

CHAPTER 15

STOCKBRIDGE-MUNSEE TRIBAL LAW CUSTODY, PHYSICAL PLACEMENT AND VISITATION ORDINANCE

Section 15.1 Policy and Purpose

- (A) It is the policy of the Stockbridge-Munsee Community to have fair and equitable legal custody, physical placement and visitation orders based on the facts surrounding each case and the best interest of the child.
- (B) The purpose of this Ordinance is to establish a system and standards for the Court to use when creating and modifying legal custody, physical placement and visitation orders in cases where the Indian Child Welfare Act does not apply. This Ordinance can be used for actions between parents in relation to children born either as part of a marriage or outside of marriage.

Section 15.2 Definitions

- (A) Unless otherwise defined in this Ordinance, the terms shall have the same definitions as under Chapter 7 of the Youth Code. Any terms not defined either under this Ordinance or in Chapter 7 are used in their ordinary and everyday sense.
- (B) “Best interest of the child” means the interest of a child to:
- (1) have a full, meaningful, respectful, and loving relationship with both parents and family;
 - (2) be free from physical, verbal, sexual, and emotional abuse;
 - (3) receive appropriate medical care;
 - (4) receive appropriate education;
 - (5) be raised in conditions which maximize the chances of the child becoming a contributing member of society; and
 - (6) be raised in an environment that is respectful of the child’s culture(s) and heritage(s).
- (C) “Child” or “Children” means a person(s) under the age of eighteen (18).

- (D) “Domestic abuse” means the infliction of physical, sexual or emotional injury, or the creation of a reasonable fear that physical or sexual injury will be inflicted, by a parent or a member or former member of a child’s household, against a child or another member of the household.

(E) “Legal custody” means the authority to make major decisions on a child’s behalf, including decisions about education, spirituality and healthcare.

(1) “Joint legal custody” means more than one person has the authority to make major decisions on a child’s behalf.

(2) “Sole legal custody” means only one person has legal custody and the authority to make major decisions on a child’s behalf.

(F) “Major decisions” means decisions regarding consent to marry, consent to enter military service, consent to obtain a motor vehicle operator’s license, authorization for nonemergency health care, choice of school, choice of religion and/or other similar activities.

(G) “Parent” means the biological or adoptive parent of either a marital or a non-marital child, but does not include persons whose parental rights have been terminated.

(H) “Physical placement” means the condition under which a person has the right to have a child physically placed with that person and has the right and responsibility to make, during that placement, routine daily decisions regarding the child’s care, consistent with major decisions made by a person having legal custody.

(I) “Visitation” means the right to have reasonable visits with a child.

Section 15.3 Court Authority in Custody, Physical Placement and Visitation Actions

(A) When it is necessary to determine the legal custody, physical placement, and/or visitation of a child, the Court shall make such provisions as it deems just and reasonable in accordance with this Ordinance and other applicable laws. Other laws containing causes of actions relating to custody matters include the Youth in Need of Care Ordinance (Chapter 8), Guardianship (Chapter 9), and Dissolution of Marriage (Chapter 62).

(B) If legal custody and physical placement are uncontested, the parties may submit a voluntary agreement as to the legal custody and physical placement of the child to the Court. The Court shall approve the agreement if it is in the best interest of the child.

(C) The Court shall work cooperatively to coordinate with other Tribal and State courts when there is a request to transfer of an action into or out of the Court and/or there are simultaneous proceedings in another court. Such coordination with Wisconsin courts shall be consistent with Section 801.54, Wis. Stat., regarding “Discretionary transfer of civil actions to tribal court.”

Section 15.4 Jurisdiction

(A) The Court has jurisdiction over custody, physical placement and visitation actions for marital or non-marital children under this Ordinance when one or more of the following applies:

- (1) one or more parties or the child is an enrolled member or eligible for enrollment as a member of the Stockbridge-Munsee Community;
- (2) one or more of the parties or the child resides or is domiciled within lands under the jurisdiction or ownership of the Stockbridge-Munsee Community; or
- (3) the parties consent to the jurisdiction of the Court.

Section 15.5 Commencing a Custody, Physical Placement or Visitation Proceeding

- (A) A proceeding is commenced by a parent filing a petition with the Court to seek custody of a child; seek physical placement of a child; or seek visitation rights to a child.
- (B) A person other than a parent may seek legal custody or physical placement of a child only if:
 - (1) the child is not in the physical custody of one of his or her parents; or
 - (2) the person has a parent-child relationship with the child; or
 - (c) the petition alleges that neither parent is a suitable custodian or placement.
- (C) An adult who is a grandparent, great-grandparent, step-parent, step-grandparent or who has maintained a relationship similar to a grandparent-child or parent-child relationship with the child may file a petition with the Court to seek visitation rights.
- (D) The petition shall identify:
 - (1) the interested parties, including the child's parents, custodian(s) or person(s) who have physical placement, by name and address if known or identify if not known;
 - (2) what rights are sought by the person;
 - (3) why the person is filing the petition at this time;
 - (4) whether the person is aware of any other active cases relating to the custody of the child in this Court or other courts;
 - (5) whether the person is aware of any threats of imminent harm to the health, safety or welfare of the child; and
 - (6) such other information the person believes is appropriate.
- (E) The person filing the petition must serve a copy of the petition on other interested parties, including the child's parent(s), custodian(s) or person(s) who have physical placement.

(F) The Court may, upon a showing of good cause, permit the intervention of other interested parties in the proceeding.

(G) The Stockbridge-Munsee Community normally is not a party to the private actions brought under this Ordinance, but may file a request to intervene at any point in the proceedings if it believes that a child is a youth in need of care in accordance with tribal law.

Section 15.6 Appointment of a Guardian ad Litem

(A) When the Court determines it appropriate:

(1) A guardian ad litem will be appointed in any case when the Court has special concern for the welfare of a child or when the Court believes a report will assist it with making a determination on the issues that is in the best interests of the child.

(2) A guardian ad litem will likely be appointed in any contested custody or placement case.

(3) A guardian ad litem often will not be appointed when an action is uncontested and in actions to modify existing orders when the modification will not substantially alter the amount of time that a parent spends with a child or other terms of the order.

(4) A party to an action may request that the Court appoint a guardian ad litem; however, the Court is not required to appoint a guardian ad litem if the Court believes that the party has requested the appointment solely for a tactical purpose or for the sole purpose of delay, and not for a purpose that is in the best interest of the child.

(B) The guardian ad litem has none of the rights or duties of a general guardian. The guardian ad litem shall be responsible to:

(1) be an advocate for the best interests of a child;

(2) consider, but shall not be bound by, the wishes of the child or the positions of others as to the best interests of the child; and

(3) investigate the issues and provide a written report with related recommendations to the Court.

(C) If the child is a non-marital child whose paternity has not been established, the guardian ad litem may, on the behalf of the child, bring an action or motion under applicable law to have paternity established.

(D) The guardian ad litem shall be compensated at a rate that the Court determines is reasonable, to be paid by the parties.

- (1) The Court may apportion the amount that each party shall pay or assess the cost equally between the parties.
- (2) If both parties show that they are indigent and the Court has budgeted funds for the payment of guardian ad litem services, the Court may direct that such costs be paid out of such budgeted funds.

(E) Any person who serves as a guardian ad litem for a juvenile must have and maintain an Elder/Youth license in accordance with tribal law.

Section 15.7 Temporary Custody and/or Placement Orders

(A) When the Court believes immediate action is in the best interests of the child, the Court may make temporary custody and/or placement orders without an immediate hearing. However, in such instances, a hearing must be held as soon as practicable thereafter, but not later than fifteen (15) days after the issuance of the temporary order.

(B) Notice of motion for a temporary order may be served when the action is commenced, or any time after, and shall be accompanied by an affidavit stating the basis for the request for relief and, when appropriate, an explanation of the need for immediate action.

(C) The Court will schedule a hearing on such temporary orders as soon as reasonably possible, but not later than twenty (20) days after the motion is filed.

Section 15.8 Court Proceedings

(A) The initial hearing in actions filed under this Ordinance shall normally be held within thirty (30) days of a petition being filed.

(B) Parties, whether seeking sole or joint legal custody or periods of physical placement, shall file a parenting plan with the Court within thirty (30) days of the initial hearing or such other timeframe as determined by the Court.

(1) Except for cause shown, if a party fails to timely file a required parenting plan that party waives the right to object to the other party's parenting plan.

(2) A parenting plan shall provide information about the following questions:

(a) What legal custody or physical placement the party is seeking.

(b) Where the party lives currently and where the parent intends to live during the next two (2) years. If there is evidence of domestic abuse, the party is not required to disclose the specific address but only a general description of where he or she currently lives and intends to live during the next two (2) years.

- (c) Where the party works and the hours of employment. If there is evidence of domestic abuse, the party is not required to disclose the specific address but only a general description of where he or she works.
- (d) Who will provide any necessary child care when the parent cannot and who will pay for the child care.
- (e) Where the child will go to school.
- (f) What doctor or health care facility will provide medical care for the child.
- (g) How the child's medical expenses will be paid.
- (h) What the child's religious commitment will be, if any.
- (i) Who will make decisions about the child's education, medical care, choice of child care providers and extracurricular activities.
- (j) How the holidays will be divided.
- (k) What the child's summer schedule will be.
- (l) Whether and how the child will be able to contact the other parties when the child has physical placement with the party providing the parenting plan.
- (m) How the party proposes to resolve disagreements related to matters over which the court orders joint decision making.
- (n) What child support, family support, maintenance or other income transfer there will be.
- (o) If there is evidence of domestic abuse, how the child will be transferred between the parties for the exercise of physical placement to ensure the safety of the child and the parties.

(C) The Court will schedule such hearings as are necessary and appropriate. Proceedings shall be conducted in an expeditious manner and in accordance with tribal law and the Court's Rules of Procedure.

(D) If a guardian ad litem is appointed for a child, the Court shall schedule a status hearing approximately thirty (30) days, or sooner if practical, after appointment in order to receive an update on the actions taken and work performed by the guardian ad litem in the matter.

(E) The Court may refer the parties to peacemaking. The Court shall not refer the parties to peacemaking if attending the session will cause undue hardship or would endanger the health or safety of either party.

Section 15.9 Custody and Physical Placement Determinations

(A) In determining legal custody and periods of physical placement, the Court shall consider all facts relevant to the best interest of the child. The Court may not prefer one potential custodian over another on the basis of the sex or race of the custodian. The Court may consider tribal custom and tradition as part of the determination of what is in the best interest of a child.

(B) Legal Custody.

(1) It is the rebuttable presumption of the Court that joint legal custody by the parents is in the best interest of the child. However, the Court will only give joint legal custody if it determines doing so is in the child's best interest and the following applies:

- (a) Both parties agree to joint legal custody; or
- (b) One party requests joint legal custody or both parties request sole legal custody, and the Court determines all of the following:
 - (i) Both parties are capable of performing parental duties and responsibilities and wish to have an active role in raising the child.
 - (ii) No conditions exist at the time which would substantially interfere with the exercise of joint legal custody.
 - (iii) The parties will be able to cooperate in the future decision making required under an award of joint legal custody.

(2) An opposing party may rebut a presumption that joint legal custody is in the best interest of the child with a showing by preponderance of the evidence why the parties will not be able to cooperate in decision making. Evidence of domestic abuse creates a rebuttable presumption that the parties will not be able to cooperate.

(3) The Court shall not give sole legal custody to a party who refuses to cooperate with the other party if that refusal to cooperate is unreasonable.

(C) Physical Placement.

(1) A child is entitled to periods of physical placement with both parents unless the Court determines that physical placement with a party would endanger the child's physical, mental or emotional health.

(2) The Court shall allocate periods of physical placement that allow the child to have regularly occurring, meaningful periods of physical placement with each party and that maximizes the amount of time the child may spend with each party, taking into account geographic separation and accommodations for different households.

(3) The Court will not deny physical placement for failure to meet, or grant periods of physical placement for meeting, any financial obligation to the child.

(D) The Court shall consider the following factors in determining legal custody and periods of physical placement:

(1) The wishes of the parties, including the child's parents, or other family members, as shown through testimony or documents submitted to the Court.

(2) The wishes of the child, which may be communicated by the child or through the child's guardian ad litem or other appropriate professional.

(3) The relationship of the child with his or her parent or parents, siblings, and any other person who may significantly affect the child's best interest.

(4) The child's adjustment to the home, school, religion and community.

(5) Whether the mental or physical health of a party, child, or other person living in a proposed custodial household negatively affects the child's well-being.

(6) The availability of public or private child care services.

(7) The cooperation and communication between the parties and whether either party unreasonably refuses to cooperate or communicate with the other party.

(8) Whether there is evidence of domestic abuse.

(9) Whether either party has or had a significant problem with alcohol or drug abuse.

(10) Such other factors as the Court may, in each individual case, determine to be relevant.

(E) If the Court finds that a party has engaged in a pattern or serious incident of domestic abuse, the safety and well-being of the child and the safety of any party who was the victim of the abuse shall be the paramount concerns in determining legal custody and periods of physical placement.

(F) If a party is a member of the National Guard or of a reserve unit of the U.S. armed forces, the Court shall not consider as a factor in determining the legal custody of a child whether he or she has been or may be called to active duty and consequently is, or in the future will be or may be, absent from home.

Section 15.10 Custody and Physical Placement Orders

(A) After considering all relevant testimony and evidence to make its determinations as to legal custody and physical placement, the Court shall issue a written order identifying the party or

parties with legal custody and/or physical placement based on the best interests of the child. This order is not considered a sealed order.

- (1) If the action is contested, the order shall state the Court's determinations as to legal custody and/or physical placement and why they are in the best interest of the child.
- (2) In an order for legal custody, the Court may specify who may make certain major decisions for the child. The Court may give one party sole power to make specified decisions, while both parties retain equal rights and responsibilities for other decisions.
- (3) In an order for joint legal custody and periods of physical placement, the Court may specify one party as the primary caretaker and his or her home as the primary home of the child.
- (4) No party awarded legal custody may take any action inconsistent with any applicable physical placement order, unless the Court expressly authorizes that action.
- (5) In an order of physical placement, the Court shall specify the right of each party to the physical control of the child in sufficient detail to enable a party deprived of that control to request relief for interference with custody or parental rights.
- (6) If the best interests of the child demand it and the Court determines that neither parent is able to care for the child adequately or that neither parent is fit and proper to have the care and custody of the child, the Court may order the legal custody of the child be with a relative of the child or an appropriate governmental entity.
- (7) The Court may order that parties to participate in parenting classes, attend counseling, share medical or medical history information or meet other requirements as are in the best interest of the child. The party ordered to meet such requirements shall be responsible for costs of compliance.

(B) If the Court grants periods of physical placement to more than one party, either or both parties may be granted a reasonable amount of electronic communication at reasonable hours during the other party's periods of physical placement with the child. Electronic communication shall not be used as a substitute for a party's periods of physical placement with the child. If the Court grants electronic communication to a party whose physical placement with the child is supervised, the party's electronic communication with the child shall also be supervised.

(C) If the Court determines that joint custody is inappropriate, then the Court order shall state why the presumption of awarding joint legal custody is rebutted, what evidence rebutted the presumption, and why its determination relating to legal custody and physical placement are in the best interest of the child.

(D) If the Court finds that a party has engaged in a pattern or serious incident of domestic abuse or other activity that endangered the child's physical, mental or emotional health, and the Court awards periods of physical placement to both parties, the Court shall provide for the safety and

well-being of the child and for the safety of the party who was the victim of the abuse, if applicable. This may include:

- (1) requiring supervised exchanges of the child;
- (2) requiring supervised physical placement and/or visitation;
- (3) requiring a party to attend and complete a certified treatment program for batterers and/or alcohol or substance abusers;
- (4) prohibiting a party from being under the influence of alcohol or controlled substances during the exchange of the child or prohibiting a person from possessing or using alcohol or controlled substances during the period of physical placement; or
- (5) ordering any other conditions that the Court determines is necessary for the safety and well-being of the child and the party who was the victim of the abuse, if applicable.

(E) Parental Access to Records.

- (1) Unless otherwise ordered by the Court or except as provided under subsection (2) below, access to a child's medical, dental and school records is available to a parent regardless of whether the parent has legal custody of the child.
- (2) A parent who has been denied periods of physical placement does not have the normal rights of a parent in relation to that child's records, including a right to access such records.

Section 15.11 Visitation Rights

(A) The Court may grant reasonable visitation rights to a person if the Court determines it is in the best interest of the child, so long as:

- (1) the parents, guardian or legal custodian have notice of the hearing on visitation rights;
- (2) the objection, if any, of the parents, guardian or legal custodian to the visitation is considered.

(B) Whenever possible, the wishes of the child shall be considered when the Court is determining whether to grant visitation rights; however, it is presumed that a fit parent's decision regarding non-parental visitation is in the best interest of the child.

(C) The Court may deny visitation rights to a person if he or she has been convicted of the intentional homicide of a parent of the child, and the conviction has not been reversed, set aside or vacated.

(D) The Court may consider tribal custom and tradition as part of its determination whether visitation rights are in the best interest of a child.

(E) The Court shall issue a written order granting or denying visitation rights. Such order is not considered a sealed order.

Section 15.12 Modification of Court Orders

(A) The Court may order the following modifications to legal custody orders or physical placement orders, unless the modifications are being requested by a parent who is proposing to move a child, in which case Section 15.14 shall apply.

(B) Substantial Modifications.

(1) Within Two (2) Years After Final Judgment.

(a) Modification Necessary Because Current Conditions Are Harmful to Child. The Court may not modify any of the following orders within the initial two (2) years after entry unless the party seeking the modification shows by substantial evidence that the modification is necessary because the current custodial conditions are harmful to the best interest of the child:

- (i) An order of legal custody.
- (ii) An order of physical placement if the modification would substantially alter the time a party may spend with the child, unless required by circumstances in accordance with subsection (b) below.

(b) Modification of Substantially Equal Physical Placement Orders. If the parties have substantially equal periods of physical placement pursuant to a custody order and circumstances make it impractical for the parties to continue to have substantially equal physical placement, then the Court may modify the order if it is in the best interest of the child.

(2) After Two (2) Year Period.

(a) Upon a party's request, the Court may modify an order of legal custody or an order of physical placement where the modification would substantially alter the time a party may spend with the child if the Court finds all of the following:

- (i) The modification is in the best interest of the child.
- (ii) There has been a substantial change of circumstances since the entry of the last order affecting legal custody or the last order substantially affecting physical placement.

(b) There is a rebuttable presumption that:

(i) Continuing the current legal custody order is in the best interest of the child.

(ii) Continuing the child's physical placement with the party with whom the child resides for the greater period of time is in the best interest of the child.

(c) A change in the economic circumstances or marital status of either party is not sufficient to meet the standards for modification.

(C) The Court may modify an order of physical placement, which does not substantially alter the amount of time a party spends with the child, at any time if the Court finds that the modification is in the best interest of the child.

(D) The Court may deny a party's physical placement rights at any time if it finds that the physical placement rights would endanger the child's physical, mental or emotional health.

(E) The Court may modify an order of physical placement at any time if it finds that a party has repeatedly and unreasonably failed to exercise periods of physical placement as allocated under that order. A failure to exercise periods of physical placement due to active military service shall not be grounds to modify an order of physical placement.

(F) If a party opposes modification or termination of a legal custody or physical placement order, then the Court shall state, in writing, its reasons for the modification or termination.

(G) If after an initial order is entered, the parties agree to a modification in an order of physical placement or legal custody and file a stipulation with the Court that specifies the agreed upon modification, the Court shall incorporate the terms of the stipulation into a revised order of physical placement or legal custody unless the Court finds that the modification is not in the best interest of the child.

(H) The Court may not enter an order for modification until notice of the modification request has been given to the child's parents, if they can be found, guardian and to any person having custody of the child.

Section 15.13 Enforcement of Physical Placement Orders

(A) A party who has been awarded periods of physical placement may file a motion for enforcement of the physical placement order with the Court, if the party has had one or more periods of physical placement denied by the other party or substantially interfered with by the other party. The motion shall allege facts sufficient to show such denial or interference and request the imposition of a remedy or any combination of remedies.

(B) The moving party shall serve a copy of the motion upon the responding party by personal service. The responding party may respond to the motion either in writing before or at the hearing or orally at the hearing.

(C) The Court shall hold a hearing on the motion no later than thirty (30) days after the motion has been served, unless the time is extended by mutual agreement of the parties or upon the motion of a guardian ad litem and the approval of the Court. The Court may order that a guardian ad litem be appointed for the child prior to the hearing.

(D) If at the conclusion of the hearing, the Court finds that the responding party has intentionally and unreasonably denied the moving party one or more periods of physical placement or that the responding party has intentionally and unreasonably interfered with one or more of the moving party's periods of physical placement, then:

(1) the Court shall:

- (a) grant additional periods of physical placement to replace those denied or interfered with; and
- (b) award the moving party a reasonable amount for the cost of maintaining an action under this section and for attorney fees.

(2) the Court may also:

- (a) issue an order specifying the times for the exercise of periods of physical placement;
- (b) find the responding party in contempt; and/or
- (c) grant an injunction ordering the responding party to strictly comply with the judgment or order relating to the award of physical placement.
- (d) issue an order requiring the responding party to pay to the moving party a sum of money sufficient to compensate the moving party for any financial loss or expenses associated with the periods of physical placement that were denied or interfered with.

(E) The Court may not permanently modify an order of legal custody or physical placement in an action under this section.

Section 15.14 Moving a Child's Residence

(A) Notice to Other Parent.

(1) If periods of physical placement have been ordered for more than one parent, then the parent shall provide not less than sixty (60) days written notice to the other parent, with a copy to the Court, of his or her intent to:

- (a) Establish his or her legal residence with the child at any location outside the State of Wisconsin.

(b) Establish his or her legal residence with the child at any location within the State of Wisconsin that is at a distance of One Hundred and Fifty (150) miles or more from the other parent.

(c) Remove the child from the State of Wisconsin for more than ninety (90) consecutive days.

(2) The parent proposing the move shall provide notice of the proposed action to the other parent. The notice shall state the parent's proposed action, including the specific date and location of the move or specific beginning and ending dates and location of the removal, and that the other parent may object within thirty (30) days.

(a) Such notice shall normally be delivered by certified mail.

(b) If the parent is unable to obtain delivery by certified mail, the parent may provide an affidavit to the Court setting out his or her efforts to have the notice delivered.

(c) When a parent's address is protected for purposes of privacy or safety, then the parent proposing the move shall petition the Court clerk to forward the required notice to the other parent. The Court clerk shall also forward any objection received by the other parent.

(B) The Court may approve a move or removal without notification to the other parent where the move or removal is in the best interest of the child and one or more of the following applies:

(1) the other parent submits an affidavit consenting to the move or removal;

(2) the parent proposing the move or removal submits an affidavit stating that the other parent, without undue interference from the parent proposing the move or removal or his or her family, has not exercised his or her rights to periods of physical placement or maintained regular contact with the child in three years and the parent proposing the move or removal provides documentation from a child support agency that the other parent is behind the equivalent of at least one year in child support, for that child;

(c) the other parent is incarcerated or otherwise institutionalized; or

(d) the other parent lives out of state.

(C) Objections to Move or Removal.

(1) Within thirty (30) days after receiving the notice, a parent who objects to the move or removal shall send to the parent proposing the move or removal and file with the Court, a written notice of objection to the proposed action. Such notice shall be sent by first-class

mail to the address provided in the initial notice or to the Court clerk when the address is not available due to privacy or security concerns.

- (2) If the Court receives a notice of objection, it shall be deemed to constitute a motion to review. The parent proposing the move or removal may not move with or remove the child pending resolution of the dispute, or final order of the Court, unless the parent petitions for and obtains a temporary order to do so.
- (3) The Court shall hold a hearing on the dispute within twenty (20) days. The burden of proof is on the parent proposing the move or removal.
- (4) Standards for Modification if the Move or Removal is Contested.
 - (a) The Court may allow the move or removal and modify the legal custody or physical placement order as necessary if the Court finds all of the following:
 - (i) The modification is in the best interest of the child.
 - (ii) The move or removal will result in a substantial change of circumstances since the entry of the last order affecting legal custody or the last order substantially affecting physical placement.
 - (b) With respect to subsection (a) above, there is a rebuttable presumption that continuing the current allocation of decision making under a legal custody order or continuing the child's physical placement with the parent with whom the child resides for the greater period of time, if applicable, is in the best interest of the child. This presumption may be overcome by:
 - (i) the parent objecting to the move or removal by a showing that the move or removal is unreasonable and not in the best interest of the child; or
 - (ii) the parent proposing the move or removal by a showing that the move or removal is reasonable and in the best interest of the child.
 - (c) A change in the economic circumstances or marital status of either party is not sufficient to meet the standards for modification under that section.
- (5) The Court may prohibit the move or removal if the Court finds that the prohibition is in the best interest of the child.
- (6) Factors in the Court's Determination. In making its determination, the Court shall consider all of the following factors:
 - (a) Whether the purpose of the proposed action is reasonable.
 - (b) Whether the proposed action will unduly affect the child's ties to his or her tribal community and culture.

- (c) The nature and extent of the child's relationship with the other parent and the disruption to that relationship which the proposed action may cause.
- (d) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent.
- (e) The child's adjustment to the home, school, religion and community.

(D) Notice for other Moves or Removals. Unless the parents agree otherwise, a parent with legal custody and physical placement rights shall notify the other parent before removing the child from his or her primary residence for at least fourteen (14) consecutive days, but not more than ninety (90) consecutive days.

LEGISLATIVE HISTORY

1. On March 19, 2013, the Stockbridge-Munsee Tribal Council adopted a Custody, Physical Placement and Visitation Ordinance as Chapter 15 of Stockbridge-Munsee Tribal Law by Resolution 031-13. This is a new ordinance. Approved by the BIA on January 30, 2014.