

TITLE 9. FAMILY LAW

Chapters:

- 9.1 Marriage and Divorce
- 9.2 Paternity and Support
- 9.3 Guardianship
- 9.4 Change of Name
- 9.5 Probate Procedure
- 9.6 Child Support

Chapter 9.1

MARRIAGE AND DIVORCE

Sections:

- 9.1.1 Findings.
- 9.1.2 Purpose and Intent.
- 9.1.3 Definitions.
- 9.1.4 Jurisdiction.
- 9.1.5 Marriage and Divorce.
- 9.1.6 Marriage Formed on the Reservation.
- 9.1.7 Marriage License.
- 9.1.8 Solemnization.
- 9.1.9 Invalid or Prohibited Marriages.
- 9.1.10 Recognition of Marriages Formed in Other Jurisdictions.
- 9.1.11 Issuance of Certificate of Marriage in Lieu of Civil Union.
- 9.1.12 Marriages which May Be Annulled or Voided.
- 9.1.13 Legitimacy of Children.
- 9.1.14 Dissolution by Divorce.
- 9.1.15 Referral to Counseling or Mediation.
- 9.1.16 Actions of the Court Pending Determination of Request for Divorce or Annulment.
- 9.1.17 Procedure and Disposition.
- 9.1.18 Appeal.

9.1.1. Findings. The Suquamish Tribal Council finds that marriages involving enrolled Suquamish Tribal members, different sex and same sex couples, are fundamental rights and fundamental institutions that preserve and protect the Tribe's political integrity, economic security, social vitality, and the health and welfare of individual tribal members, their children, and the tribal community as a whole. The Tribe further finds that this chapter, as amended, addresses purely intramural relationships among and by persons who are recognized and integrated members of the Tribe's community. (Res. 2011-080, passed Aug. 1, 2011)

9.1.2. Purpose and Intent. Pursuant to the inherent sovereign powers of the Suquamish Tribal government and the powers vested by the Suquamish Tribal

Constitution and Bylaws Article III(i), the purpose of this chapter, as amended, is to establish tribal laws to regulate the conduct of people, maintain law and order, administer justice, and protect, preserve, and promote the health and welfare of the Suquamish Tribe and its members, particularly as set forth, the rules that govern the recognition, formation, and dissolution of marriages of Suquamish Tribal members. This chapter reflects the Suquamish Tribe's cultural and community values. This chapter does not and is not intended to guarantee that any other community or government will recognize or uphold any marital union established herein. (Res. 2011-080, passed Aug. 1, 2011)

9.1.3. Definitions. The following definitions are used in this chapter.

(a) "Address" means the residential address of a Suquamish Tribal member within the exterior boundaries of the Port Madison Indian Reservation or any Indian homestead property.

(b) "Certificate of civil union" means a document issued by a competent jurisdiction that certifies that the persons named on the certificate have established a civil union in accordance with the laws of such jurisdiction and such jurisdiction recognizes civil unions in a form that is the same or substantially the same as is defined in this chapter.

(c) "Civil union" means that two eligible persons have established a relationship in compliance with the laws of a competent jurisdiction and, in accordance with such law, may receive the benefits and protections and be subject to the responsibilities of spouses.

(d) "Marriage" means a formal and express civil contract entered into by and between two persons, regardless of their sex, who are at least eighteen (18) years of age, who are otherwise legally capable of entering into a contract, who may or may not have solemnized their union through a formal ceremony, and where at least one of them is a member of the Suquamish Tribe. A female Suquamish Tribal member who is between sixteen (16) and eighteen (18) years of age may marry with the prior notarized written consent of her parent(s) or legal guardian(s).

(e) "Sex" means being biologically male or female. (Res. 2011-080, passed Aug. 1, 2011)

9.1.4. Jurisdiction. (a) The Suquamish Tribal Courts shall have jurisdiction over the subject matter of this title pursuant to Suquamish Tribal Code Chapter 3.2.

(b) The Suquamish Tribal Courts shall have jurisdiction to hear and determine all family matters including but not limited to divorce, separate maintenance, annulment, determination of paternity and support, custody of minor children, and division of all personal and nontrust real property. (Prior code Ch. V, Art. I, §2 (part): Res. 80-074, passed July 1, 1981; Res. 90-106 (part), passed Sept. 24, 1981; amended by Res. 92-

005, passed Oct. 15, 1992 and amended Oct. 19, 1992; amended by Res. 94-156 (part), passed Nov. 21, 1994; amended and renumbered by Res. 2011-080, passed Aug. 1, 2011)

9.1.5. Marriage and Divorce. All marriages entered into before the effective date of this title, whether in accordance with and valid under state law, tribal law, or tribal custom, are declared valid and binding. (Prior code Ch. V, Art. I, §2 (part); amended and renumbered by Res. 2011-080, passed Aug. 1, 2011)

9.1.6. Marriage Formed on the Reservation. (a) A valid marriage hereunder shall be constituted by the issuance of a marriage license by the Tribal Court or any of the United States and by recording the marriage license with the clerk of the Tribal Court.

(b) The solemnization of the marriage by tribal custom, by a judge within the territorial jurisdiction of the Port Madison Indian Reservation, by a recognized clergyperson, or by a public official authorized to do so by the State of Washington is optional.

(c) Tribal custom marriages entered into after the effective date of this title must be duly recorded with the Suquamish Tribal Court by the signing of a marriage register, maintained by the clerk of the court, by each party and the officiant of the marriage. (Prior code Ch. V, Art. I, §2 (part), §3; amended and renumbered by Res. 2011-080, passed Aug. 1, 2011)

9.1.7. Marriage License. A marriage license shall be issued by the clerk of the court:

(a) Upon written application:

(1) Of an unmarried male and unmarried female both of whom are eighteen (18) years of age or older;

(2) Of an unmarried male eighteen (18) years of age or older and an unmarried female between sixteen (16) and eighteen (18) years of age if the application is accompanied by the notarized written consent of the female's parent(s) or legal guardian(s); or

(3) Of two unmarried persons of the same sex both of whom are eighteen (18) years of age or older and one of whom is an enrolled member; and

(b) In the absence of any showing that the proposed marriage would be invalid under any provision of this chapter or tribal custom and usage not specifically preempted by this chapter.

(c) If any applicant is not a Suquamish Tribal member, he or she must voluntarily and expressly consent in writing to the personal jurisdiction of the Tribe for all matters arising from the marriage or the marital relationship.

(d) Permanent residency at an address within the reservation is not a requirement to obtain a marriage license under this chapter.

(e) The Chief Judge of the Suquamish Tribal Court may establish a reasonable fee for the issuance of a marriage license under this chapter by written order of the Court. (Prior code Ch. V, Art. I, §4: amended by Res. 2003-107, passed Aug. 25, 2003; amended and renumbered by Res. 2011-080, passed Aug. 1, 2011)

9.1.8. Solemnization. In the event that a judge, clergyperson, tribal official, or anyone authorized to do so solemnizes a marriage, such officiate shall file with the clerk of the court a certification thereof within thirty (30) days. The validity of any marriage is not affected by the absence of a ceremony. (Prior code Ch. V, Art. I, §5; amended and renumbered by Res. 2011-080, passed Aug. 1, 2011)

9.1.9. Invalid or Prohibited Marriages. Marriages which are prohibited and invalid under this chapter are:

(a) Those in which either party is lawfully married to another living person, unless that marriage has been legally annulled or dissolved;

(b) Those between ancestors and descendants of every degree, between a stepfather and a stepdaughter or between stepmother and stepson, between brothers and sisters, aunts and nephews, uncles and nieces, and between first cousins whether the relationship is of the half or whole blood and legitimate or illegitimate, or any nearer kin to each other by blood as computed by the rules of the Suquamish Enrollment Ordinance (STC Chapter 1.1), provided that a marriage shall not be void if the parties are first cousins by legal court adoption only and are not related by blood; and

(c) Any other than those specifically recognized herein that are prohibited by custom and usages of the Tribe. (Prior code Ch. V, Art. I, §6; amended and renumbered by Res. 2011-080, passed Aug. 1, 2011)

9.1.10. Recognition of Marriages Formed in Other Jurisdictions. For the purposes related to jurisdiction exercised under this chapter, the tribal government shall recognize marriages formed under the laws of other federally recognized tribes, a state or territory of the United States and their duly authorized subdivisions, and from those foreign nations, jurisdictions, and provinces that the United States government formally recognizes, provided that:

(a) Both parties to the marriage are at least eighteen (18) years of age; and

(b) Such marriage is legally recognized in such jurisdiction and all requirements of the laws of such jurisdiction have been satisfied. (Res. 2011-080, passed Aug. 1, 2011)

9.1.11. Issuance of Certificate of Marriage in Lieu of Civil Union. A tribal member who has entered into a civil union formed under the laws of other federally recognized tribes or a state or territory of the United States and their duly authorized subdivisions may, upon written application to the Tribal Court and submission of the original or a certified copy of a certificate of civil union, request the issuance of a certificate of marriage in lieu of civil union without the payment of the court fee, provided his or her partner voluntarily and expressly consents in writing to establishing such marriage and to the personal jurisdiction of the Suquamish Tribe. (Res. 2011-080, passed Aug. 1, 2011)

9.1.12. Marriages which May Be Annulled or Voided. (a) A marriage may be voided or annulled by the Suquamish Tribal Court for any one of the following reasons upon the application of one of the parties:

(1) Either party was underage at the time of the marriage and did not have parental consent rendering consent void;

(2) The consent of either party was obtained by force or fraud;

(3) Either party lacked mental capacity at the time of the marriage and was therefore incapable of consenting;

(4) Either party was at the time of the marriage incapable of consummating the marriage and the incapacity is continuing; or

(5) The marriage was invalid on one of the grounds set forth in §9.1.9.

(b) If, after termination of any of the foregoing defects, the parties shall continue to live together as a married couple, the marriage shall not subsequently be subject to annulment because of such defect.

(c) The party laboring under the disability or upon whom the force or fraud is imposed must initiate the annulment.

(d) The marriage shall be annulled or be void from the time the Suquamish Tribal Court issues a judgment or order declaring the marriage annulled or void. A finding that a marriage is annulled or void under this section shall not relieve a party to the marriage from spousal support, child support, property settlement, or other requirements of tribal or other applicable law. (Prior code Ch. V, Art. I, §7; amended and renumbered by Res. 2011-080, passed Aug. 1, 2011)

9.1.13. Legitimacy of Children. When the parties enter a marriage in good faith and in the belief that their marriage is valid, any child conceived or born during the marriage and prior to a court's invalidation of the marriage shall be the legitimate child of both parents regardless of the sex of the parties to the marriage except this section shall not apply to or have any effect upon any application for tribal enrollment.

The legitimacy of children conceived or born prior to a judgment of annulment shall not be affected by the judgment. The judgment shall be conclusive only as against the parties to the action and those claiming under them. (Prior code Ch. V, Art. I, §8; amended and renumbered by Res. 2011-080, passed Aug. 1, 2011)

9.1.14. Dissolution by Divorce. A marriage may be dissolved by divorce in the Suquamish Tribal Court for incompatibility of the parties for whatever reason. (Prior code Ch. V, Art. I, §9; renumbered by Res. 2011-080, passed Aug. 1, 2011)

9.1.15. Referral to Counseling or Mediation. Prior to issuing an order dissolving the marriage, the Suquamish Tribal Court may refer the parties to any person or organization for counseling or mediation. (Prior code Ch. V, Art. I, §10; amended and renumbered by Res. 2011-080, passed Aug. 1, 2011)

9.1.16. Actions of the Court Pending Determination of Request for Divorce or Annulment. (a) Pending proceedings for dissolution or annulment of a marriage, the Suquamish Tribal Court may order:

(1) The separate maintenance of a party and support for the children, as the Court may deem just, upon application therefor or in the disposition of the proceedings;

(2) The care, custody, and maintenance of the minor children of the marriage during the pendency of the proceedings;

(3) The restraint of either party from molesting or interfering with the other party or any minor children in any manner; and

(4) The restraining and enjoining of either party or both from disposing of personal or nontrust real property during the pendency of the proceedings except as ordered by the Court.

(b) The Court may issue and enter into the docket as a judgment any order to pay any monies falling due during the pendency of the proceedings if payment is in default and may order enforcement of such judgment as provided in the civil code of the Suquamish Tribe. (Prior code Ch. V, Art. I, §11; amended and renumbered by Res. 2011-080, passed Aug. 1, 2011)

9.1.17. Procedure and Disposition. (a) All proceedings under this chapter shall be in accordance with the procedures for civil actions provided in the Suquamish Tribal Code and with the Rules of Civil Procedure.

(b) In addition to voiding, annulling, or dissolving a marriage, the Court shall have the power to provide as follows:

(1) For the future custody, care, and support of the minor children of the marriage, as may be in the best interests of the children;

(2) For the recovery of money or other personal property from either party to allow for the care, custody, and support of minor children in an amount as may be just and proper;

(3) For contribution from either party toward the education of minor children of the marriage;

(4) For the recovery from either party of such an amount of money or other personal property as may be just and proper toward the maintenance of the other party;

(5) For the division and distribution of the parties' personal property in accordance with the rules of community property as mandated by the Tribe;

(6) For the division and distribution of the parties' nontrust real property in accordance with the rules of community property as mandated by the Tribe; and

(7) For the restoration of the premarriage name of either party without court fee. (Prior code Ch. V, Art. I, §12: amended by Res. 92-005, passed Oct. 15, 1992 and amended Oct. 19, 1992; amended and renumbered by Res. 2011-080, passed Aug. 1, 2011)

9.1.18. Appeal. An appeal may be taken from the judgment of the Court annulling, voiding, or dissolving a marriage or from any parts of the judgment rendered in pursuance to the foregoing provisions, as provided under the appeals procedure of this chapter. (Prior code Ch. V, Art. I, §13; amended and renumbered by Res. 2011-080, passed Aug. 1, 2011)