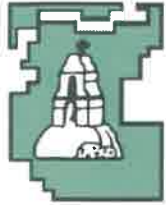


Pala Band of Mission Indians  
**Ordinance No. 36**  
**Child Support**



**Adopted February 14, 2024**



**PALA BAND OF  
MISSION INDIANS**

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**Ordinance No. 36  
Child Support Ordinance**

**CHAPTER ONE  
JURISDICTION AND DEFINITIONS**

**Section 1 Purpose**

- A. Policy. It is the Pala Band of Mission Indians (“Pala Band”) policy that parents have a duty to support their children. The child subject to the jurisdiction of the Tribal Court is the person to whom support is owed, and the guardian(s) shall be entitled to such support for the benefit of the child. It is the intention of this Ordinance to impose a duty upon the parent(s) of the child or children before the Tribal Court to support the child or children in a manner suitable to the child’s or children’s circumstances.
- B. Purpose. The purpose of this Child Support Ordinance is to:
1. Establish the legal duty for parents to provide financial support for the needs of their children.
  2. Establish objective and consistent standards to determine support amounts for children.
  3. Provide an efficient legal process by giving the Court and parents guidance in setting the levels of child support orders and encouraging agreed resolutions.
  4. Balance the needs of the children to be supported with the needs of the obligor parent so as not to make the child support orders so burdensome for the parents obligated to pay to meet their obligations.
  5. Provide for reciprocal recognition and enforcement of foreign child support orders and judgments consistent with this Ordinance.

The establishment of these duties, standards, and legal processes is in the best interests of Indian families, especially Pala Band Member Children and Direct Descendants of the Pala Band.

## **Section 2 Jurisdiction**

- A. Subject Matter Jurisdiction of the Pala Band. The Pala Band has subject matter jurisdiction over any action to establish or enforce Child Support under this Ordinance.
- B. Personal Jurisdiction. The Pala Band has personal jurisdiction over the following:
1. All Pala Band Member Children and Direct Descendants of the Pala Band regardless of the child's domicile or residence.
  2. Indian parents who are members of the Pala Band.
  3. Any non-Indian parent who:
    - a. Initiates a Child Support Proceeding in Tribal Court;
    - b. Appears and consents to the Tribal Court's jurisdiction; or
    - c. Has income or the right to income generated from the Pala Band or any of its agencies, enterprises, or businesses.
  4. Over a parent of a Pala Band Member Child or Direct Descendant of the Pala Band over whom the Tribal Court has asserted jurisdiction under Ordinance No. 21, Child Welfare.
  5. As requested by another jurisdiction to facilitate the consolidation of a case arising in that jurisdiction involving the same obligor with a case pending before the Pala Band's Tribal Court.
- C. Nature of Jurisdiction. The jurisdiction of the Tribal Court is civil in nature and includes the right to issue all orders necessary to ensure the health, safety, and welfare of children that come before the Court as well as those who have been declared to be wards of the Court. The Court has the power to impose fines, issue and enforce subpoenas, and issue and enforce stay away, contempt, protection and detention orders, and any other orders as appropriate.

## **Section 3 Definitions**

The following words and phrases, whenever used in this Ordinance, have the following meaning unless defined otherwise by Tribal ordinance or guidelines:

- A. Child Support means a financial obligation established through judicial or administrative process for the support of a child, including a child who is over 18 years of age, or maintenance of the parent with whom the child is living. The obligation includes but is not limited to continuing support, payment of arrearages, and the provision of benefits such as health insurance.

- B. Child Support Guidelines means support limits set forth in the state and Federal Guidelines.
- C. Child Support Order means a judgment or order entered by a court or administrative agency that orders payment of a specific or determinable amount of child support, or other support toward the needs of a child, including medical, dental, childcare, or educational support.
- D. Child Support Proceeding means a proceeding initiated in the Tribal Court seeking a Child Support Order.
- E. Court means the Pala Tribal Court.
- F. Direct Descendent of the Pala Band means a person under the age of eighteen (18) years old and that has a parent or grandparent who is a member of or eligible for membership in the Pala Band.
- G. Domicile means the place where a person has his/her permanent home or principal establishment and to where, whenever absent, the person intends to return. A child's domicile is considered that of his/her parent(s).
- H. Income means earnings, income, benefits, and reimbursements from all earned-income sources. Income does not include benefits received from means-tested public assistance programs including, but not limited to TANF, supplemental security income, food stamps, or any other program exempted by federal law; income of a parent's new spouse; and financial aid received for educational expenses.
- I. Pala Band means the Pala Band of Mission Indians and may also be labeled as "PBMI."
- J. Pala Reservation means all lands within the external boundaries of the Pala Indian Reservation and any lands which may be added to the Reservation in the future.
- K. Party or Parties means the parents of a child that is the subject of a Child Support Proceeding.
- L. Pala Band Member Child(ren) means a person under the age of eighteen (18) years old and who is a member of, or eligible for membership in the Pala Band of Mission Indians.
- M. Pala Band Member Parent means the parent of a Pala Band Member Child or Direct Descendant of the Pala Band who is an enrolled member of the Pala Band.

**CHAPTER TWO**  
**PETITION AND HEARINGS**

**Section 1 Confidentiality**

- A. The Court may order that the address and other location information regarding a Party or child shall not be released if the Court finds that release of such information is reasonably likely to result in physical or emotional harm to the child or to the Party. In such an instance, the information shall not be available for public view and the Court may designate those persons who are allowed access.
  
- B. The Court shall make provision for the confidentiality of financial records filed by the Parties, so that they are secure from view by the public but may be reviewed by the Parties to the case, solely for the purpose of establishing, modifying, enforcing, or distributing Child Support.

**Section 2 Court Procedures**

- A. Following initiation of a Child Support Proceeding, service, and proof of service of a petition and summons shall be conducted under the rules set forth in Section 5. Rules of Procedure, Rules 23 and 27, Pala Court and Civil Procedure Rules, Pala Tribal Policy No. 11.
  
- B. Documents that must be served on a Party after service of the Child Support petition and summons may be served by acknowledgment of receipt by the Party, delivery to the Party, mailing by regular mail to the Party's last known address, or by facsimile or electronic delivery. Service under this section must be verified by filing with the Court an affidavit or certificate of service, or if the Party being served has no known address, filing with the Court an affidavit of attempt to serve.
  
- C. The Court may order that any person comply with the following discovery requests:
  - 1. The inspection of property, examination, and production of pertinent records, books, information, or evidence; and
  - 2. A subpoena for testimony under oath, that may include a requirement that the person bring to the deposition or hearing itemized documents or things.

A person who fails to comply with an order of the Court to provide discovery may be found to be in contempt of court.

### **Section 3 Child Support Guidelines and Payment**

- A. The amount ordered to be paid will be based on an Income and expense statement, pay stubs, and tax returns of the person or persons who owe the duty of support; and calculated according to State and Federal Guidelines. The calculated amount shall be paid directly to the caregiver of the child or children.
- B. In the circumstance where the parent is ordered to pay Child Support and the parent is not an enrolled member the Pala Band the Child Support Order shall be served upon said parent(s) to pay the amount monthly.

### **Section 4 Forwarding Child Support Order to Tribal Finance Department**

Where support is ordered to be paid, the Tribal Court shall forward an order to the Tribal Finance Department directing Child Support to be paid on a month-by-month basis from per capita distribution until a termination or modification of the order is made and delivered to the Tribal Finance Department.

### **Section 5 Authority to Modify or Terminate the Support Order**

The Tribal Court shall have the authority to modify or terminate the support order upon proper petition from the person or persons who are ordered to remit the support. If such a petition is filed by the person or persons who owe the duty of support, then the petition will be accompanied by an updated Income and expense statement, and updated pay stubs for the previous ninety (90) days from the date the petition is filed, and a tax return for the previous year.

### **Section 6 Bankruptcy**

The Child Support Order is non-dischargeable in bankruptcy.

### **Section 7 Child and Special Support Orders**

- A. Child in Special Placement. In circumstances where a Pala Band Member Child or Direct Descendant of the Pala Band subject to the jurisdiction of the Tribal Court pursuant to Ordinance No. 21, Child Welfare, is placed in an institution of recovery, or similarly situated, and not in the home of a caregiver nor incarcerated, the Tribal Court may review the issue of Child Support upon petition by Pala Social Services. The Tribal Court may make all Child Support Orders as necessary to support the child from both the parents' income, and the child's trust income proportionate to the circumstances of each case. In this situation, Pala Social Services is operating in place of the parent, parents, or guardian, and may be entitled to re-imbusement of expenses incurred because of the child's special needs.

- B. Child Support Orders in Family Law. The Tribal Court has authority to set Child Support Orders in circumstances where one parent is seeking support from the other parent. In this circumstance the party who is seeking support must establish that the person from whom support is sought owes a duty of support because that person is the biological parent of the child or children for whom the support is sought. The amount of support will be calculated as set forth in Section 3 of this Chapter.
- C. Child Support Orders in Child Welfare. The Tribal Court has authority to set Child Support Orders in circumstances where a Pala Band Member Child or Direct Descendant of the Pala Band is under the Tribal Court's jurisdiction pursuant to Ordinance No. 21, Child Welfare.
- D. Prior Parental Rights Termination Order. A biological parent whose parental rights have been previously terminated cannot owe a duty of support for their biological child or children.

**Section 8 Arrearages**

The Tribal Court may issue a child support order that includes payment of past child support due, or arrearages. Arrearages may not exceed one-half of the Pala Band Member Parent's net per capita.

**Section 9 Health Insurance**

The Tribal Court may order the Pala Band Member Parent to enroll their children in the Pala Band's available health insurance coverage. For children who are not Pala Band Member Children, the custodial parent is responsible for payment of the insurance premium.

**Section 10 Date of Funds Transfer to Caregiver or Other**

Once the Tribal Court makes a Child Support Order under this Ordinance, Child Support payments shall begin as soon as practicable under the circumstances.

**Section 11 Support from Incarcerated Parents**

A parent who is enrolled in the Pala Band and who is incarcerated in Federal or state Prison for a term more than one (1) year is not subject to the support limits set forth in the state and Federal Guidelines and Section 3 of this Chapter, but such person's per capita may be directed to support the parent's child after the parent's debts to the Pala Band have been satisfied.

**Section 12 Order after Hearing**

The Child Support Order shall be included in the Order after Hearing.

**Section 13 Effect of Multiple Support Orders**

Where there is more than one Child Support Order or a new Child Support Order, the Court will revise the amount to be paid to the children. The amount will be paid on an equal basis to each child, unless there are special needs related to one or more of the children. The Tribal Judge will make the determination regarding what qualifies as special needs.

**Section 14 Tribal Court Support Forms**

The Tribal Court Clerk is responsible for providing all forms necessary to establish, modify, or terminate Child Support. Handwritten documents will not be accepted except under extreme and exceptional circumstances where Tribal Court forms are not available.

**Section 15 Periodic review**

The Tribal Council Executive Committee and the Pala Social Services Department will periodically review the Child Support Guidelines set forth in this Chapter.

**CHAPTER THREE  
AMENDMENTS**

**Section 16 Effective Date and Amendments**

- A. Amendment of Ordinance. This Ordinance No. 36 - Child Support may be amended by a majority vote of those members present at a duly called General Council meeting at which a quorum is present.
- B. Clerical Revisions. Any clerical, administrative, and non-substantive amendments may be made and approved by the Executive Committee.



**CERTIFICATION**

We, the undersigned members of the Executive Committee, do hereby certify that Ordinance No. 36 was adopted at a duly called regular meeting of the **General Council**, at which a quorum was present, on this 10<sup>th</sup> day of February, 2024, by a vote of 48 in favor, 4 opposed, and 20 abstaining.

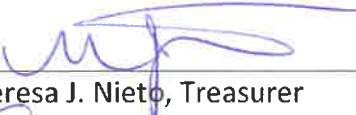
**This version shall supersede all previous versions.**



Robert H. Smith, Chairman



Brandon L. Johnson, Vice-Chairman



Theresa J. Nieto, Treasurer



Theresa Villa, Secretary



Carla M. Nejo, Committee



Shelia L. Smith-Lopez, Committee

**-Office of the Secretary-**