

Class "C" Resolution
No BIA Action Required

RESOLUTION OF THE
NAVAJO NATION COUNCIL

Adopting the Navajo Nation Child Support Enforcement Act

WHEREAS:

1. Pursuant to 2 N.T.C. §102 (a), the Navajo Nation Council is established as the governing body of the Navajo Nation Government; and
2. The Navajo Nation Council acknowledges the financial difficulties and hardship Navajo children and families face from the lack of child support enforcement services within the Navajo Nation; and
3. The Navajo Nation Council affirms that all children have the right to receive adequate support and that all parents have the duty and responsibility to support their children; and
4. Due to the demonstrated need for child support enforcement services throughout the Navajo Nation, the Office of Navajo Women and Families, Division of Human Resources, has negotiated a Joint Powers Agreement with the State of New Mexico in the amount of \$150,000.00 of State and the appropriate matching federal funding for the development and implementation of child support enforcement services for cooperative tribal and state enforcement of child support enforcement orders in San Juan and McKinley Counties in New Mexico, attached hereto as Exhibit "A"; as part of the agreement with New Mexico, the Navajo Nation has agreed to develop legislation which meets federal requirements included in Title IV-D of the Social Security Act; and
5. The Navajo Nation Office of Navajo Women and Families is in the process of negotiating a similar agreement with the State of Arizona, after which it will try to reach a similar agreement with the State of Utah for cooperative enforcement of child support enforcement services; and
6. By Resolution HSCN-93-94, incorporated herein as Exhibit "B", the Human Services Committee of the Navajo Nation Council has reviewed the proposed legislation and recommends adoption of the Navajo Nation Child Support Enforcement Act; and
7. By Resolution HSSCN-122-94, incorporated herein as Exhibit "C", the Health and Social Services Committee of the Navajo Nation Council has reviewed the proposed legislation and recommends adoption of the Navajo Nation Child Support Enforcement Act; and

8. By Resolution JCN-19-94, incorporated herein as Exhibit "D", the Judiciary Committee of the Navajo Nation Council reviewed the proposed legislation and recommends adoption of the Navajo Nation Child Support Enforcement Act; and

9. Fifty chapters of the Navajo Nation have passed resolutions recommending adoption of the Navajo Nation Child Support Enforcement Act, such resolutions incorporated herein as Exhibit "E"; and

10. The Navajo Nation Council has reviewed the proposed legislation, attached hereto as Exhibit "F" and finds it to be in the best interests of the Navajo Nation to adopt the Navajo Nation Child Support Enforcement Act.

NOW THEREFORE BE IT RESOLVED THAT:


1. The Navajo Nation Council hereby adopts the Navajo Nation Child Support Enforcement Act and directs its inclusion in the Navajo Tribal Code as Title 9, Chapter 16.

2. The Navajo Nation Council hereby authorizes and directs the President of the Navajo Nation to execute the provisions of the Navajo Nation Child Support Enforcement Act.

3. The Navajo Nation Council further urges the States of Arizona and Utah to comply with Title IV-D of the Social Security Act and provide appropriate child support enforcement services to residents of the Navajo Nation through cooperative agreements for child support enforcement services similar to that between the Navajo Nation and the State of New Mexico.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 60 in favor, 3 opposed and 0 abstained, this 14th day of December 1994.


Nelson Gorman, Jr., Speaker
Navajo Nation Council

DEC 16 1994
Date Signed

Motion: Tom Y. Bahe
Second: Henry Barber

1 Section 1 - Short Title: This Act shall be known as the
2 Navajo Nation Child Support Enforcement Act.

3 Section 2 - Statement of Policy.

4 A. It is the public policy of the Navajo Nation to
5 implement the values of Navajo common law regarding parentage and
6 children. Children are the most valuable gift of creation. They
7 must be loved and receive care. There is a parental duty to
8 establish a child's parentage for identity in family and clan
9 relations. Parents and relations have a duty to nourish and
10 support children. Where there is disharmony in the family, parents
11 will subordinate their interests in favor of their children.

12 B. Children shall be maintained, as completely as
13 possible, from the resources of their parents. This Act
14 establishes an administrative process for the establishment of
15 parentage; the establishment, modification and enforcement of child
16 support obligations; and adds remedies to those already existing
17 for child support enforcement. This Act shall be liberally
18 construed to effectuate the policy stated herein; and these
19 remedies shall be in addition to, and not in lieu of, those in
20 existing law.

21 C. The state agencies within the States of Arizona, New
22 Mexico, and Utah which are charged with the statewide provision of
23 services to individuals under Title IV(D) of the Social Security
24 Act may utilize the administrative and judicial review processes
25 provided for in this Act, to the extent that they negotiate
26 agreements with the Navajo Nation for the performance of
27 administrative functions by the Navajo Nation. Absent such

1 agreements, the Navajo Nation shall have no obligation to provide
2 services under this Act to state Title IV(D) agencies. In no
3 manner is this Act intended, nor is it to be deemed, to relieve the
4 States of Arizona, New Mexico and Utah from providing equal
5 protection of the laws of their respective states and the United
6 States to their citizens.

7 Section 3 - Definitions

8 For purposes of this Act:

9 A. "Absent Parent" means a parent of (a) child(ren)
10 either during the course of marriage or outside of marriage who is
11 not providing the custodial parent with child support for the
12 benefit of the child(ren), or who is bound by an administrative or
13 court order to pay a child support obligation.

14 B. "Administrative Order" unless otherwise indicated
15 means an order issued by the Office of Hearings and Appeals
16 establishing and/or modifying parentage of and/or liability for
17 public debt and/or child support for any child(ren).

18 C. "Child" means any person under the age of 18 who is
19 not emancipated according to the laws of the Navajo Nation who is
20 alleged to be the natural or adopted offspring of an absent or
21 custodial parent.

22 D. "Child Support" means the financial obligation an
23 absent parent has towards his or her child(ren), whether such
24 obligation is established through judicial or administrative
25 process, by stipulation of the absent parent, or by parentage of
26 any child(ren). The financial obligation of an absent parent shall
27 be met through the payment of monies and/or through the provision

1 of other goods and/or services, as ordered by the Office of
2 Hearings and Appeals, or the courts.

3 E. "Court" shall mean any family court of the Navajo
4 Nation or a court of another state or territory having jurisdiction
5 to determine an absent parent's liability for child support.

6 F. "Court Order" means any order, judgment, or decree
7 of a court establishing or modifying parentage for (a) child(ren)
8 and/or liability for public debt and/or child support for any
9 child(ren).

10 G. "Custodial Parent" means the parent who holds legal
11 custody of the child(ren) pursuant to a court order, or who
12 exercises physical custody of the child(ren) on the basis of
13 agreement between the parents or the absence of one parent. The
14 term custodial parent shall also include a guardian or custodian
15 appointed by a court of competent jurisdiction.

16 H. "Division" unless otherwise indicated means the
17 Navajo Nation Division of Human Resources, or its successor.

18 I. "Garnishment" means the process whereby an order is
19 directed to an employer, bank or agent, holding monies or property
20 of an absent parent, to make payments or deliver property to
21 satisfy a child support obligation in accordance with the order.

22 J. "Gross Income" is income from any source, including
23 but not limited to, salaries, wages, commissions, bonuses,
24 dividends, severance or retirement pay, pensions, interest, trust
25 income, annuities, capital gains, unemployment compensation,
26 worker's compensation, disability insurance benefits, tips, gifts,
27 prizes, and alimony. It includes in-kind and non-cash income,

1 calculated at reasonable market value.

2 K. "Income Tax Refund Interception" is a remedy whereby
3 any income tax refund of an absent parent shall be intercepted
4 directly from the United States, state, Navajo Nation, or other
5 Indian Nation for the payment of public and/or support debt.

6 L. "Parent" means the natural or adoptive mother or
7 father of a child.

8 M. "Parentage" means the condition of being the natural
9 or adoptive mother or father of any child(ren) and includes both
10 the paternity and maternity of any child(ren).

11 M. "Public Assignment of Child Support Rights" means
12 the assignment of child support rights by the custodial parent to
13 the Navajo Nation, or any state or federal agency. Such assignment
14 may be in connection with the payment of benefits under the federal
15 Aid to Families with Dependent Children (AFDC) to or for the
16 benefit of any child(ren) by the Navajo Nation, or any state or
17 federal agency, as a consequence of the failure of an absent parent
18 to provide child support to any child(ren).

19 N. "State Lottery and Indian Gaming Winnings" means any
20 and all monies and/or goods and/or services which are awarded to an
21 individual as a consequence of a state and/or Indian Nation gaming
22 operation.

23 O. "Child Support Rights" means the rights of a
24 custodial parent to receive child support from an absent parent as
25 determined under the law of the Navajo Nation or comparable laws of
26 any other jurisdiction or territory.

27 P. "Wage Assignment" means a voluntary written

1 assignment of earned wages which is submitted by an employee to an
2 employer, authorizing the employer to pay the earned wages of the
3 employee to or for the benefit of a child.

4 Q. "Wage Execution" is a remedy which can be included
5 in an administrative or court order directing an employer to make
6 payments to or for the benefit of a child from the earned wages of
7 any employee.

8 Section 4 - Public Assignment of Child Support Rights,
9 Establishment and Amount of Obligation.

10 A. Assignment

11 A public assignment of child support rights constitutes
12 an obligation owed by the absent parent to the Navajo Nation, or
13 any state or federal agency. The assignment may be connected to
14 the payment of AFDC benefits to, or for the benefit of, the
15 child(ren).

16 I. A custodial parent who receives AFDC benefits
17 in his or her own behalf or for the benefit of a child shall assign
18 all accrued child support rights for the AFDC beneficiary
19 child(ren), to the Navajo Nation, or other federal or state agency
20 which made AFDC payments to the custodial parent.

21 II. A custodial parent who does not receive AFDC
22 benefits may apply for services from the Division under this Act
23 upon their voluntary assignment of all accrued child support rights
24 to the Navajo Nation. Provided, that the Division may charge non-
25 AFDC recipient custodial parents fees for services provided under
26 this Act, in accord with the fee schedule established pursuant to
27 Section 11 of this Act.

1 III. The assignment of child support rights includes
2 the right to prosecute any action to establish parentage, and to
3 establish, modify, and/or enforce the amount of child support
4 obligation, pursuant to this Act or any other provision of
5 applicable Navajo Nation law. All such actions shall be brought in
6 the name of the Navajo Nation, or such other federal or state
7 agency which made AFDC payments to the custodial parents.

8 IV. The custodial parent shall have the right to
9 refuse to assign support rights to the Navajo Nation, or other
10 federal or state agency, for good cause, based upon the best
11 interests of the child(ren).

12 B. Obligation

13 The absent parent's child support obligation shall be
14 established through the administrative process provided in this
15 Act, or by a voluntary agreement which meets the requirements of
16 Section 16 of this Act.

17 I. The obligation shall commence at the time of
18 the entry of the administrative order which establishes the amount
19 of the child support payable by the absent parent, or on the date
20 on which the absent parent signs the voluntary agreement.

21 II. If there is an administrative order, the amount
22 of the child support obligation shall be the amount set in the
23 administrative order.

24 III. Until there is an administrative order entered,
25 the amount of the child support obligation shall be presumed to be
26 the amount determined in writing by the Division as part of the
27 administrative process established under this Act, in accordance

1 with the Navajo Nation Child Support Guidelines.

2 Section 5 - Notice of Public Assignment of Child Support
3 Rights.

4 When the Navajo Nation or any other state and/or federal
5 agency has received an assignment of child support rights, the
6 Division may issue a Notice of Public Assignment of Child Support
7 Rights. Service shall be by certified mail, restricted delivery.
8 Provided, that where an attempt to serve by certified mail is
9 unsuccessful, personal service shall be made by any person
10 designated by the Division who has reached the age of eighteen (18)
11 years, and who is neither identified as a child nor a custodial
12 parent under the Notice of Assignment of Child Support Rights. The
13 notice shall include:

14 A. A statement providing the name(s) of the child(ren)
15 for whom parentage is alleged and for whom child support is being
16 sought, and the name of the custodial parent;

17 B. A statement of the child support obligation accrued,
18 and a demand for immediate payment, for those cases wherein a court
19 or administrative order has established the child support
20 obligation; or

21 C. A statement of the child support obligation which
22 the Division has determined to be appropriate, in accord with the
23 Navajo Nation Child Support Guidelines, for those cases in which no
24 court or administrative order has established the child support
25 obligation;

26 D. A statement that if the alleged absent parent
27 disagrees with the claim of their parentage of the child(ren), the

1 amount of the child support obligation or the periodic payment
2 required thereon, the alleged absent parent must file a written
3 answer and request for hearing, within thirty (30) days of service,
4 with the Division, which shall immediately transmit the written
5 answer and request for hearing to the Office of Hearings and
6 Appeals;

7 E. A statement that if no timely written answer is
8 received, the Office of Hearings and Appeals shall enter an order
9 in accord with the Notice of Public Assignment of Child Support
10 Rights;

11 F. A statement that as soon as an administrative order
12 is entered, the absent parent's property, without further notice or
13 hearing, will be subject to collection action, including but not
14 limited to wage execution, garnishment, income tax refund
15 interception, state and Indian gaming winnings interception,
16 attachment and execution on real property held in fee simple,
17 whether located within or outside the boundaries of Navajo Indian
18 Country and personal property wheresoever located;

19 G. A statement that the absent parent is responsible
20 for notifying the Division of any change of address or employment;

21 H. A statement of all fees associated with the
22 administrative child support enforcement process which may be
23 charged against the absent parent;

24 I. A statement indicating that the entry of default
25 against the absent parent will result in the entry of a self-
26 executing judgment for wage execution in the amount of the public
27 debt;

1 J. Such other information as the Division deems
2 appropriate.

3 Section 6 - Navajo Nation Child Support Guidelines.

4 The Navajo Nation Supreme Court shall, following public
5 hearings conducted by the Division and in accord with the
6 requirements of 7 N.T.C. §601, establish a scale of minimum child
7 support contributions. This scale shall be used to determine the
8 amount an absent parent shall pay for support of his or her
9 child(ren) pursuant to this Act.

10 A. The Navajo Nation Child Support Guidelines must, at
11 a minimum:

12 I. Take into consideration all gross income of the
13 parents;

14 II. Be based on specific descriptive and numeric
15 criteria and result in a computation of an amount of child support
16 which is sufficient to meet the basic needs of the child(ren) for
17 housing, clothing, food, education, health care, recreation, and
18 goods and services required by physical and/or mental disability;

19 III. Provide for the child(ren)'s health care needs,
20 through health insurance coverage which supplements those health
21 care goods and services provided by the Federal Government, where
22 appropriate;

23 IV. The circumstances which may support a written
24 finding on the record of a judicial or administrative proceeding
25 for the award of child support, in reducing support contributions
26 on the basis of hardship to the absent parent or other children
27 while considering the best interest of the child(ren) who are the

1 subject of the judicial or administrative proceeding; and

2 V. Provide for review and revision, where
3 appropriate, of the child support guidelines at least once every
4 four years to ensure that the amounts provided for in the
5 guidelines are periodically adjusted for increases or decreases in
6 the costs associated with the care and support of children within
7 the Navajo Nation.

8 B. The Supreme Court of the Navajo Nation shall accept
9 and compile pertinent and reliable information from any available
10 source in order to establish a scale of minimum support contri-
11 butions. Copies of the scale shall be made available to the
12 Division, the Office of Hearings and Appeals, courts, prosecutors,
13 and persons admitted to the practice of law in the Navajo Nation,
14 and shall be considered public records of the Navajo Nation.

15 Section 7 - Adjustments to Gross Income

16 A. When calculating the gross income of a parent for
17 purposes of this Act, the following adjustments to gross income
18 shall be made as deductions from gross income:

19 I. Amounts of court-ordered alimony and child
20 support actually paid; and

21 II. Amounts necessary for minimal costs of food,
22 shelter, clothing, and transportation in maintenance of the parent;
23 and

24 III. Amounts paid in mandatory taxes and social
25 security deductions.

26 B. The provisions of Section 7, subsection (A)
27 notwithstanding, the best interests of the child(ren) shall take

1 precedence. Child support amounts shall be sufficient to provide
2 for the basic needs of the child(ren). In cases wherein
3 adjustments to gross income of a parent under Section 7, subsection
4 (A)(ii), would result in insufficient child support to any of the
5 children of the absent parent, the needs of the child(ren) shall
6 take precedence over the needs of the absent parent.

7 Section 8 - Administrative Hearings.

8 A. Scheduling of Hearing

9 Upon receipt of a written answer from the alleged absent
10 parent pursuant to Section 5 of this Act, the Office of Hearings
11 and Appeals shall schedule a hearing before a hearing officer. The
12 administrative hearing shall be held within the judicial district
13 in which the custodial parent resides, unless another venue is
14 agreed upon by the parties. Telephonic administrative hearings are
15 permitted as well as the telephonic administration of oaths. The
16 administrative hearing shall be scheduled within 30 days of the
17 receipt of the written answer, unless continued for cause by the
18 hearing officer.

19 B. Issues for Determination in Administrative Hearing

20 I) Parentage

21 Unless the alleged absent parent has stipulated to his or
22 her parentage of the child(ren), the hearing officer shall
23 determine whether the alleged absent parent is the parent of the
24 child(ren). The hearing officer shall make a specific finding of
25 fact regarding whether the alleged absent parent is the parent of
26 the child(ren). The standard for proof of parentage shall be by
27 clear and convincing evidence.

1 III) Amount of Child Support Obligation

2 The hearing officer shall establish the amount of the
3 child support obligation of the absent parent by using the Navajo
4 Nation Child Support Guidelines provided in Section 6. The hearing
5 officer shall make a specific finding of fact regarding the amount
6 of the child support obligation. The standard of proof for
7 establishment of the amount of the child support obligation shall
8 be by preponderance of the evidence.

9 C. Procedures

10 The hearing shall be conducted according to procedures
11 established by the Office of Hearings and Appeals. These
12 procedures shall provide due process to the parties and shall, at
13 a minimum, authorize:

14 I. The inspection of property, examination and
15 production of pertinent records, books, information, or evidence;

16 II. The subpoena of any person for testimony under oath
17 concerning all matters related to the establishment of parentage
18 and child support;

19 III. The admission of pertinent testimony and evidence
20 upon which the issues of parentage and child support shall be
21 determined; and

22 IV. The making of a permanent record of the proceedings,
23 through electronic recording or other method.

24 D. Default

25 If the alleged absent parent fails to appear at the
26 hearing, upon a showing of valid service, the hearing officer shall
27 enter a decision and order of parentage, and child support

1 obligation pursuant to the notice. Within 20 days of the
2 administrative hearing, the hearing officer shall enter an order
3 stating the establishment of parentage, and the child support
4 obligation of the absent parent.

5 E. Miscellaneous Content of Order

6 I. Each order for child support or maintenance
7 payments shall include an order that the absent parent and
8 custodial parent notify the Office of Hearings and Appeals of any
9 change of employer or change of address within 10 days of such
10 change.

11 II. In the event the order contains a determination
12 of child support obligation, the order shall be in favor of the
13 child through its custodial parent or guardian when the Navajo
14 Nation, or other federal or state agency, is not making AFDC
15 payments in behalf of the child.

16 III. In the event the order contains a determination
17 of child support payments, the order shall provide for garnishment,
18 wage execution, state and Indian gaming winnings and income tax
19 refund interception as means for execution on any unpaid child
20 support obligation.

21 F. Modification of Order

22 The child support obligation of an absent parent may,
23 after entry of an administrative order, be modified prospectively
24 upon entry of an order by the Office of Hearings and Appeals.
25 Either parent may petition the hearing officer for an order based
26 on a showing of a change of circumstances requiring the other
27 parent to appear and show cause why the decision previously entered

1 should not be prospectively modified. The order to appear and show
2 cause together with a copy of the affidavit upon which the order is
3 based shall be served by the petitioning parent on the other parent
4 in the same manner as the notice under Section 5 of this Act. A
5 hearing shall be set not more than 30 days from the date of
6 service.

7 Section 9 - Judicial Review

8 A. Appeal

9 1. The Navajo Nation Supreme Court shall hear
10 appeals on the record from administrative decisions made by the
11 Office of Hearings and Appeals pursuant to this Act.

12 2. Any party may secure judicial review of an
13 administrative order made pursuant to this Act by filing an appeal
14 with the Navajo Nation Supreme Court within twenty (20) days after
15 the administrative decision is filed in the Office of Hearings and
16 Appeals.

17 B. Appeal on Record

18 The appeal to the Navajo Nation Supreme Court shall be an
19 appeal on the record established before the Office of Hearings and
20 Appeals and shall be strictly limited to the issues of the
21 parentage of the child(ren), the amount of public debt and child
22 support liability of the absent parent.

23 C. Standard of Review

24 The Navajo Nation Supreme Court shall not reconsider
25 questions of fact which have been determined by the Office of
26 Hearings and Appeals. The Navajo Supreme Court may reverse or
27 modify the decision of the Office of Hearings and Appeals if the

1 administrative findings, conclusions or decisions are, as a matter
2 of law:

3 1. Clearly erroneous in view of the reliable,
4 probative, and substantial evidence in the record, when viewed in
5 its entirety; or

6 2. Arbitrary and capricious or characterized by
7 abuse of discretion.

8 Section 10 - Docketing of Order.

9 A true copy of any administrative order made pursuant to
10 Section 5 or 8 of this Act may be filed with the clerk of any Court
11 in the Navajo Nation. The clerk shall docket the order in the
12 judgment docket. Upon docketing, the order shall have all the
13 force and effect of a docketed order of the Family court, including
14 but not limited to the ability to enforce such an order pursuant to
15 the Navajo Rules of Civil Procedure and the laws of the Navajo
16 Nation.

17 Section 11 - Powers of the Division.

18 A. Except where otherwise indicated, the Division shall
19 have the power to promulgate rules and regulations necessary to
20 carry out the provisions of this Act.

21 B. The Division shall have the authority to conduct a
22 child support enforcement program under this Act, including the
23 authority to investigate claims of parentage and child support
24 obligation, to locate absent parents, and to establish and modify
25 child support obligations through the administrative process
26 contained in this Act.

27 C. Except where otherwise indicated, the Division shall

1 have the power to certify to official acts.

2 D. The Division shall have the power to require alleged
3 absent parents to undergo blood testing and/or DNA testing, in
4 accordance with rules and regulations promulgated by the Division,
5 for the purpose of obtaining evidence relevant to the parentage of
6 child(ren). Navajo traditional and customary objections to blood
7 testing and/or DNA testing shall not be a basis for refusal to
8 undergo such testing. The Division may require the alleged absent
9 parent to reimburse the Division for the costs of such blood
10 testing and/or DNA testing.

11 E. The Division shall be exempt from any filing fees
12 required of individuals in the courts of the Navajo Nation.

13 F. The Division shall have the authority to report the
14 names and social security numbers of absent parents and the amounts
15 of unpaid public and/or support debt to credit reporting bureaus,
16 and professional licensing agencies.

17 G. The Division shall have the power to set or reset
18 the schedule of fees required on the establishment and enforcement
19 of public debt and child support, including application fees,
20 filing and other fees associated with the administrative process.

21 H. The Division shall have the power to utilize funds
22 which it collects pursuant to this Act through a revolving cost
23 account for the operation of child support enforcement services,
24 subject to appropriation of such funds by the Navajo Nation
25 Council. Provided, that state and federal funds shall not be
26 supplanted by fees collected by the Division.

27 Section 12 - Wage Execution and Garnishment.

1 A. The Office of Hearings and Appeals may order wage
2 execution in any order issued pursuant to Sections 5 or 8 of this
3 Act. Wage execution shall be utilized in all cases wherein an
4 employer of an absent parent can be identified.

5 B. The Office of Hearings and Appeals may require
6 garnishment of earnings to enforce a child support order pursuant
7 to this Act in cases wherein wage execution may not be an available
8 remedy, due to the lack of an identified employer, or for other
9 reasons.

10 Section 13 - Wage assignments.

11 An absent parent may execute a wage assignment as will be
12 sufficient to meet the child support obligation calculated by
13 reference to the order of the Office of Hearings and Appeals, or a
14 voluntary agreement entered into pursuant to Section 16 of this
15 Act.

16 No employer shall refuse to honor a wage assignment
17 executed pursuant to this Act. An assignment made pursuant to this
18 section shall be binding upon the employer one (1) week after
19 service upon the employer of a true copy of the assignment. Payment
20 of monies pursuant to a wage assignment shall serve as payment of
21 all such wages assigned under any contract of employment. No
22 employer may discharge or prejudice any employee because his wages
23 have been subjected to an assignment for child support.

24 Section 14 - Exemption from limitation. Statute of
25 limitations not applicable.

26 No support lien, wage assignment, or garnishment shall be
27 deemed invalid or nonactionable due to the expiration of the

1 statute of limitations on any action for failure to provide child
2 support or maintenance for any child(ren). No statute of
3 limitations shall be effective to prevent the establishment,
4 modification and/or enforcement of parentage and/or child support
5 for any child from birth until the child reaches the age of
6 eighteen (18).

7 Section 15 - Government records.

8 A. The Division may request and shall receive
9 information from the records of all divisions, departments, boards,
10 bureaus or other agencies of the Navajo Nation, and the same are
11 authorized to provide such information as is necessary for this
12 purpose.

13 B. The Division may make such information available
14 only to those officials of the Navajo Nation which are authorized
15 to locate parents who have failed to provide child support for
16 their child(ren) to establish, modify, or enforce court orders for
17 child support, or to establish parentage. This information may be
18 given to them only upon their assurance that it will be used in
19 connection with their official duties under the child support
20 enforcement program.

21 C. Disclosure of information under this subsection
22 shall comply with Section 402(a)(9) of the Social Security Act. In
23 all support proceedings before the Office of Hearings and Appeals,
24 there shall be compulsory disclosure by both parties of their
25 respective financial status.

26 Section 16 - Enforceable voluntary agreement.

27 A. Content of Agreement

1 A custodial parent may enter into an agreement with the
2 alleged absent parent.

3 I. At a minimum, the agreement shall establish the
4 parentage of the child(ren) and the amount of child support which
5 shall be paid by the absent parent to the custodial parent. In no
6 circumstance will an agreement be approved or enforced which
7 provides for a level of child support which is less than that
8 provided for by the Navajo Nation Child Support Guidelines
9 established pursuant to Section 6 of this Act.

10 II. By the terms of the agreement, the absent
11 parent must submit personally to the jurisdiction of the Office of
12 Hearings and Appeals for enforcement and modification of the
13 agreement, and consent to entry of an administrative order in
14 accordance with the terms of the agreement. The agreement may be
15 obtained by the parties through their own actions, or utilizing the
16 services of the Navajo Nation Peacemaker.

17 B. Submission and Filing of Agreement

18 I. In the event that no request for hearing has
19 been filed with the Office of Hearings and Appeals under Section 5
20 of this Act, and no action has been filed before a court, the
21 voluntary agreement shall be submitted to the Division for approval
22 and filed with the Division, which shall maintain the voluntary
23 agreement in its records for possible modification and/or
24 enforcement under the provisions of this Act.

25 II. In the event that an administrative hearing has
26 been requested from the Office of Hearings and Appeals, the
27 voluntary agreement shall be submitted to the Office of Hearings

1 and Appeals for its approval and enforcement under the provisions
2 of this Act.

3 C. Timing of Agreement

4 I. Such agreement may be entered into at any time
5 prior to the issuance of a final administrative order establishing
6 or modifying parentage, or child support obligation, either before
7 or after service of process, or at any time while said order is
8 still in effect. No agreement shall be entered into before the
9 birth of the child unless the Office of Hearings and Appeals finds
10 that there are special circumstances making it advisable to do so.

11 2. The voluntary agreement shall be submitted to
12 the Division or the Office of Hearings and Appeals for approval and
13 enforcement. After said agreement is approved by the Division or
14 the Office of Hearings and Appeals, it shall be filed but judgment
15 shall not be rendered unless there is a default of the child
16 support payments agreed upon, when, upon motion of the Division
17 judgment shall be rendered and entered forthwith.

18 Section 17 - Writs of Assistance, Specific Performance,
19 and Bonds

20 A. Upon application by the Division, The Navajo Nation
21 Family court may issue a writ of assistance to enforce any court or
22 administrative order issued pursuant to this Act. Administrative
23 and court orders recognized through comity have res judicata
24 authority.

25 B. The Navajo Nation Family court may specifically
26 enforce any agreement made pursuant to this Act and approved by the
27 Division, Office of Hearings and Appeals, or the Navajo Peacemaker.

1 C. The Navajo Nation Family court may require a party
2 to submit a commercial, personal surety, or other bond to satisfy
3 the terms of an order issued pursuant to this Act, and enforce such
4 bond in proceedings against the principal and sureties.

5 D. The Navajo Nation Family court, upon a showing that
6 an absent parent has failed to obey an administrative or court
7 order to pay a support or public debt, will issue an order to show
8 cause against the absent parent.

9 Section 18 - Foreign Orders and Comity

10 A. Court and administrative orders, judgments or
11 decrees of other Indian nations, states or federal agencies, which
12 relate to child support enforcement are enforced in the Navajo
13 Nation under the doctrine of comity. Authentic foreign orders will
14 be enforced as an order of the Navajo Nation where the foreign
15 tribunal had personal jurisdiction over the person claimed to be
16 bound by the foreign order, personal service of process was made on
17 such person, the administrative or court proceedings offered
18 substantial justice to such person, and the order does not violate
19 Navajo Nation public policy. For purposes of this Act, the Office
20 of Hearings and Appeals shall have the authority to consider court
21 and administrative orders, judgments or decrees of a foreign
22 jurisdiction for comity recognition.

23 B. A foreign order is authenticated by reasonable proof
24 that the document tendered to the Office of Hearings and Appeals is
25 a true copy of the foreign order as it is recorded in the agency or
26 court of the issuing jurisdiction. An authentication stamp issued
27 by a clerk of court or custodian of records, or a court seal, is

1 sufficient evidence of authenticity.

2 C. Unless defects in jurisdiction or public policy are
3 apparent on the face of the foreign order, the burden is upon the
4 person against whom it is to be enforced to contest the validity of
5 the order. Upon a failure to respond to notice and the opportunity
6 to contest the order, the Office of Hearings and Appeals may
7 enforce it as a Navajo Nation order.

8 D. Where a foreign order is invalid by reason of a lack
9 of personal jurisdiction in the agency or court of the issuing
10 jurisdiction, the Office of Hearings and Appeals may adopt some or
11 all of its provisions as an original order of the Office of
12 Hearings and Appeals.

13 Section 19 - Request for Peacemaker Assistance

14 The Division may request the assistance of the Navajo
15 Peacemaker in resolving parentage and child support issues, if
16 agreed to by both the custodial parent and alleged absent parent.

17 Section 20 - Coordination of Peacemaker Courts

18 Peacemakers must coordinate their activities with the
19 Division. Agreements reached through the peacemaking process must
20 meet the requirements of Section 16 of this Act.

21 Section 21 - Temporary Support Orders.

22 In any action under the Domestic Violence Protection Act,
23 any action affecting dissolution of marriage, or in any other
24 action provided for under Navajo Nation law, wherein the Navajo
25 Nation Family Court has made a temporary order concerning the care,
26 custody, and suitable support or maintenance of the child(ren), the
27 Division shall have the authority to enforce such order as set

1 forth by the Navajo Nation Family Court.

2
3 Section 22 - Amendments.

4 This Act may be amended from time to time by the Navajo
5 Nation Council upon recommendation of the Division of Human
6 Resources, and the Human Services, Health and Social Services, and
7 Judiciary Committees of the Navajo Nation Council.