

## CHAPTER 125B - OBLIGATION OF SUPPORT

### GENERAL PROVISIONS

<a href="#">SECTION 125B.002</a>	Definitions.
<a href="#">SECTION 125B.004</a>	“tribal court” defined.
<a href="#">SECTION 125B.008</a>	“State” defined.
<a href="#">SECTION 125B.010</a>	Applicability of chapter.
<a href="#">SECTION 125B.012</a>	Applicability of chapter <a href="#">130</a> .
<a href="#">SECTION 125B.014</a>	Jurisdiction.
<a href="#">SECTION 125B.020</a>	Obligation of parents.
<a href="#">SECTION 125B.030</a>	Recovery by parent with physical custody from other parent.
<a href="#">SECTION 125B.040</a>	Recovery by person other than parent.
<a href="#">SECTION 125B.050</a>	Period of limitations.
<a href="#">SECTION 125B.055</a>	Order for support issued or modified on or after October 1, 1998: Provision of information by tribal court and parties to action; placement of social security numbers in records; regulations.
<a href="#">SECTION 125B.065</a>	Tribal court required to determine whether any parties are receiving public assistance before issuing or modifying order for support; waiver of arrearages in payment of child support.
<a href="#">SECTION 125B.070</a>	Amount of payment: Definitions; adjustment of presumptive maximum amount based on change in Consumer Price Index.
<a href="#">SECTION 125B.080</a>	Amount of payment: Determination.
<a href="#">SECTION 125B.085</a>	Order for support to include provision regarding health care coverage for child.
<a href="#">SECTION 125B.090</a>	Manner of payment for judgment or order issued by tribal court.
<a href="#">SECTION 125B.095</a>	Penalty for delinquent payment of installment of obligation of support.
<a href="#">SECTION 125B.100</a>	Payment of arrearages for emancipated child.
<a href="#">SECTION 125B.110</a>	Support of handicapped child beyond age of majority.
<a href="#">SECTION 125B.120</a>	Discharge of parent’s obligation.
<a href="#">SECTION 125B.130</a>	Liability of parent’s estate.
<a href="#">SECTION 125B.135</a>	Cause of action subsequent to issuance of order: Notice and service of process.
<a href="#">SECTION 125B.140</a>	Enforcement of order for support.
<a href="#">SECTION 125B.142</a>	Recordation of order for support after arrearage in payment; recorded order becomes lien on real and personal property owned by responsible parent; enforcement of lien; effect, priority and duration of lien.
<a href="#">SECTION 125B.144</a>	Lien recorded in another state to enforce order for support entitled to full faith and credit; enforcement of lien.
<a href="#">SECTION 125B.145</a>	Review and modification of order for support: Request for review; jurisdiction; notification of right to request review.
<a href="#">SECTION 125B.150</a>	Assistance by tribal prosecutor to establish parentage and obligation of support and to enforce payment of support; confidentiality; regulations.
<a href="#">SECTION 125B.160</a>	Reports concerning collection and disbursement of support and establishment of paternity.
<a href="#">SECTION 125B.170</a>	Disclosure of information by enforcing authority; regulations.
<a href="#">SECTION 125B.180</a>	Concurrence of remedies.

### SECURITY FOR PAYMENT OF SUPPORT

<a href="#">SECTION 125B.200</a>	Definitions.
<a href="#">SECTION 125B.210</a>	Order for deposit of assets with trustee; duties of trustee; reimbursement of administrative costs.
<a href="#">SECTION 125B.220</a>	Order for sale of assets and deposit of proceeds with trustee; procedure for deposit of particular types of property.
<a href="#">SECTION 125B.230</a>	Considerations against deposit, sale or use of assets; presumptions against obligor-parent; procedure for opposition; attorney’s fees and costs.
<a href="#">SECTION 125B.240</a>	Limitations upon issuance of order for deposit of assets.
<a href="#">SECTION 125B.250</a>	Assets subject to order for deposit; use of performance bond in lieu of other assets.
<a href="#">SECTION 125B.260</a>	Ex parte order restraining disposition of property during pendency of proceedings.

<a href="#">SECTION 125B.270</a>	Limitation on liability of trustee.
<a href="#">SECTION 125B.280</a>	Return of assets to obligor-parent; procedure for return of particular types of property.
<a href="#">SECTION 125B.290</a>	Statement of disbursements and receipts.
<a href="#">SECTION 125B.300</a>	Recovery of unreimbursed fees and costs of trustee.

---

## GENERAL PROVISIONS

**SECTION 125B.002 Definitions.** As used in [SECTION 125B.002](#) to [125B.180](#), inclusive, unless the context otherwise requires, the words and terms defined in [SECTION 125B.004](#) and [125B.008](#) have the meanings ascribed to them in those sections.

**SECTION 125B.004 “Tribal Court” defined.** “Tribal Court” means the tribal court or any judicial or administrative procedure established BY this or any other tribe or state to facilitate the collection of an obligation for the support of a child.

**SECTION 125B.008 “State” defined.** “State” has the meaning ascribed to it in [SECTION 130.10179](#).

**SECTION 125B.010 Applicability of chapter.** The provisions of this chapter apply to all parents of all children, whether or not legitimated.

**SECTION 125B.012 Applicability of chapter [130](#).** To the extent that any provision of this chapter is inconsistent with the provisions of chapter [130](#) regarding the effect, enforcement or modification of an order relating to the support of a child issued by a tribal court other than a tribal court of this state, the provision of this chapter does not apply to the order. The enforcement and any modification of such an order must comply with the provisions of chapter [130](#).

**SECTION 125B.014 Jurisdiction.**

1. The tribal court has jurisdiction of an action brought under this chapter.
2. In addition to any other method authorized by law for obtaining jurisdiction over a person inside or outside of this state, personal jurisdiction may be acquired anywhere within the territorial limits of this tribe by service of process in any manner prescribed by the Tribe’s Rules of Civil Procedure.

**SECTION 125B.020 Obligation of parents.**

1. The parents of a child (in this chapter referred to as “the child”) have a duty to provide the child necessary maintenance, health care, education and support.
2. They are also liable, in the event of the child’s death, for its funeral expenses.
3. The father is also liable to pay the expenses of the mother’s pregnancy and confinement.
4. The obligation of the parent to support the child under the laws for the support of poor relatives applies to children born out of wedlock.

**SECTION 125B.030 Recovery by parent with physical custody from other parent.** Where the parents of a child are separated, the physical custodian of the child may recover from the parent without physical custody a reasonable portion of the cost of care, support, education and maintenance provided by the physical custodian. In the absence of a tribal court order, the parent who has physical custody may recover not more than 4 years’ support furnished before the bringing of the action.

**SECTION 125B.040 Recovery by person other than parent.**

1. The obligation of support imposed on the parents of a child also creates a cause of action on behalf of the legal representatives of either of them, or on behalf of third persons or public agencies furnishing support or defraying the reasonable expenses thereof.

2. In the absence of a tribal court order, reimbursement from the nonsupporting parent is limited to not more than 4 years' support furnished before the bringing of the action.

3. An order for the support of a child creates an obligation for the support of the child and follows the child to the person who has obtained lawful physical custody of the child.

4. A person who obtains lawful physical custody of a child for whom an order for support has been issued shall be deemed to be the person entitled to receive the payments ordered for the support of the child. Such a person may in the same manner as the person named in the order for support of the child and without petitioning the tribal court for a new order:

- (a) Enforce the existing order for support of the child; or
- (b) Request modification of the order for support of the child.

5. The transfer of an obligation for support of a child pursuant to this section remains in effect as long as the person lawfully retains physical custody of the child or until a tribal court orders otherwise. If the person ceases to have physical custody of the child, the person to whom the lawful physical custody of the child is transferred becomes the person entitled to receive the payments for the support of the child, unless a tribal court orders otherwise.

6. A person who obtains lawful physical custody of a child and who was not a party to the original proceeding in which a tribal court issued an order for the support of the child that wishes to enforce the order must:

(a) Provide the Ely Shoshone Social Services with a written declaration, under penalty of perjury, that the person has obtained lawful physical custody of the child;

(b) If the Ely Shoshone Social Services and or its designee has not been responsible for enforcing the order, mail to the obligor at his last known address by first-class mail and to the attorney of record, if any, specified in the previous decree of divorce or order:

- (1) A copy of the written declaration created pursuant to paragraph (a);
- (2) A statement setting forth the name of the person, the month and year in which the person obtained physical custody of the child and the address to which the payments for support of the child must be sent; and
- (3) Notice that the obligor must send future payments for support of the child to the person; and

(c) If the Ely Shoshone Social Services or its designee has not been responsible for enforcing the order, file a copy of the declaration created pursuant to paragraph (a) with the tribal court that entered the order for support of the child and comply with the provisions of subsection 2 of [SECTION 125B.055](#).

7. Upon receipt of a declaration created pursuant to paragraph (a) of subsection 6, if the Ely Shoshone Social Services or its designee has been responsible for enforcing the order for the support of the child, the Ely Shoshone Social Services shall:

(a) Mail to the obligor at his last known address by first-class mail and to the attorney of record, if any, specified in the previous decree of divorce or order:

- (1) A copy of the declaration; and
  - (2) Notice to the obligor that the payments for support of the child will be provided to the person who has lawful physical custody of the child until such custody is terminated or until a tribal court orders otherwise; and
- (b) File a copy of the declaration and notice with the tribal court that entered the order for support of the child.

8. A person who fails to comply with the requirements of subsection 6 does not lose the right to receive payments ordered for the support of the child, but such failure may be considered by a tribal court in determining the amount of arrears owed by an obligor to the person.

9. Notwithstanding the transfer of an obligation for the support of a child made pursuant to this section, any arrears in the payment of an obligation for the support of a child accrues to the person who had lawful physical custody of the child at the time that the payment was due and remains due until paid in full.

10. For the purposes of this section, visitation rights must not be construed as a change of custody.

11. The provisions of this section do not change the legal custody of a child or affect the rights and obligations of a parent relating to a child.

12. As used in this section, "lawful physical custody" means a person who has obtained physical custody:

- (a) Pursuant to an order of a tribal court; or
- (b) With the consent of the person who has been awarded physical custody of the child pursuant to an order of a tribal court.

**SECTION 125B.050 Period of limitations.**

1. If there is no tribal court order for support, any demand in writing to a parent not having physical custody for payment of support on behalf of a minor child, mailed to the last known address of the parent, tolls the running of the statute of limitations for the bringing of an action for that support.

2. A motion for relief after judgment and an independent action to enforce a judgment for support of a child may be commenced at any time.

3. If a tribal court has issued an order for the support of a child, there is no limitation on the time in which an action may be commenced to:

- (a) Collect arrearages in the amount of that support; or
- (b) Seek reimbursement of money paid as public assistance for that child.

**SECTION 125B.055 Order for support: Provision of information by tribal court and parties to action; placement of social security numbers in records; regulations.**

1. A tribal court that issues or modifies an order of this tribe for the support of a child shall:

(a) Obtain and provide to the Ely Shoshone Social Services such information regarding the order as the Ely Shoshone social Services determines is necessary to carry out the provisions of 42 U.S.C. § 654a.

(b) Ensure that the social security numbers of the child and the parents of the child are placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.

2. Within 10 days after the tribal court issues an order for the support of a child, each party to the cause of action shall file with the tribal court that issued the order and the Ely Shoshone Social Services:

- (a) His Social Security number;
- (b) His residential and mailing addresses;
- (c) His telephone number;
- (d) His driver's license number; and
- (e) The name, address and telephone number of his employer.

↳ Each party shall update the information filed with the tribal court and the Ely Shoshone Social Services pursuant to this subsection within 10 days after that information becomes inaccurate.

3. The Ely Shoshone Social Services shall adopt regulations specifying the particular information required to be provided pursuant to subsection 1 to carry out the provisions of 42 U.S.C. § 654a.

**SECTION 125B.065 Tribal court required to determine whether any parties are receiving public assistance before issuing or modifying order for support; waiver of arrearages in payment of child support.** Before a tribal court issues or modifies an order for the support of a child, the tribal court shall determine whether any of the parties to the proceeding are receiving or have ever received public assistance. If the tribal court determines that any of those parties are receiving or have ever received public assistance, the tribal court shall not waive any arrearages in the payment of child support until after it has provided the Ely Shoshone Social Services with notice and an opportunity to be heard regarding the matter.

**SECTION 125B.070 Amount of payment: Definitions; adjustment of presumptive maximum amount based on change in Consumer Price Index.**

1. As used in this section and [SECTION 125B.080](#), unless the context otherwise requires:

(a) "Gross monthly income" means the total amount of income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses.

(b) "Obligation for support" means the sum certain dollar amount determined according to the following schedule:

- (1) For one child, 18 percent;
- (2) For two children, 25 percent;
- (3) For three children, 29 percent;
- (4) For four children, 31 percent; and
- (5) For each additional child, an additional 2 percent,

↳ of a parent's gross monthly income, but not more than the presumptive maximum amount per month per child set forth for the parent in subsection 2 for an obligation for support determined pursuant to subparagraphs (1) to (4), inclusive, unless the tribal court sets forth findings of fact as to the basis for a different amount pursuant to subsection 6 of [SECTION 125B.080](#).

2. For the purposes of paragraph (b) of subsection 1, the presumptive maximum amount per month per child for an obligation for support, as adjusted pursuant to subsection 3, is:

INCOME RANGE		PRESUMPTIVE MAXIMUM AMOUNT	
If the Parent's Gross Monthly Income Is at Least		But Less Than	The Presumptive Maximum Amount the Parent May Be Required to Pay per Month per Child Pursuant to Paragraph (b) of Subsection 1 Is
\$0	-	\$4,168	\$500
4,168	-	6,251	550
6,251	-	8,334	600
8,334	-	10,418	650
10,418	-	12,501	700
12,501	-	14,583	750

If a parent's gross monthly income is equal to or greater than \$14,583, the presumptive maximum amount the parent may be required to pay pursuant to paragraph (b) of subsection 1 is \$800.

3. The presumptive maximum amounts set forth in subsection 2 for the obligation for support must be adjusted on July 1 of each year for the fiscal year beginning that day and ending June 30 in a rounded dollar amount corresponding to the percentage of increase or decrease in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. On April 1 of each year, the Office of tribal court shall determine the amount of the increase or decrease required by this subsection, establish the adjusted amounts to take effect on July 1 of that year and notify tribal court of the adjusted amounts.

**SECTION 125B.080 Amount of payment: Determination.** Except as otherwise provided in [SECTION 425.450](#):

1. Tribal court shall apply the appropriate formula set forth in [SECTION 125B.070](#) to:
  - (a) Determine the required support in any case involving the support of children.
  - (b) Any request filed after July 1, 1987, to change the amount of the required support of children.
2. If the parties agree as to the amount of support required, the parties shall certify that the amount of support is consistent with the appropriate formula set forth in [SECTION 125B.070](#). If the amount of support deviates from the formula, the parties must stipulate sufficient facts in accordance with subsection 9 which justify the deviation to the tribal court, and the tribal court shall make a written finding thereon. Any inaccuracy or falsification of financial information which results in an inappropriate award of support is grounds for a motion to modify or adjust the award.
3. If the parties disagree as to the amount of the gross monthly income of either party, the tribal court shall determine the amount and may direct either party to furnish financial information or other records, including income tax returns for the preceding 3 years. Once a tribal court has established an obligation for support by reference to a formula set forth in [SECTION 125B.070](#), any subsequent modification or adjustment of that support, except for any modification or adjustment made pursuant to subsection 3 of [SECTION 125B.070](#) or [SECTION 425.450](#) or as a result of a review conducted pursuant to subsection 1 of [SECTION 125B.145](#), must be based upon changed circumstances.
4. Notwithstanding the formulas set forth in [SECTION 125B.070](#), the minimum amount of support that may be awarded by a tribal court in any case is \$100 per month per child, unless the tribal court makes a written finding that the obligor is unable to pay the minimum amount. Willful underemployment or unemployment is not a sufficient cause to deviate from the awarding of at least the minimum amount.
5. It is presumed that the basic needs of a child are met by the formulas set forth in [SECTION 125B.070](#). This presumption may be rebutted by evidence proving that the needs of a particular child are not met by the applicable formula.
6. If the amount of the awarded support for a child is greater or less than the amount which would be established under the applicable formula, the tribal court shall:
  - (a) Set forth findings of fact as to the basis for the deviation from the formula; and

(b) Provide in the findings of fact the amount of support that would have been established under the applicable formula.

7. Expenses for health care which are not reimbursed, including expenses for medical, surgical, dental, orthodontic and optical expenses, must be borne equally by both parents in the absence of extraordinary circumstances.

8. If a parent who has an obligation for support is willfully underemployed or unemployed to avoid an obligation for support of a child, that obligation must be based upon the parent's true potential earning capacity.

9. The tribal court shall consider the following factors when adjusting the amount of support of a child upon specific findings of fact:

- (a) The cost of health insurance;
- (b) The cost of child care;
- (c) Any special educational needs of the child;
- (d) The age of the child;
- (e) The legal responsibility of the parents for the support of others;
- (f) The value of services contributed by either parent;
- (g) Any public assistance paid to support the child;
- (h) Any expenses reasonably related to the mother's pregnancy and confinement;
- (i) The cost of transportation of the child to and from visitation if the custodial parent moved with the child from the jurisdiction of the tribal court which ordered the support and the noncustodial parent remained;
- (j) The amount of time the child spends with each parent;
- (k) Any other necessary expenses for the benefit of the child; and
- (l) The relative income of both parents.

**SECTION 125B.085 Order for support to include provision regarding health care coverage for child.** Except as otherwise provided in [SECTION 125B.012](#), every tribal court order for the support of a child issued or modified in this tribe must include a provision specifying whether the parent required to pay support is required to provide coverage for the health care of the child and, if so, any details relating to that requirement.

**SECTION 125B.090 Manner of payment for judgment or order issued by the tribal court.** A judgment or order of the tribal court of this tribe for the support of a child ordinarily must be for periodic payments, which may vary in amount. In the best interest of the child, a lump-sum payment or the purchase of an annuity may be ordered in lieu of periodic payments of support.

**SECTION 125B.095 Penalty for delinquent payment of installment of obligation of support.**

1. Except as otherwise provided in this section and [SECTION 125B.012](#), if an installment of an obligation to pay support for a child which arises from the judgment of a tribal court becomes delinquent in the amount owed for 1 month's support, a penalty must be added by operation of this section to the amount of the installment. This penalty must be included in a computation of arrearages by a tribal court of the tribe and may be so included in a judicial or administrative proceeding of another state. A penalty must not be added to the amount of the installment pursuant to this subsection if the tribal court finds that the employer of the responsible parent or the tribal prosecutor or other public agency in this tribe that enforces an obligation to pay support for a child caused the payment to be delinquent.

2. The amount of the penalty is 10 percent per annum, or portion thereof, that the installment remains unpaid. Each tribal prosecutor or other public agency in the tribe undertaking to enforce an obligation to pay support for a child shall enforce the provisions of this section.

**SECTION 125B.100 Payment of arrearages for emancipated child.** A parent who, at the time the child becomes emancipated, is delinquent in the payment of support for that child pursuant to an order of a tribal court for support, shall continue to make the payments for the support as previously ordered until the arrearages are paid.

**SECTION 125B.110 Support of handicapped child beyond age of majority.**

1. A parent shall support beyond the age of majority his child who is handicapped until the child is no longer handicapped or until the child becomes self-supporting. The handicap of the child must have occurred before the age of majority for this duty to apply.

2. For the purposes of this section, a child is self-supporting if he receives public assistance beyond the age of majority and that assistance is sufficient to meet his needs.

3. This section does not impair or otherwise affect the eligibility of a handicapped person to receive benefits from a source other than his parents.

4. As used in this section, "handicapped" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

#### **SECTION 125B.120 Discharge of parent's obligation.**

1. The obligation of a parent other than that under the laws providing for the support of poor relatives is discharged by complying with a tribal court order for support or with the terms of a judicially approved settlement.

2. The legal adoption of the child into another family discharges the obligation of his natural parents for the period subsequent to the adoption.

#### **SECTION 125B.130 Liability of parent's estate.**

1. The obligation of a parent is enforceable against his estate in such an amount as the tribal court may determine, having regard to the age of the child, the ability of the custodial parent to support the child, the amount of property left by the deceased parent, the number, age, and financial condition of the lawful issue, if any, and the rights of the surviving spouse, if any, of the deceased parent.

2. The tribal court may direct the discharge of the obligation by periodical payments or by the payment of a lump sum.

**SECTION 125B.135 Cause of action subsequent to issuance of order: Notice and service of process.** If, after a tribal court issues an order for the support of a child, a subsequent cause of action between the parties concerning the support of the child is initiated, the requirements for notice and service of process shall be deemed to have been met with respect to a party to the proceeding who cannot be found if:

1. The party initiating the proceeding shows proof that diligent effort has been made to ascertain the location of the missing party; and

2. Written notice of the initiation of the proceeding has been mailed to the mailing address of the missing party or the address of the missing party's employer as those addresses appear in the information required to be filed pursuant to subsection 2 of [SECTION 125B.055](#).

#### **SECTION 125B.140 Enforcement of order for support.**

1. Except as otherwise provided in chapter [130](#) and [SECTION 125B.012](#):

(a) If an order issued by a tribal court provides for payment for the support of a child, that order is a judgment by operation of law on or after the date a payment is due. Such a judgment may not be retroactively modified or adjusted and may be enforced in the same manner as other judgments of the tribe.

(b) Payments for the support of a child pursuant to an order of a tribal court which have not accrued at the time either party gives notice that he has filed a motion for modification or adjustment may be modified or adjusted by the tribal court upon a showing of changed circumstances, whether or not the tribal court has expressly retained jurisdiction of the modification or adjustment.

2. Except as otherwise provided in subsection 3 and [SECTION 125B.012](#), [125B.142](#) and [125B.144](#):

(a) Before execution for the enforcement of a judgment for the support of a child, the person seeking to enforce the judgment must send a notice by certified mail, restricted delivery, with return receipt requested, to the responsible parent:

(1) Specifying the name of the tribal court that issued the order for support and the date of its issuance;

(2) Specifying the amount of arrearages accrued under the order;

(3) Stating that the arrearages will be enforced as a judgment; and

(4) Explaining that the responsible parent may, within 20 days after the notice is sent, ask for a hearing before a tribal court of the tribe concerning the amount of the arrearages.

(b) The matters to be adjudicated at such a hearing are limited to a determination of the amount of the arrearages and the jurisdiction of the tribal court issuing the order. At the hearing, the tribal court shall take evidence and determine the amount of the judgment and issue its order for that amount.

(c) The tribal court shall determine and include in its order:

(1) Interest upon the arrearages at a rate established pursuant to [SECTION 99.040](#), of the Nevada Revised Statutes from the time each amount became due; and

(2) A reasonable attorney's fee for the proceeding,

↳ unless the tribal court finds that the responsible parent would experience an undue hardship if required to pay such amounts. Interest continues to accrue on the amount ordered until it is paid, and additional attorney's fees must be allowed if required for collection.

(d) The tribal court shall ensure that the social security number of the responsible parent is:

(1) Provided to the Ely Shoshone Social Services.

(2) Placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.

3. Subsection 2 does not apply to the enforcement of a judgment for arrearages if the amount of the judgment has been determined by any tribal court.

**SECTION 125B.142 Recordation of order for support after arrearage in payment; recorded order becomes lien on real and personal property owned by responsible parent; enforcement of lien; effect, priority and duration of lien.**

1. If a responsible parent is in arrears in the payment for the support of a child pursuant to an order the Tribal Court of this reservation, the order may be recorded in the manner prescribed in [SECTION 17.150](#) of the Nevada Revised Statutes for the recording of a judgment lien in the office of the county recorder of any county.

2. From the time of its recordation, the order becomes a lien upon all real and personal property owned by the responsible parent in the county in which the order is recorded at the time the order is recorded, or which he acquires in that county after the order is recorded, until the lien expires.

3. Except as otherwise provided in subsection 4, a person who wishes to enforce a lien created pursuant to subsection 1 must, within 20 days after he records the order as a lien, send a notice by certified mail, return receipt requested, to the responsible parent:

(a) Specifying the name of the tribal court that issued the order and the date of its issuance;

(b) Specifying the amount of arrearages under the order;

(c) Stating that the order will be enforced as a judgment lien; and

(d) Explaining that the responsible parent may, within 20 days after the notice is sent, request a hearing before the tribal court concerning the amount of the arrearages.

4. A person who seeks to enforce a lien pursuant to this section is not required to send the notice required pursuant to subsection 3 if the amount of arrearages has been determined by the tribal court.

5. If the responsible parent does not request a hearing, or tribal court of this tribe has determined the amount of the arrearages owed by the responsible parent, the lien must be given the effect and priority of a judgment lien.

6. A lien established pursuant to this section continues until the arrearages are satisfied.

**SECTION 125B.144 Lien recorded in another state to enforce order for support entitled to full faith and credit; enforcement of lien.**

1. A lien against the real or personal property of a responsible parent arising in another state to enforce an order that is entitled to recognition pursuant to chapter [130](#) must be afforded full faith and credit in this tribe if the order and forms prescribed by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 652(a)(11)(B) are recorded in the manner prescribed in [SECTION 125B.142](#) for a lien that arises in this reservation.

2. Notwithstanding the provisions of [SECTION 21.075](#), of the Nevada Revised Statutes a person who wishes to enforce on the Reservation a lien recorded pursuant to subsection 1 is not required to provide notice to the responsible parent and the responsible parent is not entitled to a hearing before the lien is enforced on the Reservation.



**SECTION 125B.145 Review and modification of order for support: Request for review; jurisdiction; notification of right to request review.**

1. An order for the support of a child must, upon the filing of a request for review by:
  - (a) The Ely Shoshone Social Services, its designated representative or the tribal prosecutor, if the Ely Shoshone Social Services or the tribal prosecutor has jurisdiction in the case; or
  - (b) A parent or legal guardian of the child,➤ be reviewed by the tribal court at least every 3 years pursuant to this section to determine whether the order should be modified or adjusted. Each review conducted pursuant to this section must be in response to a separate request.
2. If the tribal court:
  - (a) Does not have jurisdiction to modify the order, the tribal court may forward the request to any tribal or state court with appropriate jurisdiction.
  - (b) Has jurisdiction to modify the order and, taking into account the best interests of the child, determines that modification or adjustment of the order is appropriate, the tribal court shall enter an order modifying or adjusting the previous order for support in accordance with the requirements of [SECTION 125B.070](#) and [125B.080](#).
3. The tribal court shall ensure that:
  - (a) Each person who is subject to an order for the support of a child is notified, not less than once every 3 years, that he may request a review of the order pursuant to this section; or
  - (b) An order for the support of a child includes notification that each person who is subject to the order may request a review of the order pursuant to this section.
4. An order for the support of a child may be reviewed at any time on the basis of changed circumstances. For the purposes of this subsection, a change of 20 percent or more in the gross monthly income of a person who is subject to an order for the support of a child shall be deemed to constitute changed circumstances requiring a review for modification of the order for the support of a child.
5. As used in this section:
  - (a) "Gross monthly income" has the meaning ascribed to it in [SECTION 125B.070](#).
  - (b) "Order for the support of a child" means such an order that was issued or is being enforced by a tribal or state court with appropriate jurisdiction.

**SECTION 125B.150 Assistance by tribal Prosecutor to establish parentage and obligation of support and to enforce payment of support; confidentiality; regulations.**

1. The tribal prosecutor of the county of residence of the child, or of a parent, alleged parent or guardian who does not have physical custody of the child, shall take such action as is necessary to establish parentage of the child and locate and take legal action, including the establishment or adjustment of an obligation of support, against a person who has a duty to support the child when requested to do so by the parent, alleged parent or guardian or a public agency which provides assistance to the parent, alleged parent, guardian or child. If the tribal court for cause transfers the action to another reservation, the clerk of the receiving tribal court shall notify the tribal prosecutor of that county, and that tribal prosecutor shall proceed to prosecute the cause of action and take such further action as is necessary to establish parentage and to establish or adjust the obligation of support and to enforce the payment of support pursuant to this chapter or [chapter 31A](#), [126](#), [130](#) or [425](#).
2. In a county where the tribal prosecutor has deputies to aid him in the performance of his duties, the tribal prosecutor shall designate himself or a particular deputy as responsible for performing the duties imposed by subsection 1.
3. Except as otherwise provided in [SECTION 126.101](#), the tribal prosecutor and his deputies do not represent the parent, alleged parent, guardian or child in the performance of their duties pursuant to this chapter and [chapter 31A](#), [126](#), [130](#) or [425](#), but are rendering a public service as representatives of the State or reservation.
4. Officials of the Ely Shoshone Social Services are entitled to access to the information obtained by the tribal prosecutor if that information is relevant to the performance of their duties. The tribal prosecutor or his deputy shall inform each person who provides information pursuant to this section concerning the limitations on the confidentiality between lawyer and client under these circumstances.
5. Disclosures of criminal activity by a parent or child are not confidential.
6. The tribal prosecutor shall inform each parent who applies for his assistance in this regard that a procedure is available to collect unpaid support from any refund owed to the parent who has a duty to support the child because an excessive amount of money was withheld to pay his federal income tax. The tribal prosecutor shall submit to the Ely Shoshone Social Services all documents and information it requires to pursue such a collection if:

- (a) The applicant is not receiving public assistance.
  - (b) The tribal prosecutor has in his records:
    - (1) A copy of the order of support for a child and any modifications of the order which specify their date of issuance and the amount of the ordered support;
    - (2) A copy of a record of payments received or, if no such record is available, an affidavit signed by the custodial parent attesting to the amount of support owed; and
    - (3) The current address of the custodial parent.
  - (c) From the records in his possession, the tribal prosecutor has reason to believe that the amount of unpaid support is not less than \$500.
- Before submitting the documents and information to the Ely Shoshone Social Services, the tribal prosecutor shall verify the accuracy of the documents submitted relating to the amount claimed as unpaid support and the name and social security number of the parent who has a duty to support the child. If the tribal prosecutor has verified this information previously, he need not reverify it before submitting it to the Ely Shoshone Social Services.
7. The Ely Shoshone Social Services shall adopt such regulations as are necessary to carry out the provisions of subsection 6.

**SECTION 125B.160 Reports concerning collection and disbursement of support and establishment of paternity.**

- 1. Each tribal prosecutor, and a designated representative of the Ely Shoshone Social Services who collects or disburses payments for the support of a child, shall report to the Ely Shoshone Social Services any information required by the Ely Shoshone Social Services regarding support for children, including information concerning the collection and disbursements of support and the establishment of paternity.
- 2. The Administrator of the Ely Shoshone Social Services shall adopt regulations prescribing the forms for, and the arrangement of, the material to be submitted and the schedule for the reporting of the required information.

**SECTION 125B.170 Disclosure of information by enforcing authority; regulations.**

- 1. The enforcing authority shall release information concerning a responsible parent’s obligation or failure to pay support for a child to an agency of the kind defined in 15 U.S.C. § 1681a(f), except that the information may not be given to the agency until:
  - (a) Notice of the proposed disclosure has been sent to the responsible parent and he has had 20 days to correct the information; and
  - (b) The agency has furnished evidence satisfactory to the enforcing authority that the agency is of the kind defined in 15 U.S.C. § 1681a(f).
- 2. The Ely Shoshone Social Services shall adopt regulations concerning the disclosure of information pursuant to this section, prescribing the content of the notice of the proposed disclosure and establishing procedures for the responsible parent to correct any of the information to be disclosed.
- 3. As used in this section, “enforcing authority” means the Ely Shoshone Social Services, its designated representative or the tribal prosecutor.

**SECTION 125B.180 Concurrence of remedies.** A criminal prosecution brought in accordance with the provisions of [SECTION 201.015](#) to [201.080](#), inclusive, is not a bar to, or barred by, civil proceedings to compel support; but money paid toward the support of the child under the provisions of [SECTION 201.015](#) to [201.080](#), inclusive, must be allowed for and credited in determining or enforcing any civil liability.

**SECURITY FOR PAYMENT OF SUPPORT**

**SECTION 125B.200 Definitions.** As used in [SECTION 125B.200](#) to [125B.300](#), inclusive, unless the context otherwise requires:

- 1. “Tribal court” includes a referee or master appointed by the tribal court.
- 2. “Minor child” means a person who is:
  - (a) Under the age of 18 years;
  - (b) Under the age of 19 years, if he is enrolled in high school;
  - (c) Under a legal disability; or

(d) Not declared emancipated pursuant to [SECTION 129.080](#) to [129.140](#), inclusive.

3. "Obligor-parent" means a parent who has been ordered by a tribal court to pay for the support of a minor child.

**SECTION 125B.210 Order for deposit of assets with trustee; duties of trustee; reimbursement of administrative costs.**

1. Except as otherwise provided in [SECTION 125B.230](#), if, in any proceeding where the tribal court has ordered a parent to pay for the support of a minor child:

(a) A declaration is signed under penalty of perjury by the person to whom support has been ordered to have been paid stating that the obligor-parent is in arrears in payment in a sum equal to or greater than the amount of 30 days of payments;

(b) Notice and opportunity for hearing on an application to the tribal court, an order to show cause, or a notice of motion has been given to the obligor-parent; and

(c) The tribal court makes a finding that good cause has been shown and that there exists one or more of the conditions set forth in [SECTION 125B.240](#),

↳ the tribal court shall issue to the obligor-parent an order requiring him to deposit assets to secure future payments of support with a trustee designated by the tribal court and to pay reasonable attorney's fees and costs to the person to whom support has been ordered. The tribal court may designate the tribal prosecutor, or any other person as trustee.

2. Upon receipt of the assets, the trustee designated by the tribal court to receive the assets shall use the money or sell or otherwise generate income from the deposited assets for an amount sufficient to pay the arrearage, administrative costs, any amount currently due pursuant to an order of the tribal court for the care, support, education and maintenance of the minor child, interest upon the arrearage, and attorney's fees, if:

(a) The obligor-parent fails, within the time specified by the tribal court, to cure the default in the payment of the support of a child due at the time the trustee receives the deposited assets, or fails to comply with a plan for payment approved by the tribal court;

(b) Further arrears in payments accrue after the trustee receives the deposited assets, or the arrearage specified in the declaration is not paid current within any 30-day period following the trustee's receipt of the assets;

(c) No fewer than 25 days before the sale or use of the assets, written notice of the trustee's intent to sell or use the assets is served personally on the obligor-parent or is mailed to the obligor-parent by certified mail, return receipt requested; and

(d) A motion or order to show cause has not been filed to stop the use or sale, or if filed, has been denied by the tribal court.

↳ The sale of assets must be conducted in accordance with the provisions set forth in [SECTION 21.130](#) to [21.260](#), inclusive, governing the sale of property under execution.

3. To cover his administrative costs, the trustee may deduct from the deposited money all actual costs incurred in a sale and 5 percent of each payment made pursuant to subsection 2.

**SECTION 125B.220 Order for sale of assets and deposit of proceeds with trustee; procedure for deposit of particular types of property.**

1. Upon deposit of any asset pursuant to [SECTION 125B.210](#) which is not money or is not readily convertible into money, the tribal court may, not fewer than 25 days after serving the obligor-parent with written notice and providing an opportunity for hearing, order the sale of the asset and deposit the proceeds of the sale with the trustee designated by the tribal court to receive the assets. The sale of assets must be conducted in accordance with the provisions set forth in [SECTION 21.130](#) to [21.260](#) of the Nevada Revised Statutes, inclusive, governing the sale of property under execution.

2. When an asset ordered to be deposited is real property, the order must be certified in accordance with [SECTION 17.150](#) of the Nevada Revised Statutes and recorded with the county recorder. The deposited real property and the rights, benefits and liabilities attached to that property continue in the possession of the legal owner until it becomes subject to a use or sale of assets pursuant to this section or [SECTION 125B.210](#). The legal owner may not transfer, encumber, hypothecate, dispose of or realize profits from the property unless approved by the tribal court.

3. When an asset ordered to be deposited is personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper or accounts, the trustee shall file a financing statement in accordance with [SECTION 104.9501](#), [104.9502](#) and [104.9516](#) of the Nevada Revised Statutes.

4. When an asset ordered to be deposited is a vehicle registered with the Department of Motor Vehicles, the trustee shall deliver to the tribal court the certificate of title of the vehicle in accordance with [SECTION 482.428](#) of the Nevada Revised Statutes.

**SECTION 125B.230 Considerations against deposit, sale or use of assets; presumptions against obligor-parent; procedure for opposition; attorney's fees and costs.**

1. If raised by the obligor-parent, the tribal court, in deciding a motion for an order to deposit assets or a motion to stop a sale or the use of assets, may consider any of the following factors, among other legal or equitable defenses:

(a) The payments of support of the child were not in arrears at the time the declaration was filed.

(b) The granting of the order or the denial of the motion would have a serious adverse effect on the immediate family members of the obligor-parent who reside with the obligor-parent which would outweigh the effect on the other parent of the denial of the order or the granting of the motion.

(c) The granting of the order or denial of the motion would substantially impair the ability of the obligor-parent to generate income.

(d) Any other specified emergency condition which impairs the ability of the obligor-parent to make the payment of support.

2. Where evidence is presented that the obligor-parent is in arrears in the payment of support of a child, the obligor-parent must dispute the presumption that nonpayment of support of the child was willful, without good faith, and that the obligor-parent had the ability to pay the support.

3. An obligor-parent may oppose the use of the money or the sale of the assets pursuant to subsection 2 of [SECTION 125B.210](#) if he files a motion therefor within 15 days after service of notice of the impending use or sale of the assets. The clerk of the tribal court shall set the motion for hearing not later than 20 days after service on the trustee and on the person to whom support has been ordered to have been paid.

4. If the obligor-parent is found to be in arrears at the time the declaration was filed, the tribal court shall award reasonable attorney's fees and costs to the person to whom support has been ordered to have been paid, even if the obligor-parent has cured the arrearage at the time of the hearing.

**SECTION 125B.240 Limitations upon issuance of order for deposit of assets.** The tribal court shall not issue an order pursuant to [SECTION 125B.210](#), unless it finds the existence of one or more of the following conditions:

1. The obligor-parent is not receiving income which may be subject to an assignment or withholding pursuant to chapter [31A](#) of the Nevada Revised Statutes or [SECTION 33.035](#), and there is reason to believe that he has income from some source which may be subject to an assignment.

2. An assignment or withholding of income pursuant to chapter [31A](#) of the Nevada Revised Statutes or [SECTION 33.035](#) would not be sufficient to meet the obligation of the support of a child for reasons other than a change of circumstances which would qualify for a reduction in the amount of the support ordered.

3. The history of employment of the obligor-parent makes an assignment or withholding of income pursuant to chapter [31A](#) of the Nevada Revised Statutes or [SECTION 33.035](#) difficult to enforce or not a practical means for securing the payment of the obligation of support. Such a history may be evidenced by such conditions as multiple, concurrent or consecutive employers.

**SECTION 125B.250 Assets subject to order for deposit; use of performance bond in lieu of other assets.**

1. In determining which assets of the obligor-parent are to be subject to an order issued pursuant to [SECTION 125B.210](#), the tribal court shall give priority to cash, then to other assets which have maximum liquidity and are readily convertible into cash. In all instances, the deposited assets must:

(a) Not be exempt by law from execution; and

(b) Whenever possible, be equal in value to not less than the amount of current arrearages of the obligor-parent and the amount of the annual amount of support ordered.

2. In lieu of depositing money or other assets as provided in subsection 1, the obligor-parent may, upon approval of the tribal court, provide a performance bond secured by any real property or other assets of the obligor-parent and equal in value to the annual amount of support ordered and the amount of current arrearages.

**SECTION 125B.260 Ex parte order restraining disposition of property during pendency of proceedings.**

1. During the pendency of any proceeding pursuant to [SECTION 125B.210](#), upon the motion of any party, the tribal court may, without a hearing, issue ex parte orders restraining any person from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community or separate, except in the usual course of business or for such necessities of life as are deemed not to be extraordinary expenditures.

2. If an ex parte order is directed against a party, the tribal court shall require him to account to the tribal court for all extraordinary expenditures.

3. The ex parte order must be made returnable not later than 25 days after the date of the order. At the hearing the tribal court shall determine for which property the obligor-parent is required to report extraordinary expenditures and shall specify what is deemed an extraordinary expenditure for the purposes of this section.

4. Any ex parte order must state on its face the date of expiration of the order. The order expires 1 year after it is issued or upon deposit of assets or money pursuant to [SECTION 125B.210](#), whichever occurs first.

**SECTION 125B.270 Limitation on liability of trustee.** A trustee designated by the tribal court to be responsible for receiving any money or property or for making any disbursements pursuant to [SECTION 125B.210](#), is not liable for any action undertaken in good faith and in conformance with [SECTION 125B.200](#) to [125B.300](#), inclusive.

**SECTION 125B.280 Return of assets to obligor-parent; procedure for return of particular types of property.**

1. The trustee designated by the tribal court to receive assets pursuant to [SECTION 125B.210](#) shall return any assets to the obligor-parent when:

(a) The obligor-parent has given the trustee notice to return assets;

(b) All payments in arrears have been paid in full; and

(c) The obligor-parent has made, in a timely manner, all payments of support ordered for the 12 months immediately preceding the date notice was given to the trustee.

2. If the deposited assets include real property, upon the satisfaction of the requirements of subsection 1, the trustee shall prepare a release and record it in the office of the county recorder.

3. If the deposited assets include personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper or accounts, the trustee shall, upon the satisfaction of the requirements of subsection 1, prepare a termination statement and file it in accordance with [SECTION 104.9513](#) of the Nevada Revised Statutes.

4. If the deposited assets include a vehicle registered with the Department of Motor Vehicles, the trustee shall, upon the satisfaction of the requirements of subsection 1, deliver the certificate of title to the obligor-parent in accordance with [SECTION 482.431](#).

**SECTION 125B.290 Statement of disbursements and receipts.** If requested by an obligor-parent, the trustee designated by the tribal court to receive assets shall prepare a statement setting forth disbursements and receipts made pursuant to [SECTION 125B.210](#).

**SECTION 125B.300 Recovery of unreimbursed fees and costs of trustee.**

1. If the trustee designated by the tribal court to receive assets pursuant to [SECTION 125B.210](#), incurs fees or costs which are not compensated by the deduction authorized pursuant to [SECTION 125B.210](#), the tribal court:

(a) Shall hold a hearing not later than 20 days after the obligor-parent is served by the trustee with notice of a motion or order to show cause; and

(b) May order the obligor-parent to pay reasonable fees and costs.

2. A fee or cost incurred:

(a) In any sale of assets pursuant to [SECTION 125B.210](#); or

(b) In the preparation of a statement pursuant to [SECTION 125B.290](#),

↪ is recoverable as set forth in this section.