

CHAPTER VII: FORT BELKNAP CHILD SUPPORT CODES, POLICIES AND PROCEDURES

***FBIC Law and Order Code Title V Family Court Act
45 CFR 309.90 (a)(4) Copies of all applicable Tribal laws and regulations***

Included in this Chapter are the laws of the Fort Belknap Indian Community Title V Family Court Act: Part V- Child Support, Child Custody and Visitation; Part VIII, Parentage Act; Part XVI Child Support Guidelines with the authorizing FBIC Resolutions. Also included is the Grandparent-Grandchild Act.

The Fort Belknap Indian Community Title V Family Court Act includes the following code sections:

- A. Establishment of Paternity
- B. Establishment of Child Support Orders
- C. Modification of Child Support Orders
- D. Enforcement of Child Support Orders
- E. Locate absent parent
- F. Child Support Guidelines
- G. Grandparent – Grandchild Relationship Act

These codes authorize the Fort Belknap Child Support Program to carry out the functions according to Title IV-D regulations.

**CHAPTER VIII: PARTY LOCATE PROCEDURES
(45 CFR 309.65(a)(8))**

45 CFR 309.65(a)(8) Procedures for the location of noncustodial parents as specified under §309.95.

Note: Copies of all code and/or forms referred to in this chapter can be found in the appendix section at the end of the chapter.

A. LOCATOR

POLICY

The Fort Belknap Child Support Program (FBCSP) must attempt to locate custodial parents (CP), non-custodial parents (NCP), sources of income and/or assets when location is required to take necessary action in a child support case.

All available locate resources should be used to perform locate activities/actions for both the CP and the NCP as well as assets of either parent.

1. Location of Custodial Parent

Location of the custodial parent is deemed necessary when forms mailed to the last known address of the custodial parent are repeatedly returned as *undeliverable* with no forwarding address or when collected child support disbursed to the custodial parent is returned as *undeliverable* to the CP's last known address.

2. Location of Non-Custodial Parent

Location of a non-custodial parent is deemed necessary whenever there is no verified address or employer for the NCP.

B. LOCATOR PROCEDURES FOR NEW FBCSP CASES

1. Upon review of the client application, locate activities will include:
 - a. Required locate actions include, but are not limited to the following:
 1. Locate unknown parents
 2. Address verifications
 3. Verify dates of birth/death and social security numbers
 4. Verify employment and income information
 5. Verify assets such as real and personal property, bank and saving accounts, or business interests
 6. Verify personal address, employment address and addresses for any other family or friends a party is known to regularly inhabit or visit, prior to a referral for service on a legal action
 7. Confirming custody and visitation of children and
 8. Obtaining information necessary to move onto the next required step when processing a case
 - b. Locate resources include, but are not limited to the following:
 1. Enrollment records
 2. Postal tracer
 3. Community knowledge through phone and mail contact with clients and their significant others
 4. Employer contact
 5. Locate Only request to the State of Montana
 6. Vital Records
 7. Contract through Tribal agencies and from other assistance cases
 8. Approved internet research (This internet research will be on secure sites only. No social security numbers will be used to search the internet on unsecure sites).
 9. Utility service accounts and
 10. Public Records
 - c. For each locate resource above follow the process as directed by the agency or program that maintains the information you are requesting.
 1. When requesting information from an employer, utilize the FBCSP standard Employment Verification letter.
 2. When requesting information from an agency or program that does not require use of a particular form, use the appropriate FBCSP Quick Locate Form and complete the appropriate request information.
 - d. The NCP's address is not verified and the NCP's identified employer is not verified.
 - e. No address is given for the NCP, but an unverified employer is identified for the NCP.
2. Annotate client case file notes to indicate that locator efforts are required for the NCP.
3. Begin NCP locator efforts as soon as practical, but no later than three (3) business days after determining that locator efforts are required.

C. LOCATOR PROCEDURES FOR EXISTING FBCSP CASES

During the processing of a child support case, identifying the location of the NCP and/or the CP may become necessary. Examples when locator services will be required include:

1. *Mail sent to a party's last known address is returned as undeliverable and/or no forwarding address.*
2. FBCSP receives reliable information that a party has moved or changed employment.
3. NCP's child support payments cease/become delinquent whether or not child support payments are made through income withholding.
4. Attempts at Service of Process are unsuccessful as address and/or employer is invalid.
5. Child support distributed to CP is returned as *undeliverable and/or no forwarding address.*

When the FBCSP Case Specialist determines that an existing case needs locator services, the client case will be identified as a locator case and all necessary locator steps are to be initiated.

Locator efforts should begin as soon as practicable, but no later than three (3) business days after determining that the client case needs locator services/processing.

Specific Locate Procedures for Current Cases (Apply to both CP and NCP)

1. If client correspondence is returned *undeliverable* by the USPS and a forwarding address is included on the returned envelope, remain the correspondence to the forwarding address.
 - a. Document the client file case notes (hard and electronic files) with actions taken including date correspondence was returned, forwarding address and date correspondence was mailed. Include a copy of the returned envelope in the client hard-copy case file.
 - b. If client correspondence is returned *undeliverable* by the USPS and a forwarding address is NOT included on the returned envelope, document the client file case notes (hard and electronic files) with actions taken including date correspondence was returned and all subsequent actions taken to attempt successful delivery. Place the returned envelope and contents in the client hard-copy case file.
2. If a child support distribution check sent to the CP/Legal Guardian is returned *undeliverable* by the USPS and a forwarding address is included on the returned envelope:
 - a. Send a *Request for Additional Information* letter to the CP to the forwarding address requesting that the CP contact the FBCSP Office within five (5) business days to confirm the CP's current contact information.
 - b. Document the client file case notes (hard and electronic files) with actions taken including date correspondence was returned, forwarding address and date *Request for Additional Information* letter was mailed.

- c. Place a copy of the returned envelope in the client hard-copy case file.
- d. Place the returned disbursement check in an appropriate file folder for storage in the FBCSP Office safe.
- e. Create a *tickler file* to follow up contact with CP after seven (7) business days which should be adequate time for CP to have received written notification from FBCSP Office.
 - 1. If the CP does not respond to the Request for Additional Information letter within seven (7) business days, follow up with telephone contact and/or appropriate locator actions.
 - 2. Create a *tickler file* to request that the check be voided/cancelled according to the appropriate policy of the Fort Belknap Tribal Finance Department if the CP fails to make contact with the FBCSP Office within thirty (30) days.

D. AVAILABLE FBCSP OFFICE LOCATOR SERVICES

The Fort Belknap FBCSP Child Support Specialist must use all available locator services/ resources in attempts to locate the CP and/or the NCP. Reasonable attempts are to be made to corroborate any information obtained by the Child Support Case Specialist from independent/discoverable sources regarding contact information for the CP and/or the NCP.

FBCSP Office Locator Resources include but are not limited to:

1. Information provided by family/friends of the CP or the NCP.
2. USPS information obtained from returned mailings.
3. Tribal employers and/or employers licensed to do business on the Fort Belknap Reservation.
4. Fort Belknap Tribal Offices and/or other Tribal Entities.
5. Fort Belknap Tribal Police.
6. Available state locator services (i.e. SPLS.)
7. Fort Belknap Tribal TANF records.
8. Fort Belknap Tribal Court records.
9. Fort Belknap Tribal Entity employment records.
10. Any other available Fort Belknap Tribal records and/or resources.
11. All available state, federal, Internet and/or private locator resources available to FBCSP Office staff for use in the normal course of child support office business.

FBCSP Office staff will provide any required information contained in the client case file and necessary to be released in order to take advantage of available locator services and in accordance with *45 CFR 309.95*.

NOTE:

FBCSP Office Staff will be allowed to use available locator resources/services for the sole purpose of performing FBCSP Office child support enforcement duties.

FBCSP Office Staff found to be in violation of office client locator policy/ procedures will be subject to all applicable disciplinary policies.

E. ACCESSING STATE PARENT LOCATOR SERVICES

When appropriate, FBCSP office staff will request assistance from a state or tribe for the purposes of locator attempts for either the CP or the NCP.

Formal and/or informal agreements will be established between the Fort Belknap Tribe, state and tribal child support enforcement programs to facilitate this enforcement activity.

These locator attempts may be for manual and/or automated locator services.

The FBCSP Office will provide the state or tribe with the necessary and/or available client information to facilitate the requested locator search.

Release of this client information is in accordance with the Fort Belknap Child Support Program Office Confidentiality Policy/ Procedures

F. DOCUMENTATION OF LOCATOR ATTEMPTS

FBCSP staff shall document in the client case file (hard and electronic files) all actions taken in an attempt to locate either the NCP or CP in a particular child support enforcement case.

Client case file documentation will include:

1. Filing all returned correspondence in the client hard copy case file with corresponding documentation in the client case notes (hard copy and/or electronic.)
2. Filing copies of all locator correspondence/forms in the client hard copy case file with corresponding documentation in the client case notes (hard copy and/or electronic.)
3. Document in client case notes all locator activities/actions taken including:
 - a. Date of locator activity/action.
 - b. Type of locator activity/action attempted.
 - c. Staff who made the locator attempt.
 - d. Results of locator attempt.
4. Appropriate follow-up activities by FBCSP staff when information is obtained from a locator activity/action.
 - a. Staff follow-up action should be commenced within three (3) business days of receipt of the information.
 - b. Staff follow-up action may include telephone or mail verification of new client contact information and/or new employer information.

G. CLIENT LOCATOR TIMELINES

Locator Activities for Custodial Parent:

1. If the custodial parent/legal guardian or the child for whom child support enforcement is undertaken is/are an enrolled Fort Belknap Tribal member(s), FBCSP Office attempts to locate the custodial parent/legal guardian and/or the child are to be in effect for sixty (60) days after the Fort Belknap Tribal Enrollment Office cutoff date for tribal per capita address confirmation.
 - a. If all locator resources/attempts to obtain current contact information for the custodial parent/legal guardian or the child are exhausted and unsuccessful after sixty (60) days from this cutoff date, a *Notice of Case Closure* letter is to be sent to the custodial parent/legal guardian to that individual's last known address.
 - b. A copy of the *Notice of Case Closure* letter is to be filed in the hardcopy client case file and case notes (hard copy and electronic) are to be appropriately annotated.
2. If the custodial parent/legal guardian and the child are not enrolled Fort Belknap Tribal members and the FBCSP Office has exhausted all available locator resources/activities for a sixty (60) day period from the date of case initiation, closure procedures including sending a *Notice of Case Closure* letter to the last known address for the CP are to be initiated.
 - a. A copy of the *Notice of Case Closure* letter is to be filed in the hard copy client case file and case notes (hard copy and electronic) are to be appropriately annotated.

Locator Activities for Non-Custodial Parent

New Case

1. If all locator resources/attempts to obtain current contact information for the non-custodial parent are exhausted and unsuccessful sixty (60) days after acceptance of case, set *tickler file* to take follow-up locator activities at the end of six (6) months.
2. If all locator resources/attempts to obtain current contact information for the non-custodial parent are exhausted and unsuccessful sixty (60) days after the **second** locate attempt, set a *tickler file* to take follow-up locator activities at the end of an additional six (6) months.
3. If all locator resources/attempts to obtain current contact information for the non-custodial parent are exhausted and unsuccessful sixty (60) days after the **third** locate attempt, proceed with appropriate case closure actions.
4. Child Support Specialist can reopen case file upon receipt of new information concerning possible locator leads related to NCP contact information, employer and/or possible assets.
5. All locator activities are to be recorded in the client case file in hard copy and electronic format.

On-Going Case

Upon receipt of successful locator information for either the CP or the NCP, the Child Support Specialist should assess the client case to determine the next appropriate step(s) to take.

Service of Process

If prior attempts to serve the NCP were unsuccessful, attempts should be made to complete service of process on NCP.

Income Withholding

If a new employer has been verified for the NCP and there was a prior income withholding notice, issue an Income Withholding Notice to the NCP's new employer.

Other Actions

To be determined on a case-by-case basis.

CHAPTER IX: ESTABLISHMENT OF PATERNITY PROCEDURES (45 CFR 309.65(A)(9))

45 CFR 309.65(a)(9) Procedures for the establishment of paternity as specified under §309.100

Note: Copies of all code and/or forms referred to in this chapter can be found in the appendix section at the end of the chapter.

PATERNITY ESTABLISHMENT POLICY

1. The Fort Belknap Child Support Program (FBCSP) will pursue the establishment of paternity for any minor child for whom paternity is an issue upon receipt of a completed application for FBCSP Services or upon receipt of a request and/or referral from another IV-D program or appropriate agency.
2. Paternity may be established in the Fort Belknap Indian Community Court by affidavit/stipulation or through a court paternity legal action.
3. The Fort Belknap Indian Community Court may order genetic testing to establish paternity or if alleged father denies paternity.
4. The Fort Belknap Child Support Program will not attempt to establish paternity in any case involving incest or forcible rape or in any case in which legal proceedings for adoption are pending if, in the opinion of FBCSP, it would not be in the best interests of the child to establish paternity.
5. FBCSP will contract with DNA Diagnostic Center for genetic testing.
6. Paternity establishment of a child has NO effect on Fort Belknap Tribal Enrollment Office policies/procedures and/or on Fort Belknap tribal enrollment/membership. Paternity establishment through the Fort Belknap Child Support Program and/or the Fort Belknap Indian Community Court is not intended to take the place of or interfere with paternity issues as addressed by the FBIC Enrollment Office.

BEST INTERESTS NOT TO ESTABLISH PATERNITY

There are certain circumstances under which it may not be in the best interests of the minor child to pursue the establishment of paternity. These circumstances include but are not limited to:

1. The child was conceived as the result of rape, incest, sexual abuse of a minor or sexual assault.
2. A legal proceeding for adoption is pending.
3. The cooperation of the child's custodian in the establishment of paternity is reasonably likely to result in physical or emotional harm to the child or to the child's custodian.

The FBCSP Director, in consultation with other staff, will determine whether or not it is in the minor child's best interest to pursue establishment of paternity. All FBCSP activities to substantiate any good cause claims why paternity should not be established are to be well documented in the client case file (hardcopy and electronic files.) Rational for the good cause determination **not** to pursue paternity

establishment is to be included in the client case file. The information shall be marked “confidential” and released except by Court Order, or with permission of the Director on a need-to-know basis.

Upon *reasonable* verification that good cause exists **not** to pursue establishment of paternity, the FBCSP Office may decline to pursue paternity establishment and close the client case file.

If the FBCSP Office declines to pursue paternity establishment, the custodial parent, the child and/or another interested party may pursue paternity establishment in the Fort Belknap Indian Community Court and/or in a court of competent jurisdiction.

If the custodial parent, the child and/or another interested party pursues paternity establishment in the Fort Belknap Indian Community Court, the Court may determine upon a showing of good cause that it is not in the best interest of the minor child to establish paternity.

The Court may hold a closed, ex parte hearing to determine whether good cause exists to NOT establish paternity.

A. ESTABLISHMENT OF PATERNITY BY AFFIDAVIT/STIPULATION

1. Voluntary Acknowledgement of Paternity by Affidavit

The mother of a child and a man claiming to be the genetic father of a child may voluntarily acknowledge paternity by executing and Acknowledgment of Paternity with intent to establish the man’s paternity filed with the FBCSP.

1. An acknowledgement of paternity shall:
 - a. Be in a record; and
 - b. Be signed and notarized under penalty of perjury by the mother and by the man seeking to establish his paternity; and
 - c. State that the child whose paternity is being acknowledged:
 - (1) Does not have a presumed father, or has a presumed father whose full name is stated, and
 - (2) Does not have another acknowledged or adjudicated father;
 - d. State whether there has been genetic testing and, if so, that the acknowledging man’s claim of paternity is consistent with the results of the testing; and
 - e. State that the signatories understand that the acknowledgement is the equivalent of a judicial adjudication of paternity of the child and that after the rescission period has ended, a challenge to the acknowledgement is permitted only on the basis of fraud, duress, or material mistake of fact.
2. The FBCSP and the Fort Belknap Indian Community Court shall instruct the parties to send the notarized Acknowledgement of Paternity form to the state department of health to request the amendment of the birth record of the child, if appropriate.

If another man is already the presumed father of the child as provided under Fort Belknap Tribal Code the Acknowledgement of Paternity shall not give rise to a presumption of paternity unless the man previously presumed to be the father of the child consents in writing with his signature being notarized and the document accepted by the court or until the previously established presumption has been rebutted.

2. Denial of Paternity

A presumed father may sign a denial of his paternity. The denial is valid only if:

1. An acknowledgement of paternity signed, or otherwise authenticated, by another man is filed pursuant to section 1.20 of Part VIII Parentage Act; and
2. The denial is in a record, and is signed, or otherwise authenticated, under penalty of perjury; and
3. The denial states facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child; and
4. The presumed father has not previously:
 - a. Acknowledged his paternity, unless the previous acknowledgement has been rescinded pursuant to section 1.22 Part VIII Parentage Act or successfully challenged pursuant to section 1.23 Part VIII Parentage Act, or
 - b. Been adjudicated to be the father of the child.

3. Establishment of Paternity by Stipulation

A man may acknowledge that he is the biological father of a child by filing a notarized affidavit stating that he is the biological father of the child with the Fort Belknap Child Support Program.

The Fort Belknap Child Support Program shall promptly serve notice on the mother of the filing of the paternity affidavit by the alleged father.

Within thirty (30) days after being served with notice of the alleged father's voluntary acknowledgment of paternity by affidavit, the mother may acknowledge the alleged father's paternity affidavit or dispute the affidavit by filing a written statement with the Fort Belknap Child Support Program.

If the mother and father sign a joint petition to establish paternity, the petition with a notarized affidavit will be presented to the Court for entry of an Order Establishing Paternity.

If the mother does not sign a joint petition to establish paternity, the alleged father and/or the FBCSP Office may file a petition to establish paternity attaching the notarized affidavit. The matter would then become a contested court proceeding and the provisions of FBIC Law and Order Code, Title V Part VIII would apply.

4. Affidavit or Stipulation Signed by a Minor

In the event that one or both of the natural parents of a minor child of a paternity action are minors, the Fort Belknap Child Support Program will attempt to provide appropriate assistance which may include requesting that the FBIC Court appoint a CASA/Guardian Ad Litem or attorney for the minor parent and/or the minor child.

At a minimum, the FBIC Court shall provide the Fort Belknap Tribal Social Services Department with a copy of the paternity petition/affidavit and a Department representative may appear and/or at the Court's request advise the Court regarding protection of the minor parent(s).

If the FBCSP Office files court pleadings to establish paternity of a minor child when one or both of the natural parents are minors, the Court may recognize or accept the affidavit or stipulation signed by the minor natural parent(s) unless:

- a. It was signed by a minor who did not understand the consequences of signing the affidavit or stipulation; or
- b. The person who signed the affidavit or stipulation shows by clear, cogent and convincing evidence that he/she signed under duress, mistake or there was a violation of due process.

B. ESTABLISHMENT OF PATERNITY THROUGH COURT ORDER

A child, a child's legal guardian, the child's natural mother, an alleged father of a child, a designated agency of the Fort Belknap Tribe, a state agency or any other interested party may file a petition requesting the FBIC Court to establish paternity. The natural mother and an alleged father may file jointly.

Rights of the Parties

Except as otherwise expressly provided in this Part, all parties, and their counsel, or other persons they have selected to represent them, shall be entitled to the following rights in every proceeding under this part:

A statement by the Court to the parties to the action that they have the right under this Part to have a lawyer or other persons they have selected to represent them at the proceeding, but that they will have to pay for such representation.

1. If it appears that the party cannot pay for counsel, the Court shall inform him or her of any available services which provide representation, if known.
2. The opportunity to introduce, examine and cross-examine witnesses.
3. The opportunity to discover, offer or inspect evidence.
4. The opportunity to present arguments and statements.

Notice, Summons, and Complaint

1. Notice of Hearing:

A notice of hearing in an action to determine parentage must specify the name of the court in which the action is brought, contain the title of the action specifying the name of the parties, and must contain a notice of the rights enumerated above. It must also be served upon the defendant at least twenty (20) days instead of least thirty (30) days prior to hearing and state that failure to appear and defend at such hearing may result in judgment by default for the relief demanded in the petition.

2. Summons:

In an action for determination of parentage, the summons must specify that name of the court in which the action is brought, contain the title of action specifying the name of the parties set forth the allegations against the defendant, and must contain of the rights enumerated above. It must also state that the defendant has twenty (20) days instead of thirty (30) days after service of process within which to appear and defend by serving upon the plaintiff an answer or other proper response and that failure to do so may result in judgment by default for the relief demanded in the petition.

3. Contents of Summons:

1) You have been named in a petition alleging paternity. A judgment of paternity would legally designate the child as your child, grant parental rights to you, create the right of inheritance for the child, obligate you to pay child support until the child reaches the age of eighteen (18) or until the child graduates from high school or its equivalent up to age twenty (20), and make your failure to pay child support punishable by contempt of court.

You may request genetic testing which will indicate the probability that you are or are not the father of the child. The Court will order genetic testing on a request by you, or any other party. Any person who refuses to comply with court-ordered genetic testing may be punished for contempt of court.

The plaintiff has the burden of proving by clear and convincing evidence that you are the father. If a genetic test shows that you are not excluded as the child's father and that the statistical probability of your being the child's father is ninety-nine point nine percent (99.9%) or higher, you are rebuttably presumed to be the father.

The following defenses are available to you:

- a. That you were sterile or impotent at the time of conception;
- b. That you did not have sexual intercourse with the mother of the child during the conception period; or
- c. That another man did have sexual intercourse with the mother of the child during the conception period.

2) If you fail to appear at any stage of the proceedings, including a scheduled genetic test, the Court may enter a default judgment finding you to be the father. A default judgment will take effect thirty (30) days after it is served on or mailed to you, unless within those thirty (30) days, you present yourself to the Court and establish good cause for your failure to appear or present yourself for the genetic test.

3) You must respond to this summons and petitions by serving a copy of your written Response on the person signing this summons and by filing the original with the clerk of court. If you do not file your written response within twenty (20) days after the date of this summons was served on you, and the court may, without further notice to you, enter a decree and approve or provide for the relief requested in the petition. If you are entitled to notice before an order or default or a decree may be entered.

4) If you wish to seek the advice of an attorney on this matter, you should do so promptly so that your written response, if any, may be served on time.

This summons is issued pursuant to Section 1.11 of the Law and Order Code of the Fort Belknap Indian Community.

4. Contents of Complaint:

- 1) The name of the natural mother of the minor child.
- 2) The name and date of birth of minor child.
- 3) That the responding party is alleged to be the biological father of the minor child.
- 4) That the parties engaged in sexual intercourse with each other at or about the probably time of conception.
- 5) The residence of the responding party.
- 6) That no other Defendant is subject to an order for the support of the minor child.
- 7) That there is a request that an order or the child support be established at this time.
- 8) That the defendant be adjudged to be the biological father of the minor child.
- 9) That the responding party shall provide satisfactory health insurance for the minor child if such insurance is available at a reasonable cost.
- 10) That if necessary the appropriate State's Registrar of Vital Statistics prepares an amended birth certificate consistent with the judgment of the Court.
- 11) Costs of suit and other such relief as this court deems appropriate.

5. Establishment of Parent-Child Relationship

1. The mother-child relationship is established between a woman and a child by:
 - a. The woman's having giving birth to the child;
 - b. An adjudication of the woman's maternity;
 - c. Adoption of the child by the woman; or
 - d. As otherwise provided by law.
2. Provisions of Part VIII Parentage Act relating to determination of paternity apply to determination of maternity.
3. The father-child relationship is established between a man and a child by:
 - a. An un rebutted presumption of the man's paternity of the child under section 1.15 of Part VIII Parentage Act;
 - b. An effective acknowledgment of paternity by the man under sections 1.17 through 1.27 of Part VIII Parentage Act, unless the acknowledgment has been timely rescinded or successfully challenged;
 - c. An adjudication of the man's paternity;
 - d. Adoption of the child by the man; or
 - e. As otherwise provided by law

6. No Discrimination Based on Marital Status

A child born to parents who are not married to each other has the same under the law as a child born to parents who are married to each other.

7. Consequences of Establishment of Parentage

Unless parental rights are terminated, a parent-child relationship established under this Part applies for all purposes, except as otherwise provided by the laws of the FBIC.

8. Presumption of Paternity

1. A man is presumed to be the father of a child if:
 - a. He and the mother of the child are married to each other and the child is born during the marriage;
 - b. He and the mother of the child were married to each other and the child is born within three hundred (300) days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution of marriage or after decree of separation;
 - c. Before the birth of the child, he and the mother of the child married each other in apparent compliance with the FBIC law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within three hundred (300) days after its termination by death, annulment, declaration of invalidity, a decree of separation, or dissolution of marriage;
 - d. After the birth of the child, he and the mother of the child married each other in apparent compliance with the FBIC law, whether or not the marriage is or could be declared invalid, and he voluntarily asserted his paternity of the child, and:
 - (1) The assertion is in record filed with the FBIC Court, the FBCSP, or the state department of health.
 - (2) He agreed to be and is named as the child's father on the child's birth certificate, or
 - (3) He promised in a record to support the child as his own, or
 - e. He openly held out the child as his own and the community accepted him as the child's father.

2. A presumption of paternity established under this section may be rebutted only by an adjudication under sections 1.39 through 1.60 of Part VIII Parentage Act.

9. Acknowledgment and denial of paternity – Duties of the FBCSP

1. The Fort Belknap Indian Community and Fort Belknap Indian Community Court must provide an alleged father the opportunity to voluntarily acknowledge paternity pursuant to 45 CFR 309.100(a)(2);
2. The Fort Belknap Indian Community shall prescribe standard forms that parents may sign to acknowledge or deny paternity and that shall be filed with the FBCSP and the FBIC Court.
3. A valid acknowledgment of paternity, rescission of acknowledgment of paternity, or denial of paternity is not affected by a later modification of the prescribed form.

10. Acknowledgment of paternity – Execution

1. The mother of a child and a man claiming to be the genetic father of the child may execute an acknowledgment of paternity with intent to establish the man's paternity.
2. An acknowledgment of paternity shall:
 - a. Be in a record;
 - b. Be signed and notarized under penalty of perjury by the mother and by the man seeking to establish his paternity;
 - c. State that the child whose paternity is being acknowledged:
 1. Does not have a presumed father, or has a presumed father whose full name is stated, and
 2. Does not have another acknowledged or adjudicated father;
 - d. State whether there has been genetic testing and, if so, that the acknowledging man's claim of paternity is consistent with the results of the testing; and
 - e. State that the signatories understand that the acknowledgment is the equivalent of a judicial adjudication of paternity of the child and that after the rescission period has ended, a challenge to the acknowledgment is permitted only on the basis of fraud, duress, or material mistake of fact.
3. The FBCSP and the Fort Belknap Indian Community Court shall instruct the parties to send the notarized Acknowledgment of Paternity form to the state department of health to request the amendment of the birth record of the child, if appropriate.

11. Denial of Paternity

A presumed father may sign a denial of his paternity. The denial is valid only if:

1. An acknowledgment of paternity signed, or otherwise authenticated, by another man is filed pursuant to section 1.20 of Part VIII Parentage Act; and
2. The denial is in record, and is signed, or otherwise authenticated, under penalty of perjury; and
3. The denial states facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child; and
4. The presumed father has not previously:

- a. Acknowledged his paternity, unless the previous acknowledgment has been rescinded pursuant to section 1.22 of Part VIII Parentage Act or successfully challenged pursuant to section 1.23 of Part VIII Parentage Act, or
- b. Been adjudicated to be the father of the child.

12. Rules for Acknowledgment and Denial of Paternity

1. An acknowledgment of paternity or a denial of paternity may be signed before the birth of the child.
2. An acknowledgment of paternity or denial of paternity takes effect on the birth of the child or the execution of the document, whichever occurs later.
3. An acknowledgment of paternity or denial of paternity signed by a minor is valid if it is otherwise in compliance with this Part.
4. An acknowledgment of paternity or denial of paternity may be completed for a child who was not born within the exterior boundaries of the Fort Belknap Indian Reservation.

13. Effect of Acknowledgment or Denial of Paternity

1. Except as otherwise provided in sections 1.22 and 1.23 of Part VIII Parentage Act, a valid acknowledgment of paternity filed with the FBCSP or the Fort Belknap Indian Community Court is equivalent to an adjudication of paternity of a child and confers upon the acknowledged father all of the rights and duties of a parent and must be recognized as a basis for a support order in any proceeding to establish, enforce, or modify a support order.
2. Except as otherwise provided in sections 1.22 and 1.23 of Part VIII Parentage Act, a valid denial of paternity by a presumed father filed with FBCSP or the Fort Belknap Indian Community Court when executed in conjunction with a valid acknowledgment of paternity is equivalent to an adjudication of the non-paternity of the presumed father and discharges the presumed father from all rights and duties of a parent.

14. No Filing Fee

The Fort Belknap Indian Community shall not charge for filling an acknowledgment of paternity, denial of paternity, rescission of acknowledgment of paternity, or rescission of denial of paternity.

15. Proceeding for rescission

A signatory may rescind an acknowledgment of paternity or denial of paternity by commencing a proceeding to rescind before the earlier of:

1. Sixty (60) days after the effective date of the acknowledgment or denial, as provided in section 1.17 of Part VIII Parentage Act; or
2. Within ten (10) days after the first hearing, in a proceeding to which the signatory is a party, before a court to adjudicate an issue relating to the child, including a proceeding that establishes support.

16. Challenge after expiration of period for rescission

1. After the period for rescission under section 1.22 of Part VIII Parentage Act has expired. A signatory of an acknowledgment of paternity or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only on the basis of fraud, duress, or material mistake of fact.

2. There is no time limitation on when a party may commence a proceeding to challenge the tribal acknowledgment or denial of paternity as provided for in subsection 1 of this section.
3. A party challenging an acknowledgment of paternity or denial of paternity has the burden of proof.

17. Procedure for rescission or challenge

1. Every signatory to an acknowledgment of paternity and any related denial of paternity shall be made a party to a proceeding to challenge the acknowledgment or denial.
2. For the purpose of challenging a tribal acknowledgment of paternity or a denial of paternity, a signatory submits to personal jurisdiction of the FBIC by signing the acknowledgment or denial.
3. Except for good cause shown, during the pendency of a proceeding to challenge a tribal acknowledgment of paternity or denial of paternity, the Fort Belknap Indian Community Court shall not suspend the legal responsibilities of a signatory arising from the acknowledgment, including the duty to pay child support. Any assigned or unassigned arrears shall continue until further order of the Court.
4. A proceeding to challenge an acknowledgment of paternity or denial of paternity shall be conducted in the same manner as a proceeding to adjudicate parentage under this Part.
5. At the conclusion of a proceeding to rescind an acknowledgment of paternity or denial of paternity, the Fort Belknap Indian Community Court shall instruct the parties to send the court order to the state department of health to request the amendment of the birth record of the child, if appropriate.

18. Full Faith and Credit

In any proceeding in which paternity or denial of paternity of a child is alleged, the Fort Belknap Indian Community Court Shall give full faith and credit to a determination of paternity or non-paternity by another tribe or state, made before a determination of paternity under the laws of the FBIC, whether established through voluntary acknowledgment or through administrative or judicial processes. The paternity or non-paternity determination made by the other jurisdiction must be in compliance with the law of that jurisdiction and due process satisfied.

19. Release of Information

The Fort Belknap Indian Community and the Fort Belknap Indian Community Court may release copies of the acknowledgment or denial of paternity to a signatory of the acknowledgment or denial and to appropriate state and tribal courts or other state or tribal child support programs.

C. GENETIC TESTING

Sections 1 through 5 govern genetic testing of an individual to determine parentage, whether the individual:

1. Voluntarily submits to testing; or
2. Is tested pursuant to an order of the FBIC Court or required by the FBCSP.

1. Order for genetic testing

1. The Fort Belknap Indian Community Court may order genetic testing.

2. The Fort Belknap Indian Community Court shall order the child and other designated individuals to submit to genetic testing if the request for testing is supported by the sworn statement of a party to the proceeding.
 - a. Alleging paternity and stating facts establishing a reasonable probability of the requisite sexual contact between the individuals; or
 - b. Denying paternity and stating facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child.
3. If a request for genetic testing of a child is made before the birth of the child, the Fort Belknap Indian Community Court may not order in utero testing.
4. If two or more men are subject to court-ordered genetic testing, the testing may be ordered concurrently or sequentially.

2. Requirements for genetic testing

1. Genetic testing must be of a type reasonably relied upon by experts in the field of genetic testing and performed in a testing laboratory accredited by:
 - a. The American association of blood banks, or a successor to its functions;
 - b. The American society for histocompatibility and immunogenetics, or a successor to its functions; or
 - c. An accrediting body designated by the federal secretary of health and human services.
2. A specimen used in genetic testing may consist of one or more samples, or a combination of samples, of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the testing need not be of the same kind for each individual undergoing genetic testing.
3. Based on the ethnic or racial group of an individual, the testing laboratory shall determine the data bases from which to select frequencies for use in calculation of the probability of paternity. If there is a disagreement as to the testing laboratory's choice, the following rules apply:
 - a. The individual objecting may require the testing laboratory, within thirty days after receipt of the report of the test, to recalculate the probability of paternity. If there is a disagreement as to the testing laboratory's choice, the following rules apply:
 - b. The individual objecting to the testing laboratory's initial choice shall:
 - (1) If the frequencies are not available to the testing laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies; or
 - (2) Engage another testing laboratory to perform the calculations.
 - c. The testing laboratory may use its own statistical estimate if there is a question regarding which ethnic or racial group is appropriate. If available, the testing laboratory shall calculate the frequencies using statistics for any other ethnic or racial group requested.
4. If, after recalculation using a different ethnic or racial group, genetic testing does not rebuttably identify a man as the father of the child an individual who has been tested may be required to submit to additional genetic testing.

3. Report of Genetic Testing

1. A report of genetic testing must be in a record and signed under penalty of perjury by a designee of the testing laboratory.
2. Documentation from the testing laboratory of the following information is sufficient to establish a reliable chain of custody that allows the results of genetic testing to be admissible without testimony:
 - a. The names and photographs of the individuals whose specimens have been taken;
 - b. The names of the individuals who collected the specimens;
 - c. The places and dates the specimens were collected;
 - d. The names of the individuals who received the specimens in the testing laboratory; and

- e. The dates the specimens were received.

4. Genetic testing results – Rebuttal

1. Under this part, a man is rebuttably identified as the father of a child if the genetic testing complies with sections 1 through 3 and the results disclose that:
 - a. The man has at least a ninety-nine percent (99%) probability of paternity, using a prior probability of five-tenths, as calculated by using the combined paternity index obtained in the testing; and
 - b. A combined paternity index of at least one hundred to one.
2. A man identified under subsection 1 as the father of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of sections 1 through 3 which:
 - a. Excludes the man as a genetic father of the child; or
 - b. Identifies another man as the possible father of the child.
3. If more than one man is identified by genetic testing as the possible father of the child, the Fort Belknap Indian Community Court shall order them to submit to further genetic testing to identify the genetic father.

5. Costs of genetic testing

1. The cost of initial genetic testing must be advanced:
 - a. By the FBCSP in a proceeding in which the FBCSP is providing services;
 - b. By the individual who made the request;
 - c. As agreed by the parties; or
 - d. As ordered by the FBIC Court.
2. In cases in which the cost is advanced by the FBCSP, the FBCSP may seek reimbursement from a man who is rebuttably identified as the father or where the mother intentionally misrepresents a man as the father.

D. ADDITIONAL GENETIC TESTING

1. The Fort Belknap Indian Community Court shall order additional genetic testing upon the request of a party who contests the result of the original testing.
2. If the previous genetic testing identified a man as the father of the child under section 1.32 Part V Parentage Act the court or division may not order additional testing unless the party provides advance payment for the testing.

1. Genetic testing when specimens not available

1. Subject to subsection 2, if a genetic-testing specimen is not available from a man who may be the father of a child, for good cause and under circumstances the Fort Belknap Indian Community Court considers to be just, the Court may order the following individuals to submit specimens for genetic testing:
 - a. The parents of the man;
 - b. Brothers and sisters of the man;
 - c. Other children of the man and their mothers; and
 - d. Other relatives of the man necessary to complete genetic testing.
2. Issuance of an order under this section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

2. Deceased individual

For good cause shown, the court may order genetic testing of a deceased individual.

3. Identical brothers

1. The Fort Belknap Indian Community Court may order genetic testing of a brother of a man identified as the father of a child if that man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child.
2. If each brother satisfies the requirements as the identified father of the child under section without consideration of another identical brother being identified as the father of the child, the court may rely on non-genetic evidence to adjudicate which brother is the father of the child.

4. Confidentiality of genetic testing

The report of genetic testing for parentage is confidential. An individual who knowingly releases an identifiable specimen of another individual for any purpose other than that relevant to the proceeding regarding parentage without a court order or the written permission of the individual who furnished the specimen is deemed to have violated the client's confidentiality and is subject to section 1.8 of this Part.

5. Proceeding to adjudicate the parentage of a child – Authorization

A civil proceeding may be maintained to adjudicate the parentage of a child. The proceeding is governed by the Fort Belknap Law and Order Code, Title II, Part I.

6. Standing to maintain proceeding

Subject to sections 1.17 through 1.27 and sections 1.43 and 1.45 of Title V, Part VIII Parentage Act, a proceeding to adjudicate parentage may be maintained by:

1. The child;
2. The mother of the child;
3. A man whose paternity of the child is to be adjudicated;
4. The FBCSP;
5. An authorized adoption agency or licensed child-placing agency; or
6. A representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor.
7. A minor parent or the guardian or other legal representative of a minor parent may maintain a proceeding on behalf of or for the benefit of the minor's child.

7. Parties to proceeding

The following individuals must be joined as parties in proceeding to adjudicate parentage:

1. The mother of the child; and
2. A man whose paternity of the child is to be adjudicated.

8. No limitation – Child having no presumed acknowledged or adjudicated father

A proceeding to adjudicate the parentage of a child having no presumed, acknowledged, or adjudicated father may be commenced at any time, even after:

1. The child becomes an adult, but only if the child initiates the proceeding; or
2. An earlier proceeding to adjudicate paternity has been dismissed based on the application of a statute of limitation then in effect.

9. Limitation – Child having presumed father

1. Except as otherwise provided in subsection 2, a proceeding brought by a presumed father, the mother, or another individual to adjudicate the parentage of a child having presumed father must be commenced not later than three years after the birth of the child.
2. A proceeding seeking to disprove the father-child relationship between a child and the child's presumed father may be maintained at any time if the Fort Belknap Indian Community Court determines that:
 - a. The presumed father and the mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception; and
 - b. The presumed father never openly held out the child as his own.
3. For purposes of this section and section 1.44 an action to establish support for a child is a proceeding to adjudicate parentage if the child's presumed father raises non-paternity as a defense to the action.

10. Authority to deny motion for genetic testing

1. In a proceeding to adjudicate the parentage of a child having presumed father or to challenge the paternity of a child having an acknowledged father, the Fort Belknap Indian Community court may deny a motion seeking an order for genetic testing of the mother, the child, and the presumed or acknowledged father if the Court determines that:
 - a. The conduct of the mother or the presumed or acknowledged father estops that party from denying parentage; and
 - b. It would be inequitable to disprove the father-child relationship between the child and the presumed or acknowledged father.
2. In determining whether to deny a motion seeking an order for genetic testing under this section, the Court shall consider the best interest of the child, including the following factors:
 - a. The length of time between the proceeding to adjudicate parentage and the time that the presumed or acknowledged father was placed on notice that he might not be the genetic father;
 - b. The length of time during which presumed or acknowledged father has assumed the role of father of the child;
 - c. The facts surrounding the presumed or acknowledged father's discovery of his possible non-paternity;
 - d. The nature of the relationship between the child and the presumed or acknowledged father;
 - e. The age of the child;
 - f. The harm that may result to the child if presumed or acknowledged paternity is successfully disproved;
 - g. The nature of the relationship between the child and any alleged father;
 - h. The extent to which the passage of time reduces the chances of establishing the paternity of another man and a child support obligation in favor of the child; and
 - i. Other factors that may affect the qualities arising from the disruption of the father-child relationship between the child and the presumed or acknowledged father or the chance of other harm to the child.
3. In a proceeding involving the application of this section, the court may appoint a guardian ad litem or approve an advocate for a child who has no parent, guardian, or custodian appearing on behalf of the child, or whose interests conflict with the interests of the parent, guardian,

or custodian or when it appears to the court that the child's best interests warrant such an appointment, and funding is available for such appointments.

4. Denial of a motion seeking an order for genetic testing must be based on clear and convincing evidence.
5. If the Court denies a motion seeking an order for genetic testing, it shall issue an order adjudicating the presumed or acknowledged father to be the father of the child.
6. Upon receipt of the Order adjudicating the presumed or acknowledged father, said father may object by filing a written request for hearing within ten (10) days of the date of the Order and the FBIC Court shall hold a hearing within ten business days after the date of the request.

11. Limitation – Child having acknowledged or adjudicated father

1. If a child has an acknowledged father, a signatory to the acknowledgment of paternity or denial of paternity may commence a proceeding seeking to rescind the acknowledgment or denial or challenge the paternity of the child only within the time allowed under section 1.22 or 1.23.
2. If a child has an acknowledged father or an adjudicated father, an individual, other than the child, who is neither a signatory to the acknowledgment of a paternity nor a party to the adjudication and who seeks an adjudication of paternity of the child must commence a proceeding not later than three (3) years after the effective date of the acknowledgment or adjudication.
3. A proceeding under this section is subject to the application of the principles or estoppels established in section 1.44 above.

12. Joinder of proceedings

A proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, legal separation or separate maintenance, probate or administration of an estate, or other appropriate proceeding.

13. Proceeding before birth

A proceeding to determine parentage may be commenced before the birth of the child, but may not be concluded until after the birth of the child. The following actions may be taken before the birth of the child:

1. Service of process;
2. Discovery; and
3. Except as prohibited by section 1.29, collection of specimens for genetic testing.

E. MINOR AS PARTY-REPRESENTATION

1. A minor child is a permissible party, but is not a necessary party to a proceeding under sections 1.39 through 1.60, Title VIII Parentage Act.
2. The Fort Belknap Indian Community Court shall appoint a guardian ad litem whose qualifications meet Title V, Part I, Section 4.3 of the FBIC Law and Order Code to represent a minor or incapacitated child if the child is a party or the Court finds that the interests of the child are not adequately represented. The Court may apportion the costs of the guardian ad litem between the parties as appropriate. The court may appoint a guardian ad litem or approve and advocate for a child who has no parent, guardian, or custodian appearing on behalf of the child, or whose interests conflict with the interests of the parent, guardian, or

custodian, or when it appears to the court that the child's best interests warrant such an appointment and funding is available for such appointments.

F. PARENTAGE OR SUPPORT ACTION BROUGHT BY GRANDPARENT WHO IS PROVIDING SUPPORT TO CHILD BORN TO UNMARRIED AND UNEMANCIPATED MINORS.

- A. If a child is born to parents who are unmarried and unemancipated minors, a parent of one of the minors is providing support for the minors' child, and the minors have not signed an acknowledgment of paternity or a parent and child relationship has not been established between the child and the male minor, the parent who is providing support for the child may request a determination of the existence or nonexistence of a parent and child relationship between the child and the male minor pursuant to this Act.
- B. If a child is born to parents who are unmarried and unemancipated minors, a parent of one of the minors is providing support for the child, and the minors *have* signed an acknowledgment of paternity that has become final pursuant to this Act or a patent and child relationship has been established between the child and the male minor pursuant to this Act, the parent who is providing support for the child may file a complaint requesting that the court issue an order or he may request the FBCSP to issue an administrative order requiring all of the minor's parents to pay support for the child.
- C. On receipt of a request, the FBIC Court or the FBCSP shall schedule a hearing to determine, in accordance with sections Title V, Part XVI Child Support Guidelines of the Code, the amount of child support the minors' parents are required to pay, the method of paying the support, and the method of providing for the child's health care needs.
- D. At the conclusion of the hearing, the court or FBCSP shall issue an order requiring the payment of support of the child and provision for the child's health care needs. The court or FBCSP shall calculate the child support amount using the income of the minors' parents instead of the income of the minors.
- E. If any of the minors' parents are divorced, the court or FBCSP shall calculate the child support as if they were married, and issue a child support order requiring the parents to pay a portion of any support imposed as a separate obligation.

Emancipated minor

- A. Total obligation for child support may continue when a child becomes emancipated. The Court may order child support payments beyond the age of emancipation in certain circumstances (e.g. for physically or mentally disabled children.)
- B. If a parent ordered to pay child support has outstanding payments due (arrearages), the child support payments will be extended past emancipation until the balance is paid in full.
- C. Upon motion of the parties once emancipation occurs, child support orders may be adjusted if there is more than one child named in the order for child support.

Admissibility of results of genetic testing – Expenses

1. Except as otherwise provided in subsection 3, a record of a genetic-testing is admissible as evidence of the truth of the facts asserted in the report unless a party objects to its admission within fourteen days after its receipt by the objecting party and cites specific grounds for exclusion. The admissibility of the report is not affected by whether the testing was performed:
 - a. Voluntarily or pursuant to an order of the court or a support enforcement agency; or
 - b. Before or after the commencement of the proceeding.

2. A party objecting to the results of genetic testing may call one or more genetic-testing experts to testify in person or by telephone, videoconference, deposition, or another method approved by the court. Unless otherwise ordered by the court, the party offering the testimony bears the expense for the expert testifying.
3. If a child has presumed, acknowledged, or adjudicated father, the results of genetic testing are inadmissible to adjudicate parentage unless performed:
 - a. With the consent of both the mother and the presumed, acknowledged, or adjudicated father; or
 - b. Pursuant to an order of the Court under section 1.29 Part VIII Parentage Act.
4. Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child which are furnished to the adverse party not less than ten days before the date of a hearing are admissible to establish:
 - a. The amount of the charges billed; and
 - b. That the charges were reasonable, necessary, and customary.

Consequences of declining genetic testing

1. An order for genetic testing is enforceable by contempt of Court in accordance with the FBIC Law and Order Code.
2. If an individual whose paternity is being determined declines to submit to genetic testing ordered by the Fort Belknap FBIC Court, the Court for that reason may adjudicate parentage contrary to the position of that individual.
3. Genetic testing of the mother of a child is not a condition precedent to testing the child and a man whose paternity is being determined. If the mother is unavailable or declines to submit to genetic testing, the Court may order the testing of the child and every man whose paternity is being adjudicated.

G. ADMISSION OF PATERNITY AUTHORIZED

A defendant in a proceeding to adjudicate parentage may admit to the paternity of a child by filing a pleading to that effect or by admitting paternity under penalty of perjury when making an appearance or during a hearing.

1. If the Fort Belknap Indian Community Court finds that the admission of paternity satisfies the requirements of this section and finds that there is no reason to question the admission, the Court shall issue an order adjudicating the child to be the child of the man admitting paternity.

H. TEMPORARY ORDER

1. In a proceeding under section 1.39 through 1.60, Part VIII Parentage Act, the Fort Belknap Indian Community Court shall issue a temporary order for support of a child if the order is appropriate and the individual ordered to pay support is:
 - a. A presumed father of the child;
 - b. Petitioning to have his paternity adjudicated;
 - c. Identified as the father through genetic testing under section 1.32;
 - d. An alleged father who has declined to submit to genetic testing;
 - e. Shown by clear and convincing evidence to be the father of the child; or
 - f. The mother of the child.
2. A temporary order may include provisions for custody and visitation as provided by other law of the FBIC.

I. RULES FOR ADJUDICATION OF PATERNITY

The Fort Belknap Indian Community Court shall apply the following rules to adjudicate the paternity of a child:

1. The paternity of a child having presumed, acknowledged, or adjudicated father may be disproved only by admissible results of a genetic testing excluding that man as the father of the child or identifying another man as the father of the child.
2. Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man identified as the father of a child under section 1.32 must be adjudicated the father of the child.
3. If the Court finds that genetic testing under section 1.32 neither identifies nor excludes a man as his father of a child, the Court may not dismiss the proceeding. In that event, the results of genetic testing, and other evidence, are admissible to adjudicate the issue of paternity.
4. Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man excluded as the father of a child by genetic testing must be adjudicated not to be the father of the child.

J. JURY PROHIBITED

The FBIC Court, without a jury, shall adjudicate paternity of a child.

K. CLOSED HEARINGS

On request of a party and for good cause shown, the Fort Belknap Indian Community Court may close a proceeding. The following rules apply to paternity hearings:

- 1) The mother of the child and the alleged father(s) may be compelled to testify at the hearing.
- 2) Testimony of a physician concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged.
- 3) The hearing shall be closed unless all parties agree otherwise.

L. ORDER ON DEFAULT

The Fort Belknap Indian Community Court shall issue an order adjudicating the paternity of a man who:

1. After service of process, is in default; and
2. Is found by the Court to be the father of a child.

M. DISMISSAL FOR WANT OF PROSECUTION

The Fort Belknap Indian Community Court may issue an order dismissing a proceeding commenced under this Part for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and has only the effect of a dismissal without prejudice.

N. ORDER ADJUDICATING PARENTAGE

1. The Fort Belknap Indian Community Court shall issue an order adjudicating whether a man alleged or claiming to be the father is the parent of the child.
2. An order adjudicating parentage must identify the child by name and date of birth.

3. The order must include the social security numbers of the child, if one has been established and the individuals determined to be the child's parents.
4. The order may contain any other provisions in the best interest of the child, including payment of support, payment of expenses of the mother's pregnancy and confinement, custody of the child, visitation with the child, and furnishings of bond or other security for payment of support. A support order must be based on a monthly amount, but can be payable in an amount consistent with the child support guidelines established under Title V, Part XVI, of the Fort Belknap Tribal Law and Order Code and must be subject to Title V, Part V of the Fort Belknap Law and Order Code. All remedies for the enforcement of support, custody, and visitation orders under Title V, Part V apply. The Court has continuing jurisdiction to modify an order for future support of the child, subject to Title V, Part V, and custody and visitation of the child.
5. Except as otherwise provided in subsection 6, the Court may assess filing fees, reasonable attorney's fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in proceeding under sections 1.39 through 1.60. The Court may award attorney's fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.
6. The Court may not assess fees, costs, or expenses against the FBCSP, except as provided by other law.
7. On request of a party and for good cause shown, the Court may order that the name of the child be changed.
8. If the order of the Court is at variance with the child's birth certificate, the Court shall instruct the parties of the order to send the order to the state department of health to request an amended birth registration.
9. An order adjudicating parentage must be filed with the state department of health.

O. BINDING EFFECT OF DETERMINATION OF PARENTAGE

1. Except as otherwise provided in subsection 2, a determination of parentage is binding on:
 - a. All signatories to an acknowledgment of denial of paternity as provided in sections 1.16 through 1.27, Part VIII Parentage Act; and
 - b. All parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of section 1.4, Part VIII Parentage Act.
2. A child is not bound by a determination of parentage under this Part unless:
 - a. The determination was based on an unrestricted acknowledgment of paternity and the acknowledgment is consistent with the results of genetic testing;
 - b. The adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown; or
 - c. The child was a party or was represented in the proceeding determining parentage by a guardian ad litem.
3. In a proceeding to dissolve a marriage, the Court is deemed to have made an adjudication of the parentage of a child if the Court acts under circumstances that satisfy the jurisdictional requirements of section 1.4, Part VIII Parentage Act, and other applicable FBIC law, and the final order:
 - a. Expressly identifies a child as a "child of the marriage", "issues of the marriage", or similar words indicating that the husband is the father of the child; or
 - b. Provides for support of the child, custody of the child, or visitation with the child by the husband unless paternity is specifically disclaimed in the order.
4. Except as otherwise provided in subsection 2, a determination of parentage may be a defense in a subsequent proceeding seeking to adjudicate parentage by an individual who was not a party to the earlier proceeding.
5. A party to an adjudication of paternity may challenge the adjudication only under law of the Fort Belknap Indian Community relating to appeal, vacation of judgments, or other judicial review.

P. LIABILITY FOR COLLECTION OF SUPPORT

1. As used in this section, “former parent” means an acknowledged father who successfully rescinded or challenged an acknowledgment of paternity under this Part, a presumed father whose parentage was successfully rebutted under this Part, or an adjudicated father whose parentage was disestablished after an order issued under this Part was vacated.
2. The Fort Belknap Indian Community is not liable for child support that was collected from or on behalf of a former parent and disbursed to an obligee as under Title V Part V of the Fort Belknap Law and Order Code.
3. The Fort Belknap Indian Community is not liable for child support that was collected from or on behalf of a former parent and retained by the FBIC unless ordered by a Court after being presented with genetic test results that would otherwise be admissible under this Part showing that the former parent is not the genetic parent of the child.

Q. DISESTABLISHMENT OF PATERNITY

A declared father may file a Petition for Disestablishment of Paternity upon an initial showing that there is good cause to reopen the paternity matter.

Denial of Paternity

A Presumed father may sign a denial of his paternity. The denial is valid only if:

1. An acknowledgment of paternity signed, or otherwise authenticated, by another man is filed pursuant to section 1.20 of Part VIII Parentage Act; and
2. The denial is in a record and is signed, or otherwise authenticated, under penalty of perjury; and
3. The denial states facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child; and
4. The presumed father has not previously:
 - a. Acknowledged his paternity, unless the previous acknowledgment has been rescinded pursuant to section 1.22 of this act or successfully challenged pursuant to section 1.23 of this act, or

R. TIME FOR FILING PATERNITY ACTION

A petition to determine paternity may be filed at any time for the purpose of establishing the existence of a father and child relationship.

Based on the importance the Fort Belknap Tribe and its people place on the individual member knowing who his/her relatives are, there is NO statute of limitations on when a petition to determine paternity may be filed.

However, for the purposes of establishing a child support obligation, a petition to determine paternity must be filed before the child reaches the age of majority or is emancipated according to the laws of the Fort Belknap Tribe or is NOT otherwise legally considered an adult.

If a petition to determine paternity is brought before the birth of the child, no hearing or other proceeding shall be conducted until after the birth of the child unless the Court determines that an action is necessary in order to preserve testimony.

S. CLOSED HEARINGS

On request of a party and for good cause shown, the Fort Belknap Indian Community Court may close a proceeding. The following rules apply to paternity hearings:

- 1) The mother of the child and the alleged father(s) may be compelled to testify at the hearing.
- 2) Testimony of a physician concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged.
- 3) The hearing shall be closed unless all parties agree otherwise.

T. PATERNITY ESTABLISHMENT AND TRIBAL ENROLLMENT

Establishment of paternity under the FBIC Law and Order Code, Title V, Part VIII Parentage Act, has no effect on FBIC enrollment procedures, status or membership for the Gros Ventre or Assiniboine Tribes.

The FBIC Council and the FBIC Enrollment Office make the final determination of eligibility for enrollment in the Gros Ventre or Assiniboine Tribes of the Fort Belknap Indian Community.

U. PATERNITY ESTABLISHED BY OTHER JURISDICTIONS

1. Properly issued court and administrative orders, judgments or decrees of other Indian tribes, states, or federal agencies establishing paternity will be given full faith and credit in the FBIC Court. Such orders will be considered properly issued when the issuing court or administrative agency had personal jurisdiction over the person claimed to be bound by the foreign order; subject matter jurisdiction over the matter; proper service of process under the law of the issuing jurisdiction; and the issued order does not violate public policy of the Fort Belknap Indian Community. The FBIC Court will determine if due process was properly given to the Respondent.
2. A foreign order is authenticated by reasonable proof that the document tendered to the Clerk of Court is a true copy of the foreign order as it is recorded in the agency or court of the issuing jurisdiction. An authentication stamp issued by a Clerk of Court or custodian of records or a court seal is sufficient evidence of authenticity.
3. Unless defects in jurisdiction are apparent on the face of the foreign order, the person contesting enforcement of the order has the burden of showing that the order is not valid. Upon a failure to respond to a notice/petition for recognition of foreign order and to timely contest it, the FBIC Court shall enforce it as a Fort Belknap Indian Community Court Order.
4. Where a foreign order is invalid by reason of a lack of personal jurisdiction in the agency or court of the issuing jurisdiction, the Court may adopt some or all of the provisions of the order as an original order of the FBIC Court to the extent that it does not violate the public policy of the FBIC.
5. The FBIC Council and the FBIC Enrollment Office makes the final determination of eligibility for enrollment and the FBIC Council or the FBIC Enrollment office are not bound by FBIC Court recognition of paternity orders from other jurisdictions for purposes of enrolling an individual in the Gros Ventre or Assiniboine Tribe.

V. DEFAULT PATERNITY ORDERS – REIMBURSEMENT OF CHILD SUPPORT PAID ERRONEOUSLY

When a man has paid child support as the father of a child and the paternity of a different man is established later by the Fort Belknap Indian Community Court based on genetic testing, the Court may order reimbursement of the child support that was paid erroneously only if:

1. The child support payments were retained by a state or tribal government under a permanent assignment of public assistance benefits;
2. Notice of the hearing has been served on the appropriate government agency;
3. The government agency that received and retained the payment is the party ordered to make the reimbursement and;
4. Reimbursement extends back to the date the man can prove he attempted to contest the child support obligation or eighteen months, whichever is longer.
5. Other reasons the Court deems fit.

W. CONFIDENTIALITY IN PATERNITY ACTIONS

The records filed in a paternity action shall be sealed.

ONLY parties to the case may obtain copies of any filed pleadings without a court order and a showing of cause for why pleadings should be released.

X. GENETIC TESTING LABORATORY

The Fort Belknap Child Support Program will contract (upon award of Comprehensive Grant Funding) with DNA Diagnostics Center, Inc, for it's identification laboratory for purpose of paternity testing.

The FBIC Contact Person is:

Willowa "Sis" Horn, Director
Fort Belknap Child Support Program
155 Blackfeet Ave
Harlem, MT 59526
406.353.4230
Wmurdock@ftbelknap.org

DNA Diagnostic Center, Inc.'s Contact Person is:

John Sarsen, Chief Financial Officer
DNA Diagnostic Center, Inc
One DDC Way
Fairfield, OH 45014

Y. INTERGOVERNMENTAL AGREEMENT

The Fort Belknap Indian Community Council has entered into an Intergovernmental Agreement (IGA) for purposes of exchanging and enforcing child support information. Where applicable, the terms of the IGA will apply.