

**Port Gamble S’Klallam Child Support Program’s Proposed Amendments to Title 21**  
**Updated July 5, 2022**

21.03.02 Duty of Care and Support

Parents have a duty to care for their children. This applies to all natural parents whose parental rights have not been terminated and to all adoptive parents. This duty includes providing love, guidance, education, a safe and healthy environment and financial support. Parents also have a duty to ensure that S’Klallam children have an opportunity to learn about and participate in the S’Klallam Way. This includes access to S’Klallam family, participation in S’Klallam events and an opportunity to exercise S’Klallam treaty rights.

Stepparents do not have a legal duty to support step-children but may have a moral and traditional duty to contribute to their support.

[HIST: Source - Resolution No. 01 A 117, passed 12/11/01, adopted Title 21 on an interim basis. Resolution No. 02 A 098, passed 9/10/02, adopted Title 21 as permanent legislation.]

21.03.02 Duty of Care and Support

Parents have a **legal** duty to care for **and support** their **natural born and adopted** children. This applies to all natural parents whose parental rights have not been terminated and to all adoptive parents. This duty includes providing love, guidance, education, a safe and healthy environment and financial support. Parents also have a duty to ensure that S’Klallam children have an opportunity to learn about and participate in the S’Klallam Way. This includes access to S’Klallam family, participation in S’Klallam events and an opportunity to exercise S’Klallam treaty rights.

Stepparents **do not** have a legal duty to **care for and** support step-children but may have a moral and traditional duty to contribute to their support.

[HIST: Source - Resolution No. 01 A 117, passed 12/11/01, adopted Title 21 on an interim basis. Resolution No. 02 A 098, passed 9/10/02, adopted Title 21 as permanent legislation.]

21.03.05 Petition for Child Support – Who May File

A parent may file a petition for establishment of child support under this chapter. The petition shall be prepared on a form approved by the Court Administrator. The child support petition may be filed as a separate proceeding or in connection with a petition for:

- a) Divorce or invalidity of marriage under chapter 21.04;
- b) Paternity under chapter 21.02; or

- c) Child custody under chapter 21.05.

[HIST: Source - Resolution No. 01 A 117, passed 12/11/01, adopted Title 21 on an interim basis. Resolution No. 02 A 098, passed 9/10/02, adopted Title 21 as permanent legislation.]

#### 21.03.05 Petition for Child Support—Who May File

- a) A petition asking the Court to establish child support may be filed by:
  - i) The child's parent;
  - ii) The child's legal guardian, if authorized by the Court under 16.03.13; or
  - iii) The Port Gamble S'Klallam Child Support Program if the Program is representing the interests of the child in receiving child support in a case involving: another tribe or state; the Port Gamble S'Klallam Indian Child Welfare Program; the Port Gamble S'Klallam Temporary Assistance for Needy Families Program; or the Port Gamble S'Klallam Tribal Licensed Care Program. In cases where the Port Gamble Child Support Program is involved in a case under this Section, the Program shall be treated as a party to the proceeding.
- b) The child support petition may be filed as a separate proceeding or in connection with a petition for:
  - i) Divorce or invalidity of marriage under chapter 21.04;
  - ii) Paternity under chapter 21.02; or
  - iii) Child custody under chapter 21.05.

#### 21.03.06 Petition for Child Support - Contents

A petition for establishment of child support shall contain:

- a) The name, address, tribal affiliation, date and place of birth, and social security number of the petitioner, the responding party and the child for whom support is requested;
- b) The child support obligation requested or agreed upon;
- c) The proposed provision of health insurance for the child;
- d) Any proposed work-related day care or extraordinary medical expenses;
- e) The date proposed for the child support obligation to begin and when it is proposed to terminate;
- f) The proposed frequency of payment;

- g) A statement whether child support payments should be made by wage withholding or by direct payment, and to whom payments should be made if not the Port Gamble S’Klallam Child Support Program;
- h) A proposed Parenting Plan, if any, or, if custody is shared, the percentage of a year that each parent has physical custody of the child;
- i) A statement that the petitioner swears that he or she believes that the male party is the father of the child; or a statement that the parties agree that the male party is the father of the child;
- j) A statement whether any of the following proceedings involving the parents or the child are pending or have taken place in any court or administrative agency, and if so, the date, name and place of the Court or agency:
  - i) Child custody proceeding;
  - ii) Child support proceeding;
  - iii) Paternity establishment or disestablishment proceeding;
  - iv) Proceeding requesting a domestic violence protective order or no-contact order; or
  - v) Proceeding requesting a restraining order involving the child or a party.
- k) A statement whether either parent has ever received state or tribal public assistance, and if so, the date(s) and name of the state or tribe providing assistance;
- l) Financial information, as provided in section 21.03.15;
- m) Authorization for the release of all financial records to the Port Gamble S’Klallam Court and the Port Gamble S’Klallam Child Support Program;
- n) A statement of which parent should be allowed to claim the child as a dependent for income tax purposes; and
- o) The recommendation of the Port Gamble S’Klallam Child Support Program regarding child support and health insurance coverage.

[HIST: Source - Resolution No. 01 A 117, passed 12/11/01, adopted Title 21 on an interim basis. Resolution No. 02 A 098, passed 9/10/02, adopted Title 21 as permanent legislation.]

#### 21.03.06 Petition for Child Support—Contents

A petition for establishment of child support shall contain:

- l) Financial information, as provided in section 21.03.15, if the petitioner is the party that would be obliged to pay child support, if the child is eligible for social security benefits, or if the parties share equal residential time with the child;

### 21.03.13 Response - Financial Information and Parenting Plan

Unless the parties have filed a joint petition, the respondent shall file his or her response within twenty (20) calendar days after the respondent is served with a copy of the petition, or within sixty (60) days if service was by publication. The response shall include financial information as provided in section 21.03.15 and authorization for the release of all financial records to the Port Gamble S'Klallam Child Support Program and the Port Gamble S'Klallam Court. The respondent may also file a proposed Parenting Plan, as provided in section 21.05.09.

The respondent shall cause the response, including financial information, to be served on the petitioner as provided in section 21.01.10.

[HIST: Source - Resolution No. 01 A 117, passed 12/11/01, adopted Title 21 on an interim basis. Resolution No. 02 A 098, passed 9/10/02, adopted Title 21 as permanent legislation.]

### 21.03.13 Response – Financial Information and Parenting Plan

Unless the parties have filed a joint petition, the respondent shall file his or her response within twenty (20) calendar days after the respondent is served with a copy of the petition, or within sixty (60) days if service was by publication. The response shall include financial information as provided in section 21.03.15, **if the respondent is the party that would be obligated to pay child support, if the child is eligible for social security benefits, or if the parties share equal residential time with the child. The response also shall include an** authorization for release of all financial records to the Port Gamble S'Klallam Child Support Program and the Port Gamble S'Klallam Court. The respondent may also file a proposed Parenting Plan, as provided in section 21.05.09.

### 21.03.15 Financial Disclosure

The parties shall provide complete disclosure of financial information, including verification of all income and resources, to the Court or to the Port Gamble S'Klallam Child Support Program.

- a) Procedure for Disclosure. Financial information shall be provided on forms approved by the Court Administrator. It shall be submitted with the petition or response or at least ten (10) days before the hearing.
- b) Penalty. Failure to provide required financial disclosure may be grounds for contempt of court, as provided in chapter 1.06.

[HIST: Source - Resolution No. 01 A 117, passed 12/11/01, adopted Title 21 on an interim basis. Resolution No. 02 A 098, passed 9/10/02, adopted Title 21 as permanent legislation.]

### 21.03.15 Financial Disclosure

The party obliged to pay child support, or both parties, if they share equal residential time with the child or if the child is eligible for social security benefits, shall provide complete disclosure of financial information, including verification of all income and resources, to the Court or to the Port Gamble S'Klallam Child Support Program.

21.03.30 Calculation of Child Support When There Are Children From Other Relationships

When a party has a legal duty to pay child support for children from other relationships, calculation of the amount of the child support per child shall be based on the total number of children from all relationships.

- a) If possible, at the time an order is entered, the Court shall modify any existing orders so that they are based on the total number of children from all relationships that the parent has a duty to support.
- b) If an existing order cannot be modified at the time the order is entered, the child support obligation for the child before the Court shall be established based on the number of children before the Court, but the monthly obligation for the first six (6) months shall be reduced so that the total child support paid to all persons during that period does not exceed the scheduled amount for the total number of children from all relationships. During this six (6) month period, the Port Gamble S'Klallam Child Support Program shall assist the party to modify the previous child support order(s). The six (6) month period may be continued for good cause. Upon modification of the previous order(s), the Court shall modify its order based on the total number of children from all relationships.
- c) If a previous child support order for children from another relationship cannot be modified, the Court shall adjust the child support obligation for the child before the Court so that the total child support paid to all persons does not exceed the scheduled amount for the total number of children from all relationships.

The provisions of this section apply only to the extent that the child support obligations for children from other relationships are actually paid.

[HIST: Source - Resolution No. 01 A 117, passed 12/11/01, adopted Title 21 on an interim basis. Resolution No. 02 A 098, passed 9/10/02, adopted Title 21 as permanent legislation.]

### 21.03.30 Calculation of Child Support When There Are Children From Other Relationships

- a) Calculation of the amount of child support per child may be based on the party's total number of children under the following circumstances:
  - i) when a party has a legal duty to pay child support for a child from another relationship;  
or
  - ii) when a party has a legal duty to support a child from another relationship who resides with that party more than half of the time.
  
- b) Calculation of child support involving children from other relationships that meet the criteria of Sections 21.03.30(a), shall be calculated as follows: the minimum child support obligation shall be the maximum child support range listed in the child support schedule as divided by the total number of children the party has a legal duty to support, and the maximum range shall be the applicable range in the schedule without consideration of children from other relationships. The Court shall not set a child support obligation that falls below the minimum child support range listed in the child support schedule.
  
- c) If possible, the Court may make efforts to modify child support orders for children from other relationships as follows:
  - i) At the time a child support order is entered, the Court may modify any existing orders so that they are based on the total number of children from all relationships that the parent has a duty to support, consistent with the factors set forth at 21.03.31.
  
  - ii) If a preexisting child support order cannot be modified at the time the order is entered, the child support obligation for the child before the Court shall be established based on the number of children before the Court. The monthly obligation applicable to the child before the Court for the first six (6) months shall, however, be reduced so that the total child support paid to all persons during that period does not exceed the scheduled amount for the total number of children from all relationships. During this six (6) month period, the Port Gamble S'Klallam Child Support Program shall assist the party with modification of the preexisting child support order(s). At the expiration of the six (6) month period, the Court shall conduct a hearing to review modification efforts. The six (6) month period may be continued for good cause. Upon modification of the previous order(s), the Court may modify its order based on the total number of children from all relationships.

### 21.03.39 Child Support Schedule – Basis and Review

- a) Basis. The Port Gamble S'Klallam Child Support Schedule:
  - i) Is based on specific descriptive and numeric criteria and results in a computation of an amount of child support which is sufficient to meet the basic needs of a child for housing, clothing, food, education, health care, recreation, and goods and services required by physical or mental disability;
  
  - ii) Is based on the income of the non-custodial parent and the number of children there is a duty to support;

- iii) Provides for a range of payment levels for each income category. The level shall be adjusted to the circumstances of each case according to the factors set forth in section 21.03.31, Adjustments within Schedule Ranges.
- b) Review Requirement. The Guidelines and Schedule shall be reviewed by the Port Gamble S’Klallam Child Support Program every three years and any recommendations for amendment shall be provided to the Port Gamble S’Klallam Tribal Council.

[HIST: Source - Resolution No. 01 A 117, passed 12/11/01, adopted Title 21 on an interim basis. Resolution No. 02 A 098, passed 9/10/02, adopted Title 21 as permanent legislation.]

21.03.39 Child Support Schedule – Basis and Review

- b) Review Requirement. The Guidelines and Schedule shall be reviewed by the Port Gamble S’Klallam Child Support Program every **four** years and any recommendations for amendment shall be provided to the Port Gamble S’Klallam Tribal Council.



21.03.40 Child Support Schedule

<b>INCOME AFTER ALLOWED DEDUCTIONS</b>	<b><u>Minimum Child Support</u></b> (Example: one child, no day care or health insurance)	<b><u>Maximum Child Support</u></b> (Example: multiple children, day care, health insurance)
\$0 - 499	Parent would provide non-cash resources	\$25
\$500 - 799	5%	10%
\$800 - 999	8%	11%
\$1,000 - 1,499	10%	15%
\$1,500 – 1,999	11%	15%
\$2,000 – 2,499	12%	20%
\$2,500 – 2,999	13%	20%
\$3,000 – 3,499	14%	20%
\$3,500 – 3,999	15%	25%
\$4,000 – and above	16%	25%

[HIST: Source - Resolution No. 01 A 117, passed 12/11/01, adopted Title 21 on an interim basis. Resolution No. 02 A 098, passed 9/10/02, adopted Title 21 as permanent legislation and added this section. Resolution No. 14 A 20, passed 2/25/14, amended this section to add income brackets, increase Child Support percentages, and add \$25 per month maximum obligation for income brackets between \$0-499 per month.]

21.03.40 Child Support Schedule

<b>INCOME AFTER ALLOWED DEDUCTIONS</b>	<b><u>Minimum Child Support</u></b> (Example: one child, no day care or health insurance)	<b><u>Maximum Child Support</u></b> (Example: multiple children, day care, health insurance)
\$0 - 499	\$25 per month, per child	\$25 per month, per child

#### 21.03.41 Child Support Review Hearings

- a) Purpose. The primary purpose of a child support review hearing is to give the parties and the Court an opportunity to ensure that child support payments are being made as provided in the order. Either party may also
  - i) Raise questions or concerns they have about a Parenting Plan;
  - ii) Move for modification of the child support order; or
  - iii) Request payments as provided in (f) and (g), below.
- b) Timing. A mandatory review hearing shall be scheduled three (3) months after the child support order was issued. Thereafter, review hearings shall be scheduled every twelve months after the child support order was issued. The date for the first review hearing shall be set by the Court at the time the order is issued and no further notice of that hearing is necessary. The Port Gamble S’Klallam Child Support Program shall notify the Court when it is time to schedule the annual review hearing for each case. The Court may order additional review hearings if it is necessary.
- c) Waiver. Except for the first, mandatory review hearing, a review hearing may be waived if both parties file a request to waive the hearing and the Port Gamble S’Klallam Child Support Program agrees to the waiver.
- d) Enforcement of Child Support Order. If child support payments have not been made as required by the order, the Port Gamble S’Klallam Child Support Program shall make a recommendation to the Court regarding appropriate enforcement of the child support order. In any case which involves the Indian Child Welfare Program, tribal TANF or another tribe or a state, the Port Gamble S’Klallam Child Support Program has the sole authority to raise enforcement issues and represent the interests of the child in receiving child support. If the Court finds that a child support obligation is overdue or if there is a history of non-compliance with the order, the Court shall order wage withholding or other means of enforcement, as provided in sections 21.03.51 and 21.03.56.
- e) Modification of Child Support Order. Review hearings are not intended to be annual modification hearings. However, a party may file a motion for modification, as provided in section 21.03.43 prior to the review hearing and, if timely filed, the Court may schedule a hearing on modification at the same time as the review hearing.
- f) Payment for Extraordinary Medical Expenses. The Court may order the paying party to make payment(s) in addition to the regular child support payments upon presentation of receipts or other proper proof that the child has had extraordinary medical expenses as provided in section 21.03.31 (d). Adjustments may be added to future payments, provided that no total monthly payment may exceed the upper limit of the scheduled range for the income of the paying party.
- g) Reimbursement. Upon presentation of receipts or other proper proof, the Court may order:
  - i) Reimbursement to the paying party for work-related day care expenses paid but not utilized by the receiving party for work or work-related activities;
  - ii) Repayment to the Tribe by the party who received child support on behalf of a child who stopped residing for a month or longer with the that party, if payment was originally made to the Tribe.

Overpayment reimbursement shall be applied first to arrears owed. If no arrears are owed, the reimbursement may be paid directly or applied as a credit against future support.

[HIST: Source - Resolution No. 01 A 117, passed 12/11/01, adopted Title 21 on an interim basis. Resolution No. 02 A 098, passed 9/10/02, adopted Title 21 as permanent legislation.]

#### 21.03.41 Child Support Review Hearings

- c) Waiver. Except for the first, mandatory review hearing, a review hearing may be waived if both parties file a request to waive the hearing and the Port Gamble S'Klallam Child Support Program agrees to the waiver. The Court may waive the first mandatory review hearing at the request of the Port Gamble S'Klallam Child Support Program or either party in the case of a \$0.00 child support order.
- d) Enforcement of Child Support Order. If child support payments have not been made as required by the order, the Port Gamble S'Klallam Child Support Program shall make a recommendation to the Court regarding appropriate enforcement of the child support order. If the Court finds that a child support obligation is overdue or if there is a history of non-compliance with the order, the Court shall order wage withholding or other means of enforcement, as provided in sections 21.03.51 and 21.03.56.
- g) Reimbursement. Upon presentation of receipts or other proper proof, the Court may order:
  - ii) Repayment to the Tribe by the party who received child support on behalf of a child who stopped residing for a month or longer with that party, if payment was originally made to the Tribe.
- h) Suspension. Upon the request of a party or the Port Gamble S'Klallam Child Support Program, the Court may temporarily suspend a party's child support obligation based on the agreement of the parties, a change in legal or physical custody of a child, a temporary change in income, placement of a child in a healthcare treatment facility, or for other good cause shown. A suspension of a child support obligation shall be temporary, and shall not exceed six (6) months. If the Court temporarily suspends a child support obligation, the Court shall set a review hearing not more than six (6) months from the effective date of the suspension. The six (6) month period may be continued for good cause.

#### 21.03.43 Modification of Port Gamble S’Klallam Child Support Orders

When there has been a substantial change in the income of the paying party or other factors that determined the original child support obligation, a party may request, by motion, modification of a Port Gamble S’Klallam Community Court child support order.

- a) A motion for a modification of child support shall be accompanied by an affidavit setting forth the factual basis for the motion and the modification requested.
- b) Both parties shall file updated financial information forms at least ten (10) days before the modification hearing, except that:
  - i) In agreed modification orders no financial information need be filed with the Court; and
  - ii) A party is not required to provide his or her financial information as part of the Court record provided the party has made full and complete financial disclosure to the Port Gamble S’Klallam Child Support Program and the Program has certified that it has reviewed the financial information and its recommendation is based upon that information.
- c) Child support orders may be modified for future support only. Amounts of past due support shall not be modified except as provided in 21.03.69 through 21.03.76, “Reduction of Past Support Owed.”

[HIST: Source - Resolution No. 01 A 117, passed 12/11/01, adopted Title 21 on an interim basis. Resolution No. 02 A 098, passed 9/10/02, adopted Title 21 as permanent legislation.]

#### 21.03.43 Modification of Port Gamble S’Klallam Child Support Orders

- b) **The party obliged to pay child support, or both parties, if the child is eligible for social security benefits or the parties share equal residential time with the child, shall file updated financial information forms at least ten (10) days before the modification hearing, except that:**

#### 21.03.47 Enforcement Hearing

- a) Who May File Motion. A motion for an enforcement hearing may be filed only by:
  - i) A parent; or
  - ii) The Port Gamble S’Klallam Child Support Program, representing the interests of the child in receiving child support, in any case involving, 1) another tribe or state, 2) the Port Gamble S’Klallam Indian Child Welfare Program, or 3) the Port Gamble S’Klallam TANF Program.
- b) Affidavit Contents. The motion shall be supported by an affidavit containing:
  - i) Terms of the child support order to be enforced;
  - ii) Length of time the child support obligation has been overdue, which must be at least 30 days or facts supporting a history of non-compliance; and
  - ii) Amount of child support that is overdue, which must be equal to one month’s child support obligation.

[HIST: Source - Resolution No. 01 A 117, passed 12/11/01, adopted Title 21 on an interim basis. Resolution No. 02 A 098, passed 9/10/02, adopted Title 21 as permanent legislation.]

#### 21.03.47 Enforcement Hearing

- a) Who May File Motion. A motion for an enforcement hearing may be filed only by:
  - i) A parent; or
  - ii) The Port Gamble S’Klallam Child Support Program

#### 21.03.60 Failure to Comply with Child Support Order – Contempt of Court

Failure to comply with a Port Gamble S’Klallam child support order, including a wage withholding order and a court order to request wage withholding, may be punishable as contempt of court.

[Cross-reference: chapter 1.06 Contempt of Court.]

[HIST: Source - Resolution No. 01 A 117, passed 12/11/01, adopted Title 21 on an interim basis. Resolution No. 02 A 098, passed 9/10/02, adopted Title 21 as permanent legislation.]

#### 21.03.60 Failure to Comply with Child Support Order – Contempt of Court

Failure to comply with **any order issued in a Port Gamble S’Klallam child support case**, including a wage withholding order and a court order to request wage withholding, may be punishable as contempt of court.

**The Court may sentence any person who fails to comply with an order issued in a Port Gamble S’Klallam child support case guilty of civil contempt. The Court may impose the penalties for civil contempt as provided in chapter 1.06, and a civil fine not to exceed \$500.00 for each instance of civil contempt.**

