

## TITLE 9. FAMILY LAW

### Chapter 9.5

#### PROBATE PROCEDURE

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**9.5.1. Jurisdiction.** When a member of the Suquamish Tribe or any other person residing on the Port Madison Indian Reservation dies, the heirs of the decedent, the claims of creditors, and the distribution of the person's property shall be determined by the Suquamish Tribal Court under this chapter. The jurisdiction of the Court in such cases covers all of the decedent's property that is on the Port Madison Indian Reservation except property and funds which are restricted or held in trust by the federal government. (Prior code Ch. VI, Art. I, §1)

**9.5.2. Small Estates.** (a) Any interested person may file a petition with the clerk of the Suquamish Tribal Court for the distribution without administration of the estate of a decedent in any case in which the total estate consists of personal property not exceeding three thousand dollars (\$3,000) in value, provided that the decedent in such case is survived by a widow or widower or by one or more minor children.

(b) The petition for distribution shall contain the information required by these rules. The petition shall be sworn to before the clerk of the court or other officer authorized to administer oaths.

(c) If the Court finds that the estate does not exceed three thousand dollars (\$3,000) in value and no executor or administrator for the estate has been appointed and that more than thirty (30) days have elapsed since the death of the decedent, the Court may order the estate distributed pursuant to the rules of descent and distribution of this title. (Prior code Ch. VI, Art. II)

**9.5.3. Petition for Administrator or Executor.** (a) Any person claiming to be the heir of any member of the Suquamish Tribe of Indians or any other person residing on the Port Madison Indian Reservation or the surviving spouse of the decedent, surviving children,

creditors, or the Suquamish Tribe may file a petition for the appointment of an executor or administrator of the estate with the clerk of the Suquamish Tribal Court.

(b) All procedures shall be conducted in accordance with the civil procedures of the Suquamish Tribal Code.

(c) The Court shall thereupon appoint an administrator or executor of the estate who shall take possession and control of the property of the decedent until the administration of the estate has been completed and he or she has been discharged by order of the Court.

(d) It shall be the duty of the executor or administrator to preserve and protect the property for the benefit of the estate and the heirs. (Prior code Ch. VI, Art. III, §1 (part))

**9.5.4. Court Control of Property.** Prior to appointment of the executor or administrator, the Court shall have authority to take possession and control of the property. (Prior code Ch. VI, Art. III, §1 (part))

**9.5.5. Wills.** (a) Every custodian of a will must deliver the will to the Suquamish Tribal Court or to the executor named therein within ninety (90) days of the death of its maker. Failure to do so may subject that person to liability for damages sustained by any person injured thereby.

(b) A will may be proven by the affidavit of the attesting witnesses identifying the signature of the testator and affirming that the will was executed by the decedent in the presence of the witnesses and declared by him or her to be his or her last will and testament.

(c) In the event that any person contests the validity of the will, the Court shall take no further action until a hearing has been held to establish the validity of the will.

(d) Upon the completion of the hearing or hearings regarding the validity of the will, the judge of the Tribal Court shall either affirm the will and order it admitted to probate or reject the will and order the administration of the decedent's estate as if the decedent had died without executing a will. (Prior code Ch. VI, Art. III, §2)

**9.5.6. Appraisal of Property.** When any action is filed under this chapter, the Court shall appoint a qualified appraiser to appraise all of the personal property within the jurisdiction of the Court. (Prior code Ch. VI, Art. III, §3)

**9.5.7. Claims.** (a) Creditors of the estate or those having a claim against the decedent shall file their claim with the clerk of the court or the executor or administrator within sixty (60) days from the appointment of the executor or administrator.

(b) The administrator or executor shall examine all claims within ninety (90) days of his or her appointment and notify the claimant that his or her claim is accepted or rejected. If the claimant is not notified of rejection, the claim shall be deemed accepted.

(c) Claims shall be preferred in the following order:

(1) All expenses of last illness and burial

(2) Any amount due the Suquamish Tribe of the Port Madison Indian Reservation

(3) Expenses of administration

(4) All other claims (Prior code Ch. VI, Art. III, §4)

**9.5.8. Administration of Estate.** (a) Within ninety (90) days after the appointment of the executor or administrator, he or she shall file a petition for the determination of heirs and distribution of the estate.

(b) The petition shall be filed in duplicate and shall be sworn to or affirmed and shall contain:

(1) The name of decedent;

(2) Place and date of decedent's death;

(3) Names, ages, and relationship to decedent of all heirs of decedent and if decedent dies testate, of all beneficiaries under his will;

(4) Nature and extent of decedent's property and location of same;

(5) Statement of existence or absence of will and attachment of original will if decedent died testate;

(6) Copy of death certificate or other adequate proof of death;

(7) Statement of all claims including those approved or rejected for payment; and

(8) A certificate of heirs signed by the tribal official in charge of tribal census records.

(c) The Court may file a petition for the determination of heirs and distribution of the estate on its own motion in the event an executor or administrator is not appointed or fails to act as required. (Prior code Ch. VI, Art. III, §5)

**9.5.9. Determination of the Court.** (a) At the time set for hearing, the Tribal Court shall proceed to examine all evidence relating to the distribution of the decedent's estate and shall determine any controversy relating to claims or as to those entitled to receive the decedent's estate. Upon conclusion of the hearing, the Court shall:

(1) Enter its order determining the heirs or devisees;

(2) Provide for payment of claims;

(3) Provide for distribution of the decedent's estate; and

(4) Require a report in thirty (30) days from any executor or administrator that he or she has carried out the orders of the Court.

(b) The Court shall discharge the executor or administrator and close the estate upon finding that the executor or administrator has faithfully discharged his or her duties. (Prior code Ch. VI, Art. IV, §1)

**9.5.10. Descent and Distribution.** In the event there is no will admitted to probate, the estate shall be distributed by order of the Court as follows:

(a) To the surviving spouse of the decedent upon a finding of the Court that a valid marriage existed at the time of the death of the decedent;

(b) If there is no spouse, then to the surviving minor children; or

(c) If there is no spouse or surviving minor children, then the estate shall be distributed in accordance with the laws of the Suquamish Tribe relating to descent and distribution until such time as an ordinance on descent and distribution is enacted by the Suquamish Tribe. (Prior code Ch. VI, Art. IV, §2)

**9.5.11. Expenses and Fees.** After the payment of all expenses in connection with the distribution of the estate, the Court may charge such fees as may be deemed proper, taking into consideration the appraised value of the estate of the decedent. (Prior code Ch. VI, Art. IV, §3)

Note: Subsection 9.5.10(1)-(3) changed to 9.5.10(a)-(c) for consistency.