

BROCHURE ON DOMESTIC RELATIONS CASES
FOR DIVORCE OR LEGAL SEPARATION

Anyone may bring a case for dissolution of marriage or legal separation, along with actions for child custody or support, regardless of whether any party is Indian or not. Usually the Tribal Court, however, will decline jurisdiction in cases in the interests of comity if no Indian or Indian-owned property is involved. To file an action for dissolution of marriage or legal separation, you may pick up the form from the Court Clerk.

If there is property or debts to divide between the parties, the Petitioners must complete the Affidavit Schedule of Property, Debts, Income and Expenses, pp. 238-241. If either of the parties will ask for child support, both parties must pick up and complete the Child Support Worksheet, pp. 246-253, as well as the Affidavit Schedules if there is property or debts to divide.

Either type the forms yourself and make copies of them for the Defendant and yourself, if you want one, or retain an attorney to help you. If you do not make sufficient copies yourself, the Court will make additional copies for \$1.00 per page. You must file the petition, property list and Child Support Worksheet, if any, with the Clerk, and bring or have made copies for the Court to stamp, or conform. When you file your petition, the Court will issue a summons to the Defendant. You must arrange for service of a conformed copy of the petition, along with the property list and Child Support Worksheet, if any, and the summons on the Defendant.

If the divorce or legal separation is uncontested, the Defendant may file a notarized Acceptance of Service and Waiver form, p. 232, and the Plaintiff can move for a default judgment after filing. Either party may hire a private process server, or request the Court to make service. The Court cannot accept papers for service without the correct address from you and the required fee. If you request service on the Reservation from the Court, the Court Bailiff will make three (3) attempts at the address you provided. After three (3) unsuccessful attempts, you remain responsible for service. Off-Reservation service may be requested by the Court by registered mail.

If the Defendant does respond in the time and manner directed in the summons, the Court will set a trial date in the case for approximately Twenty (20) business days from the Court's receipt of the answer. If the Defendant does not respond in the time and manner directed in the summons, the Plaintiff may petition the Court for a judgment by default. If the Court is unable to serve a Defendant after one (1) mail or three (3) personal service attempts and no other arrangements are made by you, and/or no affidavit of service or request for default judgment is filed by the Plaintiff within 120 days of filing, the Court will dismiss the case.

If you want a preliminary injunction restraining the other from the conduct stated in 2-205 (B) of the Domestic Relations Code ("DRC"), forms pp. 233-235, or temporary order of support or child custody under DRC 2-205 (A), which temporary support or custody orders are provisional remedies per Local Rule of Civil Procedure ("LRCP") 15, then you must file a motion and notarized affidavit setting forth the facts why the motion should be granted. At the time of filing, the Court will set an expedited hearing on the motion. You must deliver the preliminary injunction order, if granted, to the Tribal Police for service. Note: The Tribal Police will not provide free service of other documents with the preliminary injunction. If you are seeking a temporary order of support or child custody, you must arrange for personal service on the opposing party within Five (5) business days from the day you filed the motion temporary support or child custody. See LRCP 15 & LRCP 25.