

CHAPTER 125 - DISSOLUTION OF MARRIAGE

DIVORCE

SECTION 125.010	Causes for divorce.
SECTION 125.020	Verified complaint; residence or domicile; jurisdiction of tribal court.
SECTION 125.030	Complaint may state cause in words of statute; either party may demand bill of particulars.
SECTION 125.040	Orders for support and cost of suit during pendency of action.
SECTION 125.050	Preliminary orders concerning property or pecuniary interests.
SECTION 125.070	Judge to determine questions of law and fact.
SECTION 125.080	Trial of divorce action may be private.
SECTION 125.090	Proceedings, pleadings and practice.
SECTION 125.100	Reporting and transcription of evidence: Filing and costs.
SECTION 125.110	What pleadings and papers open to public inspection; written request of party for sealing.
SECTION 125.120	Court may grant divorce to either party.
SECTION 125.123	Application for decree of divorce by default; affidavit.
SECTION 125.130	Decree of divorce final and absolute; duties of court concerning social security numbers of parties; order changing name of wife.
SECTION 125.141	Offer to allow decree concerning property rights of parties: Acceptance and rejection; entry of judgment in accordance with offer; effect of party who rejects offer failing to obtain more favorable judgment.
SECTION 125.150	Alimony and adjudication of property rights; award of attorney's fee; subsequent modification by court.
SECTION 125.180	Judgment for arrearages in payment of alimony and support.
SECTION 125.181	Summary proceeding for divorce: Conditions.
SECTION 125.182	Summary proceeding for divorce: Commencement of action; contents of petition; affidavit of corroboration of residency.
SECTION 125.183	Summary proceeding for divorce: Termination of proceeding by revocation of petition.
SECTION 125.184	Summary proceeding for divorce: Entry of final judgment.

SEPARATE MAINTENANCE

SECTION 125.190	Action by spouse for permanent support and maintenance.
SECTION 125.200	Power of court to require spouse to pay expenses of litigation and support.
SECTION 125.210	Powers of court respecting property and support of spouse and children.
SECTION 125.220	Complaining spouse may record notice of lis pendens; either spouse may be enjoined from disposing of property.
SECTION 125.230	Orders concerning custody, control and support of minor children; duties of court concerning social security numbers of parties.
SECTION 125.240	Enforcement of judgment and orders: Remedies.
SECTION 125.250	Procedure and practice as in actions for divorce.
SECTION 125.260	Reporting and transcription of evidence: Filing and costs.
SECTION 125.270	Installment judgments for support subject to modification as to installments not accrued.
SECTION 125.280	Judgment for arrearages in payment of support.

ANNULMENT

SECTION 125.290	Void marriages.
SECTION 125.300	Voidable marriages: Causes for annulment.
SECTION 125.320	Cause for annulment: Lack of consent of parent or guardian.
SECTION 125.330	Cause for annulment: Want of understanding.
SECTION 125.340	Cause for annulment: Fraud.
SECTION 125.350	Cause for annulment: Grounds for declaring contract void in equity.
SECTION 125.380	Cause for annulment may be pleaded in divorce complaint.
SECTION 125.400	Service of process.

[SECTION 125.410](#) Issue of marriages are legitimate.
[SECTION 125.430](#) Reporting and transcription of evidence: Filing and costs.
[SECTION 125.440](#) Judgment for arrearages in payment of support.

CUSTODY OF CHILDREN

[SECTION 125.450](#) Order for medical and other care, support, education and maintenance required.
[SECTION 125.465](#) Married parents have joint custody until otherwise ordered by court.
[SECTION 125.470](#) Order for production of child before court; determinations concerning physical custody of child.
[SECTION 125.480](#) Best interest of child; preferences; considerations of court; presumption when court determines that parent or person residing with child is perpetrator of domestic violence.
[SECTION 125.490](#) Joint custody.
[SECTION 125.500](#) Award of custody to person other than parent.
[SECTION 125.510](#) Court orders; modification or termination of orders; form for orders; court may order parent to post bond if parent resides in or has significant commitments in foreign country.
[SECTION 125.520](#) Plan for carrying out court's order; access to child's records.

ORDERS FOR PROTECTION AGAINST DOMESTIC VIOLENCE

[SECTION 125.555](#) Required notice concerning admission to bail.
[SECTION 125.560](#) Penalty for violation.

DIVORCE

SECTION 125.010 Causes for divorce. Divorce from the bonds of matrimony may be obtained for any of the following causes:

1. Insanity existing for 2 years prior to the commencement of the action. Upon this cause of action the court, before granting a divorce, shall require corroborative evidence of the insanity of the defendant at that time, and a decree granted on this ground shall not relieve the successful party from contributing to the support and maintenance of the defendant, and the court may require the plaintiff in such action to give bond therefor in an amount to be fixed by the court.
2. When the husband and wife have lived separate and apart for 1 year without cohabitation the court may, in its discretion, grant an absolute decree of divorce at the suit of either party.
3. Incompatibility.

SECTION 125.020 Verified complaint; residence or domicile; jurisdiction of tribal court.

1. Divorce from the bonds of matrimony may be obtained for the causes provided in [SECTION 125.010](#), by verified complaint to the tribal court:
 - (a) In which the cause therefor accrued;
 - (b) In which the defendant resides or may be found;
 - (c) In which the plaintiff resides;
 - (d) In which the parties last cohabited; or
 - (e) If plaintiff resided 6 weeks in the State of Nevada before suit was brought.

SECTION 125.030 Complaint may state cause in words of statute; either party may demand bill of particulars.

1. In actions for divorce the complaint of the plaintiff or the cross-claim or counterclaim of the defendant may state the cause or causes for divorce upon which the party or parties rely, in the words of the statute. In such case either party, after appearance of the defendant and upon 5 days' written demand therefor, shall have a bill of particulars stating in detail the facts, dates, times and occasions upon which the plaintiff or the defendant relies for cause of action, and either party may, upon motion, be required to furnish in writing a further bill of particulars upon good cause shown.

2. Such bill or bills of particulars need not be filed, but if filed may be withdrawn upon the written consent of the parties.

SECTION 125.040 Orders for support and cost of suit during pendency of action.

1. In any suit for divorce the court may, in its discretion, upon application by either party and notice to the other party, require either party to pay moneys necessary to assist the other party in accomplishing one or more of the following:

- (a) To provide temporary maintenance for the other party;
- (b) To provide temporary support for children of the parties; or
- (c) To enable the other party to carry on or defend such suit.

2. The court may make any order affecting property of the parties, or either of them, which it may deem necessary or desirable to accomplish the purposes of this section. Such orders shall be made by the court only after taking into consideration the financial situation of each of the parties.

3. The court may make orders pursuant to this section concurrently with orders pursuant to [SECTION 125.470](#).

SECTION 125.050 Preliminary orders concerning property or pecuniary interests. If, after the filing of the complaint, it is made to appear probable to the court that either party is about to do any act that would defeat or render less effectual any order which the court might ultimately make concerning the property or pecuniary interests, the court shall make such restraining order or other order as appears necessary to prevent the act or conduct and preserve the status quo pending final determination of the cause.

SECTION 125.070 Judge to determine questions of law and fact. The judge of the court shall determine all questions of law and fact arising in any divorce proceeding under the provisions of this chapter.

SECTION 125.080 Trial of divorce action may be private. In any action for divorce the court shall, upon demand of either party, direct that the trial and issue or issues of fact joined therein be private, and upon such direction all persons shall be excluded from the court or chambers wherein the action is tried, except the officers of the court, the parties, and their witnesses and counsel.

SECTION 125.090 Proceedings, pleadings and practice. Except in a summary proceeding for divorce, the proceedings, pleadings and practice must conform to the Nevada Rules of Civil Procedure as nearly as conveniently possible, but all preliminary and final orders may be in such form as best effects the object of this chapter, and produces substantial justice.

SECTION 125.100 Reporting and transcription of evidence: Filing and costs.

1. When ordered by the court, the evidence in divorce actions shall be reported and transcribed and the transcript thereof filed with the pleadings in the case.

2. The cost of such transcript shall be immediately computed by the reporter and paid by the party ordered by the court to do so to the clerk of the court, who shall pay the same to the reporter upon receiving from the latter the transcript of evidence.

3. In all cases heretofore or hereafter where a transcript of evidence has not been filed due to the death of the reporter, and a period of not less than 5 years has elapsed and no claim has been made during that period by any party, the amount of money on deposit with the clerk, and payable to such reporter if a transcript of the evidence had been filed, shall be, by the clerk, paid to the Tribal Finance Office.

SECTION 125.110 What pleadings and papers open to public inspection; written request of party for sealing.

1. In any action for divorce, the following papers and pleadings in the action shall be open to public inspection in the clerk's office:

(a) In case the complaint is not answered by the defendant, the summons, with the affidavit or proof of service; the complaint with memorandum endorsed thereon that the default of the defendant in not answering was entered, and the judgment; and in case where service is made by publication, the affidavit for publication of summons and the order directing the publication of summons.

(b) In all other cases, the pleadings, the finding of the court, any order made on motion as provided in Nevada Rules of Civil Procedure, and the judgment.

2. All other papers, records, proceedings and evidence, including exhibits and transcript of the testimony, shall, upon the written request of either party to the action, filed with the clerk, be sealed and shall not be open to inspection except to the parties or their attorneys, or when required as evidence in another action or proceeding.

SECTION 125.120 Court may grant divorce to either party. In any action for divorce when it appears to the court that grounds for divorce exist, the court in its discretion may grant a divorce to either party.

SECTION 125.123 Application for decree of divorce by default; affidavit. An application for a decree of divorce by default may be made by affidavit unless the court requires oral testimony of the witnesses. If there is a marital settlement agreement, it must be identified in the affidavit and attached to the affidavit as an exhibit. Any affidavit made to support the application, including an affidavit to corroborate residency, must:

1. Be based upon the personal knowledge of the affiant;
2. Contain only facts which would be admissible in evidence;
3. Give factual support to each allegation in the application; and
4. Establish that the affiant is competent to testify to the contents of the affidavit.

SECTION 125.130 Decree of divorce final and absolute; duties of court concerning social security numbers of parties; order changing name of wife.

1. A judgment or decree of divorce granted pursuant to the provisions of this chapter is a final decree.
2. Whenever a decree of divorce from the bonds of matrimony is granted in this State or Reservation by a court of competent authority, the decree fully and completely dissolves the marriage contract as to both parties.
3. A court that grants a decree of divorce pursuant to the provisions of this section shall ensure that the social security numbers of both parties are:
 - (a) Placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.
4. In all suits for divorce, if a divorce is granted, the court may, for just and reasonable cause and by an appropriate order embodied in its decree, change the name of the wife to any former name which she has legally borne.

SECTION 125.141 Offer to allow decree concerning property rights of parties: Acceptance and rejection; entry of judgment in accordance with offer; effect of party who rejects offer failing to obtain more favorable judgment.

1. In any action for divorce, at any time more than 10 days before trial, a party may serve upon the opposing party a written offer to allow a decree to be entered concerning the property rights of the parties in accordance with the terms and conditions of the offer.
2. If an offer made by a party pursuant to this section is accepted by the opposing party and approved by the court, the court shall, upon entry of the decree of divorce, enter judgment in accordance with the terms and conditions of the offer.
3. If an offer made by a party pursuant to this section is not accepted by the opposing party before trial or within 10 days after it is made, whichever occurs first, the offer shall be deemed rejected and cannot be given in evidence upon the trial. The rejection of an offer does not preclude either party from making another offer pursuant to this section.
4. If an offer is deemed rejected pursuant to subsection 3 and the party who rejected the offer fails to obtain a more favorable judgment concerning the property rights that would have been resolved by the offer if it had been accepted, the court may do any or all of the following:

(a) Order the party who rejected the offer to pay the taxable costs of the opposing party that relate to the adjudication of those property rights.

(b) Order the party who rejected the offer to pay the reasonable attorney's fees incurred by the opposing party after the date of the offer that relate to the adjudication of those property rights.

(c) Prohibit the party who rejected the offer from recovering any costs or attorney's fees that relate to the adjudication of those property rights, except that the court may not, pursuant to the provisions of this paragraph, prohibit the party from recovering any preliminary attorney's fees that were awarded to the party during the pendency of the divorce action.

5. In determining whether to take any action described in subsection 4, the court shall consider:

(a) Whether each party was represented by counsel when the offer was made;

(b) Whether the issues related to the property rights of the parties were conducive to an offer made pursuant to this section;

(c) Whether the offer was made in good faith and was reasonable with respect to its timing and its amount;

(d) Whether rejection of the offer was done in bad faith or was grossly unreasonable;

(e) Whether, during the pendency of the divorce action, the conduct of the party who rejected the offer or his counsel furthered or frustrated the policy of the law to promote settlement of litigation and to reduce the costs of litigation by encouraging cooperation between the parties and their counsel;

(f) Whether the judgment differs from the terms and conditions of the offer in such a manner, with respect to the property rights that would have been resolved by the offer if it had been accepted, that the court cannot make a clear determination whether the party failed to obtain a more favorable judgment concerning those property rights; and

(g) Whether the divorce action involved so many changes in the issues that the court cannot make a clear determination whether the party failed to obtain a more favorable judgment concerning the property rights that would have been resolved by the offer if it had been accepted.

6. The provisions of this section do not apply to any issues related to the custody of a child, the support of a child or the support of a spouse. If any offer that is made by a party pursuant to this section includes any such issue, the offer shall be deemed to be void in its entirety and all terms and conditions of the offer, including, without limitation, all terms and conditions related to the property rights of the parties, shall be deemed to have no force or effect pursuant to this section.

SECTION 125.150 Alimony and adjudication of property rights; award of attorney's fee; subsequent modification by court. Except as otherwise provided in [SECTION 125.155](#) and unless the action is contrary to a premarital agreement between the parties which is enforceable pursuant to chapter [123A](#).

1. In granting a divorce, the court:

(a) May award such alimony to the wife or to the husband, in a specified principal sum or as specified periodic payments, as appears just and equitable; and

(b) Shall, to the extent practicable, make an equal disposition of the community property of the parties, except that the court may make an unequal disposition of the community property in such proportions as it deems just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition.

2. Except as otherwise provided in this subsection, in granting a divorce, the court shall dispose of any property held in joint tenancy in the manner set forth in subsection 1 for the disposition of community property. If a party has made a contribution of separate property to the acquisition or improvement of property held in joint tenancy, the court may provide for the reimbursement of that party for his contribution. The amount of reimbursement must not exceed the amount of the contribution of separate property that can be traced to the acquisition or improvement of property held in joint tenancy, without interest or any adjustment because of an increase in the value of the property held in joint tenancy. The amount of reimbursement must not exceed the value, at the time of the disposition, of the property held in joint tenancy for which the contribution of separate property was made. In determining whether to provide for the reimbursement, in whole or in part, of a party who has contributed separate property, the court shall consider:

(a) The intention of the parties in placing the property in joint tenancy;

(b) The length of the marriage; and

(c) Any other factor which the court deems relevant in making a just and equitable disposition of that property.

➤ As used in this subsection, "contribution" includes a down payment, a payment for the acquisition or improvement of property, and a payment reducing the principal of a loan used to finance the purchase or improvement of property. The term does not include a payment of interest on a loan used to finance the purchase or improvement of property, or a payment made for maintenance, insurance or taxes on property.

3. Except as otherwise provided in [SECTION 125.141](#), whether or not application for suit money has been made under the provisions of [SECTION 125.040](#), the court may award a reasonable attorney's fee to either party to an action for divorce if those fees are in issue under the pleadings.

4. In granting a divorce, the court may also set apart such portion of the husband's separate property for the wife's support, the wife's separate property for the husband's support or the separate property of either spouse for the support of their children as is deemed just and equitable.

5. In the event of the death of either party or the subsequent remarriage of the spouse to whom specified periodic payments were to be made, all the payments required by the decree must cease, unless it was otherwise ordered by the court.

6. If the court adjudicates the property rights of the parties, or an agreement by the parties settling their property rights has been approved by the court, whether or not the court has retained jurisdiction to modify them, the adjudication of property rights, and the agreements settling property rights, may nevertheless at any time thereafter be modified by the court upon written stipulation signed and acknowledged by the parties to the action, and in accordance with the terms thereof.

7. If a decree of divorce, or an agreement between the parties which was ratified, adopted or approved in a decree of divorce, provides for specified periodic payments of alimony, the decree or agreement is not subject to modification by the court as to accrued payments. Payments pursuant to a decree entered on or after July 1, 1975, which have not accrued at the time a motion for modification is filed may be modified upon a showing of changed circumstances, whether or not the court has expressly retained jurisdiction for the modification. In addition to any other factors the court considers relevant in determining whether to modify the order, the court shall consider whether the income of the spouse who is ordered to pay alimony, as indicated on the spouse's federal income tax return for the preceding calendar year, has been reduced to such a level that the spouse is financially unable to pay the amount of alimony he has been ordered to pay.

8. In granting a divorce the court shall consider the need to grant alimony to a spouse for the purpose of obtaining training or education relating to a job, career or profession. In addition to any other factors the court considers relevant in determining whether such alimony should be granted, the court shall consider:

(a) Whether the spouse who would pay such alimony has obtained greater job skills or education during the marriage; and

(b) Whether the spouse who would receive such alimony provided financial support while the other spouse obtained job skills or education.

9. If the court determines that alimony should be awarded pursuant to the provisions of subsection 8:

(a) The court, in its order, shall provide for the time within which the spouse who is the recipient of the alimony must commence the training or education relating to a job, career or profession.

(b) The spouse who is ordered to pay the alimony may, upon changed circumstances, file a motion to modify the order.

(c) The spouse who is the recipient of the alimony may be granted, in addition to any other alimony granted by the court, money to provide for:

(1) Testing of the recipient's skills relating to a job, career or profession;

(2) Evaluation of the recipient's abilities and goals relating to a job, career or profession;

(3) Guidance for the recipient in establishing a specific plan for training or education relating to a job, career or profession;

(4) Subsidization of an employer's costs incurred in training the recipient;

(5) Assisting the recipient to search for a job; or

(6) Payment of the costs of tuition, books and fees for:

(I) The equivalent of a high school diploma;

(II) College courses which are directly applicable to the recipient's goals for his career; or

(III) Courses of training in skills desirable for employment.

10. For the purposes of this section, a change of 20 percent or more in the gross monthly income of a spouse who is ordered to pay alimony shall be deemed to constitute changed circumstances requiring a review for modification of the payments of alimony. As used in this subsection, "gross monthly income" has the meaning ascribed to it in [SECTION 125B.070](#).

SECTION 125.180 Judgment for arrearages in payment of alimony and support.

1. When either party to an action for divorce, makes default in paying any sum of money as required by the judgment or order directing the payment thereof, the tribal court may make an order directing entry of judgment for the amount of such arrears, together with costs and a reasonable attorney's fee.
2. The application for such order shall be upon such notice to the defaulting party as the court may direct.
3. The judgment may be enforced by execution or in any other manner provided by law for the collection of money judgments.
4. The relief herein provided for is in addition to any other remedy provided by law.

SECTION 125.181 Summary proceeding for divorce: Conditions. A marriage may be dissolved by the summary procedure for divorce set forth in [SECTION 125.181](#) to [125.184](#), inclusive, when all of the following conditions exist at the time the proceeding is commenced:

1. Either party has met the jurisdictional requirements of [SECTION 125.020](#).
2. The husband and wife have lived separate and apart for 1 year without cohabitation or they are incompatible.
3. There are no minor children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage and the wife, to her knowledge, is not pregnant, or the parties have executed an agreement as to the custody of any children and setting forth the amount and manner of their support.
4. There is no community or joint property or the parties have executed an agreement setting forth the division of community property and the assumption of liabilities of the community, if any, and have executed any deeds, certificates of title, bills of sale or other evidence of transfer necessary to effectuate the agreement.
5. The parties waive any rights to spousal support or the parties have executed an agreement setting forth the amount and manner of spousal support.
6. The parties waive their respective rights to written notice of entry of the decree of divorce, to appeal, to request findings of fact and conclusions of law and to move for a new trial.
7. The parties desire that the court enter a decree of divorce.

SECTION 125.182 Summary proceeding for divorce: Commencement of action; contents of petition; affidavit of corroboration of residency.

1. A summary proceeding for divorce may be commenced by filing in the tribal court a joint petition, signed under oath by both the husband and the wife, stating that as of the date of filing, every condition set forth in [SECTION 125.181](#) has been met and specifying the:
 - (a) Facts which support the jurisdictional requirements of [SECTION 125.020](#); and
 - (b) Grounds for the divorce.
2. The petition must also state:
 - (a) The date and the place of the marriage.
 - (b) The mailing address of both the husband and the wife.
 - (c) Whether there are minor children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage, or the wife, to her knowledge, is pregnant.
 - (d) Whether the wife elects to have her maiden or former name restored and, if so, the name to be restored.
3. An affidavit of corroboration of residency which complies with the provisions of subsections 1, 2 and 4 of [SECTION 125.123](#) must accompany the petition. If there is a marital settlement agreement which the parties wish the court to approve or make a part of the decree, it must be identified and attached to the petition as an exhibit.

SECTION 125.183 Summary proceeding for divorce: Termination of proceeding by revocation of petition.

1. At any time before the entry of a final judgment, either party to the marriage may revoke the joint petition and thereby terminate the summary proceeding for divorce.
2. The revocation may be effected by filing a notice of revocation with the clerk of the court in which the proceeding was commenced.
3. The revoking party shall send a copy of the notice of revocation to the other party by first-class mail, postage prepaid, at his last known address.

SECTION 125.184 Summary proceeding for divorce: Entry of final judgment.

1. Entry of the final judgment upon a petition for a summary proceeding for divorce constitutes a final adjudication of the rights and obligations of the parties with respect to the status of the marriage and the property rights of the parties and waives the respective rights of the parties to written notice of entry of the judgment or decree, to appeal, to request findings of fact and conclusions of law and to move for a new trial.

2. A final judgment entered pursuant to this section does not prejudice or bar the rights of either of the parties to institute an action to set aside the final judgment for fraud, duress, accident, mistake or other grounds recognized at law or in equity.

SEPARATE MAINTENANCE

SECTION 125.190 Action by spouse for permanent support and maintenance. When a person has any cause of action for divorce or when he has been deserted and the desertion has continued for 90 days, he may, without applying for a divorce, maintain in the tribal court an action against his spouse for permanent support and maintenance of himself and their children.

SECTION 125.200 Power of court to require spouse to pay expenses of litigation and support.

1. Except as otherwise provided in subsection 2, during the pendency of an action brought pursuant to [SECTION 125.190](#), the court may, in its discretion, require either spouse to pay any money necessary for the prosecution of the action and for the support and maintenance of the other spouse and their children.

2. The court may not require either spouse to pay for the support or maintenance of the other spouse if it is contrary to a premarital agreement between the parties which is enforceable pursuant to chapter [123A](#).

SECTION 125.210 Powers of court respecting property and support of spouse and children.

1. Except as otherwise provided in subsection 2, in any action brought pursuant to [SECTION 125.190](#), the court may:

- (a) Assign and decree to either spouse the possession of any real or personal property of the other spouse;
- (b) Order or decree the payment of a fixed sum of money for the support of the other spouse and their children;
- (c) Provide that the payment of that money be secured upon real estate or other security, or make any other suitable provision; and
- (d) Determine the time and manner in which the payments must be made.

2. The court may not:

- (a) Assign and decree to either spouse the possession of any real or personal property of the other spouse; or
 - (b) Order or decree the payment of a fixed sum of money for the support of the other spouse,
- ↪ if it is contrary to a premarital agreement between the spouses which is enforceable pursuant to chapter [123A](#).

3. Except as otherwise provided in chapter [130](#) of the Nevada Revised Statutes the court may change, modify or revoke its orders and decrees from time to time.

4. No order or decree is effective beyond the joint lives of the husband and wife.

SECTION 125.220 Complaining spouse may record notice of lis pendens; either spouse may be enjoined from disposing of property.

1. At any time after the filing of the complaint, the complaining spouse may record a notice of pendency of the action in the office of the county recorder of any county in which the other spouse may have real property. The notice has the same effect as notice in actions directly affecting real property.

2. The court may enjoin either spouse from disposing of any property during the pendency of the action.

SECTION 125.230 Orders concerning custody, control and support of minor children; duties of court concerning social security numbers of parties.

1. The court in such actions may make such preliminary and final orders as it may deem proper for the custody, control and support of any minor child or children of the parties.

SECTION 125.240 Enforcement of judgment and orders: Remedies. The final judgment and any order made before or after judgment may be enforced by the court by such order as it deems necessary. A receiver may be appointed, security may be required, execution may issue, real or personal property of either spouse may be sold as under execution in other cases, and disobedience of any order may be punished as a contempt.

SECTION 125.250 Procedure and practice as in actions for divorce. In all cases commenced under [SECTION 125.190](#) to [125.280](#), inclusive, the proceedings and practice must be the same, as nearly as may be, as those provided in actions for divorce.

SECTION 125.260 Reporting and transcription of evidence: Filing and costs.

1. When ordered by the court, the evidence in separate maintenance actions shall be reported and transcribed and the transcript thereof filed with the pleadings in the case.

2. The cost of such transcript shall be immediately computed by the reporter and paid by the party ordered by the court to do so to the clerk of the court, who shall pay the same to the reporter upon receiving from the latter the transcript of evidence.

3. In all cases heretofore or hereafter where a transcript of evidence has not been filed due to the death of the reporter, and a period of not less than 5 years has elapsed and no claim has been made during that period by any party, the amount of money on deposit with the clerk, and payable to such reporter if a transcript of the evidence had been filed, shall be, by the clerk, paid to the Tribal Finance Office.

SECTION 125.270 Installment judgments for support subject to modification as to installments not accrued.

1. In separate maintenance actions, installment judgments for support shall not be subject to modification as to accrued installments, but only as to installments not accrued at the time a motion for modification is filed.

2. The provisions of this section shall not preclude the parties from entering into a stipulation as to accrued installments prior to the time a motion for modification is filed.

SECTION 125.280 Judgment for arrearages in payment of support.

1. In an action for separation, where payment of any sum of money required by judgment or order is in default, the tribal court may make an order directing the entry of judgment for the amount of the arrears, together with costs and disbursements not to exceed \$10 and a reasonable attorney's fee.

2. The application for such order must be upon such notice to the parties as the court may direct.

3. The judgment may be enforced by execution or in any other manner provided by law for the collection of money judgments.

4. The relief herein provided for is in addition to any other remedy a party has under the law.

ANNULMENT

SECTION 125.290 Void marriages. All marriages which are prohibited by law because of:

1. Consanguinity between the parties; or

2. Either of the parties having a former husband or wife then living, if solemnized within this Reservation,
↪ are void without any decree of divorce or annulment or other legal proceedings. A marriage void under this section shall not bar prosecution for the crime of bigamy pursuant to [SECTION 201.160](#).

SECTION 125.300 Voidable marriages: Causes for annulment. A marriage may be annulled for any of the causes provided in [SECTION 125.320](#) to [125.350](#), inclusive.

SECTION 125.320 Cause for annulment: Lack of consent of parent or guardian.

1. When the consent of the father, mother, guardian or tribal court, as required by [SECTION 122.020](#) or [122.025](#), has not been obtained, the marriage is void from the time its nullity is declared by a court of competent jurisdiction.

2. If the consent required by [SECTION 122.020](#) or [122.025](#) is not first obtained, the marriage contracted without the consent of the father, mother, guardian or district court may be annulled upon application by or on behalf of the person who fails to obtain such consent, unless such person after reaching the age of 18 years freely cohabits for any time with the other party to the marriage as husband and wife. Any such annulment proceedings must be brought within 1 year after such person reaches the age of 18 years.

SECTION 125.330 Cause for annulment: Want of understanding.

1. When either of the parties to a marriage for want of understanding shall be incapable of assenting thereto, the marriage shall be void from the time its nullity shall be declared by a court of competent authority.

2. The marriage of any insane person shall not be adjudged void, after his restoration to reason, if it shall appear that the parties freely cohabited together as husband and wife after such insane person was restored to a sound mind.

SECTION 125.340 Cause for annulment: Fraud.

1. If the consent of either party was obtained by fraud and fraud has been proved, the marriage shall be void from the time its nullity shall be declared by a court of competent authority.

2. No marriage may be annulled for fraud if the parties to the marriage voluntarily cohabit as husband and wife having received knowledge of such fraud.

SECTION 125.350 Cause for annulment: Grounds for declaring contract void in equity. A marriage may be annulled for any cause which is a ground for annulling or declaring void a contract in a court of equity.

SECTION 125.380 Cause for annulment may be pleaded in divorce complaint. A cause of action for annulment may be pleaded in the same complaint with a cause of action for divorce.

SECTION 125.400 Service of process. In any suits brought under this chapter for annulment of marriage, process shall be served in the same manner as in actions at law, and the courts shall have the same power upon a substituted or constructive service of process to annul a marriage and regulate and determine the status of the parties as they would have had if process had been personally served.

SECTION 125.410 Issue of marriages are legitimate.

1. Nothing in this chapter shall be construed so as to make the issue of any marriage illegitimate if the person or persons shall not be of lawful age.

2. The issue of all marriages deemed null in law shall be legitimate.

SECTION 125.430 Reporting and transcription of evidence: Filing and costs.

1. When ordered by the court, the evidence in annulment of marriage actions shall be reported and transcribed and the transcript thereof filed with the pleadings in the case.

2. The cost of such transcript shall be immediately computed by the reporter and paid by the party ordered by the court to do so to the clerk of the court, who shall pay the same to the reporter upon receiving from the latter the transcript of evidence.

3. In all cases heretofore or hereafter where a transcript of evidence has not been filed due to the death of the reporter, and a period of not less than 5 years has elapsed and no claim has been made during that period by any party, the amount of money on deposit with the clerk, and payable to such reporter if a transcript of the evidence had been filed, shall be, by the clerk, paid to the Tribal Finance Office.

SECTION 125.440 Judgment for arrearages in payment of support.

1. When either party to an action for annulment or declaration of nullity of a void marriage, makes default in paying any sum of money as required by the judgment or order directing the payment thereof, the tribal court may

make an order directing the entry of judgment for the amount of such arrears, together with costs and a reasonable attorney's fee.

2. The application for such order shall be upon such notice to the defaulting party as the court may direct.
3. The judgment may be enforced by execution or in any other manner provided by law for the collection of money judgments.
4. The relief herein provided for is in addition to any other remedy provided by law.

CUSTODY OF CHILDREN

SECTION 125.450 Order for medical and other care, support, education and maintenance required.

1. No court may grant a divorce, separate maintenance or annulment pursuant to this chapter, if there are one or more minor children residing in this State who are the issue of the relationship, without first providing for the medical and other care, support, education and maintenance of those children as required by chapter [125B](#).

2. Every order for the support of a child issued must include an order directing the withholding or assignment of income for the payment of the support unless one of the parties demonstrates and the court finds good cause for the postponement of the withholding or assignment or all parties otherwise agree in writing. Such an order for withholding or assignment must be carried out in the manner provided in chapter [31A](#) for the withholding or assignment of income.

SECTION 125.465 Married parents have joint custody until otherwise ordered by court. If a court has not made a determination regarding the custody of a child and the parents of the child are married to each other, each parent has joint legal custody of the child until otherwise ordered by a court of competent jurisdiction.

SECTION 125.470 Order for production of child before court; determinations concerning physical custody of child.

1. If, during any proceeding brought under this chapter, either before or after the entry of a final order concerning the custody of a minor child, it appears to the court that any minor child of either party has been, or is likely to be, taken or removed out of this State or Reservation or concealed within this State or Reservation, the court shall forthwith order such child to be produced before it and make such disposition of the child's custody as appears most advantageous to and in the best interest of the child and most likely to secure to him the benefit of the final order or the modification or termination of the final order to be made in his behalf.

2. If, during any proceeding brought under this chapter, either before or after the entry of a final order concerning the custody of a minor child, the court finds that it would be in the best interest of the minor child, the court may enter an order providing that a party may, with the assistance of the appropriate law enforcement agency, obtain physical custody of the child from the party having physical custody of the child. The order must provide that if the party obtains physical custody of the child, the child must be produced before the court as soon as practicable to allow the court to make such disposition of the child's custody as appears most advantageous to and in the best interest of the child and most likely to secure to him the benefit of the final order or the modification or termination of the final order to be made in his behalf.

3. If the court enters an order pursuant to subsection 2 providing that a party may obtain physical custody of a child, the court shall order that party to give the party having physical custody of the child notice at least 24 hours before the time at which he intends to obtain physical custody of the child, unless the court deems that requiring the notice would likely defeat the purpose of the order.

4. All orders for a party to appear with a child issued pursuant to this section may be enforced by issuing a warrant of arrest against that party to secure his appearance with the child.

5. A proceeding under this section must be given priority on the court calendar.

SECTION 125.480 Best interest of child; preferences; considerations of court; presumption when court determines that parent or person residing with child is perpetrator of domestic violence.

1. In determining custody of a minor child in an action brought under this chapter, the sole consideration of the court is the best interest of the child. If it appears to the court that joint custody would be in the best interest of the child, the court may grant custody to the parties jointly.

2. Preference must not be given to either parent for the sole reason that the parent is the mother or the father of the child.

3. The court shall award custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:

(a) To both parents jointly pursuant to [SECTION 125.490](#) or to either parent. If the court does not enter an order awarding joint custody of a child after either parent has applied for joint custody, the court shall state in its decision the reason for its denial of the parent's application.

(b) To a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment.

(c) To any person related within the third degree of consanguinity to the child whom the court finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State or Reservation.

(d) To any other person or persons whom the court finds suitable and able to provide proper care and guidance for the child.

4. In determining the best interest of the child, the court shall consider and set forth its specific findings concerning, among other things:

(a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his custody.

(b) Any nomination by a parent or a guardian for the child.

(c) Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.

(d) The level of conflict between the parents.

(e) The ability of the parents to cooperate to meet the needs of the child.

(f) The mental and physical health of the parents.

(g) The physical, developmental and emotional needs of the child.

(h) The nature of the relationship of the child with each parent.

(i) The ability of the child to maintain a relationship with any sibling.

(j) Any history of parental abuse or neglect of the child or a sibling of the child.

(k) Whether either parent or any other person seeking custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.

5. Except as otherwise provided in subsection 6 or [SECTION 125C.210](#), a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child.

6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that each party has engaged in acts of domestic violence, it shall, if possible, then determine which person was the primary physical aggressor. In determining which party was the primary physical aggressor for the purposes of this section, the court shall consider:

(a) All prior acts of domestic violence involving either party;

(b) The relative severity of the injuries, if any, inflicted upon the persons involved in those prior acts of domestic violence;

(c) The likelihood of future injury;

(d) Whether, during the prior acts, one of the parties acted in self-defense; and

(e) Any other factors which the court deems relevant to the determination.

➔ In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies only to the party determined by the court to be the primary physical aggressor.

7. As used in this section, "domestic violence" means the commission of any act described in [SECTION 33.018](#).

SECTION 125.490 Joint custody.

1. There is a presumption, affecting the burden of proof, that joint custody would be in the best interest of a minor child if the parents have agreed to an award of joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child or children of the marriage.
2. The court may award joint legal custody without awarding joint physical custody in a case where the parents have agreed to joint legal custody.
3. For assistance in making a determination whether an award of joint custody is appropriate, the court may direct that an investigation be conducted.

SECTION 125.500 Award of custody to person other than parent.

1. Before the court makes an order awarding custody to any person other than a parent, without the consent of the parents, it shall make a finding that an award of custody to a parent would be detrimental to the child and the award to a nonparent is required to serve the best interest of the child.
2. No allegation that parental custody would be detrimental to the child, other than a statement of that ultimate fact, may appear in the pleadings.
3. The court may exclude the public from any hearing on this issue.

SECTION 125.510 Court orders; modification or termination of orders; form for orders; court may order parent to post bond if parent resides in or has significant commitments in foreign country.

1. In determining the custody of a minor child in an action brought pursuant to this chapter, the court may, except as otherwise provided in this section and chapter [130](#) of the Nevada Revised Statutes:
 - (a) During the pendency of the action, at the final hearing or at any time thereafter during the minority of any of the children of the marriage, make such an order for the custody, care, education, maintenance and support of the minor children as appears in their best interest; and
 - (b) At any time modify or vacate its order, even if the divorce was obtained by default without an appearance in the action by one of the parties.

↳ The party seeking such an order shall submit to the jurisdiction of the court for the purposes of this subsection. The court may make such an order upon the application of one of the parties or the legal guardian of the minor.
2. Any order for joint custody may be modified or terminated by the court upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires the modification or termination. The court shall state in its decision the reasons for the order of modification or termination if either parent opposes it.
3. Any order for custody of a minor child or children of a marriage entered by a court of another state may, subject to the jurisdictional requirements in chapter [125A](#), be modified at any time to an order of joint custody.
4. A party may proceed pursuant to this section without counsel.
5. Any order awarding a party a limited right of custody to a child must define that right with sufficient particularity to ensure that the rights of the parties can be properly enforced and that the best interest of the child is achieved. The order must include all specific times and other terms of the limited right of custody. As used in this subsection, "sufficient particularity" means a statement of the rights in absolute terms and not by the use of the term "reasonable" or other similar term which is susceptible to different interpretations by the parties.
6. All orders authorized by this section must be made in accordance with the provisions of chapter [125A](#) and must contain the following language:

PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY A OFFENSE. Every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a **Category A offense**.

7. In addition to the language required pursuant to subsection 6, all orders authorized by this section must specify that the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country.

8. If a parent of the child lives in a foreign country or has significant commitments in a foreign country:

(a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7.

(b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning him to his habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

9. Except where a contract providing otherwise has been executed pursuant to [SECTION 123.080](#), the obligation for care, education, maintenance and support of any minor child created by any order entered pursuant to this section ceases:

(a) Upon the death of the person to whom the order was directed; or

(b) When the child reaches 18 years of age if he is no longer enrolled in high school, otherwise, when he reaches 19 years of age.

10. As used in this section, a parent has “significant commitments in a foreign country” if he:

(a) Is a citizen of a foreign country;

(b) Possesses a passport in his name from a foreign country;

(c) Became a citizen of the United States after marrying the other parent of the child; or

(d) Frequently travels to a foreign country.

SECTION 125.520 Plan for carrying out court’s order; access to child’s records.

1. The court may, when appropriate, require the parents to submit to the court a plan for carrying out the court’s order concerning custody.

2. Access to records and other information pertaining to a minor child, for example, medical, dental and school records, must not be denied to a parent for the reason that the parent is not the child’s custodial parent.

ORDERS FOR PROTECTION AGAINST DOMESTIC VIOLENCE

SECTION 125.555 Required notice concerning admission to bail.

1. A restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence which is issued in an action or proceeding brought pursuant to this title must provide notice that a person who is arrested for violating the order or injunction will not be admitted to bail sooner than 12 hours after his arrest if the arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm.

2. For the purposes of this section, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to [SECTION 33.017](#) to [33.100](#), inclusive.

SECTION 125.560 Penalty for violation. A person who violates a restraining order or injunction:

1. That is in the nature of a temporary or extended order for protection against domestic violence; and

2. That is issued in an action or proceeding brought pursuant to this title,

↪ is guilty of a **Category C offense**, unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order or injunction. For the purposes of this section, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to [SECTION 33.017](#) to [33.100](#), inclusive.