

SOKAOGON CHIPPEWA COMMUNITY FAMILY CODE
PATERNITY

3.9 PATERNITY

3.9.1 Acknowledgment of Paternity. The father of a child born out of wedlock may assume parental responsibility for a child and recognize such child as his heir and offspring by executing a formal acknowledgment of paternity on a form provided for that purpose by the Child Welfare Office or the Clerk of Court. The acknowledgement shall also be signed by the mother of the child.

3.9.2 Petition to Determine Paternity.

- A. Any interested party, including the mother, father, child, Tribal Child Support Agency and Child Welfare Office, may petition the Court for the determination of the paternity of a child.
- B. The petition shall be entitled: “In the Matter of the Paternity of (child’s name)”, shall be verified, and shall contain the following information:
 - (1) The name, birth date, and residence of the child;
 - (2) Information showing whether or not the child is a Community Child;
 - (3) The name and address of the mother;
 - (4) The name and address of the person alleged to be the father of the child;
 - (5) The name, address, and relationship to the child of all other interested parties; and
 - (6) The petitioner’s interest in the matter.
- C. Upon the filing of a petition, the Clerk of Court shall issue a summons pursuant to § 3.2.2 of this Chapter.
- D. The petitioner shall serve copies of the petition pursuant to § 3.2.3 of this Chapter upon all interested parties. Service shall also be made on the Tribal Child Support Agency if the office is not the petitioner. Service shall be made at least ten (10) days prior to the initial hearing. If the whereabouts of an interested party(s) are not known, substituted service shall be made in such manner as directed by the Tribal Court.
- E. The Tribal Court will not move forward with the establishment of paternity where the child was conceived by incest or forcible rape if the mother requests to dismiss the action. If there is a pending adoption of the child and the establishment of paternity is not in the best interests of the child, the Tribal Court will dismiss the action.

3.9.3 Initial Hearing. At the initial hearing the Court shall determine whether any interested party wishes to contest the petition. Before doing so, the Court shall inform the parties of the following:

- A. The nature and possible consequences of the proceeding;
- B. The right to confront and cross-examine witnesses;
- C. The right to be represented by counsel at the party's own expense, and the availability, if any, of free or low cost representation or the indigent; and
- D. The right to request genetic tests.

3.9.4 Genetic Tests.

- A. The Court may, and upon request of a party shall, require the child, mother, alleged father, or any male witness who testifies or will testify about his sexual relations with the mother at a possible time of conception, or a direct descendent of the mother or putative father if one of the parties is deceased, to submit to genetic tests. Genetic tests shall be performed by a person certified to collect genetic samples and be analyzed by an accredited genetic testing laboratory.
- B. The Court may order such tests by additional experts at the request and expense of a party, as the Court deems desirable.
- C. Whenever the results of the genetic tests exclude the alleged father as the father of the child, this evidence shall be conclusive evidence of non-paternity and the Court shall dismiss the action. Whenever the results of the tests exclude any male witness, the tests shall be conclusive evidence of non-paternity of that male witness. If any party refuses to submit to the genetic tests this fact shall be taken into account as evidence in the decision. If the child's mother brought the action but she refuses to submit herself or the child to the genetic tests, the action shall be dismissed.
- D. The fees and costs for the genetic tests shall be paid by either or both parties as ordered by the Court.
- E. Should the Respondent fail to appear at the initial hearing and the Petitioner provides credible evidence that there was requisite sexual contact during the conceptive period, the Tribal Court shall order genetic testing be conducted. A copy of the Order for Genetic Testing shall be sent to the Petitioner and Respondent by the Tribal Clerk of Court. The Order shall indicate the date, time and place that the parties must appear at to provide a genetic testing sample.
- F. If genetic tests show that the putative father is the biological father by a percentage of 96.1% or higher, paternity is proved and he shall be adjudicated the legal father at the final paternity hearing.

3.9.5 Fact Finding Hearing. If after the genetic tests are made the matter remains contested, the Court shall hold a Fact Finding Hearing to determine paternity. The hearing may be conducted in an informal manner, but the decision shall be based solely upon the evidence produced at the hearing. The hearing shall be closed to the public, and the proceedings shall remain confidential except upon order of the Court for good cause shown.

3.9.6 Judgment.

- A. If the paternity of the alleged father is established at the hearing by clear and convincing evidence, a judgment establishing paternity and declaring the alleged father to be the child's father shall be entered. If paternity is not so established, the petition shall be dismissed.
- B. If paternity is established, the judgment may make provision for custody, visitation, and support as provided in section 3.8 of this Chapter, but is not required to do so.
- C. If paternity is established, the judgment may make provisions for child support and medical support pursuant to Sokaogon Chippewa Community Tribal Law Chapter 3A Child Support if requested by either parent or if the custodial party and/or child are receiving IV-A or IV-E benefits.
- D. Establishment of paternity shall have no effect on enrollment with the Sokaogon Chippewa Community, but may be utilized by a party when making application for enrollment.

3.9.7 Limitations. There shall be no statute of limitation on establishing paternity.

LEGISLATIVE HISTORY

- 1. Enacted - unknown.
- 2. 7/20/11 adopted, ratified and codified by Resolution No. 720A2011 and as amended by Resolution No. 825A2011 on August 25, 2011.
- 3. Amended December 13, 2017, by Resolution No. 12-13C-2017.
- 4. Amended February 7, 2018 by Resolution No. 2-7D-2018.