

TITLE 9. FAMILY LAW

Chapter 9.2

PATERNITY

Sections:

- 9.2.1 Purpose.
- 9.2.2 Definitions.
- 9.2.3 Jurisdiction.
- 9.2.4 Establishment of Parent–Child Relationship.
- 9.2.5 Voluntary Acknowledgement of Paternity.
- 9.2.6 Denial of Paternity.
- 9.2.7 Validity of Acknowledgements and Denials of Paternity.
- 9.2.8 Rescission of Acknowledgement or Denials of Paternity.
- 9.2.9 Presumption of Paternity.
- 9.2.10 Establishing Paternity by Administrative Process.
- 9.2.11 Establishing Paternity by Judicial Process.
- 9.2.12 Paternity Hearing.
- 9.2.13 Genetic Tests.
- 9.2.14 Other Tests.
- 9.2.15 Best Interests of the Child not to Establish Paternity.
- 9.2.16 Evidence.
- 9.2.17 Time Limitations.
- 9.2.18 Paternity Order.
- 9.2.19 Agreed Paternity Order.
- 9.2.20 Default Paternity Order.
- 9.2.21 Vacating Default Paternity Order or Agreed Order of Paternity.
- 9.2.22 Paternity Established by Other Jurisdictions.
- 9.2.23 Records Confidential, Sealed.
- 9.2.24 Artificial Insemination.
- 9.2.25 Severability; Construction.

9.2.1. Purpose. The purpose of this chapter is to establish paternity by determining if a father and child relationship exists and, as far as practicable, determining the existence or nonexistence of a mother and child relationship. The Suquamish Tribe has an interest in establishing paternity to protect the best interests of Suquamish children and all children under the jurisdiction of the Tribe for the purposes of establishing or modifying child support obligations and recognizing paternity from foreign jurisdictions. This chapter is not for the purpose of establishing enrollment as a member of the Suquamish Tribe. The question of whether a person meets enrollment requirements is separately addressed in Suquamish Tribal Code (“STC”) Chapter 1.1. (Res. 2010-046 §9.2.1, passed May 11, 2010)

9.2.2. Definitions. (a) “Acknowledged father” means a man who has established a father–child relationship under STC §9.2.4.

(b) “Adjudicated father” means a man who has been adjudicated by a court of competent jurisdiction to be the father of a child.

(c) “Administrative Hearings Office” or “AHO” means the Suquamish Child Support Administrative Hearings Office established pursuant to STC §9.6.42 to hear matters on appeal concerning final administrative orders establishing paternity.

(d) “Alleged father” means a man who claims himself to be or is claimed to be the genetic father or possible genetic father of a child but whose paternity has not been determined. This term does not mean 1) a presumed father; 2) a man whose parental rights have been terminated or declared not to exist; or 3) a male semen donor.

(e) “Certified” or “certified copy” means any document containing a seal of the Suquamish Tribal Court, the Suquamish Child Support Enforcement Office, the Administrative Hearings Office, or any other administrative agency or court of competent jurisdiction attesting to the document’s authenticity.

(f) “Certified statement” means a statement that is authenticated or attested to in writing as being true.

(g) “Child” means a person who is alleged to be the natural or adopted offspring of a parent and who is (1) under the age of eighteen (18) years; (2) between the ages of eighteen (18) and twenty-one (21) years, regularly attending high school or its equivalent; and (3) not emancipated according to the laws of the Suquamish Tribe, other tribes, or states.

(h) “Court” means any court having jurisdiction to establish the paternity of a child.

(i) “Custodial parent” means the person who holds legal custody of the child(ren) pursuant to a court order or who has primary physical custody of the child(ren) based on an agreement between the parents or the absence of one or both parents. The term custodial parent includes a grandparent, other relative, or extended family member caring for a child, and a guardian or custodian appointed by a court of competent jurisdiction.

(j) “Enforcement” means the use of remedies to obtain payment of a child support obligation contained in a child support order.

(k) “Foreign judgment” or “foreign order” means a judgment or order that is entered in a court or administrative agency of competent jurisdiction other than the Suquamish Tribal Court, Suquamish Child Support Enforcement Office, or the Suquamish Child Support Administrative Hearings Office.

(l) “Genetic testing” means an analysis of genetic markers only to exclude or identify a man as the father or a woman as the mother of a child. The term includes an analysis of one or a combination of the following:

(1) Deoxyribonucleic acid; and

(2) Blood–group antigens, red–cell antigens, human–leukocyte antigens, serum enzymes, serum proteins, or red–cell enzymes.

The test shall be conducted by a laboratory accredited by the Parentage Testing Committee of the American Association of Blood Banks or another accredited laboratory approved by the Suquamish Tribal Court, the Suquamish Child Support Enforcement Office, or the Suquamish Administrative Hearings Office with comparable credentials in genetic testing using a sample collected in accordance with the procedures at that laboratory.

(m) “Guardian” is a person who has legal custody and has been appointed by a court to protect the interests of minors and to provide for their care, welfare, education, maintenance, and support.

(n) “Noncustodial parent” means a parent of a child, whether or not conceived during the course of marriage, who does not hold legal custody of the child pursuant to a court order, who does not exercise primary physical custody of the child on the basis of an agreement between the parents, or where no agreement or court order exists as to the custody of the child.

(o) “Office” or “CSEO” means the Suquamish Child Support Enforcement Office.

(p) “Parent” means the natural, biological, or adoptive parent of a child.

(q) “Paternity” as used in this chapter means the legal relationship between a child and father.

(r) “Presumed” or “presumption” as used in this chapter is an inference recognized by law that a particular fact is true and may be admitted as evidence in a legal proceeding or judicially noticed unless the presumed fact is rebutted by evidence sufficient to prove the fact to be untrue.

(s) “Paternity index” means the likelihood of paternity calculated by computing the ratio between (1) the likelihood that the tested man is the father based on the genetic markers of the tested man, mother, and child, conditioned on the hypothesis that the tested man is the father of the child; and (2) the likelihood that the tested man is not the father based on the genetic markers of the tested man, mother, and child, conditioned on the hypothesis that the tested man is not the father of the child.

(t) “Probability of paternity” means the measure, for the ethnic or racial group to which the alleged father belongs, of the probability that the man in question is the father of the child compared with a random, unrelated man of the same ethnic or racial group, expressed as a percentage incorporating the paternity index and a prior probability.

(u) “Rescission” means to void or cancel for a legal reason.

(v) “Responding tribe or state” means an Indian tribe, tribal organization, or state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating tribe or state under this chapter or a law substantially similar to this chapter.

(w) “Signatory” means a person signing a document.

(x) “Suquamish child” means a child, as defined in §9.2.2(g), who is enrolled or is eligible for enrollment in the Suquamish Tribe.

(y) “Suquamish tribal member” means an individual duly enrolled with the Suquamish Tribe in accordance with the Constitution and Bylaws of the Suquamish Tribe and the Suquamish Tribal Code.

(z) “Suquamish Child Support Enforcement Office” means the administrative agency established in STC §9.6.7.

(aa) “Tribal Court” means the Suquamish Tribal Court.

(bb) “Tribal member” means an individual who is an enrolled member of the Suquamish Tribe or an individual who is enrolled with another federally recognized Indian tribe in accordance with the laws of such tribe. (Res. 2010-046 §9.2.2, passed May 11, 2010)

9.2.3. Jurisdiction. (a) Full Jurisdiction Asserted. The Suquamish Tribal Court, the Suquamish Child Support Enforcement Office, and the Suquamish Child Support Administrative Hearings Office accord maximum personal and subject matter jurisdiction over establishing paternity as is permitted by the Suquamish Tribe’s inherent sovereign powers, treaty rights, Constitution and Bylaws, and laws; the laws of the United States of America; any and all applicable international laws; and any and all applicable agreements with other federally recognized tribes and states.

(1) The Tribal Court has jurisdiction over any action to establish the paternity of a Suquamish child brought under this chapter, except for actions for establishing paternity that arise under Title IV-D of the Social Security Act, 42 USC §651 et seq., as amended, and Title IV-D rules and regulations. Actions arising under this chapter in the Tribal Court may be joined with an action for dissolution, annulment, declaration of invalidity, maintenance support, or any other civil action in which paternity is at issue, including any juvenile proceedings.

(2) The Suquamish Child Support Enforcement Office and the Suquamish

Child Support Administrative Hearings Office have jurisdiction over actions to establish paternity as it relates to establishing and enforcing child support brought under this chapter pursuant to Title IV-D of the Social Security Act, 42 USC §651 et seq., as amended, and Title IV-D rules and regulations.

(b) Personal Jurisdiction. The Suquamish Tribal Court, the Suquamish Child Support Enforcement Office, and the Suquamish Child Support Administrative Hearings Office have but are not limited to personal jurisdiction over the following persons:

(1) Any person who is a member or eligible to be a member of the Suquamish Tribe and who is alleged to be the parent of a Suquamish child residing within the exterior boundaries of the Port Madison Indian Reservation;

(2) Any person who knowingly and voluntarily consents to the jurisdiction of the Suquamish Tribal Court, the Suquamish Child Support Enforcement Office, or the Suquamish Child Support Administrative Hearings Office or who enters a general appearance, files a responsive document, or participates in a proceeding unless it is for the purpose of contesting jurisdiction;

(3) Any and all individuals who are alleged to have engaged in an act of sexual intercourse within the exterior boundaries of the Port Madison Indian Reservation with respect to which a child that is either a member of the Suquamish Tribe or is eligible for enrollment in the Suquamish Tribe may have been conceived; and

(4) Any parent who has the rights to income arising from:

(A) The Suquamish Tribe or any of its agencies, enterprises, or businesses; or

(B) An employer operating within the jurisdiction of the Suquamish Tribe;

(5) Any party who is subject to the jurisdiction of another tribe which has entered into a reciprocal agreement with the Suquamish Tribe under STC §9.2.3(a) at the request of that tribe; and

(6) Any party whose case is pending before the Suquamish Tribal Court and where another jurisdiction requests to consolidate a case arising in that jurisdiction involving the same party.

In addition to any other method provided by this chapter, personal jurisdiction may be acquired pursuant to (1) through (6) of this subsection by personal service of a summons outside the Port Madison Indian Reservation or by service in accordance with this chapter as now and hereafter amended.

(c) Continuing Jurisdiction. (1) In every action under this chapter, the Suquamish Tribal Court, the Suquamish Child Support Enforcement Office, and the Suquamish Child Support Administrative Hearings Office shall retain continuing, exclusive jurisdiction over the parties to fullest extent permitted by law.

(2) Once given, consent, whether express or implied, cannot be withdrawn. This includes implied consent by a party who files an action to establish paternity with the Suquamish Tribal Court or the Suquamish Child Support Enforcement Office or an appeal with the Suquamish Child Support Administrative Hearings Office.

(3) Once personal jurisdiction attaches to an individual it remains and cannot be defeated by relocation.

(4) An enrolled member of the Suquamish Tribe cannot avoid jurisdiction after jurisdiction attaches by later renouncing tribal membership or changing tribal affiliation.

(d) Exercise of Jurisdiction. (1) A judge, the director of the Suquamish Child Support Enforcement Office, or the Child Support Administrative Hearings officer may in his or her discretion or on a motion or request of a party to the action decline to exercise jurisdiction if any one of the following is shown.

(A) The relief sought by the petitioner or respondent will be impossible for the administrative agency or court to enforce and the relief sought is a reasonably likely outcome of the action.

(B) Another jurisdiction is available and provides a more convenient forum for the parties or children subject to the action.

(C) Another jurisdiction has exercised authority over the issues involved in the action and comity should be extended to allow that administrative agency or court to act.

(2) If the Suquamish Tribal Court, Suquamish Child Support Enforcement Office, or the Suquamish Child Support Administrative Hearings Office declines to exercise jurisdiction as permitted by this subsection, written findings of fact detailing the basis for declining shall be issued and subject to the right of appeal. (Res. 2010-046 §9.2.3, passed May 11, 2010)

[\(e\) No statute of limitations applies to an action to establish paternity.](#)

9.2.4. Establishment of Parent–Child Relationship. (a) Mother–child relationship. A woman is considered the mother of a child if:

(1) The woman gave birth to the child;

(2) The woman has been adjudicated to be the mother of the child by a court or administrative agency of competent jurisdiction; or

(3) The woman legally adopted the child.

(b) Father–child relationship. A man is considered the father of a child if:

(1) There is no contrary evidence to overcome a presumption of paternity;

(2) The man and the child’s mother have signed an acknowledgement of paternity;

(3) The man has been adjudicated to be the father of the child by a court or administrative agency of competent jurisdiction; or

(4) The man legally adopted the child. (Res. 2010-046 §9.2.4, passed May 11, 2010)

9.2.5. Voluntary Acknowledgement of Paternity. (a) Voluntary acknowledgement of paternity under this section is an uncontested process allowing a father to swear under oath that he is the parent of a minor child. The mother of a child and a man claiming to be the father of the child may sign an acknowledgement of paternity with intent to establish the man’s paternity. An acknowledgement may be signed before the birth of the child.

(b) An acknowledgement of paternity must:

(1) Be signed and notarized under penalty of perjury by the mother and by the man seeking to establish his paternity;

(2) State that the child whose paternity is being acknowledged does not have another acknowledged or adjudicated father and does not have a presumed father unless his full name is stated;

(3) State whether there has been genetic testing and if so, that the acknowledging man’s claim of paternity is consistent with the results of the testing; and

(4) State that the signatories understand that the acknowledgement is the equivalent of a judicial adjudication of paternity of the child and that a challenge by a nonsignatory to the acknowledgement is permitted only under limited circumstances and is barred after two (2) years.

(c) An acknowledgement of paternity is void if it:

(1) States that another man is a presumed father, unless a denial of paternity signed by the presumed father is filed with an agency maintaining the child's birth records;

(2) States that another man is an acknowledged or adjudicated father;

(3) Falsely denies the existence of a presumed, acknowledged, or adjudicated father of the child.

(d) A presumed father may sign an acknowledgement of paternity.

(e) The Tribal Court, the CSEO, and the AHO shall not ratify an unchallenged acknowledgement of paternity.

(f) A determination of parentage is binding on the mother, the presumed and acknowledged father, and child when the acknowledgement of paternity is consistent with the results of genetic testing.

(g) An acknowledgement of paternity takes effect on the date of the birth of the child or the filing of the document with the agency maintaining birth records, whichever occurs later. (Res. 2010-046 §9.2.5, passed May 11, 2010)

9.2.6. Denial of Paternity. A presumed father may deny his paternity by signing a denial of paternity. The denial is valid only:

(a) If an acknowledgement of paternity signed by another man is filed pursuant to STC §9.2.5;

(b) If the denial is signed and notarized under penalty of perjury; and

(c) If the presumed father has not previously acknowledged his paternity, unless the previous acknowledgement was lawfully rescinded pursuant to STC §9.2.8 or was successfully challenged. (Res. 2010-046 §9.2.6, passed May 11, 2010)

9.2.7. Validity of Acknowledgements and Denials of Paternity. An acknowledgement or denial of paternity may be contained in a single document or in two documents which may be filed separately or together. If an acknowledgement and denial are both necessary, neither is valid until both are filed. (Res. 2010-046 §9.2.7, passed May 11, 2010)

9.2.8. Rescission of Acknowledgement or Denial of Paternity. (a) A signatory, including an unemancipated minor parent or the parents of an unemancipated minor parent, may rescind an acknowledgement of paternity or denial of paternity by beginning a rescission proceeding in Tribal Court or with the CSEO within sixty (60) calendar days

after the effective date of the acknowledgement or denial of paternity or the date of the first hearing, whichever comes first. The signatory must be a party in a proceeding before the Court, the CSEO, or AHO to adjudicate an issue related to the child or related to child support.

(b) After the sixty (60) day period for rescission allowed under subsection (a) has expired, a signatory of an acknowledgement of paternity or denial of paternity may begin a proceeding to challenge the acknowledgement or denial only:

(1) On the basis of fraud, duress, or material mistake of fact; and

(2) Within two (2) years after the acknowledgement or denial is filed with the agency maintaining birth records.

(c) Every signatory to an acknowledgement or denial of paternity must be made a party to the proceeding. A party challenging an acknowledgement of paternity or denial of paternity has the burden of proof.

(d) A rescission proceeding or challenge of an acknowledgement of paternity shall be conducted in the same manner as an administrative paternity proceeding under STC §9.2.10 or in the same manner as a judicial paternity hearing under STC §9.2.11.

(e) While a proceeding to rescind or challenge an acknowledgement of paternity or denial of paternity is pending, the Tribal Court, the CSEO, or the AHO shall not suspend the legal responsibilities of a signatory arising from the acknowledgement, including the duty to pay child support, except for good cause shown and the best interest of the child.

(f) If the Tribal Court, the CSEO, or the AHO affirms a rescission proceeding or a challenge of an acknowledgement of paternity or denial of paternity, that requires amending the birth record of a child, the court or administrative order shall require that the birth record(s) be amended by the agency maintaining birth record(s) for the child. (Res. 2010-046 §9.2.8, passed May 11, 2010)

9.2.9. Presumption of Paternity. (a) A man shall be presumed to be the father of a child if:

(1) The presumed father and the mother of the child are married to each other and the child is born during the marriage;

(2) The presumed father and the child's natural mother are or have been married to each other and the child is born during the marriage or within three hundred (300) calendar days after the marriage is terminated by death, annulment, declaration of invalidity, divorce, or dissolution or after a decree of separation is entered by a court;

(3) The presumed father and the child's natural mother married before the child's birth but the marriage is later deemed invalid and the child is born within three hundred (300) calendar days after the marriage or period of cohabitation;

(4) The presumed father and the mother of the child have married each other after the child's birth in apparent compliance with the law, whether or not the marriage is or could be declared invalid, and he voluntarily asserted his paternity of the child, and

(A) The assertion is in a record filed with the state registrar of vital statistics;

(B) He agreed to be and is named as the child's father on the child's birth certificate; or

(C) He promised in a record to support the child as his own.

(b) A presumption of paternity may be rebutted only by clear and convincing evidence. (Res. 2010-046 §9.2.9, passed May 11, 2010)

9.2.10. Establishing Paternity by Administrative Process. (a) An action to establish paternity for child support purposes shall be initiated with the Suquamish Child Support Enforcement Office when a parent, guardian, custodial parent, or noncustodial parent files a completed application for child support services with the CSEO, when a child support case is transferred to the CSEO and requires establishing paternity, or when another tribe or state requests child support services from the Suquamish Tribe that requires establishing paternity.

(b) The CSEO shall serve a support establishment notice in accordance with STC §9.6.15 to the custodial and noncustodial parent. Service shall be by certified mail, return receipt requested or by personal service by any person designated by the CSEO who is over the age of eighteen (18) years and who is neither identified as a child nor a custodial parent under the establishment notice.

(c) A support establishment notice is an administrative notice that can become an enforceable order establishing paternity unless a parent, an alleged father, or a presumed father disputes the paternity of a child(ren) specified in the establishment notice and seeks the remedies provided in (d) of this subsection.

(d) If a mother or an alleged or presumed father contests the claim of parentage of the child(ren) specified in an establishment notice, that person must contact the CSEO by telephone or in person within twenty (20) calendar days after receiving the establishment notice and either:

(1) Make a written or oral request to the CSEO for genetic testing; or

(2) Provide evidence that it is not in the best interest of the child to establish paternity pursuant to STC §9.2.15.

(e) In contested paternity cases, the CSEO may order genetic testing pursuant to STC §9.2.13.

(f) Original copies of genetic test results shall be kept by the CSEO and copies shall be sent by regular mail to the parties within fourteen (14) calendar days of receipt of the results. (Res. 2010-046 §9.2.10, passed May 11, 2010)

9.2.11. Establishing Paternity by Judicial Process. (a) A petition may be filed in Tribal Court by a child, a child's legal guardian, a parent of a child, an alleged father of the child, a presumed father of the child, or the Suquamish Child Support Enforcement Office to establish paternity, except in cases under STC §9.2.3(a)(2). An action to establish paternity may be joined with an action for divorce, dissolution, annulment, declaration of invalidity, maintenance, support, or any other civil action in which paternity is an issue, including juvenile proceedings.

(b) The petition to establish paternity shall include the following information:

(1) The names, ages, addresses, and tribal affiliations, if any, of the natural mother; the alleged or presumed father(s); the child; all others who have legal rights of custody, visitation, or support of the child; and the petitioner;

(2) Whether the natural mother and the alleged father are or were married and the dates of marriage, separation, and divorce, if any;

(3) Whether the natural mother and alleged father agree that the alleged father is the natural father of the child;

(4) Whether there have been any other court or administrative paternity, dependency, youth in need of care, termination, or adoption proceedings or paternity affidavits concerning the child;

(5) Whether a name change for the child is requested; and

(6) A certified copy of the child's birth certificate attached to the petition or provided to the Tribal Court at least ten (10) calendar days before the first hearing.

(c) A summons shall be served with the petition to the alleged father(s) and shall include the following notice.

NOTICE TO ALLEGED FATHER:

You have been named in a petition alleging that you may be the father of a child. A judgment of paternity would legally designate you as the father of the child; grant parental rights to you; create the right of inheritance for the child to your estate; obligate you to pay child support; and make your failure to pay child support punishable by the Court.

You may request genetic tests which will indicate the probability that you are or are not the father of the child. The Tribal Court will order genetic tests on request by you, the Suquamish Child Support Enforcement Office, or any other party to the paternity case. Any person who refuses to take court-ordered genetic tests may be punished for contempt of court.

The petitioner has the burden of proving by clear and convincing evidence that you are the father. If a genetic test shows that the statistical probability of your being the father is ninety-nine and nine-tenths percent (99.9%) or higher, you are presumed to be the father. At a hearing, you could present evidence showing by clear and convincing evidence that you should not be presumed to be the father.

You must respond to this summons and petition by serving a copy of your written response on the person signing this summons and by filing the original with the clerk of the court. If you do not file a written response within twenty (20) calendar days after the date this summons was served on you, the Court may enter an order of default against you and, without further notice to you, may enter a decree finding you to be the father and providing other relief requested in the petition including support, custody, and visitation. A default judgment may also be entered against you if you fail to appear at any later stage of the proceedings, including a court-ordered genetic test.

(d) Service and proof of service must comply with the procedures set forth in STC §4.2.3(b). The summons shall notify the party that the party must respond to the summons and petition by serving a copy of a written response on the person signing the summons and by filing the original with the Tribal Court. The summons shall further notify the party that if the written response is not filed with the Tribal Court within twenty (20) calendar days after receipt of the summons and petition, the Tribal Court may enter a default judgment against that party by granting the petitioner's petition. If the petitioner is not the custodial parent, the petitioner shall also serve the custodial parent with a summons.

(e) Upon receipt of proof of service of the summons and petition on the respondent, the Tribal Court shall schedule a paternity hearing no sooner than twenty

(20) calendar days after the respondent receives notice of the petition to establish paternity. The Tribal Court shall send a notice of hearing with a hearing date and a brief description of the subject matter of the hearing to the parents and any other parties to the case. (Res. 2010-046 §9.2.11, passed May 11, 2010)

9.2.12. Paternity Hearing. (a) All judicial and administrative hearings shall be closed unless the parties agree otherwise.

(b) The mother of the child and the alleged father(s) may be ordered to testify at the paternity hearing and may be required to submit to genetic or other tests.

(c) Testimony of a health care provider concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged. On request of the patient, the Tribal Court or the AHO may limit the distribution of medical documents to physical viewing only.

(d) The hearing shall be conducted by a judge with no jury or by an administrative hearings officer pursuant to STC chapter 9.6.

(e) If the petition contains a request that the child's name be changed, the Tribal Court shall have the authority to hear testimony on this issue.

(f) The parties in a judicial action shall provide testimony on how the costs of paternity testing shall be paid. The Tribal Court may order repayment or may waive all or part of the costs of genetic testing.

(g) All court or administrative records in a paternity action shall be sealed from the public except as ordered by the Tribal Court or the AHO for purposes of requesting an amended birth certificate or for any purpose consistent with the best interests of the child. (Res. 2010-046 §9.2.12, passed May 11, 2010)

9.2.13. Genetic Tests. (a) Establishment of paternity using genetic testing under this section is generally a contested process or is used if an alleged father is deceased or otherwise unavailable. The purpose of genetic testing is to determine if the alleged or presumed father is in fact the biological father of the child.

(b) Genetic testing upon a child prior to birth shall not be performed.

(c) If a genetic-testing specimen is not available from a man who may be the father of a child, the Tribal Court, the CSEO, or the AHO shall determine whether his parents, siblings, or other children and the mothers of the other children are willing to volunteer specimens to complete genetic testing. If a voluntary genetic sample is unavailable, the Tribal Court, the CSEO, or the AHO may order genetic testing of the man's parents, siblings, or other children and the mothers of the other children only upon a finding of good cause and where genetic testing outweighs the legitimate interests of the individual(s) sought to be tested. For purposes of this subsection, good

cause means the death of a man who may be the father of the child or where factual circumstances weigh in favor of the best interests of the child. (Res. 2010-046 §9.2.13, passed May 11, 2010)

9.2.14. Other Tests. The Tribal Court, the CSEO, or AHO may order the child and the parties to submit to a blood test or other tests. The results shall be made available to the parties and shall be admissible under the rules governing genetic tests. (Res. 2010-046 §9.2.14, passed May 11, 2010)

9.2.15. Best Interests of the Child not to Establish Paternity. Paternity may not be established if the Tribal Court, the CSEO, or AHO determines it would not be in the best interests of the child because of one of the following:

(a) The child was conceived by rape or incest;

(b) ~~Domestic violence is or has been at issue~~Increased risk of domestic violence;

(c) Establishing paternity may result in physical or emotional harm to the child ~~or a party~~; or

(d) Legal proceedings for adoption are pending before a court of competent jurisdiction. (Res. 2010-046 §9.2.15, passed May 11, 2010)

9.2.16. Evidence. (a) The Tribal Court, the CSEO, and the AHO may consider the following types of evidence in paternity cases:

(1) Evidence of genetic test results, including the impossibility or the statistical probability of an alleged father's paternity, presented by a written report accompanied by an affidavit or by expert testimony. The genetic tests are admissible as evidence of paternity provided that the results of all tests when taken together either exclude an alleged father or yield a statistical probability of at least ninety-nine and nine-tenths percent (99.9%) that the alleged father is the biological father.

(2) Evidence of sexual intercourse between the mother and alleged father(s) at any possible time of conception.

(3) Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests which may be ordered by the Court, the CSEO, or AHO and performed by experts. If a man has been identified as a possible father of the child, the Court, the CSEO, or AHO may order the child, the mother, and the man to submit to appropriate tests.

(4) Any other reliable evidence which is relevant to the issue of paternity of the child.

(b) The burden of proof lies with the party contesting the establishment of paternity and shall be by clear and convincing evidence. (Res. 2010-046 §9.2.16, passed May 11, 2010)

9.2.17. Time Limitations. (a) Child Having Presumed Father. (1) Except as otherwise provided in subsection (2), a proceeding brought by a presumed father, mother, or another individual to establish the parentage of a child having a presumed father must be commenced no later than two (2) years after the birth of the child unless good cause is shown in the best interests of the child.

(2) A proceeding seeking to disprove the father–child relationship between a child and the child’s presumed father may be brought at any time if the Tribal Court, the CSEO, or the AHO determines that:

(A) The presumed father and the mother of the child neither lived together nor engaged in sexual intercourse with each other during the probable time of conception; and

(B) The presumed father never openly treated the child as his own.

(b) Child Having No Presumed, Acknowledged, or Adjudicated Father. A proceeding to establish the parentage of a child having no presumed, acknowledged, or adjudicated father may be commenced at any time during the life of the child, even after the child becomes an adult or an earlier proceeding to establish paternity has been dismissed based on the application of a statute of limitations then in effect.- (Res. 2010-046 §9.2.17, passed May 11, 2010)

9.2.18. Paternity Order. (a) A court order or an administrative order issued by the CSEO determining the existence or nonexistence of paternity shall be based on a preponderance of the evidence and shall be final.

(b) If the court or administrative order is different from the child’s birth certificate, the court clerk or the CSEO shall send a certified copy of the order to the Department of Vital Statistics of the state in which the child was born with instructions to amend the birth certificate upon receipt of necessary documents and fees.

(c) A paternity order entered by the Tribal Court under this chapter may be appealed to the Suquamish Tribal Court of Appeals pursuant to STC §4.6. The Suquamish Tribal Court of Appeals may review and uphold the decision of the Tribal Court or vacate a decision found to be inconsistent with the standards in this chapter and remand the application for issuance of a new decision in compliance with this chapter.

(d) A final administrative decision or order issued by the CSEO may be appealed to the AHO within twenty (20) calendar days of the date of the CSEO’s decision and in

accordance with STC §§9.6.42–9.6.46. No stay of appeal shall be granted in any action to establish or modify child support. (Res. 2010-046 §9.2.18, passed May 11, 2010)

9.2.19. Agreed Paternity Order. (a) Parties may submit a written paternity agreement establishing the paternity of a child in accordance with this chapter. The agreement must be in writing, signed and notarized, and reviewed and approved by the Tribal Court, the CSEO, or the AHO.

(b) The Tribal Court, the CSEO, or the AHO may hold ex parte discussions with each party to ensure that the party understands the terms of the proposed order and to assure that each party's consent is not the result of coercion, threat, duress, fraud, overreaching, or improper promise on the part of any person.

(c) Upon a finding that all the conditions of subsection (a) are satisfied and in consideration of ex parte discussions arising from subsection (b), the Tribal Court, the CSEO, or the AHO may issue an order approving the agreed paternity order.

(d) After the issuance of an administrative order by the Suquamish Child Support Enforcement Office that approves a paternity agreement, the order shall have the same force and effect as an order or judgment issued by the Suquamish Tribal Court or any other court. (Res. 2010-046 §9.2.19, passed May 11, 2010)

9.2.20. Default Paternity Order. (a) If a respondent is the alleged father and fails to appear at any time and his presence is not waived by the Tribal Court and if no good cause to the contrary exists, the Tribal Court may enter a default order that the respondent is the child's father. The order of paternity shall be served on the respondent personally or by registered or certified mail to his last known address or by publication if the address is unknown. Such an order will take effect twenty (20) calendar days after receipt of service unless within this time the respondent presents to the Tribal Court evidence of good cause for his failure to appear or to undergo a genetic test.

(b) If an alleged or presumed father fails to respond to the CSEO within twenty (20) calendar days after receipt of an administrative establishment notice for child support issued pursuant to STC §9.6.15 that includes the establishment of paternity, the establishment notice becomes a default order for paternity under this section and in accordance with STC §9.6.15(c)(5). Any party to a default has a right to appeal the order to the AHO within twenty (20) calendar days after the default order is final.

(c) If an alleged or presumed father fails to appear at any time and his presence is not waived by the CSEO or the AHO and if no good cause to the contrary exists, the CSEO or the AHO may enter a default paternity order under this subsection that the alleged or presumed father is the child's father. Any party to a default order issued under this subsection has a right to appeal the order to the AHO within twenty (20) calendar days. (Res. 2010-046 §9.2.20, passed May 11, 2010)

9.2.21. Vacating Default Paternity Order or Agreed Order of Paternity. A default judgment or stipulated order declaring a person to be the father of a child may be reopened upon petition for good cause shown and in the best interest of the child within three hundred and sixty-five (365) calendar days of issuance of the default paternity order. (Res. 2010-046 §9.2.21, passed May 11, 2010)

9.2.22. Paternity Established by Other Jurisdictions. (a) The Tribal Court, the CSEO, and the AHO shall give full faith and credit to properly issued court and administrative orders, judgments, or decrees of other Indian tribes and states that relate to establishing paternity. Such orders will be considered properly issued when the issuing court or administrative agency had personal jurisdiction over the person claimed to be bound by foreign order and jurisdiction over the subject matter; when proper service of process under the law of the issuing jurisdiction was made on such person; when the order was issued according to the laws of that jurisdiction; and when the order does not violate the public policy of the Suquamish Tribe.

(b) Such orders are required to meet the conditions of STC §9.6.38(b)–(g). (Res. 2010-046 §9.2.22, passed May 11, 2010)

9.2.23. Records Confidential, Sealed. All paternity records shall be confidential and sealed except:

(a) The order of paternity;

(b) As ordered by the Tribal Court, the CSEO, and the AHO for the purpose of requesting an amended birth certificate; or

(c) For any purpose consistent with the best interest of the child.

Only parties to the case may obtain copies. If the judgment or order of the Court or administrative hearings officer establishes a different father than that on the child's birth certificate, the Court or administrative hearings officer shall send the order to the registrar of vital statistics of the state in which the child was born and to the Suquamish Tribe's enrollment office. (Res. 2010-046 §9.2.23, passed May 11, 2010)

9.2.24. Artificial Insemination. (a) If under the supervision of a licensed doctor and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of the child thereby conceived. The husband's consent must be in writing and signed by him and by his wife. The doctor shall certify their signatures and the date of the insemination and file the husband's consent with the state registrar of vital statistics, where it shall be kept confidential and in a sealed file.

(b) The donor of semen provided to a licensed doctor for use in artificial insemination of a woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived unless the donor and the woman agree in

writing that said donor shall be the father. The agreement must be in writing and signed by the donor and by the woman. The doctor shall certify their signatures and the date of the insemination and file the agreement with the state registrar of vital statistics, where it shall be kept confidential and in a sealed file.

(c) The failure of the licensed doctor to perform any administrative act required by this section shall not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only in exceptional cases upon an order of the Court or administrative hearings officer for good cause shown. (Res. 2010-046 §9.2.24, passed May 11, 2010)

9.2.25. Severability; Construction. If any phrase, clause, part, sentence, provision, or section of this chapter is found to be invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected and shall remain in full force and effect and continue in effect as if the invalid provision(s) were not a part hereof. If the operation of any clause, part, or section of this chapter shall be held to impair the obligation of a contract or to deny any person any right secured to him or her by the Constitutions of the Suquamish Tribe or of the United States, it is hereby declared that the remainder of this chapter would have nevertheless been enacted without such invalid clause, part, or section. (Res. 2010-046 §9.2.25, passed May 11, 2010)

Note: Prior code Ch. V, Art. III, §1(part and a-b), undated; renumbered as Ch. 9.2, Paternity and Support, undated; repealed and replaced by Res. 2010-046, passed May 11, 2010