



## NCA 21-095

### CLASSIFICATION: #6. CHILDREN AND FAMILY RELATIONS

### A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 6, § 6-232 ENTITLED "MODIFICATION OF A CHILD SUPPORT ORDER"

Be it enacted by the National Council of the Muscogee (Creek) Nation:

**SECTION ONE. AMENDMENT.** This amendment shall be codified in Title 6, Chapter 6, of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said amendment and its inclusion in pocket parts of the Code of Laws of the Muscogee (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following amendment, without further National Council approval.

**SECTION TWO. AMENDMENT.** MCNCA TITLE 6, § 6-232 is hereby amended to read as follows:

#### **§ 6-232. Modification of a Child Support Order**

A. Child support orders may be modified upon a material change of circumstances which includes, but is not limited to: an increase or decrease in the needs of the child, an increase or decrease in the income of the parents, changes in actual annualized child care expenses, changes in the cost of medical or dental insurance or when one of the children in the child support order reaches the age of majority or otherwise ceases to be entitled to support pursuant to the child support order.

B. Modification of the Child Support Guidelines Schedule shall not alone be a material change in circumstances for child support orders.

C. An order of modification shall be effective from the first day of the month immediately following the filing of the motion for modification with the court, unless the parties agree to the contrary subject to the approval of the District Trial Court Family Division, or the court makes a specific finding of fact that the material change did not occur until a later date.

D. The CSE shall develop the guidelines and rules for the modification of a child support order. For a modification to be considered, there shall be a 15% increase or decrease in the income of either party.

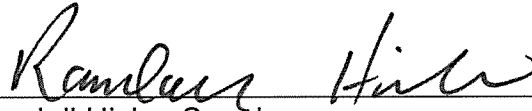
**E. After November 1, 2021, there shall be a rebuttable presumption that an obligor who is incarcerated for a period of one hundred eighty (180) or more consecutive days is unable to pay child support. Incarceration means an obligor is in custody on a full-time basis in a local, state or federal correctional facility. Incarceration shall not include probation, parole, work release or any other detention alternative program that allows the obligor to be gainfully employed.**

1. **The obligor's child support obligation shall be abated without court action effective the first day of the month following the date of entry into the correctional facility or jail and shall not accrue for the duration of the incarceration unless the presumption is rebutted by a showing of means to pay under this Title.**
2. **Upon release from incarceration, the monthly child support obligation shall revert to the pre-incarceration order amount beginning the first day of the month following a lapse of ninety (90) calendar days after release from incarceration.**
3. **The abatement of a monthly support obligation under this subsection shall not affect any past-due support that has accrued prior to the abatement of the obligation.**
4. **If any of the crimes for which the obligor is incarcerated are a result of indirect contempt of court for failure to pay child support, the crime of omission to provide child support or for any offense for which the obligee's dependent child or the obligee was a victim, the abatement shall not be presumed and the child support obligation shall continue to accrue.**

**SECTION THREE. EFFECTIVE DATE.** This Act shall become effective immediately upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution.

**ENACTED** by the Muscogee (Creek) National Council on this **28<sup>th</sup>** day of **August, 2021**.

**IN WITNESS WHEREOF**, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



\_\_\_\_\_  
Randall Hicks, Speaker  
National Council  
Muscogee (Creek) Nation

**CERTIFICATION**

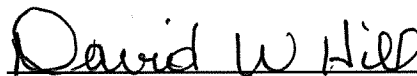
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with **Fourteen** members attending this meeting on the **28<sup>th</sup>** day of **August 2021** and that the above is in conformity with the provisions therein adopted by a vote of **13** in favor, **0** against and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



\_\_\_\_\_  
Alicia Stroble, Recording Secretary  
Muscogee (Creek) National Council

**APPROVAL**

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 7<sup>th</sup> day of September, 2021 to the above Law, **NCA 21-095** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



\_\_\_\_\_  
David W. Hill, Principal Chief  
Muscogee (Creek) Nation





## NCA 21-095

### CLASSIFICATION: #6. CHILDREN AND FAMILY RELATIONS

### A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 6, § 6-232 ENTITLED "MODIFICATION OF A CHILD SUPPORT ORDER"

**Be it enacted by the National Council of the Muscogee (Creek) Nation:**

**SECTION ONE. AMENDMENT.** This amendment shall be codified in Title 6, Chapter 6, of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said amendment and its inclusion in pocket parts of the Code of Laws of the Muscogee (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following amendment, without further National Council approval.

**SECTION TWO. AMENDMENT.** MCNCA TITLE 6, § 6-232 is hereby amended to read as follows:

#### **§ 6-232. Modification of a Child Support Order**

A. Child support orders may be modified upon a material change of circumstances which includes, but is not limited to: an increase or decrease in the needs of the child, an increase or decrease in the income of the parents, changes in actual annualized child care expenses, changes in the cost of medical or dental insurance or when one of the children in the child support order reaches the age of majority or otherwise ceases to be entitled to support pursuant to the child support order.

B. Modification of the Child Support Guidelines Schedule shall not alone be a material change in circumstances for child support orders.

C. An order of modification shall be effective from the first day of the month immediately following the filing of the motion for modification with the court, unless the parties agree to the contrary subject to the approval of the District Trial Court Family Division, or the court makes a specific finding of fact that the material change did not occur until a later date.

D. The CSE shall develop the guidelines and rules for the modification of a child support order. For a modification to be considered, there shall be a 15% increase or decrease in the income of either party.

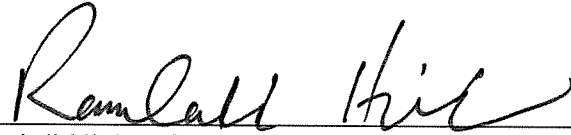
E. After November 1, 2021, there shall be a rebuttable presumption that an obligor who is incarcerated for a period of one hundred eighty (180) or more consecutive days is unable to pay child support. Incarceration means an obligor is in custody on a full-time basis in a local, state or federal correctional facility. Incarceration shall not include probation, parole, work release or any other detention alternative program that allows the obligor to be gainfully employed.

1. The obligor's child support obligation shall be abated without court action effective the first day of the month following the date of entry into the correctional facility or jail and shall not accrue for the duration of the incarceration unless the presumption is rebutted by a showing of means to pay under this Title.
2. Upon release from incarceration, the monthly child support obligation shall revert to the pre-incarceration order amount beginning the first day of the month following a lapse of ninety (90) calendar days after release from incarceration.
3. The abatement of a monthly support obligation under this subsection shall not affect any past-due support that has accrued prior to the abatement of the obligation.
4. If any of the crimes for which the obligor is incarcerated are a result of indirect contempt of court for failure to pay child support, the crime of omission to provide child support or for any offense for which the obligee's dependent child or the obligee was a victim, the abatement shall not be presumed and the child support obligation shall continue to accrue.

**SECTION THREE. EFFECTIVE DATE.** This Act shall become effective immediately upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution.

**ENACTED** by the Muscogee (Creek) National Council on this 28<sup>th</sup> day of August, 2021.

**IN WITNESS WHEREOF**, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



\_\_\_\_\_  
Randall Hicks, Speaker  
National Council  
Muscogee (Creek) Nation

**CERTIFICATION**

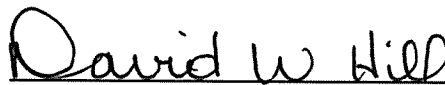
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with **Fourteen** members attending this meeting on the **28<sup>th</sup>** day of **August 2021** and that the above is in conformity with the provisions therein adopted by a vote of **13** in favor, **0** against and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



\_\_\_\_\_  
Alicia Stroble, Recording Secretary  
Muscogee (Creek) National Council

**APPROVAL**

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 7<sup>th</sup> day of September, 2021 to the above Law, **NCA 21-095** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



\_\_\_\_\_  
David W. Hill, Principal Chief  
Muscogee (Creek) Nation

