

ROSEBUD SIOUX TRIBAL COURT )  
ROSEBUD INDIAN RESERVATION) SS IN TRIBAL COURT  
ROSEBUD, SOUTH DAKOTA

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IN THE MATTER OF THE ADOPTION )  
OF CHILD SUPPORT ENFORCEMENT ) ADMINISTRATIVE ORDER  
GUIDELINES ) No. 2013-01  
)

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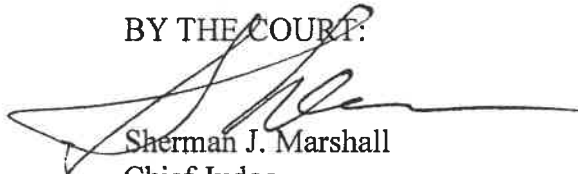
At the present time the Rosebud Sioux Tribe Law and Order Code does not contain child support enforcement guidelines. The Rosebud Sioux Tribe in the process of drafting and enacting child support enforcement guidelines. In order to provide guidance and consistency in establishing child support orders, the Court will apply the attached SWST Child Support Enforcement Guidelines and standard guidelines contained in Table A.

Now, therefore, pursuant to the authority vested in the Court pursuant to Ordinance 88-14, Civil Amendments of 1988 which adds Title Four, Chapter Two, Section Eight, entitled "Law applicable to Actions in Tribal Court,"

IT IS ORDERED that the attached SWST Child Support Enforcement Guidelines shall be effective for all child support orders, whether original orders or modifications of previous orders, entered after February 7, 2013, except as otherwise agreed upon by the parties.

Dated this 7<sup>th</sup> day of February, 2013.

BY THE COURT:

  
Sherman J. Marshall  
Chief Judge

ATTEST:

  
Clerk of Court

TABLE A

Monthly Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
0-300	50	80	105	125	140	150
350	58	93	122	146	163	175
400	67	107	140	167	187	200
450	75	120	157	188	210	225
500	83	133	175	208	234	250
550	92	147	192	229	257	275
600	100	160	210	250	280	300
650	108	173	227	271	304	325
700	117	187	245	292	327	350
750	125	200	262	313	350	375
800	133	213	280	333	374	400
850	142	227	297	354	397	425
900	150	240	315	375	421	450
950	158	253	332	396	444	475
1000	167	267	350	417	467	500
1050	175	280	367	438	491	525
1100	183	295	385	459	514	550
1150	192	307	402	479	537	575
1200	200	320	420	500	561	600
1250	208	333	437	521	584	625
1300	217	347	455	542	607	650
1350	225	360	472	563	631	675
1400	233	373	490	583	654	700
1450	242	387	507	604	678	725
1500	250	400	524	625	701	750
1550	258	413	542	646	724	775
1600	267	427	559	667	748	800
1650	275	440	577	688	771	825
1700	283	453	594	708	794	850
1750	292	467	612	729	818	875
1800	300	480	629	750	841	900
1850	308	493	647	771	864	925
1900	317	507	665	792	888	950
1950	325	520	683	813	911	975
2000	333	533	700	833	935	1000
	%17	%27	%35	%42	%47	%50

Chapter 34C  
SISSETON-WAHPETON SIOUX TRIBAL CODE  
CHILD SUPPORT ACT

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S.W.S.T. CODE

☒ Amendment☐ New Adoption

Council Adopted

5-18-01

Chapter 34C  
SISSETON-WAHPETON SIOUX TRIBAL CODE  
CHILD SUPPORT ACT

34C-01-01 Purpose

The Tribe, in order to assure uniformity for child support orders entered by the Tribal Court, and to provide certain guidelines to tribal court judges when setting child support orders, does hereby enact this section laying out the considerations for the tribal court when establishing support obligations and authorizing the Tribe's Judicial Committee and court to establish judicial guidelines for child support.

34C-02-01 Definitions- For purposes of this Title

A. "Absent Parent" means a parent of a child or children either during the course of marriage or outside marriage who is not providing the custodial parent with child support for the benefit of the child or children, or whom is not residing with the child or children and thus not providing parental control and supervision, and who is bound by an administrative or court order to pay child support;

B. "Child Support" means the financial obligation an absent parent has towards his or her children whether such action is established through judicial or administrative process, by stipulation, or by any other process recognized by tribal law. The financial obligation of an absent parent shall be met through the payment of moneys or through the provision of other goods and services as ordered by the tribal court;

C. "Court" means a court of the Sisseton-Wahpeton Sioux Tribe,

D. "Court Order" means any order for support established by a court of competent jurisdiction;

E. "Custodial Parent" means the parent or other guardian who has legal custody of a child or children pursuant to a court order or who exercises physical custody over a child on the basis of an agreement between the parents or because one parent has absented himself from the child's home.

F. "Gross Income" is income from any source, including but not limited to salaries, wages, commissions, bonuses, dividends, severance or retirement pay, pensions, interest trust income, annuities, capital gains, unemployment compensation, worker's compensation, disability insurance benefits, tips, gifts, prizes, alimony, general assistance payments and any per capita payments. It also includes in-kind contributions calculated at reasonable market value.

G. "in-Kind Contributions" are those contributions to the support of a minor child other than cash contributions. Examples include: food or sustenance provided to the child and his family in the form of game or fish, necessities provided to the family such as heating wood or fuel, or necessary day care services.

#### 34C-03-01 Setting of Child Support Obligation

In any case where the tribal court is determining the paternity of a child, decreeing a divorce between parties or establishing child support for a custodial parent when the absent parent is away from the home for more than 30 days, the tribal court shall set an amount of support to be paid by an absent parent to the custodial parent using the standards set out herein. Upon request by either parent, the Court may review any order of child support every three years to determine if more or less support is called upon under the child support guidelines. If there is a substantial and material change of circumstances, any party may petition the tribal court for a modification of child support at any time. All support orders entered by the Tribal Court shall contain a record of the obligors Social Security number.

#### 34C-04-01 Presumptive Child Support

The presumptive child support established by guidelines adopted by the Judicial Committee with consultation by the Tribal Court shall be rebuttably presumed to be the correct amount of support to be awarded in any child support proceeding to establish or modify an order of support. Every order or decree setting or modifying a child support order shall state the presumptive amount of support and justify either an upward or downward deviation based upon the deviations prescribed by the Court.

#### 34C-05-01 Establishing Child Support Guidelines:

The Sisseton-Wahpeton Sioux Tribe, in consultation with the Tribal Court, shall establish child support guidelines which must, at a minimum:

- a. Take into consideration all gross income of the absent parent;
- b. Be based on specific and descriptive criteria and result in a computation of an amount of child support which is sufficient to meet the basic needs of the child or children for housing, clothing, food, education, health care, and goods and services required by physical and mental disability;

c. Provide for the children's health care needs either through assuring Indian Health Service coverage, or benefits that supplement those benefits, and providing for each parent to pay his/her share of uninsured medical expenses;

d. Consider the economic condition of the absent parent and his ability or inability to obtain gainful employment within the reservation;

e. Provide for review and revision, where appropriate, of the child support guidelines, when needed, and at least once every four years to ensure that the amounts provided for in the guidelines are periodically adjusted for increases or decreases associated with the cost of caring for children on the Lake Traverse reservation;

f. Allow for deviation from the guidelines based upon factors such as: the amount of visitation exercised by the absent parent, including provisions for abatement of support, when the absent parent exercises visitation for a consecutive period of more than 29 days; whether the absent parent provides the transportation for visitation; income contributed to the child by third persons including extended family members of the absent parent; income contributed to the absent parent by a third party including spouse; special medical needs of the child; day care expenses; age of the child; the responsibility of the absent parent to support other children, either in his care or children he is paying support for; and any other ground cited by the Committee or court. In any case where deviation is granted the Court shall expressly state the ground for deviation.

g. Consider the in-kind contributions of the absent parent as child support and develop guidelines that take into consideration the in-kind contributions of the absent parent and his family.

34C-06-01 Public Assignment of Child Support Rights- Establishment and Amount of Obligation

A. Assignment

1. Any person who receives Temporary Assistance for Needy Families (TANF) either from the State of South Dakota or the Tribe shall, upon applying for such benefits, assign all accrued child support rights and the right to future support to the Tribe through the execution of an assignment of support rights. Said assignment shall authorize the Tribe to bring an action in the Tribal Court, or other appropriate court of competent jurisdiction, to both establish a support order and to collect on that order from the absent parent.

2. Any other person, not receiving TANF benefits, may apply to the Tribe or the State Office of Child Support Enforcement (OCSE) in South Dakota for services and execute an assignment of support rights to the Tribe for the establishment and collection of support. In those non-TANF cases, the Tribe or State OCSE shall be entitled to collect

a fee from the custodial parent for the collection of support in accordance with a fee schedule to be set by the Tribal Court.

3. Any person, required to execute an assignment of support rights to the Tribe, but whom refuses to do so without good cause or who fails to cooperate with the Tribe in the collection of support shall be subject to a sanction in the amount of \$50.00 of the TANF grant for the first refusal, 50% for the second refusal and exclusion from the TANF program for a third refusal. Good cause to refuse cooperation shall include the following situations:

a. When the custodial parent has a well-founded fear of violence from the non-custodial parent as evidenced by the existence of a order of protection in which the custodial parent is protected from the absent parent;

b. When the child was the product of rape or incest which was reported to appropriate law enforcement officials within a reasonable time after the commission of such an act;

c. Legal proceedings for adoption are pending in court;

d. A licensed social service agency is working with the family to determine whether or not the child should be relinquished.

#### 34C-07-01 Child Support Agreements

Agreements regarding child support may be submitted to the Court. All such agreements shall be accompanied by financial affidavits, including pay stubs and an expense report if a person is self-employed, submitted by each Party disclosing the financial condition of each party as required to determine a presumptive child support order. If the agreed amount of support deviates from the presumptive amount of support the parties shall furnish statements explaining why they have agreed to a lesser amount than that presumed. The Court may reject an agreed-upon support amount if the parties do not demonstrate good grounds for deviating from the presumptive amount.

#### 34C-08-01 Modifications

After passage of guidelines by the Tribal Judicial Committee and Court, current child support orders may be modified to conform to the guidelines, unless the amount of support previously entered was the result of an agreement which the Court finds to be equitable in light of the guidelines. In no case may the Court retroactively modify an order for support previously entered, except after an appropriate petition for modification has been filed. Parties shall be notified every three years that they have the right to seek a modification of existing support orders.

**34C-09-01 Voluntary Unemployment or Underemployment**

Where either parent is voluntarily unemployed or underemployed the Court shall compute the amount of support based upon the potential earning capacity of the unemployed or underemployed person. In making that determination the Court shall consider:

- A. Prior employment and educational background and history;
- B. Availability of employment in the area which the parent is qualified for;
- C. Prevailing wage rates and unemployment rate in the area;
- D. In no circumstance shall a parent who is a member of the Tribe be subject to a determination that he/she voluntarily became unemployed or underemployed because he returned to the reservation for purposes of being closer to his family.

**34C-10-01 Collection of Child Support Obligations****A. Purpose**

1. It is the intent of this Title of the Child Support Act to allow for the prompt collection and enforcement of child support from absent parents in a manner that is consistent with due process of law under the Tribe's constitution and the Indian Civil Rights Act, while permitting the tribal court and tribal child support agency to use all lawful methods to collect support for children.

**B. Wage Withholding**

1. In any case where the Tribal Court has set a child support order, or has honored an order of support from a foreign jurisdiction under 28 U. S.C. §1 738B, the Court shall enter an order directed to the employer of the absent parent, requiring that employer to withhold and pay the amount of present support, plus any amount to be paid on arrearages, to the tribal court as payee for the custodial parent, Tribe (if the child is receiving TANF benefits or foster care benefits from the Tribe), or State (if the child is receiving TANF or foster care benefits from the State). The Tribal Court shall establish procedures for the disbursement of amounts collected under this section, either to the Tribal or state agency due the amounts collected. Income withholding under this section is mandatory even if the absent parent is not delinquent in paying his support.

2. If the employer of the absent parent is the Tribe or a tribal entity, the Tribe or that entity shall be required to withhold the amount of support and pay to the Tribal Court just as any other employer is required to do, provided the income withholding order comes from the Sisseton-Wahpeton Sioux Tribal Court. The Tribe and its entities are not required to honor any wage withholding order from a foreign jurisdiction unless said order has been filed with the Tribal Court and the Tribal Court has honored that order. In no



way shall this section be construed as a waiver of the Tribe's sovereign immunity from suit.

3. The failure of any employer to comply with an order from the tribal court directing an income withholding shall subject the employer to a penalty in the amount of \$1 00.00 for the first violation and \$500.00 for every subsequent violation.

4. The Tribal Court, shall establish a uniform income withholding order which shall be utilized in any case of income withholding. That form, at a minimum, must:

a. Be served upon both the employer and child support obligor by first class mail, at the time of the commencement of the income withholding;

b. Notify the child support obligor of his right to request a hearing, within 10 days of the notice, in the tribal court if the income withholding order is in violation of tribal law, or is creating a severe hardship upon him or his existent family. If a request for hearing is filed, the Court may stay the income withholding order at its discretion pending the hearing;

c. Notify the employer that it has seven days from the date the monies were due and payable to the obligor to pay the amount over to the Tribal Court;

d. Permit the employer to charge a nominal amount, not to exceed \$5.00 for the compliance with the income withholding order;

e. Notify the employer and the child support obligor of the priorities for payment should the obligor be paying support for other children pursuant to a previous income withholding order from the Court;

f. Notify the employer that it shall be subject to a fine in the amount of \$500 for any employee it discharges or disciplines because of the receipt of an income withholding order from the tribal court, or for a fine in the amount of \$1 00.00 for a first violation and \$500.00 for any subsequent violation for refusal to comply with an income withholding order from the tribal court. This penalty shall not be applicable for an employee's refusal to comply with a wage withholding order from a foreign jurisdiction unless said order has been filed with the tribal court and honored by the tribal court;

g. Notify the employer that any income withholding order for support takes precedence over any other lawful debt owed by the child support obligor.

#### C. Collection of Support From Other Sources

1. In any case where the Tribal Court has entered a judgment for child support arrearages against a child support obligor, the Court shall forward the judgment to the

appropriate state IV-D agency (State Child Support Enforcement) with a request that that receiving agency:

a. Apply for an intercept of the child support obligors federal or state tax refund, if applicable, in the amount identified by the tribal court as the appropriate arrearages. Said amounts intercepted shall be applied to any amounts owed the Tribal or State agency for past support of the child, and then to the amount owed the custodial parent;

b. Apply for the intercept of any worker's compensation or unemployment compensation benefits owed the obligor in the amount identified by the tribal court. Said amounts intercepted shall be applied first to any amounts owed the Tribal or State agency for past support of the child, and then to the amount owed the custodial parent;

c. Apply for any other collection efforts available to the receiving agency including liens against real or personal property under the jurisdiction of the receiving agency, and/or suspension of drivers or other licenses issued by the state jurisdiction;

d. Apply for any parental locator services that can assist the custodial parent in the location of the absent parent to assure collection of child support;

e. Apply for any financial institution data match programs that the State IV- D agency operates which would permit the development of information about any tribal child support obligor who maintains a financial institution account, including a request that the State agency impose liens upon any accounts held by the obligor and pay said amounts first to any Tribal or State agency owed moneys for supporting said child and then to the custodial parent,

f. Apply for any credit bureau reporting that the State IV-D agency operates with regard to state orders for support.

2. In any case where the Tribal Court establishes that a child support obligor owes more than \$1,000 in back child support to either the custodial parent or a tribal or state agency and after a show cause hearing establishes that the obligor has the ability to pay said support obligation and has wrongfully refused to do so, the Tribal Court may order the suspension of the obligors gaming license, hunting and fishing license, business license or any other license issued by the Tribe including the privilege to drive on the reservation public highways. Said license may be suspended under the following conditions:

a. The Court shall allow the obligor to retire the child support arrearages by paying periodic payments to the Court and if the obligor complies with said order by making the first payment, he shall regain his license or licenses, subject to a further suspension if the obligor fails to make future periodic payments for no substantial reason;

b. The obligor shall be permitted to demonstrate that the suspension of the license will cause a severe hardship upon himself or his existent family,

c. The obligor shall be permitted to appeal any suspension of his license or licenses to the appropriate tribal appellate court during which time his license will not be suspended.

3. Any judgment entered by the Tribal Court against a non-custodial parent shall automatically act as a lien against any real or personal property owned by that parent, except it shall not operate as a lien against any trust or allotted land without consent of the Department of Interior. This section shall also apply when a judgment has been entered by another jurisdiction.

**D. Collection of Support from Parents of Children in Tribal Foster Care**

In any case where the Court collects child support amounts from a parent of a child in Tribal Foster care, those monies shall be promptly paid to the Child Protection program for the Tribe which may expend those monies in its discretion for the best interest of the children in foster care and other purposes.

**34C-10-02 District Withholding When in Arrears**

In any case where the Court determines that a tribal member is in arrears of more than \$300.00 under a child support order, the Office of Child Support may apply for a Withholding Order for any District Distribution to that district member. This shall include District holiday monies, birthday monies, and other general monies distributed to all district members excluding Medical Emergency, Home Repair and Hardship monies.

**34C-11-01 Creation of Tribal Child Support Enforcement Unit**

**A. Purpose and Authority**

There shall be created an entity called the Sisseton-Wahpeton Sioux Tribal Child Support Enforcement Unit, which shall have the authority to operate a child support enforcement program in compliance with the Child Support Enforcement Act. Said entity shall have the following authority-

1. To apply to any state child support enforcement program for a cooperative agreement or to any federal agency for direct funding to operate a tribal child support enforcement program in compliance with the Sisseton-Wahpeton Sioux Child Support Enforcement Act. Any agreement reached shall be subject to final approval by the Tribal Council,

2. To accept an assignment of child support from any custodial parent or other guardian, including a tribal child protection or foster care program, of any child receiving TANF or foster care assistance either from a tribal or state agency, or from any other custodial parent wishing to receive assistance from the tribal child support enforcement unit;

3. To file actions in the Tribal Court on behalf of any custodial parent or child owed child support from a non-custodial parent located either on or off the reservation;

4. To charge a nominal fee, not to exceed \$1 0.00, from any custodial parent not receiving TANF or any other form of state or tribal assistance who applies for services from the Unit;

5. To work cooperatively with the Judicial Committee in developing appropriate procedures for the filing of paternity actions and support actions in the tribal court, including complying with any federal regulations regarding timelines for the filing of actions and the disbursement of moneys received, for the referral of tribal court judgments for child support to other state and federal agencies for collection efforts, and for the expenditure of any moneys received by the Tribe for the collection of child support either from a state through a cooperative agreement or directly from the federal government.

#### B. Location of Said Unit

The Tribal Child Support Collection Unit shall be housed in the office of the Tribal Prosecutor at the Tribal Court or at the Tribe's Department of Social Services.

#### C. Severability

If any clause, sentence, paragraph, section, or part of this code shall, for any reason be adjudicated by any Court of competent jurisdiction, to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgment shall have been rendered.

**34a-01-01 SWST Child Support Enforcement Guidelines****34a-01-02 Purpose**

- A. To provide for the reasonable and necessary physical, mental and emotional health needs of the child.
- B. Establish an adequate standard of support for children.
- C. Make support payments more equitable by ensuring more consistent treatment of persons in similar circumstances; and
- D. Improve the efficiency of the court process by promoting settlements.

**34a-01-03 Policy**

- A. The SWST Tribal Court may order either or both parents owing a duty of support to a child of the marriage or upon the establishment of a child-parent relationship under the SWST Parentage Act.
- B. In any action to establish or modify child support, the child support guidelines as set forth in this section shall be applied to determine the child support due and shall be a rebuttable presumption for the amount of such child support.
- C. The Child Support Guidelines shall be used for temporary and permanent orders, separations, dissolutions, and support decrees arising despite non-marriage of the parties.

**34a-01-04 Procedures**

To establish or modify child support, the child support guidelines as set forth shall be applied to the child support for the amount of support due. A specific amount of child support should always be ordered, no matter how minimal, to establish the principle of that parent's obligation to provide monetary support to the child. The Court shall determine the minimum amount of support by using the following guidelines:

- A. "Income" is defined as actual gross income of a parent, if employed to full capacity, or potential income unemployed or under employed. The gross income of a parent means only the income and earnings of that parent and not the income of subsequent spouses, notwithstanding the community nature of both incomes after remarriage.
- B. "Gross Income" includes income from any source and includes, but is not limited to, income from salaries, wages, tips, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, workers compensation benefits, disability benefits, unemployment

insurance benefits, significant in kind benefits that reduce personal living expenses, prizes and alimony or maintenance received but:

1. Gross income shall not include benefits received from public assistance programs or child support received by a parent for the support of other children;
2. For income from self-employment, gross income shall not include monies used for ordinary and necessary expenses required to produce such income. Determination of ordinary and necessary expenses shall be conducted by the Court.
3. Gross income shall not include the amount of alimony payments actually paid by a parent in compliance with a court order.

C. Definitions

1. "Children of the parties" means the natural or adopted child or children of the parties, or the child to whom one party has been awarded legal custody, to the action before the Court. But shall not include the natural or adopted child or children of only one of the parties.
2. "Basic Visitation" means a custody arrangement whereby one parent has physical custody and the other parent has visitation with the children of the parties less than 35% of the time.
3. "Joint Custody" means a custody arrangement whereby each parent provides a suitable home for the children of the parties, when the children spend at least 35% of the year in each home and parents significantly share the duties, responsibilities and expenses of parenting.

**34a-01-04 Procedures**

A. The Court shall determine the minimum amount of support by using the standard guidelines provided in Table A.

1. The above guidelines shall be applied in each case unless the court makes a finding that application of the guidelines would be inappropriate, after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors:
  - a) the financial resources and needs of the child
  - b) the financial resources and needs of the custodial parent;
  - c) the standard of living the child would have enjoyed had the marriage not been dissolved;
  - d) the physical and emotional condition of the child, and his/her educational needs;
  - e) and financial resources and needs of the non-custodial parent.
2. If the Court deviates from the guidelines, the court's finding shall state the amount of support that would have been required under the guidelines, if determinable. The Court shall include the reason or reasons for the variance from the guidelines.

B. Net Income Determination for Support Calculation

1. "Net Income" is defined as the total of all income from all sources, minus the following deductions:
  - a) Taxes
  - b) Social Security (FICA payments)
  - c) Mandatory retirement contributions
  - d) Union dues
  - e) Dependent and individual health/hospitalization insurance premiums;
  - f) Prior obligations of support or maintenance actually paid pursuant to a court order.
  - g) If self-employed, expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income to be determined by the Court.
2. The Court shall reduce net income in determining the minimum amount of support to be ordered only for the

period that such payments are due and shall enter an order containing provisions for its self-executing modification upon termination of such payment period.

3. In a proceeding for child support following dissolution of the marriage by a court that lacked personal jurisdiction over the absent spouse, and in which the court is requiring payment of support for the period before the date an order for current support is entered, there is a rebuttable presumption that the supporting party's net income for the prior period was the same as his or her net income at the time the order for current support is entered.
4. If the net income cannot be determined because of default or any other reason, the court shall order support in an amount considered reasonable in the particular case.
5. The final order in all cases shall state the support level in dollar amount.

C. Failure to Pay Support

1. Failure of either parent to comply with an order to pay support shall be punishable as in other cases of contempt.
2. In addition to other penalties provided by law the Court may, after finding the parent guilty of contempt, order that the parent be:
  - a) placed on probation with such conditions of probation as the Court deems advisable;
  - b) Sentenced to periodic imprisonment for a period not to exceed 6 months; provided, however, that the Court may permit the parent to be released for periods of time during the day or not to :
    - work
    - conduct a business or other self-employed occupation.
  - c) The Court may further order any part or all of the earnings of a parent during a sentence of periodic imprisonment paid to the Clerk of the Tribal Court or to the parent having custody or to the guardian having custody of the minor children of the sentenced parent for the support of said minor children until further order of the Court.



- d) The sentence may include but need not be limited to a requirement that the person perform community service.
3. The Court, through a cooperative agreement with the State of South Dakota (Resolution No. SWST-99-021), may also order in cases where the parent is 90 days or more delinquent in payment of support or has been adjudicated in arrears in an amount equal to 90 days obligation or more, that the parent's Tribal or South Dakota driving privileges be suspended until the court determines that the parent is in compliance with the order of support.

D. Support Orders

- 1. Any new or existing support order entered by the court under this section shall be deemed to be a series of judgments against the person obligated to pay support
  - a) each such judgment to be in the amount of each payment or installment of support
  - b) each such judgment to be deemed entered as of the date the corresponding payment or installment becomes due under the terms of the support order.
  - c) each such judgment shall have the full force, effect and attributes of any other judgment within the SWST Lake Traverse Reservation and within the boundaries of the State of South Dakota.
  - d) when child support is to be paid through the clerk of the court, the order shall direct the obligor to pay to the clerk, in addition to the child support payments, all fees imposed by the Tribal Court.
    - Unless paid in cash or pursuant to an order for withholding, the payment of the fee shall be by a separate instrument from the support payment and shall be made to the order of the Clerk.
  - e) all orders for support, when entered or modified, shall include a provision requiring the obligor to notify the court and public aid within 14 days of the following:
    - the name and address of any new employer of the obligor
    - whether the obligor has access to health insurance coverage
    - if so, the policy name and number and the

- names of persons covered.
  - any new residential or mailing address and telephone number of the non-custodial parent
  - service of process may be made at the last known address of the non-custodial parent according to the SWST code of civil procedure which service shall be sufficient for purposes of due process.
- f) an order for support shall include a date on which the current support obligation terminates. The date shall be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated.
- g) The order for support shall state that the termination date does not apply to any arrearage that may remain unpaid on that date.
- h) an order entered under this section shall include a provision requiring the obligor to report to the obligee and to the clerk of the court within 10 days each time the obligor obtains new employment, and each time the obligor's employment is terminated for any reason.
- i) Failure to report new employment or the termination of current employment, if coupled with nonpayment of support for a period in excess of 60 days, is indirect criminal contempt.
- j) for any obligor arrested for failure to report new employment, bond shall be set in the amount of the child support that should have been paid during the period of unreported employment.
- k) an order entered under this section shall also include a provision requiring the obligor and obligee parents to advise each other of a change in residence within 5 days of the change unless the court finds that the physical, mental, or emotional health of the minor child, or custodial party, would be seriously endangered by disclosure of the party's address.
2. Unless otherwise ordered by the court, child support payments are due the first day of the following month if the support order is issued after the 15<sup>th</sup> of the month. If the order is issued prior to 15<sup>th</sup> of the month, the support payment is due on the first of the month in which the order was signed.

E. Unemployed Persons Owing Duty of Support

1. Whenever it is determined in a proceeding to establish or enforce a child support obligation that the person owing a duty of support is unemployed the court may:
  - a) order the person to seek employment and report periodically to the court with a diary, a listing of his/her efforts in accordance with such order.
  - b) order the obligor to provide assistance to the custodial parent in a non-monetary fashion such as providing child care.

F. Health Insurance Coverage

1. Whenever the court establishes, modifies or enforces an order for child support, the court shall include in the order a provision for the health care coverage of the child which shall require that any child covered by the order be named as a beneficiary of any health insurance plan that is available to the obligor through an employer or labor union or trade union.
2. Nothing in this section shall be construed to limit the authority of the court to establish or modify a support order to provide for payment of expenses, including deductibles, co-payments and any other health expenses, which are in addition to expenses covered by an insurance plan of which a child is ordered to be named a beneficiary pursuant to this section.
3. Whenever the obligor fails to provide or maintain health insurance pursuant to an order for support, the obligor shall be liable to the obligee for the dollar amount of the premiums which were not paid and shall also be liable for all medical expenses incurred by the minor child which would have been paid or reimbursed by the health insurance which the obligor was ordered to provide or maintain.

G. Employer Obligations

If a parent is required by an order for support to provide coverage for a child's health care expenses and if that coverage is available to the parent through an employer who does business in this State, the employer must do all of the following upon receipt of a copy of the order of support or order for withholding.

1. The employer shall allow the parent to enroll the child without regard for the enrollment season restrictions.
2. If the parent has health care coverage through the employer

but fails to apply for coverage of the child, the employer shall include the child in the parent's coverage upon application by the child's other parent.

3. The employer may not eliminate any child from the parent's health care coverage unless the employee is no longer employed by the employer and no longer covered under the employer's group health plan.
4. The employer may eliminate a child from a parent's health care plan obtained by the parent when he/she is provided with satisfactory written evidence of either of the following.
  - a) the order for support is no longer in effect; or
  - b) the child is or will be included in a comparable health care plan obtained by the parent under such order that is currently in effect or will take effect no later than the date the prior coverage is terminated.

H. Payment of Support to the Court

In actions brought under this Act, the court shall order that support payments be made to the clerk of the court as trustee for remittance to the person entitled to receive the payments.

1. The clerk of court shall maintain records listing the amount of payments, the date payments are required to be made and the names and addresses of the parties affected by the order
2. The parties affected by the order shall inform the clerk of court of any change of address or of other conditions that may affect the administration of the order.

I. Court and Attorney's Fees

1. Upon discretion of the Court, the judge may order that court costs accrued under this Act may paid by the obligor.
2. It is also within the discretion of the Court to order the obligor to pay the attorney's fees accrued by the obligee in bringing action under this Act.