods of physical placement to both parents;

- (j) Extraordinary travel expenses incurred in exercising the right to periods of physical placement;
- (k) The physical, mental, and emotional health needs of the child, including any costs for health insurance;
- (l) The child's educational needs;
- (m) The tax consequences to each party;
- (n) The best interests of the child;
- (o) The earning capacity of each parent, based on each parent's education, training and work experience and the availability of work in or near the parent's community; and
- (p) Any other factors which the Family Court in each case determines are relevant.

~~Cross-reference: See also Rule CS 1 CHILD SUPPORT PERCENTAGE OF INCOME STANDARD.~~

~~704.7-59. Past-due and Arrears obligations.~~

- (a) A party may request payment of arrears or past-due child support as follows:
 - (1) In an action ~~pursuant to Chapter 703, Paternity,~~ regarding paternity, back to the date of birth of the child or date of application, whichever is later;
 - (2) In a child support establishment or modification pursuant to this law, back to the date of application, review, or referral; or
 - (3) In an establishment or modification of placement pursuant to ~~Chapter 702 or Chapter 705,~~ an action regarding divorce, annulment and legal separation or child custody, placement, and visitation, back to the date of filing, or as otherwise ordered by the Family Court.
- (b) ~~An~~ A payment for arrears or a past-due payment shall be set based on the amount due and the income available to pay current support.
- (c) Once current child support is ended in any manner prescribed by law, child support shall continue to be paid at the same rate, until all arrears or past due child support is paid in full.

704.8. Determining the Child Support Obligation in Special Circumstances ~~Content and Effect of Order~~

~~704.8-1.1.4.1. Determining the Child Support Obligation of a Serial-Family Obligor.~~

~~(a) Applicability. This subsection applies only if the additional support obligation incurred by the obligor is the result of a child support order and the support obligation being calculated is for children from a subsequent family or subsequent paternity judgment or acknowledgment. An obligor may not use the provisions of this section as a basis for seeking modification of an existing order based on a subsequently incurred legal obligation for child support.~~

~~(b) Determination. For a serial-family obligor, the child support obligation incurred for a marital or non-marital child in a subsequent family as a result of a child support order may be determined as follows:~~

- ~~(1) Determine the obligor's monthly income.~~
- ~~(2) Determine the order of the obligor's legal obligations for child support by listing them according to the date each obligation is incurred.~~
 - ~~(A) For a marital child, the legal obligation for child support is incurred on the child's date of birth.~~
 - ~~(B) For a non-marital child, the legal obligation for child support is incurred on the date of the child support order that paternity is legally established.~~

595 (C) For a non-marital child in an intact family, it is incurred on the date of
596 adoption or the date of the filing of an acknowledgement of paternity that
597 paternity is legally established.

598 (D) For a non-marital maternal child in an intact family, it is incurred on
599 the child's date of birth.

600 (3) Determine the first child support obligation as follows:

601 (aA) If the obligor is subject to an existing support order for that legal
602 obligation, except a shared-placement order, the support for that obligation
603 is the monthly amount of that order; or

604 (bB) If the obligor is in an intact family or is subject to a shared-placement
605 order, the support is determined by multiplying the appropriate percentage
606 for that number of children by the obligor's monthly income.

607 (4) Adjust the monthly income by subtracting the support for the first legal
608 obligation ~~under (3)~~ from the obligor's monthly income ~~under (1)~~.

609 (5) Determine the second child support obligation as follows:

610 (aA) If the obligor is subject to an existing support order for that legal
611 obligation, except a shared-placement order, the support for that obligation
612 is the monthly amount of that order; or

613 (bB) If the obligor is in an intact family or is subject to a shared-placement
614 order, the support is determined by multiplying the appropriate percentage
615 for that number of children by the obligor's monthly income.

616 (6) Adjust the monthly income a second time by subtracting the support for the
617 second legal obligation ~~determined under (5)~~ from the first adjusted monthly
618 income ~~under (4)~~.

619 (7) Repeat the procedure ~~under (5) and (6)~~ for determining the child support
620 ~~obligation and adjusting the monthly income~~ for each additional legal obligation
621 for child support the serial family obligor has incurred.

622 (8) Multiply the appropriate percentage for the number of children subject to the
623 new order by the final adjusted monthly income ~~determined in either (6) or (7)~~ to
624 determine the new child support obligation.

625 704.8-2. 1.4-2. Determining the Child Support Obligations of Shared-Placement Parents.

626 (a) Applicability. The shared-placement formula may be applied when both of the
627 following conditions are met:

628 (1) Both parents have periods of placement of at least twenty-five percent (25%)
629 or ninety-two (92) days a year. ~~When calculating periods of placement based on~~
630 ~~equivalent care, the total number of overnights may exceed three hundred and sixty-~~
631 ~~five (365). The period of placement for each parent shall be determined by~~
632 ~~calculating the number of overnights or equivalent care ordered to be provided by~~
633 ~~the parent and dividing that number by 365. the total number of overnights in a~~
634 ~~year. The combined periods of placement for both parents shall equal the total~~
635 ~~number of overnights. 100%.~~

636 (2) Each parent is ordered by the Family Court to assume the child's basic support
637 costs in proportion to the time that the parent has placement of the child.

638 (b) Determination. The child support obligations for parents who meet the requirements
639 ~~of (a)~~ for the shared-placement formula may be determined as follows:

640 (1) Determine each parent's monthly income.

641 (A) In determining whether to impute income based on earning capacity
642 for an unemployed parent or a parent employed less than full time ~~under~~

643 1.3-2, the Family Court shall consider benefits to the child of having a
644 parent remain in the home during periods of placement and the additional
645 variable day care costs that would be incurred if the parent worked more.

646 (2) Multiply each parent's monthly income by the appropriate percentage standard
647 under 704.7.

648 (3) Multiply each amount determined under ~~(2)~~ section 704.8-2(b)(2) by **one**
649 **hundred and fifty percent (150%).**

650 (4) Multiply the amount determined for each parent under ~~(3)~~ section 704.8-2(b)(3)
651 by the proportion of the time that the child spends with the other parent to determine
652 each parent's child support obligation.

653 (5) Offset resulting amounts under ~~(4)~~ section 704.8-2(b)(4) against each other.
654 The parent with a greater child support obligation is the shared-placement obligor.
655 The shared-placement obligor shall pay the lesser of the amount determined under
656 this section or the amount determined using the appropriate percentage standard
657 under 704.7. If the shared-placement obligor is also a low-income obligor, the child
658 support obligation may be the lesser of the amount determined under ~~this section~~
659 ~~or under 1.4-4~~ the shared placement determination or the low-income
660 determination.

661 (6) In addition to the child support obligation determined under ~~(5)~~ section 704.8-
662 ~~2(b)(5)~~, the Family Court shall assign responsibility for payment of the child's
663 variable costs in proportion to each parent's share of physical placement, with due
664 consideration to a disparity in the parents' incomes.

665 (A) The Family Court shall direct the manner of payment of a variable cost
666 order to be either between the parents or from a parent to a third-party
667 service provider.

668 (B) The Family Court shall not direct payment of variable costs to be made
669 to the Agency or the Agency's designee, except as incorporated in the ~~fixed~~
670 ~~sum or percentage expressed~~ child support order.

671 (7) A change in the child's variable costs shall not in and of itself be considered a
672 substantial change in circumstances sufficient to justify a modification of a
673 judgment or order under section 704.10.

674 704.8-3.1.4-3. *Determining the Child Support Obligations of Split-Placement Parents.*

675 (a) *Applicability.* The split-placement formula may be applied when ~~For~~ parents ~~who~~ have
676 two (2) or more children and each parent has placement of one (1) or more but not all of
677 the children, the child support obligations may be determined as follows:

678 (b) *Determination.* The child support obligation for a split-placement parent may be
679 determined as follows:

680 (a1) Determine each parent's monthly income.

681 (b2) Multiply each parent's monthly income by the appropriate percentage for the
682 number of children placed with the other parent to determine each parent's child
683 support obligation. Determine the appropriate percentage standard for the number
684 of total children.

685 (3) Divide the appropriate percentage standard for the number of total children by
686 the total number of children.

687 (4) Multiply the number calculated in section 704.8-3(b)(3) by the number of
688 children placed with each parent.

689 (5) Multiply each parent's monthly income by the number calculated in 704.8-
690 3(b)(4) based on the number of children placed with the other parent to determine
691 each parent's child support obligation; and
692 (e6) Offset resulting amounts under (b) section 704.8-3(b)(5) against each other.
693 The parent with a greater child support obligation is the split-placement obligor.

694 704.8-4.1.4-4. Determining the Child Support Obligation of a Low-Income Obligor.

695 (a) Applicability. If an the obligor's total economic circumstances limit his or her ability
696 to pay support at the level determined under 704.7 by the standard percentage standards,
697 then the low-income obligor standards found in the Child Support Obligation of Low-
698 Income Payers Schedule may be used.

699 (b) Determination. The Family Court may use the monthly support amount provided in
700 the schedule in Appendix A Child Support Obligation of Low-Income Payers Schedule as
701 the support amount for an obligor with a per monthly income at a level set forth in the
702 schedule if the obligor's total economic circumstances limit his or her ability to pay support
703 at the level determined under 704.7.

704 (1) If an obligor's monthly income is below the lowest income level in Appendix
705 A the Child Support Obligation of Low-Income Payers Schedule, the Family Court
706 may set an order at an amount appropriate for the obligor's total economic
707 circumstances. This amount may be lower than the lowest support amount in
708 Appendix A the Child Support Obligation of Low-Income Payers Schedule. (b) The
709 Agency shall revise the schedule in Appendix A at least once every four (4) years.
710 The revision shall be based on changes in the federal poverty guidelines since the
711 schedule was last revised.

712 704.8-1. The child support order shall provide for immediate wage withholding. An order to
713 withhold income shall be binding against future payors upon actual notice of the order through
714 service by personal delivery or certified mail upon the payor. Wages shall not be subject to
715 withholding only where:

716 (a) One of the parties demonstrates and the Family Court finds that there is good cause not
717 to require wage withholding due to one of the following:

718 (1) There is an error in the amount of current or overdue support; or

719 (2) The identity of the obligor is mistaken.

720 (b) The parties reach a written agreement which provides for an alternative arrangement
721 and is approved by the Family Court.

722 704.8-2. The Family Court may require a party, or both parties, to utilize the services available to
723 him or her to obtain and maintain regular employment and/or job training.

724 704.8-3. Support Order Notice Requirements. Each order for child support shall include an order
725 that the obligor and obligee notify the Agency of any change of address or name change within
726 ten (10) business days of such change. Each order for child support shall also include an order that
727 the obligor notify the Agency and the obligee of any change of employer or substantial change of
728 income within ten (10) business days of the change. A "substantial change of income" means the
729 obligor has a significant change in his or her finances that would lead to a change in child support
730 of either more than fifteen percent (15%) or fifty dollars (\$50.00) per month. An order under this
731 section is enforceable as contempt.

732 704.8-4. Collection and Distribution of Child Support. The Agency shall collect and distribute
733 child support monies pursuant to regulations set forth in the Social Security Act 45 CFR 309.115.

734

735 **704.9. Child Support Order Enforcement of Order**

736 704.9-1. 1.3.5. Expression of Ordered Support. The child support amount shall be expressed as
737 a fixed sum unless the parties have stipulated to expressing the amount as a percentage of the
738 obligor's income and the stipulation requirements of Chapter 704 are satisfied.

739 704.9-42. Interest on Arrears. The Tribe-Nation shall not charge a party an obligor ordered to
740 pay child support interest on any arrears.

741 704.9-23. Income Wage Withholding. The child support order shall provide for immediate wage
742 income withholding.

743 (a) A copy of the Family Court's wage-income withholding order shall be sent by the
744 Agency to a payor within three (3) business days of the entry of the order of the Family
745 Court by any business method acceptable to the payor mail, fax, or electronic means.

746 (b) An order to withhold income shall be binding against future payors upon actual notice
747 of the income withholding order through service notice by mail, fax, or electronic means.
748 personal delivery or certified mail upon the payor.

749 (c) Income wages shall not be subject to withholding only where:

750 (a1) One of the parties demonstrates, and the Family Court finds, that there is good
751 cause not to require income wage withholding due to one of the following:

752 (+A) There is an error in the amount of current or overdue support; or

753 (2B) The identity of the obligor is mistaken.

754 (b2) The parties reach a written agreement which provides for an alternative
755 arrangement that is approved by the Family Court.

756 (bd) No payor shall refuse to honor a wage an income withholding order executed pursuant
757 to this law. A payor shall begin withholding income immediately after notice service of a
758 wage-an income withholding order made pursuant to this law. Within five (5) business
759 days after the payor pays the obligor, the payor shall send the amount withheld to the
760 Agency Wisconsin Support Collections Trust Fund.

761 (ee) A payor shall be liable for one hundred percent (100%) of the child support order, or
762 the amount of money that should have been withheld from the obligor's earnings,
763 whichever is the lesser amount, if the payor:

764 (1) Fails or refuses, after being noticed of served with an income withholding order,
765 to deduct or promptly remit the amounts of money required in the order; or

766 (2) Fails or refuses to submit an answer to the notice of wage-income withholding
767 after being noticed served; or

768 (3) Is unwilling to comply with the other requirements of this law.

769 (df) A payor shall not discharge from employment, refuse to employ, or otherwise take
770 disciplinary action against any obligor solely because he or she is subject to wage-income
771 withholding.

772 (1) When the Family Court finds that a payor has taken any of these actions, the
773 payor shall be liable for a civil penalty. Any payor who violates any provision of
774 this paragraph shall be liable in a civil action for reasonable damages suffered by
775 an obligor as a result of the violation, and an obligor discharged or demoted in
776 violation of this paragraph shall be entitled to be reinstated to his or her former
777 position.

778 (2) The statute of limitations for actions under this section shall be one (1) year.

779 (eg) A payor who repeatedly fails to comply with a wage an income withholding order as
780 required by this law may be subject to a fine, not to exceed five hundred dollars (\$500), or

781 have its Oneida vendor license revoked or suspended, if applicable, until compliance with
782 this law is assured.

783 (1) The vendor license issuing agency shall comply with the Family Court order to
784 revoke or suspend a vendor license.

785 (fh) If wage income withholding is inapplicable, ineffective or insufficient to ensure
786 payment of child support, the Family Court may require the obligor to establish an account
787 for the purpose of transferring child support payments.

788 (gi) The total amount withheld under an income withholding order shall not exceed the
789 maximum amount permitted under section 303(b) of the Consumer Credit Protection Act
790 (15 U.S.C. §1673(b)).

791 (hj) Non-Indian off-reservation payors shall be subject to income withholding under 28
792 U.S.C. §1738B.

793 704.9-4. ~~704.8-2.~~ *Conditions of the Order.* The Family Court may require a party, or both parties,
794 to use the services available to him or her to obtain and maintain regular employment and/or job
795 training.

796 704.9-5. *Support Order Notice Requirements.* Each order for child support shall include:

797 (a) ~~a~~An order that the obligor and obligee notify the Agency of any change of address or
798 name change within ten (10) business days of such change; and

799 (b) ~~Each order for child support shall also include a~~ An order that the obligor notify the
800 Agency and the obligee of any change of employer or substantial change of income within
801 ten (10) business days of the change. A “substantial change of income” means the obligor
802 has a significant change in his or her finances that would lead to a change in child support
803 of either more than fifteen percent (15%) or fifty dollars (\$50.00) per month. An order
804 under this section is enforceable as contempt.

805 704.9-6. *Enforcement of Order.* A child support order under this section is enforceable as
806 contempt.

807 704.9-7. *Collection and Distribution of Child Support.* The Agency shall collect and distribute
808 child support monies pursuant to regulations set forth in the Social Security Act 45 CFR 309.115.

809 704.9-8. ~~4.3-6~~ *Trust.* The Family Court may protect and promote the best interests of the minor
810 children by setting aside a portion of the child support that either party is ordered to pay in a
811 separate fund or trust for the support, education, and welfare of such children.

812 704.7-49-9. *Non-Cash Payments.*

813 (a) Non-cash payments may be used to satisfy part or all of a child support order if the
814 parties and the Family Court agree to allow non-cash payments. Non-cash payments shall
815 not be used to fulfill arrears. If non-cash payments are allowed, the order shall:

816 (1) state the specific dollar amount of the support obligation;

817 (2) state the maximum amount (in dollars) of non-cash payment that the obligee
818 will accept;

819 (3) describe the type(s) of non-cash payment that is permitted;

820 (4) provide that non-cash payment cannot be used to satisfy assigned child support
821 obligations.

822 (b) When both parents are in agreement that non-cash payments may be used to satisfy a
823 child support obligation, the non-cash payment may include, but is not limited, to the
824 following:

825 (1) Clothing;

826 (2) Groceries;

827 (3) Child Care;

828 (4) Deer/Venison;

- 829 (5) Wood;
830 (6) Transportation;
831 (7) Skilled trades or services, such as car repairs, lawn care and snow removal;
832 and/or
833 (8) Gift cards.

834 (c) When a non-cash payment is used to satisfy part or all of a child support order, the
835 obligor and obligee shall submit any forms required by the Agency within the month that
836 the non-cash payment is made. If there are less than five (5) business days left in the month
837 when a non-cash payment is made, the obligor and obligee have five (5) business days to
838 submit any required forms to the Agency. The Agency shall be responsible for applying
839 the non-cash payment towards the child support order during the appropriate month.

840 ~~704.9-3. In the event that an obligor is at least one (1) month delinquent in paying his or her child~~
841 ~~support obligation, he or she may be subject to the following enforcement actions:~~

- 842 ~~(a) increase in amount of wages withheld~~
843 ~~(b) placement on lien docket;~~
844 ~~(c) credit bureau reporting;~~
845 ~~(d) intercept of income and/or other payments;~~
846 ~~(e) seizure of personal property;~~
847 ~~(f) suspension of licenses;~~
848 ~~(g) denial of passport;~~
849 ~~(h) commitment to jail;~~
850 ~~(i) charge of contempt;~~
851 ~~(j) referral for criminal charges;~~
852 ~~(k) any other enforcement action included in this law or in a rule that is established under~~
853 ~~this law.~~

854 ~~Cross-reference: See also Rule CS 2 ENFORCEMENT TOOLS.~~

855

856 **704.10. Modification of a Child Support Order**

857 704.10-1. Review of the Child Support Order. Every two (2) years, the Agency shall conduct a
858 review of the child support order. The Agency shall notify the non-custodial parent, custodial
859 parent, and any interested party that a review of their child support order will shall be conducted.

860 704.10-2. Modification of Child Support Sought by the Agency. After the two (2) year review is
861 conducted by the Agency, the Agency shall seek an order to modify the child support obligation if
862 there is a substantial change in circumstances, unless otherwise stipulated by the parties ~~an order~~
863 ~~to update the child support obligation will be sought by the Agency if there is a substantial change~~
864 ~~in circumstances.~~ A substantial change in circumstance ~~means~~ includes, but is not limited to:

- 865 (a) the child's placement is changed;
866 (b) either parent or the child has a significant change in his or her finances that would lead
867 to a change in child support of ~~either~~ more than fifteen percent (15%) ~~or~~ and fifty dollars
868 (\$50.00) per month;
869 (c) the obligee is receiving public assistance benefits and is required to have a current
870 support order in place;
871 (d) it has been twenty-four (24) months since the date of the last child support order or
872 revision to the child support order, unless the child support amount is expressed as a
873 percentage; or
874 (e) a change has occurred and if the current circumstances had been in place at the time
875 the order was issued, a significantly different order would have been issued.

876 704.10-23. *Modification of Child Support Sought by the Parties.* Either party may file a motion
877 for a modification of a child support order at any time based upon a substantial change of
878 circumstances supported by affidavit.

879 (a) Such motion shall state why the previous decision should be prospectively modified.

880 (b) The motion and affidavit shall be served by the moving party on the responding party
881 by first-class mail to the recently verified last-known address, or by any method provided
882 by law.

883 (c) A hearing date shall be scheduled no sooner than ten (10) calendar days after the date
884 of service.

885 704.10-34. An obligor shall not raise a change in circumstances as a reason not to pay a past due
886 reward. If a child support award becomes unjust due to a substantial change in circumstances of
887 the obligor, the obligor has the duty to file a petition or motion with the Family Court for a changed
888 award at that time. He or she may not raise that change in circumstances as a reason not to pay a
889 past due award.

890 ~~704.10-4. A change in the percentages shall constitute a substantial change in circumstances and~~
891 ~~shall justify prospective modification of a child support order.~~

892

893 **704.11. Modification of a Child Support Order for an Incarcerated Parent** ~~Full Faith and~~ 894 ~~Credit for Foreign Child Support Orders~~

895 704.11-1. In the event an obligor is incarcerated for one hundred and eighty (180) days or more,
896 the obligor shall have the right to have the Agency review his or her child support order to
897 determine if modification or suspension of the child support order is appropriate.

898 (a) An ordered child support obligation shall be suspended for an incarcerated obligor who
899 has been sentenced to one hundred and eighty (180) days or more and has an income of
900 less than two hundred dollars (\$200) per month.

901 (b) If while incarcerated the obligor's income is two hundred dollars (\$200) or more per
902 month the Agency shall review the order and seek temporary modification of the child
903 support order based on the incarcerated obligor's income, if necessary.

904 (c) Child support obligations shall not be suspended or modified for an obligor who is
905 incarcerated for a criminal offense which includes:

906 (1) felony failure to pay support;

907 (2) a crime against a child; and/or

908 (3) a crime against the obligee.

909 (d) Past due child support related debt and/or arrears shall not be suspended or reduced as
910 a result of the obligor's incarceration without stipulation by the parties.

911 704.11-2. Notification of Review. Within fifteen (15) business days of the receipt by the Agency
912 of verification of the obligor's incarceration, the Agency shall send out a letter to the parties of the
913 case informing them of the obligor's right to have his or her child support obligation reviewed,
914 and of the Agency's intent to review the current child support order.

915 704.11-3. Agency Review of Order. The Agency shall review the obligor's child support order
916 and make one of the following determinations:

917 (a) that the obligor's income while incarcerated is two hundred dollars (\$200) or more per
918 month, and the Agency shall seek temporary modification of the obligor's child support
919 order based on the incarcerated obligor's income, if necessary; or

920 (b) that the obligor's income while incarcerated is less than two hundred dollars (\$200)
921 per month, and the Agency shall seek temporary suspension of the obligor's child support
922 order while incarcerated.

923 704.11-4. *Suspension of Order by the Agency.* If the Agency determines the obligor's income is
924 less than two hundred dollars (\$200) per month while incarcerated, the Agency shall file with the
925 Family Court a Motion and Order to Suspend without a request for a hearing with notice to all
926 parties that the child support order shall be suspended.

927 (a) Either party shall have the right to object to the suspension of the order within ten (10)
928 business days of the date of the notice by filing such objection with the Family Court and
929 providing a copy of the objection to the Agency.

930 (b) If no objection to the suspension is received, the Family Court shall enter the order as
931 proposed.

932 (c) Upon receipt of an objection from either party, the Family Court shall schedule a
933 hearing on the issue.

934 704.11-5. *Modification of Order by the Agency.* If the Agency determines the obligor's income
935 is two hundred dollars (\$200) per month or more while incarcerated, the Agency shall file with the
936 Family Court a Motion and Order to Modify without a request for a hearing with notice to all
937 parties with the proposed modification to the child support order.

938 (a) Either party shall have the right to object to the modification of the order within ten
939 (10) business days of the date of the notice by filing such objection with the Family Court
940 and providing a copy of the objection to the Agency.

941 (b) If no objection to the modification is received, the Family Court shall enter the order
942 as proposed.

943 (c) Upon receipt of an objection from either party, the Family Court shall schedule a
944 hearing on the issue.

945 704.11-6. *Modification of the Order by the Incarcerated Parent.* In addition to the responsibility
946 of the Agency to review and take action on this matter, the incarcerated parent may seek
947 modification of his or her own child support order by filing a motion to modify with the Family
948 Court in accordance with section 704.10-3.

949 704.11-7. If during the term of incarceration, the Agency receives notification of a change in the
950 obligor's employment and/or income, the Agency shall review the obligor's order and determine
951 if the obligor's income is two hundred dollars (\$200) or more per month, and whether it is
952 necessary to temporarily modify or suspend the obligor's child support order.

953 (a) If the Agency determines that suspension of the obligor's order is necessary, then the
954 procedure for filing a Motion and Order to Suspend without a request for a hearing
955 described in section 704.11-4 shall be followed.

956 (b) If the Agency determines that modification of the obligor's order is necessary, then the
957 procedure for filing a Motion and Order to Modify without a request for a hearing described
958 in section 704.11-5 shall be followed.

959 704.11-8. *Reinstatement of Prior Order.* Sixty (60) days after the obligor's release from
960 incarceration, the child support order shall be reinstated to the previous child support order in effect
961 before the suspension or modification of the order based on the obligor's incarceration.

962 (a) The Agency shall send notice to both parties of the obligor's release from incarceration
963 and the intent of the Agency to reinstate the original order.

964 (b) The parties shall have ten (10) business days from the date of the notice from the
965 Agency to file an objection to the reinstatement of the child support order with the Family
966 Court, and to provide a copy of the objection to the reinstatement to the Agency.

967 (c) If no objection is received, the Family Court shall enter the proposed order.

968 (d) Upon receipt of an objection from either party, the Family Court shall schedule a
969 hearing on the issue.

970 704.11-9. If after release from incarceration the obligor's probation or extended supervision is
971 revoked, and he or she is sentenced for a subsequent one hundred and eighty (180) days or more
972 the Agency shall use the provisions of this section to determine if the suspension or modification
973 of the obligor's child support order based on the incarceration of the obligor is appropriate.

974 704.11-1. Properly issued child support orders, and judgments or decrees of other Indian tribes,
975 tribal organizations and states, that relate to child support shall be recognized and modified in
976 accordance with the requirements under the Full Faith and Credit for Child Support Orders Act,
977 28 U.S.C. 1738B.

978 704.11-2. A foreign order is authenticated by reasonable proof that the document tendered to the
979 Family Court is a true copy of the foreign order as it is recorded in the agency or court of the
980 issuing jurisdiction. An authentication stamp issued by a court clerk or custodian of records, or a
981 court seal, is sufficient evidence of authenticity.

982 704.11-3. Unless defects in jurisdiction are apparent on the face of the foreign order, the person
983 contesting enforcement of the order has the burden of showing the order is not valid. Upon a
984 failure to respond to notice of the order and to timely contest it, the Family Court shall enforce it
985 as a Family Court order.

986 704.11-4. If a foreign order is brought before the Family Court solely for an interpretation of the
987 terms of the order, and the order has been recognized and given full faith and credit by the
988 Family Court, the Family Court shall interpret the order by applying the law of the forum that
989 issued the foreign order.

990
991 **704.12. Compliance Plan-Right of Appeal**

992 704.12-1. 2.3-1. The Agency shall attempt to meet with a party who is found to be subject to
993 enforcement action as soon as possible by sending a Letter of Non-Compliance within five (5)
994 business days of being informed of a party's failure to either pay support as ordered or to meet a
995 required obligation or action. If at any time the Agency believes an obligor is, or may become,
996 non-compliant with his or her child support order by failing to pay support as ordered or meeting
997 a required obligation or action, the Agency shall attempt to engage with the obligor through the
998 development of a compliance plan.

999 704.12-2. A Letter of Non-Compliance may be sent by the Agency at any time deemed
1000 appropriate, but the Agency shall send out the Letter of Non-Compliance at least thirty (30) days
1001 prior to the initiation of any enforcement action.

1002 (a) The Letter of Non-Compliance shall set out the conditions the party has failed to
1003 comply with, outline the enforcement actions that may be taken, and request the party meet
1004 with the Agency.

1005 (b) If the party does not respond to the Letter within five (5) business days after receipt of
1006 the letter, the Agency shall send a second Letter.

1007 (c) If the party fails to respond to the second Letter within five (5) business days after
1008 receipt of the letter, the Agency may proceed with appropriate enforcement action.

1009 (c) If the party responds to the Letter, the Agency shall interview the party to determine
1010 the reasons and barriers for the non-compliance and create a compliance plan. The
1011 compliance plan may include an increase in payment and/or any activity that is necessary
1012 to ensure payment, including programs that focus on:

- 1013 (1) Employment and training;
- 1014 (2) Social service and mental health;
- 1015 (3) Physical and learning disabilities;
- 1016 (4) Tribal traditions and customs;

1017 (5) Family counseling and parenting; and

1018 (6) Any other program deemed necessary.

1019 (d) If the party successfully completes the compliance plan, no further enforcement action
1020 is necessary. However, if the party fails to complete the compliance plan, the Agency shall
1021 proceed with appropriate enforcement action.

1022 704.12-1. Any enforcement action implemented by the Agency may, within thirty (30) calendar
1023 days after the date that the action is enforced, be appealed to the Family Court. The decision of
1024 the Family Court shall be final.

1025 704.12-2. If the Family Court conducts a hearing under this law, a party may, within thirty (30)
1026 calendar days after the date that the Family Court makes a decision, appeal that decision to the
1027 Court of Appeals of the Judiciary. The appellate body review shall be based on the record and
1028 the original decision of the Family Court.

1029
1030 **704.13. Enforcement of an Order**

1031 704.13-1. An obligor may be subject to enforcement actions when the obligor is at least one (1)
1032 month delinquent in paying his or her child support obligation. Enforcement actions may include
1033 administrative enforcement action by the Agency and enforcement action by the Family Court.

1034 (a) An obligor shall be provided with notice of an enforcement action of at least thirty (30)
1035 days before an enforcement action is used, unless another timeline is specified.

1036 (b) An enforcement action shall be stayed and/or suspended after notice is given to the
1037 obligor if the obligor pays the debt in full or enters into, and maintains, an alternative
1038 payment plan and/or a compliance plan with the Agency.

1039 704.13-2. ~~704.9-1.~~ Agency Responsibilities in the Enforcement of an Order. The Agency shall
1040 have the following responsibilities in the enforcement of an order:

1041 (a) Track and document the progress of an obligor who is under an enforcement action;

1042 (b) Take additional enforcement action when an obligor fails to comply with a previous
1043 enforcement action;

1044 (c) Document the reasons why an enforcement action is not taken, when such action would
1045 have been appropriate under the circumstances; and

1046 (d) Refund amounts that were improperly withheld, terminate income withholding when
1047 appropriate, and allocate amounts across multiple cases.

1048 704.13-3. ~~2.4.2~~ Notice to the Obligor of Delinquency. In the event that an obligor owes a debt
1049 equal to or exceeding the monthly amount due, the Agency shall send a notice of delinquency to
1050 the obligor. ~~(a)~~ The notice of delinquency shall inform the obligor of the following:

1051 ~~(1) The dates that the delinquency accrued;~~

1052 ~~(2a) The total amount of the delinquency; and~~

1053 ~~(3) Any prior agreement or showing of good cause to not wage withhold may be~~
1054 ~~terminated and the obligor may be subject to wage withholding;~~

1055 ~~(4b) The enforcement action that may be taken as a result of the delinquency.~~

1056 ~~(5) The obligor may request, in writing to the Agency, to negotiate an alternative~~
1057 ~~payment plan with the Agency within ten (10) business days after the service of~~
1058 ~~notice in order to stay any enforcement action;~~

1059 ~~(6) The obligor has ten (10) business days after the service of the notice of~~
1060 ~~delinquency to file an objection with the Agency presenting good cause why an~~
1061 ~~arrears payment or other enforcement action should not be implemented. The~~
1062 ~~only allowable objections are:~~

1063 ~~(A) There is an error in the amount of current or overdue support; or~~

1064 ~~(B) The identity of the obligor is mistaken.~~
1065 704.13-4. Notice to the Obligor of Enforcement Action. After the obligor has been noticed of his
1066 or her delinquency, and at least thirty (30) days prior to an enforcement being used against an
1067 obligor, the Agency shall send a notice of enforcement action to the obligor.

1068 (a) The notice of enforcement action shall inform the obligor of the following:
1069 (1) The total amount of the delinquency;
1070 (2) The enforcement action that may be taken as a result of the delinquency;
1071 (3) The obligor may request, in writing to the Agency, to negotiate an alternative
1072 payment plan with the Agency within ten (10) business days after the notice in order
1073 to stay any enforcement action;
1074 (4) The obligor has ten (10) business days after the notice of enforcement action to
1075 file an objection with the Agency presenting good cause why an arrears payment
1076 or other enforcement action should not be implemented. The only allowable
1077 objections are:

1078 (A) There is an error in the amount of current or overdue support; or
1079 (B) The identity of the obligor is mistaken.

1080 (b) If the obligor does not file an objection or request to negotiate an alternative payment
1081 plan:

1082 (1) the enforcement action shall be taken; and/or
1083 (2) an ~~income wage~~ withholding order, or revised order if one is already in place,
1084 shall be imposed on the payor. No more than an additional twenty percent (20%)
1085 of the current support payment order can be withheld to satisfy the delinquency
1086 provided that the total amount withheld does not exceed forty percent (40%) of the
1087 obligor's monthly income.

1088 (c) If a permissible objection is filed, the obligor shall be entitled to a hearing before any
1089 enforcement action is taken.

1090 704.13-5. ~~2.4-3~~ Use of Mail for Notices. The Agency shall send notices related to the delinquency
1091 of an obligor and enforcement of a child support order by mail to the last-known mailing address
1092 provided by the obligor.

1093 (a) If the notice is returned, the Agency shall send notice to the obligor using the current
1094 employer mailing address provided by the obligor.

1095 (b) If the notice to the obligor mailed to the obligor's employer is returned, the Agency
1096 shall use all appropriate tribal, federal, state and local resources to ascertain an obligor's
1097 current mailing address.

1098 (c) If those resources are used for a period of sixty (60) days and a verified mailing address
1099 has not been identified, the Agency may proceed with the administrative enforcement
1100 action.

1101 704.13-6. ~~2.4-4~~ Notice to the Obligee of Enforcement Proceedings. The Agency shall provide
1102 written notice to the obligee when an enforcement action has been initiated against the obligor or
1103 when the obligor requests a hearing and the hearing has been scheduled. The notice to the obligee
1104 shall be sent at the same time notice is sent to the obligor.

1105 704.13-7. ~~2.4-5~~ Notice to Individuals Other Than the Obligor with a Recorded Ownership Interest
1106 in Property. The Agency shall provide notice related to the seizure of property to any individual,
1107 other than the obligor, with a recorded ownership interest in property subject to seizure. The
1108 individual may request a hearing for a determination of the proportion of the value of the property
1109 that is attributable to his or her net contribution to the property. The hearing shall be requested
1110 within thirty (30) days after the notice was received by the individual.

1111

1112 **704.14. Alternative Payment Plans**

1113 704.14-1.2.9-1 Applicability of Alternative Payment Plans. When an obligor is subject to
1114 administrative enforcement action, he or she may negotiate an alternative payment plan with the
1115 Agency.

1116 704.14-2.2.9-2 Negotiation of an Alternative Payment Plan After Receiving Notice of an
1117 Enforcement Action.

1118 (a) In order to negotiate an alternative payment plan, an obligor shall submit a written
1119 request to the Agency.

1120 (1) A written request to negotiate an alternative payment plan received by the
1121 Agency within ten (10) business days after the date of notice shall stay any
1122 administrative enforcement action.

1123 (2) If a written request to negotiate an alternative payment plan is received by the
1124 Agency more than ten (10) business days after the date of notice, administrative
1125 enforcement action may be taken, as long as the requirements of ~~2.9-3 and 2.9-4~~
1126 ~~for staying or suspension of administrative enforcement actions~~ are met.

1127 (b) An obligor may negotiate a plan with the Agency to have a license issued or renewed
1128 after it has been restricted, limited, suspended or refused.

1129 (c) Hearings for Negotiations of an Alternative Payment Plan. The obligor may submit a
1130 written request for a hearing ~~on the reasonableness of the plan within ten (10) business~~
1131 ~~days after the terms of the plan are agreed upon~~ with the Family Court regarding
1132 negotiations of an alternative payment plan in the following circumstances:

1133 (1) The obligor and the Agency have agreed to terms of a plan, but the obligor
1134 wants the Family Court to consider the reasonableness of the plan.

1135 (A) ~~The the obligor may submit this a~~ written request for a hearing on the
1136 reasonableness of the plan within ten (10) business days after the terms of
1137 the plan are agreed upon.

1138 (2) ~~If the Agency and the obligor~~ The obligor and the Agency are unable to reach
1139 agreement on the terms of a plan ~~a hearing may be conducted~~.

1140 (A) The Family Court may order a plan by setting conditions and/or
1141 payments in the amounts and at the times it considers reasonable.

1142 (d) ~~2.9-5. Proceeding with Administrative Enforcement Actions.~~ The Agency may
1143 continue with the administrative enforcement action if:

1144 (1~~a~~) the obligor and the Agency are unable to negotiate a plan;

1145 (2~~b~~) the Family Court determines that the plan is not reasonable; and/or

1146 (3~~e~~) the Family Court does not order a plan.

1147 704.14-3. 2.9-6 Disclosure of Income and Assets. The request to negotiate a plan shall include an
1148 agreement by the obligor to provide the Agency with a full disclosure of income and assets
1149 available. The obligor shall provide complete income and assets information to the Agency within
1150 five (5) business days of the request to negotiate a plan.

1151 704.14-4. 2.9-7 Terms of an Alternative Payment Plan.

1152 (a) An alternative payment plan may include a lump-sum payment, or periodic payments
1153 on the arrears, or both, subject to the following standards:

1154 (1) The sum of any periodic payment established under the plan and any other
1155 payment of support ordered by the Family Court, when subtracted from the
1156 obligor's gross income, may not leave the obligor below one hundred percent
1157 (100%) of the poverty line established under 42 U.S.C. §9902 (2) unless the obligor
1158 agrees otherwise.

1159 (2) When establishing an alternative payment plan, the Agency shall consider the
1160 factors used by the Family Court in determining whether the use of the percentage
1161 standard is unfair to the child or any of the parties.

1162 (b) Periodic payments under the plan may be made through income withholding in
1163 amounts in addition to the amount ordered in the child support order that is in effect.

1164 704.14-5. 2.9-3. *Staying Administrative Enforcement Actions.* Administrative enforcement actions
1165 shall be stayed by the Agency while the obligor and the Agency are negotiating a plan, or, if a
1166 hearing is requested, until the Family Court determination has been made. To stay an
1167 administrative enforcement action means the following:

1168 (a) The obligor shall not be certified for denial, nonrenewal, restriction, or suspension of
1169 professional, occupational, fishing, recreational, motor vehicle and/or Oneida-issued

1170 licenses any State or Oneida-issued licenses;

1171 (b) Any frozen financial accounts shall remain frozen and shall not be seized; and

1172 (c) Personal property that has been seized shall not be sold.

1173 704.14-6. 2.9-4. *Suspension of Administrative Enforcement Actions.*

1174 (a) When a plan has been negotiated between the obligor and the Agency, or the Family
1175 Court has determined that a plan is reasonable or has ordered a plan, the Agency shall
1176 suspend administrative enforcement actions as long as the obligor complies with the plan.

1177 (b) If an obligor makes a full arrears payment, the administrative enforcement action shall
1178 be suspended.

1179 704.14-7. 2.9-8. *Default on an Alternative Payment Plan.* In the event that the obligor defaults on
1180 the plan, the Agency shall notify the obligor in writing that an administrative enforcement action
1181 shall be implemented unless the lien is paid in full.

1182 704.14-8. 2.9-9. *Renegotiation of an Alternative Payment Plan.* After the entry of an alternative
1183 payment plan, the plan may be renegotiated upon the written request of the obligor or Agency if
1184 the requesting party can show a substantial change in circumstances. A substantial change in
1185 circumstances includes any of the following:

1186 (a) A change in the obligor's income or assets, including the sale or purchase of real or
1187 personal property.;

1188 (b) A change in the obligor's earning capacity.; and/or

1189 (c) Any other factor that the Agency determines is relevant.

1190 2.9-10. *Obligors with Cases in Multiple Jurisdictions.*

1191 (a) ~~When multiple child support agencies initiate administrative enforcement actions~~
1192 ~~against the same obligor, and the obligor negotiates an alternative payment plan with one~~
1193 ~~of the agencies, the plan does not preclude any other child support agency from~~
1194 ~~proceeding with its administrative enforcement action.~~

1195 (b) ~~If a child support agency which has a lien against property of an obligor negotiates an~~
1196 ~~alternative payment plan with the obligor, the agency may receive proceeds from the sale~~
1197 ~~of the obligor's personal property under the lien including, but not limited to, proceeds~~
1198 ~~from administrative enforcement actions taken by other child support agencies.~~

1200 **704.15. Administrative Enforcement Action**

1201 704.15-1. *The Agency shall have the authority to use administrative enforcement actions to*
1202 *enforce a child support order without obtaining an order from the Family Court in the event that*
1203 *an obligor is at least one (1) month delinquent in paying his or her child support obligations.*

1204 704.15-2. 2.5-1 Liens. The Agency shall have an obligor placed on the lien docket if the obligor
1205 owes a debt in one or more of the obligor's cases equal to or exceeding the monthly amount due
1206 or five hundred dollars (\$500.00), whichever is greater.

1207 (a) 2.5-2 Lien Amount. The lien amount on the lien docket shall equal the sum of lien
1208 amounts from the cases in which the lien amount meets or exceeds the lien threshold.

1209 (b) 2.5-3 Filing Date. The filing date on the lien docket is the date that a lien is first
1210 docketed and delivered to the register of deeds. The filing date is the effective date of the
1211 lien. The effective date does not change if the lien amount is adjusted up or down within
1212 five (5) years after the date that the lien is first docketed.

1213 (c) 2.5-4 Lien Priority. The child support lien shall have priority over all other liens on
1214 property except:

1215 (1) tax and special assessment liens;

1216 (2) purchase money mortgages;

1217 (3) construction liens;

1218 (4) environmental liens;

1219 (5) liens that are filed or recorded before the child support lien becomes effective;
1220 and

1221 (6) any other lien given priority under the law.

1222 (d) ~~(a)~~ Property subject to a lien includes personal property in which the obligor has a
1223 recorded ownership interest.

1224 (e) Effect on a Good Faith Purchaser. ~~(b)~~ A child support lien is not effective against a
1225 good faith purchaser of titled personal property unless the lien is recorded on the title.

1226 (f) 2.5-5 Credit Bureau Reporting. The Agency may report the total amount of an obligor's
1227 liens to the credit bureau, so long as the lien is fully enforceable and the case is not barred
1228 from credit bureau reporting.

1229 2.5-6. Denial of State-issued Grants and Loans. ~~Wisconsin state agencies may deny grants~~
1230 ~~and loans to an obligor who is placed on the lien docket. These grants and loans include~~
1231 ~~student loans and higher education grants, as well as mortgage loans from the Wisconsin~~
1232 ~~Housing and Economic Development Authority (WHEDA).~~

1233 (g) Agency Lien Responsibilities. ~~2.5-7~~ The Agency shall, either on its own or in
1234 conjunction with the State, be responsible for:

1235 (a1) updating the lien docket periodically;

1236 (b2) providing a copy of the lien docket to the appropriate register of deeds;

1237 (c3) responding to inquiries concerning information recorded on the lien docket;

1238 (d4) ensuring the satisfaction of a lien is recorded on the lien docket;

1239 (e5) renewing a lien if the lien amount equals or exceeds the lien threshold at the
1240 end of the five (5) year effective period;

1241 (1A) When a lien is renewed, the date on which the lien is renewed shall
1242 become the effective date of the lien, and a new five (5) year period shall
1243 commence.

1244 (f6) sending the obligor a notice when a lien has been renewed; and

1245 (g7) developing procedures for releasing a lien and releasing specific property from
1246 a lien.

1247 (h) 2.5-8 Financial Record Review.

1248 (a1) An obligor may request a financial record review, in writing to the Agency
1249 within ten (10) business days of the date of notice of a lien, to determine the

1250 correctness of the financial records in a case. ~~The request shall be made in writing~~
1251 ~~to the Agency.~~

1252 (b2) Upon receiving a request for a financial record review, the Agency shall, at
1253 no charge to the obligor, provide the obligor with:

- 1254 (1A) all relevant financial records;
- 1255 (2B) information explaining how to interpret the records; and
- 1256 (3C) a form the obligor may use to identify any alleged errors in the records.

1257 (e3) Within twenty (20) days after receiving the relevant financial records, the
1258 obligor may:

1259 (1A) request a meeting with the Agency to review the financial records and
1260 to discuss any alleged errors; and/or

1261 (2B) provide a statement of alleged error on the documents.
1262 (Ai) The Agency shall review the records to determine whether the
1263 alleged error is correct and provide a written determination within
1264 sixty (60) days after the obligor's request for a financial record
1265 review is received as to whether the lien against the obligor is in the
1266 correct amount.

1267 (d4) The Agency may proceed with the lien if:

1268 (1A) the obligor does not request a meeting with the Agency or provide a
1269 statement of alleged error within twenty (20) days after receiving the
1270 financial records; ~~or~~

1271 (2B) no errors are found in the financial records of the case; or

1272 (3C) the arrears exceed the required threshold amount after any errors in
1273 the financial records are corrected.

1274 704.15-3. Seizure of Property. ~~2.6-1. When seizing property.~~ The Agency shall have the authority
1275 to seize property, whether an account or personal property, of an obligor. The Agency shall
1276 presume that an obligor's equity or ownership in the property is an equal pro-rata share of the
1277 equity or ownership based on the number of individuals with a recorded ownership interest in the
1278 property.

1279 (a) ~~2.6-2 Account Seizure.~~ Once a lien is placed against an obligor, the Agency may initiate
1280 an account seizure if ~~there is a lien against an obligor and~~ the lien amount in the obligor's
1281 case equals or exceeds ~~three hundred percent (300%)~~ of the monthly amount due in the
1282 order, or ~~one thousand dollars (\$1,000)~~, whichever is greater.

1283 (a1) The Agency may not issue a notice of seizure unless the sum of the funds in
1284 all of the obligor's financial accounts, minus expected seizure fees and any early
1285 withdrawal penalty, exceeds ~~five hundred dollars (\$500)~~. The first ~~five hundred~~
1286 dollars (\$500) of each account shall not be frozen and/or seized.

1287 (b2) The notice issued by the Agency shall instruct the financial institution of the
1288 following:

1289 (1A) The maximum amount frozen in an account may not exceed the
1290 amount specified by the Agency in the notice.

1291 (2B) The maximum amount frozen in an account may not exceed the
1292 obligor's ownership interest.

1293 (3C) A financial institution is not liable for encumbering or surrendering
1294 any assets held by the financial institution in response to instructions from
1295 the Agency for the purpose of enforcing a child support order.

1296 (b) ~~2.6-3 Seizure of Personal Property-Other than Financial Accounts.~~ In addition to the

1297 ~~requirements under (a) and (b) below. Once a lien is placed against an obligor, the Agency~~
1298 ~~may initiate the seizure of personal property if there is a lien against an obligor and the lien~~
1299 ~~amount equals or exceeds six hundred percent (600%) of the monthly amount due in the~~
1300 ~~order. Upon issuance of a written order of execution, non-exempt personal property may~~
1301 ~~be seized and sold in a reasonable manner after notice to the owner in payment of a child~~
1302 ~~support obligation that has been adjudicated delinquent by the Family Court. Ceremonial~~
1303 ~~or religious property and real property are exempt from such writs of execution~~

1304 ~~(a1) Personal Property. The Agency may seize personal property if the obligor's~~
1305 ~~equity in the property, minus expected seizure fees, exceeds five hundred dollars~~
1306 ~~(\$500) per item total.~~

1307 ~~(b) The Tribe's "Disposition of Excess Tribal Property Policy" shall not apply to~~
1308 ~~any property seized under this law.~~

1309 ~~(2) Ceremonial or religious property and/or real property are exempt and shall not~~
1310 ~~be seized by the Agency.~~

1311 ~~(3) Process for Seizing Property. The Agency shall follow the following process~~
1312 ~~for seizing personal property:~~

1313 ~~(A) The Agency shall notify the obligor of the intent to request the Family~~
1314 ~~Court to issue an order of execution for the seizure of property.~~

1315 ~~(B) The Agency shall request the Family Court to grant a written order of~~
1316 ~~execution for the seizure of property. The Agency shall provide the Family~~
1317 ~~Court an affidavit that notice of this request has been provided to the~~
1318 ~~obligor.~~

1319 ~~(C) Upon issuance of a written order of execution by the Family Court,~~
1320 ~~non-exempt personal property may be seized and sold in a reasonable~~
1321 ~~manner.~~

1322 ~~704.15-4. Attachment of Per Capita Payments. The Agency may initiate the attachment and/or~~
1323 ~~seizure of per capita payments of tribal members of the Nation in accordance with applicable laws~~
1324 ~~of the Nation.~~

1325 ~~704.15-5. 2-7-2 License Suspension. (a) The Agency may initiate the suspension or denial of~~
1326 ~~occupational, fishing, recreational, motor vehicle and/or Oneida-issued licenses both State and~~
1327 ~~Oneida issued licenses if there is a lien against an obligor that equals or exceeds three hundred~~
1328 ~~percent (300%) of the monthly amount due in the child support order, or one thousand dollars~~
1329 ~~(\$1000), whichever is greater.~~

1330 ~~(a) The types of State or Oneida issued licenses that the Agency may initiate the suspension~~
1331 ~~or denial of include, but are not limited to, vendor, professional, occupational, hunting,~~
1332 ~~fishing, recreational, and/or motor vehicle licenses.~~

1333 ~~(b) Suspension of an occupational and/or motor vehicle license shall be pursued only as a~~
1334 ~~last resort and the Agency shall not initiate the suspension of an occupational and/or motor~~
1335 ~~vehicle license(s) if:~~

1336 ~~(1) there is an order in place that prohibits the suspension of the license(s);~~

1337 ~~(2) the obligor has filed for bankruptcy; or~~

1338 ~~(3) action has already been taken to suspend the license.~~

1339 ~~(bc) When an Oneida-issued license is suspended, that suspension shall be binding on and~~
1340 ~~given effect by the license issuing agencies. Orders affecting licenses issued by other~~
1341 ~~governmental agencies shall be sent to such agencies for enforcement.~~

1342 ~~704.15-6. Intercept of Lump-Sum Pension Payments, Judgments, and Settlements Intercepts.~~
1343 ~~Once an obligor has been placed on the lien docket the Agency may initiate the intercept of lump-~~

1344 sum pension payments, judgments and/or settlements when an obligor has been placed on the lien
1345 docket.

1346 (a) When initiating the intercept of lump-sum pension payments, judgments and/or
1347 settlements, the Agency shall specify in the notice that the amount withheld from the lump-
1348 sum pension payment, judgment or settlement may not exceed the obligor's ownership
1349 interest in the payment.

1350 704.15-7. Tax and Lottery Intercepts. The Agency may coordinate with a federal or state agency
1351 in order to enforce a child support order through a tax and/or lottery intercept. Once an obligor
1352 has been notified that his or her tax refund and/or lottery winnings may be intercepted, that notice
1353 is valid until all arrears are paid in full.

1354 (a) Federal Tax Intercept. The Agency may certify a federal tax intercept when the
1355 requirements pertaining to federal tax intercept contained in an agreement between the
1356 State and the Nation have been met.

1357 (b) Wisconsin State Tax and/or Lottery Intercept. The Agency may certify a Wisconsin
1358 state tax intercept and/or a Wisconsin state lottery intercept, when the lottery winnings are
1359 one thousand dollars (\$1,000) or more, when the following requirements are met:

1360 (1) The arrears shall be at least one hundred and fifty dollars (\$150);

1361 (2) The arrears shall be at least thirty (30) days old; and

1362 (3) The arrears shall be for a minor child or a child who has reached the age of
1363 eighteen (18) within the last twenty (20) year.

1364 (c) Wisconsin Lottery Intercept. When a case is certified for Wisconsin state tax
1365 intercept, it shall also be automatically certified for Wisconsin lottery intercept for lottery
1366 winnings of one thousand dollars (\$1,000) or more.

1367 704.15-8. 2.7-5 Passport Denial. If a federal tax intercept is in place and the obligor owes five
1368 two thousand five hundred dollars (\$25,500) or more in arrears, an obligor may be denied a
1369 passport. The arrears must meet the criteria for federal tax intercept in order for passport denial to
1370 be used as an enforcement tool. An obligor shall be removed from the passport denial list if:

1371 (a) The federal tax intercept certification amount is zero (0);

1372 (b) The obligor makes a lump-sum payment and/or negotiates a payment plan with the
1373 Agency;

1374 (c) The obligor has to travel abroad because of a life-or-death situation involving an
1375 immediate family member, such as the obligor's parent, guardian, step parent, child,
1376 stepchild, grandparent, sibling, step sibling, aunt, uncle or spouse; or

1377 (d) The obligor was denied a passport in error.

1378

1379 **704.16. Family Court Enforcement Action**

1380 704.16-1. 2.8-1 If the Agency does not have the authority to conduct the appropriate enforcement
1381 action, or the obligor is unresponsive to the enforcement actions being imposed by the Agency,
1382 the case shall be referred to the Family Court for enforcement. 2.8-2 The Family Court may order
1383 any of the enforcement actions the Agency is authorized to implement, in addition to the
1384 enforcement actions described in this section. In addition, the Family Court may order the
1385 following to enforce a child support order:

1386 704.16-2. 2.8-2(a) Bonds and Other Guarantees. The Family Court may require an obligor to
1387 provide a surety, bond or guarantee to secure the payment of arrears, if wage income withholding
1388 is not applicable, practical, or feasible to secure payment of arrears.

1389 704.16-3. 2-8-2(b) Claims Against Estates. (1)The Family Court may approve a claim for past
1390 and future support against an obligor’s estate. (2)The Family Court may issue a restraining order
1391 against an estate from which an obligor will inherit.

1392 704.16-4. 2-8-2(e) Community Service. The Family Court may order an obligor to perform
1393 community service. The number of hours of work required may not exceed what would be
1394 reasonable considering the amount of arrears the obligor owes. The obligor shall be provided a
1395 written statement of the terms of the community service order and that the community service
1396 order is monitored. The order shall specify:

1397 (1a) how many hours of community service the obligor is required to complete;

1398 (2b) the time frame in which the hours must be completed;

1399 (3c) how the obligor will report his or her hours; and

1400 (4d) any other information the Family Court determines is relevant.

1401 704.16-5. 2-8-2(d) Contempt. An obligor who disobeys a lawful child support order shall be
1402 subject to punishment for contempt of court.

1403 (a) An obligor found in contempt of court may be fined in an amount not to exceed one
1404 thousand dollars (\$1,000.00) per act of contempt and may not exceed five thousand dollars
1405 (\$5,000.00) in total. In instances of continuing contempt, each day shall constitute a
1406 separate act of contempt.

1407 704.16-6. 2-8-2(e) Incarceration. The Family Court may order an obligor be incarcerated;
1408 contingent on the agreements necessary to enable the Tribe to incarcerate individuals. Before a
1409 jail sentence is imposed, the Family Court may provide other conditions that require a certain
1410 amount of money be paid or action be taken for an obligor to avoid incarceration.

1411 704.16-7. 2-8-3 Criminal Non-Support. A criminal non-support action may be initiated, in the
1412 appropriate county, against an obligor who has the ability to pay child support and willfully or
1413 intentionally failed to pay and the obligor knew or reasonably should have known he or she was
1414 legally obligated to provide.

1415

1416 **704.17. Full Faith and Credit for Foreign Child Support Orders**

1417 704.17-1. Properly issued child Child support orders, and judgments, or decrees of other Indian
1418 federally recognized tribes, tribal organizations, and states, that relate to child support shall be
1419 recognized and modified in accordance with the requirements under the Full Faith and Credit for
1420 Child Support Orders Act, 28 U.S.C. 1738B.

1421 704.17-2. A foreign order is authenticated by reasonable proof that the document tendered to
1422 the Family Court is a true certified copy of the foreign order as it is recorded in the agency or court
1423 of the issuing jurisdiction. An authentication stamp issued by a court clerk or custodian of records,
1424 or a court seal, is sufficient evidence of authenticity.

1425 704.17-3. Unless defects in jurisdiction are apparent on the face of the foreign order, the person
1426 contesting enforcement of the order has the burden of showing the order is not valid. Upon a
1427 failure to respond to notice of the order and to timely contest it, the Family Court shall enforce it
1428 as an order of the Family Court order.

1429 704.17-4. If a foreign order is brought before the Family Court solely for an interpretation of
1430 the terms of the order, and the order has been recognized and given full faith and credit by the
1431 Family Court, the Family Court shall interpret the order by applying the law of the forum that
1432 issued the foreign order.

1433

1434 **704.18. Right of Appeal**

1435 704.128-1. *Appeals of Administrative Enforcement Action.* Any enforcement action implemented
1436 by the Agency may be appealed to the Family Court within thirty (30) calendar days after the date
1437 that the action is enforced, ~~be appealed to the Family Court.~~ The decision of the Family Court as
1438 to the Agency's administrative enforcement action shall be final and non-appealable.

1439 704.128-2. *Appeals of Family Court Decisions.* ~~If the Family Court conducts a hearing under this~~
1440 ~~law a~~ A party may appeal a Family Court decision, other than the decision of the Family Court in
1441 regard to administrative enforcement action as referenced in section 704.18-1, to the Nation's
1442 Court of Appeals within thirty (30) calendar days after the date ~~that the Family Court makes a~~
1443 ~~made the~~ decision, appeal that decision to the Court of Appeals of the Judiciary. The appellate
1444 body review of the Court of Appeals shall be based on the record and the original decision of the
1445 Family Court.

1446 *End.*

1448 Emergency Adopted - BC-06-30-08-C (Expired)
1449 Emergency Extended - BC-12-10-08-H (Expired)
1450 Permanently Adopted- BC-06-24-09-B
1451 Emergency Amended - BC-10-28-09-E
1452 Amended - BC-02-24-10-G
1453 Amended - BC-06-22-11-K
1454 Amended - BC-10-10-12-C
1455 Amended - BC-08-13-14-E
1456 Amended - BC- - - -

1457 **Rule CS 1**

1458 **DEVIATION FROM CHILD SUPPORT PERCENTAGE STANDARDS**

1459
1460 1.1. Introduction 1.3. Support Orders
1461 1.2. Definitions 1.4. Determining the Child Support Obligation in
1462 Special Circumstances
1463

1464
1465 **1.1. Introduction**

1466 1.1-1. *Purpose.* ~~This rule is promulgated for the purpose of determining child support when~~
1467 ~~circumstances require a deviation from the percentage standards in Chapter 704.~~

1468 1.1-2. *Applicability.* ~~This rule applies to any child support order or child support order~~
1469 ~~modification implemented under Chapter 704.~~

1470 1.1-3. *Effect of Rule Change.* ~~A modification of any provision in this rule shall not in and of itself~~
1471 ~~be considered a substantial change in circumstances sufficient to justify a revision of a judgment~~
1472 ~~or order under Chapter 704. A modification of any provision in this rule shall apply to orders~~
1473 ~~established after the effective date of the modification.~~

1474 1.1-4. ~~This rule shall be effective June 24, 2009.~~

1475
1476 **1.2. Definitions**

1477 1.2-1. ~~In this rule:~~

1478 (a) ~~“Adjusted monthly income” means the monthly income at which child support is~~
1479 ~~determined for serial family obligors, which is the obligor’s monthly income less the~~
1480 ~~amount of any existing legal obligation for child support.~~

1481 (b) ~~“Agency” means the Oneida Tribe Child Support Agency.~~

1482 (c) ~~“Basic support costs” means food, shelter, clothing, transportation, personal care, and~~
1483 ~~incidental recreational costs.~~

- 1484 ~~(d) “Child” means a person under the age of eighteen (18), or any person who is less than~~
1485 ~~nineteen (19) years old if he or she is pursuing a high school diploma or its equivalent from~~
1486 ~~an accredited course of instruction.~~
1487 ~~(e) “Child support” means the total financial obligation a parent has towards his or her~~
1488 ~~child as established through judicial and/or administrative processes.~~
1489 ~~(f) “Child Support Order” means a judgment of the Family Court or a court of competent~~
1490 ~~jurisdiction ordering payment of child support which provides monetary support, health~~
1491 ~~care, arrearages, or reimbursement, and which may include related costs and fees, income~~
1492 ~~withholding, attorneys’ fees and other relief.~~
1493 ~~(g) “Current 6 month treasury bill rate” means the yield of a U.S. government security~~
1494 ~~with a term of 6 months.~~
1495 ~~(h) “Dependent household member” means a person for whom a taxpayer is entitled to an~~
1496 ~~exemption for the taxable year under 26 USC 151.~~
1497 ~~(i) “Family Court” shall mean the judicial arm of the Tribe that is designated to handle all~~
1498 ~~matters under this Law.~~
1499 ~~(j) “Federal dependency exemption” means the deduction allowed in computing taxable~~
1500 ~~income pursuant to 26 USC 151 for a child of the taxpayer who has not attained the age of~~
1501 ~~nineteen (19) or who is a student.~~
1502 ~~(k) “Gross income” means any form of payment due to an individual regardless of source,~~
1503 ~~including, but not limited to:~~
1504 ~~(1) Salary and wages, including overtime pay.~~
1505 ~~(2) Interest and investment income.~~
1506 ~~(3) Social Security disability and old age insurance benefits under 42 USC 401 to~~
1507 ~~433.~~
1508 ~~(4) Net proceeds resulting from worker’s compensation or other personal injury~~
1509 ~~awards intended to replace income.~~
1510 ~~(5) Unemployment insurance.~~
1511 ~~(6) Income continuation benefits.~~
1512 ~~(7) Voluntary deferred compensation and voluntary employee contributions to the~~
1513 ~~following: employee benefit plan, profit-sharing, pension or retirement account.~~
1514 ~~(8) Military allowances and veterans benefits.~~
1515 ~~(9) Undistributed income of a corporation or any partnership in which the parent~~
1516 ~~has an ownership interest sufficient to individually exercise control or to access the~~
1517 ~~earnings of the business, unless the income included is an asset.~~
1518 ~~(10) Per capita distribution payments.~~
1519 ~~(11) Lease or rental income.~~
1520 ~~(12) Prizes over \$1,000.00.~~
1521 ~~(13) All other income, whether taxable or not, except that gross income does not~~
1522 ~~include any of the following:~~
1523 ~~(A) Child support.~~
1524 ~~(B) Foster care payments.~~
1525 ~~(C) Kinship care payments.~~
1526 ~~(D) Public assistance benefits, except that child care subsidy payments shall~~
1527 ~~be considered income to a child care provider.~~
1528 ~~(E) Food stamps.~~
1529 ~~(F) Public assistance or financial hardship payments paid by a county or a~~
1530 ~~tribe.~~

- 1531 ~~(G) Supplemental Security Income under 42 USC 1381 to 1383(f) and state~~
1532 ~~supplemental payments.~~
- 1533 ~~(H) Payments made for social services.~~
- 1534 ~~(l) “Income imputed based on earning capacity” means the amount of income that exceeds~~
1535 ~~the parent’s actual income and represents the parent’s ability to earn, based on the parent’s~~
1536 ~~education, training and recent work experience, earnings during previous periods, current~~
1537 ~~physical and mental health, history of child care responsibilities as the parent with primary~~
1538 ~~physical placement, and the availability of work in or near the parent’s community.~~
- 1539 ~~(m) “Income imputed from assets” means the amount of income ascribed to assets that are~~
1540 ~~unproductive and to which income has been diverted to avoid paying child support or from~~
1541 ~~which income is necessary to maintain the child or children at the standard of living they~~
1542 ~~would have if they were living with both parents, and that exceeds the actual income from~~
1543 ~~the assets.~~
- 1544 ~~(n) “Income modified for business expenses” means the amount of income after adding~~
1545 ~~wages paid to dependent household members, adding undistributed income that the Family~~
1546 ~~Court determines is not reasonably necessary for the growth of the business, and~~
1547 ~~subtracting business expenses that the Family Court determines are reasonably necessary~~
1548 ~~for the production of that income or operation of the business and that may differ from the~~
1549 ~~determination of allowable business expenses for tax purposes.~~
- 1550 ~~(o) “Intact family” means a family in which the child or children and the obligor reside in~~
1551 ~~the same household and the obligor shares his or her income directly with the child or~~
1552 ~~children and has a legal obligation to support the child or children.~~
- 1553 ~~(p) “Low income obligor” means an obligor for whom the Family Court uses the monthly~~
1554 ~~support amount provided in the schedule in Appendix A based on the Family Court’s~~
1555 ~~determination that the obligor’s total economic circumstances limit his or her ability to pay~~
1556 ~~support at the level provided under 704.7 2(a) and the obligor’s income is at a level set~~
1557 ~~forth in the schedule in Appendix A.~~
- 1558 ~~(q) “Marital child” means a child born during the marriage of his or her parents. In~~
1559 ~~addition, if the father and mother of a non marital child enter into a lawful marriage or a~~
1560 ~~marriage which appears and they believe is lawful, except where the parental rights of the~~
1561 ~~mother were terminated before either of these circumstances, the child becomes a marital~~
1562 ~~child and shall enjoy all of the rights and privileges of a marital child as if he or she had~~
1563 ~~been born during the marriage of the parents. The children of all marriages declared void~~
1564 ~~under the law are nevertheless marital children.~~
- 1565 ~~(r) “Monthly income” means the obligor’s income available for child support and is the~~
1566 ~~obligor’s annual gross income or, if applicable, the obligor’s annual income modified for~~
1567 ~~business expenses; plus the obligor’s annual income imputed based on earning capacity;~~
1568 ~~plus the obligor’s annual income imputed from assets; divided by twelve (12).~~
- 1569 ~~(s) “Parent” means the natural or adoptive parent of the child.~~
- 1570 ~~(t) “Obligee” means the person or entity to whom child support is owed.~~
- 1571 ~~(u) “Obligor” means the person who is obliged to pay child support to the obligee.~~
- 1572 ~~(v) “Serial family obligor” means an obligor with an existing legal obligation for child~~
1573 ~~support who incurs an additional legal obligation for child support in a subsequent family~~
1574 ~~as a result of a child support order.~~
- 1575 ~~(w) “Shared placement obligor” means a parent who has an ordered period of placement~~
1576 ~~of at least twenty five percent (25%), is ordered by the Family Court to assume the child’s~~
1577 ~~basic support costs in proportion to the time that the parent has placement of the child and~~
1578 ~~is determined to owe a greater support amount than the other parent.~~

1579 ~~(x) “Split-placement obligor” means a obligor who has two (2) or more children and who~~
1580 ~~has physical placement of one (1) or more but not all of the children.~~

1581 ~~(y) “Variable costs” means the reasonable costs above basic support costs incurred by or~~
1582 ~~on behalf of a child, including but not limited to, the cost of child care, tuition, a child’s~~
1583 ~~special needs, and other activities that involve substantial cost.~~

1584
1585 **1.3. Support Orders**

1586 ~~1.3.1. Determining Income Modified for Business Expenses. In determining a parent’s monthly~~
1587 ~~income, the Family Court may adjust a parent’s gross income as follows:~~

1588 ~~(a) Adding wages paid to dependent household members.~~

1589 ~~(b) Adding undistributed income that the Family Court determines is not reasonably~~
1590 ~~necessary for the growth of the business. The parent shall have the burden of proof to show~~
1591 ~~that any undistributed income is reasonably necessary for the growth of the business.~~

1592 ~~(c) Reducing gross income by the business expenses that the Family Court determines are~~
1593 ~~reasonably necessary for the production of that income or operation of the business and~~
1594 ~~that may differ from the determination of allowable business expenses for tax purposes.~~

1595 ~~1.3.2. Determining Income Imputed Based on Earning Capacity. When a parent’s income is less~~
1596 ~~than the parent’s earning capacity or is unknown, the Family Court may impute income to the~~
1597 ~~parent at an amount that represents the parent’s ability to earn, based on the parent’s education,~~
1598 ~~training and recent work experience, earnings during previous periods, current physical and mental~~
1599 ~~health, history of child care responsibilities as the parent with primary physical placement and the~~
1600 ~~availability of work in or near the parent’s community. If evidence is presented that due diligence~~
1601 ~~has been exercised to ascertain information on the parent’s actual income or ability to earn and~~
1602 ~~that information is unavailable, the Family Court may impute to the parent the income that a person~~
1603 ~~would earn by working thirty five (35) hours per week for the federal minimum hourly wage under~~
1604 ~~29 USC 206 (a)(1). If a parent has gross income or income modified for business expenses below~~
1605 ~~his or her earning capacity, the income imputed based on earning capacity shall be the difference~~
1606 ~~between the parent’s earning capacity and the parent’s gross income or income modified for~~
1607 ~~business expenses.~~

1608 ~~1.3.3. Determining Income Imputed From Assets.~~

1609 ~~(a) The Family Court may impute a reasonable earning potential to a parent’s assets if the~~
1610 ~~Family Court finds both of the following:~~

1611 ~~(1) The parent has ownership and control over any real or personal property,~~
1612 ~~including but not limited to, life insurance, cash and deposit accounts, stocks and~~
1613 ~~bonds, business interests, net proceeds resulting from worker’s compensation or~~
1614 ~~other personal injury awards not intended to replace income, and cash and corporate~~
1615 ~~income in a corporation in which the parent has an ownership interest sufficient to~~
1616 ~~individually exercise control and the cash or corporate income is not included as~~
1617 ~~gross income.~~

1618 ~~(2) The parent’s assets are underproductive and at least one (1) of the following~~
1619 ~~applies:~~

1620 ~~(a) The parent has diverted income into assets to avoid paying child~~
1621 ~~support.~~

1622 ~~(b) Income from the parent’s assets is necessary to maintain the child or~~
1623 ~~children at the standard of living they would have had if they were living~~
1624 ~~with both parents.~~

1625 ~~(b) The Family Court shall impute income to assets by multiplying the total net value of~~
1626 ~~the assets by the current 6 month treasury bill rate or any other rate that the Family Court~~

1627 ~~determines is reasonable and subtracting the actual income from the assets that were~~
1628 ~~included as gross income.~~

1629 ~~1.3-4. Adjustment for Child's Social Security. The Family Court may include benefits received~~
1630 ~~by a child under 42 USC 402(d) based on a parent's entitlement to federal disability or old age~~
1631 ~~insurance benefits under 42 USC 401 to 433 in the parent's gross income and adjust a parent's~~
1632 ~~child support obligation by subtracting the amount of the child's social security benefit. In no case~~
1633 ~~may this adjustment require the obligee to reimburse the obligor for any portion of the child's~~
1634 ~~benefit.~~

1635 ~~1.3-5. Expression of Ordered Support. The support amount shall be expressed as a fixed sum~~
1636 ~~unless the parties have stipulated to expressing the amount as a percentage of the obligor's income~~
1637 ~~and the stipulation requirements of Chapter 704 are satisfied.~~

1638 ~~1.3-6. Trust. The Family Court may protect and promote the best interests of the minor children~~
1639 ~~by setting aside a portion of the child support that either party is ordered to pay in a separate fund~~
1640 ~~or trust for the support, education, and welfare of such children.~~

1641 ~~1.3-7. Dependency Exemption. The Family Court may order the obligee to waive the federal~~
1642 ~~dependency exemption provided that the obligee's execution of the exemption waiver is made~~
1643 ~~contingent on the receipt of child support payments.~~

1644

1645 **1.4. Determining the Child Support Obligation in Special Circumstances**

1646 **1.4-1. Determining the Child Support Obligation of a Serial Family Obligor.**

1647 ~~(a) Applicability. This subsection applies only if the additional child support obligation~~
1648 ~~incurred by an obligor is the result of a child support order and the support obligation being~~
1649 ~~calculated is for children from a subsequent family or subsequent paternity judgment or~~
1650 ~~acknowledgment. An obligor may not use the provisions of this section as a basis for~~
1651 ~~seeking modification of an existing order based on a subsequently incurred legal obligation~~
1652 ~~for child support.~~

1653 ~~(b) Determination. For a serial family obligor, the child support obligation incurred for a~~
1654 ~~marital or nonmarital child in a subsequent family as a result of a child support order may~~
1655 ~~be determined as follows:~~

1656 ~~(1) Determine the obligor's monthly income;~~

1657 ~~(2) Determine the order of the obligor's legal obligations for child support by~~
1658 ~~listing them according to the date each obligation is incurred. For a marital child,~~
1659 ~~the legal obligation for child support is incurred on the child's date of birth. For a~~
1660 ~~nonmarital child, the legal obligation for child support is incurred on the date of the~~
1661 ~~child support order. For a nonmarital child in an intact family, it is incurred on the~~
1662 ~~date of adoption or the date of the filing of an acknowledgement of paternity. For~~
1663 ~~a nonmarital maternal child in an intact family, it is incurred on the child's date of~~
1664 ~~birth;~~

1665 ~~(3) Determine the first child support obligation as follows:~~

1666 ~~(a) If the obligor is subject to an existing support order for that legal~~
1667 ~~obligation, except a shared placement order, the support for that obligation~~
1668 ~~is the monthly amount of that order; or~~

1669 ~~(b) If the obligor is in an intact family or is subject to a shared placement~~
1670 ~~order, the support is determined by multiplying the appropriate percentage~~
1671 ~~for that number of children by the obligor's monthly income;~~

1672 ~~(4) Adjust the monthly income by subtracting the support for the first legal~~
1673 ~~obligation under (3) from the obligor's monthly income under (1);~~

1674 ~~(5) Determine the second child support obligation as follows:~~

- 1675 ~~(a) If the obligor is subject to an existing support order for that legal~~
1676 ~~obligation, except a shared placement order, the support for that obligation~~
1677 ~~is the monthly amount of that order; or~~
1678 ~~(b) If the obligor is in an intact family or is subject to a shared placement~~
1679 ~~order, the support is determined by multiplying the appropriate percentage~~
1680 ~~for that number of children by the obligor's monthly income;~~
1681 ~~(6) Adjust the monthly income a second time by subtracting the support for the~~
1682 ~~second legal obligation determined under (5) from the first adjusted monthly~~
1683 ~~income determined under (4);~~
1684 ~~(7) Repeat the procedure under (5) and (6) for each additional legal obligation for~~
1685 ~~child support the serial family obligor has incurred;~~
1686 ~~(8) Multiply the appropriate percentage for the number of children subject to the~~
1687 ~~new order by the final adjusted monthly income determined in either (6) or (7) to~~
1688 ~~determine the new child support obligation.~~

1689 ~~Note: The following example shows how the child support obligation is determined for a serial-~~
1690 ~~family obligor whose additional child support obligation has been incurred for a subsequent~~
1691 ~~family.~~

1692 ~~Assumptions:~~

- 1693 ~~• Parent A's current monthly income is \$3000.~~
- 1694 ~~• Parent A and Parent B were married, had a child in 1990 and divorced in 1991. Parent~~
1695 ~~A is subject to an existing support order of \$450 per month.~~
- 1696 ~~• Parent A remarries and has two children, one born in 1996 and the other in 1997, and~~
1697 ~~remains an intact family.~~
- 1698 ~~• Parent A was adjudicated the father in 1998 for a child born in 1995. Child support~~
1699 ~~needs to be established for this child.~~

1700

1701 ~~Order of parent A's legal obligation for child support:~~

- 1702 ~~• First legal obligation: one child (1990) (divorcee)~~
- 1703 ~~• Second legal obligation: 2 children (1996 and 1997) (intact family)~~
- 1704 ~~• Third legal obligation: one child (1998) (paternity)~~

1705

1706 ~~Calculation:~~

- 1707 ~~• Parent A's current monthly income \$3000.~~
- 1708 ~~• The first legal obligation is subject to an existing monthly support order (divorcee) \$450.~~
- 1709 ~~• Adjust the monthly income \$3000 - 450~~
- 1710 ~~• First adjusted monthly income \$2550~~
- 1711 ~~• Determine support for the second legal obligation (intact family) \$2550 x .25 \$637.50~~
- 1712 ~~• Adjust the first adjusted monthly income \$2550 - 637.50~~
- 1713 ~~• Second adjusted monthly income \$1912.50~~
- 1714 ~~• Determine support for the third legal obligation (paternity) \$1912.50 x .17 \$ 325.12~~

1715

1716 ~~1.4.2. Determining the Child Support Obligations of Shared Placement Parents.~~

1717 ~~(a) The shared placement formula may be applied when both of the following conditions~~
1718 ~~are met:~~

- 1719 ~~(1) Both parents have periods of placement of at least twenty five percent (25%)~~
1720 ~~or ninety two (92) days a year. The period of placement for each parent shall be~~
1721 ~~determined by calculating the number of overnights or equivalent care ordered to~~

1722 ~~be provided by the parent and dividing that number by 365. The combined periods~~
1723 ~~of placement for both parents shall equal 100%.~~

1724 ~~(2) Each parent is ordered by the Family Court to assume the child's basic support~~
1725 ~~costs in proportion to the time that the parent has placement of the child.~~

1726 ~~(b) The child support obligations for parents who meet the requirements of (a) may be~~
1727 ~~determined as follows:~~

1728 ~~(1) Determine each parent's monthly income. In determining whether to impute~~
1729 ~~income based on earning capacity for an unemployed parent or a parent employed~~
1730 ~~less than full time under 1.3 2, the Family Court shall consider benefits to the child~~
1731 ~~of having a parent remain in the home during periods of placement and the~~
1732 ~~additional variable day care costs that would be incurred if the parent worked more.~~

1733 ~~(2) Multiply each parent's monthly income by the appropriate percentage standard~~
1734 ~~under 704.7.~~

1735 ~~(3) Multiply each amount determined under (2) by 150%.~~

1736 ~~(4) Multiply the amount determined for each parent under (3) by the proportion of~~
1737 ~~the time that the child spends with the other parent to determine each parent's child~~
1738 ~~support obligation.~~

1739 ~~(5) Offset resulting amounts under (4) against each other. The parent with a greater~~
1740 ~~child support obligation is the shared placement obligor. The shared placement~~
1741 ~~obligor shall pay the lesser of the amount determined under this section or the~~
1742 ~~amount determined using the appropriate percentage standard under 704.7. If the~~
1743 ~~shared placement obligor is also a low income obligor, the child support obligation~~
1744 ~~may be the lesser of the amount determined under this section or under 1.4 4.~~

1745 ~~(6) In addition to the child support obligation determined under (5), the Family~~
1746 ~~Court shall assign responsibility for payment of the child's variable costs in~~
1747 ~~proportion to each parent's share of physical placement, with due consideration to~~
1748 ~~a disparity in the parents' incomes. The Family Court shall direct the manner of~~
1749 ~~payment of a variable cost order to be either between the parents or from a parent~~
1750 ~~to a third party service provider. The Family Court shall not direct payment of~~
1751 ~~variable costs to be made to the Agency or the Agency's designee, except as~~
1752 ~~incorporated in the fixed sum or percentage expressed child support order.~~

1753 **Note:** ~~The following example shows how to calculate the child support obligations of shared-~~
1754 ~~placement parents.~~

- 1755 ● ~~Number of children: Two~~
- 1756 ● ~~Parent A: \$2,000 monthly income~~
- 1757 ● ~~Ordered placement of the child for 219 days a year or 60%~~
- 1758 ● ~~Parent B: \$3,000 monthly income~~

1759 ~~Ordered placement of the child for 146 days a year or 40%~~

1760

	Parent A	Parent B
1. Monthly income	\$2,000	\$3,000
2. Monthly income X percentage standard for two children	$\$2,000 \times 25\% = \500	$\$3,000 \times 25\% = \750
3. Amount in 2. X 150%.	$\$500 \times 150\% = \750	$\$750 \times 150\% = \1125
4. Amount in 3. X the proportion of time that the child spends with the other parent	$\$750 \times 40\% = \300	$\$1125 \times 60\% = \675
5. Offset	$\$675 - \$300 = \$375$	

<p>6. Family Court also assigns responsibility for payment of the child's variable costs.</p>	<p>Manner of payment is between the parents or from a parent to a third party service provider, except as incorporated in the fixed sum or percentage expressed child support order.</p>
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~~1.4.3. Determining the Child Support Obligations of Split-Placement Parents. For parents who have two (2) or more children and each parent has placement of one (1) or more but not all of the children, the child support obligations may be determined as follows:~~

- ~~(a) Determine each parent's monthly income.~~
- ~~(b) Multiply each parent's monthly income by the appropriate percentage for the number of children placed with the other parent to determine each parent's child support obligation.~~
- ~~(c) Offset resulting amounts under (b) against each other. The parent with a greater child support obligation is the split placement obligor.~~

~~Note: The following example shows how to calculate the amount of child support for split-placement parents:~~

~~Assumptions:~~

- ~~• Parent A and B have 3 children.~~
- ~~• Parent A has placement of one child and Parent B has placement of 2 children.~~
- ~~• Parent A's monthly income is \$3,000.~~
- ~~• Parent B's monthly income is \$1,500.~~

~~Calculation:~~

- ~~• Parent A's child support obligation is $\$3,000 \times 25\% = 750$~~
- ~~• Parent B's child support obligation is $\$1,500 \times 17\% = 255$~~
- ~~• Parent A owes Parent B $750 - 255 = \$495$~~

~~1.4.4. Determining the Child Support Obligation of a Low-Income Obligor.~~

~~(a) The Family Court may use the monthly support amount provided in the schedule in Appendix A as the support amount for an obligor with a monthly income at a level set forth in the schedule if the obligor's total economic circumstances limit his or her ability to pay support at the level determined under 704.7. If an obligor's monthly income is below the lowest income level in Appendix A, the Family Court may set an order at an amount appropriate for the obligor's total economic circumstances. This amount may be lower than the lowest support amount in Appendix A.~~

~~(b) The Agency shall revise the schedule in Appendix A at least once every four (4) years. The revision shall be based on changes in the federal poverty guidelines since the schedule was last revised.~~

~~Note: The schedule in Appendix A provides reduced percentage rates that may be used to determine the child support obligation for obligors with an income below approximately 125% of the federal poverty guidelines. If an obligor's monthly income is below approximately 75% of the federal poverty guidelines, the Family Court may order an amount appropriate for the obligor's total economic circumstances. For monthly income amount for child support between approximately 75% and 125% of the federal poverty guidelines, the percentage rates in the schedule gradually increase as income increases. The percentage rates used in 704.7 apply to obligors with income greater than or equal to approximately 125% of the federal poverty guidelines.~~

1802 *End.*
1803

Rule CS-2
ENFORCEMENT TOOLS

2.1. Purpose and Effective Date	2.6. Seizure of Property
2.2. Definition	2.7. Other Enforcement Tools
2.3. Compliance Plan	2.8. Family Court Enforcement Action
2.4. Notice of Enforcement Actions	2.9. Alternative Payment Plans
2.5. Liens	

2.1. Purpose and Effective Date

~~2.1-1. This rule is promulgated for the purpose of establishing the enforcement tools that may be used when an obligor is no longer paying the amount required by a child support order.~~

~~2.1-2. This rule shall be effective June 24, 2009.~~

2.2. Definitions

~~2.2-1. In this rule:~~

~~(a) “Administrative enforcement actions” means actions authorized by federal regulations which are taken to enforce a child support order without obtaining an order from the Family Court.~~

~~(b) “Agency” means the Oneida Tribe Child Support Agency.~~

~~(c) “Alternative payment plan” or “plan” means a negotiated agreement between the Agency and an obligor, or an order set by the Family Court, to establish terms for the payment of arrears.~~

~~(d) “Equity” means the fair market value of property minus the liens on that property with priority over the child support lien.~~

~~(e) “Lien amount” means the difference between the monthly amount of support due and the arrears in a case.~~

~~(f) “Lien docket” means the registry kept by the State of Wisconsin containing the names of people who owe past due child support.~~

~~(g) “Monthly amount due” means the sum of court ordered provisions for periodic payments due in one (1) month, including any arrears payment.~~

~~(h) “Obligee” means the person or entity to whom child support is owed.~~

~~(i) “Obligor” means the person who is obliged to pay child support to the obligee.~~

~~(j) “Ownership interest” means any personal financial interest.~~

~~(k) “Qualified child” means an individual who is no longer a minor but who, while still a minor, was determined to be disabled under Title II or Title XVI of the Social Security Act.~~

~~(l) “Threshold” means an amount, expressed as either a percentage of the monthly amount due, a fixed dollar amount, or both, that the lien amount must equal or exceed before an administrative enforcement action may be used to enforce a child support order.~~

2.3. Compliance Plan

~~2.3-1. The Agency shall attempt to meet with a party who is found to be subject to enforcement action as soon as possible by sending a Letter of Non-Compliance within five (5) business days of being informed of a party’s failure to either pay support as ordered or to meet a required obligation or action.~~

~~(a) The Letter shall set out the conditions the party has failed to comply with, outline the enforcement actions that may be taken and request the party meet with the Agency.~~

~~(b) If the party does not respond to the Letter within five (5) business days after receipt of the letter, the Agency shall send a second Letter.~~

1853 ~~(c) If the party fails to respond to the second Letter within five (5) business days after~~
1854 ~~receipt of the letter, the Agency shall proceed with appropriate enforcement action.~~

1855 ~~(d) If the party responds to the Letter, the Agency shall interview the party to determine~~
1856 ~~the reasons and barriers for the non-compliance and create a Compliance Plan. The~~
1857 ~~Compliance Plan may include an increase in payment and/or any activity that is necessary~~
1858 ~~to ensure payment, including programs that focus on:~~

- 1859 ~~(1) Employment and training;~~
1860 ~~(2) Social service and mental health;~~
1861 ~~(3) Physical and learning disabilities;~~
1862 ~~(4) Tribal traditions and customs;~~
1863 ~~(5) Family counseling.~~

1864 ~~(e) If the party successfully completes the Compliance Plan, no further enforcement action~~
1865 ~~is necessary. However, if the party fails to complete the Compliance Plan, the Agency~~
1866 ~~shall proceed with appropriate enforcement action.~~

1867

1868 **2.4. Notice of Enforcement Actions**

1869 ~~2.4.1. The enforcement actions in this rule may be applied when an obligor is no longer in~~
1870 ~~compliance with a child support order and is not making efforts to comply with the order. An~~
1871 ~~obligor shall be provided with at least thirty (30) days notice before an enforcement action is~~
1872 ~~utilized, unless another time line is specified within this rule. An enforcement action shall be stayed~~
1873 ~~and/or suspended after notice is given to the obligor if the obligor pays the debt in full or enters~~
1874 ~~into, and maintains, an alternative payment plan.~~

1875 ~~2.4.2. Notice of Delinquency. In the event that an obligor owes a debt equal to or exceeding the~~
1876 ~~monthly amount due, the Agency shall send a notice of delinquency to the obligor.~~

1877 ~~(a) The notice shall inform the obligor of the following:~~

- 1878 ~~(1) The dates that the delinquency accrued;~~
1879 ~~(2) The total amount of the delinquency;~~
1880 ~~(3) Any prior agreement or showing of good cause to not wage withhold may be~~
1881 ~~terminated and the obligor may be subject to wage withholding;~~
1882 ~~(4) The enforcement action that may be taken as a result of the delinquency;~~
1883 ~~(5) The obligor may request, in writing to the Agency, to negotiate an alternative~~
1884 ~~payment plan with the Agency within ten (10) business days after the service of~~
1885 ~~notice in order to stay any enforcement action;~~
1886 ~~(6) The obligor has ten (10) business days after the service of the notice of~~
1887 ~~delinquency to file an objection with the Agency presenting good cause why an~~
1888 ~~arrears payment or other enforcement action should not be implemented. The only~~
1889 ~~allowable objections are:~~

1890 ~~(A) There is an error in the amount of current or overdue support; or~~

1891 ~~(B) The identity of the obligor is mistaken.~~

1892 ~~(b) If the obligor does not file an objection or request to negotiate an alternative payment~~
1893 ~~plan:~~

- 1894 ~~(1) the enforcement action shall be taken; and/or~~
1895 ~~(2) a wage withholding order, or revised order if one is already in place, shall be~~
1896 ~~imposed on the payor. No more than an additional twenty percent (20%) of the~~
1897 ~~current support payment order can be withheld to satisfy the delinquency provided~~
1898 ~~that the total amount withheld does not exceed forty percent (40%) of the obligor's~~
1899 ~~monthly income.~~

1900 ~~(c) If a permissible objection is filed, the obligor shall be entitled to a hearing before any~~
1901 ~~enforcement action is taken.~~

1902 ~~2.4 3. Use of Mail. The Agency shall send notices related to the enforcement of a child support~~
1903 ~~order by mail to the last known mailing address provided by the obligor. If the notice is returned,~~
1904 ~~the Agency shall send notice to the obligor using the current employer mailing address provided~~
1905 ~~by the obligor. If the notice to the obligor mailed to the obligor's employer is returned, the Agency~~
1906 ~~shall use all appropriate tribal, federal, state and local resources to ascertain an obligor's current~~
1907 ~~mailing address. If those resources are used for a period of sixty (60) days and a verified mailing~~
1908 ~~address has not been identified, the Agency may proceed with the administrative enforcement~~
1909 ~~action.~~

1910 ~~2.4 4. Notice to the Obligee of Enforcement Proceedings. The Agency shall provide written notice~~
1911 ~~to the obligee when an enforcement action has been initiated against the obligor or when the~~
1912 ~~obligor requests a hearing and the hearing has been scheduled. The notice to the obligee shall be~~
1913 ~~sent at the same time notice is sent to the obligor.~~

1914 ~~2.4 5. Notice to Individuals Other Than the Obligor with a Recorded Ownership Interest in~~
1915 ~~Property. The Agency shall provide notice related to the seizure of property to any individual,~~
1916 ~~other than the obligor, with a recorded ownership interest in property subject to seizure. The~~
1917 ~~individual may request a hearing for a determination of the proportion of the value of the property~~
1918 ~~that is attributable to his or her net contribution to the property. The hearing shall be requested~~
1919 ~~within thirty (30) days after the notice was received by the individual.~~

1920

1921 **2.5. Liens**

1922 ~~2.5 1. The Agency shall have an obligor placed on the lien docket if the obligor owes a debt in~~
1923 ~~one or more of the obligor's cases equal to or exceeding the monthly amount due or \$500.00,~~
1924 ~~whichever is greater.~~

1925 ~~2.5 2. Lien Amount. The lien amount on the lien docket shall equal the sum of lien amounts from~~
1926 ~~the cases in which the lien amount meets or exceeds the lien threshold.~~

1927 ~~2.5 3. Filing Date. The filing date on the lien docket is the date that a lien is first docketed and~~
1928 ~~delivered to the register of deeds. The filing date is the effective date of the lien. The effective~~
1929 ~~date does not change if the lien amount is adjusted up or down within five (5) years after the date~~
1930 ~~that the lien is first docketed.~~

1931 ~~2.5 4. Lien Priority. The child support lien shall have priority over all other liens on property~~
1932 ~~except tax and special assessment liens, purchase money mortgages, construction liens,~~
1933 ~~environmental liens, liens that are filed or recorded before the child support lien becomes effective~~
1934 ~~and any other lien given priority under the law.~~

1935 ~~(a) Property subject to a lien includes personal property in which the obligor has a recorded~~
1936 ~~ownership interest.~~

1937 ~~(b) A child support lien is not effective against a good faith purchaser of titled personal~~
1938 ~~property unless the lien is recorded on the title.~~

1939 ~~2.5 5. Credit Bureau Reporting. The Agency may report the total amount of an obligor's liens to~~
1940 ~~the credit bureau, so long as the lien is fully enforceable and the case is not barred from credit~~
1941 ~~bureau reporting.~~

1942 ~~2.5 6. Denial of State issued Grants and Loans. Wisconsin state agencies may deny grants and~~
1943 ~~loans to an obligor who is placed on the lien docket. These grants and loans include student loans~~
1944 ~~and higher education grants, as well as mortgage loans from the Wisconsin Housing and Economic~~
1945 ~~Development Authority (WHEDA).~~

1946 ~~2.5 7. The Agency shall, either on its own or in conjunction with the State, be responsible for:~~

1947 ~~(a) updating the lien docket periodically.~~

- 1948 ~~(b) providing a copy of the lien docket to the appropriate register of deeds.~~
1949 ~~(c) responding to inquiries concerning information recorded on the lien docket.~~
1950 ~~(d) ensuring the satisfaction of a lien is recorded on the lien docket.~~
1951 ~~(e) renewing a lien if the lien amount equals or exceeds the lien threshold at the end of the~~
1952 ~~five (5) year effective period.~~

1953 ~~(1) When a lien is renewed, the date on which the lien is renewed shall become the~~
1954 ~~effective date of the lien, and a new five (5) year period shall commence.~~

- 1955 ~~(f) sending the obligor a notice when a lien has been renewed.~~
1956 ~~(g) developing procedures for releasing a lien and releasing specific property from a lien.~~

1957 2.5 8. Financial Record Review.

1958 ~~(a) An obligor may request a financial record review, within ten (10) business days of~~
1959 ~~receiving a notice of a lien, to determine the correctness of the financial records in a case.~~
1960 ~~The request shall be made in writing to the Agency.~~

1961 ~~(b) Upon receiving a request for a financial record review, the Agency shall, at no charge~~
1962 ~~to the obligor, provide the obligor with:~~

- 1963 ~~(1) all relevant financial records;~~
1964 ~~(2) information explaining how to interpret the records;~~
1965 ~~(3) a form the obligor may use to identify any alleged errors in the records.~~

1966 ~~(c) Within twenty (20) days after receiving the relevant financial records, the obligor may:~~

- 1967 ~~(1) request a meeting with the Agency to review the financial records and to discuss~~
1968 ~~any alleged errors;~~
1969 ~~(2) provide a statement of alleged error on the documents;~~

1970 ~~(A) The Agency shall review the records to determine whether the alleged~~
1971 ~~error is correct and provide a written determination within sixty (60) days~~
1972 ~~after the obligor's request for a financial record review is received as to~~
1973 ~~whether the lien against the obligor is in the correct amount.~~

1974 ~~(d) The Agency may proceed with the lien if:~~

- 1975 ~~(1) the obligor does not request a meeting with the Agency or provide a statement~~
1976 ~~of alleged error within twenty (20) days after receiving the financial records; or~~
1977 ~~(2) no errors are found in the financial records of the case; or~~
1978 ~~(3) the arrears exceed the required threshold amount after any errors in the financial~~
1979 ~~records are corrected.~~

1980

1981 2.6. Seizure of Property

1982 ~~2.6 1. When seizing property, the Agency shall presume that an obligor's equity or ownership in~~
1983 ~~the property, whether an account or personal property, is an equal pro-rata share of the equity or~~
1984 ~~ownership based on the number of individuals with a recorded ownership interest in the property.~~

1985 ~~2.6 2. Account Seizure. The Agency may initiate an account seizure if there is a lien against an~~
1986 ~~obligor and the lien amount in the obligor's case equals or exceeds 300% of the monthly amount~~
1987 ~~due in the order or \$1,000, whichever is greater.~~

1988 ~~(a) The Agency may not issue a notice of seizure unless the sum of the funds in all of the~~
1989 ~~obligor's financial accounts, minus expected seizure fees and any early withdrawal penalty,~~
1990 ~~exceeds \$500. The first \$500 of each account shall not be frozen and/or seized.~~

1991 ~~(b) The notice shall instruct the financial institution of the following:~~

1992 ~~(1) The maximum amount frozen in an account may not exceed the amount~~
1993 ~~specified by the Agency in the notice.~~

1994 ~~(2) The maximum amount frozen in an account may not exceed the obligor's~~
1995 ~~ownership interest.~~

1996 ~~(3) A financial institution is not liable for encumbering or surrendering any assets~~
1997 ~~held by the financial institution in response to instructions from the Agency for the~~
1998 ~~purpose of enforcing a child support order.~~

1999 ~~2.6 3. Seizure of Personal Property Other than Financial Accounts. In addition to the~~
2000 ~~requirements under (a) and (b) below, the Agency may initiate the seizure of personal property if~~
2001 ~~there is a lien against an obligor and the lien amount equals or exceeds 600% of the monthly~~
2002 ~~amount due in the order. Upon issuance of a written order of execution, non-exempt personal~~
2003 ~~property may be seized and sold in a reasonable manner after notice to the owner in payment of a~~
2004 ~~child support obligation that has been adjudicated delinquent by the Family Court. Ceremonial or~~
2005 ~~religious property and real property are exempt from such writs of execution.~~

2006 ~~(a) Personal Property. The Agency may seize personal property if the obligor's equity in~~
2007 ~~the property, minus expected seizure fees, exceeds \$500 per item total.~~

2008 ~~(b) The Tribe's "Disposition of Excess Tribal Property Policy" shall not apply to any~~
2009 ~~property seized under this law.~~

2010

2011 **2.7. Other Enforcement Tools.**

2012 ~~2.7 1. Attachment of Per Capita Payments. The Agency may initiate the attachment and/or seizure~~
2013 ~~of per capita payments of tribal members in accordance with applicable law.~~

2014 ~~2.7 2. License Suspension.~~

2015 ~~(a) The Agency may initiate the suspension or denial of occupational, fishing, recreational,~~
2016 ~~motor vehicle and/or Oneida issued licenses if there is a lien against an obligor that equals~~
2017 ~~or exceeds 300% of the monthly amount due in the child support order, or \$1000,~~
2018 ~~whichever is greater. Suspension of an occupational and/or motor vehicle license shall be~~
2019 ~~pursued only as a last resort and the Agency shall not initiate the suspension of a license(s)~~
2020 ~~if:~~

2021 ~~(1) there is an order in place that prohibits the suspension of the license(s);~~

2022 ~~(2) the obligor has filed for bankruptcy; or~~

2023 ~~(3) action has already been taken to suspend the license.~~

2024 ~~(b) When an Oneida issued license is suspended, that suspension shall be binding on and~~
2025 ~~given effect by the license issuing agencies. Orders affecting licenses issued by other~~
2026 ~~governmental agencies shall be sent to such agencies for enforcement.~~

2027 ~~2.7 3. Intercept of Lump Sum Pension Payments, Judgments and Settlements. The Agency may~~
2028 ~~initiate the intercept of lump sum pension payments, judgments and/or settlements when an~~
2029 ~~obligor has been placed on the lien docket.~~

2030 ~~(a) When initiating the intercept of lump sum pension payments, judgments and/or~~
2031 ~~settlements, the Agency shall specify in the notice that the amount withheld from the lump~~
2032 ~~sum pension payment, judgment or settlement may not exceed the obligor's ownership~~
2033 ~~interest in the payment.~~

2034 ~~2.7 4. Tax and Lottery Intercepts. The Agency may coordinate with a federal or state agency in~~
2035 ~~order to enforce a child support order through a tax and/or lottery intercept. Once an obligor has~~
2036 ~~been notified that his or her tax refund and/or lottery winnings may be intercepted, that notice is~~
2037 ~~valid until all arrears are paid in full.~~

2038 ~~(a) Federal Tax Intercept. The Agency may certify a federal tax intercept when the~~
2039 ~~requirements pertaining to federal tax intercept contained in an agreement between the~~
2040 ~~State and the Tribe have been met.~~

2041 ~~(b) Wisconsin State Tax Intercept. The Agency may certify a Wisconsin state tax intercept~~
2042 ~~when the following requirements are met:~~

2043 ~~(1) The arrears shall be at least one hundred fifty dollars (\$150).~~

- 2044 ~~(2) The arrears shall be at least thirty (30) days old.~~
2045 ~~(3) The arrears shall be for a minor child or a child who has reached the age of~~
2046 ~~eighteen (18) within the last twenty (20) years.~~
2047 ~~(c) Wisconsin Lottery Intercept. When a case is certified for Wisconsin state tax intercept,~~
2048 ~~it shall also be automatically certified for Wisconsin lottery intercept for lottery winnings~~
2049 ~~of one thousand dollars (\$1,000) or more.~~
2050 ~~2.7.5. Passport Denial. If a federal tax intercept is in place and the obligor owes five thousand~~
2051 ~~dollars (\$5,000) or more in arrears, an obligor may be denied a passport. The arrears must meet~~
2052 ~~the criteria for federal tax intercept in order for passport denial to be used as an enforcement tool.~~
2053 ~~An obligor shall be removed from the passport denial list if:~~
2054 ~~(a) The federal tax intercept certification amount is zero (0);~~
2055 ~~(b) The obligor makes a lump sum payment and/or negotiates a payment plan with the~~
2056 ~~Agency;~~
2057 ~~(c) The obligor has to travel abroad because of a life or death situation involving an~~
2058 ~~immediate family member, such as the obligor's parent, guardian, step parent, child, step~~
2059 ~~child, grandparent, sibling, step-sibling, aunt, uncle or spouse; or~~
2060 ~~(d) The obligor was denied a passport in error.~~
2061

2.8. Family Court Enforcement Action

- 2063 ~~2.8.1. If the Agency does not have the authority to conduct the appropriate enforcement action,~~
2064 ~~or the obligor is unresponsive to the enforcement actions being imposed by the Agency, the case~~
2065 ~~shall be referred to the Family Court for enforcement.~~
2066 ~~2.8.2. The Family Court may order any of the enforcement actions the Agency is authorized to~~
2067 ~~implement. In addition, the Family Court may order the following to enforce a child support order:~~
2068 ~~(a) Bonds and Other Guarantees. The Family Court may require an obligor to provide a~~
2069 ~~surety, bond or guarantee to secure the payment of arrears, if wage withholding is not~~
2070 ~~applicable, practical or feasible to secure payment of arrears.~~
2071 ~~(b) Claims Against Estates.~~
2072 ~~(1) The Family Court may approve a claim for past and future support against an~~
2073 ~~obligor's estate.~~
2074 ~~(2) The Family Court may issue a restraining order against an estate from which~~
2075 ~~an obligor will inherit.~~
2076 ~~(c) Community Service. The Family Court may order an obligor to perform community~~
2077 ~~service. The number of hours of work required may not exceed what would be reasonable~~
2078 ~~considering the amount of arrears the obligor owes. The obligor shall be provided a written~~
2079 ~~statement of the terms of the community service order and that the community service order~~
2080 ~~is monitored. The order shall specify:~~
2081 ~~(1) how many hours of community service the obligor is required to complete;~~
2082 ~~(2) the time frame in which the hours must be completed;~~
2083 ~~(3) how the obligor will report his or her hours; and~~
2084 ~~(4) any other information the Family Court determines is relevant.~~
2085 ~~(d) Contempt. An obligor who disobeys a lawful child support order shall be subject to~~
2086 ~~punishment for contempt of court. An obligor found in contempt of court may be fined in~~
2087 ~~an amount not to exceed one thousand dollars (\$1,000.00) per act of contempt and may not~~
2088 ~~exceed five thousand dollars (\$5,000.00) in total. In instances of continuing contempt,~~
2089 ~~each day shall constitute a separate act of contempt.~~
2090 ~~(e) Incarceration. The Family Court may order an obligor be incarcerated, contingent on~~
2091 ~~the agreements necessary to enable the Tribe to incarcerate individuals. Before a jail~~

2092 ~~sentence is imposed, the Family Court may provide other conditions that require a certain~~
2093 ~~amount of money be paid or action be taken for an obligor to avoid incarceration.~~

2094 ~~2.8-3. Criminal Non-Support. A criminal non-support action may be initiated, in the appropriate~~
2095 ~~county, against an obligor who has the ability to pay child support and willfully or intentionally~~
2096 ~~failed to pay and the obligor knew or reasonably should have known he or she was legally obligated~~
2097 ~~to provide.~~

2098 ~~2.9. Alternative Payment Plans~~

2100 ~~2.9-1. Applicability of Alternative Payment Plans. When an obligor is subject to administrative~~
2101 ~~enforcement action, he or she may negotiate an alternative payment plan with the Agency.~~

2102 ~~2.9-2. Negotiation of an Alternative Payment Plan After Receiving Notice of an Enforcement~~
2103 ~~Action.~~

2104 ~~(a) In order to negotiate an alternative payment plan, an obligor shall submit a written~~
2105 ~~request to the Agency. A written request to negotiate an alternative payment plan received~~
2106 ~~by the Agency within ten (10) business days after the date of notice shall stay any~~
2107 ~~administrative enforcement action. If a written request to negotiate an alternative payment~~
2108 ~~plan is received by the Agency more than ten (10) business days after the date of notice,~~
2109 ~~administrative enforcement action may be taken, as long as the requirements of 2.9-3 and~~
2110 ~~2.9-4 are met.~~

2111 ~~(b) An obligor may negotiate a plan with the Agency to have a license issued or renewed~~
2112 ~~after it has been restricted, limited, suspended or refused.~~

2113 ~~(c) The obligor may submit a written request for a hearing on the reasonableness of the~~
2114 ~~plan within ten (10) business days after the terms of the plan are agreed upon.~~

2115 ~~(d) If the Agency and the obligor are unable to reach agreement on the terms of a plan, a~~
2116 ~~hearing may be conducted. The Family Court may order a plan by setting payments in the~~
2117 ~~amounts and at the times it considers reasonable.~~

2118 ~~2.9-3. Staying Administrative Enforcement Actions. Administrative enforcement actions shall be~~
2119 ~~stayed by the Agency while the obligor and the Agency are negotiating a plan, or, if a hearing is~~
2120 ~~requested, until the Family Court determination has been made. To stay an administrative~~
2121 ~~enforcement action means the following:~~

2122 ~~(a) The obligor shall not be certified for denial, nonrenewal, restriction, or suspension of~~
2123 ~~professional, occupational, fishing, recreational, motor vehicle and/or Oneida issued~~
2124 ~~licenses.~~

2125 ~~(b) Any frozen financial accounts shall remain frozen and shall not be seized.~~

2126 ~~(c) Personal property that has been seized shall not be sold.~~

2127 ~~2.9-4. Suspension of Administrative Enforcement Actions.~~

2128 ~~(a) When a plan has been negotiated between the obligor and the Agency, or the Family~~
2129 ~~Court has determined that a plan is reasonable or has ordered a plan, the Agency shall~~
2130 ~~suspend administrative enforcement actions as long as the obligor complies with the plan.~~

2131 ~~(b) If an obligor makes a full arrears payment, the administrative enforcement action shall~~
2132 ~~be suspended.~~

2133 ~~2.9-5. Proceeding with Administrative Enforcement Actions. The Agency may continue with the~~
2134 ~~administrative enforcement action if:~~

2135 ~~(a) the obligor and the Agency are unable to negotiate a plan.~~

2136 ~~(b) the Family Court determines that the plan is not reasonable.~~

2137 ~~(c) the Family Court does not order a plan.~~

2138 ~~2.9-6. Disclosure of Income and Assets. The request to negotiate a plan shall include an agreement~~
2139 ~~by the obligor to provide the Agency with a full disclosure of income and assets available. The~~

2140 ~~obligor shall provide complete income and assets information to the Agency within five (5)~~
2141 ~~business days of the request to negotiate a payment plan.~~

2142 ~~2.9-7. Terms of an Alternative Payment Plan.~~

2143 ~~(a) An alternative payment plan may include a lump sum payment, or periodic payments~~
2144 ~~on the arrears, or both, subject to the following standards:~~

2145 ~~(1) The sum of any periodic payment established under the plan and any other~~
2146 ~~payment of support ordered by the Family Court, when subtracted from the~~
2147 ~~obligor's gross income, may not leave the obligor below 100% of the poverty line~~
2148 ~~established under 42 USC 9902 (2) unless the obligor agrees otherwise.~~

2149 ~~(2) When establishing an alternative payment plan, the Agency shall consider the~~
2150 ~~factors used by the Family Court in determining whether the use of the percentage~~
2151 ~~standard is unfair to the child or any of the parties.~~

2152 ~~(b) Periodic payments under the plan may be made through wage withholding in amounts~~
2153 ~~in addition to the amount ordered in the child support order that is in effect.~~

2154 ~~2.9-8. Default on an Alternative Payment Plan. In the event that the obligor defaults on the plan,~~
2155 ~~the Agency shall notify the obligor in writing that an administrative enforcement action shall be~~
2156 ~~implemented unless the lien is paid in full.~~

2157 ~~2.9-9. Renegotiation of an Alternative Payment Plan. After the entry of an alternative payment~~
2158 ~~plan, the plan may be renegotiated upon the written request of the obligor or Agency if the~~
2159 ~~requesting party can show a substantial change in circumstances. A substantial change in~~
2160 ~~circumstances includes any of the following:~~

2161 ~~(a) A change in the obligor's income or assets, including the sale or purchase of real or~~
2162 ~~personal property.~~

2163 ~~(b) A change in the obligor's earning capacity.~~

2164 ~~(c) Any other factor that the Agency determines is relevant.~~

2165 ~~2.9-10. Obligors with Cases in Multiple Jurisdictions.~~

2166 ~~(a) When multiple child support agencies initiate administrative enforcement actions~~
2167 ~~against the same obligor, and the obligor negotiates an alternative payment plan with one~~
2168 ~~of the agencies, the plan does not preclude any other child support agency from proceeding~~
2169 ~~with its administrative enforcement action.~~

2170 ~~(b) If a child support agency which has a lien against property of an obligor negotiates an~~
2171 ~~alternative payment plan with the obligor, the agency may receive proceeds from the sale~~
2172 ~~of the obligor's personal property under the lien including, but not limited to, proceeds~~
2173 ~~from administrative enforcement actions taken by other child support agencies.~~

2174
2175 ~~End.~~

2176 ~~Emergency Adopted BC 06-30-08-C (Expired)~~

2177 ~~Emergency Extended BC 12-10-08-H (Expired)~~

2178 ~~Permanently Adopted BC 06-24-09-B~~

2179 ~~Emergency Amended BC 10-28-09-E~~

2180 ~~Amended BC 02-24-10-G~~

2181 ~~Amended BC 02-23-11-E~~

2182 ~~Amended BC 06-22-11-K~~

2183 ~~Amended BC 10-10-12-C~~

2184 ~~Amended BC 08-13-14-E~~

2185



shakoti?nukú·lale? latiksashúha?
They watch over the children
AMENDMENTS TO CHILD SUPPORT LAW
LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Oneida Child Support Agency	SPONSOR: David P. Jordan	DRAFTER: Clorissa N. Santiago	ANALYST: Brandon Wisneski
Intent of the Amendments	<p>To create a process to suspend or modify child support orders for parents incarcerated for one hundred and eighty (180) days or more;</p> <p>To update notice requirements and timelines for initiating an action by the Agency, sending letters of noncompliance, sending notice of delinquency, sending notice of enforcement action, and sending income withholding orders;</p> <p>To clarify how the Family Court may redact addresses and identifying information from court documents to ensure safety of a party;</p> <p>To make updates to how child support obligations are calculated in certain special circumstances, such as:</p> <ul style="list-style-type: none"> ▪ updating how overnights and equivalent care are calculated for shared-placement parents; ▪ updating the formula for calculating child support obligations of split-placement parents; ▪ updating the date when legal obligation for child support is incurred for a non-marital child of a serial family obligor; <p>To update what constitutes a “substantial change in circumstance” that warrants a modification of a child support order;</p> <p>To repeal Child Support Rule #1 Deviation from Child Support and Rule #2 Enforcement Tools and move the contents of the rules into the body of the law itself;</p> <p>To make additional updates and clarify language throughout the law.</p>		
Purpose	<p>The purpose of this law is to establish the legal responsibility of parents to provide financially for their children’s general well-being; make support payments more equitable by ensuring consistent treatment of persons in similar circumstances; make support payments based on the real earning capability of parents; and improve efficiency of child support establishment and enforcement [7 O.C. 704.1-1].</p>		
Affected Entities	<p>Oneida Child Support Agency, Oneida Family Court, Oneida Court of Appeals; Oneida license-issuing agencies such as Oneida Licensing and Oneida Conservation, and any parents with child support cases that fall under the jurisdiction of the Oneida Family Court [7 O.C. 704.4].</p>		
Public Meeting	<p>A public meeting has not yet been held.</p>		
Fiscal Impact	<p>A fiscal impact statement prepared in accordance with the Legislative Procedures act has not yet been requested.</p>		

What Is Child Support?

“When parents separate, they still have shared rights and responsibilities as to their children. The most basic of these responsibilities is supporting their children so they have food, clothing, shelter and health care. Child support is a payment made by one parent to another for the support of a child. The amount of the payment is based on a percentage, determined by law, of the paying parent’s income.” *Source: Oneida Child Support Agency FAQ*

“Child support is the financial support paid by parents to support a child or children of whom they do not have full custody. Child support can be entered into voluntarily, by court order or by an administrative agency (the process depends on the state or tribe). The noncustodial parent or obligor—the parent who does not have primary care, custody, or control of the child or children—often has an obligation to the custodial parent or obligee—the parent who has primary care, custody and control of the child or children.” *Source: National Association of State Legislatures (NCSL).*

SECTION 2. LEGISLATIVE DEVELOPMENT

- A. The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 gave tribal nations the authority to establish child support agencies. Wisconsin (WI) Statute 801.54 allows WI circuit courts to transfer civil actions to tribal courts in matters where tribal nations have concurrent jurisdiction, such as child support cases.
- B. The Oneida Child Support Agency was established by the Oneida Business Committee on June 20, 2007. Oneida Nation’s application for a child support services grant was approved by the U.S. Department of Health and Human Services on April 4, 2008.
- C. The Oneida Nation’s Child Support law was first adopted by emergency amendment on June 30, 2008 and permanently adopted on June 24, 2009 by the Oneida Business Committee. It was most recently amended on August 13, 2014.
- D. At the end of 2008, the Oneida Child Support Agency had 482 cases. As of 2018, the Oneida Child Support Agency now handles over 3,050 cases and has completed case transfers from Brown and Outagamie counties.
- E. On February 28, 2018, the Oneida Child Support Agency submitted a request to amend the Oneida Child Support law. The LOC added the Child Support Law amendments to the Active Files List on March 7, 2018. Since that time, the LOC has worked with Child Support Agency to review the law and develop potential amendments.

SECTION 3. CONSULTATION AND OUTREACH

- A. Representatives from the following departments or entities participated in the development of this law and legislative analysis: Oneida Child Support Agency, Oneida Law Office, Oneida Police Department, and Oneida Judiciary Family Court.
- B. The following laws were reviewed in the drafting of this analysis: Administrative Rulemaking law; Paternity law; Per Capita law; Oneida Judiciary Rules of Civil Procedure; Rules of Appellate Procedure; Workers Compensation law; Garnishment law; Family Court law; Family Court Rules; Per Capita law; Children’s Code; Divorce, Annulment and Legal Separation; Child Custody, Placement and Visitation law. In addition, the following laws from other tribal nations and the state of Wisconsin were reviewed:
 - Ho Chunk Nation - Child Support Code 4HCC7
 - Forest County Potawatomi - Child Support Law
 - Lac Du Flambeau - Child Support Law Ch 31

- 34 ▪ Menominee Nation – Financial Support of Children Law
- 35 ▪ Stockbridge Munsee Child Support Code
- 36 ▪ White Earth Child Support Code
- 37 ▪ State of Wisconsin Child Support Administrative Enforcement – Chapters DCF 150 & 152.
- 38 C. In addition, the following documents or articles were reviewed in the drafting of this analysis:
- 39 ▪ Child Support Enforcement: Tribal Programs – Congressional Research Service Report. July
- 40 5, 2016.
- 41 ▪ Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement
- 42 Programs, Federal Register, Volume 81, Number 244. December 20, 2016.
- 43 ▪ Child Support Final Rule Fact Sheet: Flexibility, Efficiency and Modernization in Child
- 44 Support Enforcement Programs. Office of Child Support Enforcement, Administration for
- 45 Children and Families, Dept. of Health and Human Services. January 5, 2017. DCL-17-01.
- 46

47 **SECTION 4. PROCESS**

- 48 A. Thus far, amendments to this law have followed the process set forth in the Legislative Procedures Act
- 49 (LPA).
- 50 B. The law was added to the Active Files List on March 7, 2018.
- 51 C. At the time this legislative analysis was developed, a total of twenty-five (25) work meetings were held
- 52 regarding the development of this law and legislative analysis:
- 53 ▪ April 5, 2018: Work meeting with Child Support.
- 54 ▪ April 18, 2018: Work meeting with LOC.
- 55 ▪ May 17, 2018: Work meeting with Child Support.
- 56 ▪ June 8, 2018: Work meeting with Child Support.
- 57 ▪ June 22, 2018: Work meeting with Child Support.
- 58 ▪ July 13, 2018: Work meeting with Child Support.
- 59 ▪ August 9, 2018: Work meeting with Child Support, Family Court and Oneida Police Department.
- 60 ▪ August 17, 2018: Work meeting with Child Support.
- 61 ▪ September 18, 2018: Work meeting with Child Support.
- 62 ▪ October 12, 2018: Work meeting with Child Support.
- 63 ▪ October 26, 2018: Work meeting with Child Support.
- 64 ▪ October 31, 2018: Work meeting with LOC and Child Support
- 65 ▪ November 9, 2018: Work meeting with Child Support.
- 66 ▪ December 6, 2018: Work meeting with Child Support.
- 67 ▪ December 10, 2018: Work meeting with Child Support and Oneida Police Department.
- 68 ▪ December 19, 2018: Work meeting with LOC.
- 69 ▪ January 4, 2019: Work meeting with Child Support.
- 70 ▪ February 1, 2019: Work meeting with Child Support.
- 71 ▪ March 3, 2019: Work meeting with Child Support.
- 72 ▪ April 4, 2019: Work meeting with Child Support.
- 73 ▪ April 30, 2019: Work meeting with Child Support.
- 74 ▪ May 16, 2019: Work meeting with Child Support & Law Office.
- 75 ▪ July 17, 2019: Work meeting with LOC.
- 76 ▪ July 18, 2019: Work meeting with LOC.
- 77 ▪ July 25, 2019: Work meeting with LOC.
- 78

79 **SECTION 5. CONTENTS OF THE LEGISLATION**

- 80 *The following provides a summary of the changes proposed in the amendments to the Child Support Law:*
- 81
- 82 A. ***Moving Child Support Rules into the Law.*** The Child Support Law currently includes two (2) rules:
 - 83 Rule #1 Deviation from Child Support and Rule #2 Enforcement Tools. Both rules became effective

June 24, 2009, prior the adoption of the Nation’s Administrative Rulemaking law [1 O.C. 106]. The proposed amendments delete the rules and move the contents of both Rule #1 and Rule #2 into the body of the law itself.

- **Rule #1 Deviation from Child Support.** The information from Rule #1 Deviation from Child Support, unless otherwise noted in this analysis, has been moved to the following sections:
 - 704.7 Determining Child Support Obligation
 - 704.8 Determining the Child Support Obligation in Special Circumstances
 - 704.9 Child Support Order
- **Rule #2 Enforcement Tools.** The information from Rule #2 Enforcement Tools, unless otherwise noted in this analysis, has been moved to the following sections:
 - 704.12 Compliance Plan
 - 704.13 Enforcement of an Order
 - 704.14 Alternative Payment Plans
 - 704.15 Administrative Enforcement Actions
 - 704.16 Family Court Enforcement Action
- **Deleted Examples.** Rule #1 contained example calculations and scenarios to illustrate how to determine child support in special circumstances. These examples have been deleted. Such examples could be provided in a separate document or worksheet by the Agency.

B. Notice for Initiation of Action by Oneida Child Support Agency.

- **Requesting Services.** When the Oneida Child Support Agency receives an application for services or a referral, the Agency is required to send notice to the non-custodial parent. The non-custodial parent is the parent who does not hold primary care, custody or control of the child.
- **Current Notice Requirements.** Currently, within five (5) business days of the Agency receiving a referral or application, they are required to send two (2) letters to the non-custodial parent before initiating a hearing in the Family Court. The purpose of the letters is to request information and attempt to negotiate a voluntary agreement between the parents. If the non-custodial parent does not respond to the letters, then the Agency will initiate a hearing in the Family Court.
- **Changes to Notice Requirements.** [7 O.C. 704.5-3].
 - **Deadline for Agency to Send Letter.** The Agency will now have seven (7) business days rather than five (5) business days to send the Letter of Request for Support and Financial Disclosure form.
 - **Number of Letters.** Rather than sending two (2) letters, the Agency is now only required to send one (1) letter before initiating a hearing. This will allow for child support hearings to be scheduled more quickly. Rather than waiting at least fifteen (15) days as the law currently requires, the Agency can now request a hearing after ten (10) days.

Chart 1. Current Notice Requirements – Initiating an Action by Child Support Agency.

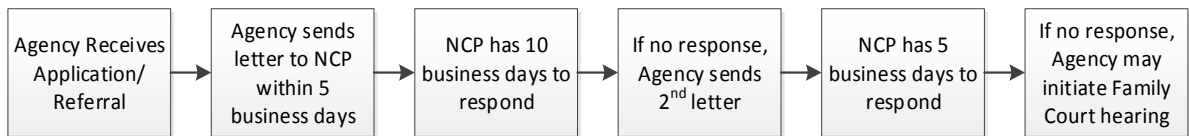
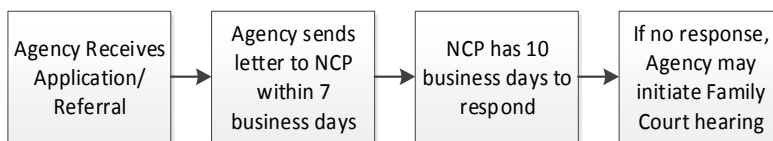


Chart 2. Proposed Notice Requirements – Initiating an Action by Child Support Agency.



- 129 **C. *Nondisclosure of Information in Protected Cases.*** A new provision has been added giving the Family
130 Court judge authority to limit access to the child or party’s address or other identifying information [7
131 *O.C. 704.5-5(b)(1)(B)*].
- 132 ■ *Limiting Address or Identifying Information.* The Family Court may limit disclosure if the health,
133 safety or liberty of a child or party would be unreasonably put at risk. This change was made to
134 address safety concerns for individuals who do not wish to have their address included in court
135 documents.
- 136 **D. *Closed Hearings and Records for Child Support Cases.*** The current Child Support law already states
137 that Child Support Hearings in the Family Court are closed to anyone other than those necessary to the
138 action or proceeding. A new provision has been added stating that the records of child support
139 proceedings will also be kept confidential [7 *O.C. 704.6-6*].
- 140 ■ *Confidential Case Records.* Records may only be viewed by the parties, legal guardians, the parties’
141 attorney or advocate, Judges and staff assigned to the case, and those with written authorization
142 from a party to view the material in the record.
 - 143 ■ *Existing Law.* The Nation’s Rules of Civil Procedure already state: “At the request of any party or
144 on its own motion, the Court may seal any part of a case file, preventing public disclosure. A file
145 or part of a file may only be sealed where the safety of a party, witness or other individual may be
146 in jeopardy if the material is not placed under seal” [8 *O.C. 803.32-2(b)(3)*]. Now, rather than being
147 optional, the court will automatically keep records of child support cases confidential.
- 148 **E. *Authority of Family Court to Order Parent to Search for a Job or Participate in Job Training***
149 ***Program.*** Typically, a child support order is based on a percentage of a parent’s income. When a
150 parent’s income is less than their earning capacity or unknown, the court may “impute,” or “estimate”
151 the parent’s earning capacity based on available evidence.
- 152 ■ *Order Parent to Search for Job or Participate in Job Training.* For these cases, a new provision
153 has been added allowing the Family Court to order a parent to search for a job or participate in a
154 work experience or job training program [7 *O.C. 704.7-4(b)*].
 - 155 ■ *Comparison to WI.* This language is similar to updates made to Wisconsin (WI) regulations utilized
156 by county child support agencies. However, unlike WI, Oneida’s Family Court may order a job
157 search or job training program “in addition to” imputed income, rather than as “an alternative” to.
- 158 **F. *Formula for Determining Child Support Obligations When the Child Receives Social Security***
159 ***Benefits.*** The Nation’s current Child Support law includes a provision to account for a child’s social
160 security benefits when calculating a parent’s child support obligation.
- 161 ■ These amendments add a new formula to specifically address shared-placement parents whose
162 child receives social security benefits. The intent of this new formula is to ensure that Child Support
163 orders accurately take this income into account in these unique cases [7 *O.C. 704.7-6(a)*].
 - 164 ■ *Comparison to WI.* This updated formula mirrors recent updates to Wisconsin regulations.
- 165 **G. *Claiming Children for Tax Purposes.*** A provision from Child Support Rule #1 regarding the
166 “dependency exemption” for federal tax purposes [1.3-7] is deleted. The dependency exemption was
167 eliminated by Congress as a result of the Tax Cuts and Jobs Act of 2017, also known as the “tax reform
168 bill.” In its place, these amendments add a new provision regarding claiming children for tax purposes
169 [7 *O.C. 704.7-7*].
- 170 ■ *New provision.* This new provision gives the Family Court authority to address who may claim a
171 child for tax purposes. It also gives the Family Court authority to accept a stipulation entered into
172 by the parties regarding children and taxes. This change was recommended by the Family Court
173 and Child Support Agency Attorney.
- 174 **H. *Determining Child Support for Serial Family Obligor.*** When one parent has multiple children in
175 separate families, that parent is known as a “serial family obligor.” In these cases, the court must
176 determine the order of the parent’s child support obligations, because the order determines how much
177 support is owed for each child.

178 ▪ *New Date for Non-Marital Children.* For a non-marital child, the legal obligation for child support
179 will now be incurred on the date that paternity was legally established rather than the date that the
180 child support order is entered [7 O.C. 704.8-1(b)(2)]. This change was recommended by the
181 Agency to reflect their current practice and mirror Wisconsin regulations.

182 **I. *Determining Child Support for Shared-Placement Parents.***

183 ▪ *Changes to Overnights and Equivalent Care.* At the recommendation of the Agency, changes have
184 been made to how overnights and periods of equivalent care calculated. These changes now give
185 more consideration to periods of time a parent cares for the child that is not technically an overnight,
186 but where the court determines that a parent is still assuming basic support costs that are equivalent
187 to what a parent would spend to care for that child overnight. These changes are consistent with
188 updates to Wisconsin regulations [7 O.C. 704.3-1(n) and 704.8-2(a)(1)].

189 ○ *Effect.* The number of overnights and periods of equivalent care are important in
190 determining the percentage of time each parent is caring for the child. That information is
191 one of the factors used by the Court to determine the amount of child support ordered for
192 shared placement parents.

193 ▪ *Change in Variable Costs.* A new provision has been added that states that a change in the child’s
194 variable costs will not, in and of itself, be considered a “substantial change in circumstances” to
195 justify a modification of a child support order. These changes are consistent with updates to
196 Wisconsin regulations [7 O.C. 704.8-2(b)(7)].

197 ○ *What are Variable Costs?* “Variable costs” are the reasonable costs above basic support
198 costs incurred by or on behalf of a child, such as the cost of child care, tuition, special needs
199 or other activities [7 O.C. 704.3(mm)].

200 ○ *Effect.* In other words, a change to a child’s variable costs (such as child care) will not, by
201 itself, justify modifying the amount of a child support order. Ultimately, the decision as to
202 whether a change in circumstances justify modification of an order will be up to the Family
203 Court.

204 **J. *Determining Child Support Obligations of Split-Placement Parents.*** The formula for calculating child
205 support obligation for a split-placement parent has been clarified. The split-placement formula may be
206 applied when parents have two (2) or more children and each parent has placement of at least one, but
207 not all, of the children.

208 ▪ *Change to Formula.* The Agency reported that the wording of the formula in the current rule [1.4-
209 3] is unclear, resulting in different interpretations of how to calculate support in these cases. These
210 changes were recommended by the Agency to clarify the formula so that support is calculated
211 correctly and uniformly in these cases [7 O.C. 704.8-3(b)].

212 **K. *Expression of Ordered Support.*** The Child Support amount must be expressed as a fixed sum. This
213 means that the child support order must include the specific dollar amount the parent is required to pay.
214 [7 O.C. 704.9-1].

215 ▪ *Option to Agree to Percentage Deleted.* Previously, parents had the option to agree to a percentage
216 of the obligor’s income instead of a specific dollar amount if both parties agreed through a
217 stipulation. This option has been deleted. Oneida Child Support Agency reports that ordering a
218 specific dollar amount is the standard practice for child support orders.

219 ▪ *Modifying an Order.* If the fixed sum in the child support order needs to be modified due to a
220 change in circumstances (for example, a change in income), the parties may request to modify the
221 child support order in accordance with the process included in this law [7 O.C. 704.10].

222 **L. *How to Send Income-Withholding Orders.*** After an order to withhold income has been issued, the
223 Child Support Agency is required to send a copy of the order to the obligor’s employer (the “payor”)
224 within three (3) business days. This notifies the payor to start withholding a portion of the obligor’s
225 income for child support.

226 ▪ *Method for Sending Orders.* Previously, the law stated the order could be sent “by any business
227 method acceptable to the payor” and that the order is binding upon notice through service by

- 228 personal delivery or certified mail. Now the order can be sent “by mail, fax or electronic means.”
229 [7 O.C. 704.9-3(a)].
- 230 ■ *Comparison to Other Agencies.* Agencies in the state of Wisconsin send income withholding
231 notices by mail, fax or through the Electronic Income Withholding system known as “e-IWO.”
- 232 **M. *Non-Cash Payment Options.*** The current law states that non-cash payment options may be used to
233 satisfy part or all of a child support order if both parties and the Family Court agree to allow non-cash
234 payments. Examples of non-cash payments include clothing, groceries, child care, deer/venison, wood,
235 transportation and skilled trades and services. The list of non-cash options has been updated to add “gift
236 cards” at the recommendation of the Child Support Agency. [7 O.C. 704.9-9(b)].
- 237 ■ *Comparison.* The Agency reports that tribal nations, such as Oneida, have the option to issue non-
238 cash support orders while states like Wisconsin cannot.
- 239 **N. *Modification of Child Support Order.*** The language in this section has been clarified at the request of
240 the Agency to clearly state when and how a modification of a child support order may occur. There are
241 two ways that a Child Support order may be modified: [7 O.C. 704.10-2].
- 242 ■ *Modification Sought by Agency.* Every two (2) years, the Oneida Child Support Agency will
243 conduct a review of each child support order. If there is a substantial change in circumstances, the
244 Agency will request an order from the Family Court to modify the child support order.
- 245 ○ *Comparison to WI.* WI Child Support agencies review child support orders every 33
246 months. Oneida Child Support Agency reviews more often in an effort to ensure accurate
247 child support orders.
- 248 ■ *Modification Sought by Parties.* In addition to the two-year reviews automatically conducted by
249 the Agency, either parent may file a motion for modification of a child support order at any time if
250 there has been a substantial change in circumstances.
- 251 **O. *Substantial Change in Circumstance.*** In order to modify a child support order, there must be a
252 “substantial change in circumstance.” The law includes several examples of what qualifies as a
253 substantial change of circumstance, including a “significant change in finances” [7 O.C. 704.10-2].
- 254 ■ *Change to “Significant Change in Finances” Definition.*
- 255 ○ *Current Definition.* The current law states that “a significant change in finances” that
256 would lead to a change in child support is “more than fifteen percent (15%) or fifty dollars
257 (\$50.00) per month.”
- 258 ○ *Proposed Definition.* In the amendments, this has been changed to “more than fifteen
259 percent (15%) and fifty dollars (\$50.00) per month.” [704.10-2(b) and 704.3-1(ll)].
- 260 ■ *Effect.* This change sets a higher threshold to modify a child support order. This means that small
261 changes in finances that do not meet both thresholds will not justify changing a child support order.
262 This change was requested by the Oneida Child Support Agency.
- 263 **P. *Modification of Child Support for Incarcerated Parent.*** A new section regarding incarcerated parents
264 has been added to the law. This new provision allows for the temporary suspension or modification of
265 a child support order for an incarcerated parent who has been sentenced to at least one hundred and
266 eighty (180) days in jail or prison. In other words, the incarcerated parent will not be required to make
267 child support payments (or may make smaller child support payments) while they are serving time in
268 jail or prison [7 O.C. 704.11].
- 269 ■ ***Who Qualifies for Modification of Child Support Order?*** An obligor who has been sentenced to
270 180 days or more in jail or prison. The obligor’s income level while incarcerated will determine
271 whether the order is suspended or modified [7 O.C. 704.11-1]:
- 272 ○ *Temporary Suspension:* If the obligor has an income of less than \$200 dollars per month,
273 the Child Support order may be temporarily suspended.
- 274 ○ *Temporary Modification:* If the obligor has an income of \$200 per month or more, the
275 Child Support order may be temporarily modified based on the obligor’s income.
- 276 • *Example:* An obligor who continues to receive large per capita payments while
277 incarcerated or who participates in a work release program.

- 278 ○ *Exceptions.* Child Support orders will not be suspended for individuals incarcerated for the
279 following crimes, regardless of the length of sentence or monthly income:
280 • Felony failure to pay support;
281 • Crime against a child; or
282 • Crime against the obligee (i.e., the other parent).
283 ○ *Past Due Arrears.* Past due child support debt or arrears will not be suspended or reduced
284 without stipulation (agreement) by both parties. In other words, incarceration does not wipe
285 out any previous child support debt incurred before being sentenced to jail or prison.

Why Modify Child Support Orders for Incarcerated Parents?

Incarcerated parents have little or no ability to earn income during their sentence. This results in accumulation of high levels of child support debt. The Office of Child Support Enforcement (OFCSE) reports that incarcerated parents leave prison with an average of \$20,000 or more in unpaid child support with no means to pay upon release. “This accumulated child support debt is rarely paid.”

The goal of child support is to increase consistent child support payments for children by setting realistic orders based on the parent’s ability to pay. OFCSE reports that “setting and modifying realistic child support obligations for incarcerated parents can improve their ability to provide consistent support for their children upon release from prison... Formerly incarcerated parents will be more likely to meet their child support obligations, benefitting their children by improving child support compliance and reliability.”

In addition, setting realistic child support orders may also reduce “underground employment activity” and increase contact between children and their parents. According to the Office of Child Support Enforcement, “children do not benefit when their parents engage in a cycle of nonpayment, underground income generation, and re-incarceration.”

On December 20, 2016, the OFCSE issued federal rule AT-16-06, “Flexibility, Efficiency, and Modernization in Child Support Enforcement Actions,” which created a standard process for the suspension or modification of child support orders for incarcerated parents. Since then, child support agencies and courts nationwide have implemented this rule.

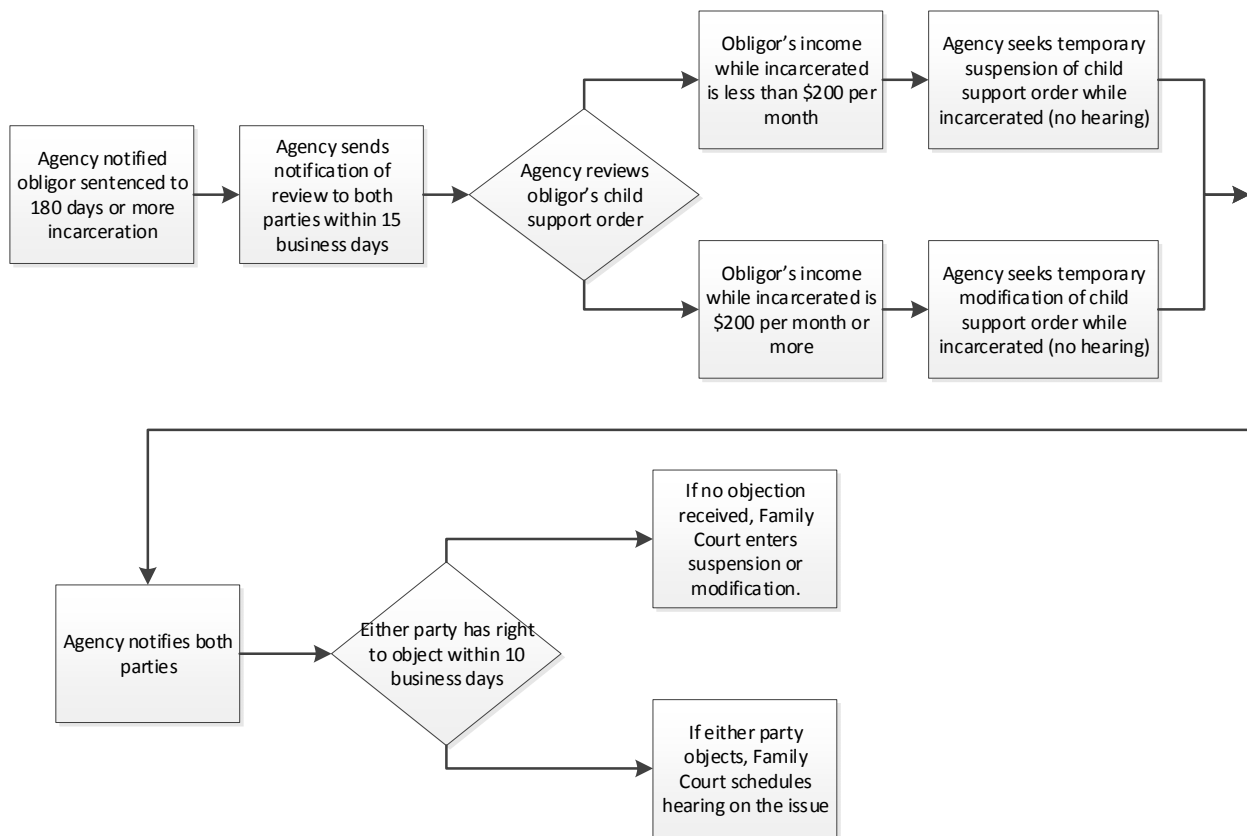
The Oneida Family Court already modifies child support orders for incarcerated parents. The Oneida Child Support Agency supports incorporating this process into Oneida Nation’s Child Support Law. The intent of adding a standard process to the Nation’s Child Support law is to ensure that all incarcerated parents and impacted parties are treated uniformly.

Source: Final Rule Fact Sheets: Flexibility, Efficiency and Modernization in Child Support Enforcement Programs. Office of Child Support Enforcement, Administration for Children and Families, U.S. Dept. of Health and Human Services. January 5, 2017. DCL-17-01. https://www.acf.hhs.gov/sites/default/files/programs/css/fem_final_rule_incarceration.pdf

- 286 ■ ***What is the Process to Suspend or Modify the Order?*** The Agency will use the following process:
287 ○ *Notice to Both Parties.* Within fifteen (15) business days of receiving verification of the
288 obligor’s incarceration, the Agency will send notice to both parties informing them of the

- 289 obligor’s right to have his or her child support obligation reviewed, and the Agency’s intent
 290 to review the order [7 O.C. 704.11-2].
- 291 ○ *Agency Review.* The agency will review the incarcerated obligor’s child support order and
 292 determine whether the obligor’s monthly income is less than or greater than \$200 per
 293 month while incarcerated [7 O.C. 704.11-3].
 - 294 ○ *Suspension of Order by Agency.* If the obligor is sentenced to 180 days or greater with an
 295 income of less than \$200 per month, the Agency will file a motion and order to suspend
 296 with the Family Court without a request for a hearing [7 O.C. 704.11-4].
 - 297 • *Notice & Right to Object.* Notice shall be sent to all parties. Either party may file
 298 written objection with the Family Court within ten (10) business days. If no
 299 objection is received, the Family Court will enter the order as proposed. If an
 300 objection is received, the Family Court will hold a hearing on the issue.
 - 301 ○ *Modification of Order by Agency.* If the obligor is sentenced to 180 days or greater with an
 302 income of \$200 per month or more, the Agency will file a motion and order to modify the
 303 child support order without a request for a hearing [7 O.C. 704.11-5].
 - 304 • *Notice & Right to Object.* Notice shall be sent to all parties. Either party may file
 305 written objection with the Family Court within ten (10) business days. If no
 306 objection is received, the Family Court will enter the order as proposed. If an
 307 objection is received, the Family Court will hold a hearing on the issue.

309 *Chart 3. Modifying or Suspending Child Support Order for Incarcerated Parent*

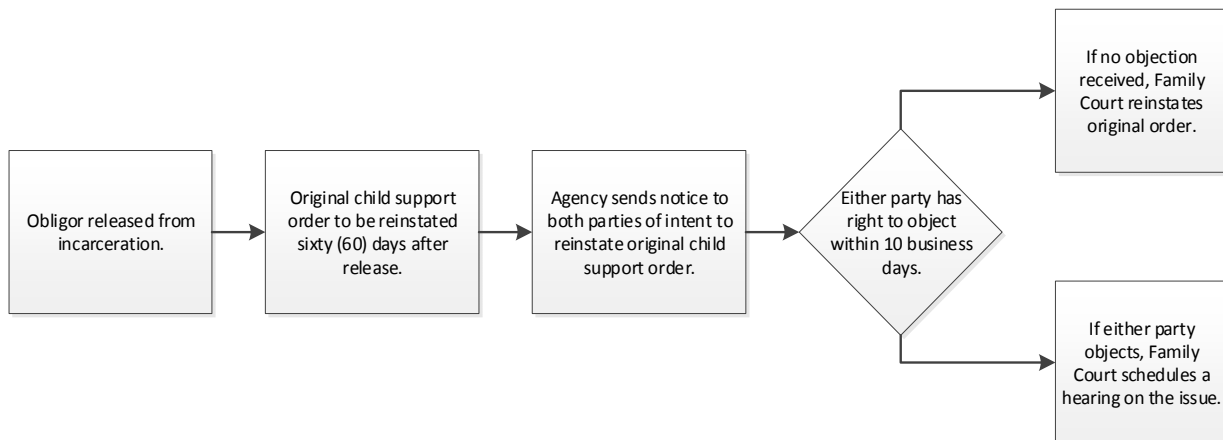


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- **How is Original Child Support Order Reinstated after the Incarcerated Parent is Released?**
 - *Reinstatement of Prior Order.* Sixty (60) days after the obligor is released from jail or prison, the original child support order prior to the individual’s incarceration will be reinstated. [7 O.C. 704.11-8].
 - *Notice & Right to Object.* The Agency will send notice to both parties of the obligor’s release from incarceration and the Agency’s intent to reinstate the original order. Both parties will have ten (10) business days from the date of notice to file an objection to reinstating the order with the Family Court. If an objection is filed, the Family Court will schedule a hearing.
 - **What Happens if the Obligor’s Probation or Extended Supervision is Revoked?** If the obligor is released from incarceration and is later sentenced to another one hundred and eighty (180) days or more in jail or prison, the Agency will use the provisions of this section to determine if another suspension or modification of the child support order is appropriate [7 O.C. 704.11-9].

329 *Chart 4. Reinstating Original Child Support Order After Release from Incarceration.*

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- Q. **Compliance Plans.** At any point when the Agency believes an obligor is or may become non-compliant with their child support payments, the Agency can work with the obligor to develop a compliance plan.
 - *Purpose of Compliance Plan.* The purpose of a compliance plan is to address barriers to making regular payments so that a parent can once again make regular payments and meet their child support obligations [7 O.C. 704.12].
 - *Components of Compliance Plan.* A compliance plan may include requirements to participate in employment and training programs, social service and mental health services, physical and learning disability programs, tribal traditions and customs, and family counseling. The agency may suspend enforcement actions if the party successfully completes the compliance plan. Failure to complete the compliance plan will result in enforcement action [7 O.C. 704.12-2(c)].
 - *New Components.* These amendments add parenting programs and “any other programs deemed necessary” to the list of acceptable programs that can be included in a compliance plan. The intent is to increase flexibility for the Oneida Child Support Agency to address unique needs of each obligor.
 - *Changes to Timelines and Notice Letters.* The following changes have been made to more accurately reflect the Child Support Agency’s practices regarding notices and timelines for initiating compliance plans [7 O.C. 704.12].

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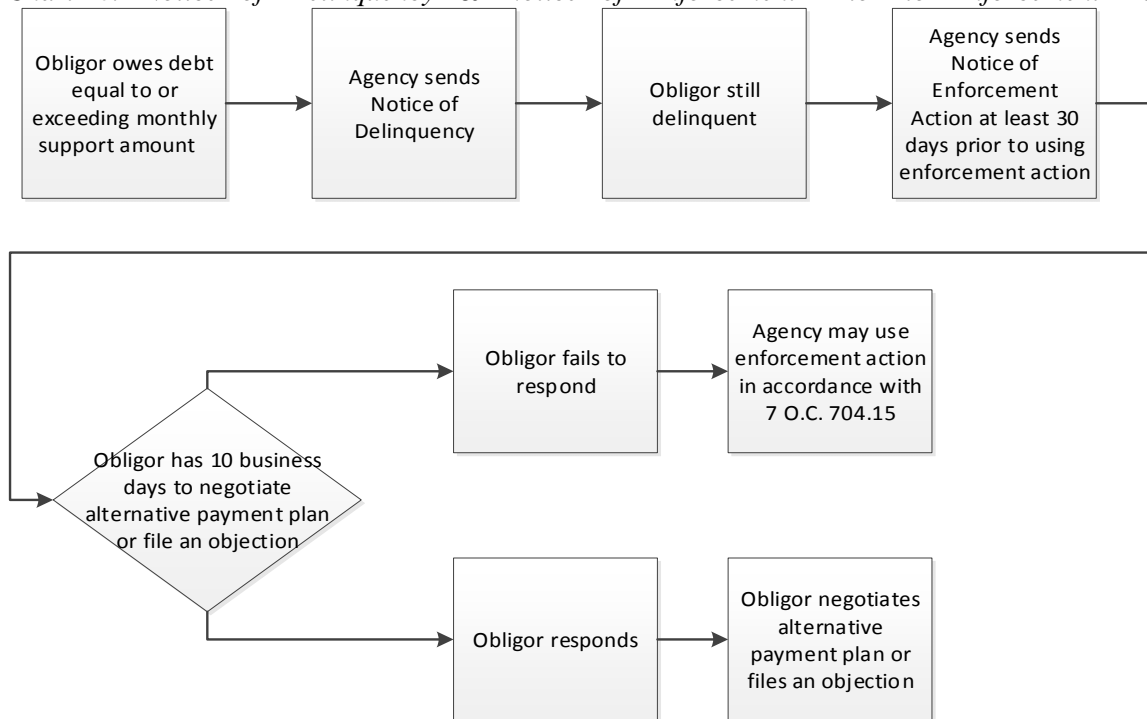
Chart 5. Notice and Timelines for Compliance Plans.

	Current Law	Proposed Law
When is first letter of non-compliance sent?	Within five (5) days of learning of the obligor's failure to pay.	At any time deemed appropriate, but at least thirty (30) days prior to initiating any enforcement action.
How many days to respond to first letter?	Five (5) days.	Five (5) days.
Agency required to send a 2 nd letter?	Yes, agency must send a 2 nd letter regarding the compliance plan.	No, agency not required to send a 2 nd letter regarding the compliance plan.

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- R. Notice of Delinquency and Notice of Enforcement.** When an obligor fails to make their ordered child support payments, the Agency is required to send notices to the obligor informing them that they are delinquent. The Oneida Child Support Agency uses a state software system known as “KIDS” to monitor child support payments and arrears. This system allows the Agency to track and send notices to delinquent obligors. The Agency suggested the following changes to the notices to more accurately reflect their practices and ensure compliance:
- *Notice of Delinquency:* The Agency will send this notice to an obligor in the event that the obligor owes a debt equal to or exceeding the monthly amount. In other words, if the obligor is a month behind on their payments. This notice will include the total amount of the delinquency and the enforcement action that may be taken if they do not pay [7 O.C. 704.13-3].
 - *Notice of Enforcement Action.* The Agency will send this notice after the “Notice of Delinquency” and at least thirty days prior to an enforcement action being used against an obligor. This notice is more detailed, and will include the total amount of the delinquency, the enforcement action that may be taken, notice that the obligor may request to negotiate an alternative payment plan within ten (10) business days in order to stay an enforcement action, and notice that the obligor has ten (10) business days to file an objection [7 O.C. 704.13-4].

Chart 6. Notice of Delinquency & Notice of Enforcement Prior to Enforcement Action.



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- 372 **S. *Alternative Payment Plans – Obligors with Cases in Multiple Jurisdictions.*** A provision in the law
373 regarding obligors that negotiate alternative payment plans in other jurisdictions (i.e., other County or
374 Tribal child support agencies) has been deleted. This provision informs the reader of requirements of
375 other agencies. The Law Office advises that this is unnecessary within the law and can be incorporated
376 into the Child Support Agency’s internal processes [2.9-10 in Rule #2].
- 377 **T. *Administrative Enforcement Actions.*** The current Child Support law contains enforcement actions the
378 Agency has the authority to use if the obligor is at least one (1) month delinquent in paying his or her
379 child support obligations. These enforcement actions are listed below, with any changes noted: [7 O.C.
380 704.15].
- 381 ■ *Liens.* The Agency will place the obligor on the lien docket if the obligor owes a debt equal to or
382 exceeding the monthly amount due or five hundred (\$500) dollars, whichever is greater [7 O.C.
383 704.15-2].
 - 384 ■ *Seizure of Property.* The Agency has the authority to seizure property, including accounts and
385 personal property. The Agency may initiate account seizure if the lien amount in the obligor’s case
386 equal or exceeds 300% of the monthly amount due or one thousand dollars (\$1000), whichever is
387 greater. The Agency may initiate seizure of personal property if the lien amount equals or exceeds
388 600% of the monthly amount due [7 O.C. 704.15-3].
 - 389 ■ *Attachment of Per Capita Payments.* The Agency may initiate the attachment or seizure of per
390 capita payments of members of the Nation in accordance with the Nation’s Per Capita law [7 O.C.
391 704.15-4].
 - 392 ■ *License Suspension.* The Agency may initiate the suspension or denial of both state and Oneida
393 issued licenses if there is a lien against an obligor that equals or exceeds 300% of the monthly
394 amount due or one thousand dollars (\$1000), whichever is greater [7 O.C. 704.15-5].
 - 395 ○ *Types of licenses:* The types of licenses that the Agency may initiate suspension or denial
396 of include, but are not limited to, vendor, professional, occupational, hunting, fishing,
397 recreational and/or motor vehicle licenses.
 - 398 ○ *Change to License Suspension as Last Resort:* A provision stating that “suspension of an
399 occupational and/or motor vehicle license shall be pursued only as a last resort” has been
400 deleted [2-7(2)(a)]. This will give the Agency the ability to pursue license suspension
401 more readily.
 - 402 ■ *Lump-Sum Pension Payments, Judgments and Settlement Intercepts.* Once an obligor has been
403 placed on the lien docket, the Agency may initiate the intercept of lump-sum pension payments,
404 judgments and/or settlements [7 O.C. 704.15-6].
 - 405 ■ *Tax and Lottery Intercepts.* The Agency may coordinate with federal or state agencies to enforce a
406 child support order through tax or lottery intercept [7 O.C. 704.15-7].
 - 407 ■ *Passport Denial.* If a federal tax intercept is in place and the obligor owes \$2500 or more in arrears,
408 an obligor may be denied a passport [7 O.C. 704.15-8].
 - 409 ○ *Change to Threshold.* The threshold for denying a passport has been lowered from \$5,000
410 to \$2,500 to be consistent with recent changes to this threshold by the federal government.
411 This allows this enforcement tool to be used more readily.
 - 412 ■ *Denial of State Issued Grants and Loans.*
 - 413 ○ *Deleted Provision.* A provision stating that Wisconsin state agencies may deny state-issued
414 grants and loans has been deleted. The Law Office recommended deleting this item as it
415 was unnecessary, as it is informing the reader of what the State of Wisconsin, not Oneida
416 Nation, may do [Child Support Rule 2.5-6].
- 417 **U. *Family Court Enforcement Actions.*** In addition to the administrative actions listed above, the current
418 child Support Law also gives the Family Court authority to order the following enforcement actions:
419 [7 O.C. 704.16].
- 420 ■ *Bonds and Other Guarantees.* The Family Court may require an obligor to provide a surety, bond
421 or guarantee to secure the payment of arrears [7 O.C. 704.16-2].

- 422 ▪ *Claims Against Estates.* The Family Court may approve a claim for past and future support against
423 an obligor’s estate. The Family Court may issue a restraining order against an estate from which an
424 obligor will inherit [7 O.C. 704.16-3].
 - 425 ▪ *Community Service.* The Family Court may order an obligor to perform community service [7 O.C.
426 704.16-4].
 - 427 ▪ *Contempt.* An obligor who disobeys a lawful child support order shall be subject to punishment for
428 contempt of court. An obligor found in contempt of court may be fined no more than \$1,000 per
429 act of contempt, not to exceed \$5,000 in total [7 O.C. 704.16-5].
 - 430 ▪ *Incarceration.* The Family Court may order an obligor to be incarcerated. Before a jail sentence is
431 imposed, the Family Court may provide other conditions that require a certain amount of money
432 be paid or action be taken for an obligor to avoid incarceration [7 O.C. 704.16-6].
 - 433 ○ *Current Practice.* The current law allows for the Family Court to order an obligor to be
434 incarcerated. However, in practice, the Family Court has never sentenced an obligor to jail
435 because the Oneida Nation has no jail and does not have agreements in place with other
436 jails to house individuals sentenced under this law. For more information see Section 9
437 “Other Considerations.”
 - 438 ▪ *Criminal Non-Support.* A criminal non-support action may be initiated, in the appropriate county,
439 against an obligor who has the ability to pay child support and willfully or intentionally failed to
440 pay. The Agency reports that criminal non-support is rarely used in Brown and Outagamie counties
441 [7 O.C. 704.16-7].
- 442 V. **Minor Drafting Changes.** Minor drafting and formatting changes have been made throughout the law
443 for clarity.
444

445 SECTION 6. RELATED LEGISLATION

- 446 A. **References to Other Laws.** The following laws of the Nation are referenced in the Child Support law.
447 These amendments do not conflict with any of the referenced laws.
- 448 ▪ *Per Capita law.* The Child Support Agency may initiate the attachment or/seizure of per capita
449 payments of members of the Nation in accordance with the Per Capita law [7 O.C. 704.15-4].
 - 450 ▪ *Oneida Judiciary Rules of Civil Procedure.* The Family Court may utilize discovery procedures
451 and contempt powers as authorized by any law, policy, or rule of the Nation to obtain information
452 relevant to the establishment or enforcement of child support [7 O.C. 704.6-2].
 - 453 ▪ *Rules of Appellate Procedure.* A party may appeal a Family Court decision, other than the decision
454 of the Family Court in regard to administrative enforcement action, to the Nation’s Court of
455 Appeals within thirty (30) calendar days after the date the Family Court made the decision. The
456 review of the Court of Appeals shall be based on the record and original decision of the Family
457 Court [7 O.C. 704.18].
- 458 B. **Other Laws that Reference Child Support.** The following laws of the Nation reference child support.
459 These amendments do not conflict with any of the referenced laws, except for one potential discrepancy
460 in the Family Court law.
- 461 ▪ *Family Court law.* The Family Court law states that proceedings of the Court shall be closed to the
462 public, except that divorce, child support and post-divorce matters may be attended by members of
463 the general public. However, in any case where the presiding Judge determines that there are safety
464 or confidentiality concerns, the Judge may exclude from the proceedings all individuals not
465 necessarily present as parties of witnesses [8 O.C. 806.4-3].
 - 466 ○ *Comparison to Child Support law.* The Family Court law states that child support matters
467 may be attended by members of the general public, unless the presiding judge determines
468 that there are safety or confidentiality concerns. However, the current Child Support law
469 (and the proposed amendments) state that Child Support proceedings shall be closed to any
470 person other than those necessary to the action or proceeding [7 O.C. 704.6-5 in current

- 471 *Child Support law*]. The Family Court law was adopted by the OBC on May 8th, 2013,
472 while the current Child Support law was adopted more recently, on August 13, 2014.
- 473 ○ *Current Practice*. The Family Court reports that child support hearings are currently closed
474 in accordance with the Child Support law.
 - 475 ○ *Conclusion*: In reviewing amendments to this law, the LOC has expressed that they wish
476 to protect the privacy of matters involving children. Given the inconsistent language
477 between the two laws, the LOC may wish to amend the Family Court law to match the
478 hearing provisions in the Child Support law and the Family Court’s current practice. Since
479 the Family Court law is not currently on the LOC’s Active Files List, the LOC could direct
480 the Legislative Reference Office to make note of this discrepancy the next time the Family
481 Court law comes up for amendments.
- 482 ■ *Family Court Rules*.
 - 483 ○ *Family Court Rule #5 – Paternity Procedure*. If genetic testing results establish an alleged
484 father as the biological father, the Family Court may address the issue of Child Support at
485 a final paternity hearing [8 O.C. 807].
 - 486 ○ *Family Court Rule #12 – Foreign Child Support orders*. Requests, motions or petitions
487 seeking recognition and enforcement of a foreign child support order is governed by this
488 rule when filed under the Nation’s Child Support Law or Garnishment law. The rule
489 outlines the process for sending notice of the filing, filing objections, requesting a hearing,
490 and authenticating the foreign order [8 O.C. 807].
 - 491 ■ *Workers Compensation Law*. Workers compensation awards are subject to child support income
492 withholding and other remedies available for the support of a child support order. The maximum
493 amount that may be withheld is one-half of the compensation award. [2 O.C. 203.7-4].
 - 494 ■ *Garnishment Law*.
 - 495 ○ *Garnishment Amount*. In calculating the amount of the garnishment per pay period, the
496 judge may not include amounts garnished pursuant to child support orders when calculating
497 twenty (20%) of the debtor’s disposable earnings [2 O.C. 205.5-6(c)(1) and 205.6-4(a)(2)].
 - 498 ○ *Recognition and Enforcement of Child Support Orders*. The Judiciary shall recognize and
499 enforce child support orders against any employee, provided that the order has been issued
500 from a court of competent jurisdiction. [2 O.C. 204.7].
 - 501 ■ *Paternity Law*. The Paternity law outlines the process to establish paternity of Oneida children and
502 other children in order to protect the best interest of these children. The duties and responsibilities
503 of the Child Support Agency in the establishment of paternity through order of the Oneida Family
504 Court are outlined in the Paternity law. The Child Support Agency, when required by federal law,
505 may file a petition requesting the court to establish paternity or other related orders. The Child
506 Support Agency may also assist a party who is filing a petition to establish the paternity of a child
507 [see 7 O.C. 703.6].
 - 508 ○ *Commencing a Custody Proceeding*. A child custody proceeding is commenced by a parent
509 by filing a petition to: (a) seek custody of a child, (b) establish the paternity of a child; (c)
510 establish a child support order...” [see 7 O.C. 705.6-1]
 - 511 ○ *Peacemaking and Mediation*. Child support shall not be considered during mediation
512 unless child support is directly related to the legal custody or physical placement of the
513 child and the parties agree, in writing, to consider child support. [see 7 O.C. 705.7-3(b)].
 - 514 ■ *Per Capita Law*. Per capita payments may be attached for child support arrears ordered by a court
515 of competent jurisdiction, such as the Oneida Family Court. The Per Capita law includes a process
516 for how child support attachments are handled by the Agency and Trust Enrollment Department.
517 [1 O.C. 123.4-9(a)(1) and 1 O.C. 123.4-9(c)].
 - 518 ■ *Children’s Code*. At the time this analysis was drafted, the Nation’s Children’s Code was not
519 scheduled to become effective until October 1, 2019.

- 520 ○ *Indian Child Welfare Department Duties.* One of the duties of the Indian Child Welfare
521 Department is to enter into memorandums of understanding and/or agreements with
522 appropriate departments, including the Oneida Child Support Agency, in order to carry out
523 the provisions of the Children’s Code. [7 O.C. 708.7-2(e)].
- 524 ○ *Referrals to Oneida Child Support.* The Family Court or Indian Child Welfare Department
525 may refer matters to the Oneida Child Support Agency at any time. [7 O.C. 708.13-3 &
526 13-4].
- 527 ○ *Indian Child Welfare Disposition Report.* If the ICW Department recommends out-of-
528 home placement, the ICW Department must include in its disposition report a
529 recommendation as to whether the Family Court should establish child support obligation
530 for the parents. [7 O.C. 708.21-2(b)].
- 531 ○ *Termination of Parental Rights.* The Family Court may dismiss a petition if it finds the
532 evidence does not warrant the termination of parental rights or if the Court finds that a
533 parent is attempting to voluntarily terminate their parental rights for the sole purpose of
534 avoiding a child support obligation. [7 O.C. 708.40-2(a)].
- 535 ■ *Divorce, Annulment and Legal Separation.*
 - 536 ○ *Petitions.* Petitions for divorce, annulment or legal separation must state whether the parties
537 have entered into any written agreement as to child support, and if so, the written agreement
538 must be attached [7 O.C. 702.5-1(g)].
 - 539 ○ *Legal Separation and Divorce.* After an action for an annulment, legal separation or
540 divorce is initiated, the Family Court shall make any necessary temporary order concerning
541 child support. Final orders concerning child support shall be made at the time the
542 annulment, legal separation or divorce is granted. [7 O.C. 702.8-4].
- 543 ■ *Child Custody, Placement and Visitation.*
 - 544 ○ *Commencement of Proceeding.* A child custody proceeding may be commenced under the
545 Child Custody, Placement and Visitation play by a parent filing a petition to seek custody
546 of a child, establish the paternity of a child, or establish a child support order. [7 O.C.
547 705.6-1].
 - 548 ○ *Mediation.* If parties agree to mediation under the Child Custody, Placement and Visitation
549 law, child support shall not be considered during mediation unless child support is directly
550 related to legal custody or physical placement of the child and the parties agree, in writing,
551 to consider child support. [7 O.C. 705.7-3(b)].

553 **SECTION 7. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS**

- 554 **A. *New Rights and Privileges for Incarcerated Parents.*** Parents sentenced to incarceration for greater
555 than one hundred and eighty (180) days will now have the right to have their child support orders
556 modified or suspended under certain circumstances. Parties have the right to object to modification or
557 suspension of an order and request a hearing on the matter [7 O.C. 704.11].

559 **SECTION 8. ENFORCEMENT AND ACCOUNTABILITY**

- 560 **A. *Enforcement Tools.*** Under the current Child Support law, the Oneida Child Support Agency and
561 Oneida Family Court have a number of administrative and judicial enforcement tools to enforce child
562 support orders. These include:
- 563 ■ *Administrative (Agency) Enforcement Tools:* Liens, Seizure of Property including account seizure
564 and personal property, attachment of per capita payments, license suspension, pension, judgment
565 and settlement intercepts, tax and lottery intercepts and passport denial [7 O.C. 704.15].
 - 566 ■ *Judicial Enforcement Tools:* Bonds and other guarantees, claims against estates, community
567 service, contempt, incarceration and criminal non-support [7 O.C. 704.16].

569 **SECTION 9. OTHER CONSIDERATIONS**

570 **A. *Child Support Collection Rates by Agency.*** The following provides examples of collection rates for
 571 country and tribal child support agencies as of July 2018:

572 *Chart 7. Child Support Collection Rates by Agency:*

County or Tribal Agency	Court Cases with Current Support Ordered	Court Cases with Current Support Payments	Collection Rate
Oneida Nation	937	471	50.27%
Lac du Flambeau	256	78	30.47%
Menominee Nation	493	229	46.45%
Ashland County	622	375	60.29%
Brown County	6169	4545	73.67%
Calumet County	1019	828	81.26
Ho Chunk Nation	145	130	89.66%

573 *Source: Oneida Child Support Agency, August 2018.*

574 **B. *Repeal Child Support Rules.*** Since the two Child Support Rules have been incorporated into the body
 575 of the law itself, the two rules should be repealed upon adoption of these amendments as they will
 576 become redundant.

- 577 ▪ *Recommendation:* The repeal of the rules should be included in the adopting resolution for these
 578 amendments.

579 **C. *Paternity Law.*** During the development of these amendments, the Oneida Child Support Agency noted
 580 that updates to the Nation’s Paternity law may be needed. The establishment of paternity is an important
 581 step in setting child support orders. The Nation’s Paternity law was last amended by the Oneida
 582 Business Committee in 2014.

- 583 ▪ *Recommendation:* If the Oneida Child Support Agency wishes to request amendments to the
 584 Paternity law, it is recommended that the agency submit an Active Files Request for the LOC’s
 585 consideration.

586 **D. *Potential Enforcement Tools Considered and Not Added.*** During the development of these
 587 amendments, the LOC and Child Support Agency researched potential new enforcement tools to
 588 increase collection of child support orders. After reviewing the research and feedback from
 589 departments, the LOC decided not to move forward with adding these new tools to the law. The
 590 potential enforcement tools included:

- 591 ▪ *Immobilization of Vehicles.* Authorizing the Family Court or Child Support Agency to direct
 592 Oneida Police Department to place a “boot” or “wheel lock” on an obligor’s vehicle to immobilize
 593 it. The obligor would then have to contact the Agency to make a payment or negotiate a plan to
 594 have the “boot” removed.
- 595 ▪ *“Pocket Pulls.”* Ordering an obligor to empty his or her pockets while in Oneida Nation’s court.
- 596 ▪ *“Till Taps.”* Seizing money from an obligor’s business if it is located on the Reservation.

597 **E. *Incarceration.*** The current Child Support law already allows the Family Court to sentence individuals
 598 to incarceration. However, this provision has never been used by the Family Court because unlike
 599 Wisconsin counties or tribal nations like Menominee Nation, the Oneida Nation has no jail. While
 600 incarceration is rarely used for child support cases in other counties, the Agency notes that the “threat”
 601 of jail time may still be effective. Some obligors with cases in the Oneida Child Support system are
 602 aware that, unlike other courts, the Nation’s courts cannot send them to jail. While the goal of the
 603 Agency is not to incarcerate, the threat of jail time may motivate obligors to make payments in the most
 604 egregious of cases.

- 605 ▪ *Agreement for Housing Inmates:* The Family Court reports that it will not sentence individuals to
 606 jail without an agreement in place with another jail to house our inmates. Therefore, if the LOC

607 wants the Family Court to have the ability to utilize incarceration as an enforcement tool for
608 delinquent child support cases, the LOC may want to direct a work group to develop agreements
609 with Brown and/or Outagamie county. Such a work group would likely include the Law Office and
610 Intergovernmental Affairs.

611 ■ *Sentencing Guidelines.* In addition, the LOC may wish to add guidelines for the Family Court
612 judges to follow regarding length of sentence and when incarceration may be used. For example,
613 “incarceration shall only be used as a last resort” or “a sentence shall not to exceed ____ days.” A
614 review of other child support laws indicates that sentencing guidelines are not typically included in
615 child support laws themselves. If the LOC wishes to add sentencing guidelines, further research
616 may be needed.

617 ■ *Conclusion:* The Child Support Law already authorizes the use of incarceration for Child Support
618 cases. However, this feature of the law cannot be used unless an agreement is developed to utilize
619 a jail. Whether to develop sentencing guidelines and direct a work team to pursue an agreement
620 with the counties to utilize their jail(s) is a policy decision for the LOC and/or Oneida Business
621 Committee. Such a directive could be included in the adopting resolution of this law or in a
622 memorandum.

623



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



AGENDA REQUEST FORM

- 1) Request Date: LOC meeting date 8/7/2019
- 2) Contact Person(s): Keith Doxtator/Bonnie Pigman
Dept: Trust Enrollment
Phone Number: 490-3932 Email: bpigman@oneidation.org
- 3) Agenda Title: Add to Active Files - Amendments to the Children's Burial Fund Policy
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
The Oneida Trust Enrollment Committee (OTEC) took action to amend
the Children's Burial Fund Policy

List any supporting materials included and submitted with the Agenda Request Form

- 1) Children's Burial Fund Policy dtd 02-10-10
- 2) Redline & Clean Copy to Children's Burial Fund Policy
- 3) OTEC Regular Meeting minutes dtd 07-09-19
- 4) _____

- 5) Please list any laws, policies or resolutions that might be affected:

- 6) Please list all other departments or person(s) you have brought your concern to:

- 7) Do you consider this request urgent? Yes No
If yes, please indicate why:
Removes outdated restrictions for membership using benefit

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:

Please send this form and all supporting materials to:

LOC@oneidation.org
or
Legislative Operating Committee (LOC)
P.O. Box 365
Oneida, WI 54155
Phone 920-869-4376

Title 1. Government and Finances – Chapter 129
CHILDREN’S BURIAL FUND POLICY
Kaya’takenhásla ashakotiya’tátane’ latiksa’shúha
It is helpful for them to bury them the children

129.1. Purpose and Policy

129.2. Adoption, Amendment, Conflicts

129.3. Definitions

129.4. Qualifications

129.5. Procedures

129.1. Purpose and Policy

129.1-1. *Purpose.* It is the purpose of this policy to provide financial assistance towards the funeral costs of children of a certain age who are not enrolled, but are eligible for enrollment, in the Oneida Tribe of Indians of Wisconsin.

129.1-2. *Policy.* The Oneida Tribe is committed to providing services to the membership from birth to death. As a part of this commitment, we wish to assure a dignified approach to the final needs of our Tribal members and their families.

129.1-3. This fund is established to provide an individual allotment, not to exceed \$3,500 per qualified individual, to defray the cost of funeral expenses.

129.2. Adoption, Amendment, Conflicts

129.2-1. This policy was adopted by the Oneida Business Committee resolution BC-02-10-10-B.

129.2-2. This policy may be amended pursuant to the procedures set out in Tribal law.

129.2-3. Should a provision of this policy or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this policy which are considered to have legal force without the invalid portions.

129.2-4. In the event of a conflict between a provision of this policy and a provision of another law, ordinance, policy, regulation, rule, resolution, or motion, the provisions of this policy shall control. Provided that, nothing in this policy is intended to repeal or modify any existing law, ordinance, policy, regulation, rule, resolution or motion.

129.2-5. This policy is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

129.3. Definitions

129.3-1. This section shall govern the definitions of words and phrases used within this policy. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Fetal death report” means the form prescribed and supplied by a State used to report non-abortion related fetal deaths, which may also be referred to as stillbirths.

(b) “Stillbirth” means a fetus born dead, irrespective of the duration of pregnancy, with death indicated by the fact that after expulsion or extraction from the woman, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of the voluntary muscles.

(c) “Voluntary paternity/maternity statement” means the document created by the Oneida Enrollment Department which requires the notarized signature(s) of Oneida parent(s) acknowledging paternity and/or maternity of a fetus, which is used to determine eligibility for enrollment.

129.4. Qualifications

129.4-1. Except as provided in 129.4-2, to be eligible for assistance the deceased shall be five (5) years of age or younger, not enrolled, but eligible for enrollment.

129.4-2. In the event the deceased is six (6) years of age, not enrolled, but eligible for enrollment, the deceased shall be eligible for assistance if the Oneida Trust/Enrollment Committee had approved the enrollment of the deceased prior to his or her death.

129.5. Procedures

129.5-1. The Oneida Enrollment Department is designated to process all requests for assistance from the Children's Burial Fund.

129.5-2. Requests for payment shall be made within 365 days from the date of death.

129.5-3. Original invoices shall be provided to the Enrollment Department for payment.

129.5-4. Upon verification of invoices and the relevant document(s) as required under 129.5-5, the Enrollment Department shall be responsible for processing the appropriate paper work for the payment to be made to the funeral home, monument company, cemetery, crematorium, churches, and/or catering/food vendors.

129.5-5. A birth certificate, death certificate, or fetal death report shall be submitted to the Enrollment Department prior to payment. A voluntary paternity/maternity statement shall also be submitted to the Enrollment Department prior to payment where paternity and/or maternity needs to be determined.

129.5-6. Food expenses are payable through a food voucher, added to the funeral home invoice, or paid directly to the caterer/food vendor/restaurant, amount not to exceed \$200.00, which is included under the \$3,500.00.

129.5-7. Monument/headstone costs are payable directly to the vendor or may be added to the funeral home invoice, amount not to exceed \$1,000.00, which is included under the \$3,500.00.

129.5-8. Cemetery costs are payable directly to the vendor or may be added to the funeral home invoice, amount to be included under the \$3,500.00.

129.5-9. Church costs are payable directly to the vendor or may be added to the funeral home invoice, amount to be included under the \$3,500.00.

129.5-10. Under no circumstances will there be any reimbursements for funeral costs to individuals.

129.5-11. Any unexpended monies after payment(s) have been made will remain in the fund for other burials.

129.5-12. Under no circumstances will funding exceed \$3,500.00.

129.5-13. Total expenses over \$3,500.00 or expenses over the designated amounts payable are the responsibility of the family or responsible party.

End.

Adopted-BC-02-10-10-B

Title 1. Government and Finances – Chapter 129
CHILDREN'S BURIAL FUND POLICY
Kaya'takenhásla ashakotiya'tátane' latiksa'shúha
It is helpful for them to bury them the children

129.1. Purpose and Policy
 129.2. Adoption, Amendment, Conflicts
 129.3. Definitions

129.4. Qualifications
 129.5. Procedures

129.1. Purpose and Policy

129.1-1. *Purpose.* It is the purpose of this policy to provide financial assistance towards the funeral costs of children of a certain age who are not enrolled, but ~~are would have been~~ eligible for enrollment, in the Oneida ~~Tribe of Indians of Wisconsin~~ Nation.

129.1-2. *Policy.* The Oneida ~~Tribe~~ Nation is committed to providing services to the membership from birth to death. As a part of this commitment, we wish to assure a dignified approach to the final needs of our ~~Tribal~~ Nation's members and their families.

129.1-3. This fund is established to provide an individual allotment, not to exceed \$3,500 per qualified individual, to defray the cost of funeral expenses.

129.2. Adoption, Amendment, Conflicts

129.2-1. This policy was adopted by the Oneida Business Committee resolution BC-02-10-10-B and ~~BC-mm-dd-yy-x.~~

129.2-2. This policy may be amended pursuant to the procedures set out in ~~Tribal~~ Oneida Nation law.

129.2-3. Should a provision of this policy or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this policy which are considered to have legal force without the invalid portions.

129.2-4. In the event of a conflict between a provision of this policy and a provision of another law, ordinance, policy, regulation, rule, resolution, or motion, the provisions of this policy shall control. Provided that, nothing in this policy is intended to repeal or modify any existing law, ordinance, policy, regulation, rule, resolution or motion.

129.2-5. This policy is adopted under authority of the Constitution of the Oneida ~~Tribe of Indians of Wisconsin~~ Nation, as amended.

129.3. Definitions

129.3-1. This section shall govern the definitions of words and phrases used within this policy. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Fetal death report" means the form prescribed and supplied by a State used to report non-abortion related fetal deaths, which may also be referred to as stillbirths.

(b) "Stillbirth" means a fetus born dead, irrespective of the duration of pregnancy, with death indicated by the fact that after expulsion or extraction from the woman, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of the voluntary muscles.

(c) "Voluntary paternity/maternity statement" means the document created by the Oneida ~~Trust~~ Enrollment Department which requires the notarized signature(s) of Oneida parent(s) acknowledging paternity and/or maternity of a fetus, which is used to determine eligibility for enrollment.

129.4. Qualifications

129.4-1. Except as provided in 129.4-2, to be eligible for assistance the deceased shall be five (5) years of age or younger, not enrolled, but eligible for enrollment.

129.4-2. In the event the deceased is six (6) years of age or younger, not enrolled, but eligible for enrollment, the deceased shall be eligible for assistance if the Oneida ~~Trust/Enrollment~~Trust Enrollment Committee had approved the enrollment of the deceased prior to his or her death.

129.5. Procedures

129.5-1. The Oneida Trust Enrollment Department is designated to process all requests for assistance from the Children's Burial Fund.

129.5-2. Requests for payment shall be made within 365 days from the date of death.

129.5-3. Original invoices shall be provided to the Oneida Trust Enrollment Department for payment.

129.5-4. Upon verification of invoices and the relevant document(s) as required under 129.5-5, the Oneida Trust Enrollment Department shall be responsible for processing the appropriate paper work for the payment to be made to the funeral home, monument company, cemetery, crematorium, churches, and/or catering/food vendors.

129.5-5. A birth certificate, death certificate, or fetal death report shall be submitted to the Oneida Trust Enrollment Department prior to payment. A voluntary paternity/maternity statement shall also be submitted to the Oneida Trust Enrollment Department prior to payment where paternity and/or maternity needs to be determined.

129.5-6. ~~Food-The following funeral related expenses, which are not to exceed \$3,500.00, are payable if are payable through a food voucher, added to identified on the a funeral home invoice; or paid directly to the caterer/food vendor/restaurant, amount not to exceed \$200.00, which is included under the \$3,500.00-~~ monument/headstone, cemetery, church, or food.

129.5-7. Monument/headstone costs are payable directly to the vendor or may be added to the funeral home invoice, amount not to exceed \$1,000.00, which is included under the \$3,500.00.

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129.5-9. Church costs are payable directly to the vendor or may be added to the funeral home invoice, amount to be included under the \$3,500.00.

129.5-10. Under no circumstances will there be any reimbursements for funeral costs to individuals.

129.5-8. Under no circumstances will there be any reimbursements for costs related travel/lodging to attend a funeral.

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129.5-13. Total expenses over \$3,500.00 or expenses over the designated amounts payable are the responsibility of the family or responsible party.

End.

Adopted-BC-XX-XX-XX-X

Adopted-BC-02-10-10-B

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Title 1. Government and Finances – Chapter 129
CHILDREN’S BURIAL FUND POLICY
Kayaʔtakenhásla ashakotiyaʔtátaneʔ latiksaʔshúha
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129.2-4. In the event of a conflict between a provision of this policy and a provision of another law, ordinance, policy, regulation, rule, resolution, or motion, the provisions of this policy shall control. Provided that, nothing in this policy is intended to repeal or modify any existing law, ordinance, policy, regulation, rule, resolution or motion.

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129.5-5. A birth certificate, death certificate, or fetal death report shall be submitted to the Oneida Trust Enrollment Department prior to payment. A voluntary paternity/maternity statement shall also be submitted to the Oneida Trust Enrollment Department prior to payment where paternity and/or maternity needs to be determined.

129.5-6. The following funeral related expenses, which are not to exceed \$3,500.00, are payable if identified on a funeral home invoice; monument/headstone, cemetery, church, or food.

129.5-7. Under no circumstances will there be any reimbursements for funeral costs to individuals.

129.5-8. Under no circumstances will there be any reimbursements for costs related travel/lodging to attend a funeral.

129.5-9. Any unexpended monies after payment(s) have been made will remain in the fund for other burials.

129.5-10. Under no circumstances will funding exceed \$3,500.00.

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End.

Adopted-BC-XX-XX-XX-X

Adopted-BC-02-10-10-B

[Redacted]

[Redacted]

[Redacted]

1. [Redacted]

[Redacted]

D. Children's Burial Fund – Bonnie Pigman

05-28-19 Motion to provide a draft of all recommended changes to the Children's Burial Fund Policy at the next Regular OTEC Meeting.

07-09-19 – Status Update – **Request to Pursue Amendments**

Lisa Liggins motioned to approve draft amendments to the Children's Burial Fund and forward to LOC. Seconded Elaine Skenandore-Cornelius. Motion carried unanimously.

A. [Redacted]

[Redacted]

REVISED



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54115-0365
 Oneida-nsn.gov



Legislative Operating Committee FY19 Third Quarter Report: April 1- June 30, 2019

Executive Summary

The Legislative Operating Committee (LOC) focused on these specific items in the third quarter; Domestic Animals Amendments, Election Law Amendments, amendments to all the boards, committee's and commissions bylaws, and a Curfew Law. The LOC continues to develop new ways to engage with the community and increase public participation. The third (and fourth) quarters have included video clips for the Election Law amendments, community outreach events for the Sanctions and Penalties Law, and experimenting with different times for public meetings.

Updates to the Active Files List

The active files list is the list of legislation that the LOC is working on. Currently there are thirty-one (31) items on the active files list. In the third quarter, the Oneida Business Committee adopted the Domestic Animals Amendments and that item was removed from the list. The following items were added:

1. **Indian Preference in Contracting:** The purpose of the law is to increase economic benefits for the Nation and it's members by maximizing the number of Indian workers and businesses working on the Nation's projects. Amendments are being considered.
2. **General Tribal Council Petition Process:** This petition is designed to set a new General Tribal Council Petition process aimed at asking the GTC if they would like to hear a petition prior to research by the Law Office, the Legislative Reference Office, and the Finance Department. The goal is to be more efficient, to provide information to the GTC, and to use the Nation's resources wisely. (This petition was considered by GTC on July 11, 2019 and was not approved by the body).
3. **Citations Law:** The purpose of this new legislation is to provide a process that governs all citations that fall under the jurisdiction of the Oneida Nation.

Active Legislation

Table 1. illustrates the status of each legislative item the LOC was working on as of July 22, 2019. Attachment A. includes a list of the legislation that has been completed in the 2017-2020 term (Since August 2017), along with a brief description of the legislation.

Table 1. Status of Active Legislative Items as of July 22, 2019



	Research	Outreach Work Meetings Drafting	Analysis Public Meeting	Comment Review LOC approval	Ready for Adoption
High Priorities-LOC is focusing most on on this legislation					
Election Amendments*					●
Sanctions & Penalties					●
Child Support Amendments			●		
Domestic Animals Amendments					●
Boards, Committees, & Commissions Bylaws					●
Oneida Food Service Code Amendments		●			
Curfew				●	
Industrial Hemp		●			
Taxation	●				
Wellness Court	●				
Children’s Code (Adopted)					●
Indian Preference in Contracting Amendments		●			
GTC Petition Process*					●
Vehicle Driver Certification & Fleet Management		●			
Citations Law		●			
Medium Priorities- LOC is working on this legislation and these items will likely become high priorities					
Recycling & Solid Waste Law Amendments		●			
Public Peace	●				
Drug & Alcohol Free Elected/Appointed Officials	●				
Tribal Traffic Code	●				
Business Corporations	●				
Code of Ethics Amendments	●				
Rules of Civil Procedure Amendments	●				
General Welfare Exclusion- Income Exemptions	●				
Low Priorities- LOC is not currently working on this legislation, but plans to in the future					
Work Visas	●				
Law Enforce. Ord. Amendments- Con. Wardens	●				
Environmental Review Law	●				
Attorney Contract Policy Amendments	●				
Tribal Institutional Review Board	●				
Guardianship	●				
Uniform Commercial Code	●				
Personnel Policies & Procedures Amendments	●				
Investigative Leave Policy Amendments	●				
Workplace Violence Amendments	●				

*Note: Items added to the active files list based on General Tribal Council directive. The GTC rejected both items at the July 11, 2019 GTC Meeting

Completed Legislation

At the September 24, 2018 Special GTC Meeting, the GTC was asked to prioritize the Nation’s Service Groups. Chart 1. compares GTC priorities to adopted legislation this term. Attachment A. provides details of the completed legislation and GTC priorities, as well as a brief description of the legislation.

Chart 1. Completed Legislation and GTC Priorities

Most of the adopted legislation completed so far in this term has addressed **Housing**, **Human Services**, and **Government Administration** priorities.

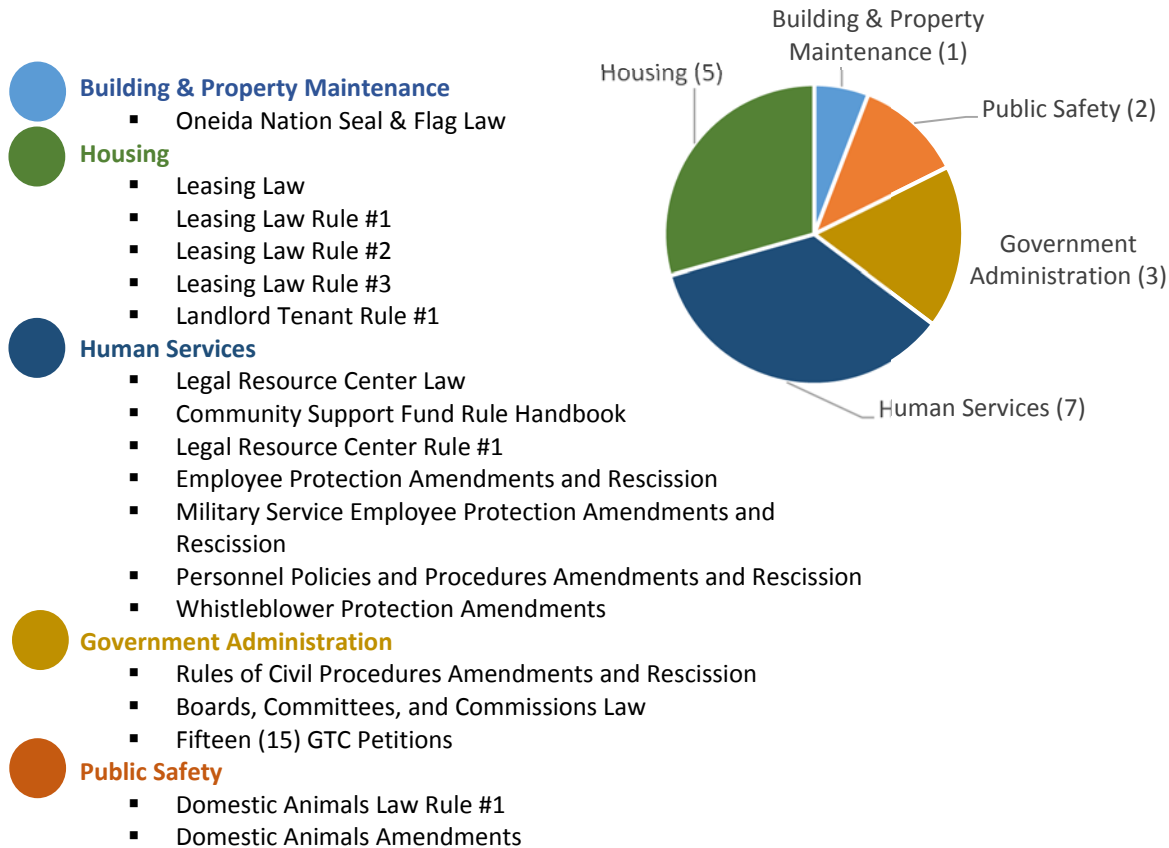


Table 3. Meetings held by the Legislative Operating Committee in Third Quarter

Legislative Operating Committee Meetings	
April 3, 2019	Regular LOC meeting cancelled
April 17, 2019	Regular LOC meeting
May 1, 2019	Regular LOC meeting
May 15, 2019	Regular LOC meeting
June 5, 2019	Regular LOC meeting
June 19, 2019	Regular LOC meeting

Legislative Operating Committee Third Quarter Highlights

Adopted Legislation:

Domestic Animals Amendments

The Oneida Business Committee adopted amendments to the Domestic Animal law by resolution 05-08-19-C titled "*Amendments to the Domestic Animal Law*". The amendments to the law made the following changes;

1. Eliminate administrative rulemaking authority delegated to the Environmental, Health, Safety, and Land Division and the Environmental Resource Board, and instead requires a jointly developed fine, penalty, and licensing fee schedule to be adopted by OBC resolution.
2. Eliminate administrative rulemaking authority delegated to the Environmental, Health, Safety, and Land Division, the Emergency Management Coordinator, and the Comprehensive Health Division, and instead require standard operating procedures to be created related to disease investigations and quarantines.
3. Reduce the space requirements for dog kennels.
4. Provide guidelines and requirements for tethering an animal.
5. Reduce the limit on the number of dogs and cats allowed in a residential household, but allow those who wish to seek an additional animal over the limit the ability to apply for a permit to do so.
6. Require a person to obtain a conditional use permit to keep hens, and limit the number of hens allowed on a residential lot.
7. Eliminate the vicious animal designation, and create a single dangerous animal designation, with a requirement that any animal declared dangerous be removed from the Reservation or destroyed, pending the opportunity to contest the dangerous declaration.

Community Outreach:

Sanctions and Penalties Law

This law would increase accountability among elected and appointed officials of the Nation. This proposed law creates a formal complaint process and allows for corrective actions against officials who engage in misconduct. The legislation is designed to establish a consistent set of sanctions and penalties that may be imposed upon elected and appointed officials of the Nation, including members of the Oneida Business Committee, for misconduct in office; and to establish an orderly and fair process for imposing such sanctions and penalties [see *Sanctions and Penalties, 1 O.C. 120.1-1*].

The LOC hosted a community pot luck to discuss the legislation on May 3, 2018 and sixteen (16) people attended. The public meeting was held on held on October 10, 2018 and seven (7) people attended. Approximately 115 comments were collected for this legislation.

At the March 17, 2019 General Tribal Council Meeting, the GTC discussed the proposed Sanctions & Penalties law and took the following actions:

- *Motion by Cathy L. Metoxen to table this item for sixty (60) days. Motion ruled out of order by Vice-Chairman Brandon Stevens; all the materials are available today in order to make a decision.*
- *Motion by Becky Webster to adopt the resolution entitled Sanctions and Penalties Law on pages 5 and 6 of the meeting packet; with the amendment to the law to limit those who have standing to file a complaint to Tribal Members only. Seconded by Jamie Willis. Motion not voted on; item deferred, see amendment.*
- *Amendment to the main motion by Mike Debraska to defer item IV.A. for at least sixty (60) days for GTC to have additional time to consider it and have input. Seconded by Tina Danforth. Motion carried by show of hands.*

Since March 17, the LOC has been planning outreach Events that will allow the community to have additional input on the legislation. The dates and times of these events are:

1. **July 11, 2019**, 5:00-6:00 pm, just prior to the General Tribal Council Meeting, Radisson Hotel and Conference Center
2. **July 17, 2019**, 12:00-1:00 pm, Norbert Hill Center Business Committee Conference Room
3. **August 9, 2019**, 8:00am-9:00am, Oneida Veteran’s Breakfast, Vets Office, Riverdale Dr., Oneida
4. **August 15, 2019**, 12:00-3:00 pm, Oneida Farmer’s Market, Water Circle Place, Oneida

**LEGISLATIVE OPERATING COMMITTEE
COMMUNITY OUTREACH EVENTS**

SANCTIONS AND PENALTIES LAW

At the March 17, 2019, General Tribal Council meeting the General Tribal Council directed that the consideration of the adoption of the proposed Sanctions and Penalties law be deferred until the General Tribal Council has additional time to consider it and have input.

Join the Legislative Operating Committee (LOC) at the following community outreach events to share ideas, ask questions, and provide input on the proposed Sanctions and Penalties law:

DATE	TIME	LOCATION
July 11, 2019	Prior to General Tribal Council Meeting from 5:00 pm – 6:00 pm	Radisson Hotel & Conference Center
July 17, 2019	12:00pm-1:00pm	Norbert Hill Center Business Committee Conference Room
August 9, 2019	8:00am-9:00am	Oneida Veteran’s Breakfast Vets Office, Riverdale Dr, Oneida
August 15, 2019	12:00pm-3:00pm	Oneida Farmer’s Market Water Circle Place, Oneida

Additional Opportunity for Input on the Sanctions and Penalties Law

If you are unable to attend a community outreach event to provide input, the LOC is offering the additional opportunity to provide comments and input through written submissions. The LOC will be accepting written thoughts and comments from the community until August 21, 2019. Written comments can be submitted via e-mail to LOC@oneidastate.org or in person to the Legislative Reference Office located in the Norbert Hill Center.

FOR MORE INFORMATION:
www.oneida-nys.gov/legislative-reference-office or contact Oneida Nation Legislative Reference Office located in the Norbert Hill Center, PO Box 343, Oneida, Wisconsin 54155
Email: LOC@oneidastate.org Phone: 715-965-6279

Community Events and Outreach

The Sanctions & Penalties Outreach events were published in the Kalihwisaks July 3, 2019 issue.

Legislative Operating Committee’s FY19 Fourth Quarter Plans

1. **Bylaws Amendments-** The newly amended Boards, Committees, and Commissions law requires all the Nation’s seventeen (17) boards, committees, and commissions to amend their bylaws to comply with the law. The Oneida Business Committee will review the proposed amendments at the end of July and determine the next steps for moving forward with the adoption of the bylaws amendments.

2. **Election law Amendments-** In 2018, the GTC directed that the Election law come back to the GTC with suggested amendments. In January 2019, this item was on the GTC agenda and deferred to a future GTC Meeting. The item was then placed on the July 11, 2019 GTC meeting agenda, and the LOC spent time preparing to present the Election law amendments to the GTC for a second time. The LOC produced its second video clip for social media. This clip was designed to encourage tribal members to attend the July 11, 2019 GTC meeting and take action on the Election Law Amendments. The LRO invited Oneida students from the University of Wisconsin- Information Technology Academy to participate in the video. Approximately 400 people viewed the video on Facebook in the week leading up to the GTC meeting.



3. **Sanctions & Penalties Law-** This law is designed to provide a process for members of the Business Committee, and other boards, committees, and commissions to face sanctions or penalties for misconduct. Currently, the only penalty for misconduct is removal or termination from office. On March 17, 2019 at a special GTC Meeting, the GTC adopted a motion to defer the item *“for at least sixty (60) days for the GTC to have additional time to consider it and have input”*. The LOC will host four (4) community outreach events and provide the community with more information regarding this legislation.
4. **Industrial Hemp-** The LOC will begin to focus on Industrial Hemp legislation. The goal is to regulate industrial hemp growers on the reservation as an exercise in sovereignty. The Legislative Reference Office is working with the Hemp Team and will begin drafting this legislation soon.
5. **Child Support Amendments-** The LOC will review draft amendments and work with the Child Support Department and others to update this law.
6. **Curfew Law:** The LOC will hold a public meeting in the fourth quarter for this item. The policy driving this legislation is to support drug use prevention initiatives of the Nation by protecting the health, safety, and welfare of the community.

Legislative Reference Office Update

The LRO is the support office for the LOC. The LRO drafts law, analyzes law, holds public meetings, collects public comment, and involves various departments on legislative work teams where the LOC discusses policy and makes decisions.

In the third quarter, the LRO focused on preparing the LOC for General Tribal Council meetings to discuss the Election law Amendments and providing the community with additional information regarding the proposed Sanctions & Penalties law. The LRO also focused on

amendments to the board's, committee's, and commission's bylaws. In the fourth quarter, the LRO will assist the LOC with; bylaws amendments for boards, committees, and commissions, the Oneida Food Service Code amendments, Industrial Hemp legislation, a Curfew Law, Child Support law Amendments, and a one year evaluation of the Boards, Committees, and Commissions Law.

In June, the LRO also began working with a summer Intern. Destiny Prendiville is a Business Analyst student at Northeast Wisconsin Technical College and has been working on various projects including community outreach events, survey development, attending policy meetings, and meeting with others throughout the organization. The LRO also had a high school student visit us in June. Maliha Yousuf spent the day at an Oneida Business Committee meeting, talking with attorneys, analysts, and policy advisors, and touring the Reservation. She is considering attending law school and wanted to learn more about what the LRO does.

Yaw^ko

Legislative Operating Committee Contact Information

Feel free to contact the LOC with questions or comments;

- David Jordan, LOC Chairperson, djordan1@oneidanation.org
- Kirby Metoxen, LOC Vice Chairperson, kmetox@oneidanation.org
- Jennifer Webster, LOC member, jwebste1@oneidanation.org
- Daniel King-Guzman, LOC Member, dguzman@oneidanation.org
- Ernest Stevens III, LOC Member, esteven4@oneidanation.org
- LOC@oneidanation.org



ATTACHMENT A.

Service Group Priorities as Identified by the General Tribal Council on September 24, 2018

1. Health Care	6. Human Services	11. Utilities, Wells, Wastewater, Septic
2. Education & Culture	7. Economic Enterprises	12. Building & Property Maintenance
3. Housing	8. Government Administration	13. Planning, Zoning, & Development
4. Preservation of Culture & Literacy	9. Public Safety	
5. Preservation of Natural Resources	10. Membership Administration	

Completed Legislation for 2017-2020 Term as of July 19, 2019

Name of Legislation	Adopting Resolution or Date Adopted	Summary of Legislation	*Priorities as Identified by GTC- September 2018
Oneida Nation Seal and Flag Rule #1- Placement, Maintenance, and Authorized Use	09-13-17	This rule governs the placement, maintenance, and authorized use of the official Oneida Nation Seal under the Oneida Nation Seal and Flag law.	12- Building & Property Maintenance
Legal Resource Center	BC-09-13-17-L	On 11/14/17 GTC directed the OBC to establish a legal office consisting of advocates and an advising attorney for GTC. This law provides the framework for the office.	6-Human Services
Landlord-Tenant Law Amendments	BC-12-13-17-D	Extended the length of a rental agreement for tenants in the rent to own program.	3-Housing
Membership Ordinance Rule #1- Enrollment Rule	01-10-18	This rule creates enrollment procedures for carrying out the responsibility delegated to the Oneida Trust Enrollment Committee in the Membership Ordinance.	10-Membership Administration
Community Support Fund- Rule Handbook	01-24-18	This Rule Handbook provides guidance on how the Community Support Fund is used so that the Nation can assist the greatest number of members of the Nation who apply for assistance to the Fund in times of a catastrophic event, illness, injury, or emergency event when no other resources for assistance exist.	6-Human Services
Membership Ordinance Rule #2- Voiding Unlawful Membership	02-14-18	This rule creates a process by which the Oneida Nation may void the membership of a tribal member who no longer qualifies for enrollment pursuant to the Membership Ordinance under limited circumstances.	10-Membership Administration
Domestic Animals Law Rule #1- Licensing, Fees, and Penalties	04-25-18	This rule sets the licensing, fees, and penalties for the Domestic Animal Law.	9-Public Safety

Leasing Law	Adopted pending BIA approval – BC-10-26-16-C Became effective 05-19-18	The federal HEARTH Act enables tribes to approve individual surface leases for their own trust lands- provided that the tribe has adopted tribal leasing regulations that are approved by the Secretary of the Interior. This law was adopted on 10/26/16 and became effective on 05/19/18.	3-Housing
Leasing Law Rule #2- Agriculture Leases	5/16/18	This rule codified the existing standard operating procedure regarding agriculture leases, allowing the Nation to lease agricultural land in the best interest of the Nation.	3-Housing
Leasing Law Rule #3- Commercial Leases	06/16/18	This rule codified the existing standard operating procedure regarding commercial leases, allowing the Nation to lease in a manner that is fair and equitable for tribal fee and trust lands that are used for commercial purposes.	3-Housing
Legal Resource Center Rule #1- Application for Services	07-25-18	This rule created a procedure for individuals to apply for services from the Legal Resource Center.	6-Human Services
Leasing Law Rule #1- Residential Leasing- Emergency Adoption	08-22-18	This rule expands upon the information provided on the Leasing Law regarding eligibility, administration, inheritability, and enforcement related to residential leases.	3-Housing
Boards, Committees, and Commissions Law	BC-9-26-18-C	The Comprehensive Policy Governing Boards, Committees, and Commissions was updated regarding; creation, application, vacancies, appointments, oaths, reporting, stipends, dissolution, enforcement, and was retitled.	8-Government Administration
Employee Protection Emergency Amendments and Rescission	BC-09-26-18-F (Rescission)	The amendments were revised to be an emergency due to action taken through resolution BC-04-11-18-A by the Oneida Business Committee (OBC) which dissolved the Personnel Commission and directed the Legislative Operating Committee (LOC) to develop and present emergency legislative amendments to fully address the impact of this resolution by the April 25, 2018, Oneida Business Committee meeting for consideration. On August 27, 2018, the GTC motioned to rescind the actions of the Oneida Business Committee related to the dissolution of the Oneida Personnel Commission, and to rescind the amendments related to the Blue Book from April 11, 2018 to today. Oneida Business Committee then adopted resolution BC-09-26-18-F which formally repealed the emergency amendments to the Employee Protection Policy.	6-Human Services

Military Service Employee Protection Emergency Amendments and Rescission	BC-09-26-18-F (Rescission)	See Employee Protection Emergency Amendments and Rescission explanation above.	6-Human Services
Rules of Civil Procedure Emergency Amendments and Rescission	BC-09-26-18-F (Rescission)	See explanation above.	8-Government Administration
Personnel Policies and Procedures Emergency Amendments and Rescission	BC-09-26-18-F (Rescission)	See Employee Protection Emergency Amendments and Rescission explanation above.	6-Human Services
Landlord Tenant Rule #1-General Renter Program Eligibility, Selection, and Other Requirements Amendments	10-24-18	These are amendments to Landlord Tenant Law Rule No. 1 which provide additional eligibility requirements, selection procedures, and general requirements that govern the Comprehensive Housing Division’s general rental programs that are not reserved for elders or low-income tribal members.	3-Housing
Whistleblower Protection Law	BC-02-12-19-B	The Employee Protection Policy was amended for reasons other than the dissolution of the Oneida Personnel Commission. The law was retitled the Whistleblower Protection law and is designed to give protection to employees who give information that is intended to protect the Nation from fraud, theft, and other detrimental effects.	6- Human Services
Domestic Animal Amendments	05-08-19-C	Some of the amendments include; eliminating administrative rulemaking authority, reducing space requirements for dog kennels, guidelines tethering animals, requiring a conditional use permit for hens on a residential lot, and a requirement that any animal declared dangerous be removed from the reservation.	9-Public Safety
General Tribal Council Petitions- each petition must have a Statement of Effect developed. The SOE indicates whether the proposed petition would conflict with existing laws.	<ol style="list-style-type: none"> 1. Petition: Delgado- Trust Land Distribution 2. Petition: Dodge- Law Firm for GTC 3. Petition: G. Dallas- \$5,000 Payment Within 90 Days 4. Petition: Gladys Dallas- Special Per Capita Payment and/or Options Payment 5. Petition: G. Dallas- \$5k Per Capita 6. Petition: Graham- 2017 General Election 7. Petition: G. Powless- Banishment Law Resolution 8. Petition: G. Powless- Oneida Personnel Commission Dissolution 9. Petition: G. Powless- Rescinding the Removal Law 10. Petition: Linda Dallas- Medicare Part B Premium Payment 11. Petition: Metivier- Treatment Center 12. Petition: Powless, Debra- 2017 Tri-Annual General Election 13. Petition: Scott Kosbab- Creating a Term Limits Law 14. Petition: Vandehei- E-poll Process 		8-Government Administration and 10-Membership Administration

	15. Petition: C. Metoxen- Oneida Youth Leadership Institute	
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August 2019

August 2019

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September 2019

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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jul 28	29	30	31	Aug 1	2	3
4	5	6	7 9:00am LOC (BC_Conf_Room) - LOC 9:00am LOC Meeting (BC_Conf_Room) 9:00am LOC Meeting	8	9 7:30am FW: Sanctions and Penalties Law Community Outreach - Breakfast with the Vets (Oneida	10
11	12	13	14	15 10:00am LOC Work Session (BC_Exec_Conf_Room) - 12:00pm Sanctions and Penalties Law Community	16	17
18	19	20	21 9:00am LOC Meeting (BCCR) - LOC	22	23	24
25	26	27	28	29	30	31

September 2019

September 2019

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October 2019

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27	28	29	30	31		

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Sep 1	2	3	4 9:00am LOC (BC_Conf_Room) - LOC 9:00am LOC Meeting (BC_Conf_Room) 9:00am LOC Meeting	5	6	7
8	9	10	11	12	13 9:00am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	14
15	16	17	18 9:00am LOC Meeting (BCCR) - LOC	19	20	21
22	23	24	25	26 9:00am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	27	28
29	30	Oct 1	2	3	4	5