

COQUILLE INDIAN TRIBAL CODE

Chapter 750 Part 7 – Domestic Relations

Dissolution of Marriage

Coquille Indian Tribe
Chapter 750
Dissolution of Marriage

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**Subchapter/
Section**

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750.010 Purpose and Intent.

1. Pursuant to the Coquille Indian Tribe Constitution, Article VI, section 1, the Tribal Council has legislative authority to establish Tribal laws. In order to protect, preserve and promote the health and welfare of the Tribe and its members, the Tribal Council has established this Dissolution of Marriage Ordinance, which sets out rules to govern the dissolution of marriages involving at least one Tribal member.

2. The Tribal Council finds that Marriages involving Tribal members are fundamental rights and fundamental institutions that preserve the Tribe's integrity, cohesiveness and continuity. The Tribe further finds that it is essential to the political integrity of the Tribe to have the ability to dissolve marriages that are created under Tribal law. The Tribe further finds that this Ordinance deals with purely intramural relationships among persons who are recognized members of the Tribe's community.

3. Definitions

- a. **Address** means a residence, mailing or contact address.
- b. **Divorce or Dissolution** means the legal termination of a valid marriage by the Tribal Court.
- c. **Sex** means the condition of being biologically female or male.
- d. **Tribe** means the Coquille Indian Tribe.
- e. **Tribal Court** means the Coquille Indian Tribal Court.
- f. **Tribal member** means a person who is an enrolled member of the Coquille Indian Tribe.
- g. **Tribal Member Services Program** means the program of that name within the Coquille Tribal Administration or such other Tribal Administration program designated by the Tribal Executive Director by regulation.
- h. **Coquille Indian Reservation** means those lands held in trust by the Federal government for the benefit of the Tribe
- i. **Legal Separation** means a legal separation of the property, children, and assets of two parties, at the completion of which the parties are still legally married.
- j. **Annulment** means the legal termination of a voidable marriage as defined by CITC 740.220.

750.020 Jurisdiction and Background

The Tribe has jurisdiction to grant a divorce, legal separation, or annulment based on the merits when a marriage is created under Tribal law, or when at least one of the parties is a Tribal member and the other party consents to the jurisdiction of the Tribal Court. The Tribal Court has jurisdiction to hear all divorce, annulment, and legal separation proceedings, as granted by the Coquille Indian Tribal Code Chapter 610.

750.100 Grounds for Divorce

The sole grounds for divorce shall be that the differences between the parties have caused the irremediable breakdown of the marriage.

750.120 Divorce, Legal Separation and Annulment Procedure

Proceedings in divorce, legal separation and annulment shall be commenced and conducted in the manner provided by Coquille Indian Tribal Code Chapter 610 Tribal Court, 620 Civil Procedure and Coquille Indian Tribal Code Chapter 630 Evidence, except as otherwise specifically provided in this chapter. Grounds for annulment are established in Coquille Indian Tribal Code Chapter 740.220, Voidable Marriages.

750.130 Filing Fee

A filing fee may be established and published by the Chief Judge of the Tribal Court through supplemental court rules. The Chief Judge shall have the authority to waive the fee, if he or she feels that such a waiver will serve the interest of justice.

750.140 Remarriage

Neither party to a divorce action may remarry within sixty (60) days of the final decree granting a divorce. Parties to a Legal Separation are still legally married, and are not able to legally remarry.

750.200 Provisions the Court May Make by Order after Filing of Action and Before Decree

1. After filing of the divorce, legal separation, or annulment action in Tribal Court, the Judge may, in his or her discretion, upon showing of necessity, provide for any of the following by written Order:

a. That a party pay to the Clerk of the Court, such amount of money as may be necessary to enable the other party to prosecute or defend the action, as the case may

be, and also such amount of money as may be necessary to support and maintain the other party;

b. For the care, custody, support, and maintenance of the minor children of the marriage by one party or jointly and for visitation right of the parent or parents not having custody of such children;

c. For the restraint of a party from, in any manner, interfering with the other or the minor children;

d. That, if the minor children reside in the family home and the Court considers it necessary for their best interests to do so, the Court may require either party to move out of the home for such period of time and under such conditions as the Court may determine, regardless of whether the home is rented, owned, or is being purchased by one or both parties;

e. Restraining and enjoining either party or both from encumbering or disposing of any of their property, real or personal, except as ordered by the Court;

f. For the temporary use, possession, and control of the real or personal property of the parties or either of them and the payment of installment liens and encumbrances thereon;

g. That, even if no minor children reside in the family home, the Court may require one party to move out of the home for such period of time and under such conditions as the Court determines, whether the home is rented, owned, or is being purchased by one party or both parties, if that party assaults or threatens to assault the other; or,

h. That, if the Court feels that it would be beneficial and the parties agree, the court may order mediation or any other alternative dispute resolution process, if the parties financial situation allows.

2. In making a determination under subsections 1(d) through 1(g), the Court must take the following factors into account:

a. Whether the home or real property at issue is being leased or purchased from the Tribe or any other Tribal entity;

b. Whether there are any laws or regulations applicable to the home or real property that require that the occupant be an “Indian” as that term is defined by applicable federal or Tribal law;

c. Whether there are any constraints in the funding source(s) involved in the purchase, rental, maintenance, or operation of the home or other real property that require that the occupant be an “Indian” as that term is defined by applicable federal or Tribal law; and,

d. Whether there are any requirements or constraints in the rental agreement, lease, homebuyer agreement, restrictive covenant, or other applicable instruments that would be breached if one of the parties was granted the exclusive right to occupy the premises.

Upon consideration of the above listed factors, the Court may not take action that could jeopardize any funding received by the Tribe or any Tribal entity, that could put the Tribe or any Tribal entity in violation of applicable law or regulation, or that could result in a breach of a rental agreement, lease, homebuyer agreement, restrictive covenant, or other applicable instrument. The Court may request input from the Tribe or any applicable Tribal entity to assist it in making such determination.

3. In the case default is made in the payment of any monies falling due under the terms of an Order pending action, any such delinquent amount shall be entered and docketed as a judgment, and execution may issue to enforce payment in the same manner and with the same effect as the final decree.

750.300 Provisions of Final Decree

1. When the Court issues a decree of annulment, legal separation, or divorce, it has the further power to decree:

a. For the future care and custody of all minor children born, adopted, or conceived during the marriage, and for minor children born to the parties prior to the marriage, and for the visitation rights of the parent or parents not having custody of such children as it may deem just and proper. In determining custody, the Court shall consider the best interests of the child and the past conduct and demonstrated moral standards of each of the parties. No preference shall be given to either parent for the sole reason of their gender role;

b. For the recovery from the party not allowed the care and custody of such children, or from either party or both parties if joint custody is decreed, such amount of money as the Court deems is just for the party to contribute to the care and education of such children;

c. For the support of a party, such amount of money for such period of time as may be just for such party to contribute to the maintenance of the other;

- d. For the delivery of each party's personal property in the possession of the other party at the time of the decree;
 - e. For the division or disposition of the real or personal property and debts of the parties;
 - f. To return the surname of either party to their surname before the marriage;
or,
 - g. To order either party to sign or deliver all necessary documents to effect the provisions of this decree.
2. Subsequent changes, modifications or new orders may be made by the Court with respect to the custody of the children as shall be reasonable and proper, as more fully described in Coquille Indian Tribal Code Chapter 743.

750.350 Payment of Costs and Attorney Fees

The Court may consider the relative financial resources of both parties and order a party to pay a reasonable amount for the cost to the other party for maintaining or defending any proceeding under this Chapter and for reasonable counsel or attorney fees or other professional fees in connection therewith, including sums for legal services rendered and costs.

750.995 Severability

If any provision of this ordinance or the application of any provision of this ordinance to any person or circumstance is held invalid by a court of competent jurisdiction, that provision shall be severed from the ordinance and the remainder of this ordinance shall remain in full force and effect.

750.997 Sovereign Immunity

Nothing in this ordinance shall be construed as a waiver of sovereign immunity of the Tribe or of any Tribal official, agent, employee or representative, which the Tribe expressly asserts.

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