

§ 11.609

follows in dissolution or separation proceedings:

(1) Apportion or assign between the parties the non-trust property and non-trust assets belonging to either or both and whenever acquired, and whether the title thereto is in the name of the husband or wife or both;

(2) Grant a maintenance order for either spouse in amounts and for periods of time the court deems just;

(3) Order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for his or her support, without regard to marital misconduct, after considering all relevant factors. In addition:

(i) When a support order is issued by a Court of Indian Offenses, the order may provide that a portion of an absent parent's wages be withheld to comply with the order on the earliest of the following dates: When an amount equal to one month's support becomes overdue; when the absent parent requests withholding; or at such time as the Court of Indian Offenses selects. The amount to be withheld may include an amount to be applied toward liquidation of any overdue support.

(ii) If the Court of Indian Offenses finds that an absent parent who has been ordered to pay child support is now residing within the jurisdiction of another Court of Indian Offenses, an Indian tribal court, or a state court, it shall petition such court for reciprocal enforcement and provide it with a copy of the support order.

(iii) If the Court of Indian Offenses receives a petition from another Court of Indian Offenses, an Indian tribal court or a state court, it shall take necessary steps to determine paternity, establish an order for child support, register a foreign child support order or enforce orders as requested in the petition.

(iv) The Court of Indian Offenses shall assist a state in the enforcement and collection of past-due support from Federal tax refunds of absent parents living within the Indian country over which the court has jurisdiction.

(v) Any person or agency who has provided support or assistance to a child under 18 years of age shall be a proper person to bring an action under this section and to recover judgment in

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an amount equal to such past-paid support or assistance, including costs of bringing the action.

(4) Make child custody determinations in accordance with the best interest of the child.

(5) Restore the maiden name of the wife.

§ 11.609 Determination of paternity and support.

The Court of Indian Offenses shall have jurisdiction of all suits brought to determine the paternity of a child and to obtain a judgment for the support of the child. A judgment of the court establishing the identity of the father of the child shall be conclusive of that fact in all subsequent determinations of inheritance by the Court of Indian Offenses or by the Department of the Interior.

§ 11.610 Appointment of guardians.

The court shall have the jurisdiction to appoint or remove legal guardians for minors and for persons who are incapable of managing their own affairs under terms and conditions to be prescribed by the court.

§ 11.611 Change of name.

The Court of Indian Offenses shall have the authority to change the name of any person upon petition of such person or upon the petition of the parents of any minor, if at least one parent is Indian. Any order issued by the court for a change of name shall be kept as a permanent record and copies shall be filed with the agency superintendent, the governing body of the tribe occupying the Indian country under the jurisdiction of the court, and any appropriate agency of the State in which the court is located.

Subpart G—Probate Proceedings

§ 11.700 Probate jurisdiction.

The Court of Indian Offenses shall have jurisdiction to administer in probate the estate of a deceased Indian who, at the time of his or her death, was domiciled or owned real or personal property situated within the Indian country under the jurisdiction of the court to the extent that such estate consists of property which does

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not come within the jurisdiction of the Secretary of the Interior.

§ 11.701 Duty to present will for probate.

Any custodian of a will shall deliver the same to the Court of Indian Offenses within 30 days after receipt of information that the maker thereof is deceased. Any custodian who fails to do so shall be liable for damages sustained by any person injured thereby.

§ 11.702 Proving and admitting will.

(a) Upon initiating the probate of an estate, the will of the decedent shall be filed with the court. Such will may be proven and admitted to probate by filing an affidavit of an attesting witness which identifies such will as being the will which the decedent executed and declared to be his or her last will. If the evidence of none of the attesting witnesses is available, the court may allow proof of the will by testimony that the signature of the testator is genuine.

(b) At any time within 90 days after a will has been admitted to probate, any person having an interest in the decedent's estate may contest the validity of such will. In the event of such contest, a hearing shall be held to determine the validity of such will.

(c) Upon considering all relevant information concerning the will, the Court of Indian Offenses shall enter an order affirming the admission of such will to probate, or rejecting such will and ordering that the probate of the decedent's estate proceed as if the decedent had died intestate.

§ 11.703 Petition and order to probate estate.

(a) Any person having an interest in the administration of an estate which is subject to the jurisdiction of the court may file a written petition with the court requesting that such estate be administered in probate.

(b) The Court of Indian Offenses shall enter an order directing that the estate be probated upon finding that the decedent was an Indian who, at the time of his or her death, was domiciled or owned real or personal property situated within the Indian country under the jurisdiction of the court other than

trust or other restricted property, that the decedent left an estate subject to the jurisdiction of the court, and that it is necessary to probate such estate.

§ 11.704 Appointment and duties of executor or administrator.

(a) Upon ordering the estate to be probated, the court shall appoint an administrator to administer the estate of the decedent. The person nominated by the decedent's will, if any, to be the executor of the estate shall be so appointed, provided such person is willing to serve in such capacity.

(b) The executor or administrator appointed by the court shall have the following duties and powers during the administration of the estate and until discharged by the court:

(1) To send by certified mail true copies of the order to probate the estate and the will of the decedent admitted to probate by such order, if any, to each heir, devisee and legatee of the decedent, at their last known address, to the governing body of the tribe or tribes occupying the Indian country over which the court has jurisdiction, and to the agency superintendent;

(2) To preserve and protect the decedent's property within the estate and the heirs, so far as is possible;

(3) To investigate promptly all claims against the decedent's estate and determine their validity;

(4) To cause a written inventory of all the decedent's property within the estate to be prepared promptly with each article or item being separately set forth and cause such property to be exhibited to and appraised by an appraiser, and the inventory and appraisal thereof to be filed with the court;

(5) To give promptly all persons entitled thereto such notice as is required under these proceedings;

(6) To account for all property within the estate which may come into his or her possession or control, and to maintain accurate records of all income received and disbursements made during the course of the administration.

§ 11.705 Removal of executor or administrator.

The Court of Indian Offenses may order the executor or administrator to