

**SWINOMISH TRIBAL COURT
SWINOMISH RESERVATION, LaCONNER, WASHINGTON**

In re the Marriage of:

Petitioner,

and

Respondent

Case No.:

PETITION TO MODIFY PARENTING
PLAN

1.1 IDENTIFICATION OF PETITIONER.

Name	1	
Date of Birth		
Tribal Affiliation		
Home Address		

1.2 IDENTIFICATION OF RESPONDENT.

Name	1	
Date of Birth		
Tribal Affiliation		
Home Address		

1.3 DEPENDENT CHILDREN.

Name	1	2
Date of Birth		
Tribal Affiliation		
Home Address		
Name	3	4
Date of Birth		
Tribal Affiliation		
Home Address		

II. BASIS

2.1 PETITION FOR AN ORDER MODIFYING CUSTODY DECREE/PARENTING PLAN/RESIDENTIAL SCHEDULE.

This is a petition for an order modifying the prior custody decree/parenting plan/residential schedule in this matter and approving the proposed parenting plan/residential schedule, which is filed with this petition.

2.2 CHILD SUPPORT.

[] Does not apply.

[] An order establishing child support in conjunction with the proposed parenting plan should be entered.

2.3 JURISDICTION AND VENUE.

The court has proper jurisdiction and venue.

The moving party resides at _____ which _____ is _____ is not within the Swinomish Reservation.

The children reside at _____ which _____ is _____ is not within the Swinomish Reservation.

The other party resides at _____ which _____ is _____ is not within the Swinomish Reservation.

This court has jurisdiction over this proceeding for the reasons below.

[] This court has continuing jurisdiction because the court has previously made a child custody or parenting plan determination in this matter and the Swinomish Reservation remains the residence of the child(ren) or any contestant.

[] The child that is the subject of this petition is a Swinomish child, and/or resides on the Swinomish Indian Reservation; and

[] Other:

1 2.5 OTHER PROCEEDINGS OR CLAIMS REGARDING THE CHILDREN..

2
3 Claims to custody or visitation.

4
5 The moving party does not know of any person other than the other party who has
6 physical custody of, or claims to have custody or visitation rights to, the children.

7
8 The following persons have physical custody of, or claim to have custody or
9 visitation rights to, the following children (do not list the other party):

10
11
12 Other legal proceedings concerning the children.

13
14 The moving party has not participated in, and is not aware of, any other legal
15 proceedings concerning the children, including any paternity, dependency or
16 custody proceedings.

17
18 The moving party has participated in, or is aware of, the following legal
19 proceedings which concern the children (list the children concerned and the
20 county, state and case number of the proceeding):

21
22 2.6 CUSTODY DECREE OR PARENTING PLAN/RESIDENTIAL SCHEDULE.

23
24 The custody decree/parenting plan/residential schedule was entered on _____ at _____
25 _____ [County, State or Tribe]

26 A certified copy of the custody decree/parenting plan /residential schedule to be modified
27 is filed with or attached to this petition, if the decree or plan to be modified was entered
28 in another court.

29
30 2.7 MODIFICATION OF PRIMARY RESIDENCE.

31
32 Does not apply.

33
34 The custody decree/parenting plan/residential schedule should be modified
35 because a substantial change of circumstances has occurred in the circumstances
36 of the child(ren) or the other party and the modification is in the best interests of
37 the child(ren) and is necessary to serve the best interests of the child(ren). This
38 request is based on the factors below.

39
40 The parents agree to the modification.

41
42 The children have been integrated into my family with the consent of the
43 other parent in substantial deviation from the decree/parenting
44 plan/residential schedule.

45
46 The child(ren)'s environment under the custody decree/parenting
47 plan/residential schedule is detrimental to the child(ren)'s physical, mental
48 or emotional health and the harm likely to be caused by a change in
49 environment is outweighed by the advantage of a change to the child(ren).

1 2. 8 MINOR ADJUSTMENTS TO RESIDENTIAL PROVISIONS.

2 Does not apply.

3
4 The custody decree/parenting plan/residential schedule should be adjusted
5 because the proposed modification to the custody decree/parenting
6 plan/residential schedule is in the best interest of the child(ren) and is a minor
7 modification in the residential schedule that does not change the residence the
8 child(ren) is/are scheduled to reside in the majority of the time and:
9

10 is based on a change of residence or an involuntary change in work
11 schedule by a parent which makes the residential schedule in the parenting
12 plan impractical to follow; or
13

14 the decree, parenting plan or residential schedule does not provide
15 reasonable time with the nonprimary residential parent.
16

17 The decree, parenting plan or residential schedule should be adjusted because the
18 nonresidential parent has voluntarily failed to exercise residential time for a
19 substantial period and the adjustment is in the best interest of the child(ren).
20

21 2.9 ADJUSTMENTS TO NONRESIDENTIAL PROVISIONS.

22 Does not apply

23
24 The following nonresidential provisions of the parenting plan should be adjusted
25 because there is a substantial change of circumstances of either parent or of the
26 child(ren) and the adjustment is in the best interest of the child(ren):
27

28 Dispute resolution

29 Decision making

30 Transportation arrangements

31 Other:
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2.10 SUBSTANTIAL CHANGE IN CIRCUMSTANCE.

The requested modification or adjustment of the custody decree/parenting plan/residential schedule is based upon the following substantial change in circumstance:

II. RELIEF REQUESTED

The moving party REQUESTS that the court find that there is a proper basis to enter an order modifying the custody decree/parenting plan in this matter and approving the proposed parenting plan, which is filed with this petition.

- The moving party also requests that the court:
 - Enter an order establishing child support in conjunction with the proposed parenting plan/residential schedule.
 - Other:

Dated: _____
Signature of Lawyer or Moving Party _____
Print or Type Name

I declare under penalty of perjury under the laws of the Swinomish Tribal Community that the foregoing is true and correct.

Signed at _____ on _____ .
[city and state] [date]

Signature

Print or Type Name

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[] JOINDER.

The nonmoving party joins in the petition. By joining in the petition, the nonmoving party agrees to the entry of a decree in accordance with the petition, without further notice.

Dated: _____

Print or Type Name

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4 **SWINOMISH TRIBAL COURT**
5 **SWINOMISH TRIBAL COMMUNITY**

6 IN RE:) No.
7)
8 _____,)
Petitioner,) PARENTING PLAN
9 and)
_____) [] Permanent
Respondent.) [] Temporary
_____) [] Proposed by ___ mother
_____) ___ father
_____)
_____)

12
13 I. GENERAL INFORMATION

- 14
15 1.1 This parenting plan is:
16 [] the final parenting plan signed by the court pursuant to a decree of dissolution
entered on _____ [date].
17 [] the final parenting plan signed by the court pursuant to an order entered on
_____ [date] which modifies a previous parenting plan or custody decree.
18 [] a temporary parenting plan signed by the court.
19 [] proposed by _____ [name].
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1.2 This parenting plan applies to the following children:

Name	1	2
Date of Birth		
Tribal Affiliation		
Home Address		
Name	3	4
Date of Birth		
Tribal Affiliation		
Home Address		

1.3 The child(ren) named in this plan reside the majority of time with the [] mother [] father.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

II. RESIDENTIAL SCHEDULE

The residential schedule must set forth where the child(ren) will reside each day of the year, including provisions for holidays, birthdays, vacations, and other special occasions, and what contact the child(ren) will have with each parent. Parents are encouraged to create a residential schedule that meets the developmental needs of the child(ren) and individual needs of the family. Paragraphs 2.1 through 2.9 are one way you may want to write your residential schedule. If you do not use these paragraphs write your own schedule in 2.12.

2.1 DESIGNATION OF CUSTODIAN

The children named in this parenting plan are scheduled to reside the majority of the time with the [] mother [] father. This parent is designated the custodian of the child(ren) solely for purposes of all other tribal codes, and state and federal statutes which require a designation or determination of custody. This designation shall not affect either parent's rights and responsibilities under this parenting plan.

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2 *These provisions set forth where the child(ren) shall reside each day of the year and what*
3 *contact the child(ren) shall have with each parent.*

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15 2.2 SCHEDULE FOR CHILDREN UNDER SCHOOL AGE

16 There are no children under school age.

17 Prior to enrollment in school, the child(ren) shall reside with the Mother
18 Father, except:

19 Prior to enrollment in school, the child(ren) shall reside with the mother
20 father, except for the following days and times when the child(ren) will reside
21 with or be with the other parent:

22 from _____ [day and time] to
23 _____ [day and time]

24 every week every other week the first and third week of the month

25 the second and fourth week of the month other:

Other:

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35 2.3 SCHOOL SCHEDULE.

36 Upon their enrollment in school, the child(ren) shall reside with the Mother
37 Father, except as mutually agreed by the parents.

38 Upon their enrollment in school, the child(ren) shall reside with the mother
39 father, except for the following days and times when the child(ren) will reside
40 with or be with the other parent:

41 from _____ [day and time] to
42 _____ [day and time]

43 every week every other week the first and third week of the month

44 the second and fourth week of the month other

45 Other:

1 2.4 SCHEDULE FOR VACATIONS

2 WINTER VACATION

3 The child(ren) shall reside with the mother father during winter vacation, except
4 for the following days and times when the child(ren) will reside with or be with the other
5 parent: as arranged and agreed by the parties.

6
7
8 SPRING VACATION

9 The child(ren) shall reside with the mother father during spring vacation, except
10 for the following days and times when the child(ren) will reside with or be with the other
11 parent:

12
13 SUMMER SCHEDULE.

14 Upon completion of the school year, the child(ren) shall reside with the mother
15 father, except for the following days and times when the child(ren) will reside with or be
16 with the other parent:

- 17 Same as school year schedule.
18 Other:
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1 2.5 SCHEDULE FOR HOLIDAYS.

2 The residential schedule for the child(ren) for the holidays listed below is as follows:

3 Does not apply.

4 Schedule is as follows:

	With Mother (Specify Year <u>Odd/Even/Every</u>)	With Father (Specify Year <u>Odd/Even/Every</u>)
5 New Year's Day		
6 Presidents Day		
7 Memorial Day		
8 July 4th		
9 Labor Day		
10 Veterans Day		
11 Thanksgiving Day		
12 Christmas Eve		
13 Christmas Day		
Other		

14 For purposes of this parenting plan, a holiday shall begin and end as follows (set
15 forth times):

16 Holidays which fall on a Friday or a Monday shall include Saturday and Sunday.

17 Other:

18
19 2.9 SCHEDULE FOR SPECIAL OCCASIONS.

20 The residential schedule for the child(ren) for the following special occasions (for
21 example, birthdays) is as follows:
22
23
24
25

1 2.10 PRIORITIES UNDER THE RESIDENTIAL SCHEDULE.

2 Does not apply.

3 If the residential schedule, paragraphs 3.1 - 3.8, results in a conflict where the
4 children are scheduled to be with both parents at the same time, the conflict shall
5 be resolved by priority being given as follows:

6 Rank the order of priority, with 1 being given the highest priority:

- | | |
|---|--|
| <input type="checkbox"/> school schedule (2.2, 2.3) | <input type="checkbox"/> summer schedule (2.4) |
| <input type="checkbox"/> winter vacation (2.4) | <input type="checkbox"/> holidays (2.5) |
| <input type="checkbox"/> spring vacation (2.4) | <input type="checkbox"/> special occasions (2.9) |

8 Other:

9
10 2.11 TRANSPORTATION ARRANGEMENTS.

11 Transportation costs are included in the Child Support Worksheets and/or the Order of
12 Child Support and should not be included here.

13 Transportation arrangements for the child(ren), between parents shall be as follows:

14 2.12 OTHER:

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18 III. RESTRICTIONS

19 3.1 RESTRICTIONS

20 There are no restrictions on the parents' residential time with the child(ren).

21 The mother's father's residential time with the children shall be limited
22 because there are limiting factors. The following restrictions shall apply when the
23 children spend time with this parent:

1 3.2 PARENTAL CONDUCT. (STC 7-04.040(H)(1- 4))

2 Does not apply.

3 The mother's father's residential time with the child(ren) shall be limited or
4 restrained completely, and mutual decision-making and designation of a dispute
5 resolution process other than court action shall not be required, because this
6 parent a person residing with this parent has engaged in the conduct which
7 follows.

8 Willful abandonment that continues for an extended period of time or
9 substantial refusal to perform parenting functions (this applies only to
10 parents, not to a person who resides with a parent).

11 Physical, sexual or a pattern of emotional abuse of a child.

12 A history of acts of domestic violence as defined in Swinomish Tribal
13 Code or an assault or sexual assault which causes grievous bodily harm or
14 the fear of such harm.

15 3.3 OTHER FACTORS. (STC 7-04.040(H)(5-10))

16 Does not apply.

17 The mother's father's involvement or conduct may have an adverse effect
18 on the child(ren)'s best interests because of the existence of the factors which
19 follow.

20 Neglect or substantial nonperformance of parenting functions.

21 A long-term emotional or physical impairment which interferes with the
22 performance of parenting functions.

23 A long-term impairment resulting from drug, alcohol, or other substance
24 abuse that interferes with the performance of parenting functions.

25 The absence or substantial impairment of emotional ties between the
parent and child.

The abusive use of conflict by the parent which creates the danger of
serious damage to the child's psychological development.

A parent has withheld from the other parent access to the child for a
protracted period without good cause.

Other:

1 IV. DECISION MAKING

2 4.1 DAY-TO-DAY DECISIONS.

3 Each parent shall make decisions regarding the day-to-day care and control of each child
4 while the child is residing with that parent. Regardless of the allocation of decision
5 making in this parenting plan, either parent may make emergency decisions affecting the
6 health or safety of the children.

6 4.2 MAJOR DECISIONS.

7 Major decisions regarding each child shall be made as follows:

8 Education decisions	<input type="checkbox"/>	mother	<input type="checkbox"/>	father	<input type="checkbox"/>	joint
9 Non-emergency health care	<input type="checkbox"/>	mother	<input type="checkbox"/>	father	<input type="checkbox"/>	joint
10 Religious upbringing	<input type="checkbox"/>	mother	<input type="checkbox"/>	father	<input type="checkbox"/>	joint
	<input type="checkbox"/>	mother	<input type="checkbox"/>	father	<input type="checkbox"/>	joint
	<input type="checkbox"/>	mother	<input type="checkbox"/>	father	<input type="checkbox"/>	joint

12 4.3 RESTRICTIONS IN DECISION MAKING.

13 Does not apply because there are no limiting factors in paragraphs 2.1 and 2.2
14 above.

15 Sole decision making shall be ordered to the mother
 father for the following reasons:

16 Both parents are opposed to mutual decision making.

17 One parent is opposed to mutual decision making, and such opposition is
18 reasonably based on the following criteria:

- 19 (a) The existence of a limitations in section III hereto;
- 20 (b) The history of participation of each parent in decision making;
- 21 (c) Whether the parents have demonstrated ability and desire to
22 cooperate with one another in decision making; and
- 23 (d) The parents' geographic proximity to one another, to the extent
24 that it affects their ability to make timely mutual decisions.

1 V. DISPUTE RESOLUTION

2 *The purpose of this dispute resolution process is to resolve disagreements about carrying out*
3 *this parenting plan. Unless stated otherwise below, this dispute resolution process must be*
4 *used pursuant to STC 7-04.040(E) before filing a petition to modify the plan or a motion for*
5 *contempt for failing to follow the plan.*

6 Disputes between the parties, other than child support disputes, shall be submitted to (list
7 person or agency):

8 _____, or

9 _____, or

10 _____.

11 The cost of this process shall be allocated between the parties as follows:

12 _____% mother _____% father.

13 based on each party's proportional share of income from line 6 of the child
14 support worksheets.

15 as determined in the dispute resolution process.

16 The dispute resolution process shall be commenced by notifying the other party by
17 written request certified mail other:

18 In the dispute resolution process:

19 (a) Preference shall be given to carrying out this Parenting Plan.

20 (b) Unless an emergency exists, the parents shall use the designated process to
21 resolve disputes relating to implementation of the plan, except those related to
22 financial support.

23 (c) A written record shall be prepared of any agreement reached in counseling or
24 mediation and of each arbitration award and shall be provided to each party.

25 (d) If the court finds that a parent has used or frustrated the dispute resolution process
without good reason, the court shall award attorneys' fees and financial sanctions
to the other parent.

The parties have the right of review from the dispute resolution process to the
superior court.

No dispute resolution process, except court action, shall be ordered.

1 VI. OTHER PROVISIONS

2 [] There are no other provisions.

3 [] There are the following other provisions:

4 II. DECLARATION FOR PROPOSED PARENTING PLAN

5 [] Does not apply.

6 [] (Only sign if this is a proposed parenting plan.) I declare under penalty of perjury under
7 the laws of the Swinomish Nation that this plan has been proposed in good faith and that
8 the statements in Part III of this Plan are true and correct.

9 _____
Mother

_____ Date and Place of Signature

10 _____
11 Father

_____ Date and Place of Signature

12 VIII. ORDER BY THE COURT

13
14 It is ordered, adjudged and decreed that the parenting plan set forth above is adopted and
15 approved as an order of this court.

16
17 **WARNING:** Violation of residential provisions of this order with actual knowledge of its terms
18 is punishable by contempt of court and may be a criminal offense Swinomish Tribal Code.

19 Violation of this order may subject a violator to arrest.

20 When mutual decision making is designated but cannot be achieved, the parties shall make a
21 good faith effort to resolve the issue through the dispute resolution process.

22 If a parent fails to comply with a provision of this plan, the other parent's obligations under the
23 plan are not affected.

24 Dated: _____

_____ Judge

1
2 I.2 IDENTIFICATION OF RESPONDENT.

3 Name	
4 Social Security 5 Number	
6 Date of Birth	
7 Tribal Affiliation	
8 Home Address	

10
11 I.3 CHILDREN THAT ARE THE SUBJECT OF PETITION.

12 Name	1	2
13 Date of Birth		
14 Tribal Affiliation		
15 Home Address		
16 Name	3	4
17 Date of Birth		
18 Tribal Affiliation		
19 Home Address		

1 I.4 JURISDICTION.

2 This court has jurisdiction over this matter pursuant to Swinomish Tribal Code 7-06.030
3 for the he following reasons:

4 This petition is joined with an action for dissolution, annulment, declaration of
5 invalidity, or other civil action in which the issue of residential placement is
6 before the court and jurisdiction in this court has already been established.

7 The Petitioner and/or Respondent is a member of the Swinomish Indian
8 Community, has been domiciled within the Reservation region for at least ninety
9 (90) days and is alleged to be the parent of a Swinomish child or child residing on
10 the Swinomish Indian Reservation.
11

12 The Petitioner Respondent voluntarily and intelligently consented to
13 jurisdiction of this court on the record.

14 Other:

15
16 II. DECLARATION

17 This declaration is made by the father mother.

18 II.1. _____ [name of child(ren)] has/have resided with the
19 following person(s) during the past twelve months:

<u>Name</u>	<u>Address</u>	<u>Length of Time Child Resided With This Person</u>
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1 II.2. (a) The mother's performance of parenting functions relating to the daily needs of the
2 child(ren) during the past twelve months:

3
4
5 (b) The mother's work schedule currently and for the past twelve months:
6
7

8
9 II.3. (a) The father's performance of parenting functions relating to the daily needs of the
10 child(ren) during the past twelve months:

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12 (b) The father's work schedule currently and for the past twelve months:
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14 II.4. (a) The child-care schedule for the past twelve months:
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16
17 (b) The current child-care schedule:
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21 II.5. Any circumstances that are likely to pose a serious risk to the child(ren) and that warrant
22 limitation on the award to a parent of temporary residence or time with the child(ren)
23 pending entry of a permanent parenting plan are set forth in Part III of my proposed
24 temporary parenting plan and contained in the attached supplemental declaration(s).
25

1 II.6. OTHER:
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6 I declare under penalty of perjury under the laws of the Swinomish Tribal Community that the
7 foregoing is true and correct.

8 Signed at _____ [Place] on _____ [Date].
9

10 _____
Signature

11 _____
Print or Type Name
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