

TITLE 9. FAMILY LAW

Chapter 9.5

PROBATE PROCEDURE

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9.5.1. Jurisdiction. When a member of the Suquamish Indian Tribe or any other person residing on the Port Madison Indian Reservation dies, the Suquamish Tribal Court will determine the heirs of the decedent's heirs, the claims of creditors' claims, and the distribution of the person's property shall be determined by the Suquamish Tribal Court under this chapter. The Court's 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 or otherwise comes within the exclusive jurisdiction of the United States Department of the Interior. (Prior code Ch. VI, Art. I, §1)

9.5.2. Definitions. (a) Unless specifically defined below, words or phrases used in this Title will be interpreted so as to give them the meaning they have in common usage and to give the Chapter its most reasonable application.

(b) When used in this Chapter, unless otherwise required from the context:

- (1) "Codicil" will mean- a will that modifies or partially revokes an existing earlier will. A codicil need not refer to or be attached to the earlier will.
- (2) "Community property" will mean any property acquired by either spouse during a marriage other than by gift, inheritance, bequest or devise.
- (3) "Decedent" will mean a deceased person.
- (4) "Degree of kinship" will mean the degree of kinship as computed by counting upward from the intestate to the nearest common ancestor and then downward to the relative, the degree of kinship being the sum of these two counts.
- (5) "Estate" will mean all of the assets and liabilities of a deceased person.
- (6) "Heirs" will mean those persons, including the surviving spouse, who are entitled under the rules of intestate succession to the real and personal property of a decedent on the decedent's death intestate.
- (7) "Intestate" will mean that a person has died without making a valid will as to some or all of his assets. Such property will pass to other persons under the intestate succession rules of this Chapter.
- (8) "Issue" will mean all the lineal descendants of the ancestor including all lawfully adopted children. Children who have been cared for or considered adopted by custom will not be considered issue of the ancestor unless lawfully adopted. Posthumous children are considered as living at the death of their parent.

- (9) “Net estate” will mean the real and personal property of a decedent exclusive of exempt property, the family allowance and enforceable claims against, and debts of, the decedent or the estate. Personal property includes, but is not limited to: stocks and bonds; bank accounts and money; digital assets including cryptocurrency; furniture and household goods, and; the proportional share of any partnerships.
- (10) “Nonprobate asset” will mean those rights and interests of a person having beneficial ownership of an asset that pass on the person’s death under a written instrument or arrangement other than the person’s will. A nonprobate asset includes, but is not limited to, a right or interest passing under a joint tenancy with right of survivorship, joint bank account with right of survivorship, payable on death or trust bank account, transfer on death security or security account, deed or conveyance if possession has been postponed until the death of the person, trust of which the person is grantor and that becomes effective or irrevocable only upon the person’s death, community property agreement, individual retirement account or bond, or similar document.
- (11) “Parent” will mean the biological or lawful adoptive mother or father of a person. It does not include any person whose parent-child relationship has been terminated by a court of competent jurisdiction.
- (12) “Personal property” will mean any property that is not included in the definition of real estate.
- (13) “Personal representative” will mean that person appointed by the court to carry out the powers and duties conferred by this Chapter on behalf of the estate.
- (14) “Public Administrator” will mean the employee of the Suquamish Tribe appointed by the Tribal Court as personal representative to administer estates where appointment of another personal representative is not sought, or where no other suitable person is willing and available to serve.
- (15) “Real estate” will mean all interests and estates in land, including leasehold interests and improvements to land such as houses or other buildings which have been affixed to the land. A mobile or modular home which is located on individual trust property and subject to a security interest, mortgage, promissory note or other financing agreement or which is located on tribal fee or trust property will be considered personal property for purposes of this title. All other mobile and modular homes will be considered real estate for purposes of this Chapter.
- (16) “Representation” will mean a method of determining distribution in which the takers are in unequal degrees of kinship with respect to the intestate, and is accomplished as follows: After first determining who, of those entitled to

share in the estate, are in the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum of the number of persons who survive the intestate who are in the nearest degree of kinship and the number of persons in the same degree of kinship who died before the intestate but who left issue surviving the intestate; each share of a deceased person in the nearest degree will be divided among those of the deceased person's issue who survive the intestate and have no ancestor then living who is in the line of relationship between them and the intestate, those more remote in degree taking together the share which their ancestor would have taken had he or she survived the intestate.

(17) "Separate property" will mean property held by one spouse in a marriage. It includes all property acquired by gift, inheritance, bequest or devise, and all property acquired prior to a marriage.

(18) "Spouse" will mean a party to a marriage or domestic partnership recognized by any jurisdiction, including the Suquamish Tribe. It will not include a party to a common law marriage unless the marriage is recognized by the jurisdiction in which the arrangement was entered.

(19) "Trust or restricted property" will mean any property, title to which is held in trust or restricted fee status by the United States for the benefit of a member of a federally recognized Indian tribe or a tribe.

(20) "Will" means an instrument validly executed as required by this Chapter that disposes of an individual's estate at death.

9.5.32. Small Estates. (a) Any ~~interested person~~heir may file a petition with the clerk of the Suquamish Tribal Court for the distribution without administration of the estate, in total or portion, of a decedent in any case in which the total estate consists of personal property not exceeding ~~three-seventy-five~~ thousand dollars (\$75,000) 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~~must state:

(1) Why the Tribal Court has jurisdiction over the matter;

(2) The names, ages and addresses of the deceased's heirs and/or devisees;

(3) Whether or not the deceased died with a will and, if so, a copy of the will; and

(4) The share of decedent's estate that each heir or devisee should take

~~contain the information required by these rules this chapter.~~ The petition shall must 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~~ seventy-five thousand dollars (\$~~753~~,000) in value and no ~~executor or administrator~~ personal representative for the estate has been appointed and that more than ~~thirty-fourty~~ (430) days have elapsed since the decendent's death ~~of the decedent~~, the Court may order the estate distributed pursuant to the rules of descent and distribution of this ~~title~~ Chapter.

(d) Upon approval of a petition, the Court will order the petitioner provide notice to any other heirs or known creditors as proscribed by the civil rules of the Suquamish Tribal Code.

(1) An estate having an appraised value which does not exceed ten thousand dollars (\$10,000) and which is to be inherited, through the rules of intestacy or by devise, by a surviving spouse and/or minor children of the deceased will be exempt from the claims of all general creditors

(e) Applicants have no right to appeal the Tribal Court's rejection of a petition under this Section.

(Prior code Ch. VI, Art. II; amended by Res. 2022-XX, Mmm. D, YYYY)

9.5.4. Intestate Succession. Subject to the restrictions provided by STC 9.5.1, in the event there is no will admitted to probate, the net estate will be distributed by order of the Court as follows:

(a) The surviving spouse will receive the following share:(1) all of the decedent's share of the net community estate; and~~d~~.

(2) one-half of the net separate estate if the intestate is survived by issue; or three-quarters of the net separate estate if there is no surviving issue, but the intestate is survived by one or more of the intestate's parents, or by one or more of the issue of one or more of the intestate's parents; or all of the net separate estate, if there is no surviving issue nor parent nor issue of the parent.

(b) The share of the net estate not distributed to the surviving spouse, or the entire net estate if there is no surviving spouse, will descend and be distributed as follows:

(1) To the issue of the intestate; if they are all in the same degree of kinship to the intestate, they will take equally, or if of unequal degree, then those ~~of more of more~~ remote degree will take by representation.

(2) If the intestate not be survived by issue, then to the decedent's parent or parents who survive the intestate, in equal shares.

(3) If the intestate not be survived by issue or by either parent, then to those issue of the parent or parents who survive the intestate; if they are all in the same degree of kinship to the intestate, they will take equally, or, if of unequal degree, then those of more remote degree will take by representation.

(4) If the intestate not be survived by issue or by either parent, or by any issue of the parent or parents who survive the intestate, then to the grandparent or grandparents who survive the intestate; if both maternal and paternal grandparents survive the intestate, the maternal grandparent or grandparents will take one-half and the paternal grandparents or grandparents will take one-half.

(5) If the intestate not be survived by issue or by either parent, or by any issue of the parent or parents or by any grandparent or grandparents, then to those issue of any grandparent or grandparents who survive the intestate; taken as a group, the issue of the maternal grandparent or grandparents will share equally with the issue of the paternal grandparent or grandparents, also taken as a group; within each such group, all members share equally if they are all in the same degree of kinship to the intestate, or, if some be unequal degree, then those of more remote degree will take by representation.

~~**9.5.3. Petition for Administrator or Executor Personal Representative.** (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 or surviving domestic partner of the decedent, surviving children, creditors, or the Suquamish Tribe may file a petition for the appointment of an executor or administrator Personal Representative of the estate with the clerk of the Suquamish Tribal Court.~~

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

~~(c) TWhen a petition is filed according to §9.5.3(a), the Court shall will thereupon appoint an administrator or executor a personal representative of the estate who shall will take possession and control of the decedent's property of the decedent until the administration of the estate has been completed and he or she they have been discharged by order of the Court.~~

~~(d) It shall be is the duty of the executor or administrator personal representative to preserve and protect the property for the benefit of the estate and the heirs. (Prior code Ch. VI, Art. III, §1 (part); amended by Res. 2022-XXX, Mmm. D, YYYY)~~

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

9.5.5. Wills. (a) Any person of sound mind who is eighteen years of age or older, or a minor who is emancipated or the parent of a child, may, by last will, devise all of their estate, both real and personal, subject to the provisions of this Chapter.

(b) Every will must be in writing and signed by the testator or some other person under the testator's direction in the presence of the testator. The will must be attested by two or more competent witnesses, not having an interest in the testator's estate or in the will, signing their names to the will in the presence of the testator. A last will and testament, executed outside the Port Madison Indian Reservation, in the mode prescribed by law, either of the place where executed or of the testator's domicile, will be deemed to be legally executed, and will be of the same force and effect as if executed in the mode prescribed by the laws of the Suquamish Tribe.

(1) Any will purporting to devise an interest in trust or restricted lands should, in addition to the provisions of this section, meet all the lawful requirements of the Bureau of Indian Affairs found in Title 25 of the United States Code and Title 25 of the Code of Federal Regulations as presently enacted or hereafter amended.

9.5.6. Revocation of Will. (a) A will, or any part thereof, may be revoked by:

(1) A subsequent valid written will;

(2) By being destroyed by burning or other physical means, in the presence of two (2) competent witnesses by either the testator or by another person in the testator's presence and at the testator's direction. The two (2) competent witnesses must not have an interest in the testator's estate.

9.5.7. Subsequent Divorce of Testator. (a) A divorce, subsequent to the making of a will, revokes the will as to the divorced spouse.

9.5.8. Death of Related Devisee or Legatee Before Testator. (a) When any estate is devised or bequeathed to any child, grandchild, or other relative of the testator, and such devisee or legatee dies before the testator, having lineal descendants who survive the testator, such descendants will take the estate, real and personal, as such devisee or legatee would have done in the case they had survived the testator; if such descendants are all in the same degree of kinship to the predeceased devisee or legatee they will take equally, or, if of unequal degree, then those of more remote degree will take by representation with respect to such predeceased devisee or legatee. A spouse is not a relative under the provisions of this section.

9.5.9. Lapsed Gift or Devise. (a) If a will makes a gift to a person on the condition that the person survive the testator and the person does not survive the testator, then, unless otherwise provided, the gift lapses and falls into the residue of the estate to be distributed under the residuary clause of the will, if any, but otherwise according to the laws of descent and distribution.

(b) If the will gives the residue to two or more persons, the share of a person who does not survive the testator passes, unless otherwise provided, to the other person or persons receiving the residue, in proportion to the interest of each in the remaining part of the residue.

(c) A recipient under a will who does not survive the decedent by one hundred twenty (120) hours is treated as if they had died before the decedent.

9.5.10. Intent of Testator Controlling. (a) The intention of the person making the will, as expressed in the will, unless prohibited by law, controls the legal effect of his or her decisions as to real and personal property.

9.5.11. Omitted Child. (a) If a decedent made a will, and later adopted or had biological children but did not change the will to provide for any of these children, then each omitted child will receive a share of the estate equal in value to that which the child would have received if the decedent had died without a will unless it appears either from the will or from other clear and convincing evidence that the failure was intentional.

(b) In determining whether an omitted child has been named or provided for, the following rules apply:

(1) A child identified in a will by name is considered named whether identified as a child or in any other manner.

(2) A reference in a will to a class described as the children, descendants, or issue of the decedent who are born after the execution of the will, or words of similar import, constitutes a naming of a person who falls within the class. A reference to another class, such as a decedent's heirs or family, does not constitute such a naming.

(3) A nominal interest in an estate does not constitute a provision for a child receiving the interest.

9.5.12. Omitted Spouse Married After Execution of Will. (a) If a will fails to name or provide for a spouse of the decedent whom the decedent marries after the will's execution and who survives the decedent, referred to in this section as an "omitted spouse," the spouse must receive a portion of the decedent's estate receive a share of the estate equal in value to that which the spouse would have received if the decedent had died without a will, unless it appears either from the will or from other clear and convincing evidence that the failure was intentional.

(b) In determining whether an omitted spouse has been named or provided for, the following rules apply:

(1) A spouse identified in a will by name is considered named whether identified as a spouse or in any other manner.

(2) A reference in a will to the decedent's future spouse or spouses, or words of similar import, constitutes a naming of a spouse whom the decedent later marries. A reference to another class such as the decedent's heirs or family does not constitute a naming of a spouse who falls within the class.

(3) A nominal interest in an estate does not constitute a provision for a spouse receiving the interest.

9.5.13. Omission of Spouse or Child Living at Execution of a Will. (a) If a will fails to provide for a spouse to whom the decedent was married at the time of the execution of a will, or a child born or adopted and living at the time of the execution of the will, the spouse or child so excluded will receive that portion of the estate to which he would have been entitled under the rules of intestate succession unless the decedent's will specifically and clearly states the intent to exclude the named spouse or child.

9.5.14. Duty of Custodian of Will. 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's death~~. 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 executed the will in the witnesses' presence of the witnesses and declared by him or her the will to be his or her decedent's last will and testament.~~

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

~~(d) Upon the completion of the hearing or hearings regarding the will's validity of the will, the judge of the Tribal Court shall will 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)~~

9.5.15. No Taker. If there is no taker under the provisions of this chapter, the intestate estate passes to the Tribe. (Res. 2022-XX, Mmm. D, YYYY)

9.5.16. Petition for Personal Representative. (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 Reservation or the surviving spouse or surviving domestic partner of the decedent, surviving children, creditors, or the Suquamish Tribe may file a petition for the

appointment of an Personal Representative of the estate with the clerk of the Suquamish Tribal Court.

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

(c) When a petition is filed according to §9.16.3(a), the Court will appoint a personal representative of the estate who will take possession and control of the decedent's property until the administration of the estate has been completed and they have been discharged by order of the Court.

(d) It is the duty of the personal representative to preserve and protect the property for the benefit of the estate and the heirs. (Prior code Ch. VI, Art. III, §1 (part); amended by Res. 2022-XXX, Mmm. D, YYYY)

9.5.17. Court Control of Property. Before the personal representative is appointed, the Court has authority to take possession and control of the property. (Prior code Ch. VI, Art. III, §1 (part))

9.5.18. Initiation of Probate Proceedings. (a) any time after the death of a person subject to this Chapter, any person meeting the qualifications required of the Personal Representative of the decedent's estate may initiate the probate of the decedent's estate. Probate proceedings must be initiated by a Petition For Probate filed with the Suquamish Tribal Court containing:

- (1) The name of the decedent;
- (2) The decedent's tribal enrollment status;
- (3) The date of death of decedent;
- (4) The names and addresses of the decedent's surviving family so far as such information is known to the petitioner.
- (5) Whether the decedent left a will, and, if so, the names and addresses of the beneficiaries under the will.
- (6) A general description of the decedent's estate subject to probate in the Suquamish Tribal Court, and a general description those portions of the decedent's estate, if any, that are not subject to probate in the Suquamish Tribal court, including, but not limited to any- interests in trust or restricted property.
- (7) A statement of whether any probate proceedings are pending in any other jurisdiction, and, if so, the name and address of the Personal Representative appointed in such proceedings.

(8) A request for appointment of a Personal Representative and a statement of the qualifications of the proposed Personal Representative.

(9) A request for approval of the last will and testament of the decedent, or a request that the court find that the decedent died without a valid will, if applicable.

(10) A verification under oath or penalty of perjury signed by the petitioner that the contents of the petition are true and correct.

(b) The petitioner must file with the petition, or as soon after filing as such documents can be obtained:

(1) A certified copy of the decedent's death certificate.

(2) The original or a true and correct copy of any will found or document alleged to be the last will and testament of the decedent. If no original is available, the petition must include a description of the efforts made to obtain the original and any facts relating to its absence

9.5.19. Qualifications of Personal Representative. (a) Powers and responsibilities for administration of an estate as Personal Representative will be granted to some one or more of the persons hereinafter mentioned, and they will be respectively entitled in the following order:

(1) The person or persons named to serve as Personal Representative in the decedent's last will and testament.

(2) The surviving spouse or such person as the surviving spouse may request to have appointed.

(3) Next of kin, descending from child or children to father and/or mother to siblings to grandchildren to nephews or nieces.

(4) One or more of the beneficiaries or transferees of the decedent's probate or nonprobate assets

(5) If the person so entitled fails for more than forty days after the death of the decedent to present a petition, or if it appears to the satisfaction of the court that there is no next of kin, or they waive their right, or if no suitable person is available and willing, then the court may appoint a Public Administrator to represent the estate.

9.5.20. Parties Disqualified to Serve as Personal Representative. (a) Corporations,

minors, persons of unsound mind, or persons who have been convicted of any offense listed in Chapters 7.9 and 7.10 of the Suquamish Tribal Code, or equivalent offenses in foreign jurisdictions, are disqualified to serve as Personal Representatives of an estate.

(b) No person will be disqualified from serving as a Personal Representative by virtue of the fact that they may be beneficiary of the estate, but such persons must always be mindful of the fact that they serves the estate in a fiduciary capacity and must put the interests of the estate ahead of their personal interest.

9.5.21. Powers and Duties of Personal Representative. (a) The Personal Representative will take possession and control of all the decedent's assets subject to the probate jurisdiction of the court, and to preserve such assets for the benefit of the estate;

(b) Give all notices to family members, heirs, beneficiaries, government agencies or creditors as required or allowed by this Chapter and the Suquamish Tribal Court;

(c) Act in a fiduciary capacity in the name of the estate, subject to applicable orders of the court, to settle any claim against the estate, collect any debts owed to the estate, and initiate or defend any litigation involving the estate;

(d) Administer, in a fiduciary capacity, the affairs of the estate to ensure that the estate is preserved and distributed in accordance with the decedent's directions expressed in his or her last will and testament, or in the absence of such a will, in accordance with the rules of intestate succession set out in this Chapter;

(e) Exercise any power granted by the decedent's last will and testament or by order of the court; and

(f) Avoid any conflict of interest between his personal interests and the interests of the estate by always placing the interests of the estate ahead of their personal interest.

(g) The personal representative will serve without bond, unless a bond is required by the Court or by the terms of the decedent's will.

9.5.22. Hearing and Order Initiating Probate. (a) Within 30 days of the filing of a petition for probate, the tribal court will hold a hearing during which the court will review the sufficiency of the petition and examine the petitioner under oath and determine whether the decedent died having left a valid will or intestate.

(b)The court will take evidence as to the validity of any will, and as to the qualifications of the petitioner or other person to be the personal representative. In the absence of an original, the court may permit a true and correct copy of a will to be probated.

(c) Upon findings by a preponderance of the evidence that:

(1) The petitioner or another person is qualified and entitled to be appointed Personal Representative;

(2) That the decedent died having left a valid will or intestate, and

(3) The petition and other evidence before the court are sufficient to support the jurisdiction of the court, the court will enter an order initiating probate of the decedent's estate. Such order will either establish and initiate probate of decedent's will, or will conclude that the decedent died intestate and identify the decedent's heirs at law.

(4) Absent such findings, the petition must be dismissed.

(e) Following the conclusion of the hearing and order initiating probate the Court will Appoint the petitioner or another person as Personal Representative. The title "Personal Representative" applies regardless of whether the decedent died testate or intestate.

(f) The Suquamish Tribal Court may cancel the appointment of a Personal Representative if the Personal Representative:

(1) Fails to diligently fails to discharge their duties,

(2) Breaches their fiduciary duty to the estate;

(3) ~~(3)~~ The personal representative becomes disqualified pursuant to STC 9.5.20;
or

(4) Any cause deemed sufficient by the Court.

9.5.23. Notice of Appointment of Personal Representative. (a) Within twenty (20) days after appointment, the personal representative of the estate of a decedent will cause written notice of their appointment and the pendency of said probate proceedings, to be served personally or by mail to each heir, legatee and devisee of the estate and each beneficiary or transferee of a nonprobate asset of the decedent whose names and addresses are known to them, and proof of such mailing or service will be made by affidavit or declaration under penalty of perjury and filed with the court. Such notice will include a copy of the court's order determining whether the decedent died testate or intestate.

(b) Within thirty (30) after their appointment, the personal representative of the estate of a decedent will provide notice to creditors by following, at minimum, by completing the provisions of STC 4.2.4. The Court may, at the Court's discretion, order other forms of notice to creditors as the Court deems necessary.

(c) The personal representative will cause written notice of their appointment

and the pendency of the probate proceedings to be mailed to the state of Washington Department of Social and Health Services' Office of Financial Recovery, and proof of the mailing will be made by affidavit and filed with the court.

9.5.624. Appraisal of Property. (a) Within three months after appointment, unless a longer time is granted by the court, the personal representative will make and verify by affidavit a true inventory and appraisal of all of the property of the estate passing under the will or by laws of intestacy and which have come to the personal representative's possession or knowledge, including a statement of all encumbrances, liens, or other secured charges against any item. The personal representative will determine the fair net value, as of the date of the decedent's death, of each item contained in the inventory after deducting the encumbrances, liens, and other secured charges on the item.

(b) The inventory and appraisal will be filed with the tribal court and notice of its filing will be served on any heir, legatee, devisee, unpaid creditor who has filed a claim, or beneficiary of a nonprobate asset.

(c) The personal representative has a continuing duty to amend the inventory and appraisal within 30 days of acquiring knowledge of any additional property of the estate. Notice of the amendment will be served as notice of the original inventory was served.

(d) At the Court's discretion, ~~When any action is filed under this chapter,~~ the Court ~~shall will~~ may appoint a qualified appraiser to appraise all of the personal property within ~~the jurisdiction of the Court's jurisdiction.~~ (Prior code Ch. VI, Art, III, §3)

9.5.25. Interim Report of Personal Representative. (a) The personal representative will make, verify by his oath, and file with the clerk of the court reports of the affairs of the estate every one hundred and twenty (120) days, and more frequently if necessary or required by the court. Such report must contain:

(1) a statement of the claims against the estate filed and allowed and all those rejected;

(2) a statement whether it is necessary to sell, lease or exchange any property for the purpose of paying debts or settling any obligations against the estate or expenses of administration or allowance to the family;

(3) a statement of the amount of property, real and personal, which has come into the personal representative's possession, and give a detailed statement of all sums collected, and of all sums paid out, and it must state such other things and matters as may be proper or necessary to give the court full information regarding any transactions by the personal representative or which should be done.

(b) The personal representative will provide notice, in person or by mail, to all heirs at law, legatees, devisees, and claimants against the estate of the filing of the report. The court will provide notice to the same group of people of the hearing on the report.

9.5.26. Petition for Decree of Dissolution and Final Hearing. (a) When the estate is ready to be closed, the personal representative will make, verify and file with the court a final report and petition for distribution. Such final report and petition must, among other things, show that the estate is ready to be settled and will show any moneys collected since the interim report, and any property which may have come into the possession of the personal representative since the previous report, and debts paid, and generally the condition of the estate at that time. It will likewise set out the names and addresses, as nearly as may be, of all the devisees in the event there was a will, and the names and addresses, as nearly as may be, of all the heirs who may be entitled to share in such estate, and will give a particular description of all the property of the estate remaining undisposed of, and will set out such other matters as may tend to inform the court of the condition of the estate, and it may ask the court for a settlement of the estate and distribution of property and the discharge of the personal representative. If the personal representative has been discharged without having legally closed the estate, without having legally obtained an adjudication as to the heirs, or without having legally procured a decree of distribution or final settlement, the court may in its discretion upon petition of any person interested, cause all such steps to be taken in such estate as were omitted or defective.

(b) When such final report and petition for distribution has been filed, the court will set a day for hearing it which must be at least twenty days after the report was filed. The personal representative will, not less than twenty days before the hearing, mail a copy of the notice of the time and place fixed for hearing to each heir, legatee, devisee and distributee whose name and address are known to them, and proof of such mailing will be made by affidavit and filed at or before the hearing.

(c) Any person interested may file objections to the final report and petition for distribution, or may appear at the hearing and present objections thereto. The court may take such testimony it deems proper or necessary to determine whether the estate is ready to be settled, and whether the transactions of the personal representative should be approved, and to determine who are the legatees or heirs or persons entitled to have the property distributed to them. The court will, if it approves such report, and finds the estate ready to be closed, enter a decree approving such report, find and adjudge the persons entitled to the remainder of the estate, and that all debts have been paid, and by such decree will distribute the real and personal property to those entitled to it. Upon the production of receipts from the beneficiaries or distributees for their portions of the estate, the court will, if satisfied with the correctness thereof, adjudge the estate closed and discharge the personal representative.

(d) The court may, upon such final hearing, partition among the persons entitled thereto, the estate held in common and undivided, and designate and distribute their respective

shares; or assign the whole or any part of said estate to one or more of the persons entitled to share therein. The person or persons to whom said estate is assigned must pay or secure to the other parties interested in said estate their just proportion of the value thereof as determined by the court from the appraisal, or from any other evidence which the court may require.

(e) If it appears to the court at or prior to any final hearing that the estate cannot be fairly divided, then the whole or any part of said estate may be sold or mortgaged by the personal representative and the proceeds thereof distributed to the persons entitled thereto as provided in the final decree.

(f) The court has the authority to, consistent with the decedent's will, if any, partition, distribute and settle of all estates in any manner which to the court seems right and proper, to the end that such estates may be administered and distributed to the persons entitled thereto. No estate may be partitioned, nor sold where partition is impracticable, except upon a hearing before the court. The court may fix the values of the several pieces or parcels to be partitioned at the time of making such order of partition or sale, and may order the property sold and the proceeds distributed, or may order partition and distribute the several pieces or parcels, subject to such charges or burdens as are proper and equitable.

(g) The personal representative must produce receipts or canceled checks for the expenses and charges which the personal representative paid, and those receipts must be filed and remain in court until the probate has been completed and the personal representative has been discharged; however, the personal representative may be allowed any item of expenditure, not exceeding twenty dollars, for which no receipt is produced, if such item be supported by their own oath, but such allowances without receipts must not exceed the sum of three hundred (\$300) dollars in any one estate.

9.5.27. Distributions to Minors. (a) When a decree of distribution orders distribution of an estate or interest therein to a person under the age of eighteen years, the distribution will:

(1) be deposited in a bank or trust company or be invested in an account in an insured financial institution for the benefit of the minor subject to withdrawal only upon the order of the court in the original probate proceeding, or upon said minor's attaining the age of eighteen years: or

(2) be delivered or deposited to a guardian appointed by the Court.

9.5.277. Claims. (a) Creditors of the estate or those having a claim against the decedent ~~shall~~ must file their claim with the clerk of the court or the ~~executor or administrator~~ personal representative within sixty (60) days from ~~the appointment of the receiving notice as provide by 9.5.23(b) of this Chapter. Claims against the decedent or the decedent's estate are barred unless filed within the 60 days of receiving notice.~~ executor or administrator personal representative.

(b) The ~~administrator or executor~~personal representative ~~shall~~will examine all claims within ~~ninety one hundred and twenty~~ (120~~90~~) days of ~~his or her~~ appointment and notify the claimant ~~that his or her if the~~ claim is accepted or rejected. If the claimant is not notified of rejection, the claim ~~shall~~will be deemed accepted.

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

(1) Taxes or debts due the United States

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

(3) All expenses of last illness and burial.

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

(3) Expenses of administration including all costs associated with the appraisal of personal property under ~~STC 9.5.6~~this Chapter.

(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, personal representative, they he or she shall must file a petition for the determination of heirs and distribution of the estate.~~

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

~~(1) The decedent's 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 decedent's theirhis or her will;~~

~~(4) Nature and extent of decedent's property and location of that propertysame;~~

~~(5) Statement of will's 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 a personal representative n 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 will proceed to examine all evidence relating to the distribution of the decedent's estate and shall will 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 will:~~

~~(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 personal representative that he or she has carried out the Court's orders of the Court.~~

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

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

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

~~(1) If there is no surviving issue of the Ddecedent, or if the surviving issue are all issue of the surviving spouse or surviving domestic partner and the Ddecedent, the entire estate.~~

~~(2) If there are surviving issue one or more of whom are not issue of the surviving spouse or surviving domestic partner, one half of the Ddecedent's property other than the following property:~~

~~(i) The Ddecedent's interest in non-trust martial (sp) property.~~

~~(ii) The Ddecedent's interest in non-trust property held equally and exclusively with the surviving spouse or surviving domestic partner.~~

(b)

To the issue, the share of the estate not passing to the surviving spouse or surviving domestic partner under subsections. (2)(i) and (2)(ii), or the entire estate in equal shares if there is no surviving spouse or surviving domestic partner.

(c) If there is no surviving spouse, surviving domestic partner, or issue, to the parents equally.

(d) If there is no surviving spouse, surviving domestic partner, issue, or parent, to the brothers and sisters and the issue of any deceased brother or sister in equal shares.

(e) If there is no surviving spouse, surviving domestic partner, issue, parent, or issue of parent, to the grandparents and their issue as follows:

—Half to each set of grandparents or the surviving grandparent on each parental side of the family;

—If either parental side has no surviving grandparent or issue of a grandparent, the entire estate in equal shares to decedent's relatives in the nearest degree of kinship.

(1) One-half to the grandparents on the Parent 1 side of the family equally if both survive, or to the surviving maternal grandparent; if both maternal grandparents are deceased, to the issue of the maternal grandparents.

(2) One-half to the paternal relations in the same manner as to the maternal relations under subsection. (e)(1).

d (Prior code Ch. VI, Art. IV, §2; amended by Res. 2022-XX, Mmm. D, YYYY)

9.5.28. Inheritance by Child. (a) For the purposes of inheritance by, through, and from any child, the effects and treatment of the parent-child relationship will not depend on whether or not the parents have been married.

(b) A lawfully adopted child is not considered an heir of their biological parent unless the decree of adoption provides for the continuation of inheritance rights. This provision shall not prevent a biological parent from giving or devising property to their adopted child by will. A child who has been cared for, or considered adopted by custom, but not by law, will remain an heir of their biological parent.

9.5.11. No Taker. If there is no taker under the provisions of this chapter, the intestate estate passes to the Tribe. (Res. 2022-XX, Mmm. D, YYYY)

9.5.2912. Posthumous Persons. A person conceived before the Decedent's death but born thereafter inherits as if they had been born in the decedent's lifetime of the Decedent. (Res. 2022-XX, Mmm. D, YYYY)

~~(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)~~

9.5.30. Effect of Taking the Life of Another. (a) No person who, with felonious intent, takes or assists the taking of the life of a decedent may inherit any property or receive any benefit, including life insurance proceeds, from the estate of a decedent.

9.5.31. Support of Surviving Spouse and Children Pending Probate. (a) During the pendency of a probate proceeding, the surviving spouse of a decedent may petition the court for an award from the property of the decedent to provide basic maintenance and support. If the decedent is survived by children of the decedent who are not also the children of the surviving spouse, on petition of such a child the court may divide the award between the surviving spouse and all or any of such children as it deems appropriate. If there is not a surviving spouse, the minor children of the decedent may petition for an award.

(b) Any award made and the amount of such award to the surviving spouse and decedent's children is in the court's discretion. The court may consider, in addition to any other relevant factors:

(1) the claimant's present and reasonably anticipated future needs during the pendency of any probate proceedings in tribal court with respect to basic maintenance and support;

(2) the resources available to the claimant and the claimant's dependents, and the resources reasonably expected to be available to the claimant and the claimant's dependents during the pendency of the probate, including income related to present or future employment and benefits flowing from the decedent's probate and nonprobate estate;

(3) the intentions of the decedent, as reflected in the provisions made for the claimant by the decedent under the terms of the decedent's will or otherwise, as well as provisions made for third parties or other entities under the decedent's will or otherwise that would be affected by an award;

(4) If the claimant is the surviving spouse, the duration and status of the marriage of the decedent to the claimant at the time of the decedent's death;

(5) The effect of any award on the availability of any other resources or benefits to the claimant; and

(6) The size and nature of the decedent's Estate

(c) Awards under this section to a surviving spouse or child are immune to claims of decedent's creditors.

9.5.32. Severability. If any portion of this code is ruled invalid by a court of competent jurisdiction, that portion will no longer be operative but the rest of this code will continue in full force and effect.

9.5.33. Sovereign Immunity. Nothing in this code may be construed as a waiver of the sovereign immunity of the Tribe, or of its enterprises, agents, employees or officials.

9.5.34. Foreign Law. The tribal court is encouraged to refer to foreign law, including laws of other tribes and states, federal law, common law and uniform or model laws, for assistance in resolving issues of probate and inheritance law on which this Chapter is silent.

~~9.5.13. Kindred of hHalf-blood, sStep-children, sStep-siblings, sStep-parents, and/or fFoster cChildren. Persons of half-blood inherit the same share they would inherit if they were whole blood, but step-children, step-siblings, step-parents and foster children of the Ddecedents do not inherit unless they are adopted or they are provided for in a will. (Res. 2022-XXX, Mmm. D, YYYY)~~

9.5.14135. Expenses and Fees. After ~~the payment of~~ all expenses in connection with the distribution of the estate have been paid, the Court may charge such fees as may be deemed proper, taking into consideration the appraised value of the decedent's estate ~~of the decedent~~. (Prior code Ch. VI, Art. IV, §3; renumbered by Res. 2022-XXX, Mmm., D, YYYY)

Note: Subsection 9.5.10(1)-(3) changed to 9.5.10(a)-(c) for consistency. (Res. 2016-097, Jul. 11, 2016)