

TITLE VI - FAMILY LAW

CHAPTER 1. ADOPTION

Sec. 101. Purpose of Adoption

The purpose of this Chapter is to protect the rights and promote the welfare of Indian children, natural parents and adoptive parents.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 102. Definitions

(a) "Abandonment" means:

- (1) the continued inability, despite a diligent search, to identify the whereabouts of the parent of a child for a period of at least four (4) months as of the date of the initial hearing; or
- (2) the complete lack of contact by a parent with his or her child for any period of six (6) consecutive months or marginal contact for twenty-four (24) of the past forty-eight (48) months, as of the date that the petition is filed; and
- (3) the failure by a parent to provide adequate and continuous financial support for his or her child for any period of six (6) consecutive months, as of the date that the petition is filed.

Placement of the child with a member of the parent's extended family shall not constitute abandonment.

(b) "Adult" means a person who is at least eighteen (18) years of age or older. A person under the age of (18) years who is a parent may be treated as an adult.

(c) "Child" means any Indian and/or natural or adopted child, step-child, foster child, legal ward, or orphan of an Indian eligible for services pursuant to 25 U.S.C. § 1680c, who resides in an Indian household on any lands now held, or hereafter acquired by or for the Chitimacha Tribe of Louisiana and, is under eighteen (18) years of age.

(d) "Child custody proceeding" means:

- (1) "foster care placement" which shall mean any action removing a child from his or her parent or custodian for temporary placement in a foster home or institution or the home of a guardian where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;
- (2) "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;
- (3) "pre-adoptive placement" which shall mean the temporary placement of a child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive

placement; and

(4) "adoptive placement" which shall mean the permanent placement of a child for adoption, including any action resulting in a final decree of adoption.

Child custody proceeding shall not include a placement based upon an award in a divorce proceeding of custody to one of the parents or intra-family custody dispute.

(e) "Custodian/Guardian" means any person who has legal custody of a child or with whom temporary care, custody and control has been placed, by the order of a court of competent jurisdiction or who is acting in the place of a parent, and who is responsible for the health, safety, and welfare of a child. Such a person has the duty and authority to make major decisions affecting such child's welfare, including, but not limited to major medical, psychiatric or surgical treatment.

(f) "Domiciled" means a person's permanent home, legal or main residence. The domicile of a child is generally that of the custodial parent or guardian. A child shall be considered a domicile of the Chitimacha Reservation where the child's custodial parent or guardian considers the Chitimacha Reservation to be his or her permanent home.

(g) "Indian child" or "Indian children" means any unmarried person who is under the age of eighteen (18) and is either:

(1) a member of an Indian tribe; or

(2) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(h) "Incompetent" means a person lacking the capacity, legal qualification or fitness to manage his or her personal affairs or to discharge a required duty.

(i) "Minor" means a person under the age of eighteen (18) years.

(j) "Parent" means the biological parent of a child, or any person who has lawfully adopted a child. Parent shall not mean the unwed father of a child where paternity has not been established or acknowledged. Parent shall not mean any person whose parent-child relationship has been lawfully terminated.

(k) "Underage Qualified Tribal Member" means an individual who is a duly enrolled tribal member of the Chitimacha Tribe of Louisiana and who is eligible for per capita payment distributions under the Chitimacha Tribal Gaming Revenue Allocation Plan, except that he or she has reached the age of eighteen (18) but has not reached the age of twenty-one (21) as of the last date of the calendar year for which a per capita payment distribution is made.

(Revised by Ordinance #3-95; Adopted: March 2, 1995; Effective: March 2, 1995; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 103. Who May File Adoption Petition

Any adult may file a petition to adopt an Indian minor residing within the Chitimacha Reservation or a minor tribal member not residing on the Reservation. The Chitimacha Tribal Court may also hear petitions transferred from state courts pursuant to 25 U.S.C. Subsection 1911(b) and Chapter 6 of Title V of this Code. In the case of married persons maintaining a home together, the petition shall be the joint petition of husband and wife except that if one of the spouses is the natural parent of the child to be adopted, the natural parent shall not be required to join in the petition. In any case where all persons petitioning to adopt a child are not Indians, the petition shall not be granted unless:

- (a) no Indian is available who is willing to adopt the child; and
- (b) the petitioners agree in writing that the Chitimacha Tribe of Louisiana shall retain exclusive jurisdiction over custody of the child, wherever domiciled or resident.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 104. Petition for Adoption

A petition for adoption shall be filed with the Chitimacha Tribal Court, on a form prescribed by the Tribal Court. It shall be verified under oath by the adoptive parent or parents, and shall contain:

- (a) the full name, residence, and sex of the child, and documentary proof of the date and place of the birth of the child to be adopted;
- (b) the full name, residence, date and place of birth, and occupation of the adoptive parent or parents and documentary proof of their marital status;
- (c) proof of all consents required under Section 105 of this Title, and any court order terminating the parent-child relationship between the natural parent(s) and the child to be adopted;
- (d) an agreement by the adopting parent(s) that it is their desire that the relationship of parent and child be established between them and the child; and
- (e) a full description and statement of value of all property owned or possessed by the child.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 105. Required Consents

Consents to adoption shall be acknowledged before an officer duly authorized to take acknowledgments and witnessed by a representative of the Chitimacha Tribal Court. Consents to adoption shall be required from:

- (a) the child's parents, provided that no consent shall be required as to any parent whose parent-child rights have been terminated by court order with respect to the child to be adopted. A minor parent may consent to an adoption provided the parents of the minor parent concur. The Chitimacha Tribal Court may waive consent by the minor's parents if it finds that their withholding of such consent is unreasonable;

(b) any legal guardian of the child appointed under this Title; and

(c) the child, if twelve (12) years of age or older, provided that the Chitimacha Tribal Court may waive this requirement, if it deems it necessary for the best interests of the child.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 106. Withdrawal of Consents

No consent to adoption shall be withdrawn unless authorized by order of the Chitimacha Tribal Court, after notice and opportunity to be heard is given to the petitioner in the adoption proceedings, and to the person seeking to withdraw consent. The Chitimacha Tribal Court shall not grant permission to withdraw consent unless it finds that the best interests of the child will be served by such withdrawal. The entry of an order of adoption renders any consent irrevocable.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 107. Investigation Report

Within five (5) days after the filing of a petition for adoption, the Chitimacha Tribal Court shall request a social worker, or similar employee of the Bureau of Indian Affairs or the Chitimacha Tribe of Louisiana to inquire into, investigate, and report in writing to the Chitimacha Tribal Court as to the suitability of the child for adoption, the financial ability, fitness and general background of the adoptive home and of the parent or parents, and to make recommendations on the proposed adoption.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 108. Hearing on Adoption

(a) Within five (5) days after the written report required by Section 107 of this Title is filed, the Chitimacha Tribal Court shall fix a time for hearing on the petition for adoption. Notice of the hearing shall be provided to the adoptive parent or parents, any person whose consent is required, and, in the discretion of the Chitimacha Tribal Court, to interested persons whose consent is not required under Section 105 of this Title. The adoptive parent or parents shall appear personally at the hearing. All other persons whose consents are necessary to the adoption shall appear personally, unless represented by a person having a power of attorney authorizing such person to represent them for the purpose of the adoption or unless such person cannot be found.

(b) The judge shall separately examine all persons appearing and if satisfied as to the suitability of the child for adoption, the validity of the consents to adoption, the financial ability, fitness, and responsibility of the adoptive parents, and that the best interests of the child will be promoted by the adoption, may enter a final decree of adoption.

(c) In the case of a child who has been in the care and custody of the petitioners for more than one (1) year, the decree shall be final. Where the child has not been in the care and custody of the petitioners prior to the hearing, the Chitimacha Tribal Court shall enter an interim decree, and place the child in the legal custody of the petitioners for a period of not less than one (1) year prior to entering a final decree of

adoption. Where the child has been in the care and custody of the petitioners for less than one (1) year, the Chitimacha Tribal Court shall enter an interim decree, and place the child in the legal custody of the petitioners for a period of time such that when the interim decree expires, the petitioners will have had care and custody of the child for at least one (1) year.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 109. Report and Final Decree of Adoption

Where an interim decree is entered, the Chitimacha Tribal Court, after the child has been in the custody of the petitioners for one (1) year, shall request a supplementary written report under the same procedures as in Section 107 of this Title, as to the welfare of the child, and current conditions of the adoptive home and the adoptive parents. If the Chitimacha Tribal Court is satisfied that the interests of the child are best served by the proposed adoption, a final decree of adoption may be entered. No final order shall be entered by the Chitimacha Tribal Court until the child to be adopted has lived and resided for period of at least one (1) year in the home of the adoptive parents. In any case where the Chitimacha Tribal Court finds that the best interests of the child will not be served by the adoption, a guardian shall be appointed and suitable arrangements for the care of the child shall be made and the Tribal Court may request the Bureau of Indian Affairs to provide services to assist in the placement and the care of the child.

Sec. 110. Adoption Records

(a) All records, reports, proceedings, and orders in adoption cases are confidential records of the Chitimacha Tribal Court and shall not be available for release to or inspection by the public. Such records, reports, proceedings and orders shall be made available to Bureau of Indian Affairs for use in fulfilling authorized functions.

(b) Upon petition of an adopted person who has reached the age of majority, for good cause shown, the Chitimacha Tribal Court shall release to the adopted person the information contained in such adoption records, reports, proceedings and orders.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 111. Contents of Adoption Order

The final order of adoption shall include such facts as are necessary to establish that the child is eligible and suitable for adoption, that the adoptive home is adequate, and that the adoptive parents are capable of providing proper care of the child, as shown by the investigation reports and the findings of the Chitimacha Tribal Court upon the evidence adduced at the hearings. A true and correct copy of each adoption order shall be filed with the Secretary of the Chitimacha Tribal Council and with the Clerk of Chitimacha Tribal Court.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 112. Name and Legal Status of Adopted Minor

Minors adopted by order of the Chitimacha Tribal Court shall assume the surname of the person(s) by whom they are adopted, unless the Chitimacha Tribal Court orders otherwise, and shall be entitled to the

same rights as natural children or heirs of the persons adopting them.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

CHAPTER 2. MARRIAGE

Sec. 201. Requirements

(a) For a man and a woman to be married under this chapter each must:

- (1) be at least sixteen (16) years of age;
- (2) freely consent to the marriage; and
- (3) if under eighteen (18) years of age, obtain the consent of their custodial parents or legal guardians, if any.

(b) Notwithstanding any other provision of this section, the Chitimacha Tribal Court in its discretion may issue a license where one or both of the parties is sixteen (16) or seventeen (17) years of age where the parent or legal guardian cannot be located after reasonable efforts have been made to do so, or where the Chitimacha Tribal Court finds after a hearing that consent has been unreasonably withheld and the Tribal Court finds that the parties are capable of assuming the responsibilities of marriage and that marriage would be in the parties' best interests.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 202. Prohibited Marriages

Two persons shall not be married under this chapter who are related by blood to each other in any of the following degrees:

- (a) Parent and child;
- (b) Grandparent and grandchild;
- (c) Brother and sister, or half-brother and half-sister;
- (d) Aunt and nephew, or uncle and niece, whether the relationship is by half or whole blood; or
- (e) Cousins in the first degree.

Any attempted marriage between persons so related shall be null and void from the time of the marriage forward, except that children of the marriage shall be considered legitimate, and except as one or both parties may qualify as a putative spouse under Section 204 of this Title.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 203. Marriage of Person Having Existing Spouse

A person having an existing spouse shall not be married to another under this Title. A person having an existing spouse is one who has been married under this Title, or under the laws of another tribe, state, or foreign nation, and whose marriage has not been terminated by:

- (a) a divorce or annulment recognized as valid by the tribe, state, or foreign nation which granted it, and which complies with due process of law;
- (b) the death of the spouse; or
- (c) the absence and believed death of the spouse for at least five (5) years.

Any attempted marriage between persons so related shall be null and void from the time of the marriage forward, except that children of the marriage shall be considered legitimate, and except as one of or both parties may qualify as a putative spouse under Section 204 of this Title.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 204. Putative Spouse

Any person who has cohabited with another to whom he or she is not legally married in the good faith belief that he or she was legally married to that person is a putative spouse until knowledge of the fact that he or she is not legally married terminates the putative marital status and prevents acquisition of further rights. A putative spouse acquires the rights conferred upon a legal spouse, including the right to maintenance, following termination of the putative marital status. If there is a legal spouse or other putative spouse, rights acquired by a putative spouse do not supersede the rights of the legal spouse or rights acquired by other putative spouses, but the Chitimacha Tribal Court shall apportion property, maintenance, and support rights among the claimants as appropriate in the circumstances and in the interests of justice.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 205. Marriage License

- (a) Persons wishing to be married must obtain a marriage license from the Chitimacha Tribal Court.

There shall be a standard fee plus recordation costs assessed by the Clerk of the Tribal Court for each license in accordance with the Chitimacha Tribal Court schedule of fees and costs. To obtain a license, the persons must attest before the judge of the Tribal Court or in an affidavit:

- (1) that they are at least sixteen (16) years of age;
- (2) that they freely consent to the marriage;
- (3) if they are under eighteen (18) years of age, that their custodial parents or guardians, if any, consent to the marriage (the written consent of the parents or legal guardians, if any, of any person under eighteen (18) years of age shall also be presented to the judge);

(4) that they are not related to each other in a manner prohibited by Section 202 of this Title; and

(5) that they have no existing spouse as defined in Section 203 of this Title.

Where necessary, the judge may require the testimony or affidavit of any person necessary to substantiate such information. Where the parties are underage and do not have the required consents they must, at an oral hearing, make the showing set forth in Section 201(b) of this Title.

(b) If the judge is satisfied that the above requirements are met, the judge shall issue a marriage license to the applicants. The marriage license shall be valid for one-hundred eighty (180) days and shall be in substantially the following form:

CHITIMACHA MARRIAGE LICENSE

To any person authorized to perform the marriage ceremony:

You are hereby authorized to join in marriage
_____ of _____ and
_____ of _____ within one-hundred eighty
(180) days of the date specified below.

Dated this ____ day of _____, 20____.

CHITIMACHA TRIBAL COURT JUDGE

The Chitimacha Tribal Court shall give one (1) copy of the marriage license to the applicants and shall retain one (1) copy for its records.

(Revised by Ordinance #6-98; Adopted: June 18, 1998; Effective: June 18, 1998; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 206. Marriage Ceremony

(a) A marriage ceremony may be performed by a Judge of the Chitimacha Tribal Court, by any public official whose duties include solemnization of marriages, or by an ordained or recognized minister, priest, or other leader of any religious faith, who shall issue a marriage certificate in substantially the following form:

CHITIMACHA MARRIAGE CERTIFICATE

I hereby certify that _____ of
_____ and _____ of
_____, having obtained a valid marriage license, appeared
before me on the ____ day of _____, 20____, and were joined in marriage.

Signed:

Witnesses:

The marriage certificate shall be signed by two (2) witnesses other than the persons being married and the person performing the marriage ceremony. Marriage certificates shall be returned to the Chitimacha Tribal Court which shall retain the original and deliver a copy to the persons married.

(b) The solemnization of the marriage is not invalidated by the fact that the person solemnizing the marriage was not legally qualified to solemnize it, if either party to the marriage believed that person to be so qualified.

Sec. 207. Jurisdiction

Under this Title, marriage licenses may be issued and marriage ceremonies performed where at least one (1) party is an Indian and at least one (1) party has been a bona fide resident within the boundaries of the Chitimacha Reservation for a period of ninety (90) days immediately preceding the application for a license.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 208. Presumption of Legitimacy; Legitimation by Marriage of Parents

All children born in wedlock are presumed to be legitimate. All children of a woman who has been married, born within ten (10) months after the dissolution of the marriage, are presumed to be legitimate of that marriage. A child born before wedlock becomes legitimate by the subsequent marriage of its parents. The children of all marriages null in law or dissolved by divorce are legitimate.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 209. Disputed Legitimacy; Proof

The presumption of legitimacy can be disputed only by the husband or wife, or the descendant of one of them. Illegitimacy in such cases may be proved like any other fact.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 210. Common Law Marriage

Common law marriages are not recognized as valid within the Chitimacha Reservation, except that a common law marriage that has been recognized as valid under the laws of the United States, any other tribe, state, or foreign nation shall be recognized as valid by the Chitimacha Tribal Court for all purposes.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 211. Recognition of Foreign Marriages

A marriage duly licensed and performed under the laws of the United States, any tribe, state, or foreign nation shall be recognized as valid by the Chitimacha Tribal Court for all purposes.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

CHAPTER 3. ANNULMENT AND DIVORCE; CHILD CUSTODY PROCEEDINGS

Sec. 301. Jurisdiction Over Annulment and Divorce Cases

The Chitimacha Tribal Court shall have jurisdiction over annulment, divorce and any paternity, child custody, division of property, child support or alimony decree pursuant to such annulment or divorce, where at least one (1) party to the marriage is an Indian, and at least one (1) party has been a bona fide resident within the boundaries of the Chitimacha Reservation for a period of ninety (90) days immediately preceding the filing of the action.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 302. Annulment

(a) Petition. For any marriage performed under this Chapter, one or both of the parties may, within one (1) year of the date of marriage, submit a petition for annulment to the Chitimacha Tribal Court, stating as grounds that:

- (1) one or both parties was under sixteen (16) years of age at the time of the marriage;
- (2) one or both parties lacked capacity to consent to the marriage at the time of marriage either because of mental incapacity or the influence of alcohol, drugs, or other incapacitating substances;
- (3) one or both parties was induced to enter into marriage by force or duress or by fraud involving the essentials of marriage;
- (4) the parties were related to each other in a manner prohibited by Section 202 of this Title;
- (5) one or both parties had an existing spouse at the time of the marriage; or
- (6) one or both parties lacks the physical capacity to consummate marriage by sexual intercourse and at the time the marriage was entered into the other party did not know of the incapacity.

(b) Where one (1) party to the marriage is a minor when the petition for annulment is filed, the Chitimacha Tribal Court shall enter a decree of annulment. The decree shall state the grounds for annulment, must make necessary determinations concerning division of property and child custody, and shall be signed by the presiding judge. A copy of the decree shall be delivered to each of the parties, and the original retained for the records of the Chitimacha Tribal Court. In extraordinary circumstances and for good cause shown, an annulment granted where the non-petitioning spouse did not respond may be set aside by order of the Chitimacha Tribal Court.

(c) Annulment voids a marriage from the time of the marriage forward, except that any children born to the parties during the marriage are legitimate.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 303. Divorce

(a) Grounds.

A divorce shall be granted where the Chitimacha Tribal Court finds that:

- (1) irreconcilable differences have caused the irreparable breakdown of the marriage; or
- (2) the parties have mutually and voluntarily lived separate and apart without cohabitation for a period of at least six (6) months immediately preceding the filing of the petition. Divorces shall be granted without regard to the fault of the parties.

The cause of action for divorce is extinguished by the reconciliation of the parties.

(b) Petition. One or both parties may file a petition with the Chitimacha Tribal Court, sworn before a notary public or other official designated to verify signatures. The petition shall state the grounds for divorce and the facts and circumstances substantiating those grounds.

(c) Service of process. The defendant in a divorce proceeding shall be served with a copy of the complaint as provided under Title IV, Section 102 of this Code.

(d) Response. The non-petitioning spouse may file a response to the petition within twenty (20) days of receipt of the petition. Such response may state the background facts and circumstances which show that there are no valid grounds for divorce, or may seek a division or custody of children different from any proposed by the petition.

(e) Hearing.

(1) In all divorce cases, the Chitimacha Tribal Court shall order and hold a hearing. Where the custody of children is an issue in the case, the Chitimacha Tribal Court may order a home study by an appropriate social worker or other professional, to be completed and submitted to the Chitimacha Tribal Court prior to the hearing. The purpose of the home study shall be to assist the Chitimacha Tribal Court in determining the custody issue.

(2) At the hearing, both spouses shall have an opportunity to testify, cross-examine the other spouse and any witnesses, call and question other witnesses, and present documentary evidence. Each spouse may retain counsel or be otherwise represented in the proceeding. The hearing shall be closed to the public unless both spouses agree otherwise. At the request of either party the Chitimacha Tribal Court shall, or upon its own motion may, adjourn the hearing and order a conciliation conference. The Chitimacha Tribal Court shall reconvene the hearing within a reasonable time after the conference unless the parties have agreed that the divorce action should be terminated.

(f) Filing Fees. A standard fee as set by the Chitimacha Tribal Court shall be paid at the time any action for divorce under this Chapter is filed, provided that, upon showing satisfactory to the Court that the petitioner is indigent, the Chitimacha Tribal Court shall waive all or so much of the filing fee as may be appropriate in the circumstances, keeping in mind that no person shall be barred from the Chitimacha Tribal Court because of lack of funds for filing.

(Revised by Ordinance #6-98; Adopted: June 18, 1998; Effective: June 18, 1998; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 304. Child Custody and Support

(a) In any action for annulment or divorce, the Chitimacha Tribal Court shall have authority to determine the custody of any child of the marriage, or any other child under eighteen (18) years of age in the custody of either party. The Chitimacha Tribal Court may grant custody to one parent, or may grant joint custody, specifying the periods during which each parent shall have custody.

(b) In each case, the Chitimacha Tribal Court shall determine the visitation rights, if any, of the non-custodial parent. The Chitimacha Tribal Court shall grant visitation rights to a parent unless visitation would be seriously endanger the child's physical, mental, or emotional well-being. The Chitimacha Tribal Court may order supervised visitation in appropriate cases.

(c) The determination of custody shall be based on the best interest of the child, and there shall be no presumption that a parent is better suited to be custodial parent based on that parent's gender.

(d) Where appropriate, the Chitimacha Tribal Court may also order that the non-custodial parent make periodic payments to cover a portion or all the expenses of care and education of the child until he or she attains the age of eighteen (18) or graduates from high school, whichever occurs last, but shall not exceed the nineteenth (19th) birthday.

(e) Orders concerning child custody may be modified at any time, on motion of either party, following an additional home study and hearing as provided in Section 303(e) of this Title. In determining the best interest of the child, the Chitimacha Tribal Court shall consider the relative ability of the parents to provide adequate food, clothing, shelter, medical care, love and emotional support, and day-to-day supervision. The Chitimacha Tribal Court shall also take into account the desires of the child. Differences in financial means shall not be the deciding factor.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 305. Child Custody Actions Outside Divorce and Annulment Proceedings

(a) The Chitimacha Tribal Court shall have authority to determine custody of children as between parents and legal guardians, or as between parents or legal guardians and anyone with actual physical custody of the child, either pursuant to a court order or otherwise, where there is no divorce or annulment proceeding pending. Such a custody proceeding shall commence with the filing of a written petition by the parent or custodian as defined in Title IV, Section 102.

(b) The Chitimacha Tribal Court may order a home study in order to assist in determining custody. In ruling on a custody petition, the Chitimacha Tribal Court shall employ the standards set forth in Section

304 of this Title, and may order periodic support payments as set forth in that section.

(c) After the Chitimacha Tribal Court rules on the petition, neither party may file another petition for custody or child support for six (6) months absent a substantial change in circumstances. Any such change shall be described in a petition for modification of custody. Where abuse, neglect, or abandonment of the child is suspected, a petition may be filed under Section 301 of Title V at any time.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 306. Enforcement of Child Support Orders

(a) When the Chitimacha Tribal Court has ordered periodic support payments under Section 304 or 305 of this Title and the parent does not pay as ordered, the Chitimacha Tribal Court shall use the same procedures to collect these payments as it would use to enforce any money judgment in a civil action. These procedures are set forth in Sections 304 and 311 of Title IV. In the case of execution proceedings under Section 304 of the Title IV and garnishment proceedings under Section 311 of Title IV, the Chitimacha Tribal Court may initiate the proceedings on its own motion.

(b) If the parent willfully refuses to make periodic support payments as ordered by the Chitimacha Tribal Court and the procedures set forth in subsection (a) do not result in full payment, the Chitimacha Tribal Court may initiate criminal contempt proceedings under Section 411 of Title III and in the event of conviction shall have available the full range of sanctions for Class A misdemeanors. No such proceedings shall be instituted if the parent fails to pay by reason of indigence.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 307. Division of Property

When an annulment or divorce is granted, the Chitimacha Tribal Court shall make such equitable distribution of all real and personal property as it deems just and proper. With respect to trust property, the Chitimacha Tribal Court shall have the authority to make appropriate orders to distribute such property, but shall have no authority to order that any property or interest in property be removed from trust status, or to make any order that would result in such removal.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 308. Maintenance

When an annulment or divorce is granted, the Chitimacha Tribal Court may order either party to make periodic maintenance payments for the support of the other party based on the needs of that party and the ability of the other party to pay. Such orders may be modified at any time, on motion of either party, to reflect changes in either party's economic circumstances. Upon motion, the Chitimacha Tribal Court shall terminate maintenance to any spouse who has remarried.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 309. Payment of Maintenance or Support to Court

(a) Upon its own motion or upon motion of either party, the Chitimacha Tribal Court may order at any time that maintenance or support payments be made to the Clerk of the Chitimacha Tribal Court as trustee for remittance to the person entitled to receive the payments.

(b) The Clerk of the Chitimacha Tribal Court shall maintain records listing amounts due, amounts received, the date payments are due, the date payments are received, and the names and addresses of the parties.

(c) The parties shall inform the Clerk of the Chitimacha Tribal Court of any change of address or of other conditions that may affect the administration of the order.

(d) If a party fails to make a required payment, the Clerk of the Chitimacha Tribal Court shall send by registered or certified mail notice of the arrearage to the obligator. If payment of the sum due is not made to the Clerk of Court within ten (10) days after sending notice, the Clerk shall certify the amount due and promptly initiate collection and contempt proceedings against the obligator.

(e) If the person obligated to pay support has left or is beyond the jurisdiction of the Chitimacha Tribal Court, the Clerk of Court may institute any other proceedings available under the laws of the jurisdiction for enforcement of the duties of support and maintenance.

(f) On any payments to be made through the Chitimacha Tribal Court, a late fee shall be charged for payments not received as ordered. Further, persons failing to satisfy arrears within the ten (10) days as provided in the notice may be assessed additional costs and/or sanctions as determined by the Chitimacha Tribal Court.

(Revised by Ordinance # 6-98; Adopted: June 18, 1998; Effective: June 18, 1998; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 310. Paternity

(a) Jurisdiction. Upon petition to the Chitimacha Tribal Court or in the course of divorce or annulment proceedings, the Tribal Court shall have the jurisdiction to adjudicate the paternity of a child and to compel payments for support.

(b) Petitions. Petitions for declaration of paternity may be filed with the Chitimacha Tribal Court by the mother of the child or, if the mother does not have custody, by any other individual who has custody of the child. The petition shall be sworn before a notary public or other official designated to verify signatures.

(c) Service of process. The defendant in a paternity proceeding shall be served with a copy of the petition as provided under Title IV, Section 102 of this Code.

(d) Response. The defendant in a paternity suit may contest the allegations of the petition by filing a response within sixty (60) days of receiving the petition. The response shall be sworn before a notary public or other official designated to verify signatures.

(e) Hearing. Where such a response is received, the Chitimacha Tribal Court shall hold a hearing on the matter. At the hearing the Chitimacha Tribal Court shall receive testimony from any witnesses called by the parties. The Chitimacha Tribal Court shall have the authority to order the defendant to submit to a blood test. The Tribal Court may receive the results of a blood test as evidence only if testimony interpreting the results is presented by the physician under whose supervision the test was given.

(f) Decree. If:

(1) no response is received from the defendant after sixty (60) days; or

(2) the Chitimacha Tribal Court determines based on the evidence presented at the hearing that the defendant is the father of the child, the Chitimacha Tribal Court shall enter a decree of paternity. A copy of the decree shall be delivered to each of the parties, and the original retained for the records of the Chitimacha Tribal Court. In extraordinary circumstances and for good cause shown, a decree of paternity granted where the defendant did not respond may be set aside by order of the court.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 311. Temporary Maintenance and Custody Awards

(a) The Chitimacha Tribal Court may issue temporary orders during the pendency of an annulment or divorce proceeding as to child custody or maintenance. Such orders may be granted upon motion of either party, or on the Chitimacha Tribal Court's own motion. A hearing for which advance notice shall be provided to the parties shall be held prior to the issuance of such temporary orders, unless the Chitimacha Tribal Court determines that an emergency assists or a party cannot be found, in which case such order may be issued ex parte. If an order is issued ex parte, a hearing shall be held as soon as practicable after the non-moving party is notified.

(b) As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the Chitimacha Tribal Court to issue a temporary injunction for any of the following relief:

(1) Restraining any person from transferring, encumbering, concealing, or otherwise disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained, requiring him or her to notify the moving party of any proposed extraordinary expenditures made after the order is issued;

(2) Enjoining a party from harassing or disturbing the peace of the other party or of any child;

(3) Excluding a party from the family home or from the home of the other party upon a showing that physical or emotional harm would otherwise result;

(4) Enjoining a party from removing a child from the jurisdiction of the Chitimacha Tribal Court; and

(5) Providing other injunctive relief proper in the circumstances.

(c) A hearing for which advance notice shall be provided to the parties shall be held prior to the issuance of such temporary orders, unless the Chitimacha Tribal Court determines that an emergency exists or a party cannot be found, in which case such order may be issued ex parte. If an order is issued ex parte, a hearing shall be held as soon as practicable after the non-moving party is notified.

(d) A temporary order or temporary injunction:

(1) does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceedings.

(2) may be revoked or modified before final decree on a showing by affidavit of the facts necessary to revoke or modify a final decree.

(3) terminates when the final decree is entered or when the petition for divorce is voluntarily dismissed.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 312. Attorney's Fees

The Chitimacha Tribal Court, after considering the financial resources of both parties, may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after entry of judgment. The Tribal Court may order that the amount be paid directly to the attorney, who may enforce the order in his or her own name.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 313. Recognition of Foreign Divorces and Annulments

A divorce or annulment duly granted under the laws of the United States, any tribe, state, or foreign nation shall be recognized as valid by the Chitimacha Tribal Court for all purposes.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

CHAPTER 4. GUARDIANSHIP

Sec. 401. Definition of Guardian

(a) A guardian is an adult appointed to take care of the person or property of another as defined in Section 102(e) of this Title. The guardian must exercise the highest standard of fiduciary care for the ward, and is subject to regulation by the Chitimacha Tribal Court.

(b) The Chitimacha Tribal Court, when the totality of the circumstances appears necessary or convenient, may appoint guardians for the persons and/or property of either children under the Chitimacha Tribal Court's jurisdiction or incompetents who have no guardian legally appointed by will or deed. Such appointment may be made on the petition of a relative or other person on behalf of the child or incompetent, or a petition of the child if the child is at least fourteen (14) years of age. Before making

such appointment, the Chitimacha Tribal Court must cause reasonable notice to be given to any person having the care of the child, and to such other relatives of the child residing on the Chitimacha Reservation as the Court may deem proper. In cases of adult incompetents, the Chitimacha Tribal Court may cause notice to be given to the incompetent at least five (5) days before hearing the petition.

(c) If a child is under the age of fourteen (14) years, the Chitimacha Tribal Court may nominate or appoint his or her guardian. If the child is fourteen (14) years of age or older, the child may nominate his or her own guardian who, if approved by the Chitimacha Tribal Court, must be accordingly appointed. If the guardian nominated by the child is not approved by the Chitimacha Tribal Court, or if the child resides outside of the Chitimacha Reservation, or if, after being duly cited by the Chitimacha Tribal Court, the child neglects for ten (10) days to nominate a suitable person, the Chitimacha Tribal Court may nominate and appoint the guardian in the same manner as if the child were under the age of fourteen (14) years.

(d) When a guardian has been appointed by the Chitimacha Tribal Court for a child under the age of fourteen (14) years, the child, at any time after the child attains that age, may nominate his or her own guardian, subject to the approval of the Chitimacha Tribal Court. A guardian appointed may as specified by the Chitimacha Tribal Court have the custody and care of the education of the child and the care and management of the child's property until such child arrives at the age of eighteen (18) marries, is emancipated by the Chitimacha Tribal Court, or until the guardian is legally discharged, provided, however, that the guardian shall not have the authority, without express written consent of the Chitimacha Tribal Court, to dispose of any real or personal property of the child in any manner, including, but not limited to, the child's per capita payment distribution held for the child's benefit in the minor's trust fund pursuant to the Chitimacha Tribal Gaming Revenue Allocation Plan. The guardian shall also have the authority to consent to the medical care and treatment of the child.

(e) The Chitimacha Tribal Court may order that the Chitimacha Tribal Court disburse monthly reimbursement payments to the person or agency to whom custody is granted pursuant to the provisions of the Chitimacha Comprehensive Codes of Justice, provided sufficient funds have been appropriated by the Chitimacha Tribal Council. The disbursements must be used by the person or agency with custody of the child for the sole purpose of covering expenses incurred in the care and custody of the child and shall not be used for any other purpose. The use of these funds for any purpose other than that described in this section shall subject the person or agency to contempt of court and to any criminal and civil penalties or remedies provided by the Chitimacha Comprehensive Codes of Justice.

(Added by Ordinance #3-95; Adopted: March 2, 1995; Effective: March 2, 1995; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 402. How Guardians are Appointed

(a) By will. The last surviving parent or spouse of a minor or mental incompetent may designate in a will the guardian for the minor or mental incompetent. Upon determination by the Chitimacha Tribal Court that the will is valid, and that the person designated is willing to accept the responsibilities of guardianship, the Chitimacha Tribal Court shall appoint the person designated; provided that for good cause shown, the Court may decline to appoint the person designated.

(b) By Court appointment. Where a minor or mental incompetent is in need of a guardian, and no guardian is appointed pursuant to a valid will, the Chitimacha Tribal Court may appoint a guardian, to promote the best interests of the minor or mental incompetent.

(c) Hearing. In each case where a guardian is to be appointed, either by will, or by Court appointment, a hearing shall be held following notice to all interested parties.

(Added by Ordinance #3-95; Adopted: March 2, 1995; Effective: March 2, 1995; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 403. Types of Guardianship

The types of guardianship shall include guardianship of property and/or guardianship of the person. Guardianship of the person shall include both temporary guardianship and permanent guardianship.

(Added by Ordinance #3-95; Adopted: March 2, 1995; Effective: March 2, 1995; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 404. Guardianship of Property

The Chitimacha Tribal Court may appoint a guardian of the property of a child or incompetent person under such terms and conditions as the Chitimacha Tribal Court sets forth in the written order. The guardianship may cover all property until the child reaches eighteen (18) years of age or until the incompetent person becomes competent or it may be limited to only specific property or a specific legal action as set forth in the written order. A temporary or permanent guardianship of the person may also include guardianship of the child's property if set forth in the written order.

(Added by Ordinance #3-95; Adopted: March 2, 1995; Effective: March 2, 1995; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 405. Permanent Guardianship

The Chitimacha Tribal Court may appoint a permanent guardian for the child under such terms and conditions as the Chitimacha Tribal Court sets forth in the written order. Permanent guardianship provides for permanent custody of a child to someone other than the parent(s), although there is no termination of the parental rights of the parents. There shall be a presumption of continued permanent guardianship in order to provide stability for the child. Permanent guardianship shall only be terminated based upon the unsuitability of the permanent guardian(s) rather than the competency or suitability of the parent(s). The parent(s) and the child's extended family shall be granted liberal visitation rights unless deemed inappropriate by the Chitimacha Tribal Court.

(Added by Ordinance #3-95; Adopted: March 2, 1995; Effective: March 2, 1995; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 406. Temporary Guardianship

The Chitimacha Tribal Court may appoint a temporary guardian under such terms and conditions as the Chitimacha Tribal Court sets forth in the written order. A temporary guardianship may be terminated if the Chitimacha Tribal Court determines that it is in the best interest of the child to change custody from the temporary guardian to a new guardian or to return the child to the parent, guardian or custodian. The parent(s) and the child's extended family shall be granted liberal visitation rights unless deemed inappropriate by the Chitimacha Tribal Court.

(Added by Ordinance #3-95; Adopted: March 2, 1995; Effective: March 2, 1995; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 407. Who May File Guardianship Petition

Any person may file a petition for guardianship. The petition shall be initiated either by the proposed guardian or by the child if the child is at least fourteen (14) years of age.

(Added by Ordinance #3-95; Adopted: March 2, 1995; Effective: March 2, 1995; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 408. Contents of Guardianship Petition

The petition for guardianship shall include the following, to the best information and belief of the petitioner:

- (a) The full name, address and tribal affiliation of the petitioner;
- (b) The full name, sex, date and place of birth, residence and tribal affiliation of the proposed ward;
- (c) The basis for the Chitimacha Tribal Court's jurisdiction;
- (d) The relationship of the proposed guardian to the proposed ward;
- (e) The name and address of the person or agency having legal or temporary custody of the proposed ward;
- (f) The type of guardianship requested;
- (g) In the case of alleged incompetent persons, the grounds for incompetency under section 411; and
- (h) A full description and statement of value of all property owned, possessed, or in which the proposed ward has an interest (if guardianship of property is requested).

All petitions must be signed and dated by the petitioners, and must be notarized or witnessed by a Clerk of the Chitimacha Tribal Court.

(Added by Ordinance #3-95; Adopted: March 2, 1995; Effective: March 2, 1995; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 409. Guardianship Report

(a) Upon the filing of a guardianship petition, the Chitimacha Tribal Court shall immediately request that the Chitimacha Human Services Department or other qualified agency conduct a guardianship report on the proposed guardian and report on the proposed ward. The guardianship report shall contain all pertinent information necessary to assist the Chitimacha Tribal Court in determining the best interest of the proposed ward.

(b) No determination can be made on a petition for guardianship until the report has been completed and submitted to and considered by the Chitimacha Tribal Court. The guardianship report shall be submitted to the Chitimacha Tribal Court no later than ten (10) days before the hearing. The Chitimacha Tribal Court may order additional reports as it deems necessary.

(Added by Ordinance #3-95; Adopted: March 2, 1995; Effective: March 2, 1995; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 410. Management of Property

(a) In the event that any guardian shall receive any money or funds of any child or incompetent person during his or her term of office as guardian, before taking and receiving into custody such money or funds, the Chitimacha Tribal Court must require of such person a bond with sufficient surety to be approved by the Chitimacha Tribal Court and in such sum as the Court shall order, conditioned that the guardian will faithfully execute the duties of his or her trust, and the following conditions shall form the part of such bond without being expressed therein:

(1) To make an inventory of all the estate of the ward that comes into his or her possession or knowledge and to return the same within such time as the Chitimacha Tribal Court may order; and

(2) To dispose of and manage the estate according to law and for the best interests of the ward, and faithfully to discharge his or her trust in relation thereto, and also in relation to the care, custody and education of the ward; and

(3) To render an account on oath of the property, estate and money of the ward in his or her hand and all the proceeds or interests derived therefore, and of the management and disposition of the same, within there (3) months after his or her appointment, and at such other times as the Chitimacha Tribal Court directs in accordance with Section 414 of this Title, and at the expiration of his or her trust, to settle his or her accounts with the Chitimacha Tribal Court or judge or with the ward if the ward is of full age, or his or her legal representative, and to pay over and deliver all the estate, monies and effects remaining in his or her hands, or due from him or her on such settlement to the person who is legally entitled thereto.

(b) The funds of any child or incompetent must be used by his or her guardian solely for the support and education of such child and for the support of such incompetent, and shall be expended by the guardian in a reasonable manner according to the circumstances and station in life of such ward, and in such manner as can reasonably be afforded according to the income and estate of the ward.

(c) If determined to be appropriate by the Chitimacha Tribal Court, the written order may set forth that the child's property may not be used for the child's care, but rather to be managed for the child until the child reaches the age of eighteen (18) or is emancipated by the Chitimacha Tribal Court.

(Added by Ordinance #3-95; Adopted: March 2, 1995; Effective: March 2, 1995; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 411. Incompetent Persons

(a) In case of incompetent persons, if after a full hearing and examination upon such petition, and upon further proof by the certificate of a qualified physician showing that any person is incompetent as defined in this Title, it appears to the Chitimacha Tribal Court that the person in question is not capable of taking care of himself or herself and of managing his or her property, the Chitimacha Tribal Court must appoint a guardian of the person and estate within the powers and duties specified in this chapter.

(b) Every guardian of an incompetent person appointed as provided herein has the care and custody of the person of his or her ward and the management of his or her estate until such guardian is legally discharged. The guardian must give bond to such ward in like manner and with like conditions as before specified with respect to the guardianship of a child.

(c) A person who has been declared insane or incompetent or the guardian, or any relative of such person within the third degree or any friend, may apply by petition to the Chitimacha Tribal Court in which he or she were declared insane, to have the fact of his or her restoration to capacity judicially determined. The petition shall be verified and shall state that such person is then sane or competent. The Chitimacha Tribal Court shall require notice to be given of a hearing upon the petition at some date after the petition has been filed. At the hearing upon the petition, witnesses shall be examined and a determination made by the court as to whether the petition should be granted and the insane or incompetent person be declared of sound mind and capable of taking care of himself or herself and his or her property, his or her restoration to capacity shall be adjudged and the guardianship of such person, if such person shall not be a child, shall cease.

(Added by Ordinance #3-95; Adopted: March 2, 1995; Effective: March 2, 1995; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 412. Termination of Guardianship

(a) Upon motion of any person, or the Chitimacha Tribe of Louisiana, the Chitimacha Tribal Court may provide notice and a hearing on whether to terminate a guardianship. Grounds for termination shall include, but not be limited to, personal use by the guardian of the assets of the ward, failure to provide a reasonable level of care for the ward, or the marriage of a minor ward. No termination of the guardianship of a minor or incompetent person shall give rise, in any way, to any right to or distribution of that minor or incompetent person's per capita payment distributions under the Chitimacha Tribal Gaming Revenue Allocation Plan in any way other than as otherwise permitted pursuant to Section 413 of this Title.

(b) Guardianship, including for guardians of the property the control over the ward's assets, shall terminate automatically upon a minor reaching the age of eighteen (18) years, or upon a mental incompetent being adjudged by the Chitimacha Tribal Court to have regained legal capacity.

(Added by Ordinance #3-95; Adopted: March 2, 1995; Effective: March 2, 1995; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 413. Disbursement of Per Capita Payments

(a) A parent or guardian of the estate of a minor or incompetent person may petition the Chitimacha Tribal Court for the authority to expend or distribute an appropriate portion or all of the income or

principal of the per capita payment distributions of the ward being held for the benefit of that ward in accordance with the Chitimacha Tribal Gaming Revenue Allocation Plan for the support, maintenance, education, general use and benefit of the ward and the ward's dependents, in the manner, at the time or times and to the extent that the parent or guardian, as a fiduciary in an exercise of a reasonable discretion, deems suitable and proper, with or without regard to any other funds, income or property which may be available for that purpose.

(b) In considering any petition filed under Section 413(a) of this Title, the Chitimacha Tribal Court shall give due regard to:

- (1) The size of the ward's estate;
- (2) The probable duration of any guardianship and the likelihood that the ward, at some future time, may be fully able to manage his or her affairs and the estate which has been conserved for him or her;
- (3) The accustomed standard of living of the ward and members of the ward's household;
- (4) Recommendations relating to the appropriate standard of support, maintenance, education, general use and benefit for the ward made by a parent or guardian of the person, if any; and
- (5) The policy and requirements of the Chitimacha Tribal Gaming Revenue Allocation Plan as enunciated therein.

(c) Guidelines for Disbursement of Funds. The following guidelines establish rules of procedure for disbursement of funds held in trust by the Chitimacha Tribe of Louisiana on behalf of a minor child, incompetent or Underage Qualified Tribal Member pursuant to this Section and the Chitimacha Tribal Gaming Revenue Allocation Plan.

- (1) A parent or guardian may file a Petition for Disbursement of Funds on behalf of a minor or incompetent or upon authorization by an Underage Qualified Tribal Member, or an Underage Qualified Tribal Member may file a Petition for Disbursement of Funds on his or her own behalf.
- (2) The petitioner must be sworn in before a Clerk of the Chitimacha Tribal Court upon filing a Petition for Disbursement of Funds, or the petitioner must be sworn in before a Notary Public prior to filing a Petition for Disbursement of Funds.
- (3) Filing fees may be assessed at the time of filing, or if necessary the petitioner may file an Affidavit of Substantial Hardship and Order for purposes of waiving the filing fees. All financial information shall be entered on the Affidavit to determine whether the Chitimacha Tribal Court will waive the filing fees.
- (4) The Petition for Disbursement of Funds should contain documents substantiating the request for disbursement of funds, including but not limited to a detailed budget of monies necessary for essential living expenses, to include any health, safety, welfare or education costs and a detailed justification for such essential living needs. Examples of essential living expenses include but are not limited to educational expenses, expenses to purchase a vehicle, expenses to purchase a home and expenses to purchase insurance. The Chitimacha Tribal Court may also require that the

petitioner submit receipts of expenditures made from funds disbursed before any future disbursements are made.

(5) Upon determination that all substantiating documents are attached to the Petition for Disbursement of Funds, the Clerk of the Chitimacha Tribal Court shall submit the record of the proceeding to the Chief Judge of the Chitimacha Tribal Court to determine the necessary process to proceed to completion of the court action.

(6) The Clerk of the Chitimacha Tribal Court may request a Home Study Report from the Chitimacha Human Services Department on behalf and at the request of the Chief Judge of the Tribal Court for the purpose of obtaining a recommendation to determine whether a disbursement of funds should be granted from the applicable trust fund account held by the Chitimacha Tribe of Louisiana. A period of thirty (30) days may be allowed for the Chitimacha Human Services Department to submit a recommendation to the Court.

(i) Upon receipt of the Home Study Report by the Chitimacha Tribal Court, a determination shall be made by the Chief Judge of the Chitimacha Tribal Court whether this matter should be set for a hearing or a disbursement of funds will be granted. The Chief Judge shall consider but shall not be bound by the Chitimacha Human Services Department recommendation outlined in the Home Study Report.

(ii) Upon a determination by the Chief Judge that a hearing is necessary, notice of Hearing on Petition for Disbursement of Funds shall be sent to the petitioner via United States Certified Mail Return Receipt or personal service by an officer of the Chitimacha Tribe of Louisiana if the petitioner resides on the Chitimacha Reservation.

(d) Preservation of Trust Funds. For purposes of preservation of the trust fund account held by the Chitimacha Tribe of Louisiana on behalf of the minor child, incompetent or Underage Qualified Tribal Member, the amount of the disbursement of funds shall not exceed twenty-five percent (25%) of the balance held in trust, unless good cause is shown at a hearing in the matter.

(e) Accounting of Receipts and Expenditures. Upon issuance by the Chitimacha Tribal Court of an Order for Disbursement of Funds held in the trust account on behalf of the minor, incompetent or Underage Qualified Tribal Member, a deadline may be set by the Tribal Court for the petitioner to file an accounting of receipts and expenditures with the Clerk of the Chitimacha Tribal Court.

(1) If the petitioner fails to file an accounting of receipts and expenditures with the Clerk of Court before the deadline, a deadline extension of ten (10) business days may be granted by the Chief Judge of the Chitimacha Tribal Court for good cause for the petitioner to provide the requested documentation to the Chitimacha Tribal Court.

(2) If petitioner fails to file an accounting of receipts and expenditures with the Clerk of Court and all granted delays have elapsed, a Hearing on Accounting of Receipts and Expenditures shall be scheduled for a required court appearance by the petitioner and a Notice of Hearing shall be sent to the petitioner via United States Certified Mail Return Receipt or personal service by an officer of the Chitimacha Tribe of Louisiana if the petitioner resides on the Chitimacha Reservation.

(f) Failure to Comply with the Terms and Conditions of an Order for Disbursement. Failure to comply with the terms and conditions set forth in an Order for Disbursement of Funds may result in Criminal Contempt proceedings by the Chitimacha Tribal Court pursuant to Section 411 of a Title III (Criminal Offenses) of the Chitimacha Comprehensive Codes of Justice.

(Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

Sec. 414. Review of Guardianship

The status of all minors and incompetents who have been placed with a guardian pursuant to this Chapter shall be reviewed by the Chitimacha Tribal Court at least once a year, or as otherwise directed by the Chitimacha Tribal Court. Whenever a guardian of the property of a minor or incompetent has been appointed, the guardian shall submit a yearly accounting regarding the guardian's use of the property to the Tribal Court for review and approval.

(Added by Ordinance #3-95; Adopted: March 2, 1995; Effective: March 2, 1995; Revised by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

CHAPTER 5. RESTRAINING ORDERS

Sec. 501. Relief from Abuse by Family or Household Member

Any family or household member who has been subjected to a continuous threat of physical injury or other abuse by another family or household member may make an application to the Chitimacha Tribal Court for relief under this Chapter.

Sec. 502. Court Orders; Duration

(a) The application shall be accompanied by an affidavit made under oath which includes a brief statement of the conditions from which relief is sought. Upon receipt of the application, the Chitimacha Tribal Court shall order that a hearing on the application be held not later than ten (10) days from the date of the order.

(b) In its discretion, the Chitimacha Tribal Court may make such orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the Chitimacha Tribal Court sees fit. Such orders may include temporary child custody or visitation rights and such relief may include, but is not limited to, an order restraining the respondent from:

- (1) imposing any restraint upon the person or liberty of the applicant;
- (2) threatening, harassing, assaulting, molesting, or attacking the applicant; or
- (3) entering the family dwelling or the dwelling of the applicant.

(c) If an applicant alleges an immediate and present physical danger to the applicant, the Chitimacha Tribal Court may issue an Ex Parte Order granting such relief as it deems appropriate. If a postponement of a hearing on the application is requested by either party and granted, the order shall not be continued except upon agreement of the parties or by order of the Chitimacha Tribal Court for good cause shown.

(d) Every order of the Chitimacha Tribal Court made in accordance with this Chapter shall contain the following language: "Violation of this order constitutes a criminal offense punishable to the full extent of the law."

(e) Upon the granting of an Ex Parte Order, the Chitimacha Tribal Court shall provide two (2) certified copies of the order to the applicant. Upon the granting of an order after notice and hearing the Chitimacha Tribal Court shall provide two (2) certified copies of the order to the applicant and a copy to the respondent. The Chitimacha Tribal Court shall send a certified copy of all restraining orders to the appropriate law enforcement agency within forty-eight (48) hours of its issuance.

Sec. 503. Extension of an Order

No order of the Chitimacha Tribal Court shall exceed ninety (90) days except that an order may be extended by the Chitimacha Tribal Court upon the motion of the applicant for additional time as the court deems necessary.

Sec. 504. Service

(a) If the respondent has not appeared upon the initial application, service of a motion to extend an order may be made by certified or registered mail directed to the respondent at his or her last known address.

(b) Whenever possible, the Chitimacha Tribal Police Department shall cause notice of the hearing, a copy of the application, and any Ex Parte Order issued to be served on the respondent not less than five (5) days before the hearing, provided that the applicant shall cause such notice to be served whenever the Chitimacha Tribal Police Department may not effectuate such service.

Sec. 505. Contempt and Violation

(a) When a motion for contempt is filed for violation of a restraining order there shall be an expedited hearing. Such hearings shall be held within two (2) days of service of the motion on the respondent, provided service on the respondent is made not less than twenty-four (24) hours before the hearing.

(b) If the Chitimacha Tribal Court finds the respondent in violation of an order, the Chitimacha Tribal Court may impose such sanctions as the Chitimacha Tribal Court deems appropriate.

(c) An action under this Chapter shall not preclude the applicant from seeking any other civil or criminal relief.

(Added by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

CHAPTER 6. EMANCIPATION

Sec. 601. Petition and Summons

(a) Any minor child who has attained the age of sixteen (16) years may petition the Chitimacha Tribal Court for a determination that he or she be emancipated. The petition for emancipation shall set forth with specificity:

- (1) the name, sex, date and place of birth, present address and tribal affiliation of the minor child;
- (2) the names, dates of birth, addresses, and tribal affiliation of the minor child's parents or guardian; and
- (3) the facts upon which emancipation is sought, and the basis for the Chitimacha Tribal Court's jurisdiction.

(b) Upon the filing of the petition, the Chitimacha Tribal Court shall cause a notice to be issued to the minor child and the minor child's parents or guardian.

Sec. 602. Hearing

(a) Upon the filing of a petition for emancipation, the Chitimacha Tribal Court shall set a time for hearing the petition. The time for the hearing shall not be more than thirty (30) days after the filing of the petition.

(b) The Chitimacha Tribal Court shall cause a notice of the hearing to be given to the minor child, the parents or guardian of the minor child, or any other person whom the Chitimacha Tribal Court deems appropriate. The notice shall state that the minor child seeking emancipation has the right to be represented by counsel.

(c) Notice of the hearing and a copy of the petition, certified by the petitioner or his or her attorney or the Clerk of the Chitimacha Tribal Court, shall be served at least ten (10) days before the date of the hearing by personal service on the person(s) enumerated in subsection (b) of this Section. If personal service cannot be reasonably effected or the address of any person is unknown, the Judge or Clerk of Court shall order notice to be given by registered or certified mail, return receipt requested, or if no such address is known, in a newspaper of general circulation in the region where the Chitimacha Tribal Court is located.

(d) Notice and appearance may be waived by a parent in writing before the Chitimacha Tribal Court, provided that such parent has been apprised by the Chitimacha Tribal Court of the meaning and consequences of the emancipation action. The parent who has executed such a waiver shall not be required to appear at the subsequent hearing.

Sec. 603. Conduct of Hearing; Investigation and Report

(a) At the hearing held on the petition for emancipation, any party to whom notice was given shall have the right to appear and be heard with respect to the petition. If the parent who is consenting to the emancipation appears at the hearing, the Chitimacha Tribal Court shall explain to the parent the meaning and consequences of emancipation.

(b) Upon finding at the hearing or at any time during the pendency of the petition that reasonable cause exists to warrant an investigation into the circumstances upon which emancipation is sought, the Chitimacha Tribal Court may request the Chitimacha Human Services Department to make an investigation and written report to the Chitimacha Tribal Court within forty-five (45) days from receipt of such request. The report shall indicate the physical, mental and emotional, and financial condition of the minor child and shall contain such facts as may be relevant to determine whether the proposed emancipation will be in the best interests of the minor child.

(c) If such a report is requested, the Chitimacha Tribal Court shall schedule a hearing on the results of the investigation not more than thirty (30) days from the date of the expiration of the forty-five (45) day time period or receipt of the Chitimacha Human Services Department report, whichever is earlier. The Chitimacha Tribal Court shall give reasonable notice of the investigation hearing to all parties to the first hearing at least ten (10) days before the date of the investigation hearing.

(d) The report shall be admissible in evidence, subject to the right of any interested party to require that the person(s) making it appear as a witness and subject himself or herself to examination.

(e) At either the hearing on the investigation or the first hearing, if no investigation and report has been requested, the Chitimacha Tribal Court may approve the petition for emancipation if it finds that emancipation is in the best interests of the minor child.

(f) If the Chitimacha Tribal Court denies a petition for emancipation, it may refer the matter to the Chitimacha Human Services Department to assess the needs of the minor child.

Sec. 604. Order and Effect of Emancipation

(a) The Chitimacha Tribal Court shall make written findings in determining whether emancipation would be in the best interests of the minor child. The Chitimacha Tribal Court shall thereafter enter an order declaring the minor child to be emancipated if the Court finds that:

(1) emancipation is in the best interests of the minor child;

(2) the minor child has entered into a valid marriage or is on active duty with the armed forces of the United States of America; or

(3) the minor child willingly lives separate and apart from his or her parents or guardian, with or without their consent, and that the minor child is managing his or her own financial affairs, regardless of the source of any lawful income.

(b) An order that a minor child is emancipated shall have the following effects: the minor child shall be free of control by his or her parents or guardian; the minor child may consent to medical, dental, or psychiatric care without parental consent, knowledge, or liability; the minor child shall be entitled to his or her own earnings and to establish his or her own residence; the minor child may enter into a binding contract, buy and sell real and personal property, execute releases, sue and be sued in his or her own name; the minor child shall be deemed eligible to secure a marriage license, register a motor vehicle, and enlist or receive a commission in the armed services of the United States of America; the minor child may not thereafter be the subject of a petition as a neglected, abused, dependent or uncared for minor child; the parents of the minor child shall no longer be the guardians of the minor child, and shall be relieved of any obligations respecting the minor child's school attendance and support; and the minor child shall be emancipated for the purposes of parental liability for the minor child's acts.

(c) An order that a minor child is emancipated shall not change the minor child's eligibility for tribal housing and incentive benefits or other tribal benefits as determined by Chitimacha Tribal Law or policy.

(Added by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

CHAPTER 7. CHANGE OF NAME

Sec. 701. Authority to Grant Change of Name

In addition to its authority to grant a change of name in a dissolution of marriages, the Chitimacha Tribal Court shall have jurisdiction over petitions for a change of name, and may change the name of the petitioner, who shall thereafter be known by the name prescribed by the Chitimacha Tribal Court in its decree.

Sec. 702. Change of Name by Minor Child

In all proceedings for a change of name brought on behalf of a minor child, the parents of such child shall be necessary parties, shall be cited in the petition, and shall be served with the petition either by personal service or by mailing a copy of the petition to the parent's last-known address by registered or certified mail.

Sec. 703. Petition for Change of Name

(a) The Petition for Change of Name shall contain the following information:

- (1) the name of the petitioner, and if a minor child, the names of the minor child's parents;
- (2) the petitioner's address, and if a minor child, the addresses of the minor child's parents;
- (3) the reasons for requesting the change of name;
- (4) the name by which petitioner has generally been known by, usually uses for motor vehicle license and registration, and in which the petitioner contracts bills, credit cards and bank accounts;
- (5) the proposed name, and if it has been used, the manner in which the name has been used and length of time of such use; and
- (6) a statement that the petitioner has no past due debts, bears a good reputation in the community, has no purpose in making this application except to conform the petitioner's legal name to that by which he or she wants to be generally known (or other reason), and a disclosure of any arrest(s) or conviction(s) within the seven (7) years preceding the petition.

(b) Any interested party may file a response to the petition within twenty (20) days from the service date.

Sec. 704. Public Notice

The Chitimacha Tribal Court shall publish a notice that a petition for a change of name has been filed in the Chitimacha Newsletter and shall be posted by the Clerk of Court at all Chitimacha Tribal Buildings. Such publication shall occur once and shall contain only a statement that a petition has been filed by the petitioner, and shall not disclose any information from the petition.

Sec. 705. Decision on the Petition

The Chitimacha Tribal Court shall grant such petition for change of name unless it finds that the change of name would result in injury to another person's legal rights. The Chitimacha Tribal Court shall provide notice of the Court's decision to the Clerk of the Chitimacha Tribal Court.

(Added by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

CHAPTER 8. RECOGNITION AND ENFORCEMENT OF FOREIGN SUPPORT ORDERS

Sec. 801. Definitions

For purposes of this Chapter, the following words and phrases are defined as follows:

- (a) "Child" means an individual, whether over or under the age of majority, who is owed or alleged to be owed a duty of support by the individual's parent or who is alleged to be a beneficiary of an income withholding order directed to the parent.
- (b) "Court" means a court, administrative agency, or a judicial-like entity, or an American Indian traditional dispute resolution forum authorized to establish, enforce or modify support orders or to determine paternity, and which maintains a reviewable record of its proceedings.
- (c) "Dependent" means a spouse, former spouse, or child entitled to payments under a judgment or support order.
- (d) "Disposable income" means that part of the income of an individual remaining after deduction from that income of amounts required to be withheld for the payment of federal, state and local income taxes, employment taxes, retirement contributions, group life and health insurance premiums.
- (e) "Duty of support" means an obligation imposed or imposable by law to provide support for a child or dependent.
- (f) "Employer" or "Payor" means the Chitimacha Tribe of Louisiana, its enterprises, governmental divisions or departments thereof.
- (g) "Foreign support order" means any judgment, decree or order of a court of competent jurisdiction of any state or federally recognized Indian tribe in any family relations matter involving the paternity, custody, care, education, visitation, maintenance, support of a child or dependent, or the disposition of property of the parties to an existing or terminated marriage, in which both parties have entered an appearance.
- (h) "Income" means any periodic form of payment due to an individual from any source, including, but not limited to, earnings, workers' compensation and disability benefits, are payments pursuant to a pension or retirement program.
- (i) "Income withholding order" means an order or other legal process directed to an obligor's employer or payor to withhold support from the income of the obligor.

(j) "Issuing Court" means the court which issues an income withholding order or renders a judgment determining paternity.

(k) "Obligor" means an individual, or the estate of a decedent, who owes a duty of support and is required to make payments under a judgment or support order.

(l) "State" means a state of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States of America.

(m) "Support" means monetary support, health care, arrearages, or reimbursement and may include related costs and fees, interest, attorney's fees, and other relief for the benefit of a child.

(n) "Support order" means a court order, judgment, or decree, including an agreement approved by the court that requires payment to a child or dependent from the income of the obligor.

Sec. 802. Recognition of Foreign Support Orders

(a) The Chitimacha Tribe of Louisiana hereby recognizes a foreign support judgment, support or income withholding order issued by a court of another tribe or state provided that such judgment or order does not contravene the public policy of the Chitimacha Tribe. Any party to an action in which a foreign support judgment, support or income withholding order has been rendered may send such judgment or order to the Department of Finance of the obligor's employer/payor without filing or registering the judgment or order in the Chitimacha Tribal Court, and such employer/payor shall withhold against the disposable income of the obligor and distribute the funds as directed in the order.

(b) Such foreign support order shall not be modified or altered unless the Chitimacha Tribal Court has jurisdiction, which shall be determined according to Chapter 1 of Title I of this Code, and 28 U.S.C. § 1738B, the Full Faith and Credit for Child Support Orders Act.

Sec. 803. Employer/Payor's Compliance

(a) Upon receipt of an income withholding order, the obligor's employer/payor shall immediately provide a copy of the order to the obligor.

(b) The employer/payor shall withhold against the obligor's disposable income and distribute the funds as directed in the income withholding order by complying with the terms of the order which specify:

(1) the duration and amount of periodic payments of current support or other obligation, stated as a sum certain;

(2) the person or agency designated to receive payments and the address to which the payments are to be forwarded;

(3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child or dependent;

(4) the amount of periodic payments of fees and costs for a support enforcement agency, court or state, and attorney, stated as sums certain; and

(5) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

Sec. 804. Maximum Amount of Withholding. Time Periods. Priority of Multiple Orders

In determining the maximum amount permitted to be withheld from the obligor's disposable income for any time period which is subject to an income withholding order, the time periods within which the employer/payor must implement the support order, the priorities for withholding and allocating income withheld for multiple child support obligees, and any other withholding terms or conditions not specified in the order, an employer/payor shall comply with Title IV, Section 311 of the Chitimacha Comprehensive Codes of Justice.

Sec. 805. Immunity from Liability

An employer/payor who complies with an income withholding order that is regular on its face shall be immune from civil liability with regard to the employer/payor's withholding of support from the obligor's or employee's income.

Sec. 806. Contest by Obligor

(a) An obligor may contest the validity or enforcement of an Income Withholding Order issued by a tribunal of another tribe or state and received directly by an employer in the same manner as if the order had been issued by the Chitimacha Tribal Court.

(b) The obligor shall give notice of the contest to:

(1) a support enforcement agency providing services to the obligee; and

(2) each employer that has directly received payments on the Income Withholding Order or if no person or agency is designated, to the obligee.

Sec. 807. Fees and Costs

A party seeking to register or enforce an Income Withholding Order may be required to pay a registration or filing fee or the costs of service within the Chitimacha Reservation. Costs may be assessed and collected for filings made pursuant to this Section.

(Added by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

CHAPTER 9. FULL FAITH AND CREDIT FOR FOREIGN DOMESTIC VIOLENCE ORDERS

Sec. 901. Purpose and Findings

(a) It is the purpose of this Chapter to ensure that domestic violence protection orders issued by other jurisdictions, including tribal and state courts, be honored and enforced by the courts of the Chitimacha Tribe of Louisiana as well as law enforcement officers of the Chitimacha Tribe of Louisiana.

(b) The Chitimacha Tribe of Louisiana finds that federal law, 18 U.S.C. § 2265, requires state and tribal courts to honor protection orders entered by another state or tribal court when the protection order is consistent with the requirements of this federal law. To implement this section of federal law, and to assure protection for victims of domestic violence within the Chitimacha Reservation, this Title is being enacted.

(c) The Chitimacha Tribe of Louisiana finds that domestic violence and stalking on the Chitimacha Reservation can seriously impact the ability of the Chitimacha Tribe to provide for the health and well-being of its tribal members and threatens the political integrity of the Tribe because of its serious impact upon victims and their families to function in the Chitimacha tribal community.

(d) This ordinance is enacted pursuant to the inherent, sovereign right of the Chitimacha Tribe of Louisiana to enact ordinances for the welfare and protection of all persons on the Chitimacha Reservation and it is intended to apply to all acts of domestic violence and violations of protection orders within the exterior boundaries of the Chitimacha Reservation and all trust lands and dependent Indian communities that lie outside the exterior boundaries of the reservation.

Sec. 902. Definitions

(a) “Ex Parte Protection Order” means a temporary order issued by a tribal or state court which restrains any person, Indian or non-Indian, from harassing, annoying, stalking, contacting, or coming within a certain proximity to another person issued by a court with jurisdiction over the person restrained and subject matter jurisdiction. The order shall also provide for an opportunity for a restrained person to be heard before the issuance of a permanent order of protection.

(b) “Permanent Order of Protection” means an order issued by a tribal or state court which restrains any person, Indian or non-Indian, either permanently or for a specified period of time, from harassing, annoying, stalking, contacting, or coming within a certain proximity to another person issued by a court with jurisdiction over the person restrained and subject matter jurisdiction. The order may be the result of a civil protection order proceeding or the result of an order arising from a criminal prosecution against a person.

(c) “Mutual Protection Order” means an order issued by a tribal or state court which restrains both parties to a proceeding from harassing, annoying, stalking, contacting or coming within a certain proximity to another person(s). In order to be enforced by a court of the Chitimacha Tribe of Louisiana, a mutual protection order must be the result of both parties to a proceeding filing separate protection order petitions and the issuing Court finding that each of the persons to a mutual protection order have committed an act of domestic violence under the laws of the issuing jurisdiction.

(d) “Issuing Court” means a tribal or state court that issues an ex parte or permanent order of protection against a person.

(e) “Enforcing Court” means a tribal or state court that recognizes and enforces an ex parte or permanent order of protection against a person issued by another tribal or state court.

(f) “Full Faith and Credit” means the act of enforcing an ex parte or permanent order of protection from another tribal or state court as if it were the order of a court of the Chitimacha Tribe of Louisiana. In enforcing the order of protection, the enforcing court and its law enforcement agencies shall apply all

laws and ordinances, including mandatory arrest for violations of protection orders, that the enforcing court has in existence at the time enforcement of the foreign protection is sought. Registration of the protection order is not a prerequisite to enforcement under this paragraph.

(g) “Registration” means the act of filing a protection order issued by another tribal or state court with the Chitimacha Tribal Court or with the Chitimacha Tribal Police Department.

(h) “Central registry of protection orders” means a list of protection orders issued by the state and tribal courts either maintained by the state or some tribal entity, which contains verifiable methods of identifying the existence of protection orders to be enforced under federal law, 18 U.S.C. sect 2265, and the person against whom the protection order is enforceable.

Sec. 903. Enforcement of Foreign Protection Orders

Whenever any law enforcement officer of the Chitimacha Tribe of Louisiana or a court of the Chitimacha Tribe of Louisiana is presented with an order, either ex parte or permanent, or verifies the existence of such an order with the court or law enforcement of the issuing jurisdiction, which restrains any person from harassing, annoying, stalking, contacting or coming within a certain proximity to another person that was issued by another tribal or state court, that officer and court shall enforce such order and all provisions of such order, including the award of custody and property in such protection order, as if it were issued by a court of the Chitimacha Tribe of Louisiana.

Sec. 904. Role of Law Enforcement in Enforcing this Chapter

If a law enforcement officer of the Chitimacha Tribe of Louisiana is presented with a protection order, either ex parte or permanent, or verifies the existence of such an order with the court or law enforcement of the issuing jurisdiction or by the oral statements made by the protected person under this protection, the officer shall enforce such order as if it had been entered by a court of the Chitimacha Tribe of Louisiana. This shall include arresting a person violating such order without the necessity of a warrant, if the officer has probable cause to believe the person has violated the protection order, and taking all necessary steps to assure the protection of the protected person.

Sec. 905. Immunity for Good Faith Enforcement of Foreign Protection Order

An officer or any other law enforcement official of the Chitimacha Tribe of Louisiana who acts in good faith in enforcing a foreign protection order and its terms shall be immune from suit for wrongful arrest or any other civil or criminal action. This immunity shall extend to a tribal officer who effects the arrest of a non-Indian for violation of a protection order.

Sec. 906. Role of Tribal Court in Enforcing this Chapter

The Chitimacha Tribal Court shall enforce a protection order, either ex parte or permanent, and all provisions of that protection order, including child custody and property awards, if all the following are satisfied:

(a) the respondent received notice of the order in compliance with requirements of the issuing jurisdiction;

- (b) the order remains in effect in the issuing jurisdiction;
- (c) the issuing court had jurisdiction over the parties and subject matter; and
- (d) the respondent was afforded reasonable notice and the opportunity to be heard prior to the issuance of a permanent protection order or in the case of an ex parte order it appears from the face of the order that a hearing will be conducted within reasonable time to allow the respondent to raise any defenses he or she may have to the issuance of a permanent protection order.

Sec. 907. Protection Order with the Tribal Court

Any person who has received a protection order, either ex parte or permanent, from another tribal or state court, may file the protection order in the Clerk of the Chitimacha Tribal Court and request that the Chitimacha Tribal Court grant full faith and credit to that protection order. Immediately upon the filing of that protection order with the Chitimacha Tribal Court, a Tribal Judge shall review such filing and if it appears from the face of the protection order it meets the requirements of the foregoing chapter shall enter an order recognizing the protection order. The order shall immediately be forwarded to tribal and local law enforcement. A person shall be not charged a filing or registration fee for the filing of a foreign protection order. A person protected by a protection order issued by another tribal or state court need not file that protection order with the Chitimacha Tribal Court in order to receive law enforcement protection from the Respondent under this Chapter.

Sec. 908. Violation of Foreign Protection Order

It shall be a Class A Misdemeanor, punishable by up to six (6) months of imprisonment, a fine in the amount of not more than one-thousand dollars (\$1,000), or both for any person to violate a protection order, either ex parte or permanent, issued by any state or tribal court within the jurisdiction of the Chitimacha Tribe of Louisiana. It is not a defense to this section that a protected person had not notified or registered the protection order with the Chitimacha Tribal Court prior to the violation. If the person found to have violated a foreign protection order is a non-Indian, the Chitimacha Tribal Court may exercise civil jurisdiction over this person and impose whatever civil penalties it deems to be appropriate in accordance with Tribal law.

(Added by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)

CHAPTER 10. MISCELLANEOUS

Sec. 1001. Forms

The Clerk of the Chitimacha Tribal Court shall prepare forms, including instructions in plain language, for applying to the Chitimacha Tribal Court for any complaint, remedy or relief available under this Title.

Sec. 1002. Appeals

Appeals from decisions by the Chitimacha Tribal Court under this Title may be made by any party in accordance with the rules governing the Chitimacha Court of Appeals.

Sec. 1003. Application of Law

All actions brought under this Title shall be determined by the Chitimacha Tribal Court in accordance with Tribal law.

(Added by Ordinance # 02-10; Adopted: July 15, 2010; Effective: July 15, 2010)