

WYANDOTTE NATION
TITLE 16
FAMILY AND DOMESTIC RELATIONS CODE
(APPROVED BY THE BOARD OF DIRECTORS 10-10-2023)

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**WYANDOTTE NATION
TITLE 16
FAMILY AND DOMESTIC RELATIONS CODE**

INTRODUCTION

Section 1. Title.

This Title shall be referred to as the “Family and Domestic Relations Code.”

Section 2. Scope, Purpose and Construction.

(a) This Title governs the procedures for marriage, dissolution of marriage, division of property and debt, and the visitation and support of minor children.

(b) The purpose of this Title is:

- (i) To provide adequate procedures for the recording of marriages;
- (ii) To promote strong families and to preserve and strengthen family values;
- (iii) To promote the peaceful and fair settlement of disputes between parties to a marriage;
- (iv) To provide reasonable provisions for spouse and minor children when the marital relationship is ended; and
- (v) To provide appropriate procedures for establishing the legal relationship existing between a child and their parents or other persons with custodial or visitation rights.
- (vi) To provide for the equitable division of property and debts of the marriage upon dissolution.

(c) The provisions of this Title shall be liberally construed to give full effect to the objectives and purposes for which it is enacted. When a term is not defined herein, it shall be given its ordinary meaning, provided that if a term is susceptible to differing construction, it shall be interpreted to further the general proposes of this Title.

Section 3. Inconsistent Provisions of Other Laws.

It is the intent of the Wyandotte Nation to enact this Title to supplement the jurisdiction of the Nation’s Court. If any provision of this Title is found to be inconsistent with other laws of the Wyandotte Nation, this Title shall govern in family and domestic proceedings, unless there is good cause shown that application of this Title would be unreasonable or contradictory to public policy and welfare.

Section 4. Severability.

If any provision of this Title or its application to any person or circumstance is held invalid, the remainder of the Title, or the application of the provision to other persons or circumstances, shall remain in effect.

CHAPTER ONE MARRIAGE AND MARRIAGE LICENSES

Section 101. Definition of Marriage.

Marriage is a personal relation arising out of a civil contract to which the consent of parties legally competent of contracting and entering into it is necessary, and the marriage relation shall only be entered into, maintained or abrogated as provided by law.

Section 102. Validity Generally.

(a) Marriages contracted outside of the Wyandotte Nation are valid within the Wyandotte Nation if valid by the laws of the place where contracted, with the exception of marriages that are void or prohibited by this Title.

(b) Marriages may be validly contracted within Wyandotte Nation by meeting the requirements of Sections 104 and 105 of this Title.

Section 103. Void and Prohibited Marriages.

(a) All plural marriages contracted, whether or not in accordance with Wyandotte custom, shall be void and prohibited.

(b) Marriage between parents and children, including grandparents and grandchildren of every degree, between brothers and sisters who share at least one biological parent and between uncles and nieces, aunts and nephews and between first cousins, is prohibited and void.

(c) Marriage between partners of the same sex, whether or not in accordance with the laws of another jurisdiction, shall be void and prohibited.

Section 104. Methods of Contracting Marriage.

(a) A marriage may be contracted within the Wyandotte Nation by any of the following procedures:

(1) The contracting parties may marry according to the rites of any church, in which case they, the officiating clergyman, and two witnesses shall sign in the places provided on the face of the marriage license. The authority to officiate at marriages of any person signing a Wyandotte Nation marriage license as a clergyman shall not be questioned; or

(2) The contracting parties may be married by any judge of a tribal, federal or state court.

(b) No marriage solemnized or performed before any person professing to have authority to marry shall be invalid for lack of such authority, if consummated in the belief of the parties or either of them that they have been lawfully joined in marriage.

Section 105. Requirements Generally.

In order to contract a Wyandotte Nation marriage, the following requirements must be fulfilled:

(a) Both parties must be unmarried. If either party has been previously married, the marriage must have been dissolved by death of the spouse or by a valid decree of divorce.

(b) Both parties must be at least eighteen (18) years of age.

(c) In cases where the female is pregnant, the Courts of the Wyandotte Nation may authorize the marriage of minors with consent of the parents or legal guardian of the minors.

(d) Parties may not be related within the third degree of affinity. The provisions of this Subsection shall not affect the validity of any marriage legally contracted and validated under prior law.

Section 106. Issuance and Validity of Marriage License.

(a) Persons desiring to be married in the Wyandotte Nation shall submit an application in writing signed and sworn to in person before the clerk of the district court by both of the parties setting forth:

(1) The place of residence of each party;

(2) The full legal name and the age of each party as they appear upon or are calculable from a certified copy of the birth certificate, the current driver license or identification card, the current passport or visa, or any other certificate, license or document issued by or existing pursuant to the laws of any nation or of any state, or political subdivision thereof, accepted as proof of identity and age;

(3) For each party, the full name by which the party will be known after the marriage, which shall become the full legal name of the party upon the filing of the marriage license and certificate with the court, as required by law;

(4) That the parties are not disqualified from or incapable of entering into the marriage relation; and

(b) Upon application pursuant to this section and the payment of fees as provided in the Court Fee Schedule, if the clerk of the district court is satisfied of the truth and sufficiency of the

application and that there is no legal impediment to such marriage, the court clerk shall issue the license.

(c) As required by law, the marriage certificate shall be completed immediately following the marriage, and the marriage license and certificate shall be returned to the court clerk within thirty (30) days of the issuance of the marriage license.

Section 107. Form.

The form of Wyandotte Nation marriage licenses shall be substantially as follows:

WYANDOTTE NATION LICENSE AND CERTIFICATE OF MARRIAGE

License No. _____ **License Issued on:** _____

BRIDE

1. Bride's Name: First, Middle, Last:	2. Birthplace:
3. Date of Birth:	4. Age: 5. Sex:
6. Occupation:	7. Previous Marital Status: (single, widowed, divorced)
8a. Father's Name:	8b. Birthplace:
9a. Mother's Name:	9b. Birthplace:
10. Bride's Address:	11. Member of the Wyandotte Nation Yes _____ No _____
12. Bride's name to be known after marriage:	

GROOM

12. Groom's Name: First, Middle, Last:	13. Birthplace:
14. Date of Birth:	15. Age: 16. Sex:

17. Occupation:	18. Previous Marital Status: (single, widowed, divorced)
19a. Father's Name:	19b. Birthplace:
20a. Mother's Name:	20b. Birthplace:
21. Groom's Address:	22. Member of the Wyandotte Nation Yes_____ No_____
23. Groom's name to be known after marriage:	

WE HEREBY CERTIFY THAT THE INFORMATION PROVIDED IS CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF AND THAT WE ARE FREE TO MARRY UNDER THE LAWS OF THE WYANDOTTE NATION.

23. Bride's Signature

24. Groom's Signature

NEITHER YOU NOR YOUR SPOUSE IS THE PROPERTY OF THE OTHER. THE LAWS OF THE WYANDOTTE NATION AFFIRM YOUR RIGHT TO ENTER INTO MARRIAGE AND AT THE SAME TIME TO LIVE WITHIN THE MARRIAGE FREE FROM VIOLENCE AN ABUSE.

AFFIDAVIT LICENSE TO MARRY

This license authorizes the marriage of the Bride and Groom named above, to be solemnized within the Wyandotte Nation, by any person authorized to perform marriages.	
25. Signature of Issuing Official	26. Title of Issuing Official

CERTIFICATE OF CEREMONY

27. I CERTIFY THAT THE ABOVE NAMED PERSONS WERE MARRIED ON: DATE: _____ TIME: _____	28. Location of Ceremony:	
29a. Signature of Person Performing Ceremony:	29b. Printed Name	31c. Title
29d. Address of Person Performing Ceremony:	29e. Telephone Number:	
30. Witness Name and Address:	31. Witness Name and Address:	
32. Witness Signature:	33. Witness Signature:	

CLERK OF COURT

34. Signature and Title of Tribal Court Clerk or Official:	35. Date filed in Court:
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Section 108. Validation of Marriage.

All purported marriages contracted within the territorial jurisdiction of the Wyandotte Nation, wherein the parties were or are recognized as man and wife in their community may be validated and recognized as valid marriages from the date of their inception. The Court shall have subject matter jurisdiction pursuant to this Section to make a judicial determination that a marriage meets the requirements of Sections 104 and 105 of this Title for contracting of a marriage, and to cure any defect in a ceremony which does not conform to the requirements for a ceremony set forth in Section 104 of this Title.

Section 109. Procedure for Judgment of Validity.

(a) Any person, claiming that his or her marriage may be validated pursuant to Section 108 of this Title, may file a petition in the Tribal Court of the Wyandotte Nation for a judgment declaring that such marriage be validated. If the petitioner's spouse in such alleged marriage is known to the petitioner to be living, such spouse must also sign the petition, or be named as defendant and notified of the suit. If the petitioner's spouse in such alleged marriage is not known to the petitioner to be living, the petitioner must prove to the satisfaction of the court that such

spouse is dead or has been absent for five successive years, without being known to the petitioner within that time to be living, or the petition shall be dismissed.

(b) If the petitioner, having complied with Subsection (a) of this Section, proves to the satisfaction of the court that he or she and his or her alleged spouse were recognized as man and wife in their community, the court shall issue a judgment that such petitioner and spouse were validly married. If feasible, the Court shall also ascertain the date of inception of such marriage and shall recite such date in the judgment.

(c) Any judgment of validity of marriage issued by the Court of the Wyandotte Nation in accordance with Subsection (b) of this Section shall be filed with the Wyandotte Nation Tribal Court, which will then cause the marriage to be recorded and a certificate of marriage to be issued to the petitioner.

(d) In cases where a person whose parents are deceased contends that such parents' marriage may be validated by this Title, such person may file a petition in the Wyandotte Nation Tribal Court for a judgment that such marriage be so validated. If the petitioner proves to the satisfaction of the court that his or her parents are deceased and that they were recognized as man and wife in their community, the court shall issue a judgment that such parents were validly married on such date. If feasible, the court shall also ascertain the date of inception of such marriage and shall recite such date in the judgment. The judgment will be recorded and a certificate of marriage will be provided.

Section 110. Governmental Determinations.

All marriages recorded on any official document of the Wyandotte Nation Tribal Court shall be deemed to be valid marriages under Wyandotte Nation law, whether these marriages are contracted by Wyandotte custom, or pursuant to a Wyandotte Nation or state license. These documents shall be deemed to constitute a governmental determination of the Wyandotte Nation as to the existence and validity of the marriage noted in the record. This Section shall apply retroactively and prospectively to all marriages recorded in official documents of the Wyandotte Nation.

CHAPTER TWO DISSOLUTION OF MARRIAGE

Section 201. Jurisdiction.

The Courts of the Wyandotte Nation shall have jurisdiction over a divorce proceeding if:

(a) Either the petitioner/plaintiff or the respondent/defendant have been an actual resident, in good faith, of the Wyandotte Nation territorial jurisdiction for at least ninety (90) days prior to the filing of the petition;

(b) One of the parties to the action is a member of the Wyandotte Nation; and

(c) Both parties consent to the jurisdiction of the Court.

Section 202. Grounds for Divorce.

(a) The District Court may grant a divorce upon a finding that there is an irretrievable breakdown of the marriage. Such finding may be established by one or more of the following causes:

- (1) Abandonment for one (1) year.
- (2) Domestic abuse or extreme cruelty.
- (3) Any other cause which has destroyed the legitimate aims of the marriage.

(b) If one of the parties has denied under oath that the marriage is irretrievably broken, the Court shall, upon hearing, consider all relevant factors as to the prospect of reconciliation, and shall either:

(1) Make a finding that the marriage is irretrievably broken and enter a decree of dissolution; or

(2) Continue the matter for further hearing, not more than ninety (90) days later, giving the parties an opportunity to seek marital counseling or other means of reconciliation. At the rescheduled hearing, the Court shall:

(i) Find that the parties have agreed to reconciliation and dismiss the petition; or

(ii) Find that the parties have not reconciled and that either party continues to allege that the marriage is irretrievably broken. When such facts are found, the Court shall enter a decree of dissolution of marriage.

Section 203. Annulment.

When either party to a marriage shall be incapable, from want of age or understanding, of contracting such marriage, the same may be declared void by the district court or in an action brought by the incapable party or by the parent or guardian of such party; cohabitation after such incapacity ceases and is a defense to any such action.

Section 204. Legal Separation.

Notwithstanding any other law to the contrary, a spouse to a marriage may obtain a legal separation upon proof of the following:

- (1) Abandonment for one (1) year.
- (2) Domestic abuse or extreme cruelty.

(3) Any other cause which offers such indignities to the person of the other as shall render his or her condition intolerable.

Section 205. Petition, Summons and Response.

(a) A proceeding for dissolution of marriage, an annulment of a marriage, or a legal separation shall be titled "In Re the Marriage of _____ and _____".

(b) The initial pleading in all proceedings under this Title shall be designated a petition. The person filing the petition shall be called the petitioner. A responsive pleading shall be designated a response. The person filing the responsive pleading shall be called the respondent.

(c) The petition must be verified as true, by affidavit of the petitioner.

(d) A summons may issue thereon, and shall be served, or publication made, as in other civil cases.

(e) The respondent, in his or her response, may allege a case for dissolution of marriage, annulment of the marriage or legal separation against the petitioner, and may have the same relief thereupon, as he or she would be entitled to for a like cause if he or she were the petitioner.

(f) When a new matter is set up in the respondent's answer, it shall be verified as to such new matter by affidavit of the respondent.

Section 206. Determination of Parentage.

In an action for divorce, legal separation or annulment where there are children born to the parties, the Court may determine if the parties to the action are the parents of the children. If the parties to the action are the parents of the children, the Court may determine the custody and control of the children as well as support for minor children.

Section 207. Actions Involving Minor Children - Order Delayed.

(a) In an action for dissolution of marriage where there are minor children involved, the Court shall not issue a final order for at least ninety (90) days from the date of filing the petition. The ninety (90) day waiting period may be waived by the Court for good cause shown and if there is no objection by either party. During the pendency of the action, the Court may require the parties to attend and complete a parenting educational course.

(b) This section shall not apply to divorces where there is:

- (1) Abandonment for one (1) year;
- (2) Domestic Abuse or Extreme cruelty;

(3) Habitual drunkenness;

(4) Conviction of any crime involving child abuse or domestic abuse upon a child of either party to the divorce action; or

(5) A child of either party which has been adjudicated deprived as a result of the actions of either party to the divorce of which the party has not successfully completed the service and treatment plan required by the Court.

(c) After a petition has been filed in an action for divorce where there are minor children involved, the Court may make any such temporary orders concerning property, debt division, children, support and costs of the action to be complied with during the pendency of the action.

Section 208. Appointment of Guardian Ad Litem or Lawyer for Minor Child.

(a) In any divorce action when the custody or visitation of a minor child or children is contested by any party, the Court may appoint a guardian ad litem upon its own motion or upon application by any party.

(1) A guardian ad litem may be appointed for the purpose of advocating for the best interests of the minor child and when appointed shall act as an officer of the court to investigate all matters concerning the interests of the child.

(2) A guardian ad litem shall participate in the case, attend hearings in the matter and advocate for appropriate service for the child when necessary.

(3) Expenses, costs and fees for the guardian ad litem may be allocated among the parties as determined by the Court.

(b) Whether a guardian ad litem is appointed, the Court may appoint an attorney for the minor child when the Court believes it is necessary for the interests of justice.

(1) A court appointed attorney for the minor child shall be distinct from a guardian ad litem in that the attorney shall advocate the position of the minor child as opposed to making a determination of best interests.

(2) Expenses, costs and fees of the child's attorney may be allocated among the parties as determined by the Court.

Section 209. False Reporting of Allegations of Abuse.

During any action relating to child custody, if the Court determines that any party has intentionally made a false or frivolous claim to the Court of child abuse or neglect against the other party, the Court shall proceed with any or all of the following:

(a) Find the accusing party in contempt for perjury and refer for prosecution;

(b) Consider the allegations in determining custody; and

(c) Award costs and legal expenses arising from the allegations to the accusing party.

Section 210. Divorce Granted to Both Parties.

Upon the granting of a divorce, the Court shall dissolve the marriage as to both parties, without regard to fault.

Section 211. Awarding Custody or Appointing Guardian; Best Interest of the Child.

(a) In any case of divorce or legal separation, the Court may for good cause shown make such order as may be proper for the custody, maintenance and education of minor children of the marriage.

(b) The Court may grant the care, custody and control of a child to either parent, to the parents jointly, or if by clear and convincing evidence neither parent is an appropriate placement, the Court may order the child be placed with a third party pursuant to Title 25, the Wyandotte Nation Guardianships and Protection of Vulnerable Persons Act.

(c) In awarding the custody of a minor child or in appointing a general guardian for said child, the Court shall consider what appears to be in the best interests of the physical, mental and moral welfare of the child.

Section 212. Court to Consider Evidence of Domestic Abuse in Granting Custody, Visitation.

(a) In cases involving custody, guardianship of or visitation with a child, the Court shall consider evidence of domestic abuse, stalking and/or harassment properly brought before it. If by a preponderance of the evidence, the Court finds there has been domestic abuse, stalking and/or harassing behavior, there shall be a rebuttable presumption that it is not in the best interests of the child to have custody, guardianship, or unsupervised visitation granted to the person against whom domestic abuse, stalking and/or harassing behavior has been established.

(b) If custody, guardianship or unsupervised visitation is granted to the perpetrator, the Court shall make specific findings of the child's best interests and how the presumption against custody, guardianship or unsupervised visitation has been rebutted by the perpetrator.

Section 213. Visitation Rights of Grandparents.

(a) In an action for divorce or legal separation, the Court shall have authority to grant grandparent visitation rights and enforce such rights upon a finding that grandparental visitation is in the best interests of the child. The right of visitation granted to a grandparent may be subject to such reasonable restrictions as the Court deems just and appropriate.

(b) Grandparent visitation rights shall be consistent with the provisions and procedures of Title 26 of the Wyandotte Nation Code.

Section 214. Preference of Child Considered in Custody or Visitation Actions.

(a) In any action or proceeding in which a court must determine custody or visitation, the Court may consider the preference of the child, provided that the child is of sufficient age and ability to express an intelligent preference.

(b) There shall be a rebuttable presumption that a child who is twelve (12) years of age or older is of sufficient age to form an intelligent preference.

(c) The child's preference is to be considered persuasive but not mandatory and the Court shall consider all evidence and testimony when determining what custody and visitation order is in the best interest of the child.

Section 215. Modification of Custody and/or Visitation of Child.

(a) An order for custody and visitation of a minor child may be modified at any time during the pendency of the child's minority, provided that the Court finds by clear and convincing evidence a material change of circumstances has occurred which substantially affects the best interests of the child.

(b) The burden of proving a material change of circumstances substantially affecting the best interests of the minor child is on the moving party.

Section 216. Parental Duty to Support Children.

(a) Children shall be entitled to support by the parents until the child reaches eighteen (18) years of age. If a child is regularly enrolled in and attending high school, other means of high school education, or an alternative high school education program as a full-time student, the child shall be entitled to support by the parents until the child graduates from high school or until the age of twenty (20) years, whichever shall occur first. Full-time attendance shall include regularly scheduled breaks from the school year.

(b) In any case in which a child support order or custody order or both is entered, enforced or modified, the Court may make a determination of the arrearages of child support.

Section 217. Computation of Child Support - Guidelines.

(a) All child support shall be computed as a percentage of the combined gross income of both parents. Using the Child Support Guideline Schedule, the child support obligation of each parent shall be computed. The share of the obligor/payor shall be paid monthly to the obligee/payee and shall be due on a specific date.

(b) The Wyandotte Nation shall utilize the Oklahoma Child Support Guideline Schedule found at 43 O.S. 119 in computing child support obligations.

(c) The amount of the child support order shall be determined by computing the percentage share for each party of the child support obligation pursuant to the Child Support Guideline Schedule.

(1) The percentage contribution of each party to the combined adjusted gross income shall be the percentage contribution of each party to the child support obligation as determined by the Child Support Guideline Schedule.

(2) In instances of shared parenting time, the party with the higher percentage shall be responsible to pay the difference in the support amount to the other party.

(d) There shall be a rebuttable presumption in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from application of the guidelines is the correct amount of child support to be awarded.

Section 218. Modification of Child Support Obligation.

(a) An order for child support may be modified at any time, provided that the Court finds by clear and convincing evidence a material change of circumstances has occurred and a modification is in the interest of justice and equity of all parties, including the child for whose benefit support is ordered.

(b) The burden of proving a material change of circumstances is on the moving party.

(c) A movant may seek modification of child support by filing a motion for modification in the original action and serving summons requiring an answer within twenty (20) days upon the other party. Such motions shall be heard as if they were an independent proceeding and discovery may be had. The order of the Court determining the motion for modification shall be a final appealable order.

Section 219. Past Due Payments to Operate as Judgments.

(a) Any payment of installation of child support ordered pursuant to any order, judgment or decree is, on and after the date it becomes past due, a judgment by operation of law. Judgments for past due support shall:

(1) Have the full force and effect of any other judgment of this jurisdiction including the ability to be enforced by any method available under the law to enforce and collect money judgments; and

(2) Be entitled to full faith and credit as a judgement in this jurisdiction and any other tribe or state.

(b) A child support judgment shall not become dormant for any purpose, and, except as otherwise provided by court order, a judgment for past due child support shall be enforceable until paid in full.

Section 220. Orders Concerning Property Disposition.

In any case of divorce or legal separation, the Court may for good cause shown make such order as may be proper for the control and equitable division and disposition of the property of the parties, or of either of them, as may be proper, equitable and just, having due regard to the time and manner of acquiring such property and whether the title thereto be in either or both of said parties. In making a property settlement, the Court shall consider the needs of the family and justice to the parties.

Section 221. Separate and Community Property of the Parties.

(a) All property, real and personal, of the husband, owned or claimed by him before marriage, and that acquired afterward by gift, devise or descent, and also the increase, rents, issues and profits thereof, shall be designated as his separate property unless and except in circumstances where the Court makes a specific finding that the husband has commingled the property into the marriage in such a way that it has lost its separate identity.

(b) All property, real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterward by gift, devise or descent, and also the increase, rents, issues and profits thereof, shall be designated as her separate property unless and except in circumstances where the Court makes a specific finding that the wife has commingled the property into the marriage in such a way that it has lost its separate identity.

(c) All property acquired by either husband or wife during the marriage, subject to the provisions of subsections (a) and (b) of this section, is the community property of the husband and wife and shall be divided justly and equitably between the parties.

Section 222. Orders Concerning Disposition of Marital Debts.

In any case of divorce or legal separation, the Court may for good cause shown make such order as may be proper for the equitable division of liability for the joint debts of the parties, or of either of them, as may be proper, equitable and just, having due regard to the time and manner of encumbering such debts. In making its order of disposition of debt, the Court shall consider the needs of the family and justice to the parties.

Section 223. Marital Support.

In any case of divorce or legal separation, the Court may for good cause shown make such order as may be proper, equitable and just for the maintenance and support of one party by the other; provided that the marital support shall be for a specific duration of time or in the alternative in a judgment amount to be paid by a date certain.

Section 224. Indirect Contempt for Disobedience of Certain Orders.

Any order pertaining to child support, property division, disposition of debts or marital support, if willfully disobeyed, may be enforced as an indirect contempt of court.

Section 225. Restoration of Wife's Maiden Name.

When a divorce is granted, the wife shall be restored to her maiden or former name if she so desires.

Section 226. Evidence.

No divorce shall be granted without proof taken upon the record as in other cases.

Section 227. Time When Judgment is Final.

Every decree of divorce shall recite the day and date when the judgment was rendered. If an appeal be taken from a judgment granting a divorce, that part of the judgment does not become final and take effect until the appeal is determined. If an appeal be taken from part of the judgment in a divorce action except the granting of the divorce, the divorce shall be final and take effect from the date the decree of divorce is rendered, provided that neither party thereto may marry another person until six (6) months after the decree of divorce is rendered.