

**PRO SE GUIDEBOOK  
FOR  
FAMILY RELATIONS**



***MASHANTUCKET PEQUOT  
TRIBAL COURT***

*Revised January, 2017*

# Mission Statement of the Mashantucket Pequot Tribal Court System



Mashantucket Pequot  
Tribal Court

As one of the most visible manifestations of the sovereignty of the Mashantucket Pequot Tribal Nation, the mission of the Mashantucket Pequot Court System is to apply the tribal laws, customs and traditions in a just, impartial and timely manner.

Through our competent and courteous staff, we strive to assist all persons to understand and use our judicial process.



## **DISCLAIMER**

- **This Pro Se Guidebook is a basic guide to assist someone unable or unwilling to hire an attorney. It is not a comprehensive guide nor does it answer all questions or guarantee success. It is not a substitute for legal advice from an experienced attorney.**
- **It is not intended to provide legal advice to individuals in the unlicensed practice of law, nor should it be used to provide legal advice to other people.**
- **It should not be cited as authority. The examples used do not necessarily cite tribal law.**
- **It is not a substitute for reading and understanding the Mashantucket Pequot Rules of Civil Procedure and other rules and laws that apply to cases.**

**TABLE OF CONTENTS**

*Mission Statement* . . . . . *i*  
*Disclaimer* . . . . . *ii*  
*Table of Contents* . . . . . *iii*  
*Notice - Potential for Financial Assistance* . . . . . *iv*



Introduction . . . . . 1  
Overview . . . . . 2  
Family Violence . . . . . 4  
Restraining Orders . . . . . 5  
Dissolution of Marriage (Divorce) or Annulment . . . . . 7  
Post-Judgment Orders (Modification of Alimony, Support & Judgments) . . . . . 14  
Child Custody, Child Support & Paternity (Unwed Parents) . . . . . 15  
Emancipation . . . . . 20  
Recognition & Enforcement of Foreign Support Orders. . . . . 21  
Change of Name. . . . . 23  
Miscellaneous . . . . . 24  
Common Words & Phrases . . . . . 25  
Sample Stipulation Checklist . . . . . 29  
Useful Resources . . . . . 31

## **NOTICE - FINANCIAL ASSISTANCE**

Not everyone can afford an attorney, and court staff cannot give you legal advice. However, your Tribe may provide financial assistance for tribal members dealing with child custody (and probate) issues. You may apply under the Tribal Member Financial Assistance Program (TMFAP) Legal Fund to receive funds for legal fees ranging from \$900 to \$1,800 per year, depending on your annual income. (TCR032416-02 of 05.)

To find out if you qualify, please contact the Tribal Member Services Coordinator in the Chief of Staff's Office.



The Tribal Court maintains a list of attorneys who are authorized to practice before the Mashantucket Pequot Tribal Court. You may obtain a copy of this list by calling 860-396-6156.

*The Mashantucket Pequot Tribe finds that the Tribe's interest over family relations is an integral part of tribal self-government and the Tribe's history and culture, that it is exceedingly important to the Tribe to support the preservation of families, that families thrive when they receive appropriate emotional and financial support, and that the lives of children and families improve by strengthening parental responsibility for family and child support. 6 M.P.T.L. ch. 1 § 1.*

## ***INTRODUCTION***

This booklet is designed to help you represent yourself in a family relations matter before the Mashantucket Pequot Tribal Court (the Family Relations Law is found in Title 6 of the Mashantucket Pequot Tribal Laws). Family relations matters involve:

- Restraining orders
- Marriages
- Divorce (sometimes referred to as a dissolution of marriage) and annulment
- Support of child and spouse
- Paternity proceedings
- Emancipation
- Recognition and enforcement of foreign support orders
- Change of name
- Miscellaneous

Please take the time to not only read this booklet, but also the actual law involving your situation and the Mashantucket Pequot Rules of Court. Court staff can answer procedural questions and help you understand the legal process **but cannot give you any legal advice.**

The intent of this guidebook is to provide tribal members with information not only on how the Tribal Court operates, but also what laws pertain to the current situation facing you or your family members.

**The assistance of a lawyer licensed to practice before the Mashantucket Pequot Tribal Court is recommended, especially in complex and disputed matters.**

## OVERVIEW

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### **CONSIDER:**

#### ***Meeting with a counselor***



Family relations matters can be very emotional and stressful on the entire family. Before you decide to proceed with a family relations matter, you may want to meet with a family counselor. A counselor is someone who can help you identify issues concerning the family and assist in working out your differences.

Your Tribe has made counseling available to tribal families in need. If you want to try counseling, please contact the Tribal Health Services Department and ask for an appointment with a therapist. The phone number for Tribal Health Services is: 860-312-8000.

If unsuccessful, the Mashantucket Pequot Tribal Court has been given the authority by the Tribal Council to, among other things:

1. Issue restraining orders (6 M.P.T.L. ch. 2).
2. Dissolve marriages and issue annulments of a marriage (6 M.P.T.L. ch. 4).
3. Issue orders concerning visitation and the custody and care of minor children (6 M.P.T.L. ch. 5).
4. Issue orders concerning:
  - a. Support and use of the family home pending the judgment;
  - b. Assignment of property;
  - c. Alimony;
  - d. Support of minor children, custody and visitation;
  - e. Modification of alimony and/or support orders;
  - f. Contempt orders.

(6 M.P.T.L. ch. 6)
4. Determine the paternity of a child and issue custody and support orders (6 M.P.T.L. ch. 7).
5. Issue orders concerning emancipation of a minor child over the age of 16 (6 M.P.T.L. ch. 8).
6. Recognize and enforce foreign support orders (6 M.P.T.L. ch. 9). This means if you have obtained orders for alimony or child support in another court, you can request the Finance Department to withhold payments from the wages or other income from a "Payer," defined as the Mashantucket Pequot Tribal Nation, its enterprises, governmental divisions and departments (but not any entities organized under the laws of another state; see 6 M.P.T.L. ch. 9 § 1(k)) if the

person obligated to pay works or receives other tribal income. You may file a certified copy of your judgment or support order with the Department of Finance of the Payer of the person obligated to pay without filing the judgment in the Tribal Court. Your spouse's employer will withhold support payments in accordance with tribal guidelines and distribute the funds to you (6 M.P.T.L. ch. 9 §§ 3-4).

7. Change of name (6 M.P.T.L. ch. 10). If you have been known in the community for many years by a name other than what is on your birth certificate, you may apply to the Mashantucket Pequot Tribal Court to have your name changed by a judgment of this court.

**It does not matter who commences a family relations matter. The Judge will listen carefully to both sides before making any decision.**



## **FAMILY VIOLENCE**

### **FOR YOUR SAFETY**

**If you are being physically or emotionally abused, stalked, or are threatened with physical abuse by your spouse, significant other, or a household member, you should contact the *Mashantucket Pequot Tribal Police* at:**

**860-396-6662  
OR  
Call 911**

**You may also qualify for a court order called a restraining order to help protect you from physical abuse, the threat of physical abuse, stalking or a pattern of threatening behavior towards you by a family or household member. The first step is to fill out an Application for Relief From Abuse. 6 M.P.T.L. ch. 2 deals with restraining orders among family or household members.**

More information on this issue can be found at:

<http://www.mptnlaw.com/TribalLaws.htm>

# RESTRAINING ORDERS

## 1. INSTRUCTIONS FOR APPLICANT

If you are involved in a potentially dangerous situation and feel a restraining order is necessary, you must fill out two forms:



1. An Application for Relief from Abuse; and
2. An Affidavit for Relief from Abuse.

Both forms are available at the Clerk's Office or online at:  
<http://www.mptnlaw.com/TribalCourtForms.htm>



**There is no fee to file for a restraining order.**

The restraining order laws enacted by the Tribal Council provide a limited scope of jurisdiction. The person you are seeking relief from (respondent) must be a family or household member on the Mashantucket Pequot Reservation. If this is a situation where both parties live and work off the reservation, the state court is a better alternative because restraining orders issued in the Mashantucket Pequot Tribal Court do not apply outside of the reservation borders. **The Mashantucket Tribal Police will recognize state restraining orders and will enforce them as necessary when incidents arise on the Mashantucket Pequot Reservation.**

After receiving the Application for Relief from Abuse and Affidavit for Relief from Abuse, please fill out each area of the forms to the best of your ability. To support the claim of abuse, explain on the affidavit each circumstance that has taken place that is threatening toward you (and your children, if applicable). Once completed, you must sign both documents in front of a Notary Public or a Mashantucket Pequot Tribal Court Clerk. Notaries are available at the Tribal Court and there is no fee for notary service.

If you are seeking ex parte (immediate) relief, there is a check box to indicate so. Ex parte relief is granted when, upon judicial review, the situation is deemed dangerous. Applying for ex parte relief is not a guarantee that it will be granted. Ex parte relief is granted only in extreme situations, as notice has not been provided to the respondent.

If ex parte relief is granted, a hearing will be conducted within five days of granting of such relief. If you are not seeking ex parte relief or if ex parte relief is denied, a hearing will be conducted within ten days of the date of filing the application and affidavit.



## **IMPORTANT!**

**It is the responsibility of the filing party (applicant) to arrange for service of the application, affidavit and any orders, if issued, on the respondent. Service must be made on the other party not less than five business days before the hearing, so you should coordinate it as soon as possible.**

If the respondent lives or works on the Mashantucket Pequot Reservation, the Mashantucket Pequot Tribal Police Department will serve the notice. If the respondent does not work or reside on the reservation, you must retain the services of a State Marshal or other process server to make service. For help in finding a State Marshal or process server please see the Useful Resources page at the end of this guidebook.

When you submit the application and affidavit to the Court Clerk, the Clerk will set a hearing date. This date will be provided in the processed application to be served on the respondent to ensure due notice. Feel free to contact the Court Clerk's office for that date and time.

## **2. INSTRUCTIONS FOR RESPONDENT**

If you are the respondent (in other words, the person who receives a notice to come to court on an application for relief from abuse), you must be present at the hearing or the court will not hear your side of the story. If you do not appear, the court will enter orders based upon the applicant's testimony. You should immediately seek legal advice as the court will have the power to put restrictions on your actions, including entering the family dwelling.

## **3. THE RESTRAINING ORDER HEARING**

On the date of the hearing, please arrive on time. If the respondent does not appear, the Judge will listen to your argument as to why you desire the restraining order. If the respondent does appear, the Judge will consider argument from both sides. Upon hearing the applicant and respondent (if appearing), the Judge will issue orders. At this time, the Court Clerk's Office will forward any orders entered to the respondent as well as the Tribal Police.

Restraining orders generally may not exceed 90 days, but you may file a motion requesting that the restraining order be extended for additional time as deemed necessary.

For more information, please consult 6 M.P.T.L. ch. 2.

## **STARTING A DISSOLUTION OF MARRIAGE (DIVORCE) OR AN ANNULMENT**

### **IMPORTANT**

**For a divorce or annulment, one party to the action must be a member of the Mashantucket Pequot Tribe. 6 M.P.T.L. ch. 4 § 1.**

You will need two forms:



1. The Divorce/Annulment Complaint form; and
2. The Family Court Summons form.

These forms are available at the Court Clerk's office or online at <http://www.mptnlaw.com/TribalCourtForms.htm>



**There is a \$125.00 filing fee to file for divorce or annulment.**

## **DISSOLUTION V. ANNULMENT**

A **Dissolution of Marriage**, commonly called a divorce, is a form of no-fault termination of a marital relationship. The court, generally, will find that there is an irretrievable breakdown of the marriage when either or both spouses are no longer able or willing to live with each other.

An **Annulment** is granted when the court has determined that a marriage is void due to a defect that existed at the time the parties entered into the marriage. An annulment order declares that a marriage never existed. The court may grant an annulment if the marriage is invalid under tribal law or the laws of the state in which the marriage was performed.

## **PROCEDURE**

1. You must fill out the divorce/annulment complaint. Please check the appropriate boxes and where appropriate, simply note N/A for "not applicable." You also must fill out the Family Court Summons form. Then bring the Divorce/Annulment Complaint and the Family Court Summons form to the Clerk of the Tribal Court. At this time, you must pay the filing fee of \$125.00 to the Clerk of the Court to start your action. The Clerk will assign a docket number and write the docket number on both the Divorce/Annulment Complaint and the Family Court Summons.

2. The Clerk will then sign the summons and return it to you. You must then have the complaint and the summons served on the defendant. **This is your responsibility.** If the defendant resides (or works) within the Mashantucket Pequot Reservation, the Tribal Police Department will make service for you.

3. If the defendant neither resides nor works on the Mashantucket Pequot Reservation, you must arrange service by a State Marshal or a process server within the county where the defendant resides or works. The court prefers personal service, whereby the defendant is delivered the papers personally. This is called "in-hand service." The Mashantucket Pequot Rules of Civil Procedure do provide other methods of service if in-hand service on the defendant cannot be made. If that service cannot be accomplished, then you may file a motion which must state why service as prescribed above cannot be made with due diligence, and request that the court order that service be made by mail, registered or certified, return receipt requested, postage prepaid, to the defendant's last known address. If registered or certified mail is ordered by the court, you must file with the court the return receipt and an affidavit by the person effecting service attesting that service was made, the person on whom it was made, and the manner in which service was made, including the date and time of service and the fees of such service, if any (see page 2 of Family Court Summons). If the whereabouts of the defendant are unknown, the court may order service by publication.

For help in finding a State Marshal or process server please see the Useful Resources page at the end of this guidebook.

## IF YOU HAVE BEEN SERVED WITH A COMPLAINT

4. If you have been served with papers the first thing you should do is to determine whether you want to retain an attorney to represent you.



If you desire to represent yourself without an attorney, you must file an appearance form, which tells the court that you are representing yourself. The appearance form is available at <http://www.mptnlaw.com/TribalCourtForms.htm> and at the Court Clerk's office. Once you file an appearance with the Court Clerk, you will receive court calendar notices and copies of papers filed in your case.

5. You must also file an answer to the complaint stating whether you admit or deny the allegations in the complaint within 30 days from the date you received the summons and complaint. In filing your answer, you may file a cross complaint and seek alternative relief on your behalf.

## WAITING PERIOD

6. The Mashantucket Pequot family law provides for a 90 day waiting period (6 M.P.T.L. ch. 4 § 6(a)) which begins on the day the defendant is served before the court may schedule the trial and issue a decree. However, if a conciliation is sought and either party fails to participate, the case may be stayed for six months. The 90 day waiting period does not apply to annulment cases - see 6 M.P.T.L. ch. 4 § 6(b).

## **CONCILIATION PERIOD**

7. The Mashantucket Pequot family law provides for a 90 day conciliation period. See 6 M.P.T.L. ch. 4 § 7. This means that during the 90 day waiting period, either spouse may submit a request for conciliation to the court. The court will then enter orders that the parties meet with a conciliator who is mutually acceptable to them. If the parties cannot agree on a conciliator, the court will name one. The conciliator must be a person who is licensed and experienced in the field of marriage counseling. The court will direct which party or parties pay for the conciliator.

Within the 90 day period or within 30 days of the request, whichever is later, the parties must attend two mandatory consultations with the conciliator to explore the possibility of reconciliation or to resolve the problems which led to their conflicts. If either party fails to attend, except for good cause, further action on the complaint will be delayed for six months. If either party can demonstrate to the court that they had valid reasons (known as "good cause") not to attend the scheduled counseling sessions, the court may terminate the six month waiting period and proceed according to the 90 day waiting schedule.

## **RESTORATION OF FORMER NAME**

8. At the time the court enters the decree dissolving the marriage or granting an annulment, or any time after entering such decree, the spouse who seeks to restore their name to their prior name may request a change of name from the court. See 6 M.P.T.L. ch. 4 § 8.

## **PENDENTE LITE (TEMPORARY) MOTIONS**

9. During the period of time from the commencement of the dissolution of marriage action to the time the matter is set down for trial, either party may move for temporary orders for such matters as:

- Support
- Alimony
- Custody
- Visitation
- Exclusive possession of family home
- Use of automobile
- And any other matter of dispute between the parties

These motions must be filed with the Court Clerk and served on the opposing party by mail if the opposing party has filed an appearance, if you did not already request such orders on the Divorce/Annulment Complaint form. After the conciliation period, your case will be ready to be heard by a Judge.

## **CUSTODY, VISITATION, CARE & SUPPORT OF MINOR CHILDREN**

10. **The custody, care, education, financial support and visitation** of children will always be issues that need to be addressed when there are children involved in a

marriage that is ending. There are times when the parents are able to come to an agreement on their own without needing the court's involvement. In these cases, the court will look at the agreement between the parents and if it determines that the arrangement is in the best interests of the children, the court will make the agreement a judgment of the court. When parents are unable to come up with a suitable agreement, the court will make a final decision regarding the custody, care, education, visitation and financial support of the children.

**Best Interests of the Child.** Every decision affecting a child made by the court is guided by the best interests of the child, taking into consideration the wishes of a child of sufficient age and maturity and the circumstances, if relevant, of the parents. Orders pertaining to the care and custody of the child may include directives to ensure that the child's cultural identity and heritage are preserved. See 6 M.P.T.L. ch. 5 § 3.

**Who May Have Custody of a Minor Child?** In the complaint filed with the court, the parent requesting custody will inform the court of the custody arrangement he or she wants. In response, the parent being sued for custody will inform the court of the custody arrangement he or she wants in the answer to the complaint. After the complaint and answer are filed with the court, both parents will typically meet with the Family Relations Officer to reach an agreement that works for both parents and is in the best interests of the child.

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***PLEASE NOTE:***

***There are two primary types of child custody:***

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- **Legal Custody** which gives a parent decision-making rights and responsibilities pertaining to the children involved; and
- **Physical Custody** which determines which parent the children will live with on a day to day basis.

Both forms of custody can be **Sole** (with one parent only) or **Joint** (shared by the parents).

**NOTE:** Tribal law favors "joint custody" as defined in 6 M.P.T.L. ch. 5 § 4.

**Third Party Custody.** It is generally presumed that it is in the best interests of the child to be in the custody of at least one of the parents, but in some cases the parents may request that a third party assume custody of the children.

Alternatively, a third party with a significant interest in the custody of the children may intervene and request custody by filing a motion with the court. If the third party can demonstrate to the court that parental custody would be detrimental to the children, the court may decide to award full or partial custody, care, education and visitation rights of the minor children to the third party.

**Who May Have Visitation Rights?** The court will determine whether granting visitation to a person who requests visitation with the minor children is in the best interests of each child. The court may place conditions and restrictions on visitation

rights. Visitation rights are not based on support orders and do not create parental rights in the person who is granted visitation rights.

Visitation rights are normally addressed in connection with child support and custody proceedings; however, in a situation where a parent is granted sole physical custody of a child and other family members would like visitation but are being denied that right by the custodial parent, any person with a significant interest in the children's well-being is able to file their own complaint with the court with the hope of establishing visitation rights.

For example, grandparents may want visitation rights. In such cases the court may grant visitation to the grandparents; however, that does not in any way create physical or legal custody. The grandparents would only have the right to visit with the children.

### **11. Parents' Obligation for Support of Minor Children.**

At the time a marriage is dissolved or annulled, the court will also look at the need for child support payments for minor children. Many times, couples who are ending their marriage will have already discussed how to financially support their minor children. If the parents can work out such an agreement the court may accept it and make it a judgment of the court. However, in cases where there is no agreement as to future financial support of the children, the court will take into consideration a variety of factors including whether or not the children are in need of financial support, and if so, will then determine the amount of support to be paid by reviewing the parents' financial affidavits and the Child Support Guidelines.



Each parent must submit a completed financial affidavit to the court for review. Financial affidavit forms are available at the Court Clerk's office or by visiting <http://www.mptnlaw.com/TribalCourtForms.htm>.

***Pursuant to tribal law, the Mashantucket Pequot Tribal Court looks to the State of Connecticut Child Support and Arrearage Guidelines. See 6 M.P.T.L. ch. 6 § 4c.***

***You may request a copy of the guidelines at the Court Clerk's office, or see them at:***

<https://www.jud.ct.gov/Publications/ChildSupport/CSguidelines.pdf>



## LEGAL COUNSEL FOR MINOR CHILDREN

12. If the court deems it to be in the best interests of the children, the court may appoint legal counsel for any minor children at any time during a divorce, annulment or child custody matter. See 6 M.P.T.L. ch. 5 § 2. The court may appoint legal counsel upon its own motion, at the request of either party, upon recommendation of the Mashantucket Pequot Child Protective Services Department, or at the request of a child of sufficient age. The reasonable fees of the appointed attorney shall be paid by one or both of the parties, as the court directs. **Remember, funds may be available to you - please see page iv at the beginning of this Guidebook.**

## PRE-TRIAL CONFERENCE

13. While your case is pending either party may request a pre-trial conference before a Judge who will not be hearing your case at the time of trial. If you feel that a pre-trial will be beneficial in narrowing the issues and perhaps resolving the issues, please contact the Court Clerk at 860-396-6115 and your matter will be set down for a pre-trial conference. Within certain limits, the court will attempt to schedule pre-trials around your work schedule.

## PREPARE FOR THE FINAL HEARING (TRIAL)

14. Between the date of filing for a divorce and the final hearing, you and your spouse may come to an agreement on all issues of your marriage, i.e., custody, support, alimony, division of assets, responsibility for bills, etc. If so, you may prepare a stipulation for filing with the Tribal Court so that your matter may proceed uncontested with only a hearing before the Judge. (See sample stipulation at page 29.)

The better practice is to write out your agreement and to have both parties sign it. At the hearing it is necessary for one party to appear and give testimony and confirm the allegations of the complaint. If your agreement provides for post-majority education expenses, it must be in writing.

("Post-majority education" means higher education after a child has reached age 18, including colleges, universities and technical schools.)

If you cannot come to an agreement on all issues, you should nevertheless make a list of those issues that you and your spouse do agree upon and identify what issues remain for the trial and decision by the Judge. The court will schedule a final hearing/trial and notify you of the date. The hearing/trial will be closed to the public. Both parties will provide the Judge with information and documentation regarding all of the issues relevant to the case. At trial, the parties may testify, present witnesses including expert witnesses, and offer any other evidence that the court deems properly admitted. The Judge will then make a decision based on the evidence presented at trial by entering an order addressing:

- How to divide property,
- Whether alimony will be ordered,
- Custody of the children, and
- Child support and visitation

## **PAYMENT OF ATTORNEY'S FEES**

15. If one of the parties files a complaint seeking financial assistance, the court may order either spouse/party to pay reasonable attorney's fees of the other, taking into consideration the paying spouse/party's financial ability to pay. See 6 M.P.T.L. ch. 11 § 2.

*The Mashantucket Tribe finds that there is no resource more vital to its continued existence and integrity than its children (5 M.P.T.L. ch. 1 § 1).*

*Parents of minor children, whether married or not, are encouraged to consider the children's cultural identity and heritage when coming to a written agreement as to visitation, care, custody and support of the children.*

## **POST-JUDGMENT ORDERS - MODIFICATION OF ALIMONY, SUPPORT ORDERS & JUDGMENTS**

Family dynamics and situations change with the passage of time. A party paying child support may come on hard times, or the other party may get a promotion and raise. Children reach adulthood. A party who is bound by orders to provide financial assistance may make an application to the Tribal Court to review the situation and make adjustments, which adjustments will be subject to the Tribal Court's discretion and the terms of the original order.



If this situation applies to you, you must:

1. Complete a Family Relations Application for Modification of Judgment and file it with the Court Clerk.
2. If you seek changes in the amount of support orders, you must also complete a Financial Affidavit and file it with the Court Clerk.

Both forms are available at the Court Clerk's office or by visiting <http://www.mptnlaw.com/TribalCourtForms.htm>.



**There is a \$75.00 filing fee to file for this application.**

You must serve your ex-spouse in the same manner as starting a dissolution of marriage. Please refer to the notice requirements on pages 8-9. While you are waiting for a hearing date and time, you can expedite the process by completing a Financial Affidavit.

Both the Application for Modification and Financial Affidavit are available at the Clerk's office or by visiting <http://www.mptnlaw.com/TribalCourtForms.htm>.

For more information, please consult 6 M.P.T.L. ch. 6 § 5.

## **CHILD CUSTODY & CHILD SUPPORT FOR PARENTS WHO ARE NOT MARRIED INCLUDING PATERNITY PROCEEDINGS**

### **IMPORTANT**

**To pursue a paternity action in the Tribal Court, the putative father must be a member of the Mashantucket Pequot Tribe. 6 M.P.T.L. ch. 7 § 1.**

Unmarried parents with children who have ended their relationship may establish paternity, custody and support of the children born during their relationship. Before a court addresses issues of custody and support, paternity must be established. Unlike married couples, there is no presumption of paternity. In many cases the father will acknowledge paternity of the children born during the relationship. The following information addresses cases where paternity is not disputed and cases where paternity is disputed.

You will need four forms:



1. The Paternity Complaint and Motion for Custody, Support & Visitation form;
2. The Family Court Summons form;
3. The Acknowledgment of Paternity by Father form; and
4. The Affirmation of Paternity by Mother form.

These forms are available at the Court Clerk's Office or by visiting <http://www.mptnlaw.com/TribalCourtForms.htm>



**There is a \$125.00 filing fee to bring a paternity/support case.**

### **PROCEDURE**

1. First, you must fill out a Paternity Complaint & Motion for Custody, Support & Visitation along with a Family Court Summons alleging that the person named therein is the father of the children (referred to as the "putative father."). This is a petition to the court to issue an Order of Paternity. Only those having an interest in the matter (mother and putative father) or the Tribal Prosecutor in the name of the Tribe may file the complaint. The respondent must be served with this complaint. Then you bring the Paternity Complaint and the Family Court Summons form to the Clerk of the Tribal Court. At this time you must pay the filing fee of \$125.00 to the Clerk of the Court to start your action. The Clerk will assign a docket number and write the docket number on both the Paternity Complaint and the Family Court Summons.

2. The Clerk will then sign the summons and return it to you. You must then have the complaint and the summons served on the defendant. **This is your responsibility.** If the defendant resides (or works) within the Mashantucket Pequot Reservation, the Tribal Police Department will make service for you.

3. If the defendant neither resides nor works within the Mashantucket Pequot Reservation, you must arrange service by a State Marshal or a process server within the county where the defendant resides or works. The court prefers personal service whereby the defendant is delivered the papers personally. This is called "in-hand service." The Mashantucket Pequot Rules of Civil Procedure do provide other methods of service if in-hand service on the defendant cannot be made. If that service cannot be accomplished, then you may file a motion which must state why service as prescribed above cannot be made with due diligence, and request that the court order service at the defendant's dwelling house or usual place of abode or that service be made by mail, registered or certified, return receipt requested, postage prepaid, to the defendant's last known address. If registered or certified mail is ordered by the court, you must file with the court the return receipt and an affidavit by the person effecting service attesting that service was made, the person on whom it was made, and the manner in which service was made, including the date and time of service and the fees of such service, if any (see page 2 of Family Court Summons). If the whereabouts of the defendant are unknown, the court may order service by publication.

For help in finding a State Marshal or process server please see the Useful Resources page at the end of this guidebook.

## **IF YOU HAVE BEEN SERVED WITH A COMPLAINT**

4. If you have been served with a paternity complaint and papers seeking support orders, the first thing you should do is to determine whether you want to retain an attorney to represent you.



If you desire to represent yourself without an attorney, you must file an appearance form, which tells the court that you are representing yourself. The appearance form is available at <http://www.mptnlaw.com/TribalCourtForms.htm> and at the Court Clerk's Office. Once you file an appearance with the Court Clerk, you will receive court calendar notices and copies of papers filed in your case.

5. After filing an appearance or retaining a lawyer, your next step is to determine how you wish to respond to the complaint.

**WHEN PATERNITY IS NOT DISPUTED**

**In Cases Where Paternity IS NOT Disputed:** If there is no dispute between the mother and the father as to the paternity of the child, please follow these steps to acknowledge paternity:



**Step One** - Father must complete and sign the Acknowledgment of Paternity by Father, Waiver of Hearing & Right to Attorney form and file it with the Court Clerk. This form is available at <http://www.mptnlaw.com/TribalCourtForms.htm> and at the Court Clerk's office.



**Step Two** - Mother must complete and sign the Affirmation of Paternity by Mother form and file it with the Court Clerk. This form is available at the Court Clerk's office or at <http://www.mptnlaw.com/TribalCourtForms.htm>.

**WHEN PATERNITY IS DISPUTED**

**6. In Cases Where Paternity IS Disputed:** If there is a dispute as to the paternity of the child, the court will address paternity in a hearing closed to the public, and only those with an interest in the matter may appear. At the hearing, testimony will be given from both parties concerning only the paternity.

7. Upon hearing, a blood/DNA test may be ordered to determine paternity. This may also be done at the request of either party. These results may be admitted into evidence. The cost of the test is the responsibility of the person(s) requesting the testing. Once the results are submitted, the court will take such results and issue an Order of Paternity or, in the event the putative father is determined not to be the biological father, dismiss the matter. In lieu of or in conclusion of a paternity proceeding, the written acknowledgement of paternity executed by the putative father waives the right to counsel and hearing, and the court will issue an Order of Paternity.

A putative father may acknowledge paternity with the consent of the mother, in which case the acknowledgement of paternity shall have the same force and effect of a judgment of the court. The Acknowledgment of Paternity by Father form is described at the top of this page.

8. At the conclusion of the paternity proceeding, or with the filing of an Acknowledgment of Paternity, the court may issue a custody order and an order to support the minor children. Wage executions (if applicable) may be issued. The support amounts will be determined upon review of the financial affidavits and completion of a child support worksheet incorporating the support guidelines.

*Pursuant to tribal law, the Mashantucket Pequot Tribal Court looks to the State of Connecticut Child Support and Arrearage Guidelines. See 6 M.P.T.L. ch. 6 § 4c.*

*You may request a copy of the guidelines at the Court Clerk's office, or see them at:*

<https://www.jud.ct.gov/Publications/ChildSupport/CSguidelines.pdf>

## **WHEN PARENTS AGREE ON TERMS OF CUSTODY, CHILD SUPPORT, AND/OR VISITATION**

You may have reached an agreement on the terms of paternity, child custody, child support and visitation. Once the parties have reached a written agreement, a copy of such an agreement must be filed with the Tribal Court.

Prior to approval by the Tribal Court, a Judge may inquire into several aspects of the agreement, such as:

- An acknowledgment of paternity,
- Specific terms of the agreement,
- Whether both parties acted voluntarily and freely,
- Whether each party had an opportunity to consult an attorney, and
- Any other questions either party might have.

The Judge may enter an order regarding the care and support of the children if he or she determines that the agreement presented to the court is in the best interests of the children.

## **WHEN PARENTS DO NOT AGREE ON TERMS OF CUSTODY, CHILD SUPPORT AND/OR VISITATION**

If the parents cannot reach an agreement then the court will proceed as follows:

1. The court will schedule a pre-trial conference, then
2. The court will schedule a hearing/trial.

**Pre-Trial Conference.** At least one week before the hearing the court will hold a pre-trial conference before a Judge who will not be hearing your case at the time of the final hearing/trial. During this pre-trial conference the Judge and the parents will discuss:

- The possibility of a settlement,
- Simplification of the issues, and
- Any witnesses or documents that relate to custody, child support and/or visitation.

**Final Hearing/Trial.** If the parents do not reach a settlement at the pre-trial conference, a closed hearing/trial will be scheduled. Both parents will provide the Judge with information and documentation regarding all of the issues relevant to the case.

Prior to the final hearing/trial, the court will hold hearings to resolve any motions, if needed. The final hearing/trial is to resolve the entire matter.

At the trial the parents may testify, present witnesses including expert witnesses, and offer any other evidence to support their argument.

Following the final hearing/trial, the Judge will make a decision based on the evidence presented at trial and enter orders addressing custody, child support and visitation.

For more information, please consult 6 M.P.T.L. ch. 7.



## EMANCIPATION

Any minor child who has reached age 16, or his or her parent or guardian, may petition the Tribal Court for a determination that the child be emancipated.



1. The Petition for Emancipation must be completed and filed with the Court Clerk.
2. If a parent does not object to the emancipation, and does not want to appear at the hearing, the parent may complete and file a Parent Waiver of Appearance form with the Court Clerk.

Both forms are available in the Court Clerk's office and we are currently working on online forms.



**There is no filing fee for this kind of action.**

1. A hearing will be held within 30 days after filing the petition. The Tribal Court shall provide a notice of the hearing to the minor child, the parents and/or guardians, or any other person whom the court deems appropriate.
2. This notice and a copy of the petition must be served by the applicant upon the minor child, the parents or guardians, or any other person the court has deemed to be appropriate. Service must be personal, in-hand service, unless otherwise ordered by the court.
3. **It is the responsibility of the filing party (applicant) to arrange for service of the Petition for Emancipation on the appropriate persons.** The Tribal Police Department will assist you in serving the notice provided the persons you must serve reside or work on the Mashantucket Pequot Reservation. You may also retain the services of a State Marshal to make such service. For help in finding a State Marshal or process server please see the Useful Resources page at the end of this guidebook.
4. Notice and appearance must be waived by a parent or guardian in writing before the court.
5. At the hearing, any party to whom notice was given has the right to appear and be heard. If the parent or guardian has signed the waiver and notice, their presence at the hearing is optional. After entering a judgment at the hearing, or during the pendency of the petition if reasonable cause exists, the Tribal Court may request the Health and Human Services Department to make an investigation and submit a written report to the court within 45 days.
6. The Tribal Court will make written findings regarding whether emancipation would be in the best interests of the child. If emancipation is granted, such order shall render the child free of control by his parents or guardians, and shall have other legal effects as described in 6 M.P.T.L. ch. 8 § 4.

For more information, please consult 6 M.P.T.L. ch. 8.

## RECOGNITION AND ENFORCEMENT OF FOREIGN SUPPORT JUDGMENTS

***FIRST:*** *There are two methods of obtaining foreign support orders from the Tribal Court - your first task is to determine which method fits your situation.*

A - I have a support order from a different court and the person responsible for payment works for the Mashantucket Pequot Tribe or at another location on the reservation and I do not want to modify the amount ordered.

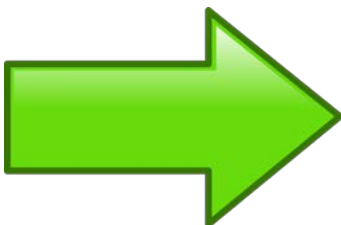
B - I have a support order from a different court and the person responsible for payment works for the Mashantucket Pequot Tribe or at another location on the reservation and I do want to modify the amount ordered.

**1. Situation A - I have a support order from a different court and the person responsible for payment works for the Mashantucket Pequot Tribe, the Foxwoods casino, or at another location on the Mashantucket Pequot Reservation, and I simply want to have wages garnished pursuant to the orders.**

In this situation, if you are **only** seeking a wage execution for a foreign support judgment or order, you may file such judgment or order with the Department of Finance of the responsible person's employer on the reservation without filing the judgment in the Tribal Court. The employer will withhold support payments in accordance with tribal guidelines and distribute the funds to you. For more information, please consult 6 M.P.T.L. ch. 9.

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**2. Situation B - I have a support order from a different court and the person responsible for payment works for the Mashantucket Pequot Tribe, the Foxwoods casino, or at another location on the Mashantucket Pequot Reservation, and I also request that the ordered amount be modified.**



In this situation, you must **turn to the next page** and follow the steps to bring an **Application for Registration of Foreign Judgment** action in the Tribal Court.

## **TO BRING AN ACTION FOR RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENT IN THE MASHANTUCKET PEQUOT TRIBAL COURT**

Review Title 23 of the Mashantucket Pequot laws and the required forms.



Three forms are required to bring a foreign judgment action in the Tribal Court:

1. Foreign Judgment Summons;
2. Application for Registration of Foreign Judgment; and
3. Motion to Open and Modify Judgment

These forms are available on <http://www.mptnlaw.com/TribalCourtForms.htm> and in the Court Clerk's office.



**There is a \$50.00 filing fee for this type of case.**



### **IMPORTANT!**

**You must also obtain a certified copy of the orders from the Clerk's Office of the court that issued them.**

1. Complete the forms and attach the certified copy of your state court orders to the Application for Registration of Foreign Judgment.

2. **It is the responsibility of the filing party (applicant) to arrange for service of the foreign judgment papers on the person responsible for paying support orders.** The court prefers in-hand, personal service. If the person you seek support from lives or works on the Mashantucket Pequot Reservation, the Mashantucket Tribal Police will serve the papers for you. If the person is off the reservation, you must retain the services of a State Marshal or other process server to make such service. For help in finding a State Marshal or process server please see the Useful Resources page at the end of this guidebook.

3. After service has been made on the respondent, the court will conduct a hearing on your requested relief. At that time, you will be asked questions concerning the nature of the foreign support order/judgment and what type of modifications you are seeking. If the respondent does not appear after service of the notice of hearing, an additional hearing will be held in order to allow proper time for notice to the respondent.

For more information, please consult Title 23 of the Mashantucket Pequot Tribal Laws and read the foreign judgment forms.

## CHANGE OF NAME



If you wish to change your name for any reason other than avoiding criminal prosecution or debt, OR if you seek to change your child's name, there is a simple form to fill out and file with the Clerk's Office.



There is no fee to file for a change of name.

As you will see, the form asks for basic information about the individual seeking the change of name. Once completed, signed and filed, the Clerk's Office will contact you with a court date. The Court Clerk will publish notice of your application to the general membership of the Tribe on [pequotathome.com](http://pequotathome.com) and request the Tribal Council Secretary to mail a notice to tribal members that a petition for a change of name has been filed (6 M.P.T.L. ch. 10 § 4).

When you appear for the hearing, the Judge will administer an oath, requesting that you swear to tell the truth as to the reasons for the name change.

Once satisfied, the Judge will issue a Decree of Change of Name. You will be provided ample certified copies to use in notifying the proper agencies, such as the Social Security Administration, Department of Motor Vehicle, Registrar of Voters, Registrar of Vital Statistics and the like. **Notifying these agencies will be your responsibility as court staff are not permitted to do so.**

There is no filing fee for a change of name, nor are there fees for certified copies of the decree.

For more information, please see 6 M.P.T.L. ch. 10.

## **MISCELLANEOUS**

**Forms.** All forms are available at the Court Clerk's office. Most forms are also available at <http://www.mptnlaw.com/TribalCourtForms.htm>.

**Right of Appeal.** Decisions of the Tribal Court may be appealed to the Mashantucket Pequot Court of Appeals in accordance with the rules governing the Court of Appeals. For more information, please consult the Mashantucket Pequot Rules of Appellate Procedure.

**Application of Law.** All actions brought under the Mashantucket Pequot Family Relations Laws shall be determined by the Tribal Court in accordance with tribal law. The court may be guided, but not bound by, the principles of law applicable to similar claims arising under the laws of the State of Connecticut, of other tribal courts, or of the United States.



## ***COMMON WORDS IN FAMILY RELATIONS PROCEEDINGS***

Family relations proceedings involve complex laws and procedures. If you are in a family relations proceeding, here are some words defined for your reference:

"Alimony" is money a court requires one spouse to pay the other spouse for support before and/or after the divorce is granted. **If you do not ask for alimony at the final hearing, you can never get it in the future.**

"Answer" means a paper filed by the defendant in response to the complaint, informing the court whether the defendant agrees with or denies each of the allegations of the complaint.

"Appearance" is a form by which you notify the court that you are representing yourself, and gives the court your contact information so that you can receive notices of court dates.

"Applicant" is the party applying for something from the court (for example, restraining order, name change).

"Annulment" means a court order declaring that the marriage is invalid.

"Arrearages" means money owed for court-ordered alimony and/or child support which is overdue and unpaid.

"Broken Down Irretrievably" is a reason for granting a divorce. It means there is no hope of getting back together. The Tribal Court will issue a decree of dissolution of marriage upon a finding that the marriage has broken down irretrievably. See M.P.T.L. ch. 4 for more details.

"Child" means any unmarried person who is under the age of 18 years and is either (1) a member of the Mashantucket Pequot Tribe or (2) eligible for membership in the Tribe and is the biological child of a member of the Tribe.

"Child Support" means money paid by a parent to help meet the financial needs of a child.

"Complaint" means the legal document that starts a case and tells the court what the plaintiff wants.

"Custody" means a court order deciding where a child will live and how decisions about the child will be made. Parents may ask for any custody arrangement that they believe is in the best interests of their child.

"Defendant" means the person who is served with papers to start a family relations action.

"Dependent" means a spouse, former spouse, or child entitled to payments under a judgment or support order.

"Dissolution/Divorce" means the legal end of a marriage by the court.

"Docket number" is the number assigned to a case by the Clerk of the Court. This number must be used on all papers filed in the court case.

"Family or Household Member" means: (A) spouses, former spouses; (B) parents and their children; (C) persons eighteen years of age or older related by blood or marriage; (D) persons sixteen years of age or older other than those persons in subparagraph (C) presently residing together or who have resided together; (E) persons who have a child in common regardless of whether they are or have been married or have lived together at any time; and (F) persons in, or have recently been in, a dating relationship.

"Filing" means giving the Clerk your legal papers.

"Financial Affidavit" means a statement of income, expenses, property (called assets) and debts (called liabilities) made under oath.

"Foreign Support Order" means any judgment, decree or order of a court of competent jurisdiction of any state or federally recognized Indian tribe in any family relations matter involving the paternity, custody, care, education, visitation, maintenance, support of a child or dependent, or the disposition of property of the parties to an existing or terminated marriage, in which both parties have entered an appearance.

"Household Member" means - see "Family or Household Member" above.

"Income" means any periodic form of payment due to an individual from any source, including, but not limited to, earnings, worker's compensation and disability benefits, or payments pursuant to a pension or retirement program.

"Income Withholding Order" means an order or other legal process directed to an obligor's employer or payer to withhold support from the income of the obligor.

"Issuing Court" means the court which issues an income withholding order or renders a judgment determining paternity.

"Judgment File" means a permanent court record of the court's final decision.

"Legal Separation" means a court order describing the conditions under which two people still joined by marriage will live separately. The Mashantucket Pequot Tribal Laws do not provide for legal separation. If you and your spouse desire a legal separation for religious or financial reasons, application should be made in the state where you reside.

"No-Fault Divorce" is a type of divorce where neither party needs to prove that the other party caused the marriage to end.

"Obligor" means an individual, or the estate of a decedent, who owes a duty of support and is required to make payments under a judgment or support order.

"Parent" means a biological or adoptive mother or father, including an unwed father whose paternity has been acknowledged or established in accordance with tribal law or custom.

"Party" means a person named as a plaintiff, defendant, applicant or respondent.

"Paternity" means legal fatherhood.

"Pendente Lite Order" means a court order made before a divorce is granted; motions filed while the action is pending.

"Plaintiff" means the person who brings a family relations action.

"Post-majority education" means higher education after a child has reached age 18, including college, trade schools and prep schools.

"Pro Se" means for yourself, or a self-represented party.

"Pro Se Divorce" means a do-it-yourself divorce.

"Process Server" means a person with no interest in your case who serves legal documents such as summons, applications, notices and subpoenas.

"Putative Father" means a man who is alleged to be, or claims to be, the father of a child, but biological proof has not yet been established.

"Respondent" is the party responding to an application (for example, the putative father in an application for paternity is the respondent).

"Restraining Order," formally known as an Order for Relief From Abuse, is a court order to protect someone from physical abuse or the threat of physical abuse.

"Service" means the legal method of having your spouse, the parent of children for whom you seek support, or any other party in a family relations matter given a copy of the court papers being filed, or of the notice that court action is being taken or has been taken.

Service can be made by:

- A Tribal Police Officer within the Mashantucket Pequot Reservation;
- A marshal or deputy within the marshal's county;
- Another person authorized by tribal law;
- A person specially appointed by the court for that purpose; or
- Any other method permitted or required by Rule 4 of the Mashantucket Pequot Rules of Civil Procedure or by tribal law.

"Spouse" means either person in a marriage.

"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States.



"Support" means monetary support, health care, arrearages, or reimbursement and may include related costs and fees, interest, attorney's fees, and other relief for the benefit of a child.

"Support order" means a court order, judgment, or decree, including an agreement approved by the court, that requires payment to a child or dependent from the income of the obligor.

"Tribal Court" means the Mashantucket Pequot Tribal Court.

"Tribe" means the Mashantucket Pequot Tribe, a federally recognized Tribe.

"Visitation" means a court order deciding the amount of time a parent who does not have custody of a child may spend with his or her child; also called parenting time or access.

**SAMPLE - STIPULATION CHECK LIST**

- 1. The marriage has broken down irretrievably: \_\_\_\_ Yes \_\_\_\_ No
- 2. Alimony in the amount of \$\_\_\_\_\_ per \_\_\_\_\_ payable to  
\_\_\_\_\_
- 3. Child support in the amount of \$\_\_\_\_\_ per \_\_\_\_\_ payable to  
\_\_\_\_\_
- 4. Medical care and expenses: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 5. Insurance coverage for \_\_\_\_ child/ren \_\_\_\_ ex-spouse: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 6. Life insurance: \_\_\_\_\_  
\_\_\_\_\_
- 7. Marital home possession goes to \_\_\_\_\_
- 8. Personal property, including but not limited to automobiles and bank accounts, has been divided to the parties' satisfaction. List specifics:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 9. Custody: \_\_\_\_ Joint  
(Pursuant to 6 M.P.T.L. ch. 4 § 11.b, joint custody is favored)  
\_\_\_\_ Legal  
\_\_\_\_ Sole custody with reasonable rights of visitation  
\_\_\_\_ Split/shared physical custody

10. Allocation of debts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Return of maiden name: \_\_\_Yes \_\_\_No \_\_\_Not applicable

12. Other terms of settlement sought: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed \_\_\_\_\_ Signed \_\_\_\_\_

Dated \_\_\_\_\_ Dated \_\_\_\_\_

## ***USEFUL RESOURCES***

### **TRIBAL MEMBER FINANCIAL ASSISTANCE PROGRAM LEGAL FUND FOR CHILD CUSTODY (AND PROBATE) ISSUES:**

Contact the Tribal Member Services Coordinator in the Chief of Staff's Office.

### **FOR A LIST OF ATTORNEYS WHO PRACTICE BEFORE THE TRIBAL COURT:**

Please call the Mashantucket Pequot Tribal Court at 860-396-6156.

### **TO ARRANGE SERVICE:**

- A. To contact the Mashantucket Pequot Tribal Police to arrange for service on someone living or working within the Mashantucket Pequot Reservation boundaries, please visit the Tribal Police Department at the Public Safety Complex, or call Dispatch at 860-396-6662.
- B. To arrange for service on someone living or working in the State of Connecticut, you must locate a Connecticut State Marshal. To do this, visit the State of Connecticut judicial website's directory of State Marshals at:

<https://www.jud.ct.gov/fag/marshals.htm>

Click on the county in which the person being served lives or works, then call a marshal from the list. It is generally a good idea to contact a marshal in the same town or a town nearby the location of the person you wish to serve.

- C. To arrange for service on someone living or working in the State of Rhode Island, you must contact the Rhode Island State Sheriff's Office at:

670 New London Avenue  
Cranston, RI 02920  
401-275-2900

- D. To arrange for service on someone living or working outside the jurisdictions of Mashantucket, Connecticut or Rhode Island, you will need to locate a process server in the location where that person resides or works. Most process servers advertise on the internet. You can also visit the law library at the New London Superior Court at 70 Huntington Street and ask to see the Martindale-Hubbell volume. Process servers nationwide pay to list their phone numbers in it.

### **CHILD SUPPORT GUIDELINES:**

The child support guidelines upon which the Mashantucket Pequot Tribal Court relies are published at:

<https://www.jud.ct.gov/Publications/ChildSupport/CSguidelines.pdf>