

RESOLUTION NO. 94-9-87

A Resolution to Adopt a Temporary Tribal Policy
for Recognizing State Garnishment Orders

WHEREAS, The Swinomish Indian Tribal Community is a federally recognized Indian Tribe organized pursuant to Section 16 of the Indian Reorganization Act of 1934; and

WHEREAS, the Swinomish Indian Senate is the governing body of the Swinomish Indian Reservation located near the town of LaConner, Washington; and

WHEREAS, Article VI, Section 1 (a), (f), (l) and (r), of the Swinomish Constitution and Bylaws of the Swinomish Indian Tribal Community provides authority for the Swinomish Indian Senate to manage all economic affairs and enterprises of the Tribe, and to adopt resolutions regulating the procedure of Tribal agencies and officials; and

WHEREAS, the Swinomish Tribe is currently negotiating with the State of Washington, Office of Support Enforcement to adopt mutually acceptable procedures/agreements for recognition of child support judgments rendered by the courts of the other; and

WHEREAS, in December of 1992 the Office of Support Enforcement adopted a statewide administrative policy which recognized the sovereign status of Tribal Governments, including the authority to determine issues of paternity and child support of their members and in their courts; and

WHEREAS, the Swinomish Tribe does not presently exercise jurisdiction over non-Indians residing or working on the Swinomish Indian Reservation in paternity and child support matters where neither the child nor either parent is Indian; and

WHEREAS, the Swinomish Tribe has recently become aware of certain non-Indian employees who, according to state records, have failed to comply with State court orders regarding child support; and

WHEREAS, non-Indian spouses and children of these non-Indian Tribal employees have been unable to enforce their State court child support orders against the employee (the spouse) or the employer (the Tribe) for reasons of improper jurisdiction and sovereign immunity; and

WHEREAS, Swinomish Tribal policy is to neither encourage nor protect parents (Indian or non-Indian) who fail to acknowledge and meet their recognized support obligations to their children:
NOW THEREFORE,

BE IT RESOLVED by the Swinomish Indian Senate, that henceforth the Swinomish Tribe and all Tribal agencies, departments, and enterprises (hereinafter referred to as "Tribal entities") shall, on a temporary case by case basis, comply with State garnishment orders for child support owed by non-Indian Tribal employees to non-Indian custodial parents of non-Indian children. This interim policy shall remain in effect until such time as the Tribe completes negotiations with the State on a comprehensive reciprocal child support enforcement agreement, and/or adopts procedures for the recognition and enforcement of foreign judgments in Tribal Court; and

BE IT FURTHER RESOLVED by the Swinomish Indian Senate that such interim procedures shall not under any circumstances:

- 1) waive the Tribe's sovereign immunity;
- 2) obligate the Tribe or any Tribal entities to pay over any moneys, except for wages otherwise owed the non-Indian employee and actually held by the Swinomish Tribe;
- 3) subject the Swinomish Tribe or any Tribal entities to liability for any child support award, penalties, interest, cost or attorneys' fees should the Tribe or any Tribal entity fail to act on a State garnishment order.

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Robert Joe, Sr., Chairman
Swinomish Indian Senate

C E R T I F I C A T I O N

As Secretary of the Swinomish Indian Senate, I hereby certify that the foregoing resolution was approved at a Regular Meeting of the Swinomish Indian Senate held on September 13, 1994, at which time a quorum was present and the resolution was passed by a vote of 10 FOR, 0 AGAINST, and 0 ABSTENTIONS.

Liddie Grossglass

Liddie Grossglass, Secretary
Swinomish Indian Senate